

Town of Barnstable
Planning and Development Department
Staff Report



**60 High Noon Drive
Approval Not Required (ANR) Plan**

Date: March 7, 2018
To: Mary Barry, Chair, Planning Board
From: Paul Wackrow, Principal Planner

Owners: J Bruce Macgregor & Cape Commerce Nominee Trust
Applicants: Daniel A Ojala, PE, PLS, Down Cape Engineering, Inc.
Property Address: 60 High Noon Drive
Assessor's Map/Parcel: 193/215 & 193/216
Zoning: RC, RD-1

An Approval Not Required Plan "Plan of Land of #60 High Noon Drive Centerville, MA" drawn and stamped by Daniel A Ojala, PE, PLS of Down Cape Engineering, Inc., dated February 12, 2018, for Cape Commerce Nominee Trust for 60 High Noon Drive, 193/215 & 193/216, has been submitted to the Board for endorsement as an Approval Not Required (ANR) plan.

The subject property is a 3.64 acre lot (103,367 sq.ft upland + 55,154 sq.ft wetland); it was created by a 2017 ANR plan that combined two adjoining lots. A building permit was issued for the construction of a two bedroom house on the lot in August 2017.

The Plan proposes to create a 16,168 sq. ft lot for conveyance purposes:

- Parcel E containing 16,168 square feet (.37 acres). The plan and application note that Parcel E is not a buildable lot and is for conveyance purposes only.

The surveyor submitted a letter for the record to confirm that once the conveyance parcel is transferred to the abutting land owner, a subsequent "perimeter" plan will be filed to dissolve the interior lot line. The Town has requested a copy of that plan for the record and assessing purposes.

High Noon Drive is a private way on an approved subdivision plan. No new lots are created through this plan, and the place does not constitute a subdivision. There are changes to frontage or access for the two existing lots.

The application and plan were submitted to the Town Clerk's Office on February 21, 2018.

The above properties due have outstanding Real Estate taxes from FY16. FY17 Real Estate taxes are paid and the FY18 taxes are current with the next installment due on May 1, 2018.

The plan as submitted qualifies as an ANR Plan and it should be endorsed by the Board as:

- Parcel E is being created for conveyance purpose only and does not constitute a subdivision;
- Lot C continues to have the minimum required frontage on an improved private way and do not constitute a subdivision; and
- all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance.

If the Board agrees, a motion should be formulated to:

Endorse the land division plan entitled "Plan "Plan of Land of #60 High Noon Drive Centerville, MA" drawn and stamped by Daniel A Ojala, PE, PLS of Down Cape Engineering, Inc., dated February 12, 2018 as an Approval Not Required Plan.

TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS

FORM A

APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL

Date: 2 / 20 / 2018

The undersigned owner(s) or authorized applicant(s) of the land shown on the accompanying plan request a determination and endorsement by the Barnstable Planning Board that approval under the Subdivision Control Law is not required.

Plan Title: Plan of Land

Plan Date: 2 / 12 / 2018

Assessor's Map and Parcel Number: Map (s): 193 Parcel (s): 215 + 216

Zoning: RC district Area: 142,344 Number of Lots: 1

Drawn By: Daniel A. Ojala, PE, PLS

Address: Down Cape Engineering

939 Main St. Yarmouth Port MA 02675

Phone: (508) 362-4541

The undersigned's title to said land is derived as follows:

PLEASE COMPLETE THE FOLLOWING

1. The proposed lots do ☒ do not ☐ meet the present Zoning By-Law lot size requirements, including lot shape factor requirements. (Check one).
2. The applicant believes that the plan does not require the Planning Board's approval because (please circle):
 - A. Each lot has the minimum required frontage required under the Zoning Bylaw on _____ Street, which is:
 1. A public way, certified by the Town Clerk as maintained and used as a public way, or
 2. A way shown on a subdivision plan # _____ dated ____/____/____, and endorsed and installed in accordance with the Subdivision Rules and Regulations, or
 3. A private way which provides adequate access in accordance with Section 3-1.3 (2) of these Subdivision Rules and Regulations.
 - ☒ B. The division proposed is for conveyance purposes and does not reduce the lot frontage less than the minimum required in the Zoning Bylaw.
 - C. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings shown on the accompanying plan were standing prior to the date in which the Subdivision Control Law was implemented in the Town of Barnstable. The date the buildings were constructed and the use is as follows:

Building #1 : ____/____/____ date _____ use _____

Building #2 : ___/___/___ date _____ use _____

Building #3 : ___/___/___ date _____ use _____

Other reasons: _____

4. Has a plan of this land been submitted to the Planning Board before? Yes ☒ No _____ (check one). If yes please provide the date of the plan, date of recordation with the Registry of Deeds or of the date of filing with Land Court. date of plan: 7/27/17 date of recording: ___/___/___
MS 671 PG 45

5. Are there any wetlands within this tract of land? Yes ☒ No _____ (check one).

6. The owner/applicant owns adjoining land _____ yes ☒ no

_____/_____/_____(_____)_____
Signature of Owner Address Telephone

Print Name of Owner

Dean W Hyannis MS 608 362-2721
Signature of Owner Address Telephone

J. Bruce Macgregor
Print Name of Owner

_____/_____/_____(_____)_____
Signature of Authorized Applicant Address Telephone

Print Name of Applicant

Applicant's Authorization:

This section is to be completed by the Registered Land Surveyor who prepared the plan or by the legal counsel representing the applicant:

I certify that no other conditions or limitations from prior plans apply to the plan of land submitted.

Company/Firm: Dean Cape Engineering Inc.
Address: 939 Main St. Barnstable
Telephone: (508) 362-4541 Date: 2/20/18
Certification: PLS Certification #: 40980
Signature: D. H. O.

Received by Town Clerk:

Date: ___/___/___ Time: _____ Fee: _____

Signature: _____

Please make check payable to the Town of Barnstable.

TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS

FORM A

APPROVAL NOT REQUIRED PLAN - SUBMISSION CHECKLIST

This form must be completed by the plan preparer, signed, dated and returned with the completed copy of Form A along with the appropriate fee. For the complete submission requirements see Section 3-3 of the Rules and Regulations. Please check each item submitted:

- ☒ One Copy of the completed Form A, and Form A Checklist.
- ☒ Filing Fee Paid \$ 250
- ☒ Copy of most recently recorded deed and copy of recent tax bill. Evidence of payment of taxes on all lots.
- ☒ If the applicant is not the owner, a copy of authorization to apply signed by land owner(s).
- ☒ Evidence of right of access over any private way that provides access and frontage.
- ☒ Ten copies of the plan at a reduced scale of 1"=100" or other suitable scale for distribution.
- ☒ GIS file (see Appendix A) and original mylar.
- ☒ Original cloth tracing and eight (8) prints of the plan containing the following information:
 - ☒ Locus Map at a scale of 1" = 2,000'.
 - ☒ Underneath the locus map, the assessors map and parcel number(s), zoning district(s), zoning overlay district(s), and zoning area, frontage and dimensional requirements. North arrow.
 - ☒ Title block location and Fire District, owner, applicant, date scale and bar scale. Firm responsible and original seal on all copies with signature and date. Revisions with dates and descriptions..
 - ☒ Adjoining lots and owner(s). Frontage of any remaining adjoining land.
 - ☒ Location of existing buildings, including front, side and rear yard setbacks and street address.
 - ☒ Location and width of streets, ways and easements: legal status, name and pavement widths. Type of surface of way which gives frontage.
 - ☒ Location and area of wetlands on any buildable lot.
 - ☒ Lot sizes in sq. ft and/or acres; area of any remaining land; lot shape factor calculations on separate building lots.
 - ☒ Lots created for conveyancing purposes only, so noted.
 - ☒ Note: "No determination as to compliance with the Zoning Ordinance requirements has been made or intended by the above endorsement".

THE PLANNING BOARD MAY DENY INCOMPLETE APPLICATIONS

Signature of registered land surveyor or registered engineer: _____

Print name: Daniel A. Ojala, PLS.

Company/Firm: Down Cape Engineering, Inc. Address: 939 Main Street, Yarmouthport, MA

Telephone: (508) 362-4541 Date: 3 / 31 / 09 Certification: PLS. Certification #: #40980



LOCUS MAP

SCALE 1"=2000'
ASSESSORS MAP 193 PARCELS 215 & 216
C.O.M.A. FIRE DISTRICT

ZONING SUMMARY

ZONING DISTRICT: MC DISTRICT
MIN. LOT SIZE 87,100 S.F.
MIN. LOT WIDTH 100'
MIN. FRONT SETBACK 20'
MIN. REAR SETBACK 10'
MIN. BUILDING HEIGHT 30'
MAX. BUILDING AREA 10,000 S.F.
PROTECTION OVERLAY DISTRICT
SITE IS LOCATED WITHIN THE AQUIFER PROTECTION OVERLAY DISTRICT

OWNER OF RECORD

CAPE COMMERCE NOMINEE TRUST
AMC MACGREGOR
HYANNIS, MA 02601

REFERENCES

DEED BOOK 73380 PAGE 245
PLAN BOOK 648 PAGE 8
PLAN BOOK 671 PAGE 43

NOTE

THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE OF SUBMITTING AN APPLICATION FOR A ZONING VARIANCE. THE PROPERTY IS NOT A BUILDING LOT AS DEFINED BY THE SUBDIVISION CONTROL LAW.

PLAN OF LAND

#60 HIGH NOON DRIVE
CENTERVILLE, MA

CAPE COMMERCE NOMINEE TRUST

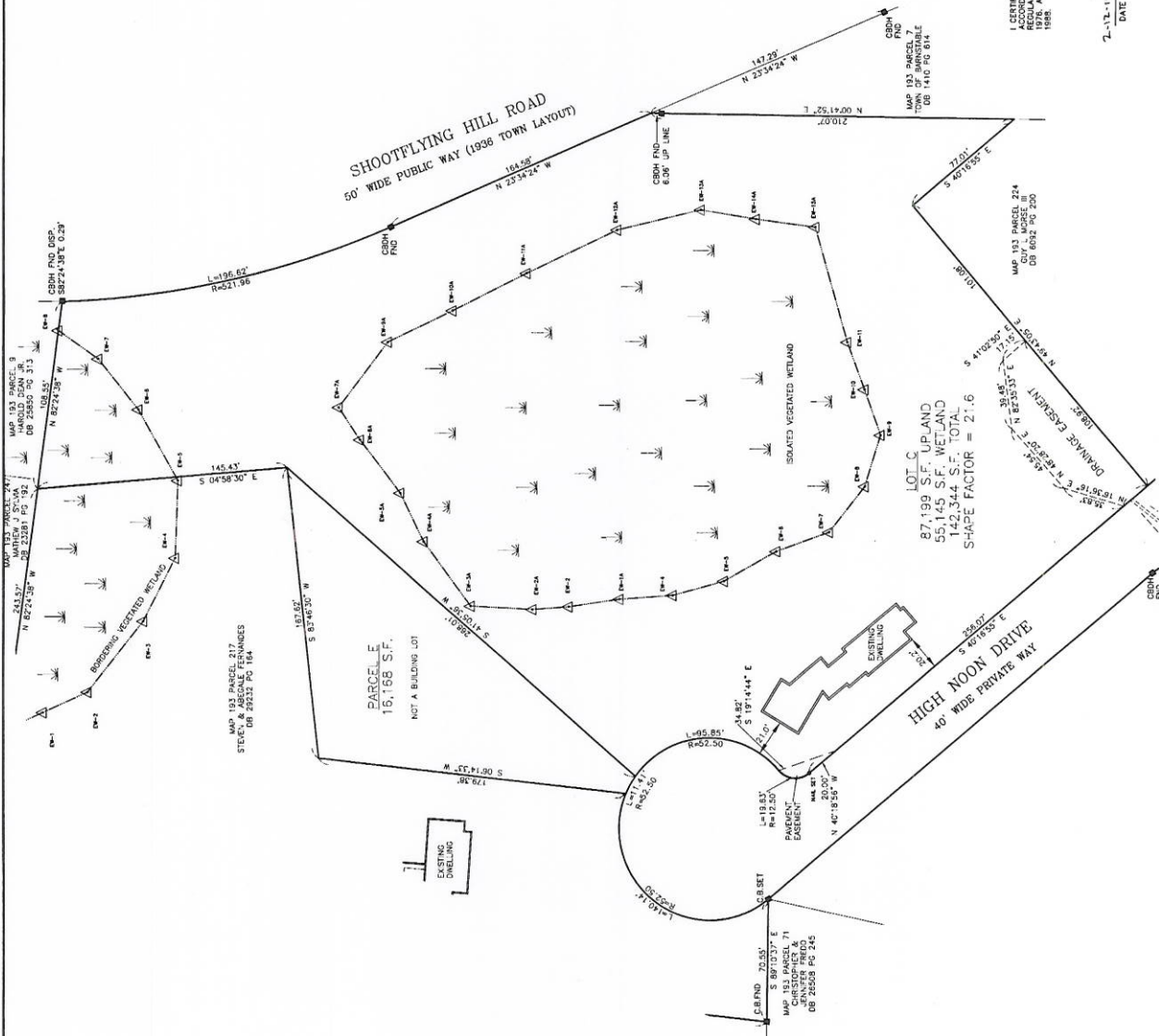
DATE: FEBRUARY 12, 2018

I CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH THE RECORDING ACT OF DEEDS AND MORTGAGES, CHAPTER 156C, MASSACHUSETTS, AND AS AMENDED JANUARY 1, 1988.

Scale 1"=30'



15-284 BASE-4



BARNSTABLE PLANNING BOARD

APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED

DATE: _____

NO DETERMINATION AS TO COMPLIANCE WITH THE ZONING ORDINANCE OR THE SUBDIVISION CONTROL LAW IS NOT REQUIRED BY THE ABOVE ENDORSEMENT.

TOWN OF BARNSTABLE
General Fund

03/07/2018 11:07
niemim

PARCEL: 193-215
LOCATION: 60 HIGH NOON DRIVE
637 SHOOTFLYING H
NAME: MACGREGOR, J BRUCE TR
GOLDM

EFF DATE: 03/07/2018

YEAR	CAT	BILL	NSC ORIG BILLED	ACTIVITY	UNPAID BAL	DUE NOW
2018	RE-R	17135 N	1608.86	-1190.50	418.36	0.00
2017	RE-R	11336 N	1544.26	-1544.26	0.00	0.00
2016	RE-R	11315 N	1565.10	-490.24	1371.49	1371.49
2015	RE-R	11387 N	1495.74	-1495.74	0.00	0.00
2014	RE-R	11424 N	124.30	-124.30	0.00	0.00
2013	RE-R	11508 N	119.73	-119.73	0.00	0.00
2012	RE-R	11533 N	103.05	-103.05	0.00	0.00
2011	RE-R	10079 N	98.14	-98.14	0.00	0.00
2010	RE-R	10036 N	94.48	-94.48	0.00	0.00
2009	RE-R	11341 N	84.32	-84.32	0.00	0.00
2008	RE-R	11214 N	84.31	-84.31	0.00	0.00
2007	RE-R	11149 N	81.43	-81.43	0.00	0.00
2006	RE-R	11112 N	60.47	-60.47	0.00	0.00
2005	RE-R	11110 N	97.03	-97.03	0.00	0.00
2004	RE-R	11096 N	84.62	-84.62	0.00	0.00
2003	RE-R	11189 N	51.62	-51.62	0.00	0.00
2002	RE-R	11188 N	50.23	-50.23	0.00	0.00
2001	RE-R	11186 N	48.25	-48.25	0.00	0.00
2000	RE-R	11171 N	63.10	-63.10	0.00	0.00
1999	RE-R	11099 N	58.80	-58.80	0.00	0.00
1998	RE-R	10085 N	56.15	-56.15	0.00	0.00
1997	RE-R	12617 N	59.80	-59.80	0.00	0.00
1996	RE-R	12638 N	58.56	-58.56	0.00	0.00
1995	RE-R	12718 N	56.03	-56.03	0.00	0.00
TOTAL DUE NOW						1371.49
TOTAL UNPAID						1789.85

** END OF REPORT - Generated by Niemi Maureen **

03/07/2018 11:08
niemim

TOWN OF BARNSTABLE
General Fund

PARCEL: 193-216
LOCATION: 60 HIGH NOON DRIVE
655 SHOOTFLYING H
NAME: MACGREGOR, J BRUCE TR
GOLDM

EFF DATE: 03/07/2018

YEAR	CAT	BILL	NSC ORIG BILLED	ACTIVITY	UNPAID BAL	DUE NOW
2018	RE-R	17136 N	1597.36	-1181.99	415.37	0.00
2017	RE-R	11337 N	1533.21	-1533.21	0.00	0.00
2016	RE-R	11316 N	1561.75	-489.13	1368.63	1368.63
2015	RE-R	11388 N	1491.29	-1491.29	0.00	0.00
2014	RE-R	11422 N	128.67	-128.67	0.00	0.00
2013	RE-R	11509 N	123.93	-123.93	0.00	0.00
2012	RE-R	11538 N	107.09	-107.09	0.00	0.00
2011	RE-R	10083 N	101.99	-101.99	0.00	0.00
2010	RE-R	10040 N	98.19	-98.19	0.00	0.00
2009	RE-R	11345 N	87.60	-87.60	0.00	0.00
2008	RE-R	11215 N	86.66	-86.66	0.00	0.00
2007	RE-R	11150 N	83.68	-83.68	0.00	0.00
2006	RE-R	11113 N	64.26	-64.26	0.00	0.00
2005	RE-R	11111 N	102.83	-102.83	0.00	0.00
2004	RE-R	11097 N	90.15	-90.15	0.00	0.00
2003	RE-R	11190 N	57.23	-57.23	0.00	0.00
2002	RE-R	11191 N	55.69	-55.69	0.00	0.00
2001	RE-R	11187 N	53.50	-53.50	0.00	0.00
2000	RE-R	11172 N	70.61	-70.61	0.00	0.00
1999	RE-R	11100 N	65.80	-65.80	0.00	0.00
1998	RE-R	10086 N	62.84	-62.84	0.00	0.00
1997	RE-R	12618 N	66.78	-66.78	0.00	0.00
1996	RE-R	12639 N	65.38	-65.38	0.00	0.00
1995	RE-R	12719 N	62.55	-62.55	0.00	0.00
TOTAL DUE NOW						1368.63
TOTAL UNPAID						1784.00

** END OF REPORT - Generated by Niemi Maureen **

TOWN PLANNING BOARD

APPROVAL UNDER THE SUBDIVISION
CONTROL LAW IS NOT REQUIREDDATE: 9/10/12
BY: [Signature]NO DETERMINATION AS TO COMPLIANCE
WITH THE ZONING ORDINANCE
REQUIREMENTS HAS BEEN MADE OR
INTERVIEWED BY THE ABOVE SUBMITTER.

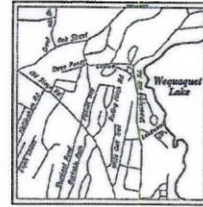
REGISTERED AND COMPLETED

203 JUN 25 A/P 37
REGISTRY OF DEEDS
JOSE F. PEARCE

REFERENCES

PLAN BOOK 326 PAGE 27 CB 24801 PG 181, CB 24804
PG 225, C.P. PET. PLAN 58427-A, PG 244 PG 176, PG
208 PG 27
L.P. 33375 L. PG 236 PG 127

OWNERS OF RECORD:

ESTATE OF JOANNE S. GOLDMAN C/O ATTY. JEFFREY M.
OPFENBERG 27 ADAM F. LUBER 704 FAIRBANKS MA 02541
ESTATE OF DAVID GOLDMAN C/O ATTY. JEFFREY M.
OPFENBERG 27 ADAM F. LUBER 704 FAIRBANKS MA 02541

LOCAL MAP

SCALE 1"=2000'

ADDRESS: MAP 103 PARCELS 215 THRU 223 (9 PLS.)
TOTAL AREA = 232.374 AC OF 0.25 AC
LOCAL MAP IS WITHIN FEMA FLOOD ZONE C
LOCAL MAP IS WITHIN AP DISTRICT

ZONING SUMMARY

ZONING DISTRICT	AC
MAP LOT 202	43.563 (202.23 S.F. 1000)
MAP LOT 203	27
MAP LOT 204	27
MAP LOT 205	27
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MAP LOT 298	27
MAP LOT 299	27
MAP LOT 300	27

AP CRASHWATER OVERLAY DISTRICT (NOT
A ZONE, BUT PUBLIC WATER SUPPLY)

NOTES:

1. LOT A-1 IS A COMBINATION OF LOTS 2, 10
AND 11. LOT A-2 IS A COMBINATION OF
LOTS 1, 4, AND 5. AND LOT A-3 IS A
COMBINATION OF LOTS 2, 5, AND 7. ALL OF
SAB LOTS AS SHOWN ON PLAN BOOK 326
PG 27.
2. WETLAND LINES CONFIRMED WITH R.D.A.
BY BARNSTABLE COORDINATION COMMISSION
DATED 4-10-2012, DELINEATION BY MARVIN
CONSULTING.
3. BASIS OF NORTH AND COORDINATE SYSTEM
IS BASE COORDINATE SYSTEM NAD83 U.S.
SURVEY FOOT, FOR 100 METER GPS NETWORK
OBSERVATIONS.
4. 10' WIDE UTILITY EASEMENT ADJACENT TO
ALL WAYS HAS BEEN SHOWN 2701 PAGE 119
5. WATER EASEMENT SEE DEED BOOK 3262
PAGE 220
6. 2702214-3254
E 000029.4-100

C.B.F.H.O.

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648-8

I CERTIFY THAT THIS PLAN WAS MADE IN
ACCORDANCE WITH REGISTRY OF DEEDS
REGULATIONS EFFECTIVE JANUARY 1,
1978, AND AS AMENDED JANUARY 7,
1988.

DATE: 8-9-2012
DANIEL A. DUMA, P.L.S.

PLAN OF LAND
IN
CENTERVILLE, (BARNSTABLE) MA
ON
HIGH NOON DRIVE
PREPARED FOR
ESTATES OF DAVID AND JOANNE GOLDMAN
AUGUST 8, 2012

Scale 1"=20'
0 10 20 30 40 50 60 70 80 90 100 FEET

down cape engineering, inc.
civil engineers
land surveyors
835 Main Street (Rte 6A)
FAIRBANKS MA 02541



Eliza Cox
Direct Line: (508) 790-5431
Fax: (508) 771-8079
E-mail: ecox@nutter.com

February 16, 2018
0104656-00003

By Email and First Class Mail

Planning Board
Town of Barnstable
c/o Elizabeth Jenkins, Director, Office of Planning & Development
367 Main Street
Hyannis, MA 02601

Re: William and Mary Beth Eddy
Audubon Acres Definitive Subdivision - No. 809

Dear Planning Board Members:

This office represents William and Mary Beth Eddy and the Audubon Acres Realty Trust, owners of the land shown on the Audubon Acres Definitive Subdivision Plan (No. 809) which was endorsed by the Planning Board in March of 2006, and which plan is recorded with the Barnstable County Registry of Deeds (the "Registry") in Plan Book 614, Page 33 (the "Plan"). As you may recall, last month, I appeared informally before the Planning Board to discuss the owners' proposal to modify the Plan. The details of the owners' proposal are outlined in my letter dated December 29, 2017 previously submitted to the Board. Among other items, the owners seek to develop a third lot and alter the subdivision way known as Daffodil Lane.

In consideration for the Board's approval of the Plan, the Board and the owners entered into a Development Agreement dated November 13, 2006, recorded with the Registry in Book 21597, Page 240. The Development Agreement sets forth various conditions of the Board's endorsement of the Plan, including a provision requiring that the subdivision ways be completed within eight (8) years, or by March 13, 2018.¹ See Development Agreement, ¶ 4. At this point, Daffodil Lane is partially constructed.

In connection with the owners' proposed modifications to the Plan, including improvements to Daffodil Lane, they request a one-year extension of the time frame set forth in paragraph 4 of Development Agreement, i.e., until March 13, 2019. Notwithstanding the request for a one-year extension, it is my clients' intention to complete construction of the road in the spring of 2018 having: (i.) secured the necessary MassDOT approvals, (ii.) lined up contractors,

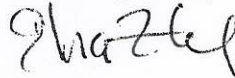
¹ As part of the Board's endorsement of the Plan, which occurred on March 13, 2006, the Development Agreement was automatically extended four years by virtue of the Permit Extension Act, G.L. c. 43E.

Planning Board
February 16, 2018
Page 2

(iii.) continuing to work with the Town on the needed inspections; (iv.) the street sign is ordered; and (v.) the water department is also informed of the anticipated timing. Accordingly, please place this request on the Board's next available meeting agenda. Please let me know if you have any questions or need any additional information prior to the Board's meeting.

Thank you very much. With best regards, I remain,

Very truly yours,

A handwritten signature in black ink, appearing to read "Eliza Cox", written in a cursive style.

Eliza Cox

EZC:

cc: William & Mary Beth Eddy
3793234.1

DEVELOPMENT AGREEMENT

*see plan book with, reg. ss
2294 Main St. Barnstable*

AGREEMENT made in consideration of approval of the within subdivision by the Planning Board this 13 day of **November, 2006**, by and between the Town of Barnstable, a municipal corporation acting through its Planning Board, William M. Eddy and Mary Beth Eddy of 2294 Main Street, Route 6A in Barnstable Village, MA and Patrick M. Butler, Trustee of Audubon Acres Realty Trust under Declaration of Trust dated May 19, 2005 and recorded with the Barnstable County Registry of Deeds in Book 19841, Page 229 hereinafter referred to as the "Applicant", owner of all the land shown on the plan entitled Definitive Plan of Audubon Acres subdivision # 809, dated November 14, 2005 approved by the Planning Board February 15, 2006 prepared by Coastal Engineering Company, Inc., 260 Cranberry Highway, Orleans, MA. For title to the property see deed from David A. Nickerson and Evelyn L. Nickerson, dated February 10, 2000, recorded in the Barnstable Registry of Deeds, Book 12826, Page 8486, and deed from William M. Eddy and Mary Beth Eddy to Patrick M. Butler, Trustee of Audubon Acres Realty Trust, dated May 19, 2005, recorded in the Barnstable Registry of Deeds, Book 19841, Page 229.

The parties mutually agree as follows:

1. The Applicant hereby agrees to construct the ways and install the utilities in the foregoing subdivision in accordance with the following :
 - i. all the conditions of approval of the Planning Board in their decision dated February 15, 2006, which are specifically set forth in Exhibit 1 and attached hereto and made a part thereof, this development agreement: and
 - ii. all the requirements of the Subdivision Rules and Regulations of the Barnstable Planning Board dated February 15, 2006 under the authority provided by Section 81Q of Chapter 41 of the General Laws (Ter. Ed.) as amended; except for the waivers which have been granted by the Planning Board as specifically set forth in Exhibit 2, and attached hereto and made a part thereof, this development agreement.
 - iv. in accordance with the Subdivision Plans and Profiles submitted by the Applicant and approved by the Planning Board; and
2. The Applicant acknowledges that the waivers that are specifically described in Exhibit 2 are the only waivers that are acknowledged and approved by the Planning Board as of the date of approval of the Subdivision Plan: and
3. The Applicant agrees that the subdivision shall conform to all the requirements of the Subdivision Rules and Regulations except as waived by the Planning Board in writing; if the development is not consistent with the Subdivision Rules and Regulations, the waivers granted thereto, and the Conditions of Approval, the Applicant agrees to bring the development in to compliance; and
4. The Applicant agrees to construct the ways and install the utilities within **eight (8) years** from the date of endorsement of the Subdivision Plan and Profiles, and furthermore agrees that construction shall be completed one year from the date of commencement of construction, or such further time as may otherwise be mutually agreed upon by both parties in writing. **Failure to complete construction and installation within the time specified shall result in rescission of approval of the plan.**
5. The Applicant agrees to maintain all ways and utilities in the subdivision until the Planning Board finds that the subdivision is complete, and fully executes Form M, the Certificate of Completion.

7

6. The Applicant agrees to record this agreement with the Subdivision Plan at the Barnstable County Registry of Deeds, and to forward recorded copies of this agreement to the office of the Planning Board Office within thirty (30) days of the Planning Board's endorsement of approval of the Subdivision Plan or the date of this Covenant. Failure to comply with this provision will result in automatic rescission of the Subdivision Plan.
7. This agreement shall be and is binding upon the heirs, executors, administrators, assignees and successors in interest, and upon the grantee or successors in title.
8. The Applicant is the owner(s) of record of the premises on said plan.
9. The Applicant agrees that in the event that the security lapses or is no longer valid, all unsold lots shall be considered to be under covenant and not to be conveyed or built upon; and the Town shall not issue building permits on such lots in the subdivision; and the Applicant shall forthwith forward to the Planning Board alternative security acceptable to the Board.

This agreement shall be in full force and effect for twenty (20) years from the date of execution of the agreement, or until the Planning Board finds that the Subdivision has been completed and fully executes Form M, the Certificate of Completion.

In witness whereof we have hereunto set our hands and seals this 13 (day) of November, 2006.

Owners
Mary Beth Elder
William M. Elder
Robert M. Elder (three
as aforesaid)

Acceptance by a majority of
Planning Board members
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

(PLANNING BOARD) COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

11/13/2006

Then personally appeared before me the above named Felicia Penn

(print name)

and acknowledged the foregoing instrument to be the free act and deed of said Planning Board for the Town of Barnstable, MA.

Patricia Ann Mackey
Notary Public

My commission expires: 12-4-2009




(APPLICANT) COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

11/22/2006

Then personally appeared before me the above named **William M. Eddy** and acknowledged the foregoing instrument to be his free act and deed.




Notary Public
My commission expires: 12/17/2010

(APPLICANT) COMMONWEALTH OF MASSACHUSETTS

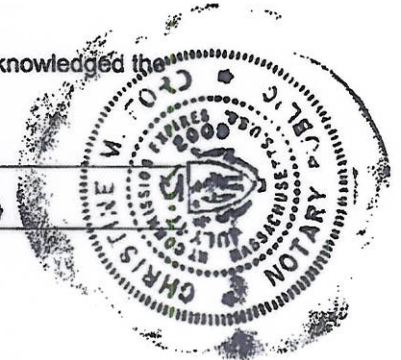
BARNSTABLE, SS

11/22/2006

Then personally appeared before me the above named **Mary Beth Eddy** and acknowledged the foregoing instrument to be her free act and deed.



Notary Public
My commission expires: 7/17/09

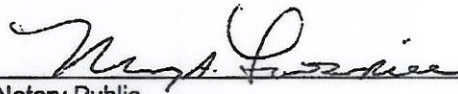


(APPLICANT) COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

11/22/2006

Then personally appeared before me the above named **Patrick M. Butler, as Trustee of Audubon Acres Realty Trust** and acknowledged the foregoing instrument to be his free act and deed.



Notary Public
My commission expires: 12/17/2010



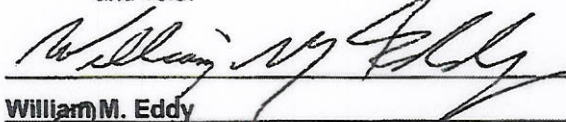
DEVELOPMENT AGREEMENT

EXHIBIT 1 CONDITIONS OF APPROVAL OF THE SUBDIVISION PLAN (and the Special Permit for the Open space subdivision pursuant to Section 3-1.7 of the Zoning Ordinance.)

Exhibit 1 is attached to and made a part thereof the Development Agreement dated November 13, 2006 between the Town of Barnstable Planning Board and William M. Eddy, Mary Beth Eddy and Audubon Acres Realty Trust of 2294 Main Street, Route 61 in Barnstable Village, MA hereinafter referred to as the "Applicant", owner of all the land shown on the plan entitled Definitive Plan of Audubon Acres subdivision # 809, dated November 14, 2005 approved by the Planning Board February 15, 2006


The above referenced subdivision plan (and Special Permit pursuant to Section 3-1.7 of the Zoning Ordinance) was approved by the Barnstable Planning Board subject to the following conditions of approval:

1. The owners of Daffodil Lane shall not grant any third party any rights of access over Daffodil Lane to any third party regarding adjacent properties.
2. The sole access from Route 6A (Main Street) to the property shown as lot 2B on the above-referenced definitive subdivision plan shall be off of Daffodil Lane and the sole access to the property shown as lot 2A on the above-referenced definitive subdivision plan shall be over the existing driveway and easement area as shown on the plan.
3. In the event of any change to such access in #2 above, the owners of Daffodil Lane shall construct a hydrant and water main in such size, specifications and location as determined by the Barnstable Fire District and Barnstable Water Company at the owners sole cost and expense, in accordance with all applicable laws.
4. there shall be no further subdivision of land within this subdivision.
5. Subject to all of the recommendations of the board of Health in a letter dated December 19, 2005 attached hereto and made a part of this decision.
6. This decision shall be recorded at the Registry of Deeds and a recorded copy returned to the Planning Board office within 30 days of the Board's endorsement of approval of the Plan.
7. Failure to comply with any of the above conditions shall render approval of this plan null and void.

 applicant

William M. Eddy (print name)

_____/ 2006 date

 applicant

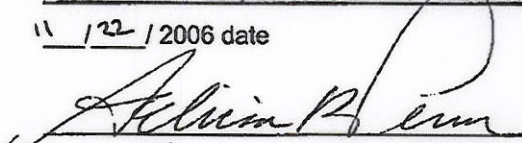
Mary Beth Eddy (print name)

_____/ 2006 date

 applicant

Patrick M. Butler, as Trustee for Audubon Acres Realty Trust (print name)

11 / 22 / 2006 date

 Planning Board Chairman

FELICIA R. PENN (print name)

11 / 13 / 2006 date

DEVELOPMENT AGREEMENT

EXHIBIT 2, GRANT OF WAIVERS

Exhibit 2 is attached to and made a part thereof the Development Agreement dated November 13, 2006 between the Town of Barnstable Planning Board and William M. Eddy, Mary Beth Eddy and Audubon Acres Realty Trust of 2294 Main Street, Route 61 in Barnstable Village, MA hereinafter referred to as the "Applicant", owner of all the land shown on the plan entitled Definitive Plan of Audubon Acres subdivision # 809, dated November 14, 2005 approved by the Planning Board February 15, 2006.

The Town of Barnstable acting through the Planning board as grantors, hereby grants waivers from the following sections of the Subdivision Rules and Regulations of the Town of Barnstable Planning Board:

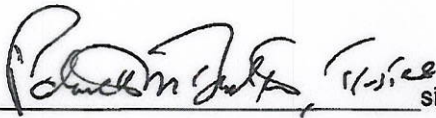
1. Waiver from Article VI, Section 801-26 (B)(6) to allow a centerline grade no greater than 10% on a curve and (7) no greater than 10% within 500 feet of a dead-end street.
2. Waiver from Subdivision Design Standards (Attachment 103) to allow a traveled way of 12 feet wide where 16 feet is required.
3. Waiver from Article VI, Section 801-24 (B)(2)(c) to eliminate showing coordinates tied to Massachusetts Plane Coordinate System.
4. Waiver from Article VI, Section 801-24(B)(2) and (3) to eliminate sheets B and C as required.
5. Waiver from Article VI, Section 801-24 (C)(10) to eliminate cross-sections at fifty-foot intervals as this roadway is essentially a driveway serving two single-family homes.
6. Waiver from the Minor B Roads Design Standards to allow a 4 foot shoulder where 5 feet is required.

The Applicant acknowledges that the waivers that are specifically described herein are the only waivers that are acknowledged and approved by the Planning Board as of the date of approval of the Subdivision Plan.

GRANTEE

 signature Applicant 11 / 22 /2006 date
William M. Eddy (print name)

 signature Applicant 11 / 22 /2006 date
Mary Beth Eddy (print name)

 signature Applicant 11/22/2006 date

Patrick M. Butler, as Trustee for Audubon Acres Realty Trust (print name)

 GRANTOR
Planning Board Chairman 11/13/2006 date

1522468.1

BARNSTABLE REGISTRY OF DEEDS

Development Agreement, Subdivision Rules and Regulations



Town of Barnstable Planning Board

www.town.barnstable.ma.us/PlanningBoard



Board Members
Mary Barry – Chair Stephen Helman – Vice Chair Steven Costello - Clerk Paul R. Curley David Munsell Fred LaSelva Jeffrey Swartz
John Norman – Town Council Liaison
Planning & Development Dept. Staff Support
Elizabeth Jenkins, AICP, Director
Paul Wackrow, Principal Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable PLANNING BOARD Minutes March 5, 2018

Mary Barry – Chairman	Present
Stephen Helman – Vice Chairman	Absent
Steven Costello - Clerk	Present
Paul Curley	Present
David Munsell	Present
Fred LaSelva	Present
Jeffrey Swartz	Present

Also in attendance were Elizabeth Jenkins, Director, Paul Wackrow, Principal Planner and Karen Herrand, Principal Assistant, Planning & Development Dept.

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

2018 Downtown Hyannis Growth Incentive Zone

The Town is seeking to designate the Downtown Hyannis Growth Incentive Zone (GIZ) pursuant to the Cape Cod Commission Act and Chapter G of the Cape Cod Commission regulations. A revised draft of the proposed GIZ application is available for viewing at the Planning & Development Department Offices at the 3rd Floor of Town Hall and at 200 Main Street or online at www.townofbarnstable.us/PlanningandDevelopment/2018giz.

The Downtown Hyannis Growth Incentive Zone (GIZ) was approved by the Cape Cod Commission by decision dated April 6, 2006, as authorized by Barnstable County Ordinance 2005-13, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application; as extended by an Agreement to Extend Town of Barnstable Downtown Hyannis Growth Incentive Zone to October 6, 2017 between the Cape Cod Commission and the Town of Barnstable executed on December 14, 2015 and as further extended by a second Agreement to Extend to April 4, 2018 between the Cape Cod Commission and the Town of Barnstable executed on October 6, 2017.

Continued from the February 26, 2018 Planning Board meeting. The public hearing has been closed. The Planning Board may vote, through the Barnstable Town Manager, to propose a Growth Incentive Zone designation and to submit an application for Growth Incentive Zone designation to the Cape Cod Commission.

Chair Mary Barry entertains a motion to move that the Planning Board vote to propose the area shown on the map entitled 2018 Downtown Hyannis Growth Incentive Zone, commonly known as the GIZ, dated February 20, 2018, as the Growth Incentive Zone to the Cape Cod Commission through the Barnstable Town Manage, and further move that the Growth Incentive Zone Application, dated February 20, 2018, as it may be supplemented from time to time, be submitted to the Cape Cod Commission, seconded by Steve Costello;

Chair Mary Barry asks for any discussion?

Fred LaSelva states that he has about eight motions that he would like to propose, associated with the GIZ, based on public comment and changes he feels are important to the GIZ.

Chair Mary Barry asks for a vote for the motion presently on the floor.

David Munsell interjects - asks for a point of order.

Jeff Swartz directs to Elizabeth Jenkins and asks for clarification that this was approved by Town Council last Thursday as written?

Elizabeth Jenkins replies correct. There were a number of minor amendments that got incorporated into the Town Council's motion.

Fred LaSelva states that he had planned on putting motions in place to alter the document, this has been preempted, how to include these to change the document?

Elizabeth Jenkins clarifies that this is ok for discussion, this is a policy/planning document.

Paul Curley suggests possibly amending the motion as they move along.

Fred LaSelva – pg. 6, Summary of Strategies - he would like to add in build the infrastructure to support the diversification of economy in Downtown Hyannis to include employment opportunities, knowledge and tech based so that Hyannis becomes a center of innovation, purpose to address the seasonality and sustainability and environment in the GIZ. This would have been his first motion

Chair Mary asks for clarification if these motions were what was reviewed with Elizabeth Jenkins on Friday? Are these new? Were these mentioned at the last Planning Board meeting?

Fred LaSelva states no they were not. He stated that he had mentioned that he would be making motions at this meeting. He found the meeting on Friday with Staff extremely frustrating. He confirms that these proposed motions have not been brought up previously/at previous meetings.

Fred LaSelva would like to amend the document as a policy document that would serve the Town in a way that once policy in place will be difficult to amend.

Elizabeth Jenkins directs to Fred LaSelva, clarifies that this is a living document. It will continue to evolve and change. This is the beginning of a strategic plan/implementation process.

Fred LaSelva asks why not allowed to make proposed motions to amend items in this document?

Steve Costello interjects that he doesn't think the timing is appropriate. The reality is the Cape Cod Commission and their involvement is really a bigger picture item. Clarification of Elizabeth Jenkins point that this is a beginning, this isn't a one and done. This can be changed.

Fred LaSelva states that he disagrees with the process. We should be able to propose, discuss, amend motions.

Steve Costello replies that we can discuss things post vote.

Jeff Swartz clarifies that he thinks what Fred LaSelva would like to put on the table – this does open the door. He thinks this document would allow change.

David Munsell takes this as an insult, this meeting was to discuss the GIZ, insulted that our Chair opened the meeting with a motion to adopt this.

Chair Mary Barry clarifies/directs to David Munsell that she made a motion. What we had agreed to at our last meeting was we went through a public hearing, Board discussion and then agreed to work with Fred and his comments, which you said that you agreed with and with the luxury of having Staff, we worked through edits and now we are ready for a vote. We had many public hearings. Opinion and supposition does not go into the document.

David Munsell states that no one ever questioned the purpose of the GIZ and how written. He thought this meeting was for discussion.

Jeff Swartz asks if David Munsell is aware of what happened at Town Council meeting last Thursday?

David Munsell replies, yes, they voted to approve. Procedurally Planning Board normally sends to Town Council with our recommendation.

Chair Mary Barry clarifies that this is to send it to Town Manager, not to Town Council.

Elizabeth Jenkins clarifies that this is an important point, there is no requirement for the sequence of the vote, unusual in this respect. This goes to Town Manager/report to Town Manager.

Fred LaSelva states that factually there is a very big gap here, the Steamship Authority, is not in the document, the Hy-Line ridership numbers, half a million people are not in this document. How to correct this? Appendix D. Hyannis Parking Study.

Elizabeth Jenkins clarifies that the Parking Study has been completed, still going through implementation.

Fred LaSelva states he is totally unsatisfied with the process. He thinks we are not being allowed to do our statutory responsibility, we are not being allowed to do this based on the motion on the floor.

Vote for Motion on the floor:

Chair Mary Barry entertains a motion to move that the Planning Board vote to propose the area shown on the map entitled 2018 Downtown Hyannis Growth Incentive Zone, commonly known as the GIZ, dated February 20, 2018, as the Growth Incentive Zone to the Cape Cod Commission through the Barnstable Town Manager, and further move that the Growth Incentive Zone Application, dated February 20, 2018, as it may be supplemented from time to time, be submitted to the Cape Cod Commission, seconded by Steve Costello;

**Chair Mary Barry, Steve Costello, Paul Curley, and Jeff Swartz - Yes vote.
Fred LaSelva and David Munsell – No vote.**

The Motion passes by a 4 to 2 vote.

Paul Curley asks what the process is now – Mark Ells for signature?

Elizabeth Jenkins confirms that the document is forwarded to the Town Manager who will be the one to submit the application to the Commission, which will be submitted for a hearing on March 22nd. The Assembly will take a vote on the Chapter G regulations on the 21st.

Paul Curley confirms, just an application, the actual certificate will lay out what we can do.

Elizabeth Jenkins replies yes. Should Commission vote to approve the application, the document will result in a Decision that will grant the specific relief, from DRI thresholds, and structure to evaluate and continue to evaluate measures/goals.

Paul Curley confirms no changes to the Special Permit Granting Authority re Planning Board?

Elizabeth Jenkins answers that this is part of the local zoning, no changes here for the local regulatory process, only with the Commission's jurisdiction.

Motion entertained by Chair Mary Barry to adjourn, moved by Paul Curley, seconded by Steve Costello, so voted to adjourn; Chair Mary Barry, Paul Curley, Steve Costello and Jeff Swartz. Fred LaSelva and David Munsell abstain.

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: Regularly Scheduled Meetings: March 12 and March 26, 2018, @ 7:00 PM.

The meeting adjourned at 7:22 p.m.

Respectfully Submitted _____

By Karen Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on _____

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>