Consultant’s Report, August 18, 2022, Special Permit and Site Plan Review

**Case No.:** PB2022-15

**Applicant/Owner:** Main Street HP LLC

**Registry:** Deed Book 23755 Page 106; LCP 23643-D and 640-62

**Property:** 575 Route 28 (Assessor’s Map 14, Parcel V15)

**Overview:**

The applicant has made the following changes since the initial application:

* Designated a parking area at #569 Route 28 for use with this development.
* Created three additional parking spaces after the July public hearing, raising the proposed total to 56.
* Via the applicant’s attorney, submitted an explanation of how parking spaces on #569 and #571 will be made legally available for use by #575 Route 28.
* Designated a third HCP parking space.
* Added a Special Permit request for a fast-food/takeout restaurant and adjusted the required parking schedule to reflect that use (increasing the total from 68 to 74 spaces).
* Added a waiver request for a 0’ parking setback.
* Delineated a proposed split rail fence between the restaurant patio area and the public sidewalk (which will be widened to the property line).
* Designated a loading zone.
* Added six arborvitae to create an evergreen screen at the left rear corner of the property abutting an existing residence.
* Depicted wider door openings to the “office” areas in three residential units in compliance with requirements of the Board of Health.
* In response to Planning Board comments, added extensive window area to the rear building elevation (south) to improve façade appearance.

This consultant continues to recommend that the proposal is supportive of a village concept and is complementary to existing uses in Harwich Port. The most significant issue remains the extent of a parking waiver, if any, to be granted by the Planning Board.

The applicant continues to propose that the coffee shop will close at 4 pm, except for special events, i.e. the Harwich Port music stroll on Wednesday evenings in the summer. However, the applicant has clarified that he wants the flexibility to operate the restaurant at lunchtime. His case for a 13-space parking waiver based on “offsetting hours” becomes less clear as a result. I will point out, in the applicant’s favor, that most sit-down restaurants in Harwich Port are busier during evening hours.

It is also worth comparing this waiver request to other recent approvals for mixed-use projects in Harwich Port.

* #554 Route 28 (Mad Minnow, 3 Monkeys, etc.) – 69 spaces required, 43 proposed (62%). Note that this project is immediately adjacent to the municipal parking lot.
* #557 Route 28 (Roots Market) – 67 spaces required, 62 proposed (93%). Note that the initial application with 67 spaces was based solely on lower calculations for retail space. A subsequent revision allowing a fast-food restaurant was approved with no revised parking calculations and a Planning Staff comment that the parking as provided is adequate for the proposed uses.
* #575 Route 28 – 74 spaces required, 56 proposed (76%).

**Recommended Findings:**

1. The subject property at 575 Route 28 is approximately 29,800 square feet and is located within the Commercial Village (C-V) Zoning District.
2. The property fronts on Route 28 and is permitted to utilize the provisions of the Village Commercial Overlay District (VCOD) Special District bylaw (Section 325-51.L).
3. The applicant filed an application on May 19, 2022 for the following Special Permits: Site Plan Review (325-55) for commercial and other uses, Village Commercial Overlay District (325-51.L), Mixed-use development (325-51.M), and structures with greater than 7,500 square feet of gross floor area or requiring more than 20 new parking spaces (325-9). Subsequently the applicant amended the list of requested Special Permits to include a fast food/takeout restaurant (325-14.O).
4. Plans and documents submitted in support of the application are as follow:

Stamped Site Plan Set, #575 Route 28 (Main Street), Harwich, Massachusetts, prepared by Merrill Engineers and Land Surveyors, dated May 18, 2022 with revisions through August 12, 2022, inclusive of the following sheets:

* 1. Layout Plan, Sheet 1 of 8
	2. Existing Conditions Plan, Sheet 2 of 8
	3. Grading & Drainage Plan, Sheet 3 of 8
	4. Septic & Utilities Plan, Sheet 4 of 8
	5. Construction Details, Sheet 5 of 8
	6. Construction Details, Sheet 6 of 8
	7. Construction Details, Sheet 7 of 8
	8. Demolition & Erosion Control Plan, Sheet 8 of 8

Stamped architectural plan set, 575 Route 28, Harwich Port, MA, prepared by RESCOM Architectural Inc., dated 5-19-22 with revisions through 08-18-22, inclusive of the following sheets:

* 1. Landscape Plan, Sheet L1.0
	2. Lighting Plan, Sheet L1.1
	3. First Floor Plan, Sheet A1.0
	4. Second Floor Plan, Sheet A1.1
	5. Foundation Floor Plan, Sheet A1.2
	6. Building Elevations, Sheet A1.3
	7. Signage Elevations, Sheet A1.4
	8. Site Photos, Sheet A1.5
	9. Conceptual Aerial Photo, Sheet A1.6

Drainage Report, 575 Route 28 (Main Street), Harwich Port, MA, dated May 19, 2022, prepared by Merrill Engineers and Land Surveyors, dated May 19, 2022.

Traffic Assessment, Proposed Redevelopment, 575 Route 28, Harwich, Massachusetts, dated May 19, 2022, prepared by VHB.

Two letters from Attorney William D. Crowell including attachments related to an access and parking easement for #569 Route 28.

1. The Planning Board opened and held a duly noticed hearing on July 26, 2022 as mutually consented by the parties and continued the hearing until August 23, 2022.
2. The Planning Board is the granting authority for the requested Special Permits and may grant approval if it finds the application satisfies the requirements of 325-51.A, 325-51.B and the relevant provisions for each individual special permit request.
3. The Planning Board may waive or modify the dimensional requirements of the Village Commercial Overlay District under the provisions of 325-51.L(5)(h).
4. The property is currently unimproved except for several parking spaces used by tenants/lessees at 571 Route 28 (Assessor’s Map 14, Parcel V14).
5. The applicant proposes to construct a structure with 11,940 gross square feet on two levels. The structure also contains a basement area.
6. Proposed uses are two 1000 square foot retail units, one 850 square foot fast food restaurant with 20 seats, one 3000 square foot restaurant with 100 seats, and five one-bedroom residential units. The basement area will be used for storage and utilities.
7. The applicant has submitted parking calculations indicating the following number of spaces required by the Harwich Zoning Bylaw: 10 spaces for two retail stores, 8 spaces for five residential apartments, 35 spaces for a 100-seat restaurant, and 13 spaces for a 20-seat fast-food/takeout restaurant. Additionally, 8 spaces are indicated for current use on the abutting 571 Route 28 parcel. The applicant indicates that 74 total parking spaces are required.
8. The applicant’s plans depict 56 total parking spaces including 29 spaces located solely on 575 Route 28, 9 spaces crossing the property line between 571 and 575 Route 28, and 18 spaces on 569 Route 28.
9. The applicant has requested a waiver of 18 parking spaces with 13 of those justified by “offsetting hours” of the two restaurants. The applicant has stated that the fast-food/takeout restaurant will close at 4 pm daily except during the weekly Harwich Port Music Stroll on summer evenings. The applicant also has stated that the larger restaurant will primarily operate during evening hours. This restaurant also may operate during lunch hours, but the applicant has stated that this usage should be less than in the evening.
10. The remaining waiver of 5 parking spaces is reasonable for a mixed-use development in a village setting.
11. A letter from the project attorney states that the parking spaces on 569 and 571 Route 28 will be made available for use of proposed development on 575 Route 28 via fee-based agreements for as long the Planning Board requires a credit for such spaces. A draft of those agreements will be submitted prior to issuance of an occupancy permit for development on 575 Route 28.
12. The plan set for the proposed development on 575 Route 28 includes the layout of parking areas and connecting walkways on 569 and 571 Route 28 along with individual zoning compliance requirements for all three parcels. However, the letter from the project attorney states that 569 and 571 Route 28 will be separately owned and will not be a part of the development at 575 Route 28 other than providing credit for parking spaces.
13. In addition to the parking waiver, the applicant has requested the following waivers: design of the radius of the access road (325-42.H), parking setbacks from property lines (325-42.L), parking lot trees (325-43.B) and interior landscaped islands (325-43.C).
14. In order to maintain the location of the existing access point, it is reasonable to allow the extension of its radius across a small corner of the abutting property.
15. 0-foot setbacks are reasonable to facilitate shared parking between abutting parcels in a village setting.
16. Sufficient landscaping is proposed at the front and rear of the proposed development. The two requests for parking lot landscaping waivers are reasonable.
17. The proposed site access is subject to the jurisdiction of the Massachusetts Department of Transportation.
18. The applicant’s traffic engineer has submitted an assessment regarding projected development trip generation and safety at the proposed site access.
19. The Harwich Police Department has submitted speed study findings similar to those of the applicant.
20. The Harwich Board of Health has submitted a Certificate of Compliance, dated June 27, 2022, for the proposed development. The applicant subsequently submitted revisions to the layout of the “office” in three of the five residential units to comply with the requirements of the Certificate of Compliance.
21. The Harwich Fire Department, Conservation Department and Department of Public Works have replied that they have no concerns with this project.
22. The proposed building architecture and the orientation of the building to Route 28 comply with the purpose of the Village Commercial Overlay District (325-51.L(1) in that they are in keeping with Harwich Port’s historic development patterns, including the size and spacing of structures.
23. In addition to landscaping provided elsewhere on the property, the applicant has proposed nine 20’ to 30’ high spruce trees at the rear of the parking lot. These trees in combination with an existing solid fence built by the abutter will effectively screen the parking lot from abutting residential property in accordance with Section 325-43.C of the Harwich Zoning Code.
24. The applicant has stated that the Lighting Plan (L1.1) conforms with the Outdoor Lighting section of the Harwich Zoning Code (Article XXI).
25. Any proposed signage will require additional permits and shall meet the requirements of the Harwich Zoning Code.
26. With recommended conditions of approval, the proposal satisfies the requirements for approval of the requested Special Permits. The use as developed will not adversely affect the neighborhood, is an appropriate location for such a use, structure or condition, will not create any nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities will be provided for the proper operation of the proposed use.
27. With recommended conditions of approval, the proposal satisfies the requirements for approval of the applicant’s waiver requests.

**Recommended Conditions of Approval:**

1. The applicant shall provide a written agreement for the use of parking areas on #569 and #571 Route 28 to the Board prior to issuance of an occupancy permit for development on #575 Route 28.
2. The applicant shall provide the following easements to the Board prior to recording. The easements shall be recorded at the Barnstable County Registry of Deeds prior to application for a building permit:
	1. Easements for shared use of the parking spaces crossing the property line between #571 and #575 Route 28
	2. Easement for construction of a curb radius across a portion of #571 Route 28.
3. The plans for this project shall be revised and provided to the Board **prior to endorsement** to include the following:
	1. Relabeling of the landscaping plan to show nine Black Spruce trees (EC) along the southern boundary of the parking lot.
	2. Boundaries of required easements.
	3. The required number of copies of a combined plan set showing the latest revision for each sheet.
4. The proposed development shall be in accordance with the site plan referenced in the application materials above.
5. This decision shall run with the property.
6. This decision shall not be effective until it is recorded with the Barnstable Registry of Deeds.
7. Changes to the site and to the uses authorized under this decision may require further Planning Board review and a modification to this decision.
8. The applicant shall conform to the inspection, certification and as-built plan requirements outlined pursuant to §400-18.G of the Harwich Code.

**Recommended Motions:**

The Planning Board shall make a decision within ninety days after closing the public hearing. A super-majority vote (5 members) is needed to approve Special Permits.

In case #2022-15, motions to be considered are:

To close the public hearing.

To approve the Findings set forth herein.

To approve the following requested waivers:

Number of parking spaces (325-39)

Design of the radius of the access road (325-42.H)

Parking setbacks from property lines (325-42.L)

Parking lot trees (325-43.B), and

Interior landscaped islands (325-43.C).

To approve the following requested Special Permits with the Conditions of Approval set forth herein:

Site Plan Review (325-55) for commercial and other uses

Village Commercial Overlay District (325-51.L)

Mixed-use development (325-51.M),

Structures with greater than 7,500 square feet of gross floor area or requiring more than 20 new parking spaces (325-9), and

Fast food/takeout restaurant (325-14.O).