

BARNSTABLE TOWN COUNCIL MEETING
July 14, 2005

A quorum being duly present, Town Council President, Gary Brown, called the Regular Meeting of the Barnstable Town Council to order at 7:00 pm, on July 14, 2005 at the Barnstable Town Hall, 367 Main Street, Hyannis, MA.

PRESENT: Richard Barry, Janice Barton, Gary Brown, Ann Canedy, James Crocker, Jr., Leah Curtis, Janet Joakim, J. Gregory Milne, James Munafa, Jr., Royden Richardson, Tom Rugo and Harold Tobey **ABSENT:** Henry Farnham

President Brown announced that 2005-126 will not be acted on this evening and will be postponed to a date certain in August.

President Brown led the Council in the Pledge of Allegiance and a moment of silence.

PUBLIC COMMENT

John Julius said the law suit that he is involved with is still active. He addressed an issue where he stated that he authorized money to go to the owners of the golf course and some was paid in December. He stated that the closing was to take place in June and the closing did not happen. He wants to know why it did not close and where is the money – it is my business. Why did we pay so much in advance? There was purportedly \$5.5M paid 7 months ago and we have not bought the property. There was to be a closing on June 30 and then the owners would run it. Is that in the best interest of the town? What benefit is there to set it up in this fashion. I want the resignation of 17 people in this administration – from the Town Manager down- we want a complete audit by the State auditor's office.

Jim Walsh said Councilor Crocker is looking for an override on town roads. We wouldn't have to look for overrides if we took advantage of \$12M of revenue that goes to the enterprise accounts. He referred to airport properties and adjacent properties such as the K-Mart Mall. He stated that those funds should go into general funds and NOT into the airport accounts. There are many other properties that are outside of the airport fence. We are talking about leased land outside of the fence and we receive so little money. It is time to end the leases controlled by the airport. Barnstable only gets \$50,000 a year. Our leaders kept us in the dark and kept the money out of the general fund. Vote no on future overrides of the town. (See "A" for a copy of his comments)

Richard Hallett said the airport land belongs to the taxpayers of the town of Barnstable. You need to vote for the people (he addressed the councilors). Get rid of the airport enterprise account and put it in the hands of the town. The town gets nothing. The airport is getting a free ride. We don't need a new terminal. It is time to get better management. What an attitude on the noise issue – if you don't like it move. Do what is right for the taxpayer. Vote the control of the airport back into the town's control.

Al Baker has taken out a charter petition which will require many signatures. He spoke with the Town Attorney, and there is a possibility to petition the legislature. The last commission failed because of no choices. We have to get over 5,000 signatures and we have the will to do that. I would be glad to talk to any councilor willing to help on the legislative presentation.

Peter Doiron said that life has two sure things – death and taxes. Examples of censorship – don't answer written comments – reduction of public comment time - denied speech, being the 11th speaker.

He spoke to various other incidences. Censuring people...blaming others for one's fault...and one statement he enjoyed, "I can't think after public comment".

Susan Rohrbach, aide to Rob O'Leary brought greetings from him and just wanted the council to know that she was present.

Shirley Flynn stated that the artistic world brings in more revenue than all the athletic organizations. The artists of Hyannis can now be showcased at the harbor in the artist shanties. She welcomed everyone to come on down and join the fun.

Pat Curcio, director of the Guyer Barn, congratulated the Town of Barnstable and the Asst. Town Manager for what they have accomplished in a short period of time. The shanties are successful. Hopefully this will be the first of many art venues for the community.

Alan Burt said he doesn't envy the councilors. You get a lot of negative criticism. You are honorable, and are willing to meet outside. He had a distant concern about the eminent domain changes, where people in their homes now have to worry about losing them to businesses. He announced that the Noah Shelter does drop their numbers from 60 to 50 at this time of the year. The Bridgeport Apartments are open. Bob Murray is doing the "Housing with Love" walk. He is supporting the Cape Cod Council of Churches. We hope to transition people from one housing facility to another.

Patrick Butler represents the Iyanough Hills Golf course and aimed to clarify previous comments. There was in fact a transaction and that was for a \$5.5 conservation restriction sale....all uses of a residential nature could no longer be done. The final closing was to have occurred on June 30. We held a pre-closing and there were 3 or 4 outstanding issues. All funds were held in escrow until we could deal with the issues. It appears as if we will go on the record on Monday.

COUNCIL RESPONSE TO PUBLIC COMMENT

Councilor Milne – Asked the Town Manager if it was true that we are now going to have our closing on Monday. Milne felt it would be enlightening if the Town Attorney explained the methods for a charter change. What are the options for the people and whether there are avenues for the council? He also wanted answers on the airport bonding question. I was to get documentation on that and whether it does have an impact on the bonding and he would still like to have the answer.

Town Manager Klimm said on the closing, there were several issues but it is going to go forward now.

Councilor Barry challenged those people who are dissatisfied. "Why don't you get involved and take part in the process?"

Councilor Munafo said as far as the leases, he would be interested in seeing or learning more about them. Mr. Klimm said that he will forward that information to the airport commission and you (Munafo) will get an answer.

Councilor Crocker said he is not promoting an override for roads. He is merely looking for the voters to have a say in appropriating money for roads.

Councilor Canedy pointed out that there is a roads committee, and we are looking at a number of options. There will be a time for the public to be involved in the process.

Councilor Curtis said we are far from an override decision. We need to bite the bullet and set policies on the roads in the Town of Barnstable. It is difficult. We are trying to do something that others have not done. Our job is to study it, bring it back to the council and take it a step at a time.

Councilor Tobey is also on the roads committee. He said that we are working diligently to put some packages together. We will then put it out to the public for their approval, when we come to a decision one way or the other. It is not an easy decision. We have many, many roads. In other towns private road citizens get nothing – no plowing or anything but we do it.

Councilor Barton thanked Alan Burt and many others for their work on the Bridgeport Apartments in Falmouth. She hopes that it is duplicated in other areas of the Cape.

ACT ON MINUTES

Upon motion duly made and seconded it was voted to approve the minutes of June 16, 2005 with the following corrections: - Munafo said on 2005-106 – insert “A motion was made by Councilor Munafo to amend.” before Mark Milne. He believed he voted against 106 or 107 (that was checked and found the votes as recorded were correct).

VOTE: 12 Yes – as amended

COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS

Councilor Canedy asked the Manager if he had any announcements. Yes.

Councilor Milne had a letter from the Hyannis Civic Association that dealt with public comment. They critiqued and complimented certain areas. The new system with a 30 minute limit has failed. They suggest that reports from Town Councilors be changed to the end of the meeting. Many of the issues could be posted instead of announced. Move agenda items 7, 8 and 9 to the end of the meeting. Please see about changing the agenda. President Brown said that will take place in the August meeting – only two councilors were opposed to it.

Councilor Joakim announced that the Senior Center will have their picnic next week. Also they are working on focus groups of individuals from age 45 – 69, who might be interested in current services and new ideas. If you want to get involved call the senior center. Joakim stated that a committee had been set up to study the issue of reduction of cars in yards. We are working with licensing and the chief of police and will be meeting in August and will look at zoning changes.

Councilor Curtis said they are looking for volunteers to work on the housing committee. These are people willing to work on affordable housing issues. We need people on the committee. The committee will bring forward a report in the fall on progress and plans.

Councilor Munafo said that he gets calls on how properties are being used. He thanked Tom Geiler for his response. As far as the order of the council agenda, he would prefer that the council debate the changing of the agenda. He said many things need to be considered and asked if you would please listen to all concerns.

Councilor Richardson confirmed that the appointments committee has an advertisement in the Barnstable Patriot and other sources. We are looking for people to serve on boards and commissions. Please consult the Patriot or the town’s website, send a resume in along with a letter of interest. We need help. Richardson also wants an agenda discussion on changing the order. We need to think about what is the best for the residents of the town. President Brown said that we will have discussion on it.

Councilor Barton announced that the Youth Commission will have an end of the year youth event in the fall. She congratulated Town Collector, Maureen McPhee, who received her 10-year pin from the Collectors and Treasurers Association.

PRESIDENT/VICE PRESIDENT COMMUNICATIONS

Pres. Brown announced that the item on the administrative code changes will come back in August. Three councilors are going to be on a committee to discuss this: Councilors: Munafo, Richardson and Barry.

Pres. Brown also stated that a councilor asked if the August 18th meeting could be changed to the 17th because the councilor would like to attend and cannot on the scheduled date. That issue is going to be brought up before the end of the meeting.

TOWN MANAGER COMMUNICATIONS

Manager Klimm said at the request of the shell fishermen he met with a group to try to help the shell fishermen. He thanked residents who testified in the hope of extending the opening from 4 – 5 days. He was impressed with Councilor Canedy's knowledge on the issue. We will extend the opening to help them. One additional day should not cause depletion; but, hopefully it will help those commercial shell fishermen.

Klimm also thanked many who participated in the events over the 4th of July weekend: the police, public works, staff at marine environmental, all the villages that held events, the Chamber, the BID. This was special holiday. He noted that the Chamber of Commerce and BID donated money, since the entire burden of the fireworks was on us. He said that we also got a lot of accolades on the arts initiatives.

He reminded the council and citizens that we have had a citizen's survey, professionally done, in which you can find out the good, bad, and ugly. That survey is complete and can be reviewed on the website.

There was a heroic effort by Hyannis Fire Commissioner Richard Gallagher and a Mr. Curry who saved lives of residents and he wanted to honor them for their efforts. (Two of the gentlemen who were on the boat were present and very thankful as well – Mr. Adams and Mr. Hooton).

Klimm stated that the Town will be losing Jemma Lambert. She has been with us since 1996 at the Senior Center and then in Community Development. She has done a masterful job as a major department head. She got her masters degree. She did the newsletters and television station.

Councilor Curtis said it has been a pleasure to get to know Jemma. As councilors it was a new team – one of the goals we had was to devote time to developing our own mission statement, goals for the council and decorum. As we proceeded, Jemma worked with us over many hours. Her leadership, understanding, and ability to work with all of us was important to us. The council thanks you and most of us will miss you. Your contributions have been outstanding and best of luck to you.

Councilor Tobey acknowledged the presence of Mr. Hooton who was saved by Dick Gallagher.

Councilor Canedy also noted that Felicia Penn, who was in the audience, received the Mercy Otis Warren Award.

Recessed from 8:07 – 8:10 p.m.

ORDERS OF THE DAY

2005-100 - SUBSTITUTE MOTION FOR 2005-100 HYANNIS VILLAGE ZONING DISTRICTS AS AMENDED DATED JULY 14, 2005

Planning Board Chairman David Munsell called the board to order and asked for a vote to re-open the continued public hearing from May 5th.

VOTE: Unanimous vote of the members present: Steve Shuman, Felicia Penn, Roy Fogelgren and Mr. Munsell.

Assistant Town Manager Paul Niedzwiecki gave an overview. He stated that we have been engaged in a process of consensus building with at least 6 meetings with residents of Hyannis. We had a survey of 350 more to make sure it was not anecdotal information and it all aligned. We heard from the Civic Association. Other civic associations were involved because of their concern for Hyannis Main St. We sat down with many. The document has been tweaked based on the consensus.

This is no more perfect than any individual in this room; but we look forward to getting this going. The major change is in the gateway district (airport rotary area). The most feedback came from there. Their complaint was that we removed retail. We did it to mitigate for traffic. We have put the retail office back in that area and that will be acceptable as long as no more additional trips are created. They were respectful and hopefully we met their concerns. We originally just had a single family district on South St. The citizens and owners pointed out that there were not a lot of single families, and many professional offices are there. So they put back in professional offices on South St.

We did not allow use variances in the beginning; but now we have removed that prohibition. Some dimensional changes were made in workforce housing. This is a good solid document, stated Niedzwiecki, and the result of a ton of work. Thanks to Tom Broadrick, Patty Daley and Ruth Weil. This is our best effort with a lot of community effort. This will allow us to move forward with a build out analysis. We hope to have much more local control. We want to get going with the Cape Cod Commission as soon as possible. We are proud to be residents of Hyannis.

Upon motion duly made and seconded, the Town Council voted to go into a public hearing to discuss this item.

VOTE: Unanimous

John Manoog said that it is crazy with the number of zones we have now; so this is an excellent plan and will revitalize Main St. He wanted to see definition of professional changed so that it would allow businesses such as realtors to exist. He asked that the language requiring professional standards be stricken.

Manoog said that his land is on the corner of South and Sea. His corner is the only one in the residential zone he asked to be put in the same zone as the other 3 corners. It was a gas station back to 1929. It is my law office, he stated. Please do the same for mine.

Lois Andres announced that the Economic Development Commission voted unanimously to support this item.

Peter Martino from Heritage House Hotel has been involved with a lot of changes on Main St. Let's not wait on it. Overall it does what we want to see on Main St. and gives us leeway to make other changes.

Howard Penn said it has come to a point where this looks like it is going to happen. I hope it will happen. He has been coming to meetings for 50 years. I am still here. I think of what we have wanted to do over the years. This looks great. I am still in business and hope to be there for another 50 years.

Daniel Adams said that he is very glad to be here. He is in partnership with Bruce Ginsberg and owns property that houses Harry's. It is a blighted property and we would like to do something about it. He commends the town and the planning board. This package is great and will allow us to develop this property (we are keeping Harry's, he added). It will be a transformation of the property and help to transform Main St. – this will be a great step to bring up the whole of Main St.

Bruce Sprinkle owns property on Barnstable Rd. He said he is not as old as Howard's brother, and we have a business on Barnstable Road. He realizes there are problems with cars that back up into the traffic; and it is a hardship for those entering Hyannis – we think this zoning will be an improvement.

Laura Shufelt is excited about the zoning changes. We want to see more residential areas in Hyannis. There is one sentence we would like to see deleted "In the medical services 240-24.2-4 (b) (2) – last sentence. "Multi family is not required to have inclusionary houses". This is the only district that would be exempted from inclusionary housing. Why would you exempt any area? We should not look aside on excluding affordable housing.

Claude Hooten said he lives in Centerville. He congratulated everyone on getting a plan to this place. It is a lot of work. He lived in Paris in a 3rd floor apartment with stores below. What you will give this town is the opportunity to have this in Hyannis. It will develop a neighborhood of people. Congratulations, and I hope this passes with enthusiasm.

Patrick Butler has had concerns you have addressed them. You and the planning board and staff are to be complimented. The changes and modifications have addressed almost all of our issues. He thanked Broadrick, Daley, Weil and others who were willing to meet and discuss things. This will take effect when the planning board accepts the infrastructure plan. This is a building block in economic development. You need to adopt the design infrastructure plan and the CCC will allow us to go forward. I think that as a citizen we can ask you to adopt and thank you. This speaks for itself.

Cynthia Cole agrees with Alan Burt. While we may not all agree, we should respectfully disagree – thank you for serving. Several years ago BID worked with HYRATE to create mixed-use zoning which was progressive and sensitive to the community. Now we are taking the smart plan to the next level. We are pleased and support the ordinance – vote it tonight – it is time to vote. You can lose investors – remember the zoning won't be implemented immediately.

Jim Cook from Four Points Sheraton said their property abuts the zone. We have a corporate team and they want to know the barriers to development and he explained CCC, and they want to walk away. He said there is good work that has gone into this and it is wonderful. It has been 3 years and he has watched it develop. There was a presentation at the Senior Center and participants were diverse. They were asked what you think it should look like. The team pointed out the commonalities and those are the things that make us proud and bring us together. He applauded the efforts.

Lynn Poyant from the Chamber said they held a meeting recently and the objections voiced at that meeting have been answered. She complimented the town on the process. We are zoning for what we want instead of zoning for what we don't we don't want.

George Simpson agreed that this will benefit the community.

John Kenney supports this item and hopes it passes. You have come a long way from last year. It is a beginning not the end. He urged the council to pass it tonight. There are projects in the pipeline that are building momentum, and we need to keep it rolling. The 10% affordable housing should be done away with in downtown. We have affordable housing in Hyannis. The 10% is a disincentive in market rate housing. Take a look at it – exempt the 10% - these areas are a lot more expensive to build up and redevelop or tear down and rebuild.

Councilor Tobey is also proud to be a Hyannis councilor, and proud to be associated with the staff. He had the opportunity to watch them work diligently on this and make changes to accommodate the residents. It made it a working project.

Councilor Canedy complimented all of them on the work on this – what happens in Hyannis affects all of us. Glad we are taking this forward looking step.

**Upon motion duly made and seconded it was voted to go out of the public hearing.
VOTE: Unanimous by the Town Council and the Planning Board.**

Councilor Munafo said this is superior to what we have in effect now. He is pleased and the process has worked well. Oct. 15th would be the implementation date. How does that impact what the community is able to respond to on this working project. They feel other changes could be made prior to that. This is something he could vote for tonight – please discuss the implementation.

Asst. Manager Niedzwiecki said the original item would have gone into effect in 30 days. We were considering changing the effective date to coincide with the adoption of the design infrastructure plan. We decided to have an effective date of October 15th. We are not done with this work and we want to get the plan in shape before the Oct. 15th date. Thank you, Councilor, for bringing it up. Niedzwiecki thanked the BID, Cynthia Cole, the Hyannis Civic Association, John Kenney, and Jemma Lambert. He said that he is a better person from knowing her.

Councilor Barry asked if a friendly amendment could be made to include 450 South St. in the HVB district. Niedzwiecki said it was considered for the HVB but others are concerned that it could produce a high traffic generator. Hence, they were not in favor of taking it out of SF. We don't want drive through coffee shops – that was the justification. We tried to provide consistency in our approach.

Councilor Barry said it appears that Collucci Brothers Diner is spot zoning and under the SF it could be there as of right. He agrees with Mr. Manoog. Niedzwiecki pointed out that Mr. Manoog's property is now OR, and it allows for office business.

Councilor Munafo said he would think the other corner would be more of a threat to that area. Niedzwiecki said that those lots are currently zoned for that use. Councilor Canedy asked about a possible overlay over the next 12 months. Niedzwiecki said I think we could look at that corner. We were to simplify this not piecemeal it out.

Councilor Milne said that north of that corner (Sea and South) there is a Dunkin Donuts and Windmill Plaza. The current zoning now is messed up in that area. This zoning change will be positive to this

area. He agreed with the Assistant Town Manager that any convenience store or other similar things would be a negative impact to that area. We should leave what is written.

Councilor Curtis applauded all. This is a work in progress and she would hate for us to get caught up on one parcel. All of us respect the concerns but we need to respect this and go forward on the issue.

Pres. Brown as for and received a motion which was seconded to go forward on the amendment.

VOTE: 12 yes

VOTE: On amendment to include 450 South St. in HVB district - 5 yes 7 no – does not carry

Councilor Canedy asked if there could be clarification on professional offices and affordable housing issues such as Ms. Shufelt brought up.

Niedzwiecki stated that as far as professional services, we did amend to include realtors and others. Patty Daley said in the MS district there is a provision that inclusionary does not apply. There are 3 places MS, OMF and Gateway that do not allow it. MS can have up to 12 dwellings per acre and in the other districts up to 16 per acre, we are encouraging work force housing. She said 25% of the units would be deed restricted to 80% and 100% of median income.

Councilor Richardson asked about Lewis Bay Rd. (the old Greenery). Could that be developed into housing and why should it be excluded from affordable housing. The response was that we had to look at making something more desirable for development.

Niedzwiecki said we had vigorous debate. Many people said we have enough affordable housing in Hyannis, and they carry the brunt of it. Some wanted a different mix on this – so it was made a compromise where it was left in most of the places; but in the Medical Services, it was not. Maybe this should be debated after adoption. But it is a distinct issue and deserves its own moment in the sun.

Councilor Crocker asked about procedures regarding the planning board. They will leave, discuss the issue and come back and report the final results later on.

Upon motion duly made and seconded it was voted to stop debate

VOTE: 11 yes 1 no

Planning Board left the meeting at 9:13 p.m.

There was a brief discussion on suspending the rules to change the August meeting. Attorney Smith reminded the council that to change a date of a meeting would require an amendment to the ordinance. He said you could call a special meeting for August 17 and the regular meeting could be the 18th and no one could show up on the 18th. Attorney Smith had concerns on items on the agenda, especially appropriations.

Councilor Curtis asked if we move it to the 17th and there are appropriations would the votes be viable? Councilor Canedy objected to changing the meeting. We declined Mr. Munafo before and I think you would be going down a slippery slope – I would object. The consensus was to not change the meeting.

2005-126 ADMINISTRATIVE CODE AMENDMENT

INTRO.: 06/02/05; 06/16/05

This item was postponed to a date certain – August 18, 2005.

2005-131 - ORDER APPROVING CONSERVATION RESTRICTION TO BE HELD BY THE BARNSTABLE LAND TRUST, INC. (Bone Hill Road) INTRO.: 06/16/05; 07/14/05

Jackie Barton from the Barnstable Land Trust said we are culminating a project with this property and with your approval that project will be complete.

Upon motion duly made and seconded, Councilor Canedy requested to have the property location on the item.

VOTE: Unanimous

Upon motion duly made and seconded it was:

ORDERED, that the Town Council, pursuant to G.L. c. 184, s. 32, hereby approves a perpetual conservation restriction in the form annexed hereto to be given by the Massachusetts Audubon Society, Inc. to be held by the Barnstable Land Trust, Inc., a Massachusetts charitable corporation duly organized by law, and determines that said restriction is in furtherance of the public interest in preserving scenic views, natural habitat and open space as stated in section 6.1.2 of the Town of Barnstable Local Comprehensive Plan.

Land on Bone Hill Road in Barnstable.

VOTE: 12 yes

A question was asked why we have to put conservation restrictions on these if they are owned by the town and purchased by land bank funds. Barton said this was not purchased with land bank funds. Lands adjacent to it are protected. She feels it is imperative that each piece have a restriction.

2006-001 - ORDER APPROVING CONSERVATION RESTRICTION TO BE HELD BY THE TOWN OF BARNSTABLE (Old Neck Lane) INTRO.: 07/14/05

Ms. Barton said we need this order to implement a pathway adjacent to Old Jail Lane – we can now implement the pathway because all the land is in town or land bank – we did get grants we can preserve the land – we needed to make sure we have conservation restrictions on all the properties.

Klimm said there is an issue of conservation restrictions – and most of us support these. The fact is there is no standard process. That has caused a huge amount of frustration and various versions of conservation restrictions, and there is no timetable. We will not accept any more conservation restrictions until your land acquisition and preservation committee is in process and they have reviewed these. There is no system in place and we do know that there are some that are of emergency nature such as 2006-005 and 2006-007 are to be amended. Please consider postponing any others until the August meeting and appoint your committee so that we can formalize a process. None of the comments are against any of these but we need a process. It is your prerogative to vote on these if you choose. Be sensitive of 005 and 007. Once the committee is in place there will be a process hereafter.

Councilor Canedy reiterated that the Land Acquisition and Preservation Committee is the name and she urges the council to make the appropriate appointments. I urge that it get going as soon as possible.

Councilor Curtis said this needs to get going. You are not doing yourself any good when we are getting different requests from different parties; and it will help in the positive way to evaluate all restrictions in the future.

Manager Klimm stated that he has received 3 different versions of the items just today.

Councilor Joakim said the public needs to know that conservation restrictions can only be removed by the legislature.

Councilor Munafo pointed out that there is no information in the order. He would agree with the Manager to slow this down and put additional processes in place.

Ms. Barton said if there have been so many documents it is because they are negotiated agreements. The final documents have not been changed by the Barnstable Land Trust. We have been waiting for these to be voted. Town Attorney Houghton is comfortable with him. They are the subject of a grant agreement with the Commonwealth of Massachusetts and our deadline is the first of August.

Attorney Houghton endorsed all comments and stated that all documents have been reviewed.

Councilor Canedy made a motion, which was seconded to amend the items to include the location: 2006-001– Old Neck Lane 2.41 acres; and 2006-004 – 5 ac. on Old Neck Lane.

VOTE: Unanimous

Councilor Canedy asked if we could vote these and then make the appointments and go forward. This is about the process.

Ms. Barton explained that the item was 20 minutes late for the agenda so was not put on the agenda for June.

Upon motion duly made and seconded it was voted to postpone this item to August.

VOTE: 3 Yes – 8 NO - Defeated

Upon motion duly made and seconded it was:

ORDERED: that the Town Council, pursuant to G.L. c. 184, s. 32, hereby approves a perpetual conservation restriction in the form annexed hereto to be given by the Barnstable Land Trust, Inc., a Massachusetts charitable corporation duly organized by law, to the Town of Barnstable, and determines that said restriction is in furtherance of the public interest in preserving scenic views, natural habitat and open space as stated in section 6.1.2 of the Town of Barnstable Local Comprehensive Plan.

Land on Old Neck Lane – 2.41 acres

VOTE: 3 No – 8 yes (No votes: Munafo, Brown & Tobey)

Councilor Crocker asked if Barton had any options if this does not go – her reply was that they would probably lose the \$25,000 from the grant.

2006-002 - MUTUAL COOPERATION AGREEMENT OF THE BARNSTABLE COUNTY HOME CONSORTIUM UNDER THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT
INTRO.: 07/14/05

Manager Klimm asked for support on this item. Councilor Munafo said this will be voted *ad infinitum* and he has not studied it. Klimm said we postponed this in June and if we postpone it again it will jeopardize it. HUD would not look kindly on another extension. The Housing Committee gave it a thorough review and they think it is in our best interest. It could hurt the county if we do not vote. We never postponed it in June, said Munafo. A request was made to not bring it forward, said President Brown because of the budget. It came up at the agenda meeting and we moved it forward. Munafo pointed out that we should have the courtesy to review this, if it was here.

Councilor Munafo made a motion to postpone this and it was seconded.

VOTE: 1 yes 11 no (Munafo yes)

Councilor Curtis said it is important to all the towns for the county to get funds .

Councilor Milne said we have controversies. But, this is not controversial. This is good. With all good respect, Mr. Munafo, let the train roll.

Councilor Curtis said on page 76 it is noted that the fiscal impact is the Cape will get \$2.4M. We could get up to \$530,000 funds in Barnstable.

Upon motion duly made and seconded it was voted to move the question.

VOTE: Unanimous

Upon motion duly made and seconded it was voted that a:

MUTUAL COOPERATION AGREEMENT made this ____ day of _____, 2005, by and between the Board of County Commissioners of Barnstable County, Massachusetts, a political subdivision of the State of Massachusetts (hereinafter "County") and the Towns of Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet, and Yarmouth (hereinafter "Towns").

WHEREAS, the National Affordable Housing Act of 1990 has authorized the Home Investment Partnerships Act (hereinafter "HOME Program") to provide financial assistance through the U.S. Department of Housing and Urban Development (hereinafter "HUD"), to local governments for increasing the supply of affordable housing; and

WHEREAS, HUD has promulgated regulations, notices, and requirements as now or hereafter in effect, allowing units of general local government, which do not individually have the populations necessary to qualify for HOME Program funding, to enter into mutual cooperation agreements to form a consortium for the purpose of obtaining funding as a participating jurisdiction under the HOME Program; and

WHEREAS, the signatory units of general local government intend hereby to establish a consortium to cooperate in undertaking or assisting in pursuing housing assistance activities for the HOME Program; and

WHEREAS, the signatories to this agreement agree to comply with all requirements of HUD regulations and requirements as now or hereafter in effect for eligibility to participate to the maximum extent

possible in the funding benefits of HUD and to create or improve affordable housing for their low and moderate income residents.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties to this agreement do agree as follows:

SECTION 1 – DEFINITIONS

- a. “Member” means a unit of local government which is a signatory to this agreement and therefore a member of the consortium for the purpose of carrying out eligible activities under HUD regulations and requirements as now or hereafter in effect.
- b. “Representative Member” means the unit of local government designated hereafter as the one member to act in a representative capacity for all members for the purposes of this agreement, as defined in HUD regulations and requirements as now or hereafter in effect.
- c. “CP” means a Consolidated Plan, as defined in 24 CFR, Parts 92 and 91 and required by HUD regulations and requirements as now or hereafter in effect.
- d. “CHDO” means a Community Housing Development Organization, as defined in HUD regulations and requirements as now or hereafter in effect.
- e. “CFR” means Codes of Federal Regulations.
- f. “Barnstable County Home Rule Charter” means the charter established under Massachusetts General Laws, Chapter 163 of the Acts of 1988.

SECTION 2 – PURPOSES

This agreement is entered into for the purpose of meeting the criteria established in 24 CFR, Part 92 for obtaining general local government status as a consortium of otherwise ineligible towns and county in order to obtain funding for the HOME Program. Moreover, this agreement is entered into in order to benefit the residents of both the towns and county by enhancing the quality of life of those residents benefiting from the HOME Program.

SECTION 3 – MEMBERS/CREATION OF CONSORTIUM

The County and Towns are members of the consortium and by execution of this Agreement hereby form a consortium to be known as the “Barnstable County HOME Consortium” (hereinafter “Consortium”).

SECTION 4 – STATUS OF CONSORTIUM

- a. The Consortium shall function as a unit of general local government for funding under the HOME Program upon designation by HUD.
- b. The Consortium shall seek to obtain HOME funds that become available upon notice by HUD and the state’s Department of Housing and Community Development.
- c. This agreement is not intended to limit or otherwise restrict the signatories to this agreement from participating in programs and/or from seeking funding from HUD for purposes not involving the Consortium and the HOME Program.
- d. The program year for the Consortium and the HOME Partnerships Program, Community Development Block Grant, Emergency Shelter Grant and Housing Opportunities for People with AIDS

programs begins July 1st.

SECTION 5 – SET ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

The Consortium is responsible for reserving not less than 15 percent of its HOME Program funds for investment only in housing to be developed, sponsored, or owned by CHDO's.

SECTION 6 – CONSOLIDATED PLAN

Members of the Consortium shall cooperate in the preparation of a Consolidated Plan covering the jurisdictional boundaries of Barnstable County and the member towns as required by federal regulations. The preparation of the CP will take place pursuant to 24 CFR Parts 92 and 91 as required by HUD regulations.

SECTION 7 – MATCH REQUIREMENTS

a. The Consortium is responsible for obtaining the necessary match or matching requirement credits (see below) for all of its projects as required by HUD regulations and requirements as now or hereafter in effect.

b. HUD will determine the match necessary based on the total match required for all projects of the Consortium as a whole. Therefore a single member may contribute to the Consortium a match that is more or less match than is proportionate for a given project or projects. The Representative Member will assign any surplus match credit to other projects within the Consortium.

c. In any case where an appropriation or transfer for the purpose of providing match credits requires action by the legislative body of a member, said action would be a condition precedent to the dedication of funds or property as a match.

SECTION 8 – REPRESENTATIVE MEMBER

a. The County shall be the member unit of government authorized to act in a representative capacity to HUD on behalf of the member units of the Consortium. The County shall only be a representative of the Consortium for the purposes established in this Agreement and shall be the lead entity having overall responsibility for ensuring that the Consortium's HOME Program is carried out in compliance with the requirements of both the HOME Program and the CP and with the Barnstable County Home Rule Charter. No party shall have veto power as to implementing the CP and the parties agree to act in cooperation to achieve CP goals.

b. The Representative Member shall establish such administrative procedures as may be necessary to facilitate the application for and distribution of HOME Program funds.

c. The Representative Member shall be responsible for obtaining the funds for the costs of administering the HOME Program.

d. The Representative Member shall establish and maintain the local HOME Investment Trust Fund required by HUD regulations and requirements as now or hereafter in effect.

e. The Representative Member shall be entitled to retain interest as provided in HUD regulations and requirements as now or hereafter in effect for administrative expenses incurred solely in its capacity as Representative Member.

SECTION 9 – MEMBER UNITS OF LOCAL GOVERNMENT

a. Each Member agrees to cooperate in undertaking or assisting in pursuing housing assistance

activities for the HOME Program.

b. The Consortium and each of its members agrees to carry out eligible activities in accordance with the requirements of HUD regulations and requirements as now or hereafter in effect.

c. Each Member is responsible for submitting in a timely manner to the Representative Member all information necessary for participation in the Consortium as defined in HUD regulations and requirements as now or hereafter in effect. This includes, but is not limited to, information necessary for the CP, and certifications.

d. Each Member will have one representative on the Barnstable County HOME Consortium Advisory Council.

SECTION 10 – TERM OF AGREEMENT AND RENEWAL

a. This Agreement shall remain in effect during the period necessary to complete all activities funded for Federal Fiscal Years (FFY) 2006, 2007 and 2008 HOME Program formula allocations or until the Consortium's status as a participating jurisdiction in the HOME Program is revoked by HUD. The Consortium and each of its members hereby agree to comply with all of HUD's regulations and requirements regarding the HOME Program as now or hereafter in effect, notwithstanding the provisions of the Barnstable County Home Rule Charter

b. The parties agree to remain in the Consortium and be bound by the provisions in this Agreement for the entire term as described herein.

c. Automatic Renewal

Subject to the terms below, this Agreement shall automatically be renewed for participation in successive three year qualification periods. Prior to such renewal, and by fifteen (15) days prior to the date specified in HUD's Consortia Designation Notice(s), the County, as lead entity, will notify the Towns in writing of their right not to participate for the successive three year qualification periods. A copy of this notification shall also be sent to HUD as specified in the Consortia Designation Notice.

The Consortium agrees that it shall, as a condition of automatic renewal, adopt any amendment to the Agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in a Consortia Qualification Notice applicable for a subsequent three-year consortia qualification period, and then submit the amendment to HUD as specified in the Consortia Qualification Notice for that period. Failure to comply with this stipulation will void the automatic renewal of the Agreement.

SECTION 11 – FAIR HOUSING

Each member of the Consortium agrees to affirmatively further fair housing in accordance with 24 CFR Part 92.

SECTION 12 – AUTHORIZING RESOLUTIONS/ATTORNEY CERTIFICATIONS

The attached authorizing resolutions are hereby incorporated herein by this reference thereto. The certifications of legal counsel set forth below shall be deemed an integral part of this Agreement.

SECTION 13 – APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and all applicable HUD regulations. HOME Program regulations and requirements as now or hereafter in effect are incorporated by reference for determining any issues that may arise

concerning the Consortium.

SECTION 14 – SEVERABILITY

The provisions of this Agreement are severable. In the event that any provision herein is declared void or unenforceable, all other provisions shall remain in full force and effect.

SECTION 15 – COUNTERPARTS

This Agreement may be executed in counterparts and each executed agreement shall be treated as the original.

SECTION 16 – TERMINATION

This Agreement may be terminated by HUD as established in 24 CFR Part 92.

SECTION 17 – AMENDMENT

No amendment to this agreement, other than those referred to in Section 10(c) above, shall be effective unless executed in writing and approved by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement this ____ day of _____, 2005.

The Barnstable Town Council hereby approves the “Mutual Cooperation Agreement of the Barnstable County HOME Consortium under the Cranston-Gonzalez National Affordable Housing Act” in accordance with the provisions of G.L. c. 121B, and further authorizes the Town Manager to sign the agreement on behalf of the Town of Barnstable.

Gary R. Brown

Janice L. Barton

Henry C. Farnham

James H. Crocker

Leah C. Curtis

Ann B. Canedy

Richard G. Barry

James F. Munafo, Jr.

Janet Joakim

Thomas Rugo

Royden C. Richardson

J. Gregory Milne

Harold E. Tobey

VOTE: 11 yes, 1 no (Munafo)

Councilor Munafo asked that his name be stricken from the document.

The Planning Board returned to the meeting with the following recommendation: “The Planning Board recommends that a document entitled “Substitute Motion for 2005-100 Hyannis

Village Zoning Districts as amended, dated July 14th 2005, be adopted tonight.” The vote was unanimous and signed by David Munsell, Chairman.

2005 – 100 - SUBSTITUTE MOTION FOR 2005-100 HYANNIS VILLAGE ZONING DISTRICTS AS AMENDED DATED JULY 14, 2005”

Upon motion duly made and seconded it was voted:

TO SEE IF TOWN COUNCIL WILL VOTE TO AMEND THE ZONING ORDINANCE BY CONSOLIDATING EXISTING ZONING DISTRICTS AS FOLLOWS:

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE MASSACHUSETTS DO ORDAIN AS FOLLOWS:

ORDERED:

Preamble: This zoning ordinance is adopted as part of a comprehensive effort to revitalize the Downtown Hyannis area by encouraging private investment while protecting and preserving its historic and maritime character. This ordinance is supported by a Design Infrastructure Plan, to be adopted by the Barnstable Planning Board and the Barnstable Town Council as authorized herein. The Design and Infrastructure Plan will also support an application to the Cape Cod Commission to raise Development of Regional Impact thresholds through a Growth Incentive Zone designation by Barnstable County government. In the event that a Regulatory Agreement Ordinance is adopted by the Barnstable Town Council, this ordinance is intended to operate in concert with Regulatory Agreements in the Downtown Hyannis area.

SECTION 1

That Chapter 240, Article II, Section 240-5, Establishment of Districts, of the Zoning Ordinance is hereby amended by adding the following to Section 240-5, after the list of Commercial Districts:

Hyannis Village Zoning Districts

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

SECTION 2.

That Chapter 240, Section 240-6 of the Zoning Ordinances, is hereby amended by incorporating changes to the Zoning Map to establish the boundaries of the Hyannis Village Zoning Districts as shown on the map on file with the Town Clerk, entitled “Hyannis Village Zoning Districts”, file copy dated July 14, 2005.

SECTION 3

That Chapter 240, Article II, Section 240 of the Zoning Ordinance is hereby amended by adding the following Section 240-24.1:

240-24.1-1. Title.

These districts shall be known as the Hyannis Village Zoning Districts

240-24.1-2. General Provisions.

(A) Effective Date: This ordinance shall become effective upon the adoption of a Design and Infrastructure Plan by the Barnstable Planning Board, as set forth in Section 240-24.1-11 below. The foregoing shall be adopted not later than October 15, 2005.

(B) Conflicts: Unless otherwise stated, the requirements of the Barnstable Zoning Ordinance shall apply to uses within the Hyannis Village Zoning Districts. In the event of a conflict, these regulations shall apply.

(C) Nonconforming uses: The change of a nonconforming use to another nonconforming use is prohibited in the Hyannis Village Zoning Districts.

(D) Site Plan Review: All development within the Hyannis Village Zoning Districts, with the exception of single-family residences, shall comply with the provisions of Article IX, Section 240-103, Site Development Standards, and with the Design and Infrastructure Plan. Refer to Section 240-# and individual district regulations below for additional site plan review standards.

(E) Special Permit Granting Authority and Special Permit Criteria:

Within the Hyannis Village Zoning Districts, the Planning Board shall be the Special Permit Granting Authority. The Planning Board shall follow the criteria and procedures set forth in Section 240-125(C) of the Barnstable Zoning Ordinance when acting on a special permit application. In addition to the criteria set forth in Section 240-125, the Planning Board shall find that the issuance of the special permit is consistent with the Design and Infrastructure Plan, including the payment of applicable impact fees, and that the development meets one or more of the following criteria:

- (1) the development provides for or supports mixed use development where appropriate;
- (2) the development maintains or improves pedestrian access and outdoor public spaces;
- (3) the development contributes to the historic and maritime character of the Hyannis Village area;
- (4) the development eliminates or minimizes curbcuts and driveways on Route 28 and Barnstable Road;
- (5) the development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront;
- (6) the development provides for or contributes to alternative transportation or travel demand management; and/or
- (7) the development provides workforce housing where appropriate and provides an appropriate mix of affordability levels.

Refer to individual district regulations below for additional special permit criteria.

(F) Dimensional Relief: Within the Hyannis Village Zoning Districts, the SPGA may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard

setbacks, floor area ratio limits, façade length requirements, ground floor window requirements, and through lot requirements, when such relief is necessary to ensure that a proposed development is consistent with zoning, the Design and Infrastructure Plan and/or the special permit criteria set forth above.

(G) Building Expansion/Repair on Non-Conforming Lot: The expansion, repair, alteration or replacement of any legally conforming building or structure in existence as of July 14, 2005 proposed to be expanded within the setbacks established herein shall not require a variance or special permit solely on the basis that the lot is rendered dimensionally non-conforming by the minimum lot area or minimum lot frontage and/or maximum building façade length provisions established in this ordinance.

(H) Building Expansion/Repair Exceeding Lot Coverage: The expansion, repair, alteration or replacement of any legally conforming building or structure in existence as of July 14, 2005 proposed to be expanded in a manner that increase lot coverage in excess of the maximum lot coverage provisions established herein shall require a special permit.

(I) Transitional Exemptions: This ordinance shall not apply to any development application that has received site plan approval or a special permit prior to July 14, 2005 provided that said site plan approval and/or special permit has been exercised within one year.

(J) Zoning District Boundaries: The provisions of Barnstable Zoning Ordinance 240-6(C)(3) do not apply within the Hyannis Village Zoning Districts.

(K) Related Ordinances: The following list of related ordinances is provided to assist the reader. Applicants must review all Barnstable Ordinances, rules, regulations and guidelines for additional requirements that may relate to a particular permit application.

For additional information regarding the requirements of the Barnstable Inclusionary Housing Ordinance, see Section 9 of the Barnstable General Ordinance.

For additional information regarding Site Plan Review requirements, see Sections 240-98 through 240-105, inclusive, of the Barnstable Zoning Ordinance.

For additional information regarding Special Permit requirements, see Section 240-125(C) of the Barnstable Zoning Ordinance.

For additional information regarding Growth Management requirements, see Section 240-110 through 240-122, inclusive, of the Barnstable Zoning Ordinance.

For additional information regarding parking requirements, see Off-Street Parking Regulations, at Sections 240-48 through 240-58, inclusive, of the Barnstable Zoning Ordinance.

For additional information regarding signage requirements, see Sign Regulations, at Sections 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance.

For additional information regarding historic and design review, see Section 112, Historic Properties, of the Barnstable General Ordinances.

(L) Definitions specific to the Hyannis Village Zoning Districts are contained below at Section 240-24.1-12.

240-24.1-3. HVB Hyannis Village Business District

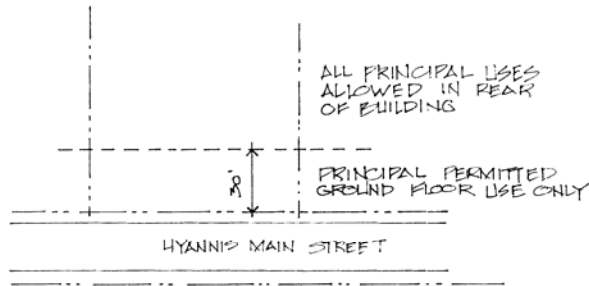
A. Permitted Uses:

The following principal and accessory uses are permitted in the HVB District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) *Business and professional offices
- (b) Banks
- (c) Retail uses
- (d) Personal services establishments
- (e) Packaging and delivery services
- (f) *Research and development facilities
- (g) Publishing and printing establishments
- (h) Restaurants
- (i) *Health clubs
- (j) Movie theaters
- (k) Artist's lofts
- (l) Art galleries
- (m) Museums
- (n) Performing arts facilities
- (o) *Educational institutions
- (p) Bed and breakfasts
- (q) *Fraternal or social organizations
- (r) Hotels
- (s) Motels
- (t) Conference centers
- (u) Recreational establishments
- (v) Mixed use development consistent with ground floor limitations established by an asterisk (*) and with building footprint not exceeding 20,000 square feet and totaling not more than 60,000 square feet.
- (w) *Apartments and Multi-family housing, not including mixed use development, totaling not more than 12 dwelling units per acre

Ground Floor Limitations: For lots abutting Hyannis Main Street and located between Sea Street and Barnstable Road/Ocean Street, uses denoted by an asterisk () are allowed above the ground floor only, with the exception that uses denoted by an asterisk may occur on the first floor in the rear portion of such a building only when, at a minimum, the first thirty (30) feet of ground floor building space fronting on Hyannis Main Street is occupied by a permitted principal ground floor use (see diagram below). In this case a Hyannis Main Street entrance to the use or uses at the rear of the building is allowed.



1. GROUND FLOOR REQUIREMENTS; HYANNIS MAIN STREET BETWEEN SEA STREET AND BARNSTABLE RD./OCEAN ST.

(2) Permitted Accessory Uses:

- (a) Entertainment and/or dancing, as an accessory use to a full service, food service establishment, subject to the following:
 - (1) Food is served to customers at tables by waitpersons
 - (2) Bar seats and bar places do not exceed 20% of restaurant seats
 - (3) Any dance floor area shall not exceed 500 sq. ft., or 10% of the floor area of the restaurant, whichever is less.
- (b) Repair services
- (c) Automated banking facilities (ATM)

B. Special Permits:

- (1) Parking facilities
- (2) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:
 - (a) non-residential development with a total floor area greater than 10,000 square feet;
 - (b) mixed use development with a building footprint greater than 20,000 square feet or a total building square footage greater than 60,000 square feet.
- (3) Multi-family housing, not including mixed use development, consistent with the ground floor limitations established above, and proposing 13 or more dwelling units per acre and not more than 16 dwelling units per acre.

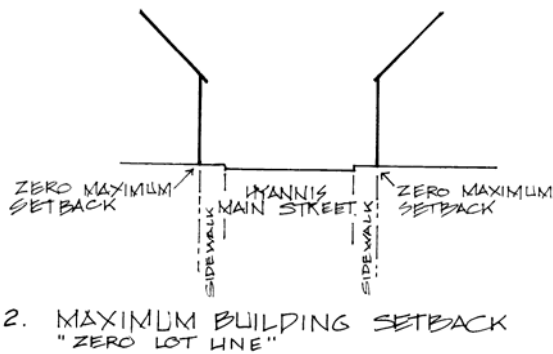
C. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks (ft)			Max. Bldg. Height ++		Max. Lot Coverage +	FAR **
			Front	Rear	Side	Feet	Stories		
Hyannis Village	5,000	10	*	—	—	42	3	100%	3.0

+Maximum lot coverage pertains to building footprint only.
 ++ See additional height regulations in Section (2) below.
 * See also Setbacks in Section (1) below.
 ** Applies to mixed use development only.

(1) Setbacks:

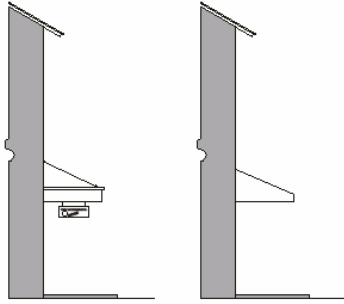
- (a) Maximum Building Setback. The maximum building setback from the street line shall be zero (0) feet for the front and street side facade so that the building visually reinforces the building facade line of the street (see Diagram #2 below).



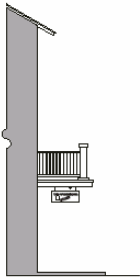
Existing buildings within the HVB district not currently located at the zero (0) maximum building setback may be altered, expanded, replaced or redeveloped so long as the maximum building setback is equal to the setback of the building(s) in existence upon the adoption of this ordinance or twenty (20) feet, whichever is less, and provided that the area between the building setback and the street line shall provide permanent public plazas, sidewalk cafes, public spaces or amenities and/or landscaping.

The SPGA may vary the maximum building setback for the building façade, or any portion thereof, and may allow buildings to be set back from the front and/or street side property line where it would result in better alignment of buildings, improved design of the building facade, or where necessary to accommodate shop entrances, arcades, plazas, sidewalk cafes, permanent public spaces, pocket parks, or landscaping required pursuant to the provisions of this section or as allowed by permit, and so long as such increase in building setback will not create significant interruption of the alignment of any sidewalk constructed on public or private property or will not otherwise interfere with pedestrian access.

- (b) Awnings, Marquees and Balconies. The SPGA may provide relief from the zero front yard setback for Awnings, Marquees and Balconies: These building structures are allowed to protrude up to 5' past the property line into the public right of way. All awnings, marquees and open air balconies shall require a license from the Town Manager consistent with Barnstable General Ordinances, Part 1, Chapter 121, Section 6(J).



Awnings and Marquees

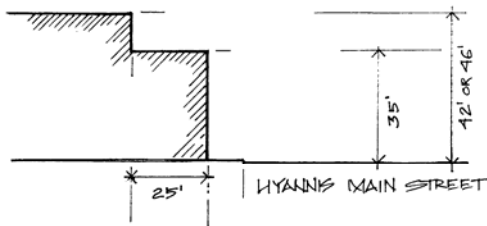


Open Air Balconies

(2) Height:

(a) Maximum Building Height:

- (1) The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 42 feet or three stories not to exceed 46 feet..
- (2) Maximum height may be increased to 46 feet or three stories when the roof pitch is in the range of 6 in 12.
- (3) In order to reduce shadows on Hyannis Main Street, for lots located on the southerly edge of the layout of Hyannis Main Street between Barnstable Road/Ocean Street and Sea Street, the maximum building height within 25 feet of the layout of Hyannis Main Street shall not exceed 35 feet unless a special permit is obtained from the SPGA (see Diagram #3 below).



3. MAXIMUM BUILDING HEIGHT SOUTH SIDE OF MAIN STREET BETWEEN SEA ST. AND BARNSTABLE RD. / OCEAN ST.

(b) Height of Rooftop Equipment:

Accessory rooftop equipment may extend to 46 feet, (or to 50 feet when the building height is allowed at 46 feet under subsection (2) above) provided that they are set back from the exterior wall(s) by at least 10 feet, and are enclosed or screened with materials compatible with the building and the headhouse and screening are not visible from the ground. Accessory equipment shall not exceed 20% of the roof area. Eight (8) foot tall roof head house structures shall be setback from the exterior wall(s) by at least 10 feet, and shall not exceed 20% of the roof area.

(3) Façade Length:

Buildings or portions of a building with a mass over 50 feet wide must divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the cornice/roofline are all possible methods to accomplish the desired divisions of elevations into smaller parts.

(4) Roof Pitch:

Flat roofs shall not extend for more than 50 linear feet, unless otherwise permitted by special permit.

(5) Building Entrances and Alleyways:

- (a) For lots which have at least ten (10) feet of frontage on Hyannis Main Street, development and redevelopment shall include building facades that front on and have a principal pedestrian entrance on Hyannis Main Street.
- (b) The construction of any new buildings shall provide for the creation of pedestrian alleyways, where appropriate, in order to allow for passageways to parking at the rear of the lots and adjoining streets.

(6) Ground Floor Windows:

- (a) All new non-residential development shall provide ground floor windows along street facades, including windows that allow views into working areas or lobbies, pedestrian entrances, or display windows. Required windows shall have a sill no more than four (4) feet above grade. Where interior floor levels prohibit such placement, the sill may be raised to no more than two (2) feet above the finished floor level, up to a maximum sill height of six (6) feet above grade.
- (b) Windows that block two way visibility, such as darkly tinted and mirrored windows, are prohibited as ground floor windows along street facades.
- (c) Any wall which is within 30 feet of the street shall contain at least 20% of the ground floor wall area facing the street in display areas, windows, or doorways. Blank walls, including walls that do not include display areas, windows, architectural features, and/or doorways, are prohibited.

(7) Through Lots:

- (a) Through Lots Defined:

A through lot shall be a lot with a lot line of at least ten (10) feet on Hyannis Main Street that also abuts on another public street or way (the "alternative street or way"), but shall not include a corner lot. A through lot with at least ten (10) feet of property line abutting Hyannis Main Street is presumed to have frontage on Hyannis Main Street.

- (b) For through lots, the lot shall provide vehicular access off of the alternative street or way unless otherwise permitted by special permit.

(8) Curbcuts and Driveways:

- (a) New curbcuts on Hyannis Main Street shall only be allowed where the curbcut leads to parking for at least twenty-one (21) vehicles. No more than one curb cut on Hyannis Main Street shall be allowed for any lot. For traffic safety and to maintain traffic flow, no new driveways shall be permitted on Hyannis Main Street within 200 feet of any intersection.
- (b) Driveways shall not occupy more than 25% of the frontage of any parcel, except for lots less than 40 feet wide.

D. Site Development Standards:

In addition to the site development standards set forth in Section 240-24.1-10 below, the following requirements shall apply.

(1) Loading docks:

Loading docks shall not be visible from Main Street.

(2) Parking Spaces, Computation:

- (a) The parking standards contained within the Schedule of Off-Street Parking Requirement, Section 240-56 of the Barnstable Zoning Ordinances, shall establish the minimum parking requirements, with the following exceptions:
 - (1) The use of shared parking for different uses having different peak hours of demand will be considered in evaluating compliance with Section 240-56. A signed lease agreement between relevant parties sharing parking must be provided as part of the site plan approval or special permit process.
 - (2) A permitted use can be changed to another permitted use, and any permitted principal or accessory use can be intensified, without increasing the required off-street parking requirements of Section 240-56, Schedule of Off-Street Parking Requirements, provided that as of July 14, 2005, there is:
 - (a) No increase in gross square footage of the building; and
 - (b) No reduction in existing parking spaces required pursuant to Section 240-56; and
 - (c) There is no added outdoor use requiring the provision of parking according to Section 204-56, except that no parking spaces shall be required for outdoor dining on both public and private property; and

(c) Parking space requirements for residential dwelling units shall be one parking space per bedroom for one and two bedroom units or a total of two parking spaces for units with two or more bedrooms.

(3) Parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:

- (a) Fifty percent of the spaces required under § 240-56 for all uses other than office uses and residential dwelling units.
- (b) Parking space requirements for residential dwelling units shall be one parking space per bedroom for one and two bedroom units or a total of two parking spaces for units with two or more bedrooms.

(4) The SPGA may by special permit, further reduce the parking required as follows:

- (a) Off-site parking. Parking requirements may be satisfied if an off-street municipal parking lot of 20 spaces or more exists within 500 feet of the proposed use and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. Off-site parking may also be provided on a private parking lot with sufficient parking spaces within 300 feet of the proposed use, provided that a lease agreement is presented as part of the site plan approval or special permit process and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. In no case shall leased parking be allowed on land that is residentially zoned for, or in residential use as, a single-family or a two-family dwelling.
- (b) The SPGA may reduce the on-site and off-street parking requirement for all uses except office uses and residential uses, based upon a consideration of:
 - 1) availability of shared parking,
 - 2) other factors supporting the reduction in the number of required parking spaces.

(5) Landscaping

- (a) Front yard landscape is not required if front setback is zero. When the front setback is greater than zero, those portions of the front yard not occupied by pedestrian amenities and public spaces shall be landscaped.
- (b) Street trees are required consistent with Section 240-# below if front setback is greater than zero feet.

(6) Lighting:

- (a) All developments shall use full cutoff light fixtures for exterior lighting in which no more than 2.5% of the total output is emitted at 90 degrees from the vertical pole or building wall on which it is mounted.
- (b) Flood, area and up-lighting is not permitted.

240-24.2-4. MS Medical Services District

A. Permitted Uses:

The following principal and accessory uses are permitted in the MS District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Single family dwellings
- (b) Two family dwellings
- (c) Business and professional offices
- (d) Nursing homes
- (e) Medical/dental clinics
- (f) Hospitals (non-veterinarian)
- (g) Bed and breakfasts
- (h) Multi-family housing totaling not more than 6 dwelling units per acre or 12 bedrooms per acre
- (i) Mixed use development

(2) Permitted Accessory Uses:

- (a) Family apartments
- (b) The following uses shall only be permitted as ancillary operations to a hospital, nursing home, or other medical-oriented facility:
 - (1) Personal services, such as barber or beauty shops
 - (2) Banking services
 - (3) Restaurants
 - (4) Pharmacies

B. Special Permits

(1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:

- (a) non-residential development, including nursing homes, with a total floor area greater than 10,000 square feet;
- (b) mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space;

(2) Multi-family housing proposing to create 7 or more dwelling units per acre or 13 or more bedrooms per acre and including at least 25% of Workforce Housing and totaling not more than 12 units per acre. Multi-family housing in the MS District is not required to provide Inclusionary Housing pursuant to Section 9 of the Barnstable General Ordinances.

C. Dimensional, Bulk & Other Requirements***

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks			Max. Bldg. Height		Max. Lot Coverage	FAR
			Front	Rear	Side	Feet	Stories ++		
Medical Services	10,000	50	20*	10*	10*	38	3	80%	—

+The third story can only occur within habitable attic space.
*See also Setbacks in Section (1) below.

*** For hospital uses: the maximum building height provisions set forth in the table above may be extended to no more than 85 feet or a maximum of six stories not to exceed 85 feet; and, the maximum lot coverage requirements set forth above shall not apply.

(1) Setbacks:

- (a) The front yard landscaped setback shall be ten (10) feet.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.

(2) Site Access/Curb Cuts:

- (a) Driveways on Route 28 shall be minimized. Access shall not be located on Route 28 where safe vehicular and pedestrian access can be provided on an alternative roadway, or via a shared driveway, or via a driveway interconnection. On Route 28, new vehicular access, new development, redevelopment and changes in use that increase vehicle trips per day and/or increase peak hour roadway use shall be by special permit.
- (b) Applicants seeking a new curb cut on Route 28 shall consult the town Director/Superintendent of Public Works regarding access on State Highway roadways prior to seeking a curb-cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies such as the MHD to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.
- (c) All driveways and changes to driveways on Route 28 shall:
 - (1) provide the minimum number of driveways for the size and type of land use proposed;
 - (2) provide shared access with adjacent development where feasible; and
 - (3) provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.

D. Site Development Standards:

In addition to the site development standards set forth in Section 240-24.1-10 below, the following requirement shall apply:

(1) Landscaping for multi-family housing:

A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway and/or entry walk.

240-24.1-5. SF Single Family Residential District

A. Permitted Uses:

The following principal and accessory uses are permitted in the SF District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Single-family dwellings (detached)
- (b) Bed and breakfasts
- (c) Artists lofts
- (d) For those lots with frontage on South Street and/or High School Road, professional offices.

(2) Permitted Accessory Uses:

- (a) Family apartments

B. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)**	Min. Lot Frontage (ft)**	Min. Lot Width (ft)*	Min. Yard Setbacks (ft)			Max. Bldg. Height		Max. Lot Coverage	FAR
				Front	Rear	Side	Feet	Stories ++		
Single Family Residential	20,000	20	100	20+	10+	10+	38	3	—	—

* Lot width at front building setback
 ** The minimum lot area shall be reduced to 10,000 square feet and/or the minimum lot frontage shall be reduced to 50 feet if an existing non-residential use, in existence as of the effective date of this ordinance, is changed to a single family residential use.
 + See also Setbacks in Section (1) and Corner Lot Setback in Section (2) below.
 ++ The third story in a single family or two family dwelling can only occur within habitable attic space.

(1) Setbacks:

A perimeter green space of not less than ten (10) feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.

(2) Corner Lot Setback:

Corner lots shall comply with the provisions of Section 240-41 of the Barnstable Zoning Ordinance.

C. Site Development Standards

Single-family dwellings are encouraged to comply with the provisions of Article IX, Section 240-103, Site development standards. Single-family dwellings are not required to comply with Section 240-24.1-10 below, and they are not required to obtain Site Plan approval. Single-family dwellings shall comply with the following requirements:

(1) Parking and Signage

All development within the SF District shall comply with applicable parking and signage requirements contained in Article VI, Sections 240-48 through 240-58, and Article VII, Sections 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance.

(2) Lighting:

Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.

(3) Fences:

No fence shall exceed a height of 6 ½ feet (8 feet when abutting a non-residential district) unless a special permit is obtained from the SPGA.

240-24.1-6. OM Office/Multi-Family Residential District

A. Permitted Uses:

The following principal and accessory uses are permitted in the OM District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Business and professional offices
- (b) Personal services establishments
- (c) Repair services
- (d) Publishing and printing establishments
- (e) Packaging and delivery services
- (f) Artist's lofts
- (g) Restaurants
- (h) Multi-family housing, including but not limited to town houses, totaling not more than 12 dwelling units, or 24 bedrooms per acre
- (i) Mixed use development

(2) Permitted Accessory Uses:

- (a) Health clubs
- (b) Retail uses directly related to a principal permitted use that does not exceed 1,500 square feet.

B. Special Permits:

(1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:

- (a) non-residential development with a total floor area greater than 10,000 square feet;
- (b) mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.

(2) Multi-family housing, including at least 25% Workforce Housing and totaling not more than 16 dwelling units or 32 bedrooms per acre.

C. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks (ft)			Max. Bldg. Height		Max. Lot Coverage	FAR
			Front	Rear	Side	Feet	Stories		
Office/Multi-Family Residential	20,000	50	20*	10*	20*	40	3	80%	1.0
* See also Setbacks in Section (1) below.									

(1) Setbacks:

- (a) The front yard landscaped setback shall be ten (10) feet, with the exception of townhouse development.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.
- (c) For town houses, buildings shall be setback 0 to 15 feet from the frontage line. Buildings at street intersections shall be set back at least 6 feet but not more than 15 feet from the frontage line and side street lines. Setback requirements shall apply to the enclosed portion of the buildings only. That area between the building setback (including decks and unenclosed structures) and the street line shall be landscaped.
- (d) For town houses with direct vehicular access from the street, garage and car port entrances shall not be closer to the street property line than any other portion of the front façade of the building.

D. Site Development Standards:

For additional site plan review and special permit standards see Section 240-24.1-10 below

240-24.7. HD Harbor District

A. Permitted Uses: The following principal and accessory uses are permitted in the HD District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Marinas
- (b) Building, sale, rental, storage and repair of boats
- (c) Retail sale of marine fishing and boating supplies
- (d) Retail sale of fishing bait, fish and shellfish
- (e) Commercial fishing, not including canning or processing of fish
- (f) Charter fishing and marine sightseeing and excursion facilities
- (g) Museums
- (h) Performing arts facilities
- (i) Restaurants
- (j) Hotels
- (k) Motels
- (l) Conference centers
- (m) Bed and breakfasts
- (n) Artist's lofts

(o) Mixed use development with all residential units located above the ground floor only.

(2) Permitted Accessory Uses:

- (a) Offices to be used for ancillary activities which are directly related to a Principal permitted use in the district.
- (b) Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a principal permitted use in the district.
- (c) Health club not exceeding 1,500 square feet and which is directly related to a principal permitted use in the district.

B. Special Permits:

(1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:

- (a) non-residential development with a total floor area greater than 10,000 square feet;
- (b) mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.

(2) Multi-family residential development totaling not more than seven (7) units per acre

C. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks (ft)			Max. Bldg. Height*		Max. Lot Coverage*	FAR
			Front	Rear	Side	Feet	Stories		
Harbor District	20,000	20	20+	10+	10+	35	2.5**	70%	

* See additional dimensional regulations for marine uses in Section (1) below.
 ** The half story can only occur within habitable attic space.
 + See also Setbacks in Section (2) below.

(1) Special dimensional regulations for marine uses:

In order to support water-dependent uses on the harbor, for buildings and structures used as a marina and/or used in the building, sale, rental, storage and/or repair of boats, so long as such buildings or structures exist as of the date of the adoption of this ordinance, the following dimensional regulations shall apply: maximum building height 45 feet, maximum lot coverage 90%.

(2) Setbacks:

The front yard landscaped setback shall be ten (10) feet.

D. Site Development Standards:

For additional site plan review and special permit standards see Section 240-24.1-10 below.

240-24.1-8. HG Hyannis Gateway District

A. Permitted Uses:

The following principal and accessory uses are permitted in the HG District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Business and professional offices
- (b) Banks
- (c) Restaurants
- (d) Business support services not exceeding 5,000 square feet
- (e) Dental and medical clinics, including a change of use, that do not increase the number of vehicle trips per day and do not increase peak hour vehicle trips per day
- (f) Retail uses that do not increase the number of vehicle trips per day and do not increase peak hour vehicle trips per day
- (g) Mixed use development
- (h) Multi-family housing totaling not more than 4 dwelling units per acre, or 8 bedrooms per acre

2) Permitted Accessory Uses

- (a) Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a principal permitted use in the district.
- (b) Personal services establishments
- (c) Automated banking facilities (ATM)

B. Special Permits

- (1) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:
 - (a) non-residential development with a total floor area greater than 10,000 square feet;
 - (b) mixed use developments with a total floor area greater than 20,000 square feet or greater than 10,000 square feet of commercial space.
- (2) Multi-family housing, including Workforce Housing totaling not more than 16 dwelling units or 32 bedrooms per acre, that includes at least 25% of Workforce Housing dwelling units.
- (3) Retail uses and dental and medical clinics that increase the number of vehicle trips per day and/or increase peak hour vehicle trips per day.

C. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks (ft)			Max. Bldg. Height		Max. Lot Coverage	FAR ***
			Front	Rear	Side	Feet	Stories +		
Hyannis Gateway	40,000	50	30*	15	20	40	3	80%	0.8

*See also Setbacks in Section (1) below.
*** Floor Area Ratio = Gross building square footage divided by the lot area
+The third story can only occur within habitable attic space.

(1) Setback:

Front yard landscape setback on Route 28 is sixty (60) feet. For lots with less than 20,000 square feet of lot area, front yard landscape setback shall be at least ten (10) feet.

(2) Site Access/Curb Cuts:

(a) Driveways on Route 28 and Barnstable Road shall be minimized. Access shall not be located on Route 28 or Barnstable Road where safe vehicular and pedestrian access can be provided on an alternative roadway, or via a shared driveway, or via a driveway interconnection. On Route 28 new vehicular access, and changes in use that increase vehicle trips per day and/or peak hour roadway use for an existing driveway or curbcut, shall be by special permit.

(b) Applicants seeking a new curb cut on Route 28 shall consult the town Director of Public Works regarding access on State Highway roadways prior to seeking a curb-cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies such as the MHD to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.

(c) All driveways and changes to driveways shall:

(1) provide the minimum number of driveways for the size and type of land use proposed.

(2) provide shared access with adjacent development where feasible.

(3) provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.

(d) Parking at the front of the lot is strongly discouraged. When parking is allowed on the front of the lot, where feasible, it shall be limited to a single row of vehicles and associated turning space. Also within the HG District, to the extent feasible, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.

(e) Transit Improvement Incentives

For redevelopment, the SPGA may provide relief from required parking where the applicant:

(1) permanently eliminates and/or significantly reduces the width of existing curbcuts in a manner that improves the through flow of traffic on Barnstable Road and/or Route 28; and/or

(2) provides a perpetual agreement for one or more driveway interconnections that will alleviate traffic on Barnstable Road and/or Route 28.

D. Site Development Standards:

In addition to the site development standards set forth in Section 240-24.1-10 below, the

following requirements shall apply.

(1) Landscaping:

All site plan and special permit applications shall include a landscaping plan which shall be signed and stamped by a Massachusetts certified landscape architect.

240-24.1-9. Transportation Hub District

A. Permitted Uses:

The following principal and accessory uses are permitted in the TD District. Uses not expressly allowed are prohibited.

(1) Permitted Principal Uses:

- (a) Restaurants
- (b) Tourist information service
- (c) Parking facilities outside of the WP Overlay District
- (d) Bicycle rental services (non-motorized vehicles only)
- (e) Shuttle services
- (f) Alternative transportation facilities
- (g) Car rental services outside of the WP Overlay District
- (h) Automated banking facilities (ATM)

(2) Permitted Accessory Uses:

Accessory retail uses that do not exceed 1,500 square feet and which are directly related to a Principal permitted use in the TD District.

B. Special Permits

- (1) Parking facilities within the WP Overlay District
- (2) Public transportation maintenance facilities
- (3) Car rental services within the WP Overlay District
- (4) Permitted principal uses as follows, provided, however, that a special permit shall not be required when the applicant has obtained a Development of Regional Impact approval, exemption or hardship exemption from the Cape Cod Commission:
 - (a) non-residential development with a total floor area greater than 10,000 square feet.

C. Dimensional, Bulk & Other Requirements

Zoning District	Min. Lot Area (sf)	Min. Lot Frontage (ft)	Min. Yard Setbacks (ft)			Max. Bldg. Height		Max. Lot Coverage +	FAR
			Front	Rear	Side	Feet	Stories++		
Transportation Hub	30,000	100	20*	10*	10*	40	3	25%	—

+Maximum lot coverage pertains to building footprint only, with the exception of parking facilities which are permitted a maximum lot coverage of 65%.
 ++The third story can only occur within habitable attic space.
 * See also Setbacks in Section A below.

(1) Setbacks:

- (a) Front setback on Route 28 is fifty (50) feet.
- (b) The SPGA may reduce to zero the rear and side setbacks for buildings to accommodate shared access driveways or parking lots that service buildings located on two or more adjoining lots.

(2) Site Access/Curb Cuts:

- (a) Driveways on Route 28 shall be minimized. Access shall not be located on Route 28 where safe vehicular and pedestrian access can be provided on an alternative roadway, via a shared driveway, or via a driveway interconnection. On Route 28 new vehicular access, and changes in use that increase vehicle trips per day and/or peak hour roadway use for an existing driveway or curbcut, shall be by special permit.
- (b) Upon the redevelopment, expansion, alteration or change of use of any lot with a lot line on Engine House Road, the new, expanded, altered or changed use shall provide vehicular access solely on Engine House Road.
- (c) Applicants seeking a new curb cut on Route 28 shall consult the town Director of Public Works regarding access on State Highway roadways prior to seeking a curb-cut permit from the Massachusetts Highway Department, and work with the Town and other authorizing agencies such as the MHD to agree on an overall access plan for the site prior to site approval. The applicant shall provide proof of consultation with the listed entities and other necessary parties.
- (d) Parking at the front of the lot is strongly discouraged. When parking is allowed on the front of the lot, where feasible, it shall be limited to a single row of vehicles and associated turning space. Also within the TD District, to the extent feasible, for redevelopment, existing parking located on the front of the lot shall be removed and relocated to the rear and/or side of buildings, consistent with this section.
- (e) All driveways and changes to driveways shall:
 - (1) provide the minimum number of driveways for the size and type of land use proposed;
 - (2) provide shared access with adjacent development where feasible;
 - (3) provide a driveway interconnection between adjacent parcels to avoid short trips and conflicts on the main road.
- (f) Transit Improvement Incentives

For redevelopment, the SPGA may provide relief from required parking where the applicant:

- (1) permanently eliminates and/or significantly reduces the width of existing curbcuts in a manner that improves the through flow of traffic on Barnstable Road and/or Route 28; and/or
- (2) provides a perpetual agreement for one or more driveway interconnections that will alleviate traffic on Barnstable Road and/or Route 28.

D. Site Development Standards:

In addition to the site development standards set forth in Section 240-24.1-10 below, the following requirements shall apply.

(1) Special Permit Criteria:

In determining whether to grant a special permit within the WP Overlay District, the SPGA shall consider the criteria set forth in Section A(5), General Provisions, above, in addition to the following factors:

- (a) The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit;
- (b) The nature and degree to which the proposal eliminates existing threats to the public water supply, including on-site and off-site mitigation;
- (c) The overall effectiveness of existing land uses and/or protective measures on the public water supply well; and
- (d) Whether granting the special permit will accommodate an overriding community interest.

240-24.1-10. Site Development Standards

A. Application: Unless otherwise stated herein, the following additional site development standards shall apply within the Hyannis Village Zoning Districts, with the exception of Zone 3, the Single Family Residential District.

(1) Utilities and Services:

- (a) Mechanical equipment, whether ground level or rooftop shall be screened from view of adjacent properties and public rights-of-way and designed to be an integral part of the building.
- (b) Trash containers shall be fully screened on 3 sides with solid walls a minimum of six feet high with a solid front gate, six feet high, which shall be kept closed. Trash compacters shall be enclosed to minimize noise.

(2) Stormwater:

Rain gardens, as defined in Section 240-24.1-12 below, are encouraged.

(3) Drive-through windows:

Drive-through windows are prohibited within the Hyannis Village Zoning Districts, with the exception that banks allowed as a principal permitted use may construct and operate a drive-through window upon the issuance of a special permit.

(4) Off-Street Parking Requirements:

All new, expanded or intensified uses shall provide adequate off-street parking. No uses shall be intensified, except for single-family detached dwellings, without providing adequate parking as provided herein.

- (a) Parking Spaces, Computation:

See Section 240-24.1-3 above for additional parking regulations applicable to the HVB district.

- (1) Unless otherwise specified, all development shall comply with the parking requirements contained in Article VI, Section 240-56, Schedule of Off-Street Parking Requirements, of the Barnstable Zoning Ordinance. The SPGA may by special permit reduce the on-site and off-street parking requirement consistent with these regulations.
- (2) For multi-family housing, off-street parking shall be provided on-site at a ratio of one and one-half (1 ½) spaces per each dwelling unit and shall be located not less than thirty (30) feet from the base of the multi-family dwelling and be easily accessible from a driveway on the site.
- (3) Existing parking spaces may be counted to meet the minimum off-street parking requirements for an intensified use only if it can be demonstrated that they are not used as of right by existing uses and are exclusively available as of right for said proposed intensification.
- (4) Circumstances Warranting Reduction of Requirements: The SPGA may reduce or waive required on-site parking if lesser off-street parking is shown to be adequate given such special circumstances as:
 - (a) Use of a common parking area by different uses having different peak hours of demand and where the applicant provides a lease agreement between the necessary parties.
 - (b) Age or other characteristics of occupants which reduce auto usage.
 - (c) Characteristics of use invalidating normal methods of calculating parking demand.
 - (d) Supplementary parking provided off premises.

(b) Location of Off-Street Parking Spaces:

(1) All required off-street parking spaces shall be located on the same lot as the use for which such spaces are required, except that the SPGA may reduce or waive on-site parking required by the zoning ordinance for new development located within 500-feet of leased parking, provided that a lease agreement is presented as part of the site plan approval or special permit process and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. In no case shall leased parking be allowed on land that is residentially zoned for, or in residential use as, a single-family or a two-family dwelling.

(c) Parking Design Standards:

(1) Parking areas shall be located to the rear of a building unless such location would have an adverse environmental impact, or is infeasible due to configuration of the site. To the extent that parking cannot be located to the rear of a building, it shall be located to the side of a building to the extent possible.

(2) Each off-street parking space shall have a minimum dimension of 9' x 20' excluding the driveway, and consistent with the dimensional parking requirements set forth in Section 240-104, Minimum Parking Lot Design Standards, of the Barnstable Zoning Ordinance.

(3) Maneuvering space shall be provided so that vehicles need not back onto a public way.

(4) Lighting shall not cause glare for motorists, pedestrians or neighboring premises. Full cut off light fixtures shall be used in which no more than 2.5% of the total output is emitted at 90 degrees from the vertical pole or building wall on which it is mounted.

(5) Drainage facilities for each parking area shall be designed and constructed to contain stormwater runoff on the premises.

(d) Parking Lot Landscaping:

(1) Trees: One 3" minimum caliper low water use, low maintenance tree must be provided for every 5 parking spaces and must be located within 50' of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of lots shall be credited towards this requirement.

(2) 5 or more spaces: 6' landscape buffer must be provided between property lines and parking spaces. The landscape buffer must screen parking with a dense hedge providing year-round screening or a fence must be constructed with no more than 50% open space between the panels. Hedges and fences may be subject to other regulation.

(3) 10 or more spaces: 6' landscape buffer must be provided between a building and a surface area parking lot or drive except at entrances, building loading, and utility locations.

(4) 21 or more spaces: at least 10% of the interior parking lot must be landscaped. Planting along the perimeter shall not be considered as part of the 10%. Interior planting beds are ideally continuous to allow for maximum plant bed size and are constructed as rain gardens to control storm water. No landscaped island shall be less than 6' wide, except that in parking lots with 51 or more parking spaces where the minimum island with shall be 10'.

(5) Plant materials shall be low water use and low maintenance and be of a sufficient size to create an attractive appearance. A list of recommended plant materials shall be included in the Design and Infrastructure Plan and can be obtained from the Planning Department. Brick or stone mulch shall not be used in place of plant material in landscaped islands. Where mulch is used, it shall not be placed in such a manner that it will wash into catch basins or drainage pipes in the lot or in adjacent roadways.

(e) Landscaping of Pre-existing parking lots:

(1) Upon the expansion of an existing parking lot containing 21 or more parking spaces and/or an alteration of a structure, or a change or extension of a use which increases the parking requirements by 5 or more spaces according to the standards of Sections 240-48 through 240-58, Schedule of Off-street Parking Requirements, the entire existing parking lot shall be brought into compliance with this section.

(5) Landscaping:

(a) Existing significant trees and shrubs shall be maintained to the maximum extent possible.

(b) The front yard landscaped setback from the road lot line shall be ten (10) feet, unless otherwise specified.

- (c) Within the HD, MS, SF, HG and TD Districts, landscaped setback from all residential property lines shall be twenty (20) feet.
- (d) In addition to natural vegetation that is retained, the Front Yard Landscaped Setback shall be landscaped with a combination of indigenous grasses, trees and shrubs commonly found on Cape Cod.
- (e) All developments must be adequately landscaped with low water use plants and provide habitat value whenever possible. No plantings shall obscure site entrance and exit drives and road intersections. Planting areas should serve as storm water treatment areas often referred to as "rain gardens", as such they should be designed in a way that they are slightly depressed below adjacent parking or sidewalk grades with run-off directed to these areas. Plantings, while encouraging drought resistance, should be capable of withstanding seasonally wet conditions.
- (f) Street trees: One deciduous tree with 3" min. caliper is required to be planted within front setback for every 30' of frontage of property if front setback is greater than 0'. Trees in paved areas shall have a minimum 25 square feet of permeable area for growth. Trees in islands shall have a minimum of 50 square feet of permeable area for growth. All landscaped areas shall be continuously maintained, irrigated, and fertilized. Plant materials shall be organically maintained to maximum extent possible.
- (g) No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation of the plant materials.

(6) Signage:

All development shall comply with the applicable signage requirements contained in Article VII, Sign Regulations, at Sections 240-59 through 240-89, inclusive, of the Barnstable Zoning Ordinance. Internally illuminated signs are prohibited in the Hyannis Village Zoning Districts.

(7) Lighting:

Reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.

(8) Fences:

No fence shall exceed a height of 6 ½ feet (8 feet when abutting a non-residential district) from the grade plane unless a special permit is obtained from the SPGA.

240-24.1-11. Authorization: Design and Infrastructure Plan

(A) The Planning Board shall establish a Design and Infrastructure Plan (DIP) which shall be adopted after public hearing. The DIP shall establish building and site design standards for all development and shall require, at a minimum:

- (1) consistency with the historic and maritime character of the area;
- (2) creation of livable neighborhoods for year round residents;
- (3) creating housing opportunities for persons and households of all income levels;
- (4) creation of opportunities for pedestrian access and public spaces;
- (5) preservation of views and public access to the waterfront;

- (6) creation of opportunities for eliminating curbcuts and for creating driveway interconnections, shared driveways, public transit, alternative transportation and/or travel demand management; and,
- (7) creation of opportunities to foster history, culture and the arts.

(B) Design Review:

The DIP shall establish guidelines regarding the appropriateness of the scale, placement, materials, design and detail of buildings, landscapes and settings, and signage. The DIP shall identify buildings and areas of the landscape that are of particular cultural, historical and/or architectural significance and shall establish guidelines for their preservation. The Hyannis Main Street Waterfront Historic District Commission shall implement design review within the Hyannis Village Zoning Districts.

(C) Infrastructure:

The Downtown Hyannis area is the transportation, health care, and commercial hub of Cape Cod. In recognition of this and local growth initiatives for the Downtown Hyannis area, the DIP shall identify the infrastructure and services necessary to support new development and redevelopment, the method or methods of providing such services, and the time schedule for providing those services. Without limitation, the DIP may establish standards related to the following:

- (1) The Design and Infrastructure Plan shall establish a process for permit applicants to challenge ITE assumptions regarding trip generation (vehicle trips per day). Based upon generally accepted engineering, legal and planning standards, the Design and Infrastructure Plan may modify the definition of peak hour roadway use for specific roadways in the Hyannis Village Zoning Districts and may establish base line traffic counts for existing land uses
- (2) The Barnstable Town Council may establish a fee schedule to be included in the DIP, which fee schedule shall establish the fair share contribution of new development and redevelopment. In such case, the DIP shall establish the costs of providing services to new development and redevelopment using generally accepted legal, accounting, and planning principles. In the event the Barnstable Town Council adopts such a fee schedule it shall be included in the DIP as a severable provision.
- (3) The DIP shall identify prior town actions and future opportunities to offset increased development in the Hyannis Village Zoning Districts.
- (4) The DIP shall identify opportunities to benefit residents and business owners by identifying locations for shared community services, shared parking, shared transit and travel demand management facilities, shared waste management facilities, and similar facilities.

240-24.1-12. Definitions Applicable to the Hyannis Village Zoning Districts

In the interpretation of this section, the following words and terms are to be used and interpreted as defined herein unless the context otherwise requires. The definitions contained in Section 240-128 of the Barnstable Zoning Ordinance shall also apply to this section, provided that, in the event of a conflict the definitions below shall apply:

Accessory use

A structure or use that: is subordinate in building area, building extent, and purpose to the principal use; is customarily incidental and subordinate to the principal use and contributes to the comfort, convenience, or necessity of the principal use; and, is located on the same lot as the principal use.

Art gallery

A public or private facility which is operated as a repository or a collection of works of individual art pieces not mass produced consisting of one or more of the following: paintings, drawings, etchings or sculptures; may include the sale of related objects and services.

Artist's loft

A place designed to be used as both a dwelling and a place of work by an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of fine arts such as drawing, vocal or instrumental music, painting, sculpture, photography, graphics, media arts, and writing. The work activities shall not adversely impact the public health, safety, and welfare, or the livability, functioning, and appearance of adjacent property.

Automated banking facility (ATM)

An automated device, which is operated by the customer, that performs banking or financial transactions.

Automobile gasoline and repair station

A retail establishment engaged in the sale of automotive fuel, motor oil, and/or services, which provide for the routine maintenance of automobiles. Such services may include washing, polishing, greasing, emissions testing, tire repair, wheel alignment, brake repair, muffler replacement, engine tune-up, flushing of radiators, servicing of air conditioners, and other activities of minor repair and servicing.

Bank

A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities. Walk-in services to consumers are generally provided on site. Drive-through services may be allowed by special permit where banks are allowed as a principal permitted use.

Building height

Building height shall be measured as the vertical distance from the grade plane to the average height of the highest roof plane that also has the highest ridge line.

Building story

The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Business offices

Business offices include all types of offices, other than professional offices as defined elsewhere in this ordinance, which are defined as a room, or group of rooms used for conducting the affairs of a businesses, service industry, or government entity.

Business support services

Establishments engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments.

Typical uses include office equipment and supply firms, small business machine or computer repair shops, convenience printing and copying establishments, or hotel equipment and supply firms.

Clinic, dental or medical

A building or portion of a building in which the primary use is the provision of health care services to patients or clients. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures or similar dental appliances. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use.

Conference center

A facility which provides meeting halls for conferences, seminars, training and other similar functions for large numbers of people. A conference center shall be considered to be an accessory use to a hotel.

Convenience store gas station

A facility associated with the sale prepackaged food items and other retail goods, primarily for self-service by the consumer which also offers the retail sale of gasoline from pumps.

Design and Infrastructure Plan

A plan establishing site and building design standards and establishing fair share contributions to infrastructure (impact fees) for new development and redevelopment, as further defined in Section 240.24.X herein.

Drive-through window:

This use is prohibited in all districts, with the exception that banks may seek a special permit to construct and operate a drive-through window.

Driveway/Curb Cut

Any access point onto a roadway. This may include, but is not limited to, an entrance to a parcel, or an intersection with another roadway.

Driveway Interconnection

A private driveway connection between two lots that does not require traveling on the public roadway system.

Floor area ratio (FAR)

The ratio of gross building area to the lot area on which the building(s) are located. The ratio is calculated by dividing the gross area of said buildings by said lot area.

Fraternal or social organization lodge

A building or land used for the activities of an association of persons for the promotion of some nonprofit common objective, such as literature, science, politics, and good fellowship (not accessory to, or operated as, or in connection with a tavern, eating place, or other place open to the public), which meets periodically and may be limited to members.

Grade Plane

A reference plane representing the natural, undisturbed ground level adjoining the proposed building at all exterior walls. Where the ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and a point six feet from the building, or between the building and the lot line, whichever point is closer.

Ground Floor

The floor located at the street level, closest to the naturally occurring grade.

Habitable attic

The habitable space between the rafters of a pitched roof and the next floor below.

Habitable space

Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and other similar areas are not considered habitable space.

Health club

A building or portion of a building designed and equipped for the conduct of exercise and related activities utilizing weight control or muscle building equipment or other apparatus for the purpose of physical fitness, along with customary ancillary activities and facilities.

Highest roof plane

The roof plane having the highest ridge and having highest average height (exclusive of cupolas and parapets) or the flat roof that is higher than any pitched roof.

Hospital

A facility for the care and treatment of patients as licensed by the Massachusetts Department of Public Health under G.L. c. 111, sec. 51.

Hotel

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

Hyannis Village Zoning Districts

The seven Hyannis zoning districts including HVB, MS, SF, OM, HD, HG and TD.

Lot Coverage, Maximum

A measure of the portion of a site that is impervious (i.e. does not absorb water) including but not limited to all areas covered by buildings, structures, parked surfaces and structures, driveways, roads, sidewalks and any area of concrete asphalt, except as otherwise defined herein. The remaining area of a site shall be maintained as natural vegetation or landscaped area.

Mixed Use Development

Development including residential and non-residential principal permitted uses on a single lot and including at least 33% residential development for three story buildings.

Motel

One or more attached or detached buildings providing residential room accommodations intended primarily for sleeping which are rented out to the public on a daily rate, where each room has a separate entrance leading directly outside the building.

Multi-Family housing

A structure containing three or more dwelling units, or apartments, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

Museums

A public or private facility, including an aquarium, established for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest designed to be used by members of the public for viewing, with or without an admission charge. Such activity may include, as an accessory use, the sale of memorabilia, crafts work and artwork, and the holding of meetings and social events.

Nursing home

A facility for the aged or chronically ill, providing bed-care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services.

Packaging and delivery services

The packaging and delivery of parcels as a retail service use. It shall not include the bulk storage of parcels on-site but may include the sale of ancillary goods typically used in the packaging and shipping of parcels.

Parking facility

When identified as a permitted Principle Use within a zoning district the term parking facility refers to either structured parking (such as a multi-level parking garage or parking deck), or a surface parking lot, which are not accessory uses to another permitted use in the district.

Peak Hour Roadway Use

For Monday through Friday, peak morning (7:30 a.m. to 9:30 a.m.) and peak evening (4:00 p.m. to 6:00 p.m.) roadway use. For Saturday, 10:00 a.m. to 12:00 p.m. roadway use. Based upon accepted engineering, legal and planning standards, the Design and Infrastructure Plan may change, modify or expand the definition of peak hour roadway use for specific roadways in the Hyannis Village Zoning Districts.

Performing arts facility

An enclosed space suitable for a variety of cultural arts performances, permanently available for the primary principal use of public performing arts presentations such as plays, dance, and concerts, although incidental use for private meetings, exhibits and presentations shall be permitted. Such space may also include studios, classrooms, and galleries.

Personal services establishment

An establishment engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, barber shop, beauty shop, dry cleaner, tailor, or other similar services, but shall not include a public laundry where clothing is laundered on-site.

Professional offices

The office of a member of a recognized profession maintained for the conduct of that profession. A profession is defined as an occupation requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field, any occupation requiring licensing by the state and maintenance of professional standards applicable to the field. This category excludes medical and dental offices and clinics but includes lawyers and realtors.

Publishing and printing establishment

The publishing and printing of information as a retail service use. It shall not include the bulk publishing or printing of paper documents on-site, but may include the sale of ancillary goods typically used in the publishing and printing of information.

Rain Garden

A rain garden is a bowl shaped landscape area designed to absorb stormwater run-off from impervious surfaces. It cleanses water of pollutants by filtering water through soil and plants.

Recreational establishment

An establishment engaged in the provision of public recreational services including bowling and billiards, but not including miniature golf and video arcades.

Repair services

Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses, not to include any appliances, tools or small machinery that are powered by hydrocarbon fuel.

Research and development facility

A business that engages in research and development of innovative ideas and technology. Examples include research and development of computer software, information systems, communication systems, transportation, multi-media and video technology. Development and construction of prototypes may be associated with this use.

Restaurant

An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics: (1) customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building. This category excludes drive through restaurants.

Restaurant, Drive-through

An establishment whose primary business is serving food to the public for consumption on or off the premises, and which provides all or part of these services by means of a drive-through window. A drive-through window is defined as an opening in the wall of a building or structure designed and intended to be used to provide for sales to and/or service to patrons who remain in their vehicles.

Retail uses

A business or activity having as its primary function the sale of merchandise or wares to the end consumer (for example, grocery stores, hardware stores, apparel stores, bookstores); or

establishments engaged in the rental of goods at retail, or in providing a service(s) to individuals and households (for example, travel agents or real estate sales offices). This category excludes: animal sales or service; bulk retail sales or rental of building and garden materials or equipment (for example, lumber, electrical and heating fixtures, plant nurseries); and motor vehicle retail or wholesale sales and related equipment sales, leasing, rental, or repair.

Retirement housing

A facility for long-term residency exclusively by persons 60 years of age or older, which provides independent living and/or assisted living arrangements, and which may include common dining and social and recreational features, and special safety and convenience features designed for the needs of the elderly. The facility may also include the provision of services such as meal services, transportation, housekeeping, personal care, or health care. Such a facility shall not be construed to mean a nursing home, group home, or residential treatment center.

SPGA

The special permit granting authority, which shall be the Barnstable Planning Board.

Street Line

The edge of the public layout of the street, or public right-of-way as defined by the sidewalk, whichever is greater.

Total Floor Area

Shall mean gross floor area as defined in Section 240-128 of the Barnstable Zoning Ordinance, and shall include additions and auxiliary buildings.

Town House

A single dwelling unit which is not above or below another dwelling unit and whose side walls are separated from other dwelling units by a fire wall or walls. Each unit in the row may be owned by a separate owner.

Vehicle Trips Per Day

Shall be as defined by the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 7th Edition, as that publication may be amended from time to time, provided, however, that the Design and Infrastructure Plan shall establish a process for permit applicants to challenge ITE assumptions regarding trip generation, and the Design and Infrastructure Plan may establish existing vehicle trips per day for a particular use or uses in the Hyannis Village Zoning Districts.

Workforce Housing

Residential dwelling units, offered for sale or rent, affordable to families earning between 81% and 120% of the area median income, as defined by the U.S. Department of Housing and Urban Development, and provided within a multi-family structure. Such residential dwelling units shall remain affordable in perpetuity and shall provide a deed restriction, regulatory agreement and monitoring agreement and similar documentation as may be required by and approved by the Barnstable Town Attorney.

SECTION 4

Upon the effective date of this Ordinance, by amending the Barnstable Zoning Ordinance as follows:

1. By deleting the following from Section 240-5 and deleting in their entirety the corresponding district regulations:

Under 240-5, Residential Districts, delete “RB-1 Residence B-1 District” and delete Section 240-12.

Under 240-5, Office Districts, delete “PR Professional Residential District” and delete Section 240-18.

Under 240-5, Office Districts, delete “O-1, O-2 and O-3 Office Districts” and delete Section 240-20.

Under 240-5, Office Districts, delete and “OR Office District” and delete Section 240-19.

Under 240-5, Commercial Districts, delete “BL-B Business Limited B District” and delete Section 240-22.

Under 240-5, Commercial Districts, delete “B-1 Business District” and delete Section 240-31

Under 240-5, Commercial Districts, delete “MA-1 Business District” and delete Section 240-29.

Under 240-5, Commercial Districts, delete “MA-2 Business District” and delete Section 240-30.

2. By amending the following zoning districts:

The BL-B and RB-1 Zoning Districts are hereby deleted and shall be replaced by the “Harbor District”.

Portions of the PRD, and HB Zoning Districts are hereby amended to create the “Medical Services District”.

The OR Zoning District is hereby deleted and portions of the RB Zoning District are hereby amended to create the “Single Family Residential District”. That portion of the OR Zoning District not included in the new Single Family Residential District is hereby deleted and replaced by the RB Zoning District.

The B-1, O-1, O-2, and O-3 Zoning Districts are hereby deleted and portions of the UB Zoning District are hereby amended to create the “Office/Multi-Family Residential District”.

The B-1, MA-1, MA-2, O-2, and RB-1 Zoning Districts are hereby deleted and portions of the B, RB, and UB Zoning Districts are hereby amended to create the “Hyannis Village Business District”.

The B-1 Zoning District is hereby deleted and portions of the B and HB Zoning Districts are hereby amended to create the “Hyannis Gateway District”.

Portions of the B and HB Zoning District are hereby amended to create the “Transportation District”.

3. By deleting Section 240-21 A (9) in its entirety and replacing it with the following:

- (9) Multifamily dwellings (apartments) subject to the provisions (a) through (i) herein, except that multifamily dwellings shall be prohibited in the BA District.
 - (a) The minimum lot area ratio shall be 5,000 square feet of lot area per each apartment unit for new multifamily structures and conversions of existing buildings.
 - (b) The maximum lot coverage shall be 20% of the gross upland area of the lot or combination of lots.
 - (c) The maximum height of a multifamily dwelling shall not exceed three stories or 35 feet, whichever is lesser.
 - (d) The minimum front yard setback shall be 50 feet or three times the building height, whichever is greater.
 - (e) The minimum side and rear yard setbacks shall be not less than the height of the building.
 - (f) A perimeter green space of not less than 20 feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.
 - (g) Off-street parking shall be provided on site at a ratio of 1.5 spaces per each apartment unit and shall be located not less than 30 feet from the base of the multifamily dwelling and be easily accessible from a driveway on the site.
 - (h) No living units shall be constructed or used below ground level.
 - (i) The Zoning Board of Appeals may allow by special permit a maximum lot coverage of up to 50% of the gross area of the lot or combination of lots.
- 4. By amending Section 240-64 by replacing the title "Signs in PR Professional Residential District" with a new title stating "Signs in Medical Services District".
- 5. By amending Section 240-68 by replacing the term "BL-B" with the term "HD".
- 6. By amending Section 240-71 by replacing the title "Signs in MA-1, MA-2 and OR Districts" with a new title stating "Signs in the HVB District" and in Section 240-71(D) the term "MA-1" shall be replaced with the term "HVB".
- 7. By deleting Section 240-72 in its entirety.
- 8. By amending Section 240-78 by deleting Section 240-78(A)(2) in its entirety and by amending Section 240-78(A)(1) to state as follows:
 - (1) Internally illuminated signs shall not be permitted in the Hyannis Village Zoning Districts.

VOTE: 12 Yes – Roll Call

<p>2006-004 - ORDER APPROVING CONSERVATION RESTRICTION TO BE HELD BY THE TOWN OF BARNSTABLE – Old Neck Lane</p>	<p>INTRO.: 07/14/05</p>
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Upon motion duly made and seconded it was voted to amend this item to add the description.
VOTE: 12 yes

Jackie Barton explained that 2006-001 and 2006-004 are part of the same grant.

Attorney Houghton explained the parcels, acquisition and restrictions.

Upon motion duly made and seconded a vote was taken to postpone.

VOTE: 9 No, 3 Yes - defeated

Upon motion duly made and seconded it was:

ORDERED: that the Town Council, pursuant to G.L. c. 184, s. 32, hereby approves a perpetual conservation restriction in the form annexed hereto to be given by the Barnstable Land Trust, Inc., a Massachusetts charitable corporation duly organized by law, to the Town of Barnstable and determines that said restriction is in furtherance of the public interest in preserving scenic views, natural habitat and open space as stated in section 6.1.2 of the Town of Barnstable Local Comprehensive Plan.

Land is 5 acres on Old Neck Lane

VOTE: AS AMENDED – 12 YES

2006-005 ORDER APPROVING CONSERVATION/WATERSHED PRESERVATION RESTRICTION TO BE HELD BY THE CENTERVILLE-OSTERVILLE-MARSTONS MILLS WATER DEPARTMENT – High River Road	INTRO.: 07/14/05
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Upon motion duly made and seconded it was voted to add the description to the item.

VOTE: 12 yes on the amendment

Upon motion duly made and seconded it was:

ORDERED: that the Town Council, pursuant to G.L. c. 184, s. 32, hereby approves a perpetual conservation/watershed preservation restriction in the form annexed hereto to be given by the Barnstable Land Trust, Inc., a Massachusetts charitable corporation duly organized by law, to the Water Department of the Centerville-Osterville-Marstons Mills Fire District, a fire district organized and existing under General Laws c.40, §60, *et seq.* of the Commonwealth of Massachusetts, the department having been authorized and created by c.169 of the Acts of 1937, and determines that said restriction is in furtherance of the public interest by protecting the water supply and water quality of a public wellfield, retaining the land predominantly in its natural, scenic or open condition and continuing the underlying use of conservation and wildlife habitat protection, as stated in Section 6.1.2 of the Town of Barnstable Local Comprehensive Plan.

Land 3.77 ac. on High River Rd.

VOTE: Unanimous on item as amended

B. NEW BUSINESS (MAY BE ACTED UPON)

2006-007 - ORDER APPROVING CONSERVATION RESTRICTION TO BE HELD BY THE BARNSTABLE LAND TRUST, INC. – Off Shore Road and Old Post Roads in Marstons Mills	INTRO.: 07/14/05
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Councilor Curtis explained the amended version that describes the property and acquisition. It is administrative housekeeping. We need to proceed fully with this and she asked for the approval of the council.

Upon motion duly made and seconded it was voted to amend this by adding the name of the roads.

VOTE: 12 Yes to Amend

Upon motion duly made and seconded it was:

ORDERED: That the Town Council, pursuant to G.L. c. 184, s. 32, hereby approves a perpetual conservation restriction in the form annexed hereto to be given by the Town of Barnstable to the Barnstable Land Trust, Inc., a Massachusetts charitable corporation duly organized by law, and determines that said restriction is in furtherance of the public interest by retaining the land predominantly in its natural, scenic or open condition and protecting the water supply and water quality of a public wellfield, as stated in Section 6.1.2 of the Town of Barnstable Local Comprehensive Plan; and that the Town Manager is authorized to dispose of by sale or nomination to take title to the Centerville-Osterville-Marstons Mills Fire District for a price of \$375,000.00 the property shown on Assessors Map 58 as Parcels 19 and 20 and May 59 as Parcel 14 in furtherance of the interests advanced hereunder; and to further amend agenda numbers 2004-109 and 2005-023 by striking the final proviso and substituting therefore "provided; however, that a purchase and sales agreement is completed by September 30, 2005 and fund-raising is completed by December 30, 2005.

VOTE: 12 yes

Councilor Crocker asked about if Attorney Houghton was comfortable with the price being on the item. Houghton said yes, it includes \$325,000 for the lots and \$50,000 for the easement

CONSENT AGENDA

By mutual consent of the members of the Town Council the following was agreed to:

2006-008 - APPOINTMENTS INTRO.: 0714/05

AMEND – add Sheila Geiler, Box 771, Hyannis to both locations in the item for Zoning.

AMEND – add Ron Jansson in both locations to Zoning.

AMEND – add James Hatfield as alternative to Jeremy Gilmore in Zoning.

President Brown announced that all names of all nominees would be listed in one place on the agenda.

Referred to a second reading.

2006-003 APPROPRIATION ORDER FOR CEMETERY EQUIPMENT: INTRO.: 07/14/05

Referred to a public hearing on August 18, 2005

2006-006 AN ORDER PROPOSING A CHARTER AMENDMENT TO THE VOTERS OF THE TOWN TO PROVIDE FOR MAKING CERTAIN CHANGES IN THE ADMINISTRATION OF THE MUNICIPAL AIRPORT INTRO.: 07/14/05

Referred to second reading.

2006-009 - TO SEE IF TOWN COUNCIL WILL VOTE TO AMEND THE ZONING ORDINANCE BY ADDING THE FOLLOWING PROVISION INTRO.: 07/14/05

Referred to Planning Board and Housing Committee.

VOTE: 12 yes on Consent Items as amended.

PUBLIC COMMENT

John Julius thanked Attorney Butler for clarifying the closing date on the golf course. When the town takes ownership of the golf course, he hopes an RFP will immediately go out. We will own it. He questioned why Mr. Klimm signed in October of 2004, because you didn't vote until Nov. 10 to purchase. This is a presigned contract. I hope someone will place it out to bid. This is fiscal mis-management. There should be resignations.

Jackie Barton thanked the council for the votes on the conservation restrictions.

Councilor Crocker said there are too many erroneous facts out there and we need to bring this to a head. Real estate is subject to terms. A purchase and sale is negotiated before it comes to us for a vote. I want to know the deal is locked up. To suggest that this was otherwise is not right. I have sold houses that people have life rights to. This is an operation that they will run for a period of time. I am getting tired of the indiscretions when we are talking about contractual arrangements. This was done right, it is legal, and in the light of day. It went forward. This has had its daylight – stop bashing. This was done right.

Attorney Smith stated that “there are none so deaf as those who will not hear”. The town has engaged in transactions that involve ongoing concern. This required the town to engage sophisticated transactions. It was done right. It has been done with attention to detail, and practically the only way they could be done.

Joe Dugas announced that the Trayser Museum will re-open with a Coast Guard Heritage Museum on the first floor. The interior has been restored to the way it was in 1856. There will also be a museum on the 2nd floor; and the blacksmith shop and the old jail will be renovated. David Lewis will teach sculpturing. Councilor Canedy said thank you to him for his work.

Councilor Milne asked about the bonding and the charter explanation. Attorney Smith said the Constitution of Massachusetts provides for a Charter Commission process. It is a local process between the people and by the people themselves. Along with the petition process, you can come up with a draft of the government and petition the legislature to adopt a whole new government and have it come back to the voters.

ADJOURNMENT: Upon motion duly made and seconded it was voted to

ADJOURNED: at 10:28 p.m.

Respectfully submitted,

Linda E. Hutchenrider, MMC/CMMC
Town Clerk/Town of Barnstable