



Town of Barnstable
Planning and Development Department
Elizabeth Jenkins, Director
Staff Report

Special Permit No. 2020-02 – Atsalis/HMI Parking Services
240-24.1.9.B(1) - Parking facilities within the WP Overlay District

To allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood

Date: June 20, 2020, Updated June 22, 2020
To: Planning Board
From: Planning & Development Staff

Applicant: **Monika I. Atsalis and/or HMI Parking Services, LLC,**
170 Toby Way, W Hyannisport, MA 02672

Property Address: 110 Ridgewood Avenue, Hyannis, MA
Assessor's Map/Parcel: 328/215
Zoning: TD – Transportation Hub District, WP – Well Protection Overlay District

Filed: May 27, 2020

Hearing: June 22, 2020

Copy of Public Notice

Monika I. Atsalis and/or HMI Parking Services, LLC, seek a Special Permit pursuant to Section 240-24.1.9.B(1) - Parking facilities within the WP Overlay District to allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood. The subject property is addressed 110 Ridgewood Avenue, Hyannis, MA and is shown on Assessor's Map 328 as Parcel 215. The subject property in the TD – Transportation Hub District and the WP – Well Protection Overlay District.

Background

Monika I. Atsalis and/or HMI Parking Services, LLC are seeking a special permit to allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood.

The subject property is located on the east side of Ridgewood Avenue, adjacent to the Hyannis Transportation Center. According to the Assessor's records, the 1.72-acre lot includes one building - an 18,000 sf warehouse built in 1975.

The property is owned by the 100 Ridgewood-Elliott Nominee Trust. The application includes a Letter of Authorization from Charles Buckler, trustee of the 100 Ridgewood-Elliott Nominee Trust, allowing Monika I. Atsalis and/or HMI Parking Services to apply for a special permit.

The Applicant has leased the property as part of a car parking business for approximately the last fourteen years. Last year, it was determined that zoning relief was necessary to allow the use of this property as a parking facility. While parking facilities outside of the Well Protection Overlay District (WP) are permitted in the Transportation Hub District as-of-right, parking facilities within of the WP District are only allowed by Special Permit. No physical development is proposed with this application. The subject property is regularly used by Buckler Towing.

Proposal & Relief Requested

The Applicants are seeking a special permit to allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood. According to a memo submitted by the applicant, this property is used as a parking facility Friday through Sunday, from Memorial Day weekend to Labor Day weekend, along with Columbus Day weekend. At other times, the property is used by Buckler Towing.

Because of the location of the subject property, the requested relief relates to several sections of the Zoning Ordinance (Transportation Hub District, Hyannis Village Zoning District General Provisions, Well Protection Overlay District, Special Permit Provisions), along with the Downtown Hyannis Design and Infrastructure Plan. *Staff comments are italicized below.*

Transportation Hub District

The applicant has applied for a Special Permit pursuant to Section 240-24.1.9.B.(1) Transportation Hub District; Parking facilities within the WP Overlay District. Parking facilities within the WP overlay are allowed with the granting of a Special Permit by the Planning Board subject to the considerations below.

In determining whether to grant a special permit within the WP Overlay District, the Planning Board shall consider 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;

A memo provided by the Applicant suggests the risk of contamination is nominal as evidenced by fourteen years of use without incident

- (b) The nature and degree to which the proposal eliminates existing threats to the public water supply, including on-site and off-site mitigation;

Application materials indicate there are no site changes or use changes for the site.

- (c) The overall effectiveness of existing land uses and/or protective measures on the public water supply well; and

The Applicant memo indicates the parking spaces already exist and for most of the year the property is occupied by Buckler Towing, and granting or denying the permit would not affect this criterion positively or negatively.

- (d) Whether granting the special permit will accommodate an overriding community interest.

The applicant states the proposal “accommodates an overriding community interest by removing cars looking for parking in downtown Hyannis during peak demand periods and parking them outside the area.” The Board should also consider whether a surface parking lot located outside of the core of Downtown Hyannis relieves demand for surface parking within the core of Downtown Hyannis.

Hyannis Village Zoning District General Provisions

Because the property is located within the Hyannis Village Zoning District, the proposal is subject to the provisions of 240-24-1-2, including the requirement that developments meet one or more of the following criteria:

- (a) The development provides for or supports mixed use development where appropriate;
- (b) The development maintains or improves pedestrian access and outdoor public spaces;
- (c) The development contributes to the historic and maritime character of the Hyannis Village area;
- (d) The development eliminates or minimizes curb cuts and driveways on Route 28 and Barnstable Road;
- (e) The development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront;

- (f) The development provides for or contributes to alternative transportation or travel demand management; and/or
- (g) The development provides workforce housing where appropriate and provides an appropriate mix of affordability levels.

The Applicant's memo suggests that the proposal meets criterion f (The development provides for or contributes to alternative transportation or travel demand management), stating the parking facility removes cars from downtown and provides parking spaces outside of the congested area. The memo states "Providing these spaces away from downtown will help reduce cars circling the area looking for parking and will improve travel demand management."

This parking facility is believed to operate as overflow for another parking facility on Ocean Street, meaning vehicles must travel into the core of Downtown Hyannis before they are driven to 100 Ridgewood for extended parking. The Board should consider whether this operation is consistent with the criterion (f).

Well Protection Overlay District

The property is also located within a Well Protection Overlay District. The purpose of Well Protection Overlay Districts and Groundwater Protection Overlay Districts is "to protect the public health, safety, and welfare by encouraging nonhazardous, compatible land uses within groundwater recharge areas." The boundaries of the Well Protection Overlay District are based on a five-year time of travel zone to existing, proven future and potential future public supply wells.

Special Permit Provisions

Section 125 of the Zoning Ordinance provides for Standards for granting special permits throughout Barnstable, which include the following considerations:

- (a) Whether or not the application falls within the category specifically excepted by this chapter.

The request to operate a paid parking facility falls within a category specifically excepted in the ordinance for the granting of a special permit; the applicant seeks a Special Permit under Section 240-24.1.9.B. (1) for a parking facility within the WP Overlay District.

- (b) An evaluation of all the evidence presented at the public hearing by the petitioner and interested parties as it relates to the fulfillment of the spirit and intent of this chapter without substantial detriment to the public good or the neighborhood affected.

The Applicant memo states there have been no complaints as a result of the Applicant's use of the property over the last 14 years.

- (c) A site plan has been reviewed and found approvable in accordance with Article **IX** [Site Plan Review herein subject only to the issuance of a special permit.

Building Commissioner Brian Florence determined in a letter dated April 13, 2020 that "the use of 110 Ridgewood Ave. as a parking lot is of no significant detriment to the achievement of any of the purposes set forth in 240-99 [Site Plan Review, Purpose] as the use of the property historically has been for parking motor vehicles." The letter is conditioned on the granting of a Special Permit by the Planning Board.

Downtown Hyannis Design and Infrastructure Plan

Section 240-24.1.2.E of the Hyannis Village Zoning Districts General provisions requires the Planning Board to find that the issuance of a special permit is consistent with the Design and Infrastructure Plan (DIP). The DIP is a reference manual for developers, designers, town boards, and officials to guide improvements to private properties and public infrastructure in downtown Hyannis, intended to encourage a more livable, mixed-use environment downtown while also balancing human and natural systems.

The applicant's memo suggests the proposal is consistent with the DIP in that it moves cars out of the Downtown Hyannis/harbor front area during periods of peak demand for parking in those areas. This parking facility is believed to operate as overflow for another parking facility on Ocean Street, meaning vehicles must travel into the core of Downtown Hyannis before they are driven to 100 Ridgewood for extended parking. The Board should consider whether this operation is consistent with the Goals of the DIP.

Due to the parking facility's relation to providing overflow parking for visitors to Hyannis, the Board should also consider whether the proposal is consistent with economic and cultural development strategies in the DIP.

Staff Comments

Unlike other parking facilities permitted by special permit within the Transportation Hub District, the proposed parking facility at 110 Ridgewood does not include protective bollards, curb stops on non-paved surfaces, signage, fencing, installation of upgraded subgrade drainage structures, perimeter landscaping, and lighting and security cameras. However, unlike other parking facilities, which are open to the public, it is believed the facility at 110 Ridgewood is not open to the general public but instead operates in relation with other facilities in Downtown Hyannis. The Board may request additional information on how the facility operates and consider conditions that limit use of the parking facility to employees of Monika I. Atsalis and/or HMI Parking Services, LLC

Proposed Special Permit Findings

For Special Permits of this type, the Board is required to make general findings pursuant to § 240-125(C), §240-24.1.9.D, and §240-24.1.2.E(1). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

1. Monika I. Atsalis and/or HMI Parking Services, LLC. is seeking a Special Permit to allow a parking facility at 110 Ridgewood Avenue, Hyannis.
2. The Subject property is addressed 110 Ridgewood Avenue, Hyannis Map 328, Parcel 215, a 1.72 acre lot located in the Transportation Hub District (TD) and Well Protection Overlay District (WP).
3. The request to operate a parking facility falls within a category specifically excepted in the ordinance for the granting of a special permit; the applicant seeks a Special Permit under Section 240-24.1.9.B. (1) for parking facility within the WP Overlay District.
4. On April 13, 2020, Building Commissioner Brian Florence issued a determination that “the use of 110 Ridgewood Av, as a parking lot is of no significant detriment to the achievement of any of the purposes set forth in Section 240-99 [Site Plan Review, Purpose] as the use of the property has been for the purpose of parking motor vehicles.”

5. The property at 110 Ridgewood Avenue is owned by Charles W. Buckler and Elaine F. Buckler, Trustees of The 100 Ridgewood-Elliott Nominee Trust, who have supplied authorization for Monika I. Atsalis and/or HMI Parking Services, LLC. to file an application for use of the property for parking cars.
6. The proposal meets the special permit granting criteria of 240-24.1.2 E (1) (f) as the proposed parking facility contributes to travel demand management by providing parking outside the core of Downtown Hyannis.
7. The proposal is generally consistent the Downtown Hyannis Design and Infrastructure Plan's strategies for Economic and Cultural Development.
8. After an evaluation of the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a detriment to the public good or the neighborhood affected.

Section 240-24.1.D(1)

9. The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit is unchanged from existing conditions
10. The nature and degree to which the proposal eliminates existing threats to the public water supply, is neutral with proposed site changes.
11. The overall effectiveness of existing land uses and/or protective measures on the public water supply well are unchanged as parking spaces already exist, and granting or denying the permit would not affect this criterion positively or negatively.
12. Granting the special permit may accommodate an overriding community interest by locating a surface parking lot outside of the core of Downtown Hyannis.

Suggested Conditions

Should the Board find to grant the Special Permit No. 2020-02, it may wish to consider the following conditions:

1. This Special Permit is granted to Monika I. Atsalis and/or HMI Parking Services, LLC to allow for the operation of a parking facility for up to thirty (30) cars.
2. The total number of permitted parking spaces for this parking facility shall be 30.
3. The subject property shall be improved and parking shall be located as shown on the plan entitled "Partial Existing Conditions Plan" for Project "110 Ridgewood Avenue, Hyannis, MA", Sheet EC1.0 Dated September 1, 2015 as drawn and stamped by Shane M. Mallon, PLS, of Baxter Nye Engineering and Surveying for Demetrius Atsalis, P.O. Box 283, West Hyannisport, MA 02672.
4. The conditions of the April 13, 2020 determination for the Building Commissioner regarding Site Plan Review shall be incorporated as conditions of this Special Permit.
5. Operation of the parking lot shall be subject to approval of a license from the Town Manager's Office.
6. The parking facility shall be operated by Monika I. Atsalis and/or HMI Parking Services, LLC. Only employees of Monika I. Atsalis and/or HMI Parking Services, LLC shall be permitted on-site, and the facility shall not be open to the general public.
7. This permit must be exercised within 2-years from the date it is filed with the Town Clerk's Office.
8. This permit shall be recorded at the Barnstable County Registry of Deeds and copies submitted to the Planning Board and Building Division prior to commencement of the use.

Town of Barnstable Planning and Development Department Staff Report
Special Permit No. 2020-02 – Atsalis/HMI

Copies: Applicant (c/o Attorney John Kenney)

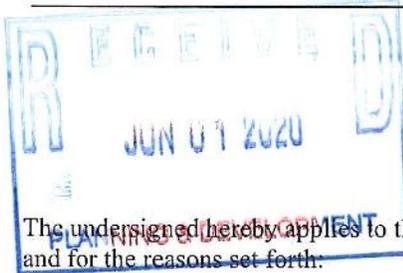
Attachments: Application
Assessor's Record & Aerial Photo
Applicant Memo



BARNSTABLE
TOWN CLERK

20 MAY 27 P3:06

**Town of Barnstable
Planning Board**



**Application for a Special Permit
Hyannis Village Zoning Districts**

For office use only: Special Permit # _____

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

Applicant Name¹: Monika I. Atsalis and/or HMI Parking Services, LLC Phone: 774-487-0354

Applicant Address: 170 Toby Way, W. Hyannisport, MA 02672

Property Location: 110 Ridgewood Avenue, Hyannis, MA

Property Owner: Charles W. Buckler and Elaine F. Buckler, Trustees of

The 100 Ridgewood-Elliott Nominee Trust Phone: 508-775-3443

Address of Owner: 181 Elliott Road, Centerville, MA 02632

Ctf. of Title 202410 Land Court Plan 15617B
Deed Recording: Book 27838, Page 251 Plan Recording: Plan Book 484, Page 41

If applicant differs from owner, state nature of interest:² Tenant – letter of authorization attached

Assessor's Map / Parcel Number: 328/215 Zoning District: TD

Number of Years Owned: 31 + Groundwater Overlay District: WP

Special Permit Requested³: Section 240-24.1.9 B. (1) Transportation HUB District – Parking facilities within the WP Overlay District.

Description of Activity / Reason for Request: Applicant is seeking a Special Permit to allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood Avenue. The property is located in the WP Overlay District.

Description of Construction Activity (if applicable): N/A

Attach additional sheet if necessary

¹ The Applicant Name will be the entity to which the special permit will be issued to.
² If the applicant differs from the owner, the applicant will be required to submit one original notarized letter authorizing the application, a copy of an executed purchase & sale agreement or lease, or other documents to prove standing and interest in the property.
³ Cite Section(s) & Title(s) from the Zoning Ordinance

Existing Level of Development – Number of Buildings: 1 Existing Gross Floor Area: _____
_____ sq.ft. Present Use(s): Commercial

Proposed Level of Development – Number of Buildings: N/A Existing Gross Floor Area: _____
_____ sq. ft. Proposed Use(s): _____

Site Plan Review Number: See letter attached Date Approved: April 13, 2020
Except for single and two-family development, Site Plan Review is required prior to applying to the Planning Board.

Design Review – Please attach a copy of Certificate of Appropriateness, Certificate of Non-applicability, or Certificate of Hardship as issued from Design Review or Hyannis Main Street Waterfront Historic District Commission.

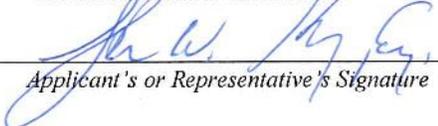
- Is this proposal subject to the jurisdiction of the Conservation Commission..... Yes []
No []
- Is this proposal subject to approval by the Board of Health..... Yes []
No []
- Is the proposal subject to an application to the Zoning Board of Appeals..... Yes []
No []

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

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a ‘wet sealed’ certified property survey (plot plan) and (1) reduced copy (8 ½” x 11” or 11” x 17”) showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and location of the existing improvements on the land.
- Three(3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 ½” x 11” or 11” x 17”) of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.

In addition, “pdf” electronic copies of all plans and materials is requested as well as all an electronic file of all plans (format AutoCad.dwg, AutoCad.dxf, or Microstation.dgn) for large developments. Electronic and pdf’s can be submitted by disks or e-mailed to art.traczyk@town.barnstable.ma.us.

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

Signature:  Date: 5/27/2020
Applicant's or Representative's Signature

E-mail Address: john@jwkesq.com

Mailing Address:⁴ 1550 Falmouth Road, Suite 12 Phone: 508-771-9300
Centerville, MA 02632 Fax No: 508-775-6029

⁴ Note: All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

LETTER OF AUTHORIZATION

I, Charles Buckler on behalf of myself and Elaine F. Buckler, as Trustees of The 100 Ridgewood-Elliott Nominee Trust, owners of the property located at 110 Ridgewood Avenue, Hyannis, Massachusetts 02601, hereby authorize Monika I. Atsalis and/or HMI Parking Services, Inc., to apply for a special permit from the Town of Barnstable Zoning Board of Appeals to use the above-referenced property for parking cars.

Signed this 10 day of MARCH, 2020.

The 100 Ridgewood-Elliott Nominee Trust

By: Charles W. Buckler
Charles Buckler, Trustee



Town of Barnstable
Site Plan Review
200 Main Street, Hyannis, MA 02601
www.town.barnstable.ma.us
Office: 508-862-4679



April 13, 2020

Law Offices of John Kenney
Suite 12
1550 Falmouth Rd
Centerville, MA -2632

RE: HMI Parking Services Inc.
110 Ridgewood Ave., Hyannis
Map/Parcel: 328/215

Dear Attorney Kenney,

Please be advised that the Building Commissioner has determined that the use of 110 Ridgewood Ave. as a parking lot is of no significant detriment to the achievement of any of the purposes set forth in § 240-99 as the use of the property historically has been for the purpose of parking motor vehicles.

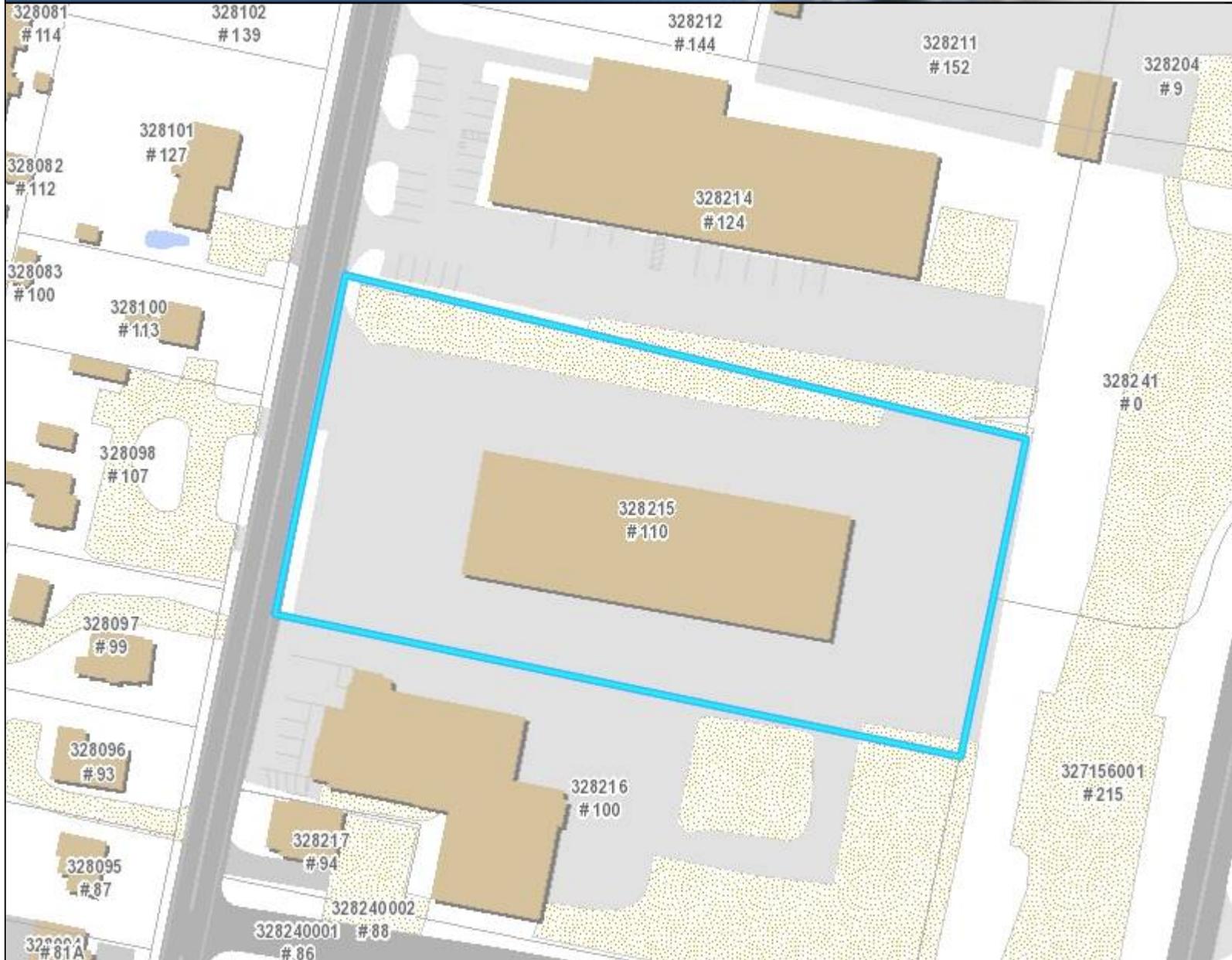
This letter is issued provided that a special permit is first obtained from the Planning Board subject to the provisions of § 240-125C herein and; That the parking plan (site plan) on file with the licensing authority is maintained as the official parking plan. Should the ZBA require configuration changes to plan on file then site plan approval may be required.

Applicant must obtain all other applicable permits, licenses and approvals required.

Sincerely,

Brian Florence, CBO
Chairman

Cc: Site Plan Review Committee



Legend

- Parcels
- Town Boundary
- + Railroad Tracks
- Buildings
 - Approx. Building
 - Buildings
- Painted Lines
- Parking Lots
 - Paved
 - Unpaved
- Driveways
 - Paved
 - Unpaved
- Roads
 - Paved Road
 - Unpaved Road
- Bridge
 - Paved Median
- Streams
- Marsh
- Water Bodies

Map printed on: 6/20/2020



Approx. Scale: 1 inch = 83 feet



This map is for illustration purposes only. It is not adequate for legal boundary determination or regulatory interpretation. This map does not represent an on-the-ground survey. It may be generalized, may not reflect current conditions, and may contain cartographic errors or omissions.

Parcel lines shown on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical objects on the map such as building locations.



Town of Barnstable GIS Unit

367 Main Street, Hyannis, MA 02601

508-862-4624

gis@town.barnstable.ma.us

)-19 in the Town of Barnstable, please visit

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Property Display

328 / 215/ - Use Code: 3300

Owner Information

Map/Block/Lot: 328 / 215/

Property Address

110 RIDGEWOOD AVENUE

Village: Hyannis

Town Sewer At Address: Active

GIS Zoning Value: TD

Owner Name as of 1/1/19:

BUCKLER, CHARLES W & ELAINE F TRS

181 ELLIOTT ROAD

CENTERVILLE, MA. 02632

Co-Owner Name

100 RIDGEWOOD-ELLIOTT NOM TRUST

Assessed Values

	Appraised Value	Assessed Value
Building Value	\$ 450,800	\$ 450,800
Extra Features	\$ 700	\$ 700

Outbuildings	\$ 18,600	\$ 18,600
Land Value	\$ 293,300	\$ 293,300
Totals	\$ 763,400	\$ 763,400

Past Comparisons

- 2019 - \$ 765,700
- 2018 - \$ 756,000
- 2017 - \$ 747,000
- 2016 - \$ 747,000
- 2015 - \$ 736,800
- 2014 - \$ 737,800
- 2013 - \$ 738,700
- 2012 - \$ 576,400
- 2011 - \$ 713,800



Tax Information ▼

Hyannis FD Tax (Commercial)	\$ 3,549.81
Hyannis FD Tax (Residential)	\$ 0
Community Preservation Act Tax	\$ 194.90
Town Tax (Commercial)	\$ 6,496.53
Town Tax (Residential)	\$ 0
	\$ 10,241.24

Sales History ▼

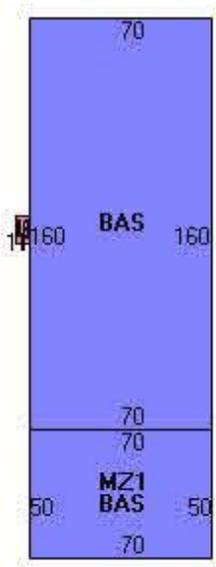
Owner:	Sale Date	Book/Page:	Sale Price:
BUCKLER, CHARLES W & ELAINE F TRS	2013-11-22	27838/ 251	\$1
BUCKLER, CHARLES W & ELAINE F	1989-02-13	6627/ 177	\$1
BUCKLER, CHARLES W	1976-03-30	2316/ 301	\$0

Photos ▼



(<https://townofbarnstable.us/propertyimages/00/29/31/18.jpg>)

Sketches ▼



AsBuilt Card N/A

B2N Barn-any 2nd story area	FPC Open Porch Concrete Floor	REF Reference Only
BAS First Floor, Living Area	FTS Third Story Living Area (Finished)	SOL Solarium
BMT Basement Area (Unfinished)	FUS Second Story Living Area (Finished)	SPE Pool Enclosure
BRN Barn	GAR Garage	TQS Three Quarters Story (Finished)
CAN Canopy	GAZ Gazebo	UAT Attic Area (Unfinished)
CLP Loading Platform	GRN Greenhouse	UHS Half Story (Unfinished)
FAT Attic Area (Finished)	GXT Garage Extension Front	UST Utility Area (Unfinished)
FCP Carport	KEN Kennel	UTQ Three Quarters Story (Unfinished)
FEP Enclosed Porch	MZ1 Mezzanine, Unfinished	UUA Unfinished Utility Attic
FHS Half Story (Finished)	PRG Pergola	UUS Full Upper 2nd Story (Unfinished)
FOP Open or Screened in Porch	PRT Portico	WDK Wood Deck
	PTO Patio	

Construction Details



Building		Details		Land	
Building value	\$ 450,800	Bedrooms	00	USE CODE	3300
Replacement Cost	\$693,555	Bathrooms	0 Full-0 Half	Lot Size (Acres)	1.72
Model	Commercial	Total Rooms		Appraised Value	\$ 293,300
Style	Pre-Eng Warehns	Heat Fuel	Gas	Assessed Value	\$ 293,300
Grade	Average	Heat Type	Hot Air-No Duc		
Year Built	1974	AC Type	None		
Effective depreciation	35	Interior Floors	Concr Finished		
Stories	1	Interior Walls	Drywall		
Living Area sq/ft	14,700	Exterior Walls	Pre-finsh Metl		
Gross Area sq/ft	18,266	Roof Structure	Gable/Hip		
		Roof Cover	Metal/Tin		

Outbuildings and Extra Features

Code	Description	Units/SQ ft	Appraised Value	Assessed Value
LTHL	Halide Light Flixture	2	\$ 1,000	\$ 1,000
PAV1	PAVING-ASPHALT	8000	\$ 10,400	\$ 10,400
FNC3	FENCE-6' CHAIN w rails	900	\$ 6,300	\$ 6,300
RFCC	Reinforced Concrete	126	\$ 900	\$ 900
UST	Utility Storage-attached	66	\$ 700	\$ 700

[Town of Barnstable 2020 \(/index.asp\)](#)

Town Records Access Officer
Ann Quirk

[Public Records Request Form \(/Departments/TownClerk/pageview.asp?file=Office Information/Public-Records-Request.html&title=Public%20Records%20Request&exp=Office Information\)](#)

P 508-862-4044

F 508-790-6326

Contact

Town Hall
367 Main Street
Hyannis MA 02601

508-862-4956

M-F 8:30 a.m. to 4:30 p.m.

[Email Us \(https://tobweb.town.barnstable.ma.us/townmeganet/telephone-directory.aspx\)](https://tobweb.town.barnstable.ma.us/townmeganet/telephone-directory.aspx)

Social Media

 [Facebook \(https://www.facebook.com/townofbarnstable/?fref=ts\)](https://www.facebook.com/townofbarnstable/?fref=ts)

 [Twitter \(https://twitter.com/BarnstableMA\)](https://twitter.com/BarnstableMA)

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[Calendar \(/calendar.asp\)](#)

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[Employment \(/Departments/HumanResources/pageview.asp?file=Employment/Barnstable-Employment-](#)

[Opportunities.html&title=Barnstable%20Employment%20Opportunities&exp=Employment\)](#)
[Contact Us \(https://tobweb.town.barnstable.ma.us/townmeganet/telephone-directory.aspx\)](https://tobweb.town.barnstable.ma.us/townmeganet/telephone-directory.aspx)

MEMORANDUM

TO: Barnstable Planning Board

FROM: John W. Kenney, Esq.

APPEAL NO.: 2020-02

HEARING DATE: June 22, 2020

APPLICANTS: Monika I. Atsalis and/or HMI Parking Service, LLC

PROPERTY: 110 Ridgewood Avenue, Hyannis, Massachusetts 02601

ASSESSOR'S MAP: Map 328, Parcel 215

LOT SIZE: 1.72 acres

ZONING DISTRICT: Transportation Hub ("TD") District

GROUNDWATER
OVERLAY
DISTRICT: WP – Wellhead Protection Overlay District

RELIEF REQUESTED: Applicants are seeking a Special Permit pursuant to Section 240-24.1.9B.(1) Transportation Hub District – Parking facilities within the WP Overlay District.

BACKGROUND

The subject property is located at 110 Ridgewood Avenue, Hyannis, Massachusetts. The property is shown as Parcel 215 on Town of Barnstable Assessor's Map 328, a copy of which is attached hereto as **Exhibit A** for your review.

The Applicant, Monika I. Atsalis, President of HMI Parking Services, LLC, has been leasing the property as part of a car parking business for approximately the last fourteen (14) years. As part of the Town of Barnstable's continued review of parking facilities, the Applicant was informed this year that a special permit is required for use of the lot for parking.

The subject property is located in the Transportation Hub (TD) Zoning District. It is located in the Wellhead Protection Overlay District. It is connected to municipal sewer.

DESCRIPTION OF PROPOSED PROJECT

Applicants are seeking a Special Permit pursuant to Section 240-24.1.9 B.(1) of the Town of Barnstable Zoning Ordinance to allow for the continued use of the property as a parking facility for up to thirty (30) cars. The Applicant uses the property Friday through Sunday from Memorial Day weekend to Labor Day weekend. The property is sometimes used on Columbus Day weekend if required. The subject lot contains 1.72 acres. The parking spaces are all paved spaces.

ZONING BACKGROUND

In 2005, the Town of Barnstable adopted the Hyannis Village Zoning Districts ("HVZD"). Section 240-24.1.2 E. of the Zoning Ordinance names the Planning Board as the special permit granting authority for projects with the HVZD.

The property is located within the HVZD in the Transportation Hub District. Section 140-24.1.9 sets forth the zoning regulations for the Transportation Hub District ("TD" District). Subsection B of said section allows parking facilities within the WP Overlay District portion of the TD District provided a special permit is first obtained.

SPECIAL PERMIT CONDITIONS AND ARGUMENT

As noted above, Section 240-24.1.2 E. of the Zoning Ordinance designates the Planning Board as the special permit granting authority for projects within the HVZD. This

section instructs the Planning Board to make a finding that the issuance of a special permit is consistent with the Design and Infrastructure Plan; that it meets one or more of seven (7) criteria set forth in Section 240-24.1.2 E.; that the project meets the criteria set forth in Section 240-125C of the Zoning Ordinance; and that the project meets the individual district regulations special permit criteria.

The Downtown Hyannis Design & Infrastructure Plan identifies parking as one of Hyannis' greatest weaknesses (Introduction – Section C. Community Process and Input – page 5 of the Hyannis Design & Infrastructure Plan (“DIP”)). The same section recommends “more/improved enforcement and coordination of parking.”

Section VIII of the DIP recommends the sharing of parking spaces dedicated for various uses based upon need (see page 22 of the DIP).

The Applicant's project is consistent with the DIP in that it moves cars out of the downtown Hyannis/harborfront area during the periods of peak demand for parking spaces in those areas. The Applicant shares the use of up to 30 spaces on the Buckler's Towing lot. The Applicant's time of need is from Friday through Sunday, a period when Buckler's does not need the spaces.

Attached hereto as **Exhibit B** is a copy of Section 240-21.1.2 E. of the Zoning Ordinance showing the seven (7) criteria the Board is instructed to consider when reviewing a special permit application. Each of the criteria set forth contemplates a development. The Applicant's application does not propose any development. It is simply a shared use of existing parking spaces. No changes are proposed.

The only criteria applicable to the proposal is subsection (f). The Applicant's use contributes to travel demand management by removing cars from downtown and providing parking spaces outside the congested area. Providing these spaces away from downtown will help reduce cars circling the area looking for parking and will improve travel demand management.

Section 240-125C requires the Board find that the application for a special permit falls within a category of the Zoning Ordinance which specifically authorizes the Planning Board to grant a special permit. Further, the Board must find that the proposed project, based upon the ordinance presented, does not derogate from the spirit and intent of the Zoning Ordinance and that it is not substantially more detrimental to the public good or neighborhood affected.

Section 240-24.1.9 B. specifically authorizes the Planning Board, as the permit granting authority within the HVZD, to grant a special permit for parking facilities within the WP Overlay District.

The Applicant has been obtaining a license to use the property at 110 Ridgewood Avenue for overflow parking for the past fourteen (14) years. There have been no complaints as a result of the Applicant's use of the property. The need for a special permit was

discovered by the Town of Barnstable during a review of parking licenses, not as a result of any complaints about the Applicant's use.

The use for overflow parking does not derogate from the spirit and intent of the Zoning Ordinance. The use is a principle permitted use under said Ordinance provided a special permit is obtained.

Granting a special permit would not be substantially more detrimental to the public good or neighborhood affected. The shared use of existing parking spaces helps to relieve congestion in downtown Hyannis and provides additional parking during periods of peak demand. The use is consistent with the DIP. Further, the fact that the use has existed for fourteen years without complaint evidences the fact that the granting of the special permit would not be substantially more detrimental to the public good or neighborhood affected.

Section 240-24.1.9 D. sets forth additional criteria this Board is instructed to consider in granting a special permit in the WP Overlay District. A copy of this section of the Zoning Ordinance is attached hereto as **Exhibit C**.

The Applicant's proposed use of parking up to thirty cars from Friday to Sunday during the period between Memorial Day weekend and Labor Day weekend (and occasionally Columbus Day weekend) meets these factors in that:

- (a) The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit is nominal as evidenced by fourteen years of use without incident;
- (b) The proposal is neutral concerning elimination of existing threats to the public water supply. There are no site changes or use changes for the site;
- (c) The proposal does not change the overall effectiveness of existing land uses and/or protective measures on the public water supply as well. The parking spaces exist already and most of the year they are occupied by Buckler Towing. Granting or denying the special permit would not affect this criterion either positively or negatively; and
- (d) Granting the special permit accommodates an overriding community interest by removing cars looking for parking in downtown Hyannis during peak demand periods and parking them outside the area.

Section 240-35G contains the WP Well Protection Overlay District regulations. This section allows as a principal permitted use any use allowed in the underlying zoning district, except those specifically prohibited in Subsection G(2). The Applicant's proposed use does not fall within any of said prohibited uses and therefore it is an allowed use.

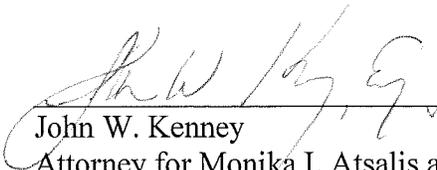
There are no proposed changes to Lot Coverage or Site Clearing. The project is simply part-time shared use of existing parking spaces. A grant, or denial, of the special permit application will have no impact on Lot Coverage or Site Clearing.

CONCLUSION

Based upon the evidence presented, it is clear that the Applicant's shared use of the existing parking spaces meets the criteria for the granting of the special permit requested. The fourteen-year history of the use without incident demonstrates the use is not a significant risk to contamination of the public water supply. It also shows that the use is not substantially more detrimental to the public good or the neighborhood affected. The fact that the use is a principle permitted use with the granting of a special permit in the TD district demonstrates that the use does not derogate from the spirit and/or intent of the Zoning Ordinance.

We respectfully request that you vote in favor of this request to grant a special permit.

Respectfully submitted,



John W. Kenney
Attorney for Monika I. Atsalis and/or
HMI Parking Service, LLC, Applicants
1550 Falmouth Road, Suite 12
Centerville, MA 02632
508-771-9300



Legend

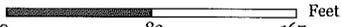
- Parcels
- Town Boundary
- Railroad Tracks
- Buildings
 - Approx. Building
 - Buildings
- Painted Lines
- Parking Lots
 - Paved
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 - Unpaved
- Roads
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 - Bridge
 - Paved Median
- Streams
- Marsh
- Water Bodies



Town of Barnstable GIS Unit

367 Main Street, Hyannis, MA 02601
 508-862-4624
 gis@town.barnstable.ma.us

Map printed on: 2/25/2020



Approx. Scale: 1 inch = 83 feet



This map is for illustration purposes only. It is not adequate for legal boundary determination or regulatory interpretation. This map does not represent an on-the-ground survey. It may be generalized, may not reflect current conditions, and may contain cartographic errors or omissions.

Parcel lines shown on this map are only graphic representations of Assessor's tax parcels. They are not true property boundaries and do not represent accurate relationships to physical objects on the map such as building locations.

Exhibit B

§ 240-24.1.2

ZONING

§ 240-24.1.2

standards, and with the Design and Infrastructure Plan. Refer to § 240-24.1.10 and individual district regulations below for additional site plan review standards.

E. Special permit granting authority and special permit criteria.

(1) 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 § 240-125C of the Barnstable Zoning Ordinance when acting on a special permit application. In addition to the criteria set forth in § 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:

- (a) The development provides for or supports mixed use development where appropriate;
- (b) The development maintains or improves pedestrian access and outdoor public spaces;
- (c) The development contributes to the historic and maritime character of the Hyannis Village area;
- (d) The development eliminates or minimizes curb cuts and driveways on Route 28 and Barnstable Road;
- (e) The development provides or preserves views from public ways and spaces to the waterfront and provides or preserves public access to the waterfront;
- (f) The development provides for or contributes to alternative transportation or travel demand management; and/or
- (g) The development provides workforce housing where appropriate and provides an appropriate mix of affordability levels.

(2) 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, facade 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 nonconforming 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

Exhibit C

§ 240-24.1.9

ZONING

§ 240-24.1.9.1

- D. Site development standards. In addition to the site development standards set forth in § 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 § 240-24.1.2, General provisions, Subsection E, 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.

§ 240-24.1.9.1. GM Gateway Medical District. [Added 4-27-2017 by Order No. 2017-100]

- A. Permitted uses. The following principal and accessory uses are permitted in the GM District. Uses not expressly allowed are prohibited.
- (1) Permitted principal uses.
 - (a) Business and professional offices.
 - (b) Banks.
 - (c) Restaurants.
 - (d) Business support services.
 - (e) Dental and medical clinics.
 - (f) Retail uses.
 - (g) Personal services.
 - (h) Mixed-use development.
 - (i) Multifamily housing totaling not more than six dwelling units per acre or 12 bedrooms per acre.
 - (2) Permitted accessory uses.
 - (a) Automated banking facilities (ATM).

MEMORANDUM

TO: Barnstable Planning Board

FROM: John W. Kenney, Esq.

APPEAL NO.: 2020-02

HEARING DATE: June 22, 2020

APPLICANTS: Monika I. Atsalis and/or HMI Parking Service, LLC

PROPERTY: 110 Ridgewood Avenue, Hyannis, Massachusetts 02601

ASSESSOR'S MAP: Map 328, Parcel 215

LOT SIZE: 1.72 acres

ZONING DISTRICT: Transportation Hub ("TD") District

GROUNDWATER
OVERLAY
DISTRICT: WP – Wellhead Protection Overlay District

RELIEF REQUESTED: Applicants are seeking a Special Permit pursuant to Section 240-24.1.9B.(1) Transportation Hub District – Parking facilities within the WP Overlay District.

BACKGROUND

The subject property is located at 110 Ridgewood Avenue, Hyannis, Massachusetts. The property is shown as Parcel 215 on Town of Barnstable Assessor's Map 328, a copy of which is attached hereto as **Exhibit A** for your review.

The Applicant, Monika I. Atsalis, President of HMI Parking Services, LLC, has been leasing the property as part of a car parking business for approximately the last fourteen (14) years. As part of the Town of Barnstable's continued review of parking facilities, the Applicant was informed this year that a special permit is required for use of the lot for parking.

The subject property is located in the Transportation Hub (TD) Zoning District. It is located in the Wellhead Protection Overlay District. It is connected to municipal sewer.

DESCRIPTION OF PROPOSED PROJECT

Applicants are seeking a Special Permit pursuant to Section 240-24.1.9 B.(1) of the Town of Barnstable Zoning Ordinance to allow for the continued use of the property as a parking facility for up to thirty (30) cars. The Applicant uses the property Friday through Sunday from Memorial Day weekend to Labor Day weekend. The property is sometimes used on Columbus Day weekend if required. The subject lot contains 1.72 acres. The parking spaces are all paved spaces.

ZONING BACKGROUND

In 2005, the Town of Barnstable adopted the Hyannis Village Zoning Districts ("HVZD"). Section 240-24.1.2 E. of the Zoning Ordinance names the Planning Board as the special permit granting authority for projects with the HVZD.

The property is located within the HVZD in the Transportation Hub District. Section 140-24.1.9 sets forth the zoning regulations for the Transportation Hub District ("TD" District). Subsection B of said section allows parking facilities within the WP Overlay District portion of the TD District provided a special permit is first obtained.

SPECIAL PERMIT CONDITIONS AND ARGUMENT

As noted above, Section 240-24.1.2 E. of the Zoning Ordinance designates the Planning Board as the special permit granting authority for projects within the HVZD. This

section instructs the Planning Board to make a finding that the issuance of a special permit is consistent with the Design and Infrastructure Plan; that it meets one or more of seven (7) criteria set forth in Section 240-24.1.2 E.; that the project meets the criteria set forth in Section 240-125C of the Zoning Ordinance; and that the project meets the individual district regulations special permit criteria.

The Downtown Hyannis Design & Infrastructure Plan identifies parking as one of Hyannis' greatest weaknesses (Introduction – Section C. Community Process and Input – page 5 of the Hyannis Design & Infrastructure Plan (“DIP”)). The same section recommends “more/improved enforcement and coordination of parking.”

Section VIII of the DIP recommends the sharing of parking spaces dedicated for various uses based upon need (see page 22 of the DIP).

The Applicant's project is consistent with the DIP in that it moves cars out of the downtown Hyannis/harborfront area during the periods of peak demand for parking spaces in those areas. The Applicant shares the use of up to 30 spaces on the Buckler's Towing lot. The Applicant's time of need is from Friday through Sunday, a period when Buckler's does not need the spaces.

Attached hereto as **Exhibit B** is a copy of Section 240-21.1.2 E. of the Zoning Ordinance showing the seven (7) criteria the Board is instructed to consider when reviewing a special permit application. Each of the criteria set forth contemplates a development. The Applicant's application does not propose any development. It is simply a shared use of existing parking spaces. No changes are proposed.

The only criteria applicable to the proposal is subsection (f). The Applicant's use contributes to travel demand management by removing cars from downtown and providing parking spaces outside the congested area. Providing these spaces away from downtown will help reduce cars circling the area looking for parking and will improve travel demand management.

Section 240-125C requires the Board find that the application for a special permit falls within a category of the Zoning Ordinance which specifically authorizes the Planning Board to grant a special permit. Further, the Board must find that the proposed project, based upon the ordinance presented, does not derogate from the spirit and intent of the Zoning Ordinance and that it is not substantially more detrimental to the public good or neighborhood affected.

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The Applicant's proposed use of parking up to thirty cars from Friday to Sunday during the period between Memorial Day weekend and Labor Day weekend (and occasionally Columbus Day weekend) meets these factors in that:

- (a) The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit is nominal as evidenced by fourteen years of use without incident;
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- (c) The proposal does not change the overall effectiveness of existing land uses and/or protective measures on the public water supply as well. The parking spaces exist already and most of the year they are occupied by Buckler Towing. Granting or denying the special permit would not affect this criterion either positively or negatively; and
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Section 240-35G contains the WP Well Protection Overlay District regulations. This section allows as a principal permitted use any use allowed in the underlying zoning district, except those specifically prohibited in Subsection G(2). The Applicant's proposed use does not fall within any of said prohibited uses and therefore it is an allowed use.

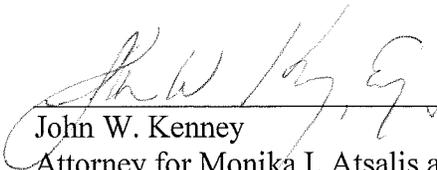
There are no proposed changes to Lot Coverage or Site Clearing. The project is simply part-time shared use of existing parking spaces. A grant, or denial, of the special permit application will have no impact on Lot Coverage or Site Clearing.

CONCLUSION

Based upon the evidence presented, it is clear that the Applicant's shared use of the existing parking spaces meets the criteria for the granting of the special permit requested. The fourteen-year history of the use without incident demonstrates the use is not a significant risk to contamination of the public water supply. It also shows that the use is not substantially more detrimental to the public good or the neighborhood affected. The fact that the use is a principle permitted use with the granting of a special permit in the TD district demonstrates that the use does not derogate from the spirit and/or intent of the Zoning Ordinance.

We respectfully request that you vote in favor of this request to grant a special permit.

Respectfully submitted,



John W. Kenney
Attorney for Monika I. Atsalis and/or
HMI Parking Service, LLC, Applicants
1550 Falmouth Road, Suite 12
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508-771-9300



- Legend**
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Town of Barnstable GIS Unit
 367 Main Street, Hyannis, MA 02601
 508-862-4624
 gis@town.barnstable.ma.us

Map printed on: 2/25/2020
 0 83 167 Feet
 Approx. Scale: 1 inch = 83 feet

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Exhibit B

§ 240-24.1.2

ZONING

§ 240-24.1.2

standards, and with the Design and Infrastructure Plan. Refer to § 240-24.1.10 and individual district regulations below for additional site plan review standards.

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- (a) The development provides for or supports mixed use development where appropriate;
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- (d) The development eliminates or minimizes curb cuts and driveways on Route 28 and Barnstable Road;
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Exhibit C

§ 240-24.1.9

ZONING

§ 240-24.1.9.1

- D. Site development standards. In addition to the site development standards set forth in § 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 § 240-24.1.2, General provisions, Subsection E, 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;
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