

Harwich Planning Board Agenda
Tuesday July 14, 2020 – 6:30 PM
Griffin Room, Town Hall, 732 Main Street, Harwich
This meeting will be held VIA REMOTE PARTICIPATION.
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I. Call to Order Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

II. Public Hearing:

- A. *Continued: PB2020-13 Davenport Companies Inc.*, applicant, c/o John M. O’Reilly, PE, PLS, representative, seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C12 in the R-M District. Continued from June 25, 2020. *Please note: the Applicant has requested a continuance to 8/11/20.*
- B. *Continued: PB2020-14 Davenport Companies Inc.*, applicant, c/o John M. O’Reilly, PE, PLS, representative, seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C11 in the R-M District. Continued from June 25, 2020. *Please note: the Applicant has requested a continuance to 8/11/20.*

III. Public Meeting*

- A. New Business:
- PB2020-16 Bryan Murphy** c/o Edward Hayes, as applicant, seek endorsement of a two (2) lot ANR entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, revised 05-20-2020 prepared by J. Thaddeus Eldredge, PLS for property located at 0 Kendrick Road, Map 108, Parcel P3. The parcels are in the R-R zoning district.
 - Preliminary discussion:** Draft West Harwich District of Critical Planning Concern zoning amendments
 - Zoning Board of Appeals** Advisory Opinions for July 29, 2020 hearings.
- B. Meeting Minutes: June 25, 2020
- C. Old Business:
- Continued discussion on draft amendment to Multi-family Dwelling related Bylaws
- D. Briefings and Reports by Board Members

IV. Adjourn

*Per the Attorney General's Office – Boards/Commissions may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following “New Business”.

*Next Planning Board Meeting (Subject to Change) – Tuesday, July 28, 2020.
Requests for accommodations for any person having a disability can be made by contacting the
Administration Office at 508-430-7513.*

Authorized Posting Officer: Elaine Banta, ebanta@town.harwich.ma.us or 508-430-7511

*Memorandum from
Charleen Greenhalgh, Town Planner
Town of Harwich*

AGENDA ITEMS: II.A & II.B

July 8, 2020

To: Planning Board
From: Charleen Greenhalgh
Re: Davenport Case PB2020-13
Davenport Case PB2020-14

The hearings for each of these cases **must** be opened at the June 28, 2020 Planning Board Meeting.

Davenport Case PB2020-13

The Applicant has requested a continuance of this hearing to August 11, 2020.

Recommended Motion: Move to continue case PB2020-13 Davenport Companies Inc. to Tuesday, August 11, 2020 not earlier than 6:30 pm.

Davenport Case PB2020-14

The Applicant has requested a continuance of this hearing to July 14, 2020.

Recommended Motion: Move to continue case PB2020-14 Davenport Companies Inc. to Tuesday, August 11, 2020 not earlier than 6:30 pm.

Agenda Item III.A.1

July 7, 2020

To: Planning Board
From: Charleen Greenhalgh, Town Planner
Re: Staff Report – Approval Not Required (ANR) Plan

PB2020-19 Bryan Murphy c/o Edward Hayes, as applicant, seek endorsement of a two (2) lot Approval Not Required plan entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, Revised 05-20-2020, prepared by J. Thaddeus Eldredge, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 0 Kendrick Road, Map 108, Parcel P3. The parcels are in the R-R zoning districts.

The application was received on June 23, 2020. Pursuant to MGL c.401, §81P, the Planning Board has 21-days to act and file a decision with the Town Clerk, that date would have been July 14, 2020. As the Board may recall, an emergency order was enacted on March 10, 2020, which stayed the timeline to July 1, 2020; therefore the Board has until July 22, 2020 to act on this application.

This plan may look familiar to the Planning Board. A similar plan was before the Board on May 28, 2020; however since that time the applicant wanted changes to the configuration of the lots.

Pursuant to MGL c.41, §81.L the lot(s) created must have, *frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.*

The Board may:

- 1) Vote to endorse the ANR; or
- 2) Deny the ANR specifically *detailing* why it does not meet the requirements for endorsement as an ANR; or
- 3) Take no action; which would result in the Town Clerk certifying that the Planning Board took no action within the statutory time.

Staff comments:

Planning:

1. This appears to be a simple land swap between this parcel and an abutting parcel, which contain sufficient frontage per Note 4 on the plan.

Police and Fire: No comments

Conservation: Parcel will have some portion in Conservation jurisdiction-we don't have issue with property lines, but may need approval if development occurs.

Health: If the lots are ever developed, compliant Title 5 septic systems must be installed. No variances from state or local requirements will be granted.

Findings (vote to adopt):

*This is a **positive finding** the Board may choose to make:*

Said plan does not constitute a subdivision as the way shown on the plan is a public way maintained and used as a public way and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

*This is a **negative finding** (denial) the Board may choose to make:*

The way shown on the plan does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Board Vote: *This is a suggested motion, the Board may choose to deny or to take no action.* Motion to endorse (or deny) the ANR plan entitled "Division Plan off Blue Heron Landing", dated April 1, 2020, Revised 05-20-2020, prepared by J. Thaddeus Eldredge, PLS.

EAST-SOUTHEAST, LLC

J. Thaddeus Eldredge, P.L.S.

Surveying, Geomatics Engineering and Mapping

1038 Main Street ° Chatham, Massachusetts 02633

41°41'14.73425" N 69°58'24.87695" W -10.019 M

LETTER OF TRANSMITTAL

June 23, 2020

TOWN OF HARWICH

Planning Board

732 Main Street

Harwich, MA 02645

Re: **ANR Division Plan**
Edward Hayes, Applicant
Bryan T. Murphy, Owner
Assessor's ID 108/P3-R

Dear Board Members:

Pursuant to Section 81 P of Chapter 41 of the General Laws, and Chapter 400 of the Town of Harwich Planning Board Rules and Regulations, enclosed please find the following:

1. Two (2) copies of Form B-1;
2. Two (2) copies of Municipal Lien Certificates;
3. Check made payable to Town of Harwich in the amount **\$525.00** (up to three lots/parcels);
4. Division Plan on Mylar;
5. Six (6) full size copies of the **Division Plan** prepared for Edward Hayes, dated April 1, 2020, **REVISED May 20, 2020**; and
6. Two (2) copies of **Division Plan at 1"=100' scale**;

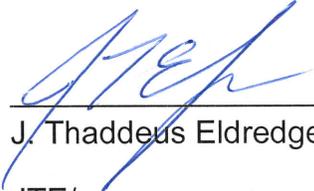
A copy of the Zoning Compliance Table is included on each print of the plan.

The existing parcel is being divided into Parcel 2A and 2B. Parcel 2B contains insufficient area and frontage to be buildable and shall be merged with the adjacent property for building purposes. Parcel 2A has insufficient frontage to be buildable and shall be merged with an adjacent property for building purposes.

The revision made on May 20, 2020 reflects change in the sizes of Parcels 2A and 2B.

Respectfully,

EAST-SOUTHEAST, LLC



J. Thaddeus Eldredge, PLS

JTE/mse

H-5178-01.0

Enclosures

Copy: Edward Hayes
Bryan Murphy

TOWN OF HARWICH PLANNING DEPARTMENT

**PLANNING BOARD APPLICATION
SUBDIVISION FORM B-1**



TO THE TOWN CLERK, HARWICH, MA

DATE 6/22/2020

PART A – APPLICANT INFORMATION/AUTHORIZATION

<u>Applicant Name(s)</u>	Bryan Murphy c/o Edward Hayes
Representative/Organization (Who will serve as the primary contact responsible for facilitating this application?)	J. Thaddeus Eldredge, PLS East-SouthEast, LLC
Street/PO Box	1038 Main Street
Town, ST, Zip	Chatham, MA 02633
Phone	508-945-3965
Fax	508-945-5885
E-mail	office@ese-llc.com

The applicant is one of the following: *(please check appropriate box)*

- Owner
 Tenant*
 Prospective Buyer*
 Representative for Owner/Tenant/Buyer
 Other* _____ **Written permission of the owner(s).*

All other forms and information as required in the Harwich Code §400 shall be submitted as part of this application including municipal lien certificate(s), available through the Tax Collector's Office.

Authorization

Your signature hereby asserts, to the best of your knowledge, that the information submitted in this application is true and accurate; that you agree to fully comply with the Town of Harwich Zoning By-laws and the terms and conditions of any approval of this application by the Planning Board; and authorizes the Members of the Planning Board and Town Staff to visit and enter upon the subject property for the duration of the consideration of this application.

Applicant _____

Owner(s) – Authorization must accompany application if the owner is not the applicant.

Official use only:

PLANNING DEPARTMENT	TOWN CLERK
Case #	

PART B – PROJECT LOCATION

Street Address	0 Kendrich Road (off Blue Heron Landing)	
Village	East Harwich	Zip Code 02645
Map	108	Parcel P3
Zoning District(s)	R-R	
Frontage (linear feet)	0	
Total land area (SF)	94,400	
Upland (SF)	94,400	Wetlands (SF)
Number of lots and/or parcels	Existing: 1	Proposed: 2

The owner's title to said land is derived under deed from Raymond Murphy, dated 08/17/2005, and recorded in the Barnstable Registry of Deeds Book and Page 20166/94 or registered in Barnstable County Land Court Certificate of Title No. _____.

PART C – PROJECT DESCRIPTION

Number of lots and/or parcels	Existing: 1	Proposed: 2
-------------------------------	-------------	-------------

The undersigned owners of all land described herein submitted in the accompanying plan entitled Division Plan and dated April 1, 2020, REVISED May 20, 2020

request a determination and endorsement by said Board that approval by it under the **Subdivision Control Law MGL Ch. 41 Sec. 81K-GG**: (check as appropriate)

is required (complete Part C.1 Subdivision) or is NOT required (complete Part C.2 ANR)

PART C.1 – Planning Board Approval is Required - Subdivision

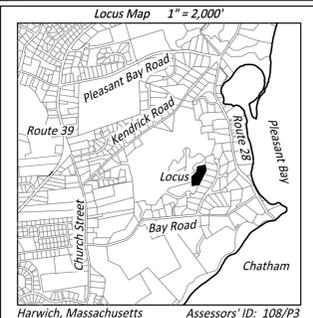
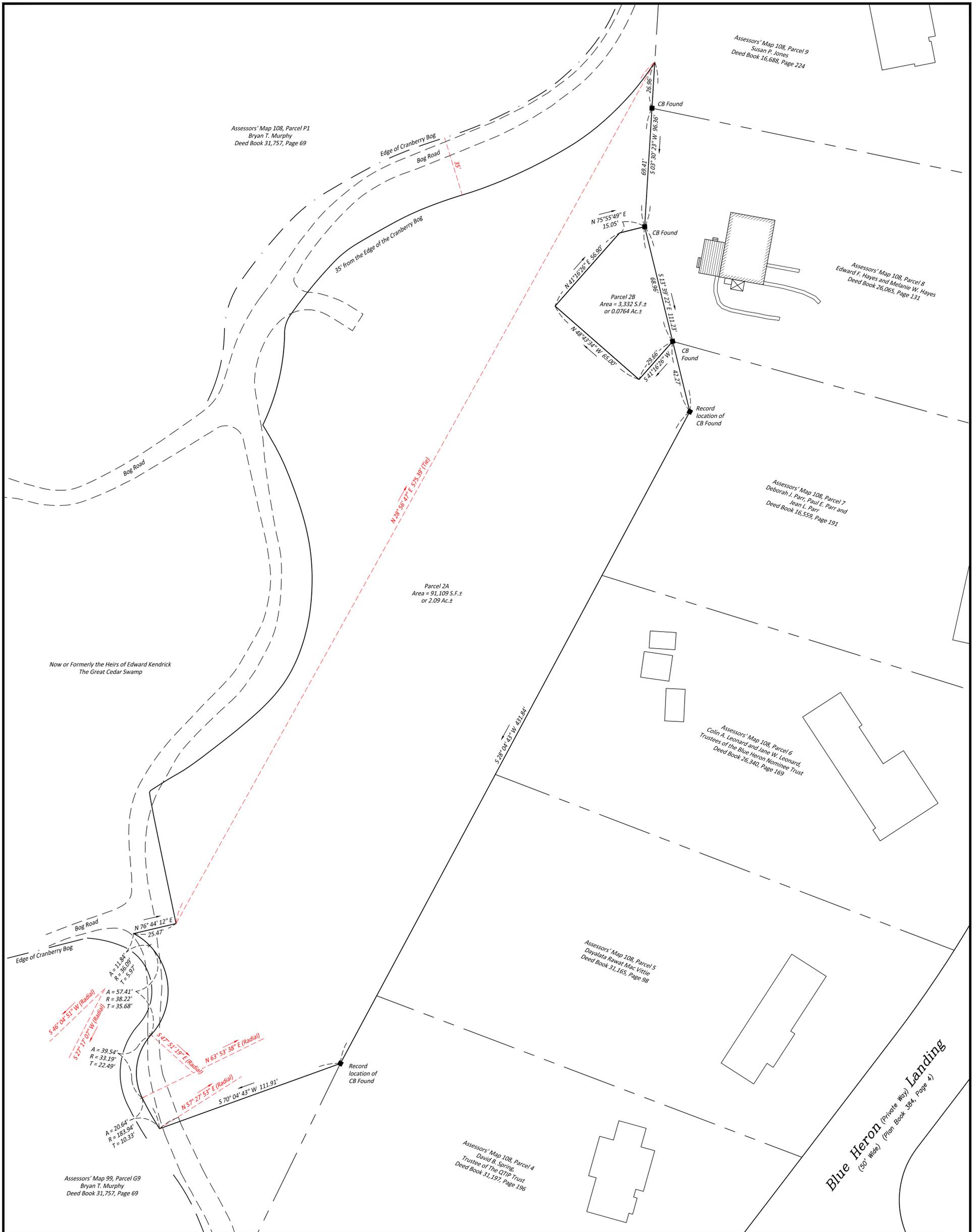
- The accompanying plan is a (check one):
 - Preliminary plan
 - Definitive without a preliminary plan
 - Definitive following a Preliminary plan filed on _____/case # PB _____
 - Modification of a Definitive plan approved on _____/case # PB _____
 - Rescission of a Definitive plan approved on _____/case # PB _____
- The applicant is also requesting a **Special Permit** to accompany the proposed plan for the following (check all that apply):
 - USE - Does not require Site Plan Review
 - ___ Open Space Residential Development
 - ___ Flexible Cluster Development/Six Ponds Special District
 - ___ Accessory Apartment
 - ___ Two-Family Dwellings
 - ___ Other _____
 - OVERLAY DISTRICT
 - ___ Water Resource Protection
 - ___ Harwich Center
 - ___ Six Ponds
 - ___ Village Commercial (Harwich Port)

**Note: Projects within the Harwich Center Overlay District may also be within the Harwich Center Historic District. This requires separate filing with the Historic District Commission. Please inquire with the Building Department for forms and instructions.*

PART C.2 – Planning Board Approval is Not Required - ANR

The accompanying plan does not require approval by the Planning Board because:

- 1. The lots are created on an approved way, with proper frontage and are served by safe and adequate access as follows:
 - a. Every lot shown on the plan has frontage of at least such distance as is presently required by the Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet for erection of a building on such lot, **and**;
 - b. The lots shown on such plan front on one of the three types of ways specified in Chapter 41, Section 81L, MGL, **and**;
 - a public way or a way that the Harwich Town Clerk certifies is maintained and used as a public way namely _____, or
 - a way shown on a plan previously approved and endorsed in accordance with the subdivision control law namely _____ on _____ and subject to the following conditions _____; or
 - a private way in existence on March 25, 1949, the date when the subdivision control law became effective in the Town of Harwich, and
 - c. The public or private way named above has, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the land abutting or served thereby, and for the installation of municipal service to serve such land and the buildings existing thereon to be erected.
PROOF OF SAFE AND ADEQUATE ACCESS – Please attach all necessary documentation to this application for:
 - Determination of Safe and Adequate Access for existing conditions
 - Satisfaction of Safe and Adequate Access for proposed conditions
- 2. The accompanying plan is not a subdivision because the plan does not show a division of land.
- 3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by Zoning Code of the Town of Harwich under Article VI: §325-15 and §325-16, Table 2 which requires _____ feet.
- 4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to March 25, 1949 the date when the subdivision control law went into effect in the Town of Harwich and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:
- 5. Other reasons or comments: (See MGL, Ch41, §81-L)
NEITHER PARCEL IS BULDABLE.



DIVISION PLAN
off Blue Heron Landing, Harwich, Massachusetts
April 1, 2020

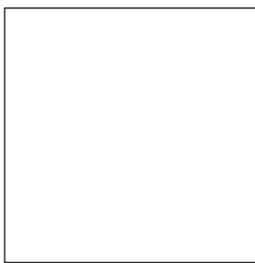
OWNER OF RECORD:
Bryan T. Murphy
Deed Book 20,166, Page 94
Plan Book 560, Pages 27-28, Parcel 2

Description of Revision	Date
Parcels sizes changed	05-20-2020

EDWARD HAYES

EAST-SOUTHEAST, LLC

www.ese-llc.com office@ese-llc.com
1038 Main Street, Chatham, MA 02633
(508) 945-3965 Fax: (508) 945-5885



I certify that this plan was prepared in accordance with the rules and regulations of the Registrars of Deeds as adopted June 19, 1975 and amended January 7, 1988.

Date _____
L.S. _____

Approval under the Subdivision Control Law NOT required.
Ref. C. 41, s. 81-P., G. L.

HARWICH PLANNING BOARD

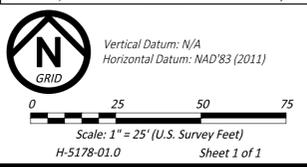
Date _____

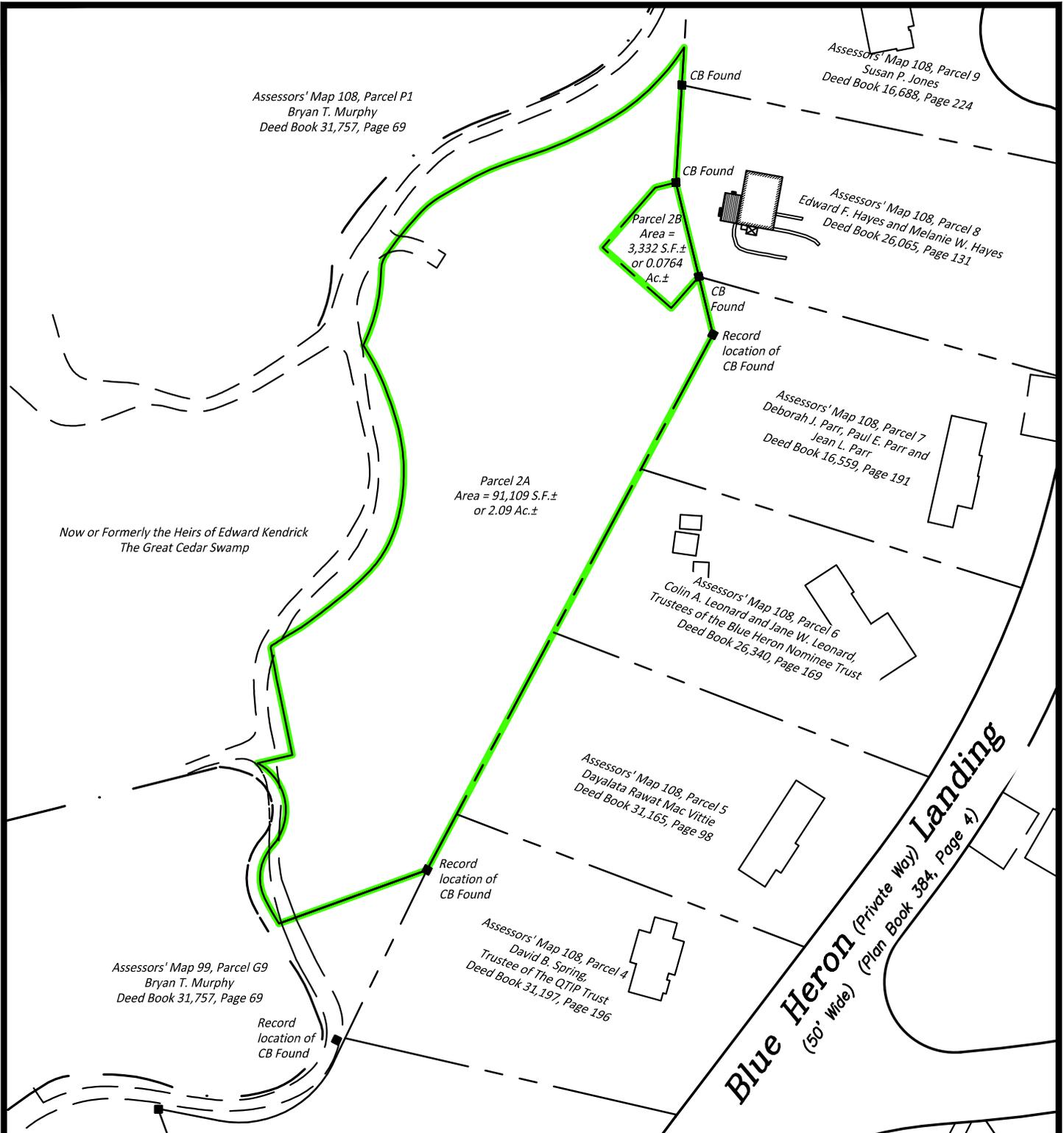
Notes:

- The monuments described as Record Location are based on previous surveys performed in 1983, 1984, 1999, 2000, 2007, 2008 and 2014. GNSS observations have been performed and the data has been combined in a least squares network adjustment on the State Plane Coordinate System.
- The buildings depicted hereon are based on information acquired from MassGIS (Bureau of Geographic Information), Commonwealth of Massachusetts EOTSS.
- The edges of the bogs were located in 1999.
- Parcel 2B contains insufficient area and frontage to be buildable and shall be merged with an adjacent property for building purposes. Parcel 2A has insufficient frontage to be buildable and shall be merged with an adjacent property for building purposes.

ZONING REQUIREMENTS

Zone	R-R (Residential)
Minimum Area	40,000 S.F.
Minimum Frontage	150 Ft.
Front Yard Setback	25 Ft.
Side and Rear Yard Setback	20 Ft.
Maximum Lot Coverage	25%
Maximum Building Coverage	15%





Vertical Datum: N/A
Horizontal Datum: NAD'83 (2011)

Description of Revision	Date
Parcels sizes changed	05-20-2020



Scale: 1" = 100' (U.S. Survey Feet)

H-5178-01.0

Sheet 1 of 1

EDWARD HAYES DIVISION PLAN

off Blue Heron Landing, Harwich, Massachusetts
April 1, 2020

EAST-SOUTHEAST, LLC

www.e-se-llc.com ° office@ese-llc.com
1038 Main Street, Chatham, MA 02633
(508) 945-3965 ° Fax.: (508) 945-5885

*Memorandum from
Charleen Greenhalgh, Town Planner
Town of Harwich*

AGENDA ITEM III.A.2

July 7, 2020

To: Planning Board
Cc: Sarah Korjeff, Cape Cod Commission
From: Charleen Greenhalgh, Town Planner
Re: West Harwich District of Critical Planning Concern Draft Zoning Amendment

As the Board is aware, the Town, through the Board of Selectmen, nominated the West Harwich corridor of Route 28 from the Dennisport Town Line east to the Herring River as a District of Critical Planning Concern (“DCPC”). The Barnstable County Commissioners approved the nomination and it became a County Ordinance (19-18) on December 4, 2019. The Town has 1 year to implement bylaws.

Originally the Selectmen agreed to provide adequate time for the drafting and vetting of the necessary bylaws and that there would likely be a special town meeting in the fall 2020 to take these up; however, with the COVID-19 Emergency the annual town meeting was postponed, pushing everything to the fall.

Attached for your review and for discussion purposes, please find attached the following documents:

- 1) Working draft of zoning amendments related to the West Harwich DCPC, dated July 7, 2020.
- 2) [Cape Cod Commission \(“CCC”\) Memorandum dated March 31, 2020 regarding West Harwich DCPC Ideas for Consideration](#)
- 3) [Boundary Map of the DCPC prepared by the CCC](#)
- 4) [Map showing Estimated setbacks for the parcels within the DCPC prepared by the CCC](#)
- 5) [Draft Sample Map dated 4-16-20 showing potential new building setback, façade width, and parking location requirements, prepared by the CCC](#)

My goal for the July 14, 2020 Planning Board meeting is to begin the discussion.

**July 7, 2020 DRAFT WORKING DOCUMENT
FOR DISCUSSION PURPOSES ONLY**

XXIV - West Harwich Special District

§325-144 Statutory Authority and Purpose

A. Statutory Authority

On December 4, 2019, the Barnstable County Assembly of Delegates adopted Barnstable Ordinance 19-18 and designated the district shown on a map labeled “West Harwich DCPC District Boundaries” prepared by the Cape Cod Commissioner (“DCPC Map”) as District of Critical Planning Concern (“DCPC”), pursuant to CCA Section 11(d), the Town adopted these implementing regulations to regulate the DCPC which shall be known as the West Harwich Special District.

B. Purpose

The purpose of the West Harwich Special District (WHSD), as designated in Barnstable Ordinance 19-18, is to preserve the significant historic and architectural resources in the area, to guide development to be consistent with the area’s unique character, to address safety and transportation impacts within the commercial zone on Route 28, and to promote small-scale businesses consistent with the area’s character.

(NOTE: The Cape Cod Commissions Attorney will be reviewing the above to be sure it is in compliance with the Barnstable County requirements.)

§325-145 Intent

It is the intent of this bylaw to encourage and incentivize the creative reuse, change of use, or expansion of use of existing historic structures to the extent possible.

§325-145 Applicability

A. District Boundaries

The provisions of this Section shall apply with the West Harwich Special District (WHSD), as show on the DCPC Map and as shown in more detail on a map entitled “West Harwich Special District Overlay” Map dated XXX, XX 2020. *(NOTE: need to decide if the CH-1 district boundary should be changed to match the DCPC boundaries ALSO – should the CH-1 be eliminated altogether and just have this be the WHSD?)*

B. Relationship to Other Regulations

The provision in this Section (XXIV - West Harwich Special District) apply to all development within the WHSD. Other sections of the Town of Harwich Zoning Bylaw also apply within this Special District. Other sections of the Town of Harwich Zoning Bylaw also apply within this special district, except that where this Section conflicts with or differs from other sections of the Harwich Zoning Bylaw, this Section shall control.

§325-146 Definitions

Historic Structures: Those structures located within the boundaries of the WHSD and which are identified in the Town of Harwich Historic Properties Inventory List.

§325-147 Permitted Uses

**July 7, 2020 DRAFT WORKING DOCUMENT
FOR DISCUSSION PURPOSES ONLY**

The following uses are permitted within the WHSD; however, for some uses either a Staff Plan Review or a Site Plan Review Special Permit may also be required, pursuant to §325-??:

- A. Single-Family Dwelling
- B. Two-Family Dwelling
- C. Uses Accessory to a Single- or Two-Family Dwelling
- D. Bed and Breakfast
- E. Home Occupation
- F. Single family dwelling and accessory apartment
- G. Church or other religious use
- H. Non-profit Library, Museum or Historical Use
- I. Hotel
- J. Motel
- K. Hotel, Motel – Incidental Use
- L. Professional Offices, including Dental Offices and Blue Economy
- M. Municipal Uses

Additionally, the following uses are permitted in existing historic structures:

- N. Multi-family
- O. Retail sales
- P. Restaurant
- Q. Mixed-Use commercial/residential developments

§325-148 Special Permit Uses

For new construction or reuse or change of use of structure or building not identified as an historic structure, the following uses are conditionally allowed within the WHSD through the Planning Board as the special permit granting authority, provided the use does not conflict with the purpose of the district, and for some uses a Site Plan Review Special Permit pursuant to §325-55 may also be required:

- A. Multi-family, see also §325-XXX
- B. Retail sales, see also §325-XXX
- C. Restaurant
- D. Mixed-Use commercial/residential developments

§325-149 Prohibited Uses

Any use not specifically allowed as of right or by Special Permit within this district are prohibited. Within this district, use variances shall be prohibited.

§325-150 Continuation of Pre-Existing Non-Conforming Uses

Any lawfully existing use of a structure or land that does not conform to the provisions of this bylaw may continue.

§325-151 Change, Alteration, Expansion of Pre-Existing Non-Conforming Uses

Notwithstanding the provisions of G.L Chapter 40A, and Section XXX of the Harwich Zoning Bylaw, lawfully established structures and uses in existence as of XXX, XX, 2020 that do not

**July 7, 2020 DRAFT WORKING DOCUMENT
FOR DISCUSSION PURPOSES ONLY**

conform to the WHSD District Wide Development Standards may be changed, altered or expanded in conformance with §325-1XX Review Standards and Procedures.

- A. A pre-existing , non-conforming structure or use may change or expand up to 250 square feet of building footprint or exterior of building or site area through Staff Plan Review in accordance with §325-XXX
- B. A pre-existing, non-conforming structure or use may change or expand up to 1000 square feet of building footprint or exterior of building or site area or undergo a change of use in accordance with §325-XXX, provided the following criteria area determined to be met:
 - 1. The property shall have no more than one defined curb cut onto Route 28 or shall provide an interconnection to an adjacent property to limit future curb cuts onto Route 28;
 - 2. A landscaped area of at least XX feet in depth wide exists or will be provided and shall be maintained on the subject property along its road frontage; or, for pre-existing non-landscaped area of at least XX meet shall be required;
 - 3. The specific change or expansion shall comply with all dimensional standard in the WHSD; and,
 - 4. There shall be no demolition of on historic structure.
- C. A pre-existing non-conforming structure or use that proposes to change or expand more than 1,000 square feet of building footprint or exterior of building or site area requires a Special Permit in accordance with §325-XXX and Site Plan Approval in accordance with §325-55. The specific change of expansion shall comply with all dimensional standard in the WHSD in accordance with §325-XXX.

§325-153 Design Guidelines

- A. Building Design Standards
 - 1. New Construction:
 - a. ***(NOTE: Additional language is being worked on for this section.)***
Applicants may refer to the Cape Cod Commission’s Technical Bulletins “Designing the Future to Honor the Past: Design Guidelines for Cape Cod” and “Contextual Design on Cape Cod: Design Guidelines for Large Scale Development” for design guidance.
 - b. All roof mounted mechanical equipment must be unclosed to reduce the noise of operation and eliminate visibility of such equipment from the equivalent of an adjoining second floor level. In no case shall roof mounted equipment or the accompanying enclosures exceed a height of 6 feet above, or occupy, with the exception of photovoltaic and associated solar energy systems more than 30% of the area of the roof surface.
 - c. Buildings with traditionally sloped roofs are preferred, and those with a pitch of at least 1/12 are allowed greater maximum building height than flat-roofed structures.
 - d. Exterior building facades shall incorporate traditional building materials such as wood shingles or clapboard siding or shall use a composite material that approximates or reference traditional siding materials.

**July 7, 2020 DRAFT WORKING DOCUMENT
FOR DISCUSSION PURPOSES ONLY**

- e. Building orientation, layout, and configuration shall be designed to provide adequate light and air for the proposed and adjoining buildings.
2. Existing Buildings and Structures: For additions or reconstruction of existing buildings and structures which are listed within the Harwich Historic Property Inventory List or which would fall under the provision of the Harwich General Bylaws, Chapter 131 Historic Preservation, said additions or reconstruction shall be of the same historical or architectural style and design of the existing building(s) and structure(s).

§325-154 Review Standards

A. Dimensional requirements.

1. Lots shall have frontage along Route 28. Adjacent parcels may be included provided that they are under the same ownership and are also located within the WHSD.
2. Setback requirements.
 - a. Front setback requirements shall be a minimum of 10 feet and maximum of 30 feet.
 - b. Side lot line setback shall be 10 feet.
 - c. Rear lot line setback shall be 20 feet.
 - d. Parking shall be permitted at the side, measured a minimum of 10 feet back from the front line on the building or structure on the property, or rear of the property.
 - e. Maximum site coverage shall not exceed 80%.
3. The maximum permitted height for new constructions shall not exceed 30 feet or 2 1/2 stories.
4. Minimum lot size shall be 20,000 square feet.
5. For properties containing and maintain historic structures, the Planning Board or its designee may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.

B. Parking, Driveway, Vehicular and Pedestrian Access Standards

1. Parking

- a. Parking areas shall be visually buffered from all streets and adjoining residential uses by placing them behind frontage buildings and/or through the use of berms or natural features and/or plantings, using materials that shall be maintained for visual buffering a minimum of 50% and 75% of their effectiveness year-round, for streets and residential uses respectively. Parking shall also comply with the requirements of Article IX – Off Street Parking and Loading Requirements.
- b. Shared Parking – The number of parking spaces required may be reduced for shared parking at the discretion of the Planning Board through Site Plan Review §325-55, provided such reduction does not shift a demand for parking onto public streets or any areas not equipped to handle such activity.
- c. All other parking standards shall comply with Article IX Off-Street Parking and Loading Requirements; however, in no case shall a driveway width be greater than 24 feet.

**July 7, 2020 DRAFT WORKING DOCUMENT
FOR DISCUSSION PURPOSES ONLY**

2. Driveway shall be limited to one per street frontage; however shared driveways are encouraged to limit the number of curb cuts onto Route 28. Driveways must be situated to provide for the optimal sight distance along Route 28. All driveway access shall provide for adequate service and emergency access.
 3. Customer and residential pedestrian access shall include a combination of walkways and landscaping. Such pedestrian access shall be provided from the streets providing frontage and/or access for the project as well as the drives and parking areas within the project. Pedestrian access routes shall be laid out to minimize conflict with vehicular routes, and where the two cross, the pedestrian route shall be clearly marked on the vehicular surface and when appropriate, with signage. Pedestrian access routes shall be lighted to provide adequate visibility for use in the dark, and is in conformance with Article XXI Outdoor Lighting.
- C. Signage (*Should there be a different sign requirement for this district?*)

§325-1XX Review Procedures – (*Note: this section needs more thought*)

A. Purpose

The purpose of the Site Plan Review is to provide for comprehensive review of proposed development in the WHSD that could impact cultural resources, community design, transportation safety and the balance of economic development. Site Plan Review shall be a process that allows the Planning Board or its designee to ensure that proposed development satisfies the requirements of §325-XXX.

B. Staff Plan Review

The Planning Board's designee, without a public hearing, shall issue a written determination for Staff Plan Review approval upon a determination that all of the requirements listed in §325-XXX, have been satisfied.

NOTE: Something to think about...perhaps....develop within certain size thresholds (TBD) that utilized best practices for site, scale and architectural design (TBD) and that preserves the cultural heritage and community design character of the area

Memorandum



CAPE COD
COMMISSION

DATE: March 31, 2020

TO: Charleen Greenhalgh, Harwich Town Planner

FROM: Sarah Korjeff, Chloe Schaefer, Martha Hevenor, Steven Tupper

RE: West Harwich DCPC Ideas for Consideration

This memo is intended to provide the town with suggestions for possible implementing regulations that address the required and recommended guidelines in the West Harwich DCPC. Below is a recap of the goals and guidelines in the DCPC Ordinance, followed by a discussion of Traditional Development Pattern Features and how they relate to current zoning in the district. The next section in the memo – Other Issues to Discuss – provides possible questions to pose to a DCPC working committee or the general public to help gauge their support for various regulations and initiatives within the district. The table at the end of this memo summarizes the suggestions in the narrative, highlighting the differences between traditional patterns and current zoning, and describing potential changes to resolve those differences.

DCPC ORDINANCE

The West Harwich DCPC ordinance establishes the following goals and interests of the district:

- Protect historic resources in the district
- Respect traditional development patterns that support neighborhood and village development styles
- Enhance the character of the West Harwich District
- Support and enhance the small scale local economy in West Harwich
- Manage traffic congestion and improve access management along Route 28
- Improve bicyclist and pedestrian access and safety along the Route 28 corridor

The ordinance provides Guidelines for developing the District's Implementing Regulations.

Guideline 1: Historic and Cultural Resources

- Consider incentives to protect and preserve historic resources such as flexibility in dimensional regulations, allowing additional uses, or increased lot coverage on lots with historic structures

- Explore ways to prevent demolition of historic resources such as establishing a local or National Register historic district or strengthening the demolition delay bylaw
- Consider design guidelines for additions and alterations to historic structures

Guideline 2: Community Design

- Change dimensional regulations to be consistent with traditional development patterns, including building setback, parking location, and building massing. Traditional development patterns include, but are not limited to, buildings sited closer to the street and parking located to the side or rear of buildings with limited visual impact of parking along the street. The town should examine the scale, setbacks, and massing of existing historic structures to help define the appropriate scale and form of new development and redevelopment.
- Consider developing architectural and site design guidelines to protect community character

Guideline 3: Transportation Management and Safety

- Develop regulations that promote site access management best practices such as shared driveways and the minimization of number and width of curb cuts
- Work with MassDOT to explore ways to improve pedestrian, bicyclist, and transit accommodations along the Route 28 corridor
- Consider regulations that promote pedestrian connections to sites within the district
- Consider adopting regulations to limit high traffic generating uses within the district to improve traffic safety

Guideline 4: Balanced Local Economy

- Explore options for encouraging mixed use and multifamily development in forms consistent with the District's character
- Consider focusing density in one part of the District to create a village center focal point
- Review allowed uses and permitting processes and consider modifying them to support small-scale businesses, a diverse local economy, and reuse of historic properties
- Consider modifying lighting and signage regulations for the District to support its unique character

TRADITIONAL DEVELOPMENT PATTERN FEATURES

Building Setbacks

Average building setback varies a bit from one part of the District to another. The east end near Herring River has several larger historic structures that are spaced farther apart from one another

and have wider front lawns and deeper setbacks than most other lots in the district. To ensure new and redevelopment contributes to the streetscape, new setbacks may include both minimum and maximum building setbacks. The difference between the minimum and maximum allowed setbacks should match traditional setback patterns, which are generally 25-40 feet on the west side of Depot Road, and 35-55 feet on the east side of Depot Road. If a “core” area is desired, a different setback range for that area may be warranted. Along with building setbacks, the location of parking areas is most important to a site’s character and street presence (see bullet below).

- Recommended: Establish a minimum and maximum building setback for each part of the district
- Explore: Require new buildings to have slightly deeper setbacks than historic structures to keep historic buildings prominent (there is an excellent example of an office on south side adjacent to Herring River)
- Explore: Restrict parking and driveways between main building façade and street edge

Façade Widths

Most traditional building facades in the district are 25-50 feet wide. Note that some northside buildings with deep setbacks near the Dennis town line have facades that are much wider than the neighborhood pattern. A defined width for the primary façade can take the place of a required façade variation dimensional regulation.

- Recommended: To avoid long and uninteresting façades, establish a maximum width for the primary street-facing building façade of 25-50 feet, based on traditional building forms, with additional width allowed if façade variation standards are met
- Explore: Require a certain percentage of street frontage be occupied by a building to maintain character and force parking to the rear (Barnstable model); require a certain amount of façade variation for front facades over 50 feet in length

Access Standards

Some properties have wide or multiple curb cuts that should be combined and reduced in width to increase safety for all travelers and pedestrian comfort. This will also help protect streetscape character.

- Recommended: Limit curb cut width to 12 feet per lane and allow only one access point per lot onto main roadway (Eastham model); allow one curb cut access onto Route 28 unless site and roadway conditions necessitate a second curb cut for safety reasons
- Explore: Where possible, encourage shared access among properties to minimize curb cuts onto Route 28

Parking Location

Parking is to the side or rear for many properties throughout the district, though some lots with deep setbacks have parking in front. Parking in front of buildings should be prohibited.,. Large parking lots to the side also have a visual impact on the surrounding character so design features should be established to limit their impact. The town could allow exceptions on sites with historic structures where the existing building siting limits opportunities for placing parking to the side or rear.

- Recommended: Prohibit parking in front of buildings/front yard area, with some exceptions for reused historic structures
 - For example, Section 325-51L of the Harwich Commercial Village Overlay District prohibits parking in the front yard area if using Overlay District provisions; existing zoning otherwise allows up to 4 parking spaces in front yard
- Recommended: Require side parking lots to be set 20 feet further back than the street-facing building façade (Eastham model)
- Explore: Limit the amount of parking that can be adjacent to the streetscape; require larger landscape buffers for larger parking areas

Streetscape Definition

Landscaping and modest curb cuts are key elements to maintaining traditional character. A number of properties (both with buildings close to the street or placed farther back on the lot) have low fences or hedges to successfully define the street edge and establish a more residential feel.

- Explore: Require non-residential properties to use low fences or landscaping to define the street edge where parking is adjacent to the street; encourage use of low fences and landscaping along the streetscape on all properties through design guidance

OTHER ISSUES TO DISCUSS

Core Area

Do people want a “Core” area within the West Harwich DCPC where density might be greater and buildings might be closer to the street in more of a downtown configuration? If so, where?

- Explore: Harwich Commercial Village Overlay District allows greater maximum building coverage in Harwich Center and Harwich Port—is this desirable in a portion of West Harwich DCPC? The western two-thirds of the DCPC is within the Cape Cod Commission-identified Dennisport Community Activity Center.

Address Area Near Dennis Town Line

What character do people want to encourage here? Consider allowing shallower building setbacks in the area nearest the Dennis town line, noting several south side buildings in that area have less than 25-foot setbacks, while north side has a few buildings with 100-foot setbacks and parking in front.

- Explore: Would there be room for frontage buildings between existing north side buildings and street, or would redevelopment be necessary to bring buildings closer to the street?
- Explore: Would people like to see this area as the West Harwich “core” or somewhere else? Are there certain uses that would be appropriate here but less desirable elsewhere in the DCPC?

Address Area Around the Church

There are several more recent buildings around the church, as well as prominent parking areas, that create a “hole” in the historic pattern of the district. Preserving historic resources in this area is important to maintaining continuity of the historic district.

- Explore: What character would people like to see here in terms of density and building setbacks, acknowledging the potential for development/redevelopment of a vacant lot and other underutilized properties? Would this be a desirable “Core” area? Are there certain uses that would be appropriate here but less desirable elsewhere in the DCPC?
- Explore: Would better landscaping and streetscape definition through fencing/hedges help maintain the visual continuity of the historic district?

Flood Area Issues

Almost the entire District is within a SLOSH zone, and many buildings east of Mansion Street are within the FEMA FIRM AE zone, meaning they are vulnerable to flooding.

- Explore: What amount of elevation will be needed to get buildings above base flood elevation in the east end of the district—is it a significant amount or could it be done by elevating foundations a few feet/raising ground level a few feet? Increasing density in flood hazard area without mitigation should be discouraged.

Design Guidance for Rehabilitation/Alteration of Historic Structures

Several historic properties in the district have had numerous additions. Develop design guidance to stress the importance of retaining original features whenever additions are considered; encourage additions set back to side or rear of building so original historic structure remains prominent.

- Explore: Develop design guidance for additions or alterations to historic structures

- Explore: Highlight good examples of additions within the district and elsewhere

Design Guidance for New Construction

Address building massing, height, and roof forms and tie to appropriate building setbacks, façade widths discussed under Traditional Pattern Features to maintain and enhance the character of the District.

- Explore: Set a maximum individual building footprint; Eastham model has maximum 2,000-3,000 sf building footprint for frontage buildings, and maximum 8,000 sf building footprint if behind a frontage building
- Explore: Consider different maximum building heights for different roof forms in new construction; by allowing more height for steeply sloped roofs and placing a limit on second floor area, the Eastham model encourages sloped roofs

Encourage Desired Uses and Reuse of Historic Structures

Simplifying the permit process for rehabilitation and reuse of historic structures and for other desirable uses (potentially mixed use and diverse housing types) may help to encourage developments with desired uses and the reuse of historic structures. The town could define certain types of projects that would only require administrative review by designated town staff person and consider other zoning incentives for historic preservation.

- Explore: Eastham model has different review levels with administrative/staff site plan review for defined “minor” project types, Planning Board site plan review for “major” projects of a certain threshold, and combined site plan/special permit review for major projects with a higher threshold. Eastham has a simpler review process for projects that are bringing non-conforming properties into greater conformance with new dimensional regulations.
- Explore: Zoning incentives for historic preservation such as flexibility in lot coverage and other dimensional regulations, and allowing flexibility in parking location on properties with reused historic structures. Chatham is considering zoning incentives for historic preservation that allow an additional unit on certain lots where historic structures are preserved.

Minimum Standards for Building Maintenance

It may be useful for Town planning staff to identify and track properties where recent rehabilitation and investment has occurred, and also properties with vacant or underutilized buildings, to determine whether minimum maintenance requirements or other incentives would be effective and worth pursuing for the District.



WEST HARWICH DCPC IDEAS FOR CONSIDERATION

- Explore: Consider minimum maintenance or affirmative maintenance requirements for the District
- Explore: Potential for historic structure rehabilitation incentives and access to grant programs for reinvestment in the District

Views/Access to the Herring River

Does the town have plans to protect the open vista to the Herring River on the north side? Are there any concerns about the large, informal gravel parking area there?

OTHER HARWICH ZONING QUESTIONS

- Section 325-42 parking/loading design requirements say no more than 2 driveways per road frontage and curb cuts can't exceed 50 feet width, plus a table for minimum distance required between driveways and intersections. How are these regulations working? Should these be more restrictive to address safety in DCPC area?
- Section 325-43 landscape requirements for parking areas—are they sufficient for DCPC?

TABLE OF RECOMMENDATIONS

ISSUE	EXISTING CONDITIONS	CURRENT REGULATIONS	TYPE OF REGULATION	DESCRIPTION OF POTENTIAL CHANGE
BUILDING SETBACKS	Historic building setbacks range from about 14 feet to 94 feet. Most are 25-40 feet west of Depot Rd.; most are 35-55 feet east of Depot Rd.	25-foot minimum building setback for all but adult entertainment uses; no maximum building setback	Zoning/ Dimensional Regulations	<ul style="list-style-type: none"> Define appropriate range of front setbacks to preserve prominence of historic buildings and maintain character. Consider minimum and maximum setback range of 25-40 feet for new structures west of Depot Rd. and 35-55 feet east of Depot Rd.
BUILDING FACADE WIDTHS	Original historic structures have façades that are 25-50 feet wide (church is exception)	No limitation on building façade size other than lot setbacks	Zoning/ Dimensional Regulations; Design Guidelines	<ul style="list-style-type: none"> Define appropriate range of street-facing façade widths in keeping with established historic character Consider 25-50 foot façade width for new structures fronting on Route 28, allow side additions set well back from front façade
ACCESS/ CURB CUT STANDARDS	A few properties have wide open curb cuts along their frontage	No more than 2 driveways per road frontage; curb cut no wider than 50 feet; table for minimum distance between driveways	Zoning/ Dimensional Regulations; Parking and Loading Design Requirements (Section 325-42)	<ul style="list-style-type: none"> Limit number of access points onto Route 28 and limit width of curb cuts to 12 feet per lane Review distance required from busy intersections Provide safe pedestrian travel across site frontage

TABLE OF RECOMMENDATIONS

ISSUE	EXISTING CONDITIONS	CURRENT REGULATIONS	TYPE OF REGULATION	DESCRIPTION OF POTENTIAL CHANGE
PARKING LOCATION	Some properties have parking lots in front of buildings and some have large side parking areas along the road frontage	No more than 4 parking spaces allowed in front yard area; Commercial Village Overlay District restricts all parking in front yard area	Zoning/ Dimensional Regulations; Landscape Requirements (Section 325-43)	<ul style="list-style-type: none"> • Prohibit parking in front of buildings • Require side parking to be set at least 20 feet further back from road than front building façade • Require fencing/ screening/buffering for side yard parking • Limit width of side yard parking areas within certain distance of lot frontage • Possible exceptions for historic structures
STREETSCAPE DEFINITION	Some areas lack definition due to parking in front or multiple wide curb cuts	Parking and access standards are noted above	Zoning; Design Guidelines	<ul style="list-style-type: none"> • Establish buffer requirements between the street and any parking areas • Suggest use of low fences and hedges to define front property line in design guidelines
HISTORIC BUILDING PRESERVATION	Address vacant and underutilized historic buildings; provide incentives to continue investing in and preserving historic buildings	Demolition Delay bylaw is only historic structure protection	Zoning Incentives; Design Guidelines	<ul style="list-style-type: none"> • Discourage demolition of historic structures by allowing greater flexibility—i.e., allow greater lot coverage (as in Commercial Village Overlay), allow flexibility in parking location requirements, and allow additional dwelling units on lots with preserved historic structures • Provide simpler permit process/administrative review for historic structure reuse • Consider extending the demolition delay period • Consider an affirmative maintenance bylaw for commercial and mixed use properties

TABLE OF RECOMMENDATIONS

ISSUE	EXISTING CONDITIONS	CURRENT REGULATIONS	TYPE OF REGULATION	DESCRIPTION OF POTENTIAL CHANGE
BUILDING ADDITIONS/ NEW CONSTRUCTION	Guide additions and new building designs consistent with traditional character of district	No limits on building additions or new construction besides setback and lot coverage requirements	Zoning/ Dimensional Regulations; Design Guidelines	<ul style="list-style-type: none"> Require additions to the side or rear of historic structures to preserve character of original buildings Provide design guidance for new buildings to be compatible with established historic character
ACCESSORY DWELLING UNITS	Few accessory dwelling units within district	Allowed by special permit in Section 325-14 T	Zoning; Design Guidelines	<ul style="list-style-type: none"> Allow accessory dwelling units in historic outbuildings and appropriately scaled secondary structures
MIXED USE	Few examples of mixed use within district	Section 325-51M; allowed by special permit; additional lot size required per unit	Zoning	<ul style="list-style-type: none"> Encourage mixed use to create a core/active area Encourage multifamily development through less restrictive multifamily zoning
FLOOD HAZARD AREAS	Numerous structures in AE zone and SLOSH zone	Section 325-108 addresses elevating buildings in flood areas	Zoning; Design Guidelines	<ul style="list-style-type: none"> Allow elevation of historic structures and surrounding land to address flood hazards Provide design guidance for when elevating more than 2-3 feet
USES	Range of commercial and residential uses exist within the district	Section 325 Attachment 1 lists uses that are permitted or require a special permit	Zoning/Site Plan Review Special Permit Criteria	<ul style="list-style-type: none"> Restrict uses with high traffic generation in all or most parts of DCPC Consider improved standards in current SPR regarding safety of access for this and other types of uses
BUILDING MASSING	Some recent structures are inconsistent with scale of original historic buildings	No building massing limitation other than 30% building coverage limit	Zoning/ Dimensional Regulations	<ul style="list-style-type: none"> Establish maximum building footprint for frontage buildings and for buildings screened by frontage buildings

TABLE OF RECOMMENDATIONS

ISSUE	EXISTING CONDITIONS	CURRENT REGULATIONS	TYPE OF REGULATION	DESCRIPTION OF POTENTIAL CHANGE
MAXIMUM BUILDING COVERAGE	Coverage requirements are the same throughout District	30% building coverage allowed throughout commercial zone	Zoning/ Dimensional Regulations	<ul style="list-style-type: none"> • Allow greater coverage within a specific Core area of the district; e.g., Commercial Village Overlay allows 50% building coverage
OFF STREET PARKING	Several large visible parking areas within the District	Section 325-39	Parking Standards	<ul style="list-style-type: none"> • Reduce current minimum standards • Provide range with maximum standard • Develop shared parking provisions

HARWICH ZONING BOARD of APPEALS PUBLIC HEARINGS
Wednesday, July 29, 2020 at 7:00 p.m.
VIA REMOTE ACCESS
AGENDA

The Harwich Zoning Board of Appeals will hold a public hearing **via remote access** as noted below to hear the following cases. Any member of the public having interest in these applications is invited to provide information and comment relevant to these matters by submitting the same in writing via mail **by noon on Monday, July 27, 2020. Correspondence received after this time may be too late for submission to the Board. Case documents may be viewed on the Town Website via the Accela Citizen Access <https://aca3.accela.com/harwich/> Click Building and “Search Applications” or by specific request to building@townofharwich.us**

This meeting is by REMOTE PARTICIPATION ONLY. NO IN-PERSON ATTENDANCE OF MEMBERS OF THE PUBLIC WILL BE ALLOWED. Call in instructions will be posted on the meeting Agenda on the Board of Appeals web page.

Pursuant to Governor Baker’s March 12, 2020 order Suspending Certain Provisions of the Open Meeting Law, G.L.c30A Sec18 and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Town of Harwich Board of Appeals on Wednesday, May 27, 2020 at 7pm will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of Harwich website at www.harwich-ma.gov. For this meeting, members of the public who wish to watch the meeting may do so in the following manner on Channel 18 or by watching the simulcast at: <https://harwich18.dyndns.org/cablecast/public/Live.aspx?ChannelID=1>

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Case # 2020-21

Thomas & Ann Chipman have applied for a Special Permit to demolish and replace a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-54 and Table 2, Area Regulations as set forth in MGL Chapter 40A §6. The property is located at **20 Bayberry Road**, Map 24, Parcel K1-5 in the RR Zoning District.

Case # 2020-22

Richard Centrella of Richie’s Garage has applied for a Special Permit to change the use in order to operate a small general auto repair shop. The application is pursuant to the Code of the Town of Harwich, §325-Table 1 - Use Regulations as set forth in MGL Chapter 40A §6. The property is located at **191 Queen Anne Road**, Map 58, Parcel F1 in the IL Zoning District.

Case # 2020-23

Patrick D. O’Connor and Dorothy O’Connor, through their agent, Attorney William Crowell have applied for a Special Permit or in the alternative, a Variance to demolish and replace a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the

Town of Harwich, §325-Table 2 - Area Regulations and §325-54 as set forth in MGL Chapter 40A §6. The property is located at **12 Earle Terrace**, Map 12, Parcel N1-29 in the RH-1 Zoning District.

Case # 2020-24

Kenneth N. Roger and Jill C. Roger, through their agent, Attorney William Crowell have applied for a Special Permit or in the alternative, a Variance to construct an addition onto a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-Table 2 - Area Regulations and §325-54 as set forth in MGL Chapter 40A §6. The property is located at **20 Victory Drive**, Map 12, Parcel T4-24 in the RH-1 Zoning District.

Case # 2020-25

Richard Gacek, through his agent, Attorney William Crowell has applied for a Special Permit or in the alternative, a Variance to construct a master bedroom addition and a covered porch onto a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-Table 2 - Area Regulations and §325-54 as set forth in MGL Chapter 40A §6. The property is located at **19 Pine Wood Lane**, Map 4, Parcel T1-29 in the RH-1 Zoning District.

Case # 2020-26

Timothy D. Gallagher and Claire M. Gallagher, through their agent, Attorney William Crowell have applied for a Variance to allow for a pre-existing non-conformity concerning site coverage and a Special Permit, or in the alternative, a Variance to create habitable space over an existing garage of a pre-existing, non-conforming single family dwelling. The application is pursuant to the Code of the Town of Harwich, §325-Table 2 - Area Regulations and §325-54 as set forth in MGL Chapter 40A §10 and §6. The property is located at 51 Monomoy Road, Map 5, Parcel K1-A16 in the RH-1 Zoning District.

Case # 2020-27

Walter J. Moberg, Jr., through his agent, Attorney Michael Ford has applied for a Variance to reconfigure the lot lines of 2 existing lots and a Special Permit for the creation of a new non-conformity. The application is pursuant to the Code of the Town of Harwich, §325-52 as set forth in MGL Chapter 40A §10 and §6. The property is located at 1110 Queen Anne Road, Map 75, Parcel S6 in the RR Zoning District.

Case # 2020-28

Walter J. Moberg, Jr., through his agent, Attorney Michael Ford has applied for a Variance to reconfigure the lot lines of 2 existing lots and a Special Permit for the creation of a new non-conformity. The application is pursuant to the Code of the Town of Harwich, §325-52 as set forth in MGL Chapter 40A §10 and §6. The property is located at 1112 Queen Anne Road, Map 75, Parcel S5 in the RR Zoning District.

In other business, the Board will address the following:

- * Approval of minutes from the June 24, 2020 meeting.
- * New Business per the Board's discretion.

Documents related to the above cases are on file with the Building Department and the Office of the Town Clerk located at 732 Main Street, Harwich. They are also available to view on the Town of Harwich website via the Accela Citizen Access Portal.

**HARWICH PLANNING BOARD
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH
VIA REMOTE PARTICIPATION GoToMeeting.com
THURSDAY JUNE, 25 2020 – 6:30 PM
MEETING MINUTES**

BOARD MEMBERS PRESENT: Vice-Chairman, Allan Peterson; Mary Maslowski; William Stoltz; Craig Chadwick; and Duncan Berry were all present via remote participation.

BOARD MEMBERS ABSENT: Chairman, Joseph McParland; Arthur Rouse; and David Harris.

OTHERS PRESENT: Charleen Greenhalgh; Katie Tenaglia; Paul Sweetser; and Aaron Gingras.

CALL TO ORDER - 6:33 PM by Vice-Chairman Peterson with a quorum present.

Call to Order Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

PB2020-13 Davenport Companies Inc., Use Special Permit, 0 Old Campground Road

Representative: John M. O’Reilly, PE, PLS

Vice-Chairman Peterson opened the hearing at 6:35 PM by reading the legal notice into the record. Applicant seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C12 in the R-M District. It was noted that the applicant has requested a continuance of this hearing to July 14, 2020.

Ms. Maslowski made the motion to continue the public hearing to July 14, 2020 no earlier than 6:30 PM, seconded by Mr. Berry, unanimously so voted via roll call (5-0-0).

PB2020-14 Davenport Companies Inc., Use Special Permit, 0 Old Campground Road

Representative: John M. O’Reilly, PE, PLS

Vice-Chairman Peterson opened the hearing at 6:37 PM by reading the legal notice into the record. Applicant seeks approval of a Use Special Permit with waivers for a Two-Family dwelling pursuant to the Code of Town of Harwich §§ 325-13.A, -51 and -51.N as set forth in MGL c. 40A §9. The property is located at 0 Old Campground Road Map 30, Parcel C11 in the R-M District. It was noted that the applicant has requested a continuance of this hearing to July 14, 2020.

Ms. Maslowski made the motion to continue the public hearing to July 14, 2020 no earlier than 6:30 PM, seconded by Mr. Chadwick, unanimously so voted via roll call (6-0-0).

PB2020-18 Aaron & Debrah Gingras, Approval Not Required, 207 Follows Road

Representative: Paul E. Sweetser, PLS

The applicant seeks endorsement of a two (2) lot Approval Not Required plan entitled “Plan of Land in Harwich, Massachusetts, as prepared for Aaron T. & Debrah J. Gingras, scale 1”=40’, dated June 3, 2020, prepared by Paul E Sweetser, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 207 Follows Road, Map 60, Parcel H3-4. The parcels are in the R-M zoning district.

Mr. Sweetser explained the ANR application. Both lots have the required frontage and lot area.

Mr. Chadwick asked if this is a Town Road. It was explained that it is a private, an ancient way.

A Brief discussion ensued.

Mrs. Greenhalgh read the Town Planners report and departmental input into the record. Planning: 1.Each lot shows the required frontage along Follows Road.2.Most important, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over. Police and Fire: No comments Conservation: The Conservation Department does not have any issues with the lot reconfiguration. There are wetlands in the area and if any development is proposed it may be within Conservation Commission jurisdiction and would need to file for approval. Health: if the lots are ever developed, fully compliant Title 5 septic systems must be installed. No variances from local or state requirements will be granted.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board vote unanimously via roll call (5-0-0) that said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

On a motion from Ms. Maslowski, seconded by Mr. Chadwick, the Board vote unanimously via roll call (5-0-0) to endorse the ANR plan entitled “Plan of Land in Harwich, Massachusetts, as prepared for Aaron T. & Debrah J. Gingras, scale 1”=40’, dated June 3, 2020, prepared by Paul E Sweetser, PLS.

MEETING MINUTES: Mr. Berry made the motion to approve the meeting minutes from May 28, 2020 as written, seconded by Mr. Chadwick, unanimously so voted via roll call (5-0-0).

Continued discussion on draft amendment to Multi-family Dwelling related Bylaws

Mrs. Greenhalgh explained that this is one item that the board wanted to make changes on. Requirements for multifamily are onerous. This hopes to alleviate the overly restrictive restrictions. For example, Harwich center requires 8 acres of land, and cannot be within 1500' of another multifamily dwelling. No lots are 8 acres, and you cannot meet the 1500' setback.

Ms. Maslowski asked for a draft by-law for the Boards review and then discuss it at the next meeting.

Mr. Berry asked if there are similar changes being made on or off the cape. It was explained that no, there is not much out there in the smaller communities.

A lengthy discussion ensued.

Discussion on new Town Meeting date and vote on new public hearing for the zoning amendments related to “Essential Services”.

Mrs. Greenhalgh explained that with the cancelation of the Annual Town Meeting due to the COVID-19 Emergency and a new date of September 28, 2020 has been set by the Board of Selectmen. The Planning Board held a hearing for the proposed zoning amendments related to the term “Essential Services” on February 25, 2020; however pursuant to MGL c.40A, §5 the town meeting must act within 6 months of the public hearing. This date is will expire on August 25, 2020. It is unclear if this time limit was also stayed/tolled due to the COVID-19 Emergency, so she recommends that the Board vote to refer the Essential Services related amendments back to the Board of Selectmen to begin a new public hearing process.

Article ____: To see if the Town will vote to amend the Code of the Town of Harwich – Zoning by deleting the definition of “Essential Services” within §325-2–Definitions and by deleting within §325-13 –Table 1, Paragraph II –Public and Quasi Public Uses, Item 3 – Essential services; facility, utilities.

Explanation: The existing definition of ESSENTIAL SERVICES: “Services and appurtenant structures, facilities, uses or equipment provided by governmental agencies, including the Town of Harwich, or provided by public utility or public service companies, including but not limited to water distribution systems, Town-owned marinas, docking areas, fish piers, off-loading facilities, retaining walls, jetties and similar structures, gas and electric distribution, systems for telecommunications and sewerage systems.” and the definitions of MUNICIPAL USE: “A use, whether in a structure and/or on a parcel of land, owned and/or operated by the Town of Harwich.” are in conflict with one another. All Municipal Uses are allowable by right, as are public utility uses (i.e. gas, electric, cable, cell). By deleting the definition of Essential Services it would eliminate this unnecessary conflict.

Mr. Berry made the motion to refer the zoning bylaw amendment related to Essential Services to the Board of Selectmen so that the required public hearing process can begin and so that this article can be included in the September Town Meeting Warrant, seconded by Mr. Stoltz, unanimously so voted via roll call (5-0-0).

BRIEFINGS AND REPORTS BY BOARD MEMBERS:

Mrs. Greenhalgh made the announcement that Town Hall will be opening soon, so she will schedule appointments with Board members to sign the approved plans.

Mr. Berry commended Ms. Maslowski and the Historic Commission for the new building on Main Street. It is certainly fantastic and a worthwhile contribution to the Town.

ADJOURNMENT:

Ms. Maslowski made the motion to adjourn at 7:10 PM, seconded by Mr. Berry, unanimously so voted via roll call.

Respectfully Submitted,
Kathleen A. Tenaglia, Board Secretary

Adopted:

1 **Article ____:** To see if the Town will vote to amend the Code of the Town of Harwich – Zoning
 2 as it relates to “Multifamily, (new text is shown in **bold underline** and deleted text is shown in
 3 ~~strike-through~~) as follows:

4
 5 Within **§325-2 – Definitions**, amend the definition of “Bedroom” by deleting the existing
 6 definition and replace it with the following:

7
 8 **BEDROOM: Any room used or intended to be used for sleeping purposes or as**
 9 **determined by State and/or Harwich Board of Health Regulations.**

10
 11 Further, within **§325-9 Permitted uses**, amend the third sentence by adding the term
 12 **“multifamily,”** after “single-family,”

13
 14 Further, within **§325-13 - Table 1 – Use Regulations**, amend within the table Use Item #8
 15 Multifamily as follows:

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling (§325-51.Q)	<u>S</u>	<u>S</u>	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	-	-	S	S	S

17
 18 Further, within **§325-16 - Table 2, Area Regulations**, amend within the table, as follows:

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
MRL <u>All Districts</u>	Multifamily residential	10 contiguous acres minimum, 25 contiguous acres maximum; maximum density 8 bedrooms per acre <u>40,000⁴</u>	150	50 <u>Footnote 5</u>	50 <u>25</u>	50 <u>25</u>
MRL-1 <u>All Districts</u>	Multifamily residential	8 contiguous acres minimum; maximum density 4 bedrooms per acre, provided Planning Board may give a bonus as elsewhere provided in this bylaw <u>40,000⁴</u>	150	50 <u>Footnote 5</u>	50 <u>25</u>	50 <u>25</u>

20 ⁴**40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to**
 21 **multifamily residence the existing lot size shall be allowable.**

22 ⁵**Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new**
 23 **construction the front setback shall be 25 feet.**

24
 25

26 Further, within §325-16 – Table 3, Height and Bulk Regulations amend within the table, as
 27 follows:
 28

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
MRL <u>Multifamily residential use all districts</u>	40 <u>50</u> ¹	2½ <u>4</u> ¹	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
MRL-1 <u>Multifamily residential use all districts</u>	40 <u>50</u> ¹	2½ <u>4</u> ¹	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>MRL – 1</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>

29 ¹**Pursuant to §325-20**

30
 31
 32 Further, within §325-18 Additional Regulations, make the following amendments:
 33

34 Within Paragraph E, delete the term “multifamily,”

35 Delete in their entirety Paragraphs H, I, J, L and M.

36 Re-letter Paragraph “K” to “H” and delete in its entirety and add the following language:
 37 **“No outside staircase shall be used to furnish primary access to any of the units in a hotel or motel.”**

38 Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P”
 39 to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”
 40
 41

42
 43
 44
 45
 46 Further, within §325-39 Off-street parking schedule, Paragraph A, within the Parking Table,
 47 delete “multifamily” after “apartment,” and add a new “Multifamily” and parking spaces as
 48 follows:
 49

Multifamily **1.5 per studio, efficiency or 1-bedroom unit**
2 per 2-bedroom unit

51 Further, within §325-51 Special Permits, Paragraph D and subparagraph D(1) delete the
52 following “multifamily dwelling,” and subparagraph (2) in its entirety and add a new Paragraph
53 Q as follows:
54

55 **Q. Multifamily Special Permit**

- 56 1. **The Planning Board shall serve as the special permit granting authority for**
57 **multifamily developments, including conversion of existing structures/uses to**
58 **multifamily and/or new construction.**
59
- 60 2. **A Site Plan Review special permit pursuant to §325-55 is also required.**
61
- 62 3. **All multifamily dwellings must be connected to a municipal water system.**
63
- 64 4. **A habitable room in a multifamily dwelling unit shall not have a minimum floor**
65 **area of less than 120 square feet and shall have no major width or length dimension**
66 **less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable**
67 **rooms for the purpose of these minimum area and dimension requirements.**
68
- 69 5. **The number of multifamily dwelling units shall be determined by the ability to place**
70 **an adequately size septic system for the number of bedrooms; and required parking**
71 **per number of units and landscaping on the site pursuant to Article IX Off-Street**
72 **Parking and Loading Requirements.**
73
- 74 6. **All outside entrances to multifamily dwellings shall be designed in such manner as**
75 **to provide protection to the immediate area in front of said entrance from the**
76 **weather.**
77
- 78 7. **Whenever the land upon which a multifamily dwelling is to be erected is located**
79 **partially within a Drinking Water Resource Protection District, maximum possible**
80 **use of the area outside the Drinking Water Resource Protection District will be**
81 **made for the disposal of stormwater runoff and sewage.**
82
- 83 8. **Recreation areas. Where appropriate to the topography and natural features of the**
84 **site, the Planning Board may require that at least 10% of the open space or two**
85 **acres (whichever is less) shall be of a shape, slope, location and condition to provide**
86 **an informal field for group recreation or community gardens for the residents of the**
87 **multifamily development.**

Draft Zoning Changes – Multifamily – 07/06/2020

Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

§325-2 – Definitions

BEDROOM: Any room used or intended to be used for sleeping purposes **or as determined by State and/or Harwich Board of Health Regulations.** ~~For the purpose of determining the number of bedrooms in a proposed multifamily dwelling unit, all rooms which meet the minimum size requirements for habitable rooms under this bylaw other than a kitchen, bathroom and living/dining room shall be considered as bedrooms.~~

§325-9 Permitted uses

In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special permit in the district, in accordance with §§325-51 and 325-53, shall be designated by the letter (S). Uses designated (-) shall not be permitted in the district. Any use presently listed as a permitted use in the Table of Use Regulations shall be designated as a special permit if the use proposes a structure or structures having a gross floor area of more than 7,500 square feet or 20 or more new parking spaces on the site, except that single-family, **multifamily**, religious and educational uses shall be exempt from this provision. Some uses listed in the table as allowed as of right (P) or on special permit (S) require a special permit under the site plan provisions of this bylaw.

§325-13 - Table 1 – Use Regulations

Use	RR	RL	RM	RH-1	RH-2	RH-3	CV	CH-1	CH-2	IL	MRL	MRL-1	WR
8 Multifamily dwelling (<u>§325-51 Q</u>)	<u>S</u>	<u>S</u>	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	-	-	S	S	S

§325-16 - Table 2, Area Regulations

District	Use	Minimum Required				
		Lot Area (square feet)	Lot Frontage (continuous feet)	Front (feet)	Side (feet)	Rear (feet)
MRL <u>All Districts</u>	Multifamily residential	10 contiguous acres minimum; 25 contiguous acres maximum; maximum density 8 bedrooms per acre <u>40,000⁴</u>	150	50 <u>Footnote 5</u>	50 <u>25</u>	50 <u>25</u>
MRL-1	Multifamily residential	8 contiguous acres minimum;	150	50	50	50

Draft Zoning Changes – Multifamily – 07/06/2020

Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

<u>All Districts</u>		maximum density 4 bedrooms per acre, provided Planning Board may give a bonus as elsewhere provided in this bylaw <u>40,000⁴</u>		<u>Footnote 5</u>	<u>25</u>	<u>25</u>
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⁴**40,000 square feet is required for vacant lots. For lawfully pre-existing structures/use converting to multifamily residence the existing lot size shall be allowable.**

⁵**Front setback to be determined at the time of Site Plan Review §325-55 for existing buildings. For new construction the front setback shall be 25 feet.**

§325-16 – Table 3, Height and Bulk Regulations

District	Maximum Permitted Height (feet)	Maximum Permitted Height (stories)	Maximum Building Coverage of Lot (covered area as % of total lot area)	Maximum Site Coverage as % of Total Site Area	Minimum Residential Net Floor Area (square feet)
MRL <u>Multifamily residential use all districts</u>	40 <u>50¹</u>	2½ <u>4¹</u>	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
MRL-1 <u>Multifamily residential use all districts</u>	40 <u>50¹</u>	2½ <u>4¹</u>	15	50 <u>80</u>	Studio or efficiency unit: 250; bedroom unit: 550; 2-bedroom unit: 940
<u>MRL</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>
<u>MRL – 1</u>	<u>30</u>	<u>2 ½</u>	<u>15</u>	<u>25</u>	<u>None</u>

¹**Pursuant to §325-20**

§325-18 Additional Regulations

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Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

- E. On a lot used for ~~multifamily~~, hotel or motel purposes, parking lots, roads, streets, tennis courts, swimming pools and like amenities and facilities shall not cover more than 15% of the area of the lot. For the purpose of this subsection, golf courses, putting greens, bowling greens and similar amenities which do not involve covering the ground with any impervious material shall not be included for the purpose of computing the total ground coverage of a project.
- H. ~~No building permit may be issued for a multifamily dwelling project unless and until site plans showing the entire project to be constructed are submitted to the Building Official with the application for a building permit, and this requirement shall apply whether or not the project is to be built in phases.~~
- I. ~~All ways intended for use by vehicular traffic within the perimeter of a multifamily dwelling project shall be installed and constructed in accordance with the requirements governing road construction set forth in the Subdivision Rules and Regulations, as adopted from time to time by the Harwich Planning Board.~~
- J. ~~All multifamily dwellings must be connected to a municipal water system.~~
- K. **H.** A habitable room in a multifamily dwelling unit shall not have a minimum floor area of less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.
 - (1) ~~All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.~~
 - (2) ~~No outside staircase shall be used to furnish primary access to any of the units in a multifamily dwelling, hotel or motel.~~
- L. ~~No multifamily dwellings may be erected on any lot in the MRL or MRL-1 District the geographical center of which is closer than 1,500 feet to the geographical center of any lot upon which multifamily dwellings with more than four dwelling units are constructed, provided that, for the purpose of this subsection, contiguous lots in common ownership may be considered as a single parcel and developed for multifamily use, provided further that lots separated by a road, street or way will be considered contiguous for the purpose of this subsection and, if commonly owned, may be treated as one parcel for the purpose of multifamily construction.~~
- M. ~~Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of toxic or hazardous materials and sewage.~~

Additionally, reletter Paragraph “N” to “I”; Paragraph “O” to “J”; Paragraph “P” to “K”; Paragraph “Q” to “L”; and, Paragraph “R” to “M”

§ 325-20 Stories for human use or occupation.

In reference to Table 3, maximum permitted height (stories), in no case may any building used for multifamily dwellings, hotel or motel use exceed 50 feet in height nor contain more than four levels for human occupation. In no case shall a single-family residence contain more than two levels for human occupation, provided that the basement or cellar of a single-family residence can be used as a family room or recreational room but shall not be used as sleeping quarters unless it is made to comply with the provisions of the Building Code regulating the design and construction of such rooms. In no case shall any other building provide more than two stories or levels for human use or occupation.

§325-39 Off-street parking schedule.

A. These standards are the minimum requirement. The Planning Board, under site plan review, may vary the required number of spaces if the nature and scale of a proposed use warrant such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated. In the case of multiple uses on a single lot, the required number of parking spaces will be equal to the combined total of parking spaces for each use.

Use	Parking Spaces
Residential Uses	
Single-family dwelling, two-family dwelling	2
Single-family dwelling with accessory apartment, multifamily or mixed-use development	1.5 per unit
<u>Multifamily</u>	<u>1.5 per studio, efficiency or 1- bedroom unit</u> <u>2 per 2-bedroom unit</u>

§325-51 Special Permits

D. Special permit to construct ~~multifamily dwellings~~, hotels or motels.

(1) The Planning Board, in acting upon an application for special permit to construct ~~multifamily dwellings~~, hotels or motels, shall have the authority, pursuant to MGL c. 40A, § 9, to include in the grant of permission authorization to increase the permissible density of population or intensity of a particular use in a proposed development, provided that the petitioner or applicant shall, as a condition for the grant of authority to increase permissible density, provide certain open space or some or all of the amenities hereafter

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Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

listed, but the Board shall not have the authority to increase the density of population or intensity of uses beyond the maximums hereafter specified.

Amenity	Maximum Density Increase
Swimming pool	8%
Tennis courts	4%
Golf course	16%
Community building or recreation building	2%

~~(2) For the purpose of ensuring that an applicant or petitioner constructs the proposed amenities in accordance with the plans and specifications submitted to the Planning Board, the Planning Board shall require, as a condition to the granting of the permit, that the applicant or petitioner execute a covenant on such reasonable terms and conditions as the Planning Board may specify and wherein the petitioner or applicant shall agree to construct the amenities as proposed in accordance with a timetable approved by the Planning Board, and the Planning Board may require that the amenity or amenities, once constructed, shall be under the control or jurisdiction of a nonprofit organization, the principal purpose of which is the maintenance and management of said amenities, or that control of said amenities be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. The covenant required hereunder shall be recorded at the Barnstable County Registry of Deeds before any work authorized by the special permit is begun, and no lot, dwelling or multifamily dwelling unit shall be conveyed (except as provided in MGL c. 41, § 81U, Clause 2) until said covenant has been released in whole or as it relates to the portion of the premises to be conveyed by duly executed instrument or release by the Planning Board.~~

Q. Multifamily Special Permit

- 1. The Planning Board shall serve as the special permit granting authority for multifamily developments, including conversion of existing structures/uses to multifamily and/or new construction.**
- 2. A Site Plan Review special permit pursuant to §325-55 is also required.**
- 3. All multifamily dwellings must be connected to a municipal water system.**
- 4. A habitable room in a multifamily dwelling unit shall not have a minimum floor area of less than 120 square feet and shall have no major width or length dimension less than 10 feet. Closets, storage spaces, bathrooms and kitchens are not habitable rooms for the purpose of these minimum area and dimension requirements.**
- 5. The number of multifamily dwelling units shall be determined by the ability to place an adequately size septic system for the number of bedrooms; and required parking per number of units and landscaping on the site pursuant to Article IX Off-Street Parking and Loading Requirements.**

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Deleted language shown in ~~strike thru~~ and new language shown in **Bold Underline**

6. **All outside entrances to multifamily dwellings shall be designed in such manner as to provide protection to the immediate area in front of said entrance from the weather.**

7. **Whenever the land upon which a multifamily dwelling is to be erected is located partially within a Drinking Water Resource Protection District, maximum possible use of the area outside the Drinking Water Resource Protection District will be made for the disposal of stormwater runoff and sewage.**

8. **Recreation areas. Where appropriate to the topography and natural features of the site, the Planning Board may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the multifamily development.**