



CAPE COD COMMISSION

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DATE: May 23, 1996 TR# 95029

TO: Sagamore Highlands Realty Trust, Susan Daly, Trustee
c/o Bernkopf, Goodman and Baseman
125 Summer Street
Boston, MA. 02110
Contact Person: Dan Wells
#27 Route 6A
Sandwich, MA. 02563

FROM: Cape Cod Commission

RE: Development of Regional Impact
Chapter A, Section 3 (c) & (d), Barnstable County Ordinance 94-10.

PROJECT: The "Cliffside Open Space Community" Plan in Bourne
Massachusetts, dated February 22, 1996.
Project address: Off Norris Road and Vickerson Avenue
Map 1.4 Parcel 20 N. Sagamore, Bourne, MA.

BOOK/PAGE: Deed Book 8447 Page 239

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby approves with conditions the application of Sagamore Highlands Realty Trust, Susan Daly, Trustee for a Development of Regional Impact qualifying under Chapter A, Section 3(c) and 3(d) of the Regulations of General Application, Barnstable County Ordinance 94-10, for the "Cliffside Open Space Community" Plan in Bourne Massachusetts, dated February 22, 1996, modified on April 22, 1996, April 23, 1996 and May 15, 1996.

The decision is rendered pursuant to the vote of the Commission on May 23, 1996.

JURISDICTION:

The proposed subdivision of land qualifies as a DRI under Section 3(c) and 3(d) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 94-10, as any development which proposes to divide land of thirty acres or more and (any as) development which proposes to divide land into thirty or more residential lots.

Cliffside Open Space Community

DRI Decision

5/23/96

PROCEDURAL HISTORY & DESCRIPTION:

The original subdivision plan for this property dates to 1906-1907. At this time a roadway grid with small lots (averaging 9,000 sq.ft. in size) was proposed. The paper streets (roadway grid) approved at that time continue to be reflected on current subdivision plans.

The project obtained a special permit (#37) from the town of Bourne in October of 1986 for the construction of an attached housing complex of 77 units. Construction began with the rough grading of some of the subdivision roads, the installation of water mains, and several foundations were poured. After a downturn in the economy, the property went into foreclosure in 1987.

The Cape Cod Commission received an application in September of 1990 for a revised plan showing 81 detached condominium units. The applicant at this time was Marguerite Building Corporation. After three public hearings in 1990, on November 29, 1990 the Commission voted to deny the project on procedural grounds for lack of an abutters list.

On December 20, 1990, the Bourne Planning Board again referred the Cliffside project to the Commission as a DRI. Due to the lack of an abutters list, the public hearing could not be properly noticed, and on February 28, 1991 the Commission again voted to deny the project.

The current owner, Sagamore Highlands Trust, purchased the property on February 16, 1993. The Bourne Planning Board referred the current project to the Cape Cod Commission on November 30, 1995. It was received by the Commission on December 1, 1995. The referred project consisted of a standard single family home subdivision of 29 lots on 41.8 acres of land utilizing the existing road layout. At the initial pre-application meeting, staff determined that the plan did not meet the Regional Policy Plan requirement for 60% open space. Accordingly, staff has worked closely with the applicant to develop an alternative open space cluster plan showing 37 single family home lots and 60% open space. The plan utilizes the existing rough road layout and water mains.

LOCATION:

The property is located at the northern end of Norris Road in Sagamore Highlands area of Bourne. Access to the property is provided off Peak Cliff Road at the intersection of Vickerson Avenue. The property is bound on the north by the Town of Plymouth, on the west with the property of Bourne Realty Trust, to the south by Cedarville Road (Ancient Way) and the east by Shepard Road.

MATERIALS SUBMITTED FOR THE RECORD:From the Applicant:

1). Notification of Legal Counsel	Robert Parady	Dec. 5, 1995
2). On pre-application meeting	Robert Parady	Feb. 9, 1996
3). DRI application	Dan Wells	Feb. 23, 1996
4). Land use Data	Perimeter Land Service	March 4, 1996
5). Trip reduction information	Perimeter Land Service	March 11, 1996
6). Open space information request	Robert Parady	March 18, 1996
7). Information request	Robert Parady	April 4, 1996
8). Information on Ancient Ways	Robert Parady	April 5, 1996
9). Installation of Stop sign	Robert Parady	April 23, 1996
10). Conservation Language	Robert Parady	April 25, 1996
11). Homeowners Association Trust	Robert Parady	April 25, 1996
12). Affordable housing lot locations	Perimeter Land Service	April 25, 1996
13). Site Distance Study	Perimeter Land Service	April 25, 1996
14). Open Space Calculations	Perimeter Land Service	April 25, 1996
15). Ob. Deck/Bikeway Information	Perimeter Land Service	April 25, 1996

From the Town/ State:

1). Bourne Planning Board	DRI Referral Form	Dec. 1, 1995
2). Bourne Board of Health	Wastewater Treatment	Jan. 12, 1996
3). Bourne Town Planner	History of the project	March 11, 1996
4). DPW Superintendent	Traffic	April 11, 1996
5). Chief of Police	Traffic safety	April 22, 1996
6). MHC	No historic resources	May 15, 1996

From Abutters:

1). Joan T. Beard	In favor of the proposal	March 7, 1996
2). Lorraine A. Rossi	Concerns with the proposal	March 14, 1996
3). Nancy Bejtlich	Concerns with the proposal	March 18, 1996
4). Norman Krinsky	Concerns with the proposal	March 18, 1996
5). Peak Cliff Realty Trust	Concerns with the proposal	March 18, 1996
6). Dorothy M. Bunker	Concerns with the revised plan	March 21, 1996
7). Timothy L. Blegen	Concerns with the Staff Report	March 29, 1996
8). Joseph Corn	Concerns with the proposal	April 8, 1996
9). Mary Kennedy	Concerns with the proposal	April 8, 1996
10). Fitzsimmons/ Monaghan	Concerns with the proposal	April 8, 1996
12). Plan of Intersection Norris/ Old Plymouth Rds	Tom Peters	April 11, 1996
11). Bruce Rothwell	Concerns with the proposal	April 18, 1996

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearings and all submissions received in the course of the proceedings, including materials submitted on file TR95029 are incorporated into the record by reference.

TESTIMONY

The following summarizes the testimony regarding the DRI application at the March 18th and April 11th public hearings:

March 18, 1996 Public Hearing

Robert Parady, representing the applicant, presented the history of the project. He noted that a subdivision of the land laying out the roads was created in 1904. It was approved as a 77 unit residential condominium project in the late 1980s by special permit. At that time, the roads were roughed in and a building was partially constructed. Later modifications to this plan were submitted to the Cape Cod Commission and denied. The applicant has been working with the Commission staff to develop a project which is consistent with the Regional Policy Plan. The project now consists of a 37 lot residential subdivision with a significant amount of open space.

Virginia Anderson expressed concern about the access to the out lots as well as the access to the possible vernal pool as well as the impact of the vernal pool on a few of the out lots. Mr. Fox noted the Commission has no jurisdiction over the out lots.

Lorraine Rossi stated concerns about the retaining walls on the out lots and questioned whether this would prevent access to them. She also expressed concern over meetings which took place without public notice.

Mr. Parady noted that the applicant would be constructing roads which would allow access to out parcels. He explained that the meeting which Ms. Rossi is talking about was the Bourne Planning Board meeting where that Board had referred the project to the Commission.

Dorothy Bunker, Norris Road resident, expressed concern over the access to the site through Vickerson Road to Norris Road. She believes that there will be too much traffic on Norris Road and recommends that Cedarville Road be constructed for additional access.

Patricia Panardo expressed concern that the applicant will not be able to construct the pedestrian path along Old Cedarville Road and what could the Commission do to ensure construction. Mr. Parady stated that the applicant has the right as an abutter to make reasonable improvements to the ancient way. Mr. Silverman explained that if the project was approved, the Commission could condition the project and an applicant would not be able to build houses until mitigation is complete.

Marie Cheney expressed concern about access to out parcels which have retaining walls and how could those property owners access this new roadway. Mr. Parady suggested that the walls be removed, a slope easement granted and regrading to allow for access.

Tom Peters inquired whether the project meets MEPA requirements. He inquired about whether a traffic study had been prepared. He believes that there is too much traffic on Norris Road. He is concerned about the sight distance on Norris Road from the subdivision road. Ms. Pommrehn, Commission staff, noted based on the information submitted by the applicant, the project's entrance meets the sight distance requirement.

Mr. Peters inquired about the vegetated border along the Plymouth town line. He also stated that he did not like the concept of a sidewalk going into the woods.

Joe Kennedy, resident of Indian Trail Road, stated that he is concerned that pedestrian traffic will be excessive. He is concerned about parked cars.

Bob Saganno stated that he likes the 29 lot grid plan better than the 37 lot cluster plan. He inquired why the cluster plan is considered better. The committee explained that the Regional Policy Plan, which is county law, requires that 60% of the site must be preserved as open space. Open space is important for visual character and wildlife habitat protection. Ken Mason noted that it is unfortunate that the Bourne Zoning Bylaw allows for an increase in the number of units through cluster development projects.

Mr. Saganno expressed concern that the project will produce additional school children and inquired about affordable homes.

Mr. Ingelhardt inquired about the size of the lots in the subdivision. Mr. Parady stated that they are approximately 15,000 square feet each.

George Murray inquired about who will pay the taxes on the open space. Mr. Fox explained that it depended upon the ownership after the subdivision is built. If the open space is owned by the town, no taxes are paid, however if it is owned by a homeowners association, the association is responsible.

Barbara Sullivan inquired about access to the beach and utilities. It was noted that the utilities would be underground. Mr. Parady noted that the utilities will be underground and Robb Sykes, the applicant's engineer, noted that the property owners will have deeded access to the beach. Ms. Sullivan and Ms. Bunker both expressed concern over possible pedestrian traffic over the cliff and damage through erosion.

Paula Terrill inquired whether a new road could be built along the fire road.

Patricia Benard expressed concern over the small size of the lots and whether septic systems would be adequate. She is concerned about whether a sewage treatment plant would need to be installed. Susan Butler inquired whether each lot would need to meet Title V requirements.

James Linsey expressed concern about receiving notice for subsequent meetings.

Mr. Peters expressed concern that the water lines that were installed for the last project would no longer be functional.

Ms. Cheney inquired about the review process following the meeting.

Ms. Anderson, water commissioner, noted that the project would require a new approval from the water commission.

Ms. Bunker expressed concern that the taxes have not been paid on the property.

April 11, 1996 Public Hearing

Lance Lambros opened public hearing, which was continued from March 18, at 7:10 PM and introduced the subcommittee and staff to the audience.

Robert Parady introduced Rob Sykes, Project Engineer, who described the changes in the project since the last public hearing. He explained that several interior parcels required easements to provide access, and this has been done. He indicated on the plan that lot 13 had been moved out of the buffer area around the cranberry bog to a location on Vickerson Road. He showed that the cul-de-sac had been moved to a location from which a connection through the abutting property could be easily achieved. He explained that the proposed bike/pedestrian along the ancient way (Cedarville Road) adjacent to the applicants property had been moved northward so that this portion of the path was located entirely on the applicants property. In addition, the applicant is providing an another path along Wood Road (also an ancient way) this would connect Cedarville Road with the unnamed cul-de-sac off of Ridgehill Road.

Mr. Parady noted the letter of April 4 regarding the legal status of Old Cedarville Road. He submitted a letter to the subcommittee regarding the status of the 100' fire easement. He submitted a 1986 Deed from the Bourne Conservation Trust that he said gives the applicant an easement for the use of the beach that runs with the land.

Mr. Parady responded to public concerns that were raised at the previous public hearing. He noted that the number of 29 lots was originally an effort to avoid Cape Cod Commission review, but regulations changed and the project was before the Commission now. Town by-laws for a grid subdivision would allow about 45 one-acre lots. Town by-laws for an open space subdivision would allow in excess of 37 lots. Currently, the total number of lots was constrained by the open space requirements of the Commission. Mr. Parady noted that the project has an existing Special Permit to allow 77 condominium units, which in light of the Cape Cod Commission's recent Brookside decision was still valid, but the applicant has discarded this route. He said the applicant has worked with Cape Cod Commission staff to develop this proposal.

and will still need to go before the Bourne Planning Board. He noted that this proposal meets the Bourne zoning by-law requirements.

Mr. Parady noted that the pedestrian/bicycle path had been relocated onto the applicants property in order to remove it from the backyards of several abutters in the adjoining subdivision. He noted that the Town of Bourne holds a 100' easement along the Plymouth town line for the purpose of firefighting access that would prohibit development from occurring; however, the applicant can use the property for a pedestrian/bicycle pathway of up to 6' in width.

Mr. Parady noted that the Town encouraged the cul-de-sac linkage to the property line so that the Town has the ability to create a second access and improved roadway system in the future. He noted that in the future the planning board can require the adjacent developer to complete the linkage when they file for the development of the remaining land.

Mr. Parady noted that lot 13 had been moved, and utilities were being placed below ground. He said that the applicant is willing to require the lot owners to be dues-paying beach association members. He noted that hopefully residents would walk or bike to the beach, making it unnecessary for them to park cars. In response to the danger of the cliff, Mr. Parady noted that although the property is owned by the Town, the applicant is willing to work with the Town to erect a rail fence and put up signs.

Regarding access to the out-parcels, Mr. Parady noted that the design plans do not block access to the paper roads, which can be used for driveway easements provided the Town approves the building permits.

Mr. Parady noted that the applicant is willing to give the Bourne Conservation Commission a conservation restriction on the open space, and to establish a homeowners association with the responsibility of maintaining the roads, paths, and common areas.

Karen Sherman, Bourne Town Planner, submitted a letter from Cornelius W. Andres, Bourne Superintendent of Public Works.

Dorothy Bunker voiced questions about the cul-de-sac connector road. She noted that she would rather see money spent on completing the connector road than on the pathway connection.

Rich Doherty noted that there may be another vernal pool on the property (In the area of the small open space parcel at the intersection of Shepard Road and Cross Road a paper street). He wondered if the applicant needed permission from the abutters to relocate the bikepath.

Kate Jones noted that Norris Road is dangerous, and asked about the plans to

complete the cul-de-sac connector road.

Christine Doherty asked if the proposed subdivision called Holly Tree Acres that was being planned off Norris Road had been taken into consideration.

Jack Buchanan asked how the applicant proposed to resolve access problems to the beach.

Ms. Bunker noted that stairs could be built down the Vickerson Avenue cliff to relieve parking needs and pedestrian use on the path at Homestead. She also stated that she believed the back taxes on the Cliffside property had not been paid as of the previous Friday.

Tom Peters asked if there was a conflict of interest regarding Perimeter Land Services doing the traffic study as well as the surveying. He noted that he measured Norris Road and had measurements ranging from 17' to 19' from gutterline to gutterline. He noted that the road width on the corners was 17' to 18', and that because some houses are only 30' or 40' from Norris Road, there is no room to veer out of danger without driving into the woods. He discussed the Norris Road intersection with Old Plymouth Road and submitted a plan of the intersection.

Tim Blegen noted that traffic on Norris Road often reaches 40 to 50 mph, and that there is little supervision of traffic speeds. He would like to see a meaningful second access for safety vehicle access. He is concerned about how to protect the dunes and bluff from erosion.

George Murray also had concerns about traffic.

Mr. Parady responded to the above-mentioned concerns by stating that the cul-de-sac would be completed when the abutting property is developed. He noted that the abutting development would be responsible for construction costs, just as the applicant is responsible for the cost of building this portion. He stated that neither he nor Mr. Sykes were aware of another vernal pool. Mr. Parady noted that the letter from Mr. Andres indicates that Norris Road is adequate for traffic created as a result of both this subdivision and Holly Tree Acres. He said the Vickerson Avenue extension stairway to the beach was a good suggestion.

Mr. Parady noted that he was not aware of back taxes due on Cliffside Estates. Mr. Wells said that Cliffside does not owe back taxes, however, the abutting property does.

Mr. Parady noted that three traffic experts (Mr. Sykes, Mr. Andres, and Ms. Pommrehn) have reviewed the plans and have indicated that the road can handle the expected additional traffic from both subdivisions.

Ms. Sherman wondered if the cul-de-sac stub would provide legal frontage for the two

lots at the end. Mr. Mason asked if the applicant was proposing to build the entire spur. Mr Sykes replied that the applicant will build the spur, providing the two lots with legal frontage. He noted that if the two lots were used for open space, the spur would have to be given an easement.

Mr. Lambros read the letter from Mr. Andres into the record. He assured the public that the Commission had listened carefully to all sides and would take the information presented and make the best decision possible.

Keith Jones said the Sagamore Highlands Association minutes indicate that even before this project was proposed, residents had concern about traffic safety on Norris Road.

Ms. Jones said that there were several home businesses on Norris Road that will be affected by increased traffic.

Donna Fitzsimmons noted that when her driveway is full, cars often park on the road. When this happens, it is dangerous because it narrows Norris Road to one lane.

Craig Witten noted that housing values will decrease if the Cliffside subdivision goes in.

Mr. Doherty commented that the roadway width measurements of the traffic experts was off since he never measured 20'. He asked if the DPW was taking full responsibility for any accidents that might occur, and what credentials Mr. Andres held. Mr. Lambros replied that the letter from Mr. Andres does not indicate that he or the Town would be responsible, and that asking for the credentials of the DPW superintendent was a valid request.

Mr. Peters said that the road can not meet LOS C if it is not 20' wide, and asked about drainage for the project. Mr. Sykes replied that the Town Engineer has indicated they would like to see drainage pits.

Mr. Doherty asked if the bikepath would be located on his brothers property. Mr. Parady responded that it would be entirely on the applicants property.

FINDINGS

The Commission makes the following finding:

1). The proposed subdivision of land qualifies as a DRI under Section 3(c) and 3(d) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 94-10, as any development which proposes to divide land of thirty acres or more and any development which proposes to divide land into thirty or more residential lots.

- 2). In accordance with Minimum Performance Standard 1.1.2, which states that all residential subdivisions of five or more lots shall submit a cluster development plan, the applicant included a cluster plan showing 37 house lots, of 15,000 sq.ft. in size, using a large portion of the existing road network and providing approximately 60% open space as part of the DRI application submitted to the Commission. There are a number of out-parcels in and around the project site including: 9 parcels of land owned by other parties or trusts spread throughout the site, 3 parcels on the south side of Vickerson Avenue and 5 parcels on the east side of Shepard Road which are not a part of this submittal or DRI approval.
- 3). The proposed project is located in the Sagamore Highlands area of Bourne on the county line with the Town of Plymouth.
- 4). The proponent estimates the amount of traffic generated by the proposed 37 unit development to be 354 daily trips, and 37 afternoon peak hour trips. The applicant has demonstrated that this traffic will not degrade the existing levels of service of surrounding roads and intersections below LOS C based on summer peak hour traffic volumes.
- 5). The applicant has identified the need to improve sight distances along Old Plymouth Road for exiting traffic from Norris Road by way of trimming vegetation to improve sight lines at this location, and to maintain clear sight lines in the future.
- 6). The applicant has determined that sight distances for the intersection of Vickerson Avenue and Peaked Cliff/ Norris Road are in excess of the required safe stopping sight distances.
- 7). The proponent is proposing to improve Vickerson Avenue between the site and Peaked Cliff Road to provide a 24 foot wide roadway connection consistent with Town site development roadway standards. Currently Vickerson Avenue is a driveway to several single family houses.
- 8). The section of Peaked Cliff/Norris Road from the intersections of Vickerson to Homestead Avenue has an average lane width of two 9' lanes. Roads in Bourne are typically constructed to provide a minimum of two 10' lanes. This roadway is classified as a rural minor collector. According to the American Association of State Highway and Transportation Officials (AASHTO), the minimum standard for lane width of a minor collector is 10'. The applicant is proposing to widen this portion of the road to 20', which will provide two 10' travel lanes in accordance with AASHTO standards.
- 9). The proposed residential subdivision will increase pedestrian activity in the area.

- 10). The Regional Policy Plan Minimum Performance Standard 4.1.2.1 requires all Developments of Regional Impact to make provisions for alternate transportation modes to offset at least 20% of their projected traffic volumes.
- 11). To satisfy a portion of minimum performance standard 4.1.2.1, the applicant has proposed to clear a pedestrian path between Vickerson Avenue and Old Plymouth Road, along what is believed to be an ancient way referred to as Old Cedarville Road. A portion of the proposed path lies outside of the applicant's property. The proposed pedestrian path would provide a shorter pedestrian connection to Old Plymouth Road than Norris Road for those traveling to areas north along Route 3A and would provide a link in the area pedestrian network which contributes further to the development of this mode of travel.
- 12). To satisfy the remaining portion of the trip reduction minimum performance standard 4.1.2.1, the proponent has proposed to provide a 20-foot-diameter octagon-shaped deck with benches and a bicycle rack on an area designated for open space. The proposed over-look deck would provide views of Cape Cod Bay and be accessible by pedestrians in the area. Only 6 of the 30 lots will have ocean views. The proponent is proposing to clear a pedestrian path between Shepard Road and the over-look deck. These improvements would enhance pedestrian and bike usage in the area by providing an ocean overlook destination for the entire subdivision.
- 13). The project proposes a cluster subdivision of 37 3-bedroom homes on approximately 41 acres. The project will utilize on-site wastewater disposal for the combined total of 12,210 gpd wastewater flow. A nitrogen loading calculation for the subdivision estimates a nitrate-nitrogen concentration of 4.7 ppm.
- 14). The project is not in a wellhead protection area, or in a sensitive marine embayment recharge area, and must meet the 5.00 ppm minimum performance standard. Because the proposal is close to the minimum performance standard, it is important to ensure that the total number of bedrooms built on the subdivision does not exceed the proposed figure of 111. The individual lots will be served by public water supplies.
- 15). Sections 5.1.2 and 5.1.3 of the Regional Policy Plan requires any residential Development of Regional Impact to set aside at least 10% of the units or lots for affordable housing. In this instance, the applicant is proposing to meet this standard by providing four lots to meet the requirement of Section 5.1.3.
- 16). Based on Cape Cod Commission income limits on affordable housing, units cannot exceed 30% of the gross income for a household at or below 80% of the median income, the maximum sale price for a household of three would be \$88,000, and for a household of four it would be \$99,000. These sale price limits are based on the following underwriting assumptions: 5% down payment, 20 year fixed rate loan at 7.5%, annual tax payment of \$1,300 and a home insurance cost of \$800.

- 17). The Cliffside site contains rolling topography and pine-oak woodlands that have been extensively altered by development activities in the recent past. There is an isolated wetland/ bog located in an out-lot, approximately 100 feet west of Shepard Road, which has been identified by the Bourne Conservation Commission and the Cape Cod Commission as a likely vernal pool.
- 18). The Regional Policy Plan requires protection of wetlands and requires protection of a minimum 100' undisturbed buffers around such wetlands. The applicant has revised the plans to provide a 200 foot buffer to the wetland /vernal pool.
- 19). The Regional Policy Plan requires that for residential development, 60% of the site be set aside as permanent open space to "provide benefits to wildlife, residents and, in appropriate cases, the general public." The 37 lot cluster subdivision plan submitted by the applicant is a significant improvement over the 29 lot "standard" subdivision that was referred by the Town of Bourne with regard to open space and habitat protection. In particular, the revised cluster plan provides a 200' undisturbed buffer to the wetland on the site, and protects the most significant habitat areas, including a deep kettle in the southern corner of the site, as open space. The plan provides 24.42 acres of open space, meeting the Regional Policy Plan's 60% requirement. The open space is adjacent to existing land controlled by the Bourne Conservation Commission to the northeast.
- 20). The applicant has proposed that the open space be owned and managed by a homeowner's association. A permanent conservation restriction will be placed on this land to ensure that it remains as open space in perpetuity.
- 21). Subdivision projects typically involve the use of heavy equipment to prepare the site for building construction. Research indicates that hazardous materials and hazardous wastes are generated during such projects including paint wastes, other ignitable wastes (strippers, cleaners, epoxies), spent solvents (cleaners/degreasers), wastes containing toxic chemicals (coatings, polishes, thinners), and wastes from plumbing operations.
- 22). The Regional Policy Plan requires developments to dispose of construction & demolition debris & other solid waste in a manner that will minimize the contribution of solid waste to the Cape's disposal facilities.
- 23). The RPP requires that developments and redevelopments make reasonable efforts to minimize hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling. It also requires developments and redevelopments to be in compliance with the Massachusetts Hazardous Waste Regulations.

CONDITIONS

Based on the need to address the impacts noted in the findings above, the Commission hereby attaches the following conditions:

General:

- 1). All plans submitted shall become a part of the written decision and any changes to these plans shall be approved by the Cape Cod Commission.
- 2). The applicant shall obtain a Certificate of Compliance for each lot from the Commission or its designee before any of the following actions take place: the issuance of a building permit on any lot by the Bourne Building Inspector or the conveyance of any lot in the subdivision. A Certificate of Compliance can be written for a group of lots as long as the number of lots contained within the group meet the conditions of this decision.

Water Resources:

- 3). In accordance with Section 2.1.1.1 of the RPP which requires that a project not exceed a nitrate/nitrogen loading standard of 5 ppm, the total number of bedrooms built within the Cliffside Estates Open Space community shall not exceed 111.

Affordable Housing:

- 4). In accordance with Section 5.1.3 of the RPP, which requires that a project shall provide at least 10% of the proposed lots as affordable housing lots, the applicant shall construct four (4) houses, each on a separate lot, for the express purpose of creating four affordable housing units.
- 5). In accordance with Section 5.1.7 of the RPP, which requires that the development of on-site affordable housing be phased, the applicant shall phase the construction of the four (4) affordable houses. This condition does not prohibit the applicant from satisfying the affordable housing requirement sooner.
 - a) The first two affordable housing units shall be constructed and placed on the market for sale consistent with the conditions of this decision prior to the issuance of the eleventh building permit (including the permit to construct the affordable units), or prior to the approval of the eleventh lot release, or prior to one year from the date of filing this decision with the Commission clerk, whichever occurs first. The applicant shall provide the Bourne Building Inspector with written confirmation from the Cape Cod Commission that the first two affordable housing units have been constructed and placed on the market prior to applying for the eleventh building permit within said subdivision.
 - b) The third affordable housing unit shall be constructed and placed on the market for sale consistent with the conditions of this decision prior to the issuance of the sixteenth building permit (including the permit to construct the affordable unit), or prior to the approval of the sixteenth lot release, or prior to two years from the date of filing this

decision with the Commission clerk, whichever occurs first. The applicant shall provide the Bourne Building Inspector with written confirmation from the Cape Cod Commission that the third affordable housing unit has been constructed and placed on the market prior to applying for the sixteenth building permit within said subdivision.

c) The fourth affordable housing unit shall be constructed and placed on the market for sale consistent with the conditions of this decision prior to the issuance of the twenty-first building permit (including the permit to construct the affordable unit), or prior to the approval of the twenty-first lot release, or prior to three years from the date of filing this decision with the Commission clerk, whichever occurs first. The applicant shall provide the Bourne Building Inspector with written confirmation from the Cape Cod Commission that the fourth affordable housing unit has been constructed and placed on the market prior to applying for the twenty-first building permit within said subdivision.

6). The monthly mortgage costs (i.e., Principle, Interest, Taxes and Insurance) of on-site or off-site units cannot exceed 30% of the gross income for a household at or below 80% of the median income, with adjustments for household size. Prior to the conveyance of the affordable housing units, the applicant shall submit documentation to the Cape Cod Commission indicating the sales price and verifying the income eligibility of the prospective households. At this time the income-eligibility limits are as follows:

<u>Household Size</u>	<u>Income Limit</u>
one	\$26,200
two	\$29,950
three	\$33,700
four	\$37,450
five	\$40,450
six	\$43,450
seven	\$46,400
eight	\$49,400

7). Income verification shall be based on the information contained in the 4/29/96 Income eligibility and marketing plan application package as updated and provided by the Commission.

8). Affordable housing units created by this section shall remain affordable year-round through the use of the Cape Cod Commission Affordable Housing Deed Restriction. These restrictions shall be made known to the prospective household prior to the conveyance of the affordable housing lots.

9). The applicant will be required to submit a marketing plan prior to the issuance of the eleventh building permit. This marketing plan shall be subject to Commission approval and said plan shall describe how prospective buyers will be contacted for these units. Additionally, the affordable housing units created through this section are to be purchased by eligible households through a lottery process to be approved by the

Commission.

10). In accordance with Section 5.1.10 of the RPP the applicant shall construct the affordable units on lots #2,#8,#18 and #25, to be compatible in design, appearance, construction and quality of materials with the other units in the development.

Transportation:

11). In accordance with Section 4.1.2.1 of the RPP, the applicant shall provide a five (5) foot wide pedestrian path from the development along Cedarville Road from Vickerson Avenue to Old Plymouth Road as shown on the Topographic Plan showing the location of Cedarville Road, Bourne, MA. Prepared by: Perimeter Land Services, Inc., dated 4/20/96. the applicant shall provide a five (5) foot wide pedestrian path to the observation deck as shown on the approved plans. The grade of both pedestrian ways shall not exceed 8%. The depth of the surface material shall be 4" and shall consist of dense graded (3/4" max stone diameter) processed stone material .

12). The applicant/homeowners association shall be responsible for the maintenance of the entire Cedarville Road pedestrian path as described in Condition #11, and the observation deck and pathway.

13). In accordance with Section 4.1.1.2 and 4.3.1.1 of the RPP, the applicant shall widen Peaked Cliff Road between Vickerson Avenue and Homestead Avenue to a minimum of 20 feet to the satisfaction of the Bourne DPW superintendent.

Open space/ Wetlands/ Habitat:

14). The applicant shall submit a site plan depicting the 24.42 acres to be permanently restricted as open space in compliance with the Regional Policy Plan prior to issuance of a Certificate of Compliance. Future activities within this area shall be governed by the terms of the conservation restriction required by condition # 15.

15). The applicant shall provide the Cape Cod Commission with a conservation restriction to be approved by Commission counsel and recorded at the Barnstable District of the Land Court/ Registry of Deeds which provides that all of the open space areas shown on the site plan noted in condition # 14 shall remain as permanent open space. The restriction and site plans shall be recorded prior to issuance of a Certificate of Compliance from the Commission.

16). No development may occur on any lands restricted as permanent open space except as otherwise specified in the restriction referenced in condition #15 above. No disturbance shall be permitted of any land within 200 feet of the wetland/bog area.

Solid/ Hazardous Waste:

17). In accordance with Section 4.2.1.2 of the RPP, the applicant shall provide storage areas for any recyclable materials generated from construction activities including but not limited to paper and cardboard.

18). In accordance with Section 4.2.1.3 of the RPP, the applicant shall submit a narrative for review and approval by Commission staff which describes how construction and demolition debris generated by construction activities will be handled in accordance with the integrated solid waste management hierarchy.

19). In accordance with Section 4.2.2.1 of the RPP, the applicant shall submit a narrative for review and approval by Commission staff which describes the steps that will be taken to provide "right to know" training to construction employees, to recycle hazardous wastes generated by construction activities and to use least toxic substitutes for construction materials including, but not limited to, latex and low-VOC paints.

20). In accordance with Section 4.2.2.2 of the RPP, the applicant shall provide documentation that construction contractors will operate in conformance with the Massachusetts Hazardous Waste Regulations. This includes, but is not limited to, proper management of paint wastes and used oil generated during construction and site preparation.

21). The applicant shall submit plans for review and approval by Commission staff showing an area designated for on-site fueling and maintenance of construction vehicles.

22). The applicant shall be restricted to no more than 275 gallons of all hazardous materials and wastes to be used or stored on site at any one time during site preparation and housing construction.

23). All on-site servicing of construction equipment shall be limited to greasing of fittings and joints. Major engine repairs or servicing of equipment is prohibited on site.

CONCLUSION

Based on the finding and conditions above, the Cape Cod Commission hereby concludes:

The benefits of the proposed development outweigh the detriments. This conclusion is supported by the findings and conditions noted above. The proposed development as conditioned is consistent with the Minimum Performance Standards of the Regional Policy Plan. The proposed development as conditioned is consistent with the Bourne Zoning Bylaw and Regulations.

The Commission hereby approves with conditions the Development of Regional Impact Application of Sagamore Highlands Realty Trust, Susan Daly, Trustee for the "Cliffside Open Space Community" Plan in Bourne, Massachusetts, dated February 22, 1996 and revised April 22, 1996, April 23, 1996 and May 15, 1996, pursuant to Chapter A, Sections 3(c) and 3(d) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 94-10 and Sections 12 and 13 of the Cape Cod Commission Act, as amended, provided the conditions noted above are met.

Sumner Kaufman
Sumner Kaufman, Chairman

5/26/96
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.
Subscribed and sworn to before me this 23rd day of May 1996

Katharine L Peters
NAME, Notary

My Commission expires: 12/31/97