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CAPE COD
COMMISSION

DEVELOPMENT AGREEMENT BY AND BETWEEN THE LYNDON PAUL LORUSSO CHARITABLE FOUNDATION OF 2002 AND THE CAPE COD COMMISSION

This Development Agreement is entered into this twenty-eighth (28th) day of October 2010 by and between the Cape Cod Commission (hereinafter "Commission") and the Lyndon Paul Lorusso Charitable Foundation of 2002 (hereinafter "Foundation") by Mark W. Thompson, Chairman of the Board of Trustees.

Whereas, the Commission was established by chapter 716 of the Acts of 1989, as amended (hereinafter "Act"), for the purpose of reviewing Developments of Regional Impact (hereinafter "DRIs") which, because of the magnitude of their impact are likely to present development issues significant to or affecting more than one municipality; and

Whereas, the Commission has adopted the *Code of Cape Cod Commission Regulations of General Application* (hereinafter "Code"), including inter alia, Chapter A, *Enabling Regulations* Governing the Review of Developments of Regional Impact (hereinafter "Regulations"), as revised May 2010 and corrected June 2, 2010, as well as the Regional Policy Plan for Barnstable County (hereinafter "RPP") as revised on May 9, 2010 and recorded on June 17, 2010; and

Whereas, Chapter D of the Code, which is the Development Agreement Regulations, as amended May 6, 2009, provides for the approval of Development Agreements, and, in particular, Section 4 thereof outlines who may participate in a Development Agreement (hereinafter "Agreement"); and

Whereas, the Foundation is a Qualified Applicant and as such may participate in an Agreement per Sections 1(c), 4(a) and 4(b) of the Development Agreement Regulations; and

Whereas, the Commission and Foundation are Participating Parties (hereinafter "Party") to this Agreement pursuant to Sections 1 and 4 of Chapter D of the Code; and

Whereas, per Chapter D of the Code, Section 4, the Town of Barnstable is not a Participating Party to this Development Agreement but will review the proposed project for a Special Permit according to the requirements of two existing overlay zoning districts; and

Whereas, Chapter D of the Code provides for the approval of Development Agreements, and, in particular, Section 5 thereof outlines the procedure for adopting an Agreement by and between the Commission and a Qualified Applicant; and

CAPE COD COMMISSION TWENTY YEARS (1990-2010)
Keeping a Special Place Special

Whereas, in accordance with Chapter D of the Code, Section 5(a), on October 30, 2009, the Foundation filed a Notice of Intent with the Commission's Regulatory Committee requesting a determination that The Village at Barnstable Continuing Care Retirement Community, to be located off Communication Way in Independence Park, Hyannis, and a proposed off-site affordable housing component at 850 Falmouth Road, Hyannis, (jointly, "The Village") was suitable and qualifies for the Development Agreement process; and

Whereas, the proposed project as described in the Notice of Intent and which is the subject of this Development Agreement is the construction and operation of a continuing care retirement community located on a 25.85-acre site in Independence Park, Hyannis, MA. The proposed project consists of at least three construction phases as funding allows, and at build-out would consist of six buildings for a total of approximately 743,397 square feet. The project includes up to 340 independent/assisted living units, a skilled nursing facility with up to 60 beds, an underground parking garage, and on-site amenities, including but not limited to a bank, dining facility, fitness center, and auditorium. The affordable housing component is proposed to be off-site at 850 Falmouth Road, Hyannis, a 3.3 acre site which is the site of the former Manor Nursing Home, which is to be redeveloped into 42 affordable units; and

Whereas, in accordance with Chapter D of the Code, Sections 5(a) and 5(b), on November 9, 2009, the Commission's Regulatory Committee voted unanimously to recommend to the full Commission that the proposed development was suitable and qualified for consideration as a Development Agreement with the Commission; and

Whereas, in accordance with Chapter D of the Code, Section 5(b), on December 17, 2009, the full Commission determined that the proposed development was suitable and qualified for consideration as a Development Agreement with the Commission and therefore the Foundation could proceed with a Development Agreement Application; and

Whereas, in accordance with Chapter D of the Code, Section 5(b)(ii), the Foundation had one year from the Commission's determination of suitability to file a Development Agreement Application with the Commission, which Application, and attachments were filed on May 11, 2010; and

Whereas, in a letter dated June 15, 2010, Commission staff determined such Application was substantially complete; and

Whereas, in accordance with Chapter D of the Code, Section 5(d) and Section 4(a)(12) of the Act, on June 23, 2010, the Commission's Chair appointed a subcommittee to represent the Commission in negotiating a Development Agreement; and

Whereas, Section 5(e) of Chapter D requires the subcommittee reviewing a Development Agreement to consider its consistency with the Commission Act, RPP, Town's certified Local Comprehensive Plan (hereinafter "LCP"), local zoning, local development bylaws and applicable state law; and

Whereas, Section 5(e)(i) of Chapter D allows the subcommittee to recommend and the Commission may approve a Development Agreement that is inconsistent with the Act, the RPP or the LCP if:

"the inconsistency is necessary to enable a substantial segment of the population to secure adequate opportunities for housing, conservation, environmental protection, education, recreation or balanced economic growth and the interests protected by the Act, RPP or LCP can be advanced or protected by an alternate approach, which shall include appropriate mitigation."

Whereas, in accordance with Chapter D of the Code, Section 5(d), the subcommittee held duly noticed public hearings on July 8, 2010, July 14, 2010, July 22, 2010, July 29, 2010, August 19, 2010, September 23, 2010 and October 14, 2010 to review relevant information on applicable subjects to be reviewed under the Act, the RPP, Barnstable's LCP, local development bylaws, local zoning and applicable state law, and to receive relevant public testimony to inform their decision; and

Whereas, in accordance with Chapter D of the Code, Sections 5(d), 5(e)(i) and 5(e)(ii), the Subcommittee held a posted public meeting on July 22, 2010 to review, discuss and consider relevant information on applicable subjects to be reviewed under the Act, the RPP, Barnstable Local Comprehensive Plan, local zoning and applicable state law to inform their decision and to identify areas of compliance and non-compliance with regulatory standards applicable to subjects identified pursuant to Section 5(d); and

Whereas, in accordance with Chapter D of the Code, Section 5(i), the subcommittee and Qualified Applicant met in a public hearing on September 23, 2010 and in a public meeting on October 14, 2010 to review the draft Development Agreement; and

Whereas, in accordance with Chapter D of the Code, Section 5(i), the subcommittee met in a public hearing on September 23, 2010 and in a public meeting on October 14, 2010 and recommended that the full Commission should authorize signature of the Development Agreement; and

Whereas, in accordance with Chapter D of the Code, Section 5(i), in a public meeting on October 14, 2010 Mr. Mark Thompson, as Chairman of the Board of the Foundation signed the draft Development Agreement recommended by the subcommittee to the Commission indicating the Applicant's agreement to enter into the contract; and

Whereas, in accordance with Chapter D of the Code, Section 5(i), the Commission held a duly noticed public hearing on October 14, 2010 to consider the written Development Agreement contract; and

Whereas, the Foundation is a Qualified Applicant which has voluntarily proposed a coordinated, planned and phased development and/or redevelopment of certain Lots and Properties, as hereinafter defined; and

Whereas the Foundation is the owner of ten (10) lots located at 0 to 265 Communication Way, Hyannis consisting of approximately 25.85 acres, said Lots being more particularly described in the list attached hereto as Appendix A and shown on a plan, a copy of which is attached hereto as Appendix B which is the proposed location of the proposed continuing care retirement community located on a 25.85-acre site in Independence Park, Hyannis, MA (hereinafter "Main Campus"); and

Whereas, the Foundation is the primary beneficiary of the Lyndon Land Trust (the owner) of one (1) Lot consisting of approximately 3.3 acres, said Lot being more particularly described in the list attached hereto as Appendix C and shown on a plan, a copy of which is attached hereto as Appendix D which is the proposed location of the affordable housing component (hereinafter "Affordable Housing Component") proposed to be located at 850 Falmouth Road, Hyannis, which is the site of the former Whitehall Manor Nursing Home; and

Whereas, the ten (10) lots located at 0 to 265 Communication Way, Hyannis consisting of approximately 25.85 acres, said Lots being more particularly described in the list attached hereto as Appendix A, which is the Main Campus and the one (1) Lot consisting of approximately 3.3 acres, said Lot being more particularly described in the list attached hereto as Appendix C, which is the Affordable Housing Component, together constitute the development sites which are the subject of this Development Agreement; and

Whereas, the site of the Main Campus is subject to Barnstable's Senior Continuing Care Retirement Community Overlay District (hereinafter "SCCRCOD") zoning and the off-site Affordable Housing Component is subject to Barnstable's Multifamily Affordable Housing (hereinafter "MAH") Residential District; and

Whereas, the Main Campus is situated within an Economic Center as identified on Barnstable's Land Use Vision Map;

Whereas, the Affordable Housing Component is situated within a Resource Protection Area as identified on Barnstable's Land Use Vision Map; and

Whereas, in the Development Agreement review, the Commission considered the following information and materials submitted for the record as outlined in Appendix E;

Whereas, the Commission makes Findings pursuant to Section 5(e) of Chapter D concerning the proposed development and redevelopment's consistency with the Commission Act, RPP, Town's certified LCP, local zoning, local development bylaws and applicable state law which are included and incorporated by reference into this Development Agreement and are contained in Appendix F;

NOW THEREFORE, in consideration of the Foundation's agreeing to perform fully its obligations (a) under the Application and attachments, as modified and accepted by the Commission, and (b) under this Agreement, and the Commission's execution of this Agreement as authorized by Section 14 of the Act, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both signatories, the parties hereto agree as follows:

1. The Foundation, its successors or assigns shall build The Village (including all components thereof) in accordance with the terms of the Application and attachments, as modified and accepted by the Commission. Any modification of the development project as modified and accepted by the Commission shall only be made in compliance with Section 8 of Chapter D of the Code.

2. The Commission's development standards under the RPP, as in effect on the effective date of this Agreement shall apply to this development project for twelve (12) years, notwithstanding any subsequent or intervening changes to said development standards.

Following execution of this Agreement by the Commission and the Foundation, the development project shall not be subject to review as a Development of Regional Impact.

3. The terms of this Agreement shall be specifically enforceable in a court of equity, after the giving of notice and an opportunity to cure, as described below. In the event the Commission believes that the Foundation has violated or is about to violate any of its obligations hereunder, the Commission shall give the Foundation written notice of such actual or prospective violation and a 60 day period to commence corrective action provided the Foundation, its successors or assigns will move forward to correct any such violation and continue until such cure is completed. If the Foundation believes no violation has occurred or is about to occur, it may request a hearing before the commission or a subcommittee thereof. The 60-day period to commence should be suspended until the subcommittee makes its determination and will resume should the subcommittee determine a cure is needed. The subcommittee or Commission shall hold its public hearing within 45 days of such request. If no amicable resolution is reached within 30 days after the hearing, either party may seek a judicial resolution.

4. The Foundation shall not assign or transfer this Agreement, or its rights under this Agreement, in whole or in part, to any person or entity without the express written approval of the Commission, which is in the discretion of the Commission; however such approval may be not be unreasonably withheld or delayed by the Commission. The Affordable Housing Component may be developed by a person or entity other than the Foundation only with the express written approval of the Commission and provided that all the terms and conditions of this Agreement are adhered to.

5. The Foundation, as Qualified Applicant, has agreed to provide the following public benefits and improvements as consideration for this Development Agreement, as evidenced by the Main Campus' consistency with the following Regional Policy Plan Best Development Practices (BDP):

1) ED2.2, which encourages projects to provide competitive wages consistent with the state average wage for that industry, employer supported medical and retirement benefits packages, training opportunities beyond what that need (sic) to perform the current job, and opportunities for advancement

2) ED3.1, which encourages commercial projects to employ a majority of local residents and use a majority of local contractors, suppliers, professional service providers, and products during the planning, construction and operation phases of the project

3) ED3.7, which encourages commercial projects to have a positive net fiscal impact on the community in which it is located

4) WR1.7, which encourages water conservation technologies or strategies to obtain a 40-percent reduction in water use

5) WR1.8, which encourages alternatives to synthetic chemical fertilizers and pesticides in favor of organic and biological methods

6) OS1.3, which, in public water supply Wellhead Protection Areas, allows stormwater management structures to be counted toward meeting the open space

requirement where Low Impact Design (LID) Best Management Practices are used for stormwater infiltration (for example, vegetated swales, rain gardens and bio-retention areas)

7) OS2.2, which seeks to encourage new development to provide suitable recreation and play areas to meet the needs of the residents of that development such as playing fields, playgrounds, basketball courts, or bicycle and pedestrian paths

8) HPCC2.17, which encourages shared parking, on-street parking, community parking lots, underground parking, or parking in a portion or the building's first floor [*sic*] in order to reduce the amount of land devoted to parking

9) HPCC2.19, which, in part, encourages two-story buildings to reduce the building footprint

The Foundation, as Qualified Applicant, has also already provided the following public benefits and improvements as consideration for this Development Agreement, as evidenced by information submitted during the Development Agreement review:

1) Submitted a Chapter 21E site assessment indicating the condition of the Main Campus site relative to Hazardous Waste, consistent with RPP BDP WR5.6.

2) Made a $261,000 monetary contribution to the Lewis Bay Research Foundation for support of the Foundation's research purposes, including investment in equipment to conduct algae removal in Lewis Bay Watershed.

6. This Development Agreement shall become effective only following issuance of a Certificate by the Commission relative to this Development Agreement as provided in Section 5 of Chapter D.

7. On or before December 27, 2010, the Foundation shall provide to the Commission a fully executed Trustee Certificate in a form reasonably acceptable to the Commission attesting (a) to the Trustee's incumbency, and his authority to enter into this Agreement and to perform the Foundation's obligations hereunder; and (b) that, when executed by the Trustee this Agreement shall be a binding and enforceable obligation of the Foundation.

TERMS AND CONDITIONS

Now, therefore, the Commission and Foundation agree as follows:

The Foundation and the Commission agree that development and redevelopment constructed consistent with the terms and conditions of this Development Agreement and in compliance therewith shall not be subject to review as a Development of Regional Impact under sections 12 and 13 of the Cape Cod Commission Act for the duration of this Development Agreement.

General

GC1. This Development Agreement is valid for twelve (12) years from the date of issuance of a Certificate by the Commission Clerk and/or the Barnstable Town Clerk relative to this Development Agreement as provided in Sections 5 and 6 of Chapter D.

Pursuant to Section 7 of Chapter D, this Development Agreement may be extended once, by consent, of both Parties, subject to a public hearing in accordance with Sections 5 and 5 of Chapter D.

GC2. This Development Agreement may be amended or rescinded pursuant to Section 8 of Chapter D.

GC3. The overall project consists of development at the Main Campus located off Communication Way, Hyannis and the redevelopment of the Affordable Housing Component located at 850 Falmouth Road, Hyannis (hereinafter "Project"). The Main Campus shall consist of up to 340 independent living/assisted living units, a skilled nursing facility with up to 60 beds, an underground parking garages, and such other on-site amenities, including but not limited to all such amenities that are customarily found in continuing care retirement communities. The Affordable Housing Component shall be the redevelopment of the former Whitehall Manor Nursing Home into 42 affordable apartments.

GC4. The Project may be constructed in Phases, however, the first phase of construction at the Main Campus and completion of redevelopment of the 850 Falmouth Road location into the Affordable Housing Component shall occur concurrently.

GC5. The Main Campus may be developed in at least three (3) Phases and the Commission may, at its discretion, approve sub-Phases within these three (3) Phases. Phases or Sub-Phases must consist of discrete and complete buildings, and not portions or parts thereof. Rearrangement of the order of Phasing at the Main Campus may be considered a Minor Modification according to Section 8 of Chapter D. The three (3) proposed Phases of development at the Main Campus shall consist of the following development as shown on Plans entitled *The Village at Barnstable – A CCRC Campus,* drawn by The Architectural Team (tat), signed by Michael Liu, Architect, issued April 9, 2010, Sheets A0.01, A1.01 to A0.1.06, and A5.01 including sheets entitled Site Plan, Building Plans and Building Sections, and Plans entitled The Village at Barnstable – A CCRC Campus, drawn by The Architectural Team (tat), issued April 9, 2010, Sheets A4.01 to A4.04 showing building elevations (received by Commission on 7/21/10), and with the plan set entitled *The Village at Barnstable – Proposed Continuing Care Retirement Community – Proposed Site Plans,* drawn by Pesce Engineering & Associates, stamped by Edward L. Pesce and John L. Churchill, Jr, dated April 13, 2010, revised 9/16/10, Sheets 1 – 10, received 10/4/10.

Such Plans as referred to in this condition may be modified per Section 8.0 of the Development Agreement Regulations.

- Phase One – Commons Building, Building A and Building B
- Phase Two – Building C and D
- Phase Three – Skilled Nursing Facility

Should appropriate state approvals for Phase Three – Skilled Nursing Facility not be granted to the Foundation, despite its best efforts to obtain such licensing, the Foundation or its successors and assigns shall not be obligated to construct the Skilled Nursing Facility.

GC6. The Project shall be constructed in accordance with the following plans and other documents:

1. *The Village at Barnstable, Conceptual Views, Main Campus*, drawn by The Architectural Team (tat), dated April 9, 2010.
2. *The Village at Barnstable* – Phase One Site Plan, Sheet 1 of 1, dated June 15, 2010, drawn by Pesce Engineering & Associates, Inc., signed by Edward L. Pesce, PE.
3. Plan set entitled *The Village at Barnstable – Proposed Continuing Care Retirement Community – Proposed Site Plans*, drawn by Pesce Engineering & Associates, stamped by Edward L. Pesce and John L. Churchill, Jr, dated April 13, 2010, revised 9/16/10, Sheets 1 – 10, received 10/4/10.
4. *Lyndon Court,* showing revised architectural elevations and interior building layout, drawn by Bruce Devlin Design, dated October 2010, received by the Commission on October 5, 2010.
5. Plan set entitled *Lyndon Court Multi-Family Development,* drawn by Edward L. Pesce, Pesce Engineering & Associates, dated 10/18/07, latest revision date 7/14/10, Sheets 1 – 7, received by Commission on 10/4/10.

GC7. The Affordable Housing Component shall be part of Phase One. When redeveloped and renovated, the primary building on the site shall not exceed forty-five thousand three hundred twenty-two (45,322) square feet.

GC8. Prior to applying for a Building Permit for any structure within a Phase or Sub-Phase, the Foundation shall deliver to the Commission a list of the proposed building or buildings to be constructed as part of that Phase or Sub-Phase. The Main Campus shall not exceed seven hundred forty-three thousand three hundred ninety seven (743,397) square feet of new construction.

GC9. Prior to the issuance of a Building Permit for proposed buildings at the Main Campus and prior to issuance of a Building Permit for the proposed redevelopment which is to become the Affordable Housing Component, the Foundation shall first obtain a Preliminary Certificate of Compliance from the Commission which states that all conditions of this Development Agreement that are required to be satisfied prior to issuance of a Preliminary Certificate of Compliance have been met. Unless the Commission issues a written determination that the relevant specific condition(s) of this Development Agreement have been met, the Commission shall not issue a Preliminary Certificate of Compliance. The Commission shall have the authority to issue a Preliminary Certificate of Compliance for one or more buildings or Phases or sub-Phases within the overall project, the approval of which shall not be unreasonably withheld.

GC10. Prior to the issuance of a Certificate of Use/Occupancy for proposed buildings at the Main Campus and prior to issuance of a Certificate of Use/Occupancy for the proposed redevelopment which is to become the Affordable Housing Component, the Foundation shall first obtain a Final Certificate of Compliance from the Commission which states that all conditions of this Development Agreement that are required to be satisfied prior to issuance of a Final Certificate of Compliance have been met. Unless the Commission issues a written determination that the relevant specific condition(s) of this Development Agreement have been met, the Commission shall not issue a Final Certificate of Compliance. The Commission may issue a Final Certificate of Compliance for one or more buildings or Phases or sub-Phases within the overall project. If the Foundation requests a Partial Final Certificate of Compliance for any building, Phase or

sub-Phase, in order to obtain a Temporary Certificate of Use and Occupancy, the Commission shall review such request as a Minor Modification pursuant to Section 8 of the Development Agreement regulations.

GC11. If all required exterior lighting, site work, irrigation, and/or landscape improvements are not complete at the time a Final Certificate of Compliance is sought from the Commission for any building, Phase or sub-Phase, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission Counsel. The amount of the escrow agreement shall be equal to 150% of that portion of the incomplete work for the particular building, Phase or sub-Phase, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work for the particular building, Phase or sub-Phase in issue. The escrow agreement shall be payable to *Barnstable County* with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the Foundation, with interest, upon completion of the required work. All required exterior lighting, site work, irrigation, and/or landscape improvements shall be completed in a reasonable and mutually agreed upon timeframe as specified in the escrow agreement.

GC12. Prior to commencement of any site development, construction or redevelopment at either the Main Campus or Affordable Housing Component site, the Foundation shall provide written proof to the Commission that a copy of this Development Agreement, and any modifications or rescissions have been provided to all site contractors, architects, engineers, landscape designers, and other firms or persons involved in the construction of the Project. Such evidence shall include that the contractors and subcontractors have been notified in particular that permits for The Main Campus facility that relate to fire department issues must be sought from the Barnstable Fire Department and that permits related to water supply issues must be sought from the Barnstable Fire District Water Company.

GC13. This Development Agreement was reviewed by the Commission pursuant to the 2009 Regional Policy Plan (as amended May 19, 2010, recorded June 17, 2010) and is incorporated by reference.

Economic Development

ECDC1. In order to waive ED1.1 for the Affordable Housing Component of this project the Foundation shall submit fully engineered plans prior to construction begins to show that the project as built will meet either the *green design/LEED Certification* or *distributed energy generation* waiver criteria of MPS ED1.3.

ECDC2. To determine if the proposed project has realized potential public benefits consistent with BDP ED2.2, BDP ED3.1, and BDP ED3.7, prior to issuance of a Final Certificate of Compliance for each building, Phase or Sub-Phase of construction and prior to issuance of a Certificate of Use and Occupancy for buildings at the Main Campus, the Foundation shall submit to Commission staff information consistent with Technical Bulletin 04-002, including the following information:

- Project Description
- Actual investment required to realize the project, including total investment cost, materials, labor and related development services
- Total investment in real property (building and structures)
- Total investment in personal property (machinery and equipment)

- Employment information for construction phase including total work hours required to complete the project, total labor costs, average wage, percentage of labor (both in terms of number of workers and hours worked) provided by residents of the region
- Workforce data on total employment at the site after construction has been completed including full time, part time, temporary and seasonal workers
- Provide the number of full time jobs as measured by full time equivalents (FTEs) employed at the site after construction based on a standard 40-hour work week
- Provide the average number of individuals and average FTE employed at the site by residents of Barnstable County, disabled, elderly, racial minorities, previously unemployed or underemployed
- Provide the percentages of the workforce requiring education and training by skill levels, certification, and degree
- Provide wage data to include total payroll paid annually to all employees, and express wage data as average wage, median wage, and maximum and minimum wages paid to employees after construction is completed
- For salaried employees, express wage data as annual salary and number of hours worked per week for full time employees for a standard 40-hour work week
- Provide official written overtime policy and average wage hours of overtime
- Provide benefits data on types of benefits provided (i.e. medical, dental, vision, retirement, disability)
- Provide data on benefits eligibility criteria as determined by hours worked, employment classification, or other factors and the number of employees meeting these eligibility criteria
- Provide the total cost of benefits package provided to employees including the percentage paid by the employer and the percentage paid by the employee
- Provide data on career advancement and training including funding allocated b the employer to such programs, on-site training services, in-service training, apprentice programs, and tuition reimbursement
- Provide fiscal impact data to include tax liability basis, actual taxes paid to the Town of Barnstable, County and State levels. Provide data on any tax abatements, tax increment financing, tax credits or tax breaks/incentives received at the Town, County or State levels.
- Provide data on local property taxes and fees.
- Provide data on project's services useage, including water, sewer, solid waste, schools, public safety, human services, parks and recreation and public transit

The Final Certificate of Compliance shall not be withheld should any projections not be realized.

Water Resources

WRC1. To be consistent with MPS WR1.5, and to minimize the municipal water supply demand from the Main Campus in a manner consistent with MPS WR1.5, irrigation water shall be supplied with a private on-site well.

To show that BDP WR1.7 has been achieved, the Main Campus shall include in its design and construction water-conserving measures including but not limited to low or dual-flush toilets, water conserving faucets and showerheads.

Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main

Campus, the Foundation shall provide to Commission staff a checklist of all water conservation measures that have been installed in each building to ensure consistency with the water conservation measures of MPS WR1.5 and BPD WR1.7.

WRC2. To address the *Turf and Landscape Management* components of MPS WR1.5, the Main Campus' landscape design shall use native and drought-resistant plantings, drip irrigation, and shall minimize use of pesticides and chemical fertilizers in favor of organic products. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or Sub-Phase of Main Campus development, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a landscape maintenance contract/agreement.

WRC3. The Main Campus is located within a Wellhead Protection Area. Under the provisions of MPS WR2.2 and MPS WM1.1, no more than a Household Quantity of Hazardous Materials and/or Hazardous Waste shall be permitted on the Main Campus site at any time. The limit on Hazardous Materials shall not exceed 25 gallons or its dry weight equivalent. The limit on Hazardous Waste shall not exceed 55 gallons.

WRC4. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or Sub-Phase of development on the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a written description of what Hazardous Materials and/or Hazardous Wastes will be used, handled, generated, treated or stored onsite so as to demonstrate compliance with MPS WR2.2, MPS WM1.1 and MPS WM1.5.

WRC5. Prior to commencement of construction, and prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, to be consistent with MPS WR1.4, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a written Pollution Prevention and Emergency Response Plan (Plan) to address Hazardous Materials storage and handling, and spill response/contingency strategies from construction activities. This Plan shall specifically address the method for isolating potential spills from stormwater infiltration basin or sub-surface discharge.

WRC6. Prior to commencement of construction, and prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, to be consistent with MPS WR7.11, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld final stormwater design plans which shall include a shut-off valve or other flow-arresting mechanism for catch basins that drain loading areas, and similar flow-arresting protection shall be incorporated into catch basins draining the areas where trash is stored.

WRC7. To be consistent with MPS WR7.2, the final proposed stormwater design for the Main Campus shall be designed and constructed to meet all RPP MPS addressing stormwater quality, and the Town of Barnstable stormwater requirements under the Barnstable Zoning By-laws, and the Massachusetts Stormwater Standards. All stormwater generated by the Main Campus shall be infiltrated onsite, and the design of

the system shall be adequately sized to capture and infiltrate at least a 25-year/24-hour storm for post-development conditions. In addition, all stormwater generated by the Main Campus shall be treated with oil/grit separators, to achieve a minimum of 80% removal of Total Suspended Solids (TSS). At least 44% of TSS shall be removed prior to discharge into infiltration systems, consistent with Massachusetts Stormwater Standards.

WRC8. To be consistent with MPS WR7.4, in addition to oil/grit separators, the stormwater design of the Main Campus shall incorporate catch basins, subsurface detention structures, rain gardens, vegetated swales, surface retention basins and pervious (grassed) pavers. The system shall also collect and infiltrate roof runoff separately into the subsurface infiltration systems as stipulated by MPS WR7.3. To be consistent with MPS WR7.5, the Main Campus' stormwater management program shall also incorporate overflow devices within the biorention areas to capture larger storm volumes, and for frozen flow conditions.

WRC9. Prior to commencement of construction, and prior issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, to be consistent with MPS WR7.3 and MPS 7.4, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld final stormwater design plans that address the components of conditions WRC6, WRC7 and WRC8 which shall, at a minimum include:

- Shutoff valves or flow arresting devices for catch basins that drain loading or trash storage areas
- Components that meet RPP MPS for stormwater quality
- Components that meet the Town of Barnstable's stormwater requirements'
- Components that meet the Massachusetts Stormwater Standards
- Infiltrate all stormwater on site
- Capture and infiltrate at least a 25-year/24-hour storm for post-development conditions
- Use oil/grit separators
- Achieve a minimum of 80% removal of Total Suspended Solids
- Achieve at least 44% removal of Total Suspended Solids prior to discharge to infiltration systems
- Include catch basins, subsurface detention structures, rain gardens, vegetated swales, surface retention basins, and porous pavers
- Separately collect and infiltrates roof runoff into subsurface infiltration systems
- Incorporate overflow devices in bioretention areas to capture larger storm volumes and for frozen flow conditions

WRC10. Prior to commencement of construction, and prior issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, the Foundation shall also provide for Commission staff review and approval which approval shall not be unreasonably withheld information and/or plans concerning the phasing and construction of bioretention areas including but not limited to the following elements:

- Protection of bioretention areas during construction and planting to prevent compaction and siltation,
- Assessment of grading and paving drainage to assure flow paths are as planned,
- Confirm inlet and outlet elevations,
- Excavation of biorention areas from the side, to avoid compaction from heavy equipment,

- Revaluate subsurface soil porosity and add stone layer if needed,
- Detail method of preparing and adding the soil mixture,
- Stabilization of perimeter side slopes and buffer areas, planting and final construction inspection after a sizable rain event, and
- Rain gardens soil mixture and depth should also be specified, to establish and promote plant and tree growth.

WRC11. Prior to commencement of construction, and prior issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld an EPA Notice of Intent Application for a stormwater permit (NPDES permit), along with a Stormwater Pollution Prevention Plan to be consistent with MPS WR7.3 and MPS 7.4.

WRC12. To be consistent with MPS WR7.6, the site design of the Main Campus shall minimize the use of impervious surfaces by providing underground parking for the entire site, with the exception of the Skilled Nursing Facility. The Foundation, in consultation with Commission staff, may also choose to provide underground parking for the skilled nursing facility as a Minor Modification of this Development Agreement per Section 8 of Chapter D. Emergency fire access roadways in the Main Campus shall use porous grassed pavers, further eliminating impervious surfaces.

WRC13. Prior to commencement of construction, and prior to issuance of a Preliminary Certificate of Compliance and issuance of a Building Permit for each building, Phase or sub-Phase of development on the Main Campus, to be consistent with MPS WR7.9 and MPS WR7.10, which address Best Management Practices during construction, and require a Stormwater operation and maintenance plan (O&M Plan) the Foundation shall:

1. Submit for Commission staff review and approval which approval shall not be unreasonably withheld a Stormwater O&M Plan which referred to the landscape maintenance plan and provides specific maintenance of the rain garden areas as part of this landscape plan; and

2. Submit for Commission staff review and approval which approval shall not be unreasonably withheld an inspection matrix describes specific timing and sets out the requirements of the Stormwater O&M Plan.

WRC14. One calendar year from completion of the stormwater system which is part of each building, Phase or Sub-Phase of development on the Main Campus, to be consistent with MPS WR7.10, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a written certification by a Professional Engineer indicating that the Engineer inspected the relevant stormwater system, and certifying to the Commission that the stormwater system was installed and is functioning as designed.

WRC15. The Affordable Housing Component shall be served by municipal sewer to be consistent with the requirements of MPS WR1.1 and MPS WR2.1. Prior to issuance of a Final Certificate of Compliance and prior to issuance of the Certificate of Use/Occupancy, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld evidence of a valid sewer connection permit.

WRC16. The stormwater management system of the Affordable Housing Component shall be improved, at a minimum, by upgrading existing catch basins, installing improved leaching basins, and eliminating parking areas. The proposed fire lane access shall use pervious grassed pavers. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld final plans showing the upgraded stormwater management system.

WRC17. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Affordable Housing Component, to address MPS WR7.9 and MPS WR7.10 that also deal with stormwater management, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a Stormwater O&M Plan, as well as a landscape and turf management plan for the Affordable Housing Component.

Wildlife and Plant Habitat and Open Space and Recreation

WPH/OSRC1. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for any building, Phase or sub-Phase of development on the Main Campus, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld with a Restoration Plan for disturbed areas on the Main Campus under the utility easement and elsewhere on this site (Appendix A and B) and for the 4.67-acre parcel identified as Barnstable Assessors' Map 315 Parcel 40 (Appendix G). This Restoration Plan shall be exclusive of the landscaping plan. The Restoration Plan within the utility easement shall be subject to approval by NStar its successors and assigns and following consultation with Commission staff whose approval shall not be unreasonably withheld.

WPH/OSRC2. The Restoration Plan shall, at a minimum, incorporate very drought tolerant plants native to Cape Cod, which may include but not be limited to: Sweet fern (*Comptonia peregrina*), Bearberry (*Arctostaphylos uva-ursi*), Bayberry (*Morella pensylvanicum*), and Fragrant sumac (*Rhus aromatica*); a mix of native grasses and forbs, including Little Bluestem (*Schizachryium scoparium*), Panic grass (*Panicum virgatum*) and Sheep's fescue (*Festuca* sp.); and herbaceous materials that occur naturally on Cape Cod (Black Eye Susan, Yarrow, Ox eye Daisy). Grasses, forbs and herbaceous materials may be hydro seeded, ideally in the early fall, to enhance germination. The Restoration Plan shall also include:

1) A maintenance plan that provides for an annual mowing in the fall;
2) A soil amendment for individual shrub plantings and a watering plan both to ensure establishment of revegetation on the site; and
3) Methods to address the management of invasive species consistent with Technical Bulletin 01-001 to ensure that invasive species are not introduced to the site during construction.

WPH/OSRC3. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for any building, Phase or sub-Phase of development on the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld draft easement and plan to accommodate a proposed bicycle easement within the 9.5-acre open space area located under the utility easement adjacent to the Main Campus site and the 4.67-acre open space parcel.

WPH/OSRC4. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for any building, Phase or sub-Phase of development on the

Main Campus, and Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Affordable Housing Component, the Foundation shall provide the Commission with a draft conservation restriction(s) consistent with Massachusetts General Laws Chapter 184, §§31 – 33 and accompanying plan(s) to be approved by Commission counsel which provides that the 9.5-acres of land located under the utility easement adjacent to the Main Campus, and the 2.0-acres of land adjacent to Flint Rock Pond shall be preserved as permanent open space. The bike path and bike path easement on the 9.5 acres of land located under the utility easement on the Main Campus need not be part of the Conservation Restriction required by this condition. Nothing contained herein shall allow public access other than that portion reserved for the bike easement.

WPH/OSRC5. Prior to issuance of a Preliminary Certificate of Compliance and prior to the issuance of a Building Permit for any building, Phase or sub-Phase of development on the Main Campus, and prior to issuance of a Preliminary Certificate of Compliance and prior to the issuance of a Building Permit for the Affordable Housing Component, the Foundation shall place a deed restriction in perpetuity on the 4.67 acres of land adjacent to the Main Campus for open space protection.

Such deed restriction shall limit the use of one contiguous acre ("one acre parcel") of the 4.67-acre parcel for renewable energy facilities as identified on the map appended to this parcel as Appendix I. The remainder of the parcel shall be placed in a deed restriction in perpetuity for open space purposes. The entire 4.67-acre parcel shall be re-vegetated consistent with Conditions WPH/OSRC1 and WPH/OSRC2 until such time as the Applicant applies for any development permits to utilize the "one acre parcel" as a renewable energy facility. The development of such renewable energy facility should be consistent with water supply protection as the site is in an existing Wellhead Protection district.

WPH/OSRC6. Prior to issuance of a Final Certificate of Compliance and Certificate of Use/Occupancy for Phase One of development at the Main Campus, and prior to issuance of a Final Certificate of Compliance for the Affordable Housing Component, the conservation restriction(s) and plan(s) as approved by Commission shall be executed and recorded at the Registry of Deeds or Registry District of the Land Court by the Foundation, and proof of recording shall be provided to the Commission. In order to preserve the water supply protection and habitat values of the open space areas protected through this conservation restriction(s), the land/parcels subject to this conservation restriction(s) shall remain undisturbed, though provision may be made for habitat management and public bicycle paths consistent with the Wildlife and Plant Habitat and Open Space and Recreation Findings and Conditions of this Development Agreement.

WPH/OSRC7. The Foundation has previously committed to providing two separate donations of $500,000 each, both committed for water supply infrastructure, one of which is the development of a new #2 well for the Barnstable Fire District Water Department and the other to the Town of Barnstable's Water Supply Division with construction of a new water tank. These are outlined in correspondence received from the Barnstable Fire District Water Company and from the Town of Barnstable's Water Supply Division. These donations are part of the Foundation's alternate approach to address the Main Campus' remaining open space requirement under MPS OS1.3, after deduction for allowable BDP credits and additional open space parcels. Prior to the

issuance of a Preliminary Certificate of Compliance for the first building, Phase or sub-Phase of the Main Campus, and prior to the issuance of a Preliminary Certificate of Compliance for the Affordable Housing Component the Commission shall credit the Village at Barnstable for these two $500,000 donations as part of addressing MPS OS1.3 of the Regional Policy Plan.

Transportation

TC1. Prior to issuance of a Final Certificate of Compliance by the Commission, and prior to issuance of a Temporary or Final Certificate of Use/Occupancy for each building, Phase or Sub-Phase of development at the Main Campus and Affordable Housing Component, the Foundation shall implement the trip reduction plans for the Main Campus and Affordable Housing Component as outlined in Finding TF7.

TC2. Prior to issuance of a Final Certificate of Compliance by the Commission, and prior to issuance of a Temporary or Final Certificate of Use/Occupancy for each building, Phase or Sub-Phase of development at the Main Campus and Affordable Housing Component, an inspection must be conducted by Commission staff prior to verify that these trip reduction programs are in place.

TC3. Not more than twelve (12) consecutive months after issuance of a Final Certificate of Compliance by the Commission and a Final Certificate of Use/Occupancy for each building, Phase or Sub-Phase of development at the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a written report of the trip reduction program's effectiveness over the last 12 consecutive months. Such report shall detail the manner in which following have been implemented or achieved:

- Carpooling/vanpooling matching programs through the local Transportation Management Association
- Dissemination of promotional materials to residents and employees
- Creation and dissemination of newsletters about the program
- Coordination with MassRides
- Designation and duties of a transportation coordinator
- Steps the transportation coordinator has taken to work with the Town of Barnstable, the Massachusetts Department of Transportation and the Commission
- The number of shuttle services provided for residents for transportation to medical visits, shopping and recreational opportunities, and to provide access to the Hyannis transportation Center for both residents and employees
- The number of designed parking spaces provided on-site for car/vanpools and alternative fuel vehicles
- The methods of providing employees and residents with information regarding available public transportation resources, schedules, fare information, and stop/terminal locations
- Incentives used to encourage employees to use car/vanpool, public transportation or walk/bicycle to work
- On-site services offered to employees to decrease off-site trips including but not limited to a lunchroom equipped with a microwave and refrigerator and the ability to purchase prepared foods offered as a part of the dining services available to residents

TC4. Not more than twenty-four (24) consecutive months after issuance of a Final Certificate of Compliance by the Commission and a Final Certificate of Use/Occupancy for each building, Phase or Sub-Phase of development at the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a written report of the trip reduction program's

effectiveness over the last 24 consecutive months. Such written report shall detail the manner in which the components noted in TC3 have been implemented or achieved.

TC5. The Foundation shall, as part of the trip reduction plan at the Main Campus as outlined in Finding T7, own, provide and operate a shuttle service for residents and employees at no additional individual ridership fare or trip ticket fee to residents or employees. This is intended to be exclusive of the cost to establish and operate the shuttle. The Foundation shall, in consultation with the Commission and Town of Barnstable, conduct a traffic monitoring and reporting program, which shall include a survey of residents and employee participation in the trip reduction program. Such survey shall be incorporated into the written reports required by Conditions TC3 and TC4. The traffic monitoring program shall also include measuring traffic volumes at the Main Campus' access points over a continuous 7-day week long period.

TC6. The Foundation shall, as part of the trip reduction plan for the Affordable Housing Component, as outlined in Finding T7, implement the following:

- Schedule and fare information for Cape Cod Regional Transit Authority (CCRTA) bus and trolley services will be made available to residents of the project, as well as information concerning regional bus and ferry services.
- The property management team will coordinate with the Commission, MassDOT, MassRides, the CCRTA and Town of Barnstable to provide residents with information concerning available rideshare options and alternatives to single-occupant automobiles.
- Pedestrian and bicycle accommodations be provided within the project by way of sidewalks and bicycles racks.
- A bus waiting area will be added on the project driveway near Falmouth Road.

TC7. The Foundation has previously provided a transportation improvement in the Town of Barnstable. As outlined in a letter from the Barnstable Town Manager dated September 5, 2008, the Foundation has constructed a right-hand turn lane at the intersection of Independence Drive and Route 132 at a cost of $187,000. Prior to the issuance of a Preliminary Certificate of Compliance for the first building, Phase or sub-Phase of the Main Campus, and prior to the issuance of a Preliminary Certificate of Compliance for the Affordable Housing Component the Commission shall credit the Village at Barnstable for the installation of the right turn lane at Independence Drive and Route 132, whereby satisfying the transportation congestion standards of the Regional Policy Plan.

Waste Management

WMC1. Prior to issuance of a Final Certificate of Compliance, and prior to issuance of a Certificate of Use/Occupancy for the Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld an educational flyer that provides information on the Town of Barnstable's household hazardous waste collections and recycling opportunities at Flint Street Transfer Station which, when it is approved by Commission staff, the Foundation shall distribute to residents to ensure the Affordable Housing Component is consistent with MPS WM1.5.

WMC2. Prior to the issuance of any construction bid documents, and prior to commencement of any land clearing, demolition or construction work at either the Main Campus or Affordable Housing Component sites, the Foundation shall submit for Commission staff review and reasonable approve project construction bid documents for

both the Main Campus and Affordable Housing Component, to ensure these specifications provide for proper management of solid waste, recyclables, land clearing debris, construction and demolition debris, and Waste Ban items to ensure the Project is consistent with MPS WM2.1, MPS WM2.2 and MPS WM2.3 for the construction phase.

WMC3. Prior to issuance of a Final Certificate of Compliance and prior to issuance of a Certificate of Use/Occupancy for on either the first building on the Main Campus or for the Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a solid waste and recycling management plan which details how recyclables, particularly Waste Ban items, will be collected, stored on site, and recycled to ensure the Project's operational phase is consistent with MPS WM2.3.

WMC4. Prior to the issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for any buildings on the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld an estimate of the amount of food waste to be generated by the site to allow Commission staff to determine if the Project is consistent with MPS WM2.4.

WMC5. If Commission staff determines the amount of food waste to be generated by the Main Campus is significant per Finding WMF6 and MPS WM2.4 then, prior to issuance of a Final Certificate of Compliance and prior to issuance of a Certificate of Use/Occupancy for the first building on the Main Campus site, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a food waste composting program.

Energy

EC1. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Main Campus component of Phase One of the overall Project, and prior to issuance of a Preliminary Certificate of Compliance for the Main Campus component of Phase One, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld projections for annual electrical consumption, expressed in kWh, for the 5% renewable energy offset as is required by MPS E1.6, compliance option A (or, MPS E1.5, as amended June 18, 2010).

> EC1(a): The Foundation has elected the 5% compliance option (option A) for the Main Campus component of Phase One. A preliminary power purchase agreement with the Cape Light Compact for their green power purchase program shall be provided for Commission staff review and approval which approval shall not be unreasonably withheld prior to issuance of a Building Permit for Phase One (Main Campus), and prior to issuance of a Preliminary Certificate of Phase One (Main Campus). The type of renewable energy system (PV or Wind) and size (KW or MW) shall be provided for Commission staff review and approval which approval shall not be unreasonably withheld.
>
> EC1(b): The Foundation has elected to comply with MPS E1.7 (or, MPS E1.6, as amended June 18, 2010), the 25% on-site renewable energy generation requirement for the Affordable Housing component of Phase One. This compliance path for the Affordable Housing component of Phase One waives the Foundation from compliance with the other RPP Minimum Performance Standards for Energy for the Affordable Housing Component. Prior to issuance

of a Building Permit for Phase One (Affordable Housing Component), and prior to issuance of a Preliminary Certificate of Phase One (Affordable Housing Component), the Foundation shall provide the type of renewable energy system (PV or Wind) and size (KW or MW) for Commission staff review and approval which approval shall not be unreasonably withheld. Foundation shall also submit for Commission staff review and approval which approval shall not be unreasonably withheld projections for annual electrical consumption, expressed in kWh.

EC2. The first Phase of the Main Campus shall be designed to and shall receive ENERGY STAR certification, as per MPS E1.2. The Foundation shall submit a Statement of Energy Design Intent, prepared through the ENERGY STAR Target Finder program, as evidence the project has been designed to earn ENERGY STAR certification.

EC3. Prior to issuance of a Building Permit for Phase Two of the overall project, the Foundation shall apply for and receive ENERGY STAR certification for Phase One (Main Campus) of the overall project.

EC4. Prior to issuance of a Building Permit for Phase Three of the overall project, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld ENERGY STAR certification for Phase Two.

EC5. Prior to issuance of a Building Permit for the Main Campus, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld the portion of the building specifications that demonstrate compliance with the American Society of Heating, Refrigerating and Air-Conditioning Engineers (hereinafter "ASHRAE") Standard 90.1-2004, Section 5.4.

Affordable Housing

AHC1. The proposed Affordable Housing Component shall be constructed in accordance with the following plans and other documents:

1. *Lyndon Court*, showing revised architectural elevations and interior building layout, drawn by Bruce Devlin Design, dated October 2010, received by the Commission on October 5, 2010.
2. Plan set entitled *Lyndon Court Multi-Family Development,* drawn by Edward L. Pesce, Pesce Engineering & Associates, dated 10/18/07, latest revision date 7/14/10, Sheets 1 – 7, received by Commission on 10/4/10.

ACH2. To comply with MPS AH 1.8 and MPS AH1.9, the Affordable Housing Component shall:

1) include twenty-one (21) one-bedroom units and twenty-one (21) two-bedroom units.

2) be under construction concurrent with issuance of any Building Permit(s) for the first building, Phase or Sub-Phase of development at the Main Campus.

3) provide at least 700 square feet of net livable space in the one-bedroom units and at least 900 square feet of net livable space in the two-bedroom units. For the purposes of this condition, "livable space" shall not include interior mechanical rooms or spaces.

AHC3. To comply with MPS AH2.2, the Affordable Housing Component shall also be designed to provide at least five (5) visit-able or disabled-accessible units.

AHC4. To ensure that completion of Affordable Housing Component and first Phase of development at the Main Campus occur concurrently, the Final Certificate of Compliance for the first phase of development at the Main Campus shall not be issued by the Commission until after Final Certificate of Compliance for the Affordable Housing Component.

AHC5. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for either the Main Campus or the Affordable Housing Component, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld a written description of the tenure model at both the Main Campus and Affordable Housing Component so that compliance with MPS AH1.1 can be determined.

AHC6. Prior to issuance of a Preliminary Certificate of Compliance and prior to a Building Permit for the Affordable Housing Component, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld all proposed rents for all units for the Affordable Housing Component if a rental tenure model is used, and provide for Commission staff review and approval which approval shall not be unreasonably withheld all proposed sales prices for all units if an ownership model is used to comply with MPS AH 1.11.

AHC7. Prior to issuance of the Final Certificate of Compliance and Certificate of Use/Occupancy for the Affordable Housing Component, the monitoring agent shall provide a report for Commission staff review and approval which approval shall not be unreasonably withheld that describes how and certifies that the occupants (tenants or owners) of the Affordable Housing Component units are income eligible to ensure compliance with MPS AH1.11.

AHC8. Prior to of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld an affordable housing use restriction to ensure compliance with MPS AH1.12. Such restriction, once approved by Commission staff, shall also be recorded prior to the issuance of Preliminary Certificate of Compliance and prior to a Building Permit for the Affordable Housing Component.

AHC9. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Affordable Housing Component, to ensure compliance with MPS AH1.13, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a proposed list of suggested monitoring agents and a draft monitoring agreement.

AHC10. Prior to issuance of a Preliminary Certificate of Compliance, and prior to issuance of a Building Permit for the Affordable Housing Component, to ensure compliance with MPS AH 1.13, the Foundation shall provide the Commission with a copy of the executed monitoring agreement.

AHC11. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building for the Affordable Housing Component, to ensure compliance with MPS AH 2.1 and MPS 2.3, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld an affirmative marketing and occupant/tenant selection plan.

AHC12. Prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld final construction plans and specifications. Such information shall be reviewed for consistency with MPS AH1.9, MPS AH1.10, and MPS AH 2.2.

Community Character

Building Design

BDC1. Prior to issuance of a Building Permit and a Preliminary Certificate of Compliance for each building, Phase or Sub-phase of development on the Main Campus and Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld final building design information and plans including but not limited to site plans, dimensioned architectural drawings, and roof plans so that consistency with the RPP MPS related to building design, the draft plans and documents submitted during the Development Agreement review, and with Finding CCBDF3 and Finding CCBDF4 can be determined.

BDC2. Prior to issuance of a Building Permit and a Preliminary Certificate of Compliance for each building, Phase or Sub-phase of development on the Main Campus and Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld proposed signage designs, including any proposed exterior lighting for said signs, which shall be in conformance with MPS HPCC2.12, and Condition EXLC1.

BDC3. To comply with MPS HPCC2.5, Phase One of development at the Main Campus shall provide full screening of the project from Independence Drive by providing a vegetated buffer between it and Independence Drive. Such vegetated buffer shall be coordinated with Phase One landscape and stormwater management plans, and shall be consistent with Conditions WRC9 and WRC10 and LSDC1 and LSDC3.

BDC4. To comply with MPS HPCC2.5, later Phases of development at the Main Campus shall demonstrate adequate screening of the project through the design and placement of frontage buildings and or vegetated landscape buffers. Such vegetated buffer shall be coordinated with the landscape and stormwater management plans for the appropriate Phase, and shall be consistent with Conditions WRC9 and WRC10 and LSDC1 and LSDC3.

BDC5. To comply with MPS HPCC2.4 and MPS HPCC2.17, prior to issuance of a Building Permit and Preliminary Certificate of Compliance for each building, Phase or Sub-Phase of development at the Main Campus, and Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld of the proposed exterior materials.

Parking
PDC1. To be consistent with MPS OS1.3, MPS HPCC2.8 and BDP HPCC2.17, the Main Campus shall at a minimum include parking underneath or incorporated into all buildings except the Skilled Nursing Facility. Additional parking areas on the Main Campus shall be located to the side or rear of buildings, and shall be adequately screened from Independence Drive by vegetation or buildings.

PDC2. To comply with MPS HPCC2.8, parking areas for the Affordable Housing Component in front of the western wing shall be screened by landscaping. The design of this additional landscaping shall be coordinated by the Foundation with the overall project design and landscaping, and conditions LSDC1 to LSDC4.

Exterior Lighting
EXLC1. All exterior fixtures, including but not limited to all site lighting (including any sign lighting), and all on-building mounted lights, pole-mounted lights used for the Main Campus and the Affordable Housing Component shall comply with MPS HPCC2.11 and with Exterior Lighting Technical Bulletin 95-001 (as amended).

EXLC2. Prior to issuance of a Building Permit and a Preliminary Certificate of Compliance for each building, Phase or Sub-phase of development on the Main Campus and Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld final exterior lighting design information including but not limited to fixture cuts and foot-candle plans which are consistent with the information in Section 3.0 of Technical Bulletin 95-001 (as amended). Such final exterior lighting design information submitted per this condition shall be utilized during project construction unless otherwise allowed per condition EXLC3.

EXLC3. If unforeseen changes are made to the exterior lighting design of the Main Campus or Affordable Housing Component as construction proceeds, prior to selection and installation of exterior lighting fixtures, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld additional exterior lighting design information sufficient to allow Commission staff to determine if the proposed alternate fixtures are consistent with condition EXLC1. Alternate exterior light fixtures found to be consistent with condition EXLC1 may be utilized upon written Commission staff approval, and do not constitute an amendment of this Development Agreement per Section 8.0 of the Development Agreement Regulations.

EXLC4. Prior to issuance of a Certificate of Use/Occupancy for each building, Phase or Sub-phase of development on the Main Campus, and the Affordable Housing Component, an inspection must be conducted by Commission staff prior to verify that the installed exterior lighting design of the Main Campus and Affordable Housing Component are consistent with condition EXLC1. If this inspection finds that the installed exterior lighting design is inconsistent with condition EXLC1, the Foundation shall make amendments and changes necessary to bring the lighting design into compliance with condition EXLC1. If such adjustments are required, Commission staff must conduct a site inspection to verify the adjusted design is consistent with Condition EXLC1. Such adjustments and inspections to the exterior lighting design shall occur prior to prior to issuance of a Final Certificate of Compliance and issuance of a Certificate of Use/Occupancy for each building, Phase or Sub-phase of development on the Main Campus, and the Affordable Housing Component.

Landscape Design
LSDC1. Prior to commencement of any construction, land clearing or demolition activities at the Main Campus or Affordable Housing Component, the Foundation shall provide for Commission staff review and approval which approval shall not be unreasonably withheld draft landscape plans consistent with MPS HPCC2.9 and MPS HPCC2.10.

LSDC2. Landscape plant materials not used for bioinfiltration or rain gardens at the Main Campus and Affordable Housing Component may be substituted with prior written approval by Commission staff. Alternate plant materials found to be consistent with condition LSC1 do not constitute an amendment of this Development Agreement per Section 8.0 of the Development Agreement Regulations.

LSDC3. Prior to issuance of a Building Permit, and prior to issuance of a Preliminary Certificate of Compliance for each building, Phase or Sub-Phase of development on the Main Campus, and prior to issuance of a Preliminary Certificate of Compliance for the Affordable Housing Component, the Foundation shall submit for Commission staff review and approval which approval shall not be unreasonably withheld a draft landscape maintenance agreement for three (3) full growing seasons which follows guidelines established by Commission staff.

LSDC4. Prior to issuance of a Certificate of Use/Occupancy and prior to issuance of a Final Certificate of Compliance for each building, Phase or Sub-Phase of development at the Main Campus and prior to issuance of a Certificate of Use/Occupancy and prior to issuance of a Final Certificate of Compliance for the Affordable Housing Component, the Foundation shall submit documentation of a final and executed maintenance agreement contract.

Miscellaneous
In the event that the Foundation does not commence construction of the proposed Project all mitigation proposed hereunder shall no longer be required. All actions of the Foundation for which it has been given credit for mitigation as enumerated herein may be credited as applicable as credits for future projects of the Foundation, or its assigns, as appropriate and in such event.

No Assignment. No Party may assign its rights or obligations under this Development Agreement to any other person nor entity without the prior written consent of the other Party.

Notices. All notices and other communications that are required or may be given under this Development Agreement shall be in writing and shall be sent by certified mail return receipt requested to the following addresses or to such other place as any Party may designate by notice to the other Party:

If to the Commission:

Cape Cod Commission
3225 Main Street
P.O. Box 226
Attn: Commission Counsel
Phone: (508) 362-3828
Facsimile: (508) 362-3136

With a copy to:

Eric W. Wodlinger, Esq.
c/o Rackemann, Sawyer & Brewster, P.C.
160 Federal Street
Boston, MA 02110
Phone: (617) 951-1136
Facsimile: (617) 542-7437

If to the Foundation:

P.O. Box 1776
Breeds Hill Road
Hyannis, MA 02601
Attn: Mark Thompson
Phone: (508) 775-1776
Facsimile: (___) _____

With a copy to:

Ron S. Jansson, Esq.
P.O. Box 147
Barnstable, MA 02630
Phone: (508) 362-3377
Facsimile: (508) 362-3433

Choice of Law, etc. This Development Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts. The state and federal courts sitting in the Commonwealth of Massachusetts shall have exclusive jurisdiction over any claim or dispute arising under or in connection with this Agreement.

Counterparts. This Development Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument. The parties agree that a signature sent by facsimile or electronic mail to another party or counsel for another party shall have the same force and effect as an original signature.

Entire Agreement; Amendments and Waivers. This Development Agreement, together with the Exhibits hereto (which are incorporated herein by reference and made a part hereof) constitute the entire agreement among the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect thereto. No amendment,

supplement, modification or waiver of this Development Agreement shall be binding unless executed in writing by the party to be bound thereby.

Invalidity. If any of the provisions contained in this Development Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, then, to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Development Agreement.

IN WITNESS WHEREOF, the parties have executed this Development Agreement under seal as of the day and year first above written.

Cape Cod Commission

By: Royalen C. Richardson

Name: Royden C. Richardson

Title: Chair CC Commission

The Lyndon Paul Lorusso Charitable Foundation of 2002

By: Mark Thompson

Name: Mark Thompson

Title: Trustee

APPENDIX A

LEGAL DESCRIPTION OF PROPERTY

1. Continuing Care Retirement Community: located at
   0 Communication Way, Hyannis, MA.
   125 Communication Way, Hyannis, MA.
   145 Communication Way, Hyannis, MA.
   160 Communication Way, Hyannis, MA.
   175 Communication Way, Hyannis, MA.
   180 Communication Way, Hyannis, MA.
   191 Communication Way, Hyannis, MA.
   200 Communication Way, Hyannis, MA.
   225 Communication Way, Hyannis, MA.
   265 Communication Way, Hyannis, MA.

Locus consists of ten separate parcels of land consisting of 25.85 acres of land which are identified as follows:

Being shown on a Plan of Land entitled "Plan of Land in Barnstable, MA, prepared for Independence Park, Inc." Scale: 1 inch = 60 feet, dated December 5, 1996, prepared by Down Cape Engineering, Inc., being shown as Lots 28A, 29A, 30A, 31A, 32A, and 33A, as set forth in said Plan recorded in Plan Book 536, Page 12 of the Barnstable County Registry of Deeds;

Also being shown on a Plan of Land entitled "Plan of Land in Barnstable, MA, prepared for Independence Park, Inc." Scale: 1 inch = 60 feet, dated December 5, 1996, prepared by Down Cape Engineering, Inc., being shown as Lots 16A, 17A and 18A, on said Plan recorded in the Barnstable County Registry of Deeds in Plan Book 536, Page 9;

Finally, being shown on Plan of same title as Lot 14B shown in Plan Book 536, Page 13 of the Barnstable County Registry of Deeds.

Owner of record is The Lyndon Paul Lorusso Charitable Foundation of 2002, as is set forth in a fiduciary deed from L. Paul Lorusso, Trustee of the Independence Park Charitable Remainder Unitrust to the Grantee recorded in Book 21617, Page 232 of the Barnstable County Registry of Deeds on December 15, 2006.

Recent survey of land has been previously submitted by Pesce Engineering & Associates, Inc.;

2. Inclusionary Affordable Housing: Owner of record is Mark W. Thompson, Trustee of the Lyndon Land Trust, u/d/t dated February 25, 2003, recorded in the Barnstable County Registry of Deeds in Book 20443, Page 53. Said premises are described in said deed as follows:

APPENDIX A

The land together with the buildings thereon in that part of Barnstable, Barnstable County, Massachusetts, called Centerville lying on the northerly side of a State Highway known as Falmouth Road (Route 28) and bounded and described as follows:

Beginning at a point marked by a concrete bound on the northerly sideline of said State Highway at land marked "formerly Charles B. Marchant" on the plan hereinafter mentioned thence running

South 78° 34' 30" West by said northerly sideline of said State Highway two hundred seventy-five (275) feet to a point at land now or formerly of Benjamin White; thence turning and running

North 11° 25' 40" West by said White land, one hundred ninety-eight and 61/100 (198.61) feet; thence turning and running

North 13° 27' 10" East by said White land, two hundred forty (240) feet; thence turning and running

North 79° 49' 49" East by said White land, one hundred fifty (150) feet; thence turning and running

South 66° 19' 20" East by said White land, one hundred ninety-five (195) feet; thence turning and running

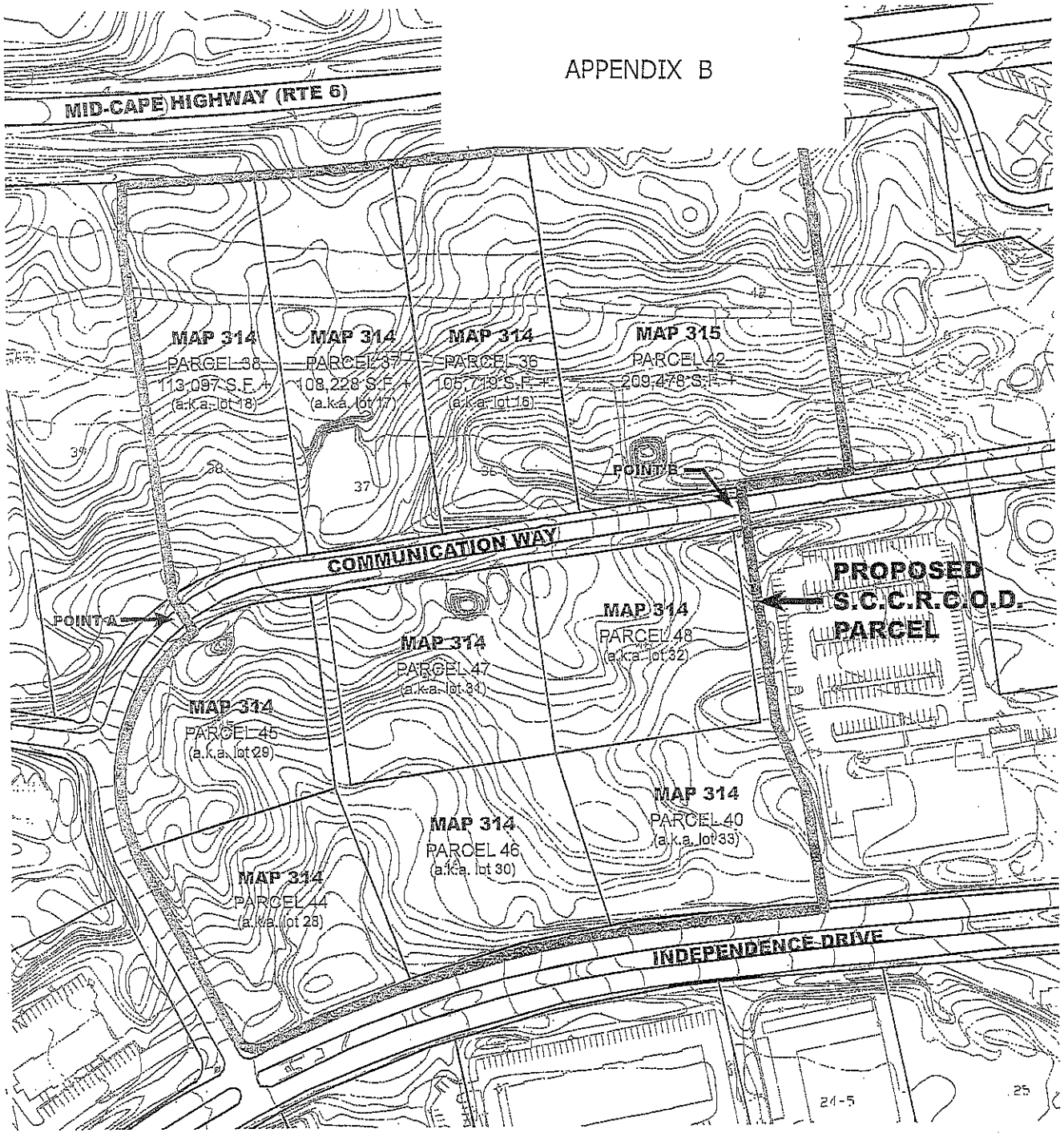
South 12° 48' 32" West by said land marked "formerly Charles H. Marchant, three hundred thirty (330) feet to the point of beginning on the northerly sideline of said State Highway.

Or howsoever said premises may otherwise be bounded and described.

Said land is a portion of the premises shown on a plan entitled "Plan of Land in Centerville, Mass., belonging to Norma Voso Lewis" dated June 7, 1958 drawn by Nelson Bearse & Richard Law, Surveyors, which plan is filed with the Barnstable Registry of Deeds in Plan Book 142, Page 47, and contains 2.98 acres, more or less. Said State Highway is shown as Hyannis By-Pass on said plan.

See also plan entitled "Plan of Land Falmouth Road, (Hyannis), Barnstable, Barnstable County, Mass. As Built Plan", dated November 4, 1985, by Yuntis Engineering Co., recorded with said Registry in Plan Book 407, page 31.

APPENDIX B



AREAS TABLE

Assessor Map	Lot #		Area
	Assessor	Subdivision	
314	38	18	113,097 s.f.
314	37	17	108,228 s.f.
314	36	16	105,719 s.f.
314	45	29	90,019 s.f.
314	44	28	90,013 s.f.
314	46	30	90,062 s.f.
314	47	31	90,031 s.f.
314	48	32	90,090 s.f.
314	49	33	90,018 s.f.
315	42	14 &15	209,478 s.f.
		SUBTOTAL =	1,076,755 S.F.
Communication WAy (Point A to B)			50,702 s.f.
		TOTAL =	1,127,457 S.F.
			(25.88 Ac.)

PROPOSED S.C.C.R.C.O.D. PARCEL PLAN

AT

COMMUNICATION WAY
HYANNIS, MA

PREPARED FOR:

THE LYNDON P. LORUSSO
CHARITABLE FOUNDATION

PREPARED BY:

PESCE
ENGINEERING
& ASSOCIATES, INC.
Edward L. Pesce, P.E.
451 RAYMOND RD
PLYMOUTH, MA 02360
epesce@comcast.net
cell:508-333-7630
Phone:508-743-9206
FAX:508-743-0211

ALLERTON DEVELOPMENT GROUP & PARTNERS
DEVELOPER

THE VILLAGE AT BARNSTABLE
BARNSTABLE, MASSACHUSETTS

THE ARCHITECTURAL TEAM, INC.
ARCHITECT
11-26-2007

APPENDIX C

LAW OFFICES OF
RON S. JANSSON
P. O. BOX 147
BARNSTABLE, MASSACHUSETTS 02630

STREET ADDRESS:
86 Willow Street, Suite 4
Yarmouth Port, MA 02675-1758

TELEPHONE: (508) 362 - 3377
FACSIMILE: (508) 362 - 3433

November 5, 2009

Cape Cod Commission
3225 Main Street
PO Box 226
Barnstable, MA 02630
ATTN: Andrea Adams

RE: Notice of Intent to File a Development Agreement – Communications Way, Hyannis, MA and Falmouth Road, Hyannis, MA – The Village at Barnstable

Dear Andrea:

Upon a recent review of the Letter of Intent to File a Development Agreement with reference to the "The Village at Barnstable", it has come to my attention that there is a 'typo' in the third paragraph. This 'typo' has occurred in the reference to the Assessor's Map number. Where stated Assessor's Map 414, it should have read Assessor's Map 314. I would greatly appreciate your making note of this oversight and if needed, making reference to this letter and that paragraph three of the Notice of Intent to File a Development Agreement should properly read as follows:

> The proposed CCRC is currently named the Village at Barnstable and consists of ten parcels of land shown on Barnstable Assessor's Map 314 as Lots 36, 37, 38 44, 45, 46, 47, 48 and 49 and Barnstable Assessor's Map 315 Lot 42. The total land mass of these properties equals 25.88 acres. The proposed off-site affordable component of the project located at 850 Falmouth Road, Hyannis, MA is approximately 3.3 acres.

Should you have any questions on this matter, or if there is anything further I need to do to accomplish a correction of this error, please contact me immediately.

Thank you for your cooperation and assistance with this matter.

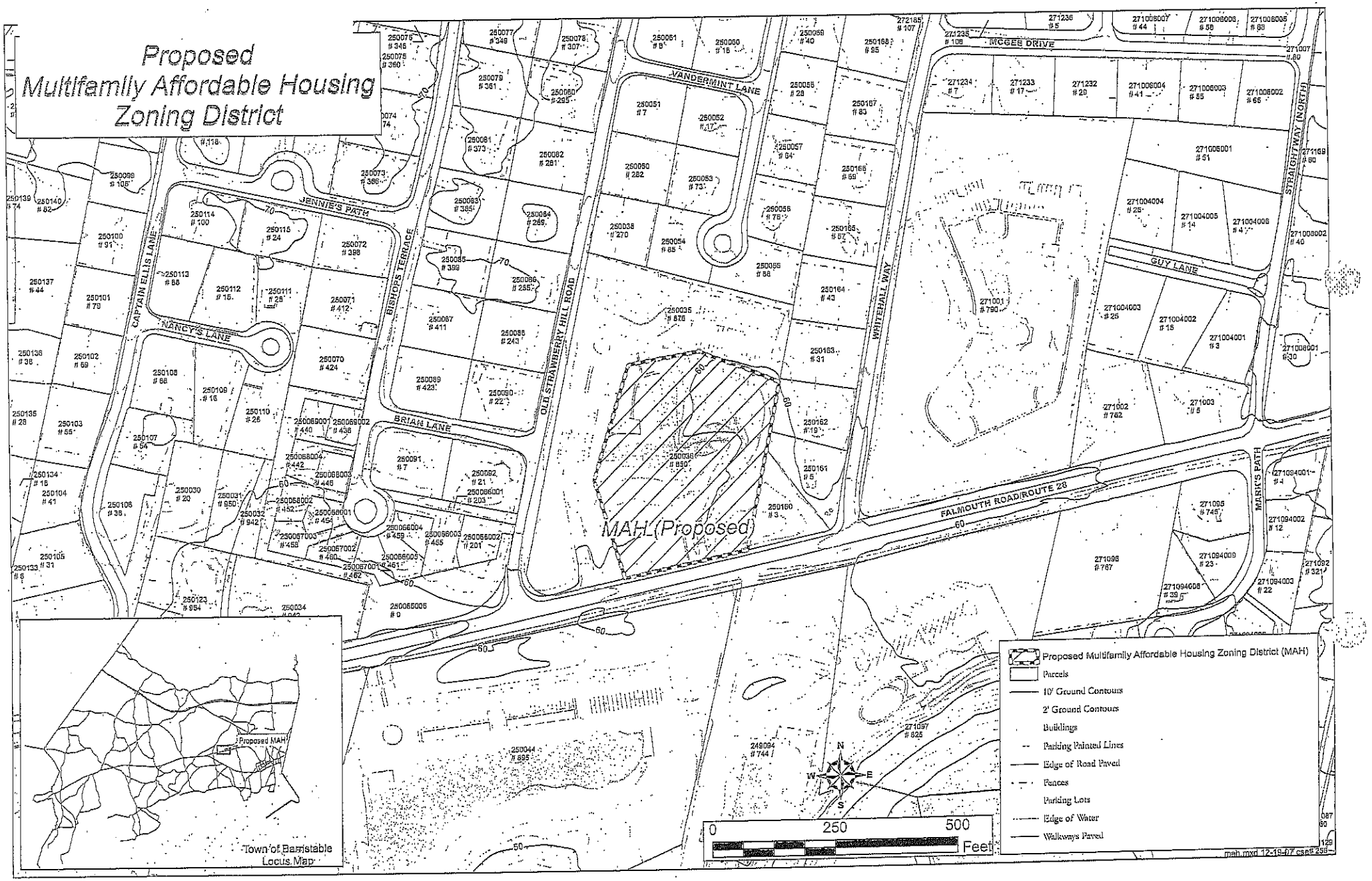
Very truly yours,

Ron S. Jansson

RSJ/sb

RECEIVED
NOV - 9 2009
Cape Cod Commission

APPPENDIX D


Proposed
Multifamily Affordable Housing
Zoning District
MAH (Proposed)
JENNIE'S PATH
NANCY'S LANE
BRIAN LANE
CAPTAIN ELLIS LANE
BISHOPS TERRACE
OLD STRAWBERRY HILL ROAD
VANDERMINT LANE
WHITEHALL WAY
MCGEE DRIVE
GUY LANE
STRAIGHT WAY (NORTH)
MARK'S PATH
FALMOUTH ROAD/ROUTE 28
Proposed Multifamily Affordable Housing Zoning District (MAH)
Parcels
10' Ground Contours
2' Ground Contours
Buildings
Parking Painted Lines
Edge of Road Paved
Fences
Parking Lots
Edge of Water
Walkways Paved
0
250
500
Feet
Proposed MAH
Town of Barnstable
Locus Map
mah.mxd 12-19-07 cse# 256

Appendix E

The Village at Barnstable Development Agreement
DA 09016
Materials Submitted for the Record

Cape Cod Commission	Date Sent/Received
Estimate of Project Fee	Undated
Letter, to Town, Natural Resources Issues	10/30/08
E-mail, Updated Traffic Study	11/19/08
Letter, Traffic Study	11/28/08
Memo, to Applicant and Town	12/18/08
Letter, Traffic Study	5/4/09
Copy of Chapter D	5/6/09
Comment Letter, to MEPA, on ENF	10/23/09
E-mail, to Applicant, MEPA Comment Letter	10/28/09
E-mail, Scheduling	2/2/09
E-mail, Scheduling	2/3/09
Staff Cover Memo	11/2/09
Phone Conversation Record, to Applicant, any local permits pending	11/3/09
Phone Conversation Record, Commission Review	11/4/09
Regulatory Committee Agenda	11/9/09
E-mail, to Anna Brigham, Notice of Intent Info	11/9/09
E-mail, Well Data	11/13/09
PowerPoint, Notice of Intent (NOI)/RegCom	11/9/09
E-mail, Cancellation of Hearing	11/19/09
E-mail, Cancellation of Hearing	11/19/09
E-mail, to Applicant & Town, Change Hearing Date	11/19/09
E-mail, to Borrelli, Commission Review	11/20/09
E-mail, to Applicant, Abutters E-mail	11/20/09
E-mail, to Town, Abutters E-mail	11/20/09
E-mail, to Borrelli, Commission Review	11/23/09
E-mail, to Borrelli, Commission Review	11/23/09
E-mail, to Applicant, Abutters E-mail	11/23/09
E-mail, Copy of Development Agreement for Cape Cod Healthcare	11/29/09
Copy, Development Agreement for Cape Cod Healthcare (dated 3/20/03)	
E-mail, Scheduling	12/1/09
E-mail, to Borrelli, Commission Review	12/10/09
Hearing Notice	12/3/09
Fax, to Applicant, Abutters E-mails	12/15/09
Phone Conversation Record	12/15/09
E-mail, to Applicant, NOI to Full Commission	12/16/10
Hearing Notice for Rescheduled Hearing	12/17/09
Hearing Notice	12/17/09
Commission Decision on Notice of Intent	12/17/09
Letter, Cover Memo to Decision	12/21/09
E-mail, to Staff, Applicant, Economic Development	1/19/10
E-mail, to Staff, Applicant, Land Use Vision Map	1/19/10
E-mail, to Town, Scheduling	1/20/10

E-mail, Scheduling	1/27/10
E-mail, Scheduling	4/15/10
E-mail, to Applicant, Fee Waiver	4/20/10
E-mail, to Applicant, Prior Commission DRI Decisions on Similar Projects	4/26/10
Agenda, Executive Committee, Fee Waiver	4/26/10
E-mail, to Applicant, Affordable Housing Info	5/5/10
E-mail, to Applicant, Regional Policy Plan Changes	5/6/10
E-mail, Scheduling	5/10/10
E-mail, Changes in Regional Policy Plan	5/10/10
E-mail, to Town, Hearing on Changes to SCCRODD Bylaw Changes	6/8/10
E-mail, to Applicant, Affordable Housing Issue	6/14/10
E-mail, to Applicant, Application Complete	6/15/10
Letter, to Applicant, Application Complete	6/15/10
E-mail, Scheduling	6/16/10
E-mail, Scheduling	6/16/10
E-mail, Community Character Issues	6/17/10
E-mail, Scheduling	6/25/10
E-mail, Hearing on July 8, 2010	6/25/10
E-mail, Scheduling	6/28/10
Letter, to Applicant, Application Complete	6/28/10
Cover Memo, to Applicant and Town, Letters received since Notice of Intent Filed	7/1/10
Staff Report	7/1/10
Cover Memo to Staff Report	7/1/10
E-mail, Staff Report to Commission staff	7/1/10
E-mail, to Town, Scheduling	7/2/10
E-mail, to Lauder, Receipt of Letter from Dr. Salluzzo	7/8/10
E-mail, to Fox, Letter	7/9/10
Hearing Notice	7/8/10
Sign In Sheet	7/8/10
Hearing Minutes	7/8/10
E-mail, Barnstable Fire Department, File Review	7/8/10
E-mail, to Applicant, Hearing Process	7/8/10
E-mail, Letter from Dr. Salluzzo	7/8/10
E-mail, Posting	7/9/10
E-mail, Scheduling	7/9/10
E-mail, Engineering Study on 850 Falmouth Rd	7/12/10
E-mail, Laura Shufelt's comments	7/13/10
E-mail, to Laura Shufelt, Engineering Study	7/13/10
E-mail, to Town, Laura Shufelt, Engineering Study	7/13/10
Hearing Notice	7/14/10
Meeting Notice	7/14/10
Sign In Sheet	7/14/10
Hearing Minutes	7/14/10
Process Outline for Hearing	7/14/10
Copy, Barnstable E-Code	7/14/10
E-mail, Continued hearing	7/14/10
E-mail, to Subcommittee, Update	7/15/10

E-mail, Laura Shufelt, Copy of Staff Report	7/20/10
E-mail, Scheduling	7/20/10
E-mail, Economic Development and 850 Falmouth Road	7/20/10
E-mail, Items to Discuss with Applicant	7/20/10
E-mail, Energy Issues	7/21/10
E-mail, Food Waste and Waste Management Issues	7/21/10
Hearing Notice	7/22/10
Meeting Notice	7/22/10
Sign In Sheet	7/22/10
Sign In Sheet	7/22/10
Hearing Minutes	7/22/10
Meeting Minutes	7/22/10
E-mail, Hearing	7/22/10
PowerPoint, Open Space Issues	7/22/10
E-mail, Spreadsheet & Memo, Economic Devel.	7/22/20
E-mail, Spreadsheet, Water Resources	7/26/10
E-mail, Next Hearing	7/27/10
E-mail, Next Hearing	7/27/10
E-mail, Spreadsheet, Energy	7/27/10
E-mail, Spreadsheet, Community Character	7/27/10
E-mail, Spreadsheet, Waste Management	7/27/10
E-mail, Hearing and Meeting	7/27/10
E-mail, to Applicant & Town, Spreadsheets	7/27/10
E-mail, Next Hearing	7/28/10
Memo, Paul Ruchinskas, Affordable Housing	7/28/10
E-mail, Memo on Affordable Housing	7/28/10
E-mail, to Applicant & Town, Affordable Housing	7/28/10
E-mail, to Applicant & Town, Spreadsheets	7/28/10
E-mail, Spreadsheet, Transportation	7/28/10
Hearing Notice	7/29/10
Meeting Notice	7/29/10
Sign In Sheet	7/29/10
Hearing Minutes	7/29/10
PowerPoint, Open Space Issues	7/29/10
Agenda for Hearing	7/29/10
Agenda for Meeting	7/29/10
E-mail, to Ed Maroney, Hearing Process	7/29/10
E-mail, Continued Hearing	8/6/10
E-mail, Continued Hearing	8/6/10
E-mail, Continued Hearing	8/6/10
E-mail, Restoration of Site and Adjacent Parcel	8/10/10
E-mail, to Laura Shufelt, Copy of Application	8/16/10
E-mail, Next Hearing	8/17/10
E-mail, Transportation Spreadsheet	8/17/10
Hearing Notice	8/19/10
Meeting Notice	8/19/10
Sign In Sheet	8/19/10
PowerPoint, Project Overview	8/19/10
Hearing Agenda	8/19/10
Hearing Minutes	8/19/10

E-mail, Continued Hearing	8/20/10
E-mail, to Applicant, Energy Issues	8/24/10
E-mail, to Applicant, Minutes	8/24/10
Letter, to Laura Shufelt, Minutes and Audio Files	8/24/10
Letter, to Applicant, Minutes	8/25/10
E-mail, to Subcommittee, hearing date on 9/23/10	9/1/10
E-mail, Copies of Materials	9/7/10
E-mail, to Leslie Richardson, Energy Issues	9/8/10
Hearing Notice	9/8/10
Meeting Notice	9/8/10
Notice of Procedural Hearing	9/8/10
Hearing Officer Minutes	9/8/10
E-mail, Landscape Materials	9/9/10
E-mail, to Laura Shufelt, Copy of Hearing Officer Minutes and Audio File	9/10/10
E-mail, copy of draft Development Agreement and draft Findings Appendix	9/14/10
Copy of draft Development Agreement	9/14/10
Copy of draft Findings Appendix	9/14/10
E-mail, copy of draft Development Agreement	9/16/10
E-mail, Town, updated draft of DA	9/16/10
Copy of draft Development Agreement conditions	9/16/10
E-mail, scheduling meeting on 9/21/10	9/16/10
Memo, copy of draft Development Agreement and Findings Appendix	9/16/10
E-mail, to Town, updated draft of DA	9/17/10
E-mail, correction to Finding CCHPF1	9/20/10
E-mail, to Applicant, information on latest plan set submitted for the record	9/21/10
E-mail, to Applicant, Town, Commission Staff, updated draft of Development Agreement documents	9/22/10
Hearing Notice	9/23/10
Meeting Notice	9/23/10
Sign-In Sheet	9/23/10
Sign-In Sheet	9/23/10
E-mail, to Deputy Chief Pulsifer, Barnstable Fire Department, Draft New Condition Language	9/23/10
Hearing Minutes	9/23/10
E-mail, to J. Joiner, Barnstable Patriot, Update on Next Steps in Process	9/28/10
Letter, to Laura Shufelt, with enclosures, Audio file of 9/23/10 hearing and copies of approved Subcommittee Minutes	9/30/10
E-mail, to Applicant, Copies and final information	9/30/10
E-mail, to Applicant, Open space, bike easement	10/1/10
E-mail, to Applicant, Renewable energy lot	10/1/10
E-mail, to Applicant, TDM program	10/4/10
E-mail, to Applicant, Clarify TDM program	10/4/10
E-mail, to Applicant, Errors on Lyndon Court plans	10/4/10
Memo, Glenn Cannon, Transportation issues	10/4/10
E-mail, to Applicant, Errors on Lyndon Court plans	10/5/10
E-mail, to Applicant, Copy of updated draft DA	10/6/10

E-mail, to Commission staff, Copy of updated draft Development Agreement 10/6/10
E-mail, to Applicant, One-acre Renewable Energy Parcel Plan Changes 10/7/10
E-mail, from Kristy Senatori, Changes from Mr. Thompson to Page 4 10/13/10
Hearing Notice (Full Commission) 10/14/10
Meeting Notice 10/14/10
Meeting Minutes 10/14/10
Handout for Subcommittee Chair 10/14/10
Handout for Commission Chair 10/14/10
Copy of PowerPoint Slide Presentation 10/14/10
Draft Development Agreement, Signed by Mr. Thompson as Representative of Applicant 10/14/10

Applicant	**Date Sent/Received**
Project Concept Packet (dated 11/26/07)	9/22/08
Project Concept Packet (dated 2/28/08)	9/22/08
Letter, Traffic Study	4/27/09
Traffic Impact and Access Study, Jeffrey S. Dirk	5/4/09
Natural Resources Inventory, prepared by SABATIA, Inc. (dated 12/16/08)	5/18/09
Fiscal Impact Analysis	5/28/09
Notice of Intent to Undertake Development Agreement (with attachments)	10/30/09
Letter, Correction to Part of NOI	11/5/09
Abutters List	11/10/09
E-mail, Edward Pesce, Reschedule	1/2/10
E-mail, Edward Pesce, Updated Architectural Plans	1/27/10
E-mail and bound document, Jeffrey S. Dirk, Vanasse & Associates, Inc., Traffic Impact Assessment for Lyndon Court/850 Falmouth Road	1/29/10
E-mail, Edward Pesce, Updated Architecturals	1/28/10
Site Plans, Lyndon Court, Sheets 1-7, drawn by Pesce Engineering & Associates, latest revision date 2/18/10 (large size)	2/24/10
Architectural Plans, The Village at Barnstable/Lyndon Court, drawn by Bruce Devlin Designs, dated November 2009 (11X17)	2/24/10
E-mail, Edward Pesce, Economic Development Information	3/17/10
Applicant, Fee Waiver Request	4/1/10
Applicant, Development Agreement Application and Attachments	5/11/10
Site Plans, The Village at Barnstable, Sheets 1-10, drawn by Pesce Engineering & Associates, replacement Sheet #3 added on 5/11/10 (large size)	5/11/10
Project Description & Design Narrative, dated April 26, 2010, including appendices and list of Best Development Practices and Affordable Housing Analysis	5/11/10
Phase I Site Assessment for Communication Way Parcels (Main Campus) (dated 6/17/08)	5/11/10

Limited Removal Action Completion Statement Supporting Documentation (dated 8/21/08) 5/11/10
Drainage Analysis Report (dated 4/26/10) 5/11/10
E-mail, Edward Pesce, Transportation Issues 5/18/10
E-mail, Jeffrey S. Dirk, Transportation Issues 5/18/10
E-mail, Edward Pesce, Application 6/2/10
E-mail, Edward Pesce, Impervious Cover at 850 Falmouth Road 6/10/10
E-mail, Attorney Jansson, Occupancy Model 6/16/10
Site Plan, Large size, color, The Village at Barnstable – Main Campus Phase One Site Plan, one sheet, drawn by Pesce Engineering & Associates, Inc. 6/16/10
E-mail, Ed Pesce, Application to Town 6/17/10
Abutters List 6/18/10
Copy, Development Agreement Cover Sheet, Stamped Receipt by Town 6/18/10
E-mail, Jeffrey S. Dirk, Scheduling 7/12/10
Memo and Attachments, Edward Pesce 7/14/10
Letter and Attachments, Attorney Jansson 7/14/10
Memo and Attachments, to Massachusetts Historical Commission (MHC), on 850 Falmouth Rd 7/14/10
The Village at Barnstable – Lyndon Court, showing architectural elevations and interior building layout, drawn by Bruce Devlin Design (dated 11/09) 7/14/10
PowerPoint of Presentation 7/18/10
E-mail, Edward Pesce, Project Issues 7/20/10
Plans entitled The Village at Barnstable – A CCRC Campus, drawn by The Architectural Team (tat), issued April 9, 2010, Sheets A4.01 to A4.04 showing building elevations 7/21/10
Letter and attachments, Edward Pesce 7/22/10
Letter and attachments, Edward Pesce, Updated site plan Sheet #4 for Lyndon Court, latest revision dated 7/27/10 (color, large size & 11x17) 7/27/10
E-mail, Edward Pesce, MHC Determination 7/29/10
E-mail, Edward Pesce, Energy Issues 9/7/10
E-mail, Attorney Jansson, comments on draft Development Agreement 9/15/10
E-mail, Edward Pesce, New square footage number for Lyndon Court/850 Falmouth Road 9/20/10
E-mail, Edward Pesce, New square footage number for Main Campus 9/21/10
E-mail, Edward Pesce, Information on latest plan set provided for the record 9/21/10
E-mail, Edward Pesce, Plan of renewable energy lot 9/30/10
E-mail, Edward Pesce, Transportation Issues 9/30/10
E-mail, Jeffrey S. Dirk, Transportation Issues 10/1/10
8"x14" Color Plan Set, *Lyndon Court,* architectural elevations & interior building layout, by Bruce Devlin Design, dated October 201010/1/10
E-mail, Edward Pesce, Renewable energy lot 10/4/10
E-mail, Edward Pesce, Transportation Issues 10/4/10
Letter, Jeffrey S. Dirk, Transportation Issues 10/4/10

Large Size Plan Set, *The Village at Barnstable – Proposed Continuing Care Retirement Community – Proposed Site Plans*, drawn by Pesce Engineering & Associates, stamped by Edward L. Pesce and John L. Churchill, Jr, dated April 13, 2010, revised 9/16/10, Sheets 1 – 10 10/4/10

Reduced Color Plan Set, *Lyndon Court Multi-Family Development,* drawn by Edward L. Pesce, Pesce Engineering & Associates, dated 10/18/07, latest revision date 7/14/10, Sheets 1 – 7 10/4/10

Plan, 8.5"x11.0" Black & White, Single Sheet, *Proposed Renewable Energy Parcel Sketch Plan*, Prepared by Pesce Engineering & Associates, drawn 9/30/10, revised 10/4/10 10/4/10

8"x14" Color Plan Set, *Lyndon Court,* revised architectural elevations & interior building layouts, by Bruce Devlin Design, dated October 2010 10/5/10

E-mail, Edward Pesce, Revisions to One-acre Renewable Energy Parcel Plan Changes 10/7/10

Packet of Handouts on Population Trends 10/14/10

Plans entitled *The Village at Barnstable – A CCRC Campus*, drawn by The Architectural Team (tat), signed by Michael Lu, Architect, issued April 9, 2010, Sheets A0.01, A1.01 to A0.1.06, and A5.01 including sheets entitled *Site Plan, Building Plans and Building Sections* Undated

The Village at Barnstable, Conceptual Views, Main Campus, drawn by The Architectural Team (tat), dated April 9, 2010 Undated

The Village at Barnstable – Phase One Site Plan, Sheet 1 of 1, dated June 15, 2010, drawn by Pesce Engineering & Associates, Inc., signed by Edward L. Pesce, PE Undated

Site Plans, Lyndon Court, Sheets 1-7, drawn by Pesce Engineering & Associates, latest revision date 4/13/10 (large size) Undated

Public Agencies (Federal, State, Local)	**Date Sent/Received**
Copy, SCCRODD Bylaw	10/8/08
Letter, Town Manager	9/5/08
Massachusetts Historical Commission, Determination of No Significant Impact	April, 2009
Hearing Notice, Town Council and Planning Board	6/4/09
E-mail, Growth Management Department	6/8/09
MEPA Certificate on ENF	11/6/09
MassDOT Aeronautics, Final Determination, Airspace review, dated March 26, 2010, part of Project Narrative	5/11/10
Town Correspondence in Project Narrative	5/11/10
• Sewer allocation letter dated March 31, 2010	
• Sewer allocation letter dated April 28, 2008	
• Relinquish site for water supply, letter dated September 23, 2009	
• Provision of water supply to main campus, letter dated February 5, 2008	
Fax, Department of Public Works – Water Supply, Acceptance of Donation for Water Supply Tank	6/8/10
Fax, Barnstable Fire Department Water District, Acceptance of Donation for New Well	6/8/10
Memo, Barnstable Growth Management Department, Comments on Local Comprehensive Plan and Local Bylaws	7/12/10
Letter, Barnstable Municipal Airport, Comments to MEPA on ENF (dated 10/22/09)	9/7/10

E-mail, Deputy Chief Pulsifer, Barnstable Fire Department, New Condition Language	9/23/10
E-mail, Deputy Chief Pulsifer, Barnstable Fire Department, Receipt of Draft New Condition Language	9/24/10

General Public/Other	**Date Sent/Received**
Letter, Ann Drake	6/24/10
E-mail, Carolyn Borrelli	11/19/09
E-mail, Carolyn Borrelli	11/20/09
E-mail, Carolyn Borrelli	11/20/09
E-mail, Carolyn Borrelli	11/23/09
E-mail, Carolyn Borrelli	12/9/09
E-mail, Carolyn Borrelli	12/10/09
E-mail, Ed Maroney	12/22/09
Letter with Attachment, Nola & Jim Walls	12/17/09
E-mail, Deborah A. Lauder	7/8/10
Letter, Dr. Richard F. Salluzzo	7/8/10
E-mail, Larry Fox	7/9/10
E-mail, Laura F. Shufelt	7/13/10
Letter with attachments, Laura F. Shufelt	7/20/10
E-mail, Laura F. Shufelt	7/23/10
E-mail, Laura F. Shufelt, Copy of Application	8/13/10
E-mail, Laura F. Shufelt, File Review	8/17/10
E-mail, Laura F. Shufelt, Request for copies of Minutes and Audio Files	8/18/10
E-mail, J. James Joiner, Barnstable Patriot, Update on Next Steps in Review Process	9/28/10

The Village at Barnstable Development Agreement

APPENDIX F

FINDINGS ON REGIONAL POLICY PLAN and COMMISSION ACT

General Findings

GF1. The proposed project as described in the Notice of Intent and which is the subject of this Development Agreement is the construction and operation of a continuing care retirement community located on a 25.88-acre site in Independence Park, Hyannis, MA. The proposed project consists of least three construction phases as funding allows, and at build-out would consist of six buildings for a total of approximately 743,397 square feet. The project includes 340 independent/assisted living units, a 60-bed skilled nursing facility, an underground parking garage, and on-site amenities, including but not limited to amenities that are customarily found in continuing care retirement communities such as a bank, dining facility, fitness center, and auditorium. The Affordable Housing Component is proposed to be off-site at 850 Falmouth Road, Hyannis, a 3.3-acre site that is the site of the former Manor Nursing Home, which is to be redeveloped into 42 affordable units. The development of the Main Campus is further described on plans and documents incorporated into this Development Agreement and as shown on Plans entitled *The Village at Barnstable – A CCRC Campus*, drawn by The Architectural Team (tat), signed by Michael Liu, Architect, issued April 9, 2010, Sheets A0.01, A1.01 to A0.1.06, and A5.01 including sheets entitled *Site Plan, Building Plans and Building Sections*, and Plans entitled *The Village at Barnstable – A CCRC Campus*, drawn by The Architectural Team (tat), issued April 9, 2010, Sheets A4.01 to A4.04 showing building elevations (received by Commission on 7/21/10); and with the plan set entitled *The Village at Barnstable – Proposed Continuing Care Retirement Community – Proposed Site Plans*, drawn by Pesce Engineering & Associates, stamped by Edward L. Pesce and John L. Churchill, Jr, dated April 13, 2010, revised 9/16/10, Sheets 1 – 10, received 10/4/10.

The Affordable Housing Component is as further described on documents and plans incorporated into this Development Agreement and as shown on a plan set entitled *Lyndon Court Multi-Family Development,* drawn by Edward L. Pesce, Pesce Engineering & Associates, dated 10/18/07, latest revision date 7/14/10, Sheets 1 – 7, received by Commission on 10/4/10 and by plans entitled *Lyndon Court,* showing revised architectural elevations and interior building layout, drawn by Bruce Devlin Design, dated October 2010, received by the Commission on October 5, 2010.

Land Use

LUF1. Minimum Performance Standard (MPS) LU1.1 requires that development and redevelopment be consistent with the category of desired land use where the project is located as well as the characteristics of that category, both as identified on the Regional Land Use Vision Map. Notwithstanding this requirement, the Commission may find that development and redevelopment has met this requirement, if, in its discretion, it finds each of the following:

1) The proposed project is a redevelopment, or the expansion of a previously approved DRI; and,

2) The Commission finds that the proposed development does not present a threat to the resources and/or characteristics intended to be protected and maintained by its land use category.

LUF2. The Main Campus is located within an area designated as Economic Center. Economic Centers are defined in the RPP as *"[a]reas designated on the Regional Land Use Vision Map as appropriate for growth and redevelopment. These areas serve the region or sub-region and could include characteristics such as civic and institutional uses, retail, and mixed use."* The proposed mix of residential uses and services proposed, as part of the main campus is consistent with the Economic Center land use category, and therefore the Commission finds the Main Campus is consistent with MPS LU1.1.

LUF3. The site of the proposed Affordable Housing Component site is located within a Resource Protection Area (RPA). Resource Protection Areas are defined in the RPP as *"areas designated on the Regional Land Use Vision Map that warrant protection and where additional growth is not desired due to the presence of one or more sensitive resources. These resources shall include at a minimum Wellhead Protection Areas, Land Subject to Coastal Storm Flowage (LSCSF) or Sea, Lake, and Overland Surges by Hurricanes (SLOSH) zones, historic districts, and the Cape Cod National Seashore. Resource Protection Areas may also include but not be limited to wetlands, vernal pools, protected open space, and designated Districts of Critical Planning Concern (DCPCs)."* The proposed site of the Affordable Housing Component is not consistent with the RPA designation as the project results in additional growth and development. However, the project is a redevelopment of an existing site, and the residential use is consistent with the surrounding uses in the area. Furthermore, while the area may have been designated as a RPA on the Land Use Vision Map because located within a Wellhead Protection Area, this is the only resource present at this location. The site is also designated as part of a Water Quality Improvement Area on Water Resources Maps incorporated into the RPP. Redevelopment of the site from a skilled nursing facility with 38 rooms with 55 beds and between 12-14 staff into 42 apartments represents a less intense water resources use. Also, the site's stormwater design will be improved, by upgrading existing catch basins, installing improved leaching basins, and eliminating parking areas. The Commission finds that because the proposed redevelopment is on sewer, is located in a Water Quality Improvement Area, is a less intense use that the prior use, and because of improvements to the site's stormwater design that the proposed affordable housing development does not present a threat to the resources and/or characteristics intended to be protected and maintained by the RPA land use category. Therefore, the Commission finds that the off-site affordable housing component complies with MPS LU1.1.

Economic Development

EDF1. MPS ED1.1 requires development to be located in Economic Centers or Industrial and Service Trade Areas, or where appropriate, Village Centers. The Main Campus will be located in an area is designated an Economic Center on the Regional Land Use Vision Map, and the Commission finds it is therefore consistent with MPS ED1.1.

EDF2. The Affordable Housing Component of the project is located in a RPA on the Regional Land Use Vision Map, and the Commission finds it is therefore not consistent with ED1.1. However, the Commission may waive MPS ED1.1 if the Foundation

demonstrates that the Affordable Housing Component, as redevelopment, meets two (2) of the waiver criteria outlined in MPS ED1.3. The Commission finds that the Affordable Housing Component, as a redevelopment, has met the *municipal endorsement* criteria in the form of the parcel specific zoning overlay district approved by the Town for this site. The Commission also finds that it is appropriate to condition the Development Agreement to require the Foundation to meet either the *green design/LEED Certification* or *distributed energy generation* waiver criteria of MPS ED1.3 in order for the Commission to waive ED1.1.

EDF3. Because the overall project will be phased, and because the final fiscal and employment benefits of the overall project were not definitively known at the time of the Development Agreement review, the Commission finds that it is appropriate to condition the Development Agreement to require the Foundation to submit a report, consistent with the informational requirements of Technical Bulletin 04-002, to support the project's consistency with Economic Development Best Development Practices (BDPs) BDP ED2.2, BDP ED3.1, and BDP ED3.7 prior to each phase of occupancy at the Main Campus.

Water Resources

WRF1. The Main Campus is located within both a Wellhead Protection Area to Barnstable Fire District and Hyannis Water Division supply wells, surface water recharge area to Flint Pond and the Marine Water Recharge Area to Mill Creek and Lewis Bay. A portion of the Main Campus site is also mapped as Potential Public Water Supply Area. The Main Campus will be served by municipal wastewater and drinking water.

WRF2. The Affordable Housing Component is also located in a Wellhead Protection Area, and will be served by the Barnstable's municipal Wastewater Treatment Facility. The Commission found that the wastewater flow for the Affordable Housing Component be less than the previous use, so the Commission finds that no additional review is required with respect to wastewater from this part of the project.

WRF3. Wastewater from the Main Campus (approximately 60,000 gallons per day) is to be treated at Barnstable's municipal Wastewater Treatment Facility, which discharges within the watershed to Lewis Bay. The Commission finds that the Main Campus demonstrated that its nitrogen loading concentration will be less than the 5-ppm standard required by MPS WR1.1 for *General Aquifer Protection* and MPS WR2.1 in *Wellhead Protection Areas*. The Town has also acknowledged that the Wastewater Treatment Facility collection and treatment system is capable of dealing with the increased flow, and therefore, the Commission finds that the Main Campus is consistent with MPS WR3.6.

WRF4. The Main Campus site will be served with municipal water from the Barnstable Fire District Water Department. Maximum water use is approximately 55,000 gallons per day. During the Development Agreement review, the Fire District Water Department has formally and in writing by a letter dated September 23, 2009, which is included in the Applicant's Project Narrative, stated they have no interests in the Main Campus site for the purpose of future water site development. Based on this information, the Commission finds that MPS WR2.5 prohibiting development near future well sites does not apply to the Main Campus.

WRF5. To minimize the municipal supply demand, irrigation water for the Main Campus will be supplied by a private on-site well. The Main Campus' design incorporates water conservation measures throughout all proposed buildings, including low flush toilets, water saving showerheads and similar water saving appliances, the use of drip irrigation and the planting of drought tolerant/native plant species. The Commission finds that these water conservation measures should achieve a 40% overall water use reduction, and that these measures are consistent with MPS WR1.5 and will meet the Best Development Practice (BDP) WR1.7 as a project benefit.

WRF6. The Commission finds the Main Campus meets WR1.5, addressing *Turf and Landscape Management*, by incorporating the use of water conservation measures, the use of native and drought resistant plantings, drip irrigation, and minimizing the pesticides and chemical fertilizers and using organic products instead.

WRF7. The Commission also finds that certain aspects of the landscaping and turf management program are incomplete, and it is appropriate to condition the Development Agreement to require that additional items be incorporated into the Main Campus's *Turf and Landscape Plan* including: remulching of void areas, no chemical fertilizer in the bioretention areas, organic compost worked into the initial planting matrix, new planning watered throughout the first growing season, providing additional moisture for trees until they are well established, and in rain garden areas, substitution of Red Oak for White Pine within the development.

WRF8. The Foundation completed a full *Phase I Environmental Site Assessment* and a *Phase II Limited Subsurface Investigation* for the Main Campus site. The Commission finds that through submission of these documents the Main Campus is consistent with BDP WR5.6, and the Commission further finds that submission of these documents is a project benefit.

WRF9. Since the Main Campus is located within a Wellhead Protection Area, under the provisions of MPS WR2.2 and MPS WM1.1, the Commission finds that no more than *Household Quantities* of Hazardous Materials or Hazardous Wastes shall be permitted. The Foundation did not submit sufficient information during the Development Agreement review for the Commission to determine if the requirements of MPS WR2.2 and WM1.1 had been met. As such, the Commission finds it is appropriate to condition the Development Agreement to limit the amount of Hazardous Materials and Hazardous Waste to be used, handled, generated, treated or stored at the Main Campus site, and to require the Foundation to provide a full description of what Hazardous Materials and/or Hazardous Wastes will be stored on the Main Campus site, including fuels, cleaning materials and pharmaceuticals prior to a Preliminary Certificate of Compliance for each building, Phase or Sub-Phase to ensure compliance with MPS WR2.2 and MPS WM1.1.

WRF10. Given that the Main Campus site is located in a Wellhead Protection District, the Commission finds that it is appropriate to condition the Development Agreement to require that a Pollution Prevention and Emergency Response Plan (Plan) be completed prior to the start of construction and for the operations phase, and that this Plan also address Hazardous Materials storage and handling, and spill response and contingency planning pursuant to MPS WM1.4.

WRF11. The Commission finds that the Main Campus development plans address isolation of potential spills from stormwater infiltration basin and sub-surface discharge

in Wellhead Protection Areas as required under MPS WR7.11 by incorporating a shut-off valve for catch basins that drain loading-dock areas behind the Commons building and incorporating a shutoff switch for the proposed oil/grit separators and pump chambers that drain the area where trash is stored, underneath the building. The Commission also finds that it is appropriate to condition the Development Agreement to require that these methods be incorporated into the project's stormwater design, and to require Commission staff review and approval of these documents and plans prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or Sub-Phase.

WRF12. The Commission finds that the proposed stormwater design for the Main Campus is designed to meet all RPP MPS addressing stormwater quality, the Town of Barnstable stormwater requirements under the Barnstable Zoning By-laws, and the Massachusetts Stormwater Standards. As designed, all stormwater generated by the proposed plan will be infiltrated onsite, and has been adequately sized to capture and infiltrate a 24 hour-100 year storm for post-development conditions. The design meets the requirements of the RPP addressing the 24-hour 25-year storm.

WRF13. The Foundation did not provide a full analysis of Total Suspended Solids (TSS) removal for the Main Campus. As such, the Commission finds that it is appropriate to condition the Development Agreement to require submission of calculations to show that 80% TSS removal will be achieved, and at least 44% TSS is removed prior to discharge into infiltration systems, consistent with Massachusetts Stormwater Management Standards and MPS WR7.2.

WRF15. In addition to oil-grit separators, the Commission finds that the Main Campus' stormwater design proposes use of catch basins, subsurface detention structures; several rain gardens, vegetated swales, surface retention basins and pervious (grassed) pavers, meeting the requirements of MPS WR7.4. The Commission also finds the Main Campus' stormwater system will collect and infiltrate roof runoff separately into the subsurface infiltration systems as stipulated by MPS WR7.3.

WRF16. MPS WR 7.4 requires that the first inch of stormwater flow from development parking and roadways shall use biofiltration practices including but not limited to vegetated swales and filter strips, constructed wetlands, tree box filters, bio-retention basin and rain gardens for treatment of stormwater runoff. The Commission finds that Main Campus development plans have made use of bioretention to the extent possible, through the use of multiple rain gardens, surface detention, grass pavers and grassed swales. The Main Campus' stormwater management program also incorporates overflow devices within the bioretention areas to capture larger storm volumes and for frozen flow conditions as required by MPS WR 7.5.

WRF17. Best Management Practices during construction, and development of a Stormwater Operation and Maintenance (O&M) Plan are required by MPS WR7.9 and MPS WR7.10. The Commission finds that the Foundation has submitted a draft Stormwater O&M Plan to comply with these MPS. The Commission finds that the draft landscape maintenance plan must be incorporated by reference into the Stormwater O&M Plan, as the specific maintenance of the rain garden areas are more detailed in the landscape plan. In addition, the Commission finds that the Stormwater O&M Plan should address snow removal and snow storage, avoiding stockpiling of snow around biorention areas. The Commission also finds that an inspection matrix should be

developed by the Foundation detailing the timing and requirements of the Stormwater O&M Plan, and to facilitate record keeping for routine inspections, maintenance, and repairs. The Commission also determines that it is appropriate to condition the Development Agreement, as required by MPS WR7.10, that one year from completion of the stormwater system, a Professional Engineer will be required to inspect the system and submit a letter for Commission staff review and approval certifying that the stormwater system was installed and functions as designed.

WRF18. The Commission also finds it appropriate to condition the Development Agreement to require that the Foundation supply additional information for Commission staff review and approval concerning the phasing and construction of the bioretention areas including but not limited to the following elements:

- Protection of bioretention areas during construction and planting to prevent compaction and siltation,
- Assessment of grading and paving drainage to assure flow paths are as planned,
- Confirm inlet and outlet elevations,
- Excavation of biorention areas from the side, to avoid compaction from heavy equipment,
- Revaluate subsurface soil porosity and add stone layer if needed,
- Detail method of preparing and adding the soil mixture,
- Stabilization of perimeter side slopes and buffer areas, planting and final construction inspection after a sizable rain event, and
- Rain gardens soil mixture and depth should also be specified, to establish and promote plant and tree growth.

WRF19. The Commission finds the Main Campus' site design has minimized the use of impervious surfaces by providing underground parking for the entire site, with the exception of the skilled nursing facility. The emergency fire access roadways are designed using porous grassed pavers, further eliminating impervious surfaces. The Commission finds these design elements have addressed MPS WR7.6

Wildlife and Plant Habitat and Open Space and Recreation

WPH/OSRF1. The Main Campus is located in a Significant Natural Resource Area (SNRA) due to the presence of an existing Wellhead Protection Area. The Main Campus site is located between existing development on two sides, Route 6 to the north and office/industrial development to the south. A parcel of Town-owned conservation land is located adjacent to the northeast corner of the project site. A section of the site runs under an existing electric utility easement, and has been the location of extensive site disturbance, including clearing, grading, stump "storage" and other activities. North of this section, there is a band of the site abutting the Route 6 highway layout that is presently naturally vegetated.

WPH/OSRF2. The Foundation provided a Natural Resources Inventory (NRI) for the Main Campus site consistent with the requirements of MPS WPH1.1. According to the NRI prepared by *Sabatia*, (dated May 18, 2009), the site contains no wetlands or vernal pools. The majority of the Main Campus site is vegetated with a mix of pitch pines and oaks over a rolling terrain. The NRI did not identify any unusual resources on the site.

WPH/OSRF3. The total disturbed area to construct the Main Campus is 16.33 acres, which comprises most of the site south of the utility easement. Approximately 9.5 acres from the utility easement north will not support project related development, and is proposed as part of the preserved open space requirement.

WPH/OSRF4. The Commission finds that the proposed Affordable Housing Component at 850 Falmouth Road, Hyannis does not have any significant impacts to natural resources. The Foundation is proposing to redevelop and reuse the existing structure and parking. According to a calculation provided during the Development Agreement review, impervious area for the installation of new parking and travel areas over an area that presently supports a sewer line and septic system will increase impervious area on this site by 8,548 square feet, which the Commission finds to be a negligible increase given the existing disturbance at the site.

WPH/OSRF5. MPS in the RPP require the minimization of site clearing and grading, and the clustering of development. The Commission finds that the Main Campus has addressed these requirements sufficiently given the size of the project: the proposal clusters buildings, incorporates multiple floors into the plan, and proposes shared parking and parking under buildings in order to reduce the overall footprint of the proposed development. The intensity of development proposed at this site also reflects the site's designation as an *Economic Center* on Barnstable's portion of the current Regional Land Use Vision Map.

WPH/OSRF6. Due to the designation of the Main Campus site as SNRA, the Commission finds that the Main Campus must provide an area equivalent to twice the total development area (2 x 16.33 acres = 32.66 acres) as permanently protected open space pursuant to MPS OS1.3. Certain RPP MPS allow an open space credit when particular site design practices are employed. The Commission finds that application of certain credits is appropriate given certain aspects of the Main Campus' site design and applies a 3.59-acre credit for the area of underground/under building parking (MPS OS1.8), and a 0.69-acre credit for employing Low Impact Design stormwater management within a public Wellhead Protection Area (MPS OS1.3). With these credits, the open space requirement is reduced to 28.38 acres.

WPH/OSRF7. 9.5 acres from the utility easement north of the Main Campus site as shown on Exhibits A and B and another 4.67-acre parcel adjacent to the Main Campus (as shown on Barnstable Assessors Map 315, Parcel 40) (Appendix F) will not support project related development, but are proposed as part of the overall project's preserved open space requirement. The Commission finds that both of these parcels are degraded by existing or prior activities, and as such, finds it appropriate to require in the Development Agreement the restoration of the degraded site conditions through replanting with native species to establish an open meadow habitat. This kind of habitat restoration serves multiple functions: 1) is consistent with the utility company interests to keep the easement clear of woody vegetation, 2) provides a pleasant landscape for residents of the Main Campus to enjoy, and 3) if properly designed and maintained, it could provide a habitat type of value to wildlife that is declining on Cape Cod. With the restoration plans in place, the Commission finds the 9.5 acres and the 4.67-acre parcel contribute to the RPP open space requirement.

WPH/OSRF8. The Foundation is also proposing a 2.0-acre open space parcel located at 211 Flint Rock Pond. The Foundation is proposing to restrict development on a 2.0-acre section of a larger parcel as identified as shown on Barnstable Assessors Map 314, Parcel 001(B) (Appendix G). The Commission finds that the parcel on Flint Rock Pond is a significant open space proposal due to the location of the site adjacent to one of the coastal plain ponds in the Hyannis Coastal Plain Ponds Complex, rare species habitat,

and public water supply Wellhead Protection Area. The Commission finds the 2-acre parcel contributes to the RPP open space requirement.

WPH/OSRF9. The Commission finds that the Open Space requirement for the Main Campus under MPS OS1.3, with allowable BDP credits and additional open space, is 12.21 acres. To address this remaining open space requirement, the Foundation proposes the following alternate mitigation approach:

1) A $500,000 contribution committed for water supply infrastructure, which is the development of a new #2 well for the Barnstable Fire District Water Department;
2) A $500,000 contribution committed for water supply infrastructure through assistance to the Town of Barnstable's Water Supply Division with construction of a new water tank;
3) Establishing a bike trail easement through the 9.5 acres adjoining the Main Campus property and adjacent 4.67-acre open space parcel to connect a regional bike trail route in Yarmouth at Willow Street through Independence Park to Route 132.

WPH/OSRF10. Pursuant to Section 5(e)(i) of the Development Agreement Regulations, the Commission finds that the inconsistency with MPS OS1.3 with respect to the Main Campus' open space requirement is necessary to enable a substantial segment of the population to secure adequate opportunities for housing, conservation, and environmental protection, and the interests protected by the Act and RPP can be achieved or protected by this alternate approach.

WPH/OSRF11. The Commission acknowledges the desire of the Foundation to potentially construct and/or operate of a limited number of renewable energy generation facilities on the 4.67-acre open space parcel adjacent to the Main Campus site. However, this finding does not obligate or pre-determine the outcome of any potential future review of such facilities on this parcel by the Commission, or any other permit-granting entity.

Transportation

TF1. The Foundation's transportation engineer (Vanasse Associates, Inc) analyzed the Main Campus site's traffic (located off Independence Park Drive, Hyannis) based on data for similar facilities, as outlined in the Institute of Transportation Engineers (ITE) *Trip Generation,* Eighth Edition, 2008 using a development scenario consisting of a 340 senior adult housing units, 40 assisted living units and a 41-bed skilled nursing facility. As outlined in the Whereas clauses above, the proposed development scenario includes a Main Campus of 340 independent/assisted living units, a Commons Building, and a 60-bed skilled nursing facility. The traffic study estimates are conservative. The adjusted increase in traffic from the project during different time periods is as follows:

Weekday Daily	976 trips
Morning peak hour	29 trips
Evening peak hour	40 trips

TF2. Vanasse Associates, Inc also analyzed the Affordable Housing Component site's traffic (located at 850 Falmouth Road, Hyannis) based on data for similar facilities, as outlined in ITE *Trip Generation,* Eighth Edition, 2008. The redevelopment scenario consists of 42 residential apartments. The adjusted increase in traffic from the project during different time periods is as follows:

Weekday Daily	146 trips

Morning peak hour	15 trips
Evening peak hour	14 trips

TF3. The Foundation has combined the transportation impacts of the two project components to simplify the transportation mitigation requirements. The combined net increase of the transportation impacts of the two project components is outlined in the table, below:

	Main Campus	Affordable Housing Component	Net Change in Trips
Daily	976	146	1,122
AM Peak Hour	29	15	44
PM Peak Hour	40	14	54

Based on the net increase in vehicle trips, the Commission finds the overall project will have a significant congestion impact on the regional roadway system.

TF5. Based on the net increase in traffic and the trip distribution at the Main Campus, the proposed project will not have a significant increase in traffic at any known high crash location. Therefore, the Main Campus location complies with MPS TR 1.1. Based on the net increase in traffic at the Affordable Housing Component, it will not have a significant increase in traffic at any known high crash location. Therefore, this part of the project complies with MPS TR 1.1.

TF6. Based on site driveway locations of the Main Campus and the Affordable Housing Component, both of these site driveways comply with the RPP Level Of Service and Sight Distance requirements.

TF7. The Foundation has proposed a detailed trip reduction plan at the Main Campus and at the Affordable Housing Component as shown below:

Main Campus:

- Carpooling/vanpooling matching programs through the local Transportation Management Association
- Dissemination of promotional materials to residents and employees
- Newsletters about the program
- Coordination with MassRides which leases commuter vans and provides administrative and organizational assistance
- An on-site transportation coordinator will be assigned to coordinate the traffic reduction program for the project.
- The transportation coordinator will work with the Town of Barnstable, the Massachusetts Department of Transportation (MassDOT) and the Commission to develop the elements of the traffic reduction program for the project.
- A shuttle service will be provided for residents of the project for transportation to medical visits, shopping and recreational opportunities, and to provide access to the Hyannis transportation Center for both residents and employees.
- The shuttle service will be owned and operated by the project proponent, with services provided at no additional cost to residents and employees.
- Designed Parking spaces will be provided on-site for car/vanpools and alternative fuel vehicles.
- A guaranteed-ride-home program will be made available to employees that car/vanpool for emergencies as defined by the employee handbook that may rise during the workday.

Employees that wish to use the guaranteed-ride-home program under the stated conditions may be issued a voucher for taxi service.

- All employees will be provided with information regarding available public transportation resources, schedules, fare information, and stop/terminal locations. This information will also be made available to the residents of the project.
- Employees that car/vanpool, use public transportation or walk/bicycle to work will receive a raffle ticket for each complete week that they commute to the project using one of these modes. At the end of month, a raffle will be held for prizes such as movie tickets, gift certificates for use at local retail stores/restaurants. etc.
- Direct deposit of employee payroll checks will be offered.
- On-site services to decrease off-site trips by employees including a lunchroom equipped with a microwave and refrigerator will be available to employees of the project. In addition, employees will be able to purchase prepared foods offered as a part of the dining services available to residents.
- The project will provide a common dining facility, social and recreational activities and wellness and health care programs.
- The project proponent in consultation with the Commission and the Town of Barnstable will conduct a traffic monitoring and reporting program, which will include a survey of residents and employee participation in the trip reduction program.
- The traffic-monitoring program will include measuring traffic volumes at the access points to the project over a continuous 7-day week-long period

Affordable Housing Component:

- Schedule and fare information for Cape Cod Regional Transit Authority (CCRTA) bus and trolley services will be made available to residents of the project, as well as information concerning regional bus and ferry services.
- The property management team will coordinate with the Commission, MassDOT, MassRides, the CCRTA and Town of Barnstable to provide residents with information concerning available rideshare options and alternatives to single-occupant automobiles.
- Pedestrian and bicycle accommodations be provided within the project by way of sidewalks and bicycles racks.
- A bus waiting area will be added on the project driveway near Falmouth Road.

TF8. Based on the employee and residential trip reduction plans listed above, the project as a whole complies with the RPP trip reduction requirements. The Commission also finds that it is appropriate to condition the Development Agreement to require the Applicant to implement the two trip reduction plans, and that an inspection be conducted by Commission staff prior to issuance of a Final Certificate of Compliance and prior to issuance the local Certificate of Use/Occupancy for each Phase of the Main Campus and Affordable Housing Component, to verify that these programs are in place. The Commission also finds it is appropriate to condition the Development Agreement include conditions that require the Applicant to conduct traffic monitoring at 12 and 24 months after issuance of the Final Certificate of Compliance for each Phase of development at the Main Campus.

TF9. The Transportation section of the RPP requires projects to mitigate all traffic-related impacts associated with the proposed project. Appropriate mitigation can be achieved through in-kind strategies (roadway widening, signalization, etc.), non-structural means (transit, preservation of developable land) or a combination of these measures. To assist the Applicant in determining the cost to offset the impacts of the main campus and off-site affordable housing, Commission transportation staff estimated the cost to maintain the transportation infrastructure based on a Vehicle Miles Traveled (VMT) formula.

The VMT approach consists of determining the trip generation of the potential development (from ITE), multiplying the trip generation by the vehicles miles traveled by the typical user of the facility (Commission transportation staff used the trip length guidelines as outlined in the Technical Bulletin 96-003, as revised January 9, 2003). That calculation determines the VMT by the users of the development. The cost to determine the roadway infrastructure is conducted by multiplying the VMT by the cost of infrastructure improvements (Commission staff assumed a cost of $500 per linear foot) divided by the capacity increase of the improvements (assumed capacity increase of 5,200 vehicles per hour). The following equation is used to determine the cost to maintain the transportation infrastructure based on VMT:

Equation: [(trips x length of trip x cost of improvement)/capacity increase]

Appling the VMT formula to the overall project produces the following equation:

54 trips x 4.88 miles per trip x $2,640,000 per mile/5,200 vehicles per hour = $133,787

TF10. The Foundation has previously provided a transportation improvement in the Town of Barnstable. As outlined in a letter from the Barnstable Town Manager dated September 5, 2008, the Foundation has constructed a right-hand turn lane at the intersection of Independence Drive and Route 132 at a cost of $187,000. Commission transportation staff witnessed the construction of this right turn lane during compliance review for the BJs Wholesale Club store DRI project and the construction cost was verified by the Applicant's traffic engineer. Commission staff's research indicates that this right turn lane has not been credited to any prior DRI as transportation mitigation. The Commission finds that it is appropriate to credit The Village at Barnstable project for the installation of the right turn lane at Independence Drive and Route 132 and that as such, the project as a whole complies with the RPP transportation congestion standards.

Waste Management

WMF1. MPS WM1.5 requires that *"[a]ny development or redevelopment that uses, handles, generates, treats, or stores Hazardous Waste..."* be in compliance with the state's Hazardous Waste regulations and specifies three items be provided to show compliance with this requirement for purposes of Commission review. These three items are: 1) registration or notification to the Massachusetts Department of Environmental Protection (DEP) as a Hazardous Waste Generator, 2) a written plan to manage the Hazardous Waste prior to disposal and 3) a signed contract with a registered, licensed company to dispose of the Hazardous Waste.

WMF2. Based on information provided to date by the Foundation, the Main Campus is likely to generate Hazardous Wastes once the facility, if approved, is in operation. Based on anticipated project phasing, the Commission finds it is appropriate to condition the Development Agreement to require the Foundation to submit evidence of consistency with MPS WM1.5 for Commission staff's review and approval before each building or Phase is constructed and again before each building or Phase is occupied.

WMF3. In order to satisfy MPS WM1.5, and to assist residents of the Affordable Housing Component with proper management of any Hazardous Waste they may generate, the Commission finds that it is appropriate to condition the Development Agreement to require the Foundation to create and to make available to residents of the Affordable

Housing Component an educational flyer for these residents that provides information on the Town of Barnstable's household hazardous waste collections and recycling opportunities at Flint Street Transfer Station.

WMF4. MPS WM2.1 requires that *"[d]evelopment and redevelopment projects shall address the disposal of construction waste..."* and that *"a plan shall be provided to demonstrate how the applicant proposes to handle solid wastes, construction and demolition waste and recyclable materials currently categorized by the [DEP] as a waste ban material."* Waste ban materials are items DEP regulations require to be diverted from disposal as trash and recycled. MPS WM2.2 describes the requirements of a construction and demolition (C&D) waste management plan needed as part of Commission review if a project generates C&D waste. MPS WM2.3 requires that a solid waste and recycling management plan be provided for the post-construction phase of development, which details how recyclables, particularly waste ban items, will be collected, stored on site, and recycled.

WMF5. Both the Main Campus and Affordable Housing Component will generate waste from land clearing activities, and C&D from construction/rehabilitation work. Both project parts will also generate solid waste, particularly waste ban items, and recyclables. However, to accommodate anticipated project phasing, the Commission finds that it is appropriate to condition the Development Agreement to require Commission staff review and approval of project construction bid documents for both the Main Campus and Affordable Housing Component prior to their issuance and prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for either the Main Campus or Affordable Housing Component, to ensure these specifications provide for management of solid waste, land clearing debris, C&D, recyclables and waste ban items in a manner consistent with MPS MW2.1, WM2.2., and WM2.3.

MWF6. MPS MW2.4 requires a post-construction management plan for those developments that generate a significant amount of food waste. The Main Campus will include a dining facility, however, the Commission could not determine during review if the Main Campus would generate a significant amount of food waste. As such, the Commission finds it is appropriate to condition the Development Agreement to require that the Foundation to submit for Commission staff review and approval the amounts and types of food waste generated by the Main Campus prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the first Main Campus building. The Commission also finds that it is appropriate to require the Main Campus to develop a food-waste composting program prior to issuance of a Final Certificate of Compliance and prior to issuance of a Certificate of Use/Occupancy for the first Main Campus building if the amount of food waste it generates is determined to be at least 225 tons per year of food and other compostable waste not otherwise recycled which includes waxed and wet cardboard and paper, renderings, soil, grass clippings and plants. The Commission finds, however, that MPS WM2.4 did not apply to the Affordable Housing Component because it, unlike the Main Campus, does not have a specific on-site dining facility providing meals for residents.

Energy

EF1. The Commission finds that based on the information submitted to date for both the Main Campus and Affordable Housing Component it is not possible to determine if the overall project is consistent with the RPP Energy section. However, to accommodate

anticipated project phasing as part of a Development Agreement, and given the early design stage of the proposed project, the Commission supports the submission of information necessary to determine compliance with the RPP Energy section at a later date when the project's design is more fully developed. As such, the Commission finds it is appropriate to condition the Development Agreement to require the specific energy-related information be provided for Commission staff review and approval prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit or a Certificate of Use/Occupancy for the relevant project buildings or Phases.

Affordable Housing

AHF1. The Foundation has proposed to satisfy the 10% affordability requirement of MPS AH 1.1 off-site through the redevelopment of the former Whitehall Manor Nursing Home at 850 Falmouth Road, Hyannis into forty-two (42) affordable units (Affordable Housing Component). As there will be 340 independent/assisted living units and 60 skilled nursing beds at the Main Campus, the affordability requirements per MPS AH 1.1 and MPS AH 1.4 is forty (40) units. To be consistent with MPS AH 1.1, the Commission considered whether the units to be provided at the Affordable Housing Component are "comparable" to those that will be provided at the Main Campus. To assess "comparability," the Commission used the following five criteria: size of units; mix of units; access to services and amenities; target population; and tenure, meaning whether the units will be ownership or rental.

AHF2. For the *size of units* comparability criterion, the Commission reviewed the schematic design/architectural plans submitted for the record from *The Architectural Team* for the Main Campus and the design/architectural plans by Bruce Devlin Design for the Affordable Housing Component. The Commission found that the proposed size of the 168 one-bedroom independent living units ranges from 690-1,323 square feet, with the average size of a one-bedroom unit at 900 square feet. The proposed size of the 172 two-bedroom independent living units ranges from 1,110-1,450 square feet, with the average size of a two-bedroom unit at 1,230 square feet. The proposed size of the 21 one-bedroom units in the off-site location site ranges from 704-888 square feet, with the average size of a one-bedroom unit at 746 square feet. The proposed size of the 21 two-bedroom units at the off-site location ranges from 910-952 square feet, with the average size of a two-bedroom unit at 933 square feet. The Affordable Housing Component units exceed the minimum square footage requirements of both the RPP and the Massachusetts Department of Housing and Community Development (DHCD); the Commission finds the size of the units are comparable.

AHF3. For the *mix of units* comparability criterion, because the skilled nursing facility proposed at the Main Campus is measured in beds (60) as opposed to units, the Commission found that the basis of comparison for the *mix of units* at the Main Campus should be the 340 independent living units. The Foundation has proposed that 168 of the units at the Main Campus be one bedroom (49.4%) and that 172 of units be two bedrooms (50.6%). The proposed mix for the 42 units at the Affordable Housing Component is 21 one bedroom (50%) and 21 two bedroom (50%) units. Therefore, the Commission finds that the *mix of units* are comparable.

AHF4. For the *access to services and amenities* comparability criterion, the units in the Main Campus will be located off Independence Drive near Mary Dunn Road in the northeast section of Independence Park. The Main Campus residents will be provided with on-site amenities such as a small therapy pool, spa, florist, pharmacy, and activity

rooms on site. Residents will be approximately 2-4 miles away from other recreational, shopping, dining, health care, and entertainment activities in Hyannis.

According to revised plans submitted on July 14, 2010 and October 4, 2010 during the Development Agreement review, the Affordable Housing Component at 850 Falmouth Road will include onsite amenities including an indoor activity center, indoor workout room and an outdoor gazebo and separate volleyball court. The residents will be approximately 1-4 miles from other recreational, shopping, dining, health care, and entertainment activities in Hyannis. Based on the inclusion of these interior and exterior on-site amenities at the Affordable Housing Component, the Commission finds that the *access to services and amenities* are comparable.

AHF5. For the *target population* comparability criterion, the 340 independent living units in the Main Campus will be age restricted to households in which at least one member is age 55 or older and will offer a menu of services that will enable residents to "age in place." The 60 bed skilled nursing facility will be restricted to individuals in need of that level of care. The Affordable Housing Component will not be age restricted and will not have any services attached with them; therefore, the Commission finds that the units are not comparable with regard to *target population*.

AHF6. To address MPS AH 1.1 with respect to the *target population* comparability criteria, Section 5(e)(i) of the Development Agreement provides that:

> *"the Commission may approve a development agreement which is inconsistent with the... Regional Policy Plan... if the inconsistency is necessary to enable a substantial segment of the population to secure adequate opportunities for housing... and the interests protected by the Act, RPP or LCP can be advanced or protected by an alternate approach."*

The recently adopted 2010-2014 Barnstable County HOME Consortium HUD Consolidated Plan, using 2009 HUD data, found that 10,890 low-income elderly households in the region had housing problems: predominantly one of paying more than 30% of their income toward housing costs, while 14,365 low-income, non-elderly households had housing problems. Over all ranges of income, 14,000 elderly households had housing problems, compared with 24,995 non-elderly households. By not imposing an age restriction on the Affordable Housing Component, the Applicant is providing affordable housing opportunities for a larger segment of the population with housing needs, *i.e.* the non-elderly. In addition by not having an age restriction, the Affordable Housing Component will be available to all low income households with housing needs (25,255) as opposed to just the 10,890 low-income elderly households. Based on the foregoing facts, the Commission finds per Section 5(e)(i) of the Development Agreement regulations that the inconsistency with respect to the comparability criterion of *target population* is necessary to enable a substantial segment of the population to secure adequate opportunities for housing.

AHF6. For the *tenure* (rental or ownership) comparability criterion, the 60 bed skilled nursing component of the Main Campus will be the equivalent of a rental model, *i.e.* residents pay a monthly fee for housing and services. However, because of the uncertainties in the financial and real estate markets the Foundation is unable to commit during the Development Agreement review to either a rental or ownership model for the 340 independent/assisted living units. Because of similar uncertainties, the Foundation

was also unable to commit during the Development Agreement review as to whether the Affordable Housing Component will be rental or condominium or another type of ownership model. The Commission finds that the local zoning overlay district for the Affordable Housing Component in place at the time of the Development Agreement review requires an ownership model.

AHF7. With respect to the *tenure* comparability criterion, the 2010-2014 Barnstable County HOME Consortium HUD Consolidated Plan (Plan) reported that the number of low income renters with housing problems had increased by 25% since 2000 (from 6,972 to 8,715) and that 79% of all low-income renters had a housing problem. The Plan identified rental housing for all age ranges as the region's top affordable housing priority. While the Plan identified ownership housing as the region's fourth (4th) affordable housing priority, the Plan also found that since 89.5% of households age 62 or over own their homes, age-restricted ownership housing was the region's lowest affordable housing need and that such projects would not be eligible to receive County HOME funds. The Commission did not receive the necessary information from the Foundation during the Development Agreement review to make a definitive finding of *tenure* comparability.

AHF8. The Commission finds that if the Foundation decides to use either a rental model at both the Main Campus and Affordable Housing Component, or an ownership model at both the Main Campus and Affordable Housing Component, then the Main Campus and Affordable Housing Component would be comparable with respect to the *tenure* comparability criterion.

AHF9. The Commission finds that if the Foundation decides to use an ownership model at the Main Campus, and a rental model at the Affordable Housing Component, then, per Section 5(e)(i) of the Development Agreement Regulations, the Commission finds that the creation of rental units helps address the region's priority affordable housing need, and that the inconsistency in the *tenure* comparability criterion is necessary is necessary to enable a substantial segment of the population to secure adequate opportunities for housing.

AHF10. The Commission finds that if the Foundation decides to use a rental model at the Main Campus and an ownership model at the Affordable Housing Component, then, per Section 5(e)(i) of the Development Agreement Regulations, the Commission finds that the inconsistency in the *tenure* comparability criterion is necessary is necessary to enable a substantial segment of the population to secure adequate opportunities for housing.

AHF11. Based on the information submitted for the record during the Development Agreement review, the Commission finds that MPS AH1.2 1.3, 1.4, 1.5, 1.7, 1.14, 2.4, and AH 3 are not applicable to this project.

AHF12. The Commission finds that it is appropriate to condition the Development Agreement to require the specific affordable housing-related information be provided for Commission staff review and approval prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit or prior to a Final Certificate and prior to issuance of a Certificate of Use/Occupancy for the relevant project buildings or Phases to ensure the Main Campus and/or Affordable Housing Component are in

compliance with other Affordable Housing MPS AH1.1, AH1.8, AH1.9, AH1.10, AH1.11, AH1.12, AH1.13, AH2.1, AH2.2, AH2.3.

AHF11. The Commission found the proposed project complies with MPS AH1.6 as the Affordable Housing Component to be located at 850 Falmouth Road is located within the Town of Barnstable.

Community Character

Heritage Preservation

CCHPF1. The Main Campus and Affordable Housing Component are located outside of any historic districts and there are no historic structures or cultural landscapes on the site. According to determinations received from the Massachusetts Historical Commission on December 29, 2008 and July 29, 2010, the overall project is unlikely to affect significant historic or archaeological resources. As such, the Commission finds the proposed project is consistent with HPCC MPS 1.3 related to heritage resource protection.

Building Design

CCBDF1. The overall project is to be constructed in at least three overall Phases, with the Main Campus to be built in at least three building phases. According to the Applicant's proposed phasing plan for the just Main Campus which is described in General Finding GF1, the first phase of construction would involve Buildings A, B and the Commons. Buildings A, B and Commons on the Main Campus will utilize an existing drive on the west side of the property. Later phases at the Main Campus will involve construction of Buildings C and D and the Skilled Nursing Building, as well as the new main entrance drive off of Independence Drive. The Affordable Housing Component is proposed to be part of Phase One of the overall project.

CCBDF2. The proposed Affordable Housing Component is the redevelopment of a now vacant 22,000 square foot former Whitehall Manor Nursing Home located at 850 Falmouth Road. The redevelopment of the site into the project's Affordable Housing Component includes the addition of a third story to the existing building, re-cladding the façade and a reconfiguration of the parking and landscaping on site. The Pavilion Rehabilitation and Nursing facility is located immediately to the west and rear of the property, with single-family residential homes to the east.

CCBDF3. The proposed structures in the Main Campus are large both in massing and in height, with Buildings A and B ranging from approximately 45 to 55 feet tall. The Commons Building is approximately 45 feet tall. Because of the Main Campus proposed development's size, the RPP requires it to be designed as multiple distinct massings differentiated by significant variations in roofline and building footprint, or to be fully screened. The Commission finds that the proposed first phase of development at the Main Campus provides full screening of the project from Independence Drive, but the full build of the Main Campus will eliminate this screening and will need to meet the requirement for design as multiple distinct massings with significant variation.

CCBDF4. MPS HPCC 2.6 requires structures with a façade over 50 feet in length to incorporate a minimum of 10 feet of variation in the façade for every 50 feet in length in an effort to reduce the apparent massing of the building. Looking at the proposed Main Campus buildings individually, the Commission finds that some aspects of the design may not meet MPS HPCC 2.6. The Independent Living structures are each designed in a

U-shape, which ensures some level of façade variation. Most of the shorter facades (approximately 100 feet in length) meet the variation requirement. The Commission finds the longest building facades (roughly 240 feet in length) do not incorporate enough façade variation to meet this standard, but they do include variation in roof form and materials to help break up the facade. The Commission also finds that some of these long facades will likely be screened from view during the first Phase of Main Campus development, by the vegetated buffer to Independence Drive. The longest facades on Buildings A and B will also be screened by Buildings C and D once they are constructed. In addition, when the Main Campus is viewed in its entirety as one large connected building, the Commission finds the significant setback of the Commons Building from Buildings A and B provides enough variation to meet the requirement. Given the project's location within an industrial area, where the RPP allows for some flexibility in design forms under standard HPCC 2.7, as long as the development is adequately screened, the Commission finds that the building design is consistent with these Community Character standards.

CCBDF5. The proposed building materials for the Main Campus are a combination of clapboard and shingle siding, either wood or wood simulated material. Given the project location, the Commission finds that either is acceptable. However, a final choice on exterior materials was not made by the Foundation during the Development Agreement review. As such, the Commission finds that it is appropriate to condition the Development Agreement to require Commission staff review and approval of the proposed materials prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each Phase of development at the Main Camps site to ensure consistency with RPP standards.

CCBDF6. In terms of building design for the Affordable Housing Component, although the addition of a floor to the existing building at 850 Falmouth Road, Hyannis results in the creation of a third floor, the Commission finds that the majority of the lowest floor is below grade and therefore the mass of the building has the appearance of a two-story structure from the street and west side, which is consistent with MPS HPCC2.4 that requires redevelopment projects to reflect the region's patterns of development including modest scales, mass and height. Because of the change in grade on the site of the Affordable Housing Component, the proposed building will appear to be three stories from the east side and portions of the rear of the property. The proposed east elevation shows that the building facade closest to the eastern property line incorporates a smaller massing with a lower ridge height closest to the adjacent residential uses. In addition, the design has minimal windows facing the adjacent residences to limit privacy impacts, and those that are proposed are within the stairwells rather than private units. Therefore, the Commission finds that the design approach taken is consistent with MPS HPCC2.4 in that the apparent mass, height and scale of the building have been reduced to have the minimal impact on adjacent residential uses and are consistent with the region's patterns of development.

CCBDF7. The building plans submitted for the Development Agreement review for the Affordable Housing Component indicate that asphalt shingles will be used on the roof, and in their July 27, 2010 letter, the Foundation indicate that the siding will consist of wood/cedar clapboard. Both of these exterior material choices are consistent with MPS HPCC2.4 for the use of traditional building materials.

CCBDF8. As a redevelopment project, the Commission finds that full screening (*i.e* a 200 foot landscape buffer or frontage buildings per MPS HPCC2.5) is not required of the Affordable Housing Component provided that the building footprint remains less than 50,000 square feet in area and occurs on previously disturbed areas. The Commission finds that proposed footprint of the redeveloped building will remain at approximately 22,000 square feet with the expansion occurring above the existing footprint. Based on this, the Commission finds that full screening of the Affordable Housing Component is not required per MPS HPCC2.5.

CCBDF9. MPS HPCC2.6 requires all new construction to incorporate variation in the massing, façade and roof structure and that building facades be varied such that there is 10 feet of variation for every 50 feet of façade with related changes in roof height. The Commission finds that the existing footprint of the Affordable Housing Component incorporates modest variations in the building façade and ends of the wings, with a more significant change in façade with the projected entrance area. The Commission finds that, based on the proposed plans submitted during the Development Agreement review that the design meets the required variation of this standard along the front elevation. The rear wing falls short of the required variation (for the 135-foot façade, 27 feet of variation would be needed, with only 14 feet provided). The Commission finds that this façade is not visible from the regional roadway, and notes that there is little opportunity to further vary the façade without significant canter levering of the upper story which would result in an unusual building form.

The roof design of the Affordable Housing Component incorporates cross gable roof elements and non-functional dormers that help to break up the large roof mass and also help to reduce the massing of the structure. The Commission finds that although parts of the existing footprint of the Affordable Housing Component building fall short of the required variation, that the variation in roof height, cross-gabled roof features, dormers and footprint configuration adequately vary the overall massing to meet the goal of this standard which is to reduce the apparent massing of the building.

Parking

CCPF1. MPS HPCC2.8 requires that all parking be located to the side and rear of buildings, unless such location would have a more adverse environmental or visual impact on the site. The majority of the proposed parking at the Main Campus is incorporated into the building design, with parking proposed on parts of two levels in Buildings A and B, and on the entire lower level of the Commons building. Buildings C and D are also proposed to have the entire first level devoted to parking. This incorporation of parking into the structures significantly reduces the parking footprint on the site, allowing for greater landscaping and screening of the project. The Commission finds that this parking design is fully consistent with RPP standards.

CCPF2. The proposed Affordable Housing Component redevelopment would result in 17 spaces being provided in front of the western wing of the project, in front of the building. Given the constraints of the site and the current location of the building footprint, the Commission finds that little opportunity exists to place the additional required parking spaces to the rear or side without placing these spaces closer to adjacent uses or in locations far from the building entrance. Therefore, the Commission finds that the parking is appropriately placed in this instance. MPS HPCC2.8 also requires that in cases where parking is placed in front of a building that an adequate landscape buffer must be maintained. The plans submitted during the Development Agreement review show a

small amount of landscaping to help screen this parking area but that this landscaped area did not provide an effective buffer. Therefore, the Commission finds it appropriate to condition the Development Agreement to require the proposed buffer be enhanced in a manner that is consistent with the requirements of HPCC2.8 and the related Commission's landscaping requirements.

Exterior Lighting

EXLF1. MPS HPCC2.11 stipulates certain standards for site and exterior building lights in all developments related to fixture type, shielding, and full cutoff, and sets a maximum initial foot-candle of 8.0. The Commission reviewed the exterior lighting information submitted for both the Main Campus and Affordable Housing Component, and finds that the exterior lighting design was in substantial compliance with MPS HPCC2.11 and the with the additional guidance provided in the Commission's Exterior Lighting Technical Bulletin 95-001 (as amended). The Commission also finds that certain aspects of the overall project's exterior lighting design needed to be changed to make it consistent with MPS HPCC2.11 and Technical Bulletin 95-001.

EXLF2. As such, the Commission finds that it is appropriate to condition the Development Agreement to require the proposed exterior lighting design of the Main Campus and Affordable Housing Component to be changed in manner so as to make it consistent with the requirements of MPS HPCC2.11 and Technical Bulletin 95-001, and to require Commission staff review and approval of the exterior lighting design that would be used for each building or project Phase prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building or project Phase. The Commission finds that it was also appropriate to condition the Development Agreement to so as to require a site inspection of the installed exterior lighting design be conducted by Commission staff for each building or project Phase prior to issuance of the relevant Final Certificate of Compliance and prior to issuance of the relevant Certificate of Use/Occupancy.

Landscape Design

LDF1. The Commission finds that the proposed use of native plants and drip irrigation at the Main Campus is in compliance with landscaping best management practices and MPS HPCC2.10. However, the Commission also finds that draft landscape plan submitted for the Main Campus during the Development Agreement review is conceptual in nature and does not specifically call out certain aspects of the design, such as quantities of plants and location of shrubs. Similarly, the Commission finds that the landscape plans submitted for the Affordable Housing Component during the Development Agreement review are missing information including the proposed plant quantities.

LDF2. The Commission finds that the plant lists for both the Main Campus and the Affordable Housing Component identifies planting of maples, cranberry, and blueberry plants, which can be susceptible to defoliation by winter moth, and therefore must be monitored for stress and possible eventual replacement. As such, the Commission finds that it is appropriate to condition the Development Agreement to require Commission staff review and approval of a written landscape maintenance agreement for each project Phase prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for each building, Phase or Sub-Phase. Additionally, the Commission finds that it is also appropriate to condition the Development Agreement to as well as to require the landscaping of the Main Campus, and Affordable Housing

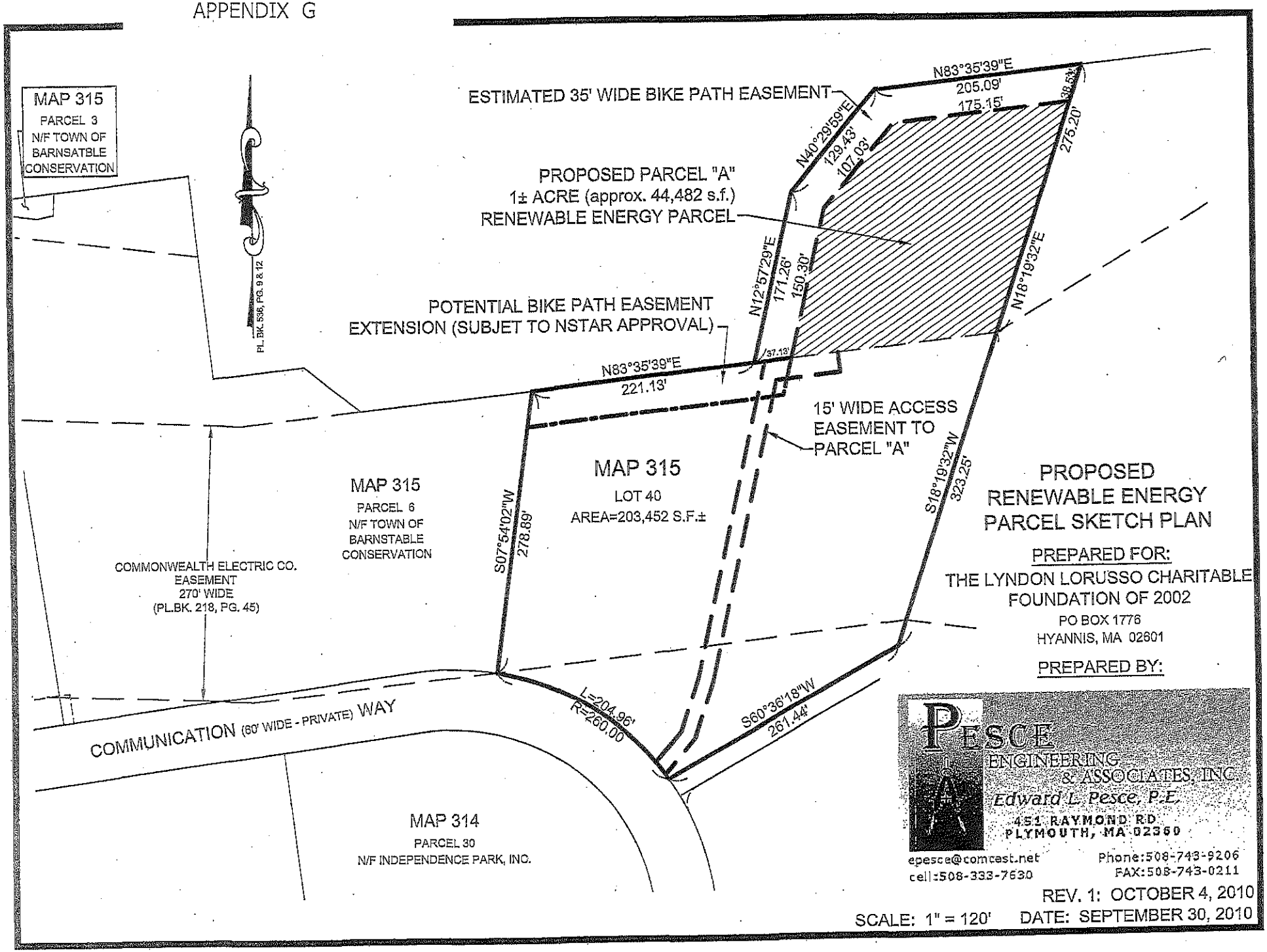
Component prior to issuance of a Final Certificate of Compliance and prior to issuance of a Certificate of Use/Occupancy for relevant buildings or project Phases.

LDF3. The Commission finds that in order for the project as a whole to be consistent with MPS HPCC2.10 regarding erosion control, and in order to minimize confusion in the field, that it is appropriate to condition the Development Agreement such that site plans to be used for construction of the Main Campus include a more detailed note referring to the *Detail Sheet* hay bale erosion control measure on the *Grading and Drainage* plan.

LDF4. Regarding the proposal to use rain gardens for stormwater management on the Main Campus, the Commission finds that the proposal to hydro seed these areas as too conceptual for a final submission, and therefore to bring the overall project into compliance with MPS HPCC2.10, the Commission finds that it is appropriate to condition the Development Agreement to require submission of a detailed planting plan with specific plants and separate details of the rain gardens to Commission staff for review and approval prior to the Preliminary Certificate of Compliance and prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit for the first Phase of project construction, and that it would be appropriate given the phased nature of the overall project that this requirement should be carried through to future project Phases, where appropriate.

LDF5. The Commission also finds that in order to meet the MPS HPCC2.10, it is appropriate to condition the Development Agreement to require that the Affordable Housing Component utilize native plantings and coordinate landscaping plans more closely to those proposed for the Main Campus, which uses native plants and includes a drip irrigation system.

APPENDIX G



PROPOSED RENEWABLE ENERGY PARCEL SKETCH PLAN

PREPARED FOR:

THE LYNDON LORUSSO CHARITABLE FOUNDATION OF 2002

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REV. 1: OCTOBER 4, 2010

SCALE: 1" = 120' DATE: SEPTEMBER 30, 2010

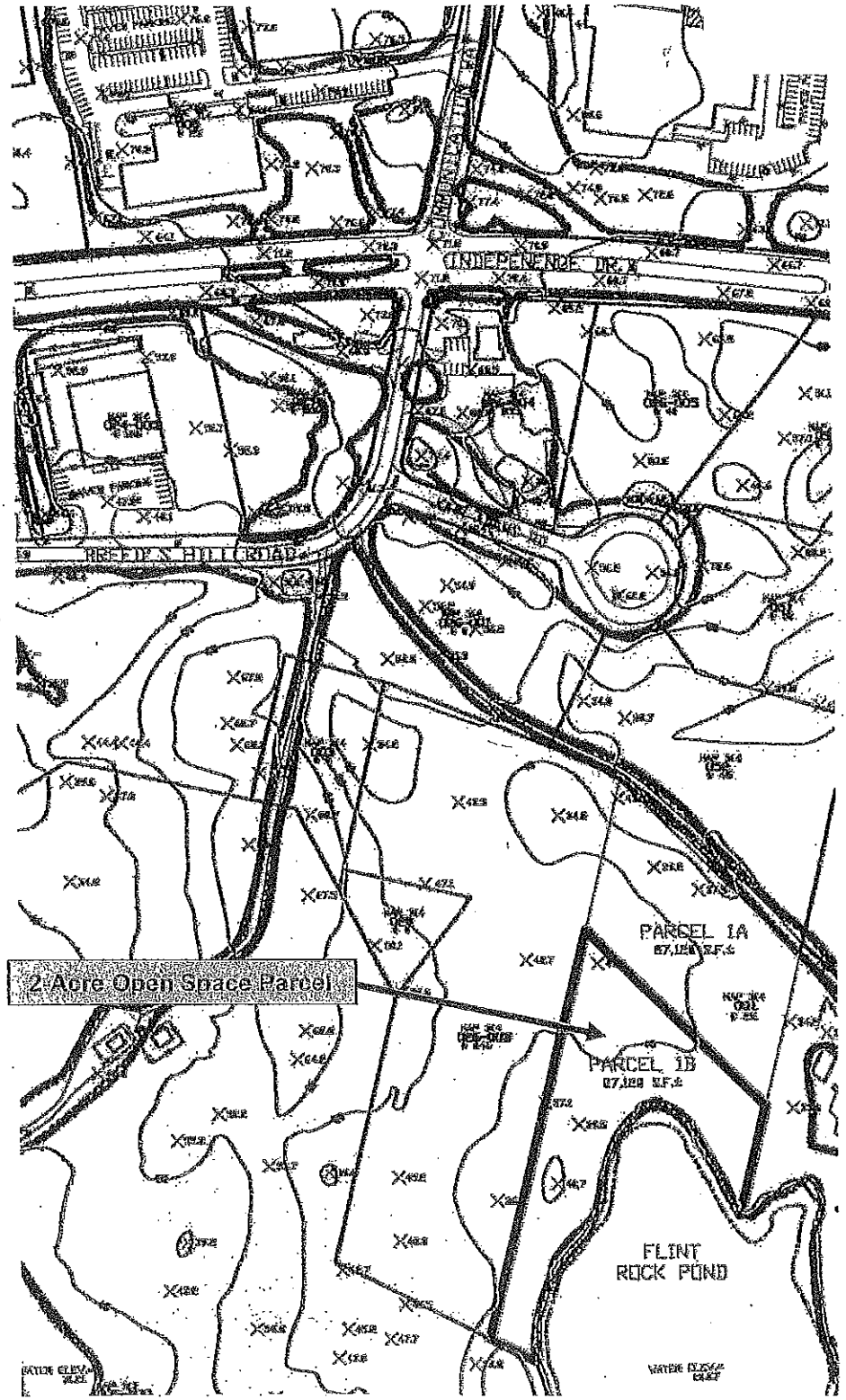
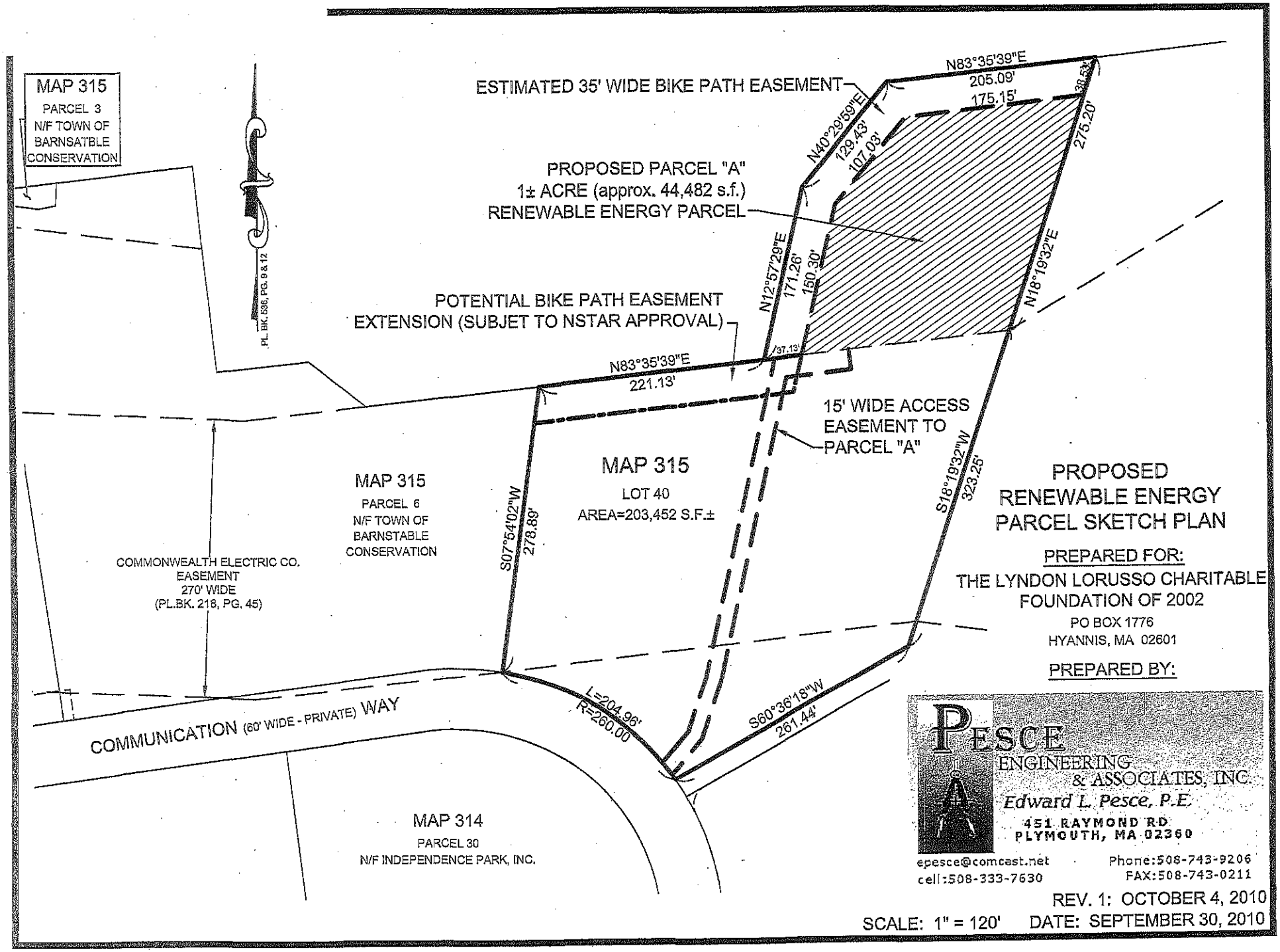


Figure 8
Proposed Open Space Parcel
The Village at Barnstable
Hyannis, Massachusetts
(Not to scale)

APPENDIX I



PROPOSED RENEWABLE ENERGY PARCEL SKETCH PLAN

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