

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

MINOR MODIFICATION TYPE #1 DECISION

Date: March 20, 2019

Owner/
Applicant: Great Hill Equities, Inc. n/f Nussbaumer
c/o Eliza Cox, Esq., Nutter McClennen & Fish LLP
1471 Lyannough Road, P.O. Box 1630
Hyannis, Massachusetts 02601-1630

Project: Look Out Ridge Cluster Subdivision (CCC No. 04010)
Astrid Way and Maxwell Lane, East Sandwich

Assessor's
Parcel ID: Map 20 Pcls 272 through 279
Map 25 Pcls 107, 111 through 122, and 127

Title/ Plan: Deed Book 25725 Page 157
Reference Plan Book 613 Pages 97 through 100

****ORIGINAL CCC DECISION RECORDED IN BOOK 20635 PAGE 1 ****

FINDINGS AND DETERMINATION

1. Pursuant to Section 13 of the Cape Cod Commission's (Commission) Enabling Regulations Governing Review of Developments of Regional Impact (Revised April 19, 2018), the above-referenced Decision is hereby further modified as a Minor Modification Type #1 to allow *de minimis* changes to said Decision.
2. The Cape Cod Commission (Commission) approved the above-referenced Project in a Development of Regional Impact (DRI)/ hardship exemption decision issued in March, 2005, which was subsequently amended by modification decision issued in March 2007. (collectively, the "DRI Decision").
2. By extension decision dated July 21, 2016, the Commission's Committee on Planning and Regulation extended the effective period of the DRI Decision to December 21, 2021.
3. The DRI Decision approved a cluster subdivision consisting of 19 residential building lots and a 27.42 ac. +/- open space lot, on 40.2 ac. +/- of land.

4. The Town of Sandwich Planning Board has granted definitive subdivision approval and a special permit for the Project, and has released all building lots in the subdivision from covenant. The Sandwich Building Department has issued one building permit for lot 11 in the subdivision (and a residence has been constructed on such lot); the Commission issued a Final Certificate of Compliance for said lot 11.
5. Both subdivision roads in the Project -Astrid Way and Maxwell Lane- and various other subdivision infrastructure have been full completed per approved plans.
6. The Applicant has satisfied the majority of the Conditions under the DRI Decision, including permanent conservation restriction of the open space lot, creation of a homeowner's association (HOA), and establishment of HOA protective covenants for the subdivision.
7. The Applicant submitted a request in December 2018 to further modify the DRI Decision. Based on consultation with Commission staff, the Applicant has supplemented its request through the present with additional information.
8. The purpose of the Modification request is to amend, simplify and clarify the remaining, outstanding Conditions in the DRI Decision, including those related to the issuance of Certificates of Compliance, allowing the Commission to close-out its permitting for the subdivision with the Applicant.
9. This Modification also clarifies that the Applicant does not propose to undertake horse stable construction or related activities that are referenced in various findings and conditions of the DRI Decision.
10. General Condition G7 of the DRI Decision sets out a process for the issuance of various Certificates of Compliance. Said Condition G7 is replaced and modified to allow for the issuance of a single Final Certificate of Compliance (FCOC) for the subdivision, which when issued will confirm the Project's full compliance with the terms and conditions of the DRI Decision. Prior to and as a condition to any further issuance of building permits for or conveyances of individual, market-rate building lots in the subdivision, the Applicant shall apply for and obtain said FCOC from the Commission.
11. The following are the remaining, outstanding Conditions (associated with issuance of certificates of compliance under the DRI Decision) that are required to be satisfied prior to issuance of the FCOC:
 - NROS5 and NROS6 (re: 30 year deed restrictions). This Modification provides that said deed restrictions will be held and enforced by the subdivision's Homeowner's Association;
 - T11 and T12 (re: transportation mitigation payments). This Modification acknowledges that the remaining balance of transportation mitigation funds to be paid under said Conditions is \$133,000.00. Such remaining funds shall be paid to the Barnstable County Treasurer, to be administered by the Commission and used

for transportation congestion mitigation purposes within the Town of Sandwich, such as the Town of Sandwich's shared-use path project on Service Road;

- AH1 through AH9 (re: affordable housing mitigation). This Modification replaces and modifies said Conditions, and provides that the Applicant shall satisfy the affordable housing mitigation requirements of the DRI Decision either by: (i.) by recording an affordable housing restriction against two lots in the subdivision, which restriction shall be pre-approved by Commission staff and which shall identify a duly qualified housing entity willing to hold said restriction, with recorded copies of the approved restriction provided to the Commission; (ii.) by donating in fee simple two building lots (previously identified by the local Planning Board through its permitting for the Project) to a duly qualified non-profit housing entity, or (iii.) by making a cash in lieu payment to the Barnstable County Treasurer for two lots, which amount shall be based on the relevant minimum performance standards under the 2009 RPP AH Goal 1, to be held and administered by the Commission and used for affordable housing purposes in the Town of Sandwich.

12. Conditions NROS3 and NROS4 shall allow, but not require, the Homeowner's Association or conservation restriction grantee of the open space lot to undertake the activities referenced under said Conditions.

13. Conditions N1 and E1 are deleted from the DRI Decision, as the matters referenced thereunder will be addressed, and are required to be addressed, in and through the town's building permit process for individual lot/ building development.

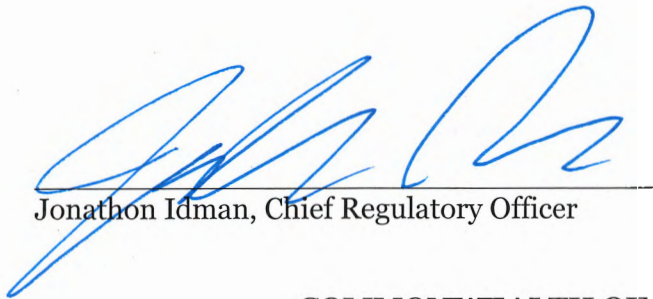
14. To the extent there is conflict or ambiguity between the DRI Decision and this decision, then this decision shall control.

15. All findings and conditions in the DRI Decision continue to apply as written except as modified herein.

Signature page follows

SIGNATURE PAGE

Executed this 20th day of March 2019.



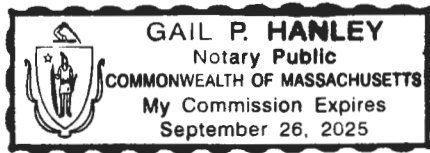
Jonathon Idman, Chief Regulatory Officer

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

March 20, 2019

Before me, the undersigned notary public, personally appeared Jonathon Idman in his capacity as Chief Regulatory Officer of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose on behalf of the Cape Cod Commission. 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 [x] personal knowledge of the undersigned.



Gail P. Hanley
Notary Public:
My Commission expires: *9-26-25*

SEAL