

## CAPE COD COMMISSION

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Date: March 3, 2005

To: Attorney Patrick M. Butler  
Nutter, McClennen & Fish, LLP  
1513 Iyannough Road  
Hyannis, MA 02601

From: Cape Cod Commission  
Development of Regional Impact Hardship Exemption  
Cape Cod Commission Act, Section 23

Applicant: Alex E. Nussbaumer  
144 East 44<sup>th</sup> Street,  
New York, NY 10017-4008

Project #: HDEX 04010

Project: Lookout Ridge Definitive Plan and Cluster Plan  
Off Popple Bottom Road and Great Hill Road, Sandwich, MA

Book/Page: Book 9713 Page 83                      Map/Parcel: Map 25, Lot 107  
Book 9713 Page 86                                      Map 20, Lot 127

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### DECISION OF THE CAPE COD COMMISSION

#### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Alex E. Nussbaumer for a Hardship Exemption pursuant to Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Lookout Ridge Definitive Plan and Cluster Plan project. The decision is rendered pursuant to a vote of the Commission on March 3, 2005.

#### PROJECT DESCRIPTION

The proposed project involves the subdivision of approximately 40.5 acres of land in Sandwich into 19 residential lots and two open space lots for construction of a stable and 19 single-family residences containing footprints of approximately 2,934 square feet each. The applicant proposes to demolish three existing structures (one of which is currently occupied) totaling approximately 3,788 square feet off Popple Bottom Road and redevelop that portion of the



property as an 8 lot cluster. Off Great Hill Road, the applicant proposes to construct a cluster of 11 residences and a stable.

The site is located in the Ridge District, which under the Sandwich Protective Zoning By-law (May 2004) requires 60,000 square feet per lot, unless the subdivision is designed as a cluster development. Sandwich regulations require that lot area for cluster lots fall between 5,000 sf and 40,000 sf. Lot sizes for the proposed subdivision vary from 16,341 sf (Lot 11) to 34,115 sf (Lot 18).

A portion of the project site is in a Water Quality Improvement Area due to the site's history and its location in a Wellhead Protection Area.

The project site is located, in part, on Great Hill Road, which is designated as both a Scenic Roadway and a Regional Roadway. The project is not located within a historic district and is not adjacent to individual historic structures. Massachusetts Historical Commission has determined that the project is unlikely to affect significant historic or archaeological resources.

#### **PROCEDURAL HISTORY**

On June 3, 2004, the Commission received a mandatory Development of Regional Impact (DRI) referral for the project from the Sandwich Planning Board. On July 8, 2004, the Commission received an application for a Hardship Exemption requesting a reduction in the amount of traffic mitigation that is required under the Regional Policy Plan (RPP). On July 29, 2004, the Commission opened a procedural public hearing and continued it to August 30, 2004 to consider the Hardship Exemption request and the DRI for the project. The public hearing of August 30, 2004 was continued to October 4, 2004, and was continued again to October 21, 2004.

On October 21, 2004, the public hearing for the project was closed. The subcommittee met on November 10, 2004 to discuss the project and on November 15, 2004 voted unanimously to recommend approval of the Hardship Exemption to the full Commission.

On December 3, 2004, the Subcommittee discussed the project and draft decision. The Subcommittee scheduled a public hearing for December 16, 2004.

On December 10, 2005, an extension agreement (dated 12/7/04) was signed extending the 60-day decision period to March 17, 2005.

A public hearing that was noticed for December 16, 2004, was opened and continued by a hearing officer of the Cape Cod Commission to a date to be determined.

On February 16, 2005, the Subcommittee met to discuss the project and the hardship exemption request. The subcommittee voted to forward the Hardship Exemption Request to the full Cape Cod Commission for approval on March 3, 2005.

The Subcommittee met on March 3, 2005 to approve the draft decision, following which a final public hearing was held before the full Commission. The public hearing and record were closed. At this hearing, the Cape Cod Commission voted unanimously to approve the project as a DRI Hardship Exemption, subject to conditions.

## MATERIALS SUBMITTED FOR THE RECORD

### From the Proponent:

1. DRI Application and attachments, received 2/20/04
2. Natural Resources Inventory by Donald G. Schall, ENSR, dated 2/25/02
3. Massachusetts Historical Commission Project Notification Response, dated 3/08/04, received 3/16/04 with cover memo from P.M. Butler, Nutter, to Martha Hevenor, CCC dated 3/16/04
4. Well and Septic Location Plan, 1 sheet, dated 6/4/04
5. Open Space Plan, (2 sheets), dated 6/4/04
6. Preliminary Subdivision Plan, (2 sheets), dated 6/4/04
7. Lookout Ridge Development Budget, dated 7/5/04
8. Hardship Exemption Application and attachments, dated 7/07/04, received 7/08/04
9. E-mail from E. Cox, Nutter, to A. Adams, CCC, dated 7/13/04
10. Letter from E. Nussbaumer to T. Lynch, Sandwich Housing Authority, dated 8/16/04
11. Letter from E. Cox, Nutter, to T. Watt and D. Fox, CCC, dated 7/27/04, received 7/28/04
12. Memo from E. Cox, Nutter, To T. Watt, CCC, with attachment, dated 8/17/04, received 8/17/04
13. Revised Application and attachments, dated and received 8/18/04 and cover memo from E. Cox, Nutter, dated 8/23/04
14. Project Benefits (yellow) and Responses to CCC Requests for Additional Information based on the August 23, 2004 Staff Report (blue)
15. E-mail from A. Nussbaumer to T. Watt, CCC, dated 8/24/04, with attachments
16. Memo from R. Bryant, Rizzo Associates, to T. Boesch, CCC, dated and received 9/13/04
17. Memo from R. Bryant, Rizzo Associates, to T. Boesch, CCC, dated 9/16/04
18. E-mail from R. Bryant, Rizzo Associates, to T. Boesch, CCC dated 9/16/04
19. Memo from E. Cox, Nutter, to T. Watt, CCC, with attachments, dated 9/27/04, received 9/30/04
20. Memo from Rich Bryant, Rizzo Associates, to T. Boesch, CCC, dated 9/28/04, received 10/04/04
21. Memo from R. Tabaczynski, Atlantic Design Engineers, dated 9/28/04, and cover memo from E. Cox, Nutter, received 9/28/04
22. Memo from R. Bryant, Rizzo Associates, to T. Boesch, CCC, dated 9/28/04, received 9/30/04 re: traffic study (first memo)
23. Memo from R. Bryant, Rizzo Associates, to T. Boesch, CCC, dated 9/28/04, received 9/30/04, re traffic study (second memo)
24. Memo from E. Cox, Nutter, dated and received 9/29/04, with attachments: Affordable Housing Plan, Architectural and Landscape Design Criteria, open space pathways plan, open space calculations)
25. Landscape Plans (sheets L1 and L2) dated 9/29/04, and cover memo from E. Cox to T. Watt, dated 9/30/04, received 10/01/04
26. Elevation Plan (sheet A1), dated 9/30/04, with cover memo from L. Cox, Nutter, dated and received 10/01/04
27. Open Space Plan (sheets 1 and 2), dated 6/04/04, revised 10/04/04, received 10/13/04
28. Preliminary Subdivision Plan (sheets 1 and 2), dated 6/4/04, revised 10/4/04, received 10/13/04
29. Architectural & Landscape Design Criteria and Affordable Housing Plan, undated

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30. E-mail from E. Cox, Nutter, to T. Watt, CCC dated 10/07/04
31. Memo from E. Cox, Nutter, to T. Watt, CCC dated 10/07/04, received 11/08/04 with attachment: motorized vehicle control points
32. Well and Septic Location Plan (sheet 1), dated 6/4/04, revised 10/4/04, received 10/13/04
33. Memo received from P. Butler, Nutter, to T. Watt, CCC, dated and received 10/13/04, with attachments
34. Draft Landscape Maintenance Contract, 10/20/04
35. Landscape Plans (sheets L1 and L2), dated 10/20/04, received 10/21/04
36. Building Limit Plan, dated 10/25/04
37. E-mail from A. Nussbaumer to T. Watt, CCC, dated 10/29/04
38. Materials Board, received 10/29/04
39. Landscape Plans, (sheets L.1 and L.2), dated 10/25/04, received 10/29/04
40. Preliminary Subdivision Plan, (sheets 1 and 2), dated 6/04/04, revised 10/29/04, received 11/02/04
41. Open Space Plan, (sheets 1 and 2), dated 6/04/04, revised 10/29/04, received 11/02/04
42. Well and Septic Location Plan, (sheet 1), dated 6/04/04, revised 10/29/04, received 11/02/04
43. Memo from P. Butler and E. Cox, Nutter, to S. Michaud and T. Watt, CCC dated and received 11/04/04
44. Open Space Plan (sheets 1 and 2), dated 6/4/04, revised 10/29/04, received 11/2/04
45. Memo from E. Cox, Nutter, to T. Watt, CCC, dated and received 11/2/04, with attachments
46. Letter from A. Nussbaumer to T. Watt, CCC, dated 11/08/04, received 11/09/04
47. Partial Building Limit Plan, (sheets Z1 and Z2), dated 11/08/04
48. Landscape Plan, (sheets L.1 and L.2), dated 11/08/04, received 11/09/04
49. Partial Landscape Plan, (sheets L1 and L2), dated 11/09/04
50. Plan AS.1 and AS.2, dated 11/08/04, received 11/09/04
51. Memo from E. Cox, Nutter, to T. Watt, CCC, dated and received 10/29/04, with attachments: Architectural and Landscape Design Criteria (received 10/29/04); letter from A. Nussbaumer to T. Watt re: Lookout Ridge Construction Noise, dated 10/28/04, received 10/29/04; letter from A. Nussbaumer to T. Watt re: Lookout Ridge Construction Noise, dated 10/28/04, received 10/29/04; letter from E. Nussbaumer to T. Watt re: Lookout Ridge Water Quality, dated 10/27/04, received 10/29/04; Lookout Ridge Affordable Housing Plan, received 10/29/04; stable floor plans and elevations, received 10/29/04
52. Copy of RPP page 35, and RPP Definitions, received 11/10/04
53. Water Resources Findings and Conditions, undated
54. Landscape Plans, (sheets L1 and L2) dated 11/09/04, received 11/10/04
55. Deed Restriction Plans, (sheets Z1 and Z2 dated 11/09/04, received 11/10/04
56. Letter from A. Nussbaumer, dated 11/22/04, received 11/23/04 with attachments: Lookout Ridge Hazardous Materials and Waste Management Plan dated 11/18/04, received 11/23/04; Lookout Ridge Green Home Building Guidelines, dated 11/18/04, received 11/23/04; Lookout Ridge Architectural and Landscape Design Criteria, dated 11/18/04, received 11/23/04; Lookout Ridge Affordable Housing Plan, dated 11/18/04, received 11/23/04
57. Landscape Plans, (sheets L1 and L2), dated 11/18/04, submitted 11/29/04
58. Lookout Ridge Development Budget, dated 11/18/04, received 11/23/04
59. Deed Restriction Plan (sheets Z1 and Z2), dated 11/18/04, received 11/29/04
60. Sheets AS.1 and AS.2, dated 11/18/04, received 11/29/04

61. Memo from E. Cox, Nutter, to T. Watt, CCC, dated and received 11/29/04 with attachments: motorized vehicle control points plan; draft Landscape Maintenance Contract
62. Private Well Guidelines by Cynthia Ann Tomlinson, DEP, dated 10/89, updated 2004
63. Memo from P. Butler, Nutter, to Dorr Fox, CCC, dated and received 12/10/04
64. Fax of Extension Agreement, dated and received 12/10/04
65. Letter from A. Nussbaumer, dated 12/19/04, received 12/20/04
66. Memo from P. Butler, Nutter, to J. Lipman, CCC, dated 1/6/05
67. Letter from A. Nussbaumer, dated and received 1/26/05
68. Letter from A. Nussbaumer, dated and received 1/27/05
69. Estimate from Lawrence Lynch, Corp. for the installation of pavement markers, dated 2/15/05, received 2/16/05
70. Septic Location Exhibit Plan, Sheet 1, dated 2/28/05, received 3/2/05
71. Memo from P. Butler and E. Cox, Nutter McClennen & Fish LLP, dated and received 3/2/05

**From state/local officials:**

1. Mandatory Referral and attachments from the Sandwich Planning Board, dated 5/28/04, received 6/3/04
2. Letter from P. Tilton, Town of Sandwich to Craig Sanderson, Town of Sandwich, with attachments, dated 9/10/04
3. Letter from T.K. Lynch, Sandwich Housing Authority, to T. Watt, CCC dated 9/23/04, received 10/1/04
4. Letter from J. Cullity, Sandwich Conservation Trust, to J. Zavala, CCC, dated 9/29/04, received 9/30/04
5. Letter from P. Tilton, Town of Sandwich, to T. Boesch, CCC dated 10/20/04, received 10/25/04
6. Fax of Towns Stable Regulations, from J. Miller Buntich, Town of Sandwich, to T. Watt, CCC dated and received 11/09/04
7. Letter from J. Miller Buntich, Town of Sandwich, to J. Zavala, CCC, dated 11/19/04, received 11/23/04
8. Letter from M. Miller, Chief of Police, Town of Sandwich, to A. Nussbaumer, dated 11/23/04, received 12/01/04

**From the public:**

1. Letter from S. Guglielmo, J. Guglielmo, W. Maggio to G.H. Dunham, Town of Sandwich, undated
2. Letter from G. Howe, Rolling Ridge Homeowners Association, to T. Watt, CCC, dated 8/13/04, received 8/16/04
3. Letter from J. Guglielmo, S. Guglielmo, W. Maggio, to R. Jones, CCC, dated 9/15/04, received 9/27/04
4. Letter from Tara Drake to Paul Tilton, Town of Sandwich, dated 9/26/04, received 10/04/04
5. Proposals to Cape Cod Commission Regarding New Development Impacting Great Hill Road, submitted by T. Drake on 10/21/04
6. Letter from M. Miller, Chief of Police, Town of Sandwich, dated 11/23/04, received 11/29/04
7. E-mail from Jeff Cross, abutter, to T. Watt, CCC, dated 12/2/04
8. Letter from J.R. Weaver, NSTAR, to T. Watt, CCC dated 12/15/04, received 12/20/04

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of the proceedings are incorporated into the record by reference.

## TESTIMONY

Note: see minutes in file for complete public hearing and subcommittee meeting proceedings.

At the August 30, 2004 Public Hearing, the Subcommittee heard oral testimony from the following individuals:

- 1) Mr. Patrick Butler and Ms. Eliza Cox, Nutter McClennen and Fish, presented site plans and described the project, including affordable housing, open space, water resources, architecture, landscaping, hazardous materials and waste, energy, transportation, and the hardship exemption request.
- 2) Ms. Jo Anne Miller Buntich, Sandwich Director of Planning and Community Development, stated that the Town preferred affordable rental housing. She said that the Town was not concerned that the lots for the affordable units were smaller due to the overall cluster design of the subdivision. Ms. Buntich said the houses would be made comparable by the units' architecture.
- 3) Tara Drake said the proposed open space should be shifted to better protect abutters and property owners on the Southwest side of the site. She expressed concern about traffic on Great Hill Road. She noted that there had been several accidents in the vicinity. Ms. Drake said the traffic should be slowed down, since Great Hill Road is so curvy.
- 4) Peg Taylor said the open space areas should be shifted, and that she agreed with Ms. Drake on the transportation and traffic issues.
- 5) Mr. Bill Field said he lives on Popple Bottom Road. He expressed concerns about contamination resulting from the prior junk yard. He questioned where the hazardous materials and wastes from the prior uses went.

At the October 4, 2004 Public Hearing, the Subcommittee heard oral testimony from the following individuals:

- 1) Mr. Patrick Butler, Nutter, McClennen and Fish, described the status of the project in the areas of transportation congestion impacts and mitigation, the paddock and open space, and affordable housing.
- 2) Ms. Tara Drake, abutter, who was concerned about the size of the buffers to residential abutters in her neighborhood and how they could be protected, and the ORV use of the trail connecting the two cul-de-sacs.
- 3) Ms. Sharon Guglielmo said she was part of a committee that was addressing traffic on Great Hill Road. She said they had sent a letter expressing concern about additional traffic.
- 4) Ms. Shirley McGillicuddy, 4 Weaver Way, asked why there were so many houses in the proposal, and why they were clustered. She also asked about the affordable housing, the average price for each house, the number of garages and the stable. She is concerned about traffic, busing and taxes.
- 5) Mr. Charles McGillicuddy, 4 Weaver Way, noted that he did not see a hardship and expressed concern about the cluster plan.

At the October 21, 2004 Public Hearing, the Subcommittee heard oral testimony from the following individuals:

- 1) Ms. Eliza Cox and Mr. Patrick Butler, Nutter McClennen and Fish, discussed open space, affordable housing, transportation, and building envelopes.
- 2) Mr. Rick Bryant, Rizzo Associates, discussed clearing proposed to improve sight lines.
- 3) Ms. Tara Drake expressed concern that a buffer area on privately held property would be removed in future years by property owners, and that the vegetation would not be protected if it was included as a deed restriction or other restriction placed on the Homeowners' Association. She expressed concern about contamination of the project site by prior uses involving hazardous waste, particularly the auto salvage operations. She noted the entrance drives to the site proposed on Great Hill Road would exacerbate an existing erosion problem. She expressed concern about horses safely crossing Great Hill Road, and suggested that the applicant be required to install mid-road reflectors in the pavement on Great Hill Road, and that the proposed portable speed monitor be dedicated to use on Great Hill Road.
- 4) Ms. Sharon Guglielmo questioned what entities were investigating prior contamination on the site and expressed a concern about the impact to Sandwich's infrastructure. She questioned the validity of the project's proforma.
- 5) Ms. Wendy Maggio questioned whether the Town of Sandwich had proposed to purchase the property from the applicant through the Land Bank.

At the November 10, 2004 Subcommittee Meeting, the Subcommittee discussed the project as follows:

Ms. Eliza Cox, Nutter McClennen & Fish, handed out revised plans and reviewed them, stating that they meet the RPP requirements and respond to staff comments and requests.

Mr. Patrick Butler, Nutter McClennen & Fish, said that the moveable speed sign issue has been resolved with the police chief, whereby the moveable speed device would be devoted to Great Hill Road for a minimum amount of time. He discussed groundwater issues related to private wells and septic systems and proposed a monitoring plan for nitrogen loading.

The subcommittee, applicant and staff discussed timing issues, project construction scheduling, and the monitoring plan.

Ms. Tana Watt presented the staff report, stating that the applicant had addressed staff concerns in most of the areas, but wastewater and affordable housing were still outstanding.

Mr. Scott Michaud noted that there is an upward trend in nitrogen levels in private wells in this area, and that regardless of which direction groundwater was flowing, drinking water wells could be impacted based on the configuration of the lots. Mr. Michaud discussed the difference between the RPP's 5 ppm nitrogen standard, and the state's drinking water standard of 10 ppm.

Mr. Butler and staff discussed the wording and intent of MPS 2.1.1.3.

The subcommittee, applicant and staff discussed maintenance issues related to the upkeep of nitrogen removal technology, alternate infrastructure such as community wells, contamination

related to drinking water and septic systems on adjacent lots, and the Board of Health and DEP regulations.

Mr. Michaud said MPS 2.1.1.3 was at the heart of this discussion, and that relative to this MPS, the septic systems for the project are not sited in a manner as to avoid impacts to the wells.

Mr. Jay Zavala asked Mr. Michaud if the applicant had satisfied MPS 2.1.1.3. Mr. Michaud said that the applicant has not, and that the better solution is to prevent contamination than to correct it, after monitoring.

Mr. Zavala and the rest of the Subcommittee instructed Commission staff and the applicant to discuss the issue of nitrogen loading further.

The subcommittee, the applicant and staff discussed the Town's request for the applicant to install pavement markers on Great Hill Road, which the applicant agreed to do.

Mr. Paul Ruchinkas stated that in the case of affordable rentals, where a person currently lives on the site, a preference is generally given to the tenant to relocate, or remain on-site, and in this case, the affordable housing proposal was fine.

At the November 15, 2004 Subcommittee Meeting, the Subcommittee discussed the project as follows:

Ms. Eliza Cox, Nutter McClennen & Fish, stated that the applicant and Mr. Michaud of Commission staff had met to discuss the water resources issues. She said that the applicant agreed conceptually with the Commission staff on a resolution of the issues. She noted that the finer details of the proposed monitoring and other issues, such as proposed escrow payments, still needed to be worked out.

Mr. Michaud distributed to the Subcommittee copies of proposed water resources conditions which were discussed with the applicant and were referred to by Ms. Cox. He said monitoring was needed, but said the applicant had conceptually agreed to the proposals.

The subcommittee, the applicant and staff discussed Mr. Michaud's proposed conditions. Ms. Elizabeth Taylor said the RPP's 5 ppm standard should be adhered to.

The subcommittee discussed the location of the well in relation to where the Site Assessment was conducted, whether the wells would be tested for hydrocarbons and heavy metals, and the depth of the borings. The subcommittee discussed the option of using town water in this area.

The Subcommittee, the applicant and staff discussed requiring a monitoring limit of 5 ppm limit or a 10 ppm limit.

Ms. Cox said the applicant was seeking the flexibility to use denitrification on upgradient septic systems, as opposed to going to a community well, if the wells tested over the limit.

Mr. Tom Cambareri said such a scenario was not preferred, because a conventional septic system will put out 35 ppm nitrogen, and a denitrifying septic system will produce 19 ppm. Neither are close to achieving 5 ppm.



The subcommittee, the applicant and staff discussed whether the proposed escrow amount was sufficient to provide a community water supply well, and continued to discuss the 5 ppm nitrogen loading limit versus the 10 ppm limit and the proposed monitoring plan.

Mr. Zavala questioned whether a consensus could be reached between now and the Commission meeting in which this project might be heard.

The Subcommittee scheduled another Subcommittee meeting on Friday, December 3, 2004 at 8:30 AM at the Commission's office.

Ms. Catherine Frazer made a motion directing Commission staff and the applicant to discuss and try to resolve the water resource issues on the basis of 5 ppm, monitoring, and the consequences to occur if the 5 ppm is exceeded. Ms. Taylor seconded the motion. The Subcommittee voted all in favor of the motion.

The Subcommittee, the applicant and staff discussed the hardship exemption request. Mr. Zavala said he was not satisfied that the applicant had demonstrated a hardship in this case. Ms. Cox said that the proposed mitigation would off-set the low traffic generation.

Ms. Cox said the applicant could provide additional information on the hardship, including certifying the proforma.

Ms. Frazer moved to recommend approval of the request for a hardship exemption, related to traffic congestion mitigation only, and to direct staff to draft a decision to this effect. Ms. Taylor seconded the motion. The Subcommittee voted unanimously to approve the motion.

At the December 3, 2004 Subcommittee Meeting, the Subcommittee discussed the project and revisions to the draft decision, and voted to forward the draft decision to the Cape Cod Commission for approval at the December 16, 2004 meeting.

On December 16, 2004, a hearing officer of the Cape Cod Commission opened a public hearing and continued it to a time and date to be scheduled.

On February 16, 2005, the Subcommittee discussed the project and revisions to the draft decision and voted to forward the draft decision to the full Cape Commission for approval on March 3, 2005.

On March 3, 2005, the Subcommittee met to approve the draft decision, following which the full Cape Cod Commission voted to approve the project with conditions.

### JURISDICTION

The proposed Lookout Ridge project qualifies as a Development of Regional Impact (DRI) under the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, Chapter A, Section 3 (c), Barnstable County Ordinance 90-12, as amended, which requires review of *"any development which proposes to divide, combine or develop any parcel of land totaling 30 acres or more."*

## **FINDINGS**

The Commission has considered the application of Alex E. Nussbaumer for the proposed Lookout Ridge project, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 12, 13 and 23 of the Act:

### **General Findings:**

G1. The proposed project involves the subdivision of approximately 40.5 acres of land into 19 residential lots and two open space lots for construction of a stable and 19 single-family residences containing footprints of approximately 2,934 square feet each. The applicant proposes to demolish three existing structures totaling approximately 3,788 square feet off Popple Bottom Road and redevelop that portion of the property as an 8 lot cluster. Off Great Hill Road, the applicant proposes to construct a cluster of 11 residences and a stable.

G2. Based on a letter received from the Sandwich Town Planner dated November 19, 2004, the project does not lie within a District of Critical Planning Concern, and complies with the Sandwich Local Comprehensive Plan (Master Plan) and with the Sandwich Protective Zoning By-law provided that a cluster special permit issues from the Sandwich Planning Board for the project.

G3. The Sandwich Board of Health and local zoning by-laws contain regulations for stables and riding schools for residential and commercial uses. The applicant states that the stable will be used solely by the residents of the project, and will not be used commercially.

### **Land Use Findings:**

LU1. MPS 1.2.1 requires all residential subdivisions of five or more lots to cluster the proposed development in order to maximize contiguous open space unless it is inconsistent with local bylaws. The project proposes two clusters of residential lots and will provide open space that is contiguous with existing open space (see protected open space map in Staff Report 8/23/04).

### **Water Resources Findings:**

WR1. The project consists of a 19-lot cluster subdivision of a 40.5-acre parcel. Four-bedroom homes are proposed for each of the lots. The 1/2-acre to 2/3-acre lots are configured in two separate clusters at the north and south ends of the parcel separated by 26 acres of open space.

WR2. The southern portion of the parcel is located in a water-quality improvement area (MPS 2.1.1.2.E), which consists of an impaired water-quality area (MPS 2.1.1.2.D) and a wellhead protection area (MPS 2.1.1.2.A) for public water supplies. Improvement of water quality is a major goal in water-quality improvement areas.

WR3. Title-5 wastewater flows for the proposed 76 bedrooms total 8,360 gallons per day. Each lot is proposed to have its own *standard* Title-5 septic system as described by the map submitted by the applicant entitled *Septic Location Exhibit Plan* dated February 28, 2005.

WR4. MPS 1.2.1 requires that "*Cluster plans shall ... employ wastewater treatment alternatives to allow more compact development.*" This standard is supported by ODRP 2.1.1.9, which

states that “*development ... should increase aggregation and improve the level of treatment of existing wastewater flows.*”

WR5. MPS 2.1.1.3 requires that “*septic systems ... be sited to avoid contamination of existing or proposed wells.*”

WR6. MPS 1.2.1 can be met if water-supply wells are adequately protected in accordance with MPS 2.1.1.3.

WR7. A plan to supply water to the project has not been submitted. The project’s water supplies are subject to Condition WR1.

WR8. The project meets the regional limit of 5-ppm-N nitrogen loading to groundwater required by MPS 2.1.1.1 using parameters prescribed by Technical Bulletin 91-001. Use of individual *standard* Title-5 septic systems to manage wastewater for each housing unit results in a *parcel-wide* nitrogen-loading concentration of 4.6 ppm.

WR9. The project will need to obtain Sandwich Board of Health *and* MADEP approval to consider use of open space in calculating nitrogen-loading limits set forth in Title-5 regulations (310 CMR 15.214 and 15.216).

WR10. The project includes provisions for the stabling of 19 horses on Open Space Lot 2 (0.45 acres), including a barn and septic system for horse waste. Nineteen horses contribute 1.1 ppm to the nitrogen loading to groundwater averaged across the entire parcel. Sandwich Board of Health regulations are adequate for addressing health and runoff issues related to the stabling of livestock at the site

WR11. A Phase II Environmental Site Assessment report submitted to the Commission by the applicant refers to a description in a Phase I Environmental Site Assessment of “*potential mismanagement and/or improper use, handling or storage of oil and hazardous materials*” and the “*possible release to the environment*” at the southern end of the project parcel, the location of past auto-salvage operations. The Phase II Environmental Site Assessment report for the site concludes that the property is “*suitable for continued use and/or redevelopment,*” although this conclusion is based on soil borings of limited depth and an inferred groundwater-flow direction that differs from two independent data sources indicating that groundwater flows approximately to the east/northeast. Therefore, uncertainties regarding water quality beneath the southern cluster warrant additional monitoring of water quality in water-supply wells.

WR12. The project results in a 10.2 kg-N/acre load per year to groundwater, below the 37 kg-N/acre-per-year nitrogen limit applicable to the Scorton *Creek* (Barnstable Harbor) watershed. A north portion of the project parcel not proposed for development is located in the Scorton *Harbor* (Sandwich) watershed. MPS 2.1.1.2.C.1 requires that the applicant make a monetary contribution for conducting tidal-flushing studies of marine-embayment systems or for development of nitrogen management strategies for watersheds where development is proposed. A contribution of \$1,100 payable to Barnstable County is commensurate with the project’s nitrogen load attributable to proposed project wastewater flows and livestock.

WR13. MPS 2.1.1.2.A.5 requires “*adoption of a turf and landscape management plan that incorporates water conservation measures and minimizes the amount of pesticides and chemical fertilizers through best management practices*” in wellhead protection areas.

WR14. MPS 2.1.3 requires consistency with Massachusetts stormwater policy guidelines, use of non-structured and vegetated swales and basins, and a stormwater maintenance and operation plan that meets the requirements of MPS 2.1.3.6.

**Natural Resources Findings:**

NROS1. The project site is located in a Significant Natural Resource Area (SNRA) as defined by the RPP due to the presence of unfragmented forest, rare species habitat, and potential public water supply area. The utility easement that bisects the northern portion of the site is located within mapped priority habitat for rare species according to the Natural Heritage Endangered Species Program (NHESP). No wetlands are located on the site. According to the natural resources inventory submitted by the applicant, the site area is comprised primarily of mixed oak-pine upland, with a linear corridor of open scrub habitat within the utility easement. The development area is located outside of the mapped rare species habitat, and no rare species were recorded during field visits. The site is bordered by protected open space to the east (on the "Maruca parcel") which abuts Town of Barnstable conservation land.

NROS2. Due to its location within an SNRA, the project is required to provide permanently protected open space at a 2:1 open space to development area ratio, for a total of 26.18 acres. In accordance with this requirement, 26.20 acres of the site will be placed under a conservation restriction and preserved as open space. Water supply wells to serve the housing units may be located within the open space, as described and in accordance with Water Resources Condition WR 1.

NROS3. In response to public concern regarding motorized vehicles using the existing pathways running through the open space, the applicant submitted a memo and a detail drawing for signage and bollard placement (A2, dated 07/06/04) and offered to provide signs and bollards.

NROS4. In response to concerns expressed by abutters, the applicant offered to provide a deed restriction on a 30' wide strip along the western property line prohibiting clearing of vegetation on Lots 17, 18 and 19. In addition, the applicant offered to place a deed restriction prohibiting clearing of vegetation on Lot 1 along Great Hill Road to protect the vegetative buffer adjacent to the scenic road.

NROS5. The property on which the project is proposed is identified in the draft Sandwich Pathways Trail Plan, February 2004, as a key parcel in the Old Mill Road segment of an east-west Cape Cod Pathways trail proposed across the town. This draft plan was funded by a grant from the Barnstable County Cape Cod Pathways Program. The applicant proposes to maintain public access to the trail.

**Transportation Findings:**

T1. The applicant proposes to build a 19 lot subdivision separated into two cul-de-sacs located on Great Hill Road and Popple Bottom Road in east Sandwich. Part of the site is currently developed with a house, horse barn, and vacant garage/barn building.

T2. Based on the Institute of Transportation Engineer's *Trip Generation* manual, the project is expected to generate the following new trips:

Weekday Evening Peak Hour:            24 new trips

Saturday Peak Hour: 27 new trips

Weekday Daily: 215 new trips

T3. MPS 4.1.1.1 requires development to not degrade safety for pedestrians, bicyclists, or motor vehicle operators or passengers. MPS 4.1.1.7 requires the provision of safe sight distances at proposed driveways. Sight distances to the Great Hill Road proposed driveway are blocked by a horizontal curve, as well as by banks and vegetation on the side of the roadway. The applicant has proposed to improve these sight distances and has reached a preliminary agreement with the Town of Sandwich for these improvements as indicated in the Town's October 20, 2004 letter from the Town Assistant Engineer to the CCC transportation staff. Due to the scenic designation of Great Hill Road by the Town, the applicant proposes to provide new vegetation to mitigate any vegetation that must be removed for the sight line improvements.

T4. Relative to MPS 4.1.1.1, the public expressed concern regarding safety along Great Hill Road and the impacts the development may have. Concerns included sight distances, speed, and sharp curves in the roadway. To address these concerns, the applicant has proposed sight line improvements as noted in Finding T3, installation of in-pavement reflectors for the length of Great Hill Road from Route 6 to Farmersville Road, and purchase of a portable speed monitoring device for the town police department. As required by MPS 4.1.1.8, this safety mitigation shall occur prior to any occupancy of the development.

T5. MPS 4.1.1.3 requires access and egress locations to comply with access management requirements and standards for separation from other driveways and intersections. The driveways are located sufficiently far from intersections such that they should not interfere with intersection operation. MPS 4.1.1.3 also requires access and egress to be restricted to lower volume roads when available and appropriate. While a subdivision could be accessed strictly from Popple Bottom Road (the lower volume road), this would likely lead to more development within the water resource protection district on the south side of the lot and consequently would be inappropriate.

T6. MPS 4.1.1.5 requires man-made objects to minimize visual obstruction and possible safety conflicts. The applicant's proposed landscaping and signage plan is not expected to block sight distances. The applicant will be required to submit written certification from a Professional Civil Engineer that the sight lines are sufficient after construction but prior to occupancy of any homes in the subdivisions. MPS 4.1.1.5 also requires sight lighting to not cause glare or distractions for drivers. The applicant has not proposed any subdivision street lighting and the applicant is required to show compliance with the RPP lighting standards as outlined elsewhere.

T7. MPS 4.1.1.6 requires access and egress to accommodate all users including pedestrians, bicycles, and vehicles. Due to the limited length of the subdivision streets, sidewalks for the subdivision may not be appropriate. If the town requires sidewalks, the location and design will be subject to Commission staff approval. MPS 4.1.1.6 and MPS 4.1.2.5 also require provision of bicycle and pedestrian connections where appropriate. The subdivision will include a public walking and riding path between the two cul-de-sacs. Also, an existing public walking path connecting from Great Hill Road to adjacent properties will be preserved. Finally, the applicant will provide a right-of-way along the Great Hill Road frontage and/or the Popple Bottom Road

frontage should the town decide to construct sidewalks along these roadways in the future and should such right-of-way be necessary for these sidewalks.

T8. MPS 4.1.1.9 requires driveway width to not exceed Massachusetts Highway Department standards. The applicant has shown plans with some subdivision roadway pavement widths that exceed these standards. The applicant will be required to obtain CCC staff approval for plans that meet these standards prior to project construction, unless the Town of Sandwich requires wider widths.

T9. MPS 4.1.2.1 requires reduction of 25% of expected average daily vehicle trips, which amounts to a reduction of 54 daily trips. Per MPS 4.1.2.7.b. the applicant will pay a fee of \$125,500, calculated using the transit equivalency technique, to be used for trip reduction projects in the town of Sandwich.

T10. MPS 4.1.2.6 requires parking to not exceed town zoning requirements. The project includes vehicle garages attached to each house and does not include additional parking spaces.

T11. MPS 4.1.3.2 requires all new driveways providing access on regional roadways to operate at Level of Service (LOS) C or better. The applicant's transportation study shows area intersections with greater traffic volumes than the site driveways will operate at LOS A with the project in place. Consequently, it is assumed the site driveways will operate sufficiently.

T12. The total transportation mitigation cost (including safety, trip reduction, and congestion mitigation) for the development is estimated to be \$350,700. This represents a cost of approximately \$18,500 per lot. Of the \$350,700 total mitigation estimate, approximately \$205,200 (based on fair share and transit equivalency methods) is for fulfilling the congestion mitigation requirements of Goal 4.1.3 and MPS 4.1.3.4. The applicant proposes to pay \$59,600 of the \$205,200. Given the limited peak hour and daily traffic generation of the development, the literal enforcement of the RPP provisions would result in an unreasonable cost per building lot and consequently the remainder of the requirements of MPS 4.1.3.4 are relieved. This relief does not substantially derogate from the intent or purpose of the ACT, is the minimum relief necessary, and does not cause public harm.

**Hazardous Materials and Waste Management Findings:**

WM1. The project site is partly located in a Wellhead Protection District as mapped for the 2002 Regional Policy Plan (as revised). The Popple Bottom Road cluster is within the Wellhead Protection Area, the Great Hill Road/Chase Road cluster is not. As such, MPS 4.3.1.3 affects part of this project.

WM2. Based on Commission review of other DRI projects, as well as information submitted by the applicant for this project, hazardous materials and wastes attributable to site preparation and housing construction include diesel fuel, gasoline, hydraulic oil, lubricating oils, oil-based paints, oil-based stains, cleaning solvents and pesticides.

WM3. MPS. 4.3.1.1 requires that development and redevelopment shall make reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. It also requires that applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard. The applicant submitted a Hazardous Materials and Waste Management Plan, as well as a narrative

on architectural design and Green Home Building Guidelines to address this standard. The Guidelines, however, dealt only with energy efficiency and water use reduction.

WM4. MPS 4.3.1.2 requires DRIs to be in compliance with the Massachusetts Hazardous Waste Regulations. MPS 4.3.1.4 requires DRIs to prepare an emergency response plan tailored to the particular project. Based on the information in the file, the project will generate hazardous wastes as noted in Finding WM 2. The applicant submitted a Hazardous Materials and Waste Management Plan for site development and subsequent home construction. This Plan has language instructing site personnel in proper hazardous waste and hazardous materials management, and treatment or disposal of contaminated soils. It also addresses equipment fueling/re-fueling, and prohibits these activities and vehicle maintenance in the Wellhead Protection Area portion of the site.

#### **Energy Findings:**

E1. Other Development Review Policy 4.5.1.3 states that development *"should be designed to promote the efficient use of energy, including orienting structures to take advantage of solar gain and to maintain solar access for adjacent sites. Site design should protect and optimize the potential for the use of solar energy for heating and electricity."*

E2. Other Development Review Policy 4.5.1.4 states that development *"should incorporate energy efficiency measures that exceed state standards. Energy efficient construction techniques and materials to be encouraged would include but not be limited to:*

- above-minimum R-values for insulation of walls, attics, and foundations;*
- use of thermal pane windows with low emissivity coating with high R-values;*
- annual fuel usage efficiency ratings of at least 90% for all new heating systems;*
- use of segregated or on-demand water heaters."*

E3. The applicant states that the project will be designed and constructed to achieve LEEDS H certification from the U.S. Green Building Council, assuring that energy efficiency and a high percentage of recycled materials will be incorporated in the areas of lot preparation/design, resource efficiency, energy efficiency, HVAC Design/Equipment/Installation, water efficiency, occupancy comfort/indoor environmental quality, and operation/maintenance/homeowner education. According to an e-mail from the applicant dated October 29, 2004, any mahogany used in construction will be obtained from sustainably harvested sources.

E4. The applicant's commitment to support resource conservation and energy efficiency is important and is a project benefit.

#### **Affordable Housing Findings:**

AH1. Minimum Performance Standard 5.1.1 states that any residential construction and redevelopment project of 10 units or more shall provide at least 10% of the units as affordable units. The applicant has proposed to meet the standard by providing two affordable rental units on lots 11 and 19. The applicant would retain ownership of these two units. In addition, the applicant has agreed to cooperate in the preparation of, and provide any necessary documentation for, the Town's Local Initiative Program application for the Town to submit to the Department of Housing and Community Development in order to add the units to the Town's Subsidized Housing Inventory.

AH2. Minimum Performance Standard 5.1.6 states that the development of on-site affordable housing shall take place at a rate and time frame to be defined by the Commission and shall be secured as a condition of approval.

AH3. Minimum Performance Standard 5.1.7 states that the units created through this section shall remain affordable year-round through the use of deed restrictions that require the units to remain affordable in perpetuity.

AH4. Minimum Performance Standard 5.1.8 states that affordable units within a market rate development shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units. Location of the affordable units and construction specifications are to be approved by the Commission staff prior to the start of construction.

AH5. Minimum Performance Standard 5.1.10 states that the applicant shall submit a marketing plan to the Commission for its approval which describes how the affordable units will be marketed.

AH6. Minimum Performance Standard 5.1.11 states that prior to the occupancy of the affordable units, the applicant shall demonstrate that the occupants are income-eligible. The applicant has proposed to satisfy this standard by entering into a monitoring services agreement with the Sandwich Housing Authority.

AH7. Minimum Performance Standard 5.1.14 states that residential construction, redevelopment, or subdivision developments resulting in dislocation of existing residential occupants shall be subject to the provisions of the federal Uniform Relocation Act. A tenant occupies the house that is located on what will be lot 19, therefore, the tenant will be eligible for relocation assistance from the applicant.

AH8. Minimum Performance Standard 5.2.2 states that residential construction and redevelopment projects shall provide at least 10% or one unit, whichever is greater, of the proposed units as legally handicapped accessible unit(s). By providing one handicapped accessible unit, the project complies with this standard.

**Noise Findings:**

N1. MPS 2.6.1.1 requires DRIs to be in compliance with the state's air pollution control regulations. Under state regulations, noise is considered to be an air contaminant. In a letter dated October 11, 2004, the applicant stated that mufflers and sound attenuators would be used to reduce construction noise, and that use of equipment that generated noise above 100 decibels would be restricted to 7:30 AM to 5:30 PM, Monday through Saturday. An October 28, 2004 letter from the applicant further revised this position to state that use of noise-generating equipment would be restricted to 7:30 AM to 5:30 PM, Monday to Saturday, and that contact information would be posted at the site concerning how to contact a project representative if there are noise issues.

**Heritage Preservation/Community Character Findings:**

HPCC1. The proposed project is not located within a historic district and is not adjacent to individual historic structures. The applicant filed a Project Notification Form with the Massachusetts Historical Commission (MHC) on February 12, 2004. On February 23, 2004



MHC responded that the project is unlikely to affect significant historic or archaeological resources.

HPCC2. The proposed project is located, in part, on Great Hill Road, which is designated as both a Scenic Roadway and a Regional Roadway because of its undeveloped rural character: MPS 6.2.3 requires that new development “*be designed to preserve distinctive features of the scenic road including tree canopy, stone walls, winding road character, and scenic views, and to limit the visibility of new development. New development adjacent to or within scenic open vistas shall be clustered and designed to avoid adverse impact to scenic resources.*”

HPCC3. Great Hill Road is designated as both a Scenic Roadway and Regional Roadway and is characterized by natural vegetation that borders the street. The Deed Restriction Plans (Z1 and Z2) dated November 18, 2004 shows the retention of a wooded buffer along Great Hill Road and a curved subdivision access. The applicant proposes to place a conservation restriction on Open Space Lot 2 to protect the buffer adjacent to Great Hill Road, and to place a deed restriction on Lot 1 prohibiting clearing of vegetation within a buffer area adjacent to Great Hill Road. This design preserves the distinctive features of the scenic road and limits visibility of the new subdivision and is therefore consistent with MPS 6.2.3.

HPCC4. Residents of an existing neighborhood to the west of the project site expressed concern during the public hearing process that vegetation on Lots 17, 18 and 19 along the western boundary of the project will be cleared or otherwise disturbed by future homeowners. The applicant proposes to place a deed restriction on Lots 17, 18, and 19 requiring that a 30’ wide strip along the back shall remain undisturbed and in its natural state.

HPCC5. The proposed structures (gatehouse and barn) will have cedar shingle siding and wood framed windows on the facades. A nontraditional, standing seam metal roof is proposed for both the barn and gatehouse. The proposed cedar shingles and windows and the form of the structures are consistent with the Commission’s Design Guidelines “Designing the Future to Honor the Past”, Technical Bulletin 96-001. MPS 6.2.6 allows nontraditional materials to be used in “*areas not visible from scenic or regional roadways*” and goes on to state that “*In such areas, maintenance of adequate buffers on the subject property is required to ensure that the proposed development will not be visible from scenic or regional roadways such as Route 6A.*” These structures will be visible from the scenic roadway; however, given the scale and use of these structures, the nontraditional materials used for the roof are appropriate in this case.

HPCC6. In conformance with MPS 6.2.9, the applicant submitted landscape plans demonstrating that the proposed plantings are appropriately sized, are sustainable and will require little regular maintenance after an initial three year acclimation period. The applicant submitted a draft landscape maintenance contract dated November 18, 2004 referencing landscape plans (Sheet numbers L2 and L2, dated November 18, 2004) that includes mulching, watering, Integrated Pest Management, fertilizing, pruning of deadwood and replacement of dead plant material if necessary, and specifying that the Lookout Ridge Homeowners Association will enter into the contract with the landscape maintenance contractor.

HPCC7. MPS 6.2.10 requires exterior lighting in new development or redevelopment to comply with Technical Bulletin 95-001. The applicant’s architectural/landscape design criteria as articulated in an October 29, 2004 Memo from Nutter states “exterior shielding of lights below 90 degrees”. A prior Memo also indicated that there will be no street lighting, and that “any

supplemental exterior building-mounted or pole-mounted lighting will be in conformance with Technical Bulletin 95-001.” However, no technical information (manufacturers’ catalog sheets, foot-candle diagrams, etc.) was submitted by the applicant.

### **CONCLUSION**

Based on the findings above, the Cape Cod Commission hereby concludes:

1. The benefits of the proposed project outweigh the detriments resulting from development, in that the project as proposed will include energy efficiency and resource conservation measures in the design and construction of the residences (Findings E 3 and E 4), will be constructed as a cluster residential subdivision that provides protection of a Significant Natural Resource Area (Findings LU1 and NROS 1), and will provide public access to an important Cape Cod Pathways trail connection (NROS 5).
2. The detriments of the proposed project are that the project will create more, permanent traffic generation on area Regional Roadways and intersections, and the project is not located near any necessary services or transit lines and therefore residents will rely almost exclusively on private automobiles for all mobility needs.
3. The project, as noted in the findings, complies with the RPP’s Minimum Performance Standards, with the exception of MPS 4.1.3.4 which is the subject of the Hardship Exemption request.
4. According to the Sandwich Town Planner, the project complies with local development bylaws and the Sandwich Local Comprehensive Plan (Finding G2).
5. Based on Finding T12, the Commission finds that a literal enforcement of the provisions of the Act would involve substantial hardship to the applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act.

**The Commission hereby approves with conditions the application of Alex E. Nussbaumer for the proposed Lookout Ridge project as a DRI Hardship Exemption, provided the following conditions are met:**

### **CONDITIONS**

#### **General Conditions:**

- G1. This Hardship Exemption decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G3. The applicant shall obtain all necessary state and local permits for the proposed project.

G4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

G5. Any changes in the subdivision plan shall require a modification from the Cape Cod Commission in accordance with the Cape Cod Commission Administrative Regulations Chapter 7, Modifications to Approved DRI's, dated 5/12/97 and as amended from time to time. The applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Town of Sandwich Planning Board shall be submitted to the Commission upon receipt of local approvals for review by Commission staff to determine their consistency with Section 7 of the Cape Cod Commission Administrative Regulations. Modifications made during the Town permitting process that are consistent with this approved decision shall be considered as Minor Modifications #1 and approved by Commission staff.

G6. The proposed Lookout Ridge project shall be constructed in accordance with the following final plans:

	<u>Dated</u>	<u>Date Revised</u>	<u>Date Received</u>
Preliminary Subdivision Plan for Lookout Ridge (Sheets 1 and 2)	06/04/04	10/29/04	11/02/04
Open Space Plan for Lookout Ridge (Sheets 1 and 2)	06/04/04	10/29/04	11/02/04
Septic Location Exhibit Plan for Lookout Ridge (Sheet 1)	2/28/05		3/02/05
Partial Building Limit Plan (Z1 and Z2)	11/08/04		11/09/04
Stable Elevations and Plan (AS1 and AS2)	11/18/04		11/23/04
Deed Restriction Plan (Z1 and Z2)	11/18/04		11/23/04
Landscape Plans (L1 and L2)	11/18/04		11/23/04
Bollard and Signage Plan (A.2)	07/06/04		10/8/04

G7. Prior to the conveyance or release of the first lot in each cluster or any development activity on the site for that cluster, the applicant shall obtain a preliminary Certificate of Compliance from the Commission stating that all conditions in this decision relating to that cluster have been met, unless otherwise stated in this decision. The applicant shall obtain a final Certificate of Compliance from the Commission prior to release or conveyance of the last lot in each cluster stating that all conditions in this decision for that cluster and/or the project have been met. In any case, a final Certificate of Compliance shall be required prior to the release or conveyance of the 18<sup>th</sup> lot. The project shall be constructed in accordance with final plans listed elsewhere in this decision and all conditions of this decision shall be met prior to issuance of a preliminary or final Certificate of Compliance for the project, unless otherwise stated in this decision.

Certificates of Compliance shall be issued as follows:

- 1) Prior to issuance of any preliminary Certificate of Compliance allowing the conveyance or release of the first subdivision lot, the applicant shall obtain a preliminary Certificate of Compliance stating that the project complies with Conditions G10, WR4, WR5, WR6, NROS1, T4, T5, T6, T8, T11, T12, E2, AH6, AH7 and CC5.
- 2) Prior to issuance of the first preliminary Certificate of Compliance for each cluster allowing the conveyance or release of the first lot in that cluster, the applicant shall obtain

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a preliminary Certificate of Compliance stating that the project complies with Conditions T1, T2, T3, T7, T10, WM3, AH3, and AH5.

3) Prior to the issuance of a second preliminary Certificate of Compliance for each cluster allowing the construction of the affordable home in that cluster, the applicant shall obtain a preliminary Certificate of Compliance stating that the project complies with Conditions AH4 and with AH8 for one of the homes.

4) Prior to the issuance of a third preliminary Certificate of Compliance for each cluster allowing the conveyance or release of the sixth lot in that cluster, the applicant shall obtain a preliminary Certificate of Compliance stating that the project complies with Conditions AH2, and AH9.

5) Prior to the issuance of any final Certificate of Compliance for a cluster allowing the conveyance or release of the last lot in that cluster or in the subdivision, the applicant shall obtain a final Certificate of Compliance stating that the project complies with Conditions NROS3, NROS4, T6, CC2 and CC3.

6) Prior to the release or conveyance of Lot 1, the project shall comply with Condition NROS5.

7) Prior to the release or conveyance of Lots 17, 18 and 19, the project shall comply with Condition NROS6.

8) Prior to obtaining a building permit for each house, the applicant shall comply with Condition E1 for each house.

G8. The applicant shall notify Commission staff of the intent to seek a preliminary or final Certificate of Compliance at least thirty (30) days prior to the anticipated date of building permit or occupancy permit issuance. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within twenty (20) days of such notification and inform the applicant in writing of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property that is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met, and at any time in the future to determine continuing compliance with the conditions of this and/or subsequent modification decisions.

G9. Construction of the stable shall comply with all Board of Health and local zoning regulations. To limit the amount of traffic generated by the stable, it shall be reserved solely for the use of residents residing within the subdivision, and shall not be used for commercial purposes.

G10. Prior to issuance of any preliminary Certificate of Compliance for the first lot, the applicant shall develop educational materials for distribution to each homeowner that include recommendations for improving energy efficiency and resource conservation, and instructions about proper disposal of hazardous materials. Such materials shall be approved by Cape Cod Commission staff prior to issuance of any preliminary Certificate of Compliance for the first lot.

G11. Commission staff shall review and respond to the Applicant within twenty (20) calendar days of submission by the Applicant and/or its agents or consultants of any materials, plans, or documentation submitted in response to any of the conditions listed in this decision. An Applicant's submission shall be deemed received on the date it is stamped "received" by Commission staff. Any approvals shall not be unreasonably withheld. If the Commission fails to respond to the Applicant within said twenty (20) days of receipt, the plans, materials and/or documentation shall be deemed approved in accordance with the respective condition(s) of this decision. If the Commission staff determines that the materials, plans, and/or documentation does not satisfy the particular condition(s) of this decision, staff shall state the reasons therefore within said twenty (20) day review period. In such event, no certificate shall be issued until such time as staff approval is obtained. Any disputes relating to approvals pursuant to this condition shall be resolved by the Regulatory Committee.

**Water Resources Conditions:**

WR1. The applicant shall submit the following for approval by Commission staff. Such documents shall be approved by staff prior to any lot release or development activity on the site, and such approval shall not be unreasonably withheld:

a) a plan meeting Commission staff approval for the installation of at least four (4) observation wells that are adequately and appropriately sited for determining the direction of groundwater flow across the project parcel. The plan shall include a description of the amount of vegetation clearing that will be necessary to construct the observation wells;

b) analytical results for water samples collected from the observation wells and tested at a MADEP-certified laboratory for the following analytes:

Total nitrogen<sup>1</sup>;

Nitrate;

Ammonia; and

EPA Method 524.2.

c) a water-table map adequate for determining the direction of groundwater flow across the project parcel, and well logs detailing lithofacies and water levels encountered during drilling of the observation wells; and

d) a well-siting plan for separate water-supply wells for each housing unit such that the wells are not located hydraulically downgradient of on-site wastewater systems in a manner that precludes the potential, in the opinion of a Commission staff Licensed Site Professional/hydrogeologist in conjunction with the Sandwich Health agent, for the wells to intercept wastewater effluent moving with groundwater. The wells shall be protected, to the extent applicable, subject to the provisions of the conservation restriction required in Condition NROS 1. The plan shall include water-quality sampling protocol consistent with Sandwich BOH requirements and shall detail the locations of proposed water-supply wells and conveyances. Water-supply wells sited in open-space easements shall

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<sup>1</sup> NO<sub>2</sub>, NO<sub>3</sub>, and TKN

be located no closer than 25' to any lot boundary and no closer than 150' from any septic system, livestock stable, turnout, paddock or manure pile. The plan shall include a description of the amount of vegetation clearing that will be necessary to construct the water-supply wells and conveyances to the respective housing units along with a proposal for mitigating open space areas disturbed as a result of water-supply construction results.

WR2. Prior to the conveyance of each respective lot or application for a certificate of occupancy for any building, the following shall be submitted to the Commission staff: 1) plans detailing the locations of constructed supply-wells and conveyances; 2) a description of actual vegetation cleared during well and conveyance construction; and 3) water-quality results required by the plan described in Condition WR1.d.

WR3. Livestock stabling shall be restricted to no more than 19 horses at Open Space Lot 2.

WR4. Prior to issuance of any Preliminary Certificate of Compliance, a comprehensive landscaping/turf management plan and a stormwater maintenance and operations plan meeting requirements of MPS 2.1.1.2.A.5 and MPS 2.1.3, respectively, shall be approved by Commission staff. The plans shall 1) contain schedules for inspection and maintenance, 2) include irrigation/water conservation practices; 3) detail best-management practices to be implemented by contracted landscape services that minimize the need for pesticides and fertilizers; and 4) identify and be adopted under the Home Owner Association (HOA) covenant, with the HOA as the responsible party for ensuring that the plan is implemented. Commission staff shall review the plans within 20 days of submission.

WR5. Prior to issuance of the first Preliminary Certificate of Compliance, engineered stormwater-management and grading plans that meet specifications required by MPS 2.1.3, detailing the required use of best-management strategies for "critical areas" defined by Massachusetts Stormwater Policy (e.g. wellhead protection areas), as required by MPS 2.1.3.2, shall be approved by Commission Staff. Commission staff shall review the plans within 20 days of submission.

WR6. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall make a one-time payment of \$1,100 to Barnstable County to be held in escrow for use at the discretion of the Commission's Executive Director for use in developing nitrogen-management strategies for the Scorton Creek watershed.

**Natural Resources Conditions:**

NROS1. In accordance with Finding NROS2, prior to the issuance of any preliminary Certificate of Compliance, the Applicant shall provide to the Cape Cod Commission a conservation restriction consistent with Massachusetts General Laws Chapter 184, § 31 – 33 and accompanying plan which provides that 26.20 acres identified as open space on the plan titled "Open Space Plan for Lookout Ridge" dated 10/29/04 prepared by Atlantic Design Engineers shall be preserved as permanent open space. The restriction and site plan shall be approved by Commission counsel, executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission prior to issuance of any preliminary Certificate of Compliance. To preserve the significant habitat values of the open space areas protected through this conservation restriction, the land subject to this conservation

restriction shall remain undisturbed for conservation and wildlife habitat preservation purposes, with allowance for an unpaved walking/horse trail. The conservation restriction shall also include a provision to allow for the construction of a sidewalk along the frontage of Great Hill Road, in accordance with Transportation Finding T6 and a provision for individual water supply wells in accordance with Condition WR1.

NROS2. For the open space area that is disturbed by the installation and maintenance requirements of the water-supply wells, the Applicant shall provide an offset of either 1) off-site open space within an SNRA in an equivalent amount to the disturbed area, or 2) on-site open space in an equivalent amount to the disturbed area, or 3) an equivalent cash contribution to the Sandwich Land Bank or Sandwich Conservation Trust. The offset shall be approved by Cape Cod Commission staff.

NROS3. Prior to issuance of any final Certificate of Compliance, the Applicant shall clearly mark the boundaries of the open space land area (as identified on the open space plan) with surveyed concrete bounds.

NROS4. Prior to issuance of any final Certificate of Compliance, signage and bollards shall be installed as shown on Sheet A2, dated 07/06/04.

NROS5. The applicant shall provide staff with a 30-year deed restriction containing within the instrument provisions for extensions prohibiting clearing of vegetation on Lot 1 along Great Hill Road as shown on Deed Restriction Plan Z.1 dated 11/18/04. -The deed restriction shall be approved by Commission counsel, executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission prior to the conveyance or release of Lot 1.

NROS6. The applicant shall provide staff with 30-year deed restrictions containing within the instrument provisions for extensions prohibiting clearing of vegetation on Lots 17, 18 and 19 as shown on Deed Restriction Plan Z.2 dated 11/18/04. The deed restrictions shall be approved by Commission counsel, executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission prior to the conveyance or release of Lots 17, 18 and 19.

**Transportation Conditions:**

T1. The applicant shall improve sight distances along Great Hill Road such that the sight distances to the northern cul-de-sac driveway meet or exceed American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distances. The applicant shall work with the Town of Sandwich to determine the best possible approach to achieve these sight distances while maintaining the scenic character of the roadway. Prior to issuance of the first preliminary Certificate of Compliance for the northern cul-de-sac, the applicant shall provide up to \$5,000 to the Town of Sandwich for the installation of re-vegetation, or shall install such vegetation, along Great Hill Road to mitigate impacts to the scenic character of the roadway.

T2. Prior to the first preliminary Certificate of Compliance for the northern cul-de-sac, the applicant shall submit a letter signed and sealed by a Massachusetts registered Professional Civil

Engineer verifying that the actual sight distances to the northern site driveway along Great Hill Road meet or exceed AASHTO standards.

T3. Prior to the first preliminary Certificate of Compliance for the southern cul-de-sac, the applicant shall submit a letter signed and sealed by a Massachusetts registered Professional Civil Engineer verifying that the actual sight distances to the southern site driveway along Popple Bottom Road meet or exceed AASHTO standards.

T4. Relative to MPS 4.1.1.1, the applicant shall purchase or pay funds adequate to purchase a portable speed monitoring device for the Sandwich Police Department. Prior to the issuance of any preliminary Certificate of Compliance, the applicant shall provide a letter from the Sandwich Police Department stating that the town has received a portable speed monitoring device purchased by the applicant and that such device meets the departments standards or that the applicant has paid a fee to the department which is sufficient to purchase such a device. The letter shall also include a statement that the device shall be located within the development's study area for speed monitoring a majority of the total time the device is deployed for such purposes.

T5. The applicant shall install yellow, two-way pavement reflectors on either side of the Great Hill Road centerline at appropriate spacing from Route 6 to Farmersville Road. The applicant shall work with the Town of Sandwich and shall meet town standards regarding the type, location, and frequency of these reflectors. The reflectors shall be installed and a letter from the Town of Sandwich Engineering Department stating that the installation is complete and satisfactory shall be provided to the CCC prior to the issuance of any preliminary Certificate of Compliance.

T6. If the Town of Sandwich requires sidewalks on the subdivision streets, the applicant shall provide such sidewalks. The applicant shall submit copies of any sidewalk plans to Commission staff prior to Town approval. The sidewalks must be completed prior to the issuance of the final Certificate of Compliance for that cluster.

T7. The applicant shall provide a public walking path between the two cul-de-sacs as shown on the Landscape Plan L.1 dated November 18, 2004. This public walking right-of-way will remain in perpetuity and will, at a minimum, consist of a cleared, maintained pervious walking path limited to a maximum width of 3 feet. The path shall be completed prior to issuance of the first preliminary Certificate of Compliance for the second cul-de-sac. Maintenance of such path shall be the responsibility of the Homeowners Association and shall be included in the Homeowner Association Bylaw that shall be approved by Commission staff prior to recording, and proof of recording of which shall be provided to the Cape Cod Commission prior to issuance of a first preliminary Certificate of Compliance.

T8. The applicant shall provide a public recreational path from Great Hill Road to the property adjoining to the east as indicated on Landscape Plan L.2 dated November 18, 2004. This public right-of-way will remain in perpetuity and will, at a minimum, consist of a cleared, maintained pervious path. Maintenance of such path shall be the responsibility of the Homeowners Association and shall be included in the Homeowner Association Bylaw that shall be approved by Commission staff prior to recording, and proof of recording of which shall be provided to the Cape Cod Commission prior to issuance of any preliminary Certificate of Compliance.



T9. The applicant shall provide a right-of-way along the site frontage on either or both Great Hill Road and Popple Bottom Road should the Town of Sandwich decide to build a sidewalk along either of these roadways at a future date and should such land be needed for completion of the sidewalk.

T10. Prior to the issuance of the first preliminary Certificate of Compliance for each cluster, the applicant shall obtain CCC staff approval for plans which restrict two-way accesses to 24 feet maximum width and one-way accesses to 12 feet maximum width per RPP and MHD requirements. Should the Town of Sandwich require wider one-way segment pavement widths, these segments shall be limited to the town requirements, but shall not exceed 18 feet in pavement width without Commission review as a modification to an approved DRI as detailed in Condition G5.

T11. Prior to the issuance of the first preliminary Certificate of Compliance for the Great Hill Road cul-de-sac, the applicant shall pay \$72,700 to Barnstable County, and prior to the issuance of the first preliminary Certificate of Compliance for the Popple Bottom Road cul-de-sac, the applicant shall pay \$52,800 to Barnstable County. The aforementioned funds shall be used within the Town of Sandwich to advance strategies that reduce future expected traffic generation or reduce dependency on automobile travel. Uses of the funds may include, but are not limited to: (i) purchase of vacant developable land for conservation, (ii) initiation, operation or marketing of transit services, (iii) planning, design and/or construction of bicycle paths or sidewalks, and/or (iv) performance of transportation studies or installation or operation of traffic monitoring devices. Expenditure of such funds shall be at the discretion of the CCC Executive Director.

T12. Prior to the issuance of any preliminary Certificate of Compliance, the applicant shall pay \$59,600 to Barnstable County to be use for any transportation improvements within the Town of Sandwich. Uses of the funds may include, but are not limited to: (i) purchase of vacant developable land for conservation, (ii) initiation, operation or marketing of transit services, (iii) planning, design and/or construction of bicycle paths or sidewalks, (iv) performance of transportation studies or installation or operation of traffic monitoring devices, (v) planning, engineering and/or construction of transportation improvements, and/or (vi) purchase of easements and/or transportation rights-of-way. Expenditure of such funds shall be at the discretion of the CCC Executive Director.

**Hazardous Materials and Waste Management Conditions:**

WM1. The on-site use, treatment, generation or storage of hazardous materials and wastes connected with site work, land clearing and/or construction occurring on or within proposed lots to be accessed from Popple Bottom Road shall be limited to 25 gallons or its dry weight equivalent or less at any one time. Storage, if it occurs, should be on an impervious surface, with containment and access control.

WM2. On-site servicing of construction equipment shall be limited to greasing of fittings and joints. Equipment fueling and re-fueling is prohibited on any area of the site affected by the Wellhead Protection Area. Equipment fueling and re-fueling, if conducted, shall, at a minimum, be on an impervious surface.

WM3. Prior to the issuance of the first preliminary Certificate of Compliance for each cluster, the applicant shall indicate on a site plan the locations of any areas used to handle or store hazardous materials or hazardous wastes, or to conduct equipment fueling activities.

**Energy Conditions:**

E1. Prior to obtaining a building permit for each house, the applicant shall submit building specifications and other information, as appropriate, detailing the energy efficiency measures that will be included in the construction of that house.

E2. The applicant shall include energy and resource efficiency in the homeowner educational materials that will be distributed to the homeowners, and shall submit a copy of such educational materials to the Cape Cod Commission prior to the issuance of any first preliminary Certificate of Compliance.

**Affordable Housing Conditions:**

AH1. The affordable housing units will be occupied by eligible low income households whose gross annual income is less than or equal to 80% of the area median income, adjusted for household size. The income limits are established by the U.S. Department of Housing and Urban Development, as may be adjusted from time to time, for the Barnstable-Yarmouth Metropolitan Statistical Area. The rents charged will vary by the number of bedrooms in a unit and shall be set at what a household earning 70% of area median income can afford to pay under the assumption that a household will pay 30% of gross income on housing costs (rent and utilities). For the rent calculation, a household size of one more than the number of bedrooms in the unit shall be used.

AH2. Prior to issuance of a third preliminary Certificate of Compliance allowing the release or conveyance of the sixth lot in that cluster, the affordable housing unit in that cluster shall have obtained a Certificate of Occupancy.

AH3. The affordable units created by this section shall remain affordable year-round in perpetuity through the use of the Cape Cod Commission Affordable Housing Restriction. This restriction shall be recorded as a separate instrument at the Barnstable County Registry of Deeds prior to the issuance of the first preliminary Certificate of Compliance for that cluster.

AH4. The affordable housing rental units shall be constructed on lots 11 and 19. Prior to the construction of the affordable home in each cluster and prior to the issuance of a second preliminary Certificate of Compliance for each cluster, the applicant shall obtain Cape Cod Commission staff approval of construction plans and specifications of the market rate homes built, under construction, or under agreement with a buyer and of the affordable homes demonstrating consistency with MPS 5.1.8.

AH5. Prior to the issuance of the first preliminary Certificate of Compliance for that cluster, the applicant shall obtain Commission staff approval of a marketing and tenant selection plan for the affordable units.

AH6. Prior to the issuance of any preliminary Certificate of Compliance, the applicant shall execute a monitoring services agreement with the Sandwich Housing Authority, or other organization that is acceptable to the Commission and that has experience in income verification. The monitoring services agreement shall include at least the following: a) income verification of the tenant currently living in the unit on lot 19; b) the tenant income and rent verification on the

initial tenants; and c) an annual eligible tenant income and rent verification report that will be provided to the Commission.

AH7. Prior to the issuance of any preliminary Certificate of Compliance, the applicant shall provide a) documentation from the monitoring agent on the income eligibility of the existing tenant; b) documentation that the tenant has received initial notification of displacement/non-displacement and a copy of HUD form 1042- CPD; and 3) a relocation plan acceptable to the Commission that provides for assistance to the existing tenant as required under the Uniform Relocation Act.

AH8. One of the affordable homes shall be legally handicapped accessible in accordance with the applicable Fair Housing Act Design Guidelines.

AH9. Prior to the issuance of the third preliminary Certificate of Compliance for each cluster, the applicant shall prepare the Local Initiative Program application for the Town and shall submit the original copy to the Town and shall provide a copy of that application to the Commission.

**Noise Conditions:**

N1. The project's construction phase shall incorporate noise attenuation measures including use of mufflers and sound-attenuators on site preparation and construction equipment. Site preparation, land clearing and construction equipment shall also be restricted to operation between 7:30 AM and 5:30 PM, Monday through Saturday.

**Community Character Conditions:**

CC1. All building materials used shall be consistent with the materials shown on Sheet AS.2 dated November 18, 2004 and the materials board submitted for the project and on file at the Cape Cod Commission.

CC2. All landscaping for the project shall be consistent with landscape plans (sheets L.1 and L.2) dated November 18, 2004. For each cluster, an executed landscape maintenance contract consistent with the approved draft shall be submitted to staff prior to issuance of the final Certificate of Compliance for that cluster. The applicant shall ensure that the landscaping associated with each cul-de-sac is maintained from the time of installation until such time as the homeowners association is incorporated and able to assume responsibility for maintenance, and shall provide Commission staff with documentation of such maintenance upon request.

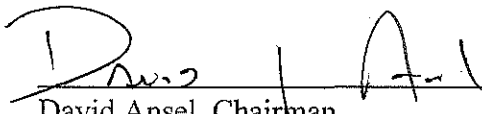
CC3. The applicant shall complete all site work and landscaping associated with each cluster prior to issuance of the final Certificate of Compliance for that cluster.

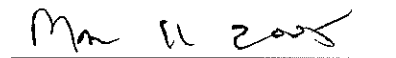
If all required site work and/or other landscape improvements are not complete prior to issuance of a final Certificate of Compliance for that cluster, any work that is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow funds shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the applicant, with interest, upon completion of the required work.

CC4. Site lighting for the project shall conform to the Commission's Exterior Lighting Guidelines, Technical Bulletin 95-001. All light shall be equipped with opaque interior or exterior shields to create a total cutoff of all light at less than ninety (90) degrees from vertical, and lighting fixtures shall only be visible from below.

CC5. Prior to issuance of any preliminary Certificate of Compliance, the applicant shall submit evidence that the requirements of this decision concerning exterior lighting have been incorporated into the project. This could include, but is not limited to, architectural designs or Homeowners Association covenants.

The Cape Cod Commission hereby approves with conditions the application Alex E. Nussbaumer for a DRI Hardship Exemption pursuant to Sections 12, 13 and 23 of the Act, c.716 of the Acts of 1989, as amended for the proposed Lookout Ridge project located in Sandwich, MA.

  
\_\_\_\_\_  
David Ansel, Chairman

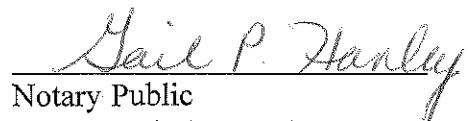
  
\_\_\_\_\_  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss



Before me, the undersigned notary public, personally appeared David J. Ansel, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires:



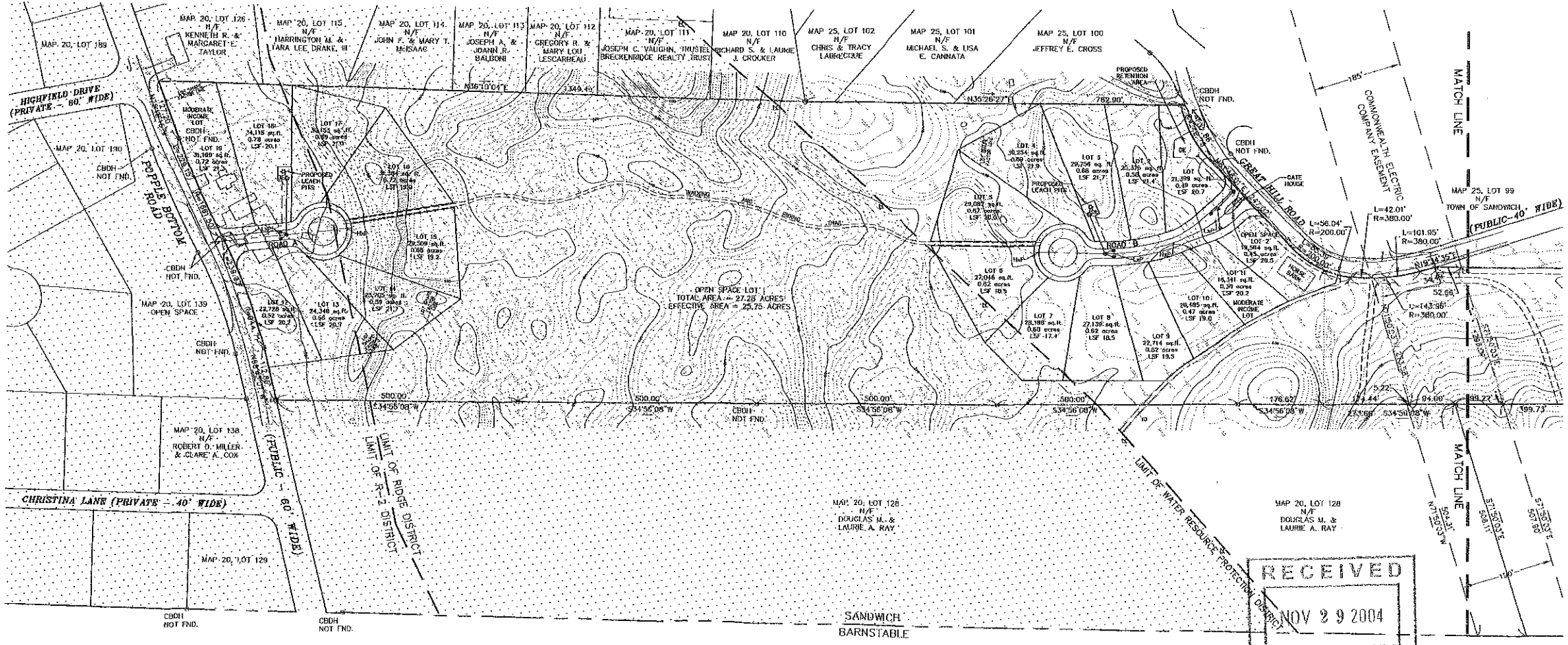
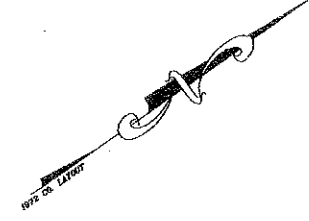
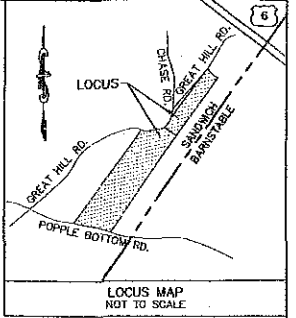
- LEGEND**
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  - EXIST. DIRT PATH/WALK
  - EXIST. TREE LINE
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  - EXIST. SHRUB
  - EXIST. ROCK
  - EXIST. BOULDER
  - EXIST. UTILITY POLE
  - EXIST. POLE
  - EXIST. RESIDENTIAL MAIL BOX
  - EXIST. WOODEN FENCE
  - EXIST. SPOT ELEVATION
  - EXIST. PROPERTY LINE
  - PROPOSED LOT LINE
  - DE PROPOSED DRAINAGE EASEMENT
  - SE PROPOSED SLOPE EASEMENT
  - PROPOSED DRAINAGE MANHOLE
  - PROPOSED CATCH BASIN
  - ▶ PROPOSED FLARED END SECTION

**REQUIRED OPEN SPACE CALCULATION**

ENTIRE SITE IS IN AN AREA OF "SIGNIFICANT NATURAL RESOURCE"  
(PUBLIC WATER SUPPLY AREA OR UNFRAGMENTED FORESTED HABITAT)

PROPORTION OF TOTAL DEVELOPMENT AREA TO TOTAL OPEN SPACE  
AREA = 1 : 2

TOTAL SITE	40.5 ACRES
ROADS, SLOPE EASEMENTS, DRAINAGE EASEMENTS AND LOTS	12.77 ACRES
OPEN SPACE PARCELS 1 AND 2	27.73 ACRES
EXISTING ELECTRIC EASEMENT	1.21 ACRES
HORSE BARN AREA	0.32 ACRES
DEVELOPED AREA (12.77 + 0.32)	13.09 ACRES
REQUIRED OPEN SPACE 2 x 13.09	26.18 ACRES
PROVIDED OPEN SPACE (27.73 - 1.21 - 0.32) =	26.20 ACRES



**RECEIVED**  
NOV 29 2004  
Cape Cod Commission

**Atlantic** DESIGN ENGINEERS, L.L.C.  
P.O. Box 1051, Sandwich, MA 02563 (508) 888 - 9282

Designed by: \_\_\_\_\_  
Drawn by: \_\_\_\_\_  
Checked by: \_\_\_\_\_  
Survey chk. by: \_\_\_\_\_  
Approved by: \_\_\_\_\_

**SCALE**  
SCALE 1" = 100'  
0 25 50 100 200

NO.	BY	DATE	REVISION
2	HJ	10-29-04	REVISED PER CAPE COD COMMISSION
1	SWG	10-1-04	REVISED LAYOUT

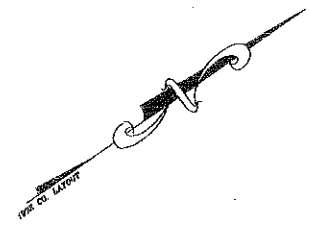
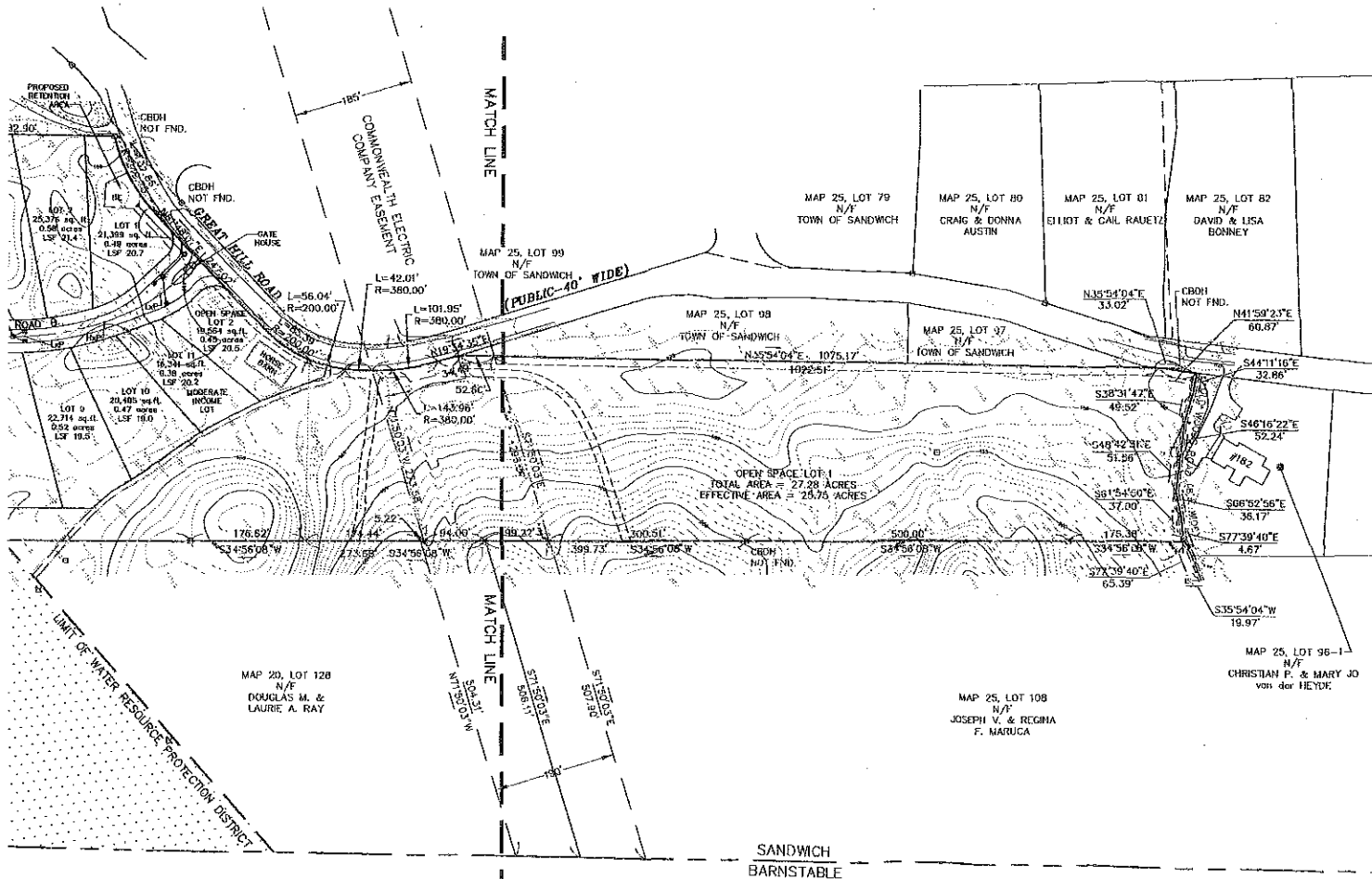
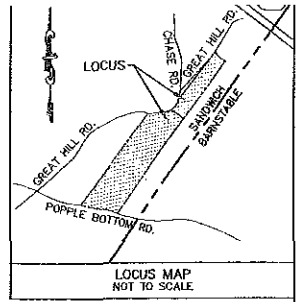
OWNER AND APPLICANT:  
**ALEX E. NUSSBAUMER**  
144 EAST 44th STREET  
NEW YORK, NEW YORK 10017-4008

**OPEN SPACE PLAN**  
FOR  
**LOOKOUT RIDGE**  
SANDWICH, MASSACHUSETTS  
JUNE 4, 2004

Sheet of  
1 2  
JOB NUMBER  
2297.03

FILE: 229703NSP1-02

LEGEND	
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○	EXIST. STAKE IN STONES
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Designed by: \_\_\_\_\_  
Drawn by: \_\_\_\_\_  
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Survey chk. by: \_\_\_\_\_  
Approved by: \_\_\_\_\_

SCALE  
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0 25 50 100 200

NO.	BY	DATE	REVISION
2	MJ	10-29-04	REVISED PER CAPE COD COMMISSION
1	SWC	10-4-04	REVISED LAYOUT

OWNER AND APPLICANT:  
**ALEX E. NUSSBAUMER**  
144 EAST 44th STREET  
NEW YORK, NEW YORK 10017-4008

OPEN SPACE PLAN  
FOR  
**LOOKOUT RIDGE**  
SANDWICH, MASSACHUSETTS  
JUNE 4, 2004

Sheet 2 of 2  
JOB NUMBER 2297.03