



Board of Selectmen

Meeting Agenda

The Provincetown Board of Selectmen will hold a public meeting on Thursday, May 22, 2014 at 6:30 p.m. in Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657.

1. Joint Meeting with Planning Board – Votes may be taken on the following items:
 - A. Presentation by Glenn Cannon, Cape Cod Commission regarding the Shank Painter Road Plan adopted by the Board of Selectmen in 2011.
 - B. Presentation by the Town Planner and Planning Board regarding recent required improvements within the Shank Painter Road Right-of-Way and a broader vision for the future of Shank Painter Road.
 - C. Public Comments.
 - D. Selectmen Statements.



Provincetown Board of Selectmen
AGENDA ACTION REQUEST
May 22, 2014

1

Joint Meeting with Planning Board

Presentation by Glenn Cannon, Town Manager, and Planning Board

Requested by: BOS

Action sought: Discussion

Proposed Motion(s)

- A. Presentation by Glenn Cannon Cape Cod Commission regarding the Shank Painter road Plan adopted by the Board of Selectmen in 2001**
- B. Presentation by the Town Planner and Planning Board regarding recent required improvements within the shank Painter Road Right-of-Way and a broader vision for the future of Shank Painter Road**

Discussion Dependent

Additional Information

See attached materials

Board Action

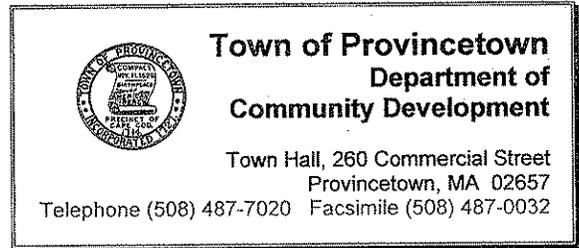
<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

To: Board of Selectmen and
Planning Board

From: Gloria McPherson
Town Planner

Date: May 20, 2014

Subject: Site Plan Review



Background

Provincetown's land use and development is governed by the Zoning Bylaw, which includes Site Plan Review Regulations, and the Subdivision Regulations. Zoning subdivides the community into "Zoning Districts" that define what types of land uses can go where, and controls the intensity of uses, the size of buildings, and their placement on the land. Subdivision regulations govern how properties are divided or combined in order to create individual lots for building. Site Plan Review is a process used to shape a project to achieve the best possible design.

The Supreme Judicial Court has defined its understanding of Site Plan Review as "regulation of use rather than its prohibition...contemplating primarily the imposition for the public protection of reasonable terms and conditions." Interestingly, the Zoning Act (40A) contains no reference to Site Plan Review. It is entirely a creature of cities, towns and the judiciary, which has repeatedly confirmed Site Plan Review as a regulation of use rather than something that could prohibit a use. It is only within the Special Permit process that the full range of discretion (approval, approval with conditions and denial) is available to the permit granting authority.

Discussion

Site Plan Review is a tool used to shape a project that typically focuses on parking, traffic, the circulation of vehicles, pedestrians and bicycles into, out of and within the site, drainage, landscaping, roadway construction, utilities, screening, lighting, and other aspects of a proposed project to arrive at the best possible design for the specific location.

Provincetown has a Site Plan Review process and regulations that are contained in Section 4000 of the Zoning Bylaws, a copy of which is attached to this report. Other sections of the Zoning Bylaw that are referenced in the SPR section and/or that are applicable to Shank Painter Road are also attached, and include Sections 2474 – Egresses, 3430 – Illumination, 4163 - Residential Design Standards, 4600 – Street Trees and 5331 – Development Impact Statements.

The Planning Board is responsible for the review and approval of Subdivision, Site Plan and Site Plan by Special Permit applications based on compliance with the Provincetown Zoning Bylaw. Site Plan Review is both site specific and discretionary, meaning that the Planning Board, in working with an applicant to reach approval, would take into consideration the particular features of the property and how it relates to the use, the street and the community in general, and apply conditions that are in keeping with the standards in the Zoning Bylaw, but with the flexibility to waive some requirements in some areas and request additional improvements in others.

All other zoning standards, such as allowed uses, density, parking requirements, setbacks and lot coverage would continue to apply to a specific site during the Site Plan Review process, because these are requirements that can only be changed through the variance process with the ZBA, rather than being part of the discretionary process of Site Plan Review.

Site Plan Review Process

The Site Plan Review process in Provincetown and elsewhere in the Commonwealth sometimes begins with an application for a building permit. The Building Commissioner, upon review of a building permit application, will often realize that there are other permits required by the Zoning Bylaw before a building permit can be

issued. In fact, some towns that do not have professional staff require that a person submit a complete application to the Building Commissioner and receive an official denial, which would then trigger the Site Plan Review or Special Permit process.

Typically, however, a person proposing a project, especially a commercial project, is familiar with the Provincetown Zoning Bylaws and understands that there may be discretionary permits required before a building permit can be issued. At least one informal pre-application meeting with the Town Planner, the Building Commissioner and any other pertinent Community Development staff, is required under the Zoning Bylaw in the early planning phases of the project.

When we work with applicants and their consultants at these pre-application meetings, we look at the level of complexity of a project and the number and types of approvals from permitting Boards that are required. We also provide professional advice, technical expertise and work with the applicant to develop and evaluate practical alternatives for effective project planning within the framework of the Zoning Bylaw and considering the specific characteristics of the site. Often applicants will meet with staff multiple times and send multiple draft plans for review and comments before submission.

Once a formal application is submitted, it is reviewed by the Town Planner, the Building Commissioner and the Permit Coordinator. The Permit Coordinator then either distributes applicable plans to the Fire and Police Departments (for instance, the Acting Police Chief has indicated that he only looks at plans that have to do with curb cuts and/or parking), or meets with them for comments. The proposed project is scheduled for a public hearing with the Planning Board, a legal notice of the public hearing is placed in the Banner and the "parties in interest," including abutters and abutters to abutters within 300 feet of the property line, are notified of the public hearing in accordance with Section 11 of 40A. At the public hearing, the Planning Board acts on the request of the applicant based on the plans and other information submitted and testimony received, balancing the standards in the Zoning Bylaw with the particular features of the site and the use, and the decision of the Board is filed in the office of the Town Clerk.

Amendments and Appeals of a Site Plan Decision

The Provincetown Zoning Bylaw provides for amendments of a site plan decision, which is described in Section 4020(f) Modifications, and reads "No deviation from an approved site plan shall be permitted without modification of the Site Plan utilizing the process set forth in Section 4020(b)-(e)" which is essentially submitting a new and revised site plan for consideration, following the same procedure as for the original plan.

Some town bylaws contain a written appeal process for a site plan decision. For those towns that do not, however, there is case law (plentiful and complicated) that has established an appeal procedure, which is still within the framework of the Zoning Act (40A).

Provincetown does not have a written appeal process for Site Plan Review, so if someone wanted to appeal a decision or the conditions of a Site Plan Approval, they would file an appeal with our *ZBA of the Building Commissioner's decision to issue permits under the SPR decision*, in accordance with Sections 8 and 15 of 40A, which specifies, among other things that the appeal must be taken within 30 days from the date of the order or decision which is being appealed. After the ZBA acts on the appeal, it would then be appealed through the courts. Decisions of site plans reviewed as part of a Special Permit application may be appealed to Superior Court in accordance with Section 17 of 40A within 20 days of the filing of the decision with the Town Clerk.

Article 4 – Special Regulations

Section 4000. Site Plan Review (SPR)

Section 4001. Transitional Provision The revised site plan provisions adopted by the October 21, 2013 Town Meeting under Article 16 shall not apply to any site plan approval decision or any special permit decision that was approved and in effect as of October 21, 2013, with "in effect" to mean either that the site plan or special permit decision granting favorable relief was duly filed with the Town Clerk's Office on or before October 21, 2013 and had not expired or lapsed or that the site plan or special permit decision denying relief was duly filed with the Town Clerk's Office by October 21, 2013 and the denial then was timely appealed and then overturned on appeal and a grant of favorable relief was perfected.

4005. Purpose

The purpose of this section is to provide for comprehensive review of projects as described below which represent an impact to either the Town as a whole, and/or one or more of its neighborhoods, so as to protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Provincetown.

The location and development of all buildings, structures, and site improvements affect the economic, social and environmental resources of the Town of Provincetown and that many developments, due to their magnitude and character, may cause significant alterations to the natural and built environments of the Town; that authority is rightfully vested in our Municipal government to regulate the location, character and impact of developments which may substantially affect the quality of life in Provincetown.

The SPR process regulates the use of land and structures to minimize adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people and to ensure the following:

- a. The safety and convenience of pedestrian and vehicular movement internal to the site, and in relationship to abutting properties and rights-of-way;
- b. The consideration of the protection of the use and enjoyment of the property of abutters;
- c. The protection of the historic character of the community in a manner consistent with the Local Comprehensive Plan;
- d. The protection of natural features and environmental resources.

The bylaw establishes the application procedure and requirements for site plan review for such uses and structures in order to further the intent of the Zoning By-laws and the Local Comprehensive Plan and to ensure that new development and redevelopment which may have significant impacts upon abutting land, the Town, or any neighborhood, is designed in a manner that complies with the Zoning By-laws and addresses other community needs.

4010. Administrative Site Plan Review

4011. Projects requiring Administrative Site Plan Review by the Planning Board. Except as exempted by Section 4012 or requiring review under Section 4015, all alteration of land, construction, exterior structural alteration, structural relocation, and change in use of any building or residential, commercial, industrial, cultural or institutional uses shall require Administrative Site Plan Review.

4012. Projects exempted from Site Plan Review

- a. The construction or enlargement of any single-family, two-family dwelling, two dwelling units on one lot, or building accessory to such dwelling,
 - 1) except where such dwellings are located in the High Elevation District;
 - 2) except where the development of such dwellings requires the excavating or grading of an area greater than the minimum lot size in the zone in which the parcel is located.
- b. Any construction or alteration which has no effect on the footprint of an existing residential building or accessory structures, and does not add parking.
- c. Any construction or alteration which has no effect on the footprint of an existing commercial building (s) or accessory structures, and does not add parking, except if the alteration of premises containing such uses is greater than 50% ;of the floor area for developments of more than 2000 square feet of total commercial space, interior and exterior.
- d. Any use specifically exempted from regulation pursuant to the Massachusetts General Laws c.40A §3.

4015. Site plan Review by Special Permit

- a. The following developments shall require Site Plan Review by Special Permit by the Planning Board:
 - (1) developments consisting of the aggregate of residential units that will result in four or more residential units on any parcel;
 - (2). developments consisting of more than 2,000 square feet of new commercial area;
 - (3). development of properties consisting of an existing or proposed drive-through facility or raised loading dock;
 - (4). development of commercial properties that have curb cuts greater than 25% of their existing or proposed street frontage;
 - (5). All new construction or additions or any excavation, land removal or earth moving of more than 750 cubic yards that will alter the topography from natural grade, whether or not subject to a building permit;
- b. The Planning Board may, at its discretion, require a surety to guarantee completion of the elements and conditions of plan approved by Site Plan Special Permit.

4020. Procedure

- a. Pre-application review process. Any prospective applicant shall arrange for a pre-application conference with the professional staff of the Community Development Department. One or more coordinated review meetings may be scheduled prior to application submission for the purpose of reviewing alternative schematic plans, and to give technical feedback before the applicant makes a significant investment in the project. The prospective applicant may also request the review of schematic plans with the Planning Board on an informal basis.
- b. Application submission. An applicant for a site plan review shall submit to the Community Development Department copies of a site plan containing the information required by the Planning Board as described below, together with an application form and fee prescribed. The official date of receipt of such plans shall be the day such plans are deemed complete and stamped in the Community Development Department. The applicant may be required to amend the application or provide additional information prior to being deemed complete.
- c. Public Hearing. Within 65 days of submission, the Planning Board shall hold a public hearing to review the site plan.
- d. Decision. Within 30 days of the conclusion of the public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the application with a statement of reasons.

- (1) Administrative Site Plan: action on an administrative site plan requires a majority vote of the Planning Board.
 - (2) Special Permit Site Plan: action on a special permit site plan requires a super-majority vote of the Planning Board.
- e. Site Plan Approval Conditions. Where the Planning Board approves a site plan "with conditions", the conditions imposed by the Planning Board will be incorporated into the issuance of a Building Permit.
 - f. Modifications. No deviation from an approved site plan shall be permitted without modification of the Site Plan utilizing the process set forth in Section 4020(b)-(e).
 - g. Extension of Time Limits. The applicant may request and the Planning Board may grant an extension of the time limits set forth herein. Failure by the Board to act in the time specified shall be considered approval of the site plan. Failure of the applicant to submit the necessary information may be grounds for denial. The decision of the Planning Board shall be in writing. The Planning Board shall notify the Town Clerk and the applicant within seven days of action taken by the Board.

4025. Required contents of site plan

4026. The Planning Board may require that all site plans be signed and bear the stamp of a professional engineer when such plans require the design of drainage improvements. Otherwise, the review authority may require plans prepared by a professional land surveyor, registered architect, or registered landscape architect. The Planning Board may require that all plans showing property lines and/or dimensions from structures to property lines shall bear the stamp of a professional land surveyor.

4027. All site plans shall be on standard 18" x 24" or 24" x 36" sheets, or otherwise as deemed appropriate by the review authority, and shall be prepared at a standard engineering scale appropriate to the size of the site, and the level of detail required. At least one set of drawings shall be provided at 11" x 17". All drawings at this size shall also include a graphic scale. Plans in an acceptable electronic format shall also be provided. Separate plans shall be provided for following:

- a. Existing condition including contours, utilities and vegetation
- b. Proposed Grading (2' contours, max.) Layout (fully dimensioned),
- c. Proposed Utilities
- d. Proposed Landscaping

4028. The Planning Board may require the following information in connection with site plan review.

In deciding which requirements will apply to a specific application, the review authority shall consider the size and intensity of the use, and the unique circumstances of each application.

- a. Name of the project, locus, boundaries, North arrow, date, and scale of the plan;
- b. Key Map at a scale of 1" = 500', depicting the property with reference to surrounding properties, roads, and zoning district lines;
- c. Name and address of the owner of record, developer, and professional seal and certification of the certifying professional;
- d. Names and addresses of all owners of record of all abutting property owners;
- e. Existing lot lines, easements, and rights-of-way;
- f. The location, dimensions, and use of all existing and proposed structures within the site;
- g. Location and identification of all existing and proposed site improvements;
- h. General location and identity of all present and proposed utility systems;
- i. Erosion and sedimentation control measures;

- j. Grading Plan with existing and proposed topography at two-foot contour intervals, only if new, or expanded parking and/or drainage structures are proposed, including the volume and area of graded or excavation material if expected to exceed greater than 2000 cubic yards or an area greater than the minimum lot size in the zone in which the parcel is located;
- k. Floodplain District boundary, base flood elevation, and existing and proposed lowest floor elevation, pursuant to Section 2330, as applicable;
- l. A landscape plan, depicting existing and proposed vegetation; including the identity and location of trees four inches in diameter or greater; and the location, size and type of proposed landscaping, conforming to the landscaping and buffering standards of this section;
- m. The location of wetlands pursuant to Local and State Wetlands Regulations as applicable and the illustration of the 100 and 50 foot wetland buffers.
- n. A Zoning Table, demonstrating compliance with the dimensional requirements of this chapter.
- o. Abutting land uses and the location and use of structures and appurtenant improvements on abutting properties;
- p. Location and identification of all existing and proposed site improvements, including public and private ways, parking areas, driveways, sidewalks, ramps, curbs, including traffic directional arrows and paintstripping; fences and buffers for screening purposes; paths; outdoor lighting fixtures; walls; service areas; refuse, and other waste disposal containers; standard specifications and typical cross-sections shall be provided, as appropriate;

4030 Waiver

Any applicant for site plan review may request a waiver of any requirements of this section. Waiver requests shall be made in writing to Planning Board. The Planning Board may waive any such requirements which it determines are unnecessary in its judgment in order to make a finding that the review objectives and performance standards have been met. In granting such waivers, the Planning shall document for the record their reasons for each such waiver, and such waivers shall be approved by a majority vote of the Board present and voting. Before any waiver request is voted upon by the Planning Board, that the waiver request be publically posted and the abutters be notified via certified letter.

4035 Review Criteria

In its review of the site plan, the Planning Board shall consider the following:

- a. That the plan is in accordance with the Provincetown Zoning By-Laws and is consistent with the goals of the Local Comprehensive Plan.
- b. That the plan meets the design requirements outlined in Section 4163.
- c. That the plan shall address the requirements of Section 5331.
- d. Protection of public amenities and abutting properties through the mitigation of any detrimental impacts of any proposed use;
- e. Protection of unique, natural, scenic, or historic features of the site,
- f. The safety and convenience of pedestrian and vehicular movement within the site, and in relation to rights-of-way and properties in proximity to the site;
- g. Protection of the public health and safety within and adjacent to flood hazard areas;
- h. That the plan shall conform to the Illumination Standards of Section 3430 Illumination.

4053 Commercial Design Standards In its review of the site plan the Planning Board shall consider the design standards in Section 4163. In addition to the requirements of 4163, the following shall apply to Commercial Business (retail, wholesale, service, warehousing) and Industrial Developments:

1. Access and Traffic Impact:

- a. Access and egress must comply with Section 2474 in Zone GC. In all other zones, curb cuts shall be limited to two per business (clearly marked 'entrance' and 'exit') limited to 18' in width each.
- b. A Traffic Impact Assessment shall be prepared including: a detailed assessment of the traffic safety impacts of the proposed project on the carrying capacity of any adjacent road, a plan to minimize any such impacts, adequate pedestrian and bicycle access including sidewalks to provide access to adjacent properties and between individual businesses within a development.

2. Landscaping:

- a. In Zone GC: A landscaped buffer strip at least 10' wide continuous except for approved driveways shall be established adjacent to any public road to visually separate parking and other uses from the road and which shall be planted with medium height plant materials set back a sufficient distance at intersections to prevent any traffic visibility hazard.
- b. In Zone TCC: 5% of the front and/or side setback area shall be permanently landscaped.
- c. Large parking areas shall be subdivided with landscaped islands so that no paved surface shall extend more than 80' in width. At least one (minimum 2" caliper) trees per 35 parking spaces shall be provided.
- d. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense evergreen plantings, earthen berms or tight fences with evergreen plantings.
- e. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

3. Appearance/Architectural Design:

Architectural design shall be compatible with historic character and scale of buildings in the Town (including compliance with Article 3 section 3300 of these By-laws) through use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used.

4. Erosion Control:

- a. Exposed or disturbed areas shall be permanently stabilized within six months of (permanent or final) occupancy of a structure.
- b. During construction runoff shall be trapped on site.

5. Infrastructure:

The applicant must demonstrate that the proposed development will not overburden public water, septage or solid waste facilities (as indicated in Section 5331).

4120 Density Schedule The total lot area must equal at least the square feet/unit as derived from the following schedule: (Provided however, that building permits issued prior to April 1, 1986 shall be governed by *(editor's note: old numbering Article III, Section 3110)* Article 4, Section 4120 prior to amendment of this section at the 1986 Annual Town Meeting)

Dwelling Units	Number of Units Proposed	Number of Square Feet/Unit Required
First	1-4	2,500
For the next	6 (5-10)	3,000
For the next	6 (11-16)	3,500

For the next	9 (17-25)	4,500
Beyond 25	26 or more	5,000

Commercial Accommodations	Number of Units Proposed	Number of Square Feet/Unit Required
First	1-10	1,000
For the next	11-20	1,500
For the next	21-30	2,000
For the next	31-40	2,500
For the next	41 units and beyond	3,000

4130 Yards No hotel, motel or inn structure shall be erected closer to the street line than thirty (30) feet. Side and rear yards abutting or crossing a district boundary for a district not permitting hotels, motels and inns shall be twice that otherwise required.

4140 Lot Coverage Buildings shall not cover more than 40% of the total lot area.

4150 Green Area A minimum of 30% of every lot, regardless of size, shall be reserved for green areas.

4163 Residential Design Standards In its review of the site plan, the Planning Board shall require that the following minimum standards be met if applicable. The Planning Board may waive any design standard which would be unreasonable to enforce due to the peculiarities of the site or size of the development.

1. Ways within the site shall not intersect another way without the site or street outside the site at less than sixty degrees.
2. Curb radii at street intersections shall not be less than twenty-five feet.
3. The minimum width of traveled surface within the site shall not be less than eighteen feet.
4. Where unusual topographical conditions exist, the Board may permit center line grades to be up but not greater than twelve percent.
5. All storm water drainage is to be contained within the site in a manner acceptable to the Planning Board.
6. In new construction utility service shall be underground.
7. Surfaces of parking area should be suitable for the purpose planned.

4164 Utilities The Developer shall also provide a communal sewerage treatment and disposal system which must be approved by the Provincetown Board of Health. The Developer shall also provide within multi-family or commercial accommodation developments a water distribution system which shall be approved by the Provincetown Water Commission.

4165 Auto Reception For hotels, motels, or inns a reception area not otherwise earmarked for parking shall be provided, of sufficient area to enable an automobile to enter while awaiting the assignment of quarters and parking space related thereto; so that such vehicles will not be required to increase congestion upon the public roads.

4170 Change of Use/Non-Residential to Residential Use Conversions

1. Purpose and Intent

The purpose of this by-law is to establish special permit requirements for changes of use from commercial to residential use and to minimize adverse impacts on the community from such

USE	NUMBER OF SPACES
Theater	1 space/5 seats
Church	1 space/8 seats
Funeral home	1 space/50 sq. feet floor area
Restaurant, bar	1 space/50 sq. feet floor area
Skating Rink	1 space/100 sq. feet floor area
Bowling alley	1 space/250 sq. feet floor area
Offices	1 space/350 sq. feet of floor area
Miscellaneous (any building or structure, not specifically identified by one of the above mentioned use categories, which exceeds 350 sq. feet in floor area.)	1 space/350 sq. feet floor area or portion thereof

2474 Egresses In a GC Commercial District, each parking area for three or more vehicles shall have a point of entry, turn-around and exit to eliminate the need to back out upon the street. A single or shared point of entry and exit is encouraged wherever feasible.

Section 2500 Dimensional Requirements

2510 Applicability No structure shall be erected, altered, or moved, and no lot shall be created or changed in size or shape (except through a public taking) so as to result in violation of these dimensional requirements, unless expressly exempted from them by this By-Law or by Sec. 6, Chap. 40A G. L.

2520 Statutory Exemption Under Section 6 of Chapter 40A, G.L., certain isolated lots (see 1313) are generally not subject to subsequent amendments in dimensional requirements, and land shown on subdivisions or other plans endorsed by the Planning Board are exempted from subsequent zoning amendments in certain respects for a limited period of time. (See Sec. 6, Ch. 40A G.L.)

2530 Isolated Lot Exemption Chapter 40A, Sec. 6 M.G.L. exempts certain vacant lots for single or two family residential use only, from any increase in dimensional requirements governing area, frontage, width, yard or depth. Such protection shall apply to legally created lots not meeting current requirements provided that the applicant documents that:

- (a) at the time such lot was recorded or endorsed, whichever occurred sooner, it:
 - (1) was not held in common ownership with any adjacent land; and
 - (2) conformed to then existing requirements; and
 - (3) had at least 4,000 square feet of lot area and 20 feet of frontage on a qualified way (as specified in Chapter 41, Sec. 81 L, M.G.L); and
- (b) the lot is not to be used for multi-family or commercial accommodation use.

2540 Harbor Setback No structure other than a pier, wharf or other facility requiring waterfront contact shall be constructed within 35 horizontal feet of mean high-water of any salt water body.

2550 Multiple Buildings Per Lot More than one building may be erected or moved onto a single lot provided that they are not closer to each other than nine (9) feet or twelve (12) feet if either exceeds two stories in height. Lot area requirements must be met for each principal building without counting

D. The displaying and selling of commodities (excluding food and beverage) by businesses and residents during the weekend (Saturday and Sunday) in May, of the "Monumental Yard Sale", which shall be under the sponsorship of a local businesspersons' organization; and an inventory sale during Columbus Day Weekend (Saturday, Sunday, and Monday) in October. No displays or sales shall take place within or upon public land, sidewalks or roadways. Displays and sales shall only appear upon property of the participants, whether jointly or independently. Displays and sales shall not impede pedestrian traffic or cause concerns for the public's safety.

3430 Illumination

3431 Overspill Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting other than municipal street lighting shall be so designed and arranged that their collective result does not create so much light overspill onto adjacent premises or roadway that it casts observable shadows, and so that it does not create glare from unshielded light sources.

3432 Standards Unless all the following are met, it will be presumed that the above performance requirements are not satisfied:

- a. Internally illuminated signs on the premises collectively total not more than 200 watts unless not exceeding 15,000 lumens.
- b. Externally illuminated signs employ only shielded lights fixed within three feet of the surface they illuminate.
- c. Exterior lighting fixtures other than signs are mounted not more than 15 feet high.
- d. Building floodlighting totals not more than 2,000 watts unless not exceeding 50,000 lumens.

3433 Special Permit The Board of Appeals may grant a Special Permit for lighting which does not comply with these specifications if it determines that the performance standards of the first paragraph will still be met, and if the applicant documents that brightness of any sign or building element will not exceed 50 foot lamberts in Commercial Districts or 200 foot lamberts in other districts.

4330 Campgrounds Campgrounds shall conform to the following minimum requirements:

- a. Lot area minimum of 10 acres, but not less than 7,500 square feet per campsite.
- b. Each rental plot shall have an area of not less than 2,500 square feet and a width of not less than 40 feet in its smallest dimension.
- c. If each plot is not serviced with water and sanitary drainage, common sanitary facilities shall be provided.
- d. No unit for overnight occupancy shall be placed within 100 feet of a street line or 40 feet of any other lot line.
- e. No unit shall be occupied for more than six months in any twelve-month period.

Section 4400 Home Occupation

Home occupations are permitted within a dwelling if no more than 30% of the habitable floor area of the residence is used for the occupation or occupations, not more than one person not a member of the household is employed on the premises in the occupation or occupations, there is no exterior display or visible storage, there is no noise, vibration, dust, odors, heat, glare, or other disturbance discernible from other properties, there is no hazard, there is no retail sale on the premises, traffic generated does not exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided for off-street other than within a required front yard.

Section 4500 Inland Wetland Areas

4510 Purpose The purpose of this By-Law is to preserve and maintain the purity of inland waters and the various ecosystems they support, to preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public.

4520 Applicability This By-Law shall apply to land under and adjacent to wetlands of two hundred square feet or greater including but not limited to swamps, bogs, unused bogs, dry bogs, streams, ponds or banks bordering such inland wetland areas, these areas being delineated by following a contour line of two (2) feet above the outer (upland) wetland boundary of such areas as defined by M.G.L. Chapter 131, Sec. 40.

4530 Allowed Uses All inland wetlands and waters shall be held in a state of conservation against pollution and contamination. Therefore, permitted uses include conservation of water, plants and wildlife; all other uses are prohibited, including landfill, dumping, buildings or structures. If the Building Inspector is uncertain as to the exact location of any contour line bounding such inland wetland areas, the submission of sufficient topographical data may be required in order to establish the precise location of said lines on any lot affected hereby before issuing a Building Permit for any building or structure to be located thereon.

Section 4600 Street Trees

To improve the visual character of the Town and to assist in improving and maintaining air quality, persons developing any nonresidential property or constructing any residential street servicing more than three lots, including those streets approved but not constructed as of the date of this By-Law, or constructing any residential property with two or more dwelling units shall plant street/shade trees at a ratio of not less than one 2" caliper tree for every 50 feet of street frontage for residential developments or one 2" caliper tree for every 50 feet of road frontage and for every 50 feet of driveway frontage for commercial developments.

For the purpose of this By-Law "Shade Trees" shall exclude pitch pine (*Pinus rigida*) and ornamentals which do not normally attain a height of at least 20 feet at maturity in this environment, except that where overhead utility services exist, flowering ornamentals of less than 20 feet mature height may be substituted with the prior permission of the Tree Warden.

Trees may be grouped to provide esthetics interest or to avoid curb openings, drainage structures or other utilities, but should occur not less than 8 feet nor more than 30 feet from pavement limits for streets and not less than 5 feet nor more than 30 feet from pavement limits for driveways.

The provisions of this section shall be enforced by the Building Inspector who shall not issue any permanent occupancy permit until it has been certified by the Tree Warden that the required plantings have been made.

Section 4800 Affordable Housing By-Law

1. Accessory Dwelling Units. Accessory dwelling units may be allowed in any residential or commercial zoning district by special permit from the Zoning Board of Appeals, notwithstanding any provisions in the Zoning By-law that may restrict the total number of dwelling units per lot, subject to the requirements, standards and conditions listed below.

2. Requirements and Standards

A. An accessory dwelling unit shall be subject to a housing restriction, for a term of at least twenty years, that limits rental rates and resale prices, and limits eligibility for occupancy and purchase.

Affordable Housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income; or available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 80% of Barnstable County median income.

Median Income Community Housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 100% of Barnstable County median income."

Middle income community housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 150% of Barnstable County median income.

B. The accessory dwelling unit shall be located within the principal structure or an existing or new freestanding structure.

C. The Inspector of Buildings and Health Agent shall have inspected an existing structure for compliance with public safety and public health codes.

D. A special permit application shall include a certification of the amount of rent to be charged or the sale price, as applicable, for each accessory dwelling unit and the income of each occupant

b. The Cape Cod Commission; or by

c. Any person including any officer or Board of the Town of Provincetown or any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of Ch. 40A, G. L.; or this By-Law.

5224 To issue Comprehensive Permits. Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent with local zoning, building, health or subdivision requirements as authorized by Sec. 20-23, Ch. 40B G. L.

5225 To issue withheld Building Permits. Building permits withheld by the Inspector of Buildings acting under Sec. 81Y, Ch. 41, G. L., as a means of enforcing the Sub-division Control Law may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the sub-division plan in question.

5230 Public Hearings The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws on all appeals and petitions brought before it.

Section 5300 Special Permits

5310 Special Permit Granting Special Permit applications shall be heard and decided by the Board of Appeals except where otherwise noted in this By-Law.

5320 Public Hearings Special Permits shall only be issued following public hearings held within sixty-five days after filing with the Special Permit Granting Authority, an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

5330 Consideration Special Permits (other than those specified in Section 3420) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

5331 Development Impact Statements

WHEREAS due to the existing limitation of the Town's resources the impact of such an additional intensity use should be evaluated in a consistent framework. For the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town, before approval of any development/conversion/construction requiring a Site Plan or Special Permit, the Planning Board or the Board of Appeals may require that the applicant submit a Development Impact Statement if the scope of the project or the characteristics of the location indicate a need therefore.

The Development Impact Statement shall contain appropriate supporting data, setting forth the probable impact or effect of the proposed project on the neighborhood and the Town generally. In compiling such Impact Statement, the applicant shall consult with the various Town Departments having knowledge and authority such as the Department of Public Works, Health Agent, Assessor, Finance Committee, Fire and Police Departments, Conservation Commission, etc. Such Development Impact Statement shall cover at least the subject area listed hereunder and such other subject areas as the Board of Appeals may, in particular cases, deem necessary.

- a. Impact of the density and location of the project on water supply, water quality or the provision thereof.
- b. Impact of the individual and collective on-site septage system or systems on abutting property or any marsh, bog, pond, or other wetland or body of water by introducing therein excessive nutrients, dangerous chemical substances or pathological organisms.
- c. Impact of drainage run-off in terms of possible damage to adjoining property and/or overload or silt up or contamination in any way of a marsh, bog, swamp or other wetland or body of water.
- d. Impact of any proposed filling, cutting, or other alteration of the topography or any devegetating operations on existing drainage patterns within or in the vicinity of the project.
- e. Impact on any adjacent, access or other serving roads, whether public or private, including carrying capacity, maintenance and safety both during and after construction.
- f. Impact of the estimated additional new service requirements in time and/or cost that the proposed project may place upon the Town sanitary disposal facilities for septage and solid waste disposal both during and after construction.
- g. Impact of any additional burdens the proposed project may place upon the public safety services (such as fire and police), including probable cost in terms of hours and facilities both during and after construction.
- h. Impact of additional burdens the proposed project may place upon Town administration, including Inspection Dept., Assessor, Treasurer, etc.
- i. Impact of proposed project on solar access of neighboring buildings (ref. Chap. 637 MGL).
- j. Impact of proposed development in terms of any probable detrimental effect on the ecology of the area, such as disruption of the biological environmental so as to endanger desirable species of trees and other vegetation or encourage proliferation of undesirable species, or so as to upset an existing balance between animal and insect pests and their natural bird, animal or insect predators, resulting in damage to either persons or useful and desirable forms of vegetation.

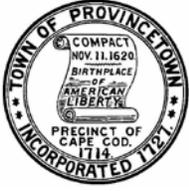
5340 Expiration Special Permits shall lapse twenty-four months following grant thereof (plus such time required to pursue or await the determination of an appeal referred to in Sec. 17, Ch. 40A, G.L.) if a substantial use thereof or construction has not sooner commenced except for good cause as determined by the Board of Appeals.

Section 5400 Other Regulations

This By-Law shall not interfere with or annul any by-law, rule, regulation, or permit, provided that unless specifically excepted, where this By-Law is more stringent it shall control.

Section 5500 Validity

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.



Provincetown Board of Selectmen
AGENDA ACTION REQUEST
May 22, 2014

1C

PUBLIC STATEMENTS

Requested by: Board of Selectmen

Action Sought: Open

Proposed Motion(s)

Five minutes maximum. Selectmen do not respond during Public Statements.

Additional Information

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



Provincetown Board of Selectmen
AGENDA ACTION REQUEST
May 22, 2014

1D

SELECTMENS STATEMENTS

Requested by: Secretary to BOS, Mary Timmons

Action Sought: Discussion

Proposed Motion(s)

Motions may be made and votes may be taken.

Cheryl Andrews

Robert Anthony

Raphael Richter

Erik Yingling

Tom Donegan

Additional Information

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>
