

Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail : council@town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

December 05, 2024

6:00 pm

Councilors:

Felicia Penn
President
Precinct 13

Craig Tamash
Vice President
Precinct 4

Gordon Starr
Precinct 1

Dr. Kristin Terkelsen
Precinct 2

Betty Ludtke
Precinct 3

John Crow
Precinct 5

Paul C. Neary
Precinct 6

Seth Burdick
Precinct 7

Jeffrey Mendes
Precinct 8

Charles Bloom
Precinct 9

Matthew P. Levesque
Precinct 10

Kris Clark
Precinct 11

Paula Schnepf
Precinct 12

Administrator:
Cynthia A. Lovell
Cynthia.lovell@town.barnstable.ma.us

The December 05, 2024, Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Xfinity Channel 8 or 1070 or High-Definition Channel 1072 or may be accessed via the Government Access Channel live stream on the Town of Barnstable's website:
<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to: <https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/TownCouncil/Agenda-Comment.asp>

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://townofbarnstable-us.zoom.us/j/81557737194> Meeting ID: 815 5773 7194
US Toll-free 1-888- 475- 4499

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

EXECUTIVE SESSION

The Town Council will enter Executive Session pursuant to G.L. c. 30A, sec. 21(a)(6) to consider the purchase, exchange, lease or value of real property since a discussion in open session may have a detrimental effect on the negotiating position of the Town and Town Council. Identifying the property in question would compromise the purpose for which this Executive Session is being held, and therefore that information is being withheld.

PUBLIC SESSION

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS (Pre-Recorded and available on Video on Demand on the Town website)

- Massachusetts Institute of Technology report on outcomes of the stakeholder assessment for offshore renewable wind projects

7. MINUTES

- ACT ON PUBLIC SESSION MINUTES: November 21, 2024

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

9. ORDERS OF THE DAY

A. Old Business
B. New Business

- Town Council Nominations of 2025 Officers

President
Vice President

10. ADJOURNMENT

NEXT REGULAR MEETING: December 12, 2024

ITEM NO.	INDEX TITLE	PAGE
A. OLD BUSINESS		
2025-048	Appointments to a Board/Committee/Commission: Registrar of Voters: Thomas Chartrand, 320 Stevens St, Hyannis, MA 02601 (May be acted upon) (Majority Vote)	4
2025-050	Allocation of Tax Levy Fiscal Year 2025 – Tax Factor (Public Hearing) (Majority Vote)	5-7
2025-051	Allocation of Tax Levy Fiscal Year 2025 – Residential Exemption (May be acted upon) (Majority Vote)	8-9
2025-054	Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Crocker Street Holding, LLC for eight (8) new Market Rate Residential Rental Units located at located at 24 and 30 Crocker Street, Hyannis (May be acted upon) (Majority Vote)	10-22
2025-055	Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Spartan Cleaners Realty, LLC for 41 new Market Rate Residential Rental Units located at located at 242 Barnstable Road, Hyannis (May be acted upon) (Majority Vote)	23-36
2025-056	Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Hyannis Harbor, LLC for 85 new Market Rate Residential Rental Units located at located at 201 Main Street, Hyannis (May be acted upon) (Majority Vote)	37-51
B. NEW BUSINESS		
2025-059	Authorization to contract for and expend a Fiscal Year 2025 Municipal Local Cybersecurity State Matching Grant in the amount of \$17,743.75 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, Office of Grants and Research for Cybersecurity Improvements (May be acted upon) (Majority Vote)	52-53
2025-060	Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to Revise the Definition of Accessory Dwelling Unit (ADU) and to Revise Use and Dimensional Requirements, Floor Area Definition, and Clarify Parking Restrictions and No Owner Occupancy Requirement for ADUs (First Reading) (Refer to Planning Board)	54-60

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it votes, the Council may go into executive session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-048
INTRO: 11/21/2024, 12/05/2024

2025-048 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Registrar of Voters:** Thomas Chartrand, 320 Stevens St, Hyannis, MA 02601

SPONSOR: Ann Quirk, Town Clerk

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Second Reading 12/05/2024</u>

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

A. OLD BUSINESS (Public Hearing) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-050
INTRO: 11/21/2024, 12/05/2024

2025-050 ALLOCATION OF TAX LEVY FISCAL YEAR 2025 – TAX FACTOR

RESOLVED: That the Town Council hereby votes to classify the Town of Barnstable under M.G.L. c. 40, § 56 at a Residential Factor of 1 (one) for the Fiscal Year 2025.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Public Hearing 12/05/2024</u>
_____	_____

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

BARNSTABLE TOWN COUNCIL

ITEM# 2025-050
INTRO: 11/21/2024, 12/05/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Mark A. Milne, Finance Director
DATE: November 21, 2024
SUBJECT: Allocation of Tax Levy Fiscal Year 2025 – Tax Factor

BACKGROUND: Under Massachusetts General Laws, c. 40, § 56, the Town Council is annually charged with determining the Allocation of Local Property Taxes by the adoption of a Minimum Residential Factor. This tax levy-shifting tool will not change the overall amount of the tax levy to be raised in Fiscal Year 2025; rather it allows the town to shift a portion of the tax levy between classes of property. The residential factor, commonly referred to as the “Split Tax Rate”, allows the Town Council to create separate tax rates; one for residential property owners and a separate one for commercial, industrial, and personal property (CIP) owners. Under a Residential Factor of 1, all property owners would pay taxes at the same rate per \$1,000 of valuation. For Fiscal Year 2025 the single tax rate is \$6.10 (tax levy of \$151,154,000 divided by total valuation of \$24,773,188,549 x \$1,000). The maximum permissible shift would increase the CIP tax rate by 150%, which would result in a CIP tax rate of \$9.15 for Fiscal Year 2025 (\$6.10 x 1.5 = \$9.15). Since 2007, the Town Council’s policy has been to select a Residential Factor of 1.

ANALYSIS: The Minimum Residential Factor is used to make sure the shift of the tax burden complies with the law (M.G.L. c. 58, § 1A). Residential taxpayers must pay at least 65% of their full and fair cash value share of the levy. Commercial/Industrial/Personal Property taxpayers cannot pay more than 150% of their full and fair cash value share of the levy.

If the calculated Minimum Residential Factor is less than 65%, a community cannot make the maximum shift and must use a Commercial/Industrial/Personal Property factor of less than 150%.

Class	Valuation	% Share	Combined RES/OS, CIP
Residential	22,187,815,827	89.5638%	
Open Space	-	0.0000%	89.5638%
Commercial	1,893,583,522	7.6437%	
Industrial	106,279,900	0.4290%	
Personal Property	585,509,300	2.3635%	10.4362%
Total	24,773,188,549	100.0000%	100.0000%

The "Percentage Share" is based on the "Full and Fair Cash Valuation" of each class, which is affected by the level of assessment for each class.

The Maximum Share of Levy for Commercial/Industrial/Personal Property: $150\% \div 10.4362\% = 14.3730\%$ (Max % Share).

This calculation shows the maximum percentage share of the levy allowed for the combined Commercial, Industrial and Personal Property classes (150% of the combined shares.) NOTE: Shift impact is reduced as the Max % Share decreases.

Minimum Share of Levy for Residential: $100\% - 14.3730\% \text{ (Max CIP \% Share)} = 85.6270\% \text{ (Min \% Share)}$

This calculation shows the minimum percentage share of the levy allowed for the Residential class. This is computed by subtracting the Maximum Share for Commercial/Industrial/Personal Property from 100%.

Minimum Residential Factor (MRF): $85.6270\% \text{ (Min \% Share)} \div 89.5638\% = 95.6045\%$
(Minimum Residential Factor)

This calculates the Minimum Residential Factor: divide the minimum percentage share for Residential by the actual percentage share for Residential.

MINIMUM RESIDENTIAL FACTOR: 95.6045%; G. L. Chapter 58, Section 1A mandates a minimum residential factor of not less than 65 percent.

When the Minimum Residential Factor is multiplied by the percentage share of the Residential full and fair cash value, it reduces the Residential share to its minimum percentage share of the Levy as calculated above.

FISCAL IMPACT: A factor greater than one (1) would shift more of the tax levy to the commercial, industrial, and personal property (CIP) tax classifications. For example, every 5% shift would result in over \$788,000 being shifted from the Residential class to the CIP class: with a tax rate reduction of \$0.03 in the residential rate and an increase of about \$0.30 in the CIP tax rate.

STAFF ASSISTANCE: Mark A. Milne, Finance Director

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-051
INTRO: 11/21/2024, 12/05/2024

2025-051 ALLOCATION OF TAX LEVY FISCAL YEAR 2025 – RESIDENTIAL EXEMPTION

RESOLVED: That the Town Council hereby votes to adopt a Residential Exemption of twenty-five percent (25%) for Fiscal Year 2025.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Second Reading 12/05/2024</u>

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-051

INTRO: 11/21/2024, 12/05/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Mark A. Milne, Finance Director
DATE: November 21, 2024
SUBJECT: Allocation of Tax Levy Fiscal Year 2025 – Residential Exemption

BACKGROUND: Under Massachusetts General Laws, Chapter 59, Section 5C, the Town Council may adopt a Residential Exemption as part of determining the allocation of the tax levy between residential property owners. This tax levy shifting option will not change the overall amount of property taxes raised through the residential class of property. It allows communities to shift a portion of the residential property tax levy between residential property owners based on statutory criteria. The maximum exemption allowed is 35 percent of the average assessed value of all Class One (Residential) parcels. This exemption would be applied to all residential parcels which are qualified by the Town Assessor as the principal residence of the taxpayer. Principal residence is a taxpayer's domicile, that is, the taxpayer's fixed place of habitation, permanent home, and legal residence, as used for federal and state income tax purposes. This option shifts property taxes between residential taxpayers and does not affect the Commercial, Industrial and Personal Property class of taxpayers.

ANALYSIS: The exemption is calculated on the average residential parcel value, which is \$863,138 in Fiscal Year 2025. The assessed property value is then reduced by the value of the exemption before the tax rate is applied to determine the tax bill amount. Since the exemption removes an amount of the taxable residential property value subject to taxation, and the tax levy paid by the residential class remains the same, the tax rate for this class of property increases. The projected savings in Fiscal Year 2025 for the median residential assessed value of \$612,800 using different residential exemption percentages is illustrated as follows:

Exemption %	Exemption Amount	Taxable Value	Tax Rate	Tax Bill	Savings
0%	\$ -	\$ 612,800	\$ 6.07	\$ 3,721.69	\$ -
5%	\$ 43,157	\$ 569,643	\$ 6.21	\$ 3,537.48	\$ 184.21
10%	\$ 86,314	\$ 526,486	\$ 6.35	\$ 3,343.19	\$ 378.51
15%	\$ 129,471	\$ 483,329	\$ 6.50	\$ 3,141.64	\$ 580.05
20%	\$ 172,628	\$ 440,172	\$ 6.66	\$ 2,931.55	\$ 790.15
25%	\$ 215,785	\$ 397,016	\$ 6.82	\$ 2,707.65	\$ 1,014.05
30%	\$ 258,941	\$ 353,859	\$ 6.99	\$ 2,473.47	\$ 1,248.22
35%	\$ 302,098	\$ 310,702	\$ 7.17	\$ 2,227.73	\$ 1,493.96

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-054
INTRO: 11/21/2024, 12/05/2024

2025-054 AUTHORIZATION OF A HOUSING DEVELOPMENT INCENTIVE PROGRAM TAX INCREMENT EXEMPTION AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND CROCKER STREET HOLDINGS, LLC FOR 8 NEW MARKET RATE RESIDENTIAL RENTAL UNITS LOCATED AT 24 AND 30 CROCKER STREET, HYANNIS, MA

ORDERED: That the Town Council hereby authorizes a Tax Increment Exemption (TIE) Agreement between the Town of Barnstable and Crocker Street Holding, LLC pursuant to the Housing Development Incentive Program, M.G.L. c. 40V, and the regulations promulgated thereunder at 760 CMR 66.00, for eight (8) market rate residential units located at 24 and 30 Crocker Street, Hyannis, substantially in the form presented to the Town Council at this meeting, and further authorizes the Town Manager to execute the TIE Agreement and submit it to the Massachusetts Executive Office of Housing and Livable Communities for approval.

SPONSOR: Town Council Tax Incentive Committee: Town Council Vice President Craig A. Tamash, Councilor Precinct 4; Councilor John R. Crow, Councilor Precinct 5; Councilor Paul C. Neary, Councilor Precinct 6

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Second Reading 12/05/2024</u>

- _____ Read Item
- _____ Rationale
- _____ Council Discussion
- _____ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-054
INTRO: 11/21/2024, 12/05/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development
DATE: November 21, 2024
SUBJECT: Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Crocker Street Holding, LLC for eight (8) new Market Rate Residential Rental Units located at located at 24 and 30 Crocker Street, Hyannis

RATIONALE: The Tax Incentive Committee of the Town Council recommends approval of the Housing Development Incentive Program Tax Increment Exemption request from developer Crocker Street Holding, LLC (Jake Dewey) for the property located at 24 and 30 Crocker Street, Hyannis. The project will create eight (8) market rate units.

In January 2018, the Town Council approved the proposed Downtown Hyannis HD Zone and Plan and in March 2018 the Town received approval of its Zone from the Department of Housing and Community Development (now EOHLIC). Approval of this Zone allows the Town to enter into Tax Increment Exemption Agreements with property owners within the Zone.

The goals of the Housing Development Incentive Program, which authorizes Tax Increment Exemption Agreements, is to increase residential growth, expand diversity of housing supply, support economic development and promote neighborhood stabilization.

The Housing Development Program (HDIP) staff review committee, and the Town Council Tax Incentive Committee reviewed the application from Crocker Street Holding, LLC and found it to be complete and that the development meets the objectives of the HDIP Plan including increasing residential stock and diversity of housing choice. The Operating Pro Forma is reasonable and in line with industry standards. Based on limited availability of comparable development in the HDIP Zone, the proposed rents, at \$2,375 per month for a 2-bedroom unit, are priced consistently with prevailing rents. The development will have a positive impact on housing supply and, in turn, support economic development

The TIE Agreement is a contract between the property owner and the municipality which sets forth the amount of the tax exemption and the duration of the benefits. The Sponsor has requested, and the Tax Incentive Committee recommends a 100% Tax Exemption for years 1-5, an 85% Tax Exemption for years 6-15 and 60% Tax Exemption for years 16-20 on increased value anticipated to be \$ 2,399,200.00.

If approved by the Town, this project and TIE Agreement must also be approved by the State Executive Office of Housing and Livable Communities.

FISCAL IMPACT: The estimated assessed value of the property when developed as proposed is \$3,500,000 resulting in an increase of \$2,399,200 in assessed value subject to TIE. As proposed, the total estimated value of the TIE is \$346,959.67. This includes an estimated \$336,854.05 in property tax savings and \$10,105.62 in Community Preservation Tax savings for the developer. By approving the TIE Agreement, the Town agrees to forgo this estimated tax revenue over 20 years in exchange for the redevelopment of this property that creates eight (8) new year-round Market Rate rental housing units.

STAFF ASSISTANCE: Mark Milne, Finance Director; John Curran, Director of Assessing; Corey Pacheco, Senior Planner, Planning and Development

HOUSING DEVELOPMENT INCENTIVE PROGRAM

TAX INCREMENT EXEMPTION (TIE) AGREEMENT

between

Town of Barnstable

and

Crocker Street Holdings LLC

This AGREEMENT is made this _____ day of _____, 2024 by and between the Town of Barnstable (“Municipality”) and Crocker Street Holdings LLC, a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 17 High School Road, Unit B, Hyannis, MA 02601.

Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration and in consideration of the covenants and agreements herein contained, hereby make this agreement regarding a tax increment exemption pursuant to the Housing Development (HD) Incentive Program, M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 (HD TIE), with respect to the Property as herein defined.

Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

Act: M.G.L. c. 40V as may be amended from time to time.

Completion: Certificates of occupancy have been issued for the entire Project.

DHCD: Department of Housing and Community Development

EOHLC: Executive Office of Housing and Livable Communities

Event of Default: An “Event of Default” as defined in Section 5 below.

Final Certification: Determination by EOHLC that the Sponsor has completed the new construction or substantial rehabilitation of the Property, consistent with the New Construction or Rehabilitation Plans, including the creation of MRRUs, as set forth in the Act and the Regulations.

Fiscal Year: An annual period of July 1 through June 30.

HD Project: A Certified Housing Development Project as defined in the Act and the Regulations.

HD Zone: The Housing Development Zone adopted by the Town of Barnstable on January 18, 2018 and approved by EOHLC (formerly DHCD) as evidenced by a Certificate of Approval dated March 9, 2018 and recorded with Barnstable County Registry of Deeds, Book 32702, Page 1. The Zone was amended on January 21, 2021 and approved by EOHLC as evidenced by a Certificate of Approval dated March 2, 2021 and recorded with Barnstable County Registry of Deeds Book 3652, Page 251.

MRRU: Market Rate Residential Unit(s) as defined at Section 3.B.1.

Property: 24 Crocker Street (Parcel 328228), and 30 Crocker St (Parcel 328187) as shown in Exhibit 1, “Map of Property” and further described in Exhibit 2, “Legal Description of Property”.

Regulations: 760 CMR 66.00.

New Construction or Rehabilitation Plans: The material submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by EOHLC.

Sponsor: Crocker Street Holdings LLC, a Massachusetts Limited Liability Corporation, with an address at 17 High School Road, Unit B, Hyannis, MA 02601, its successors and assigns.

Section 3 – Sponsor’s Covenants

- A. New Construction or Substantial Rehabilitation of the Property. Sponsor will undertake the new construction or substantial rehabilitation of the Property in accordance with the work and schedule set forth in the New Construction or Rehabilitation Plans.
- B. Market Rate Residential Units.
 - (1.) There shall be a total of 8 residential rental units created in the Project of which 8 shall be MRRUs comprised of 8 2 bedroom – 1.5 bathroom units. The monthly rent for such units shall be priced consistently with prevailing rents or sale prices in the Municipality as determined based on criteria established by the Department, as set forth in Exhibit 3, “Market Rate Residential Units – Pricing Plan”.
 - (2.) Sponsor shall use good faith efforts to maintain the units as MRRUs for a minimum of 20 years.
- C. Marketing. Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan and affirmative fair housing efforts set out in the New Construction or Rehabilitation Plans.
- D. HD Project Certification. Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to EOHLC for Conditional Certification and Final Certification consistent with the requirements of the Act and the Regulations.

Section 4 – Tax Increment Exemption

Municipality agrees to grant Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms.

- A. Base Value. Consistent with 760 CMR 66.06(1)(c), the Base Value is equal to the assessed value (or aggregate thereof) of the parcel(s) that comprise the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed by the Sponsor and the Municipality with respect to the parcel or parcels, as the case may be, and prior to the start of any new construction or Substantial Rehabilitation activities, including demolition, minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.

At the time of execution, the base value of this property is expected to be \$1,100,800. This value is subject to change and will be re-confirmed at the time the exemption percentage is applied starting on the effective date of the agreement.

- B. MRRU Percentage. 100%. The MRRU Percentage shall be confirmed as required in paragraph F, below.
- C. Exemption Percentage. Commencing on the Effective Date which shall be Fiscal Year 1: 100% Years 1-5;

85% Years 6-15; 60% Years 16-20

- D. The Increment. As defined at 760 CMR 66.06(1)(b)(1).
- E. Calculation. For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property tax on the Increment.
- F. Confirmation or Amendment of Calculation. Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a "Tax Increment Exemption – Confirmation of Calculation" in the form attached as Exhibit 4 ("TIE Confirmation"). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

Section 5 – Default

- A. Event of Default. An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following events:

§240-24.1

Breach of Covenant Prior to Final Certification. Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

2) Breach of Covenant Subsequent to Final Certification. Sponsor's conduct is materially at variance with the representations made in its New Construction or Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

3) Misrepresentation. Any representation made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

- B. Rights on Default.

- a. Prior to Final Certification. Upon the occurrence of an Event of Default prior to Final Certification, then this Agreement shall become null and void.

- 2) Subsequent to Final Certification. Upon the occurrence of an Event of Default subsequent to Final Certification, then:

- a. Revocation of Certification. Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that EOHLIC revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which EOHLIC determines that a material variance commenced.

- b. Termination of Agreement. Upon revocation of certification, this Agreement shall become null and

void as of the effective date of such revocation.

c. Recoupment of Economic Benefit. Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent to such revocation.

3) Other Remedies. The Municipality's rights upon the occurrence of an Event of Default are in addition to those granted to EOHLC and the Massachusetts Commissioner of Revenue under the terms of the Act.

Section 6 – Miscellaneous

A. Effective Date. The effective date of the HD TIE shall be July 1st of the first Fiscal Year following EOHLC's Final Certification of the HD Project pursuant to the requirements of the Act and the Regulations. The Effective Date shall be confirmed as required under Section 4.F above.

B. Term of Agreement. This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.

C. Reporting. Sponsor shall submit reports to the Municipality not later than thirty (30) days after June 30 of each Fiscal Year for the term of this Agreement. Each report shall contain the following information:

1) Until Completion, the status of construction in relation to the schedule contained in the New Construction or Rehabilitation Plan;

2) Until Completion, the status of marketing in relation to the New Construction or Rehabilitation Plans; and

3) For each MRRU, the number of bedrooms in the unit, whether it was leased as of the end of the most recent fiscal year and the monthly rent charged.

D. Assignment. The Sponsor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the Municipality, which approval shall not be unreasonably withheld or delayed. The foregoing notwithstanding, the rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by merger.

E. Notices. In conjunction with concurrent electronic submission as provided for below or, if reasonable efforts can determine that such information is no longer current, otherwise reasonably obtainable and verifiable electronic contact information, any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and, unless general measures for electronic receipt as a substitute are in place at such time or can otherwise be reasonably assumed due to publicized or immediately foreseeable remote working conditions, shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) days after the day on which mailed or, if sent by overnight courier, on the day after delivered to such courier.

- Municipality: Town Manager

Town of Barnstable
367 Main Street
Hyannis, MA 02601

- Sponsor: Crocker Street Holdings, LLC

17 High School Rd, Unit B
Hyannis, MA 02601

- Copy to EOHLIC: All such notices shall be copied to EOHLIC at:

HDIP Program Coordinator
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114
eohlchdip@mass.gov

- Change of Address. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice.

F. Modifications. No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of Municipality in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by its Town Manager as of the day and year first above written.

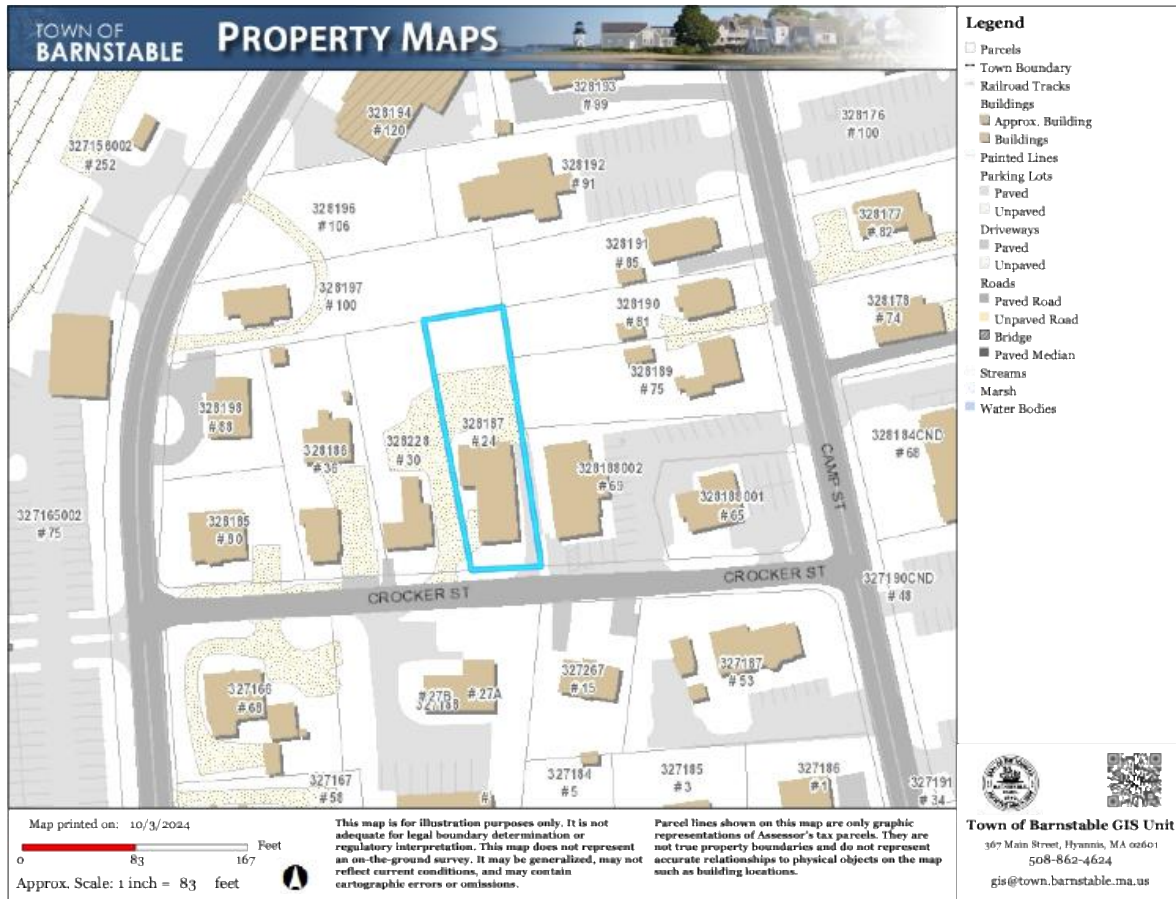
[SIGNATURES ON NEXT PAGE]

MUNICIPALITYSPONSOR

By: Mark S. Ells, Town Manager Jacob Dewey, Manager

EXHIBIT 1

MAP OF PROPERTY



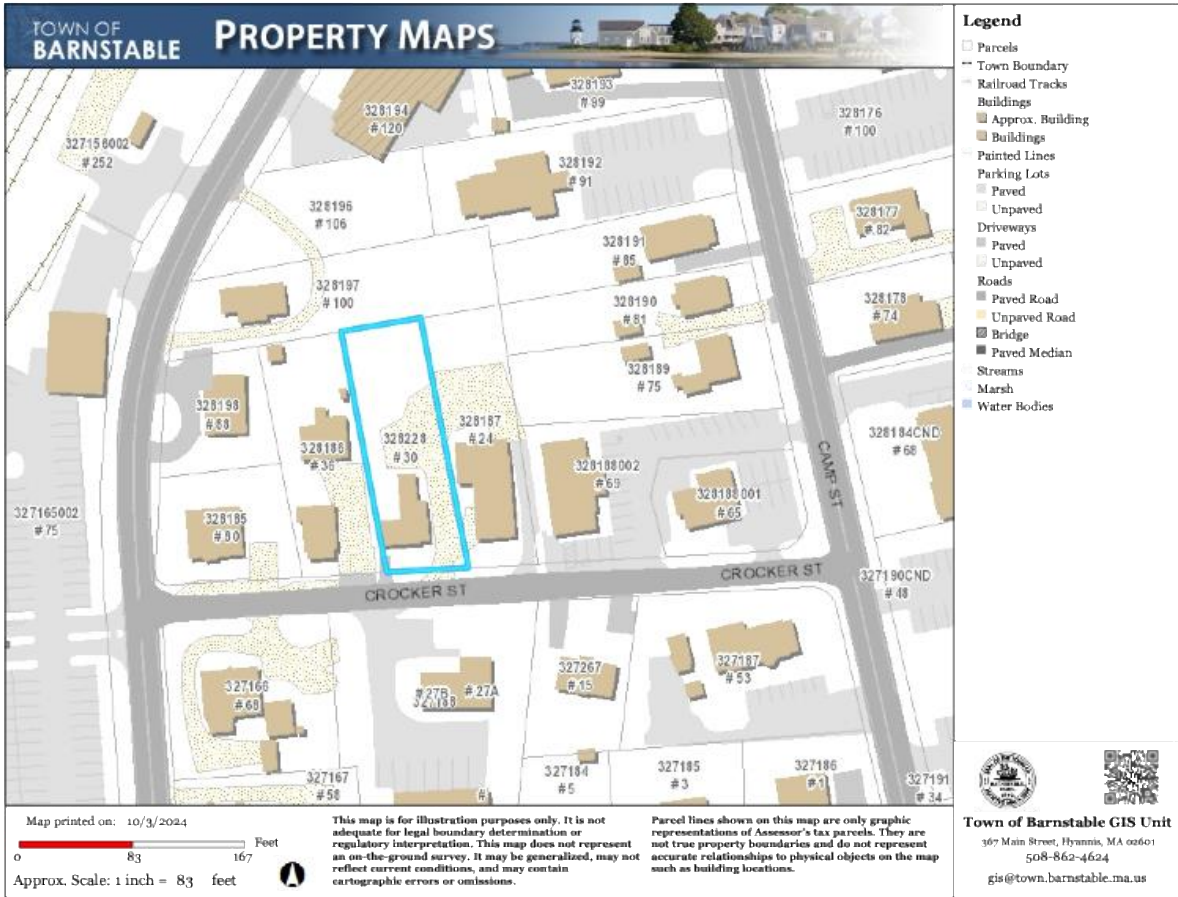


EXHIBIT 2

DESCRIPTION OF PROPERTY

QUITCLAIM DEED

Camp Street Professional Building, LLC a Massachusetts limited liability company having an address of 4 Lichen Lane, Forestdale, MA 02644,

For consideration in the amount of ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND & 0/100 DOLLARS (\$1,325,000.00),

GRANTS TO

Crocker Street Holdings LLC, a Massachusetts limited liability company with an address of 17 High School Road B, Hyannis, MA 02601

WITH QUITCLAIM COVENANTS

Two parcels of land, more particularly described as follows:

PARCEL 1

A certain parcel of land together with any buildings thereon, located in Barnstable County (Hyannis) Massachusetts, now known and numbered as 30 Crocker Street, Hyannis, Massachusetts, situated on the north side of a town road called Crocker Street, said street leading from Camp Street to Railroad Avenue, bounded and described as follows:

- SOUTHERLY by said Crocker Street about sixty (60.00) feet;
- WESTERLY by land owned or formerly of Arthur G. Guyer about one hundred seventy-eight (178.00) feet;
- NORTHERLY by land now or formerly of James B. O'Brien, about sixty (60.00) feet;
- EASTERLY by lands nor or formerly of Mary A. Bacon about one hundred eighty-three (183.00) feet.

Said premises are conveyed subject to and together with the benefit of any and all rights, rights of way, easements, appurtenances, restrictions and reservations of record, if any there be and insofar as the same are now in full force and effect.

Property Address: 30 Crocker Street, Hyannis, MA 02601

For title see deed to Grantors dated May 15, 2009 and recorded in Book 23707, Page 199, Barnstable County Registry of Deeds.

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 05-06-2022 @ 11:54am
Ctl#: 289 Doc#: 23752
Fee: \$4,531.50 Cons: \$1,325,000.00

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 05-06-2022 @ 11:54am
Ctl#: 289 Doc#: 23752
Fee: \$4,054.50 Cons: \$1,325,000.00

EXHIBIT 3

MARKET RATE RESIDENTIAL UNITS – PRICING PLAN

Proposed Initial
Monthly Rent(s)*: \$2375 (2-BR)

*units shall be priced in compliance with EOHLA's HDIP Guidelines and 760 CMR 66.04(2)(f)

EXHIBIT 4

TAX INCREMENT EXEMPTION – CONFIRMATION OF CALCULATION

[FORM TO REMAIN BLANK UNTIL PROJECT COMPLETED AND ELIGIBLE FOR FINAL CERTIFICATION]

In connection with the Tax Increment Exemption Agreement dated _____, 2024 by and between the Town of Barnstable, and Crocker Street Holdings LLC, a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 17 High School Road, Unit B, Hyannis, MA 02601, with respect to the property at 24 & 30 Crocker Street, Hyannis, MA 02601 (the “Agreement”), the parties hereby confirm the following elements of the Agreement. Unless otherwise stated, capitalized terms have the meaning set forth in the Agreement.

- 1.The effective date of the Agreement is:

- 2.The MRRU Percentage is:

- 3.The assessed value of the residential portion of the Property upon Completion is:

To the extent that the dates or figures in this “Tax Increment Exemption – Confirmation of Calculation” differ from those set forth in the Agreement, the contents of this document shall control and shall be deemed to have amended the Agreement.

MUNICIPALITYSPONSOR

By: Mark S. Ells, Town Manager

By: Jacob Dewey, Manager

By:

Its:

Dated: _____

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-055
INTRO: 11/21/2024, 12/05/2024

2025-055 AUTHORIZATION OF A HOUSING DEVELOPMENT INCENTIVE PROGRAM TAX INCREMENT EXEMPTION AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND SPARTAN CLEANERS’ REALTY, LLC FOR 41 NEW MARKET RATE RESIDENTIAL RENTAL UNITS LOCATED AT 242 BARNSTABLE ROAD, HYANNIS, MA

ORDERED: That the Town Council hereby authorizes a Tax Increment Exemption (TIE) Agreement between the Town of Barnstable and Spartan Cleaners Realty, LLC pursuant to the Housing Development Incentive Program, M.G.L. c. 40V, and the regulations promulgated thereunder at 760 CMR 66.00, for forty one (41) market rate residential units located at 242 Barnstable Road, Hyannis, substantially in the form presented to the Town Council at this meeting, and further authorizes the Town Manager to execute the TIE Agreement and submit it to the Massachusetts Executive Office of Housing and Livable Communities for approval.

SPONSOR: Town Council Tax Incentive Committee: Town Council Vice President Craig A. Tamash, Councilor Precinct 4; Councilor John R. Crow, Councilor Precinct 5; Councilor Paul C. Neary, Councilor Precinct 6

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Second Reading</u>
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-055
INTRO: 11/21/2024, 12/05/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development
DATE: November 21, 2024
SUBJECT: Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Spartan Cleaners Realty, LLC for 41 new Market Rate Residential Rental Units located at located at 242 Barnstable Road, Hyannis

RATIONALE: The Tax Incentive Committee of the Town Council recommends approval of the Housing Development Incentive Program Tax Increment Exemption request from developer Spartan Cleaners Realty, LLC (Joshua Barros and Tammy Barros) for the property located at 242 Barnstable Road, Hyannis. In addition to the forty-one (41) market rate units, five (5) units are proposed to be permanently deed-restricted and affordable; the project has a total of forty-six (46) units.

In January 2018, the Town Council approved the proposed Downtown Hyannis HD Zone and Plan and in March 2018 the Town received approval of its Zone from the Department of Housing and Community Development (now EOHLIC). Approval of this Zone allows the Town to enter into Tax Increment Exemption Agreements with property owners within the Zone.

The goal of the Housing Development Incentive Program, which authorizes Tax Increment Exemption Agreements, is to increase residential growth, expand diversity of housing supply, support economic development and promote neighborhood stabilization.

The Housing Development Program (HDIP) staff review committee, and the Town Council Tax Incentive Committee reviewed the application from Spartan Cleaners Realty, LLC and found it to be complete and that the development meets the objectives of the HDIP Plan including increasing residential stock and diversity of housing choice. The Operating Pro Forma is reasonable and in line with industry standards. Based on limited availability of comparable development in the HDIP Zone, the proposed rents, at \$2,472 per month for a studio apartment; \$2,710.00 per month for a 1-bedroom unit; \$3,200 per month for a 2-bedroom unit, are priced consistently with prevailing rents. The development will have a positive impact on housing supply and, in turn, support economic development.

The TIE Agreement is a contract between the property owner and the municipality which sets forth the amount of tax exemption and the duration of the benefits. The Sponsor has requested, and the Tax Incentive Committee recommends a 100% Tax Exemption for years 1-5, an 85% Tax Exemption for years 6-10 and 55% Tax Exemption on years 11-20 on increased value anticipated to be \$6,422,466.00 which excludes the value of the five (5) affordable units.

If approved by the Town, this project and TIE Agreement must also be approved by the State Executive Office of Housing and Livable Communities.

FISCAL IMPACT: The estimated total assessed value of the property when developed as proposed is \$7,782,740 resulting in an increase of \$6,975,466 in assessed value for the Market Rate Units with an increase in value subject to TIE at \$6,422,466.00. As proposed, the total estimated value of the TIE is \$820,602.21. Which includes an estimated \$796,701.18 in property tax savings and \$23,901.04 in

Community Preservation Tax savings for the developer. By approving the TIE Agreement, the Town agrees to forgo this estimated tax revenue over 20 years in exchange for the redevelopment of this property that creates forty-one (41) new year-round Market Rate rental housing units, and five (5) affordable units at 65% of Area Median Income.

STAFF ASSISTANCE: Mark Milne, Finance Director; John Curran, Director of Assessing; Corey Pacheco, Senior Planner, Planning and Development

HOUSING DEVELOPMENT INCENTIVE PROGRAM

TAX INCREMENT EXEMPTION (TIE) AGREEMENT

between

Town of Barnstable

and

SPARTAN CLEANERS REALTY, LLC

This AGREEMENT is made this ____ day of ____, 2024 by and between the Town of Barnstable (“Municipality”) and Spartan Cleaners’ Realty, a Massachusetts Limited Liability Company (LLC) with an address at 57 Clowes Drive, Falmouth, MA 02540.

Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration and in consideration of the covenants and agreements herein contained, hereby make this agreement regarding a tax increment exemption pursuant to the Housing Development (HD) Incentive Program, M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 (HD TIE), with respect to the Property as herein defined.

Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

Act: M.G.L. c. 40V as may be amended from time to time.

Completion: Certificates of occupancy have been issued for the entire Project.

DHCD: Department of Housing and Community Development

EOHLC: Executive Office of Housing and Livable Communities

Event of Default: An “Event of Default” as defined in Section 5 below.

Final Certification: Determination by DHCD that the Sponsor has completed the new construction or substantial rehabilitation of the Property, consistent with the New Construction or Rehabilitation Plans, including the creation of MRRUs, as set forth in the Act and the Regulations.

Fiscal Year: An annual period of July 1 through June 30.

HD Project: A Certified Housing Development Project as defined in the Act and the Regulations.

HD Zone: The Housing Development Zone adopted by the Town of Barnstable on January 18, 2018, and approved by EOHLC (formerly DHCD) as evidenced by a Certificate of Approval dated March 9, 2018 and recorded with Barnstable County Registry of Deeds, Book 32702, Page 1. The Zone was amended on January 21, 2021 and approved by EOHLC as evidenced by a Certificate of Approval dated March 2, 2021 and recorded with Barnstable County Registry of Deeds Book 3652, Page 251.

MRRU: Market Rate Residential Unit(s) as defined at Section 3.B.1.

Property: 242 Barnstable Road Hyannis, Ma (Parcel 328010) as shown in Exhibit 1, “Map of Property” and further described in Exhibit 2, “Legal Description of Property”.

Regulations: 760 CMR 66.00.

New Construction or Rehabilitation Plans: The material submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by DHCD.

Sponsor: Spartan Cleaners Realty, a Massachusetts Limited Liability Company with an address at 57 Clowes Drive, Falmouth, MA 02540, its successors and assigns.

Section 3 – Sponsor’s Covenants

A. New Construction or Substantial Rehabilitation of the Property. Sponsor will undertake the new construction or substantial rehabilitation of the Property in accordance with the work and schedule set forth in the New Construction or Rehabilitation Plans.

B. Market Rate Residential Units.

1) There shall be a total of 46 residential rental units created in the Project, of which 41 shall be MRRUs, comprised of 14 Studios, 26 One-Bedrooms and 6 Two Bedroom/Two Baths. The monthly rent for such units shall be priced- consistently with prevailing rents or sale prices in the Municipality as determined based on criteria established by the Department, as set forth in Exhibit 3, “Market Rate Residential Units – Pricing Plan.”

2) Sponsor shall use good faith efforts to maintain the units as MRRUs for a minimum of 30 years.

C. Marketing. Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan and affirmative fair housing efforts set out in the New Construction or Rehabilitation Plans.

D. HD Project Certification. Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to DHCD for Conditional Certification and Final Certification consistent with the requirements of the Act and the Regulations.

Section 4 – Tax Increment Exemption

Municipality agrees to grant Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms.

G. Base Value. Consistent with 760 CMR 66.06(1)(c), the Base Value is equal to the assessed value (or aggregate thereof) of the parcel(s) that comprise the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed by the Sponsor and the Municipality with respect to the parcel or parcels, as the case may be, and prior to the start of any new construction or Substantial Rehabilitation activities, including demolition, minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.

At the time of execution, the base value of this property is expected to be \$553,000.0089.13. This value is subject to change and will be re-confirmed at the time the exemption percentage is applied starting on the effective date of the agreement.

H. MRRU Percentage. 89.13 per cent. The MRRU Percentage shall be confirmed as required in paragraph F, below.

C. Exemption Percentage. Commencing on the Effective Date which shall be Fiscal Year 1: 100% Years 1-5; 85% Years 6-10; 55% Years 11-20

D. The Increment. As defined at 760 CMR 66.06(1)(b)(1).

E. Calculation. For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property tax on the Increment.

F. Confirmation or Amendment of Calculation. Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a "Tax Increment Exemption – Confirmation of Calculation" in the form attached as Exhibit 4 ("TIE Confirmation"). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

Section 5 – Default

A. Event of Default. An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following events:

- 1) Breach of Covenant Prior to Final Certification. Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.
- 2) Breach of Covenant Subsequent to Final Certification. Sponsor's conduct is materially at variance with the representations made in its New Construction or Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.
- 3) Misrepresentation. Any representation made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

B. Rights on Default.

1) Prior to Final Certification. Upon the occurrence of an Event of Default prior to Final Certification, then this Agreement shall become null and void.

2) Subsequent to Final Certification. Upon the occurrence of an Event of Default subsequent to Final Certification, then:

a. Revocation of Certification. Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that EOHLC revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which DHCD determines that a material variance commenced.

b. Termination of Agreement. Upon revocation of certification, this Agreement shall become null and

void as of the effective date of such revocation.

c. Recoupment of Economic Benefit. Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent to such revocation.

3) Other Remedies. The Municipality's rights upon the occurrence of an Event of Default are in addition to those granted to EOHLIC and the Massachusetts Commissioner of Revenue under the terms of the Act.

Section 6 – Miscellaneous

A. Effective Date. The effective date of the HD TIE shall be July 1st of the first Fiscal Year following EOHLIC's Final Certification of the HD Project pursuant to the requirements of the Act and the Regulations. The Effective Date shall be confirmed as required under Section 4.F above.

B. Term of Agreement. This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.

C. Reporting. Sponsor shall submit reports to the Municipality not later than thirty (30) days after June 30 of each Fiscal Year for the term of this Agreement. Each report shall contain the following information:

- 1) Until Completion, the status of construction in relation to the schedule contained in the New Construction or Rehabilitation Plan;
- 2) Until Completion, the status of marketing in relation to the New Construction or Rehabilitation Plans; and
- 3) For each MRRU, the number of bedrooms in the unit, whether it was leased as of the end of the most recent fiscal year and the monthly rent charged.

D. Assignment. The Sponsor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the Municipality, which approval shall not be unreasonably withheld. The foregoing notwithstanding, the rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by merger.

E. Notices. In conjunction with concurrent electronic submission as provided for below or, if reasonable efforts can determine that such information is no longer current, otherwise reasonably obtainable and verifiable electronic contact information, any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and, unless general measures for electronic receipt as a substitute are in place at such time or can otherwise be reasonably assumed due to publicized or immediately foreseeable remote working conditions, shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) days after the day on which mailed or, if sent by overnight courier, on the day after delivered to such courier.

- Municipality: Town Manager

Town of Barnstable
367 Main Street
Hyannis, MA 02601

2) Sponsor: Spartan Cleaners Realty, LLC
242 Barnstable Road
Hyannis MA 02601

Email: josh 2376@gmail.com

3) Copy to EOHLHC: All such notices shall be copied to EOHLHC at:

HDIP Program Coordinator
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114
eohlchdip@mass.gov

4) Change of Address. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice.

F. Modifications. No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of Municipality in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by its Town Manager as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

By: Mark S. Ells, Town Manager

By: Tammy Barros

By: Josh Barros

EXHIBIT 1

MAP OF PROPERTY
242 Barnstable Road Hyannis, MA

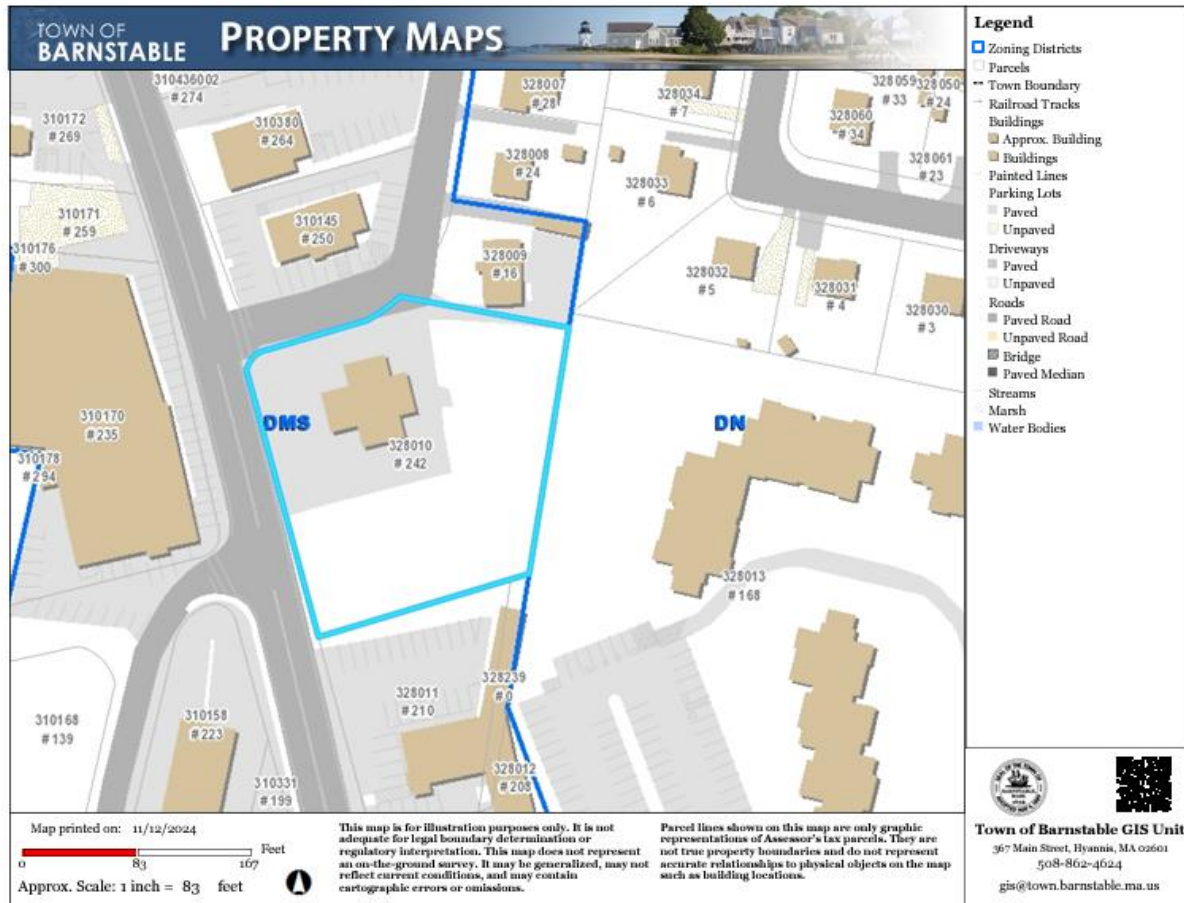


EXHIBIT 2

DESCRIPTION OF PROPERTY

Doc: 1,472,929 12-15-2022 11:02
CtF#: 231813

NOT
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OFFICIAL
COPY

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QUITCLAIM DEED

I, **Dennis Karukas**, being a married man, of 31 Rodolph Way, Dennis, MA 02638

FOR consideration paid and in full consideration of

**EIGHT HUNDRED NINETY-NINE THOUSAND AND 00/100 (\$899,000.00)
DOLLARS**

Grant to

Spartan Cleaners Realty LLC, a Massachusetts limited liability company with an usual place of business at 57 Clowes Drive, Falmouth, MA 02540

with Quitclaim covenants

The following described parcel of land situated in the Town of Barnstable (Hyannis) and the County of Barnstable and Commonwealth of Massachusetts being described as follows:

Being Lots 2, 3, 4 and 90 on Land Court Subdivision Plan 16441-B (Sheet 1) dated Sept. 4, 1945, drawn by Leslie F. Rogers, Engineer, and filed in the Land Registration Office at Boston, a copy of which is filed with the Barnstable County Registry of Deeds in Land Registration Book 47, Page 78 with Certificate of Title No. 7778.

For title see Deed registered as Document No. 956,712 filed with Certificate of Title No. 172027.

Grantor hereby releases any and all rights of homestead in the subject property, and further states that he is aware of no individual entitled to homestead rights thereto.

Signed under the pains and penalties of perjury this 15 day of December 2022.

Property address: 242 Barnstable Road, Hyannis, MA 02601

MASSACHUSETTS STATE REGISTRY TAX
BARNSTABLE LAND COURT REGISTRY
Date: 12-15-2022 @ 11:02am
CtL#: 213
Fee: \$2,074.50 Com: \$899,000.00

BARNSTABLE COUNTY REGISTRY TAX
BARNSTABLE LAND COURT REGISTRY
Date: 12-15-2022 @ 11:02am
CtL#: 213
Fee: \$2,150.94 Com: \$899,000.00

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DENNIS KARIKAS

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COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this 15th day of December 2022, before me, the undersigned notary public, personally Dennis Karikas proved to me through satisfactory evidence of identification, which was a, MASSACHUSETTS DRIVER'S LICENSE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that the above statements are true to the best of his knowledge and belief and that he signed it as his free act and deed and voluntarily for its stated purpose

(SEAL)




Notary Public
My commission expires March 31, 2028

EXHIBIT 3

MARKET RATE RESIDENTIAL UNITS – PRICING PLAN

Proposed Initial
Monthly Rent(s)*: \$_____

B. Projected Rents/Sales: See attached schedules			
Rental Units: Market	# of Units:	Square Feet:	Projected Monthly Rents
• Studio	12	589	2,357.00
• Studio	2	618	2,472.00
• 1 Bedroom	4	710	2,700.00
• 1 Bedroom	3	735	2,535.00
• 1 Bedroom	4	760	2,622.00
• 1 Bedroom	6	785	2,710.00
• 1 Bedroom	4	666	2,529.00
• 2 Bedroom	6	1,061	3,200.00
Total	41		
Required Affordable 65% of 100%			
1 Bedroom	2	666	1,646.00
1 Bedroom	2	710	1,646.00
1 Bedroom	1	735	1,646.00
Total	5		
Total Units	46		

*units shall be priced in compliance with EOHLIC’s HDIP Guidelines and 760 CMR 66.04(2)(f)

EXHIBIT 4

TAX INCREMENT EXEMPTION – CONFIRMATION OF CALCULATION

[FORM TO REMAIN BLANK UNTIL PROJECT COMPLETED AND ELIGIBLE FOR FINAL CERTIFICATION]

In connection with the Tax Increment Exemption Agreement dated _____, 20____ by and between the MUNICIPALITY, and Spartan Cleaners Realty, a Massachusetts Limited Liability Company with an address at 57 Clowes Road, Falmouth, MA 02540, with respect to the property at 242 Barnstable Road, Hyannis (the “Agreement”), the parties hereby confirm the following elements of the Agreement. Unless otherwise stated, capitalized terms have the meaning set forth in the Agreement.

1. The effective date of the Agreement is: _____
2. The MRRU Percentage is: _____
3. The assessed value of the of the residential portion of the Property upon Completion is: _____

To the extent that the dates or figures in this “Tax Increment Exemption – Confirmation of Calculation” differ from those set forth in the Agreement, the contents of this document shall control and shall be deemed to have amended the Agreement.

MUNICIPALITY **SPARTAN CLEANERS REALTY, LLC**

By: Mark S. Ells, Town Manager

By: Josh Barros

By:

By: Tammy Barros

Dated: _____

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2025-056
INTRO: 11/21/2024, 12/05/2024

2025-056 AUTHORIZATION OF A HOUSING DEVELOPMENT INCENTIVE PROGRAM TAX INCREMENT EXEMPTION AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HYANNIS HARBOR, LLC FOR 85 NEW MARKET RATE RESIDENTIAL RENTAL UNITS LOCATED AT 201 MAIN STREET, HYANNIS, MA

ORDERED: That the Town Council hereby authorizes a Tax Increment Exemption (TIE) Agreement between the Town of Barnstable and Hyannis Harbor, LLC pursuant to the Housing Development Incentive Program, M.G.L. c. 40V, and the regulations promulgated thereunder at 760 CMR 66.00, for eighty-five (85) market rate residential units located at 201 Main Street, Hyannis, substantially in the form presented to the Town Council at this meeting, and further authorizes the Town Manager to execute the TIE Agreement and submit it to the Massachusetts Executive Office of Housing and Livable Communities for approval.

SPONSOR: Town Council Tax Incentive Committee: Town Council Vice President Craig A. Tamash, Precinct 4; Councilor John R. Crow, Precinct 5

DATE	ACTION TAKEN
<u>11/21/2024</u>	<u>Refer to Second Reading 12/05/2024</u>

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-056
INTRO: 11/21/2024, 12/05/2024

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development
DATE: November 21, 2024
SUBJECT: Authorization of a Housing Development Incentive Program Tax Increment Exemption Agreement between the Town of Barnstable and Hyannis Harbor, LLC for 85 new Market Rate Residential Rental Units located at located at 201 Main Street, Hyannis

RATIONALE: The Tax Incentive Committee of the Town Council recommends approval of the Housing Development Incentive Program Tax Increment Exemption request from developer Hyannis Harbor, LLC (Chris Starr and Tyler Langlois) for the property located at 201 Main Street, Hyannis. In addition to the eighty-five (85) market rate units, ten (10) units are proposed to be permanently deed-restricted and affordable; the project has a total of ninety-five (95) units.

In January 2018, the Town Council approved the proposed Downtown Hyannis HD Zone and Plan and in March 2018 the Town received approval of its Zone from the Department of Housing and Community Development (now EOHLIC). Approval of this Zone allows the Town to enter into Tax Increment Exemption Agreements with property owners within the Zone.

The goals of the Housing Development Incentive Program, which authorizes Tax Increment Exemption Agreements, is to increase residential growth, expand diversity of housing supply, support economic development and promote neighborhood stabilization.

The Housing Development Program (HDIP) staff review committee, and the Town Council Tax Incentive Committee reviewed the application from Hyannis Harbor, LLC and found it to be complete and that the development meets the objectives of the HDIP Plan including increasing residential stock and diversity of housing choice. The Operating Pro Forma is reasonable and in line with industry standards. Based on limited availability of comparable development in the HDIP Zone, the proposed rents, at \$2,400 per month for a 1-bedroom unit; \$3,000 per month for a 2-bedroom unit; \$3,800 per month for a 3-bedroom unit, are priced consistently with prevailing rents. The development will have a positive impact on housing supply and, in turn, support economic development.

The TIE Agreement is a contract between the property owner and the municipality which sets forth the amount of tax exemption and the duration of the benefits. The Sponsor has requested, and the Tax Incentive Committee recommends a 100% Tax Exemption for years 1-5, an 85% Tax Exemption for years 6-10 and 55% Tax Exemption on years 11-20 on increased value anticipated to be \$12,621,864 which excludes the value of the ten (10) affordable units.

If approved by the Town, this project and TIE Agreement must also be approved by the State Executive Office of Housing and Livable Communities.

FISCAL IMPACT: The estimated total assessed value of the property when developed as proposed is \$16,073,050 resulting in an increase of \$14,463,764 in assessed value for the Market Rate Units with an increase in value subject to TIE at \$12,621,864. As proposed, the total estimated value of the TIE is 1,612,702.89. Which includes an estimated \$1,565,730.96 in property tax savings and \$46,971.93 in Community Preservation Tax savings for the developer. By approving the TIE Agreement, the Town agrees to forgo this estimated tax revenue over 20 years in exchange for the redevelopment of this property that creates eighty-five (85) new year-round Market Rate rental housing units, and ten (10) affordable units at 65% of Area Median Income.

STAFF ASSISTANCE: Mark Milne, Finance Director; John Curran, Director of Assessing; Corey Pacheco, Senior Planner, Planning and Development

HOUSING DEVELOPMENT INCENTIVE PROGRAM

TAX INCREMENT EXEMPTION (TIE) AGREEMENT

between

Town of Barnstable

and

Hyannis Harbor LLC

This AGREEMENT is made this _____ day of _____, 2024 by and between the Town of Barnstable (“Municipality”) and Hyannis Harbor LLC, a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 649 Alden Street, Suite 1, Fall River, MA 02723.

Section 1 – Agreement

The Municipality and the Sponsor, for good and valuable consideration and in consideration of the covenants and agreements herein contained, hereby make this agreement regarding a tax increment exemption pursuant to the Housing Development (HD) Incentive Program, M.G.L. c. 40V and the regulations promulgated thereunder at 760 CMR 66.00 (HD TIE), with respect to the Property as herein defined.

Section 2 – Definitions

Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

Act: M.G.L. c. 40V as may be amended from time to time.

Completion: Certificates of occupancy have been issued for the entire Project.

DHCD: Department of Housing and Community Development

EOHLC: Executive Office of Housing and Livable Communities

Event of Default: An “Event of Default” as defined in Section 5 below.

Final Certification: Determination by EOHLC that the Sponsor has completed the new construction or substantial rehabilitation of the Property, consistent with the New Construction or Rehabilitation Plans, including the creation of MRRUs, as set forth in the Act and the Regulations.

Fiscal Year: An annual period of July 1 through June 30.

HD Project: A Certified Housing Development Project as defined in the Act and the Regulations.

HD Zone: The Housing Development Zone adopted by the Town of Barnstable on January 18, 2018 and approved by EOHLC (formerly DHCD) as evidenced by a Certificate of Approval dated March 9, 2018 and recorded with Barnstable County Registry of Deeds, Book 32702, Page 1. The Zone was amended on January 21, 2021 and approved by EOHLC as evidenced by a Certificate of Approval dated March 2, 2021 and recorded with Barnstable County Registry of Deeds Book 3652, Page 251.

MRRU: Market Rate Residential Unit(s) as defined at Section 3.B.1.

Property: 201 Main Street (Parcel 327150), as shown in Exhibit 1, "Map of Property" and further described in Exhibit 2, "Legal Description of Property".

Regulations: 760 CMR 66.00.

New Construction or Rehabilitation Plans: The material submitted for Conditional Certification pursuant to 760 CMR 66.05(3)(a) and approved by EOHLIC.

Sponsor: Hyannis Harbor LLC, a Massachusetts Limited Liability Corporation, with an address at 649 Alden Street, Suite 1, Fall River, MA 02723, its successors and assigns.

Section 3 – Sponsor’s Covenants

E. New Construction or Substantial Rehabilitation of the Property. Sponsor will undertake the new construction or substantial rehabilitation of the Property in accordance with the work and schedule set forth in the New Construction or Rehabilitation Plans.

F. Market Rate Residential Units.

(1.) There shall be a total of 85 residential market rate rental units created in the Project. There will be fifty-nine 1-bedroom units, twenty-five 2-bedroom units, and one 3-bedroom unit. The monthly rent for such units shall be priced consistently with prevailing rents or sale prices in the Municipality as determined based on criteria established by the Department, as set forth in Exhibit 3, "Market Rate Residential Units – Pricing Plan".

(2.) Sponsor shall use good faith efforts to maintain the units as MRRUs for a minimum of 20 years.

G. Marketing. Sponsor shall cause the MRRU to be marketed in a manner that is consistent with the strategies, implementation plan and affirmative fair housing efforts set out in the New Construction or Rehabilitation Plans.

H. HD Project Certification. Sponsor shall take all actions reasonably necessary to obtain Final Certification of the Property as an HD Project including but not limited to submitting applications to EOHLIC for Conditional Certification and Final Certification consistent with the requirements of the Act and the Regulations.

Section 4 – Tax Increment Exemption

Municipality agrees to grant Sponsor an exemption to the real property taxes due on the Property pursuant to G.L. c.59 according to the following terms.

I. Base Value. Consistent with 760 CMR 66.06(1)(c), the Base Value is equal to the assessed value (or aggregate thereof) of the parcel(s) that comprise the property as of the fiscal year in which a HD Tax Increment Exemption Agreement is executed by the Sponsor and the Municipality with respect to the parcel or parcels, as the case may be, and prior to the start of any new construction or Substantial Rehabilitation activities, including demolition, minus the assessed value attributable to any portion of the property that was assessed as other than residential in the applicable fiscal year and remains non-residential after completion of new construction or Substantial Rehabilitation.

At the time of execution, the base value of this property is expected to be \$1,841,900. This value is subject to change and will be re-confirmed at the time the exemption percentage is applied starting on the effective date of the agreement.

J. MRRU Percentage. 90%. The MRRU Percentage shall be confirmed as required in paragraph F, below.

- K. Exemption Percentage. Commencing on the Effective Date which shall be Fiscal Year 1: 100% Years 1-5; 85% Years 6-10; 55% Years 11-20
- L. The Increment. As defined at 760 CMR 66.06(1)(b)(1).
- M. Calculation. For each Fiscal Year during the term of this Agreement, the HD TIE shall be determined by applying the Exemption Percentage to the property tax on the Increment.
- N. Confirmation or Amendment of Calculation. Upon Completion, and prior to applying for Final Certification of the Project, the Sponsor and Municipality shall file a “Tax Increment Exemption – Confirmation of Calculation” in the form attached as Exhibit 4 (“TIE Confirmation”). To the extent that the dates or figures in the TIE Confirmation differ from those set forth in this Agreement, the contents of the TIE Confirmation shall control and shall be deemed to have amended this Agreement.

Section 5 – Default

- C. Event of Default. An “Event of Default” shall arise under this Agreement upon the occurrence of any one or more of the following events:

§240-24.4 Breach of Covenant Prior to Final Certification. Subject to the limitations set forth in the Regulations at section 66.05(4)(b), Sponsor defaults in the observance or performance of any material covenant, condition or agreement to be observed or performed by Sponsor pursuant to the terms of this Agreement, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

5) Breach of Covenant Subsequent to Final Certification. Sponsor’s conduct is materially at variance with the representations made in its New Construction or Rehabilitation Plans; such variance is found to frustrate the public purposes that Final Certification was intended to advance, and the continuance of such default for thirty (30) days after written notice thereof from the Municipality; provided, however, that if the curing of such default cannot be accomplished with due diligence within said period of thirty (30) days, then Sponsor shall have such additional reasonable period of time, not to exceed thirty (30) days, to cure such default provided the Sponsor shall have commenced to cure such default within the initial thirty (30) day period, such cure shall have been diligently prosecuted by the Sponsor thereafter to completion.

6) Misrepresentation. Any representation made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect.

- D. Rights on Default.

- a. Prior to Final Certification. Upon the occurrence of an Event of Default prior to Final Certification, then this Agreement shall become null and void.

- 2) Subsequent to Final Certification. Upon the occurrence of an Event of Default subsequent to Final Certification, then:

- a. Revocation of Certification. Pursuant to the terms of the Act, the Municipality, may, at its sole discretion, request that EOHLC revoke the Final Certification of the Project, such revocation to take effect on the first day of the fiscal year in which EOHLC determines that a material variance commenced.

b. Termination of Agreement. Upon revocation of certification, this Agreement shall become null and void as of the effective date of such revocation.

c. Recoupment of Economic Benefit. Upon revocation of certification, the Municipality may bring a cause of action against Sponsor for the value of any economic benefit received by Sponsor prior to or subsequent to such revocation.

3) Other Remedies. The Municipality's rights upon the occurrence of an Event of Default are in addition to those granted to EOHLIC and the Massachusetts Commissioner of Revenue under the terms of the Act.

Section 6 – Miscellaneous

A. Effective Date. The effective date of the HD TIE shall be July 1st of the first Fiscal Year following EOHLIC's Final Certification of the HD Project pursuant to the requirements of the Act and the Regulations. The Effective Date shall be confirmed as required under Section 4.F above.

B. Term of Agreement. This Agreement shall expire upon the Municipality's acceptance of the annual report, as required below, for the final Fiscal Year for which the Municipality is granting the TIE.

C. Reporting. Sponsor shall submit reports to the Municipality not later than thirty (30) days after June 30 of each Fiscal Year for the term of this Agreement. Each report shall contain the following information:

1) Until Completion, the status of construction in relation to the schedule contained in the New Construction or Rehabilitation Plan;

2) Until Completion, the status of marketing in relation to the New Construction or Rehabilitation Plans; and

3) For each MRRU, the number of bedrooms in the unit, whether it was leased as of the end of the most recent fiscal year and the monthly rent charged.

G. Assignment. The Sponsor shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without the prior written consent of the Municipality, which approval shall not be unreasonably withheld or delayed. The foregoing notwithstanding, the rights and obligations of this Agreement shall inure to the benefit of any entity succeeding to the interests of the Sponsor by merger.

H. Notices. In conjunction with concurrent electronic submission as provided for below or, if reasonable efforts can determine that such information is no longer current, otherwise reasonably obtainable and verifiable electronic contact information, any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified or registered mail, postage prepaid, as follows, and, unless general measures for electronic receipt as a substitute are in place at such time or can otherwise be reasonably assumed due to publicized or immediately foreseeable remote working conditions, shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified or registered mail, three (3) days after the day on which mailed or, if sent by overnight courier, on the day after delivered to such courier.

- Municipality: Town Manager
Town of Barnstable
367 Main Street
Hyannis, MA 02601

- Sponsor: Hyannis Harbor LLC

649 Alden Street, Suite 1
Fall River, MA 02723
cstarr@caraghdevelopment.com
tlanglois@caraghdevelopment.com

- Copy to EOHLIC: All such notices shall be copied to EOHLIC at:

HDIP Program Coordinator
Executive Office of Housing and Livable Communities
100 Cambridge Street, Suite 300
Boston, MA 02114
eohlchdip@mass.gov

- Change of Address. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice.

- I. Modifications. No modification or waiver of any provision of this Agreement, nor consent to any departure by the Sponsor therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of Municipality in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, the Sponsor has caused this Agreement to be duly executed in its name and behalf and its seal affixed by its duly authorized representative, and the Municipality has caused this Agreement to be executed in its name and behalf and its seal duly affixed by its Town Manager as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

MUNICIPALITYSPONSOR

By: Mark S. Ells, Town Manager Christopher J. Starr, Manager

Tyler J. Langlois, Manager

EXHIBIT 1

MAP OF PROPERTY

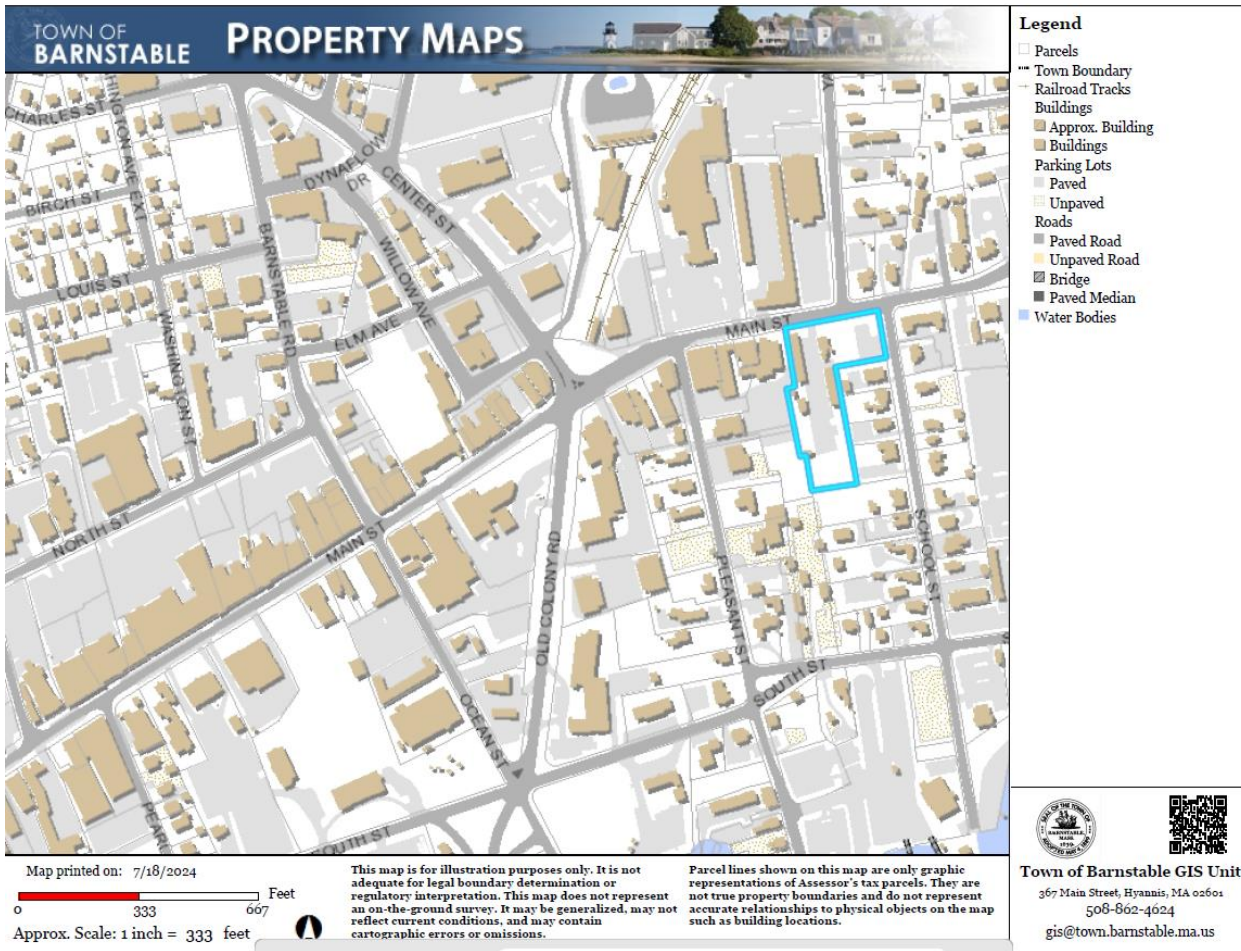


EXHIBIT 2
DESCRIPTION OF PROPERTY

LAND REFERENCED:

PER TITLE COMMITMENT No. 21000070171
DATED OCTOBER 05, 2021 AS SHOWN AS:

EXHIBIT A

THE LAND WITH THE BUILDINGS THEREON SITUATED IN BARNSTABLE (HYANNIS), BARNSTABLE COUNTY, MASSACHUSETTS, ON THE SOUTHERLY SIDE OF MAIN STREET AND THE WESTERLY SIDE OF SCHOOL STREET, CONSISTING OF TWO ADJOINING PARCELS OF LAND, SEPARATLY BOUNDED AND DESCRIBED AS FOLLOWS:

PARCEL I – 195-201 MAIN STREET

THE LAND WITH THE BUILDINGS THEREON, SITUATED IN SAID BARNSTABLE, BOUNDED AS FOLLOWS:

- NORTHERLY: BY MAIN STREET, ONE HUNDRED TWENTY AND 70/100 (120.70) FEET, MORE OR LESS;
- EASTERLY: BY LAND FORMERLY OF FLORENCE G. FOSTER, BEING PARCEL II HEREIN DESCRIBED, AND BY LAND NOW OR LATE OF THE ESTATE OF JOHN H. ANDREWS, ONE HUNDRED NINETY-NINE (199) FEET, MORE OR LESS;
- SOUTHERLY: BY LAND OF THE ESTATE OF JOHN H. ANDREWS, TWO AND 3/10 (2.3) FEET;
- EASTERLY: AGAIN BY LAND OF THE ESTATE OF JOHN H. ANDREWS, RUTH SCHUMAN AND ADELLA J. ALLEN, TWO HUNDRED FIFTY-THREE (253) FEET, MORE OR LESS;
- SOUTHERLY: BY LAND OF ADELLA J. ALLEN, ONE HUNDRED TWENTY AND 28/100 (120.28) FEET;
- WESTERLY: BY LAND OF THE HYANNIS INN, NINETY-FOUR (94) FEET, MORE OR LESS;
- SOUTHERLY: STILL BY LAND OF SAID HYANNIS INN, SEVENTEEN (17) FEET, MORE OR LESS;
- WESTERLY: STILL BY LAND OF HYANNIS INN, ONE HUNDRED NINETY-FOUR (194) FEET, MORE OR LESS;
- NORTHERLY: STILL BY LAND OF SAID HYANNIS INN, TWENTY-ONE (21) FEET, MORE OR LESS; AND
- WESTERLY: STILL BY LAND OF SAID HYANNIS INN, ONE HUNDRED SIXTY-THREE (163) FEET, MORE OR LESS.

SAID PARCEL IS SHOWN AS LOT 1, 2, 3, AND 4 AND A 20 FOOT WAY ON A PLAN OF LAND ENTITLED "SUBDIVISION OF LAND IN HYANNIS-BARNSTABLE, MASS., PROPERTY OF RICHARD H.P. SOMMERS", SCALE 1"=30', MARCH 9, 1959, BY ED KELLOGG, CIVIL ENGR., OSTERVILLE, DULY FILED WITH BARNSTABLE COUNTY REGISTRY OF DEEDS IN PLAN BOOK 146 PAGE 137.

PARCEL II – 181 MAIN STREET, CORNER SCHOOL STREET

THE LAND WITH THE BUILDINGS THEREON, SITUATED IN SAID BARNSTABLE, BOUNDED AS FOLLOWS:

- NORTHERLY: BY MAIN STREET, ONE HUNDRED FORTY-SIX (146) FEET;
- EASTERLY: BY SCHOOL STREET, ONE HUNDRED THIRTY-FIVE (135) FEET;
- SOUTHERLY: BY LAND NOW OR FORMERLY OF ELISHA B. BASSETT AND ALBERT J. BRUNELLE, ONE HUNDRED FORTY-SIX AND 00/100 (146) FEET; AND
- WESTERLY: BY LAND FORMERLY OF ERNEST S. BRADFORD, BEING PARCEL I HEREIN DESCRIBED, ONE HUNDRED THIRTY-FOUR AND 00/100 (134) FEET.

CONTAINING APPROXIMATELY 19,700 SQUARE FEET AND BEING SHOWN ON PLAN ENTITLED "PLAN OF LAND IN HYANNIS, MASS., FOR THADEUSZ A. BACZEK" DATED FEBRUARY 2, 1930, BY HERBERT RICHARDSON, SURVEYOR, RECORDED WITH BARNSTABLE COUNTY REGISTRY OF DEEDS IN PLAN BOOK 93 PAGE 149.

EXCEPTING FROM SAID PARCEL SO MUCH THEREOF AS WAS TAKEN BY THE TOWN OF BARNSTABLE IN 1961 BY INSTRUMENT RECORDED IN BOOK 1110, PAGE 543 AND SHOWN ON PLAN RECORDED IN PLAN BOOK 161, PAGE 135, AS A TRIANGULAR AREA CONTAINING 95 SQUARE FEET, MORE OR LESS, MAKING A CURVED INTERSECTION FOR SAID STREETS.

SCHEDULE BII EXCEPTIONS

Exceptions

Commitment No.: 21000070171

October 5, 2021

1. Any facts, rights, interests, or claims which are not shown by the public records but which would be ascertained by inspection of said land or by making inquiry of persons in possession thereof.
2. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
3. Any lien, or right to a lien, for services, labor or materials theretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
5. Liens for taxes and municipal charges which become due and payable subsequent to the date of said policy.
6. Order of Taking by the town of Barnstable for the layout of School Street dated April 4, 1961 and recorded in Book 1110 Page 543.

NOTE: While specifically excluded from coverage under the terms and provisions of the policy to be issued, the records at the Barnstable Registry of Deeds reveal the existence of the following matters:

- a. Notice of Variance dated July 13, 1977 and recorded in Book 2561, Page 317.

POSSIBLE ENCROACHMENTS/ADVERSE POSSESSION



1. PAVEMENT NORTH AND WEST SIDELINE PARCEL I AND SOUTH SIDELINE PARCEL II
2. SIGN ALONG MAIN STREET AND SCHOOL STREET.
3. ROOF OVERHANG ON WEST SIDE LINE OF PARCEL I
4. STOCKADE FENCE PARCEL I
5. ALL PROPERTY OWNERS APPEAR TO BE OCCUPYING UP TO FENCE LINE AS DEPICTED (SEE PLAN)
6. METAL GUARD RAIL WEST SIDE PARCEL I
7. SAWCUT IN PAVEMENT INDICATE POSSIBLE UNDERGROUND UTILITIES IN AREA

SURVEYORS PROPERTY DESCRIPTION

THE SURVEYOR PROPERTY DESCRIPTION FOR PARCEL I AND PARCEL II WAS PREPARED IN CONJUNCTION WITH THIS SURVEY. THE NEW DESCRIPTION SUBSTANTIALLY DESCRIBES THE SAME REAL ESTATE AS DEPICTED IN PLAN BOOK 146 PAGE 137 AND PLAN BOOK 93 PAGE 149. BUT DIFFERS IN THE BOUNDARY DESCRIPTION SHOWN ON PLAN BOOK 146 PAGE 137 AND PLAN BOOK 93 PAGE 149 DUE TO THE LACK OF PROVIDED TITLE INFORMATION, CONFLICTING ABUTTERS DEED AND PLAN INFORMATION, INACCURATE LAYOUT INFORMATION, LACK OF MONUMENTATION AND MISSING DIMENSIONAL INFORMATION. THE RECORD PLAN BOOK 146 PAGE 137 AND PLAN BOOK 93 PAGE 149 DOES NOT MATHEMATICALLY CLOSE ETC. (SEE SHEET C1.0). THE SURVEYOR PROPERTY DESCRIPTION IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTIES SHOWN. THE SURVEYOR RECOMMENDS FURTHER TITLE RESEARCH AND REVIEW FROM LEGAL COUNCIL IN ORDER TO RECONCILE ANY DISCREPANCIES. THE BOUNDARY AS DEPICTED ON THIS PLAN IS BASED ON THE SURVEYORS CURRENT INFORMATION, KNOWLEDGE AND BELIEF.

PARCEL I

THE PARCEL IS LOCATED IN THE TOWN OF BARNSTABLE (HYANNIS) MASSACHUSETTS
BEGINNING AT A CONCRETE BOUND WITH A DRILL HOLE ON THE EAST SIDELINE OF THE PARCEL THENCE;

S 10°-46'-50" E A DISTANCE OF SIXTY-SIX 67/100 (66.67') FEET TO A CONCRETE BOUND THENCE;

S 75°-28'-53" W A DISTANCE OF TWO 23/100 (2.23') FEET; THENCE

S 10°-37'-27" E A DISTANCE OF EIGHTY-EIGHT 75/100 (88.75') FEET TO A CONCRETE BOUND; THENCE

S 10°-37'-27" E A DISTANCE OF ONE HUNDRED SIXTY-FIVE 00/100 (165.00') FEET; THENCE

S 79°-57'-08" W A DISTANCE OF ONE HUNDRED EIGHTEEN 53/100 (118.53') FEET; THENCE

N 12°-18'27" W A DISTANCE OF NINETY FOUR 00/100 (94.00') FEET TO A IRON PIPE IN CONCRETE; THENCE

S 79°-38'-22" W A DISTANCE OF SEVENTEEN 09/100 (17.09') FEET; THENCE

N 10°-17'-36" W A DISTANCE OF SEVENTY-FIVE 71/100 (75.71') FEET; THENCE

N 11°-15'-32" W A DISTANCE OF ONE HUNDRED EIGHTEEN 38/100 (118.38') FEET; THENCE

N 78°-24'-28" E A DISTANCE OF TWENTY 49/100 (20.49') FEET; THENCE

N 10°-05'-32" W A DISTANCE OF ONE HUNDRED SIXTY-THREE 65/100 (163.65') FEET, TO THE SOUTHERLY SIDE
LINE OF MAIN STREET; THENCE

N 79°-11'-29" E ALONG THE SOUTHERLY SIDE LINE OF MAIN STREET, A DISTANCE OF ONE HUNDRED TWENTY
43/100 (120.43') FEET TO THE NORTHWEST CORNER OF PARCEL II; THENCE

S 10°-08'-01" E ALONG THE WEST SIDE LINE OF PARCEL II, A DISTANCE OF ONE HUNDRED THIRTY-THREE
19/100 (133.19') FEET TO THE POINT OF BEGINNING

THE ABOVE DESCRIBED LOT CONTAINS A TOTAL OF 58,089 SQUARE FEET OR 1.33 ACERS MORE OR LESS.

PARCEL II

THE PARCEL IS LOCATED IN THE TOWN OF BARNSTABLE (HYANNIS) MASSACHUSETTS
BEGINNING AT A CONCRETE BOUND WITH A DISK ON THE WESTERLY SIDE LINE OF SCHOOL STREET THENCE;

S 09°-37'-27" E A DISTANCE OF ONE HUNDRED FOURTEEN 94/100 (114.94') FEET; THENCE

S 79°-49'-58" W A DISTANCE OF ONE HUNDRED FORTY-FOUR 79/100 (144.79') FEET TO A CONCRETE BOUND
WITH A DRILL HOLE; THENCE

N 10°-08'-01" W A DISTANCE OF ONE HUNDRED THIRTY-THREE 19/100 (133.19') FEET TO THE SOUTH SIDE
LINE OF MAIN STREET; THENCE

N 79°-11'-29" E ALONG THE SOUTHERLY SIDE LINE OF MAIN STREET, A DISTANCE OF ONE HUNDRED TWENTY-SIX
09/100 (126.09') FEET TO THE POINT OF CURVATURE AT SCHOOL STREET; THENCE

SOUTHEASTERLY ALONG THE WESTERLY SIDE LINE OF SCHOOL STREET BY A CURVE TO THE RIGHT HAVING A
RADIUS OF NINETEEN 41/100 (19.41') FEET, AN ARCH LENGTH OF THIRTY-ONE 06/100
(31.06') FEET TO THE POINT OF BEGINNING

THE ABOVE DESCRIBED LOT CONTAINS A TOTAL OF 19,398 SQUARE FEET OR 0.45 ACERS MORE OR LESS.

TO: STEWART TITLE GUARANTY COMPANY, GCP MAIN LLC., NORTHERN BANK

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED
WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS
FOR ALTA/NSPS LAND TITLE SURVEYS JOINTLY ESTABLISHED AND ADOPTED BY ALTA
AND NSPS, AND INCLUDES ITEMS: 2, 3, 4, 8, 13, 16, AND 17 OF TABLE A THEREOF.
THE FIELD WORK WAS COMPLETED ON JANUARY 13, 2022

DATE OF PLAT: FEBRUARY 18, 2022

SHANE M. MALLON, RPLS 48687
BAXTER NYE ENGINEERING AND SURVEYING
78 NORTH STREET
HYANNIS, MASSACHUSETTS, 02601

EXHIBIT 3

MARKET RATE RESIDENTIAL UNITS – PRICING PLAN

Proposed Initial
Monthly Rent(s)*: \$2,400 (1-BR)
 \$3,000 (2-BR)
 \$3,800 (3-BR)

*units shall be priced in compliance with EOHLC’s HDIP Guidelines and 760 CMR 66.04(2)(f)

EXHIBIT 4

TAX INCREMENT EXEMPTION – CONFIRMATION OF CALCULATION

[FORM TO REMAIN BLANK UNTIL PROJECT COMPLETED AND ELIGIBLE FOR FINAL CERTIFICATION]

In connection with the Tax Increment Exemption Agreement dated _____, 2024 by and between the Town of Barnstable, and Hyannis Harbor LLC, a Massachusetts Limited Liability Corporation (“Sponsor”) with an address at 649 Alden Street, Suite 1, Fall River, MA 02601, with respect to the property at 201 Main Street, Hyannis, MA 02601 (the “Agreement”), the parties hereby confirm the following elements of the Agreement. Unless otherwise stated, capitalized terms have the meaning set forth in the Agreement.

- 4. The effective date of the Agreement is:
- 5. The MRRU Percentage is:
- 6. The assessed value of the residential portion of the Property upon Completion is:

To the extent that the dates or figures in this “Tax Increment Exemption – Confirmation of Calculation” differ from those set forth in the Agreement, the contents of this document shall control and shall be deemed to have amended the Agreement.

MUNICIPALITYSPONSOR

By: Mark S. Ells, Town Manager

By: Christopher J. Starr, Manager

By:

Its:

By: Tyler J. Langlois, Manager

Dated: _____

B. NEW BUSINESS (May be acted upon) (Majority vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-059
INTRO: 12/05/2024**

2025-059 AUTHORIZATION TO CONTRACT FOR AND EXPEND A FISCAL YEAR 2025 MUNICIPAL LOCAL CYBERSECURITY STATE MATCHING GRANT IN THE AMOUNT OF \$17,743.75 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY, OFFICE OF GRANTS AND RESEARCH FOR CYBERSECURITY IMPROVEMENTS

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2025 Municipal Local Cybersecurity State Matching Grant in the amount of **\$17,743.75** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, Office of Grants and Research for the purpose of implementing cybersecurity improvements within Town departments, including the School Department and Police Department.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2025-059
INTRO: 12/05/2024

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Benoit, Director of Information Technology
DATE: 12/05/2024
SUBJECT: Authorization to contract for and expend a Fiscal Year 2025 Municipal Local Cybersecurity State Matching Grant in the amount of **\$17,743.75** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security, Office of Grants and Research for Cybersecurity Improvements

BACKGROUND: In August 2024, the Town was awarded a grant under the Municipal Local Cybersecurity Grant Program in the amount of \$70,975. Although distributed through the Commonwealth, the funding source for that grant was the Federal Government. The Commonwealth is now awarding the Town with a matching grant in the amount of \$17,743.75 to supplement the Federal funds that have already been awarded.

The Municipal Local Cybersecurity Grant Program is a new program this year offered by the Commonwealth's Executive Office of Public Safety and Security to assist local communities in strengthening cybersecurity while reducing systemic cyber risk. The goal of this program is to help local governments keep pace with today's dynamic and increasingly sophisticated cyber threat environment.

These funds will be used to supplement the existing Federal grant in making several cybersecurity improvements across the Town, Police, and School departments.

ANALYSIS: This grant would fund the following cybersecurity initiatives:

1. Development of written Cybersecurity Incident Response Plans for the School and Police Departments. These plans, in combination with the Town's own plan, which is currently in progress, will put the Town as a whole in a much better position to handle any potential cyber incident. All three plans will be built using a similar framework, with each addressing the specific needs and organizational structure of each entity.
2. Migration of the Town and Police Department to the .gov internet domain. This initiative will move the Town from the .us domain, and the Police from the .com domain to the .gov internet domain. This will enhance the security of Town and Police systems, as well as provide a more trustworthy and authoritative platform for interacting with the public.
3. Implementation of a multi-factor authentication (MFA) platform as a pilot initiative for the Town. MFA is a vital tool for securing access to programs and systems to ensure that only authorized users can gain access. This portion of the grant will fund the implementation of an MFA pilot project, putting in place a centralized MFA system capable of controlling access across IT systems and applications. The grant will fund this as a pilot project with a limited scope. If it is later decided to expand this system, additional funds may be required to expand the platform beyond the initial pilot project.

FISCAL IMPACT: No funding match is required by this grant and there will be no immediate financial impact on the Town's operating budget. If it is decided to expand the MFA platform beyond the initial pilot project phase, then additional funding may be required to expand this platform town-wide.

STAFF ASSISTANCE: James Benoit, Director of Information Technology

B. NEW BUSINESS (First Reading) (Refer to Planning Board)

BARNSTABLE TOWN COUNCIL

**ITEM# 2025-060
INTRO: 12/05/2024**

**2025-060 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, CHAPTER 240 ZONING TO REVISE THE
DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND TO REVISE
USE AND DIMENSIONAL REQUIREMENTS, FLOOR AREA DEFINITION,
AND CLARIFY PARKING RESTRICTIONS AND NO OWNER-OCCUPANCY
REQUIREMENT FOR ADUS**

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

SECTION 1

By amending Article XIV, Section 240-128 by deleting the definition of “Accessory Dwelling Unit (ADU)” in its entirety and inserting the following new definition in its place:

ACCESSORY DWELLING UNIT (ADU)

An accessory dwelling unit (ADU) is a self-contained dwelling unit that provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitization, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum gross floor area that is not larger than 1/2 of the gross floor area of the principal single-family dwelling unit (exclusive of floor area that was converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C(4) with regard to square footage.

SECTION 2

By amending Article V Accessory Uses, Section 240-47.2 Accessory Dwelling Units (ADUs), by deleting subsection (C)(1) in its entirety and inserting the following new subsection (C)(1) in its place:

“(1) A Special Permit is required if an applicant is seeking more than one ADU in a single-family residential zoning district.”

SECTION 3

By further amending said Section 240-47.2 by inserting the following sentence after the second sentence in subsection (C)(3):

“The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.”

SECTION 4

By further amending said Section 240-47.2 by deleting the word “habitable” wherever it appears in Subsection (C)(4) and replacing it with the word “gross” in each instance.

SECTION 5

By further amending said Section 240-47.2 by adding the following sentence at the end of Subsection (C)(7):

“No more than one additional parking space per ADU shall be required, provided that no additional parking shall be required when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station.”

SECTION 6

By further amending said Section 240-47.2 by inserting the following new Subsection (C)(12) and by renumbering the existing Subsection (C)(12) as Subsection (C)(13):

“(12) The use of land or structures for an accessory dwelling unit shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling.”

SPONSOR: Mark S. Ells, Town Manager, upon recommendation of the Planning Board

DATE	ACTION TAKEN
_____	_____
_____	_____

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

BARNSTABLE TOWN COUNCIL

SUMMARY

ITEM# 2024-060
INTRO: 12/05/2024

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: James Kupfer, Director, Planning & Development Department
DATE: December 05, 2024
SUBJECT: Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to Revise the Definition of Accessory Dwelling Unit (ADU) and to Revise Use and Dimensional Requirements, Floor Area Definition, and Clarify Parking Restrictions and No Owner Occupancy Requirement for ADUs

RATIONALE: These items propose to amend the Town's Zoning Ordinance to address recent revisions to Chapter 40A of the General Laws, the State Zoning Act, as set forth in the Affordable Homes Act, which was signed into law on August 6, 2024, as Chapter 150 of the Acts of 2024. The Affordable Homes Act permits Accessory Dwelling Units (ADUs) to be built by-right in single family zoning districts. Barnstable already has an ADU Ordinance, but because certain of its provisions as currently written are now inconsistent with state law, those provisions need to be revised to bring them into conformance. The ADU changes to the State Zoning Act will supersede any inconsistent local ADU ordinance when the changes go into effect on February 2, 2025.

The Affordable Homes Act changes the definition of an ADU under Section 1A of Chapter 40A of the General Laws to clarify that the maximum size of an ADU is no more than half of the gross floor area of the principal dwelling, or 900 square feet, whichever is smaller; and that the ADU must maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress.

Section 3 of Chapter 40A was also amended to prohibit owner-occupancy requirements and to require that no more than one (1) additional parking space shall be required for an ADU. This section was further amended to require that no additional parking space shall be required for an ADU located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station. Finally, Section 3 provides that a Special Permit shall be required for more than one (1) accessory dwelling unit in a single-family residential zoning district. This item amends the ADU provisions in Barnstable's Zoning Ordinance to make them consistent with these changes to state law. The proposed changes are reflected in the redlined changes to the Town's Zoning Ordinance attached to this memo.

FISCAL IMPACT: There is no significant fiscal impact associated with this item.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, supports this item.

STAFF SUPPORT: James Kupfer, Director of Planning and Development; Corey Pacheco, Senior Planner; Brian Florence, Building Commissioner; Karen L. Nober, Town Attorney; Kathleen Connolly, Assistant Town Attorney

§ 240-128 Definitions

Accessory Dwelling Unit

~~An accessory dwelling unit (ADU) is a self-contained dwelling unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single-family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C(4) with regard to square footage.~~

An accessory dwelling unit (ADU) is a self-contained dwelling unit that provides complete independent living facilities for one or more persons, as outlined herein, including permanent provisions for living, sleeping, eating, cooking and sanitization, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum gross floor area that is not larger than 1/2 of the gross floor area of the principal single-family dwelling unit (exclusive of floor area that was converted to the ADU), or 900 square feet, whichever is smaller, unless special permit relief is granted with respect to the requirements of § 240-47.2C(4) with regard to square footage.

§ 240-47.2. Accessory dwelling units (ADUs).

A. Purpose and intent. The intent of permitting accessory dwelling units (ADUs) is to:

- (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;
- (2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural requirements.

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single-family dwelling use, except that no ADU shall be permitted on a lot at the same time either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16, of the General Ordinances of the Code of the Town of Barnstable or as a family apartment exists on that lot pursuant to § 240-47.1.
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the federal, state, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

C. Use and dimensional requirements. The Building Commissioner may issue a building permit authorizing the installation and use of an accessory dwelling unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following: (1) No more than one ADU may be created per lot. This provision is not subject to variance. A Special Permit is required if an applicant is seeking more than one ADU in a single-family residential zoning district.

(2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.

(3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single-family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.

(4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable gross floor area that is not larger than 1/2 of the habitable floor area of the principal single-family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms and/or a maximum habitable gross floor area greater than 900 square feet may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

(5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.

(6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.

(7) All parking for the ADU shall be off street. No more than one additional parking space per ADU shall be required, provided that no additional parking shall be required when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station.

(8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.

(9) The rights and requirements of this section hereby transfer upon the sale of a property containing an ADU built under the provisions of this section.

(10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.

(11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. Either the principal dwelling or ADU, but not both, may be rented at any given time.

~~(11)~~(12) The use of land or structure for an accessory dwelling unit shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling.

~~(12)~~(13) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.