



# The Town of Barnstable Town Council

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Councilors:

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Vice President

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Janice L. Barton  
Gary R. Brown  
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Administrator:  
Donald M. Grissom

Town Council  
Secretary:  
Cheryl A. Phillips

## TOWN COUNCIL AGENDA

September 21, 2006

7:00 PM

1. **ROLL CALL**
  2. **PLEDGE OF ALLEGIANCE**
  3. **MOMENT OF SILENCE**
    - **LITTLE LEAGUE PRESENTATION**
    - **LICENSING AUTHORITY**
  4. **PUBLIC COMMENT**
  5. **COUNCIL AND TOWN MANAGER RESPONSE TO PUBLIC COMMENT**
  6. **REPORTS FROM TOWN COUNCIL, BOARDS, AND COMMITTEES**
  7. **ACT ON MINUTES**
  8. **ORDERS OF THE DAY**
    - A. **OLD BUSINESS**
    - B. **NEW BUSINESS**
  9. **COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS AND STAFF, CORRESPONDENCE AND ANNOUNCEMENTS**
  10. **PRESIDENT/VICE PRESIDENT COMMUNICATIONS**
  11. **TOWN MANAGER COMMUNICATIONS**
  12. **PUBLIC COMMENT**
  13. **ADJOURNMENT.**
- NEXT MEETING OCTOBER 5TH.**
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ITEM NO.	INDEX TITLE	PAGE
<b>A. OLD BUSINESS</b>		
2006-147	Amendment of the Zoning Ordinance by the Creation of an Affordable Housing Overlay District (AHOD) ( <b>Joint Public Hearing With Planning Board May Be Acted Upon</b> ) ( <b>Roll Call 2/3</b> )	3 - 8
2007-024	To name the catboat "Sarah" the official vessel of the Town of Barnstable ( <b>Second Reading</b> )	9 - 10
2007-025	Order Authorizing the Town Manager to Execute a Regulatory Agreement between the Town of Barnstable and Ginsberg Asset Management, LLC ( <b>Public Hearing May Be Acted Upon</b> ) ( <b>Roll Call 2/3</b> )	11 - 14
2007-026	Order Authorizing the Town Manager to Execute a Regulatory Agreement Between the Town of Barnstable and Hibbel Realty LLC ( <b>Public Hearing May Be Acted Upon</b> ) ( <b>Roll Call 2/3</b> )	15 - 24
<b>B. NEW BUSINESS</b>		
2007-017	Appointments ( <b>First Reading</b> )	25
2007-027	Exemption of Interest Under the Conflict of Interest law ( <b>May Be Acted Upon</b> )	26
2007-028	Proclaim October as "Domestic Violence Prevention Month" and urge all residents to support the efforts to end and prevent domestic violence within our town and across the Cape and Islands ( <b>May Be Acted Upon</b> )	27 - 28

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**Minutes** of Barnstable Town Council Meeting of September 7, 2006.

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**Please Note:** It is possible, if it so votes, the Council may go into executive session.  
The council may act on items in a different order than they appear on this agenda.

**A. OLD BUSINESS (Joint Public Hearing with Planning Board May Be Acted Upon)  
(ROLL CALL 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2006-147 AMENDMENT OF THE ZONING ORDINANCE BY THE CREATION  
OF AN AFFORDABLE HOUSING OVERLAY DISTRICT (AHOD)  
INTRO.: 6/15/06; 07/20/06; 08/17/06; 09/07/06; 09/21/06**

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

**ORDERED:**

**SECTION 1**

**AFFORDABLE HOUSING OVERLAY DISTRICT**

**1. Purpose.** The purpose of this Section is to establish an overlay district(s), in which a special permit process is created to encourage privately initiated affordable housing by for-profit and not-for-profit organizations that authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide a percentage of affordable housing as defined in Section 9 herein.

**2. Definitions.**

Affordable Housing Development (AHD) – A development of single-family (detached), duplex (two family detached) and/or multi-family (three or more dwelling units per building) residential dwellings, including required Affordable Units, and permissible accessory structures authorized by special permit from the Planning Board as set forth herein for parcels located in the AHOD.

Affordable Unit - A dwelling unit reserved in perpetuity for ownership by a household earning less than 80% of area median family income, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in 760 CMR 45.03(4), in order that such Affordable Units shall be included in the DHCD Subsidized Housing Inventory.

Applicant - The person or persons, including a corporation or other legal entity, who applies for approval of an Affordable Housing Development (AHD), hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed AHD, or have authority from the owner(s) to act for the owner (s) or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

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.

Visitability – Shall mean that a residence has: a) no steps between the exterior walking surface and interior first floor level; b) at least one external door three (3) feet wide; c) all first floor passage doors at least 2 feet 8 inches wide; and d) at least one toilet room on first floor.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**3. Affordable Housing Overlay District.** The AHOD is an overlay district that may be superimposed on any parcel(s) in any zoning district. Where the AHOD authorizes uses not otherwise allowed in the underlying district, the provisions of the AHOD shall control.

**4. Location.** The AHOD is to be shown on the Official Zoning Map of the Town of Barnstable.

**5. Concept Plan.** Prior to the rezoning of any property for inclusion in the AHOD, and as part of the petition for such rezoning, a schematic plan, called for purposes of this Section, a "Concept Plan", shall be filed by the applicant with the Planning Board for review at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The Planning Board and the Barnstable Housing Committee shall hold a joint public meeting on the Concept Plan. The Concept Plan shall be consistent with the provisions of this AHOD ordinance and the town of Barnstable Affordable Housing Plan. In deliberation on approval of a Concept Plan, the Planning Board shall give consideration to the Town of Barnstable Village Plans as appended to the Town of Barnstable Local Comprehensive Plan.

The Concept Plan shall include:

- A. A schematic site development plan showing in general, the location of all proposed buildings, general site grading, parking, landscaping, roads, walkways and access ways, open space, wetlands, lighting and signage;
- B. A general breakdown of building types, i.e. single family, two family, multi family (and number of bedrooms in each building type);
- C. A schematic subdivision plan(s), if applicable;
- D. The proposed level of affordability;
- E. Specific floor plans, building plans or other detailed construction documents are **not** required at the Concept Plan stage.

The Barnstable Planning Board and the Barnstable Housing Committee will notify the public of the time and date of the public meeting on the Concept Plan. Thereafter, the Barnstable Planning Board shall determine that (i) the Concept Plan has been approved; or (ii) the Concept Plan has been approved subject to modifications; or (iii) the Concept Plan has been disapproved. If the Barnstable Planning Board disapproves the Concept Plan, it shall provide to the applicant, in writing, the reasons for such disapproval. The determination of the Barnstable Planning Board on the Concept Plan shall be the basis for a recommendation to the Town Council for the rezoning petition.

**6. Map Amendment.** In order for approval of an AHD, the applicant must file a petition for the amendment of the Town of Barnstable Zoning Map for inclusion of the subject parcel(s) within the AHOD.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**7. Application for Special Permit in AHOD.** After successful re-zoning of an AHOD, an application for a special permit for an AHD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the following:

- A) Information pertaining to any association which the Applicant proposes to form for the private management of the AHD;
- B) Drawings showing floor plans, elevations, and sections as required to fully describe the proposed project;
- C) If a subdivision is proposed, then all documents as required for the subdivision, if any, shall be reviewed during the Special Permit process;
- D) Copies of proposed deed restrictions and monitoring agreements, drafted consistent with all requirements of 760 CMR 45 Local Initiative Program (LIP) and guidelines promulgated there under assuring the affordable units remain affordable in perpetuity, and assure the resale of Affordable Units at the restricted price, and providing a right of first refusal in favor of the Town;
- E) Special permits in the AHOD are exempt from Site Plan Review.

**8. Standards.** In order to be eligible for consideration for a special permit, the proposal must contain parcels included in the AHOD and shall meet all of the following standards:

A) Compliance with Applicable Regulations and Standards:

- 1) In the case of a subdivision, all plans and development shall comply with all applicable standards of the Planning Board's Subdivision Rules and Regulations, including such waivers as may be granted by the Planning Board.

B) Bulk Regulations – For all lots and building within the AHOD the following Bulk Regulations shall apply as long as the Planning Board determines such bulk regulation is consistent with Section 10 herein:

Density:	as proposed by applicant
Lot area:	as proposed by applicant
Minimum Lot frontage:	40 feet
Property line and Road Layout setbacks:	as proposed by applicant
Maximum Building Height	
in feet/# of Stories:	40 feet/3 stories
Minimum building separation:	zero

C) Parking - A minimum of two (2) on-site parking spaces per dwelling unit shall be provided.

D) Building Permit Cap - An applicant proposing an AHD under this Section shall be exempt from the terms and conditions of Article XI Growth Management, Section 240-114 Rate of Residential Development.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

E) Visitability – The applicant shall provide visitability for all or some of the dwelling units, if feasible.

**9. Affordable Units.** At least forty percent (40%) of the dwelling units shall be Affordable Units, subject to the following conditions:

A) The Affordable Unit(s) shall be affordable in perpetuity. A Deed Rider shall assure this condition. The Deed Rider shall be structured to survive any and all foreclosures;

B) The continuing enforcement of the Deed Rider through subsequent resale of the Affordable Units shall be the subject of a Monitoring Agreement;

C) The Deed Rider and the Monitoring Agreement shall be drafted in compliance with 760 CMR 45.00 Local Initiative Program and guidelines promulgated there under. The Deed Rider and the Monitoring Agreement shall be subject to review and approval by the Barnstable Housing Committee and approved as to form by Town Attorney prior to the issuance of a certificate of occupancy for any dwelling unit;

D) The Affordable Unit(s) shall conform to the standards of the Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory;

E) A right of first refusal for such Affordable Unit(s) shall be granted to the Town or its designee for a period not less than 120 days after notice thereof;

F) The Affordable Unit(s) shall not be segregated within the AHD. The Affordable Unit(s) shall satisfy the design and construction standards of the Local Initiative Program, 760 CMR 45.00, with regard to distinguishability from market rate units. It is the intent of this ordinance that the Affordable Unit(s) shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units;

G) The Affordable Unit(s) shall be constructed, and occupancy permits issued at the rate of two (2) Affordable Units for every three (3) market rate units;

H) In computing the number of required Affordable Units, any fraction of a unit shall be rounded up and the result shall be the number of Affordable Units to be built within the AHD and not off site.

**10. Decision.** The Planning Board may grant a special permit for an AHD where it makes the following findings:

A) The proposed AHD complies with all applicable Subdivision Rules and Regulations, the Zoning Ordinances and the requirements of this section except as they may be waived by the Board;

B) The proposed AHD provides Affordable Units consistent with the requirements set forth herein;

C) The proposed AHD does not cause substantial detriment to the neighborhood.

**BARNSTABLE TOWN COUNCIL  
2006-147 AMENDMENT OF THE ZONING ORDINANCE  
BY THE CREATION OF AN AFFORDABLE HOUSING  
OVERLAY DISTRICT (AHOD) (CONTINUED)**

**11. Expiration.** The provisions of this ordinance shall expire on XXXX XX, 200? (date 18 months hence). Any application for an affordable housing development duly filed prior to the above date may continue through the process for final determination by the Town Council for an AHOD and the Planning Board for a special permit.

Upon the expiration of this ordinance, the Planning Board shall report to the Town Council a recapitulation of applications received under this ordinance stating the final disposition of all applications including units created, both market rate and affordable.

After review of the Planning Board report, the Town Council shall reconsider extension of this ordinance after a duly publicized hearing.

**SPONSORS:** Councilor Ann Canedy and Councilor Leah Curtis upon recommendation of the Planning Board and the Housing Committee

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2006-147**

**INTRO.: 06/15/06; 07/20/06; 08/17/06; 09/07/06; 09/21/06**

**TO:** Town Council  
**FROM:** Thomas A. Broadrick, AICP, Director of Regulatory Review, Growth Management  
**DATE:** June 15, 2006  
**SUBJECT:** Zoning Ordinance amendment adding new Section 240-40.2 Affordable Housing Overlay District

**BACKGROUND:** A new Section 240-40.2 will establish an overlay district(s) in which a special permit process is created to encourage privately initiated affordable housing by for-profit and not-for-profit organizations which provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and authorizes an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.

This agenda item was first referred to the Planning Board and Housing Committee by the Town Council July 14, 2005 for review. The Planning Board's Subcommittee on Zoning along with the Barnstable Housing Committee met numerous times since then and after several drafting and redrafting sessions produced the Proposed Text dated xx/xx/xx. Both the Planning Board and Housing Committee endorse the AHOD.

**ANALYSIS:** Opportunities exist for developing Chapter 40B housing using the Massachusetts General Laws but the ability of local government to provide alternative programs continues to be key in providing both affordable and workforce housing. The Town of Barnstable is unique with its amnesty and family apartment program, its inclusionary affordable housing general ordinance, and commitment to providing more affordable housing opportunities. The affordable housing overlay district allows development of additional affordable single-family, two-family, and multi-family housing after *significant* public input through the Concept Plan public meeting with the Planning Board; AHOD zoning joint public hearing with the Town Council and Planning Board; and finally through the Special Permit public hearing process again with the Planning Board leading to locally supported affordable development.

Attempts were made to address specific Council concerns. The proposed ordinance amendment now refers to creation of affordable housing compatible with the LCP and the Village plans. Moreover, the amendment includes a "sunset clause" which mandates a Council review after 18 months. At that time, the Planning Board with input from the Housing Committees will prepare a status report. The Council then can vote to continue, repeal or amend.

**FISCAL IMPACT:** Creating affordable housing units along with market rate housing means more request for government services but also provides for additional property tax revenue and more importantly provides home ownership to the workforce who are unable to secure housing, thus allowing them to remain in the community. The existence of affordable housing also potentially encourages smart business growth in the community, as well as supports existing business.

**BOARD/COMMITTEE/STAFF ASSISTANCE:** Planning Board Subcommittee on Zoning, Steve Shuman, Subcommittee Chair along with members of the Subcommittee; and Barnstable Housing Committee Chair Laura Shufelt along with members of the Housing Committee; and Ruth Weil, Director of GMD and Beth Dillen, GMD Special Projects Coordinator.



**A. OLD BUSINESS (SECOND READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-024 TO NAME THE CATBOAT "SARAH" THE OFFICIAL VESSEL OF THE  
TOWN OF BARNSTABLE  
INTRO.: 09/07/06; 09/21/06**

**RESOLVE:** To name the Cape Cod Maritime Museum's catboat "Sarah" as the official vessel of the  
Town of Barnstable.

**SPONSOR:** Town Councilor Ann B. Canedy

<b>DATE</b>	<b>ACTION TAKEN</b>
_____	_____
_____	_____

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-024  
INTRO.: 09/07/06; 09/21/06**

**TO:** Town Councilors  
**FROM:** Town Councilor Canedy  
**DATE:** August 28, 2006  
**SUBJECT:** Catboat Sarah as official vessel of Barnstable

The 1886 Herbert F. Crosby catboat "Sarah" is being replicated on the grounds of the Cape Cod Maritime Museum. It is being constructed using period techniques and materials and is scheduled to be launched in the summer of 2007.

The late Howard Chapelle who was the curator emeritus of the Smithsonian's transportation museum said: "one can hardly mention Cape Cod without also mentioning the development of the Cape Cod Catboat".

Catboats have been prevalent in our history and our economy having outnumbered any other type of boat used in Cape Cod fishery. The Crosby family alone have built over 3,500 of these boats.

The Cape Cod Maritime Museum's "Sarah" has been used as a topic for educational outreach and on site classroom discussion throughout its construction process. It is the Museum's intention that she will serve as a floating classroom and it is their hope that it will be a focal point of interest for residents and locals alike.

**FISCAL IMPACT:** There is no fiscal impact.

**A. OLD BUSINESS (PUBLIC HEARING MAY BE ACTED UPON) (ROLL CALL 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2007-025 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND GINSBERG ASSET MANAGEMENT, LLC  
INTRO.: 09/07/06; 09/21/06**

**ORDERED:** That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Ginsberg Asset Management LLC, for the property shown on Barnstable Assessor's Map 308 Parcel 004, Lot 1, and located within the OM zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the provision of not less than three affordable housing units to be constructed off-site, in conjunction with the development of 29 residential condominium units at 320 Stevens Street, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances as follows:

Barnstable Inclusionary Affordable Housing Ordinance: Chapter 9, Section 9-4D as it applies to the residential condominium development at 320 Stevens Street requiring the inclusion of three on-site affordable housing units, by permitting the development of three off-site affordable housing units.

**The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.**

The Town Manager may make minor amendments to the Regulatory Agreement and execute said regulatory agreement as amended, provided that such amendments do not alter the use, intensity or mitigation stipulations of the regulatory agreement. However, in no instance may the Town Manager make substantial amendments to the regulatory agreement without first receiving written concurrence from the Planning Board and the Town Council and qualified applicant that said substantial amendments are agreed to in accordance with Section 168 of the Code.

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-025  
INTRO.: 9/7/06; 09/21/06**

**TO:** Town Council  
**FROM:** Growth Management Department  
**DATE:** August 30, 2006  
**SUBJECT:** Proposed Regulatory Agreement  
320 Stevens Street, Hyannis

**RATIONALE:** This is a proposed Regulatory Agreement between the Town of Barnstable and Mr. Daniel Adams, the duly authorized agent of Ginsberg Asset Management, LLC. Regulatory agreements are authorized by Chapter 168 of the Barnstable Code. The ordinance allows the Town to enter into agreements with private property owners to allow new development in a manner that varies from local ordinances when it is deemed beneficial to the community.

The applicant is proposing a regulatory agreement in connection with a 29 unit residential condominium development at 320 Stevens Street in Hyannis. The applicant is proposing a regulatory agreement to establish an alternative means to comply with the requirements of the Barnstable Inclusionary Affordable Housing Ordinance. Under the Inclusionary Ordinance, the affordable units must be provided on-site with the residential units at 320 Stevens Street.

The applicant requests to provide the required affordable units off-site. It should be noted that the applicant is not seeking to waive the number of required affordable units, nor is he seeking to vary the affordability level of the units. The Agreement would authorize the provision of three affordable housing units off-site, subject to conditions contained within the Agreement. The Agreement is beneficial to the community because: the 320 Stevens Street project redevelops an existing blighted property, the developer will contribute public capital facilities including construction of a 5.5 foot concrete sidewalk with granite curbing along Stevens Street from Main Street to North Street (or will contribute \$50,000 toward the construction of said sidewalk), and will construct a twelve inch (12”) water line within Stevens Street as referenced in the site plans, and will provide fair, affordable housing within the Town of Barnstable.

Regulatory Agreement Process:

The proposed Agreement was negotiated by the Barnstable Planning Board over the course of two public hearings (July 10<sup>th</sup> and July 24<sup>th</sup>). Prior to the Planning Board hearing, the applicant met with the Barnstable Housing Committee regarding this request. The Housing Committee supported the provision of three affordable units off-site.

The proposed Agreement was approved by the Planning Board for recommendation to the Town Council by a majority vote of the Board on August 14, 2006.

Because the requested relief in this case does not require zoning relief, a simple majority vote of the Town Council is needed to finally approve the proposed Regulatory Agreement.

If the Town Council approves the Regulatory Agreement, it is endorsed by the Town Manager and recorded at the Registry of Deeds.

Copies of the full size plans are available for viewing at the office of the Town Clerk.

**BARNSTABLE TOWN COUNCIL**  
**2007-025**  
**INTRO.: 9/7/06; 09/21/06**

REGULATORY AGREEMENT  
320 STEVENS STREET, HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, Daniel Adams (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this \_\_\_ day of \_\_\_, 2006 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapters 9 and 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Town and Developer are authorized to enter into this Agreement pursuant to Chapters 9, 168, and 240 of the Barnstable Code;

WHEREAS, the Barnstable Inclusionary Housing Ordinance, Chapter 9 of the Barnstable Code, provides for the use of Regulatory Agreements (referenced as “Development Agreements”) in Subsections 9-2, Definitions, and 9-6, Development agreement;

WHEREAS the Developer is the duly authorized agent of the current owner of the property (“Property”) at 320 Stevens Street, Hyannis, consisting of approximately 2.73 acres, shown on Barnstable Assessor’s Map 308/ 004, Lot 1, and owned by Ginsberg Asset Management, LLC, which has a principal place of business at 555 Constitution Drive, Taunton, Massachusetts 02780;

WHEREAS, it is anticipated that ownership of the Property will be transferred from Ginsberg Asset Management LLC to Flagship Estates Hyannis LLC during the term of this Regulatory Agreement and the Developer is the duly authorized agent of Flagship Estates Hyannis LLC, which has a principal place of business at 2 Adams Place, Suite 100, Quincy, Massachusetts 02169;

WHEREAS, the Property was previously referenced as 350 Stevens Street, Hyannis and has a current street address of 320 Stevens Street, Hyannis;

WHEREAS, the Developer desires to develop the Property by constructing twenty-nine (29) residential condominium units (the “Development”);

WHEREAS, the Barnstable Inclusionary Housing Ordinance, Chapter 9 of the Barnstable Code, requires that for a twenty-nine unit residential development at least three (3) affordable housing units shall be provided on-site;

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS this Agreement shall establish the means by which the Developer will meet the requirements of the Barnstable Inclusionary Housing Ordinance, Chapter 9 of the Barnstable Code, by providing not less than three (3) affordable housing units off-site, as further conditioned below;

**BARNSTABLE TOWN COUNCIL**  
**2007-025**  
**INTRO.: 9/7/06; 09/21/06**

REGULATORY AGREEMENT  
320 STEVENS STREET, HYANNIS

WHEREAS, the Developer under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both, will improve a blighted site, will construct a 5.5 foot wide concrete sidewalk with granite curbing along Stevens Street from Main Street to North Street or will contribute \$50,000 toward the construction of said sidewalk, will construct a 12-inch (12") water line within Stevens Street as referenced in the Site Plans, and will provide fair affordable housing;

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to the provision of three (3) off-site affordable housing units related to the Development;

WHEREAS the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

WHEREAS the Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS The Development is not subject to mandatory review by the Cape Cod Commission as a Development of Regional Impact because it does not meet or exceed a mandatory review threshold. In addition, the Development is located in the GIZ as authorized by Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ;

WHEREAS the Developer has undergone Site Plan Review and received approval thereunder on June 30, 2006;

WHEREAS, for the purposes of this Agreement, the term "Developer" shall mean Ginsberg Asset Management LLC or Flagship Estates Hyannis LLC;

WHEREAS the Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on\_\_\_\_\_;

WHEREAS the Developer has undergone a public hearing on the Agreement application before the Town Council and received a majority vote approving the application on\_\_\_\_\_.

**A. OLD BUSINESS (PUBLIC HEARING MAY BE ACTED UPON) (ROLL CALL 2/3)**

**BARNSTABLE TOWN COUNCIL**

**2007-026 ORDER AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND HIBEL REALTY LLC  
INTRO.: 09/07/06; 09/21/06**

**ORDERED:** That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable, to enter into and execute a Regulatory Agreement between the Town of Barnstable and Hibel Realty LLC, for the property shown on Barnstable Assessor's Map 327 Parcels 111&112, and located within the HVB zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the demolition of the existing building at the corner of Hyannis Main Street and Ocean Street; and, authorizing the construction of a four story mixed-use building consisting of twenty-two (22), two (2) bedroom residential units on the upper floors and 12,000 sq. ft. of non-residential floor space, served with an elevator and a thirty-four (34) space underground parking garage, as shown on the plans referenced in said Agreement; and, hereby granting waivers from the provisions of the Barnstable Ordinances as follows:

Building height: Relief is granted from Section 240.24.1-3.C, Maximum building height, and permission is granted to construct the building at a maximum height of four stories with the maximum ridge height not to exceed fifty-five feet (55') as shown on the plans (allowable building height is a maximum of forty-six (46) feet and three stories); and Section 240.24.1-3.C.2.a.3, regarding building setback off of the south side of Main Street (allowable building height is a maximum of thirty-five feet (35') within twenty-five feet (25') of the layout of Hyannis Main Street;

Density: Relief is granted from Section 240.24.1-3.C. Floor Area Limitations to allow a Floor Area Ratio of 3.67 including the underground parking garage (allowable FAR is 3.0);

Parking: Relief is granted from Sections 240.24.1-3.D, Site development standards, and permission is granted for the construction of the number and length of parking spaces as shown on the plans (required parking spaces for retail and office uses are proposed for shared parking as allowed by zoning, and parking spaces are less than twenty-feet (20') in length).

Zero Lot Line Setback: Relief is granted from Section 240.24.1-3.C.1.a to allow the building to be constructed at a 2.62 foot road setback as shown on the plans (a zero lot line setback is required).

**The Town Manager shall execute the Regulatory Agreement on behalf of the Town within seven (7) days of the Town Council vote authorizing the execution of the Regulatory Agreement in accordance with Section 168 of the Code.**

The Town Manager may make minor amendments to the Regulatory Agreement and execute said regulatory agreement as amended, provided that such amendments do not alter the use, intensity or mitigation stipulations of the regulatory agreement. However, in no instance may the Town Manager make substantial amendments to the regulatory agreement without first receiving written concurrence from the Planning Board and the Town Council and qualified applicant that said substantial amendments are agreed to in accordance with Section 168 of the Code.

**BARNSTABLE TOWN COUNCIL**  
**AGENDA ITEM SUMMARY**  
**2007-026**  
**INTRO.: 9/7/06; 09/21/06**

**TO:** Town Council  
**FROM:** Growth Management Department  
**DATE:** August 30, 2006  
**SUBJECT:** Proposed Regulatory Agreement  
One Ocean Street, Hyannis

**RATIONALE:** This is a proposed Regulatory Agreement between the Town of Barnstable and the developer, Hibel Realty LLC. Regulatory agreements are authorized by Chapter 168 of the Barnstable Code. The ordinance allows the Town to enter into agreements with private property owners to allow new development in a manner that varies from local ordinances when it is deemed beneficial to the community.

The applicant is proposing a regulatory agreement to construct a mixed use, retail/office and residential development at 1 Ocean Street in Hyannis. The site is located within the HVB zoning district at the corner of Ocean Street and Main Street and is within the Downtown Hyannis Growth Incentive Zone. The applicant is seeking regulatory agreement approval because the project will require a waiver from building height and story limitations, density limitations (floor area ratio), length of parking spaces, and number of parking spaces required for retail/office uses, all as set forth in the zoning ordinance. The project is recommended as beneficial to the community because it will contribute to the Hyannis revitalization effort by providing new retail, office and condominium space, it will result in the reconstruction and ongoing maintenance of the Ocean Street municipal parking lot at no cost to the public, it will contribute a parking meter (or, alternatively, provide a contribution to a parking fund), it will contribute affordable housing, and it will bury existing overhead utility lines on Ocean Street and in the municipal parking lot.

Regulatory Agreement Process:

The proposed Agreement was negotiated by the Barnstable Planning Board over the course of two public hearings (July 24<sup>th</sup> and August 14<sup>th</sup>) and two negotiating sessions (July 25<sup>th</sup> and August 1<sup>st</sup>). Attendance at the two negotiating sessions included a representative from the Planning Board (Mr. David Munsell), a representative from Town Council (Ms. Ann Canedy as the Town Council's planning board liaison), a representative from the Barnstable Housing Committee (Ms. Laura Shufelt, Chair), a representative from the Hyannis Main Street Waterfront Historic District Commission (Mr. George Jessop, Chair), town engineering, planning and building staff, and representatives of the developer. The proposed Agreement was approved by the Planning Board for recommendation to the Town Council by a majority vote of the Board on August 14, 2006.

Because the requested relief in this case requires zoning relief, a two-thirds (2/3) majority vote of the Town Council is needed to finally approve the proposed Regulatory Agreement.

If the Town Council approves the Regulatory Agreement, it is endorsed by the Town Manager and recorded at the Registry of Deeds.

Copies of the full size plans are available for viewing at the office of the Town Clerk.



**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 9/7/06; 09/21/06**

**REGULATORY AGREEMENT**  
**ONE OCEAN STREET, HYANNIS**

This regulatory agreement (“Agreement”) is entered by and between the developer, Hibel Realty LLC, (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this \_\_\_ day of \_\_\_, 2006 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, the Developer under this Agreement will contribute public capital facilities to serve the proposed development and the municipality or both, and build fair affordable housing on-site;

WHEREAS this Agreement shall establish the permitted uses, densities, and traffic within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between the Developer and the Town.

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

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS the Developer is the legal owner of the property (“Property”) at 337 and 345 Main Street, Hyannis, consisting of approximately 18, 550 sq ft, shown on Barnstable Assessor’s Map 327/ as Parcels 111&112 and Land Court Plans 15379A & 15853C, by virtue of Land Court Certificate of Title # 169924, and desires to develop the Property pursuant to a regulatory agreement;

WHEREAS, the Town is the legal owner of the property at 25 Ocean Street , Hyannis, a municipal parking lot (“Municipal Lot”) by virtue of Land Court Certificate of Title No. 17405, containing approximately 27,007 sq ft, shown as Parcel 261 on Barnstable Assessors Map 327;

WHEREAS, the Developer has committed to construct improvements to the Municipal Lot at an expense of approximately \$215,800 and has committed to on-going maintenance of the Municipal Lot at an expense of approximately \$32,000 per year;

WHEREAS, Developer is willing to commit itself to the development of the project substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Development and therefore considers this Agreement to be in its best interests; and

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to development of the Property;

WHEREAS the Development will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA) or the Cape Cod Commission Act;

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

WHEREAS the Developer has made application to the Planning Board pursuant to Section 168 of the Barnstable Code;

WHEREAS the Development is located in the Hyannis Growth Incentive Zone (GIZ) as approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS the Development is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this development may proceed and the Developer has submitted a Jurisdictional Determination to the Town of Barnstable Building Department to confirm the same;

WHEREAS, prior to applying for approval of this Agreement, the Developer has undergone review by the Hyannis Main Street Waterfront Historic District and received approval thereunder on May 18, 2005;

WHEREAS, the Development is serviced by municipal sewer and does not impact resources protected by the Barnstable Conservation Commission;

WHEREAS the Developer will require zoning relief from maximum density (Floor Area Ratio), minimum parking, building height requirements and thirty-foot height setback requirements for the south side of Main Street, and road setbacks, all as further defined in condition number 32 below;

WHEREAS the Developer has undergone at least two public hearings on the Agreement application and received a majority vote from the Planning Board approving the application on August 14, 2006;

WHEREAS the Developer has undergone a public hearing on the Agreement application before the Town Council and received a 2/3rds vote approving the application on\_\_\_\_\_;

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

1. If the Development rights granted hereunder are exercised, the Developer agrees to construct the Project in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made part of this Agreement by reference:
  - a) Plans entitled "Proposed Retail and Residential Development for Hibel Realty, LLC, One Ocean Street, Hyannis, MA, Supplemental Drawings issued for Development Agreement/Planning Board Approval", as follows:
    - Sheets T1, and C1 through C9, prepared by BSC Group, dated February 17, 2005 and revised through August 1, 2006;

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

- Sheet L1, prepared by Helios Land Design, dated February 27, 2006 and revised through August 3, 2006; and  
Sheets A1.1 and A1.4, prepared by Brown Lindquist Fenuccio & Raber, dated July 26, 2006 and revised through August 3, 2006.
- b) Plans entitled “Proposed Retail and Residential Development for Hibel Realty, LLC, One Ocean Street, Hyannis, MA, Design Drawings issued for Development Agreement/Planning Board Approval”, as follows:
    - Sheets A1.0, A1.2, A1.3, A1.5, A2.0 and A2.1, prepared by Brown Lindquist Fenuccio & Raber, dated May 15, 2006.
  - c) Revised plans to be submitted in response to comments provided by memorandum from Steven Seymour, P.E. to the Barnstable Planning Board, dated August 4, 2006.
  - d) Such other plans and plan revisions as may be required by the terms and conditions of this Agreement;
2. The Developer proposes to demolish the existing building at the property, and construct a four story mixed-use building consisting of twenty-two (22), two (2) bedroom residential units on the upper floors and 12,000 sq. ft. of non-residential floor space, served with an elevator and a thirty-four (34) space underground parking garage, in the HVB zoning district and Growth Incentive Zone (GIZ) of Barnstable (the “Development”);
  3. Ground-floor uses shall be the permitted principal or accessory uses within the HVB Zoning District, Section 240-24.1-3.A of the Barnstable Code, with the exception that no live entertainment, no drive through windows, and no restaurant requiring an exhaust system shall be permitted on the ground floor;
  4. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of one year from the effective date of the Agreement, provided, however, that prior to the expiration of said one year period the Developer may request one six month extension to obtain development permits. Upon receipt of necessary development permits construction shall proceed continuously and expeditiously, but in no case shall construction exceed 2 years from receipt of necessary development permits. The Developer estimates that construction will commence on or about October 2, 2006 and will be completed on or about June 25, 2007;
  5. The Developer shall establish a condominium association to carry out the terms and conditions of this Agreement which association shall include all residential and non-residential condominium units. For the purposes of this Agreement, the term “Developer” shall mean the Developer and/or Developer’s successor condominium association(s). The form and content of condominium association documents, including the condominium master deed and association bylaws, shall be approved by the Town of Barnstable Legal Department prior to the sale of any condominium units;
  6. Developer has agreed to contribute public capital facilities to serve the proposed development and the Town by reconstructing the abutting Municipal Lot which will contain parking for 55 spaces, and providing appropriate paving, curbing, striping, lighting, landscaping, and irrigation and drainage as required by the Town. Said reconstruction, striping, and installation of lighting,

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

landscaping, and irrigation and drainage shall occur between Labor Day and Memorial Day and shall be completed prior to the issuance of any Certificate of Occupancy for the development, provided, however, that the Planning Board may accept a bond or other security satisfactory to the Planning Board of not less than 150% of actual costs of completing required landscaping, striping, and/or lighting, in lieu of work completed, and the acceptance of such bond or other security shall authorize the issuance of one or more Certificates of Occupancy, as may be solely determined by the Planning Board. Unless otherwise authorized by the Planning Board, construction work undertaken pursuant to this Agreement shall not interfere with public parking for 53 vehicles in the Municipal Lot between Memorial Day and Labor Day of each year; [Drafting Note – removed references to metering.]

7. Lighting for the development and the Municipal Lot shall be contained on-site, shall be down cast and shall not contribute to light pollution of the area;
8. The lighting plan and landscaping plan (including an irrigation plan for landscaping in the Municipal Lot) for the Property and Municipal Lot must be approved by the Planning Board, or its designee, and such approval shall include input from the Hyannis Main Street Waterfront Historic District Commission or its designee;
9. Developer shall bury underground the overhead utilities along Ocean Street extending from Main Street to the existing utility pole at the south end of the Municipal Lot, and shall bury underground the overhead utilities within the Municipal Lot as shown on the plans, and the cost of burying said utilities shall be borne by the Developer;
10. Nothing in this agreement shall be deemed to limit the legal use of the Municipal Lot by the public as the same may be determined by the Town from time to time;
11. Developer shall maintain landscaping, irrigation and drainage on the Municipal Lot in perpetuity;
12. Developer shall be responsible for snow plowing and snow removal on the Development site and the Municipal Lot in perpetuity;
13. All landscaping within the development, including landscaping within the Municipal Lot, shall be low water use and shall minimize the use of fertilizers and pesticides;
14. Bonds: Prior to the issuance of a foundation building permit and prior to commencement of reconstruction of the Municipal Lot, Developer will provide a performance bond in an amount to be approved by the Planning Board or its designee, said bond to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said performance bond may be released by the Planning Board to the Developer or his successor(s) after five years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of the Developer;
15. Bonds: Bonds shall be provided as required by applicable regulation (i.e. for road openings). In addition, prior to the issuance of a foundation building permit and prior to commencement of

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

reconstruction of the Municipal Lot, a bond or other security acceptable to the Planning Board shall be provided to insure the Town against damage to town property and to insure quality of construction work on Town property and long term maintenance of improvements on Town property. The amount of said bond(s) or security shall be determined by the Planning Board or its designee;

16. Developer and its successors will participate in the Town of Barnstable's Transportation Management Association (TMA) upon its formation. Participation shall include: (a) distribution of materials provided by the Town to all tenants, lessees, and purchasers of condominium units within the development; and (b) the identification of a representative for the development who will serve as the contact between the inhabitants and tenants of the development and the Town's TMA;
17. Access to the rear of 347 Main Street and 349 Main Street for delivery of supplies to those businesses shall be maintained as shown on the plans;
18. Developer shall provide two affordable units within the development. The affordable units shall be provided as follows:
  - i. The developer agrees to sell the two affordable units to a governmental agency or non-profit who shall offer said units for sale or lease to a qualified affordable purchaser or tenant whose income is at 65% of the area median income based upon household size. The initial selling prices for each unit shall be based upon a formula under which monthly housing costs, including mortgage payments, taxes, insurance, and condominium association fees, shall not exceed 30% of 65% of the area median income based upon household size. The proportionate share of the condominium fees for all of the units in the development shall be established based upon the initial sales price.
  - ii. One (1) two-bedroom unit shall be provided on the second floor and one (1) two-bedroom unit shall be provided on the third floor. The affordable units shall comply with all terms of the Barnstable Inclusionary Affordable Housing Ordinance, Section 9 of the Barnstable Code. Affordable units shall be in form, substance and location consistent with market rate units.
  - iii. Before the first ten (10) occupancy permits for the market rate units can issue, the Developer must demonstrate that at least one of the two approved affordable housing units has been sold to a qualified purchaser as defined in Section 9 of the Barnstable Code and an affordable housing restriction and monitoring services agreement, in a form acceptable to the Town Attorney, has been recorded at the Barnstable County Registry of Deeds; and that the unit is eligible for inclusion in the Department of Housing and Community Development Subsidized Housing Inventory.

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

- iv. Before occupancy permits for the eleventh (11<sup>th</sup>) to the twentieth (20<sup>th</sup>) market rate units can issue, the Developer must demonstrate that the second of the two approved affordable housing units has been sold to a qualified purchaser as defined in Section 9 of the Barnstable Code and an affordable housing restriction and monitoring services agreement, in a form acceptable to the Town Attorney, has been recorded at the Barnstable County Registry of Deeds; and that the unit is eligible for inclusion in the Department of Housing and Community Development Subsidized Housing Inventory;
- 19. All plumbing fixtures shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
- 20. Consistent with approved plans, Developer shall construct a Passive Stormwater Maintenance and Infiltration System to service the Development and the abutting municipal lot at 25 Ocean Street;
- 21. Developer will assume all maintenance responsibilities for the Passive Stormwater System servicing the Property and Municipal Lot, and the landscaping and irrigation at the Municipal Lot;
- 22. Town will grant Developer perpetual access parking and drainage easements over the Municipal Lot to serve the Development, which easement shall be approved in form and content by the Town Attorney. Developer shall obtain Town Attorney approval and shall record said easement at the Barnstable County Registry of Deeds prior to the issuance of a building foundation permit;
- 23. Developer will provide a bicycle rack at the Municipal Lot as shown on the plan;
- 24. In recognition of the construction of an underground parking lot to service the Property, the location of the Development within two-hundred feet (200') of the North Street municipal parking lot, the provision of approximately \$215,800 in construction improvements to the Municipal Lot and approximately \$32,000 per year in on-going maintenance of the Municipal Lot, and the contribution of funds for the Town to acquire a parking meter as required by Condition #25 below, no further parking mitigation shall be required beyond the mitigation established by this Agreement. It is agreed that the Developer shall provide all improvements and maintenance as required by Conditions #6, 7, 8, 9, 11, 12, 13, 20, 21 and 23, regardless of actual cost.;
- 25. Developer will contribute \$10,000 for parking mitigation. The Town Manager shall determine whether such funds shall be: (a) deposited in a municipal fund dedicated to planning, design and/or improvements related to municipal parking needs, or (b) the purchase of a remote parking meter for the Municipal Lot (to be installed by the Town), in which case the Town shall collect all revenue obtained from the parking meter. Developer shall provide the \$10,000 parking mitigation contribution prior to the issuance of an occupancy permit for any of the condominium units;

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

26. During the pendency of construction of the Project and the reconstruction of the municipal lot, the Town will grant Developer a non-exclusive license agreement over the 25 Ocean Street Property. The Town Attorney shall approve the form and content of the non-exclusive license agreement prior to issuance of a building foundation permit;
27. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible;
28. Developer shall provide calculations demonstrating adequate water flow for fire suppression, and standpipes, as required by the Hyannis Fire Department;
29. Ground-floor uses shall not use, store, generate, treat or dispose of hazardous waste or hazardous materials in quantities greater than 25 gallons (or the dry weight equivalent) or less, and shall not generate hazardous waste in quantities greater than the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353;
30. Developer is responsible for obtaining all applicable permits and licenses, including but not limited to the following: foundation permit, building permit, street excavation permit (necessary for work in all public spaces, including work in the Municipal Lot), sewer permits and water permits. Only approved contractors are allowed to work on Town owned property. Contractors are required to have the insurance stipulated in the Street Excavation Rules and Regulations (SERR) and all work on town property must comply with all provisions of SERR;
31. Developer will make best efforts to complete construction work in accordance with a construction schedule and sequencing plan submitted to the Town prior to the execution of the Regulatory Agreement. To the extent construction impacts public property or public rights of passage, changes in the schedule, if needed as work progresses, are subject to the approval of the Town. The Developer shall hold weekly construction progress meetings to which the Town will be invited if construction involves town property. The developer shall notify the Town of Barnstable Growth Management Department and the Department of Public Works at least 48 hours in advance of working on Town property. (The construction sequencing plan shall identify those areas of Ocean Street road layout, the sidewalk and the Municipal Lot that will be used by the Developer at various points in the project construction and where barricades and fencing will be installed during construction.) The Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work;
32. Exterior construction impacts shall be minimized, and construction shall be limited to the hours of 6:30 a.m. to 6:00 p.m. weekdays, and 6:30 a.m. to 2:00 p.m. Saturdays. No exterior construction shall occur on Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration;
33. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;

**BARNSTABLE TOWN COUNCIL**

**2007-026**

**INTRO.: 09/07/06; 09/21/06**

34. Upon completion of all work, a registered engineer of land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy;
35. Town hereby grants a waiver from the following zoning restrictions:
- Building height: Relief is granted from Section 240.24.1-3.C, Maximum building height, and 240.24.1-3.C.2.a.3, regarding building setback off of the south side of Main Street, and permission is granted to construct the building at a maximum height of four stories with the maximum ridge height not to exceed fifty-five feet (55') as shown on the plans;
  - Density: Relief is granted from Section 240.24.1-3.C. Floor Area Limitations to allow an Floor Area Ratio of 3.67 including the underground parking garage;
  - Parking: Relief is granted from Section 240.24.1-3.D, Site development standards, and Section 240.24.1-10.A.4.c.2, and permission is granted for the construction of the number and length of parking spaces as shown on the plans.
  - Zero Lot Line Setback: Relief is granted from Section 240.24.1-3.C.1.a to allow the building to be constructed at a 2.62 foot road setback as shown on the plans.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Town of Barnstable  
By:

\_\_\_\_\_  
Developer, Hibel Realty LLC  
By:



**B. NEW BUSINESS (FIRST READING)**

**BARNSTABLE TOWN COUNCIL**

**2007-017 APPOINTMENTS**  
**INTRO.: 09/21/06**

That the Barnstable Town Council appoints the following individuals to a multiple member board/committee/commission:

**BOARD OF HEALTH APPOINTMENT:**

Amy Wallace, 89 Santuit-Newtown Road, Marstons Mills, MA 02648, term expires 06/30/2009

**COUNCIL ON AGING APPOINTMENTS:**

Bridget T. Burke, 98 Brant Way, Hyannis, MA 02601, term expires 06/30/2009

Robert M. Burke, 98 Brant Way, Hyannis, MA 02601, term expires 06/30/2009

Charlotte E. Saunders, 635 Lumbert Mill Road, Centerville, MA 02632, term expires 06/30/2009

**HOUSING COMMITTEE APPOINTMENT:**

Daniel Pulit, 65 Camp Opechee Road, Centerville, MA 02632, term expires 06/30/2009

**PERSONNEL ADVISORY BOARD APPOINTMENT:**

Susan Partridge, 80 Holder Lane, West Barnstable, MA 02668, term expires 06/30/2009

**PERSONNEL ADVISORY BOARD REAPPOINTMENT:**

Robert O'Brien, 41 Deacon Court, Barnstable, MA 02668, term expires 06/30/2009

**ZONING BOARD OF APPEALS (ALTERNATE) REAPPOINTMENT:**

Sheila Geiler, PO Box 771, Hyannis, MA 02601, term expires 06/30/2009

**SPONSORS:** Appointments Committee

**DATE**

**ACTION TAKEN**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. NEW BUSINESS (May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

**2007-027 EXEMPTION OF INTEREST UNDER THE CONFLICT OF INTEREST LAW  
INTRO.: 09/21/06**

**RESOLVED:** that the interest of Jeremy Laflamme, as a call firefighter employed by the West Barnstable Fire Department, is hereby found to be not likely to interfere with the objective performance of his duties in the best interests of the Town in the position as an Operations Specialist with the Barnstable Municipal Airport.

**SPONSOR:** Town Councilor Janice L. Barton

**DATE**

**ACTION TAKEN**

_____	_____
_____	_____

**B. NEW BUSINESS (May Be Acted Upon)**

**BARNSTABLE TOWN COUNCIL**

**2007-028 PROCLAIM MONTH OF OCTOBER "DOMESTIC VIOLENCE PREVENTION MONTH" AND URGE ALL RESIDENTS TO SUPPORT THE EFFORTS TO END AND PREVENT DOMESTIC VIOLENCE WITHIN OUR TOWN AND ACROSS THE CAPE AND ISLANDS  
INTRO.: 09/21/06**

*Whereas*, domestic violence is a pattern of coercion and control in an interpersonal relationship where one individual uses violence or the threat of violence to gain power and control over the other individual; and

*Whereas*, domestic violence violates an individual's sense of privacy, dignity, security and humanity due to the systematic use of verbal, physical, emotional, psychological, economic and sexual control and/or abuse; and

*Whereas*, children who witness domestic violence too often grow-up to inflict violence on others or become victims of domestic violence and thwart efforts to end and prevent domestic violence; and

*Whereas*, the tolerance of and indifference to the signs and issues of domestic violence only serve to continue the prevalence of domestic violence and thwart efforts to end and prevent domestic violence; and

*Whereas*, the impact of domestic violence is wide-ranging, directly effecting individuals, families, friends, classrooms, businesses, neighborhoods, towns, and society as a whole, across this state and throughout the United States and the world..

*NOW, THEREFORE*, we, the Barnstable Town Council, do hereby proclaim October as "Domestic Violence Prevention Month" and urge all residents to support the efforts to end and prevent domestic violence within our town and across the Cape and Islands.

**SPONSOR:** Councilor Richard Barry

**DATE**

**ACTION TAKEN**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**BARNSTABLE TOWN COUNCIL  
AGENDA ITEM SUMMARY  
2007-028  
INTRO.: 09/21/06**

**TO:** Town Council  
**FROM:** Town Councilor Richard Barry  
**DATE:** September 8, 2006  
**SUBJECT:** Proclaim the Month of October as "Domestic Violence Prevention Month" and Urge All Residents to Support the Efforts to End and Prevent Domestic Violence Within Our Town and Across the Cape and Islands

**BACKGROUND:** The Cape and Islands Regional Domestic Violence Council was established in 1998 to improve regional and system-wide responses to domestic abuse through collaboration of programs and agencies on Cape Cod, Martha's Vineyard, and Nantucket.

The Council is an unincorporated association of agencies and individuals who provide direct service and other program responses to victims of domestic violence on Cape Cod and the above islands. Over the years the Council has conducted workshops, surveyed gaps in services to victims and survivors, and otherwise publicized the tragedy of domestic violence in this community.

The Council recently merged with the Upper Cape Domestic Violence Council to strengthen its efforts throughout the region. The Upper Cape Council was instrumental in raising community awareness about domestic violence in the towns of Mashpee, Falmouth, Bourne and Sandwich. The Upper Cape Council also played a critical role in developing programming in the Mashpee public schools around teen dating violence. The organization also issued the Elizabeth Lee Peace Award in the memory of a nurse from Falmouth Hospital who was brutally murdered by her husband. The award is given annually to an unsung hero in the community who worked to enhance the safety of victims of domestic violence.

Currently, the Regional Domestic Violence Council receives funding from the Barnstable County Department of Human Services for a part time coordinator and limited programming.