



Town Council Meeting  
February 28, 2019



**A** quorum being duly present, President James Crocker, Jr. called the February 28, 2019, Town Council meeting to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Crocker regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

**PRESENT:** Britt Beedenbender, James Crocker, Jr., Jennifer Cullum, Debra Dagwan, John Flores, Jessica Rapp Grassetti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Eric Steinhilber, James Tinsley, Jr., Philip Wallace

The Pledge of Allegiance was led by President Crocker followed by a moment of silence.

President Crocker explained agenda item 2019-088 would be moved by vote to the May 16, 2019 Council meeting.

**PUBLIC COMMENT:**

Stephen Edwards felt the proposed building at 720 Main Street Hyannis was wrong for the area. He had concerns regarding adequate parking and run off issues. He stated he was opposed to the building as it was too big for the area.

Dennis Eckstrom felt there were legal issues with the proposed redevelopment of 720 Main Street Hyannis. He stated he was opposed to this building.

Matt O'Connell had concerns with 720 Main Street Hyannis parking at as it was not enough. He felt the current tenants would be impacted by the new building.

Dan Creedon, attorney for the 720 Main Street applicant expressed his client's desire to continue this agenda item to another meeting. He suggested there were three possible scenarios to the opposition: redesign the project; all parties work together to formulate a new plan or go to land court. His explained his client was in favor of pursuing the first two scenarios.

Zenas Crocker urged Council to eliminate plastic straws from Barnstable. He hoped this action would send a message to the state regarding taking care of our waters.

Linda Edson opposed the new zoning agenda item. She felt it was selling out Route 28 for growth dollars. She handed out the traffic study and urged Council to vote no. (EXHIBIT A)

Susan Sweet felt no resident has come forward to support this zoning ordinance change. She opposed the expansion and hoped there would be a better solution.

Eileen Hannon suggested Hyannis and Centerville areas should be separated in regards to this zoning ordinance. She suggested leasing the empty stores first before more are built.

Felicia Penn felt agenda item 2019-042 should be withdrawn without prejudice or tabled. She read from a prepared letter and explained there was no additional infrastructure for the building and this ultimately was bad for our town water. She questioned the urgency of this expansion. (EXHIBIT B)

Fred Chirigotis spoke about the neighborhoods being impacted and negatively affected by this zoning change. He urged Council to table this agenda item and added there needed to be further study of the zoning.

Elizabeth Reilly opposed the expansion and discussed the MassDOT crash study for the area. She hoped Council would vote against this zoning expansion

Close public comment

**Councilor Response to Public Comment:**

The Public Works Department can make the proposed zoning ordinance area safer with signage and other traffic calming techniques. We do need to protect the centers of all villages. Please do not forget the Cape Cod Commission Corridor study wants to reduce the number of curb cuts. Council members thanked all who have attended the meetings regarding the zoning ordinance. Great thought was put into this proposed ordinance.

**TOWN MANAGER COMMUNICATIONS:** (EXHIBIT C)

- Youth Commission
- Budget FY 2020
- Fish & Wildlife
- Expedition: Blue!
- Cape Cod Island Water Protection Funds
- Short Term Rentals (EXHIBIT D)
  - Mark Milne, Director of Finance, discussed the language for the proposed bylaw. He noted Barnstable was already utilizing local option excise tax. New revenue from the short term rentals cannot be utilized until 2021 per the Department of Revenue guidelines.

**Councilor questions and comments:**

Need to ensure Barnstable is receiving the correct revenue from this bylaw. Concerned with Barnstable losing dollars due to lack of infrastructure [We will move quickly for representation to ensure Barnstable's rightful share of the 2.75 percent] How many people have been appointed to this coalition to review the funds from the short term rentals [One] The Town will need to review and make a recommendation as the appointment must be made by April 1, 2019. [This is a three year appointment]

*Council Tinsley arrived at approximately 8:25 P.M.*

Mark Ellis discussed the Comprehensive Water Management Plan for Barnstable. He

explained there would be updates at every second Council meeting of the month. He noted the working group consisted of the Town Manager, Assistant Town Manager, Public Works Director, Assistant Director of Public Works, Council President and Council Vice President. He added the working group will meet as needed for the next nine months to complete a Comprehensive Water Management Plan (CWMP). He explained the draft CWMP should be completed fall of 2019. The last CWMP plan was dated 2007 and it is still the value plan. The working group will be looking at existing systems, water blending and all other aspects of water management.

**ACT ON MINUTES:** Upon a motion duly made and seconded it was voted to approve the minutes of the February 7, 2019.

**VOTE: PASSES UNANIMOUS**

**COMMUNICATIONS – from elected officials, boards, committees, staff, commission reports, correspondence and announcements:**

Hang tight we are still in the process of construction on Sea Street. Just to reiterate funding for Sea Street was from Chapter 90 dollars not from the General Revenue fund.

<p><b>2019-042 AMENDING CHAPTER 240, ARTICLE III, OF THE ZONING ORDINANCES TO EXPAND THE HIGHWAY BUSINESS DISTRICT</b> <b>INTRO: 11/01/2018, 11/15/18, 12/06/18, 01/17/19, 02/07/19, 02/28/19</b></p>
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President Crocker explained he had previously recused himself from this agenda item as he owns two properties in the proposed area. He has decided to remove his properties from the ordinance.

*President Crocker left the dais at approximately 8:55 P.M.*

Town Council Vice President John Flores turned the meeting over to Councilor Eric Steinhilber in accordance with Article # 4 - February 2006 as he wanted to participate in the discussion of the item. Vice President Flores then offered three amendments dividing the zoning map into maps A (Amending the Townwide, Osterville, & Centerville Zoning Maps), B (Amending the Townwide, Centerville, & Hyannis Zoning Maps), and C (Amending Townwide & Hyannis Zoning Maps). He felt dividing the ordinance language into three amendments would clarify the situation. Councilor Steinhilber explained the revisions were based on the Town map not the illustrated maps. He added the motion was not deciding anything just rather to take up the agenda item in three parts.

**TRIFURCATE CHAPTER 240, ARTICLE III**

Upon a motion duly made and seconded it was to trifurcate Chapter 240, Article III of the Zoning Ordinance into 3 sections utilizing maps A (Amending the Townwide, Osterville, & Centerville Zoning Maps), B (Amending the Townwide, Centerville, & Hyannis Zoning Maps), and C (Amending Townwide & Hyannis Zoning Maps).

**VOTE: PASSES 2 NO (SCHNEPP and RAPP GRASSETTI) (CROCKER OFF DAIS)**

*Council recessed at approximately at 9:10 P.M.*

*Council reconvened at approximately at 9:15 P.M.*

**AGENDA ITEM 2019-042A**

Councilor Levesque discussed removing the two properties owned by President Crocker from the agenda item. Councilor Hebert questioned removing two parcels per direction from President Crocker/owner – he said he took issue with this as President Crocker did everything right, contacted the Ethics Committee, recused himself. Councilor Cullum added she was happy and thankful President Crocker removed his parcels, better for public understanding and perception.

Upon a motion duly made and seconded it was to remove the two properties

- Map 189 Parcel 055
- Map 209 Parcel 020

From agenda item 2019-042A

**VOTE: AS AMENDED - PASSES 7 YES 3 NO (WALLACE, LEVESQUE, HEBERT) 2 ABSTAIN (SCHNEPP AND RAPP GRASSETTI) (CROCKER OFF DAIS)**

Councilor Beedenbender mentioned the need for consideration of traffic and infrastructure of all three maps. She felt the Local Comprehensive Plan did not support the expansion. She noted the impact to residential parcels and added there needed to be a lot more review before zoning changes in that area. Councilor Hebert explained the zoning changes were to postage stamp size areas. Councilor Schnepf had concerns with these zoning changes and felt there should be no rush into the zoning map amendments. Councilor Rapp Grassetti explained she did not support the trifurcate of agenda item 2019-042A. She noted due to the lack of infrastructure, issues with traffic, and pedestrian safeguards the zoning did not adequately protect the current area. She questioned the need for changes to zoning, as there was still no complete Comprehensive Water Management Plan. Councilor Levesque, who was a member of the advisory subcommittee, felt the committee had worked diligently and very conscientious, on the zoning changes. Councilor Dagwan felt the residential areas were now being included in the commercial areas and she supported the residents who wanted their areas to remain residential. Councilor Tinsley felt the property rights of our constituents were very important as well as the new growth dollars for the health of the Town. He explained he was supportive of the amendment but it was not an easy vote.

Councilor Beedenbender spoke about two amendments to agenda item 2019-042A. Councilor Beedenbender read aloud the first change.

Upon a motion duly made and seconded it was under section 1 of 2019-042A, to amend the “Town Zoning Map”, the “Centerville Zoning Map” and the “Osterville Map, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 189 Parcel 002-001
- Map 189 Parcel 003
- Map 189 Parcel 067
- Map 189 Parcel 058
- Map 189 Parcel 057

Councilor Beedenbender mentioned there was a second amendment to agenda item 2019-042A. Ruth Weil, Town Attorney, clarified that a previous amendment had already

accomplished what her amendment was seeking-- to rezone the entirety of the land area currently zoned Highway Office to Highway Business District. Councilor Beedenbender was satisfied there was no need for an additional second amendment.

**VOTE: AS AMENDED TO REMOVE AFOREMENTIONED FIVE PARCELS - PASSES 9 YES 2 NO (TINSLEY AND WALLACE) 1 ABSTAIN (RAPP GRASSETTI)**

Upon a motion duly made and seconded it was under section 1 of 2019-042A, to amend the "Town Zoning Map", the "Centerville Zoning Map" and the "Osterville Map, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 209 Parcel 086CND
- Map 209 Parcel 085
- Map 209 Parcel 084
- Map 209 Parcel 083
- Map 209 Parcel 082
- Map 209 Parcel 081
- Map 209 Parcel 015
- Map 209 Parcel 016
- Map 209 Parcel 017
- Map 209 Parcel 018
- Map 209 Parcel 019

**VOTE: AS AMENDED AGENDA ITEM 2019-042A - FAILS 7 YES 3 NO (RAPP GRASSETTI, HEBERT, SCHNEPP) 2 ABSTAIN (BEEDENBENDER AND DAGWAN)**

*President Crocker returned to the dais at approximately 10:15 P.M.*

**AGENDA ITEM 2019-042B**

President Crocker spoke about his discussion with the Ethics Board. He noted he was not in any violation since his properties were not involved in the two remaining sections. He explained he could discuss and vote on the remaining sections of the 2019-042 agenda item.

Councilor Schnepf felt this zoning could be considered spot zoning and not good for Barnstable. Councilor Beedenbender suggested removing parcels from agenda item 2019-042B.

Upon a motion duly made and seconded it was under section 1 of 2019-042B, to amend the "Town Zoning Map", the "Centerville Zoning Map" and the "Hyannis Zoning Map, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 229 Parcel 101
- Map 250 Parcel 049
- Map 250 Parcel 009
- Map 249 Parcel 063

- Map 249 Parcel 053-001
- Map 249 Parcel 053
- Map 249 Parcel 054-CND
- Map 249 Parcel 055-CND

**VOTE: AS AMENDED - FAILS 4 YES 8 (CROCKER, FLORES, HEBERT, LEVESQUE, NEARY, STEINHILBER, TINSLEY AND WALLACE) NO 1 ABSTAIN (ABSTAIN)**

Councilors discussed the merits of removing parcels from agenda item 2019-042B amendment. This amendment included parcels that residential owners had objected to changing the zoning. The owners did not want the neighborhood to become commercial. President Crocker suggested an amendment to remove two parcels:

- Map 249 Parcel 053 001
- Map 249 Parcel 053

Councilor Beedenbender remarked the Sweet property is not the issue it is the neighborhood. The neighborhood zoning is changing. Councilor Beedenbender said she was not supportive of this amendment. President Crocker felt this zoning is needed as it was going to increase economic growth in Barnstable.

Upon a motion duly made and seconded it was under section 1 of 2019-042B, to amend the “Town Zoning Map”, the “Centerville Zoning Map” and the “Hyannis Zoning Map, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 249 Parcel 011
- Map 249 Parcel 043

**VOTE: AS AMENDED - FAILS 8 YES 4 NO (BEEDENBENDER, CULLUM, DAGWAN AND SCHNEPP) 1 ABSTAIN (RAPP GRASSETTI)**

Upon a motion duly made and seconded it was under section 1 of 2019-042B, to amend the “Town Zoning Map”, the “Centerville Zoning Map” and the “Hyannis Zoning Map, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 229 Parcel 101
- Map 250 Parcel 049
- Map 250 Parcel 009
- Map 249 Parcel 063
- Map 249 Parcel 053-001
- Map 249 Parcel 053
- Map 249 Parcel 054-CND
- Map 249 Parcel 055-CND
- Map 250 Parcel 007
- Map 250 Parcel 006-CND
- Map 250 Parcel 005

- Map 250 Parcel 004
- Map 250 Parcel 002-CND
- Map 250 Parcel 001
- Map 250 parcel 029
- Map 250 Parcel 028
- Map 249 Parcel 088
- Map 249 Parcel 105
- Map 249 Parcel 028
- Map 249 Parcel 029

**VOTE: AS AMENDED AGENDA ITEM 2019-024B - FAILS 8 YES 4 NO (BEEDENBENDER, CULLUM, DAGWAN AND SCHNEPP) 1 ABSTAIN (RAPP GRASSETTI)**

**AGENDA ITEM 2019-042C**

Upon a motion duly made and seconded it was under section 1 of 2019-042C, to amend the “Town Zoning Map”, the “Hyannis Zoning Map”, referenced in Section 1 of the Order, by striking from those maps the parcels identified as:

- Map 290 Parcel 112
- Map 290 Parcel 100
- Map 289 Parcel 046
- Map 289 parcel 045

**VOTE: AS AMENDED AGENDA ITEM 2019-042C - FAILS 8 YES 4 NO (BEEDENBENDER, CULLUM, DAGWAN AND RAPP GRASSETTI) 1 ABSTAIN (SCHNEPP)**

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

**Section 1.**

By amending Article II, Section 6, The Zoning Map of the Town of Barnstable, Massachusetts, is hereby amended by expanding the Highway Business (HB) District as shown on the maps entitled:

- “Proposed Amendment to the Town Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Centerville Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Hyannis Zoning Map Expanding the Highway Business District in Centerville and Hyannis”
- “Proposed Amendment to the Osterville Zoning Map Expanding the Highway Business District in Centerville and Hyannis.”

all dated October 26, 2018, as prepared by the Town of Barnstable GIS Unit.

**Section 2**

That Chapter 240, Article III, § 240-26 "Highway Office" of the Zoning Ordinance is hereby deleted.

**Section 3**

That Chapter 240, Article II, § 240-5 "Establishment of Districts" of the Zoning Ordinance is hereby amended by striking the Office Districts section and the associated "Highway Office District."

**VOTE: 2019-042 AGENDA ITEM - FAILS**

**2019-087 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$765,000 FOR THE FISCAL YEAR 2019 AIRPORT OPERATING BUDGET INTRO: 02/07/19, 02/28/19**

Katie Service, Airport Manager gave the rationale. She gave an overview of her PowerPoint presentation.

Open public hearing seeing no one close public hearing

**Upon a motion duly made and seconded to go beyond 11:00 P.M.**

**VOTE: 11 YES 2 NO (TINSLEY AND LEVESQUE)**

**Councilor questions and comments:**

What is the need for the increase? [Aviation jet fuel and legal fees for the outside counsel]

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$765,000** be appropriated for the purpose of funding Fiscal Year 2019 Airport Operating expenses, and that to meet this appropriation, that **\$765,000** be transferred from the Airport Enterprise Fund Reserves.

**VOTE: 11 YES 2 NO (HEBERT and CROCKER)**

**2019-088 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND 720 MAIN RESIDENCES, LLC, FOR PROPERTY LOCATED AT 720 MAIN STREET, HYANNIS, MA INTRO: 02/07/19, 02/28/19**

Upon a motion duly made and seconded it was

**ORDERED:** That the Town Manager is authorized pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable and 720 MAIN RESIDENCES, LLC, for the property 720 Main Street, Hyannis, 1.13 ± acres, shown on Town of Barnstable Assessor's Map 308 as Parcel 003, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 30351, Page 192 ("the Property"); and permitting the redevelopment of the Property and granting the requested zoning relief. The Developer desires to develop the Property pursuant to this Regulatory Agreement.

**REGULATORY AGREEMENT**

**720 MAIN STREET, HYANNIS**

This regulatory agreement ("Agreement") is entered by and between the developer, **720 MAIN RESIDENCES, LLC**, a Massachusetts limited liability company ("Developer") and



the **TOWN OF BARNSTABLE** ("Town"), a municipal corporation, on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Section 168 of the Barnstable Code;

WITNESS:

WHEREAS, this Agreement shall establish the permitted uses, densities, and traffic within the Development (as hereafter defined), 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 is authorized to enter into this Agreement pursuant to Chapters 168 and 240 of the Barnstable Code;

WHEREAS, Developer is the buyer under a purchase a sale agreement entitled "Agreement for Sale and Purchase of Property" dated May 26, 2017 of the property at 720 Main Street, Hyannis, Massachusetts shown on Town of Barnstable Assessor's Map 308 as Parcel 003, consisting of 49,249 ± square feet (1.13 ± acres), referred to herein as "the Property";

WHEREAS, Developer is willing to commit itself to use of the Property in accordance with this Agreement and desires to have a reasonable amount of flexibility to do so and therefore considers this Agreement to be in its best interests;

WHEREAS, the Town and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to use 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 Downtown Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006, and re-designated by decision dated April 19, 2018, as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02 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, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11 and 18-02, establishing revised development thresholds 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, the Development was reviewed by the Town of Barnstable Site Plan Review Committee on June 7, 2018 (SPR 016-18) and the Site Plan Review Committee voted to find the development proposal approvable subject to the grant of a Regulatory Agreement and other conditions as stated in its letter dated June 11, 2018 (the "Site Plan Approval Letter");

WHEREAS, the Property is currently improved only with curb cuts off Main Street and North Street with frontage on both, and existing paved internal driveways and parking areas and subsurface drainage and sewer structures;

WHEREAS, Developer proposes to: retain and improve the existing improvements located on the Property, including undertaking and completing improvements, reconfigurations and additions to existing paved parking areas and driveways, landscaping, subsurface drainage structures, including a significant addition, reconfiguration and improvement to the design and functionality of the Town drainage collection system located in Main Street and Town-owned property at 725 Main Street, Hyannis, which is adjacent to, and across the street from, the Property, as depicted on plans submitted to and reviewed by the Town, Town sewer lines and tie-ins, and Town domestic and fire suppression water supply lines and tie-ins and other utility tie-ins to service the property and to redevelop the property substantially by constructing a mixed-use building consisting of 40 residential units to be offered for rent as moderately priced, workforce housing consisting of 1, 2 and 3 bedroom units and 1 office unit, with parking located both off-site and on-site, a portion of which will be located under the building at ground level, together with related landscaping and other site improvements as depicted on the plans submitted herewith;

WHEREAS, Developer will require zoning relief to allow for construction of the structures and improvements described above to redevelop the property all as shown on the plans submitted with its application for approval of the within Agreement and as further defined in paragraphs numbered 1 and 2 below;

WHEREAS, the project is consistent with the Downtown Hyannis Design & Infrastructure Plan in that it contributes to the plan's goals of: creating livable neighborhoods for year round residents; creating housing opportunities for persons and households of all income levels; enhancing pedestrian access; promoting traffic reduction and alternate transportation modes; and promoting private investment in buildings and structures that support appropriate economic development;

WHEREAS, this Agreement will result in the following community benefits to the Town

a. 40 moderately priced, workforce residential housing units located within walking distance to the businesses, restaurants, cafes and shops located in and near the downtown Main Street area and the area designated in and by the Town and the Cape Cod Commission for growth and redevelopment known as the Growth Incentive Zone will be added to the housing stock of the Town;

b. blight will be reduced in the neighborhood as this commercial site that has sat vacant for ten plus years will be redeveloped to provide needed moderately- priced residential housing offered for rent;

c. Developer will upgrade, reconfigure and improve the Town stormwater drainage collection system to increase its capacity and functionality in Main Street adjacent to and south of the property, upgrading the existing system components in Main Street and at 725 Main Street to the outfall thereon as depicted on plans submitted to and approved by the Town; and

d. the Town's property tax revenue will increase.

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

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

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

1. The Developer proposes to redevelop and maintain the property as follows:

a. The Developer proposes to retain and improve the existing improvements located on the Property, including undertaking and completing improvements, reconfigurations and additions to existing paved parking areas and driveways, landscaping, subsurface drainage structures, including a significant addition, reconfiguration and improvement to the design and functionality of the Town stormwater collection system located in Main Street adjacent to the Property and at 725 Main Street, across the street from the property as depicted on plans submitted to and reviewed by the Town, Town sewer lines and tie-ins, and Town domestic and fire suppression water supply lines and tie-ins and other utility tie-ins to service the property and to redevelop the property substantially by constructing a mixed-use building consisting of 40 residential units to be offered for rent as moderately priced, workforce housing consisting of 1, 2 and 3 bedroom units and 1 office unit, with parking located both off-site and on-site, a portion of which will be located under the building at ground level, together with related landscaping, retaining walls and other site improvements as depicted on the plans submitted herewith;

The Gross Square Footage of the proposed four-story, mixed-use building is 62,003 square feet, with a no less than 40 and not more than 44 spaces (2 ADA accessible) parking area under on the ground floor with general space comprised of entries, hallways, lobby, trash collection room, and sprinkler and utility rooms; 1,306 gross square feet committed to office use located on the ground floor and 43,912 gross square feet committed to residential use with a total of 40 residential units, consisting of 19 one-bedroom units (47%); 6 one-bedroom plus den units (15%); 11 two-bedroom units (28%); and 4

three-bedroom units (10%) comprising a total bedroom count of 59 bedrooms;

- b. The Developer agrees to redevelop and maintain the Property in accordance with the plans and specifications submitted to and approved by the Town, listed as follows and made a part of this Regulatory Agreement by reference:
  - i. "720 Main Residences Redevelopment" 8 Sheets, dated February 20, 2018, previously revised June 25, 2018, last revised Nov. 29, 2018 as to Sheet C-101 'Grading and Drainage Plan' only (one sheet) prepared by BSC Group, West Yarmouth, MA for Williams Building Company, Inc., West Yarmouth, MA;
  - ii. "Fire Truck Access Plan" dated Feb. 28, 2018 prepared by BSC Group, West Yarmouth, MA for Williams Building Company, Inc., West Yarmouth, MA; and
  - iii. Floor and Elevation Plans entitled: "720 Main Residences, Hyannis, MA," 14 sheets, dated February 19, 2018 prepared by MTD Architects, Salem, MA.
2. The Developer agrees to comply with the conditions in the aforesaid Site Plan Approval Letter dated June 11, 2018 (SPR 016-18), a copy of which is attached hereto and incorporated by reference herein;
3. Mixed-use development with a total floor area greater than 20,000 square feet is a permitted principal use by special permit under Section 240-24.1.6 OM Office/Multi-family Residential District Subsection B.(1)(b);
4. The development rights granted hereunder shall be exercised and development permits may be obtained hereunder for a period of 5 years from the effective date of the Agreement, provided, however, that prior to the expiration of said 5 year period Developer may request an eighteen 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. In addition, if and as exigent or necessary, Developer may request additional extensions, not to exceed in the aggregate 10 years from the effective date of the Agreement, plus one 12 month extension thereafter to obtain development permits, if and as necessary, requested and granted;
5. To the extent that the referenced plans do not depict all of the findings and conditions as set forth in this Agreement, revised plans and/or notations shall be provided. In addition to permits, plans and approvals listed above, any and all permits and licenses required shall be obtained:
  - a) Final elevations and material selections, including exterior siding, shall be provided to the Planning & Development Department and a determination of consistency with the Design and Infrastructure Plan shall be made by the

Director of the Planning & Development Department prior to the building permit stage.

6. Rental restrictions. Developer's minimum lease term of rental units shall be twelve (12) months. Sublease of rental units, if permitted by the Developer, shall be for a minimum term of ninety (90) days. The lease documents shall be reviewed by the Town Attorney for consistency with the conditions of this Agreement prior to issuance of the first Certificate of Occupancy;
7. Each residential unit shall have at least one dedicated parking space, designated by signage and/or surface paint. The total number of parking spaces provided for the Property is 79 (4 of which shall be ADA compliant) with 64 provided on-site (no less than 40 and no more than 44 of which shall be sheltered, located under the structure, access to which shall be restricted to residents of the units by operational gate with passcode or remote operated access) and 15 provided off-site by existing grant of easement benefitting the property recorded in Book 5496, Page 38 and shown on Plan Bk. 428, Page 9 and the total exceeds the number of spaces required by the Town of Barnstable Zoning Ordinance. A copy of any modification of said easement shall be filed with the Planning and Development Department;
8. The developer shall provide bike racks and or bike storage on the Property;
9. All plumbing fixtures in the new units shall be low water use fixtures and other water conservation measures are encouraged in the design and development of the project;
10. Construction and demolition debris shall be removed from the Property and shall be reused or recycled to the maximum extent possible;
11. All landscaping within the development shall be low-water use and shall minimize the use of fertilizers and pesticides;
12. Letter of Credit. Prior to the issuance of any foundation building permit, Developer will provide a Letter of Credit or cash in an amount to be approved by the Planning Board or its designee, said Letter of Credit or cash to be expended on the replacement of landscape materials if such replacement becomes necessary. Any unexpended portion of said Letter of Credit or cash shall 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. The terms of the Letter of Credit are subject to review and approval by the Town of Barnstable Town Attorney;
13. This Agreement will result in the following benefits to the Town:
  - a. 40 moderately priced, workforce residential housing units located within walking distance to the businesses, restaurants, cafes and shops located in and near the downtown Main Street area and the area designated in and by the Town and the Cape Cod Commission for growth and redevelopment known as the Growth Incentive Zone will be added to the housing stock of the Town;

- b. blight will be reduced in the neighborhood as this commercial site that has sat vacant for ten plus years will be redeveloped to provide needed moderately-priced residential housing offered for rent;
- c. Developer will upgrade, reconfigure and improve the Town stormwater collection system to increase its capacity and functionality in Main Street adjacent to and south of the property, upgrading the existing system components in Main Street and at 725 Main Street to the outfall thereon as depicted on plans submitted to and approved by the Town; and
- d. the Town's property tax revenue will increase.

14. a. The Developer shall participate in, and be in full compliance with, the affordability restrictions and requirements of MassHousing's Workforce Housing Initiative, or similar alternative financing and subsidy program or combination of programs, which, among other guidelines and requirements targets individuals and families with incomes of between 61% to 120% of Area Median Income (AMI); ensures workforce housing units are deed restricted as affordable; and requires 20% of units at the development must be deed restricted and affordable for households earning at or below 80% of AMI.

b. Notwithstanding anything to the contrary in the previous paragraph, 14(a), any alternative financing and subsidy scenarios other than participation in MassHousing's Workforce Housing Initiative that result in deed restricted unit affordability equal to or greater that provided by MassHousing's Workforce Housing Initiative as described above shall be reviewed and approved by the Director of Planning & Development for compliance with this agreement. The Town reserves the right to determine that any alternative to paragraph 14(a) above constitutes an amendment of this agreement pursuant to Chapter 168 of the Code of the Town of Barnstable.

c. If Developer's application for participation in such state or federal financial assistance initiative or program that carries with it a requirement of establishing deed restricted affordable and workforce housing affordability is denied or is discontinued or becomes unavailable such that applying therefor would be impossible or futile, then, in that case, Chapter 9, Article I Inclusionary Affordable Housing Requirements – Section 9-4-D requiring at least 10% of residential units constructed to be dedicated by deed restriction to affordable housing units shall not be waived and Developer shall be required to comply therewith, subject to the following requirements:

1. Four (4) of the units in the proposed new development shall be dedicated as an affordable housing unit in perpetuity and shall be eligible for inclusion on the State's subsidized Housing inventory 760 CMR 56, as follows:
2. The four units shall only be rented to qualified households with an income of not more than sixty-five (65%) percent of Area Medium Income for the Town of Barnstable (as determined by HUD) and priced so as to be affordable and not exceed a monthly housing cost of 30% of such households' annual income, including rent and utilities;
3. In order to protect the perpetuity of the affordable units, an Affordable Housing Restriction such as the one for the Commonwealth of Massachusetts Department of housing and Community Development Local

Initiative Program shall be prepared by the applicant and reviewed and approved by the Town Attorney's office and recorded as the senior encumbrance at time of recording of this agreement;

4. The Town reserves the right to determine that any alternative to subparagraphs (a) and (b) constitutes an amendment of this agreement pursuant to Chapter 168 of the Code of the Town of Barnstable.

d. Prior to issuance of the first Certificate of Occupancy, proof of the recording of the required affordable housing restriction(s) shall be provided to the Building Commissioner.

15. Developer agrees that 30 days prior to any change of ownership of the Property that written notice shall be sent to the Planning Board, Town Council, and Town Manager and further agrees, that all terms and conditions of this regulatory agreement and any amendments thereto, shall be binding on any successive owner of the Property;

16. The Town hereby grants waivers from the following Zoning Ordinance sections:

a. Section 240-24.1.6 OM Office/Multi-family Residential District

B.(1)(b.) The requirement of obtaining a special permit for mixed use developments with a total floor area greater than 20,000 square feet is waived to permit mixed use development with a total of 62,003 gross square feet as proposed;

b. Section 240-24.1.6 C. Dimensional, bulk and other requirements:

- Minimum Front Yard Setback of 20 feet is waived to allow a Front Yard Setback of 7.1± feet from Main Street.
- Front yard landscaped set back of 10 feet is waived to allow a Front Yard Setback of 7.1± feet from Main Street
- Maximum Building Height of 40 feet is waived to allow a Maximum Building Height of 49 feet and 2 inches to the average height of the highest roof plane that also has the highest ridgeline.
- Number of stories limitation of three stories is waived to allow four stories.
- Maximum lot coverage of 80% is waived to allow lot coverage of 87.3%
- Maximum F.A.R. of 1.0 is waived to allow F.A.R. of 1.26.

d. Section 240-24.1.11 Site Development Standards.

- (A.)(4) (a) –(e) Parking computation and parking lot design standards and landscaping provisions are waived to permit the

proposed number, configuration and design of the parking area and parking area landscaping as shown on the plans submitted.

- (A.)(5)(a)-(f) Landscaping provisions are waived to permit the proposed landscaping as shown on the plans submitted;

e. Section 240-52 Design and Screening Standards

- Subsections B. is waived to permit stormwater runoff to not be contained on site and to migrate off the premises into existing and Developer upgraded catch basins adjacent to the Property and into the Town stormwater collection system, to be upgraded by Developer according to the plans submitted and approved by the Town. All plans for stormwater runoff shall be reviewed and approved by the Director of the Department of Public Works prior to initiating any work within the public way or Town-owned property at 725 Main Street. Sufficient upgrades to the stormwater collection system shall result from completion of improvements as agreed to in a Memorandum of Understanding between the Developer and the Town setting forth required conditions for the Town to accept proposed stormwater collection system upgrades. The Developer must file a Notice of Intent on behalf of the Town of Barnstable in order to upgrade the stormwater collection system at 725 Main Street and receive an Order of Conditions from the Town of Barnstable Conservation Commission prior to initiating any work within the public way and on Town-owned property at 725 Main Street, complying with any associated restrictions. ; and

f. Section 240-53 Landscape Requirements for parking lots

- Subsections B. thru F. are waived to permit the proposed configuration and design of the parking area landscaping as shown on the plans submitted

15. General Ordinances. The Town hereby conditionally grants a waiver from Chapter 9, Article I Inclusionary Affordable Housing Requirements – Section 9-4-D subject to the provisions of paragraph 14 above.

16. Changes to the approved Redevelopment Plans referenced in Condition No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.

17. Upon completion of all work, Developer shall cause a registered engineer or land surveyor 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;

18. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without compliance with §168-10 of the Barnstable Code.



**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 \_\_\_\_\_, 2019.

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

\_\_\_\_\_  
Developer, 720 Main Residences, LLC  
By:

**VOTE: MOVE TO MAY 16, 2019 MEETING - UNANIMOUS**

**2019-092 AMENDMENT OF THE ZONING MAP OF THE TOWN OF BARNSTABLE MASSACHUSETTS TO AMEND AND EXPAND THE RESIDENCE C DISTRICT TO INCLUDE THE ENTIRETY OF PARCEL 116/014**

Paul Wackrow, Principal Planner gave the rationale. He explained this was to amend the zoning map for a small parcel. He said the property was never used for marine business.

Open public hearing seeing  
Al Shultz, attorney agreed with Paul Wackrow assessment of the agenda item. He mentioned he was available for questions.

close public hearing

Upon a motion duly made and seconded it was  
ORDERED: That Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

**SECTION 1**

By amending Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts is hereby amended to rezone property from the Marine Business A-2 Zoning District to the Residence C Zoning District to the as shown on maps entitled;

- “Proposed Amendment to the Town Zoning Map expanding the Residence C District in Osterville” and
  
- “Proposed Amendment to the Osterville Zoning Map expanding the Residence C District in Osterville” and

**VOTE: 13 YES PASSES**

**2019-151 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$80,000 FOR BURIAL EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS CEMETERY PROGRAM INTRO: 02/28/19**

Upon a motion duly made and seconded it was to refer to the planning board

**ORDERED:** that the sum of **\$80,000** be appropriated for the Structures & Grounds Cemetery Program for the purpose of purchasing burial equipment used by Town staff to maintain cemeteries and perform interments in town cemeteries, and to meet such appropriation, that **\$80,000** be transferred from the Town's Sale of Cemetery Lots Special Revenue Fund.

**VOTE: TO A PUBLIC HEARING ON 03/21/19 – UNANIMOUS**

**2019-152 ORDER SUPPLEMENTING PRIOR LOAN ORDERS OF THE TOWN TO ALLOW FOR THE APPLICATION OF PREMIUM RECEIVED TO PROJECT COSTS  
INTRO: 02/28/19**

Mark Milne, Director of Finance, gave the rationale.

Upon a motion duly made and seconded it was to public hearing on Feb 28<sup>th</sup>

**ORDERED:** That the Town votes to supplement each prior order of this Council that authorizes the borrowing of money to pay costs of capital projects to provide that, in accordance with **Chapter 44, Section 20 of the General Laws**, the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.

**VOTE: PASSES UNANIMOUS**

**2019-153 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$200,000 FOR THE FISCAL YEAR 2019 AIRPORT CAPITAL BUDGET  
INTRO: 02/28/19**

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$200,000** be appropriated for the purpose of funding various Airport capital improvement projects as follows:

\$100,000 for Airport Rates & Charges Study

\$100,000 for Snow Removal Equipment Replacement Vehicles

and that to meet this appropriation, that **\$200,000** be transferred from the Airport Enterprise Fund reserves; and that the Airport Commission 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.

**VOTE: REFER TO PUBLIC HEARING ON 03/21/19 PASSES UNANIMOUS**

**2019-154 SUPPLEMENTAL APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$44,617 FOR FISCAL YEAR 2019 PUBLIC SAFETY OPERATIONAL AND MAINTENANCE IMPROVEMENTS AT BISMORE PARK INTRO: 02/28/19**

Upon a motion duly made and seconded it was

**ORDERED:** That the sum of **\$44,617** be appropriated for the purpose of funding Fiscal Year 2019 public safety operational and maintenance improvements at Bismore Park; and that to meet this appropriation, that **\$44,617** be transferred from the Bismore Park Special Revenue Fund.

**VOTE: REFER TO PUBLIC HEARING ON 03/21/19 PASSES UNANIMOUS**

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**Adjourned at 11:08 PM**

Respectfully submitted,

Janet E. Murphy

Assistant Town Clerk/Town of Barnstable

NEXT REGULAR MEETING: March 7, 2019

Exhibits:

- A. Cape Cod Commission - Summary of Alternatives 2016
- B. Felicia Penn's letter dated February 28, 2019
- C. Town Manager's Update for period February 8, 2019 through February 28, 2019
- D. Short Term Rental information