

# Meeting Agenda

The Provincetown Planning Board will hold a Public Hearing at 6:00 P.M., followed by a Public Meeting and a Work Session on Thursday, March 23, 2023, in the Judge Welsh Room at Town Hall, 260 Commercial St., Provincetown MA 02657.

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law.

Joining the Meeting: [Click here to join the meeting](#)

Microsoft Teams: Join on your computer or mobile app

Phone: Or call in (audio only) [\(833\) 579-7589](tel:8335797589) Phone Conference ID: 203 175 327#

To Participate during public comment:

- Teams: Raise hand to be called on to speak; or
- Phone: Speak name clearly to be called on to speak.

**Please do not speak again until acknowledged by Chair or meeting moderator.**

- Keep your phone muted at all times when not talking (\*6 to mute & unmute your phone);
- Do not use speakerphone, Bluetooth devices (speakers or headphones); and
- Mute all background noises, including PTV, television or computer and use only phone audio.

**AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AND VOTES MAY BE TAKEN ON ANY ITEM**

1. **Public Comment:**

2. **Public Hearing on Zoning By-Law Amendments: Inclusionary and Incentive Zoning Bylaw. Filing of the deed restriction.** (*Deletions shown in strike-through and new text shown as underlined.*) To hear comments from the public and vote on the following proposed amendments to the Provincetown Zoning Bylaws for the April 5, 2023 Annual Town Meeting Warrant, as well as any proposed petitioned articles concerning land use or development as well as any other proposed or petitioned articles concerning land use or development: **A copy of these proposed Zoning Bylaw changes is available for public inspection at the Office of the Town Clerk, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA 02657.**

***Inclusionary and Incentive Zoning Bylaw. Filing of the deed restriction.*** (Deletions shown in strike-through and new text shown as underlined.) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 4 Special Regulations, Section 4180 Inclusionary and Incentive Zoning Bylaw as follows:

6. Submission Requirements and Procedures

a. Special Permit application, review and decision procedures shall be in accordance with the Provincetown Zoning Bylaw and the Planning Board's rules and regulations.

b. Affordable and Community Housing units created in accordance with this bylaw shall use deed restrictions that require the units to remain income restricted in perpetuity or the longest period allowed by law and for so long as the unit or project does not conform to the otherwise applicable underlying zoning requirements and any such restriction shall be held by the Town and be released only by a vote of Town Meeting as provided for by state law. Such restriction shall also grant the Town a right of first refusal to purchase a unit in the event that a subsequent qualified purchaser cannot be located, which the Town shall have the right but not the obligation to exercise and shall not release the deed restriction if a qualified purchaser cannot be located.

~~c. No Building Permit shall be issued for any units in the development until the Planning Department receives evidence that the Affordable Housing restriction has been approved by DHCD, or the Community Housing restriction has been approved by Town Counsel.~~

d. No Certificate of Occupancy shall be issued for any units in the development until the Planning Department receives evidence that the housing restriction ~~has been executed and recorded at the Barnstable County Registry of Deeds~~ has been accepted by the Select Board. The last Certificate of Occupancy within the development shall not be issued unless and until all the housing restrictions have been recorded. or to take any other action relative thereto.

[Requested by the Planning Board]

***Explanation of Article:*** This amendment will correct an internal inconsistency in the bylaw that could delay the potential sale of an affordable unit to a buyer. Housing deed restrictions are recorded at the closing of sale. In order to loan on a unit there has to be a Certificate of Occupancy in place. The bylaw requires the Deed restriction to be recorded before any Certificate of Occupancy could be issued, but this creates an unacceptable "chicken and egg" scenario. This amendment will fix that problem, yet protects the Town and ensures that the affordable component of any development project will be completed in a timely manner.

***Zoning Bylaw Amendment: High Elevation Protection District.*** (Deletions shown in strike-through and new text shown as underlined.) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2 District and District Regulations, Section 2320 High Elevation Protection District of the bylaw as follows:

2320 High Elevation Protection District

A. Purpose. To preserve high elevation dunes which are of natural scenic beauty, important to the tourist economic base of the Town, and which present serious concerns regarding

the consequences of erosion. Construction within HEP Districts A and B shall be configured to minimize construction activity in these districts, minimize the alteration of existing grades, minimize the removal of existing vegetation, and minimize the visual impact.

- B. District Delineation. All elevations above the 40' contour line shall be delineated as HEP District A; all elevations above the 60' contour line shall be delineated as HEP District B.
- C. Special Regulations for HEP Districts A and B. All new construction or additions and expansions, including but not limited to decks greater than 1 foot above natural grade and other non-enclosed structures, even if the overall footprint is not being enlarged or any excavation, land removal or earth moving of more than 2500 cubic feet that will alter the topography from natural grade, whether or not subject to a building permit shall be subject to High Elevation Site Plan Review subject to the procedure specified in Section 4020 and the following requirements:
1. To facilitate siting and design related to the special considerations of the setting, the High Elevation Site Plan shall conform to the requirements of Section 4025 through 4028 and the following additional information shall accompany the site plan:
    - a. Placement, height, physical characteristics of all existing and proposed building(s) and structures.
    - b. Existing and Proposed vegetation and landscape features including location and description of screening, fencing, retaining walls, and similar structures; and planting;
    - c. Viewpoints in the form of photographs of the site from points along harborfront, streets, highways and town entry vistas;
    - d. Measures to be undertaken during and after construction to prevent erosion;
  2. In its High Elevation Site Plan Review, the Planning Board shall apply the following standards:
    - a. Placement of buildings, structures, or signs shall not detract from the site's scenic qualities and shall blend with the natural landscape.
    - b. Building sites shall be directed away from the crest of hills in order to preserve the visual and physical integrity of the dune unless such siting shall be more detrimental to the physical integrity of the dune.
    - c. Developments for more than one structure shall incorporate variable setback and multiple orientation.
    - d. Foundations shall be constructed to reflect natural slope of the terrain; excessive support members or mechanical systems shall be covered and screened.
    - e. Planting materials Landscaping shall consist primarily of native trees and plants, in coordination with the Provincetown Tree Warden.
    - f. Retaining walls shall be screened with appropriate materials.
    - g. Any grading or earth-moving shall be planned and executed in such a manner that final contours are consistent with existing terrain both on and adjacent to the site.

- h. Utilities shall be constructed and routed to minimize detrimental effects on the visual setting.
- i. Storage of petroleum products shall be placed on a diked impermeable surface.
- j. All run-off from impervious surfaces shall be recharged on site by being diverted to storm water infiltration basins designed to handle a 25-year storm and covered with natural vegetation.
- k. No area totaling 2000 square feet or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless special controls are delineated and approved to control run-off, avoid erosion, and either a constructed surface or cover vegetation, provided and mulched by end of August. No such areas shall remain through the winter without plant material cover.
- l. During construction runoff shall be trapped on site and all exposed or disturbed areas shall be temporarily stabilized within three months and shall be permanently stabilized within six months of (permanent of final) the end of work.
- m. That the plan shall conform to the Illumination Standards of Section 3430 Illumination.

D. Special Regulations for High Elevation Protection District B In addition to the above, construction of buildings which extend beyond the height of existing vegetation (including trees) shall be prohibited in this District, or no building shall be greater than 1 1/2 story high.

or to take any other action relative thereto.

*[Requested by the Planning Board]*

**Explanation of Article:** *This amendment will strengthen Section 2320 to better protect dunes during construction in the HEP districts, including the consequential excavation and removal of existing vegetation that naturally anchors the dunes.*

## 2. **Public Hearings:**

### **PLN 21-26**

Application by **Michael J. Shuster and Richard L. McCracken** seeking Site Plan Review pursuant to Article 2, Section 2320, High Elevation Protection District B, of the Zoning By-Laws to construct retaining walls, stepped terraces (plateaus), a shed, and a swimming pool on the property located at **99 Bayberry Avenue**. This is a remand, pursuant to the direction of the Land Court, back to the Planning Board with a redesign of the applicants' previous proposal.

### **PLN 23-10**

Application by **Stanley Sikorski** seeking Site Plan Review pursuant to Article 2, Section 2320(A), High Elevation Protection District A, of the Zoning By-Laws to install a shed on the property located at **1 Fortuna Road**.

**PLN 23-11**

Application by **Robin B. Reid, Esq.**, on behalf of **198 Commercial Propco, LLC**, requesting a Special Permit pursuant to Article 4, Section 4120, Density Schedule, footnote 1, of the Zoning By-Laws to waive the density schedule for commercial accommodations for the addition of two rooms to a guesthouse on the property located at **198 Commercial Street**.

3. **Work Session:**

a) **Informal Discussion of Proposal to Develop 8 Willow Drive:**

b) **Pending Decisions:**

**PLN 23-2**

Application by **Eliza Cox**, on behalf of **Christine Barker**, seeking a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, (5)(B), to demolish a pre-existing, non-conforming structure and to reconstruct it as a mixed-use structure consisting of thirty-one hotel units, four residential condominium units, a restaurant/bar, a meeting space, and a ground-level parking area resulting in a net increase of two or more dwelling units, to provide an off-site affordable housing unit, and to request relief from the By-Law's height limitations at the property located at **227R Commercial Street**.

**PLN 23-8**

Application by **Doug Dolezal**, on behalf of **Thomas G. Myers et al.**, seeking a Special Permit pursuant to Article 4, Sections 4180, Inclusionary and Incentive Zoning By-Law, and a Site Plan Review by Special Permit pursuant to Article 4, Section 4015 a. (1), Site Plan Review by Special Permit, of the Zoning By-Laws to create 5 new dwelling units, including one affordable dwelling unit, on one lot and a two-family dwelling unit and a workforce dwelling unit on a second lot after dividing the property located at **27 Winthrop Street**.

c) **Approval of Minutes of February 23 and March 9, 2023:**

d) **Any Other Business:**

Dana Masterpolo, Chair

Posted by the Town Clerk [www.provincetown-ma.gov](http://www.provincetown-ma.gov), 03/17/23 8:27 am, EP