



Town of Barnstable

Town Council

367 Main Street, Village of Hyannis, MA 02601

508.862.4734 • 508.862.4770

E-mail: council@town.barnstable.ma.us

www.town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

August 6, 2009

7:00 PM

**Barnstable High School, Knight Auditorium,
744 W. Main Street, Hyannis, MA**

Councilors:

Frederick Chirigotis
President

Harold E. Tobey
Vice President

Richard G. Barry
Janice L. Barton
Ann B. Canedy
James H. Crocker, Jr.
Leah C. Curtis
Henry C. Farnham
Janet S. Joakim
J. Gregory Milne
James F. Munafo, Jr.
Tom Rugo
James M. Tinsley, Jr.

Administrator:
Donald M. Grissom

Administrative
Assistant:
Barbara A. Ford

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MOMENT OF SILENCE**
- 4. PUBLIC COMMENT (May be limited to 2 minutes)**
- 5. COUNCIL RESPONSE TO PUBLIC COMMENT**
- 6. ACT ON MINUTES**
- 7. COMMUNICATIONS FROM ELECTED OFFICIALS, BOARDS, COMMISSIONS, STAFF, CORRESPONDENCE, ANNOUNCEMENTS AND COMMITTEE REPORTS**
- 8. ORDERS OF THE DAY**
 - A. OLD BUSINESS**
 - B. NEW BUSINESS**
- 9. TOWN MANAGER COMMUNICATIONS**
- 10. ADJOURNMENT**

NEXT MEETING: September 3rd

A. OLD BUSINESS

2010-001	Appointments to Town boards/committees/commissions (Second reading)	3
2010-017	Appropriation & loan order – sewer collection system expansion at Stewart’s Creek, West Side (Phase II) (Public hearing) (Roll-call, 2/3)	4 - 5
2010-003	Appropriation order to fund finalizing the Coastal Resources Plan (Public hearing) (Roll-call)	6 - 7
2010-011	Appropriation & loan order for energy efficiency at the Hyannis Water Pollution Control Facility: wind turbine & photovoltaic installation (Public hearing) (Roll-call, 2/3)	8 - 9
2010-012	District of Critical Planning Concern– Craigville Beach district implementation regulations (Joint public hearing with planning board) (Roll-call, 2/3)	10 - 22
2010-013	Appropriation order for Community Preservation Fund – repair & preservation of new town hall (Public hearing) (Roll-call, 2/3)	23 - 24
2010-014	Appropriation & transfer order for school department facility & technological infrastructure & hardware upgrades (Public hearing) (Roll-call, 2/3)	25 - 26

B. NEW BUSINESS

2010-016	Appropriation & transfer \$137,500 from Community Preservation Fund set aside for open space (Refer to public hearing 09/03/09) (Roll-call)	27 - 28
2010-018	Authorizing the town manager to enter into a regulatory agreement – 132-room Hilton Garden Inn on Iyannough Road, Hyannis (Refer to public hearing 09/03/09) (Roll-call, 2/3)	29 - 41

Minutes – June 04, 2009 and July 16, 2009

Please Note:

It is possible that if it so votes, the Council may go into executive session.

The Council may also act on items in an order other than they appear on this agenda.

A. OLD BUSINESS (Second Reading)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-001
INTRO: 07/16/09, 08/06/09**

2010-001 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED, that the Town appoint the following individuals to a multiple-member board/committee/commission:

BARNSTABLE YOUTH COMMISSION

Alisha Collucci, BHS, 744 W. Main St., Hyannis, as a member to a term expiring 06/30/2010
Grace Crowell, BHS, 744 W. Main St., Hyannis, as a member to a term expiring 06/30/2010
Roger Santos, BHS, 744 West Main St., Hyannis, as a member to a term expiring 06/30/2010

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Council discussion
- ___ Move/vote

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-017
INTRO: 07/16/09, 08/06/09**

2010-017 APPROPRIATION-& LOAN ORDER - SEWER COLLECTION SYSTEM EXPANSION

ORDERED, That the sum of \$3,300,000 be appropriated for the purpose of funding the sewer collection system expansion at Stewart’s Creek – West Side (Phase II); and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$3,300,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and to pursue funds from the state Revolving Loan Program and other funding mechanisms and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council, and that betterments or any of the methods for sewer assessments be assessed.

SPONSOR: Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

FY09 WEST SECTION OF STEWART'S CREEK AREA SEWER EXPANSION

ITEM# 2010-017
INTRO: 07/16/09, 08/06/09

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: May 21, 2009
SUBJECT: FY09 West Section of Stewart's Creek area sewer expansion project

BACKGROUND: The Town's Comprehensive Wastewater Facilities Plan for the Hyannis Water Pollution Control Facility has identified several areas where there are public health and environmental concerns that are caused by failing septic systems and/or dense population concentration in Zones of Contribution to public water supply wells. The Stewart's Creek area is one of the areas of concern that has been determined to be best solved by sewerage and connection to the Hyannis Water Pollution Control Facility. The East Section of the Stewart's Creek area project has already been appropriated.

ANALYSIS: Design of the sewer system for Stewart's Creek area was funded by a prior appropriation and is well beyond the preliminary design stage. The construction project has been listed on the State Revolving Fund Intended Use Plan for 2009 as eligible for a 2% interest loan with an 8.8% principle subsidy. The total estimated budget for the project is \$7.2M serving an estimated 320 customers. To be eligible for SRF funding as describe above the community must have committed to obtaining local funding authorization by June 30, 2009, and filing a complete loan application by August 1, 2009 for projects to be funded through the ARRA.

FISCAL IMPACT: The cost of the sewer expansion project is to be funded through the SRF program with the principal subsidy described above. Revenues to pay for the SRF subsidized loan are to be recovered through sewer betterment to the properties served by this sewer expansion project.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the appropriation order after the required public hearing. The Town Manager recommends the approval of the borrowing of these funds.

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Public hearing) (Roll-call)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-003

INTRO: 07/16/09, 08/06/09

2010-003 APPROPRIATE & TRANSFER FROM RESERVE FUNDS FOR FINALIZING THE COASTAL RESOURCES MANAGEMENT PLAN.

ORDERED: that the sum of \$14,000 be appropriated from reserve funds for the purpose of finalizing the Coastal Resources Management Committee update of the 1990 Camp, Dresser & McKee Coastal Resources Management Plan as follows: \$13,000 for personnel; \$1,000 for final document preparation, printing and distribution; and that the Town manager is authorized to contract for and expend the Appropriation made available for this purpose.

SPONSOR: Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

COASTAL RESOURCES MANAGEMENT PLAN UPDATE THREE BAYS, EAST BAY AND THE CENTERVILLE RIVER

ITEM# 2010-003

INTRO: 07/16/09, 08/06/09

SUMMARY

DATE: July 7, 2009
TO: Town Council
FROM: Jo Anne Miller Buntich, Growth Management Dept Director

BACKGROUND: The Committee created has worked steadily at this Town Council assigned task over the past year. The CRMC has carefully interviewed stakeholders, reviewed the 1990 Coastal Management Plan and worked to develop an inventory of existing condition and is now engaged in reviewing, editing and finalizing a draft of the plan update. Previous funds allocated for committee support have supported this extensive plan of work.

The requested funds will allow the CRMC, with assistance from the Growth Management Department, to bring the project to a close on time and under initial cost estimates.

STAFF ASSISTANCE:

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-011
INTRO: 07/16/09, 08/06/09**

**2010-011 APPROPRIATION & LOAN ORDER –WIND TURBINE & PHOTOVOLTAIC
INSTALLATION AT HYANNIS WATER POLLUTION CONTROL FACILITY**

ORDERED: That the sum of \$9,150,000 be appropriated for the purpose of funding the energy efficiency, wind turbine and photovoltaic installation at the Hyannis Water Pollution Control Facility; and that to meet this appropriation, the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$9,150,000, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes and be authorized to accept any grants or gifts in relation thereto, subject to the approval of the Town Council.

SPONSOR: Councilor Harold E. Tobey and Town Manager John C. Klimm

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

WIND TURBINE & PHOTOVOLTAIC INSTALLATION HYANNIS WATER POLLUTION CONTROL FACILITY

**ITEM# 2010-011
INTRO: 07/16/09, 08/06/09**

SUMMARY

TO: Town Council
FROM: John C. Klimm, Town Manager
DATE: July 8, 2009

BACKGROUND: In December of 2007, the Executive Office of Energy & Environmental Affairs and MassDEP launched the first innovative phase of the Massachusetts Energy Management Pilot for Drinking Water and Wastewater Treatment Facilities - a project designed to reduce emissions of greenhouse gases and the amount of energy that treatment facilities use in treating the water that flows through the plant by 20%.

A total of 14 facilities are part of this pilot project, seven wastewater treatment facilities and seven drinking water treatment facilities. So far, the project guided the facilities through the assessment of their current energy performance, conducted energy audits, and assessed renewable energy generation potential. MassDEP and local strategic partners are working together to assist with the implementation of efficiency and renewable energy projects that will result in substantial energy savings for all the targeted facilities. MassDEP is also currently assisting in the identification of funding sources through the State Revolving Fund (SRF) and the Federal Stimulus package to complete the pilot project's findings and recommendations for each of the treatment facilities.

ANALYSIS: The Hyannis Water Pollution Control Facilities has been identified as one of the 14 facilities to receive eligibility for State Revolving Fund (SRF) and the Federal Stimulus funding. Improvements at the Hyannis Water Pollution Control facility include installing variable speed drives, premium motor upgrades, and replacement of high efficiency motors, installation of 1,000kW solar photovoltaic system (roof & ground-mounted), and installation of (3) 250kW wind turbines.

The total estimated budget for the projects totals \$9.15 M and to be eligible for SRF funding as described above the community must have submitted a completed loan application by September 1, 2009 for "green infrastructure" projects to be funded through the State Revolving Fund and American Recovery and Reinvestment Act (Federal Stimulus Monies).

FISCAL IMPACT: The cost of the construction of the energy efficiency, wind turbine and photovoltaic improvements are to be funded through a \$9,150,000 grant through the American Recovery and Reinvestment Act (ARRA) of 2009. Impacts on future user fees shall be determined subsequent to the final determination of principal subsidy received for this infrastructure improvements and improved energy efficiencies.

TOWN MANAGER RECOMMENDATION: The Town Manager recommends approval of the appropriation order after the required public hearing. The Town Manager recommends the approval of the borrowing of these funds.

STAFF SUPPORT: Mark S. Ells, Director of Public Works

A. OLD BUSINESS (Joint public hearing with planning board) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-012

INTRO: 07/16/09, 08/06/09

2010-012 DCPC IMPLEMENTING REGULATIONS-CRAIGVILLE BEACH DISTRICT

ORDERED:

Preamble: This ordinance is adopted as an implementing regulation of the Craigville Beach portion of the Centerville Village Craigville Beach District of Critical Planning Concern (DCPC). Included in this order in **Section 1** amends the zoning map to create the Craigville Beach District; **Section 2** adopts the Centerville Village Implementing Regulations.

Section 1

Craigville Beach District Map

That the official zoning map of the Town of Barnstable is hereby amended by adding the Boundary of the Craigville Beach District replacing portions of the RC, RD and RD-1 district as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Centerville Village District" dated July 16, 2009 and "Proposed Amendment to the Centerville Zoning Map Sheet 4 of 7" dated July 16, 2009.

Section 2

Craigville Beach District Implementing Regulations

That Chapter 240, Zoning Ordinance is hereby amended by adding a new Article XIV District of Critical Planning Concern Implementing Regulations and adding Craigville Beach District Implementing Regulations:

§240- 131 Authority

This Article is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§240-131.1 Purposes and Intent

A. The purposes and intent of this section is to guide development in the Craigville Beach District by promoting development and redevelopment that:

- (1.) Contributes to and respects the character and historic development patterns of the area; lessen development and redevelopment impacts to the historic and community character resources in this area;
- (2.) Protects and preserves scenic views and vistas and ways to the water;
- (3.) Protects and improves natural resources including but not limited to the barrier beach and groundwater and coastal water quality; lessen development and redevelopment impacts to the natural resources and ecosystems in this district;
- (4.) Protects human life and property from the hazards of periodic flooding,
- (5.) Preserves the natural flood control characteristics and the flood control function of the flood plain,
- (6.) Preserves and maintains the ground water table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

240-131.2 District Boundaries

A. The provisions of ordinance shall apply within the Craigville Beach District (CBD), as shown on the Barnstable Zoning Map, July 16, 2009.

B. Neighborhood Overlays. For the purpose of this ordinance the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Barnstable Zoning Map, July 16, 2009.

LBSB: Long Beach/Short Beach

CB: Craigville Beach

CRNB: Centerville River North Bank

CV: Craigville Village

§ 240-131.3 Definitions

Accessory Use or Building-- A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

Base Flood Elevation (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Beach Club -- A membership establishment legally in existence at the time of the adoption of this ordinance, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

Building Coverage - The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of this section, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

Building Height —The vertical distance between the highest point on the roof and the natural mean grade as measured from the natural mean grade from the four farthest corners of the structure to the height of the highest point on the roof, and dividing the aggregate number of these heights by four (4). These height limitations shall not apply to chimneys or flagpoles, as approved by the Building Commissioner.

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.

Conference Center – A non-profit religious and educational use legally in existence at the time of the adoption of this ordinance comprised of guest houses and cottages, single family residences, recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

Cottage Colony – A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of this ordinance located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only.

Elevated Structure - A structure elevated for the purpose of Barnstable Code, Section 240-34, Flood Area provisions whose lowest structural member is 1' above BFE in A zones and 2' above BFE in V zones.

FEMA – Federal Emergency Management Agency.

FEMA Flood Zones - Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Resource Map.

FIRM – Flood Insurance Rate Map.

Grade - The referenced plane of the average of all finished ground levels adjoining the building or structure for a distance of 6 feet from all exterior walls.

Gross Floor Area – The total area of a building measured by taking the outside dimensions of the building at each floor level.

Impervious Surface A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, natural stone, sidewalks, etc. Any area designed initially to be semi-pervious but has been shown to become impervious over time (e.g., gravel, crushed stone, shells, porous pavement, etc.) may, at the discretion of the Building Commissioner, be considered an Impervious Surface.

Lot Area - The horizontal area of a lot exclusive of any area in a street or way open to public use. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year, or considered as wetland resource area as defined in the Wetlands Protection Act, Chapter 131, Section 40 of MGL and subsequent regulations, 310 CMR 10.00.

Lot Coverage - The percentage of a lot covered by Impervious Surfaces. For the purposes of this section, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious surfaces shall be included in the definition of lot coverage.

Non-Profit Educational Use – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

Open Foundation: A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood-event.

Religious Institution – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

Single Family Residence - A detached residential building designed for and occupied by a single family.

Small-Scale Food Service – An establishment legally in existence at the time of the adoption of this ordinance where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian.

Special Permit Granting Authority (SPGA) - The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

V (Velocity) Zone—area extending from mean low water to the inland limit 100 year floodplain supporting waves greater than three (3) feet in height. V-zones are mapped on the FEMA FIRM.

Section 240-131.4 Craigville Beach District Use Regulations

Municipal uses are exempt from these regulations.

A. Principal Permitted Uses. See 240-131.7 (Neighborhood Overlay Regulations) herein.

B. Use Limitations

(1.) Any use not expressly allowed herein is prohibited.

(2.) The conversion of any building or structure from seasonal use to year round use is prohibited, except that Single Family Residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming

house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under S. 32A to I of Chapter 140 of the General Laws, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use, and is prohibited.

- (3.) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“Formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

C. Exempt Uses

(1.) Religious institutions, municipal uses, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in Sections 240-131.1 Purposes and Intent, § 240-131.5 Dimensional, Bulk and Other Regulations, § 240-131.7 Neighborhood Overlay Regulations.

(2.) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

- D.** Continuation. Any lawfully established lot, structure, use or site improvement existing at the time of the adoption of this ordinance that does not conform to the provisions of the CBD shall be allowed to continue.

E. Change, Expansion or Alteration of Uses and Structures

Uses and structures lawfully existing at the time of the adoption of this ordinance may continue subject to the following:

(1) As of right

- a) The normal and customary repair and maintenance of a building or structure is permitted as of right.
- b) The alteration and expansion of a building or structure, not including conversion of existing floor area to habitable space, is permitted as of right provided that the alteration or expansion shall conform to following criteria:
 - [1] The building or structure alteration or expansion.
 - [2] Conforms to applicable height requirements of § 240-131.5.
 - [3] Does not exceed the Coverage Limitations set forth in § 240-131.6
 - [4] Complies with applicable neighborhood performance standards.

(2) By Special Permit

(a) The alteration or expansion of a lawfully established building or structure that does not qualify under the “as of right” provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:

- (1) Are not substantially more detrimental to the environment, community or historic character of the neighborhood;

(2) Comply with Section 240-131.1 Purposes and Intent and with the Performance Standards for the neighborhood district where the development is located, in accordance with Section 240-131.7 Neighborhood District Overlay Regulations;

(3) Do not exceed 25% of the Gross Floor Area in existence as of February 12, 2008;

(4) Do not increase lot coverage over what is allowed under § 240-131.6 Coverage Limitations;

(5) Result in enhanced protection of the structure and the neighborhood from flood hazards

(6) Reduce impervious surfaces;

(7) Increase or enhances public access to the coast;

(8) Enhance views to Nantucket Sound and/or the Centerville River;

(9) In V-zones reduce south facing building surfaces and so the adverse effect of increasing elevation or velocity of flood waters due to a change in flowage characteristics on the subject site, adjacent properties or any public or private way

F. Special Permit for Dimensional Relief

The SPGA may provide relief from minimum lot area, minimum lot frontage, maximum building setback, minimum yard setbacks, is consistent with § 240-131.1 Purposes and Intent-the Performance Standards for the neighborhood district where the development is located, in accordance with Section 240-131.7, Neighborhood Overlay Regulations and_ the applicant demonstrates undue hardship without desired relief.

G. Re-establishment of damaged or destroyed use, building or structure.

(1.) The re-establishment of a use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:

(a.) The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade; except that buildings in the flood plain that existed prior to the February 12, 2008 may be elevated 2 feet above BFE regardless of the resulting building height provided the building complied with building height regulations at the time of its construction.

(b.) If the buildings location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations.

(c.) The reconstruction or repair will not constitute an expansion or intensification of any use.

(d.) In the case of any use in which it would otherwise be required, the site plan review process has been followed.

(e.) Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction the design guidelines in this chapter do not apply.

(2.) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within three years from the date of damage or destruction, and construction is continuously pursued to completion.

H. Voluntary Demolition and Reconstruction of Single Family Residences: Lawfully established Single Family Residences may be completely demolished and reconstructed in accordance with the applicable provisions of this chapter with the exception of minimum lot area and frontage which shall be the lot area and frontage in effect at the time the structure was lawfully established.

240-131.5 Dimensional, Bulk, and Other Requirements: The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District.

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Requirements				
Minimum Lot Area (upland) (s.f)	87, 120 or Legally established lot area as of 07/16/2009	87, 120 or Legally established lot area as of 07/16/2009	87,120 or Legally established lot area as of 07/16/2009	87,120 or Legally established lot area as of 07/16/2009
Minimum Lot Frontage (linear feet)	75	100	125	125
Min. Front Yard Setback (feet)	15	20	30	30
Min. Side Yard Setback (feet)	10	15	<u>15</u> ⁴	20
Min. Rear Yard Setback (feet)	10	15	20	20
Maximum Building Height ^{1,2,3}	30	26	30	30
Maximum number of stories ⁵	2	2	2	2
Maximum Building Coverage	See Section 240-131-6			
Maximum Lot Coverage	See Section 240-131-6			

Dimensional table notes:

- (1.) Maximum Building Height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height, hip and roofs with a slope of 4/12 or greater are allowed 5 feet less than the maximum building height, and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel.
- (2.) Buildings in the flood plain that existed prior to the February 12, 2008 may be elevated 2 feet above BFE provided the building complied with building height regulations at the time of its construction.
- (3.) Within the flood plain the maximum building height, when necessary to flood proof the structure, reconstruction or addition, may be increased to allow the required elevation above the BFE plus 2 feet.
- (4.) In the Long and Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Craigville River a view corridor shall be preserved with one side setback at 20 feet or a total of 25% of the lot frontage, whichever is greater. The view corridor shall remain free of view obstructing buildings, structures, site improvements or landscaping other than low growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach. The view corridor may be divided into two view corridors to facilitate development of the property.
- (5.) The second story must be set back at least 2 feet from the façade line of the floor below on two of the building's facades and the second story floor area shall not exceed 80% area of floor area immediately below it.

240-131.6 Coverage Limitations: The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size	Maximum Building Coverage (footprint) Allowance	Maximum Lot Coverage Allowance
1,300-4,999 s.f.	1,100 s.f. plus 10.8% of lot area over 1,300 s.f.	50%
5,000-7,499	1,500 s.f. plus 6% of lot area over 5,000	50%
7,500-9,999	1,650 s.f. plus 6% of lot area over 7,500	35%
10,000-14,999	1,800 s.f. plus 4% of lot area over 10,000	25%

15,000-19,999	2,000 s.f. plus 6% of lot area over 15,000	20%
20,000-34,999	2,300 s.f. plus 4% of lot area over 20,000	15%
35,000-44,999	2,900 s.f. plus 4% of lot area over 35,000	10%
45,000 and above	3,300 s.f. plus 3% of lot area over 45,000	10%

Section 240-131.7 Neighborhood Overlay Regulations

A. Purpose: The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to preserve the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes, expansions; protect and preserve scenic views and vistas; protect and improve natural resources; and to limit damage from periodic flood events for each neighborhood within the Craigville Beach District.

B. Historic and Community Character. These regulations will ensure that development and redevelopment Development in the CBD contributes to and does not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure; and that the character of the surrounding neighborhood, including elements such as building height, mass and orientation; and preserves views and ways to the water from public spaces, streets and ways.

C. Applicability: Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.

D. General Performance Standards

- 1) **Dimensional requirements.** The development complies with the height limitations, setbacks, and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with Sections 240-131.4(E) and (F).
- 2) **Natural Resource protection.** The development minimizes the alteration of natural landforms, protects natural resources and prevents flood damage to the subject property and any other properties. The development plan correctly delineates all natural resource boundaries, including but not limited to wetlands, rare and endangered species habitat as mapped by Natural Heritage and Endangered Species Program of the Massachusetts Division of Fish and Wildlife, salt marsh, land subject to coastal storm flowage, coastal beach, coastal dune, barrier beach, tidal flats and land subject to tidal action, vernal pools, land under salt ponds and floodplains. Where the limit of such resources is in question, the applicant shall obtain a Determination of Applicability from the Barnstable Conservation Commission and provide it to the Board of Appeals or the Building Commissioner for the record.
- 3) **Removal of Vegetation.** The alteration or removal of vegetation within the 100' buffer to wetland resources, as defined by the Barnstable Code, Section 237, shall be prohibited. The removal of more than 25% of the existing vegetation on a parcel located on a barrier beach or coastal bank is prohibited.
- 4) **Screening.** Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials. Where possible mounded septic systems shall be located at the rear of the property.
- 5) The development does not require variances from the maximum wastewater design flow limitations set forth in Title 5.
- 6) Stormwater management and erosion control comply with best management practices through Low Impact Development or other adaptive management practice.
- 7) **Roof decks:** Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.

E. Long Beach/Short Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(2) Permitted Accessory Uses: The following uses are permitted in the Long Beach Neighborhood Overlay district subject to the use limitations and performance standards listed in 240-131-7.C and below:

(a.) Boat houses and boat shelters that do not exceed eight (8) feet in height; have a roof pitch of at least 4:12; do not include a roof top structure; and do not exceed 300 square feet of building area or 350 square feet of combined building area and accessory decking, including but not limited to ramps, roofed decks, and walkways. Boat houses shall be primarily of wood construction.

(b.) Parking facilities accessory to the rental of non-motorized watercraft that result in no more than 25% impervious area

(3) Performance Standards All development and redevelopment shall meet the following standards:

(a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.

(b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.

(c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

F. Craigville Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(b.) Small-scale food service

(c.) Beach club

(d.) Cottage colony

(2) Permitted Accessory Uses: The following uses are permitted in the Craigville Beach Neighborhood Overlay district subject to the use limitations and performance standards listed 240-131-7.C and below:

(a.) Parking facilities accessory to the rental of non-motorized watercraft that result in no more than 25% impervious area.

(b.) Boat houses and boat shelters that do not exceed eight (8) feet in height, have a roof pitch of at least 4:12, do not include a roof top structure, and do not exceed 300 square feet of building area or 350 square feet of combined building area and accessory decking,

including but not limited to ramps, roofed decks, and walkways. Boat houses shall be primarily of wood construction.

(3) Performance Standards: All development and redevelopment shall meet the following standards:

- (a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.
- (b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Beach Club Design Guidelines

Purpose: To maintain public views to the water and to maintain the neighborhood's existing character with small scale building masses and natural or traditional building materials.

- (a.) **Building Height and Massing:** New construction on Beach Club properties should have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3000 square feet or more should incorporate significant changes in massing to break up the facade, and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.
- (b.) **Building Orientation:** Buildings should be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.
- (c.) **Maintaining Views to Water:** Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or should be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.
- (d.) **Fences:** Fences should be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over 3 feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.
- (e.) **Building Materials:** Exterior building materials should be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

E. Centerville River North Bank Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Centerville River Neighborhood Overlay area subject to the performance standards listed below.

Single Family Residence

(2) Permitted Accessory Uses: The following uses are permitted in the River North Neighborhood Overlay district subject to the use limitations and performance standards listed 240-131. 7.C and below:

- (a.) Parking facilities accessory to the rental of non-motorized watercraft that result in no more than 25% impervious area.
 - (b.) Boat houses and boat shelters that do not exceed eight (8) feet in height, have a roof pitch of at least 4:12, do not include a roof top structure, and do not exceed 300 square feet of building area or 350 square feet of combined building area and accessory decking, including but not limited to ramps, roofed decks, and walkways. Boat houses shall be primarily of wood construction.
- (3) Performance Standards:** All development and redevelopment shall meet the following standards:
- (a.) **Vista pruning.** Where existing vegetation is greater than twenty feet in height, the development minimizes vista pruning and maintains a vegetated screen between the structure and the Centerville River. Tree removal shall not interrupt the treeline as viewed from the south looking northward to the treeline.
 - (b.) No land area designated as V-zone of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zone which might increase the potential for flood damage shall be prohibited.
 - (c.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
 - (d.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

F. Craigville Village Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed 240-131.7.C and below.

- (a) Single Family Residence
- (b) Conference Center

(2) Permitted Accessory Uses: The following uses are permitted in the River North Neighborhood Overlay district subject to the performance standards listed below:

- (a) Parking facilities accessory to the rental of non-motorized that result in no more than 25% impervious area.
- (b) Boat houses and boat shelters that do not exceed eight (8) feet in height, have a roof pitch of at least 4:12, do not include a roof top structure, and do not exceed 300 square feet of building area or 350 square feet of combined building area and accessory decking, including but not limited to ramps, roofed decks, and walkways. Boat houses shall be primarily of wood construction.

(3) Performance Standards: All development and redevelopment shall meet the following standards:

(4) Design Guidelines

(a.) Purpose:

Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.

(b.) Objectives:

- (1.) To preserve the character-defining features of the original camp meeting neighborhood including its small lots, modest scale structures, and orientation of buildings to public areas.
- (2.) To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.

(c.) Application:

The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this ordinance, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in Section 240-131 (x).

(d.) Building Design. The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.

- (1.) Preserve the original massing of historic structures (pre-1945):
- (2.) Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
- (3.) Work with modest massings: Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be slightly taller than the original structure if attached to the original structure with a smaller connecting mass.
- (4.) Roof forms: The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least 6 over 12.
- (5.) Retain Original Architectural Details and Unique Forms: Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features such as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

Section 240-131.8 Additional Provisions

A. Other regulations

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9.C & D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-43 Accessory Uses; § 240-46.A & B Home Occupations; Article VI Off Street Parking Sections 240-52, 240-53.B through .E ; and Sign Regulations § 240-59 through 63; Article XI Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and

Enforcement § 240-123 – 240-124; § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time

B. Conflicts

Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.

C. Severability

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

SPONSORS: Council President Frederick Chirigotis, Councilor Janet S. Joakim, and Councilor Tom Rugo

DATE

ACTION TAKEN

- ____ Read item
- ____ Motion to Open Public Hearing
- ____ Rationale
- ____ Public Hearing
- ____ Close public hearing
- ____ Council discussion
- ____ Move/vote

BARNSTABLE TOWN COUNCIL

IMPLEMENTATION OF DCPC CRAIGVILLE BEACH DISTRICT

ITEM# 2010-012
INTRO: 07/16/09, 08/06/09

SUMMARY

TO: Town Council
FROM: Jo Anne Buntich Miller, Director of Growth Management
DATE: July 9, 2009

BACKGROUND: This is an amendment to the Zoning Ordinance that creates Section XIII District of Critical Planning Concern Regulations, Section 240-131 Craigville Beach District.

The Centerville Village DCPC was nominated in February of 2008 as a Cultural, Historic, Architectural Resource and Economic Development Resource District. The DCPC process was initiated at the request of Centerville residents. Adoption of these implementing regulations will allow the Town to provide the regulation desired by local residents and ensure that this small economic center will grow in a way that existing infrastructure can support.

The Town through the Town Attorney's Office and the Growth Management Department organized and partnered with an Advisory Group representing stakeholders in the Beach DCPC. Attorneys Eliza Cox, Michael Scott, Barry Weiner, Sarah Alger, William Ryckman – and at the outset Patrick M. Butler - represented property owners; Roy Richardson and Meg Loughran, represented the Centerville Village Association; Lindsey Counsell, Three Bays; Steve Brown, Red Lily Pond Association; Dr. Wayne Miller, Board of Health; Town Attorney Ruth Weil and Interim Director of Growth Management Jo Anne Miller Buntich along with former Interim Director Patty Daley worked with this group. Over the last several months Planning Board members Ray Lang and Paul Curley sat with the group as the ordinance was drafted. This group has met several times a month since October 2008.

ANALYSIS: Adoption of this regulation will create the Craigville Beach District by rezoning portions of the existing RC, RD and RD-1 districts.

RATIONALE: These regulations respond to and support the purposes of the District of Critical Planning Concern which included protecting community, historic and architectural character which is accomplished through use regulations, dimensional regulations and design guidelines. Natural resources and flood protection are supported through performance standards tailored to each neighborhood.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-013

INTRO: 07/16/09, 08/06/09

2010-013 APPROPRIATION & LOAN ORDER COMMUNITY PRESERVATION NEW TOWN HALL

Ordered: That, pursuant to the provisions of G.L. c. 44B, the sum of Four hundred twenty nine thousand seven hundred seventy one and NO/100 (\$429,771) Dollars be appropriated and transferred from the amount set aside for Historic Resources in the Community Preservation Fund on August 21, 2008 under agenda item number 2008-161; that the sum of One million three hundred thirty two thousand five hundred twenty and NO/100 (\$1,332,520) Dollars be appropriated and transferred from the undesignated portion of the Community Preservation Fund; that the sum of \$1,332,520.00 be appropriated from the undesignated portion of the Community Preservation Fund; that to meet the additional appropriation of \$1,332,520.00 from the undesignated portion of the Community Preservation Fund the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$1,332,520.00 in anticipation of community preservation fund revenues; for a total appropriation of \$3,094,811.00; and that the Growth Management Department is authorized to contract for and expend the total amount appropriated with the prior approval of the Town Manager, subject to oversight of the project expenses by the Community Preservation Committee for roof, brick, window, exterior door and other exterior repairs and replacements for the preservation and rehabilitation of the historic resource consisting of the New Town Hall of the Town of Barnstable with an address of 367 Main Street, Hyannis, MA., located on Map / Parcel 326 / 021.

SPONSOR: Town Manager, John C. Klimm upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-013
INTRO: 07/16/09, 08/06/09

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: July 9, 2009
SUBJECT: Town Hall Exterior Envelope Preservation and Rehabilitation Project

BACKGROUND: At their meeting on June 22, 2009, the Community Preservation Committee (CPC) unanimously recommended support for the Town of Barnstable Department of Public Works funding request amount not to exceed, \$3,094,811.00, for the Town Hall Exterior Envelope Preservation and Rehabilitation Project.

RATIONALE: CBI Consulting, Inc., the Town's Historic Consultant for the project, has provided the Town with an Existing Conditions Report of the Town Hall Exterior Envelope. Recommendations for building preservation and rehabilitation that address safety and structural improvements to include roof reconstruction, exterior brick wall repair, brick window arch repairs, window replacement; exterior door replacement, brownstone repairs, new copper gutters and downspouts, fascia work, and hazardous components abatement have been prioritized by CBI and Town staff.

The estimated cost of this project is \$3,094,811. The Community Preservation Committee recommends the Town Council to approve the expenditure from Community Preservation Act funds as follows: \$429,771 from the Historic Preservation fund balance and; \$1,332,520 from the Undesignated Fund balance; and also authorize borrowing of an additional \$1,332,520 from the Undesignated Fund balance for a total project cost of \$3,094,811.

The estimated project cost of \$3,094,011 includes a \$156,400 reduction because an Energy Efficiency Community Development Block Grant of \$156,400 has been awarded to the Town for Town Hall window replacement.

A. OLD BUSINESS (Public hearing) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

ITEM# 2010-014

INTRO: 07/16/09, 08/06/09

2010-014 APPROPRIATE & TRANSFER FOR SCHOOL DEPT. FACILITY & TECHNOLOGY INFRASTRUCTURE AND HARDWARE UPGRADES

ORDERED: That the Barnstable Town Council hereby appropriates \$337,000 for school department facility and technology infrastructure and hardware upgrades and to meet the appropriation that the town transfers a sum of money from the proceeds of the sale of the Grade 5 School.

SPONSORS: Town Manager John C. Klimm at the request of the School Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-014

INTRO: 07/16/09, 08/06/09

SUMMARY

TO: Town Council
FROM: School Committee
THROUGH: Councilor Janice Barton & Town Manager John C. Klimm
DATE: July 16, 2009
SUBJECT: School Dept Facility and Technology Infrastructure and Hardware Upgrades

BACKGROUND: The former Grade 5 School was sold in 2005 for \$3,000,000. The proceeds (less expenses of the sale) are held in an account to be used for school capital improvements and facilities. Under General Laws chapter 44, section 63, the proceeds may lawfully be used for any purpose for which the town is authorized to incur debt for a period of five years or more, which includes school department facility and technology infrastructure and hardware upgrades. The School Committee has requested that the Town Council authorize the expenditure of \$337,000 from the Grade 5 School sales proceeds account for school department facility and technology infrastructure and hardware upgrades to enable teachers to continue to deliver appropriate instruction including technology-infused instruction following the restructuring of the school district.

RATIONALE: Over the past two years, due to declining enrollment and financial resources, the Barnstable School Committee supported the redesign of academic programs and the reorganization of grade structures to allow for the closing of four facilities. With any project of this magnitude there will be losses of appropriate instruction space, technology and adequate facilities for the different grade structures or content areas. Areas that were specifically impacted were science labs (plumbing), technology labs (wiring and air conditioning), and media (partitioning areas for instruction). While over \$100,000 was allocated for move-related concerns, these funds fell short in meeting the infrastructure changes primarily in technology.

The requested funds will be used to wire new classrooms, plumb new science labs, and purchase required hardware to bring new classrooms to the standard of classrooms from which teachers have been moved. (Interactive whiteboards, for instance, are the 21st Century equivalent of the blackboard, and teachers who have had them in their classrooms have already incorporated this technology into their curriculum and lesson plans. It is not cost effective to relocate this hardware.) In addition, in order to accomplish the significant reorganization of the academic programs for our students in grades six through twelve, we have developed three new technology-based courses. Without these renovations and upgrades the courses will not be implemented as designed.

While this request is symbolically a critical first step in accessing funds reserved for facilities improvements, it is a bare minimum, essential purchase request that in no way reflects a trend to use these funds as a "wish list" account. This request reflects critical needs. Any future requests for expenditure from this account will come from a comprehensive capital plan presented in conjunction with the Capital Improvement Project.

FINANCIAL IMPACT: The Grade 5 School sales proceeds account will decrease by \$337,000. As the appropriation will be funded by a transfer from that account, there will be no impact on the town's general fund.

B. NEW BUSINESS (Refer to public hearing 09/03/09) (Roll-call)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-016
INTRO: 08/06/09**

2010-016 APPROPRIATION & TRANSFER \$137,500 FROM COMMUNITY PRESERVATION FUND SET ASIDE FOR OPEN SPACE

ORDERED: That, pursuant to the provisions of G. L. c. 44B, the sum of One hundred thirty seven thousand five hundred dollars and no/100 (\$137,500.00) be appropriated and transferred from the amount set aside for Open Space in the Community Preservation Fund on June 18, 2009 under agenda item 2009-129; and that the Growth Management Department is authorized to contract for and expend the amount appropriated with the prior approval of the Town Manager for the acquisition of a conservation restriction on 1.05 acres of land located at 671 Main Street, Cotuit, MA., Map / Parcel 036/015.

SPONSOR: Town Manager John C. Klimm upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close public hearing
- ___ Council discussion
- ___ Move/vote

BARNSTABLE TOWN COUNCIL

ITEM# 2010-016
INTRO: 08/06/09

SUMMARY

TO: Town Council
FROM: Community Preservation Committee
DATE: July 27, 2009
SUBJECT: Rationale: Bay Point, LLC – Conservation Restriction

BACKGROUND: The Community Preservation Committee (CPC) met on July 20, 2009, and recommends that the town support this funding request for the Open Space Conservation Restriction on 1.05 acres of land located at 671 Main Street, Cotuit, Map / Parcel 036/015, in an amount not to exceed \$137,500 and shall be appropriated and transferred from the Community Preservation Funds.

RATIONALE: The project goal is to secure a conservation restriction (CR) for a combined sum of \$275,000, of which the Cotuit Water District will share the cost with the town – each will contribute \$137,500.

In the agreement with the developers in return for the purchase of the conservation restriction extensive portions of the property will be restricted from any development. The remaining project will be dramatically reduced in size and density. The developer will physically set off the conservation restriction property with fencing, landscaping and signage at Cotuit Water District's direction. The Town's Growth Management Department will have design and landscaping approval rights. An enhanced Bioclere septic system or its equivalent will be installed and will be subject to extensive regulation and examination requirements that will be reflected in a comprehensive set of documents via order of Housing Appeals Committee, Condominium documents and Board of Health Order.

Barnstable's character will be preserved by protection of nitrate loading and injection of pathogens into ground water near a public water supply wellhead; increased affordable housing opportunities and protection of land.

Cost sharing with the Cotuit Water District and co-management of the CR with Cotuit Water District will assure strict compliance with the terms of settlement and maximize protection of the wellhead. Monitoring costs will initially be paid by the developer and later assumed by the condominium association as an encumbrance on the fee monitoring well installation costs will be paid by the developer to Cotuit Water District, which will install the wells to its specifications. Either Cotuit Water District or the Town, acting through the Board of Health, will have authority to act upon any reported threat to the wellhead or to groundwater.

STAFF ASSISTANCE: Theresa M. Santos, Growth Management Department

B. NEW BUSINESS (Refer to public hearing 09/03/09) (Roll-call, 2/3)

BARNSTABLE TOWN COUNCIL

**ITEM# 2010-018
INTRO: 08/06/09**

2010-018 REGULATORY AGREEMENT FOR A 132-ROOM HOTEL – HILTON GARDEN INN

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 Stuart A. Bornstein, President, Holly Management & Supply Corp., Manager of Impulse, LLC, Developer, for the property shown on Barnstable Assessor's Map 328 Parcel 068 AND 069 and located within the Hyannis Gateway (HG) zoning district and the Downtown Hyannis Growth Incentive Zone, including but not limited to the following: permitting the development of 132 room Hotel at 333 & 349 Iyannough Road, Hyannis; and hereby granting a waiver from the provisions of the Barnstable Ordinances as follows:

Permitted Zoning: Relief from §240-24.1.8(B) (1) (a) for principal use as a hotel.

Front Yard Setback: Relief from §240-24.1.8(C) requiring 30' minimum front yard setback; Relief requested is 9.5' from Route 28 to allow for canopy. Building façade has 51.5' of setback from Route 28. Relief requested from Spring Street is 15.6' (14.4' proposed front yard setback from Spring Street).

Front Yard Landscape Setback: Relief from §240-24.1.8(C) (1) requiring 60' front yard landscape setback on Route 28. Requested setback is 7.5'.

Floor Area Ratio: Relief from §240-24.1.8(C) requiring .80 Floor Area Ratio; .93 provided.

Schedule of Off-Street Parking Requirements: Relief from § 240-56 Requirements: 1.2 spaces per guest room and 1 for every 2 employees on maximum shift; 115 spaces provided (project utilizes the 62' parking bay permitted by §40-104 Attachment 2:3 Dimensional Table).

Parking Facilities within the WP Overlay District: Relief from §240-24.1.9(B)(1) requiring Special Permit for parking facilities within the WP Overlay District for extra overflow off-site parking at 144 Ridgewood Avenue (in Transportation Hub District).

Parking Space Dimension: Relief from §240-52(A) 9'x20' parking space requirement to allow 9'x19' space as allowed by §240-104 Attachment 2:3 Dimensional Table. Also relief from § 240-24.1-10(4) (c) (2) Site Development Standards requiring minimum dimension of 9'x20' for each off-street parking space.

Maximum Lot Coverage: Relief from §240-24.1.2 (H) increase of lot coverage in excess of the maximum lot coverage provisions.

Increase in Vehicle Trips: Relief from §240-24.1.8(C) (2) (a) change in use that may increase vehicle trips on Route 28.

Maximum Building Height: Relief from §240-24.1.8(C): Dimensional Bulk Relief: Proposing five stories (55'), three stories (40') is maximum allowed.

Parking in Front of Building: Relief from §240-24.1.8(C)(2)(d) discouraging parking at the front of the lot and limiting such parking to a single row of vehicles plus turning radius.

Parking Island Widths: Relief from §240-24.1.10(4)(d)[4] requiring that no landscaped islands in parking lots with 51 or more parking spaces be less than 10' wide.

Sign Relief: Relief from §240-59 through §240-78 inclusive in order to place a sign on the building.

Landscape Buffer Between Parking and Building: Relief from §240-53(B) (2) requiring 10' minimum buffer between building and parking lot.

Landscape Set Back From Residential Line: Relief from §240-24.1.10(5) (c) requiring 20' landscaped setback in the HG District from all residential property lines.

Permitted Uses, Well Head Protection Overlay District: Relief from § 240-35 (G) (1) (a) for permitting a non-conformity under non-conforming structures not used as a single/two family.

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.

REGULATORY AGREEMENT

Impulse, LLC, 349 & 333 Iyanough Rd/Rte 28 HYANNIS

This regulatory agreement (“Agreement”) is entered by and between the developer, Impulse, LLC, (“Developer”) and the Town of Barnstable (“Town”), a municipal corporation, on this ___ day of ___, 2009 pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, Developer under this Agreement will contribute to traffic management, landscape improvements, public transportation facilities to serve the proposed development, and contribute significant new annual tax income and build a green business-class hotel on-site using sustainable practices as described by components of the LEED checklist as shown in Attachment 1;

WHEREAS, this Agreement shall establish the permitted uses, dimensional requirements, parking requirements and traffic and access management within the Development, the duration of the agreement, and any other terms or conditions mutually agreed upon between 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 and the Developer are authorized to enter into this Agreement pursuant to Chapters 9, 168 and 240 of the Barnstable Code;

WHEREAS, Developer is the legal owner of the property (“Property”) at 349 & 333 Iyanough Rd/Route 28, Hyannis, consisting of approximately 2.3 acres, shown on Barnstable Assessor’s Map 328 as Parcels 068 & 069, as evidenced by deed recorded with Barnstable Registry of Deeds in Book 19132, Page 219 and desires to develop the Property pursuant to a regulatory agreement;

WHEREAS, Developer is willing to commit to the development of the project 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;

WHEREAS, 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 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, Developer has undergone informal review by Site Plan review on 9/23/08, 10/21/08, 11/4/08 and 3/31/09;

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

WHEREAS, this Agreement establishes compliance with the Downtown Hyannis Design and Infrastructure Plan;

WHEREAS, the Property currently exists of two vacant buildings: one containing 47, 404 +/- sq. ft., and the other containing 6,200 +/- sq ft., both of blighted condition, with unacceptably wide site access on Route 28, a regional transportation corridor, and Spring Street;

WHEREAS, Developer proposes to demolish the two existing buildings, re-grade the parcel and build a 132-room Hotel;

WHEREAS, Developer will require zoning relief from: permitted zoning use, front yard setbacks on Route 28 and Spring Street, front yard landscape setback, on-site parking, maximum lot coverage provisions in a Wellhead Overlay District, possible increase of traffic, maximum building height, prohibited parking in front of building, parking island width, landscape setback from residential property lines, sign relief, relief from buffer between building and parking lot; and relief to permit an accessory overflow parking lot off-site at 144 Ridgewood Avenue (owned by affiliate of Developer, Thornton Drive, LP (for title see deed recorded in Barnstable Registry of Deeds Book 23121, Page 153);

WHEREAS, The Developer has secured No Hazard to Air Navigation approval from the Federal Aviation Administration issued on September 5, 2008, and the Massachusetts Aeronautics Commission determination that Airspace Review is not required pursuant to MGL CH 90, 35B dated November 25, 2008;

WHEREAS, Developer has provided calculations demonstrating adequate water flow for fire suppression as required and approved by the Hyannis Fire Department;

WHEREAS, Developer funded professional engineering services, Weston & Sampson, for a water system evaluation for this proposed Development. In a letter dated January 26, 2009 Weston & Sampson, engineers for the Hyannis Water Board found that construction of this development will not adversely impact the water distribution system during maximum day and peak hour demands.

WHEREAS, Developer has submitted water flow test results for a five-story building performed by Maurice Pilette, Fire Protection Consulting Engineer, and A.P. Caputo P.E., Registered Fire Protection Engineer, to the Hyannis Water Board for certification. Determination was that there is no necessity to install a fire pump, and if it becomes necessary, Developer will install a fire pump on-site at his sole cost and expense;

WHEREAS, in response to the Hyannis Water Board's recommendation that the Developer upgrade the water main as part of this construction project, the Developer has agreed to replace the existing 8" water main with a 12" main from the Hilton site to the 16" water transmission main at the corner of Mary Dunn Way and Brooks Road. The work will be performed at Developer's sole cost and expense, designed by a registered engineer and performed by a licensed water installer, both acceptable to the Hyannis Water Board, inclusive

of all costs, i.e. asphalt, hydrants police officer details, engineering oversight, etc. This water main improvement shall be considered as project mitigation.

WHEREAS, Developer's Plans (as hereinafter defined) indicate adequate turning radius for fire department trucks for all driveways, and the Hyannis Fire Department has approved this configuration plan by Vanasse Hangen Brustlen, Inc. dated 2/19/09;

WHEREAS, Developer has agreed that it will be prohibited for any buses on the site to idle their engines in the rear of the hotel, at any/all times near the residential district boundary;

WHEREAS, Developer has provided a Plan of Land dated 2/20/09 for the lot at 144 Ridgewood Avenue, and has agreed to construct a parking lot in accordance with said plan, in order to provide an additional 69 parking spaces to be used by Hilton's valet and shuttle service to park vehicles of hotel guests. This lot to be serviced by shuttle bus or valet parking services only. Approved plan of land of proposed accessory use is recorded at Barnstable Registry of Deeds in Book _____Page _____. This parking shall be permitted, constructed and a restrictive covenant senior to all existing encumbrances shall be recorded against 144 Ridgewood Avenue.

WHEREAS, the Planning Board finds that at PM peak hour there is a net increase of 77 trips, representing approximately one percent (1%) increase in traffic during peak hours;

WHEREAS, Developer proposes to provide a \$100,000 cash contribution (in addition to the estimated \$360,000 upgrade to the water system as detailed above), as follows: \$50,000 for off-site landscape improvements on Route 28 , and \$50,000 to the Youth and Community Center to be deposited with the Hyannis Youth & Community Center Foundation prior to the issuance of the "fit out" permit.

WHEREAS, during the construction phase, Developer proposes to employ up to 200 local construction workers. Approximately 20 newly created full-time and 30 newly created part-time permanent year round local jobs will be established.

WHEREAS, Developer has provided information indicating minimum new approximate annual tax revenue to the town as follows: an additional \$61,200 in real estate taxes, approximately \$188,460 per year in room taxes for a total approximate fiscal payment in year one after project completion of \$249,660 of new income—adjusting annually in perpetuity so that over twenty years, property will contribute over \$6 million dollars in new revenue to the Town

WHEREAS, Developer has met with neighbors and addressed their concerns; and

WHEREAS, Developer has undergone at least two public hearings on the Regulatory Agreement Application and received a majority vote from the Planning Board approving the application on May 18, 2009.; and

WHEREAS, Developer has undergone a public hearing on the Regulatory 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, Developer and the Town do enter into this Agreement, and hereby agree and covenant as follows;

If the Development rights granted hereunder are exercised,

1. 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: Plans entitled "Hilton Garden Inn/Impulse, LLC" prepared by Down Cape Engineering, Inc., Sheets 1 through 5, dated July 28, 2008 and as revised 10/6/08, 11/10/08, 12/8/08, 2/9/09, and 2/20/09 (the "Plans"); and conceptual building floor plans entitled "Hilton Garden Inn" prepared by " BMA Architectural Group, Amherst, NH", dated 7/14/08, pages A100-105; and such other plans and plan revisions as may be required by the terms and conditions of this Agreement;

2. Developer proposes to raze two existing structures—a total of 54,604 +/- sq. ft-- on the property, and to construct one 55 ft high, 22,800 sq ft (footprint), total square footage of 93,462, 132 room, “green” hotel in the Hyannis Gateway (HG) District and Growth Incentive Zone (GIZ) of Barnstable (the “Development”);
3. Development Summary: Developer proposes to construct a 55 foot high (five story), “green” Hilton Garden Inn, containing 132 guest rooms, kitchen, indoor pool, health club, two meeting rooms and a business center by incorporating sustainable components as described in the LEED checklist attached hereto as Attachment 1 on the 2.3 acre parcel. The facilities as described are for the usage of the guests, and not advertised to the general public. The proposed development will meet the standards of the Hilton Hotels Corporation Franchise Agreement and will be operated as a Hilton Garden Inn. One curb cut on Route 28 will be closed, and traffic from Route 28 is discouraged from taking a left turn into the property due to the construction of a right in only entranceway. Developer proposes to spend approximately \$17,250,000 on construction improvements (including interior improvements), and in addition to new anticipated annual tax revenues of more than \$249,000.00 per year, and site specific landscape and sidewalk improvements on Route 28 and Spring Street, proposes to provide a \$50,000 contribution to Route 28 landscape improvements, and an additional \$50,000 to the Hyannis Youth & Community Center Foundation, and to replace the existing 8” water main with a 12” main from the Hilton site to the 16” water transmission main at the corner of Mary Dunn Way and Brooks Road, estimated by the Hyannis Water Board to cost a minimum of \$360,000.00.
4. To foster use of Downtown Hyannis by Hilton Garden patrons, the Developer agrees to display local restaurant menus in the hotel lobby, as well as to provide shuttle bus transportation to Main Street restaurants as well as other destinations, thereby contributing to the tourism economy of the town. Prior to the issuance of any occupancy permits, Developer shall submit to the Planning Board the details of the proposed shuttle service for its approval. No changes in said shuttle bus service shall occur without the prior written approval of the Planning Board
5. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of 8 years from the effective date of the Agreement, provided, however, that prior to the expiration of said period 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. Developer estimates that construction will commence by _____, 2009 and will be completed on or about _____.
6. The Developer will construct a turnout in the layout of Route 28 along the Hilton Garden Inn frontage for the express purposes of serving as an RTA bus stop, as shown on the approved Plans, pending approval by the RTA.
7. Buses shall park at the front of the hotel on the Property and only while passengers embark and disembark and shall not park or idle on Route 28 or Spring Street.
8. Developer shall replace the existing 8” water main to a 12” main from the Property to the 16” water transmission main at the corner of Mary Dunn Way and Brooks Road. The work will be performed at Developer’s sole cost and expense, designed by a registered engineer and performed by a licensed water installer, both acceptable to the Hyannis Water Board, inclusive of all costs, i.e. asphalt, hydrants police officer details, engineering oversight, etc.
9. Developer shall contribute \$50,000 to be designated to landscaping Route 28 on the North side of the road in the vicinity of the airport in full compliance with Homeland Security requirements and in coordination with BMA/MHD and the landscape plan approved by the Growth Management Department, or its designee. No building permit shall issue until the total amount of \$50,000 for landscape improvements is paid to the Town;
10. The site shall be landscaped consistent with the landscaping plan identified herein. All landscaping within the development shall be plant material that has minimal requirements for watering and shall minimize the use of fertilizers and pesticides. To ensure compliance with this standard, a detailed landscape plan with species size and inventory and a landscape maintenance plan demonstrating compliance with low water, fertilizer and pesticide use standards shall be submitted for approval to the Director of Growth Management prior to the issuance of the foundation permit. Developer shall maintain landscaping, irrigation and drainage, including subsurface drainage, in perpetuity. A detailed

description of the location, species and long term maintenance plan for plantings on the vertical sides of the building shall be provided by the Developer, for approval by a landscape architect retained by the Town prior to the issuance of the shell permit; Developer shall screen the area around the dumpster with a fence landscaped with climbing ivy, or other evergreen plants which will reach fence height in three years as shown on the landscape plan described above;

11. Developer shall provide a detailed plan for a noise abating fence and landscape barrier that is approved by and consistent with the wishes of residents of the neighbors on Brookshire Road. This fence and landscape buffer shall be perpetually maintained by the Hilton Garden Inn or the lessor and shall provide privacy from the abutting hotel structure, suppress noise and mitigate intrusion of this development on the Brookshire Road neighborhood.
12. Lighting for the development shall be down cast and consist of fully shielded cut off fixtures as demonstrated by fixture catalog cuts for site lighting provided to the Growth Management Department for approval prior to the issuance of the shell permit, shall not contribute to light pollution of the area, glare shall be contained on-site, and shall be consistent with the plan identified herein. There shall be no light pollution on the Brookshire Rd. neighborhood, other abutting properties, Route 28 or Spring Street;
13. Utilities servicing the building shall be buried underground within the Property and shall be maintained by Developer;
14. Prior to the issuance of any foundation building permit, Developer will provide a performance bond, letter of credit, or other form of guarantee in a form acceptable to the town attorney in an amount to be approved by the Planning Board or its designee, said bond/form of guarantee 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 Developer or his successor(s) after three years from the date of the initial landscape plantings, such date to be determined by the Building Commissioner, upon the request of Developer;
15. The developer will construct this project as a 'green' project including the following: Green plantings and rain gardens, the use of non-toxic and organic cleaning supplies, solar panels, recycled building materials, white membrane roofing materials, water conservation in the plumbing design including double flush toilets and waterless urinals, dimmable ballasts, occupancy sensors and T5 lamps, low 'e' windows, paperless hand dryers, LED exit signs, extra insulation, Gen2 Otis elevator, install carpets created from recycled materials, use low-non VOC paints, and provide electrical charge station for cars. The Developer has provided a LEED-NC Version 2.2 Registered Project Checklist (Attached) to the Planning Board indicating the extent and values of the 'green' components listed above;
16. Consistent with approved Plans, Developer shall construct and maintain a Passive Stormwater Maintenance and Infiltration System to service the Development, including landscaping and irrigation;
17. Construction and demolition debris from the Development shall be removed and reused or recycled to the maximum extent possible. Developer will provide a plan to the Board for their approval prior to the application for demolition permit demonstrating compliance with this requirement;
18. Developer has conformed to the request of the Hyannis Water Board and retained Weston and Sampson to determine a hydraulic model that determined what effect this Development will have on demand and use of water for the residential neighborhoods on Spring St and Ridgewood Ave.;
19. 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), 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. All work within the public way and public utility services shall be to Town Standards. All plans shall be reviewed and approved by the Department of Public Works prior to initiating any work within the public way;
20. Prior to the issuance of a demolition permit, Developer shall obtain the written approval of the Building Commissioner for its construction schedule and sequencing plan. Changes in the schedule, if needed as work progresses, are subject to the written approval of the Building Commissioner. The

construction schedule shall not interfere with peak hour traffic on Route 28; construction activities shall be scheduled for off peak hours only. The Developer shall obtain permission in advance of working on Town property and 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 Developer will be responsible for all construction signage, directional signs, and police officers necessary for the performance of the work;

21. Under no circumstances will the obstruction of Spring Street or Route 28 be allowed during any phase of this construction.
22. To limit exterior construction impacts to the residential neighborhoods, construction shall be limited to the hours of 7:30 a.m. to 6:00 p.m. weekdays, and 8:30 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;
23. Dumpster pick up schedule shall be limited to the daylight hours of 10:00 a.m. through 2:00 p.m. There shall be no pre-dawn or nighttime service deliveries.
24. Developer shall be responsible for snow plowing and snow removal on the Property, in perpetuity;
25. 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 before development permits can be issued. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained;
26. Developer and its successors will participate in the Town of Barnstable's Transportation Management Association (TMA) upon its formation. Participation shall include: the identification of a representative for the development who will serve as the representative for the development to the Town's TMA;
27. The Developer will provide a shuttle bus service for patrons of the Hotel. This shuttle will take passengers to the harbor, airport, shopping areas and restaurants, year-round, and at a minimum will run continuously during the peak traffic months of June, July and August, on a schedule to be determined by the hotel guests' requested drop-off and pick-up times.. In addition, Developer will provide a bicycle rack at the Property;
28. The Project will eliminate one curb cut on Route 28 and formulate the remaining curb cut for right-in only usage;
29. The Developer shall create a sidewalk and landscaping on Route 28 and Spring Street according to Developer's Plans;
30. Upon completion of all work (the Project), Developer shall cause a registered engineer of land surveying to submit as-built plans accompanied by 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;
31. All mechanical equipment associated with the Development (air conditioners, electric generators, etc.) as per plans in paragraph 1 are to be located on the roof and designed in the building plans. In no case shall any mechanical equipment be located so as to negatively affect the adjacent residential neighborhood;
32. The Developer shall erect one freestanding sign as per sign code located at newly constructed right-in only entrance on Route 28 and an internally lit sign containing the words "Hilton Garden Inn" to be located on the façade of the building at the 5th floor level, as shown on the elevation plans; no additional relief from applicable sign regulations is granted.
33. The development allowed by this Agreement shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added;
34. A restrictive covenant shall be recorded against the 44 Ridgewood Avenue property, which the Developer has agreed to use as an off-site parking lot in order to provide an extra 69 parking spaces for guests of the hotel; valets of the hotel shall drive the cars from the hotel Property, and park the cars at said off-site parking lot

Town hereby grants a waiver from the following zoning restrictions:

Permitted Zoning: Relief from §240-24.1.8(B) (1) (a) for principal use as a hotel.

Front Yard Setback: Relief from §240-24.1.8(C) requiring 30' minimum front yard setback; Relief requested is 9.5' from Route 28 to allow for canopy. Building façade has 51.5' of setback from Route 28. Relief requested from Spring Street is 15.6' (14.4' proposed front yard setback from Spring Street).

Front Yard Landscape Setback: Relief from §240-24.1.8(C) (1) requiring 60' front yard landscape setback on Route 28. Requested setback is 7.5'.

Floor Area Ratio: Relief from §240-24.1.8(C) requiring .80 Floor Area Ratio; .93 provided.

Schedule of Off-Street Parking Requirements: Relief from §240-56 Requirements: 1.2 spaces per guest room and 1 for every 2 employees on maximum shift; 115 spaces provided (project utilizes the 62' parking bay permitted by §40-104 Attachment 2:3 Dimensional Table).

Parking Facilities within the WP Overlay District: Relief from §240-24.1.9(B)(1) requiring Special Permit for parking facilities within the WP Overlay District for extra overflow off-site parking at 144 Ridgewood Avenue (in Transportation Hub District).

Parking Space Dimension: Relief from §240-52(A) 9'x20' parking space requirement to allow 9'x19' space as allowed by §240-104 Attachment 2:3 Dimensional Table. Also relief from § 240-24.1-10(4) (c) (2) Site Development Standards requiring minimum dimension of 9'x20' for each off-street parking space.

Maximum Lot Coverage: Relief from §240-24.1.2 (H) increase of lot coverage in excess of the maximum lot coverage provisions.

Increase in Vehicle Trips: Relief from §240-24.1.8(C) (2) (a) change in use that may increase vehicle trips on Route 28.

Maximum Building Height: Relief from §240-24.1.8(C): Dimensional Bulk Relief: Proposing five stories (55'), three stories (40') is the maximum allowed.

Parking in Front of Building: Relief from §240-24.1.8(C)(2)(d) discouraging parking at the front of the lot and limiting such parking to a single row of vehicles plus turning radius.

Parking Island Widths: Relief from §240-24.1.10(4)(d)[4] requiring that no landscaped islands in parking lots with 51 or more parking spaces be less than 10' wide.

Sign Relief: Relief from §240-59 through §240-78 inclusive in order to place a sign on the building.

Landscape Buffer Between Parking and Building: Relief from §240-53(B)(2) requiring 10' minimum buffer between building and parking lot.

Landscape Set Back From Residential Line: Relief from §240-24.1.10(5)(c) requiring 20' landscaped setback in the HG District from all residential property lines.

Permitted Uses, Well Head Protection Overlay District: Relief from § 240-35 (G) (1) (a) for permitting a non-conformity under non-conforming structures not used as a single/two family.

Lot Coverage, Well Head Protection Overlay District: Relief from § 240-35 (G) (3): No more than 50% of total upland area of any lot shall be made impervious.

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 _____, 2009.

By:
Town of Barnstable

By: Stuart A. Bornstein, President
Holly Management & Supply Corp., Manager of
Impulse, LLC, Developer

SPONSORS: Councilor James Tinsley and Council Vice President Harold Tobey

ATTACHMENT 1



LEED: NC

LEED-NC Version 2.2 Registered Project Checklist

LEED Design Phase revision 8.8.08

Yes ? No D- Design submittal, C- Construction submittal

					Responsibility
			3		
	C	Prereq 1	Construction Activity Pollution Prevention		VHB
		Credit 1	Site Selection		
		Credit 2	Development Density & Community Connectivity		
		Credit 3	Brownfield Redevelopment		
		Credit 4.1	Alternative Transportation, Public Transportation Access		
1	D	Credit 4.2	Alternative Transportation, Bicycle & Pedestrian Facilities		VHB/BMA
1	D	Credit 4.3	Alternative Transportation, Low-Emitting and Fuel-Efficient Vehicles		VHB/PLH
1	D	Credit 4.4	Alternative Transportation, Parking Capacity		VHB/PLH
		Credit 5.1	Site Development, Protect or Restore Habitat		
		Credit 5.2	Site Development, Maximize Open Space		
1		Credit 5.1	Stormwater Design, Quantity Control		
1	D	Credit 5.2	Stormwater Design, Quality Control		VHB
1		Credit 7.1	Heat Island Effect, Non-Roof- needs revision		
1	D	Credit 7.2	Heat Island Effect, Roof		BMA
1	D	Credit 8	Light Pollution Reduction		VHB
			3		
1	D	Credit 1.1	Water Efficient Landscaping, Reduce by 50%		VHB/PLH
1	D	Credit 1.2	Water Efficient Landscaping, No Potable Use or No Irrigation		VHB/PLH
		Credit 2	Innovative Wastewater Technologies		
1	D	Credit 3.1	Water Use Reduction, 20% Reduction		AEI
1	D	Credit 3.2	Water Use Reduction, >30% 1.28 WCI @ showerhead 0.5 lpm accepted		AEI
			4		
	C	Prereq 1	Fundamental Commissioning of the Building Energy Systems		CxA
	D	Prereq 2	Minimum Energy Performance		AEI
	D	Prereq 3	Fundamental Refrigerant Management		AEI
2	D	Credit 1	Optimize Energy Performance- 14% > ASHRAE Required		TE
1		Credit 2	On-Site Renewable Energy		
		Credit 3	Enhanced Commissioning		
1	D	Credit 4	Enhanced Refrigerant Management		AEI
		Credit 5	Measurement & Verification		
1	C	Credit 6	Green Power- median 12.8 kWh/yr @ 30.00¢/kWh = \$384		PLH

Yes ? No

			D	Prereq 1	Storage & Collection of Recyclables	BMA
				Credit 1.1	Building Reuse , Maintain 75% of Existing Walls, Floors & Roof	
				Credit 1.2	Building Reuse , Maintain 100% of Existing Walls, Floors & Roof	
				Credit 1.3	Building Reuse , Maintain 50% of Interior Non-Structural Elements	
1			C	Credit 2.1	Construction Waste Management , Divert 50% from Disposal	GC
1			C	Credit 2.2	Construction Waste Management , Divert 75% from Disposal	GC
				Credit 3.1	Materials Reuse , 5%	
				Credit 3.2	Materials Reuse , 10%	
1			C	Credit 4.1	Recycled Content , 10% (post-consumer + ½ pre-consumer)	BMA/GC
			C	Credit 4.2	Recycled Content , 20% (post-consumer + ½ pre-consumer)	BMA/GC
1			C	Credit 5.1	Regional Materials , 10% Extracted, Processed & Manufactured Regionally	BMA/GC
			C	Credit 5.2	Regional Materials , 20% Extracted, Processed & Manufactured Regionally	BMA/GC
				Credit 6	Rapidly Renewable Materials	
			C	Credit 7	Certified Wood - FSC wood doors/millwork/blocking will be priced	BMA/GC

Yes ? No

14

			D	Prereq 1	Minimum IAQ Performance	AEI
			D	Prereq 2	Environmental Tobacco Smoke (ETS) Control	PLH
1			D	Credit 1	Outdoor Air Delivery Monitoring	AEI
				Credit 2	Increased Ventilation	
1			C	Credit 3.1	Construction IAQ Management Plan , During Construction	GC
1			C	Credit 3.2	Construction IAQMP , Before Occupancy- EPA baseline IAQ testing	GC
1			C	Credit 4.1	Low-Emitting Materials , Adhesives & Sealants	BMA/GC
1			C	Credit 4.2	Low-Emitting Materials , Paints & Coatings	BMA/GC
1			C	Credit 4.3	Low-Emitting Materials , Carpet Systems	BMA/GC
1			C	Credit 4.4	Low-Emitting Materials , Composite Wood & Agrifiber Products	BMA/GC
1			D	Credit 5	Indoor Chemical & Pollutant Source Control	BMA/AEI
1			D	Credit 6.1	Controllability of Systems , Lighting	AEI
1			D	Credit 6.2	Controllability of Systems , Thermal Comfort	AEI
1			D	Credit 7.1	Thermal Comfort , Design- as/ASHRAE 55-2004	AEI
1			D	Credit 7.2	Thermal Comfort , Verification- as/ASHRAE 55-2004	AEI
1			D	Credit 8.1	Daylight & Views , Daylight 75% of Spaces	BMA
1			D	Credit 8.2	Daylight & Views , Views for 90% of Spaces	BMA

Yes ? No

1

	1		D	Credit 1.1	Innovation in Design : Exemplary Green Power offset ~\$12k	PLH
			D	Credit 1.2	Innovation in Design : Green Building Education- signage & outreach	PLH/BMA
				Credit 1.3	Innovation in Design :	
				Credit 1.4	Innovation in Design :	
			C	Credit 2	LEED® Accredited Professional	RMEC

Yes ? No

31

Project Totals (pre-certification estimates)

Certified 26-32 points Silver 33-38 points Gold 39-51 points Platinum 52-69 points

BARNSTABLE TOWN COUNCIL
PROPOSED REGULATORY AGREEMENT

ITEM#: 2010-018
INTRO: 08/06/09

SUMMARY

TO: Town Council
FROM: Planning Board
DATE: July 27, 2009
SUBJECT: Hilton Garden Inn, 333-349 Iyanough Road, Hyannis, MA
APPLICANT: Impulse, LLC
Stuart Bornstein, Manager

RATIONALE: This is a proposed Regulatory Agreement between the Town of Barnstable and Impulse, 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 permit Applicant to develop a Hilton Garden Inn, containing approximately 132 guest rooms, indoor pool, health club and business center. Currently there are two buildings on the site. The main structure contains 47,404 s.f. and was used as a plumbing supply warehouse and retail store and showroom. The other building contains 6,200 s.f. and was most recently used as a church.

Applicant proposes to raze the existing buildings (totaling 53,604 s.f.), and replace them with a 5-story building with a footprint of 22,800 s.f. on a 2.3 acre parcel. The Applicant will contribute to traffic management, landscape improvements, public transportation facilities to serve the proposed development and build a green business-class hotel which will generate significant new annual tax income to the town.

The Applicant is proposing a Regulatory Agreement to establish an alternative means to comply with the requirements of the Barnstable Zoning Ordinance. Relief from the requirements of the Barnstable Zoning Ordinance, which would be authorized by the Regulatory Agreement, is as follows:

- Permitted Zoning: Relief is granted from §240-24.1-8(B) (1) (a) to allow for principal use as a hotel (non-residential development with a total floor area greater than 10,000 s.f.).
- Increase in Vehicle Trips: relief is granted from §240-24.1-8(C) (2) (a) to allow for a change in use on Route 28 that may increase vehicle trips per day.
- Parking Facilities within the WP Overlay District: Relief is granted from §240-24.1.9(B)(1) requiring Special Permit for parking facilities within the WP Overlay District for off-site overflow parking at 144 Ridgewood Avenue, Hyannis, MA located in the Transportation Hub District. (Said property is owned by Thornton Drive LP, a subsidiary of Applicant.)
- Maximum Building Height: Relief is granted from §240-24.1-8(C): Dimensional Bulk Relief: to allow for five (5) stories, 55' height. Under the Ordinance a Maximum height of three (3) stories, forty (40') feet is allowed.
- Front Yard Setback: Relief is granted from §240-24.1-8(C) requiring 30' minimum front yard setback, to allow for 20.5' setback from Route 28, and 14.4' setback from Spring St.

- Floor Area Ratio: Relief is granted from §240-24.1.8(C) requiring .80 Floor Area Ratio, to allow for .93.
- Front Yard Landscape Setback: Relief is granted from §240-24.1-8(C) (1) requiring 60' front yard landscape setback on Route 28; landscape setback provided 7.5' (including 5' sidewalk).
- Schedule of Off-Street Parking Requirements: Relief is granted from §240-56 Requirements: 1.2 spaces per guest room and 1 per 2 employees max per shift, to allow for 115 parking spaces on site (and 69 overflow parking spaces off-site). (Project utilizes the 62' parking bay permitted by §40-104 Attachment 2:3 Dimensional Table.)
- Parking Space Dimensions: Relief is granted, from §240-52(A) 9'x20' parking space requirement to allow 9'x19' space as allowed by §240-104 Attachment 2:3 Dimensional Table (Note: 18' space permitted in §240-39(J) (3) Shopping Center Redevelopment Overlay District). Also, relief is granted from §240-24.1-10(4) (c) (2) Site Development Standards requiring minimum dimension of 9'x20' for each off-street parking space.
- Parking in front of Building: Relief is granted from §240-24.1-8(C)(2)(d) discouraging parking at the front of the lot and limiting such parking to a single row of vehicles, to allow for two (2) rows of parking in front of the building.
- Parking Island Widths: Relief is granted from §240-24.1-10(4)(d)(4) requiring that no landscaped islands in parking lots with 51 or more parking spaces shall be less than 10' wide, to allow for islands which may be less than 10' in width in some places.
- Landscaped Setback from Residential Line: Relief is granted from §240-24.1.10(5) (c) requiring 20' landscaped setback in the HG District from all residential property lines, to allow for 10'.
- Permitted Uses, Well Head Protection Overlay District: Relief is granted from §240-35(G) (1) (a), permitting a non-conformity under Non-conforming Structures not used as a single/two family.
- Signage: Relief is granted from §240-59 through §240-89, inclusive, in order to permit Applicant to put a sign on the building.
- Landscape Buffer Between Parking and Building: Relief is granted from §240-53(B)(2) requiring 10' minimum buffer between building and parking lot, to permit slight relief in places as shown on Plans.
- Lot C overage, Well Head Protection Overlay District: Relief is granted from §240-35(G) (3) prohibiting more than 50% of total upland area of any lot to be made impervious, to allow for 79%. NOTE: the total existing impervious coverage is 93.4%.
- Maximum Lot Coverage: Relief is granted from §240-24.1.2H requiring a Special Permit to allow for an increase in the maximum lot coverage from 80% to 78.8% (Note: Current lot coverage is 93.4%).

The Agreement is beneficial to the community because of the following:

1) Revenue to Town: The developer will contribute to public capital facilities by providing \$100,000 cash contribution, with \$50,000 to be directed for landscape improvements on Route 28, and \$50,000 to the Hyannis Youth & Community Center Foundation; The developer will also perform all work required to upgrade the existing 8" water main to a 12" water main from the site to the 16" water transmission main at the corner of Mary Dunn Way and Brooks Road (estimated by the Town to cost a minimum of \$360,000). The Agreement also offers dramatic financial benefits to the community as a result of the anticipated \$250,000 (up to a possible \$500,000) in the first year of business in new income to the town as a result of real estate taxes and room and occupancy tax. This new revenue will have no impact on the Town's school system. Over the first 20 years of business, the hotel would generate over \$6,000,000 in new revenue to the Town.

2) Aesthetic Improvements to Town: The proposed development would dramatically improve a run-down, blighted, abandoned area, to a first-class "green" hotel, designed by a renowned architect, with a partial living plant façade, surrounded by lush landscaping, including landscaping from the site up to the Airport rotary. The Regulatory Agreement would allow a very welcome change to this Gateway to Hyannis.

3) Employment: Will create approximately 200+ construction jobs during 1-2 year construction phase, and will result in approximately 20 newly created full-time year-round permanent benefited jobs, and approximately 30 newly created part-time permanent year round jobs.

4) Tourism: Will provide a first-class welcome to visitors flying into Barnstable Municipal Airport, as well as those taking the bus or a possible commuter rail, into the nearby Transportation Center. The hotel will include amenities such as indoor pool, restaurant, and business conference areas, which will meet the demands of travelers, increasing the tourist and business traveler traffic in the Hyannis area. Current industry standards state that the average tourist spends \$140 per day on meals and entertainment, and typically stay within 3 miles of their hotel; factoring a 60% occupancy rate, 2 people per room, for one year, would generate \$8,094,240 to downtown/mall Hyannis areas.

5) Traffic and Transportation: Vehicle trips will be reduced from the previous uses as a church and plumbing supply warehouse and design center; Shuttle bus service will be provided to patrons of the hotel to and from the Barnstable Municipal Airport, downtown Hyannis and Cape Cod Mall shopping, Main Street and surrounding area restaurants, museums, ocean activities and other attractions as incentive to visitors and business travelers to stay without the necessity of renting a vehicle/driving to the hotel; approximately 40% of the guests will arrive by buses as part of tour packages, greatly reducing traffic and parking. It has been determined that the increase in traffic during peak hours as a result of the hotel operations would be only 1% increase in vehicle trips.

6) Environment: The hotel will be a first-class “green” building utilizing the most sophisticated environmentally-friendly building materials, appliances and utilities available, complying with the LEEDS guidelines, and will be regulated by The Hilton Franchise strict environmental guidelines.

7) Land Preservation: The site will provide substantial landscaping buffers around the building and bordering the site including Route 28 and other perimeter roads using a combinations of Heritage Clump Birch, October Glory Red Maples, June berries, Northern Arrow woods, Maiden Grasses, Overdam Feather Reed Grasses, Elija Blue Fescues, Heller’s Japanese Hollies, Nikko Blue Hydrangeas, PJM Rhododendrons, Shamrock Inkberries, Hybrid Daylilies, and California Privets, providing a dramatic improvement to the aesthetics and green space of the parcel, and reducing the impervious surface.

8) Community and Recreational Facilities: The Hilton Garden Inn Hyannis will include high-end amenities such as indoor pool, health club and business conference center, improving the services offered in the greater Hyannis area. The proposed development will be a significant improvement to the area, and will offer superior benefits to the Town of Barnstable, surrounding community, Cape Cod visitors, as well as businesses everywhere desiring a fully capable business class hotel in a resort area close to a municipal airport.

REGULATORY AGREEMENT PROCESS: The proposed Agreement was negotiated by the Barnstable Planning Board over the course of fourteen (14) public hearings held on 11/10/08, 12/8/08, 1/6/09, 1/26/09, 2/3/09, 2/9/09, 2/17/09, 2/23/09, 3/3/09, 4/13/09, 4/27/09, 5/5/09, 5/11/09 and 5/18/09. The proposed Agreement was approved by the Planning Board for recommendation to the Town Council by a majority vote of the Board on May 18, 2009.

Because the applicant requests zoning relief, a two-thirds 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.

FISCAL IMPACT: Positive.