



CAPE COD COMMISSION

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DATE: September 18, 1997 TR# 97011

TO: Verbon Trust, Mr. Daniel Striar, Trustee
Vernon Hospital Management Corp.
RHL Corporation
SRC Corporation
P.O. Box 271
225 Plymouth Street
Middleborough, MA. 02346

FROM: Cape Cod Commission

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

PROJECT: The "Round Hill Road Subdivision" in Sandwich
Massachusetts, dated August 18, 1997.
Project address: Service Road, Sandwich

BOOK/PAGE: Book 4574 Page 120 Parcel 1 Lot 2
Book 4575 Page 120 Parcel 2

DECISION OF THE CAPE COD COMMISSION

SUMMARY:

The Cape Cod Commission (the Commission) hereby approves with conditions the application of Verbon Trust, Daniel Striar, Trustee, Vernon Hospital Management Corp., RHL Corporation, and SRC Corporation 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 "Round Hill Road Subdivision" in Sandwich Massachusetts, as shown on plans dated September 7, 1988 and amended July 17, 1989 and September 22, 1989, the plans titled "Existing Improvements Property of Verbon Trust" in Sandwich Massachusetts, dated April 27, 1994; the "Lot and Roadway Layout" dated August 18, 1997 and the "Conservation Restriction Plan" in Sandwich, Massachusetts, dated December 18, 1995, last revised July 7, 1997. The decision is rendered pursuant to the vote of the Commission on September 18, 1997.

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 as any development which proposes to divide land into thirty or more residential lots. In addition, this project was described in the "Round Hill Estates" decision (TR #95009) as requiring DRI review.

DESCRIPTION:

The Round Hill Road Subdivision is a 100+ acre parcel proposed to be divided into 41 lots for the construction of single family homes. This parcel was included in the 326.88 acre Round Hill Estates project (EX #95009, TR #95009) as lot #35. As part of the review of Round Hill Estates, an open space plan was drawn up that would satisfy the needs of both the residential lots in that plan and those that were anticipated in this project. All the proposed lots front on existing roads, either Service Road or roads constructed in the 1970's for a subdivision that was never completed. The project is located on land that lies about 200 feet above sea level.

LOCATION:

The property is located to the east of Quaker Meetinghouse Road and south of the Mid-Cape Highway (Route 6) at Exit # 3 and Service Road. The project lies to the north and west of the existing Round Hill golf course and north of the previous Round Hill Estates DRI. Some of the proposed lots lie within existing fairways on that golf course, which would likely need to be moved before those lots could be built upon.

PROCEDURAL HISTORY:

The above listed plans, which are the subject of this requested DRI, were referred to the Commission by the applicant on May 22, 1997. The following chronology describes the history of the review of this project to date:

- July 24, 1970 Sandwich Planning Board approves an 80+ lot subdivision located on this parcel for Sebastino Volpe. Roads and some utilities are constructed but the houses are never built.

- April 4, 1990 Sandwich Planning Board endorses an ANR plan reducing the project to 40 lots.

- May 22, 1997 Applicant's attorney files with the Cape Cod Commission a DRI Exemption Application Form and a DRI Application Form for this project.

- July 11, 1997 Commission receives letter from applicant's attorney notifying Commission that the current owners of the individual lots within the subdivision are no longer Verbon Trust, but instead Vernon Hospital Management Corporation, RHL Corporation and SRC Corporation. These corporations are located at the same street address as Verbon Trust.

- August 7, 1997 Commission votes unanimously to deny the DRI Exemption application for Round Hill Road Subdivision (EX #97011)

MATERIALS SUBMITTED FOR THE RECORD

1.) Round Hill Estates referral	Sandwich Planning Board	Dec. 29, 1994
2.) Written Narrative for DRI Exemption	Davis, Malm and D'Agostine	May 29, 1997
3.) Abutter List		May 29, 1997
4.) Form A Plan		May 29, 1997
5.) Deed Reference Addendum		May 29, 1997
6.) Acknowledgement of filing with applicable municipal boards		May 29, 1997
7.) Proof of Receipt from Mass. Historical Commission		May 29, 1997
8.) Plan and Wildlife Assessment	Fugro East, Inc.	May 29, 1997
9.) Traffic Impact Assessment	Carlson Consulting	May 29, 1997
10.) Nitrogen Loading Study	CAD Engineering	May 29, 1997
11.) Open Space Plan		May 29, 1997
12.) Withdrawal and Resubmittal of DRI Exemption		June 25, 1997
13.) Original Subdivision Plan (1970)	Charles N. Savery Inc.	July 8, 1997
14.) Amendment of Application	Davis, Malm & D'Agostine	July 11, 1997
15.) Constitutional Challenge	Davis, Malm & D'Agostine	July 15, 1997
16.) Letter to Jeff Levine	Davis, Malm & D'Agostine	August 4, 1997
17.) Letter to Paul Tilton	Davis, Malm & D'Agostine	August 15, 1997

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on files TR & EX # 95009 (Round Hill Estates) and TR & EX #97011 (Round Hill Subdivision) are incorporated into the record by reference.

TESTIMONY

At the July 15, 1997 public hearing, Paul Feldman, attorney for applicant, explained that the project has a seven year history that had been recounted during the DRI process for the Round Hill Estates project. He then described some of the history of the project. It is part of a larger 322 acre parcel for which an earlier 34-lot subdivision (known as the "Lower Subdivision") was approved by the Cape Cod Commission in the Round Hill Estates decision. That decision noted that this current project, a 41-lot subdivision (known as the "Upper Subdivision") located on one lot of the previous project, would be reviewed separately as a DRI. However, as part of the earlier project, open space was agreed upon that would satisfy the requirements for both projects. He noted that the earlier decision was currently in litigation, with the applicant challenging the denial of a DRI Exemption and the open space and affordable housing conditions of the decision. Mr. Feldman also explained that the applicant was proposing moving some of the open space from the earlier DRI approval to a new, off-site location. He said that this move had been recommended by the Commission staff as generally acceptable.

Mr. Feldman explained that he had reviewed the staff report and offered the following comments. With respect to local zoning issues, he said he understood there was some concern about whether the project met town zoning and that he would resolve these issues. With respect to affordable housing, he requested the option to use a fixed contribution to affordable housing off-site rather than being required to provide the

housing on-site.

With respect to water resources, Mr. Feldman stated that "scientific information does not exist" regarding the Scorton Creek/Harbor embayment and nitrogen loading. The groundwater discharge might be flowing directly into Cape Cod Bay below the embayment, he said, and this would completely alter the system. Alternatively, he stated that contributing to a flushing study would be an acceptable alternative to denitrifying septic systems. Mr. Feldman said that the "burden of proof" in this situation belongs with the Commission to demonstrate that this area is one of critical environmental concern, and that such proof is not yet evident.

With respect to solid and hazardous waste, Mr. Feldman accepted the conditions listed in the staff report. With respect to transportation, he said he accepted that the 20 percent reduction might not be met by the proposed bike path, and that the level of mitigation provided by that path should be established so that the level of additional mitigation needed might be determined. With respect to open space and natural resources, he explained the plan to move some of the open space offered in the previous agreement, but otherwise said he accepted the findings in the staff report. He said that he hopes for a staff recommendation that this project be approved.

Joseph Tamsky asked for a clarification of the open space proposal. Mr. Feldman explained the proposal to transfer some of the open space to a location north of Route 6. He also explained the arrangement from the previous project, by which some areas cannot be touched, others are termed "limited use areas" and others are restricted by the need for a minimum level of open space but that parts of those areas might be developed provided the minimum level of open space is maintained. In addition, as part of this project the applicant is proposing moving some of that open space to a new location but not falling below the minimum level needed.

Mr. Prince asked about a 3.36 acre piece of land outside the project area but on which some of the subdivision would fall. Mr. Feldman responded that area was outside the project as proposed. Ms. Bebout asked about the procedure for changing the open space. Kathy Sferra responded that the regulatory committee could approve the change. Robert Deane asked about the bog located in the southeast of the site. Ms. Sferra responded that it was an abandoned cranberry bog that was presently a quaking bog. Mr. Deane also asked about the plans that show the lots overlaying golf course holes. Mr. Feldman responded that the holes would be moved or the lots will be reconfigured in the event the lots were to be built upon.

Mr. Tamsky remarked that this was a complicated plan. Mr. Levine noted that the staff had repeatedly asked for a clearer plan of the current project and had been told this was the best the applicant had at present.

Jeff Levine, project planner, presented an overview of the project and the issues involved in considering a DRI approval. He noted that the previous approval of Round Hill Estates is currently in litigation for both the denial of the DRI exemption and the affordable housing and open space portions of the DRI decision. He noted that this project would be

reviewed under the new Regional Policy Plan, while Round Hill Estates was reviewed under the old RPP. He noted again that staff had been unable to obtain a definitive subdivision plan despite repeated requests.

Mr. Levine then reported that the staff recommends that the subcommittee not decide on the DRI application until missing data is supplied. This data would include information on transportation, water resources, and the resolution of the issue regarding town zoning. He then described the zoning issues needing resolution. Mr. Levine said that the project would have to provide 4 affordable housing units or an alternative cash contribution to meet the RPP. He noted the project would have to meet RPP requirements for solid and hazardous waste including a narrative and documentation of compliance.

He then described the water resource issues needing resolution. He noted that the project is located in the Scorton Harbor/Creek embayment, a critically overloaded watershed with respect to nitrogen. An estimated 7,129 grams of nitrogen per square meter of embayment was currently being emitted, far above the highest recommended rate of 45 grams. The RPP requires denitrifying systems if an embayment is overloaded unless an applicant can demonstrate that one is not needed. Thus there are three options to the applicant. First, he could put in denitrifying systems on all houses. Second, he could pay for a flushing study to determine if the embayment is flushing out more quickly than estimated. If so, a Title V system might be sufficient. However, he reported that Commission staff calculated that a sufficiently high flushing rate would be extremely unlikely. Third, the applicant could pay for an underflow study to see if wastewater was flowing below the embayment directly into Cape Cod Bay. If so, a Title V system might suffice. However, he noted that any study be conducted at the applicant's risk; if it did not demonstrate that the wastewater from the site was not flowing into the embayment, denitrifying systems would still be required.

Paul Tilton then spoke about transportation issues. He questioned the distribution of trips in the traffic impact assessment, especially onto the Route 6 ramps at Exit 3. Mr. Feldman agreed to provide more data on the subject. Mr. Tilton described how a DRI can pay \$100 per trip per location to meet fair share requirements. He also described methods for meeting the 20 percent trip reduction required. The bicycle path mentioned in the plan will have some effect on the trip generation of the site but will not meet the entire 20 percent requirement. If the applicant chose to meet the entire requirement using transit equivalency costs, the new RPP would require payment of \$169,000.

Kathy Sferra then spoke about the open space requirement. She said that the open space changes proposed seemed acceptable. She said she would bring them before the regulatory committee on July 21. Ms. Sferra reiterated that the Commission needed a definitive 41 lot plan. J. Gavin Cockfield explained that the original plan for the location, which received Form A approval, had been filed with the Commission. Mr. Levine noted that lots on that original plan had since been combined or increased in acreage. Mr. Tamsky said he found the map presently used to be confusing.

Mr. Prince asked for comments from the public. Sue Walker, REPS, said that the project as planned did not meet local zoning. She said she was offended by some of the hearing

comments that affordable housing on this site was not a regional issue. She also said she welcomed the transportation conditions. With regard to open space, she said it was important to include the conditions since the requirements from the earlier project were not yet recorded in the Registry of Deeds.

Bob Jones spoke as a private citizen. He said the traffic was the key issue. Exit 3 is a busy road, he said, and Service Road is busy as well. The intersection of Quaker Meetinghouse Road and Service Road is, he said, one of the worst in the area.

The DRI subcommittee continued the public hearing to August 7, 1997. At that meeting, Jeff Levine outlined the information in the Staff Update. The major outstanding issues are water resources and transportation. Most significantly, the applicant is interested in conducting a groundwater flow study to determine if the wastewater from the project is flowing into the overloaded embayment or underneath it. Paul Tilton described changes in the transportation analysis he has been working on with the client's consultant. He said that the trip distribution has changed, resulting in a total of 2 intersections and 2 road segments needing mitigation. The total cost of that mitigation is \$13,000. Mr. Tilton said that the total peak hour trip reduction required was 91 trips, for which bike paths would be a good option. He noted that the transit costs from the previous Round Hill Estates project could also be used for bike paths. One logical path would be from the subdivisions to the High School, which would probably meet the 20 percent trip reduction requirement.

Paul Feldman, attorney for the applicant, asked to comment on the staff update. He is comfortable the bike path would achieve the reduction required, and is not opposed to the concept. He would like the option of a transit cost listed in the final decision as well, however. With respect to affordable housing, he wants the subcommittee to know that the applicant has not decided whether to provide it on-site or provide a contribution to affordable housing off-site. He asks that a final decision provide the applicant with the option of providing housing on-site, off-site contributions, or a combination thereof. With respect to water resources, he noted that the applicant has retained the consulting firm of ASA to give advice on nitrogen loading. He says the applicant understands that denitrifying systems will be required if he cannot demonstrate that underflow is occurring. He asks that the Commission state what results will show that a Title V system is adequate.

Joseph Tamsky said that if he were to vote on this plan, he would not be sure what he was voting on, since he said the plan is unclear. He says he would vote against it for that reason. After examining the 1990 ANR plan, he said that plan was a little more clear, but that there still existed some questions of ownership. He also wanted to make sure that the lots that overlapped current golf greens would be permitted to provide easements for the greens.

Tom Cambareri, Cape Cod Commission water resources staff, came in to explain the type of groundwater study would be required. He explained that staff recommended 3 wells be put in as part of the study. Mr. Feldman said that their consultant had thought two would be enough. Dick Prince said that Commission staff needs to reach agreement with the consultant about how many wells are needed. Also, he asked that staff state

what additional information might be needed to determine if Title V systems would be adequate. Mr. Feldman asked that, in addition, staff say whether such a study would provide clear results without additional work. Sue Walker, Responsible Environmental Protection for Sandwich, said she would like to see denitrifying septic systems regardless of the results of any study, since nitrogen was bad for the marine environment as well as embayments.

Mr. Feldman and Mr. Levine went through what still needed to be resolved. Commission water resources staff will speak to ASA regarding the groundwater flow study. Mr. Tilton will look into the bike path cost and mitigation value. Mr. Levine will look into the issue of zoning and golf course greens. Finally, Mr. Feldman said he will supply the subcommittee with a project plan that satisfies their need for clarity. Commission water resources staff and ASA agreed upon a study format. Mr. Tilton and the applicant agreed upon transportation conditions including possible construction of a bike path.

The committee held a continued hearing on August 18, 1997 at the Cape Cod Commission offices. At this hearing, the committee discussed zoning compliance with Marie Blaney, Sandwich Planning Director. Mr. Cockfield presented plans which more clearly described the project. Water resources issues were discussed, as well as open space issues and affordable housing options. Paul Tilton stated that the applicant has agreed to build bike paths or as an alternative make a cash contribution for trip reduction measures. A continued public hearing was held by a hearing officer on September 4, 1997 at the Commission offices, where no testimony was taken and no substantive issues were discussed. The committee held a meeting on September 11, 1997 at the Commission offices, where the draft decision was reviewed and revised. The committee held another meeting on September 15, 1997 at the Commission offices to further discuss the draft decision. On September 18, 1997, the Cape Cod Commission held a hearing at the Assembly of Delegates Chamber in the Barnstable County Courthouse, Barnstable, MA, where this decision was approved.

FINDINGS

The Commission makes the following finding subject to Section 12 and 13 of the Cape Cod Commission Act:

General

- 1). The Round Hill Road Subdivision is a 100 + acre parcel proposed to be divided into 41 lots for construction of 41 single family homes. For the purposes of Commission open space review, this project is considered to be part of the 326.88 acre parcel reviewed as the Round Hill Estates definitive subdivision.
- 2). The proposed project was originally approved in 1970 as an 80+ lot subdivision. In 1990, an ANR plan for the site reducing the project to 40+ lots was approved by the Sandwich Planning Board. At that time the project should have been referred to the Cape Cod Commission for DRI review as a proposal to create 30 or more residential dwelling units.
- 3). This project as proposed is consistent with Sandwich zoning requirements, according to the town zoning enforcement officer. However, if any easements are required on any lots to

allow for golf course greens or any other purpose, these lots would no longer be consistent with town zoning requirements, according to the Sandwich Planning Director.

Transportation

4). Based upon the applicant's Traffic Impact Assessment performed by Carlson Consulting Associates, dated September, 1996, the proposed project is expected to generate 454 daily vehicle trips and 49 PM peak hour trips.

5). Based on MPS 4.1.1.1 (25 peak hour vehicle trip threshold), the project will have a significant regional impact at four locations. The applicant is required to mitigate these four locations according to the RPP. The locations include two intersections and two roadway segments shown below, along with the expected peak hour trips added to each location.

Intersections

- Quaker Meetinghouse Road at Service Road: 37 trips
- Quaker Meetinghouse Road at Route 6 Exit 3 Eastbound Ramp: 28 trips

Roadways

- Service Road (Round Hill Road to Quaker Meetinghouse Road): 37 trips
- Quaker Meetinghouse Road (Service Road to Exit 3 Eastbound Ramp): 28 trips

These locations are classified in the regional roadway system for Cape Cod as follows:

- **Route 6:** Urban Extension of Rural Principal Arterial
- **Quaker Meeting House Road:** Urban Minor Arterial
- **Service Road:** Urban Collector

The project will add less than 50 PM peak hour trips at these locations.

6). The applicant has committed to improving the sight distance and safety of the existing site drive intersection at Service Road based on the "Intersection Improvement Plan, Property of Verbon Trust in Sandwich, Massachusetts", dated 9/1/95, prepared by Youngquist, James & Associates, Inc.

7). MPS 4.1.2.1 requires the applicant to implement strategies that reduce daily automobile trips by 20%. Based on the project's traffic generation of 454 daily vehicle trips, the applicant is required to reduce 91 vehicle trips (454 trips x 20%). The applicant has requested flexibility in meeting the trip reduction requirement. The Commission has provided two methods to meet the requirement; a cash contribution or the provision of a bicycle path. The Commission finds that the trip reduction mitigation is intended to offset impacts on average daily traffic. The mitigation is typically required when the impacts occur (i.e. upon the construction and occupancy of the first and subsequent units). In this case, the applicant has requested, and the Commission has agreed, to allow for phasing of the mitigation.

Water Resources

8). The proposed 41 residential lots of the project are located within the Marine Water Recharge Area to Scorton Harbor/Creek.

9). Scorton Harbor/Creek does not have an identified marine water standard because a flushing study has not been completed for this embayment. However, based on the size of the harbor and land use within its watershed, existing nitrogen loading to the harbor has been estimated at 7,129 g/m²/yr. This level significantly exceeds all the recommended nitrogen loading limits for coastal embayments contained in the Commission's Nitrogen Loading Technical Bulletin. The highest of these recommended limits is 45 g/m²/yr.

10). The Regional Policy Plan (MPS 2.1.1.2.C.3.) requires denitrifying septic systems be installed on Developments of Regional Impact within Marine Water Recharge Areas unless the applicant can demonstrate to the satisfaction of the Commission that a standard Title 5 system is acceptable.

Open Space/Natural Resources

11). Since this project is located in a significant natural resource area, the 1996 Regional Policy Plan requires that approximately 65% of the site be set aside as permanent open space. However, the open space for this project was developed under the decision for Round Hill Estates (TR #95009), which was approved under the earlier Regional Policy Plan. For this reason, the 60% open space requirement from the 1991 Regional Policy Plan applies to this project. The proposed open space restriction may exclude public access.

12). The Regional Policy Plan provides that required open space may be provided on site or off-site within the same Town. The proposed development will provide 196.68 acres of open space consisting of 151.65 acres on site and 45.03 acres off-site. This is 6.39 acres more than is required for the proposed development and up to 6.39 acres may be removed from permanent restriction, consistent with the open space restriction approved by Commission counsel. A portion of the proposed open space will be used for golf course purposes associated with the existing 18-hole Round Hill Country Club.

13). The proposed 196.68 acre open space area fulfills the 60% open space requirement for the entire 326.88 acre property shown on the Project Area Plan referenced above (although not otherwise included in the review or decision). This area includes the Round Hill Road Subdivision and the Round Hill Estates definitive subdivision.

14). The southeastern portion of the open space area contains a scrub wetland/quaking bog located within a deep kettle hole. This bog is located within the area to be set aside as permanent open space. A small man-made lined freshwater pond is also located on the golf course and used for stormwater and irrigation purposes relating to the golf course.

15). The Regional Policy Plan requires protection of wetlands and requires protection of a 100' undisturbed buffers around such wetlands. Due to the fact that the pond is man-made and has been and will continue to be used for golf course purposes, the Commission finds that it is appropriate to modify the applicability of the RPP standards to this area. This modification will continue to allow the pond and portions of its 100' buffer to be used for golf

course purposes. As conditioned, the project will protect the scrub wetland/quaking bog within the permanent open space on site and will designate a minimum 150'+ wide buffer around this area which will remain undisturbed. In addition, the applicant has agreed to take reasonable steps to eliminate existing off road vehicle use within the bog and its buffer which is having an adverse impact on the soils and vegetation within the bog.

Affordable Housing

16). This project entails the development of a 41 lot subdivision in Sandwich. Section 5.1.3 of the Regional Policy Plan requires that a residential subdivision plan creating more than 10 residential dwelling units set aside 10% of the units for affordable housing. For this project the applicant would therefore be required to provide 4 lots for affordable units or their equivalent.

17). The Commission has determined that a priority need exists for the purchase of affordable homes by first-time low-income homebuyers in Sandwich and throughout Barnstable County.

18). The Commission has determined that a priority need exists for the provision of two and three bedroom units to rent or own in Sandwich and throughout Barnstable County.

19). All units created through this section are subject to the Commission's forty year Affordable Housing Deed Restriction. The intent of the restriction is to preserve the long-term affordability of the unit(s) in order to provide housing opportunities for low-income homebuyers. Consistent with that stated purpose the Commission has determined that a maximum sales price of \$106,000 for each of the four units created by this section would be considered affordable in Sandwich.

20). The Commission finds that it is necessary to establish a maximum sales price in the event the applicant chooses to convey vacant lots to meet the affordable housing requirement. A maximum sales price of \$4,250 per lot will ensure that the conveyance of lots is consistent with the purposes of creating affordable housing units. The figure is based upon a standard square foot construction cost (\$75/sf) and minimum square footage for a typical/targeted affordable housing unit (a two to three bedroom, 1.5 bath unit ranging from 1000 sf to 1300 sf). For the purposes of this calculation the Commission assumes 1150 sf as the operative unit size and applies it to the income limit of a three member household. The \$4250 figure is based upon the per square foot construction cost multiplied by the minimum square footage, this figure is then subtracted from the maximum affordable sales price (based upon household size), resulting in the affordable vacant lot sales price. ($\$75/\text{sf} \times 1150 \text{ sf} = \$86,250 - \$90,500 = \4250)

Solid Waste/Hazardous Materials

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 and 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 an initial partial Certificate of Compliance from the Commission or its designee before the issuance of a building permit on any lot by the Sandwich Building Inspector or the conveyance of any lot in the subdivision. The following conditions shall be completed prior to the issuance of this initial partial certificate of compliance:

- Provision of an off-site mitigation escrow as conditioned in #16 below.
- Improvements to the site drive as conditioned in #18 below
- Recording of a Commission-approved conservation restriction at the Barnstable County Registry of Deeds as conditioned in #19-21 below
- Documentation of construction techniques as conditioned in #23 below

The remaining conditions of this decision shall be completed prior to the issuance of four additional partial certificates of compliance as follows:

- Prior to the conveyance of the tenth (10) lot or application for the tenth (10) building permit, or any combination thereof, the applicant will meet the affordable housing requirement for the first lot or unit. The applicant shall obtain a partial certificate of compliance prior to conveyance of any further lots or application for any further building permits;
- Prior to the conveyance of the fifteenth (15) lot or application for the fifteenth (15) building permit, or any combination thereof, the applicant will meet the affordable housing requirement for the second lot or unit. The applicant shall also complete the required transportation mitigation as stated in condition #17. The applicant shall obtain a partial certificate of compliance prior to conveyance of any further lots or application for any further building permits;
- Prior to the conveyance of the twenty-fifth (25) lot or application for the twenty-fifth (25)

building permit, or any combination thereof, the applicant will meet the affordable housing requirement for the third lot or unit. The applicant shall also complete the required transportation mitigation as stated in condition #17. The applicant shall obtain a partial certificate of compliance prior to conveyance of any further lots or application for any further building permits;

- Prior to the conveyance of the thirty-fifth (35) lot or application for the thirty-fifth (35) building permit, or any combination thereof, the applicant will meet the affordable housing requirement for the fourth lot or unit. If applicable, the applicant shall obtain a partial certificate of compliance prior to conveyance of any further lots or application for any further building permits;
- If DEP-approved septic systems with enhanced nitrogen removal are installed, they shall be installed concurrent with the construction of the dwelling unit they are serving.

Water Resources

3). Based on the nitrogen loading impact of the project and the estimated sensitivity of Scorton Harbor/Creek, the applicant shall ensure the installation, use and maintenance of DEP-approved septic systems with enhanced nitrogen removal on all 41 housing lots through the use of deed restrictions. Said deed restrictions shall be in form and content satisfactory to Cape Cod Commission counsel. The applicant, his successors and assigns shall not apply for approval to construct a septic system which does not meet these requirements unless it is demonstrated that Title 5 systems may be used pursuant to condition #4 below. No temporary or permanent Certificate of Occupancy shall be issued for any dwelling within the subdivision unless a denitrifying septic system is completed.

4). If the applicant can demonstrate to the satisfaction of Commission staff that groundwater from the project site is not flowing into the Scorton Harbor/Creek embayment, the Commission will waive the requirement of Condition #3 and the applicant will be allowed to use standard Title 5 septic systems.

5). Demonstration of site discharge avoiding Scorton Harbor/Creek could occur through a groundwater flow study and possible additional data collection. The groundwater flow study would involve the installation of a minimum of two test wells to show the nature of groundwater flow from the site. Study parameters and procedures shall be approved by Commission staff. Well installation shall also be supervised by Commission staff. Recommended study outline is as follows:

a. Install a minimum of two wells; one upgradient of the system and one downgradient of the system (on the barrier beach). The need for additional wells will be determined during discussions with the applicant's hydrologic consultant about the particulars of the drilling scope of work and during review of data collected during the initial well installation. All wells should be within the expected flowpath of groundwater from the Round Hill site.

b. Install these wells with a screened auger. Collect, at a minimum, specific conductivity readings and head elevations as the auger is advanced. Commission

staff recommends collecting this information every 5 to 10 ft depending on the changes observed in these parameters. Head elevations should be determined relative to mean sea level.

c. Drill these wells to bedrock. USGS wells in Sandwich suggest that bedrock should be encountered between 100 and 200 ft below sea level. The wells should be screened at their lowest point to allow gamma logging (for confirmation of geologic characteristics) to occur following their installation.

d. There is no guarantee that a study based on minimum requirements will definitively answer whether the flow from the site bypasses the Harbor/Creek system; additional information may be necessary. Unless geologic features indicate otherwise, if the freshwater saturated thickness on the downgradient side does not change appreciably from the thickness on the upgradient side some level of underflow will be demonstrated. Such underflow must be acceptable to Commission staff in order to allow use of standard Title 5 septic systems. The well log, head elevation, and specific conductivity information will help to confirm the significance and extent of the underflow.

Affordable Housing

6). In accordance with Minimum Performance Standard 5.1.3 of the Regional Policy Plan the applicant shall set aside a minimum of four lots for the express purpose of creating four affordable housing units to own or rent (to be determined by the applicant.) This requirement may be satisfied by any one or combination of the following:

- Conveyance or donation of lots within the project, at a maximum sales price of \$4,250 per lot;
- Conveyance or donation of lots off-site within the town of Sandwich, at a maximum sales price of \$4,250 per lot;
- A cash contribution of \$45,000 per lot, for a total of \$180,000;
- The provision of affordable housing units within the project.

7). Any other method proposed to meet the requirements of MPS 5.1.3 of the Regional Policy Plan will require a modification to this approval.

8). If off-site mitigation is chosen, the applicant must demonstrate to the satisfaction of the Commission that the lots and/or units are acceptable for the purpose of complying with this section. The donation or conveyance of such lots would take place within the time frame established in Condition # 9 below.

9). The requirements of this section shall take place in accordance with the following time frame:

- Prior to the sale and/or construction of the seventh (7th) lot or unit, the applicant or his designee shall indicate his method for satisfying the requirement for the first affordable lot or unit. Upon identification of the method of providing the unit or lot, the applicant shall provide specific details about how the requirement will be met, and, if deemed

necessary by Commission staff, shall provide a marketing plan and a method of unit assignment for approval. One lot shall be conveyed or one unit of affordable housing shall be completed and purchased or rented to an eligible household, and the applicant shall obtain a partial Certificate of Compliance from the Commission, before the sale of and/or issuance of a building permit for the tenth (10th) housing lot or unit.

- Prior to the sale and/or construction of the twelfth (12th) lot or unit, the applicant or his designee shall indicate his method for satisfying the requirement for the second affordable lot or unit. Upon identification of the method of providing the unit or lot, the applicant shall provide specific details about how the requirement will be met, and, if deemed necessary by Commission staff, shall provide a marketing plan and a method of unit assignment for approval. The second lot shall be conveyed or the second unit of affordable housing shall be completed and purchased or rented to an eligible household, and the applicant shall obtain a partial Certificate of Compliance from the Commission, before the sale of and/or issuance of a building permit for the fifteenth (15th) housing lot or unit.
- Prior to the sale and/or construction of the twenty-second (22nd) lot or unit, the applicant or his designee shall indicate his method for satisfying the requirement for the third affordable lot or unit. Upon identification of the method of providing the unit or lot, the applicant shall provide specific details about how the requirement will be met, and, if deemed necessary by Commission staff, shall provide a marketing plan and a method of unit assignment for approval. The third lot shall be conveyed or the third unit of affordable housing shall be completed and purchased or rented to an eligible household, and the applicant shall obtain a partial Certificate of Compliance from the Commission, before the sale of and/or issuance of a building permit for the twenty-fifth (25th) housing lot or unit.
- Prior to the sale and/or construction of the thirty-second (32nd) lot or unit, the applicant or his designee shall indicate his method for satisfying the requirement for the fourth affordable lot or unit. Upon identification of the method of providing the unit or lot, the applicant shall provide specific details about how the requirement will be met, and, if deemed necessary by Commission staff, shall provide a marketing plan and a method of unit assignment for approval. The fourth lot shall be conveyed or the fourth unit of affordable housing shall be completed and purchased or rented to an eligible household, and the applicant shall obtain a partial Certificate of Compliance from the Commission, before the sale of and/or issuance of a building permit for the thirty-fifth (35th) housing lot or unit.
- If the cash contribution option is selected, the applicant may provide the entire contribution prior to the sale of and/or issuance of a building permit for the tenth (10th) lot or unit, or in phases as set forth herein. One fourth of the total contribution shall be provided prior to the sale of and/or issuance of a building permit for the tenth (10th) lot or unit. The applicant shall obtain a partial Certificate of Compliance prior to the sale of and/or issuance of a building permit for the tenth (10th) lot or unit. One fourth of the total contribution shall be provided prior to the sale of and/or issuance of a building permit for the fifteenth (15th) lot or unit. The applicant shall obtain a partial

Certificate of Compliance prior to the sale of and/or issuance of a building permit for the fifteenth (15th) lot or unit. One-fourth of the total contribution shall be provided prior to the sale of and/or issuance of a building permit for the twenty-fifth (25th) lot or unit. The applicant shall obtain a partial Certificate of Compliance prior to the sale of and/or issuance of a building permit for the twenty-fifth (25th) lot or unit. One-fourth of the total contribution shall be provided prior to the sale of and/or issuance of a building permit for the thirty-fifth (35th) lot or unit. The applicant shall obtain a partial Certificate of Compliance prior to the sale of and/or issuance of a building permit for the thirty-fifth (35th) and subsequent lots or units.

If the applicant chooses to donate lots, units or a cash contribution to the town, then the recipient of the contribution of lots, units or cash will be designated by the Board of Selectmen. If the Town is unable to identify an appropriate body, the Commission shall make that determination.

Notwithstanding the foregoing, the applicant shall fully comply with the four (4) unit affordable housing requirement, regardless of the option selected, within seven (7) years of the date of this decision.

10). The monthly mortgage costs (i.e., Principal, Interest, Taxes and Insurance) of on-site units shall not exceed 30% of the gross income for a household at or below 80% of the median income, with adjustments for household size. In no event, however, shall the sales price for the affordable units exceed \$106,000. 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>
two	\$30,450
three	\$34,250
four	\$38,100
five	\$41,150

11). The four affordable units to be created by this section shall consist of two or three bedroom units to own or rent.

12). 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.

13). Preference will be given to Barnstable County residents in the selection of the homebuyers or renters for the affordable housing units created by this section.

14). If applicable, the applicant will be required to submit a marketing plan, subject to Commission approval, that describes how prospective buyers or renters will be contacted

for these lots or units, Additionally, the affordable housing units created through this section are to be purchased or rented by eligible households through a lottery process to be approved by the Commission.

15). Sale of the four units created by this section shall be restricted to income eligible first-time homebuyers. All buyers must be prequalified for a mortgage loan prior to the submission of their name into the lottery pool.

Transportation

16). The applicant will mitigate their peak hour traffic impacts based on the method described in MPS 4.1.1.20. This standard allows DRI's to make a payment of \$100 per peak hour trip per location. Based on the need to mitigate four locations, the applicant will pay \$13,000 (payable to the County of Barnstable) to comply with MPS 4.1.1.1. Said sum shall be placed in an escrow account, acceptable to Commission counsel in form and content, and shall be expended at the vote of the Commission for the purposes of study, design and roadway improvements on Quaker Meetinghouse Road, Service Road and Route 6 Exit 3 Eastbound Ramp. This shall be completed prior to the initial partial Certificate of Compliance.

17). The applicant is required to reduce 91 daily vehicle trips based on MPS 4.1.2.1. To meet this standard the applicant shall construct a bicycle path on Quaker Meetinghouse Road from the Round Hill Estates site drive to the Oak Ridge School, as shown on the "Bike Path Layout" drawn by Youngquist, James and Associates dated 9/1/95 and amended 10/13/95, and a bicycle path connecting the proposed Round Hill Road Subdivision to the proposed Round Hill Estates development. Construction of this bicycle path shall not relieve the applicant of his responsibility to provide \$36,000 contribution to provide trip reduction under Condition #9 of the Round Hill Estates DRI approval. As an option to building the bicycle paths, the applicant may make a monetary contribution towards alternate modes of transportation based on the Commission's Technical Bulletin 96-003, dated November 14, 1996. The cost for this monetary contribution would be \$169,124. Payment for the alternate mode cost shall be in the form of an escrow account (payable to the County of Barnstable), and shall be in form and content satisfactory to counsel to the Commission, to be used towards improvements to alternate modes of transportation within the area impacted by the project. Monies not expended or obligated for the alternate modes of transportation within ten years shall revert to the Cape Cod Regional Transit Authority (CCRTA) for general transit service expenses. Prior to the sale of and/or issuance of a building permit for the fifteenth (15) lot or unit, and the corresponding certificate of compliance, the applicant shall construct the bicycle paths or provide fifty percent of the monetary contribution. Prior to the sale of and/or issuance of a building permit for the twenty-fifth (25) lot or unit, and the corresponding partial certificate of compliance, the applicant shall provide the remaining fifty percent of the monetary contribution, if this option was selected.

18). The applicant shall improve the existing site drive at Service Road intersection based on the "Intersection Improvement Plan, Property of Verbon Trust in Sandwich, Massachusetts", dated 9/1/95, prepared by Youngquist, James & Associates, Inc. The applicant shall ensure that the site drive meets safe stopping sight distances as discussed in

the Traffic Impact Study performed by Carlson Consulting Associates dated August 8, 1995 and September 13, 1995.

Open Space/Natural Resources

19). The applicant shall submit a plan depicting the 196.68 acres to be permanently restricted as open space in compliance with the Regional Policy Plan prior to issuance of a Certificate of Compliance. Such open space shall be substantially the same as that shown on a plan "Open Space Plan, Property of Verbon Trust in Sandwich, Massachusetts," dated 12/18/95, last revised 7/22/97. Future activities within this area shall be governed by the terms of the conservation restriction required by condition # 20.

20). The applicant shall provide the Cape Cod Commission with a conservation restriction to be approved by Commission counsel and recorded at the Barnstable County Registry of Deeds which provides that all of the open space areas shown on the site plan noted in condition #19 shall remain as permanent open space. Said restriction shall provide for the removal of up to 6.39 acres of land from the terms of the restriction subject to review and verification by the Cape Cod Commission. Such restriction shall be substantially similar in form and content to a draft restriction "Draft 5" dated January 4, 1996 and the associated Conservation Restriction Plan, Property of Verbon Trust in Sandwich, Massachusetts, dated 12/18/95, revised 7/22/97, prepared by Youngquist, James and Associates, Inc. The restriction and site plans shall be recorded prior to issuance of the initial partial Certificate of Compliance from the Commission.

21). No disturbance of lands within the "Limited Use Zone" as shown on the plan referenced in condition #19 above, including lands within the buffer to the scrub wetland/quaking bog, shall occur except as otherwise specified in the restriction referenced in condition #20 above.

22). The applicant shall, after consultation with the Sandwich Conservation Commission/Administrator, implement reasonable measures to eliminate the use of off road vehicles within and adjacent to the scrub wetland/quaking bog in the southeastern portion of the site. A revegetation/restoration plan, utilizing native vegetation, shall be submitted to the Cape Cod Commission, unless a site visit by Commission staff indicates that area has adequately revegetated naturally. Such measures shall be undertaken prior to issuance of a Certificate of Compliance.

Solid Waste/Hazardous Materials

23). 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.

24). 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.

25). 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.

CONCLUSION

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

The benefits of the proposed development as conditioned 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 Sandwich Zoning Bylaw and Regulations according to the town zoning enforcement officer.

The Commission hereby approves with conditions the Development of Regional Impact Application of Verbon Trust, Daniel Striar, Trustee, for the "Round Hill Road Subdivision" in Sandwich Massachusetts, dated September 7, 1988 and amended July 17, 1989 and September 22, 1989, 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.

Madeleine Bebout
Madeleine Bebout, Chair

9/18/97
Date

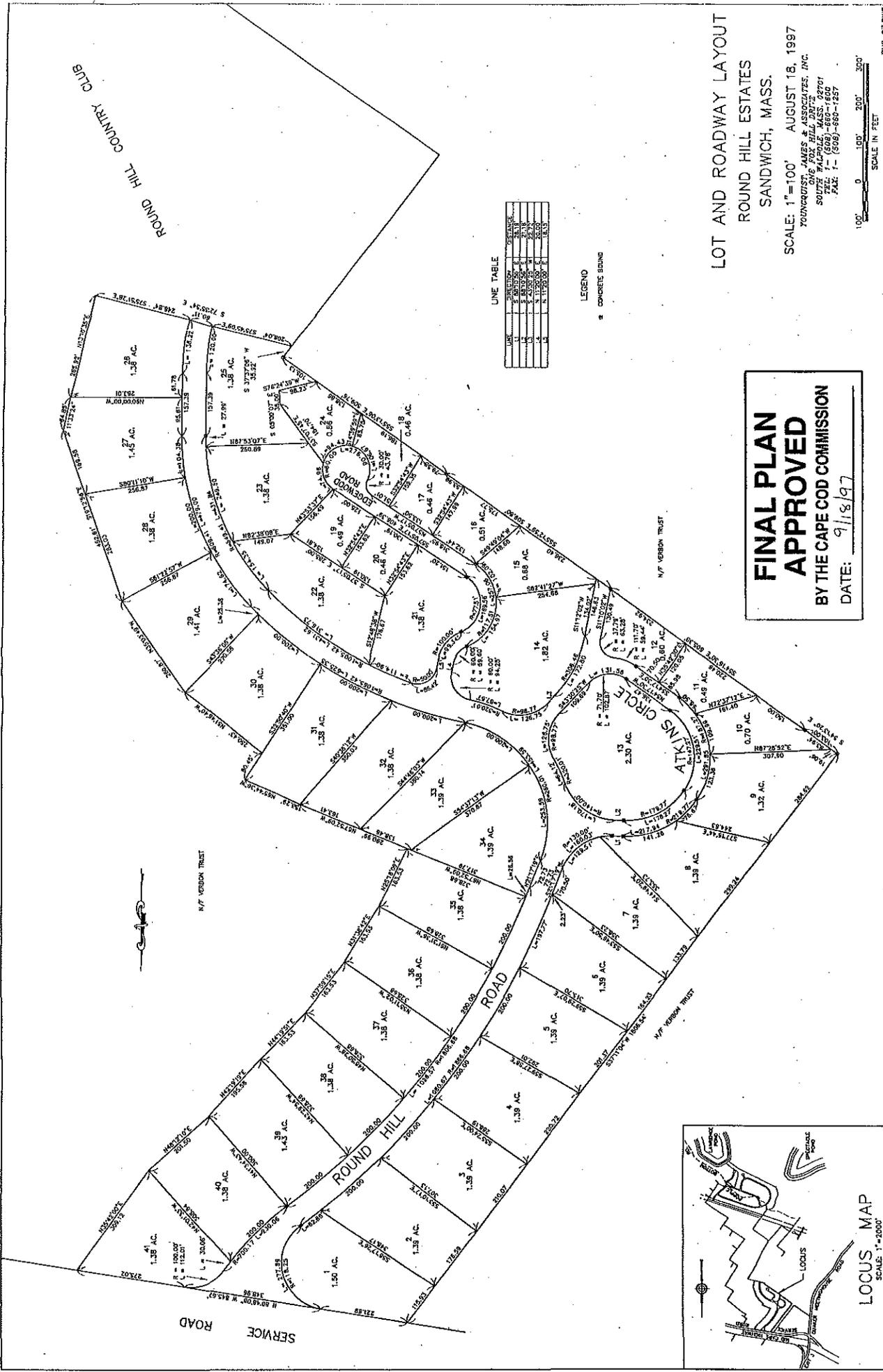
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.
Subscribed and sworn to before me this 18th day of Sept 1997

Katharine Y Peters
NAME, Notary

My Commission expires: My Commission Expires December 5, 1997

ROUND HILL COUNTRY CLUB



LINE TABLE

LINE	DESCRIPTION	BEARING	DISTANCE
1
2
3
4
5
6
7
8
9
10

LEGEND
 ■ CONCRETE SIDING

LOT AND ROADWAY LAYOUT
 ROUND HILL ESTATES
 SANDWICH, MASS.

SCALE: 1"=100' AUGUST 18, 1997
 FOUNDATION: MARY ANN & JOHN W. WATKINS, INC.
 50 W. WALFORD ST., SANDWICH, MASS. 02571
 TEL: 1- (508)-880-1600
 FAX: 1- (508)-880-1257

100' 0 100' 200' 300'
 SCALE IN FEET

FINAL PLAN
APPROVED
 BY THE CAPE COD COMMISSION
 DATE: 9/18/97

