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CAPE COD  
COMMISSION

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DECISION OF THE CAPE COD COMMISSION  
CHAPTER H- REVISED MANDATORY DRI THRESHOLD 3(E) & 3(F)  
FOR RESEARCH & DEVELOPMENT AND LIGHT MANUFACTURING USES  
ECONOMIC DEVELOPMENT DESIGNATION

Date of Decision: May 8, 2014

**AREAS**

DESIGNATED AREAS: FALMOUTH TECHNOLOGY PARK, FALMOUTH  
FOR REVISED THRESHOLD: EDGERTON DRIVE, FALMOUTH  
SANDWICH INDUSTRIAL PARK, SANDWICH  
JONATHAN BOURNE DRIVE, BOURNE

Commission Project No. CH14012

**OVERVIEW**

The Cape Cod Commission approves a revised DRI Threshold of up to 40,000 sq ft for proposed Research & Development and Light Manufacturing Uses in the following designated areas in accordance with the attached maps (Exhibits A, B, C, D):

- Jonathan Bourne Drive, Bourne
- Edgerton Drive, Falmouth
- Falmouth Technology Park, Falmouth
- Sandwich Industrial Park, Sandwich

**BACKGROUND/ INTRODUCTION**

The Cape Cod Commission (“Commission”) sought the authority to increase Development of Regional Impact (“DRI”) thresholds in order to support its mandate to ensure balanced economic development in the region. Mandatory DRI thresholds were originally set forth in the Cape Cod Commission Act in 1990. Many of those DRI thresholds have changed through the adoption of county ordinances over the years. However, certain current DRI thresholds continue to require Commission DRI review of projects that would otherwise provide beneficial economic development and are sited in appropriate locations. In 2009, the Commission proposed and adopted a regulation (Chapter H of the Code of Cape Cod Commission Regulations, Barnstable County Ordinance 09-13, hereinafter “Chapter H”) that gave the towns the authority to raise or

lower Development of Regional Impact (DRI) thresholds. To date, no town has applied to raise DRI thresholds under Chapter H, including in support of local economic development initiatives. The Commission believes that regulatory relief from mandatory DRI review is necessary from time to time, and in targeted areas, to support appropriate economic growth.

Since DRI thresholds were originally established in 1990, most Cape towns have hired professional planning and community development staff as well as professional administrators and managers to guide local land use activities. This increase in local professional staffing, together with the continuing ability of towns to refer any development project to the Commission as a discretionary referral, and the existence of other local and state regulation addressing aspects of development impacts, led the Commission to propose amendments to Chapter H to empower the Commission to raise thresholds to support balanced economic growth by removing the requirement for mandatory DRI review in certain cases.

### **CORRESPONDENCE**

Support letter, Cape Cod Chamber of Commerce, dated 4/28/14

Letter, Town of Falmouth, dated 4/29/14

Support letter, Leslie Milsted, Bourne, dated 4/30/14

Support letter, Town of Sandwich (Nathan Jones, Town Planner), 4/30/14

Email in support, Dick and Judy Conron, Bourne, dated 4/30/14

Support letter, Cape Cod Economic Development Council, dated 5/05/14

Support Letter, Town of Falmouth, dated 5/07/14

### **DEFINITIONS**

As used herein, the following terms shall have the following meanings:

*Gross Floor Area: The sum of the area of all floors within the perimeter of a building, located either above or below ground level, except Underground Parking within the structure which is accessory to the principal use shall not be included in the total Gross Floor Area. Gross Floor Area shall be expressed in square feet and measured from the exterior face of the exterior walls, or the centerline of shared walls. It shall include all floor levels including basements, and mezzanines and attics without deduction for hallways, stairways, elevator shafts, mechanical rooms, closets, thickness of walls, columns, projections, or other similar features. Crawl spaces for plumbing, wiring, or other mechanical infrastructure or for storage and in all cases not designed for human occupancy shall not count towards Gross Floor Area. Attic spaces that consist of the following shall not count towards Gross Floor Area: 1) accessed only by a step ladder or drop-down retractable stairs, 2) with open rafters and floor joists, 3) with no means of ventilation other than ridge, peak or soffit vents, 4) with limited natural or man-made illumination, 5) not intended or designed for human occupancy. Outdoor areas used for storage, sales, service and display shall also be included in the total Gross Floor Area.*

*Research and Development (R&D): a commercial use wholly located within a building or complex of buildings involving high-technology or scientific activities in the design, testing, research, analysis, development, and light manufacturing of products, as applicable, including directly related or ancillary office, warehousing and distribution (but not residential or retail)*

uses thereto. Examples of allowed uses include but are not limited to Marine Technology, and software development. R&D does not include chemical manufacturing when undertaken as a principal or primary use.

*Light manufacturing: a commercial use involving the value-added packaging, assembly, fabrication or other processing of finished parts, primarily from previously prepared materials, into new products where there are minimal detrimental external impacts (such as those involving safety, noise, dust, glare, congestion, and releases of exhaust, odors or vibration) across property lines to non-related uses. This term may include, but is not limited to, a business engaged in the processing, fabrication, assembly, or packaging of food. Examples of allowed uses include but are not limited to navigational equipment manufacturing, computer manufacturing and 3-D printing. Light Manufacturing does not include chemical manufacturing when undertaken as a principal or primary use.*

## **FINDINGS**

The Commission hereby finds as follows:

### **General Findings**

GF1. October 2013 amendments to Chapter H allow the Commission itself to revise and increase certain mandatory DRI thresholds, authorized under Section 2 of Chapter H, contained in Sections 3(d), 3(e), 3(f), 3(g) and 3(k) in Chapter A of the Cape Cod Commission Regulations, as amended March 2013 (“DRI Enabling Regulations”), on behalf of the region. This authority includes the ability both 1) to designate an area in which to raise thresholds, and 2) to establish higher thresholds in that designated area. Per the amendments, revised Commission thresholds are made pursuant to Section 4(b) of Chapter H, which provides that a proposed threshold shall be revised pursuant to Section 6 (a) (2-4) and Section 9.

GF2. Section 6(a)(2-4) provides that a revised threshold must be consistent with: Section 1(b) of Chapter H; the Goals of the Regional Policy Plan; and Section 1 of the Cape Cod Commission Act.

GF3. Section 1(b) of Chapter H states that its purpose is to help implement a regulatory approach at the regional level to guide growth toward areas that are adequately supported by infrastructure and away from areas that must be protected for ecological, historical, or other reasons. The existence of local, state and federal regulations, sufficient to assist in protecting the interests of the Cape Cod Commission Act, is factored into the analysis of whether there exists adequate infrastructure to support the Revised Threshold and Designation, which are limited in scope to specific locations and uses.

GF4. The broad goals, concerns, values, resources and purposes outlined in Section 1 of the Cape Cod Commission Act include: the protection, conservation, preservation and enhancement of natural, coastal, scientific, historical, cultural, architectural, archaeological, and recreational values and resources; the promotion of the general public health, safety and welfare; maintenance of sound local and regional economies and balanced economic growth; provision

of adequate capital facilities and infrastructure, coordinated with other desired goals, values and resources; and the development of an adequate supply of affordable housing.

GF5. Section 9 of Chapter H requires that proposed revised thresholds be reviewed at a public hearing of the Commission.

GF6. Public hearings on the Commission's Revised Threshold and Designation were held April 30, 2014 at the Upper Cape Regional Technical School by hearing officer, and before the full Cape Cod Commission on May 8, 2014.

GF7. Balanced economic growth is a goal expressed in Section 1 of the Commission Act.

GF8. The Cape-wide Market Assessment prepared by The Chesapeake Group, Inc. for the Commission, completed December 2013, indicates that there is further demand and capacity for Research & Development and Light Manufacturing uses on Cape Cod.

GF9. Industry research suggests that Research & Development and Light Manufacturing uses pay equal or greater than the Barnstable County region's average wage and create property improvements of high quality and value. Based on analysis of existing and anticipated development in the Designated Areas Gross Floor Area of up to 40,000 sq ft for the Revised Threshold Uses will allow for adequate operations, while at the same time balancing the impacts of such development.

GF10. There is vulnerability in the local property tax base when non-residential development is of poor quality and low value.

GF11. The revised threshold proposed herein is exclusively for Research & Development (R&D) and Light Manufacturing uses (collectively, "Eligible Uses" or "Revised Threshold Uses"), which are individually defined above.:

GF12. Consistent with the Act, the proposed designation and revised threshold herein promotes balanced economic growth, by promoting industries with light environmental footprints and good sustainable jobs in industries for which there is demand and capacity in the region. Desirable economic growth is balanced with other concerns of the Act expressed in the goals of the Regional Policy Plan's individual Issue Areas.

GF13. The following are areas proposed to receive the revised DRI threshold granted hereunder: Falmouth Technology Park, Falmouth; Edgerton Drive, Falmouth; Sandwich Industrial Park, Sandwich; Jonathan Bourne Drive, Bourne (These areas are referred to collectively as the "Designated Areas"). The Designated Areas are depicted on the maps attached hereto as Exhibits A, B, C & D, which are incorporated herein and made a part hereof ("Threshold Maps").

GF14. The Designated Areas share a number of similarities in terms of existing infrastructure:

- a. Common, standard utilities, including municipal water service, are available to each of the Designated Areas;

- b. OpenCape infrastructure is available at each of the Designated Areas;
- c. Existing zoning in each location allows for Research and Development and Light Industrial uses as defined herein;
- d. They are proximate to major regional roadways, but, with the exception of 11 parcels within the Sandwich Industrial Park, individual parcels in the designated Areas do not take direct access from or to those roadways;
- e. Being proximate to major regional roadways, alternative transit opportunities are proximate to or available to each of the Designated Areas;
- f. They are located in the Upper Cape region, centered around the primary marine technology research centers in Woods Hole, Falmouth, and close to the Sagamore and Bourne Bridges;
- g. Wastewater needs for existing development in the designated Areas are served by individual, on-site septic systems.

GF15. Consistent with Chapter H, Section 1(b), locating development in the Designated Areas guides development towards areas with existing sufficient infrastructure, and away from sensitive, protected resource areas.

GF16. Uses similar to the Revised Threshold Uses already exist in the Designated Areas. Specifically, Hydroid is located in the Jonathan Bourne Drive, Bourne area, and Teledyne Benthos is located in the Edgerton Drive, Falmouth area. These projects are *or* knowledge-intensive R&D, marine technology spin-offs from the WHOI/ MBL research centers in Falmouth. They specifically needed to remain in the Upper Cape, around which this type of research and industry is centered. Both projects were previously required to undergo DRI review under the current thresholds set out in Section 3 of the Enabling Regulations. Had the revised threshold been in place, expedited review and permitting would have further leveraged and augmented the economic benefits of those projects to the region.

- a. When approved as a DRI in 2011, Hydroid had 79 full time employees with an average wage of \$80,100. It anticipated that it would provide 150 full time jobs by 2016; it has already met that figure in 2014.
- b. When approved as a DRI in 2012, Teledyne Benthos provided 184 full time jobs having an average wage of \$60,000.00. It had a total payroll of \$11 million in 2011.

GF17. Research has shown that the existence of these types of R&D and Light Manufacturing uses in a specific geographic area helps stimulate the location of similar uses, and synergistic uses, in the same area.

GF18. The applicable 2009 Regional Policy Plan (as amended), Chapter B in the Code of Cape Cod Commission Regulations (“RPP”), is divided into Issue and Sub-issue areas that approximate and further the broad goals, concerns, values, resources and purposes articulated in Section 1 of the Act. The proposed Designated Areas and Revised Threshold are consistent with the applicable goals of the RPP, as evidenced by the following Findings arranged by RPP Issue Area/ Issue Area Goals. As noted, the existence of local, state or federal regulations supports consistency with applicable Issue Areas and their associated Goals. Any Goal or Issue

Area not specifically addressed has been deemed not applicable or material to the Designations or Revised Thresholds made hereunder:

### **RPP Issue Area Findings**

#### **I. LAND USE**

##### **A. Compact Growth and Resource Protection**

- *To minimize adverse impacts of development on the land by using land efficiently and protecting sensitive resources, and to create vibrant communities by directing growth and redevelopment to appropriate locations.*

1. The areas proposed for higher DRI thresholds are currently within or adjacent to areas that were previously developed with existing light industrial or manufacturing uses and therefore are appropriate areas in which to direct growth and redevelopment.

2. The Designated Areas are zoned as follows:

##### Edgerton Drive, Falmouth: Light Industrial A

Light Industrial A allows converting, fabricating, manufacturing, research and development, scientific research subject to performance standards for hazardous materials and waste.

##### Falmouth Technology Park: Light Industrial B with 2 lots Public Use

Light Industrial B allows RDNA testing (genetic research), subject to controls, in addition to the allowed uses in the Light Industrial A district.

##### Sandwich Industrial Park: Flex District

Also Ridge District, Water Resources Overlay District and Wireless Telecommunications Overlay District. Flex District allows flexible use of land and space for light manufacturing and industrial, R&D, office and business, entertainment or athletic and regional commercial and retail space. The Flex District does not contain provisions limiting total maximum site coverage. The town might consider adopting such provisions into its zoning. Ridge District: flexible development of large-scale tracts allowing development for regional service and athletic recreation near expressway interchanges and variety and choice in residential development, while preserving views of Cape Cod Bay from public ways. Research labs allowed by special permit.

Additionally, the Sandwich Industrial Park Area is designated as an Industrial Service and Trade Areas (ISTA) on the Regional Land Use Vision Map.

##### Jonathan Bourne Drive: Business 4

Professional or business office uses, manufacturing, processing, research, wholesaling, bulk storage, business use allowed by Site Plan Review/Special Permit.

3. Falmouth, Sandwich and Bourne may want to specifically incorporate the Designation and Revised Threshold Uses into their LCPs when updated, in order to reflect their priority development status.

##### **B. Capital Facilities and Infrastructure**

- *To use capital facilities and infrastructure efficiently and in a manner that is consistent with Cape Cod's environment, character, and economic strengths, and that reinforces traditional village centered development patterns.*

1. The areas proposed for higher DRI thresholds have existing roads that provide direct access from regional roadways, and have municipal water service availability and telecommunications infrastructure.

### **C. Rural Lands**

- *To preserve and enhance rural land uses, including agriculture, that are environmentally compatible with the Cape's natural resources in order to maintain opportunities to enjoy the traditional occupations, economic diversity, and scenic resources associated with rural lands, and to support activities that achieve greater food independence for Cape Cod.*

1. The Designated Areas are planned under local comprehensive plans and local zoning bylaws for the development of R&D and Light Manufacturing facilities, among other uses. They are not considered rural lands. The Commission notes that portions of the Designated Areas in Sandwich and Bourne contain soils which are considered by the Commonwealth to be Prime Agricultural Soils. Sandwich and Bourne may wish to consider the preservation of this significant agricultural resource during local permitting of projects on these sites.

## **II. ECONOMIC DEVELOPMENT**

### **A. Low-impact and Compatible Development**

- *To promote the design and location of development and redevelopment to preserve the Cape's environment and cultural heritage, use infrastructure efficiently, minimize adverse impacts, and enhance the quality of life for Cape Codders.*

1. The Designated Areas are zoned for industrial uses and are appropriately located outside of town or village centers. In every case, comparable and compatible developments to the proposed revised Threshold Uses already exist. The uses for which these threshold changes apply are not uses that should be located in village or town centers.

2. The Designated Areas are located off major arterials and are served by broadband telecommunications infrastructure.

3. The uses subject to threshold changes under this decision would, if developed, afford high-skill, high-wage job opportunities to Cape residents.

### **B. A Balanced Economy**

- *To promote a balanced regional economy with a broad business, industry, employment, cultural, and demographic mix capable of supporting year-round and quality employment opportunities.*

1. The Market Assessment for Cape Cod, completed in December 2013, estimates demand for 900,000 SF of non-retail commercial over the next ten years and identifies marine related technologies as a key niche for Cape Cod.

2. Over fifty percent of the positions typical of the industries involving the Revised Threshold Uses pay competitive, living wages; higher than the state and county average wage for all industries. Examples are included on the following chart:

Occupations	% of total workforce for Revised Threshold Uses			Annual Mean Wage Barnstable MSA	% of all occupations mean for Barnstable	% of all occupations mean for Massachusetts
	Navigational Equipment Manufacturing	Computer Manufacturing	Science Research & Development			
Management	10.5	10.6	11.1	106,210	234%	191%
Business and financial operations	8.2	7.6	9.9	70,560	155%	127%
Computer and mathematical	11.7	13	11.5	73,110	161%	131%
Architecture and engineering	21.9	21.9	15.7	75,820	167%	136%
Life, physical, and social science	0.8	0.4	26.9	78,140	172%	141%
TOTAL	53.1%	53.5%	75.1%			

3. Increased development of Light Manufacturing and Research & Development as defined herein would result in additional year-round, quality employment opportunities for Cape Cod residents.

### C. Regional Income Growth

- *To promote economic activity that retains and attracts income to the region and benefits residents, thus increasing economic opportunity for all.*

1. Light manufacturing and research and development typically add value to basic inputs and provide products for export, both of which serve to increase regional wealth by attracting new money to the region. The uses eligible for the Revised Threshold would provide a positive net economic impact on the community.

2. The Designated Areas are in proximity to major marine research centers in Falmouth, and the Bourne and Sagamore Bridges, which should help stimulate development of Revised Threshold uses in the Areas.

3. New development and redevelopment occasioned by the Revised Threshold would broaden the respective town's real estate tax base, raise the property tax levy, and increase personal property taxation associated with new equipment and improvements.

## III. AFFORDABLE HOUSING

### A. Community Participation

- *To promote the participation of all segments of the community to address the housing needs of Cape Cod residents, with particular attention to the needs of low- and moderate-income households.*

1. The 2012 Cape average wage was \$19.63 per hour or \$40,820 per year. The following metrics provide benchmarks of the wages and incomes households need to have in order not to impact the need for affordable housing in the region:

- 2014 Out of Reach study by the National Low Income Housing Coalition: a household needs to earn \$22.62 per hour or \$47,050 per year in order to afford the median priced two bedroom rental in the region;
- 2013 Massachusetts Economic Independence Index by Crittenton Women’s Union: a single adult with two young children needs \$62,040 to be economically self-sufficient to meet basic needs. Two adults with two young children need \$69,552 to achieve economic self-sufficiency;
- 2013 CCC Affordability Gap analysis: in order to afford the 2013 median priced single family home of \$337,000, a household needs \$76,600 in income;
- The 2014 HUD maximum low income (80% of area median income) limits for Barnstable County are as follows: 1 person- \$44,750; 2 persons- \$51,150; 3 persons- \$57,550; and 4 persons- \$63,900.

2. An analysis of the national wage data of the Research and Development industries involving the Revised Threshold Uses show that the average wages in these industries are 60% greater than the national average wage (see following chart); therefore, the jobs created by the Research and Development industries subject to this decision will have minimal impact on the need for affordable housing in the region.

3. An analysis of the national wage data of the Light Manufacturing industries similar to the Revised Threshold Uses show that the average wages in these industries range from 7-55% greater than the national average wage (see following chart). Computer and Navigational Equipment manufacturing industries pay average wages that will have minimal impact on the need for affordable housing in the region. Other Light Manufacturing industries such as Electrical and Medical Equipment pay average wages that are 7-11% higher than the national average; however, as these are average wages, these industries will likely have some impact on the need for affordable housing in the region.

	Mean Hourly Wage	Mean Annual Wage	% Mean Occupation Annual Wage Above Mean All Occupation Annual wage
All Occupations- North American Industry	\$22.33	\$46,446	_____

Classification System (NAICS)- May 2013			
Research & Development- NAICS Code 541000- Professional, Scientific, and Technical Services	\$35.67	\$74,190	60%
Light Manufacturing- NAICS Code 334000- Computer, Navigational, Communications, and Audio and Video Equipment Manufacturing	\$34.72	\$72,210	55%
Light Manufacturing- NAICS Code 335000- Electrical Equipment, Appliance, and Component Manufacturing	\$23.89	\$49,700	7%
Light Manufacturing- NAICS Code 339100- Medical Equipment and Supplies Manufacturing	\$24.77	\$51,520	11%

#### IV. WATER RESOURCES

##### General Aquifer Protection

- *To maintain the hydrogeologic balance and quality of Cape Cod's aquifer, considering such factors as groundwater withdrawals, wastewater disposal, stormwater recharge, and adequate surface water levels.*

##### Drinking Water Quality and Quantity

(Wellhead Protection Areas and Potential Water Supply Areas)

- *To maintain the overall quality and quantity of Cape Cod's groundwater to ensure a sustainable supply of untreated high-quality drinking water.*

##### Marine Water Embayments and Estuaries

(Marine Water Recharge Areas)

- *To preserve and restore the ecological integrity of marine water embayments and estuaries.*

## **Freshwater Ponds and Lakes**

(Freshwater Recharge Areas)

- *To preserve and restore the ecological integrity of freshwater ponds and lakes.*

## **Water Quality Improvement Areas (Water Quality Impaired Areas)**

- *To improve impaired water quality in Wellhead Protection, Marine Water Recharge, and Freshwater Recharge Areas.*

## **Public and Private Wastewater Treatment Facilities**

- *To encourage the use of public and private wastewater treatment facilities in appropriate areas where they will provide environmental or other public benefits and where they can be adequately managed and maintained.*

## **Stormwater Quality**

- *To protect the overall water quality of the aquifer and its resources by minimizing impervious surfaces and improving stormwater quality as much as possible.*

1. All Designated Areas are situated above Cape Cod's Sole Source Aquifer. The designation is conferred by the USEPA, as authorized by the Safe Drinking Water Act, in recognition that the aquifer is Cape Cod's only source of drinking water. The aquifer is a dynamic flow system that is recharged solely by precipitation. Groundwater stored in the aquifer flows toward and eventually drains to coastal waters. The aquifer is presently the only permitted wastewater disposal option available. Wastewater is the single largest controllable source of nitrogen affecting coastal water quality. Water quality is also affected by other non-point sources such as stormwater runoff, fertilizer and pesticide applications, and hazardous waste released to the environment.

2. Appropriate strategies and practices for General Aquifer Protection areas include:

- a. Restrictions on the intensity of development through a regional nitrogen loading limit of 5 milligrams per liter (ppm),
- b. Identification and protection of private wells,
- c. Use of landscaping best management practices,
- d. Clustering of development and open space protection, and
- e. Maintaining the hydrologic balance of the aquifer by avoiding or minimizing effects of water withdrawals on wetland habitat and salt water intrusion.

3. Municipal water service is available in all of the Designated Areas rendering as unnecessary the need to withdraw potable water from parcels within the Designated Areas to supply future development. The Massachusetts Water Management Act and associated regulations (310 CMR 36.00) regulate water withdrawals in excess of 100,000 gpd.

4. Each of the Designated Areas is located in one or more Primary Water Resource Areas and each Designated Areas contains mapped Water Quality Impaired Areas. Impaired Water Quality Areas located in Primary Water Resource Areas are Water Quality Improvement Areas. Primary water resource areas consist of Wellhead Protection Areas, Potential Public Water Supply Areas, Fresh Water Recharge Areas, and Marine Water Recharge Areas.

5. No Designated Area is located near freshwater ponds/lakes.

6. The Designated Areas contain Primary Water Resource Areas as follows:

*Sandwich Industrial Park*

Most of the designated Sandwich Industrial Park is located within a Zone II wellhead protection area. One lot on the north end of the Designated Area is located within a mapped Potential Public Water Supply Area. Portions of these lots are located outside Zone II wellhead protection areas. The Area is also located in the Sandwich Harbor watershed. The Sandwich Harbor watershed and the adjacent Scorton Creek watershed will be re-delineated by the Massachusetts Estuaries Project (MEP).

*Jonathan Bourne Drive*

Jonathan Bourne Drive area is located entirely within a Zone II wellhead protection area. Lots on the north end of Jonathan Bourne Drive are also located in a mapped Potential Public Water Supply Area. Three lots on the south end of Jonathan Bourne Drive are located in the Pocasset River watershed. The Pocasset River watershed will be re-delineated by the MEP.

*Edgerton Drive*

Edgerton Drive is located in the Rands Canal watershed. The designated Edgerton Drive area is not located in mapped drinking water supply areas.

*Falmouth Technology Park*

The Falmouth Technology Park is located in the West Falmouth Harbor watershed. The designated Falmouth Technology Park area is not located in mapped drinking water supply areas.

7. Existing federal, state and local regulations protective of water resources are in place. Wellhead Protection Zoning and Nonzoning Controls of the Massachusetts drinking water regulations (310 CMR 22.00) restrict certain uses and practices within wellhead protection areas, including restrictions on impervious coverage and storage and use of hazardous materials and waste.
8. Title 5, the Massachusetts' sanitary code (310 CMR 15.00), which regulates wastewater treatment and disposal systems with design flows of less than 10,000 gallons per day, restricts wastewater flows in wellhead protection areas and other areas determined by the MADEP to be Nitrogen Sensitive Areas. Application of the Title 5 limit in Nitrogen Sensitive Areas results in maximum nitrogen loads that are similar to the regional 5-ppm nitrogen loading goal. For purposes of Title 5, the MADEP has not formally identified Nitrogen Sensitive Areas outside of wellhead protection areas. Title 5 also provides for minimum setback requirements for private wells and other sensitive resources.
9. The Massachusetts' Groundwater Discharge Permit Program (314 CMR 5.00), which permits wastewater treatment and disposal facilities with sanitary design flows greater than 10,000 gallons per day, incorporates stringent requirements for discharges of treated wastewater in wellhead protection areas, including requirements to address pathogens and emerging contaminants.
10. In some cases a portion of a Designated Area lies within a Zone II. The Commission finds that the towns have adopted by-laws protective of water quality in Zones I and II and that state regulations also apply in these areas. Town water departments and districts also have the authority to conduct regular inspections of hazardous materials and wastes used and stored by potential R&D and Light Manufacturing facilities in the Designated Areas. Pursuant to 310 CMR 22, the Commonwealth's drinking water regulations, town water departments and districts are required to submit an annual report to MADEP "that identifies the presence of new land uses...that could adversely impact water quality." The supplier is also required to "notify the local board of health...of any violation... that may adversely affect its water supply..." and "shall

notify...the person in charge of enforcement of local zoning...of any violation of applicable land use restrictions that may adversely affect its water supply.”

11. The RPP is more restrictive than state and local regulations regarding hazardous materials in wellhead protection areas. The Commission finds that risks associated with potential storage of hazardous materials is mitigated by the provisions of 310 CMR 22.00 requiring secondary containment for storage of liquid hazardous materials.

12. With respect to Potential Public Water Supply Areas (PPWSA), which are Commission designated resource areas for protection of potential future water supply, it is recommended that the towns contact the appropriate water supplier prior to issuing local development permits. When a local water supplier intends to pursue water supply in the PPWSA, the town has the ability to enact zoning and regulations to adequately protect such resources.

13. Nitrogen enrichment of coastal waters from development in Marine Water Recharge Areas will be addressed by Cape Cod’s 208 Plan update scheduled to be completed in 2014.

14. The Federal Clean Water Act requires development of nitrogen Total Maximum Daily Loads (TMDL) for surface waters:

- Final nitrogen TMDLs have not been promulgated for Sandwich Harbor and Scorton Creek, nor have critical nitrogen loads for these systems been published by the MEP. Therefore, it is unclear at this time whether Sandwich Harbor or Scorton Creek have capacities to assimilate additional nitrogen loads.
- A final nitrogen TMDL has not been promulgated for Rands Canal. The MEP has developed critical nitrogen thresholds for Rands Canal to inform review and approval of the nitrogen TMDL by the MADEP and the USEPA. The MEP assessment indicates that Rands Canal is nitrogen overloaded.
- A final nitrogen TMDL has been promulgated for West Falmouth Harbor indicating that West Falmouth Harbor is nitrogen overloaded.

15. The Massachusetts’ Groundwater Discharge Permit Program (314 CMR 5.00) also references Massachusetts’ Surface Water Quality Standards (314 CMR 4.00). State surface water regulations include Antidegradation Provisions and other criteria to ensure that existing uses of surface waters and the level of water quality necessary to protect the existing uses are maintained and protected, thereby granting the MassDEP with the authority under 314 CMR 5.00 to prohibit or restrict discharges affecting surface waters.

16. All towns will be required to meet TMDLs in nitrogen sensitive watersheds. Towns seeking zero percent rate of interest State Revolving Loan funds must demonstrate flow neutrality with respect to new growth and redevelopment allowable after the construction of wastewater infrastructure. Pertinent to this decision, the Town of Falmouth has an approved CWMP (TWMP), a nitrogen control (fertilizer) by-law, and a Commission-approved flow neutral by-law, and is seeking 0% SRF for wastewater improvements. The towns, through changes in zoning and regulation, have the ability to offset sufficient wastewater to support new uses and redevelopment in the Designated Areas to promote quality economic development.

17. The Massachusetts Stormwater Standards prescribe stormwater best management practices that incorporate low-impact designs such that stormwater discharges from industrial, commercial, institutional, office, residential and transportation projects including site preparation, construction and redevelopment are managed according to the Stormwater Management Standards. The Towns of Bourne, Falmouth and Sandwich have been authorized for coverage under the Phase II General Permit for Stormwater Discharges from Small Storm

Systems (MS4) administered under the federal National Pollution Discharge Elimination Program (NPDES). Permittees (the municipalities) are required to implement the stormwater waste load allocation, BMP recommendations, or other performance requirements of a TMDL and assess whether the waste load allocation is being met through implementation of existing stormwater control measures or if additional control measures are necessary.

## **V. WETLANDS**

### **A. Wetlands Protection**

- *To preserve and restore the quality and quantity of inland and coastal wetlands and their buffers on Cape Cod.*

1. There are no wetland resources or certified vernal pools at the Edgerton Drive, Falmouth Tech Park, or Jonathan Bourne Drive Designated Areas.

2. Within the Sandwich Industrial Park, a DEP-mapped wetland is located behind the Coca-Cola bottling plant. This wetland appears to be an open water stormwater system which now has wetland characteristics. The buffers to this wetland are minimal and/or degraded.

3. Another wetland is located slightly to the southeast of the Coca-Cola bottling plant on a parcel identified as #45 on attached maps. According to DEP mapping data, this wetland is identified as a shallow marsh or fen and is a natural feature in the landscape (not stormwater system). It is not identified as a potential or certified vernal pool, though it has not been evaluated for this resource value. According to aerial photos, portions of the buffer to this wetland are degraded.

4. The towns have the authority to protect these wetlands under both the state Wetland Protection Act and its local Wetland Protection By-law. Filing and review with the local Conservation Commission will be required for any work within 100 ft of jurisdictional wetlands. The Conservation Commission may require project modifications or mitigation as a result of its review process. Rare species habitat that may relate to this wetland is protected by the Mass Natural Heritage and Endangered Species Program.

## **VI. WILDLIFE AND PLANT HABITAT**

### **A. Prevent Loss, Minimize Adverse Impact, and Maintain Diversity**

- *To prevent loss or degradation of critical wildlife and plant habitat, to minimize the adverse impact of new development on wildlife and plant habitat, and to maintain existing populations and species diversity.*

1. There is mapped rare species habitat located within the Sandwich, Edgerton Drive, and Falmouth Tech Park Designated Areas. There is no rare species habitat mapped within the Jonathan Bourne Drive Designated Area.

2. Mapped rare species habitat is found within extensive areas of both developed and undeveloped portions of the Sandwich Designated Area. The mapped areas include all of the wooded sites, all of the transmission easement, all of the gravel pit areas, and portions of some of the lots with existing buildings and pavement. As mentioned above, the wetland located within parcel #45 is also mapped rare species habitat.

3. Mapped rare species habitat is found within extensive areas of both developed and undeveloped portions of the Falmouth Tech Park Designated Area. All of the area, with the

exception of seven of the more intensively developed parcels (1, 3, 4, 7, 8, 13, and 22) is mapped priority rare species habitat.

4. Mapped rare species habitat is found within extensive areas of both developed and undeveloped portions of the Edgerton Drive Designated Area. All of the area, with the exception of developed portions of parcels #9 and 6 is mapped habitat. It should be noted that parcels #1, 6, and 10 are the subject of prior DRI and NHESP review and permitting, and areas were identified within these parcels for the preservation of rare species habitat.

5. A developer proposing any development within areas identified as priority or estimated habitat for rare species is required under MESA to file with the Natural Heritage and Endangered Species Program for project review. NHESP may require project modifications or mitigation as a result of the review process. For such projects, NHESP may also require preservation of open space consistent with the requirements of the NHESP for protection of rare species habitat.

Therefore, state regulations are available for protection of rare species habitat.

## **VII. OPEN SPACE PROTECTION AND RECREATION**

### **Open Space and Natural Resources**

- *To preserve and enhance the availability of open space that provides wildlife habitat and recreational opportunities, and protects the region's natural resources and character. Barnstable County shall strive to protect remaining developable land.*

### **Passive/Active Recreation**

- *To preserve and enhance opportunities for passive and active recreation in the natural environment to meet the needs of both residents and visitors.*

1. In the Falmouth Edgerton Drive area, open space areas were identified through the prior permitting (by both NHESP and CCC) of the Teledyne expansion, and will be permanently protected if and when Teledyne exercises the permits. It is unknown at this time whether development proposed at Parcels #2 and 4 will be required to protect open space/rare species habitat on site. If open space is required, efforts should be made to configure it to maintain contiguous corridors with parcel #1 and the railroad easement to the north.

2. One parcel within the Sandwich Designated area (parcel #28) is owned by the Sandwich Conservation Trust for open space purposes. There is also protected open space to the north of the designated area under the jurisdiction of MA DCR. Generally speaking, in the Sandwich Designated area the protection of the rare species habitat will figure significantly in how much and where open space is required within the district. Due to the large undeveloped woodlands located to the east of the Sandwich Designated area, and the significance of this general area for rare species habitat protection (also mapped as BioMap2 Critical Natural Landscape – a non-regulatory designation of areas of significance for the preservation of the state's rare and endangered species), NHESP will likely require the protection of habitat within the district to mitigate for new development. Where this protected habitat will be required is unknown at this time.

3. In the Falmouth Tech Park area it is hard to predict how much and/or where protected open space might be required. As mentioned, the park is currently fragmented by development, but at the same time, most of it is mapped as rare species habitat. Depending on the nature of development, NHESP may or may not require the preservation of open space within the Park's

boundaries. It may be worthwhile for the town to coordinate with NHESP in advance of new development proposals to establish a comprehensive habitat protection approach for the entire Park. A Commission Development Agreement applies to the Technology Park; as part of the Development Agreement negotiation, open space was set aside as mitigation.

4. The Jonathan Bourne Drive Designated area is currently significantly developed, the woodlands are fragmented, and the area is not mapped rare species habitat. Open space preservation would be counter-productive to the goals of Chapter H threshold relief in this area.

## **VIII. TRANSPORTATION**

### **Safety**

- *To improve safety and eliminate hazards for all users of Cape Cod's transportation system.*

### **Trip Reduction/Transportation Balance and Efficiency**

- *To reduce and/or offset the expected increase in motor vehicle trips on public roadways, reduce dependency on automobiles, and reduce air and noise pollution.*
- *To promote a balanced and efficient transportation system that includes alternatives to automobile travel.*

### **Level of Service/Congestion Management**

- *To maintain travel times and Level of Service on roads and intersections and to ensure that all road and intersection construction or modifications are consistent with community character, historic resources, and scenic resources.*

1. Consistent with the Section 1(b) of Chapter H requirement that the area be "adequately supported by infrastructure," the Designated Areas have direct access to the regional roadway network by way of site driveway(s) or collector roads designed to specifically serve development in these Areas. More specifically, the Designated Areas are all located off of urban arterials and have convenient access to the state highway system.

2. Consistent with the Section 1(b) of Chapter H requirement that the area be "adequately supported by infrastructure," the designated areas are also proximate to multimodal and bus transportation options:

- a. Jonathan Bourne Drive is proximate to County Rd which connects to the Shining Sea Bikeway and is proximate to a proposed extension of the Shining Sea Bikeway. Jonathan Bourne Drive is also proximate to the Bourne Run of the Cape Cod Regional Transit Authority (CCRTA) bus service.
- b. Edgerton Drive is proximate the Shining Sea Bikeway and the Bourne Run of the CCRTA bus service.
- c. Falmouth Technology Park is proximate the Shining Sea Bikeway.
- d. Sandwich Industrial Park is proximate to the shared use bicycle facility on Route 130 and the Sandwich Line of the CCRTA bus service.

3. Research & Development and Light Manufacturing Uses are relatively low traffic generators compared to other uses that could potentially develop on these parcels. As such, encouraging these types of uses over other high-traffic generating uses on these parcels can be seen as a benefit in terms of potential impacts relative to RPP Transportation Goals.

4. The potential new trips that could be expected by raising the threshold to 40,000 sf ft threshold that would not be reviewed by the Commission are summarized in the following table:

**Table 1: Trip Generation Analysis**

<b>Development Area</b>	<b>Weekday Daily Trips</b>	<b>Weekday AM Peak Hour Trips</b>	<b>Weekday PM Peak Hour Trips</b>
Jonathan Bourne Dr., Bourne	216	33	29
Edgerton Dr., Falmouth	371	56	49
Falmouth Technology Park	1,514	228	200
Sandwich Industrial Park	1,820	274	240
Notes: a. New trips from facilities that would have been subject to Commission review under the 10,000 sq ft thresholds, but would not be subject to review under the 40,000 sq ft threshold b. Assumes full build-out potential is realized c. Based on <i>Institute of Transportation Engineering Trip Generation, Ninth Edition</i> for Land Use d. Code 760 (Research and Development Center) Assumes 25% trip reduction			

5. Consistent with Transportation Goals, the access points onto the regional roadway network have sufficient stopping sight distance and are not high crash locations.

6. While sufficient stopping sight distance is available at the intersection of Thomas B. Landers Road at Technology Park Drive, the curvature of Thomas B. Landers Road westbound does create sight distance restrictions that should be monitored by the Town of Falmouth. Periodic trimming on the north side of Thomas B. Landers is recommended to maintain sight lines. If a significant increase in traffic, particularly truck traffic, is realized, the Town of Falmouth may want to consider adding a westbound left turn lane on Thomas B. Landers Road.

7. Consistent with RPP Transportation Goals, the only high crash locations identified in close proximity to the Designated Areas that may have be significant impact are the intersections south of the Sandwich Industrial Park along Route 130 and Cotuit Roads. These intersections will be reviewed by Commission staff as part of a planning initiative current underway. The results of this planning initiative will detail existing safety issues at these locations which could be corrected through infrastructure improvements. Improvement projects at the locations with significant, demonstrated safety issues could be funded through Massachusetts Department of Transportation (MassDOT) Highway Safety Improvement Program.

8. Consistent with Transportation Goals, the designated areas, particularly the designated areas in Bourne and Falmouth, demonstrate good access management practices. With the exception the a limited number of parcels along Route 130 in the Sandwich Industrial Park, potential new trips to any new development would be through these site driveway(s)/public roads where the trips could be safely and efficiency connect to the regional roadway network. Nearly all of the affected parcels on Route 130 are already built out. Additionally, Route 130 is under the jurisdiction of the Massachusetts Department of Transportation in front of all but one of these

parcels. As a result any potential significant increase in trips from the parcels would be reviewed by MassDOT through a curb cut or change of use permit.

9. Consistent with RPP Transportation Goals, Research & Development and Light Manufacturing Uses have the ability to significantly reduce the expected increase in motor vehicle trips through implementation of Transportation Demand Management (TDM) Plans. Implementation of TDM is common practice in these types of uses as there are benefits to the company, employees, and the community as a whole. Recent projects of this type in the area have successfully implemented TDM plans. The designated areas in this proposal are particularly favorable for successful implementation of a TDM plan given their proximity to alternative modes of transportation such as transit and bicycle facility as previously discussed. Commission staff is available for guidance on developing and implementing a successful TDM program.

10. Consistent with Transportation Goals, the access points onto the regional roadway network could handle the potential increase in trips without substantially affecting the Level of Service (LOS) and these access points would continue to operate at LOS C or better. The following table presents the LOS analysis for the peak hour of the potential developments (AM peak hour):

**Table 2: AM Peak Hour Capacity Analysis**

<b>Development Area</b>	<b>Intersection</b>	<b>2014 - Existing LOS</b>	<b>2019 – Future No-Build LOS</b>	<b>2019 – Future Build LOS</b>
Jonathan Bourne Dr., Bourne	MacArthur Blvd. at Jonathan Bourne Dr.	C	C	C
Edgerton Dr., Falmouth	Route 28A at Edgerton Dr.	C	C	C
Falmouth Technology Park	Thomas B. Landers Rd. at Technology Park Dr.	B	B	C
	Thomas B. Landers Rd. at Research Rd.	B	B	B
Sandwich Industrial Park	Route 130 at Jan Sebastian Dr. (Signal)	B	B	C
Notes:				
a. LOS = Level of Service of worst approach for unsignalized location and overall intersection for signalized locations Analysis prepared using Highway Capacity Software 2010				
b. Volumes based on counts conducted in 2014, factored to peak season conditions				
c. Assumes 1% annual growth				
d. Trip generation assumptions as presented in Table 1				

11. The LOS of the intersection of Thomas B. Landers Road at Technology Park Drive would drop from LOS B to LOS C, still and acceptable LOS. This is primarily due to an increase in delay for left turning vehicles turning out of Technology Park Drive. If this did become an issue, drivers also have the option of turning left out of Research Road.

12. The LOS of the intersection of Route 130 at Jan Sebastian Drive would drop from LOS B to LOS C, still an acceptable LOS. If there was a desire to maintain LOS at this intersection, with only minor geometric changes, the westbound approach (Jan Sebastian Drive) could be configured to allow for dedicated left and right turn lanes as opposed to the current wide, shared lane.

13. The other potential impacts directly onto the regional roadway network could come from additional trips from parcels in the Sandwich Industrial Park with direct access onto Route 130. Nearly all of the affected parcels on Route 130 are already built out. Additionally, Route 130 is under the jurisdiction of the Massachusetts Department of Transportation in front of all but one of these parcels. As a result any potential significant increase in trips from the parcels would be reviewed by MassDOT through a curb cut or change of use permit. There also exists the potential for creation of a back access road through the Designated Area in Sandwich, potentially linking up to Jan Sebastian Drive, which could reduce curb cuts onto Route 130 reducing congestion and improving safety in the area. Commission staff is available in the future to discuss possible alignments for this back access road.

## **IX. WASTE MANAGEMENT**

### **A. Hazardous Materials and Waste**

- *To protect Cape Cod's drinking water by prohibiting land use activities involving the handling, storage, and disposal of hazardous materials and wastes that pose a significant threat to groundwater supplies.*

1. The Towns of Bourne, Falmouth, and Sandwich have special Water Resource Districts which include a number of management controls on the land use activities involving the handling, storage, and disposal of hazardous materials and wastes.
2. Bourne prohibits *"facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00, except for Very Small Quantity Generators as defined under 310 CMR 30.390."*
3. Falmouth's Zoning By-law is a hybrid, in that it prohibits specific land uses in Water Resource Districts, but also has a registration program for uses that generate, treat, store, or handle hazardous materials or hazardous wastes.
4. Sandwich prohibits land uses including *"any activity or occupations that generate, treat, store or dispose of hazardous waste, which is subject to MGL Chapter 21C and 310 CMR 30.00, including without limitation, solid waste, hazardous waste, leachable waste, chemical waste, radioactive waste, and waste oil, except that waste oil retention facilities..."*
5. State Drinking Water Regulations (310 CMR 22.21) which deals with Ground Water Supply Protection, includes a number of land use prohibitions and other requirements that municipalities must implement in order to have new public drinking water supplies approved by the State.
6. State Hazardous Waste Regulations (310 CMR 30.00) include a number of administrative and engineering controls to ensure that land use activities involving the handling, storage, and disposal of hazardous wastes will not pose a significant threat to the environment and supplies of drinking water.

7. Through the Cooperative Extension of Cape Cod, the Towns of Bourne, Falmouth and Sandwich participate in annual, multi-town and multi-day household hazardous waste collections, thereby providing residents with a way to dispose of hazardous household chemicals which could pose a threat to the environment and drinking water supplies.

## **B. Solid Waste**

- *To manage solid waste using an integrated solid waste management system that includes waste reduction, recycling, and composting and to divert 60 percent of municipal solid waste from incinerator and landfill facilities through recycling and composting programs by 2012.*

1. The Towns of Bourne, Falmouth, and Sandwich include sections in their Zoning By-laws that require trash and other wastes be confined to the premises and stored out of sight of any public way, or disposed of. These By-laws include provisions for keeping premises free of trash and litter.

2. The Town of Bourne hosts an integrated solid waste management facility which provides solid waste and construction/demolition debris management for Cape homes and businesses.

3. The Town of Bourne and Falmouth provide residents with curbside collection of solid waste and recyclables through a municipal franchise.

4. All three Towns maintain a Transfer Station for residents which provides for collection of brush, bulky items, car batteries, waste oil, leaves and other solid wastes that cannot be disposed of at either landfills or waste incinerators.

## **X. ENERGY**

### **Emissions and Energy Use**

- *To promote a healthy and sustainable economic, natural, built and social environment by reducing greenhouse gas emissions and energy costs through design and construction practices that increase energy conservation, promote energy efficiency, and promote self-sufficiency through the use of locally distributed renewable energy.*

1. Energy efficiency provisions have been incorporated into the Uniform State Building Code, which provisions can regulate building energy efficiency initiatives through the town building permit process.

2. Towns should encourage development to achieve energy efficiency measures over and above the minima required under the Building Code, which may also be in the best economic interests of project developers in terms of reduced energy costs, or the ability to take advantage of available tax credits.

## **XI. HERITAGE PRESERVATION**

### **A. Historic, Cultural, and Archaeological Resources**

- *To protect and preserve the important historic and cultural features of Cape Cod's landscape and built environment which are critical components of the region's heritage and economy.*

1. None of the four proposed areas contain any historic structures or cultural resources that have been identified on the Massachusetts Cultural Resource Inventory System (MACRIS).

2. The four proposed areas are not located in close proximity to any historic districts or distinctive neighborhoods that would be impacted by new development in these areas.
3. The potential for archaeological resources in the four proposed areas is not known, but can be determined by submitting a Project Notification Form (PNF) to the Massachusetts Historical Commission (MHC)/Office of the State Archaeologist. The town of Falmouth has completed a town-wide archaeological survey that can be used to determine the level of archaeological sensitivity of the two Falmouth locations. Site-specific archaeological surveys have been conducted in the towns of Sandwich and Bourne that may help to determine whether the proposed areas have high archaeological sensitivity.
4. Almost all of the proposed areas are more than 300 meters from natural water bodies (though a portion of lot 45 within the Sandwich area contains wetlands), and many of the proposed lots have been previously disturbed, which reduces the likelihood of their archaeological sensitivity.

## **XII. COMMUNITY CHARACTER**

### **A. Site and Building Design**

- *To encourage redevelopment of existing structures as an alternative to new construction, and to ensure that all development and redevelopment respects the traditions and distinctive character of historic village centers and outlying rural areas consistent with Designing the Future to Honor the Past, Design Guidelines for Cape Cod, Technical Bulletin 96-001, as amended.*

1. The proposed Falmouth locations do not have frontage on regional or scenic roadways, and development in these two areas is unlikely to create adverse visual impacts. The town of Falmouth has a maximum lot coverage of 40% in these locations, and a maximum building height of 35 feet or 2 ½ stories in the Light Industrial A district and 40 feet in the Light Industrial B district. Most of the suggested uses are permitted by right, though some require a Special Permit, which would give the town some ability to address design issues if desired.
2. The proposed Sandwich location does not have frontage on a regional or scenic roadway, and development in this area is unlikely to create adverse visual impacts. The town of Sandwich limits building height to 45 feet in this area, but does not have a maximum lot coverage requirement. Some of the suggested uses are permitted by right, but others require a Special Permit, which would give the town some ability to address building and design issues.
3. The proposed Bourne site has two lots with frontage on MacArthur Boulevard. The town of Bourne requires a minimum of 40% open space on the lot and limits building height to 40 feet. As long as a buffer of existing vegetative screening is maintained along the eastern portion of the two lots fronting on MacArthur Boulevard, development in this area is unlikely to create adverse visual impacts. The town of Bourne also requires Site Plan Review/Special Permit for most of the suggested uses and includes the ability to address building design issues. The town may want to require that a vegetated buffer be maintained for screening on lots adjacent to MacArthur Blvd, as part of local discretionary permitting for any project in the Designated Area.

## **CONCLUSION**

Based on the above, the Commission determines and further finds as follows:

A. The Commission hereby approves a Revised Mandatory DRI Threshold of up to 40,000 sq ft (“Revised Threshold”) for R&D and Light Manufacturing uses, as defined below, in the Designated Areas shown on the Threshold Maps attached hereto.

*Research and Development (R&D): a commercial use wholly located within a building or complex of buildings involving high-technology or scientific activities in the design, testing, research, analysis, development, and light manufacturing of products, as applicable, including directly related or ancillary office, warehousing and distribution (but not residential or retail) uses thereto. Examples of allowed uses include but are not limited to Marine Technology, and software development. R&D does not include chemical manufacturing when undertaken as a principal or primary use.*

*Light manufacturing: a commercial use involving the value-added packaging, assembly, fabrication or other processing of finished parts, primarily from previously prepared materials, into new products where there are minimal detrimental external impacts (such as those involving safety, noise, dust, glare, congestion, and releases of exhaust, odors or vibration) across property lines to non-related uses. This term may include, but is not limited to, a business engaged in the processing, fabrication, assembly, or packaging of food. Examples of allowed uses include but are not limited to navigational equipment manufacturing, computer manufacturing and 3-D printing. Light Manufacturing does not include chemical manufacturing when undertaken as a principal or primary use.*

Only the uses listed above, within the Designated Areas, shall have the benefit of the Revised Threshold. All other uses, and all uses located outside the Designated Areas and/ or 40,000 sq ft Gross Floor Area or greater, shall be subject to the mandatory DRI Thresholds contained in the Enabling Regulations, without revision.

B. The Mandatory DRI Thresholds contained in Sections 3(e) and 3(f) of the Enabling Regulations, as revised by this Decision, shall read as follows (revisions/ additional language in **bold**):

*Any proposed development that meets or exceeds the thresholds adopted below shall be referred to the Commission as a DRI, **except for Research & Development and Light Manufacturing uses with a Gross Floor Area of less than 40,000 sq ft, such uses as defined and approved in the Commission’s Revised Threshold Decision for Jonathan Bourne Drive, Bourne; Edgerton Drive, Falmouth; Falmouth Technology Park; and Sandwich Industrial Park:***

*(e) Any of the following proposed developments: commercial, service, retail, wholesale business, industrial, private office, private health, private recreational or private educational which exceeds these criteria:*

*(i) New construction of any building or buildings (including accessory and auxiliary structures) with a Gross Floor Area greater than 10,000 square feet;*

*(ii) Additions to existing buildings that result in an increase greater than 10,000 square feet of Gross Floor Area;*

*(iii) For Outdoor Uses, new construction or development that has a Total Project Area greater than 40,000 square feet;*

(iv) Any Demolition and replacement not resulting in a Change of Use that results in a net increase in Gross Floor Area greater than 10,000 square feet. Net increase is calculated as the difference between the existing Gross Floor Area and the proposed Gross Floor Area.

(f) Any proposed Change of Use, or Demolition and replacement or **building re-occupancy** resulting in a Change of Use, involving commercial, service, retail, wholesale, industrial, private office, private health, private recreational or private educational uses in excess of the following thresholds, **except for Research & Development and Light Manufacturing uses with a Gross Floor Area of less than 40,000 sq ft, such uses as defined and approved in the Commission's Revised Threshold Decision for Jonathan Bourne Drive, Bourne; Edgerton Drive, Falmouth; Falmouth Technology Park; and Sandwich Industrial Park:**

(i) Where the Gross Floor Area of the building(s), or that portion of a building, subject to the Change of Use, is greater than 10,000 square feet. In cases where there is a Change of Use within a portion of a building only, all areas associated with that use shall be included in the 10,000 square foot calculation, including storage areas and ancillary areas;

(ii) Any Demolition and replacement that results in a Change of Use where the Gross Floor Area is greater than 10,000 square feet.

(iii) For Outdoor Uses, where the Total Project Area is greater than 40,000 square feet.

C. The definitions appearing in the Cape Cod Commission Act and the Code of Cape Cod Commission Regulations shall apply herein, including but not limited to the term Gross Floor Area, which is defined in Section 1 of the DRI Enabling Regulations as follows:

*Gross Floor Area: The sum of the area of all floors within the perimeter of a building, located either above or below ground level, except Underground Parking within the structure which is accessory to the principal use shall not be included in the total Gross Floor Area. Gross Floor Area shall be expressed in square feet and measured from the exterior face of the exterior walls, or the centerline of shared walls. It shall include all floor levels including basements, and mezzanines and attics without deduction for hallways, stairways, elevator shafts, mechanical rooms, closets, thickness of walls, columns, projections, or other similar features. Crawl spaces for plumbing, wiring, or other mechanical infrastructure or for storage and in all cases not designed for human occupancy shall not count towards Gross Floor Area. Attic spaces that consist of the following shall not count towards Gross Floor Area: 1) accessed only by a step ladder or drop-down retractable stairs, 2) with open rafters and floor joists, 3) with no means of ventilation other than ridge, peak or soffit vents, 4) with limited natural or man-made illumination, 5) not intended or designed for human occupancy. Outdoor areas used for storage, sales, service and display shall also be included in the total Gross Floor Area.*

D. Notwithstanding anything else contained herein, as provided in Section 1(e) of Chapter H, in accordance with Section 12(e) of the Act and Section 2(b) of the Enabling Regulations, Municipal Agencies or the County Commissioners may at any time make Discretionary Referrals requesting DRI review by the Commission of a proposed development that does not meet or exceed 1) any of the standards and criteria in the Enabling Regulations nor 2) any revised thresholds enacted through Chapter H.

E. The Revised DRI Threshold shall take effect fourteen (14) calendar days after the Commission Clerk files a true copy of the Decision and Threshold Maps of the Designated Areas attached hereto with the Clerk of the Assembly of Delegates. The Commission shall record copies of this Decision and Threshold Maps of the Designated Areas attached hereto with the Barnstable Registry of Deeds, and also file them with the respective towns in which the Designated Areas are located.

F. This Decision shall not apply retroactively, and affect the validity of any existing Commission Decision or Development Agreement. Any existing Commission Decision or Development Agreement appurtenant to any land within the Designated Areas shall continue to apply to such land and remain in force and effect, if now in force and effect. Notwithstanding the foregoing, new projects, including Changes of Use, redevelopment and building additions, eligible for the Revised Threshold herein shall have the benefit of such Revised Threshold, and in the event there is conflict between the terms and provisions of this Decision and such other applicable Commission decisions and development agreements, this Decision shall control.

### **CONDITIONS**

This Decision is conditioned on satisfaction and performance of the following condition:

1. Upon any building permit application for development in any of the Designated Areas, including for a change in use or occupancy, new construction, or redevelopment proposing 10,000 sq ft or more of Gross Floor Area, the local building commissioner shall either refer the project as a mandatory DRI in due course to the Commission, or certify in writing to the Commission that the building permit application proposes less than 40,000 sq ft of Gross Floor Area for Research & Development and Light Manufacturing uses consistent with this Decision, including the Revised Threshold stated above. The local building commissioner shall forward such written certification to the Commission with a copy of the proposed building plans included in the building permit application.

Alternatively, the respective town, through its building commissioner, may request in writing a jurisdictional determination from the Commission's Chief Regulatory Officer or designee (CRO) about whether proposed development in the respective Designated Area requires DRI review. Within 30 days of receipt of such written request, the relevant building plans, and any other supporting information from the town, the CRO, in consultation with the town, will provide a binding determination to the town about whether the proposed development requires DRI review.

In either case, no development work may commence until the CRO has confirmed in writing to the respective town's building commissioner that the proposed development is eligible for the Revised Threshold and does not require DRI review.

\*\*\*\*

**Commission Chapter H Designation and DRI Threshold Revision  
SIGNATURE(S)**

Executed this 8th day of May 2014

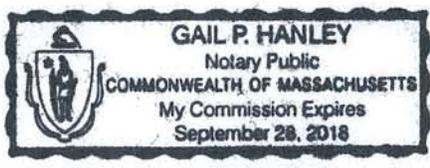
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Signature

John H. McCormack, Chairman  
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss May 8, 2014

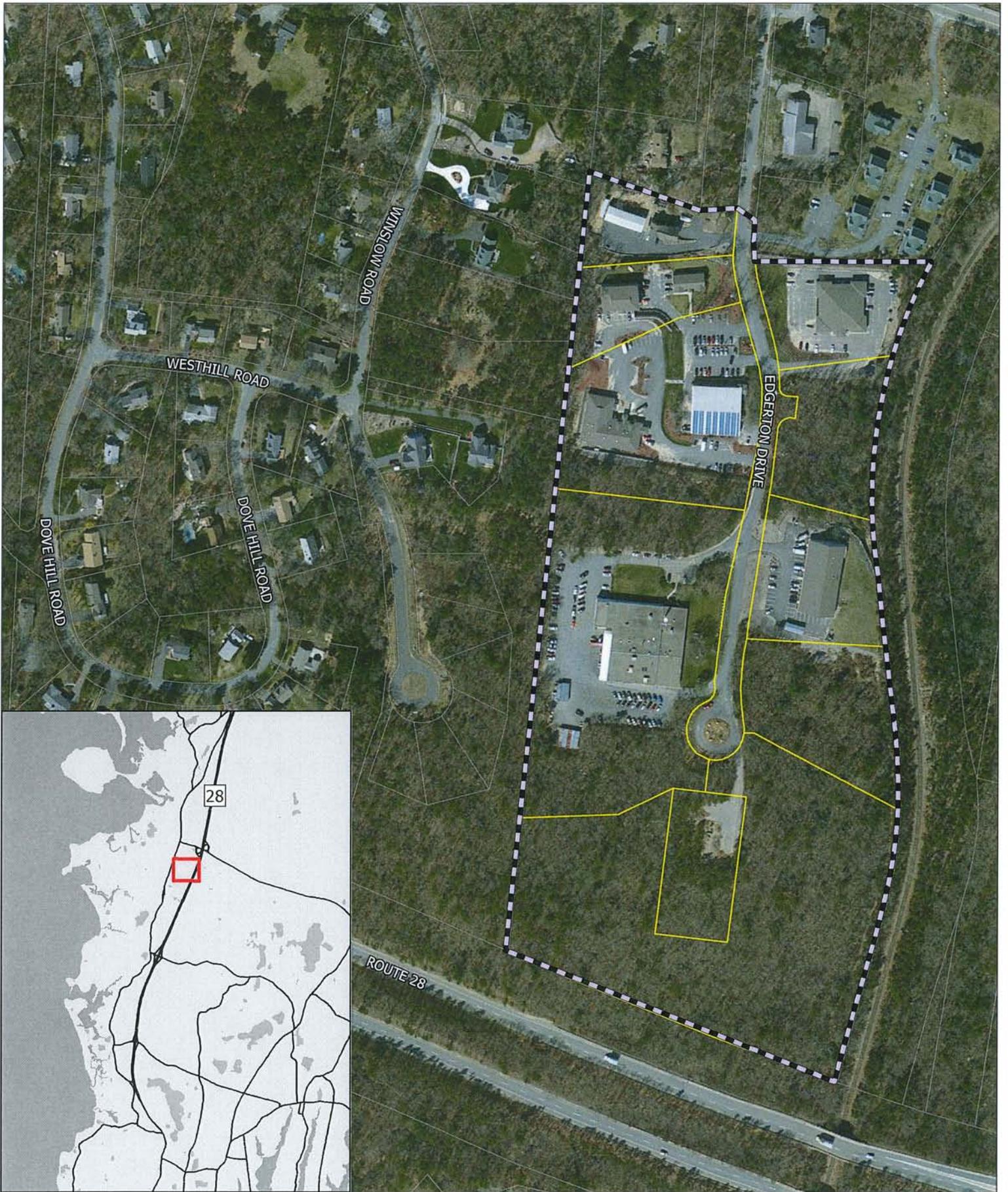
Before me, the undersigned notary public, personally appeared John H. McCormack in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity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



SEAL

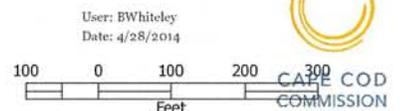
Gail P. Hanley  
Notary Public:

My Commission Expires: 9-28-18



Chapter H: Edgerton Drive  
 Revised Threshold Map  
 Exhibit A

-  Designated Area
-  Parcels in Designated Area
-  Other Parcels

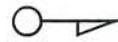


*The information depicted on these maps is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel level analysis. It should not substitute for actual on-site survey, or supersede deed research.*

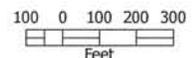


Chapter H: Falmouth Technology Park  
 Revised Threshold Map  
 Exhibit B

-  Designated Area
-  Parcels in Designated Area
-  Other Parcels



User: BWhiteley  
 Date: 4/28/2014



CAPE COD  
 COMMISSION

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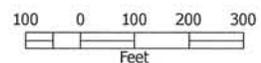


Chapter H: Bourne  
 Revised Threshold Map  
 Exhibit C

The information depicted on these maps is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel level analysis. It should not substitute for actual on-site survey, or supersede deed research.

-  Designated Area
-  Parcels in Designated Area
-  Other Parcels

User: BWhiteley  
 Date: 4/28/2014

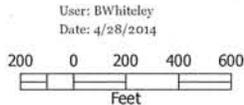




Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Chapter H: Sandwich Industrial Park  
 Revised Threshold Map  
 Exhibit D

-  Designated Area
-  Parcels in Designated Area
-  Other Parcels



The information depicted on these maps is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel level analysis. It should not substitute for actual on-site survey, or supersede deed research.