Town and County of Nantucket
Select Board • County Commissioners

Dawn E. Hill Holdgate, Chair
Thomas M. Dixon
Matt Fee
Malcolm W. MacNab
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Nantucket, Massachusetts 02554

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C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE
SELECT BOARD
FEBRUARY 21, 2024 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS

YOU TUBE LINK FOR VIEWING ONLY:
https://youtube.com/live/pYtGXjBqb3c

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_j9BgtlJ2QKC4GcUHOZEK0w

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

2. No Select Board Meeting on Wednesday, February 28, 2024 (School Vacation Week); Next Meeting to be Held on Wednesday, March 6, 2024.

3. Select Board Announcements/Comments.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS

1. Follow-up on February 14, 2024 Public Comments.

*V. PUBLIC COMMENT**

*VI. NEW BUSINESS**

VII. APPROVAL OF MINUTES AND WARRANTS

1. Approval of Minutes of February 12, 2024 at 11:00 AM; February 14, 2024 at 5:30 PM.

2. Approval of Payroll Warrants for February 18, 2024

3. Approval of Treasury Warrants for February 21, 2024.

4. Approval of Pending Contracts for February 21, 2023 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. JOINT MEETING WITH HISTORIC DISTRICT COMMISSION

1. Presentation/Discussion of Historic District Commission (HDC) Organizational Assessment.

IX. TOWN MANAGER'S REPORT

1. Baxter Road Alternate Access Updates:
   a) Permanent Alternate Access – 90% Design Plan Review.

   b) Emergency Readiness Plan Overview.

X. SELECT BOARD'S REPORTS/COMMENT

1. Update/Discussion of 2024 Annual Town Meeting Short-term Rental Articles.

2. Committee Reports.

XI. ADJOURNMENT

**Identified on Agenda Protocol Sheet*

SELECT BOARD AGENDA PROTOCOL:

Roberts Rules: The Select Board follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Board. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action, if any. Except in emergencies, the Board will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Board to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with the United States Constitution and the Massachusetts Declaration of Rights.

> The agenda for regular Select Board meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Board to take up first. This time is reserved for speakers to address the Board on matters that are not related to any other Agenda item. If a speaker wishes to address the Board on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.
>
> All speakers are encouraged to present their remarks in an orderly and peaceable manner, without disruption to other speakers.
>
> All remarks will be addressed through the Chair of the meeting.
>
> The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not protected under the United States Constitution and the Massachusetts Declaration of Rights because it constitutes true threats, incitement to imminent lawless conduct, or engages in conduct that disrupts other speakers.
>
> Each speaker may not exceed three (3) minutes during any Public Comment portion of the meeting.

Disclaimer: Public Comment is not a time for debate or response to comments by the Board. Comments made during the Public Comment period do not reflect the views or positions of the Board. Because of free speech principles, the Board does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

Unanticipated Business: Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Board welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at his/her sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Board Members may have questions on

the clarity of the information presented. The Board will hear any staff input and then deliberate on a course of action.

Select Board Report and Comment: Individual Board Members may have matters to bring to the attention of the Board during a meeting. If the matter contemplates action by the Board, Board Members will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting and/or schedule the matter for a future Board meeting. Otherwise, except in emergencies, the Board will not normally take action on Select Board Comment.

Approved: April 26, 2023

Public Comment Follow-up – from Feb 14, 2024 Select Board Meeting

M Perry

1. Requests a joint meeting with Select Board, Airport Commission, Board of Health to discuss the Airport ramp extension project and associated berm.

2. Inquiry (?) about a cessation of bottled water delivery to the area

Follow up from Airport Manager:
"The Airport has undertaken extensive community engagement regarding the Ramp Extension project conception and permitting process. We have cited that engagement in numerous meetings, including Tuesday's Airport Commission meeting where Ms. Perry was present and spoke.

I also believe Ms. Perry cited in Select Board public comment that the Airport would be stopping bottled water service provision to some residents adjacent to the Airport in February. This is objectively incorrect. There are 6 residents on Monohansett Rd who currently receive bottled water and will continue to receive bottled water until WWCO commissions that associated section the of water main project.

The request for a joint SB-Airport-BOH meeting is not my call. If it's helpful though, the ramp project is FAA, MassDOT Aeronautics, and Airport-funded, and under the regulatory oversight of the Airport Commission. Similarly, so is the PFAS effort: the Airport's continued supply of bottled water is above and beyond what the state requires, and I am not aware of any local Health ordinance on this issue. In my own opinion, these issues belong in front of the Airport: the Commission has been welcoming of general and specific agenda-driven comment and would continue to promote dialogue."

3. Request for "Town Counsel to respond" to her attorney regarding the Select Board's mediation suggestion.

Follow up from Town Counsel:
"Ms. Perry's counsel, Mr. DeRensis, was copied on Surfside Crossing's (SSX) reply declining to mediate. [Email chain on these replies attached]

In summary, Mr. DeRensis emailed in reply to the mediation offer contending that there was an "illogical puzzle" involved in the Select Board's offer to mediate, and that his client needed an answer as to whether any "town agency" had a financial interest in the project, with the term "town agency" defined as "any appointed person or board or committee, either paid or unpaid, employee, volunteer or outside consultant or attorney agreeing [sic] on behalf of a town agency." Shortly after receipt of this email which was copied to all parties I included on the original offer, SSX's counsel replied that they declined to mediate. The Land Council's attorney had previously replied that the Land Council agreed to mediate subject to agreement on the

parties participating, and selection of a mediator, but that became moot after receipt of Mr. DeRensis' and SSX's replies.

If you or the Board wish me to respond to Mr. DeRensis' inquiry, please let me know."

4. Question regarding the "earth moving" at Surfside Crossing last weekend.

Follow up from Planning Director:
"Jamie Feeley talked with Paul Murphy and me about removing the sand in advance of starting over the week-end. We agreed that he could proceed and that the removal would take place Saturday and Sunday. It's my understanding that is what occurred, and that it did not continue into the week.

There are a few things we discussed:

(1) Jamie wanted to remove the sand because of it becoming a nuisance blowing around near the homes in Sachem's Path. Normally, piles of excavated materials would be vegetated to mitigate that issue, but this is sand, so that doesn't work. Moving it off the site made a lot of sense.
(2) Moving excavated materials doesn't require any local permits.
(3) Currently, there are no permits on that site at all, so there's nothing to enforce.
(4) One could also argue that removing the sand is part of "buttoning up" the site for safety concerns (see item 1).

From: George Pucci
To: Libby Gibson
Cc: Kristie Ferrantella
Subject: FW: Nantucket - Surfside 40B
Date: Thursday, February 15, 2024 7:37:27 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi again, -

Here is the Land Council's reply.

Thank you,

George

George X. Pucci, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 838 1251
F: (617) 654 1735
gpucci@k-plaw.com
www.k-plaw.com

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From: Dennis Murphy <dgusmurphy@gmail.com>
Sent: Friday, January 19, 2024 3:45 PM
To: Paul Haverty <paul@bbhslaw.net>; George Pucci <GPucci@k-plaw.com>
Cc: Daniel C Hill <dhill@danhilllaw.com>; Daniel R. Deutsch <ddeutsch@bdboston.com>; pderensis@bdboston.com; Eric.Haskell@mass.gov; Devan C. Braun <DBraun@k-plaw.com>
Subject: Re: Nantucket - Surfside 40B

Good afternoon Counsel, my apologies for taking over a week to respond to this sensible suggestion.

Privileged communication — subject to Rules 408, 514 and G.L. c. 233, s. 23C

The Land and Water Council is amenable to mediation, subject to the following conditions:

1. All stakeholders attend the mediation, including principals, to ensure each party has full authority to make a good faith effort to reach resolution;

2. An acceptable cost-sharing arrangement be agreed upon upfront that is binding regardless the outcome;

3. The parties agree upon a conflict-free neutral to conduct the mediation.

I look forward to working out the logistics if we can all agree to mediate. Nantucket is a nice place to visit any time of year. Thanks, Dennis

Dennis A. Murphy
Hill Law
Six Beacon Street, Suite 600
Boston, MA 02108
781-588-7881

> On Jan 11, 2024, at 2:06 PM, Paul Haverty <paul@bbhslaw.net> wrote:
>
> George,
>
> I have a call scheduled with my clients later this afternoon to discuss this proposition. I anticipate having a response to you later today or tomorrow.
>
> Regards,
>
> Paul
>
> ---
>
> **From:** George Pucci <GPucci@k-plaw.com>
> **Sent:** Thursday, January 11, 2024 8:41 AM
> **To:** Paul Haverty <paul@bbhslaw.net>; Daniel C Hill <dhill@danhilllaw.com>; Dennis Murphy <dgusmurphy@gmail.com>; Daniel R. Deutsch <ddeutsch@bdboston.com>; pderensis@bdboston.com
> **Cc:** Eric.Haskell@mass.gov; Devan C. Braun <DBraun@k-plaw.com>
> **Subject:** Nantucket - Surfside 40B
>
> Dear All –
>
> The Nantucket Select Board discussed the Court's remand order on the Surfside 40B project in open session on Wednesday, January 10, 2024.
>
> Although the Town is no longer a party to the litigation, issues related to the project remain of major interest. Accordingly, the Board authorized me to reach out to all counsel in the Superior Court litigation, as well as the ZBA through the Planning Director, to inquire whether there was interest in mediation. I suggested REBA dispute resolution to the Board, although selection of the mediator can come later once everyone advises on whether they would like to participate.
>
> Mediation is offered to occur concurrent to, and not in place of, the ZBA remand hearing, but the Board desires to explore this option as early in the process as possible. Therefore, the Board asks that you respond to me within 21 days.
>
> Any questions or comments, feel free to contact me, either by return email, or by telephone at 617-838-1251.

Thank you,

George

George X. Pucci, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
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From: George Pucci
To: Libby Gibson
Cc: Kristie Ferrantella
Subject: FW: Nantucket - Surfside 40B
Date: Thursday, February 15, 2024 7:35:51 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi again, Libby –

Here is the email chain which contains the responses referred to in my previous email. I will forward the Land Council's reply as well, as it was not contained in the same email chain.

Thank you,

George

George X. Pucci, Esq.
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From: Paul Haverty <paul@bbhslaw.net>
Sent: Wednesday, January 31, 2024 1:24 PM
To: Paul R. DeRensis <pderensis@bdboston.com>; George Pucci <GPucci@k-plaw.com>; Daniel C Hill <dhill@danhilllaw.com>; Dennis Murphy <dgusmurphy@gmail.com>; Daniel R. Deutsch <ddeutsch@bdboston.com>
Cc: Eric.Haskell@mass.gov; Devan C. Braun <DBraun@k-plaw.com>
Subject: RE: Nantucket - Surfside 40B

George,

I want to express my clients' gratitude to both you and the Select Board for taking the initiative to reach out to the various parties and suggest mediation as a way to resolve this dispute. Unfortunately, after much consideration, my clients do not believe that mediation is a viable alternative when there are parties involved that have shown no interest in creating affordable housing and who have, and continue to, engage in personal attacks against the developers of this project. Once again, we appreciate the willingness of the Select Board to suggest mediation, and we regret that we are unable to agree to it at this time.

Regards,

Paul

From: Paul R. DeRensis <pderensis@bdboston.com>
Sent: Monday, January 22, 2024 9:32 AM
To: George Pucci <GPucci@k-plaw.com>; Paul Haverty <paul@bbhslaw.net>; Daniel C Hill <dhill@danhilllaw.com>; Dennis Murphy <dgusmurphy@gmail.com>; Daniel R. Deutsch <ddeutsch@bdboston.com>
Cc: Eric.Haskell@mass.gov; Devan C. Braun <DBraun@k-plaw.com>
Subject: Re: Nantucket - Surfside 40B

George:

Nantucket Tipping Point has received your email and is in the process of considering same As part of that consideration, some questions arose to see how the process proposed could be made to work. It would be of very helpful if you would please provide answers to the following questions?

For mediation to be meaningful, it is essential that the real parties in interest be transparently identified and attend, particularly those who are the investors or those who are planning to make a financial commitment to the Surfside Crossing Project. At the hearing on the appeal, the attorney for the Developer reported to the court as an important part of developer's defense that any delay in ending litigation would bring an end to the project, so that Developer could not continue forward. As you know, the Select Board opted out of having a role in the ligation of the disputes between the parties, so that the Select Board's proposal contains an illogical puzzle as to why the Select Board is now suddenly inserting itself into these matters. Your email states that the Select Board has "an interest" and in fact it was only the Select Board that stepped in to propose mediation, not the Developer, which in context of oral argument at court implies to us there is now in play a financial interest held by some town agency in this project. Following up on that logical trail, please disclose transparently what exactly is the Town's real interests or role; what present or planned future monetary interest or role does the Town or any of its agencies, including the affordable housing trust, have in this project, or are being discussed by town agencies with the Developers?

The words "town agency", mean any appointed or elected person or board or committee, either paid or unpaid, employee, volunteer or outside consultant or attorney agreeing on behalf of a town agency so that there can be full transparency here as to what the Select Board interests are to have brought up this proposal.

Your email mentions a time deadline for the proposed mediation imposed unilaterally by the Select Board, so the request is that the above information be provided promptly consistent with that timetable? As soon as received, Nantucket Tipping Point will be in a position to understand what it is actually going to be dealing with here in this Select Board proposal, and would be in a position to report back to you its responses.

Paul R. DeRensis, Esq.

260 Franklin Street

Suite 700

Boston, MA 02110
Telephone: (857) 259-5200

Fax: (857) 259-5212

pderensis@bdboston.com

www.bdboston.com

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To: Paul Haverty <paul@bbhslaw.net>; Daniel C Hill <dhill@danhilllaw.com>; Dennis Murphy <dgusmurphy@gmail.com>; Daniel R. Deutsch <ddeutsch@bdboston.com>; Paul R. DeRensis <pderensis@bdboston.com>
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Subject: Nantucket - Surfside 40B

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Any questions or comments, feel free to contact me, either by return email, or by telephone at 617-838-1251.

Thank you,

George

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EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY SELECT BOARD
February 21, 2024

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding	Term
Grant Agreement	Fire	Commonwealth Department of Fire Services	(7,555.29)	Firefighter Safety Equipment Grant	N/A	Feb 21, 2024 - Feb 20, 2025
Professional Services Agreement	Marine	CC Masonry, Inc.	$42,250	Concrete installation at 3 Shadbush Road	Article 10 2020 ATM	Feb 21, 2024 - Feb 20, 2025
Purchase Agreement	Police	N.E. Cycle Works, Inc.	$34,295	Purchase of five (5) replacement ATVs for Summer Beach Patrol – price includes trade-in units	Beach Revolving Funds	Feb 21, 2024 - Feb 20, 2025
Professional Services Agreement	Police	SMRT, Inc.	$33,425	Phase 3 of repairs/improvements at the former LORAN station in Siasconset	Article 14 2023 ATM	Feb 21, 2024 - Feb 20, 2027
Professional Services Agreement	Police	Safe Harbor for Animals	$16,500	Kennel services for strays taken by the ACO	Police Budget	Feb 21, 2024 - Feb 20, 2025
Professional Services Agreement	Police	MIH Systems Group, LLC	$49,999	On-Call maintenance and repair services to the Clima-Cool geothermal chiller system	Police Budget – Building Repairs	Feb 21, 2024 - Feb 20, 2027
Professional Services Agreement	Police	ProPhoenix Corporation	$170,000	Public safety (Police, Fire, 911 and Central Dispatch) software support and licensing	Police and Fire Budgets	Feb 21, 2024 - Feb 20 2027
Professional Services Contract	Police	Power Resources, Inc.	$29,943.60	Replacement of 60 Uninterruptible Power Systems (UPS) for emergency power system at the Public Safety Facility	Police Communications Fund	Feb 21, 2024 - Feb 20, 2025
Professional Services Agreement	Public Works	Setronics Corp	$9,977	Installation of security camera for the Take-It-Or-Leave-It (TIOLI)	Solid Waste Budget – Repair & Maintenance	Feb 21, 2024 - June 30, 2024

Grant Agreement	Town Administration	Commonwealth of Massachusetts	($3,500)	FY24 Emergency Management Performance Grant	N/A	Feb 6, 2024 – June 30, 2024
License Agreement	Town Administration	Nantucket Moorings, Inc.	($474,794)	Mooring License Agreement – 2004-2009	N/A	Oct 16, 2024 – Oct 15, 2029

NATIONAL ALLIANCE of PRESERVATION COMMISSIONS
NAPC
education + advocacy + training

Nantucket Historic District Commission

Organizational Assessment

Presented to a joint meeting of the Nantucket Historic District Commission and the Nantucket Select Board, January 21, 2024.

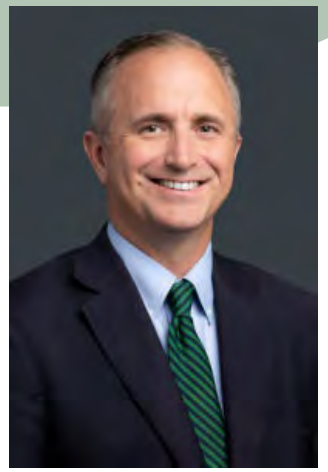
camp®
commission assistance & mentoring program

NATIONAL ALLIANCE of PRESERVATION COMMISSIONS
education + advocacy + training

Assessment Team Members

Lisa Craig
Principal, The Craig Group Partners
Mayor, Lodi, CA

Kimberly Rose
Preservation Manager, The Craig Group Partners
Boston, MA



Will Cook
Partner, Cultural Heritage Partners, PLLC.
Washington D.C.

Robin Zeigler
Historic Zoning Administrator,
Nashville, TN

camp® commission assistance & mentoring program

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VI. **NAPC Completed Steps**

Project Scope

1. Review Commissioner and Staff operations, and their interactions with applicants, applicant agents, abutters, and the general public to provide operations-related assessments and recommendations.
2. Review Staff operations on behalf of the Commission.
3. Other items for considerations by NAPC
4. Interview Individuals (current ~~and past~~ Commissioners, current ~~and past~~ Staff, ~~selection of applicants and agents, and other stakeholders deemed necessary~~)
5. CAMP trainers will travel to Nantucket to attend an HDC meeting and facilitate separate focus meetings with current ~~/ past~~ Commissioners and with Staff.

Assessment Activities

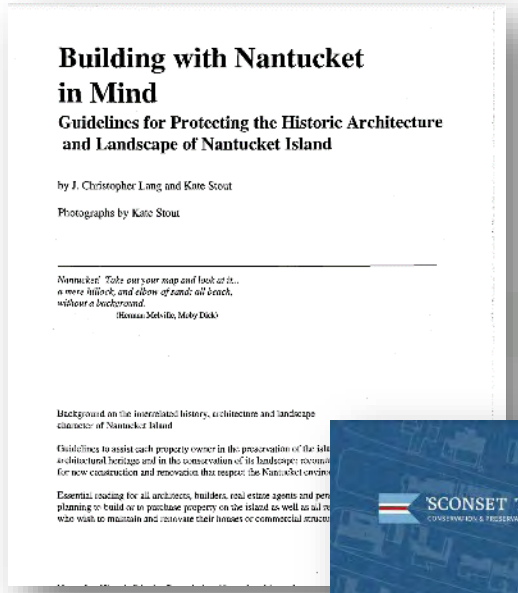
- ✓ **Material review including video of at least three HDC Meetings**
- ✓ **Online meetings with staff and HDC Vice-Chair**
- ✓ **Online survey and SWOT assessment**
- ✓ **Site visit and tour with staff**
- ✓ **Interviews with HDC Commissioners, PLUS staff, Planning Director, and Town Manager**
- ✓ **Attendance at HDC meeting**
- ✓ **2020 CAMP® previous experience including SWOT and recommendations.**

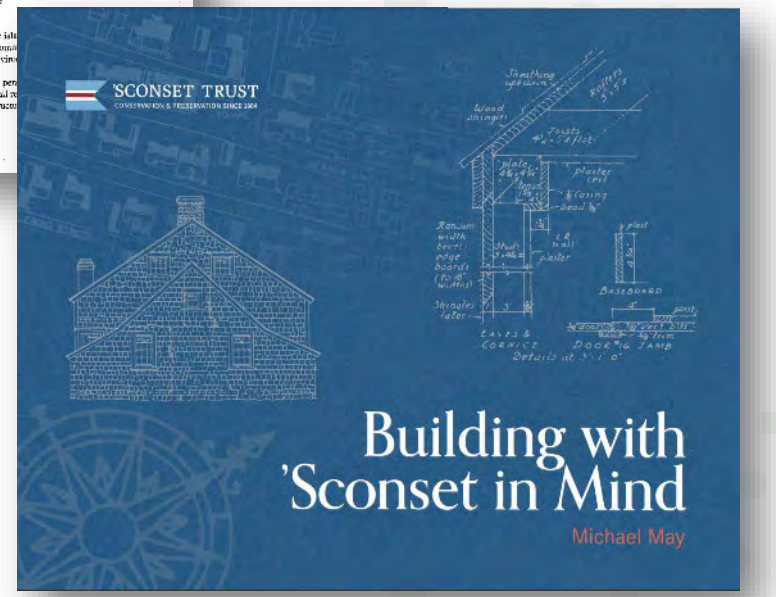
The information collected through these various assessment activities is summarized in this presentation including the primary findings and recommendations of the assessment team. This information has been reviewed by the HDC Preservation Planner, Planning Director, and Town Manager.

I. Staff Administration and Operation

I.A. Guiding Documents

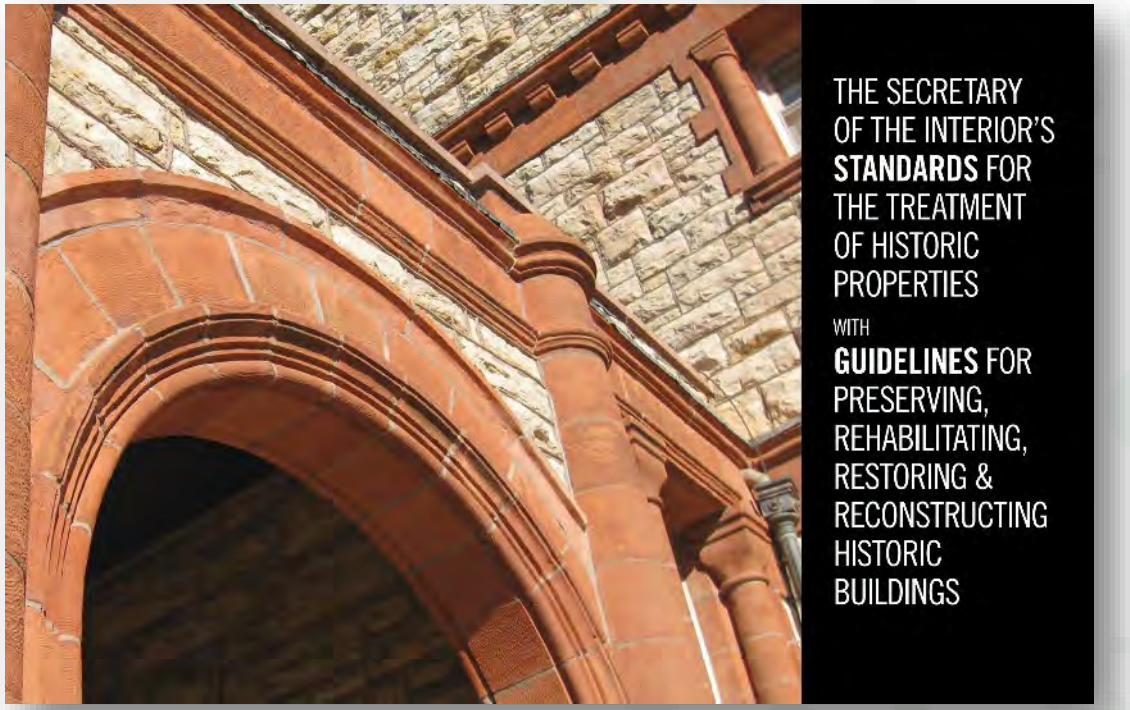
1. Special Act
2. Bylaws (as relevant to HDC)
3. Building with Nantucket in Mind
4. Certified Local Government Agreement





I.A.1. Guiding Documents: Definitions

1. Clarify what “Setting” means in BWNIM
2. Clarify what “landscaping” means in BWNIM
3. Define “regular maintenance” as “in kind”



I.A.2. Guiding Documents: Clarifications

1. Revise BWNIM to include criteria numbers for referencing during decision making process.
2. Update and combine the guideline documents.
3. Improve sign guidelines to remove basic signage from the review process. For example:
   - Add photographs or drawings
   - Remove paint color and guidance on sign content
   - Remove street sign, traffic, and directional signs.

II. REHABILITATION

A. Guidelines: Storefronts

1. Historic storefronts, their component elements, and other aspects of appearance including the original entrance configuration, plane, and recess should be retained.

2. Deteriorated or damaged storefronts or component elements should be repaired using historically appropriate materials.

3. If replacement storefronts or component elements are necessary, replacements should be compatible with the materials, composition, design, texture, and general appearance of the original. Replacements should use physical or photographic evidence to replicate the original appearance. If evidence is not available, the replacement storefront should use arrangement, features, materials, and proportions typically found on buildings of the same style and period of the building involved.

ATMs/Vending should not puncture the facade or obscure the architectural features of buildings. They should not be free standing or unassociated with a building. They may be located inside buildings or in a building alcove that is not located on the primary facade.

Historic storefronts such as this ca. 1930 design with Carrara glass at 409 Broadway should be retained and, if needed, repaired using materials that match the historic materials.

Broadway HP Zoning Overlay, Nashville and Davidson County, Tennessee- Example of numbered design guidelines

I.B.1. Operational: Front-End Assistance with COA

1. Simplify and eliminate duplication of applications and check lists.
2. Develop a “permitting system” for COAs.
3. Develop a list of pre-approved third-party consultants.
4. Rescind the process for Certificate of No Applicability (CONA).

I.B.2. Operational: Applications for Review

1. Establish a “lenient” and a “strict” standard of review regarding non-contributing vs contributing resources and a hierarchal standard of review regarding visible vs. not visible from the public way.
2. Establish a process for “Reconsideration” of an application for demolition that is solely for economic hardship.
3. Consider not reviewing for purposes of reducing the burden on the HDC, staff, and applicants:
   - Outdoor showers
   - Removal of non-historic features for replacement with historically appropriate features based on photo evidence or architectural evidence of the period / style
   - Cabanas
   - Pergolas or decks not in public view
   - Solar not in public view

I.B.3. Operational: Clarifications

1. Create a new mission statement that reflects and updates the HDC charter purpose.
2. Define Rules of Procedure (expanded on 1.B.4).
3. Add signage to what can be approved administratively.
4. Determine with HDC staff what level of property research is necessary for submission of a COA application.

I.B.4. Operational: Rules of Procedure

- **Create an HDC Rules of Procedure document for Commissioners and the public that more specifically details the meeting rules and procedures beyond what is contained in the Special Act.**
- **Topics to consider including in the Rules of Procedure:**
  1. Purpose and Authority
  2. Commission Organization
  3. Process of Meetings and Hearings
  4. General Regulations
  5. Guidelines
  6. Applications

I.B.5. Operational: Staffing

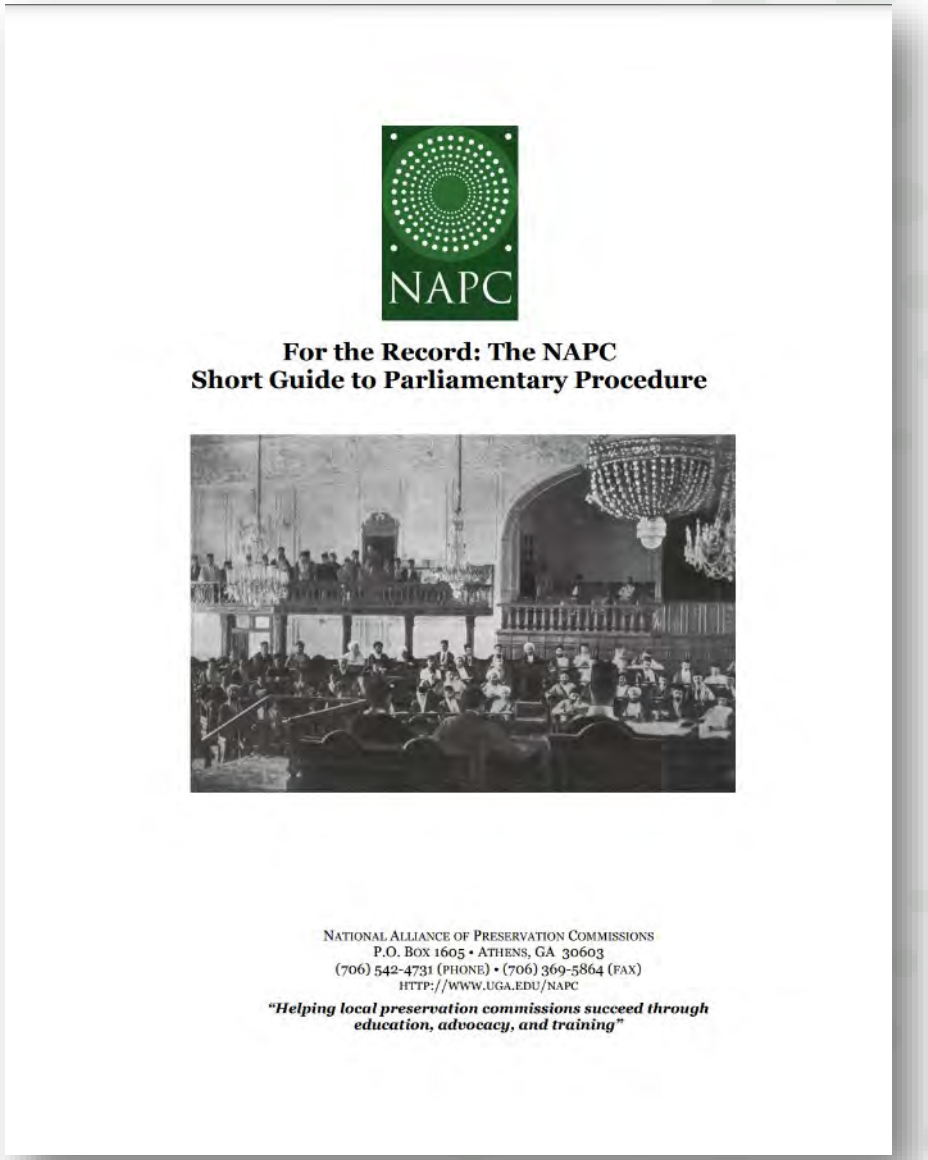
1. **Reclassify current Preservation Planner to a HDC Manager.**
   - **Secretary of the Interior qualified preservation professional**
     - Include Holly's biography / background on the website
   - **Decision making authority**
2. **Create staff reports for each project that goes before the HDC.**
   - **Reports provide a record of the findings of fact for each case, and a draft motion for commissioners to adopt, amend, condition or discard**
3. **Provide historic preservation training for inspectors.**

Architectural History Professional Qualification Standards

- **Graduate Degree in architectural history, art history, historic preservation, or closely related field, or**
- **Bachelor's degree in fields listed above plus one of the following:**
  - At least two years full-time experience in research, writing, or teaching OR restoration architecture
  - Substantial contribution through research and publication to the body of scholarly knowledge

I.B.6. Operational: Commissioners

1. **Obtain training and commit to regular continuing education.**
2. **Appoint one alternate.**
   - Be used in absence of a quorum
   - Be used in recusals when a quorum is needed
   - Should either attend meetings or should review meeting recordings before serving on commission as alternate


NAPC

For the Record: The NAPC
Short Guide to Parliamentary Procedure

NATIONAL ALLIANCE OF PRESERVATION COMMISSIONS
P.O. BOX 1605 • ATHENS, GA 30603
(706) 542-4731 (PHONE) • (706) 369-5864 (FAX)
HTTP://WWW.UGA.EDU/NAPC

"Helping local preservation commissions succeed through education, advocacy, and training"

II. Procedural Process

II.A. Procedural Process: Before Meeting

1. Ask questions or request additional information from staff, before the meeting.
2. Consider a pre-meeting between staff and the HDC Chair (and legal if they are going to attend) to ensure advance knowledge of any controversial issues or legal concerns. The Chair can use this meeting to request additional information not already provided by the applicant or staff and to finalize the consent agenda.
3. Do not continue with virtual or hybrid meetings.

II.B. Procedural Process: Meeting Packet / Agenda

1. Create clear agenda headers.
2. Place administrative discussions at the end of the agenda or schedule a separate administrative HDC meeting.
3. Include list of administratively approved COAs as a consent agenda item.

I. CONSENTS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent	
1.	Esmeralda Martinez ETAL	6 Larrabee Lane	New fence	55/102.6	J. Martinez	rp
2.	Matthew & Caroline Manera	15 Morey Ln	New dwelling	73.3.1/38	EMDA	rp
3.	Silver Fox Partners	2 Horn Beam Rd	Pool house	21/118.5	EMDA	rp
4.	Zais Realty Trst	57 Eel Point Rd	New Shed	32/46	WAPD	rp
5.	Zais Realty Trst	57 Eel Point Rd	Move off /demo shed	32/46	WAPD	rp
6.	Pixie Hollow LLC	109 Tom Nevers Rd	Addition	91/27	MCA+	rp
7.	Michael Muldowney	144 Surfside rd.	Alteration cottage door	80/99	William White	vo
8.	Bradley Brewster	29 Walsh St	Expand deck	29/81	Ben Normand	vo
9.	Tom Pearson/Tiffany Lamb	5 Polliwog Rd	Driveway	55 423.3	Tom Pearson	sw
10.	Manny Sylvia	6 Nobska Way	Windows & add dormer	66/21	NAG	sw
11.	Ruth Klink	301 Madaket rd	Dormer	60.2.1/55	NAG	sw
12.	Eloise Nominee Trst	1 Sandy Dr	Garage	29/73 & 74	Thornewill Designs	sw
13.	Island Gas	11 Industry Rd	New dwelling/structure	69/295	Val Oliver	dc
14.	Phil Garufi	6 West Wy	Decks 1st floor	38/134	Val Oliver	dc
15.	Elizabeth Goulet	51 Miacomet rd	Cabana	67/196	Brook Meerbergen	dc
16.	Dave Angelastro	36 Somerset Rd	Cabana	56/106	Brook Meerbergen	sw
17.	Nikolay Atanasov	12 Appleton Rd	Walkout window well	67/477	DTA	cp
18.	Kelly Burke Trust	11 Spring St	Revision	55.1.4/108	BPC	cp
19.	Steven Jemison	4 Lavendar Ln	Main house fenestration	33/24	JB Studio	jp
20.	Town of Nantucket	9 Waitt Dr	New Dwelling	67/922	Gryphon Architects	jp
21.	Town of Nantucket	9 Waitt Dr	New 2nd Dwelling	67/922	Gryphon Architects	jp
22.	Town of Nantucket	5 Waitt Dr	New Dwelling	67/920	Gryphon Architects	jp
23.	Town of Nantucket	5 Waitt Dr	New 2nd Dwelling			
24.	Bitter North LLC	5 Mattapoisett Lane	Exterior Stairs			
25.	Gallagher/Aguiar	4 Pond Rd	Garage door change			
26.	Richard Meagner	6 Green Ln	Roof replacement			

II. CONSENTS WITH CONDITIONS

	Property owner name	Street Address	Scope of work
1.	Town of Nantucket	7 Waitt Dr	New Duplex
	• Connect the two porches to make them a single porch across the front of the building.		
2.	Elizabeth Goulet	51 Miacomet rd	Pool & Hardscape
	• pool not to be visible at time of inspection and in perpetuity & pool to have no grade change application.		
3.	30 Tashama LLC	30 Tashama Ln	Porch
	• porch should be reduced to 8'.		

III. OLD BUSINESS 11/07/2023

	Property owner name	Street Address	Scope of work
1.	Jonathan Nyland	93 Sankaty Rd	Rooftop solar
	• *Commissioners: Welch, Camp, Coombs, Oliver, Patten; Alternates: Thornewill, Paul; Recus*		
2.	Robert Stock **08-9002**	50 Squam Rd	As-built fence
	• *Commissioners: Coombs, Camp, Oliver, Patten, Paul; Alternates: None Recused: None.*		
3.	Adam Glick	31 Eel Point Rd	New dwelling
	• *Commissioners: Welch, Camp, Coombs, Oliver, Patten; Alternates: Paul, Pohl; Recused: No*		
4.	WSH Holding LLC **10-9288**	1 Sconset Ave	Pool & patio
	• *Commissioners: Pohl, Camp, Coombs, Oliver, Patten; Alternates: Welch, Thornewill Recuse*		
5.	Ack Midisland LLC **08-8888**	18-26 Sparks Ave	New mixed used building
	• *Commissioners: Pohl, Welch, Camp, Patten, Paul, Alternates: None, Recused: Oliver, Coom*		
6.	SeaHero LLC **05-8447**	12 Pilgrim Rd	New dwelling
	• *Commissioners: Pohl, Welch, Camp, Thornewill: Alternates: None; Recused: None.*		
7.	SeaHero LLC **05-8450**	12 Pilgrim Rd	New shed
	• *Commissioners: Pohl, Welch, Camp, Thornewill: Alternates: None; Recused: None.*		

IV. NEW BUSINESS 11/14/2023

	Property owner name	Street Address	Scope of work
1.	NIR Retail LLC	4 Harbor Sq.	Structure rev 03-8063
2.	Richmond Meadows II	20 Nancy Ann ln	Commercial dwelling revs
3.	f 15 CHR LLC	8 Chuck Hollow Rd	Addition & Porch

City of Boston
Landmarks Commission

City of Boston
Mayor Michelle Wu

NOTICE OF PUBLIC HEARING

The **BEACON HILL ARCHITECTURAL COMMISSION** will hold a public hearing:

DATE: NOVEMBER 16, 2023
TIME: 5:00 PM
ZOOM: HTTPS://ZOOM.US/J/98804462042

RECEIVED
By City Clerk at 11:25 am, Nov 06, 2023

Subject of the hearing will be applications for Certificates of Design Approval on the agenda below, rescinds of architectural violations, and such businesses as may come before the commission, in accordance with Chapter 616 of the Acts of 1956 of the Massachusetts General Law as amended. Applications are available for review during business hours at the office of the Environment Department. Applicants or their representatives are required to attend, unless indicated otherwise below. Sign language interpreters are available upon request.

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I. DESIGN REVIEW HEARING

APP # 24.0306 BH — **45 BEACON STREET**
Applicant: Caitlin Garrison; AMS
Proposed Work: Replace wooden flag pole with a metal option.

APP # 24.0387 BH — **13-15 PINCKNEY STREET**
Applicant: Chris Bushing
Proposed Work: Remove elevator head house skylight, replace with a flat rubber roof.

APP # 23.0808 BH — **103 MYRTLE STREET**
Applicant: Timothy Burke
Proposed Work: Modify existing roof deck

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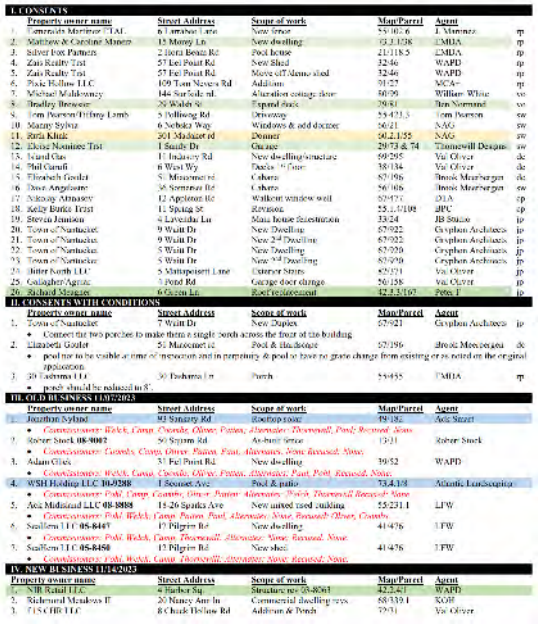
Left: Nantucket's View Pack. Right: Beacon Hill's Agenda

II.B. Procedural Process: Meeting Packet / Agenda



I. CONSENTS

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent	
1.	Emeralds Mortgage TLE	63 Jonathan Lane	New fence	55/102.6	J. Montero	rp
2.	Matthew & Caroline Moses	15 Monty Ln	New dwelling	63.1/38	EMDA	rp
3.	Silver Fox Partners	2 Bora Beara Rd	Pool house	21/118.5	EMDA	rp
4.	Zais Realty Trst	57 Del Pearl Rd	New Shed	32/46	WAPD	rp
5.	Zais Realty Trst	57 Del Pearl Rd	Move off demo shed	32/46	WAPD	rp
6.	Pixie Hollow LLC	109 Tom Nevers Rd	Addition	91/27	MCA+	rp
7.	Michael Malakouzy	146 Surfside rd.	Alteration cottage door	50/99	William White	sw
8.	Bradley Brouyere	29 Walsh St	Expand deck	29/81	Ben Normand	sw
9.	Tom Pearson/Tiffany Lamb	5 Pelliteng Rd	Driveway	53/423.3	Tom Pearson	sw
10.	Manny Sylvia	6 Nebska Way	Windows & add dormer	50/21	NAG	sw
11.	Rifa Khan	301 Madaket rd	Dormer	50.2.1/55	NAG	sw
12.	Eloise Nominee Trst	1 Sandy Dr	Garage	29/73 & 74	Timmerhill Designs	sw
13.	Island Gas	11 Industry Rd	New dwelling/structure	69/295	Via Oliver	dc
14.	Phil Carufi	6 West Wy	Decks / Patio	38/134	Via Oliver	dc
15.	Elizabeth Goulet	56 Monomoit rd	Cabana	57/196	Brook Meuhergen	dc
16.	Dave Angelone	36 Seaspray Rd	Cabana	56/106	Brook Meuhergen	sw
17.	Nikolay Atmazov	12 Appleton Rd	Walkout window well	52/452	DJA	rp
18.	Kelly Burke Trst	11 Spring St	Revision	55.1.4/108	JPC	rp
19.	Steven Jamison	4 Lavendin Ln	Main house foundation	33/24	JB Stucco	jp
20.	Town of Nantucket	9 Waitt Dr	New Dwelling	57/922	Cryphon Architects	jp
21.	Town of Nantucket	9 Waitt Dr	New 2nd Dwelling	67/922	Cryphon Architects	jp
22.	Town of Nantucket	5 Waitt Dr	New Dwelling	67/920	Cryphon Architects	jp
23.	Town of Nantucket	5 Waitt Dr	New 2nd Dwelling	67/920	Cryphon Architects	jp
24.	Bitter North LLC	5 Muttupoisett Lane	Exterior Stairs	52/371	Via Oliver	jp
25.	Gallagher/Agatiz	3 Petrel Rd	Garage door change	50/138	Via Oliver	jp
26.	Richard Meagher	6 Quiet Ln	Roof replacement	42.2.3/167	Peter F	jp

II. CONSENTS WITH CONDITIONS

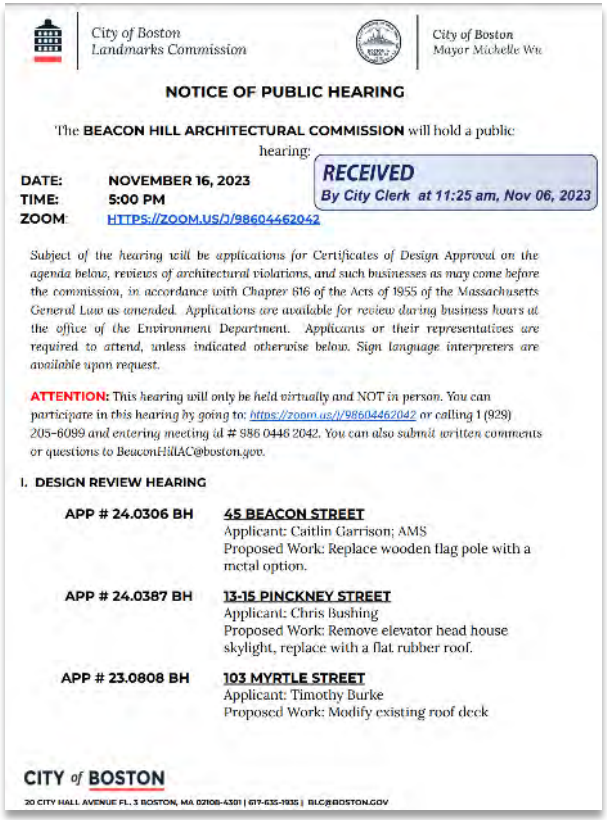
	Property owner name	Street Address	Scope of work	Map/Parcel	Agent	
1.	Town of Nantucket	7 Waitt Dr	New Duplex	57/921	Cryphon Architects	jp
	• Connect the two porches to make them a single porch across the front of the building.					
2.	Elizabeth Goulet	56 Monomoit rd	Pool & Hardscape	57/196	Brook Meuhergen	dc
	• pool not to be visible at time of inspection and in perpetuity. & pool to have no grade change from existing or as noted on the original application.					
3.	39 Eashawa LLC	39 Eashawa Ln	Porch	55/455	EMDA	rp
	• porch should be palisaid in S.					

III. OLD BUSINESS 11/07/2023

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	Jonathon Sylvia	92 Simpson Rd	Rooftop solar	49/182	Ack Stone
	• Commissioners: Welch, Camp, Chenelle, Oliver, Patten, Alternates: Thornwall, Pool; Recused: None.				
2.	Robert Stuck 08-8002	50 Squam Rd	As-built fence	13/31	Robert Stuck
	• Commissioners: Daniels, Camp, Oliver, Patten, Pool, Alternates: None; Recused: None.				
3.	Adam Giles	37 Pol Point Rd	New dwelling	39/52	WAPD
	• Commissioners: Welch, Camp, Chenelle, Oliver, Patten, Alternates: Pool, Pohl; Recused: None.				
4.	WSH Holding LLC 10-9288	1 Seconee Ave	Pool & patio	73.4.1/8	Atlantic LuxScaping
	• Commissioners: Pohl, Camp, Daniels, Oliver, Patten, Alternates: Welch, Thornwall; Recused: None.				
5.	Asia Mohamad LLC 08-8088	15-26 Sparks Ave	New attired roof cladding	55/231.1	LPW
	• Commissioners: Pohl, Welch, Camp, Patten, Pool, Alternates: None, Recused: Oliver, Chenelle.				
6.	Swallow LLC 05-8450	19 Pilgrim Rd	New shed	41/476	LPW
	• Commissioners: Pohl, Welch, Camp, Thornwall, Alternates: None, Recused: None.				
7.	Swallow LLC 05-8450	17 Pilgrim Rd	New shed	41/476	LPW
	• Commissioners: Pohl, Welch, Camp, Thornwall, Alternates: None, Recused: None.				

IV. NEW BUSINESS 11/14/2023

	Property owner name	Street Address	Scope of work	Map/Parcel	Agent
1.	NJR Retail LLC	4 Harbor Sq	Structures rev 08-8061	42.2.4/1	WAPD
2.	Richmond Meadows II	20 Nancy Ann Ln	Commercial dwelling revs	68/339.1	SOH
3.	TJS CHB LLC	8 Chuck Hollow Rd	Addition & Porch	72/31	Via Oliver



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City of Boston
Mayor Michelle Wu

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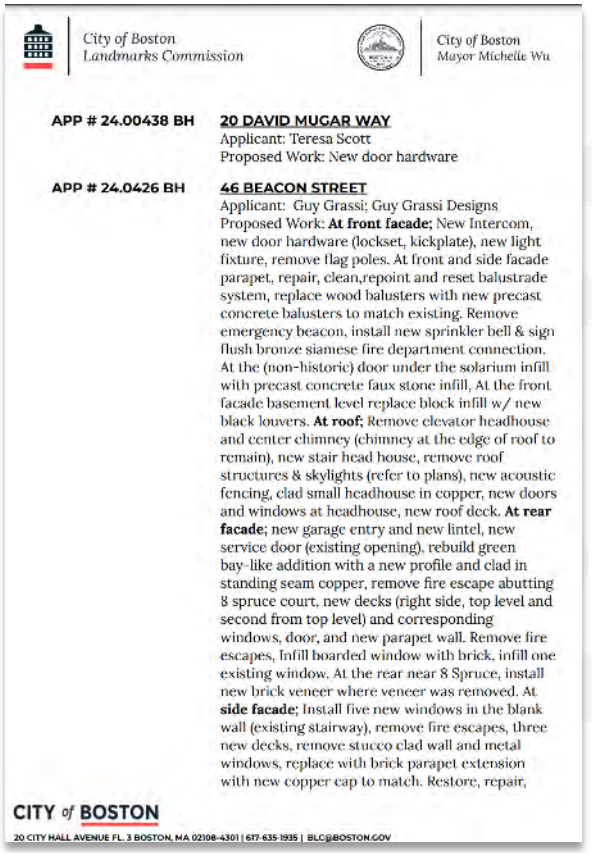

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APP # 24.00438 BH **20 DAVID MUGAR WAY**
Applicant: Teresa Scott
Proposed Work: New door hardware

APP # 24.0426 BH **46 BEACON STREET**
Applicant: Guy Grassi; Guy Grassi Designs
Proposed Work: **At front facade;** New Intercom, new door hardware (lockset, kickplate), new light fixture, remove flag poles. At front and side facade parapet, repair, clean,repoint and reset balustrade system, replace wood balusters with new precast concrete balusters to match existing. Remove emergency beacon, install new sprinkler bell & sign flush bronze siamese fire department connection. At the (non-historic) door under the solarium infill with precast concrete faux stone infill, At the front facade basement level replace block infill w/ new black louvers. **At roof;** Remove elevator headhouse and center chimney (chimney at the edge of roof to remain), new stair head house, remove roof structures & skylights (refer to plans), new acoustic fencing, clad small headhouse in copper, new doors and windows at headhouse, new roof deck. **At rear facade;** new garage entry and new lintel, new service door (existing opening), rebuild green bay-like addition with a new profile and clad in standing seam copper, remove fire escape abutting 8 spruce court, new decks (right side, top level and second from top level) and corresponding windows, door, and new parapet wall. Remove fire escapes, Infill boarded window with brick, infill one existing window. At the rear near 8 Spruce, install new brick veneer where veneer was removed. At **side facade;** Install five new windows in the blank wall (existing stairway), remove fire escapes, three new decks, remove stucco clad wall and metal windows, replace with brick parapet extension with new copper cap to match. Restore, repair,

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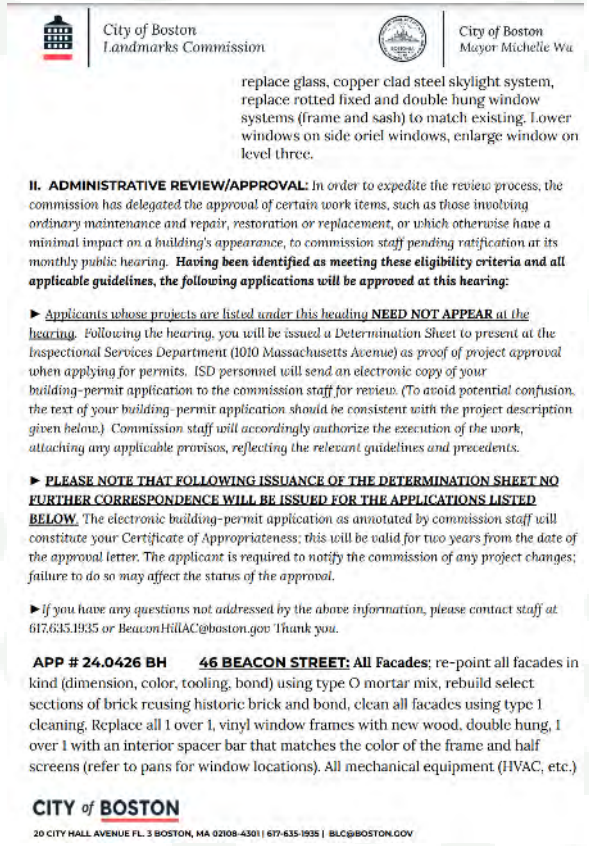

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replace glass, copper clad steel skylight system, replace rotted fixed and double hung window systems (frame and sash) to match existing. Lower windows on side oriel windows, enlarge window on level three.

II. ADMINISTRATIVE REVIEW/APPROVAL: *In order to expedite the review process, the commission has delegated the approval of certain work items, such as those involving ordinary maintenance and repair, restoration or replacement, or which otherwise have a minimal impact on a building's appearance, to commission staff pending ratification at its monthly public hearing.* ***Having been identified as meeting these eligibility criteria and all applicable guidelines, the following applications will be approved at this hearing:***

► *Applicants whose projects are listed under this heading* **NEED NOT APPEAR** *at the hearing. Following the hearing, you will be issued a Determination Sheet to present at the Inspectional Services Department (1010 Massachusetts Avenue) as proof of project approval when applying for permits. ISD personnel will send an electronic copy of your building-permit application to the commission staff for review. (To avoid potential confusion, the text of your building-permit application should be consistent with the project description given below.) Commission staff will accordingly authorize the execution of the work, attaching any applicable provisos, reflecting the relevant guidelines and precedents.*

► **PLEASE NOTE THAT FOLLOWING ISSUANCE OF THE DETERMINATION SHEET NO FURTHER CORRESPONDENCE WILL BE ISSUED FOR THE APPLICATIONS LISTED BELOW.** *The electronic building-permit application as annotated by commission staff will constitute your Certificate of Appropriateness; this will be valid for two years from the date of the approval letter. The applicant is required to notify the commission of any project changes; failure to do so may affect the status of the approval.*

► *If you have any questions not addressed by the above information, please contact staff at 617.635.1935 or BeaconHillAC@boston.gov Thank you.*

APP # 24.0426 BH **46 BEACON STREET: All Facades**; re-point all facades in kind (dimension, color, tooling, bond) using type O mortar mix, rebuild select sections of brick reusing historic brick and bond, clean all facades using type 1 cleaning. Replace all 1 over 1, vinyl window frames with new wood, double hung, 1 over 1 with an interior spacer bar that matches the color of the frame and half screens (refer to pans for window locations). All mechanical equipment (HVAC, etc.)

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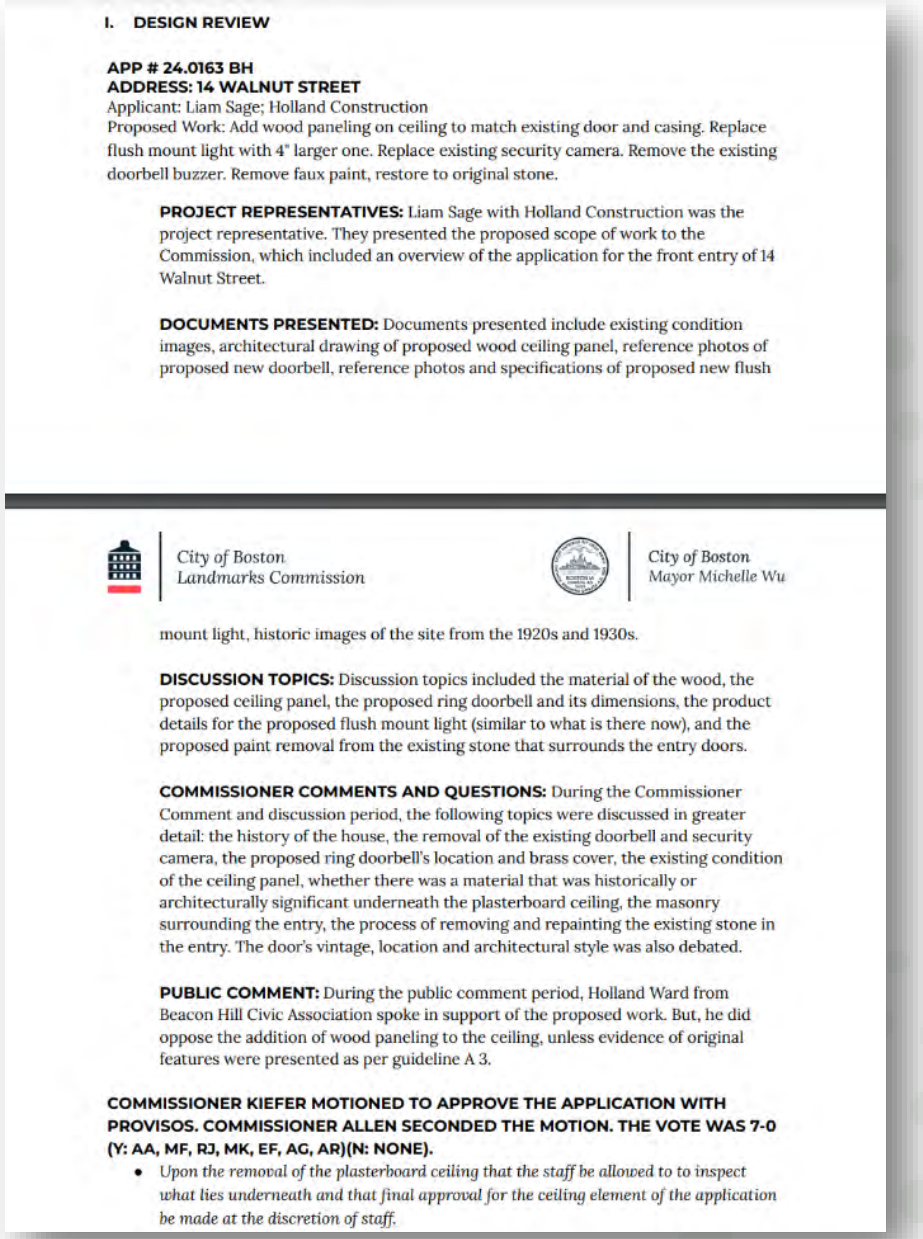
Left: Nantucket's View Pack. Right: Beacon Hill's Agenda

II.B. Procedural Process: Meeting Packet / Agenda

1. **Schedule specific administrative meeting to review "potential Items for discussion."**
   - Do not include in meeting packet information that is not specifically agendized.
2. **Do not separate multiple projects at one address.**
3. **Establish a deadline for COA application submissions and determination of completeness.**
   - I.E., 48-hour review notice

II.C. Procedural Process: Minutes

1. Should include: final decision / motion, the vote, name of who spoke (public, abutters, committees) and for disapprovals, summary guidance towards obtaining approval.
2. Do not require a copy of minutes as part of an application's continuance.



I. DESIGN REVIEW

APP # 24.0163 BH
ADDRESS: 14 WALNUT STREET
Applicant: Liam Sage; Holland Construction
Proposed Work: Add wood paneling on ceiling to match existing door and casing. Replace flush mount light with 4" larger one. Replace existing security camera. Remove the existing doorbell buzzer. Remove faux paint, restore to original stone.

PROJECT REPRESENTATIVES: Liam Sage with Holland Construction was the project representative. They presented the proposed scope of work to the Commission, which included an overview of the application for the front entry of 14 Walnut Street.

DOCUMENTS PRESENTED: Documents presented include existing condition images, architectural drawing of proposed wood ceiling panel, reference photos of proposed new doorbell, reference photos and specifications of proposed new flush

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mount light, historic images of the site from the 1920s and 1930s.

DISCUSSION TOPICS: Discussion topics included the material of the wood, the proposed ceiling panel, the proposed ring doorbell and its dimensions, the product details for the proposed flush mount light (similar to what is there now), and the proposed paint removal from the existing stone that surrounds the entry doors.

COMMISSIONER COMMENTS AND QUESTIONS: During the Commissioner Comment and discussion period, the following topics were discussed in greater detail: the history of the house, the removal of the existing doorbell and security camera, the proposed ring doorbell's location and brass cover, the existing condition of the ceiling panel, whether there was a material that was historically or architecturally significant underneath the plasterboard ceiling, the masonry surrounding the entry, the process of removing and repainting the existing stone in the entry. The door's vintage, location and architectural style was also debated.

PUBLIC COMMENT: During the public comment period, Holland Ward from Beacon Hill Civic Association spoke in support of the proposed work. But, he did oppose the addition of wood paneling to the ceiling, unless evidence of original features were presented as per guideline A 3.

COMMISSIONER KIEFER MOTIONED TO APPROVE THE APPLICATION WITH PROVISOS. COMMISSIONER ALLEN SECONDED THE MOTION. THE VOTE WAS 7-0 (Y: AA, MF, RJ, MK, EF, AG, AR)(N: NONE).

- *Upon the removal of the plasterboard ceiling that the staff be allowed to to inspect what lies underneath and that final approval for the ceiling element of the application be made at the discretion of staff.*

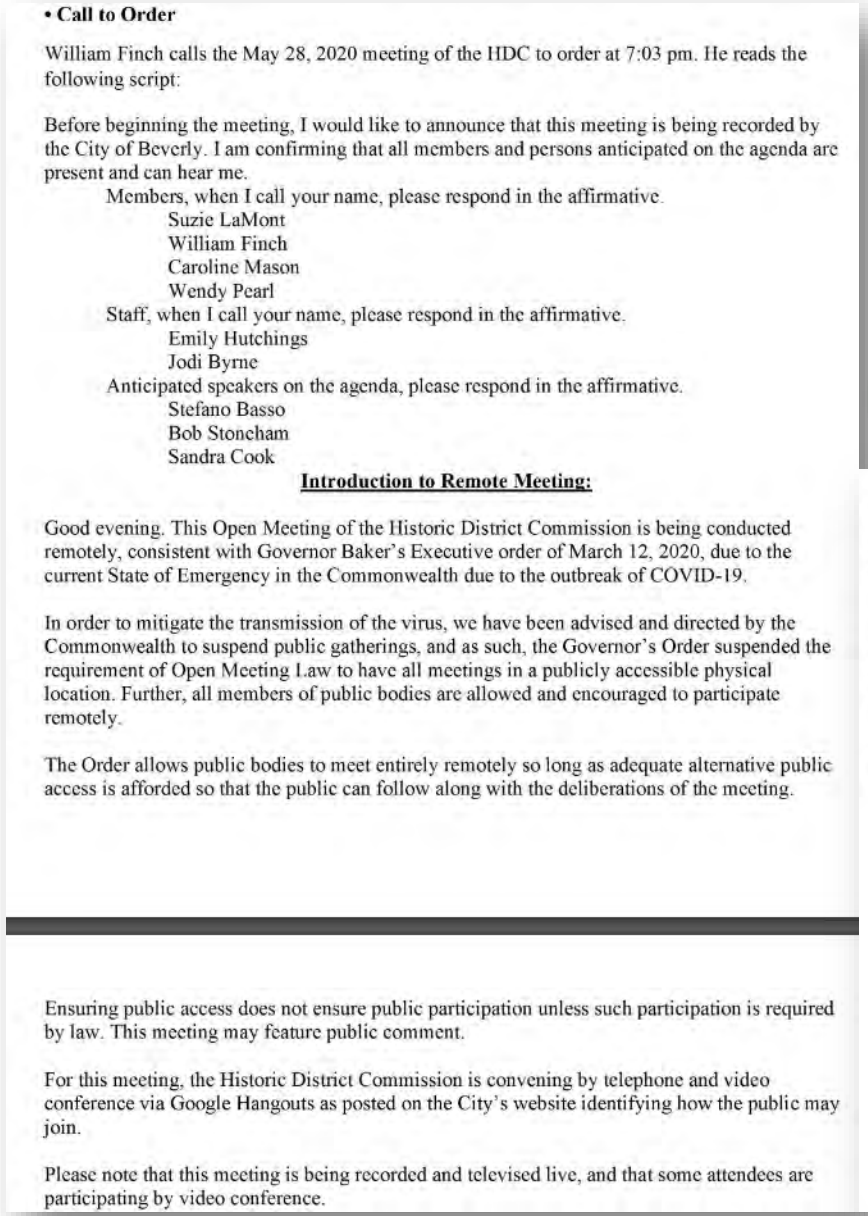
Beacon Hill's Minutes

III. Conduct of Historic District Commission Meetings

Commission Assistance & Mentoring Program

III. A. Meeting Conduct: Role of Chair

1. Welcomes attendees, review the meeting process, ensure role is taken, and confirm that the applicant is present.
2. Introduce each agenda item and maintain speaking order without interruption of the applicant, staff, or public.
3. Gavel in and out for public hearing items.



• **Call to Order**

William Finch calls the May 28, 2020 meeting of the HDC to order at 7:03 pm. He reads the following script:

Before beginning the meeting, I would like to announce that this meeting is being recorded by the City of Beverly. I am confirming that all members and persons anticipated on the agenda are present and can hear me.

Members, when I call your name, please respond in the affirmative.
- Suzie LaMont
- William Finch
- Caroline Mason
- Wendy Pearl

Staff, when I call your name, please respond in the affirmative.
- Emily Hutchings
- Jodi Byrne

Anticipated speakers on the agenda, please respond in the affirmative.
- Stefano Basso
- Bob Stoneham
- Sandra Cook

Introduction to Remote Meeting:

Good evening. This Open Meeting of the Historic District Commission is being conducted remotely, consistent with Governor Baker's Executive order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of COVID-19.

In order to mitigate the transmission of the virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspended the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order allows public bodies to meet entirely remotely so long as adequate alternative public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting may feature public comment.

For this meeting, the Historic District Commission is convening by telephone and video conference via Google Hangouts as posted on the City's website identifying how the public may join.

Please note that this meeting is being recorded and televised live, and that some attendees are participating by video conference.

Accordingly, please be aware that other participants or viewers may be able to see and hear you, and anything that your broadcast may be captured by the recording. You have the option to turn off your video if you are participating via computer. All participants should keep their microphones or phones muted unless recognized by the Chair to reduce background noise and feedback. Please wait until the person speaking has finished before speaking so we can clearly hear all participants.

Meeting Materials

Supporting materials that have been provided to members of this body are available from the Planning Department. Please contact Associate Planner Emily Hutchings to request supporting materials. The public is encouraged to follow along using the posted agenda unless the Chair notes otherwise.

Meeting Ground Rules

We are now turning to the first item on the agenda. Before we do so, I will cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

The Chair will introduce each item on the agenda. After speakers conclude their remarks, the Chair will invite Commission members to provide any comment, questions, or motions.

a. Please remember to mute your phone or computer when you are not speaking.
b. You may mute yourself or be muted by the meeting host by clicking the microphone mute/unmute icon, pressing the mute button on your telephone, or by pressing *6 on your telephone keypad.
c. Please reserve the Chat function for technical difficulties and not for public comment.
d. Please remember to speak clearly and in a way that helps generate accurate minutes.

For any response, please state your name and affiliation before speaking.

Regarding public comment:

c. After members have spoken, the Chair will afford public comment as follows:
   i. The Chair will first ask members of the public who wish to speak to identify their names and addresses only;
   ii. Once the Chair has a list of all public commentators, I will call on each by name and afford 3 minutes for any comments.

For those individuals present in person, please take care to speak loudly and clearly so the microphone associated with the webcam or telephone can effectively broadcast your comments to those participating remotely.

Beverly, MA HDC meeting minutes provides the script used to open meetings.

III.B. Meeting Conduct: Role of Staff

- **Generate a culture of “WE”.**
  - Staff reports and staff comments are essential in demonstrating that the commissioners and staff share mutual respect and are working together.

III.C. Meeting Conduct: Public Comment & Deliberations

1. Take timed public comment on non-agenda items at the beginning of the meeting so the public does not have to wait until the end of the meeting.
2. Read all consent items for voting all at once.
3. Make comments solely based on how successful or not the project is in meeting the design guidelines.
4. Avoid words such as “like,” “dislike,” “appropriate,” and “inappropriate.”

III.D. Meeting Conduct: Procedural Due Process

1. Provide the applicant a certain amount of time to present without interruption.
2. Encourage the applicant to make their argument as pertinent to the guidelines.
3. Request the public to comment as much as possible to their views on the pertinence of the project to the guidelines. Allow the applicant to comment on the testimony of abutters and public.
4. At the end of all presentations, ask questions of staff, applicant or abutters/public commenters.
5. Don’t allow the public to interrupt deliberation. You gave them their time without interruption, now it’s your time.

III.D. Meeting Conduct: Procedural Due Process

1. Avoid heated debates during deliberations. Instead, share reasoning for how you understand the application of the guidelines and how that may sway your vote. Be open to changing your mind.
2. Allow for motions to be presented. If you would like to amend the motion, please do so, or vote against it as stated.
3. Do not discuss a motion prior to a second being made. If no second is made, the motion dies. Another motion can then be made.

IV. Decision-Making

IV.A. Decision-Making: Approvals / Approvals with Conditions

1. Professionally qualified staff should provide in the staff report a recommended motion for approval, approval with conditions, or denial.
2. Add conditions of approval where needed for compliance with the guidelines and refer to the resubmission to staff for final sign-off.
    1. In the instance where staff finds inconsistency with guidelines, they can send again to the HDC for additional review.
3. Use language in motions referencing the applicable guidelines for a clear record of decision-making.
4. Indicate Commission-requested revisions clearly for the record.

IV.B. Decision-making: Recusals

1. Recusal from consideration of an item should be clearly stated for the record and include the identification of conflict.
2. Add to the Rules of Procedure that the recused HDC member should not be allowed to remain on the dais and confirm with legal council if recused members can remain in the room.
    1. Concerns of intimidation and influence
3. Review with the Town's legal counsel what constitutes conflict of interest.

V. Future Considerations

Immediate Guidance

1. **Incorporate or revise definitions (i.e. setting, vending, landscaping) to ensure accuracy and relevance to proposed changes or alterations.**
   - Example: "Vending" to remove "coin operated" as this could allow vending such as ATMs, machines that accept credit cards, and machines that offer free publications.
2. **Develop Rules of Procedure or Rules and Regulations**
   - Review SHPO guidance and determine what can be incorporated into Rules of Procedure
3. **Develop template staff reports for common applications**

V.A. Short-Term Considerations (5 years)

1. Consider if a cultural landscape survey would prove useful in decision-making on issues of setting and integrity.
2. Complete a community values assessment to prioritize properties with the greatest community significance based on social, cultural, architectural, economic, and historical values.
3. Work to establish meaningful partnerships through jointly partnering on preservation efforts.
4. Develop area-specific illustrated guidelines.

V.B. Long-Term Considerations (10+ years)

1. **Amend the Special Act to reflect recommended best practices for HDC composition, staffing, authority, and defensible decision-making.**
2. **Re-consider changing legislation to have appeals go to court rather than the Select Board.**
3. **Remove conflicting verbiage from Special Act as to "appointing" or "electing" Commissioners.**
    1. § A301-4 Section 3. "to be appointed by the Selectmen." vs. "All 5 members shall be elected"

Completed Steps

- ✓ Aug. 2: Kick off Meeting
- ✓ Aug.: Material Review including three HDC meetings
- ✓ Aug. 9: 90-minute meeting with Liaisons
- ✓ Aug. 16: 60-minute check in and survey discussion
- ✓ Aug.: task meeting
- ✓ Aug.-Sept.: development of surveys and SWOT
- ✓ Sept.: Sent out surveys and compiled results
- ✓ Sept.: develop in-person interview questions
- ✓ Sept.: coordinate travel
- ✓ Sept.: 27, 90-minute meeting with Liaisons about itinerary
- ✓ Oct. 2-5: travel to Nantucket
- ✓ Nov. 2: Internal team meeting to discuss recommendations
- ✓ Nov.: Recommendation and report development
- ✓ Nov. 27: Developed PowerPoint
- ✓ Dec. 6: Present draft recommendations to Town Manager and PLUS Director.
- ✓ Dec.-Jan.: refine PowerPoint and final assessment report deliverable based on comments
- ✓ Feb. 7: internal team review of content
- ✓ Feb. 12: Provide assessment report to HDC Staff for review and distribution
- ✓ Feb. 21: Present to HDC / Select Board

Thank you!

Questions or Comments

camp®

Nantucket Historic District Commission
Organizational Assessment

Provided by: National Alliance of Preservation Commissions
February 2024

Cover: **Top Right**: *Ca. 1930 Aerial view of downtown, from Brant Point to Old South Wharf. PH23-29 (Courtesy of the Nantucket Historical Association)*; **Top Left**: *Ca. 1983 Aerial view of the town, the wharves, Brant Point, and the east jetty. PH93-21 (Courtesy of the Nantucket Historical Association)*; **Bottom Center**: *Nantucket Harbor. Photo by Cary Hazlegrove | NantucketStock.com (Nantucket Current)*

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Acronyms

BHAC	Beacon Hill Architectural Commission
CLG	Certified Local Government
CAMP	Commission Assistance and Mentoring Program ®
COA	Certificate of Approval
CONA	Certificate of Non-Approval
HDC	Historic District Commission
NAPC	National Alliance of Preservation Commissions
NHC	Nantucket Historical Commission
NHL	National Historic Landmark
NPS	National Park Service
NPT	Nantucket Preservation Trust
NTHP	National Trust for Historic Preservation
PLUS	Planning & Land Use Services
SOI	Secretary of the Interior
SWOT	Strengths, Weaknesses, Opportunities, and Threats

Introduction

NAPC & Nantucket

The National Alliance of Preservation Commissions (NAPC) was founded in 1983 in response to amendments to the National Historic Preservation Act of 1966. These amendments provided financial assistance to local governments that met the requirements of the Certified Local Government (CLG) program, including the establishment of a local preservation ordinance and commission. NAPC was formed to provide a forum for commissions to discuss mutual problems and to serve as a national voice representing the particular needs of commissions.

The NAPC provides technical support and manages an information network to help local commissions accomplish the preservation objectives. Their established education and training programs, including the biennial FORUM conference and Commission Assistance and Mentoring Program (CAMP ®), have provided essential training to thousands of commission members and staff. NAPC also advocates at the federal, state, and local levels of government to promote policies and programs that support preservation commission efforts.

Previously, Nantucket hosted a two-day CAMP ® in November 2020, which addressed the topics of Legal Basics, Standards and Guidelines for Review, Resiliency, Ethics, Community Outreach, and some design review exercises. With representation from numerous preservation and conservation-based organizations and commissions, including the Nantucket Historic District Commission (HDC), the Nantucket Historical Commission, the Coastal Resilience Advisory Committee, the Conservation Commission, Nantucket Preservation Trust, ACKlimate and the Town of Nantucket agency staff, there was a significant amount of local preservation knowledge and diversity in disciplines evident with the attendees. Lastly, a Strengths, Weaknesses, Opportunities, and Threats (SWOT) assessment was completed, allowing the participants to identify the existing Town of Nantucket preservation program strengths and challenges and the greater opportunities and threats posed to preservation on the island. The CAMP and SWOT resulted in a series of recommendations. A summary of those recommendations is provided in the appendices.

Current Project Scope

In initiating this most current assessment of the Town of Nantucket's historic preservation program, the NAPC was tasked with conducting a review of the Nantucket HDC's operations to meet the following objectives, tasks, and targeted outcomes.

1. **Review Commissioner and Staff operations, and their interactions with applicants, applicant agents, abutters, and the general public, to provide operations-related assessments and recommendations.**

This analysis includes ensuring observance of Town and Commonwealth laws, ethics guidelines, and the code of conduct; that hearings are appropriately managed according to Robert's Rules of Order; and that the process of placing items on the agenda and the hearing of those items is handled efficiently. The processing of applications and staff resources available to do so, is key to this last. Finally, the NAPC was tasked with supporting the development of tools to decrease time-drag in processing applications and ensuring application review and decision-making adheres to the rules, regulations and guidelines adopted by the HDC, the Town of Nantucket, and the laws of the Commonwealth.

2. **Review Staff operations on behalf of the Commission.**

The NAPC was tasked with addressing the sufficiency of staff resources (day-to-day and planning-wise), Staff professional qualifications and capacity for making recommendations, the timely processing of minutes and applications, and the need for continuing education.

3. **Other items for consideration by NAPC**

The NAPC was also tasked with addressing the following:

- HDC Advisory Committees and their value, or if modifications are beneficial
- HDC fees and fee usage
- Quantity and type of applications and their outcomes
- Actions or changes needed to establish HDC-specific procedures, standards, and regulations without altering The Act.
- Continuing education for Commissioners.

4. **Interview individuals***

The initial scope identified the need to Interview various categories of professionals and constituents through surveys and in-person focus meetings. This list included:

- Current and some past Commissioners
- Current and some past Staff members
- Selection of applicants and agents
- Other stakeholders deemed necessary

Note: It was later requested by the HDC planning liaison committee that only current HDC members and staff be contacted for survey and interviews.

5. **CAMP trainers will travel to Nantucket to attend an HDC meeting and facilitate separate focus meetings with current/past Commissioners and with Staff.**

Hand-stitched needlework by Susan Boardman of a Nantucket lean-to house (34 West Chester Street) in the background with a bird flying overhead. Outside the gold border is a hand-stitched text with black yarn reading "NANTUCKET ARCHITECTURE TELLS US MANY STORIES" on the left, "ABOUT HISTORY, GEOGRAPHY, TECHNOLOGY" on top, "ECONOMY RELIGION, AESTHETICS, LOVE AND FAMILY." on right, and "PATRICIA EGAN BUTLER" on the bottom. (Courtesy of the Nantucket Historical Association, Accession number 2014.001.001)

Methodology

Research

The NAPC trainers pursued multiple avenues of inquiry throughout the project. With the assistance of the HDC Liaisons, the trainers reviewed many documents including, but not limited to, information regarding the legality of advisory committees, Certified Local Government (CLG) Memorandum of Understanding (MOU) and annual reports, design review guidelines, Certificate of Appropriateness (COA) examples, HDC Meeting Packet and Minutes, internal operation documents, and policies, regulations, and establishing legislation. Once a baseline was created, the NAPC trainers pursued other areas of research, including relevant external case studies, other studies provided on the Nantucket HDC, and recommended best practices from the NAPC and National Trust for Historic Preservation (NTHP) and other entities, including those for which the trainers had significant working knowledge. This in-depth research helped inform the surveys, interviews, site visit, and final deliverables.

Surveys

NAPC trainers developed the survey with guidance from similar past surveys and the HDC liaisons. At the request of the HDC liaisons, the survey was limited to the current Commissioners and staff. Survey results were collected between August 28 and September 23, with multiple reminders sent. This initial survey addressed current attitudes and thoughts through a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis.

A second survey was drafted to seek input from the Nantucket Historical Commission (NHC) and was opened on September 19 and closed on October 6. Like the survey to the HDC, this survey was also a SWOT analysis but asked questions about the NHC's mission and role on the Island, including their interactions with the HDC. The HDC liaisons determined this survey did not serve the current scope of work and, therefore, deemed survey analysis unnecessary for this assessment.

Interviews

While the NAPC trainers were initially tasked with interviewing numerous professionals, applicants, and agents of applicants, the HDC liaisons directed the NAPC trainers to focus their interviews on current HDC Commissioners and Town Staff. These interviews were completed in person during the October site visit.

Site Visit

Three NAPC trainers traveled to Nantucket for a site visit on October 1-5, 2023. On their first full day, the trainers met with Libby Gibson, Town Manager; Holly Backus, Preservation Planner; and Leslie Snell, Planning Director. They also visited two COA project sites – one identified as problematic and one as successful – with Preservation Planner Holly Backus. Additionally, Ms. Backus conducted a drive-around on multiple locations visiting historic neighborhoods and site-specific locations experiencing the most intense development activity. The day ended with a debrief amongst the trainers. Day two included interviews with HDC members and site visits to upcoming projects on the HDC agenda. The day concluded with the trainers attending an HDC meeting. On the third day, interviews continued with HDC members unable to attend the first round of interviews. Additionally, trainers visited projects that were appealed to the Select Board. After the site visit, the NAPC trainers debriefed online, discussing the consistency of survey results and interview comments with observations made during the site visit. Problem areas and opportunities for improvement were discussed and agreed upon, and drafting an initial list of recommendations began.

Meetings

The NAPC trainers met with the Nantucket Liaisons on three occasions before the site visit to discuss avenues of research, survey questions, and travel itineraries. Additionally, the NAPC team hosted internal meetings for travel debriefing, research reporting, and final presentation and report development and review. The NAPC trainers met with Libby Gibson, Town Manager, and Leslie Snell, Planning & Land Use Services (PLUS) Director, to review proposed draft recommendations and receive feedback before scheduling the joint meeting with the Select Board and HDC. Delivery of the final assessment report was slated for the week of February 12, with the combined HDC and Select Board meeting planned for February 21, 2024.

I. Staff Administration & Operation

A. Guiding Documents

Guiding documents define the scope, behavior, and responsibilities of the Nantucket HDC. The primary guiding documents for Nantucket are the Special Act, Bylaws, guideline documents, and agreements.

1. Special Act

The Special Act is the enabling legislation of the HDC. In 1955, Nantucket became one of Massachusetts's first two local historic districts. The Special Act established the Nantucket Historic District and the HDC to administer it. In the Act, the purpose of the HDC is laid out:

> *The purpose of this Act is to promote the general welfare of the inhabitants of the Town of Nantucket through the preservation and protection of historic buildings, places, and districts of historic interest through the development of an appropriate setting for these buildings, places and districts and through the benefits resulting to the economy of Nantucket in developing and maintaining its vacation-travel industry through the promotion of these historic associations. (Code of the Town of Nantucket*, §A301-4-2)

Recommendations:

- List the Special Act as enabling legislation on the website. Currently, it is in Quick Links on the sidebar, while other guiding documents are found at the bottom of the page. Listing all guiding documents together will help Commissioners and the public quickly locate them.
- Reference the Special Act as the enabling legislation in *Building with Nantucket in Mind* (BWNIM) and *Building with Sconset in Mind.* Likewise, the Special Act should codify these documents as the guidelines used for decision-making.
- Link the Special Act and BWNIM on the electronic agenda for easy access during the meeting.

2. Bylaws

Bylaws refer to the regulations made by a local authority, which in this case is the Town of Nantucket.

Recommendations:

- Identify and list online all Bylaws that alter or add to the purview of the HDC for the Commissioners and the public to access.

3. Building with Nantucket in Mind

Building with Nantucket in Mind (BWNIM) is the established design guidance document for the Island. The version currently in use was published in 1992 and copyrighted in 1995. The source document has had several addendums focusing on more modern guidance such as resilience, sustainability, HVAC systems, solar, signage, and roof shingle covers. The newest addition to the BWNIM collection is *Building with 'Sconset in Mind*, which provides design guidelines for the Village of 'Sconset.

Recommendations for "Building With Nantucket in Mind:"

- Revise BWNIM to include criteria numbers for referencing during the decision-making process. This will help applicants, Commissioners, and the public locate and understand what standard is being discussed or used for decision purposes.
- Update and combine the guideline documents. Currently, applicants must reference several documents to determine their project's compliance with the design guidance and COA requirements for the HDC. Incorporating and organizing the design guidance contained in the addendums into BWNIM greatly decreases the chance of applicants not including necessary application materials, detailed drawings, or other evidentiary information needed by the HDC in making their decision.
- Reference external documents such as *Building with Sconset in Mind* or other area-specific guidelines in BWNIM to appropriately direct applicants to those companion design or planning resources.

Recommendations for The Sign Book:

- Amend HDC sign guidelines to allow for the removal of basic signage from the HDC review process.
- Add clear photographs and examples of compliant and non-compliant signage to illustrate the sign guideline design criteria.
- Remove paint color and guidance on sign content from the sign design guidance, particularly regarding free-speech laws.
- Create a separate "exempt" section in the signage guidance for street, traffic, and directional signs. These are government code-required signage, the design and placement of which are not normally within the HDC's purview.

Recommendations for Baseline Definitions:

- Clarify what " setting " means in BWNIM. The *Secretary of the Interior's Standards for Treatment* defines "Setting" for a district or neighborhood as "the larger area or environment in which a historic building is located." If a different definition is preferred, that needs to be either included in BWNIM or clearly stated for all applications.
- Clarify what "landscaping" means, as it is typically considered plantings. The suggestion is to review "landscape features" such as walls, fences, fountains, and significant grade changes. The Special Act allows the HDC to review "buildings and structures" but does not mention landscaping. Massachusetts General Law (MGL) Chapter 40C does provide guidance on landscaping which may be helpful for clarification purposes.[1]
- Define "regular maintenance" as "in-kind," meaning the same material, dimensions, texture/ tooling, and location are utilized in repair. This will assist in minimizing the number of applications submitted for such simple work as window, column, siding, or foundation repair.

[1] While Nantucket is not regulated via MGL Ch 40C, the definitions can prove useful. The Guidebook for Historic District Commissions by the Massachusetts Historical Commission also provides guidance in terms of MGL Ch 40C and best practices "Since you do not have review authority over landscaping, remember that what is screened now from public view may be very visible tomorrow. For this reason, many historic district commissions, when determining what is viewable from the public way, assume that no trees or landscaping are present." A Guidebook for Historic District Commissions, Massachusetts Historical Commission, 2014.

4. Certified Local Government Agreement[2]

Certified Local Governments (CLG) are municipalities that have demonstrated, through a certification process, a commitment to local preservation. The program is a partnership between local, state, and Federal governments, providing the opportunity to preserve, protect, and increase awareness of unique cultural heritage and help communities save irreplaceable historic resources. The benefits of becoming a CLG are funding availability, technical assistance, and sustainability. Nantucket's CLG was approved in 2021 by the National Park Service. Nantucket's CLG duties are:

1. Enforcement of local legislation (Special Act);
2. Have an adequate and qualified Local Government Commission (comprised of members of the HDC and NHC);
3. Survey and Inventory historic properties;
4. Provide for adequate public participation in local historic preservation programs;
5. And participate in Massachusetts Historical Commission (MHC) training sessions or workshops for CLGs.

Examples and Resources for similar CLGs:

Special / Enabling Legislation website listing:

- Beacon Hill Architectural Commission (BHAC): The beginning section displays when BHAC meets and what they are reviewing. The enabling legislation is hyperlinked. They also have pertinent information, such as the availability of a Commission seat and how to apply. Also included is information regarding the design review process, hyperlinked with their guideline document.
- Newport, R.I. Historic District Commission: The beginning section displays who comprises the Newport HDC and their oversight responsibilities. Also included is a district map, Commission seat availability, and the application process, and how to contact the Historic Preservation Office. Displayed buttons takes users to meeting information, the certificate of appropriateness application, historic standards, and the historic district ordinance.

[2] This was a recommendation of the 2020 CAMP SWOT and recommendation exercise, which has been accomplished.

Guideline Criteria Numbers:

- City of Salisbury, Maryland Historic District Design Guidelines (Section 4)
- Charlotte, North Carolina Historic District Design Standards
- Town of Wellesley, Massachusetts Historic Preservation Design Guidelines
- Falmouth, Massachusetts Historic Districts Design Review Guidelines

B. Operational

1. Front-End Assistance with COA

The Town of Nantucket Historic District Commission webpage is likely the first stop for potential applicants to learn more about the HDC COA application and review process. The second most helpful resource is the HDC staff. The assistance offered through both of these resources should make the applicants' experience a productive one, with easily accessible information on what the role of the HDC and staff is in the project review process, what work requires a COA application, answers to frequently asked questions, contact information for staff, necessary forms, checklists, design guidance, and links to technical resources needed to assist applicants with preparing a complete application. If clarification is needed, their should be a simple way to arrange for a phone call or meeting with the Preservation Planner or other administrative staff knowledgeable about the application process.

Recommendations:

- Simplify and eliminate duplication of applications and checklists. There should be one application for a COA with a checklist that anticipates the many different types of alterations or new construction likely to be proposed that will require HDC review and approval. For any "like-kind" changes, a set of administrative approval guidelines should be provided and the COA should provide a checkbox for that as an option.
- Develop a "permitting system" for COAs that supports multiple departmental reviews both prior to the COA meeting and after approval at the point of inspection. This can be accomplished through electronic application filing and a preliminary review by other PLUS staff, posting staff reports and COAs online, tracking COA amendments, and post-approval inspections. While electronic tracking of COA applications and permits assists HDC and PLUS staff see where the project is in the process, it can also be helpful to the

applicant who rather than calling staff, can view online via a “public-facing” component where their project might be in the process. This provides an accessible and transparent means for applicants to view their project’s status, for other PLUS staff to coordinate reviews, and helps build trust with the community, in general, that coordination is occurring between departments.

- Develop a list of pre-approved third-party consultants for which an applicant can pay for those services as needed. In the case where the HDC staff receives an overwhelming number of applications, providing the applicant the opportunity to select from a pre-qualified list of professionals experienced in historic building and site rehabilitation ensures the applicant the opportunity for a timely review and decision by the HDC.
- Rescind the process for a Certificate of No Applicability (CONA) as unnecessary since there is no action needed by the HDC or HDC staff. By stating clearly on the HDC website what does not require HDC review (i.e., “routine maintenance” and work which constitutes such), there should be no confusion as to what is required to be reviewed. If an applicant is still not clear, they can always contact staff for clarification.

2. Applications for Review

Streamlining the application review process is a necessary task considering the amount of applications the HDC receives on a monthly basis. Maintaining Nantucket's historic character can be achieved by treating each proposed project under a standard of review that accounts for contributing and non-contributing status. By doing so, the HDC can focus on what is character-defining about the Nantucket National Historic Landmark, its designated historic districts, its traditional neighborhoods, and its individually significant resources.

***Recommendations*:**

- Establish a “lenient” and a “strict” standard of review regarding non-contributing vs. contributing resources and a hierarchical standard of review regarding visible vs. not visible from a public way. By prioritizing HDC decisions through a lenient/strict standard of review, the HDC can quickly move non-contributing items along in their application process and have greater availability to consider the impact of alterations or new construction

on contributing resources or features. Additionally, the HDC must recognize that terms such as “setting” or “public way” must be defined to both limit and manage the necessity for HDC review. For example, by defining what constitutes a “public way” (ie. alleys, rear yards, waterways?) in the design guidelines, the HDC and HDC staff can better determine what information is required from the applicant for a complete application and what the HDC’s responsibility is in ensuring they’ve taken into consideration the visual impacts of a project on the property or its surrounding environment (ie setting).

- Establish a process for “Reconsideration” of an application. This is particularly helpful when an applicant is claiming economic hardship. But, it also should be in place for those times when an HDC decision is overturned on appeal and the HDC must re-review the application. The criteria for reconsideration of a prior HDC decision may require additional evidentiary information, such as with a claim of economic hardship when it is not the design criteria, but the economic considerations tied to the property’s value and / or ability to return on investment is the defining criteria.
- Consider not reviewing for purposes of reducing the burden on HDC, HDC staff, and applicants:
    - Outdoor showers- unless depicted as a built addition or part of new construction
    - Removal of non-historic features for replacement with historically appropriate features based on photo or architectural evidence of the period / style (ex, vinyl windows with wood windows).
    - Cabanas- unless visible from a public way or deemed “a building” by the building administrator. What constitutes a “Cabana” should be defined to avoid confusion and unnecessary review.
    - Pergolas or decks not in public view. Pergolas and decks should be defined.
    - Solar not in the public view. This would include both rooftop and ground-based panels.

3. Clarifications

The field of historic preservation has evolved since the enactment of the National Historic Preservation Act in 1966. The criteria upon which historic district commissions base their design decisions has also evolved. Best practices and relevance to modern concerns such as climate change, energy efficiency, sustainability, substitute materials, and cultural values imbued in historic buildings, sites, and experiences of place require new ways of thinking when conducting design reviews. When *Building with Nantucket in Mind* was written, technology was at the stage where fax machines were predominant in electronic communications, search engines were non-existent, CDs had just surpassed the cassette tape in sales, and Nokia had just introduced the text message. Needless to say, with the changes in technology, building practices, and what people value about their community, it's essential for historic preservation programs to adapt, and to keep up-to-date on current practices and options for the protection of historic resources.

By refamiliarizing the HDC with the foundational enabling documents that established the Nantucket National Historic Landmark and the HDC, and reflecting on the continued relevance of the precepts contained in those primary sources to today's Nantucket, the HDC can demonstrate why it is as relevant today as it was with the establishment of the Special Act in 1955. The following recommendations are provided to underscore the HDCs relevance, its role in protecting the historic character of Nantucket, its transparency in the conduct of its business, and its ability to respond to the changing cultural, social, and economic environment of Nantucket.

Recommendations:

- Create a new mission statement that reflects and updates the HDC charter purpose. While tourism is an integral part of historic preservation and an economic driver for the Island, it is just one facet of historic preservation. Editing the mission statement to holistically define preservation as an environmentally, economically, socially, and culturally sustainable planning tool will clarify the purpose of historic preservation in Nantucket and establish the priorities of the HDC for protecting the Island's irreplaceable historic resources.
- Define Rules of Procedure (see Rules of Procedure). This document clarifies the responsibilities of the HDC members, staff, and applicants. While a more

detailed description of what typical HDC Rules of Procedure can include, such an example might be a listing of alterations that can be administratively approved and the process or criteria by which those approvals are evaluated.

- Add signage to what can be approved administratively as well as what type of signage does not require a Certificate of Appropriateness (COA). Sign guidelines are more prescriptive than building design guidelines, thus, with a quick review by staff, a proposed sign can be deemed compliant or denied if non-compliant.
- Determine with HDC staff what level of property research is necessary for submission of a COA application. Simple projects or infill may not need research, while alterations might. The goal is to ensure the applicant's research and application materials are relevant and directly related to the changes proposed.

4. Rules of Procedure

Rules of Procedure are guidelines explaining how COA applications are submitted, reviewed, decided upon and the role of HDC members, staff, the applicant, and the public in that process. This document details the HDC meeting rules and procedures in greater detail then what is contained in the Special Act. This document helps the public understand the application and meeting process, resulting in greater transparency and trust in the HDC's process.
Recommendations:

- Create an HDC Rules of Procedure document that specifically details the meeting rules and procedures beyond those in the Special Act. Topics to consider:
    - Purpose and authority: This includes the purpose of the document, the authority the Special Act bestows on the HDC, and the purpose of the HDC via its mission statement.
        - An additional clarifying statement can address the difference between the HDC and the Nantucket Historical Commission (NHC) to assuage public confusion between the two Commissions.
    - Commission organization: This includes the number of commissioners and alternates, how they are elected / appointed, length of tenure, how to resign, the process for appointing officers, the powers and duties of each officer position, compensation, continuing education

expectations, handling of ex parte communications, and the role of staff.

- Process of meetings and hearings: quorum (and use of alternates), open meeting law, standardized meeting details (date, time, location), absence or departure of Commissioners and use of Alternates, manner of voting, public notice and meeting packing / agenda / minutes (layout, order, and time limits), process of recusals, meeting cancellation, and record of decisions.
- General Regulations: Details on conflict of interest, ethical conduct and standards aligning with local and Commonwealth standards. Additionally, this section should include how updates or changes are made to the Rules of Procedure.
- Guidelines: This includes detailing the authority of the HDC to publish guidelines and the HDC's ability to make exceptions based on the characteristics or context of a particular property. However, this does not exempt the Commission from following ruling norms using the Guidelines.
- Applications: Including filing, administrative approvals, determining contributing vs. non-contributing, process to request and manage deferrals, project under appeal applications, issuance and duration of certificates, site visits, reporting violations, reconsideration under economic hardship or appeals, and enforcement and penalties.

5. Staffing

Presently, the HDC is assisted by a Preservation Planner and a Land Use Specialist, though a number of PLUS staff provide assistance with application intake. This limited level of staffing is typical for small community HDCs, however the volume of applications in Nantucket requires either more staff or a structural reorganization. In 2020, the SWOT survey revealed a weakness or challenge for the HDC, in the high volume of applications overwhelming HDC staff and requiring an inordinate amount of review and meeting time for the volunteer commissioners. The situation has only gotten worse since that time, based on the current discussions between NAPC trainers and the staff and commissioners. The 2020 recommendation was to:

> *Improve HDC's efficiency to reduce delay and increase public support. Explore ways to delegate discretion to staff to approve or deny minor architectural*

changes to reduce workload for regular HDC meetings. Explore new funding to hire additional staff to assist with review or contractual consultants.

Seeing that the issue persists, the new recommendations are as follows.

Recommendations:

- Reclassify the current Preservation Planner to an HDC Manager. Fully empower the current and / or any future Secretary of the Interior (SOI)-qualified preservation professional[3] on staff to lead in the review and recommendations made to the HDC regarding compliance with BWNIM and the SOI standards for rehabilitation. Additionally, the HDC Manager should have decision-making authority on some administrative tasks. For example, deciding if applications are complete, determining consent items, and assessing a project's qualifications for administrative approval of a COA permit. HDC Staff should solicit for inclusion in staff reports other department comments, when relevant to a proposed project, and provide these to the HDC, thus preventing the HDC from inadvertently approving an applicant's COA that may not meet other code requirements, saving the HDC from having to review a revised application.
- Create staff reports for each project that goes before the HDC. Staff reports should include relevant background information, an analysis of pertinent design guidelines, and a draft motion. The report may also include information on past approvals, if relevant. Reports provide a record of the findings of fact for each case and a draft motion for commissioners to adopt, amend, condition, or discard. Provided in the appendices is a template example of a staff report. Templates could be created for typical types of project proposals (ie. window / door replacement, siding replacement, roof replacement, etc.) and can make for easier staff report drafting.

[3] Architectural History Professional Qualification Standards require at minimum a graduate degree in architectural history, art history, historic preservation, or closely related field with coursework in American architectural history OR a bachelor's degree in the same fields listed, or closely related field plus one of the following: (1) At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; OR (2) Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history. (Secretary of the Interior. 1983. "Professional Qualification Standards." (Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, (September). https://www.nps.gov/articles/sec-standards-prof-quals.htm.)

- Provide historic preservation training for inspectors. Building inspectors are typically not trained to inspect to the detail a COA requires. Providing training opportunities could be effective in supporting inspector efforts to conduct site inspections and keep projects moving in compliance with the approved HDC design.

6. Commissioners

Like staff, Commissioners must also grow their knowledge of decision-making processes, historic preservation best practices, and Commissioner roles and responsibilities. In the 2020 SWOT and recommendation exercise, participants identified the lack of training and representation of HDC commissioners at education opportunities as a weakness. Two recommendations from the 2020 CAMP addressed continuing education and training for the HDC and staff:

- *Offer training opportunities and funding support to Commissions. Ensure commissioners and staff are informed about preservation training opportunities online and in person at the state and national levels. This can include workshops, conferences, webinars, and other formats through historic preservation organizations, the American Planning Association, the American Institute of Architects, and other organizations providing training specifically for those working with historic resources.*
- *Take advantage of your NAPC membership. Whether it includes regularly accessing the NAPC listserv, reviewing past and current copies of The Alliance Review, attending the 2021 NAPC FORUM in Cincinnati, or continuing with an annual CAMP training, this is a targeted source for information and best practices that is invaluable to historic preservation commissioners, their staff, and their advocates.*

The NAPC trainers who visited and spoke with staff and commissioners noted a deficiency in meeting this essential training. This lack of training is a significant weakness of the HDC and can be addressed as follows:

Recommendations:

- Obtain training and commit to regular continuing education. This includes the Chair and Chair-elect attending the "Chair Training" at the NAPC Forum. Also, hosting another 2-day intensive CAMP where commissioners can learn

in-depth best practices in fulfilling the recommendations made in this assessment. The Town should commit funding for commissioner and staff attendance at NAPC-relevant events or trainings offered by the Massachusetts Historical Commission or at the Statewide Preservation Conference hosted by Preservation Massachusetts.

- Appoint one alternate. Although enabling legislation allows for multiple alternates, the presence of multiple alternates at the HDC dais can be confusing, both to the HDC and to the public as to who is qualified to vote on any individual application (i.e., NAPC trainers noted repeated references during HDC meetings to the "regular board"). We recommend appointing one individual as the alternate to meet the need for a quorum in the case of an anticipated recusal or absence of a quorum.

Examples and Resources:

Front-End Assistance with COA

1. City of Newton, MA Local Historic District Application Requirements
2. Town of Easton, MD Historic District Commission Hearing Application

Rules of Procedure

1. Beverly, MA Historic Districts Commission Rules of Procedure
2. Brookline, MA Preservation Commission Rules and Regulations and General Information
3. Monroe County, Florida Historic Preservation Commission Rules and Procedures
4. Louisburg, NC Historic Preservation Commission Rules of Procedure

Staffing

1. Historic Building Inspectors Association: Includes technical and inspection industry resources and a pathway for membership.

Commissioners

1. NAPC Resources: Including design guidelines, preservation plans, messaging guide for local preservation programs, preservation law, preservation planning, design review, enforcement and violations, etc.

II. Procedural Process

A. Before Meetings

Communication between staff and commissioners leading up to the public meeting is key. This is the opportunity for the Chair, staff, and legal counsel (if needed) to meet, perform research, and discuss additional supplemental information before the meeting. This pre-meeting coordination reinforces the importance of collaboration between the HDC and Town staff, ensuring that fewer surprises will await during the meeting.

Recommendations:

- Ask questions or request additional information from staff before the meeting. HDC members are encouraged to communicate directly with staff (not with fellow Commissioners) before the meeting if there's a need for additional staff research or guidance. If there are legal or past decision concerns, these can be addressed with staff before any public hearing.
- Consider a pre-meeting between staff and the HDC Chair (and legal counsel, if needed) to ensure advance knowledge of any controversial issues or legal concerns. The Chair can use this meeting to request additional information not already provided by the applicant or staff and to work with staff to finalize the consent agenda.
- Do not continue with virtual or hybrid meetings. Require all attendees, including Commissioners and applicants, to meet in person. This ensures all Commissioners have the same evidentiary materials to review, and deliberations can be conducted without distractions or communication challenges as may occur with an online connection. The exception is for accessibility purposes if a Commissioner or applicant cannot access the meeting space. This recommendation should be included in the Rules of Procedure when adopted.

B. Meeting Packet / Agenda

While there is no standardized meeting packet or agenda format, best practice guidance is to include the date of posting, name of the commission, date, time, and place of hearing, and an agenda specific enough to give the public an understanding of each agenda topic. As it stands, the HDC agenda is assigned as either old business or new business. The following information is an example of what's provided currently on the two agenda types:

February 6, 2024 (New Business)	February 13, 2024 (Old Business)
• Committee name • Day, date, and time of meeting as well as format of meeting (Hybrid / In-Person / Remote) • Location / Address of meeting and information on how to participate and view meeting • Name of Chairman • Note about quorum and Open Meeting Law compliance • Committee name (in bold) • Signature of chair / authorized person • Zoom link • Youtube live meeting link • List of Commissioners noting who is chair and vice-chair • List of Associate Commissioners • List of staff • Link to design guidelines: BWNIM and Building with Sconset in Mind • Statement that the agenda includes topics that the Chair reasonably anticipates will be discussed at the meeting. • Statement that the agenda includes topics the Chair reasonably anticipates will be discussed. Also, an explanation of time constraints and that not all New and Old Business applications submitted are on the agenda. It also provides directions to "check	• Committee name • Day, date, and time of meeting as well as format of meeting (Hybrid / In-Person / Remote) • Location / Address of meeting and information on how to participate and view meeting • Name of Chairman • Note about quorum and Open Meeting Law compliance • Committee name (in bold) • Signature of chair / authorized person • Zoom link • Youtube live meeting link • List of Commissioners noting who is chair and vice-chair • List of Associate Commissioners • List of staff • Link to design guidelines: BWNIM and Building with Sconset in Mind • Statement that the agenda includes topics that the Chair reasonably anticipates will be discussed at the meeting. • Statement that the agenda includes topics the Chair reasonably anticipates will be discussed. Also, an explanation of time constraints and that not all New and Old Business applications submitted are on the agenda. It also provides directions to "check

with the office on Wednesday after the Tuesday meeting for further information." • Signs (with note that all signs continued to Feb. 13, 2024 meeting) • Consent • Consent with Conditions • Old Business (dated Jan. 2, 2024) • New Business (dated Jan. 9, 2024) • New Business (dated Jan. 23, 2024) • Old Business (dated Jan. 30, 2024) • View (dated Feb. 6, 2024) • New Business (dated Feb. 6, 2024) • Approved Minutes • Review Minutes • Other Business • Potential Items for Discussion.	with the office on Wednesday after the Tuesday meeting for further information." • Commission Discussion and Vote • Signs • New Business (dated Jan. 9, 2024) • View (dated Jan. 23, 2024) • New Business (dated Jan 23, 2024) • View (dated Jan. 30, 2024) • Old Business (dated Jan. 30, 2024) • View (dated Feb. 6, 2024) • New Business (dated Feb. 6, 2024) • Old Business (dated Feb. 13. 2024) • Approved Minutes • Review Minutes • Other Business • Potential Items for Discussion

Each application is listed with the property owner's name, street address, scope of work, map / parcel, and agent. Green, blue, and orange highlights are used throughout, but no key is provided regarding what those colors indicate. Additionally, old business categories list the commissioners, alternates, and recusals, who last heard the application, and the date when it was last heard. However, if the applicant does not provide the minutes with their application item circled, the agenda notes it as "Minutes not provided." Finally, multiple projects at the same address are separated on the agenda and in discussion. The following recommendations are provided to decrease the overwhelming amount of unnecessary information and increase the clarity of the HDC's business specific to that meeting date.

Recommendations:

- Create clear agenda headers. Agendas set the tone for meetings, and clear headings, as read into the record by Chair, allow applicants and the public to determine where the HDC is in the conduct of the meeting as aligned with the agenda. This also allows the meeting minutes taker to better track and record notes for the agendized items.
- Place administrative discussion items at the end of the agenda or schedule a separate administrative HDC meeting. By moving administrative items to the end or to a separate meeting, the review of applicant projects is prioritized

and decision-making expedited. Administrative items may not necessarily require public comment and may be for informational purposes only. By relocating them to the end of the agenda or another meeting entirely, the HDC demonstrates to applicants and the public that they prioritize their primary responsibility of project review.

- Include a list of administratively approved COAs as a consent agenda item. This supports the HDC's legal role in the COA application decision-making process. While consent items administratively approved by staff cannot be pulled for re-review by the HDC, they can be appealed. If there is a concern regarding an administrative approval item, it can be discussed with staff before the meeting. If staff is not provided administrative approval authority, those items that meet the established criteria for administrative approval, should go on consent before the HDC and approved in a single vote. A list of items to consider for administrative approval are:
    - Signs
    - Paint color
    - Replacement roofing, siding, windows and doors
    - Demolition of non-contributing buildings or features
    - Items where the BWNIM guidance or the Secretary of the Interior's Standards are clearly met
        - Off-street parking
        - Hardscape viewable from a public way
        - Fencing or retaining walls
        - Pools
        - Sheds
        - Fenestration (windows, doors, garage doors)
        - Roofs (including color change and rooftop solar)
    - Schedule specific administrative meetings to review "potential items for discussion." Avoid including information in the meeting packet that is not explicitly agendized. Also, if Commissioners have comments, concerns, or ideas, those should be communicated directly to the HDC Manager, the Town's legal counsel, or the Town Manager, who can follow up with a recommendation or research.
    - Do not separate multiple projects at one address. Projects at the same address are not happening in a vacuum and should be submitted on one COA application and considered as a whole due to one proposed

change's impact on another. For example, proposing a garage along with a primary building addition could impact the view from the public way, the relationship of the new addition and garage building on the site, and the massing, rhythm, and scale of the combination.

- Establish a deadline for COA application submissions for determination of completeness. Any COA application not reviewed for completeness should not be included on the agenda by that meeting's COA submission deadline. It is recommended that staff accept applications up to the deadline, but only with the provision of a 48-hour notice to the applicant during which time staff can determine completeness. If staff determine the application materials are sufficient for staff to complete a report and the HDC to review the submission, then the application should be agendized.

C. Minutes

Minutes are important as a record of decisions made by HDC members. They also can reflect staff recommendations, conditions for approval of applications, and a record of past decisions, including appealed decisions. As of this writing (February 10, 2024), none of the HDC's five meetings this calendar year have meeting minutes posted online. In reviewing the 2023 meeting minutes, the record is unclear on several issues: revisions to the submission requested by the HDC are not sufficiently detailed. Instead, the minutes reflect one of three options: (1) Motion to hold for revisions and additional information, (2) Motion to hold for revisions, and (3) Motion to hold for minor revision. Approvals made with conditions may reference the requested changes but do not reference the specific guideline used as the basis for the approval. Motions for approval should sufficiently detail the relevant guidelines. This creates a decision-making record for the applicant and the staff who must ensure the applicant submits the required drawings, technical sheets, or materials samples, for example, that meet the conditions of approval OR the needed revision documentation. External to the HDC, if a decision is appealed to the Select Board, the findings of fact made for that HDC decision should be clearly referenced in the minutes as either contained within the staff report or provided subsequently through an assignment to an HDC member for drafting. Recommendations:

- Minutes should include the following:
    - Final decision / motion (and who made and 2nd the motion)

    - The vote tally
    - Name of those who spoke to the item (public, abutters, Commissioners, committee members, and staff)
    - In the event of disapproval, the minutes can reflect summary guidance given to the applicant for obtaining approval.
- Do not require a copy of minutes for an application's continuance. Staff should be clear on what additional information or revisions the HDC requests before the discussion on the item is concluded. Administrative staff should then follow up with the applicant to ensure the applicant addresses those concerns in their revisions and resubmission or, in the case of conditions for approval, that Staff has received sufficient information to approve the final application submission.

Examples / Resources:

Meeting Packet / Agenda

1. Beacon Hill Architectural Commission, January 18, 2024
2. City of Worcester Historical Commission Meeting, February 1, 2024
3. Town of Provincetown Historic District Commission, February 7, 2024
4. Salem Historical Commission, February 7, 2024

Minutes

1. Beacon Hill Architectural Commission, November 16, 2024
2. City of Worcester Historical Commission Meeting, November 30, 2023
3. Town of Provincetown Historic District Commission, December 6, 2023
4. Salem Historical Commission, November 1, 2023

III. Conduct of Historic District Commission Meetings

A. Role of the Chair

The HDC Chair's role is to assist in developing the agenda for each meeting or hearing and be knowledgeable of the items for deliberation. The Chair should be familiar with Robert's Rules of Order and comfortable officiating each meeting in accordance with the Commonwealth's Open Meeting Laws. The Chair should communicate any pre-meeting questions or concerns with the preservation planner or manager. The Chair's role in conducting the HDC meeting is as follows:

Recommendations:

- Welcome attendees, review the meeting process, ensure role is taken, and confirm that the applicant is present. The meeting review should include the order of speaking, time allowed for presentation by the applicant and the staff, timed public comment, and the name of those speaking from the public for record-keeping purposes.
- Introduce each agenda item and maintain speaking order without interruption of the applicant, staff, or public unless clarification is deemed necessary by the Chair or at the request of a Commission member to the Chair.
- Gavel in and out for public hearing items to ensure the opening, closing and timing of public comment is respected. Once public comment is closed, no additional comments should be allowed by the public without reopening of the public hearing.

B. Role of the Staff

What is the culture of the historic preservation program? Does the process make the program appear unorganized, chaotic, or confusing? How can staff and the HDC ensure that the application and meeting process is seen as welcoming, accessible, and coordinated? Building a *Culture of We* is essential if applicants and the general public are to see the historic preservation program as collaborative,

both internally amongst staff and HDC members and externally with applicants and the public. By working collaboratively to make the application and meeting process more user-friendly, the historic preservation staff and HDC members can improve the experience for architects, contractors, property owners, and others in the preservation network who appear before the HDC.

Recommendations:

- Generate a culture of "WE." The public must trust that the commissioners and staff work together to ensure an efficient and productive outcome. This is supported by a transparent process that allows the applicant to follow their application and clearly understand where their application is in it.
- Demonstrate mutual respect between Commissioners and staff. Staff reports and comments are essential in providing expert knowledge to both the HDC members and the applicant that only comes through qualified professional education, training and experience. Having the benefit of an SOI-qualified preservation professional on staff provides the HDC with the additional expertise to assist them in the decision-making process. When Commissioners receive and reference the staff report and/or staff comments, it is important to state for the record their basis for agreement or disagreement.
    - Example: I understand why the staff report provides the guidance it does, but in this case, I believe that…
    - Example: I agree with the staff report and would like to add…
- Use titles when addressing one another. Staff should call Commissioners by their title followed by last name (Commissioner Smith), and commissioners should call staff by Mr., Ms., Dr., etc., and last name.

C. Public Comment & Deliberations

Public comment for public hearing items is the formal opportunity for members of the public to voice their support, opposition, questions, or concerns about an application before the commission. The Chair and Commissioners must follow standardized procedures for accepting public comment, which should be provided as part of the Chair's welcome. After comment is received and the public hearing is closed, deliberations begin amongst the Commissioners only. During public

comment, the Chair is responsible for acknowledging the public, ensuring they state their name and address, and providing proper time for them to speak. If Commissioners have questions of the public, they can ask them through the Chair. The deliberations that follow between Commissioners should revolve around the applicability of the project to the BWNIM guidelines and how successful or unsuccessful the application is in complying with relevant guidelines. Not referencing the guidelines and making comments such as "I LIKE this project" or "Mr. Smith didn't LIKE this project, so I'm voting against it" can result in a decision determined by a court as arbitrary and capricious. As well, not following the appropriate procedural due process, can result in an appeal, an overturned decision, and a loss of credibility for the HDC's decision-making process.

Recommendations:

- Take timed public comments on non-agenda items at the beginning of the meeting so the public does not have to wait until the end of the meeting. Otherwise, the public should speak to agenda items as they come up on the agenda.
- Read all consent items for voting all at once so it's clear to the HDC and public what is included, giving time for a member of the public or the HDC to request the removal of cases from the consent agenda for full HDC consideration.
- Make comments based on whether the application meets the design guidelines. Avoid giving personal views on what is good or bad design.
- Avoid words such as "like," "dislike," "appropriate," and "inappropriate," and keep the discussion focused on the applicable design guidelines and what it is about the proposed project or alteration that could warrant flexibility in the application of a specific guideline.

D. Procedural Due Process

As a quasi-judicial body, the HDC is bound by law and regulations in implementing the law. The HDC is tasked with protecting the public's right to due process and equal treatment under that law. By establishing and following procedures to protect due process, the HDC protects itself and the Town against possible legal challenges.

Recommendations:

- Provide the applicant with a certain amount of time to present without interruption. The public's time is not the time for discussion amongst commissioners. Clarifying questions are allowed, but debate with the applicant or amongst Commissioners, or directing the public on what can or cannot be said during their testimony, should not be allowed.
- Encourage the applicant to make their argument as pertinent to the guidelines. The guidelines are the decision-making tool by which the Commission makes its determination on the COA application. Staff and the Chair should encourage the applicant to use the guidelines as reference for their arguments in support of the project.
- Request the public to comment as much as possible on their views on the project's pertinence to the guidelines. Like the applicant, the public should use the guidelines to frame their comments or questions. As a follow-up to public comments, it is advisable to allow the applicant to comment on the testimony of abutters and the public.
- At the end of all presentations, ask questions of staff, applicants, or abutters/public commenters. This is a time for Commissioners to ask clarifying questions, but not to debate either with the applicant, the public or each other. The Commission must wait for the public hearing to close before beginning their deliberation.
- Don't allow the public to interrupt deliberation. On occasion, a member of the public or the applicant may try to interrupt the deliberation with additional comments. The Chair should remind the public and Commissioners that this is not the public's time to speak since the public hearing has been closed and the decision on the application is now in deliberation amongst only the Commissioners.
- Avoid heated debates during deliberation. Commissioners must share their reasoning for how they may stand on the application's compliance with the relevant guidelines. Yet, they must also be open to the views of other Commissioners and may use those insights in making their final decision. However, it is not a Commissioner's role to convince the other Commissioners to agree with their determination, but instead to consider the evidence presented, listen to each other, and decide based on their own determination. Staff comments, compelling testimony from the applicant and the public, and any specific information presented at the hearing relevant to

the guidelines that impacts their assessment can be stated for the record. The deliberations must be articulated in such a way to show consistency with the Special Act and the design guidelines.

- Allow for motions to be presented. In the making of a motion, a Commissioner must clearly state the basis for their making the motion (ie the specific guidelines or Special Act reference). If another Commissioner believes in adding a condition or another guideline reference, that Commissioner may ask to amend the motion, but that is done after the original motion is made, and before a second.
- Do not discuss a motion before a second is made. A second to the motion is required. If no second is made, the motion dies. Then, another motion can be made, seconded, and voted on.

Resources and Examples:

Role of the Chair

- City of Beverly, MA Historic District Commission Meeting Minutes, May 28, 2020. This document has the script written out as to how they open the meeting, introduce and confirm attendance, and review the rules of the meeting, including materials, virtual attendance, and general ground rules.

Public Comment and Deliberations

- A Guidebook for Historic District Commissions, chapter "The Decision-Making Process" by The Massachusetts Historical Commission.
- For the Record: The NAPC Short Guide to Parliamentary Procedure

IV. Decision-Making

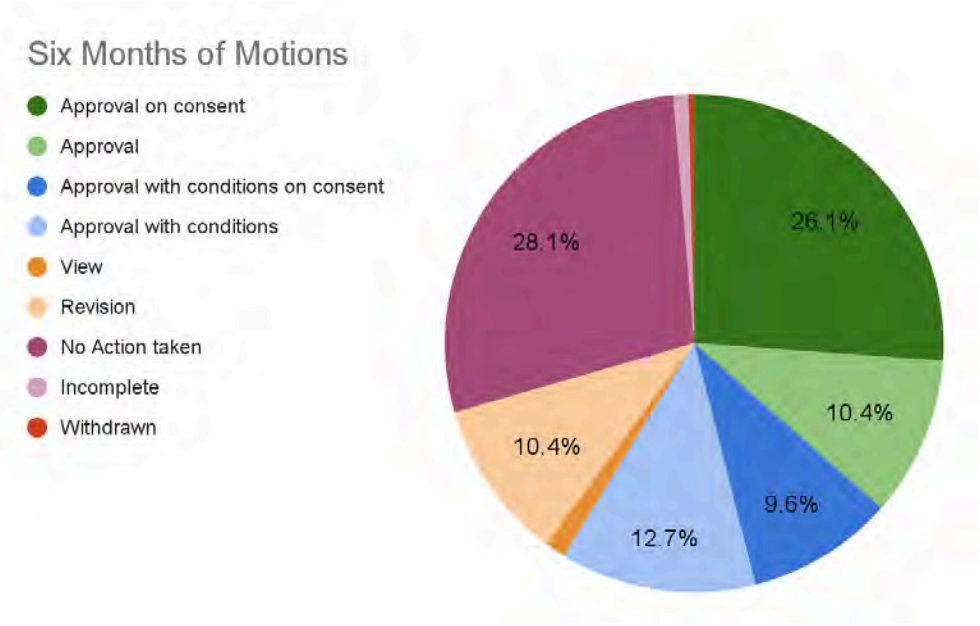
A. Approvals & Approvals with Conditions

As stated, the Staff Report should provide a draft motion for approval, approval with conditions, or denial. The motion can be revised if deliberations warrant. If an application for a COA is determined compliant, then the Commission should vote as to its compliance with reference to specific guidelines. The COA documents should include the date the application was filed, the date of the public hearing, the date action was taken by the commission, the basis for approval, and any conditions for approval. If there are conditions, then that is deemed an approval with conditions. If it is determined that additional information is needed, then a decision can be postponed "to a date certain" for a follow-up HDC meeting that is also agreeable to the applicant. Finally, if an applicant fails to demonstrate the project's compliance with the guidelines and the applicant is unwilling to agree on proposed modifications, then the application should be denied. The denial documentation should include the date the application was filed, the date of the public hearing, the date action was taken by the commission, and the reason for denial based on the guidelines.

In considering the HDC process for decision-making on applications heard by the HDC, the NAPC trainers reviewed six months of motions from July to December 2023 (see graph on next page). That review determined that the highest number of application decisions were made either as "Consent" or "No Action." No Action was most notably due to not having sufficient time at the Commission meeting or lack of representation for the application. Approval with Conditions was the third most frequent motion made, followed by approvals as presented to the HDC and requests for revisions. There were no denials in the six months reviewed. Data used for analysis is available in appendix "Data Collection."

This analysis demonstrates the importance of staff ensuring COA submissions are substantially complete before they are agendized; that only items that can be heard during the reasonable amount of time given for a Commission hearing (3-4 hours maximum) be agendized; that when requests are made for revisions, a "date certain"

is given to the applicant for resubmission; and that many of the consent items could be considered for staff review and approval administratively.



Recommendations:

- The HDC's professionally qualified staff should provide a staff report with each COA hearing application to include a recommended motion for approval, approval with conditions, or denial.
- Add conditions of approval where needed to ensure compliance with the guidelines and refer the resubmission to staff for final sign-off. Conditions of approval or revisions for a follow-up HDC meeting should be communicated clearly during the meeting, noted by staff, and captured in the meeting minutes. In reviewing any resubmission to address the conditions for approval, if staff finds an inconsistency with the guidelines, they can send it again to the HDC for additional review.
- Use language in motions referencing the applicable guidelines to ensure a defensible record of decision-making.
- Indicate Commission-requested revisions clearly for the record. For example, "we need to see a reduction in the building height of 2 feet and window proportions in scale with the adjacent historic buildings."

B. Recusals

Recusals should be considered in the instance where a member may have or be perceived as having a conflict of interest, admits to ex-parte contact that has influenced their decision and not been shared with other Commissioners, or in the case of a member who was not present during the original hearing and has not viewed a recording or transcript of the prior hearing.
Recommendations:

- Recusal from consideration of an item should be stated for the record. In the case of conflict of interest, identification of that conflict should be clearly stated.
- Add to the Rules of Procedure that the recused Commissioner should not be allowed to remain on the dias. Confirm with the Town's legal counsel if recused members may remain in the room. (Note: Concerns of intimidation with recused members remaining present were shared during the assessment survey and interviews.)
- Review with the Town's legal counsel what constitutes a conflict of interest. Determine how conflict of interest applies to the HDC and discuss what makes for real or perceived conflicts, and how such conflicts could be handled.

V. Future Considerations

A. Immediate Guidance

- Incorporate or Revise Definitions.
    - Better refine or develop definitions (i.e. setting, vending, landscaping) to ensure accuracy to contemporary usage and relevance to applicable design guidelines.
    - For example, "Vending" is defined in The Sign Book as "coin-operated that dispenses merchandise." Today, vending machines that take cards or even Apple or Google Pay are commonplace and would not violate this definition of a vending machine. ATMs and free publication containers would also be allowed if the definition was not updated.
- Develop Rules of Procedure or Rules and Regulations.
    - The Massachusetts Historical Commission provides an example of one such document with minimal information in A *Guidebook for Historic District Commissions.*
- Develop template staff reports for common applications
    - Speak with other municipal HDC staff to see how they organize their staff reports or use the template example provided in the appendix.

B. Short-Term (5 Years)

- Consider if a cultural landscape survey would prove useful in decision-making on issues of setting and integrity.
- Complete a community values assessment to prioritize properties with the greatest community significance based on social, cultural, architectural, economic, and historical values. This could assist with determining whether a property should be reviewed with a stricter or a more lenient standard.
- Work to establish meaningful partnerships through jointly partnering on preservation efforts.
    - For example, some Commissioners expressed concern for building interiors. While the HDC does not have jurisdiction over interiors, the Nantucket Preservation Trust (NPT) has developed a well-recognized interior easements program. If HDC members are concerned with

retaining historic interior features, they can direct applicants to NPT to investigate the benefits of their interior easement program.
    - Other ideas include partnering with community organizations (e.g., NPT, Preservation Institute Nantucket, Remain Nantucket, or the Nantucket Historical Commission) to develop or host workshops, lectures, or other educational activities on historic rehabilitation practices, architectural history, or other preservation topics.
- Develop area-specific illustrated guidelines.
    - Nantucket's architectural and cultural landscape differs from area to area. Madaket, Town, Brant Point, Mid-Island, and Sconset represent different periods of development, architectural context, and historic significance. What works as a guideline for the Town, may not in Madaket. Creating area-specific guidelines better informs the HDC as to the relevant design criteria for the buildings and sites that make up the historical context of specific areas of the Island.

C. Long-Term (10+ Years)

- Amend the Special Act to reflect recommended best practices for HDC composition, staffing, authority, and defensible decision-making.
- Re-consider changing legislation to have appeals go to court rather than the Select Board.
    - The HDC is a quasi-judicial commission with extensive knowledge of historic preservation and decades of applied experience. The Select Board does not have the knowledge, professional background, experience with HDC decisions, or preservation-specific training to make an objective decision on the HDC's rulings. The court serves in a more objective capacity, weighing in only on the legal and procedural considerations applicable to a specific appeal.
- Remove conflicting verbiage from the Special Act as to the "appointing" or "electing" of Commissioners.
    - § A301-4 Section 3. "to be appointed by the Selectmen." vs. "All 5 members shall be elected"
    - It is typical practice for HDC members to be appointed instead of elected based on their professional knowledge, experience, or representation of a specific organization or historic district. It is not a popularity contest.

Appendices

2020 CAMP ® SWOT outcomes and recommendations summary

Strengths
• Nantucket has a wealth of historic resources. • There are many strong preservation organizations on the Island. • Commission's understanding of National Historic Landmark's (NHL) character-defining features. • Strong and well-established legislation (Special Act) and design guidance (BWNIM). • Knowledgeable and professional preservation staff qualified under the Secretary of the Interior's professional qualifications. • Dedicated commissioners who are personable, experienced, and committed to preserving Nantucket's historic places. • Electeds tend to work towards consensus. • Commitment of interested parties.

Weaknesses
• Transparency of application flow and staff / commission responsibilities. • Booming and expensive real estate market. • Non-Island architects and realtors. • A high volume of applications is overwhelming staff and HDC. • A lack of coordination & communication between HDC / NHC & neighborhood advisory boards. • A lack of regular training and representation of commissioners at workshops and trainings. • Too much volunteer time is being required of commissioners. • A lack of understanding by the community of the value of historic preservation. • Potential for arbitrary outcomes on appeal and increased litigation risk to the Town of Nantucket by allowing appeals to the Select Board without any required standards for appellate review or deference to the expertise of the HDC on issues of fact and the local historic preservation ordinance.

Opportunities
• Update design guidelines. • Outreach at unconventional places. • Securing resources from the Town to establish an education and enforcement program. • Making the economic case for historic preservation (i.e. sustainability, tax revenues, and tourism). • Lots of preservation-related partners to work with on the Island. • Developing a preservation plan and community engagement process. • Preservation should be reorganized as an integral part of Town management and planning. • There are engaged and supportive partners such as PIN, NPT, and ACKlimate. • There are Federal, state, and local funding sources available. • Development of a preservation plan. • Needed update of historic district surveys (to include significant public interiors) • A better understanding of and appreciation for our recent past resources. • Explore the desirability for designating historic interiors if subject to public view as contemplated by the local preservation ordinance.

Threats
• The exploding real estate market. • Climate change and weather-related impacts causing erosion and sea level rise. • Undersurveyed resources of the post-1960s. • Poorly planned, over-development. • Uninformed, indifferent property owners, builders, designers, and realtors. • Inadequate number of preservation staff. • The HDC review process is less accessible to non-design professionals. • Disenfranchised community members. • Preservation is seen as an impediment vs. a driving force and HDC is viewed as adversarial. • Funds flow to the Land Bank, yet there is no mechanism set up to fund preservation.

Recommendations:

1. **Become a Certified Local Government.** CLG status provides technical assistance and access to additional funding that will assist with developing a stronger and more comprehensive preservation program for Nantucket.
2. **Launch a preservation plan process.** This is about more than having the island's first preservation plan. This is about building a network of engaged community members interested in shaping the future of preservation on Nantucket. This is an

opportunity to include those identified as disenfranchised, uninformed, and indifferent to preservation.

3. **Resurvey.** Like many communities, Nantucket needs to update its survey of historic resources. This can be completed at a neighborhood level using residents as volunteers and resources from the state or local organizations conducted in partnership with NPT.
4. **Improve HDC's efficiency to reduce delay and increase public support.** Explore ways to delegate discretion to staff to approve or deny minor architectural changes to reduce workload for regular HDC meetings. Explore new funding to hire additional staff to assist with review or contractual consultants.
5. **Develop a Preservation Education and Enforcement program.** This is the carrot-and-stick approach to preservation, providing information on the benefits of preservation while at the same time demonstrating the importance of holding all property owners accountable to the Town's preservation laws and regulations. This must be done jointly between the HDC/NHC/Advisory Commissions and local preservation partners such as NPT.
6. **Complete a Preservation Economics Benefit Assessment.** This is a critical tool in the efforts of the Town and its preservation partners to make the case for why preservation builds long-term value for the community's assets.
7. **Consider amending the Special Act legislation.** This should be considered only where necessary structural changes to the law must be put in place to allow for a more effective, efficient, and enforceable preservation program in Nantucket. This should not be entered into lightly as this could open up the law for changes that might not be beneficial to preservation in the long term.
8. **Offer training opportunities and funding support to Commissions.** Ensure commissioners and staff are informed about preservation training opportunities online and in person at the state and national levels. This can include workshops, conferences, webinars, and other formats through historic preservation organizations, the American Planning Association, the American Institute of Architects, and other organizations providing training specifically for those working with historic resources.
9. **Take advantage of your NAPC membership.** Whether it includes regularly accessing the NAPC listserv, reviewing past and current copies of The Alliance Review, attending the 2021 NAPC FORUM in Cincinnati, or continuing with an annual CAMP training, this is a targeted source for information and best practices that is invaluable to historic preservation commissioners, their staff, and their advocates.

Draft Staff Report Template

Example of a completed staff report template for outbuildings. Templates could be created for infill, additions, alterations/repairs for each area of the island, with the relevant design guidelines, allowing staff to just fill in the analysis.

DATE OF PUBLIC HEARING: June 11, 2021
Address: 123 Elm Street
Area: Residential Old Historic District
Zoning: R-1
Property Owner Name: Joe and Jane Smith
Summary of Request: Construct a free-standing guest house at the rear of a corner, triangular shaped, lot that does not have water frontage.
Recommendation: Staff recommends approval with the following conditions:

1. The overall height of the building is decreased by nine inches;
2. The face of the dormers be stepped back one foot from the wall below.
3. Unknown materials receive final administrative review: make/manufacturer of windows and doors, porch railing, porch floor, pergola roof; and,
4. Gutter design receives final administrative review.

Staff finds, that with these conditions, the project meets the design guidelines for a new secondary building.

Applicable Planning & Zoning Analysis and Comments
Setbacks for R-1 (Section 139-16(A)): Front Yard: 10', Side Yard: 10' on one side and 5' thereafter, Rear Yard: 5'
The proposed front yard setback is more than 119'. The left side setback is just over 11' and the right side is almost 7'. The rear yard is more than 26'. The project meets setback requirements.
Preliminary zoning analysis from staff: As proposed, the project meets zoning code.
Preliminary zoning analysis from staff:

Applicable Design Guidelines Analysis
For the purpose of review, secondary buildings are reviewed the same, regardless of their use as a garage, dwelling, storage, or pool house, etc.

<u>Site Planning</u>
Location: In the historic town it is imperative to conceal or minimize the visual impact of garages. Placement of the garage to the rear of the lot is preferred. (Pg. 61)
The proposed outbuilding is located at the rear of the property. At this time, the building is not concealed behind the primary building due to the triangular shape of the lot. The proposal meets the design guidelines for location based on the shape of the lot.

A “future garage and pool” are shown on the site plan, but no information was provided and so they are not a part of this review.

Site Improvements: Walkways in the old town should be of select common brick, rectangular bluestone, granite flagstone, pea gravel or crushed shell. Driveways, if not of stone, brick or shell, may be black-topped, with a covering of pea gravel or shell recommended. Retaining walls ought to be used only where necessary to mediate large grade changes or to create planting areas. It is preferred that they be kept inconspicuous and to the rear of the lot. In the old town, retaining walls should be faced with select common or water struck brick, or stone; exposed cement block or concrete walls are not appropriate nor is pressure treated timber. (Pg. 65)
No walkways, driveways, or retaining walls are proposed.

<u>Bulk Proportion and Scale</u>
Height: Secondary dwellings shall be limited to 1- or 1 1/2 -stories in height with a maximum ridge elevation not to exceed 22 feet. They shall be subordinate in form and scale, and sympathetic in detail and fenestration to, the character of the principal dwelling. They shall be sited in such a way as to maintain clear views of the principal dwelling from the street or public way. (Pg. 66)
The secondary dwelling does not exceed the maximum 1 ½ stories allowed by the design guidelines. The primary height of the building exceeds the maximum allowed by nine inches, as measured from grade. Staff recommends that the height be lowered by nine inches. The bulk follows the “additive massing” encouraged by the design guidelines. With the condition that the overall height is decreased by nine inches, the proposal meets the design guidelines for proportion and scale.

On a street of generally aligned facades, it is recommended that any new construction conform to the predominant height of the facades of the existing buildings on the street. In any case, no new construction should be more than 10 percent taller in either its facade or overall height than the tallest building on the block on which it is to be built. The proportions of the facade of a new building along a street should be compatible with the proportions of the existing buildings. As the distance separating buildings increases or as facade massing of existing buildings becomes more complex, this criterion becomes less crucial. Secondary dwellings shall be sited in such a way as to maintain clear views of the principal dwelling from the street or public way. (Pg. 66)
This section is not applicable as the new building is located at the rear of the lot.

Any new construction in the town should be of a scale compatible with that of adjacent buildings. Also, the scale of spaces between buildings should be carefully considered.(Pg. 67)
The secondary building, at 1 ½ stories, is appropriately scaled with the two-story, primary building, it is associated with.

Massing

The massing of a new building in the town should employ the traditional form types seen in the town. (pg. 68)

Building masses with cantilevers or overhangs, indents, notches or warped surface planes are not traditional or appropriate for buildings in the old town. (pg. 68)

The side gable form is typical of historic buildings in the area. No cantilevers, overhangs, indents, notches or warped surfaces are proposed.

The proposal meets the design guidelines for massing.

Roof

All roofs on the masses should be sloped; flattop masses are not permitted. (pg. 68)

Form: Roofs on new structures in the town should conform to one of the four traditional roof shapes: gable, 10 percent lean-tos, more than one percent gambrels, less than two percent hip. Shed roofs were subsidiary and not used alone. Flat roofs are not permitted. (pg. 70)

The proposal is for a side-gable building which meets the design guidelines for roof form. One side of the building is shorter than the main massing but continues the same gabled roof form and "creates a specific focus to the whole group of shapes by making one mass dominant by being larger of central."

Pitch: The recommended pitch for gable roofs is 9 in 12 inches and in general the minimum appropriate pitch is 8 in I2 inches. Pedimented facades are special cases that may have a rise of as little as 6 in 12 inches. A lean-to should have a pitch similar to the typical gable roof and the same pitch on both sides of the roof which should have proportions of 1:2. Because only a few gambrel and hipped-roof buildings were constructed during the whaling era, they should not be used indiscriminately in historic Nantucket. In any case, roof designs should harmonize with the rhythm of roofs along the street. Where an area shows a preference for a certain roof type, shape and pitch different from those recommended here, new roofs should be guided by the character already established. In no instance will a roof of less than a 4 in 12 inch pitch be permitted. (pg. 70-71)

The main roof forms have pitches of 9:12 and 10:12, meeting the recommended pitch of the design guidelines.

Overhangs: New construction should follow the tradition of a small roof overhang along the bottom edge of the roof or follow another historic cornice detail. A maximum overhang of 12 inches is recommended along the horizontal cornice. It should be boxed without exposed rafters and be detailed in keeping with the rest of the house. In general, the roof should not project over the gable end but should finish with plain rakeboards. (Pg. 71.)

The overhang of the secondary building slightly exceeds the overhangs of the primary building but does not exceed the maximum allowed by the guidelines. Since this is a secondary building that will eventually be screened by a new garage, the primary building is not historic, and the guidelines allow for up to 1 foot of an overhang, the proposal meets the design guidelines for overhangs.

Dormers: Shed dormers, particularly trunk or full ones, which cover the main roof plane, are neither appropriate nor desirable. To encourage design elements more in keeping with the historic integrity of the island, their use should adhere to the following guidelines: Generally, several small shed dormers are preferable to one large one, and only on the rear roof plane. They should be in modest proportion to the rest of the house, with a minimum 4:12 pitch. The height of the shingled wall should be minimal. The dormer should be set back at least one foot from the building face and three feet from each gable end. The face of a shed dormer should be predominantly window. Flush gable dormers are generally discouraged in the Old Historic District. Flush gable dormers are so called because they are 'flush' with a wall plane, rather than set back on the roof. In areas that are predominantly 1 3/4-story homes, or in instances where an undersized lot exists, the Commission reserves the right to allow flush dormers in order to encourage more appropriate massing. When these dormers are allowed, they should demonstrate expansion appropriate to the period or style, therefore harmonizing with the pre-1846 architecture. Because it is a feature incorporated into the face of a building, care should be given that it relates in placement and proportion to the windows in the wall underneath. (pg. 72)
Three flush, shed roof, dormers are proposed on each side of the building. The pitch for all is 5:12, which exceeds the minimal pitch allowed. The dormers sit back from the side walls by the minimum three feet required but the faces of the dormers do not sit back from the wall below by the minimum one foot as required. Dormers are discouraged on the front of the building; however, this is a guest house at the rear of the lot that will eventually be screened with a garage in front of it.

Staff recommends a condition that the dormers be stepped back one foot from the wall below. The dormer faces are predominantly glazing. The width of the dormers is similar to the width of paired windows below which helps them to be appropriately scaled.

Skylights:
Location: Skylights may not be placed on any font roof plane. On side or rear elevations of low visibility, or in any location visible from a public way, skylights must be placed on the upper one-third of the roof plane. (Pg. 73) One skylight per roof plane only should be located in the upper one-third of the rear elevation roof planes. (Pg. 111)
Design: Skylights should have a flat configuration, be parallel, and as close to the roof plane as possible. Bubble or other protruding skylight designs are specifically prohibited.

Dimensions: For standard installations, skylights may be as large as 2 feet by 3 feet, but no larger. (Pg. 111) (Pg. 73)

Materials: Metal skylights are not appropriate in the defined old historic district boundaries. All skylights in these areas must be constructed of wood and have true divided lights with muntins. (Pg. 111) (Pg. 73)
No skylights are proposed.

Windows and Doorways
Fenestration: In the design of new structures in the town the use of historic window types and arrangements is required. The fenestration of a new building should satisfy the functional requirements of the building while harmonizing with the scale, proportion and rhythm of the fenestration of nearby buildings. Certain window designs considered inappropriate in the town are: those of irregular shapes, such as triangles or trapezoids (except as small balanced accents in a building elevation); large single-sheet windows; and metal or plastic window sashes. Care should be taken with the amount of glass used in a wall of a new building. While it is recognized that the windows in new houses do not have the technical or heating constraints of the past, and that they must meet contemporary functional requirements, new buildings should retain a ratio of glass area to wall surface compatible with their neighbors. (pg. 77)
None of the inappropriate openings listed in the design guidelines are proposed. The project includes a regular rhythm of openings, as seen historically. Window and door trim is four inches, which is typical of historic buildings.

The project includes what appear as tri-part doors that are actually accordion style doors that when open, leave a large opening. Staff finds this to be appropriate since it would be akin to a garage door on this secondary building.

Screens, Storm Doors, Metal Awning: There are many innovative alternatives to metal window and door fixtures which deserve consideration. Screen or storm doors of a fancy ornamental design and metal awnings are inappropriate in the town and discouraged elsewhere on the island. Storm sashes and screen should be bought or painted in the same color as the house sashes or frame. The color of storm or screen doors should be coordinated with that of actual door and trim. Unpainted aluminum items may be left natural, but they should be painted to blend with dark trim. (Pg. 78)
Screens, storms and metal awnings are not a part of the current proposal.

Shutters: Because shutters do not improve the appearance of many Nantucket houses, the decision to use them should be carefully considered. Further, they are an expense in both initial cost and upkeep. It is recommended that they not be used on the exterior unless clearly beneficial to the building or appropriate to its style and period. Interior shutters, used in 19th century buildings, may be a desirable design solution for today.

Shutters should be of sturdy wood construction with louvers. They should be large enough to cover the entire window area. Shutters must be functional and operable, and not look as if they were simply flat mounted on the wall. (Pg. 79)
Shutters are not a part of the current proposal.

Doorways: For new houses in the town, it is suggested that main entrance ways follow, in general, the example of Nantucket tradition: The doorway should be located on the front side of the building plane closest to the street. New entrances along a street in the town should conform to any predominant positioning, scale and rhythm of existing entranceways. Appropriate entranceway design includes not only the door and frontispiece but also any door steps and platform, and the related fences and walks connecting it to the public sidewalk. (Pg. 80)

It is recommended that new entrance ways of contemporary buildings reflect the characteristics of historic steps and platforms-contrast of open structural members with the wall plane and attachment to the exterior wall is preferable to incorporation as part of the massing. (Pg. 82)
The primary entrance faces the street.

<u>Exterior Architectural Elements</u>
Garages should be plain in treatment or coordinated with the house style. (pg 61)
The proposal is similar in design and materials to the primary building.

Chimneys: On the mass of a historic building any new chimney should be of a design appropriate to the period of the building, especially in its placement and size. Chimneys must be of select common brick or of bricks with a purged surface and, if necessary, may be painted gray (without a black top border). Exterior brick chimneys and brick chimneys of narrow width are discouraged in town. Metal pipe chimneys are not permitted in the town except where concealed, because they are not historic, they are too small in scale, and their surface deteriorates in the salty air. They may be used only if boxed in to create brick chimney dimensions and then are faced with real brick. Metal pipe caps are not acceptable; instead, a flat horizontal metal plate supported on piers over the chimney is recommended, although this is not traditional. (Pg. 73)
No chimney is proposed.

Porches: A new porch in the whaling era town is fitting if designed in a simple manner similar to the additive massing traditional to the island. The relationship of the roof of the porch to the other massing of the building is an important consideration. (Pg. 82)
The main massing of the building has a shed roof porch with simple, nine inch, round posts and a partially-enclosed railing. The secondary massing has a pergola-type porch with the same post design. The project meets the design guidelines for porches.

Decks: All decks in the designated old historic districts are restricted to first floor rear only. They should exhibit an attention to detail that is in keeping with the style of the house. (Pg. 83)
No decking is proposed.

Roofwalks: Roofwalks should follow traditional design and construction detail. The following recommendations apply: The clear expression of the roof slope should not be obliterated; skirts or solid aprons under the platform, generally, are not appropriate; and access should be from a traditional hatchway, or scuttle, with a wood cover. Because roofwalks were historically found on houses of two or more stories, they are not appropriate on 1- to 1 '/2-story structures. (Pg. 84)
No roofwalk is proposed.

<u>Surface Materials</u>
Entrances: Door stoops and railings were wood. Railings were supported on 1 1/2 inch balusters with a turned newel, tapered from the bottom or 1-inch square balusters with a 4-inch square newel. Masonry steps and platforms were employed for some of the stylish, expensive houses built after 1820. Masonry steps usually had iron railings with balusters spaced about six inches on center. The use of brick for entrance steps originated about 1900. (Pg. 82)

Cladding: All buildings should be covered in a small-scale textured material traditional to Nantucket-white cedar shingles with a 5-inch exposure, wooden clapboard with a 3 1/2-inch exposure, or select common brick of a uniform red tone as seen in the town. Only one material may be used on any single-wall plane. (Pg. 84)

Foundation: Exposed foundations should be of (I) select common brick laid with narrow inch mortar joints, (2) stone, or (3) concrete or concrete block if cement purged or grouted. Contemporary houses raised on pilings are discouraged except where required by site conditions, in which case they will be reviewed on their own merits, particularly their compatibility with adjacent buildings. (Pg. 85)

Roof Materials: Acceptable roof materials are fire-resistant shingles of rectangular design limited to uniform tones of black, dark green or a dark gray of a value (darkness) no lighter than weathered shingles. By town law, wood shingles may not be used within 11/4 miles of the Pacific National Bank unless of certified fire-retardant quality, Class C, three-hour fire rating, because of the danger of fire. Slate roofs are also appropriate. (Pg. 85)

Feature	Proposed	Recommended	Meets DG
Foundation	Poured concrete	Brick with ¼" mortar joints, stone, concrete, parged concrete block	Yes
Primary Cladding	White Cedar Shingles	Cedar shingles of a 5" exposure, clapboard of a 3 ½" exposure, brick	Yes
Secondary Cladding	N/A		N/A
Roofing	Red Cedar	Rectangular shingles, slate	Yes
Trim	Painted Cedar	6" wide cornerboards, 6"-8" rakeboards	Yes
Louvers/Vents	N/A	Wood	N/A
Porch Floor			Unknown
Porch Posts	Painted Cedar		Yes
Porch Railing			Unknown
Pergola Roof			Unknown
Gutters	Wood	Wood, circular or square	Yes
Windows	Double-Hung/SDL		Unknown
Doors	SDL		Unknown
Chimney	N/A		N/A

Known materials meet the design guidelines. Staff recommends administrative review of materials and make/manufacture of windows and doors, porch railing, porch floor, enclosed railing and pergola roof as a condition of approval.

<u>Trim and Other Architectural Details</u>

On historic structures and additions to them, the trim and ornament should be appropriate to the style and period of the house. On new buildings, trim and detailing should continue the Nantucket tradition of simple refinement and straightforwardness. The project includes a bracketed hood over a side pedestrian entrance. A partially enclosed railing that covers an outdoor kitchen is shown but the materials are not noted. Additional trim is simple in design and dimensions.

Gutters and Leaders: Historically, gutters and leaders were made of wood in a circular or square cross-section. This type should be used on historic buildings and is preferred on additions and new structures. (Pg. 86)

Gutters are noted as wood but not shown on the plans. Staff recommends confirmation of design.

Louvers, Vents, etc.: These valuable elements are to be wood and painted to blend with the wall surface. Metal, even anodized aluminum, eventually corrodes in the salt air. Ridge-mounted roof ventilators or tiny cupolas are not traditional to Nantucket and are discouraged on garages, etc. (Pg. 86)
No louvers or vents are proposed.

House Lights: It is recommended that exterior lights be compatible with the period and style of historic buildings. The light they cast should be warm in color such as incandescent. Metal lanterns, either wall or post mounted, are often used. (Pg. 86)
No exterior lighting is proposed.

Public Utilities: It is recommended that all electric and telephone lines be placed underground and that meters, etc., be placed where inconspicuous. (Pg. 86)
No information provided.

<u>Color</u>
The colors of Nantucket should be a reflection of its spirit, an old weathered and peaceful town. It is recommended that the colors on walls of buildings be of subdued hue intensity and light to medium value. Foundations and trim may be a subtle variation or contrast with the color of the house. However, elements of Greek Revival trim, such as pilasters, entablatures, etc., should be painted white or other light neutral colors such as gray or sand so that they reflect their classical heritage. Greek Revival trim should not be darker than its background. The choice of color for a building must blend with the colors of adjacent buildings and the overall setting. (Page 88)

Feature	Proposed	Recommended	Meets DG
Foundation	Natural	White or light gray	Yes
Primary Cladding	Natural	White, light gray, cream, pale yellow	Yes
Roofing	Natural	Black, dark green, dark gray no lighter than weathered shingles	Yes
Trim	Natural and white	White or light gray	Yes
Gutters	Wood		Yes
Windows	White	White or light gray	Yes
Doors	White	White, black, brewster green, dark green, beige, barn red, gray blue, yellow	Yes

Chimneys	N/A	Natural brick or cement parged	N/A
Wood Fences and Gates	N/A	White or light gray	N/A
Iron Fences and Gates	N/A	Black or brewster green	N/A
Shutters	N/A	White, light gray, dark green, brewster green	N/A

Recommendation: Staff recommends approval with the following conditions:

1. The overall height of the building is decreased by nine inches;
2. The face of the dormers be stepped back one foot from the wall below.
3. Unknown materials receive final administrative review: make/manufacturer of windows and doors, porch railing, porch floor, pergola roof; and,
4. Gutter design receives final administrative review.

Staff finds, that with these conditions, the project meets the design guidelines for a new secondary building.

Data Collection

Below is a chart of motions made in six months (July-December 2023) where consent items are in parentheses, "( )" and signage items are in red.

Motion	Approval	Approval w/ Conditions	View	Revision	Not Approved	No Action Taken	Incomplete	Withdrawn
12/19	3	6	2	8	/	7	/	/
12/12	(17) 6	(6) 12	/	6	/	22	1	/
12/5	(1) 11	10	1	8	/	36	/	/
11/28	(27) 7	(3) 6	/	7	/	43	/	1
11/21	(6) 7	(3) 12	2	6	/	20	1	/
11/14	(27) 8	(7) 8	1	5	/	45	/	/
10/31	(33) 6	(18) 3	/	3	/	(3) 15	/	/
10/24	(2) 1	(3) 3	/	4	/	5	/	2
10/17	(22) 3	(8) 11	1	7	/	5	/	/
10/10	9	8	2	6	/	5	/	/
10/3	5 (24) 8	(15) 7	1	5	/	16	2	/
9/26	(7) 17	6	/	4	/	15	/	/
9/19	(25) 8	(10) 6	/	4 7	/	40	/	/
9/12	(2) 4	12	/	6	/	21	/	/
9/5	(17) 14	(4) 8	/	3	/	7	8	/
8/29	(3) 1	(10) 5	3	5	/	3	/	/
8/22	1 (32) 4	1 (10) 7	/	3	/	25	/	2
8/15	(1) 3	(1) 7	1	4	/	4	/	/
8/8	2 (26) 3	(8) 3	1 1	9	/	10	/	/
8/1	(12) 3	7	/	7	/	2	1	/
7/25	(22) 3	(10) 6	/	13	/	10	/	/
7/18	(18) 3	(3) 7	/	6	/	6	/	/

Motion	Approval	Approval w/ Conditions	View	Revision	Not Approved	No Action Taken	Incomplete	Withdrawn
7/11	4 (26) 2	(9) 10	2	1 3	/	15	/	/

Team Biographies

Will Cook

Will Cook is a nationally recognized lawyer and scholar with a successful record for protecting National Historic Landmarks, significant landscapes, historic viewsheds, and traditional cultural properties. His practice focuses on balancing historic preservation with economic development to make historic preservation law more efficient, effective, and predictable. Will helps his clients navigate the Section 106 process of the National Historic Preservation Act at the project level, emphasizing historic viewsheds and landscape protection. He negotiates on behalf of tribes, project proponents, local governments, and other consulting parties to achieve creative, win-win outcomes that appropriately balance preservation values and development needs. Examples of his work include helping to find reasonable limits to unregulated cruise tourism in historic port communities, advising a local government with a National Historic Landmark district on its legal rights in response to proposed offshore utility-scale wind farms, and working with a nationally recognized preservation advocacy group on how to address a proposed seawall that would surround a National Historic Landmark district. In 2019, Will assisted the Parks & People Foundation in Baltimore with identifying ways to use Section 106 to leverage shoreline restoration of the Middle Branch Harbor and proposed a "green" urban park along its 11-mile shoreline. Will's extensive knowledge of preservation legal tools and land use law allows him to be a strategic partner with policymakers, developers, and preservation advocates on best practices to make preservation law more effective and efficient. Through his work with the National Alliance of Preservation Commission's Disaster Planning Advisory Committee, Will helps historic communities with adaptation planning and disaster relief, including their response to the COVID-19 pandemic. Will has argued in court and before administrative agencies across the country on behalf of advocates seeking to protect traditional cultural properties: historic places that continue to be used by living communities. His engagements have included arguing on behalf of the National Trust for Historic Preservation before the New Mexico Supreme Court, which unanimously affirmed Mount Taylor's designation in New Mexico's State Register of Cultural Properties.

Will earned his Juris Doctor from the University of South Carolina School of Law and graduated from Furman University, where he received a B.A. in political science. Before joining Cultural Heritage Partners, Will served eight years as associate general counsel for the National Trust for Historic Preservation and teaches preservation law at Columbia University.

Lisa Craig

Lisa Craig serves as Principal for The Craig Group, LLC. In this role, she leads a team of design and planning professionals to support community leaders, local government, and nonprofit organizations in growing economic value and protecting historic communities' architectural and cultural integrity. Her experience in historic preservation, community engagement, and resiliency planning has made her a popular speaker and trainer. Before starting her own firm, Ms. Craig served seven years as Chief of Historic Preservation for the City of Annapolis. She led historic research, design, commission training, legislation and procedures drafting, grant writing, community engagement, and production of educational materials and programs for the City. She spearheaded the *Weather It Together* initiative, a Cultural Resource Hazard Mitigation Plan identified by the National Trust for Historic Preservation as a national model for resiliency planning. Before her work in Annapolis, Ms. Craig was a project executive with Forest City Military Communities, Washington, DC leading property development activities for the $82 million housing privatization project at the United States Air Force Academy. She also provided technical assistance on design, development, maintenance, Section 106, and historic tax credit activities for more than 350 historic properties within the Company's historic property portfolio. Ms. Craig's background also includes contract consulting to Lord Cultural Resources Planning & Management on historic preservation, cultural tourism, and corridor planning projects; serving as State Historic Preservation Officer for the District of Columbia; and working for the National Trust for Historic Preservation as the head of the Southern Field Office and Director of Preservation Partnerships. Ms. Craig has published numerous articles and presented dozens of public talks on topics ranging from the impacts of climate change on historic properties, to historic military housing to conservation districts.

Ms. Craig graduated summa cum laude with a Bachelor of Fine Arts in Historic Preservation from the Savannah College of Art & Design and went on for Master's work at the University of Oregon in Historic Preservation. Nationally, she serves as a trainer for the National Alliance of Preservation Commissions. She serves as the Mayor of Lodi, California and on the City Council. Her past volunteer service has been on planning commissions, architectural review boards, and economic development commissions.

Kimberly Rose

Kimberly serves as Preservation Manager at The Craig Group Partners, LLC, working on preservation planning, climate resilience, and disaster preparedness projects. In her role, she assists with plan development, analyzing geographic information system (GIS) data, building ESRI StoryMaps, and the development and execution of public engagement opportunities such as surveys, meetings, workshops, and symposiums. Previously, Kimberly served as Co-Director of the University of Florida Preservation Institute Nantucket, where she assisted with projects focused on resilience and sustainability in historic Nantucket, MA. Kim also served as Founder and Coordinator of ACKlimate Nantucket from 2019 to 2021, encouraging Nantucket's holistic communication and adaptation to a changing climate and rising seas through local and global engagement.

Kimberly graduated summa cum laude from the University of Florida's Master of Historic Preservation in 2020. Before that, she completed her Bachelor of Science in History at Martin Methodist College (now University of Tennessee Southern).

Robin Zeigler

Robin Zeigler is the historic zoning administrator for the Nashville-Davidson County Metropolitan Historic Zoning Commission. Previously, she served as senior historic preservation planner for the Planning Division of the Salt Lake City Corporation and the preservation planner with the City-County Planning Commission of Warren County, Kentucky. Her experience includes policy development, procedural improvements, commission support, legislation drafting, design guideline creation, and architectural resource surveys. She created and presented a certified preservation course for Realtors in Alabama, Kentucky, Tennessee, New York, and West Virginia. She is also a trainer for the National Alliance of Preservation Commissions and a former board member. She graduated from Middle Tennessee State University’s Public History Program, where she worked for the Center for Historic Preservation.

Completed Steps

- 2023
    - August 2: Kick off Meeting
    - Aug.: Material Review including three HDC meetings
    - Aug. 9: 90-minute meeting with Liaisons
    - Aug. 16: 60-minute check-in and survey discussion
    - Aug.: task meeting
    - Aug.-Sept.: development of surveys and SWOT
    - Sept.: Sent out surveys and compiled results
    - Sept.: develop in-person interview questions
    - Sept.: coordinate travel
    - Sept.: 27, 90-minute meeting with Liaisons about itinerary
    - Oct. 2-5: travel to Nantucket
    - Nov. 2: Internal team meeting to discuss recommendations
    - Nov.: Recommendation and report development
    - Nov. 27: Developed PowerPoint
    - Dec. 6: Present draft recommendations to Town Manager and PLUS Director.
- 2024
    - Dec.-Jan.: refine PowerPoint and final assessment report deliverable based on comments
    - Feb. 7: internal team review of content
    - Feb. 12: Provide assessment report to HDC Staff for review and distribution
    - Feb. 21: Present to HDC / Select Board

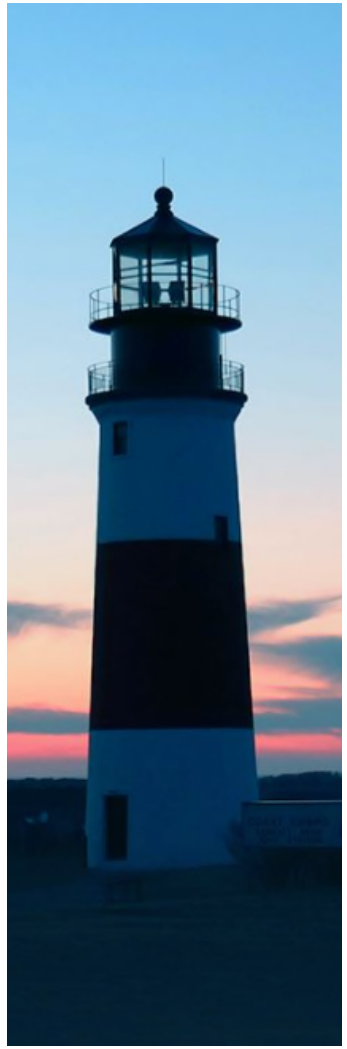
Alternative Access and Utility Relocation for Continuity of Services for Baxter Road Residents

Select Board Meeting – Project Updates

February 21, 2024

Photo courtesy of Florencia Rullo 12/10/21

Agenda

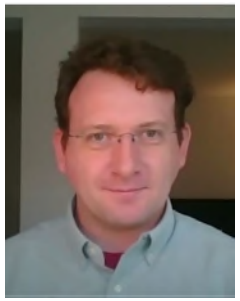


1. Introductions
2. Goals for Tonight
3. 90% Design Submittal Progress Update
4. Emergency Readiness – Draft Submittal Review
5. Upcoming Work Items
6. Questions & Discussions

Introductions – Project Team

C. Elizabeth Gibson

Town Manager



Vincent Murphy

Sustainability Programs Manager

William D. Casey, Jr., PE

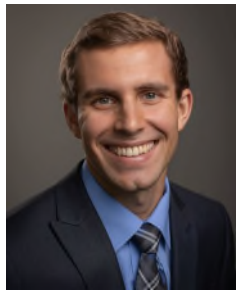
Project Manager

Jennifer Kelly Lachmayr, PE, BCEE

Project Director

Kathryn Edwards, PE

Public Outreach Lead



Andy Elderbrock, EIT

Project Engineer

Kelly Ernst, EIT

Project Engineer

Goals for Tonight

1. Update Select Board on 90% Design Submittal
2. Review of Baxter Road Emergency Readiness – Draft Submittal
3. Update Select Board on next steps

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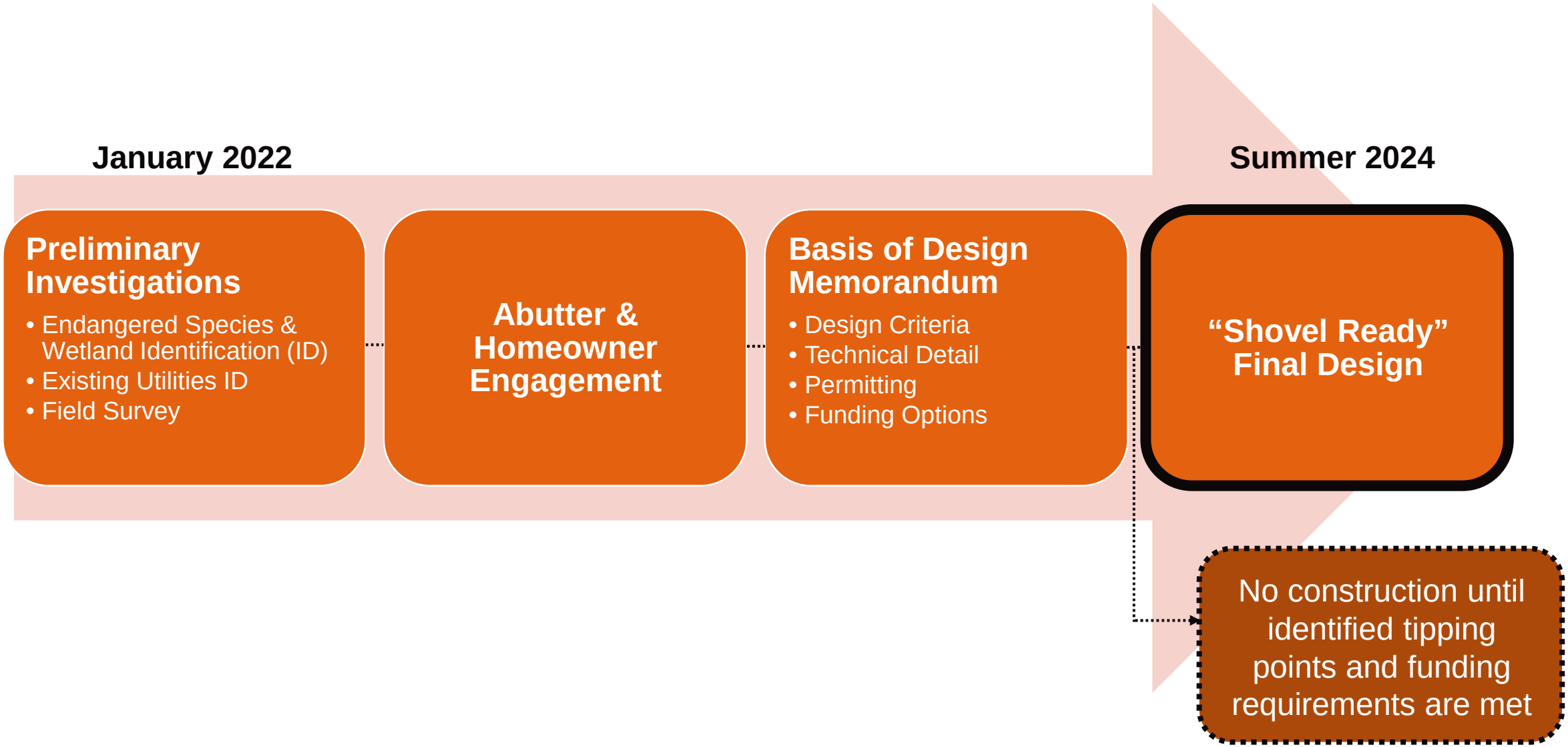
Baxter Road – Alternative Access

Progress Update

Photo courtesy of Florencia Rullo 12/10/21

Scope of Work



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Project Update

- Progress since Select Board update on October 4, 2023
  - 90% Design Package – Submitted to Town on 1/19/2024 and is in review
  - Permitting – Ongoing
    - Massachusetts Historical Commission – Archeological Survey Report – Submitted
    - Natural Heritage and Endangered Species (NHESP) – Received response requesting additional information
    - Conservation Commission – Anticipate filing Spring 2024
  - Emergency Readiness Plan – Draft – Submitted to Town on 1/11/2024 and is in review. Brief presentation to follow.

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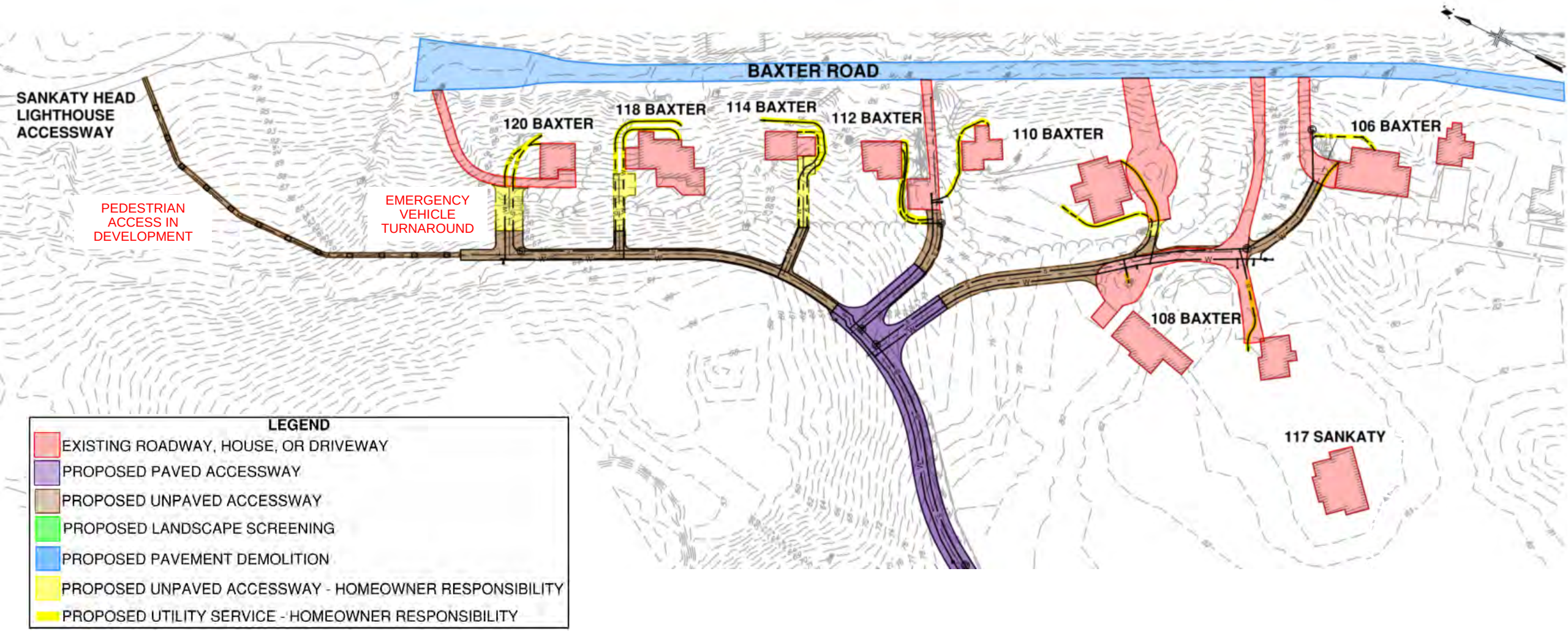
90% Design Overview



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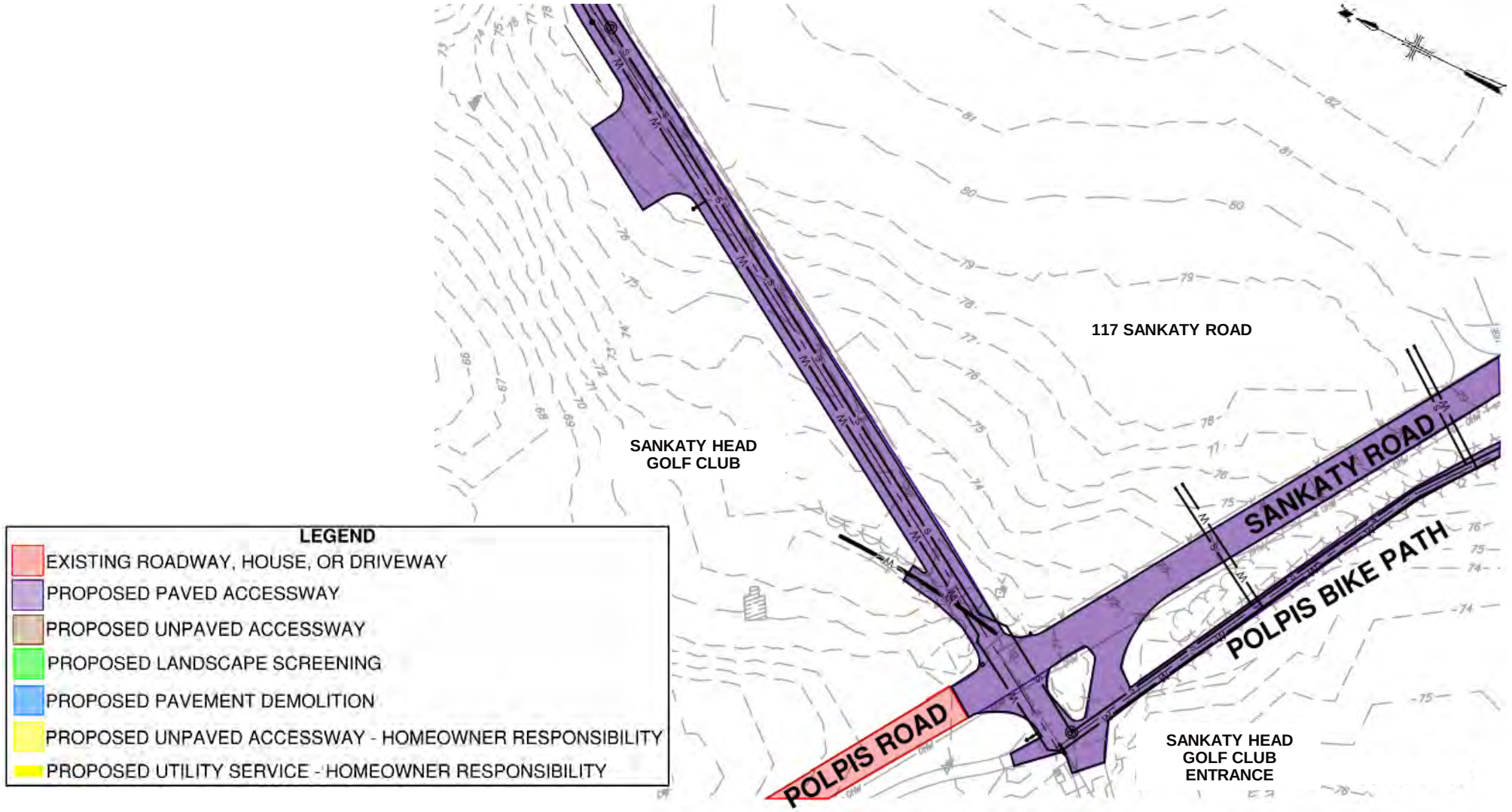
90% Design Overview



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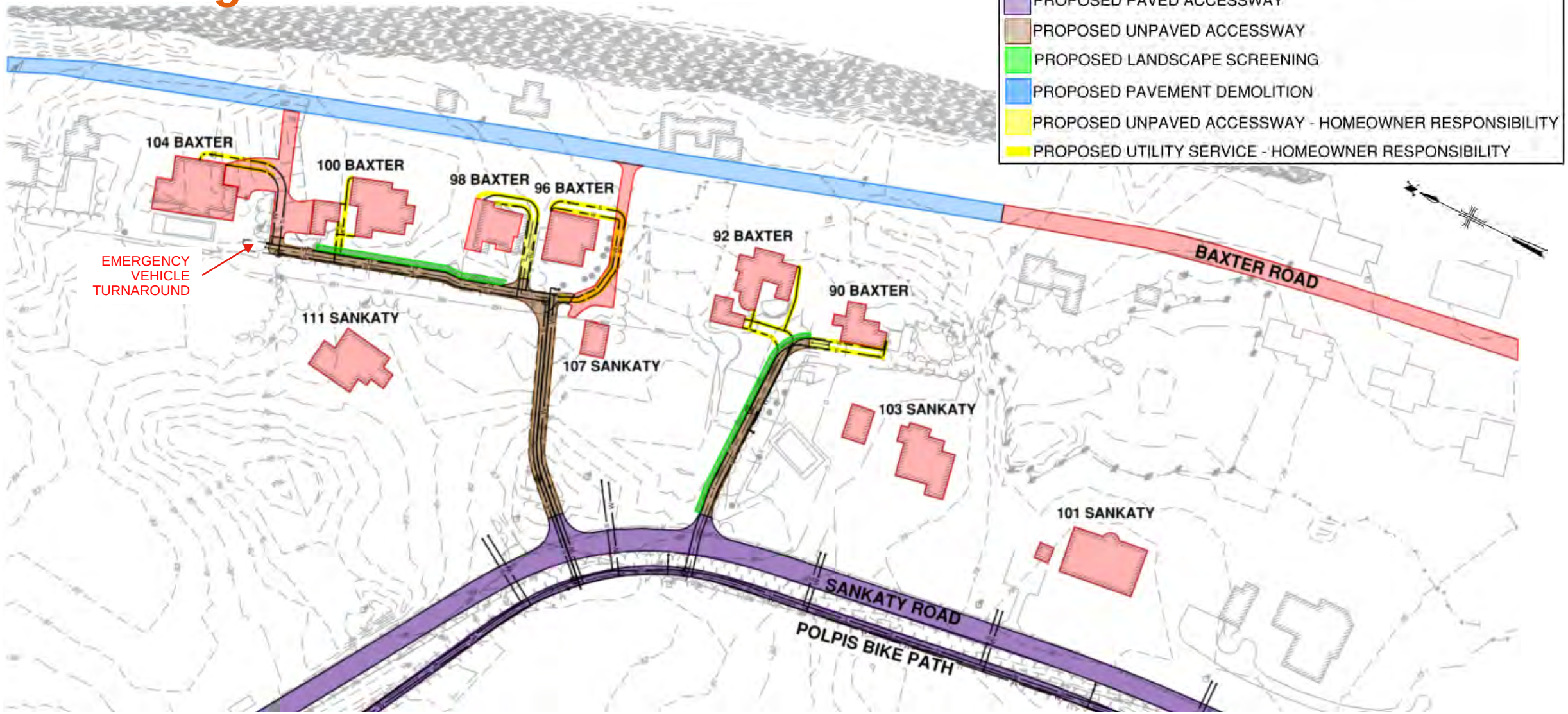
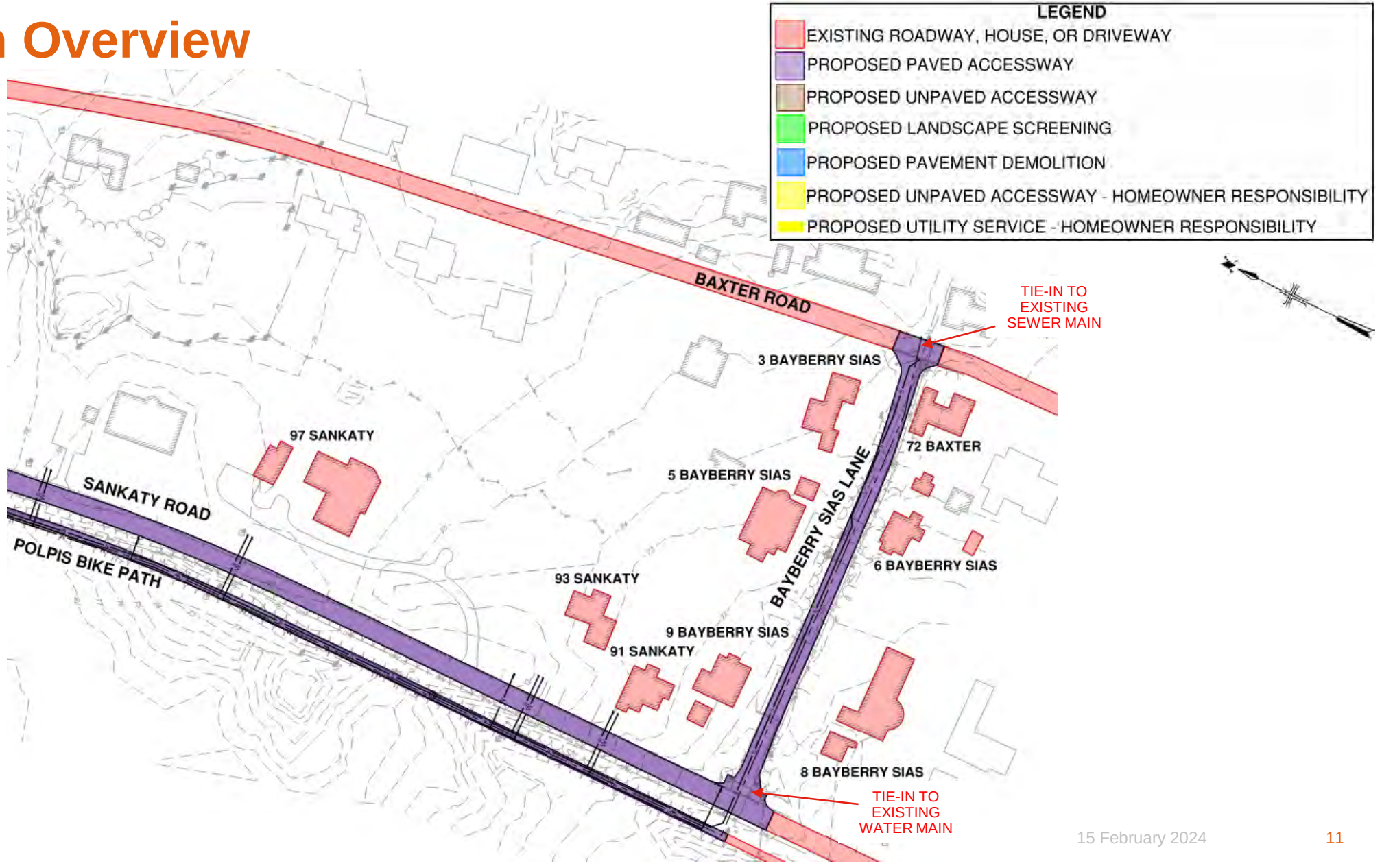
90% Design Overview



90% Design Overview



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90% Cost Estimate

Earthworks and Demolition Subtotal	$4,379,400
Potable Water Service Subtotal	$1,085,900
Low Pressure Sanitary Sewer Subtotal	$861,000
Stormwater Subtotal	$40,000
General Requirements Subtotal	$7,826,800
Phase 1 Construction Total	$14,194,000
Other Phase 1 Costs (Easements, Legal, Construction Oversight, Private Grinders, Private Service Connections)	$11,068,000
Phase 1 Project Total	$25,262,000
Phase 2 Estimated Cost	$11,200,000
Phases 1 and 2 Project Total	$36,462,000
AACE Class 2 Cost Estimate – 15% Low	$31,000,000
AACE Class 2 Cost Estimate + 20% High	$43,760,000

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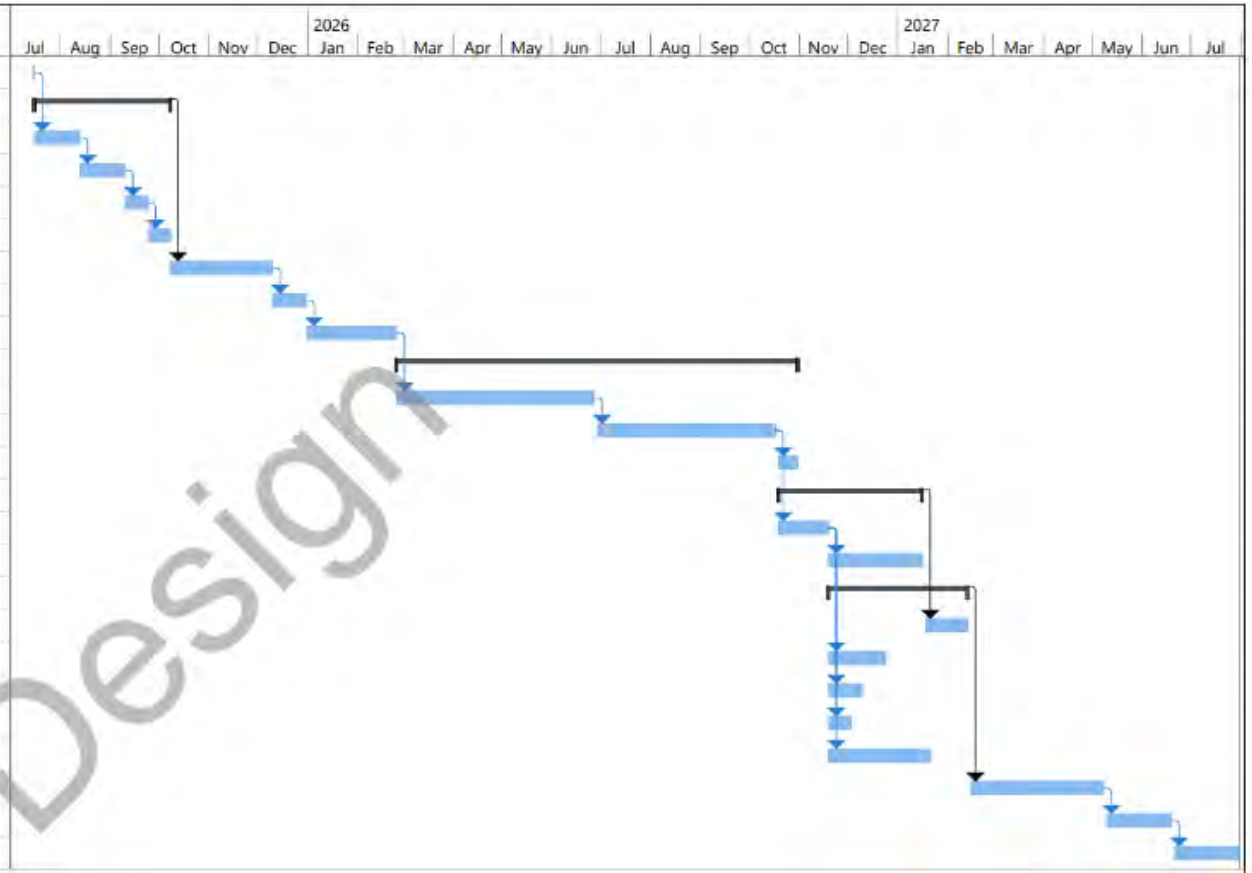
90% Schedule

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
1		Notice to Proceed	1 day	Tue 7/15/25	Tue 7/15/25	
2		**Submittal Phase**	**60 days**	**Wed 7/16/25**	**Tue 10/7/25**	
3		Contractor Prepare and Submit	20 days	Wed 7/16/25	Tue 8/12/25	1
4		Engineer Review and Comments	20 days	Wed 8/13/25	Tue 9/9/25	3
5		Contractor Revise and Resubmit	10 days	Wed 9/10/25	Tue 9/23/25	4
6		Engineer Approve and Issue	10 days	Wed 9/24/25	Tue 10/7/25	5
7		Procurement of Materials	45 days	Wed 10/8/25	Tue 12/9/25	2
8		Site Mobilization	15 days	Wed 12/10/25	Tue 12/30/25	7
9		Clearing	40 days	Wed 12/31/25	Tue 2/24/26	8
10		**Construction Excavation & Pipe Installation**	**178 days**	**Wed 2/25/26**	**Fri 10/30/26**	
11		LPSS Installation	88 days	Wed 2/25/26	Fri 6/26/26	9
12		Water Main Installation	80 days	Mon 6/29/26	Fri 10/16/26	11
13		Hydrants	10 days	Mon 10/19/26	Fri 10/30/26	12
14		**Construction Property Owner Connections**	**65 days**	**Mon 10/19/26**	**Fri 1/15/27**	
15		LPSS Service Connections	23 days	Mon 10/19/26	Wed 11/18/26	12
16		Water Service Connections	42 days	Thu 11/19/26	Fri 1/15/27	15
17		**Accessways**	**62 days**	**Thu 11/19/26**	**Fri 2/12/27**	
18		Finish Grading	20 days	Mon 1/18/27	Fri 2/12/27	14
19		Pavement	25 days	Thu 11/19/26	Wed 12/23/26	15
20		Non-Paved Accessways	15 days	Thu 11/19/26	Wed 12/9/26	15
21		Bike Path Paving	10 days	Thu 11/19/26	Wed 12/2/26	15
22		Site Restoration	45 days	Thu 11/19/26	Wed 1/20/27	15
23		Baxter Road Demolition	60 days	Mon 2/15/27	Fri 5/7/27	17
24		Punchlist	30 days	Mon 5/10/27	Fri 6/18/27	23
25		Closeout	30 days	Mon 6/21/27	Fri 7/30/27	24



90% Design

Schedule Post Alternative Selection*

- 60% Design
  - **Submitted September 15, 2023** for Town review
- 90% Design
  - **Submitted January 19, 2024** for Town review
- Permitting
  - **Ongoing throughout 2024**
- 100% Design/Bid Ready
  - **30 Days** to address final comments (easement negotiations may extend duration)
- Bidding and Award (pending funding approvals)
  - **60 Days** for Bidding
- Construction
  - **Approximately 2 years from Construction Contractor Award to Project Completion**

Funding

Continue to consider alternative funding mechanisms

Note: Approximately **1-year** to develop Town Warrant Article for Town Meeting

**best case scenario*

Baxter Road Emergency Readiness

Progress Update

Photo courtesy of Florencia Rullo 12/10/21

Goals of the Emergency Readiness Plan

Provides a course of action for Baxter Road in the event of a breach in the Sconset Bluff (prior to alternative access).

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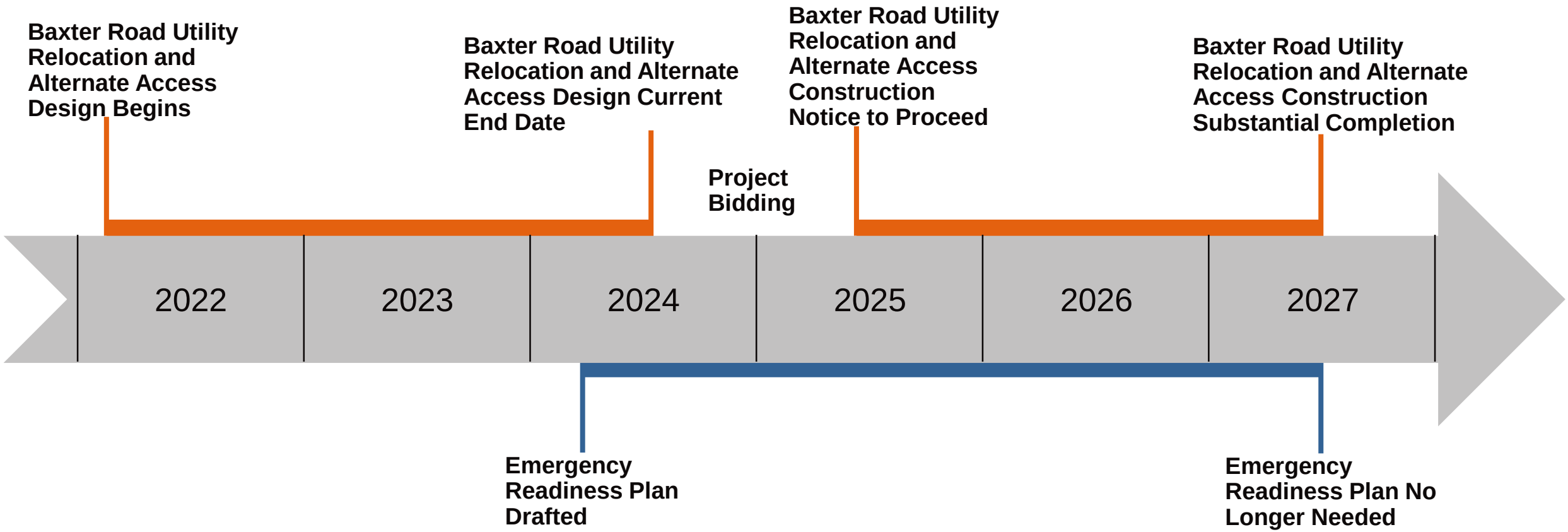
Baxter Road Alternative Access and Emergency Readiness Timeline



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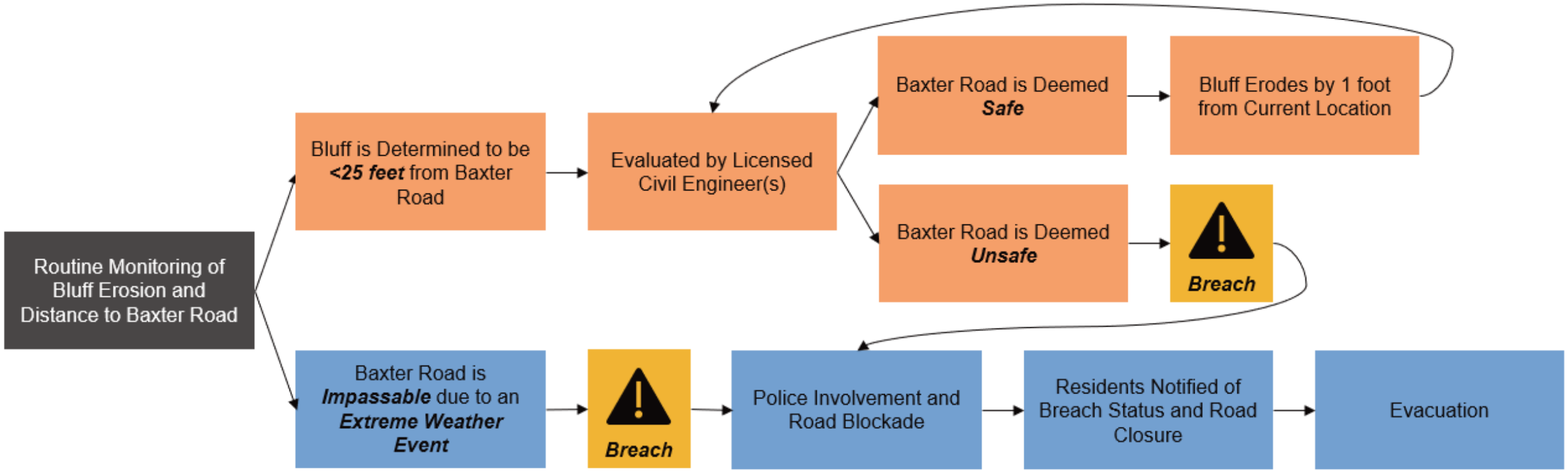
Breach Definition and Locations

- A **breach** in the Sconset Bluff shall be defined as:
  - The point when Baxter Road is no longer passable as determined by the majority of three licensed Massachusetts Civil Engineers.
  - Likely to occur when the bluff is approximately 25 feet or less from Baxter Rd
- Bluff-to-roadway measurements have been taken periodically along Baxter Road at nine locations since 2018.
- The two most likely breach locations are defined in the Plan based on proximity to the bluff and rate of erosion.
  - Breach Location #1 (Sampling Location #1): 105 Baxter Rd
  - Breach Location #2 (Sampling Location #5): 85 Baxter Rd

Historical Measurements

Measurement Location	A	1	2	3	4	5	6	7	8
Street Address	109	**105**	101	91	87/Way	**85**	71/Way	67	61/Way
6/2/18		**39**	35	56	66	**63**			
10/4/18	67	**39**	35	56	66	**63**	144	192	163
1/30/19	67	**39**	35	56	66	**63**	144	192	163
8/24/20	67	**38**	35	56	66	**63**	144	191	163
3/3/21	67	**38**	35	56	65	**57**	144	191	163
8/9/21	67	**37**	35	56	65	**57**	144	191	163
11/5/21	65	**37**	35	56	65	**57**	144	190	163
11/18/21	65	**37**	35	56	65	**57**	144	190	163
1/7/22	65	**37**	35	56	65	**56**	144	190	162
2/16/22	65	**36**	35	56	65	**56**	144	190	162
4/28/22	65	**36**	35	56	65	**56**	144	190	162
11/8/22	65	**36**	35	56	65	**56**	144	190	162
12/22/22	65	**36**	35	56	65	**55**	144	190	162
1/27/23	65	**36**	35	56	65	**55**	144	190	162
3/13/23	65	**36**	35	56	65	**55**	144	190	162
9/14/23	65	**36**	35	56	65	**55**	143	190	162
10/27/23	65	**36**	35	56	65	**54**	143	190	162
12/1/23	65	**36**	35	56	65	**54**	143	190	162

Decision Tree Flow Chart



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Town Responsibilities

Emergency Conditions

- **In emergency conditions, the Town's Public Safety Official shall make an immediate determination if the road should be closed.**
- Baxter Road shall be barricaded immediately with emergency vehicles and lights if the road is deemed impassable.
- Town to notify all affected residents of road closure via existing emergency communication procedures and direct contact.
- Town to strive to provide access, water and sewer in the event of a breach. There is no guarantee that services can be re-established.

Breach (Non-Emergency)

- The determination of unsafe conditions by the majority of three civil engineers trigger the steps shown in the flow chart.
- Baxter Road shall be barricaded with concrete jersey barriers.
- Town to notify all affected residents of road closure via existing emergency communication procedures and direct contact.
- Town to strive to provide access, water and sewer in the event of a breach. There is no guarantee that services can be re-established.

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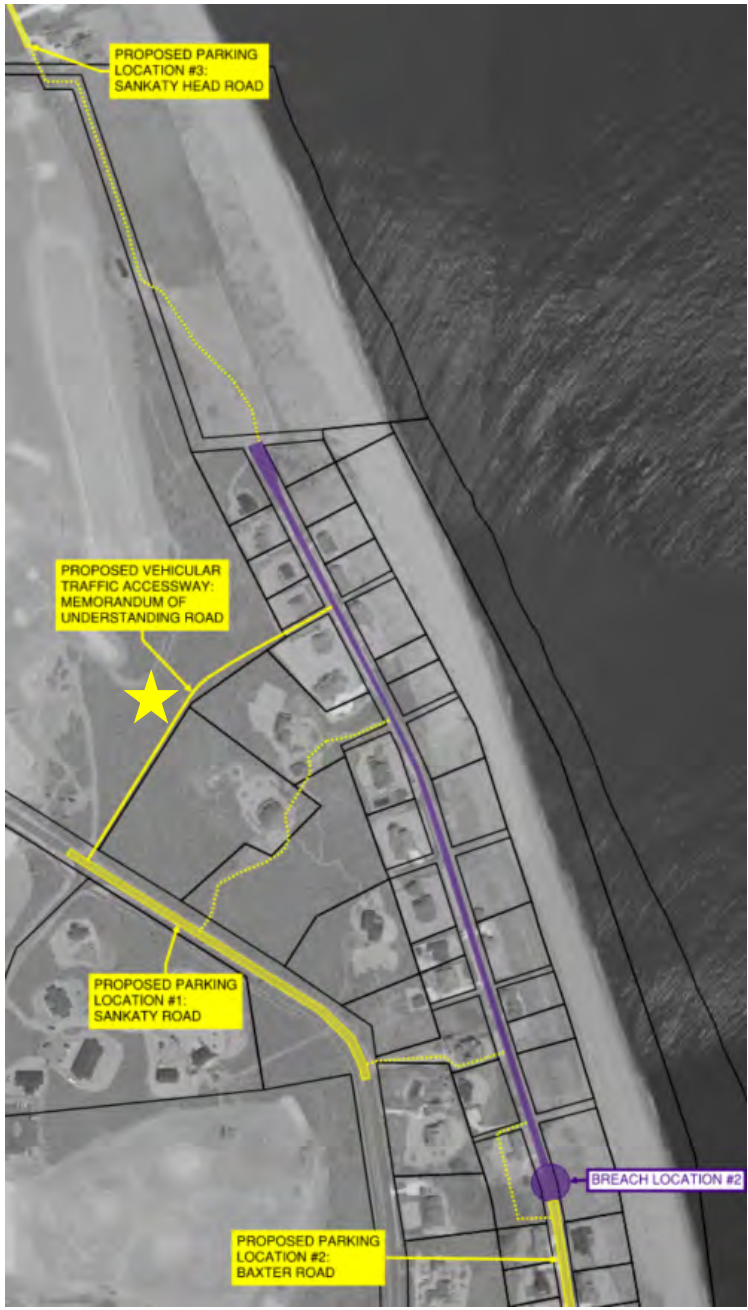
Alternative Access and Parking

Vehicular access to Baxter Road is key for emergency access and installation and maintenance of temporary utilities.



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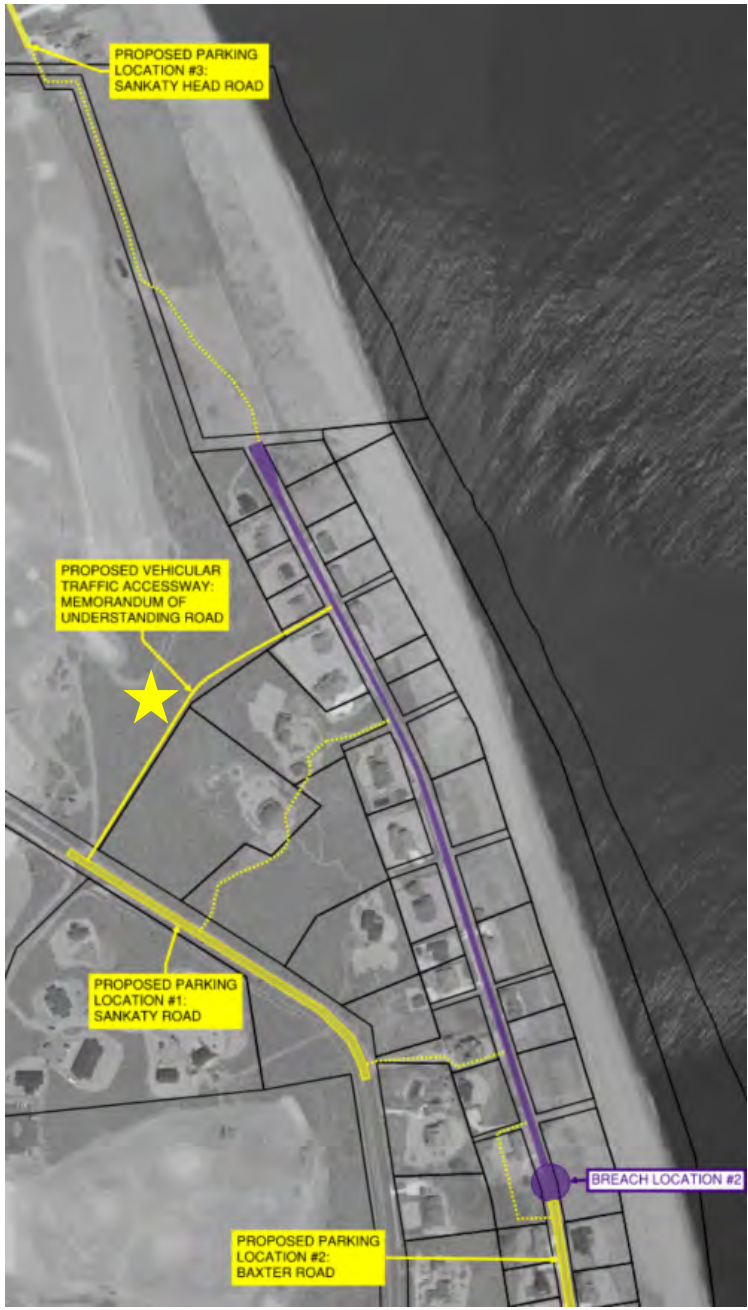
Alternative Access and Parking

- **Vehicular access (emergency and non-emergency)**
  - ★ Primary: MOU accessway (rough cut)
  - Alternate: Sankaty Head Road via lighthouse path
  - Pedestrian access (if vehicular access is not constructed)
    - Neighborly agreements with private landowners required



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House Occupancy

Utility Access

- All habitable buildings are required to have a supply of potable water and means of disposing of sewage (248 CMR 10.00, Uniform State Plumbing Code).

Structural Integrity

- If the Building Inspector deems a structure unsafe to inhabit, he can require the building be repaired to abate the unsafe condition or taken down and removed (780 CMR Section 116.0).

Board of Health

- The Board of Health of the Town of Nantucket formally adopts 105 CMR 410.000, Minimum Standards of Fitness for Human Habitation, as a local regulation of the Nantucket Health Department. Occupancy of a residence must comply with this Code.

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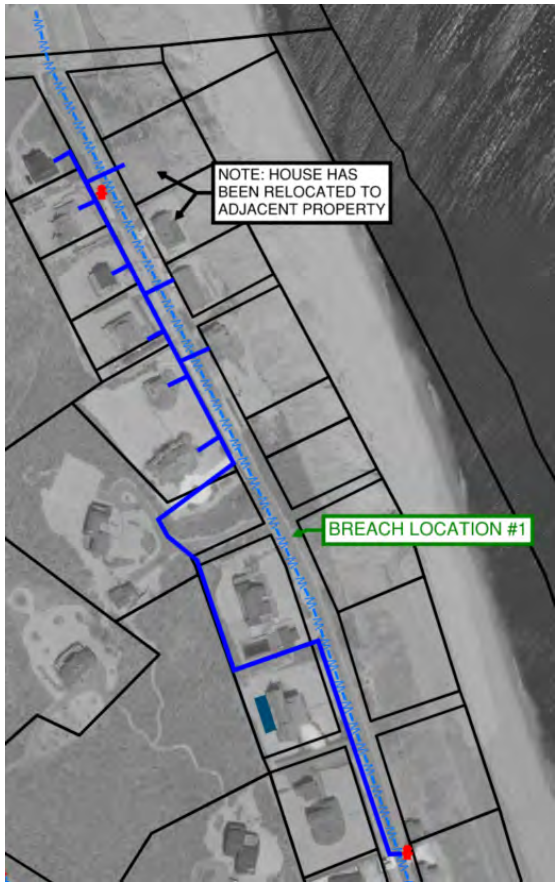
Water

Immediate Action

- Immediately, the Town should provide bottled water to affected residents.

Medium-duration Option

- Temporary service can be provided through connection to the nearest active fire hydrant with temporary water piping.
- The Town should provide temporary water service as quickly as possible to ensure that all houses have fire protection.



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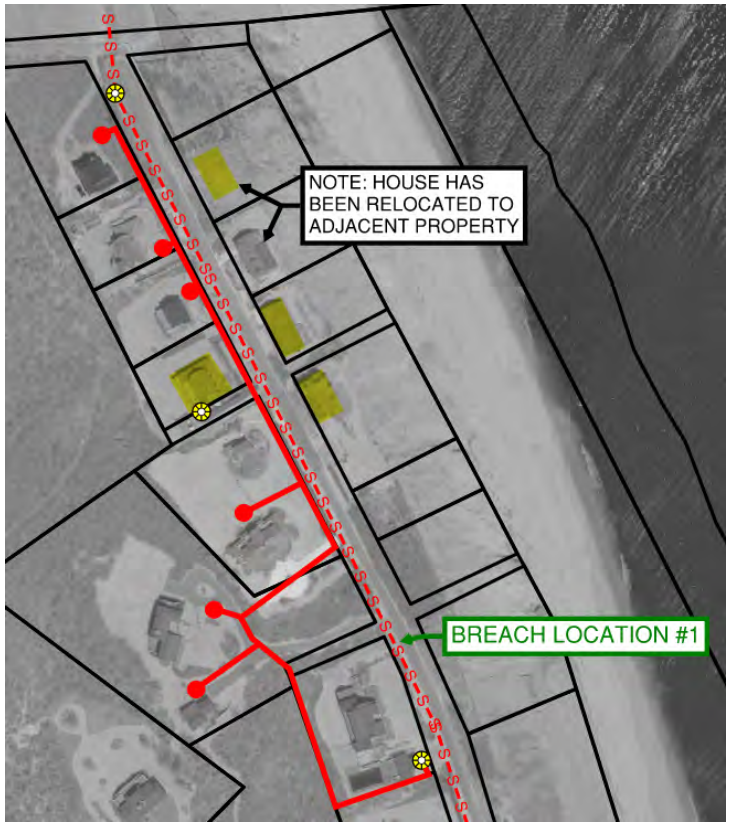
Sewer

Immediate Action

- Portable toilets
- Storage in grinder pump wet wells

Medium-duration Options

- Storage in above-ground tight tanks via grinder pump discharge lines
- Storage in below grade tight tanks via gravity
- Above-grade temporary low-pressure sewer system connecting the existing pump discharge piping to a temporary small diameter sewage force main that ultimately discharges to the nearest active sewer manhole



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Private Utilities

- Private utility owners shall be contacted following a breach for restoration of service or provision of temporary services to Baxter Road residents.
- In the event of a breach, adequate vehicular access will be required for propane trucks and utility maintenance vehicles to supply affected houses. Clearing of a vehicular accessway should be prioritized by the Town prior to a breach.

Utility Category	Utility Name	Contact Phone Number
Electric	National Grid	508-325-8000
Cable	Comcast	800-266-2278
Telephone	Verizon	877-597-4954
Propane	Island Energy Services	508-228-0725

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Prioritization and Sequencing

Occupied / Seasonal Occupancy

- Recommended that the Town first determine which residences are occupied at the time of the breach because many residences are seasonal in nature.
- Residences that are occupied at the time of the breach should be prioritized for immediate temporary provisions, and all others should be scheduled for temporary provisions based on when the residents plan to return.

Demolition/Cleanup Provisions

- Town will be responsible for clean up of public property including roadways (i.e. asphalt surface, water mains and sanitary sewer mains).
- Private property owners are responsible for damage on their private property. Private property owners are also responsible if their property litters the public beach or waters.

Permanent Solutions

- The Town is working towards implementing the Baxter Road Alternative Access and Utility Relocation Plan, which will provide permanent alternative access and utilities to residences along Baxter Road north of the breach locations described in the Plan.

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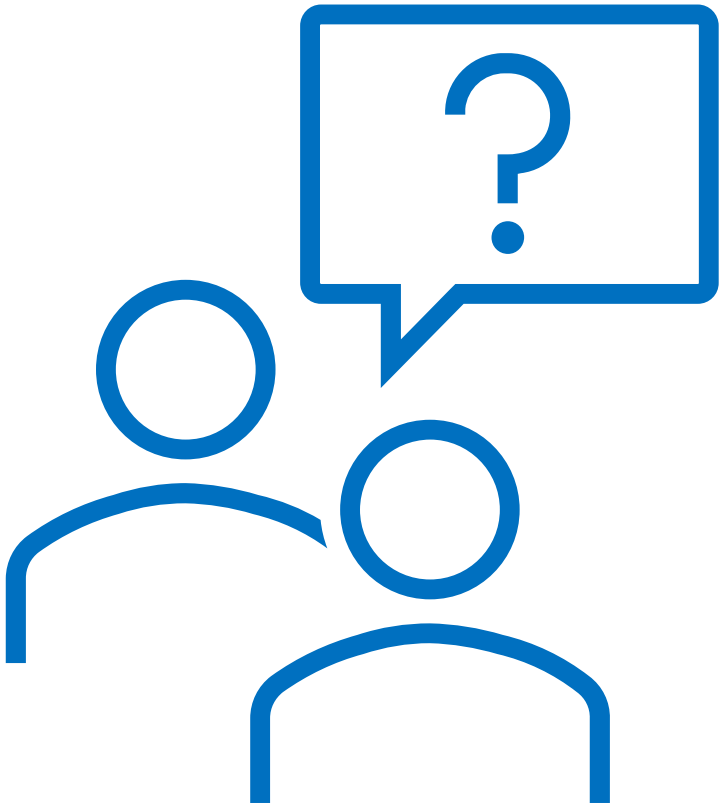
Upcoming Work Items

A. Alternative Access
   1. 90% Design Comments
   2. 100% Design Submittal
   3. Permitting
   4. Easement Negotiations
   5. “Shovel-Ready” Construction Documents

B. Emergency Readiness
   1. Town review and comments
   2. Funding sources for Emergency Readiness Plan implementation

QUESTIONS & DISCUSSION



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Thank You!

William D. Casey, Jr., PE

Project Manager

Jennifer Kelly Lachmayr, PE

Project Director

https://www.bostonglobe.com/metro/2014/09/28/battle-over-bluff-nantucket/L41admApMtz3ZGqsO8XlTI/story.html

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FINANCE COMMITTEE MOTION: Move that Chapter 123 of the Town Code (Short-Term Rentals) be amended as follows *(language to be inserted shown in highlight; language to be deleted shown in strikethrough; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):*

Chapter 123

Short-Term Rentals

§ 123-1. Purpose and Intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, § 14 and is intended to:

(1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.

(2) prevent the further growth of residential dwellings owned by Corporations and used for the purpose of Short-Term Rentals.

(3) Continue to permit the operation of Short-Term Rentals by natural persons in order to protect the time-honored tradition of home rentals in Nantucket. .

(4) Allow the Town to implement the Short-Term Rental registration process and to collect sufficient data to accurately assess the practice of Short-Term Rentals including the impact (if any) this practice may have on affordable/attainable housing and to substantially develop additional regulations, if such data demonstrates additional regulation is necessary.

~~(2) protect the time-honored tradition of home rentals in Nantucket and preserve economic opportunities through Short-Term Rentals for persons to keep their homes, now and into the future, so they may afford to live either full-time or part-time in Nantucket.~~

~~(3) avoid adverse impacts on the local economy stemming from a loss of existing Short Term Rental revenue, including rooms excise tax revenue, and visitor spending.~~

~~(4) prohibit additional corporate ownership and discourage investment-only ownership of residential properties for the exclusive purpose of operating them as Short-Term Rentals rather than housing for either full-time or part-time residences.~~

~~(5) reduce the neighborhood churn caused by numerous turnovers of occupancy of Short-Term Rentals in residential neighborhoods.~~

~~(6) limit the conversion of residential units to Short-Term Rentals which has had the deleterious effect of removing residential units from the available year-round rental housing stock.~~

~~(7) protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.~~

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORPORATION

All businesses and charitable entities required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to G.L. c. 156D, § 2 or G.L. c. 180, § 4, respectively.

OPERATOR

A person or other legal entity operating a short-term rental including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental. It is the intent of this bylaw that the operator shall have the same meaning as set forth in General Laws c, 64G, § 1.

OWNER

Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC, or a Trust. The Owner may also be referred to as the operator, or the Host.

SHORT-TERM RENTAL

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all

accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

TIME-SHARING OR TIME-INTERVAL-OWNERSHIP DWELLING UNIT OR DWELLING

A dwelling unit or dwelling in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either: a time-share estate, in which the ownership or leasehold estate in property is devoted to a time-share fee (tenants in common, time-share ownership, interval ownership) and a time-share lease; or time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of "time-share estate," including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond, the use being inherently transient.

~~Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:~~

~~(1) co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times;~~

~~(2) centralized or professional management;~~

~~(3) reservation systems;~~

~~(4) maximum or minimum day limits on each interest holder's occupancy or use of the property; or~~

~~(5) management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.~~

§ 123-3. Registration, Permitting, Prohibitions, Inspection and Fees.

A. No person or other legal entity shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application

for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.

B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.

C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.

D. The Board of Health shall not issue any certificate of registration unless the Operator has:

(1) submitted a complete application and paid all associated fees;

(2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and

(3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.

E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.

F. Certificates of registration are valid for one year and may be renewed at the discretion of the Town, provided that the operator has complied with the provisions of this chapter and any associated regulations during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year. A renewal application shall include an attestation that the Short-Term Rental was operated

in accordance with all bylaws and regulations of the Town during the previous year.

G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.

H. Short-Term Rentals are prohibited in dwelling units owned by a Corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

I. Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

J. No Time-Sharing or Time-Interval -Ownership Dwelling Unit or Units may engage in Short-Term Rental activities or be eligible to receive a Certificate of Registration for such unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold ~~in fractional or divided interests~~ on the open market.

K. Any person or other legal entity, including Corporations, LLC's, Trusts, and S Corporations, which paid the rooms excise tax on a Short-Term Rental dwelling unit in any calendar quarter prior to January 1, 2024 and which owned the property prior to May 7, 2024, shall be exempt from the requirements of Sections H, I, and J of this Chapter until the dwelling unit is transferred or conveyed, or the Rental Certificate is not renewed or is revoked by the Board of Health. If a property is bequeathed to a person or other beneficiary through a will, trust, or other instrument, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5. Enforcement.

A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's non-criminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of $100 for the first offense; $200 for the second offense; and $300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.

D. In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed $5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

ARTICLE 60
(General Bylaw Amendment: Short-Term Rentals)

To see if the Town will vote to amend Chapter 123 (Short-Term Rentals) of the Code of the Town of Nantucket as follows *(language to be inserted shown in highlight; language to be deleted shown in strikethrough; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket): provided that Town Meeting may consider further amendments to Chapter 123 at the 2024 Annual Town Meeting based on the state of the law at that time:*

Chapter 123

Short-Term Rentals

§ 123-1. Purpose and Intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, § 14 and is intended to:

(1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.

(2) protect the time-honored tradition of home rentals in Nantucket and preserve economic opportunities through Short-Term Rentals for persons to keep their homes, now and into the future, so they may afford to live either full-time or part-time in Nantucket.

(3) avoid adverse impacts on the local economy stemming from a loss of existing Short Term Rental revenue, including rooms excise tax revenue, and visitor spending.

(4) prohibit additional corporate ownership and discourage investment-only ownership of residential properties for the exclusive purpose of operating them as Short-Term Rentals rather than housing for either full-time or part-time residences.

(5) reduce the neighborhood churn caused by numerous turnovers of occupancy of Short-Term Rentals in residential neighborhoods.

(6) limit the conversion of residential units to Short-Term Rentals which has had the deleterious effect of removing residential units from the available year-round rental housing stock.

(7) protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching

therein, including commercialization caused by the misuse of single-family residences. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORPORATION

All businesses and charitable entities required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to G.L. c. 156D, § 2 or G.L. c. 180, § 4, respectively.

OPERATOR

A person or other legal entity operating a short-term rental including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental. It is the intent of this bylaw that the operator shall have the same meaning as set forth in General Laws c, 64G, § 1.

OWNER

Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC, or a Trust. The Owner may also be referred to as the operator, or the Host.

SHORT-TERM RENTAL

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

TIME SHARE, INTERVAL OR FRACTIONAL OWNERSHIP UNIT

Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities

own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:

(1) co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times;

(2) centralized or professional management;

(3) reservation systems;

(4) maximum or minimum day limits on each interest holder's occupancy or use of the property; or

(5) management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

§ 123-3. Registration, Permitting, Prohibitions, Inspection and Fees.

A. No person or other legal entity shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.

B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.

C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by

the Board of Health and other Town boards generally applicable to resident dwelling units.

D. The Board of Health shall not issue any certificate of registration unless the Operator has:

(1) submitted a complete application and paid all associated fees;

(2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and

(3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.

E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.

F. Certificates of registration are valid for one year and may be renewed at the discretion of the Town, provided that the operator has complied with the provisions of this chapter and any associated regulations during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year. A renewal application shall include an attestation that the Short-Term Rental was operated in accordance with all bylaws and regulations of the Town during the previous year.

G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.

H. Short-Term Rentals are prohibited in dwelling units owned by a Corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

I. Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

J. Time Share, Fractional and Interval Ownership Units. No Fractional Ownership, Interval or Time Share unit may engage in Short-Term Rental activities or be

eligible to receive a Certificate of registration for such unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

K. Any person or other legal entity, including Corporations, LLC's, Trusts, and S Corporations, which hold a Short-Term Rental Certificate on the effective date of this bylaw may continue to engage in Short-Term Rentals in accordance with the existing Rental Certificate, until the dwelling unit is transferred or conveyed, or the Rental Certificate is not renewed or is revoked by the Board of Health. If a property is bequeathed to a person or other beneficiary through a will, trust, or other instrument, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5. Enforcement.

A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's non-criminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of $100 for the first offense; $200 for the second offense; and $300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of

Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.

D. In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed $5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Or to take any other action relative thereto.

(Select Board)

ARTICLE 61
(General Bylaw Amendment: Short-Term Rentals)

To see if the Town will vote to amend Chapter 123 of the Town Code (Short-Term Rentals) and further to authorize the Town Clerk to make non-substantive, ministerial revisions to the numbering of this bylaw in order that it be in compliance with the numbering format of the Code of the Town of Nantucket; or to take any other action relative thereto:

Town of Nantucket, MA / Division 1: Bylaws / Part II: General Legislation
Chapter 123 **Short-Term Rentals**

[HISTORY: Adopted by the Annual Town Meeting of the Town of Nantucket 5-2-2022 by Art. 39, approved 11-3-2022. Amendments noted where applicable.]

§ 123-1 Purpose and intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in Massachusetts General Laws c. 64G, § 14 and is intended to:

(1) provide for an orderly process for identifying, registering, and regulating short-term rentals within the Town so as to insure that such short-term rentals do not create or cause any nuisance conditions within the Town.

(2) prevent the further growth of residential dwellings owned by corporations and used for the purpose of Short Term Rentals.

(3) continue to permit the operation of Short Term Rentals by natural persons.

(4) allow the Town to implement the Short Term Rental (STR) registration process and to collect sufficient data to accurately assess the practice of STRs, including the impact (if any) this practice may have on affordable/attainable housing and to subsequently develop additional regulations, if such data demonstrates additional regulation is necessary.

§ 123-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORPORATIONS.
All business and charitable corporations required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to M.G.L. c. 156D, § 2 or M.G.L. c. 180, § 4, respectively.

NATURAL PERSON.
A natural person is a title used to identify an individual human being.

OPERATOR
A person operating a short-term rental, including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental. It is the intent of this bylaw that the operator shall have the same meaning as set forth in General Laws c. 64G, § 1.

SHORT-TERM RENTAL
A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

TRANSIENT RESIDENTIAL FACILITY
Shall have the same meaning as in Chapter 139 of the Town Code.

Unless otherwise specifically provided in this bylaw, terms used in this bylaw shall have the same meaning as set forth in M.G.L. c. 64G.

§ 123-3 Registration, permitting, inspection and fees.

A. No person or other legal entity shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G.

The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.

B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.

C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop-work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.

D. The Board of Health shall not issue any certificate of registration unless the operator has:

(1) Submitted a complete application and paid all associated fees;

(2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and

(3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.

E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.

F. Certificates of registration are valid for one year and may be renewed at the discretion of the Town, provided that the operator has complied with the provisions of this chapter and any associated regulations during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year.

G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.

H. Any corporation, who owned a property and the structure(s) thereon and has been issued a Certificate of Occupancy (as applicable as determined by the Building

Commissioner), unless a Certificate of Occupancy was not required for a dwelling unit prior to the adoption of the State Building Code as determined by the Building Commissioner, prior to the May 2024 Annual Town Meeting, shall be allowed to short term rent such property as has been customary in Nantucket, and shall be exempt from Subsection I of this Section 123-3. When a dwelling unit is transferred or conveyed, or the certificate of registration issued by the Town pursuant to § 123-3 of this chapter is not renewed, any subsequent Short-Term Rental of the dwelling unit shall be subject to all of the requirements of this chapter, including Section I, except that if a dwelling unit is transferred to a person or other beneficiary by will, inheritance or gift, any Short-Term Rental activities shall be exempt from subsection I. Any Short-Term Rental contract for a period of time in Calendar Year 2024 that is entered into prior to the effective date of this bylaw amendment shall be exempt from the provisions of subsection I.

I. Short-Term Rentals are prohibited in dwelling units owned by a corporation and shall not be eligible to receive a certificate of registration. Short-Term Rentals are permitted and eligible to receive a certificate of registration in dwelling units owned by an LLC or Trust or a solely family-owned S Corporation, only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration. The Board of Health may adopt regulations pursuant to § 123-4 establishing the documentation required to establish eligibility under this section. This registration documentation shall include an attestation that the operator(s) are not a corporation and are all natural persons.

§ 123-4 Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5 Enforcement.

A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's noncriminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of $100 for the first offense; $200 for the second offense; and $300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.

D. In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed $5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6 Severability.
If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

~~§ 123-7 Effective date.~~
~~The provisions of this chapter shall take effect on the day this bylaw becomes effective pursuant to General Laws Chapter 40, § 21, or January 1, 2023, whichever is later~~

Or to take any other action related thereto.

(Steven Cohen, et al)

ARTICLE 62
(General Bylaw Amendment: Short-Term Rentals)

To see if the Town will vote to amend Chapter 123 of the Town Code (Short-Term Rentals) as follows (language to be interested shown in highlight):

Chapter 123. Short-Term Rentals

[HISTORY: Adopted by the Annual Town Meeting of the Town of Nantucket 5-2-2022 by Art. 39, approved 11-3-2022. Amendments noted where applicable.]

§ 123-1. Purpose and intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, § 14 and is intended to provide for an orderly process for identifying, registering, and regulating short-term rentals within the Town so as to insure that such short-term rentals do not create or cause any nuisance conditions within the Town.

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OPERATOR
A person operating a short-term rental, including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental. It is the intent of this bylaw that the operator shall have the same meaning as set forth in General Laws c. 64G, § 1.

SHORT-TERM RENTAL
A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

TRANSIENT RESIDENTIAL FACILITY
Shall have the same meaning as in Chapter 139 of the Town Code.

§ 123-3 Registration, permitting, inspection and fees.

A. No person shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.

B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.

C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop-work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.

D. The Board of Health shall not issue any certificate of registration unless the operator has:

(1) Submitted a complete application and paid all associated fees;

(2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and

(3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.

E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.

F. Certificates of registration are valid for one year and may be renewed at the discretion of the Town, provided that the operator has complied with the provisions of this chapter and any associated regulations during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year.

G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.

H. Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short Term Rentals are permitted in dwelling units owned by an LLC or Trust only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

I. An Owner may register to operate only two dwelling units as a Short-Term Rentals. If a person owns three or more properties, or owns two and is listed as a manager or agent for a third or more that is or are owned by an LLC, for example, that person must choose two to be registered as a Short-Term Rental. No person shall have more than two legal or equitable titles or beneficial interests in any dwelling unit used for a Short-Term Rental except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner’s name.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-

term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions. Events that include tents or amplified music or which would customarily require a license or permit are not allowed in Short-Term rentals.

§ 123-5. Enforcement.

A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's noncriminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of $100 for the first offense; $200 for the second offense; and $300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.

D. In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed $5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

§ 123-7. Effective date.

The provisions of this chapter shall take effect on the day this bylaw becomes effective pursuant to General Laws Chapter 40, § 21, or January 1, 2023, whichever is later.

(Michael Kopko, et al)