



Town of Dennis

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255 Lower County Road

PLANNING BOARD SPECIAL PERMIT - STAFF REPORT – 2026-01-30

APPLICANT:	Epsilon Portunus LLC C/O Kieran Healy (BSC Group)
PROJECT ADDRESS:	247 & 255 Lower County Road, Dennisport MA
MAP AND LOT NUMBER:	37-42-1 & 37-36
APPLICANT ADDRESS:	349 Route 28; Unit: D, West Yarmouth MA (02673)
CASE NUMBER:	PBSP-25-13
ZONING:	Resort Residential (RR)
HEARING DATE:	February 2, 2026

PROPOSAL	To change the use and lift the current buildings
APPLICANT SUMMARY	<ul style="list-style-type: none"> • The current use is lawfully pre-existing non-conforming. The proposed building coverage is currently 10% and will not change • The site is suitable for the proposed two, two-family dwellings as the site currently consists of multiple commercial buildings. • A filing with the Board of Health is ongoing. The Dennis Conservation Commission has approved and has issued an Order of Conditions. • There is no intent to increase the traffic flow as the 4 residential units will have less of a traffic flow than the current two commercial buildings. No unsafe or harmful impacts are expected. Vehicular parking areas will be realigned to reduce the need to back onto Lower County Road • The proposed new elevated dwelling units will conform to current FEMA requirements and as such will be elevated onto new foundations. • There is no requirement to change existing utilities. A decrease in demand for public services is expected as the property goes from Commercial to residential. • The proposed improvements will not create any additional noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties as the demands will decrease as the property goes from commercial to residential • Plantings are proposed along the easterly edge of the property at the road intersection to eliminate parking adjacent to the intersection of Lower County Road and Shad Hole Road.
PLOT PLAN	Site Plan of 247 & 255 Lower County Road, Dennisport, MA prepared for Sanddollar Customs LLC, 182 Old Townhouse Rd. Suite 1, West Yarmouth Ma, 02673, by BSC Group, 349 Route 28, West Yarmouth MA (02673). Plan consisting of 1 sheet with existing and proposed conditions. Plan dated December 23, 2025; Revised 1-20-2026 and stamped by Professional Land Surveyor Kieran J. Healy.
BUILDING PLANS	None

1. Project Summary
2. Town Department Comments
3. § 1.4.2.1 Special Permit Granting Authority – Criteria and Proposal
4. § 4.1.2.5 Design Objectives – Criteria and Proposal
5. § 4.9.1.1 Project Approval Requirements.
6. Proposed Conditions

1. PROJECT SUMMARY:

2. TOWN DEPARTMENTS COMMENTS:

- a. **NATURAL RESOURCES:** Project approved through Notice of Intent/Order of Conditions at 1-15-26 Conservation Commission meeting.
- b. **BUILDING:** Both building will be required to be elevated from flood plain with FEMA flood compliant foundations.
- c. **HEALTH:** This project is on the March 12, 2026 Board of Health Hearing.
- d. **ENGINEERING:**
 - i. Parking is as close to Road Layout as practical to have maximin wetland setback.
 - ii. Appears to permit maneuvering without backing into the road.
 - iii. Requires setback variances/waivers to layout.
 - iv. Shor provide dimensions and parking spaces and aisles and list what variances required.
 - v. Plan should indicate width of apron to parking. Not clear it meets zoning.
 - vi. Verify apron separation distance and distance from apron to Shad Hole Road. Variance may be required.
 - vii. Area of disturbance may require a full Stormwater Permit.
 1. Drywell shown for roof drains.
 2. How is parking drainage infiltrated?
 3. Parking materials not specified. Does it meet zoning?
- e. **POLICE and FIRE:**
- f. **WATER DEPARTMENT:**
- g. **PLANNING:**
 - i. Proposal is to convert the two buildings from commercial and storage to four residential units (Each of two small buildings with two residential units each) through Section 4.9 of the Dennis Zoning Bylaw to encourage affordable housing. One (1) of the four (4) units has to be Affordable per the Subsidized Housing Inventory (SHI) MGL 40B regulations and all four must be for year-round occupancy.
 - ii. The building is being raised to meet the FEMA flood regulations. None of the units are proposed to be accessible. Developers should refer to the MGL 40B Guidelines Section IV, Section A.3.b to understand the manner in which the Subsidizing Agency will review the design of the proposed Project.
 - iii. Property has two existing buildings. One 1,224 sf building and one 960 sf building. Both buildings were constructed in 1960.
 - iv. Project is not currently scheduled to ever be connected to the sewer system. The parcel where the septic system is proposed was created through an ANR in 2021 that had been part of Salt Air Village. Not clear how a high-density multiple unit property was able to sell land.
 - v. Proposed is for four residential units in two buildings.
 1. One unit will be a deed-restricted Affordable rentals at 80% AMI level.
 2. The remaining three units are proposed to be rental housing and must be year-round. As all four would be rentals they would all count towards the SHI List.
- a) **Traffic:** Trip generation will be minimal

b) Parking:

- a. Not clear that parking spaces are conforming in size, design, and location.
- b. 8 parking spaces are proposed whereas 8 are required;
- c. Planning Board has discretion to approve up to 50% parking relief under § 4.9.3.3.1;
- d. Could parking be between the houses and to west rather than in front?

c) Landscaping & Lighting:

d) **Built Environment/Design:** Well-designed buildings will improve the appearance.

e) **District Intent:** § 2.2.5.3 *Resort and Residential* – *To provide sites for seasonal resource oriented resorts with special attention to preserving the value of land and enhancing the existing vegetation, visual landscape, and amenities with consideration of neighboring properties, and to conserve the value of existing structures and buildings with good period design, recognizing the value of recycling of old structures and buildings with good period design for future generations, thereby retaining the character of the area, the town and the quality of a rural seaside New England Village.*

3. **§ 1.4.2.1 Special Permit Granting Authority:** Special permits may be granted only upon a finding by the Board that the proposed use will not create a nuisance, hazard or congestion, or other significant harm to the neighborhood, nor cause derogation from the general purpose and intent of the By-Law, the stated district intent or applicable use criteria. The following criteria must be met:

- a. *The use is allowed by special permit in the district in which proposed, pursuant to §2.2.2 - Use Regulations Schedule; **The conversion to affordable units can be allowed through 4.9.3 with 25% Affordable and all year-round.***
- b. *Suitability of the site for the proposed use in light of the applicable district intent, as provided in §2.1.5; **The use can be allowed and meets the District Intent.***
- c. *Adequacy of management of traffic flow within the site as well as in relation to adjoining streets and properties, so as to minimize unsafe or harmful impacts of the use; **The proposal improves the corner of Shad Hole and Lower County Road and removes cars backing into Lower County Road. The site is very small and narrow so the parking is tight and removes a mature tree. The site is too small to meet several requirements such as a 10' vegetated buffer and no parking within the first 20' along the frontage.***
- d. *Compatibility of the proposed use with surrounding land uses, so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values; **The proposal could be compatible with the area and might improve aesthetics. The applicant has not supplied elevations saying they are just raising the buildings out of the flood.***
- e. *Adequacy of provision of utilities and other necessary or desirable public services; **Adequate.***
- f. *Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and neighborhoods; **The proposal should be conditioned to ensure it will not generate light, noise, litter, odor or other sources of nuisance.***
- g. *Adequacy of protection from degradation and alteration of the natural environment, including but not limited to slopes and other topographical features, vegetation, wetlands, groundwater and water bodies and wildlife habitat. **The proposal removes a mature oak in front to accommodate parking that does not meet the standard but improves on the existing. Though there could be alternatives on the side of the building. The property is undersized, narrow and the entire site is within 50' of the wetland buffer.***

4. **§ 4.1.2.5 Design Objectives:** The following design objectives (*italics*) in addition to any standards elsewhere in the Zoning By-Law, shall be used by Planning Board in considering all site plans.

a) **Landscaping:**

- a. *Every effort shall be made to minimize removal of existing vegetation and to integrate existing mature trees and vegetation into the landscape plan.*
- b. *Natural buffers ... shall be maintained whenever possible.*
- c. *Landscaping shall include masses of trees and vegetation around/near buildings to reduce perceived scale and set them into the landscape.*
- b) **Circulation:** *With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives, parking and loading areas, special attention shall be given to*
 - a. *Location and number of access points to the public streets: **Adequate.***
 - b. *General interior circulation: **Not ideal due to small, narrow property on road in buffer.***
 - c. *Separation of pedestrian and vehicular traffic: **Adequate.***
 - d. *Delineation of parking stalls and loading zones:*
 - e. *Accommodations for the handicapped: **Buildings are not accessible.***
- c) **Surface Water Drainage:** *May require a Stormwater Management Permit*
- d) **Building Location:** *Proposed building and structures shall be integrated as much as possible. **Site Plan raises the buildings in their existing non-conforming location.***
- e) **Building Design:** *The design of proposed buildings, structures and additions shall complement, whenever feasible, the general setback, roofline, arrangement of openings, color, exterior materials, proportions and scale of existing buildings in the vicinity. **Buildings are being raised but no elevations showing final aesthetics have been added.***
- f) **Special Features:** *Exposed machinery, utility structures and areas for parking, loading, storage, service and disposal shall be screened from adjoining properties and streets. **There is no room for screening of parking or buildings. A mature oak is being removed but the corner of Shad Hole, which had been paved in the past, has a 1,636-sf area of asphalt being removed and planted with grass.***
- g) **Safety** - *All open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, & other emergency personnel and equipment. **Plans do not indicate that the units will be handicapped accessible. Applicant Engineer maintains that two separate two-units buildings do not need to be accessible. Narrow site with crammed parking does not allow for good emergency access.***

5. § 4.9 Affordable Housing Provisions – Planning Board is SPGA for 4.9

The Planning Board shall consider the following factors in determining whether to approve or deny a special permit under this By-law:

- a. Whether the applicant has conformed to the design standards of this By-law and will deliver the needed affordable units; **The Design Objectives.**
- b. Whether the proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character complementary and integral with the site's natural features; **The site is small and narrow and crammed between Lower County Road and wetlands. Proposal is a redevelopment on a tough site. The two houses had residential at one time in past.**
- c. Whether the development, density increase or relaxation of zoning standards has a material, detrimental effect on the character of the neighborhood or Town and is consistent with the performance standards of the Dennis Zoning By-law. **The location is appropriate for the proposal but the actual site is very constrained and located near a busy intersection.**
 - I. *§ 4.9.1... At least 25% of all housing units created under Section 4.9 shall be restricted as per § 4.9.4.*
 - II. *§ 4.9.3.1 The PB may by special permit allow the creation of Affordable Housing Apartments in residential and commercial zoning districts. Affordable Housing Apartments created under this bylaw shall be accessory to either an existing residential use or commercial use.*

- III. § 4.9.3.2 An Affordable Housing Apartment must have the following minimum areas: studio – 250 sf; one-bedroom units - 700 sf; two-bedroom units - 900 sf;...
- IV. § 4.9.3.3.1 The PB shall have the discretion to reduce the off-street parking requirements... where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs
- V. § 4.9.3.3.2 A properly screened area must be provided for storage of trash and recyclable materials...
- VI. § 4.9.3.3.4 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4... In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.
- VII. § 4.9.3.5.2 - Commercial structures may be expanded by increasing the footprint or the addition of a second story, where none exists, for the purposes of creating affordable housing apartments. A structure proposed to include an affordable housing apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing.
- VIII. § 4.9.4.1 As a condition to any SP issued under § 4.9, the applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to PB

PROPOSED CONDITIONS	<ol style="list-style-type: none"> 1. The lot owners shall apply for all required permits and will comply with the intent of the Dennis Stormwater By-law, all requirements of the Dennis Conservation Commission and Board of Health and any other permits that are required. 2. Construction shall not commence before 7:00 am nor continue after 7:00 pm Monday through Friday and shall not commence before 7:00 am nor continue after 5:00 pm on Saturdays. No construction shall occur on Sundays. 3. The addition shall not generate new light, noise, litter, odor or other sources of nuisance. Any new lighting shall be restricted to downward-shielded motion sensitive security lighting that is “Dark-Sky” compliant. 4. Failure to comply with all conditions in the Conservation Commission Order of Conditions or Board of Health Permit shall be deemed cause to revoke the ZBA Special Permit. 5. Any changes to the site plan shall require the applicant to return to the Planning Board for approval of the modifications prior to their implementation except as related to storm water system modifications directed by the Dennis Engineering Department. 6. The applicant shall work with the town to provide safe pedestrian access along Lower County Road and Shad Hole Road. 7. A Preconstruction meeting is required with the Department of Public Works, Engineering, Conservation, Water, Building, Health, Planning and the Fire Department before work begins. This shall include clearing, cutting, digging, foundations, etc... <p>AFFORDABILITY CONDITIONS</p> <ol style="list-style-type: none"> 8. The applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to the Planning Board and the Massachusetts Executive Office of Housing and Livable Communities (EOHLC - Formerly DHCD). The Certificate of Occupancy shall not be issued until the Restriction is recorded in the Registry of Deeds. The Restriction shall establish that two apartments, or in any case at least 25% of the unit’s, be deed restricted affordable for persons earning no more than 80% of median income. 9. The applicant shall comply with any Massachusetts Executive Office of Housing and Livable Communities (EOHLC - Formerly DHCD) regulations and guidelines for
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qualification of the housing units created under this By-law towards the Town's subsidized housing inventory (SHI), including but not limited to the form of the affordable housing restriction and regulations concerning tenant selection and marketing, unit design standards and income eligibility standards. The Restriction shall further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted housing unit towards the Town's subsidized housing inventory.

10. The applicant shall be required to execute appropriate EOHLC Deed Riders such as the "Local Initiative Program Affordable Housing Deed Rider for Projects which Affordability Restrictions Survive Foreclosure" as directed by EOHLC.
11. The restriction shall provide that the two (2) deed-restricted Affordable residential units, or in any case at least 25% of the unit's, be made available for sale or rent at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.
12. Maximum rental prices shall be governed by EOHLC regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town's SHI.
13. The applicant shall enter into a marketing and monitoring agreement with EOHLC and the Dennis Housing Authority, or other entity designated by the Town of Dennis to ensure all EOHLC requirements are met.
14. The applicant is encouraged to make use of the Regional Ready Renter list created by a partnership between the Town of Dennis, neighboring towns and the Cape Cod Commission for finding tenants.
15. Current employees of the Town of Dennis and residents of Dennis shall have preference over non-residents in the selection of tenants of housing units subject to a restriction to the extent permitted by EOHLC regulations, state or federal laws.
16. In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the owner shall give written notice to EOHLC, the Dennis Housing Authority and the Dennis Affordable Housing Trust.
17. If, after initial occupancy, the income of a tenant of a Low- and Moderate-Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low- and Moderate-Income Unit in conformance with Section 2(a) of the Local Initiative Program (LIP) Local Actions Unit (LAU) Regulatory Agreement with EOHLC, or otherwise demonstrates compliance with Section 2(a).
18. Prior to the issuance of occupancy permits, the applicant shall enter into a marketing and monitoring agreement with the Dennis Housing Authority, The Housing Assistance Corporation, or other entity designated by the Town of Dennis, such as the existing Ready Renter Program, to ensure all EOHLC requirements are met.