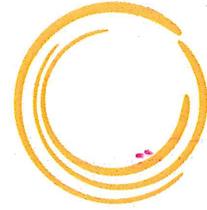


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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

Date: March 28, 2013

To: Attorney Andrew Singer
Law Office Of Singer & Singer, LLC
26 Upper County Road
Post Office Box 67
Dennisport, MA 02639

Re: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13
Cape Cod Commission *Enabling Regulations*, Sections 3 and 7

Applicants: Yarmouth Mayflower Place II, Inc. and Turino Associates LLC

Property Owners: Yarmouth Mayflower Place II, Inc.
Francis J. Dimento, Jr. & Holli V. McAuliffe, Trustees of Town Realty Trust
Francis J. Dimento, Jr. & Holli V. McAuliffe, Trustees of Town Realty Trust
Francis J. Dimento, Jr. & Holli V. McAuliffe, Trustees of Town Realty Trust
Francis J. Dimento, Jr. & Holli V. McAuliffe, Trustees of Town Realty Trust
Francis J. Dimento, Jr. & Holli V. McAuliffe, Trustees of Town Realty Trust
Yarmouth Mayflower Place II, Inc.

Project Name: Mayflower Place Expansion

Project Location: 579 Buck Island Road, West Yarmouth, MA
164 Route 28, West Yarmouth, MA
23 Mill Pond Road, West Yarmouth, MA
24 Mill Pond Road, West Yarmouth, MA
3 Evergreen Road, West Yarmouth, MA
7 Evergreen Road, West Yarmouth, MA
0 Route 28, West Yarmouth, MA

Project Number: TR-12035

Town Map and Parcel: Assessor's Map 45, Parcel 78 (579 Buck Island Road)
Assessor's Map 37, Parcel 82 (164 Route 28)
Assessor's Map 45, Parcel 51 (23 Mill Pond Road)
Assessor's Map 37, Parcel 85 (24 Mill Pond Road)
Assessor's Map 37, Parcel 83 (3 Evergreen Road)
Assessor's Map 37, Parcel 84 (7 Evergreen Road)
Assessor's Map 37, Parcel 82.1 (0 Route 28)

Barnstable Registry of Deeds/Land Court:

579 Buck Island Road: Lot D on Plan 8609-B, Certificate of Title #164296, and the west half of "Buck Island" (less the certain parcel sold to Maher) plus one additional acre, and Lot C in Plan Book 181, Page 89, Lots A, B, 1, 2, 3, 4, the fee in Bank Lane, the fee in the fifteen-foot path situated between Lots 13 and 14, all shown on a plan in Plan Book 181, Page 89, Lots 5 & 6 in Plan Book 45, Page 17, and a piece of cedar swamp (shown as Parcel II in Deed at Book 590, Page 511) all in Deed Book 14814, Page 281

164 Route 28: Lots 37, 38, 39 & 40 in Plan Book 45, Page 17, Deed Book 4646, Page 316

23 Mill Pond Road: Lot 7 in Plan Book 45, Page 17, Deed Book 4719, Page 224

24 Mill Pond Road: Lot 36 in Plan Book 45, Page 17, Deed Book 2224, Page 205 (Parcel II)

3 Evergreen Road: Lots 33 and one-half of 34 in Plan Book 45, Page 17, Deed Book 4616, Page 285

7 Evergreen Road: Lot 35 and one-half of Lot 34 in Plan Book 45, Page 17, Deed Book 8759, Page 306

0 Route 28: Parcel C in Plan Book 181, Page 89, Deed Book 14814, Page 281 (Parcel III).

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves, with conditions, the application of Mayflower Place II, Inc. and Turino Associates LLC as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Commission Act (Act), Chapter 716 of the Acts of 1989, as amended and Sections 3 and 7 of the *Enabling Regulations* (revised May 2011). This decision was rendered pursuant to a vote of the Commission on March 28, 2013.

PROJECT DESCRIPTION

According to the DRI application, the proposed project consists of a proposed expansion and redevelopment to Mayflower Place, an existing facility with independent living units and a skilled nursing home that dates to the 1980's. The proposed project includes the construction of a new, free-standing, 75 unit Memory Care facility; a new wing connected to the existing facility proposed to house 50 independent living units plus one (1) caretaker's apartment; and associated landscaping, parking, wastewater, drainage, and site upgrades. The project site is composed of the existing Mayflower Place campus; the adjoining site of the former Mill Hill Club; and several adjoining lots containing a total of four (4) single-family dwellings, two (2) detached garages, two (2) sheds, and an old foundation, the latter of which are all slated for demolition.

PROCEDURAL HISTORY

The project was referred to the Commission as a mandatory DRI by the Town of Yarmouth through Mark Grylls, Building Commissioner, on October 3, 2012. The application for a DRI was received by the Commission on October 15, 2012. The Applicant also provided additional

information on October 18, 2012, November 13, 2012, November 16, 2012, and November 19, 2012. On November 20, 2012, the DRI application was deemed substantially complete. In accordance with the Commission Act, the Commission is required to open the public hearing within sixty (60) days of the receipt of a DRI referral. This was done procedurally by Hearing Officer on November 30, 2012 at 10:00 AM at the Cape Cod Commission office. The first substantive public hearing on this project was held on December 17, 2012 at Yarmouth Town Hall. At the December 17, 2012 hearing, a Commission Subcommittee heard presentations on the project by the Applicant and Commission staff, and testimony from members of the public. The Subcommittee voted unanimously to continue the hearing and record to January 3, 2013 starting at 5:00 PM at the Assembly of Delegates Chambers, First District Courthouse, Barnstable. At the January 3, 2013 continued hearing, the Commission Subcommittee heard presentations on the project by the Applicant and Commission staff, and testimony from members of the public. The Subcommittee voted to continue the hearing and record to January 17, 2013 starting at 1:00 PM at the Cape Cod Commission office, 3225 Main Street, Barnstable. On January 17, 2013, the Commission Subcommittee held a continued public hearing, and heard presentations on the project by the Applicant and Commission staff, and testimony from members of the public. The Subcommittee voted unanimously to continue the hearing and record to January 31, 2013 starting at 5:00 PM at the Assembly of Delegates Chambers, First District Courthouse, Barnstable. On January 31, 2013, the Commission Subcommittee held a continued public hearing, heard presentations on the project by the Applicant and Commission staff, and testimony from Town officials and members of the public. The Subcommittee voted to continue the hearing and record to February 14, 2013 starting at 10:00 AM at the Commission offices to be continued again by a Hearing Officer to February 20, 2013 beginning at 4:00 PM at the Commission office. The public hearing was closed on February 27, 2013 by a hearing officer at Commission offices. The Subcommittee held a public meeting on March 14, 2013 to review a draft decision.

A Table of Materials Submitted for the Record	
<i>Materials from Cape Cod Commission</i>	<i>Date Sent</i>
Email, Andrea Adams (AA) to Attorney Andrew Singer (ASinger), and Lisa Perry (LPerry): Scheduling pre-application meeting on proposed new project	8/1/12
Email, Steven Tupper (ST) to AA w/attachments: Comments on scope of proposed traffic study <i>Attachments: 8/2/12 letter to Lori Shattuck, Vanasse & Associates</i>	8/10/12
Email, AA to Scott Michaud (SM), Glenn Cannon (GC), ST, Paul Ruchinskas (PR), Leslie Richardson (LR), Heather McElroy (HM), Phil Dascombe (PD), Sarah Korjeff (SK), Tabitha Harkin (TB) and Jessica Wielgus (JW): Pre-application meeting on project	8/10/12
Email, AA to Commission staff: Pre-application meeting	8/24/12
Email, AA to Commission staff w/attachments: Copies of materials received from ASinger <i>Attachments: 4 draft site plans</i>	8/27/12
Email, AA to Karen Green (KG) and Kathleen D. Williams (KW), Town of Yarmouth, with attachment: Copy of MP Renaissance DRI decision	8/29/12
Email, AA to KG: Scheduling meeting on project and site plan review comments	8/29/12
Email, AA to ASinger, KG and KW: Scheduling meeting	8/29/12
Email, GC to AA, ST, ASinger, KG, KW: Schedule conflict w/mtg	8/29/12
Email, AA to ASinger, KG, KW, GC, ST, LR, HM: scheduling meetings	8/30/12
Email, AA to KG, KW, GC, ASinger, HM, LR: Scheduling meetings	9/5/12

Email, GC to AA: Scheduling meetings	9/5/12
Color copy of Regional Land Use Vision Map for Yarmouth	Printed 9/10/12
Email, AA to LR, HM, GC: Confirm meetings	9/10/12
Email, GC to AA, ASinger, ST, KG, KW: Will attend meeting on 9/20/12	9/12/12
Email, AA to ASinger, KG, KW, ST, GC, HM, LR: Confirm meeting on project on 9/20/12	9/19/12
Email, AA to ASinger, KG, KW: Cape Cod Commission does not have a Chief Regulatory Office – Direct DRI referral to Andrea Adams	9/19/12
Email, AA to ASinger, JW, HM, KW: Referral of project and importance of keeping development out of wetland buffers	10/1/12
Email, AA to KW, Gail Hanley (GH), KG, Mark Grylls: Electronic copy of DRI referral	10/3/12
Email, AA to GH: Transmittal of electronic copy of referral	10/3/12
Email, GH to AA: Who should receive notice of referral	10/3/12
Letter, GH to ASinger and others with attachment: Receipt of DRI referral <i>Attachment: Referral Form</i>	10/4/12
Email, AA to GH: Instructions as to whom should receive notice of referral	10/4/12
Email, AA to Commission staff: Receipt of DRI application	10/16/12
AA: Estimated Fee calculation worksheets	Printed 10/17/12
Phone Log Sheet, AA: Telephone call to ASinger: DRI Fee estimate	10/17/12
AA to Maria McCauley: Copy of revised fee estimate and new fee check	10/18/12
Email, AA to Andrew Stebbins (AStebbins), Bennett LaFrance (BLaF): Discussion of exterior lighting	10/18/12
Email, PR to ASinger, AA: Questions on affordable housing	10/23/12
Email, LR to AA: Questions on businesses/Variety criterion	10/23/12
Email, AA to ASinger, LR: Questions on project	10/23/12
Email, SM to AA: Comments on application/Water	10/24/12
Email, James Sherrard (JS) to AA with attachment: Comments on application/Stormwater management	10/24/12
Email, AA to ASinger, JW: Preparing letter on application completeness	10/25/12
Email, AA to ASinger, SK, with attachment: HMC letter	10/25/12
Email, Ryan Bennett to AA: Application substantially complete/Energy	10/25/12
Email, ST to AA: Transportation staff completeness comments	10/25/12
Email, SK to AA: Community Character completeness comments	10/25/12
Email, AA to SK: Any comments on landscaping issues?	10/26/12
Email, HM to AA: Natural Resources and Open Space comments	10/26/12
Letter, AA to ASinger, KG, KW: Commission staff letter on Application/Not complete	10/30/12
Email, AA to ASinger with attachment: Commission staff letter on Application/Not complete	10/30/12
Email, AA to John H. McCormack, Jr., Yarmouth Commission Member: Date hearing must be opened on project	11/1/12
Email, AA to Commission staff: Copy of Completeness letter	11/1/12
Email, AA to RB: Contact ASinger to discuss Energy issues	11/1/12
Email, SM to ASinger, AA: Meeting to discuss Water Resources	11/1/12
Email, RB to ASinger, AStebbins: Energy issues	11/1/12
Email, GH to AA, JW: Noticing opening of DRI hearing	11/5/12

Email, GH to AA, JW, SM: Noticing of opening of DRI hearing	11/5/12
Email, GC to ST, AA: Email and attachments from LShattuck	11/7/12
Email, AA to KW, KG, PR, LR, Jonathon Idman (JI): Copy of two 10/23/12 Emails from staff to ASinger as part of completeness letter	11/7/12
Letter, GH to ASinger: Noticing of opening of DRI hearing	11/13/12
Email, RB to AStebbins, AA: Energy issues	11/13/12
Email, RB to AStebbins, Andrea Hester, AA: Energy issues	11/14/12
Email, AA to Commission staff: Completeness comments requested	11/14/12
Letter, with attachments, AA to ASinger: Application substantially complete <i>Attachments: Staff comments on draft nitrogen loading calcs</i>	11/20/12
Email, w/attachs: AA to ASinger: Copy of 11/20/12 letter on application	11/20/12
Email, AA to KG, KW: Town comments on DRI approval criteria	11/20/12
Email, AA to ASinger: Logistics of site visit for Subcommittee	11/20/12
Email, AA to Commission staff: Staff report comments requested	11/20/12
Letter, GH to ASinger: Cost of Hearing Notice for substantive hearing	11/28/12
Email, AA to Commission staff: Staff report comments needed	11/29/12
Hearing Notice: Procedural opening by Hearing Officer	11/30/12
Email, SM to DK: Water Resources discussion	12/3/12
Email, AA to PR, SM, JS: 12/3/12 Comment letter from ASinger	12/4/12
Email, SM to DK w/attachs: Water Resources calculation sheets	12/4/12
Email, AA to KW: Scheduling hearing and site visit	12/5/12
Email, AA to ASinger, KW, KG: Subcommittee members and drawings	12/5/12
Email, AA to ASinger, KW and KG: Scheduling hearing and site visit	12/7/12
Email, AA to ASinger, KW and KG: Scheduling hearing and site visit	12/7/12
Staff Report	12/10/12
Cover Memo, AA to Subcommittee: Transmittal of Staff Report and other materials for public hearing	12/10/12
Email, AA to KG, KW, JI: Copy of Staff Report	12/10/12
Email, AA to ASinger: Copy of Staff Report	12/10/12
Email, AA to HM, SM, ST, SK, GC, JI: Attendance at hearing	12/11/12
Hearing Notice: Substantive public hearing	12/17/12
Sign In Sheet from Hearing	12/17/12
Chair's Sheet for Hearing	12/17/12
Color PowerPoint Slides, Used by Commission Staff-Water Resources (11 Slides)	
Minutes from Public Hearing	12/17/12
Staff Power Point of staff report except for Water Resources	12/17/12
Staff Power Point of staff report Water Resources section	12/17/12
Email, AA to Eileen O'Connell, Facilities: Use of AOD chamber	12/17/12
Email, JI to ASinger: Request for copy of conservation easement	12/18/12
Email, GH to Jane Hibbert, Yarmouth Town Clerk: Copies of Continued Hearing notice and Subcommittee meeting notice	12/18/12
Email, AA to KG, KW, SM, JI: Copy of Commission staff Power Points used at 12/17/12 public hearing	1/2/13
Email, AA to Mark Thompson, JI, Kristy Senatori: Copy of 12/10/12 staff report	1/2/13

Email, AA to KW, JI, GH: Scheduling meetings/hearings	1/2/13
Email, AA to KW, JI, HM, SK: Scheduling meetings/hearings	1/2/13
Email, ST to AA: Transportation issues	1/3/13
Email, PR to AA: Affordable Housing issues	1/3/13
Continued Hearing Notice	1/3/13
Subcommittee Meeting Notice	1/3/13
Chair's Hearing Outline	1/3/13
Sign In Sheet from Continued Hearing	1/3/13
Minutes from Continued Public Hearing	1/3/13
Email, PR to ASinger, AA: Affordable Housing issues	1/4/13
Email, GH to Jane Hibbert, Yarmouth Town Clerk, Hearing Notice for continued hearing on 1/17/13	1/4/13
Email, HM to ASinger, AA: Discussion of open space calculations	1/8/13
Memo, AA to Subcommittee: Transmittal of material for 1/17/13 hearing: Draft Minutes of 1/3/13 continued hearing; 1/4/13 Email from PR to ASinger; 1/8/13 Email from HM, to ASinger; Copy of 1/3/13 Memo from KG with a 12/3/12 Memo from KW; Copy of 1/7/13 Memo from ASinger on MPS WM1.5; 1/7/13 Email from ASinger on open space; 1/9/13 Email from ASinger to PR; 1/10/13 Email from ASinger on open space with colored plan	1/10/13
Email, PR to ASinger, w/attachmts: Affordable Housing issues Attachments: <i>Guideform Notice of Eligibility for URA Relocation Assistance Residential Tenant</i> (4 pgs); <i>Federal Register</i> , Vol. 77, No. 100, 5/23/2012 Notices (3 pgs)	1/10/13
Email, HM to KG, KW, AA: Revised calculation of open space	1/10/13
Email, AA to ASinger: Sent HM Email on open space (1/10/13)	1/14/13
Email, AA to Subcommittee, JI: Sent PR Email on Affordable Housing issues and HM Email on revised open space calculations	1/14/13
Hearing Notice	1/17/13
Chair's Hearing Outline	1/17/13
Email, SK to KW, ASinger, AStebbins, AA: Discussion of community character issues, building and site design	1/17/13
Email, SK to KW, AStebbins, ASinger, AA: Discussion of community character issues, building and site design	1/17/13
Email, SK to KW, AStebbins, ASinger, AA: Discussion of community character issues, building and site design	1/17/13
Email, SK to KW, ASinger, AStebbins, AA: Discussion of community character issues, building and site design	1/17/13
Draft Issue Area Conditions: Landscaping, Exterior Lighting, Hazardous Waste/Solid Waste Management & Energy	1/17/13
Draft General Conditions	1/17/13
Draft Findings: Land Use, Economic Development, Hazardous/Solid Waste Management, Energy & Coastal/Marine Resources	1/17/13
Sign In Sheet from Continued Public Hearing	1/17/13
Minutes from Continued Public Hearing	1/17/13
Email, GH to Jane Hibbert, Yarmouth Town Clerk, Hearing Notice for continued hearing and Subcommittee meeting on 1/31/13	1/18/13
Email, PR to ASinger, AA, w/attach: Discussion of relocation assistance <i>Attachment: Draft relocation notice with corrections/changes</i>	1/22/13
Email, AA to ASinger: Water Resources issues	1/22/13
Email, SM to AA, JS: Water Resources issues	1/23/13

Email, JS to AA, SM, ASinger, DK: Separation to groundwater	1/23/13
Email, PR to ASinger, AA: Relocation assistance	1/23/13
Email, AA to ASinger, BLaF, JI: Changes to exterior lighting design	1/23/13
Email, SM to AA: Discussion with Town staff on water resources	1/24/13
Email, AA to SM, JS: Forward of Email w/attach from ASinger	1/25/13
Email, AA to ASinger, JI: Provide draft site plans for mailing	1/25/13
Email, SM to AA, DK, ASinger, JS, with attach: Nitrogen loading	1/25/13
Email, PR to ASinger, AA: Relocation assistance	1/25/13
Email, SM to AA, JS: Still need specific site plan from Applicant	1/25/13
Email, JI to ASinger, AA: Proposed draft finding about possible abandonment of Mill Pond Road	1/25/13
Email, SM to DK, AA, Tom Cambareri, JS: Still need certain information on Water Resources issues	1/28/13
Email, AA to Subcommittee: Transmit draft 1/17/13 Minutes	1/29/13
Email, AA to ASinger w/attach: Draft 1/17/13 Minutes	1/29/13
Email, AA to ASinger, JI, GC: Transpiration issues	1/30/13
Email, AA to ASinger, KG, KW, JI: Available for hearing on 2/14/13?	1/30/13
Email, AA to JI, SM, HM, LR: Transmit 1/30/13 letter from BOS	1/31/13
Email, AA to JI, GC, ST: Questions from KW on Transportation issues	1/31/13
Continued Subcommittee Public Hearing Notice	1/31/13
Subcommittee Meeting Notice (<i>Meeting not used by Subcommittee</i>)	1/31/13
Email, AA to KW: Receipt of questions on transportation; forwarded to Glenn Cannon and Steven Tupper and copied for record	1/31/13
Email, PR to ASinger, JI, AA: Affordable housing/relocation assistance	1/31/13
Email, JI to PR, ASinger, AA: Fixed amount for relocation assistance	1/31/13
Email, PR to JI, AA, ASinger: Discussion amount relocation assistance	1/31/13
Chair's Hearing Sheet	1/31/13
Continued Hearing Sign In Sheet	1/31/13
Document entitled <i>Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Natural Resources, Open Space, Community Character, and Transportation</i> (9 pages)	1/31/13
Document entitled <i>Draft Findings: Mayflower Place/Memory Care: Criteria for DRI Approval: Consistency with Local Requirements: LCP, Bylaws, DCPCs</i> (1 page)	1/31/13
Email, AA to GH: Next steps – Continue Hearing via Hearing Officer	1/31/13
Email, PR to ASinger, AA: Affordable housing/relocation assistance	2/4/13
Email, SK to AA: Revised architectural plans submitted?	2/4/13
Email, AA to ASinger: Are reduced size architectural the same as large?	2/4/13
Email, SK to KW, KG, ASinger, AStebbins, DKelly: Comments on Community Character, building and site design	2/4/13
Email, AA to KW, JI, KG, GC, HM: Response to KW questions of 2/1/13	2/4/13
Email, AA to Commission Staff: Continued hearing on 2/20/13	2/5/13
Email, AA to ASinger, KG, KW: Continued hearing on 2/20/13	2/5/13
Email, AA to Renie Harman: Update on project review	2/5/13
Email, AA to Renie Harman: Update on project review	2/5/13
Email, AA to ASinger: Attend Hearing Officer on 2/14/13 and urgency of getting information to staff as hearing/record must close by 2/27/13	2/5/13

Mayflower Place DRI Decision

March 28, 2013

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Email, AA to SM, SK, PR: Urgency of getting information to complete review soon as hearing/record must close by 2/27/13	2/5/13
Email, PR to ASinger, AA, JI, with attach: Affordable housing/relocation assistance	2/5/13
Email, GH to Jane Hibbert, Yarmouth Clerk, with attach: Hearing Notice for 2/14/13 Hearing Officer	2/6/13
Email, PR to ASinger, AA, JI: Affordable housing/relocation assistance	2/6/13
Email, PR to JI: Affordable housing/relocation assistance	2/6/13
Email, SM to DM: Urgency of getting requested Water Resources information	2/6/13
Staff Memorandum: Draft Findings – Mayflower Place/Memory Care: Criteria for DRI Approval – Potential Benefits and Detriments	2/6/13
Email, SK to AA: Comments from TH on landscape plan	2/6/13
Email, SK to AA: Comments from TH on landscaping	2/7/13
Email, AA to SK, TH: Update on project	2/7/13
Email, PR to ASinger, AA, JI: Affordable Housing/Relocation assistance	2/7/13
Email, SK to ASinger, KW, AStebbins, AA: Commission office without power. Delay in reviewing information.	2/13/13
Email, SK to AStebbins, KW, ASinger, AA: Building designs	2/13/13
Email, AA to ASinger, PR, JI: Paul Ruchinkas out – will be in touch	2/14/13
Email, AA to JI, SK: Guidance on draft Findings/Conditions	2/14/13
Email, AA to ASinger, JI: Draft cover page of draft decision – fill in necessary recording and ownership information	2/14/13
Hearing Officer Minutes	2/14/13
Email, PR to ASinger, AA, JI: Do not need more Affordable Housing information	2/15/13
Email, JI to ASinger, AA: Include ownership information and Registry information	2/15/13
Hearing Notice (Procedural Only/Hearing Officer)	2/14/13
Email, GH to Jane Hibbert, Yarmouth Town Clerk, AA, JI, w/attach: Continued Hearing and Meeting Notices for project for 2/20/13	2/15/13
Email, PR to AA: Draft Affordable Housing Findings and Conditions	2/19/13
Email, SK to AA: Draft Community Character Findings and Conditions	2/19/13
Staff Memo: Draft Findings – Mayflower Place/Memory Care: Criteria for DRI Approval – Potential Benefits and Detriments	2/19/13
Staff Memo: Draft Findings and Conditions: Mayflower Place/Memory Care – Affordable Housing, Community Character and Stormwater	2/20/13
Color PowerPoint Slides, Used by Commission Staff – Water Resources issues (Eight slides)	
Continued Hearing Notice (Subcommittee)	2/20/13
Meeting Notice (Subcommittee)	2/20/13
Chair's Outline of Continued Hearing	2/20/13
Hearing Sign In Sheet	2/20/13
Email, AA to GH: Next steps in Commission review	2/20/13
Email, AA to JI, SM, JS: Stormwater draft Findings and Conditions	2/21/13
Email, SK to AStebbins, KW, ASinger, AA: Corrected building plans	2/21/13
Email, AA to Renie Hamman w/attach: Project update Attachments: Draft Findings and Conditions in Affordable Housing, Community Character and Stormwater; Draft Potential Benefits/Detriments	2/21/13
Email, SK to AStebbins, KW, ASinger, AA, Andrea Hester: Two items to	2/25/13

include in the revised elevations/architectural	
Email, SM to AA: No response from David Kelly since 2/14/13	2/26/13
Email, AA to SK, ASinger, JI, KW, KG: Update on next steps	2/26/13
Email, AA to ASinger, JI, SK, SM, JS: Update on next steps	2/27/13
Email, AA to ASinger, JI: Copies for full Commission	2/27/13
Email, AA to ASinger, JI, SK: Found Email with latest architectural	2/27/13
Email, PR to ASinger, AA, JI: Relocation assistance Attachment: Proposed language of condition for relocation assistance	2/27/13
Hearing Officer Notice	2/27/13
Hearing Officer Minutes	2/27/13
Email, JI to ASinger, PR, AA: Affordable Housing conditions	3/1/13
Email, AA to ASinger: Final plan set references for draft decision	3/6/13
Email, AA to ASinger, JI: Draft Mayflower decision	3/6/13
Email, AA to ASinger, JI: Additional finding concerning possible abandonment of part of Mill Pond Road	3/6/13
Email, SK to AA: Draft Community Character Findings/Conditions	3/7/13
Email, SM to AA, JS: Questions on Water Resources	3/7/13
Email, JS to AA, SM: Draft Stormwater Findings/Conditions	3/7/13
Email, JI to AA, SM, JS: Comments on Water Resources conditions	3/7/13
Email, AA to ASinger, JI, SM, JS, PR: Comments on Attorney Singer's proposed corrections to draft decision	3/7/13
Email, AA to Subcommittee: Confirm meeting on 3/14/13	3/7/13
Email, AA to TH, SK, JI: Updated landscaping requirements	3/8/13
Email, PR to ASinger, AA, JI: Response to Attorney Singer's comments on Affordable Housing findings and conditions in draft decision	3/8/13
Email, AA to Reine Hamman: Treat draft decision as DRAFT	3/8/13
Email, AA to ASinger, JI: Copy of updated draft decision	3/12/13
Email, AA to Commission staff: Copy of updated draft decision	3/12/13
Email, Reine Hamman: Copy of Updated draft decision	3/12/13
Email, KW and KG: Copy of Updated draft decision	3/12/13
Email, PR to AA: Discussion of timing of Affordable Housing condition	3/12/13
Updated draft decision	3/12/13
Email, SM to AA: Discussion of timing of part of Water Resources condition 3	3/13/13
Email, AA to ASinger, JI, PR, SM: Discussion of changes to conditions	3/13/13
Meeting Notice (Subcommittee meeting)	3/12/13
Updated draft decision	3/14/13
Email, AA to SM, ASinger: Not seen updated draft plans dated 3/5/13	3/14/13
Chair's Sheet for Subcommittee meeting	3/14/13
Sign In Sheet for Subcommittee meeting	3/14/13
Minutes from Subcommittee meeting	3/14/13
Letter, GH to ASinger: Cost to publish notice in newspapers	3/18/13
Email, AA to Larry Fox: Status update on DRI review	3/19/13
Memo, AA to Subcommittee: Transmittal of draft Minutes and draft decision	3/21/13
Memo, AA to Commission: Transmittal of draft decision & other information	3/21/13
Email, AA to ASinger, KG, KW: Transmittal of draft decision	3/21/13

Email, AA to Renie Hamman: Changes to draft decision	3/26/13
Email, AA to ASinger, DK, JI: Use of Applicant boards at Commission meeting	3/26/13
Email, AA to Renie Hamman: Copy of draft decision	3/26/13
Power Point Slides: Presentation of Draft Written Decision	Used 3/28/13
Meeting Notice – Full Cape Cod Commission	3/28/13
Materials from Applicant	Date Received
Email, Attorney Andrew Singer (ASinger) to AA: Received Email	8/10/12
Email, ASinger to AA: Scheduling pre-application meetings	8/13/12
Email, ASinger to AA: Scheduling pre-application meetings	8/24/12
Email, ASinger to AA, KG, David Kelly (DK), w/attachments: Pre-application meetings, project description <i>Attachments: 4 Site Plans</i>	8/27/12
Email, ASinger to KG, AA: Other pre-application meetings w/Town staff	8/29/12
Email, ASinger to AA, KG, KW: Scheduling meetings	8/29/12
Email, ASinger to AA, KG, KW: Scheduling meetings	8/29/12
Email, ASinger to AA, KG, KW: Scheduling meetings	8/29/12
Email, ASinger to AA, GC, ST, LR, HM, KG, KW: Scheduling meetings	8/30/12
Email, ASinger to AA, GC, ST, LR, HM, KG, KW: Scheduling meetings	8/31/12
Email, ASinger to AA, KG, KW, George Allaire: Scheduling meetings	9/5/12
Email, ASinger to AA: Scheduling meetings	9/6/12
Email, ASinger to AA, GC, KG, KW: Scheduling meetings	9/7/12
Email, ASinger to AA, KG, KW: Confirm meeting	9/19/12
Email, ASinger to AA, KG, KW: Referral from Building Commissioner	9/19/12
Email, ASinger, to AA, KG, KW: Project plans being revised	10/1/12
Letter, ASinger, with attachments: DRI Application	10/15/12
Email, ASinger, to AA: Fee calculation and scheduling hearing	10/16/12
Email, Bennett LaFrance (BLaF) to AA, Andrew Stebbins (AStebbins): Exterior lighting information	10/18/12
Email, BLF to AA, ASinger: Cut sheet for pole mount fixture	10/18/12
Email, ASinger to AA: Will replace fee check and additional Energy information being dropped off	10/18/12
Email, AStebbins to AA, BLaF: Exterior lighting information	10/18/12
Copy of revised fee payment check	10/19/12
Email, ASinger to AA: Update on status of possible hearing dates?	10/24/12
Email, ASinger to AA, JW: Application completeness	10/24/12
Email, ASinger to AA: Follow up on questions on application	10/24/12
Email, ASinger to AA, DK, with attachment: MHC letter on impacts	10/24/12
Email, ASinger to AA: Received Commission staff completeness letter	10/30/12
Email, ASinger to AStebbins, AA, RB: Meeting on Energy issues	11/1/12
Email, ASinger to AA, JW, KW, KG: Application completeness	11/2/12
Email, w/attachments, Lori Shattuck (LShattuck) to Giles Ham (GHam), GC: 2 Supplemental transportation studies: Mayflower Place/Dementia Center	11/7/12
Email, ASinger to AA, SM, JS, DK, David Michniewicz (DM): Follow up to meeting with staff to discuss Water Resources	11/7/12
Email, ASinger to AA: Finishing supplemental submittal; Hearing date	11/13/12
Letter, with attachments, ASinger to AA: Responses to 10/30/12 letter on application completeness <i>Attachments: Colored plan of proposed open space,</i>	11/13/12

by Kelly Engineering Group, dated 10/10/12; New sign mockups showing location, configuration & lighting (4 pages); Design Narrative dated 11/9/12 with black/white samples of exterior and finishes; Letter on Energy, dated 11/9/12, TAT/AStebbins; Letter on Exterior Lighting, dated 11/9/12, TAT/AStebbins; Letter on Water Resources issues, dated 11/12/12, David Kelly; Letter on Transportation issues, VAI; First Amendment to Purchase and Sale Agreement, dated 10/5/12 between DiMento and Kesev Corporation	
Email, AStebbins to RB, AA, ASinger: Energy issues	11/13/12
Email, ASinger to AA: Transmittal of small size site plan set (12 sheets)	11/16/12
Email, ASinger to AA: Transmittal small size landscape plans (9 sheets)	11/16/12
Email, ASinger to AA: Copy of MHC response letter	11/16/12
Email, ASinger to AA: Solid waste/recycling programs	11/19/12
Email, ASinger to AA, Commission staff: Scheduling site visit	11/20/12
Email w/attachs, AStebbins, to RB, Andrea Hester, ASinger, AA: Energy info <i>Attachments:</i> 11/20/12 letter on energy audit; Target Finder Performance Results 11/20/12; Statement of Energy Design Intent dated 11/14/12; TAT Roof plan for Memory Care showing PV solar 11/14/12	11/20/12
Email, DK to SM: Nitrogen loading and Water Resources issues	12/3/12
Email, ASinger to AA: Supplemental responses to staff report <i>Attachments:</i> 12/3/12 cover letter; 12/3/12 Email from DM; 12/3/12 letter from Coastal/DM	12/3/12
Letter, DM to AA: Hard copy of 12/3/12 Email letter	12/4/12
Email, ASinger to AA, KW, KG: Site visit logistics; letter of municipal endorsement; perspective renderings coming; number of copies	12/5/12
Email, ASinger to AA, KW, KG, JI: Renderings of proposed buildings and supplemental memo on Hazardous Materials/Wastes	12/5/12
Letter, ASinger to AA: Hard copy of 12/5/12 letter and original Purchase and Sales Agreement for Mill Hill properties	12/6/12
Email, GH to GC, ASinger, Lori Shattuck, AA: Sight distance letter	12/13/12
Email, ASinger to DK, JI: 1987 Conservation Easement (4 pgs. unrecorded); Proposed open space plan; 1987 Conservation Easement plan	12/18/12
Email, ASinger to JI, AA: Draft Affidavit for Mr. Insoft to sign	
Email, ASinger to AA, JI: Affidavit signed by Mr. Insoft	12/27/12
Email, ASinger, to PR, AA: Letter and attachments on Affordable Housing <i>Attachments:</i> 1/10/12 Letter, Alan Hartstein, Elder Affairs, to Margaret Holmes, Mayflower Place and 1/11/12 Certificate – Certification of assisted living units	12/27/12
Email, ASinger to AA, JI, SM: 12/27/12 Letter from Kelly Engineering on water resources issues	12/28/12
Email, ASinger to AA, KG, KW: Info MPS WM1.5 for construction	1/7/13
Email, ASinger to HM: Recalculated open space numbers	1/7/13
Email, ASinger to PR, AA: Affordable Housing issues	1/9/13
Email, ASinger to HM, AA, DK with attachment: Recalculation again of proposed open space <i>Attachment:</i> Colored plan showing open space	1/10/13
Email, ASinger to PR: Discussion of affordable housing issues	1/16/13
Email, AStebbins to SK, KW, ASinger, AA: Discussion of community character issues, building and site design	1/17/13
Email, AStebbins to SK, KW, ASinger, AA: Discussion of community character issues, building and site design	1/17/13
Email, AStebbins to SK, KW, ASinger, AA: Discussion of community character issues, building and site design	1/17/13

Email, ASinger to PR, AA: Relocation assistance	1/23/13
Email, ASinger to AA: Revised landscape plans and exterior lighting	1/23/13
Email, ASinger to HM: Open Space dollar value calculation	1/23/13
Email, BLaF to AA, JI, ASinger: Exterior lighting mounts heights	1/23/13
Email, BLaF to AA, JI, AStebbins, ASinger: Exterior lighting	1/24/13
Email, BLaF to AA, ASinger, AStebbins, DK: Clarification of exterior lighting design changes	1/24/13
Email, w/attach: ASinger to AA, JI: Water Resources information	1/25/13
Email, ASinger to PR, AA: Relocation assistance	1/25/13
Email, DK to SM, ASinger, JS, AA, w/attach: Water Resources: <i>Attachment: 1/27/12 Memo from Kelly Engineering, Group</i>	1/25/13
Email, ASinger to JI, AA, KW, KG: Draft finding concerning possible abandonment of Mill Pond Road	1/25/13
Email, DK to SM, DM: Discuss Water Resources issues with DM	1/29/13
Email, ASinger to AA: Receipt of draft Minutes from 1/17/13	1/30/13
Email, ASinger to AA, KG, KW, JI: Proposed next hearing on 2/14/13	1/30/13
Email, ASinger to PR, JI, AA: Affordable housing/relocation assistance	1/31/13
Email, ASinger to PR, JI, AA: Affordable housing/relocation assistance	1/31/13
Email, ASinger to PR, JI, AA: Affordable housing/relocation assistance	1/31/13
Email, ASinger to PR, JI, AA: Affordable housing/relocation assistance	2/4/13
Email, ASinger to PR, AA: Affordable housing and relocation assistance	2/4/13
Email, ASinger to AA, KG, KW: Discussion of Hearing officer on 2/14/13 and next steps to gather additional information	2/5/13
Email, ASinger to PR, AA: Affordable housing/relocation assistance	2/5/13
Email, ASinger to PR, AA: Affordable housing/relocation assistance	2/5/13
Email, ASinger to PR, AA, JI: Affordable housing/relocation assistance	2/6/13
Email, ASinger to JI, AA, PR, JI: Affordable housing/relocation assist.	2/8/13
Email, AStebbins to SK, ASinger, AA, w/attchmts: Revised architectural	2/12/13
Email, DK to SM, AA, DM, ASinger, w/attachmt: Detailed response to water resources questions <i>Attachment: 2/11/13 letter</i>	2/12/13
Email, ASinger to AA, JI: Checking on status of project	2/12/13
Email, AStebbins to SK, KW, ASinger, AA: Discussion of revisions to architectural plans	2/13/13
Email, ASinger to AA, JI: Copy of corrected first page of draft decision showing owner, parcel information	2/16/13
Email, DM to SM, DK: Table of average daily wastewater flows	2/15/13
Email, DM to SM, ASinger, DK: Discussion of monitoring wells	2/22/13
Email, DM to SM, AA, ASinger, DK, w/attach: Letter and information on monitoring well depths	2/22/13
Email, AStebbins to SK, KW, ASinger, AA, Andrea Hester, w/attach: Revised architectural plan set (revised 2/12/13)	2/21/13
Email, ASinger to AA, JI, Lisa Perry: Was information received?	2/25/13
Email, ASinger to AA, JI, SK, KW, w/attachments: Most recent revised elevations from Andrew Stebbins (revised 2/12/13)	2/26/13
Email, ASinger to AA, PR, JI: Receipt of proposed relocation condition	2/28/13
Hard Copies, Large size plan sets: <i>Landscaping and Lighting</i> (dated 10/12/12, revised 1/24/13); <i>Site Development Plans</i> (dated 10/12/12, revised 1/23/13), <i>Architectural Plan Set</i> (revised 1/24/13)	2/28/13

Email, ASinger to AA, PR, JI: Discussion of relocation condition	3/1/13
Email, ASinger to AA, PR, JI: Discussion of relocation condition	3/1/13
Email, ASinger to AA, JI: Final draft architectural drawings from TAT Attachment: Plan set dated 10/12/12, latest revision 2/13/13	3/5/13
Email, ASinger to AA, JI: Landscape and Lighting plans, Hawk Design dated 10/12/12, latest revision of 1/24/13	3/5/13
Email, ASinger to AA, JI: Conservation Exhibit Plan	3/5/13
Email, ASinger to AA, JI: Sketch of alternative septic system location (to be withdrawn from consideration)	3/5/13
Email, ASinger to AA, JI: Citation for site plan set from Kelly Engineering for pages 1, 6A and 6B and remainder of set	3/5/13
Email, ASinger to AA: Citation for site plan set revised 1/23/13	3/6/13
Email, ASinger to AA, JI: Photographs of two materials boards dated 11/9/12	3/6/13
Email, ASinger to AA, JI: Energy materials for inclusion in citations in draft decision (previously submitted)	3/6/13
Email, ASinger to AA, JI: Energy materials for inclusion in citations in draft decision (previously submitted)	3/6/13
Email, ASinger to AA, JI: Energy materials for inclusion in citations in draft decision (previously submitted)	3/6/13
Email, ASinger to AA: Citation of draft final site plan set	3/6/13
Email, ASinger to AA, JI: Suggested corrections to draft decision	3/7/13
Email, ASinger to AA, JI, SM, JS, PR: Comments on testimony of KW concerning abandonment of Mill Pond Road	3/7/13
Email, ASinger to PR, JI, AA: Nursing care not part of IL units	3/8/13
Email, ASinger to AA, DK, JI: Water Resources condition WRC3	3/12/13
Email, ASinger to AA, JI: Affordable Housing conditions timing	3/12/13
Email, ASinger to AA, JI: Seeking feedback on his comments on draft decision	3/13/13
Email, ASinger to AA, DK, JI, PR, SM: Will discuss with his client	3/13/13
Email, ASinger to AA, JI: Updated plans on CD	3/14/13
Email, ASinger to AA, DK: Copies of Applicants materials for use at full Commission meeting	3/22/13
Email, DK to ASinger, AA: Copies of Applicants materials	3/22/13
Materials from Federal, State and Local Agencies	Date Received
DRI Referral Form, signed by Mark Grylls (MG), w/attachments: <i>Attachments:</i> Site Plan Review Application; Project Description; Property Owners/Addresses; Site Plan Review Comments; Large Size Plan Set	10/4/12
Email, Karen Green (KG), Director of Community Development, to Kathy Williams (KW), Town Planner and AA: Sample municipal endorsement letter	11/15/12
Email, KW, to AA, ASinger, KG, Jonathon Idman (JI): Logistics of reserving a room for the substantive public hearing	11/26/12
Email, KW to AA, ASinger, GG, w/attachmts: <i>12/4/13 Memo on the project's consistency with LCP & bylaws; 12/3/12 Memo of technical comments</i>	12/4/12
Letter, KW to AA: <i>12/4/12 Memo on LCP & bylaws (hard copy)</i>	12/4/12
Email, KW to AA, ASinger, KG: Logistics of hearing	12/5/12
Email, KW to AA, ASinger, KG, w/attach: Municipal Endorsement	12/5/12
Memo, KW to AA: <i>12/3/12 Memo of technical comments (hard copy)</i>	12/10/12
Email, Brian Dudley, MA DEP to SM: Water Resources issues	12/14/12
Email, KW to AA, SM, JI, KG: Scheduling meetings	1/2/13
Email, KW to AA, KG, Kerry Muldoon, JI, GH: Scheduling meetings	1/2/13

Letter, KG to Subcommittee: Town of Yarmouth Updates on open space, Grist Mill property maintenance <i>Attachment: 12/3/12 Memo from Kathy Williams, Town Planner</i>	1/3/13 (at Hearing)
Email, KG to AA, SM, KW: Water Resources questions	1/23/13
Email, KW to ASinger, JI, AA: Draft finding about possible abandonment of Mill Pond Road	1/28/13
Email, KW to ASinger, KG, Kerry Muldoon, AA: Copy of Board of Selectmen's 1/30/13 comment letter on project	1/30/13
Email, KW to AA, ASinger, KG: Outcome of discussions with Police and Fire Departments: Light Tower and Speed Sign	1/31/13
Email, KW to SK w/attachs: Reduced size copies of architectural plans and comments on design of Independent Living building	1/31/13
Email, KW to AA, KG: Questions on open space mitigation monies, transportation mitigation monies, confirmation that 1/30/13 BOS letter was distributed to Subcommittee, and comments on light tower/speed sign	2/1/13
Email, KW to AA, SK, ASinger, AStebbins: Revisions to architectural drawings are acceptable	2/13/13
Email, KW to AA, KG: Summary of next steps in Commission review?	2/25/13
Email, KW to SK, AA, AStebbins, ASinger, Andrea Hester: Did not receive latest Email with revised elevations – Too large for system	2/25/13
Materials from General Public	Date Received
Email, Renie Hamman to AA: Question about continued hearing on 1/17/13	1/8/13
Email, Renie Hamman to AA: Seeking project update (Attached to Commission staff response)	2/15/13
Email, Renie Hamman to AA: Seeking copy of draft decision	3/8/13
Email, Renie Hamman to AA: Understands decision is DRAFT	3/8/13
Email, Renie Hamman: Request for updated draft decision	

TESTIMONY

December 17, 2012 Public Hearing

Attorney Andrew Singer, representing the Applicant, gave a presentation on the project. He referred to an aerial photo with the development proposal superimposed on it during his presentation. He introduced the Applicant's project team. Attorney Singer said the proposal was to add independent living units to the main Mayflower Place campus and construct a new building for memory care at the site of the Mill Hill Club and 4 adjacent houses. He said there would be no changes to the existing Assisted Living and Nursing Home facilities on the main Mayflower Place campus. He noted upgrading the Mill Hill Club site was a potential project benefit, as well as taking the Title 5 flows from the to-be demolished houses and sending those flows to the Mayflower Place treatment plant. Attorney Singer said the project offered economies of scale in terms of use of existing onsite amenities by the new independent living residents on the campus. He noted the Town of Yarmouth would receive additional tax revenue. He noted the proposed deed restricted affordable units. He said the Applicant had received a municipal endorsement (by the Selectboard) of the overall project on 12/4/12. Attorney Singer said the project would not have adverse impacts on freshwater or the Wellhead Protection Area on the main campus. He said the Applicant had coordinated with the Massachusetts Department of Environmental Protection on the issue of the Mayflower Place wastewater treatment plant and Wellhead Protection Area. He noted that renderings of the buildings once constructed had been submitted, showing views from public streets and screening. He said the Applicant anticipated a "no take" letter from the Massachusetts Natural Heritage and Endangered Species Program (NHESP) related to a rare wetland plant species associated with the swamp on the other side of Buck Island Road. He said the Applicant had suggested placing a Conservation Restriction on 25+/- acres of land currently under a conservation easement as a way to address the Regional Policy Plan's open space requirements. Attorney Singer said the Applicant was willing to work with the Town to help maintain the grounds around the Baxter Grist Mill. He noted the

proposed project was not a high traffic generator, and that the Applicant had proposed a trip reduction program.

Mr. David Kelly, project engineer, provided a review of the project plans. He used the same aerial photos in his presentation as Attorney Singer. He noted the Subcommittee had made a site visit to both locations prior to the hearing. He said the project design is the result of input from Town and Commission staff. He said the main campus was approximately 40 acres and the Mill Hill site and adjoining properties constituted a little over 2 acres. He noted the main campus site was constrained by wetlands, a brook and plant species associated with these resources, and that the new building had been sited to be out of the wetland buffer areas. He noted the proposed new Independent Living building complied with Yarmouth's zoning, and said the proposed parking areas in total are the minimum necessary (217 total, 21 new) to meet the overall campus need.

Mr. Kelly described the Mill Hill Club site and the proposed new memory care facility. He noted that 3 abutting single family homes as well as a fourth, unoccupied house, sheds and an old foundation were proposed to be demolished as part of the site redevelopment. He described the proposed new building and access. He noted it had been set back from Route 28 to provide more of a vegetated buffer to Route 28. Mr. Kelly said the Applicant proposed to share parking with the Grist Mill site. He noted the solid waste/recyclables generated by the memory care facility would be handled by the existing programs at Mayflower Place. Mr. Kelly said that wastewater from the new building would be conveyed by a force main to Mayflower Place's existing treatment plant.

Mr. Bennett LaFrance, Hawk Design, the landscape designer, explained the goal of the landscaping for each project component. He used the same aerial photos in his presentation as Attorney Singer. He said the goal for the landscaping on the main campus was to expand the existing lush landscaping of trees, rhododendrons and other plants, and to integrate the new building into its surroundings. He said the landscape materials included a mix of native and non-native, non-invasive plants taken from the Cape Cod Cooperative Extension service lists. He said the existing wastewater treatment plant would be screened with new plantings. On the proposed new memory care facility, Mr. LaFrance said the goal was to screen the parking lot and Route 28. He said large plantings were used, and the grade change was taken advantage of to provide screening.

Mr. Andrew Stebbins, TAT, the project architect, described the design themes of the two buildings. He used the same aerial photos in his presentation as Attorney Singer, as well as perspective drawings showing street views and drawings showing the interior floor plans of both buildings. Mr. Stebbins said he had met with Town Boards and Commission staff to develop the building designs. He said the massing and exterior treatments of the proposed new building on the Mayflower Campus mimic that of the already existing buildings. He noted the building had been rotated to pull development out of the wetland buffer area based on Commission staff comments. He showed perspective drawings of Buck Island Road to illustrate the 30-foot vegetated buffer that would remain. On the memory care facility, Mr. Stebbins said its shape was largely driven by the needs of residents. He noted the room layout is circular, and the interior courtyards, both of which are designed for the benefit of memory impaired residents. He said the shape of the building also allows for more landscaping along the Route 28 and Town Brook Road frontages.

Andrea Adams, Senior Regulatory Planner presented the staff report using a PowerPoint presentation. She began with a description of the existing setting and gave a description of the proposed project. Ms. Adams described the Commission's jurisdiction and the standards for a Development of Regional Impact review and approval. Ms. Adams turned the presentation over to Mr. Michaud to provide the staff's comments on Water Resources issues.

Mr. Michaud, using PowerPoint slides, summarized the Water Resources section of the staff report. He said he would address the key Water Resources standards. He said he was presenting new information tonight. He said the first standard was MPS WR2.3 which prohibits wastewater treatment facility discharges in Zone IIs/Wellhead Protection Areas established by the DEP, and reflects certain conditions

including 180 days of drought and maximum well pumping. He said this prohibition is in place unless that wastewater discharge is remedial. He said the present facility is permitted to discharge 25,000 gallons per day (GPD) (Title 5 flow) in a Zone II to the Hyannis/Maher wells. He said the proposed project proposes to increase the discharge to 44,000 GPD for the expanded facility and new memory care units.

Mr. Michaud showed a colored slide, which located the proposed project site, the Mayflower Place wastewater treatment plant, the proposed memory care facility, the Zone II line and the direction towards the Maher well field. He noted the wastewater treatment plant site was within the Zone II. Mr. Michaud noted the sewage from the proposed memory care facility was to be sent for treatment to the existing wastewater treatment facility on the Mayflower Place campus.

Mr. Michaud said staff suggests the Subcommittee needed to make a determination on MPS WR2.3 and that there are two options:

1. Require the project to remediate existing water quality problems in the approved Zone II, *e.g.* treat wastewater from existing nearby properties in accordance with MPS WR5.2 or
2. Could consider invoking the Flexibility Clause, whereby the Subcommittee would whereby the Commission would need to find that the proposed use will not be more detrimental to the protected resource than would be allowable under MPS WR2.3.

Mr. Michaud showed a slide of modeling results prepared for the Applicant to demonstrate that the project is not in areas that contribute to the Maher wells. He said this material should be in the Subcommittee's packets. Mr. Michaud displayed a more detailed, zoomed slide which indicates that under Zone II assumptions, the Mayflower Place site is outside of the area that contributes to the Maher wells.

Mr. Michaud said he had spoken to Mr. Brian Dudley of DEP last week, and that the DEP had not altered the Zone II delineation. Mr. Michaud said Mr. Dudley said the state regulations provide DEP with discretion in the application of effluent limits in approved Zone IIs. Mr. Michaud said DEP staff suggested that the Zone of Contribution (ZOC) that the Applicant's consultants have modeled is the appropriate basis for requiring effluent limits that are less stringent than limits that would otherwise required by DEP for discharges in approved Zone II areas.

Mr. Michaud showed another colored slide with the Zone of Contribution delineated on it. He said this indicates the Mayflower Place wastewater treatment plant is not contributing to the Maher wells.

With respect to surface water quality and coastal/Marine Water Recharge Areas, he said that MPS WR3.1 prohibits net nitrogen increases to the Lewis Bay system. He said the nitrogen load from existing uses amounts to 378 kilograms-N per year (kg-N/yr). Mr. Michaud said the project's proposed nitrogen load 551 kg-N/yr, which results in an increased nitrogen load of 173 kg-N/yr which the project needs to offset to meet MPS WR3.1.

Mr. Michaud said Applicant also needed to look at options for offsetting surface water quality impacts. He said MPS WR3.4 provides options, including 1) improved treatment of wastewater from other properties, 2) a monetary contribution of \$1,550 per kg-N/yr for the Town to use in wastewater management planning, or 3) to provide offsets using prior land uses (*e.g.* former Mill Hill Club). Based on this, he said staff has suggested that actual water-use information could be provided from the Mill Hill Club to inform any Commission decision using a prior offset from that use.

Mr. Michaud said another key MPS was compliance with RPP section WR6. He said this section pertains to wastewater treatment facilities. He said the project will need to meet MPS WR6.2 which means either 5 ppm-N limit in wastewater effluent, or in groundwater at the property boundary through groundwater monitoring. Mr. Michaud noted the staff report details technical information that the Applicant should provide to the Subcommittee.

Finally, Mr. Michaud said staff suggests that the project does or will meet MPS WR1.1 & WR2.1, including the 5 milligrams per liter (ppm-N) site wide limit. He said that the Applicant has provided an inventory which indicates that MPS WR2.2 will be met. He also noted that with respect to RPP Section WR7, which addresses stormwater management, staff suggests that the project could be conditioned to meet these MPS.

Ms. Adams summarized the Hazardous and Solid Waste Management staff comments. Ms. Adams summarized the staff report's Energy comments. Ms. Adams reviewed the criteria for DRI approval. She said on criterion was that the probable benefit from proposed development must be found to be greater than probable detriment. She said that staff suggests project meets some Best Development Practices including BDP AH1.16, BDP WPH1.8, BDP TR1.10, and BDP TR2.16, which can be used as guidance on the project's probable benefits. Ms. Adams said the staff also seeks Subcommittee's direction on probable benefits and probable detriments. Ms. Adams said other approval criteria include consistency with applicable Districts of Critical Planning Concern, with the municipal development Bylaws, and with the Town's Local Comprehensive Plan. She noted these issues were addressed in a 12/4/12 Memorandum from Kathleen D. Williams, Town Planner.

Ms. Taylor asked about the relative cost structure of the units versus that recommended by the state Department of Housing and Community Development (DHCD), particularly for the proposed affordable memory care units.

Mr. Ruchinskas said that the Applicant was proposing to use the same rent and services pricing methodology for the affordable memory care units as the Commission approved for the memory care units for the MP Renaissance DRI in Brewster. For the independent living affordable units, the Applicant proposed to use the same methodology as was used for MP Renaissance's assisted living units. Mr. Ruchinskas noted that Mayflower Place would be providing independent living, and not assisted living, units and that DHCD used a different methodology for calculating the affordable rent and service charges for these units. He said the difference in methodologies account for the different affordable monthly rent and services amounts noted in the staff report.

Ms. Taylor encouraged the Applicant to have further discussions on the open space issue, suggesting that protection of the land currently under a conservation easement was problematic given the RPP's prohibition on protection of previously protected open space. She suggested the Applicant seek input from the Town as to what alternatives they might prefer.

Attorney Singer noted the Applicant was willing to work with the Town to help maintain the Baxter Grist Mill.

Ms. Taylor noted the staff report comments on the appropriate sod mixes, and asked if the Applicant had changed these in their draft design?

Mr. Kelly said yes, these had been changed.

Ms. Taylor said she hoped the Applicant would consider use of more drought-tolerant, pest resistant plantings, and that any pesticides that were applied should be done so via the root zone.

Mr. LaFrance agreed with Ms. Taylor that root-zone application of pesticides was preferable, and suggested this stipulation could be included in the maintenance contract.

Ms. Taylor asked if the project included landscape irrigation systems, and ones which in particular sensed soil humidity?

Mr. LaFrance said irrigation systems were part of the overall design, but the systems specified at this point sensed rainfall, not soil humidity.

Ms. Taylor asked for clarification as to whether the Mayflower Place campus was still located in a Wellhead Protection Area/Zone II or whether this had been re-delineated? She asked if the DEP would accept the Zone of Contribution (ZOC) idea?

Mr. Michaud said that the Zone II area had not been re-delineated. He suggested that the difference between the Zone of Contribution and the Zone II may be because this is a relatively old delineation. Mr. Michaud said the DEP is relaxing the requirements for Zone II based on the ZOC. He said nitrogen loading will increase in the Zone II but that the Maher Wells are not within the Zone of Contribution to the wastewater effluent from the Mayflower Place campus.

Ms. Taylor asked about the project's nitrogen loading level, which she thought was 5.6 PPM.

Attorney Singer said it would be less than 5 PPM.

Mr. Michaud said the Applicant is allowed to average the flows, which brings the loading below 5 PPM.

Ms. Taylor asked about the proposed landscape plant list, and suggested the Applicant include more Red Cedar, Beach or blueberry and other food-bearing plants.

Mr. McCormack asked about the date of the original conservation easement?

Attorney Singer said it dated to May 11, 1987.

Mr. McCormack asked how much additional tax revenue the Town might realize with the proposed project?

Attorney Singer suggested it would be on the order of \$218,000 annually.

Mr. McCormack asked if there was a nitrogen loading offset because the project was going to better treat wastewater from the old Mill Hill Club site and the adjoining houses?

Mr. Michaud said the issue was that in doing so, the project was importing nitrogen from outside the Zone II area to inside the Zone II area.

Mr. Richardson asked if the homes to be demolished as part of the project are occupied?

Attorney Singer said some of them currently are.

Mr. Richardson asked if the occupants would be provided with relocation assistance?

Attorney Singer said the Applicant is working with the land lord on these issues.

Mr. Ruchinkas addressed the requirements of MPS AH2.4, concerning relocation assistance. He said the requirements include notice at several points in the proceeding to demolition, assistance with moving costs, and potential additional rental support payments if there is a difference in the current and future rent.

Mr. Richardson asked about the number of parking spaces at the front of the memory care building?

Mr. Kelly said there would be seven (7) total spaces, 5 regular and 2 for disabled people.

Mr. Putnam asked for an estimate of how long it would take the trees shown in the renderings to reach the size shown in the renderings?

Mr. LaFrance suggested it would take about 10 years.

Mr. Virgilio asked for comments from Federal, State, or Local officials, hearing none, he asked for public comments, using the sign-in sheet.

Ms. Sandra Blackman, Yarmouth resident, said that in the 1980's, she worked with Mr. Insoft as part of a housing management company. She talked about a facility he built next to the Museum of Fine Arts in Boston, noting he has high standards for the developments he builds, and this translates into the care of residents living there. She said she moved to the Cape in 2006, and said there is a significant need for memory care units, particularly affordable ones. She noted the Mill Hill Club is an eyesore, and that the site's redevelopment will be a significant improvement.

Ms. Eileen Monroe, Yarmouth, said the proposed facilities are needed. At the same time, she said she was a direct abutter at 4 Race Road, and was concerned about traffic impacts, and noise/odors from the proposed sewage pump station.

Mr. Virgilio asked the Applicant to briefly address Ms. Monroe's concerns.

Attorney Singer said the Applicant had met with Ms. Monroe before, to discuss her concerns.

Mr. Kelly said the final location of the pump station had not been chosen. At the same time, he said such facilities are sub-surface, and produce no noise or odors. He suggested the Applicant would discuss this in more detail with Ms. Monroe.

Mr. Edward Blackman, Yarmouth, said he also knows Mr. Insoft's work. He said he was the Chair of Yarmouth's Housing Authority, and said Mr. Insoft was a leader and pioneer in the field of assisted and independent living housing. He said a key part of the current project is the inclusion of affordable units, which are important to Yarmouth.

Ms. Greene said the Town would like to provide further input to the Subcommittee as it continues its deliberations. However, given the holidays, she suggested that may not be possible in time for the proposed January 3, 2013 hearing continuance. She suggested the Subcommittee therefore entertain a further continuance of the hearing as needed, after January 3, 2013.

Mr. Virgilio asked for further testimony. Hearing none, he asked for a motion on the continued hearing.

Mr. Roy moved to continue the hearing and the record to January 3, 2013 starting at 5:00 PM at the First District Courthouse, Barnstable, Assembly of Delegates Chamber. Mr. McCormack seconded the motion, and it was approved unanimously.

January 3, 2013 Continued Hearing

Ms. Andrea Adams, Senior Regulatory Planner noted the materials distributed to the Subcommittee. She suggested the Subcommittee hear presentations from Commission staff and then responses from the Applicant. She suggested the first Regional Policy Plan (RPP) issue area where Commission staff had an update was Community Character.

Ms. Sarah Korjeff, Historic Preservation Planner, updated the Subcommittee concerning a meeting she had had with Kathy Williams, Yarmouth's Town Planner and Andrew Stebbins, the Applicant's architect, at 3:00 PM today to discuss the site and building design elements of both the proposed addition to Mayflower Place and the new Memory Care facility, including the length of the facades and their limited variation. Ms. Korjeff said they had also discussed how one of the elevations and roof plans were not consistent, and that the Applicant is in the process of revising these plans. She said screening was also discussed relative to the need for additional façade variation. Ms. Korjeff suggested the Commission and Town staff were waiting for some additional concepts and plans from the architect to address these and other comments raised in the 12/17/12 Commission staff report, as well as issues raised by Kathy Williams in her comment Memo.

Attorney Singer said Mr. Stebbins, the architect, would take this feedback and work on revisions to the project plans to address the points Ms. Korjeff raised. He said this would hopefully be done before the next hearing.

Mr. Virgilio and Mr. Putnam requested that the Applicant's revised drawings or plans be provided more in advance of the next hearing or meeting, so that both the Subcommittee and Commission staff would have an opportunity to review them in more detail.

Attorney Singer agreed, in that other plans would be updated based on the discussion that resulted from this hearing.

Ms. Adams also said Commission staff was trying to include Town staff in meetings, so that Town issues could also be addressed.

Mr. Virgilio said this kind of coordination with the Town was excellent.

Attorney Singer said the Applicant would also incorporate revisions requested by Ms. Williams, Yarmouth's Town Planner, in her 12/3/12 Memo into the revised plan set.

Mr. Paul Ruchinskas, Affordable Housing Specialist, said there were two issues that still needed to be discussed with Attorney Singer, and one additional piece of data. The first issue was the affordability level for the rent/service charges for the 5 proposed affordable Independent Living units. He suggested the rent/service charges package for the Memory Care units was, in his analysis, resolved. Mr. Ruchinskas said the second issue was provision of relocation assistance to the three households scheduled to be displaced by the proposed project. Mr. Ruchinskas noted that Attorney Singer would be meeting with him on Monday, 1/7/13 to discuss these issues. He said that he was seeking data from the Applicant on the sizes of the Independent Units, in that there are 3 different unit sizes, and one of these 3 is below the State's minimum size. So, he said Commission staff needed to see the distribution of the unit sizes, so that Commission staff could make a recommendation to the Subcommittee as to how to proceed.

Mr. Putnam asked about the information in Attorney Singer's 12/27/12 letter on Affordable Housing concerning the number of affordable units?

Attorney Singer said the proposed project was offering a total of 13 new affordable units. He said at the existing Mayflower Place facility, there are currently no affordable units. He said the 10 units noted in his letter are because the State just classified up to ten (10) of the Independent Units at the existing facility as Assisted Living Units.

Ms. Heather McElroy, Natural Resources Specialist, addressed Open Space issues. She said that Ms. Williams had pointed out that the calculation of disturbed area had not included existing or proposed parking areas. Ms. McElroy said that based on this, the calculation of disturbed area to open space needed to be redone. She said the Mayflower Place site was located in an area mapped as Significant Natural Resources Area, so the RPP stipulates an open space set-aside of two times the developed area. Ms. McElroy said that the Applicant would likely not have sufficient property on site to provide the required amount of open space mitigation. She noted that the Applicant had initially proposed to add areas on the Mayflower Place property to a Conservation Easement area created as a result of the permitting and development of the facility in the 1980's. Ms. McElroy said Commission staff had reviewed the Conservation Easement language, and have determined that it is a Conservation Restriction. Ms. McElroy noted the Easement/Restriction had not been recorded, but since it was in fact a Conservation Restriction, there would be no real additional protection to the land area covered by this Easement/Restriction if the document was recorded. Ms. McElroy suggested that the Applicant would be short in the amount of required open space per the RPP, and suggested it could be addressed through protection of additional off-site land or an equivalent cash contribution. Ms. McElroy also noted

that the Conservation Restriction did not allow for the existing or proposed parking for the Memory Care building, and that the applicant should address this issue.

Ms. Taylor asked if the Town had expressed a preference for either protection of additional off-site land or an equivalent cash contribution?

Ms. McElroy said Town representatives were present at the hearing, and could speak to this issue. She noted, however, that mitigation funds for open space relative to DRI review were for purchase of land, not for property maintenance.

Ms. Taylor asked if the Applicant chose to provide a cash contribution, could those monies be given to the Town's Community Protection Committee for open space? She asked if this would provide some flexibility in how the monies were actually spent?

Ms. McElroy said that was something the Subcommittee could possibly consider. She described the process by which mitigation monies are held in escrow by the County Treasurer, and disbursed to the Town when the Town had a distinct project, in this case, land purchase. Ms. McElroy noted, however, that monies for land purchase and monies for property maintenance were distinct issues.

Attorney Singer said the Applicant was in discussions with the Town on maintenance of the Grist Mill property. He noted the area around the Grist Mill and the land subject to the Conservation Easement has not been maintained. He suggested one of the issues being discussed was the Applicant providing funds to maintain the vegetation, clean up trash that has accumulated in the open space area, and to maintain the trail down to the Grist Mill site. Attorney Singer agreed that the existing Conservation Easement does not provide for the Grist Mill parking lot.

Mr. David Kelly, Kelly Engineering, said the current calculation of developed/disturbed area does not include the existing and proposed parking areas. He said the area of disturbance will be re-calculated and the figures provided to the Commission.

Ms. Adams noted that while maintenance of the Grist Mill property, such as fixing the split rail fence or vista pruning could not be counted towards meeting the project's open space requirements subject to the Regional Policy Plan, she also suggested this work, if done or supported by the Applicant, could still perhaps be seen as a benefit of the project.

Mr. Scott Michaud, Hydrologist, addressed the Water Resources issues. He said the first issue related to the Wellhead Protection Area/Zone II, and that the Subcommittee should deliberate on the possible use of the Flexibility Clause with respect to the wastewater treatment plant. He noted that Mr. Kelly's 12/27/12 Memo addresses this issue in detail.

Mr. Michaud said the second issue related to the required nitrogen offset for Lewis Bay. He said he had reviewed the Applicant's revised nitrogen loading calculations provided in the 12/27/12 Memo from Kelly Engineering, and still needed to discuss them further with Mr. Kelly.

He said a third issue, but related to nitrogen loading in Lewis Bay, was whether or not there was any nitrogen credit attributable to the Mill Hill Club. He noted the Subcommittee would need to deliberate on this issue. He noted the Applicant was unable to provide any water use data, and that the Commission's practice was to allow a maximum five years of "look back." Mr. Michaud noted the Club had been defunct and closed for at least 8 to 10 years.

Mr. Michaud said the fourth issue related to a plan to monitor effluent in groundwater. He said this also needed to be discussed in more detail with the Applicant's consultants, but noted the overall project would have to achieve either 5 PPM in wastewater effluent in groundwater at the down-gradient property boundary.

Mr. Kelly noted that the Mill Hill Club had been shuttered for some time. He acknowledged that the last water meter reading done by the Town was in 2007/2008. He also said that there were no records on file with the Town pre-dating 2004. At the same time, Mr. Kelly noted the Club had a 12,200 gallon per day onsite system, which could be rehabilitated and reused for a new use. He said the Applicant believes there is a nitrogen offset of approximately 160 Kg/year attributable to the Mill Hill Club. He noted that with the proposed project, this old system would be taken off line, and the effluent sent to a better treatment system, with monitoring.

Ms. Taylor asked Mr. Michaud and Mr. Kelly to clarify the figures in Attachment A of the 12/27/12 Memo from Mr. Kelly. She noted a figure of 35 mg/liter. She asked for clarification.

Mr. Kelly said this figure is the nitrogen load for the three houses to be removed. He said the calculations use existing and Title 5 flows, and the difference is between real and peak flows.

Mr. Michaud said Title 5 flows are peak flows. He said these are averaged with actual flows, if available. He noted the flows at the existing Mayflower Place facility were likely to be relatively consistent throughout the year.

Mr. Kelly said the actual flows are approximately 40% of the Title 5 flows.

Mr. Michaud said the Commission's practice has been to average the flows, but also to compare Title 5 to Title 5 flows, and actual to actual flows.

Mr. McCormack asked if the five year "look back" was in the Regional Policy Plan?

Mr. Michaud said this has been standard practice by the Commission. He also noted that future use of a could be a low wastewater flow generator. He said the issue of nitrogen credits from the Mill Hill Club was something the Subcommittee needed to deliberate on. As a point of information, he said the 160 kg/year of additional nitrogen from the proposed project translated to approximately \$250,000 as a cash off-set using \$1,550 per kilogram if no credit was given for the Mill Hill Club.

Mr. Virgilio asked for comments from Federal, State, or Local officials.

Ms. Karen Greene, Yarmouth's Director of Community Development, distributed a copy of a 1/3/13 Memo to Commission staff. She said the Town wanted time to have input from Town Boards, such as the Open Space Committee, and the Board of Selectmen about whether off-site land or a cash contribution was preferred.

She said the Town was continuing to work with the Applicant on the open space and maintenance of it and the site around the Baxter Grist Mill. She suggested this could include removing accumulated trash, mowing, vista pruning, and invasive species removal.

Ms. Taylor asked what the invasive species was – perhaps Phragmites? She also asked where it was located?

Ms. Greene said some was located on the existing Mayflower Place property.

Attorney Singer, using large size photos of both sites, said the issue of invasive species removal had been discussed with the Town. He suggested the Phragmites was located relatively close to the Grist Mill, in the South Hawes Road area. He said the Applicant was looking into the cost of removal and the permitting issues associated with it.

Attorney Singer also noted the Applicant was discussing the possibility of closing Mill Pond Road. He noted, however, the current project under DRI review did not specifically include this, so if Mill Pond

Road was eventually closed, the Applicant would seek a modification of the DRI decision, should the project be approved.

Ms. Greene said providing the Town with help in maintaining the Grist Mill property was a benefit to the Town.

Mr. Virgilio asked for further testimony using the Sign In sheet. Hearing none, he asked for a motion on the continued hearing.

Mr. McCormack moved to continue the hearing and the record to January 17, 2013 starting at 1:00 PM at the Cape Cod Commission office, Barnstable. Mr. Putnam seconded the motion, and it was approved unanimously.

January 17, 2013 Continued Hearing

Ms. Andrea Adams, Senior Regulatory Planner noted the materials distributed to the Subcommittee. She suggested the Subcommittee hear presentations from Commission staff and then responses from the Applicant. She suggested the first RPP issue area where Commission staff had an update was Community Character.

Ms. Sarah Korjeff, Historic Preservation Planner, updated the Subcommittee concerning a meeting she had on line with Kathy Williams, Yarmouth's Town Planner and Andrew Stebbins, the Applicant's architect, to continue to discuss the site and building design elements of both the proposed addition to Mayflower Place and the new Memory Care facility. Ms. Korjeff said she thought the revised design for the Memory Care facility was very close to meeting the RPP requirements. She said, however, Commission and Town staff still needed to see final draft plans for this building and the proposed Independent Living building. She said they had also discussed screening along Buck Island Road related to disturbance connected to the Independent Living building.

Attorney Singer said the goal was to create one final draft package of community character related plans by the end of the week of January 21st. He said Mr. Stebbins, the architect, would continue to work with the Commission and Town staff. He said that there would be an area of vegetation left in place along Buck Island Road relative to the proposed Independent Living building, but if that vegetated buffer was impacted, the Applicant would provide more screening.

Mr. Paul Ruchinskas, Affordable Housing Specialist, gave an update. He said that in terms of the concern about the distribution of units in the Independent Living building, the number of affordable units will be at the same distribution as the market rate units. He indicated that a consensus had been reached on the base rent for the Independent Living units. Mr. Ruchinskas said the remaining issue to be resolved concerned the tenant relocation plan and how to provide notice to existing tenants to be displaced by the proposed project.

Attorney Singer said the matter of tenant relocation is somewhat complicated because the Applicant for the proposed project must coordinate with the landlord. He said he would continue to work with Mr. Ruchinskas to resolve this issue.

Mr. Putnam asked how many units would be affected by the displacement of existing tenants?

Attorney Singer said the three single family homes to be demolished could be affected.

Ms. Heather McElroy, Natural Resources Specialist, addressed Open Space issues. She said Attorney Singer had provided a revised Open Space plan showing proposed additional areas of on-site open space; areas not currently within the Conservation Easement/Restriction area. She said the project still fell short in the amount of open space required to be set aside according to RPP requirements, by about 13,000 square feet. Ms. McElroy said the Applicant could address the shortfall via a cash contribution, and using data from the Yarmouth Assessor's office, the amount of the cash contribution was approximately \$33,000 for 0.42 acres. She said this proposal still needed to be discussed with Town staff.

Attorney Singer said the Applicant had agreed in principal to meet the shortfall in the project's open space requirement via a cash contribution. He suggested it was a matter of finalizing the number attributed to the cash contribution. On a related matter, Attorney Singer said the Applicant was still discussing with the Town ways to support the Baxter Grist Mill. He acknowledged this could be seen as a potential project benefit, rather than as compliance with the Minimum Performance Standards. He also acknowledged that any open space contribution that resulted from the project could be used for open space purchases per the RPP, not to maintain the Grist Mill property.

Mr. Roy asked about the possible closure of Mill Pond Road and changes to the proposed parking area that would result from the road closure?

Attorney Singer said this was still being discussed with the Town. He indicated that if the road was closed and the parking area shifted, assuming the project was approved, the Applicant would seek a modification through the Commission.

Ms. Taylor asked Attorney Singer to go over the new, revised Open Space plan.

Attorney Singer said the green cross-hatched represents new open space areas. He said the blue area represents existing land subject to the Conservation Easement, which will become a Conservation Restriction. He said the red represented disturbed area.

Attorney Singer and David Kelly, Kelly Engineering, asked for direction from the Subcommittee on the Water Resources issues. They said it was important, because the direction the Subcommittee would take would significantly influence the amount of nitrogen loading mitigation. Attorney Singer said Mr. Kelly and Mr. Michaud had discussed at the last hearing the potential for a nitrogen credit resulting from the removal of the septic system at the Mill Hill Club site and those for the four houses to also be demolished.

Ms. Adams said Commission staff acknowledged the potential for change in the amount of potential nitrogen loading mitigation, but that staff was not prepared to discuss this issue today, because staff was still waiting for the Applicant to confirm the nitrogen loading calculations. She suggested that the Subcommittee could perhaps discuss this in concept, but indicated that Commission staff was working to provide the Subcommittee with more information on this issue at the next hearing, including potential draft motions. She noted it was a significant issue because it may require the Subcommittee to consider the Flexibility Clause.

Mr. Kelly said the Applicant agreed with the Commission staff's calculations. He discussed the proposed nitrogen offset that could result if the Applicant was allowed to take credit for the existing Mill Hill Club septic system.

Ms. Adams suggested Transportation issues could be dealt with through a series of conditions. She also suggested that there was a need for the Subcommittee to discuss several Water Resources related issues, including the Zone II/Zone of Contribution issue, whether or not the Applicant should be given any credit for the existing Mill Hill Club septic system and four existing houses, and what would the nitrogen mitigation amount be. She noted that the Subcommittee also needed to discuss the Transportation issues.

Mr. Roy asked about the treatment plant on the Mayflower campus? Was it going to expand as a result of the proposed project? Did it have excess capacity?

Mr. Kelly said it had a design flow of approximately 25,000 gallons per day. Mr. Kelly and Mr. Michniewicz, Coastal Engineering, both said there would probably be minor modifications to the plant's equipment, but no expansion was needed to handle the new flows.

Mr. Kelly suggested that with the proposed project, the plant's capacity would be built out.

Mr. McCormack noted one of the issues to be discussed what the length of the look-back related to the Mill Hill Club septic system. He asked what the average usage of the treatment plant was?

Ms. Adams said yes, this was one of the issues for the Subcommittee to consider in terms of whether or not the Applicant should be given any "credit" for nitrogen from that system.

Mr. Roy asked if the Applicant had considered taking off-site flows as a way of addressing the nitrogen loading issue and will there be any excess capacity in the plant?

Attorney Singer noted the proposed project included taking the flows from the four residences and the Mill Hill Club to be demolished.

Mr. Michniewicz noted the proposed Mayflower and Memory Care project would take the system to its design capacity.

Mr. Michaud clarified the distinction between the basis for the nitrogen loading calculations and the permitting of the plant. He said the Department of Environmental Protection may permit a different flow than what the Cape Cod Commission's nitrogen loading calculations are based on.

Mr. Michniewicz said that the flows average about 11,000 gallons per day based on system monitoring records over the past 5 years.

Mr. Virgilio asked for testimony from Federal, State and local officials.

Ms. Karen Greene, Yarmouth's Director of Community Development, said the Town staff was having ongoing discussions with the Applicant about support for and maintenance of the Grist Mill property. She said Town staff would seek direction from the Selectmen on this issue by the end of January, most likely at the January 29th Selectmen's meeting.

Mr. Virgilio asked for additional public testimony from other members of the audience. Hearing none, he asked Commission staff about next steps.

Ms. Adams directed the Subcommittee's attention to the three documents on draft Findings and Conditions for the proposed project. She said these documents articulate those Regional Policy Plan issue areas where it appears that issues have either been resolved, or the RPP issue areas, such as Coastal Resources/Marine Resources, that do not apply. She went over the documents page by page, highlighting the various findings and conditions.

Mr. Putnam moved to direct Commission staff to begin drafting a recommended decision to the full Commission. Mr. Roy seconded the motion, and it was unanimously approved.

Mr. Roy moved that the Subcommittee make the Findings as enumerated in the document entitled "*Draft Findings: Mayflower Place/Memory Care – Land Use, Economic Development, Hazardous/Solid Waste Management, Energy and Coastal/Marine Resources,*" dated January 17, 2013 as presented at the continued hearing. Mr. Putnam seconded the motion, and it was unanimously approved.

Mr. Putnam moved that the Subcommittee make the General Conditions as enumerated in the document entitled "*Draft General Conditions: Mayflower Place/Memory Care Facility,*" dated January 17, 2013 as presented at the continued hearing. Mr. McCormack seconded the motion and it was unanimously approved.

Ms. Taylor asked Commission staff how the issue of watersheds, such as Lewis Bay was being dealt with? Should these be dealt with under the Coastal issue area? What about hazardous materials impacts to watersheds?

Ms. Adams said the Regional Policy Plan's Coastal Resources issue area deals with physical impacts to coastal resources, like building on dunes. She said the Marine Resources issue area deals with physical structures in the marine environment, like cables and pipelines. Ms. Adams said the RPP regulates the quantity of Hazardous Materials in Wellhead Protection Areas/Zone II or in Potential Public Water Supply Areas.

Mr. Putnam moved that the Subcommittee make the Issue Area Conditions as enumerated in the document entitled "*Draft Issue Area Conditions: Landscaping, Exterior Lighting, Hazardous Waste/Solid Waste Management, and Energy – Mayflower Place/Memory Care*," dated January 17, 2013 as presented at the continued hearing. Mr. Roy seconded the motion, and it was unanimously approved.

Mr. Virgilio asked for a motion on the continued hearing. Mr. Roy moved to continue the hearing and the record to January 31, 2013 starting at 5:00 PM at the First District Courthouse, Assembly of Delegates Chamber, Barnstable. Mr. Putnam seconded the motion, and it was approved unanimously.

January 31, 2013 Continued Hearing

Ms. Andrea Adams, Senior Regulatory Planner noted that the full Cape Cod Commission had just voted to do away with the need to administer an oath to those testifying in all DRI proceedings except for those proceedings that involved the Energy Facility Siting Board. Ms. Adams noted the materials distributed to the Subcommittee. She suggested the Subcommittee hear presentations from Commission staff and then responses from the Applicant. She suggested the first Regional Policy Plan (RPP) issue area where Commission staff had an update was Affordable Housing.

Mr. Ruchinkas, the Commission's Affordable Housing Specialist, gave an update. He said he thought the Commission staff and Applicant were in agreement on almost all the issues. He said the issue still being discussed was the maximum amount of assistance for relocation of tenants displaced by the proposed project.

Mr. Putnam asked what the maximum dollar amount would potentially be?

Mr. Ruchinkas, referring to the Federal Uniform Relocation Act, said it could be as much as \$15,000 per displaced household, and suggested that based on the discussions with Attorney Singer to date, there might be as many as two (2) households displaced by the proposed project.

Attorney Singer acknowledged the issue of relocation of displaced persons was complex. He said he understood that the Federal Act set a maximum of \$5,250 per person. He said he disagreed with Mr. Ruchinkas that some of the other requirements in the Act applied in this case. Attorney Singer also noted that only some of the people to be displaced by the proposed project would be eligible for relocation assistance. He noted that at least one person living in one of the houses to be demolished was not current on their lease payments. Attorney Singer said he was working with the Landlord to not displace the current tenants yet until the relocation assistance issue had been worked out. He suggested a mitigation payment of \$15,000 per displaced tenant was excessive.

Mr. McCormack asked Mr. Ruchinkas if he believed he and Attorney Singer could come to a consensus on the issue that could then be brought before the Subcommittee for consideration?

Mr. Ruchinkas said the issues were complex, but expressed optimism that he and Attorney Singer could reach a consensus on a mitigation cost in the near future.

Mr. Virgilio asked Commission staff to present the next update.

Ms. McElroy, the Commission's Natural Resources Specialist, provided an update on the open space issues. She said the Applicant and staff had come to an agreement on the configuration and amount of open space to be protected. She said the Applicant had agreed to address the short-fall in the amount of

new open space to be protected on site by providing a cash contribution. Ms. McElroy said the amount of the cash contribution, using the Yarmouth's Assessor's data, was \$33,000.

Attorney Singer said the Applicant was in agreement on this.

Ms. Taylor asked if the Town of Yarmouth had agreed to the open space mitigation proposal?

Ms. McElroy said she believed so; and suggested this could be addressed in the public comment part of the hearing by a comment from Yarmouth's Town Planner, Ms. Williams.

Attorney Singer said the Town really wanted the open space monies to be used for maintenance of the Baxter Grist Mill property. He said the Town and Applicant understood that the monies could not be used for this purpose. He said the monies for open space, and for transportation related mitigation would be held by the County, but were designated for use in Yarmouth.

Ms. Adams said yes; the open space monies were to be used to purchase open space in Yarmouth. She suggested the transportation related mitigation monies were to be used inside the project's Study Area, which in this case, was entirely within Yarmouth. Ms. Adams said she would also check with the Commission's Transportation staff to verify how the monies were to be utilized.

Mr. Virgilio asked Ms. Williams if she had anything to add?

Ms. Williams said not at this time.

Mr. Virgilio asked Commission staff to present the next update.

Ms. Adams said the next Regional Policy Plan (RPP) issue area to be discussed was Water Resources.

Mr. Michaud said Commission staff was looking for direction for the Subcommittee on a three Water Resources issues. He said one issue was that the RPP prohibits wastewater discharges in a Wellhead Protection Area/Zone II. Mr. Michaud said there was discussion that contributing areas to Hyannis wells would not include this project. He said the Subcommittee needed to deliberate relative to compliance with Minimum Performance Standard (MPS) WR2.3.

Ms. Adams suggested the Subcommittee could deliberate on this matter now, as the Subcommittee had in the record the testimony and other information that showed the delineation of the Wellhead Protection Area/Zone II and the zone of contribution developed to demonstrate to the Massachusetts Department of Environmental Protection (DEP) that effluent/nitrogen from Mayflower Place's wastewater facility did not reach the Hyannis wells. Ms. Adams said the Subcommittee had to discuss whether or not to consider use of the RPP Flexibility Clause.

Attorney Singer said the most recent plans relocate the new leaching field so that it is outside of the mapped Wellhead Protection Area/Zone II, which he suggested would make the issue Ms. Adams was discussing unnecessary. He said, however, moving the new leach field would necessitate ripping up a parking lot.

Mr. Michaud said staff would want to review the new plans and the alternate layout of the leach field.

Ms. Adams suggested that if the proposed change does lessen or reduce the impact to the Wellhead Protection Area/Zone II, it may obviate the need to invoke the Flexibility Clause, as use of the Flexibility Clause should only be used in rare cases.

Mr. Virgilio said the Commission staff should study this new information and report back to the Subcommittee.

Mr. Kelly said the new leach field would move closer to the down-gradient wetlands, but outside the Wellhead Protection Area/Zone II.

Mr. Michaud said there is a standard in the RPP which prohibits discharges within 300 feet of a pond. He said staff would want to review this as well.

Mr. Putnam questioned the size of the Mill Hill Club septic system? He asked if this would be credited to the current Applicant?

Ms. Adams said this was the next question for the Subcommittee to deliberate on.

Mr. Michaud said the Mill Hill Club is located outside of the Wellhead Protection Area/Zone II. But, the wastewater from the proposed new Memory Care facility would be pumped up to the current Mayflower Campus' treatment plant, which would increase a discharge in a Wellhead Protection Area/Zone II based on earlier site plans from the Applicant.

He said the second standard the Subcommittee was considering was the No Net Increase in nitrogen loading to a sensitive marine embayment, which in this case is Lewis Bay. The Applicant has asked to use as a credit the decreased nitrogen load from the Mill Hill Club, which has been vacant. Mr. Michaud said the nitrogen offset in the Staff Report is about 173 kg/year which equates to a monetary contribution of approximately \$270,000. Mr. Michaud noted that Ms. Taylor had asked if this monetary amount was based on an average Title 5 flows and actual flows. Mr. Michaud said yes. He said if it had been based on expected actual flows, the number would decrease to approximately \$185,000. He said the question for the Subcommittee is whether or not to allow the Applicant to take credit for all of the Mill Hill Club's flows, which would eliminate the monetary contribution.

Attorney Singer said the Applicant was only asking to use about 1/3 of the flow from Mill Hill Club. He noted the letter of support from the Board of Selectmen which supports an offset for the proposed Memory Care facility. He noted the Selectmen and Health Agent were in support of allowing a credit. He noted this would be a significant potential mitigation cost.

Mr. McCormack asked about the 5-year look back and whether that was in the RPP? Could the Subcommittee consider that the property could be used by right by another use?

Mr. Michaud said the point of the standard was disallowing an increase in the nitrogen load to the impacted water body. He said the 5-year look back was a policy that the Commission had used on prior projects. He suggested the Subcommittee and Commission could extend that look back period.

Ms. Adams said the look back chosen for a particular project has to be supported by testimony in the record, which exists in this case. The Subcommittee has testimony from the Applicant and also now testimony from the Town via the Selectmen's letter. She noted the Subcommittee could determine whether the testimony of the Town and Applicant was persuasive that the Applicant should be allowed a credit from the Mill Hill Club system. She also suggested the Subcommittee could acknowledge a portion as the credit.

Mr. Virgilio said he understood that the Commission staff was looking for direction from the Subcommittee on this issue of a credit from the Mill Hill Club. He said he supported the Town's position on the matter.

Mr. Putnam asked what the capacity was of the Mill Hill system and the output of the Memory Care facility?

Mr. Kelly said the existing Mill Hill system had a capacity of 11,000 gallons per day, and the Applicant only needed to get a credit for 1/3 of that capacity for the new Memory Care building. He said this would be equivalent to a 93 seat restaurant. He said the area to be protected was Lewis Bay.

Mr. Putnam asked if there was capacity in the Mill Hill Club system to handle the outflow of the Memory Care facility?

Mr. Kelly said yes.

Mr. McCormack noted Mill Hill Club site was on a Title 5 system versus a treatment plant at the Mayflower Place campus, which would provide better effluent treatment.

Mr. Virgilio asked for a motion from the Subcommittee on the credit from the Mill Hill Club.

Attorney Singer said all the Applicant was looking for was a 1/3 credit.

Mr. Putnam moved to attribute a credit from the Mill Hill Club sufficient to offset the entire cash mitigation amount. Mr. Roy seconded the motion, and it was unanimously approved.

Ms. Taylor suggested the Findings should set out how the Subcommittee achieved its rationale for granting a credit to the project for the Mill Hill Club.

Mr. Michaud suggested the Findings would lay out the proposed method of wastewater treatment, the size of the system in question, and the basis for the credits.

Mr. Michaud noted the third question for the Subcommittee was a nitrogen concentration in groundwater of 5 PPM. He said this would necessitate a groundwater monitoring program. He said the Staff Report had asked for several critical pieces of information to craft this groundwater monitoring program. Mr. Michaud said he had been in contact with Mr. Michniewicz on Tuesday, and staff was awaiting further information from the Applicant. He also expressed optimism that once the staff had reviewed the forthcoming information, the groundwater monitoring program could be sketched out.

Attorney Singer said Mr. Michniewicz would be able to wrap this up with staff early next week, after doing a site visit to check the monitoring wells.

Ms. Taylor asked if the Massachusetts DEP was aware that the project was in a Zone II, and if so, would the DEP be undertaking a new delineation of the Zone II?

Mr. Michaud said it was Commission staff's understanding that the DEP had no immediate plans to re-delineate the Zone II. He said this fed into the Subcommittee's deliberation on the matter of invoking the Flexibility Clause. At the same time, Mr. Michaud noted the project, if approved, would need a Ground Water Discharge Permit from the DEP. He said this process would involve a public comment process.

Ms. Adams said the next issue for the Subcommittee to consider was an update on Community Character. She noted that Ms. Korjeff, the Commission's Historic Preservation Planner, was not able to attend, but noted that Ms. Korjeff had been working closely with Ms. Williams, Yarmouth's Town Planner, on this issue. Ms. Adams suggested that Ms. Williams could provide the Subcommittee with an update about the ongoing discussions with Mr. Stebbins, the Applicant's architect.

Mr. Virgilio asked for testimony from Federal, State and local officials. Hearing none, he asked Ms. Williams for any comments.

Ms. Williams suggested the discussions on the project's site and building designs were very close, and that Mr. Stebbins had made good progress on the façade changes, particularly for those facades facing the roadways. She said she still had comments today on the elevations for the Independent Living building, and was happy with the coordination with Commission staff and how the Applicant was responding to comments.

Ms. Williams also directed the Subcommittee to the entire letter from the Board of Selectmen, including the benefits, maintenance of the Baxter Grist Mill, invasive species removal, and vista pruning. She also noted the comments concerning the Applicant's commitment to provide a moveable solar-powered speed sign and light tower to the Public Safety Departments.

Attorney Singer noted that the cost for invasive plant removal and vegetation maintenance at the Grist Mill was approximately \$35,000, and was in agreement with the points raised in the Board of Selectmen's letter.

Mr. Virgilio asked for any further testimony from the audience. Hearing none, he asked for final comments from Attorney Singer.

Attorney Singer said he and the Applicant's consultants had none.

Ms. Adams directed the Subcommittee's attention to the documents on draft Findings for the proposed project. She said these documents articulate those Regional Policy Plan issue areas where it appears that issues have either been resolved. She went over the documents page by page, highlighting the various findings.

Mr. McCormack moved to approve the findings contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Natural Resources, Open Space, Community Character, and Transportation*, dated January 31, 2013 as presented. Mr. Roy seconded the motion, and it was unanimously approved.

Mr. Putnam moved to approve the findings as contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Criteria for DRI Approval: Consistency with Local Requirements: LCP, Bylaws, DCPCs*, dated January 31, 2013 as presented. Mr. McCormack seconded the motion, and it was unanimously approved.

Mr. Virgilio asked for a motion on the continued hearing. Mr. Roy moved to continue the hearing and the record to February 14, 2013 at 10:00 AM at the Cape Cod Commission's office, Barnstable, where the hearing and record would be continued by a Hearing Officer to February 20, 2013 beginning at 4:00 PM at the Cape Cod Commission's office, Barnstable. Mr. McCormack seconded the motion, and it was approved unanimously.

Ms. Taylor asked Mr. LaFrance if the landscaping would be maintained/watered based on soil humidity levels?

Mr. LaFrance said this could be incorporated into the landscape plan notes.

February 20, 2013 Continued Hearing

Ms. Andrea Adams, Senior Regulatory Planner, noted the materials distributed to the Subcommittee. She suggested the Subcommittee hear presentations from Commission staff and then responses from the Applicant. She suggested the first RPP issue area where Commission staff had an update was Affordable Housing.

Mr. Ruchinskas, the Commission's Affordable Housing Specialist, gave an update. He said he thought the Commission staff and Applicant were in agreement on almost all the issues. He said the last area of discussion with the Applicants concerned the relocation assistance. He said the finding in the handout from Commission staff concerning the amount of relocation assistance was based on the homes currently occupied: number of bedrooms, bathrooms, rent paid, etc. Mr. Ruchinskas said he had conducted research in the area to find comparable units. He said the proposed conditions reflect the intent of the Federal Relocation Act. He described in brief how the relocation assistance would be implemented. He noted the conditions allowed for any unspent relocation funds to be returned to the Applicants.

Attorney Singer said the main issue of discussion was the figure for the cash relocation assistance. He noted the requirements to provide notice to tenants. He noted the Applicants would not own the properties in question until and unless they received all necessary permits, including local permits. He said the most challenging part of the condition was how to structure the notice requirements.

Mr. Putnam noted the “clock” with regard to the notice requirement would not begin to run until either the Commission or the Applicant gave the tenants notice.

Attorney Singer said the difficulty was the requirement to provide notice to tenants might occur before the Applicants have all necessary permits in hand.

Attorney Idman suggested the timeframe be indexed from when all local permits are received and all appeal periods have run their course.

Attorney Singer noted the project would need several local permits, and, assuming the project was approved by the Commission, it might be early spring or summer before the local permitting process was finished.

Ms. Taylor questioned whether 90 days was enough notice?

Attorney Singer noted that as drafted, the conditions required two (2) notices be sent out. He said the first notice was to alert the tenant that something was going to happen. He said the second notice was to inform the tenant that they would be eligible for assistance and must move out. At the same time, he questioned what should be done in the case of some tenants who choose to move out for their own reasons before either one or both of the notices are sent out?

Mr. Roy questioned whether tenants who chose to move out would still be eligible for relocation assistance?

Mr. Virgilio said if a person planned to move, then that’s their business. He suggested this would be a choice independent of what happened to the proposed project being considered now by the Subcommittee.

Mr. Putnam suggested using the closing date as the trigger for the notices to tenants. He also suggested that if a tenant chose to move out before the trigger date, that was a personal decision, and the person should not be entitled to relocation assistance.

Mr. Ruchinkas said with respect to the closing date, where the Applicants take formal possession of the properties, the agreement at this point is that the houses must be vacant.

Mr. McCormack said it was possibly reasonable to assume that the current tenants understand that something is going to happen with the properties. He suggested the relocation assistance should be tied to the first notice going out.

Mr. Ruchinkas noted that the relocation assistance provides for only moving expenses if a person found a “better deal” on housing than what was articulated in the Affordable Housing findings with respect to the levels of rental assistance.

The Subcommittee, Commission staff and Attorney Singer discussed the specifics of draft Affordable Housing condition AHC9.

Attorney Singer suggested changes to the language of condition AHC9, subparts 1, 2, and 3 related to the timing.

Attorney Idman suggested the timing should be no later than a certain number of days from the expiration of the appeals period on the last local permit required to be obtained by the Applicants. He noted the Applicants might close on the purchase of the properties in question without the Building Permit in hand.

Mr. Virgilio asked for a vote on the Affordable Housing findings.

Mr. Putnam voted to approve the draft Affordable Housing findings contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013. Mr. McCormack seconded the motion, and it was unanimously approved.

Mr. Virgilio asked for a motion on the draft Affordable Housing condition AHC9.

Mr. Putnam moved to amend draft Affordable Housing condition AHC9 as contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013 to read "No later than ten (10) days from the expiration of the appeal period of the last local permit to be obtained, the Applicant shall provide..." in each of subparts (1), (2) and (3) of draft condition AHC9 and to approve the remainder of the proposed condition as presented. Ms. Taylor seconded the motion and it was unanimously approved.

Mr. Virgilio asked Commission staff to present the next update.

Ms. Adams said the next Regional Policy Plan issue area was Community Character, dealing primarily with building and site design. She noted that Sarah Korjeff, the Commission's Historic Preservation Planner, was unable to attend today's continued hearing, but had been in coordination with Ms. Williams, the Yarmouth Town Planner, and the Applicant's representatives on finalizing the proposed findings and conditions. Ms. Adams summarized the proposed draft Community Character findings and conditions contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013.

Mr. Virgilio asked for a motion on the draft Community Character Findings and Conditions.

Mr. Putnam moved to approve the draft Community Character Findings contained in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013 as presented, and to approve the proposed draft Conditions in the same document, with corrections as needed to the dates of referenced plans. Ms. Taylor seconded the motion and it was unanimously approved.

Mr. Virgilio asked Commission staff to present the next update.

Ms. Adams said the next Regional Policy Plan issue area to be discussed was Stormwater Management. She went over the draft proposed stormwater Findings and Conditions contained in the draft document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013.

Mr. Virgilio asked for a motion on the draft stormwater findings.

Mr. Putnam moved to approve the draft stormwater findings in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater*, dated February 20, 2013 as presented. Mr. McCormack seconded the motion, and it was unanimously approved.

Mr. Virgilio asked for a motion on the draft Stormwater conditions.

Attorney Idman suggested the proposed stormwater condition having to do with a post construction inspection of the stormwater system be reworded to: “*One (1) calendar year after construction...*”, eliminating the words “*Not more than...*”.

Mr. Putnam moved to approve the draft stormwater conditions in the document entitled *Draft Findings: Mayflower Place/Memory Care: Affordable Housing, Community Character, and Stormwater, dated February 20, 2013*, with the amended language for the post-construction system inspection as suggested by Attorney Idman. Ms. Taylor seconded the motion, and it was unanimously approved.

Mr. Vigilio asked Commission staff to present the next update.

Ms. Adams said the next Regional Policy Plan area to be discussed was Water Resources. She turned the presentation over to Mr. Michaud.

Mr. Michaud, using the ENO Board, showed eight (8) slides to update the Subcommittee on the Water Resources issues. He said there were two key Minimum Performance Standards for the Subcommittee to consider: MPS WR2.3 and MPS WR6.2. He said the Subcommittee needed to consider whether or not to apply the Regional Policy Plan Flexibility Clause with respect to the application of MPS WM2.3 to the project. He note the Applicants first set of plans indicated the proposed new leaching field for the wastewater treatment plant would be located within a Wellhead Protection District/Zone II. Mr. Michaud said the Applicants then revised their proposal to move the new leach field out of the Zone II area. He said the Applicants now proposed to revert to their original idea, where the leach field would be located within the Zone II area. He showed a colored slide of these alternate proposals, where the slide indicated the relative location of the leach field and the area of the Zone II.

Mr. Michaud noted the Applicants had provided additional information since the last hearing, including a water table map, the monitoring well layout and water quality information concerning groundwater nitrogen levels. He said more information was expected from the Applicants, particularly with respect to the existing monitoring well locations, depths, and monitoring reports previously filed with the Massachusetts Department of Environmental Protection.

Mr. Michaud showed a colored slide which provided the estimated groundwater flow path from the existing wastewater treatment plant and the two proposed locations for the new leach field. He said this was in part based on information received from the Applicant on February 11, 2013. He said the trajectory of groundwater flow, based in part on downgradient monitoring wells, indicates the highest nitrogen concentrations are in monitoring well cluster MW3. He said the total nitrogen concentrations exceed 5 PPM and the nitrate nitrogen concentrations are reported up to 5 PPM. Mr. Michaud said this suggest the need for a new well cluster downgradient of the leaching fields. He showed a colored slide of the proposed location of the new well cluster.

Ms. Taylor asked which Marine Embayment was affected – Lewis Bay?

Mr. Michaud said yes, the project was located in the Lewis Bay watershed. He noted the proposed offset from the septic system at the Mill Hill Club had been deemed by the Subcommittee to be an adequate offset for the proposed project’s nitrogen load to Lewis Bay.

Mr. Virgilio asked the Applicants for comments.

Mr. Kelly said the Applicants were seeking to withdraw their newest proposal with respect to the location of the new leaching field at the Mayflower campus, and to revert to the original proposal, where the new leaching field would be located in the Zone II area. He said this was a good idea for broad environmental reasons. He noted the location of the new leaching field, in terms of Community Character/site design issues, would be under an existing parking lot. He suggested one of the reasons for the Applicants’ request to revert to the originally proposed location for the new leaching field was it would provide a

longer flow path to the adjacent, downgradient wetlands. He suggested the Subcommittee could consider use of the Flexibility Clause with respect to the originally proposed location of the new leach field.

Mr. Michaud said the Water Resources staff concurs with Mr. Kelly for the reasons he outlined.

Ms. Taylor asked where the proposed new well cluster would be? She questioned whether an additional new well on the West side, closest to the Grist Mill would be helpful?

Mr. Michaud said the data from existing monitoring wells indicates the flowpath is towards the wetland system on the East/South side of the Mayflower campus, and that wells on the West side are cross-gradient to groundwater flow. He noted these wells are nonetheless helpful, in that they provide water table data and background water quality data. He suggested the proposed new well cluster shown in his slide presentation was generally well positioned, but its final location would be based on conditions in the field.

Mr. Kelly said monitoring well #2 is cross-gradient to the groundwater flow direction. He noted it was showing levels at less than 1 PPM nitrogen.

Attorney Singer said the Applicants were requesting to be allowed to propose the new leaching field on the Mayflower campus be in its original location, and use of the Flexibility Clause with respect to MPS WR2.3.

Mr. Taylor said the rationale for the change in location of the leaching field, back to its original location, should be clearly spelled out in the Commission's draft decision.

Attorney Idman said the Water Resources findings and conditions would discuss the Flexibility Clause and the reasons for its use in this case.

The Subcommittee members expressed their general support for the use of the Flexibility Clause with respect to MPS WR2.3. They directed Commission staff to articulate the reasons for use of the Flexibility Clause in the draft decision, including but not limited to that the original location of the leach field would be further from the wetlands, and was based on input from the Massachusetts Department of Environmental Protection.

Mr. Roy asked if the state Groundwater Discharge Permit for the wastewater treatment plant would have to be amended?

Attorney Singer said the system was re-permitted in 2011.

Attorney Idman noted that the draft decision would include General Conditions requiring the Applicants to receive all necessary local permits.

Mr. Virgilio asked if there was further business before the Subcommittee?

Ms. Adams said yes, the Subcommittee could begin the discussion of the project's possible benefits and possible detriments. She directed the Subcommittee to the document entitled *Draft Findings: Criteria for DRI Approval: Potential Benefits and Detriments dated February 19, 2013*.

Mr. Putnam said the probable benefits should also be broader, reflecting the need for assisted living and dementia care on Cape Cod.

Ms. Taylor questioned part of the proposed benefit articulated by Ms. Williams having to do with viewshed maintenance at the Baxter Grist Mill site. She questioned what was meant by thinning out of dead trees? She noted they can provide vital habitat.

Attorney Singer said the intent was that if a tree had fallen, it would be removed. He noted that the Grist Mill viewshed was currently being maintained by AmeriCorps volunteers, and the proposal was for the Applicants to take over that maintenance.

Attorney Idman said the question before the Subcommittee was broader: Was this a benefit or not? He suggested describing in detail what might or might not happen may not be necessary.

Mr. Virgilio noted the proposed project would need Conservation Commission review and approval at the local level.

Attorney Singer noted this particular item was based in part on feedback from Yarmouth's Conservation Agent. He acknowledged that vegetation must be kept in place to hold the bank of Mill Pond.

Mr. Virgilio suggested this item be amended, to end the sentence at the words "Baxter Grist Mill" and to strike the remainder.

Ms. Taylor said she was comfortable with Mr. Virgilio's proposed change.

Mr. Putnam moved to approve the proposed draft findings articulated in the document entitled *Draft Findings: Criteria for DRI Approval: Potential Benefits and Detriments dated February 19, 2013* with the amendment that the probable benefit of viewshed maintenance at the Baxter Grist Mill site be modified to read: "Provide viewshed maintenance of the Baxter Grist Mill." Ms. Taylor seconded the motion and it was unanimously approved.

Mr. Virgilio asked for testimony from Federal, State and local officials. Hearing none, Mr. Virgilio asked for any further testimony from the audience. Hearing none, he asked for final comments from Attorney Singer and Commission staff.

Attorney Singer said he and the Applicant's consultants had no final comments.

Ms. Adams said the hearing on the proposed project had to be closed by February 27, 2013. She suggested the Subcommittee to make a motion to continue the hearing to February 27, 2013 to 10:00 AM at the Cape Cod Commission office where the hearing would be procedurally closed by a Hearing Officer. She suggested the record should be left open for the limited purpose of submission of information by the Applicants.

Mr. Virgilio asked for a motion to continue the hearing.

Mr. Roy moved to continue the hearing and the record to February 27, 2013 at 10:00 AM at the Cape Cod Commission's office, Barnstable, where the hearing would be closed by a Hearing Officer, and the record would be left open for the limited purpose of submission of information by the Applicants. Mr. Putnam seconded the motion, and it was approved unanimously.

Mr. Roy moved to hold a Subcommittee meeting on March 14, 2013 beginning at 4:00 PM at the Assembly of Delegates Chambers, First District Courthouse, Barnstable, MA. Ms. Taylor seconded the motion, and it was unanimously approved.

March 14, 2013 Subcommittee Meeting

The Subcommittee voted unanimously to approve the draft February 20, 2013 hearing Minutes as presented.

Ms. Adams went over the draft March 14, 2013 amended written decision, noting corrections and updates on pages 36, 37, 41, 47, 57, 67, and 68. She said some were spelling errors, and some were corrections to findings or conditions as recommended by Ms. Kathleen Williams, Yarmouth's Town Planner to language that referred to testimony provided by the Town.

Mr. Putnam asked that the Minutes be updated, and that the spelling of his name be corrected. He also asked about the proposed "land swap" noted in General Finding 8 (GF8) on page 37.

Attorney Singer, through the Chair, noted the proposal involved the Applicants taking part of Mill Pond Road in exchange for one or more parcels of land being given to the Town in return.

Ms. Adams noted the language of Affordable Housing Condition AHC8 was tied to the Preliminary Certificate of Compliance because it was important to have the tenant selection plan in place before construction began.

Mr. Virgilio said he remembered this condition having been discussed by the Subcommittee, and recommended the language as drafted remain as is.

Attorney Singer, through the Chair, said this was satisfactory to the Applicants.

Mr. Putnam said he wished the conclusion #5 about probable benefit of the proposed project being greater than the probable detriment should somehow be strengthened, as he saw the project as being a true asset to Yarmouth.

Mr. McCormack noted the various project benefits enumerated on page 37.

Attorney Idman noted the benefits enumerated in the draft decision included one as suggested by Mr. Putnam, that the development of the project, as creating more assisted living and memory care units, was a benefit in and of itself.

Mr. Virgilio asked if other Subcommittee members had any questions?

Mr. McCormack asked Mr. Michaud and Mr. Ruchinskas if they were comfortable with the language of the draft decision?

Mr. Michaud and Mr. Ruchinskas both responded yes.

Attorney Idman said he was comfortable with the draft decision.

Mr. Virgilio asked Ms. Williams for any comments.

Ms. Williams said she was comfortable with the draft decision, and looked forward to the project coming before the Town.

Mr. Virgilio asked for motions on the project.

Mr. McCormack moved that the DRI decision with conditions dated March 14, 2013 be accepted as amended. Mr. Roy seconded the motion, and it was unanimously approved.

Mr. Roy moved the Subcommittee recommend approval to the full Commission of the proposed project with conditions. Mr. McCormack seconded the motion, and it was unanimously approved.

Mr. Putnam moved to direct Commission staff to place review of the project and draft written decision before the full Commission on the Commission's March 28, 2013 agenda. Mr. McCormack seconded the motion, and it was unanimously approved.

Mr. McCormack moved to adjourn the Subcommittee meeting. Mr. Putnam seconded the motion and it was unanimously approved.

JURISDICTION

The project qualifies as a Development of Regional Impact (DRI) under Section 3(g) of Chapter A, *Enabling Regulations Governing Review of Developments of Regional Impact* (revised March 2011) as “Any proposed development that is planned to create or add 30 or more Residential Dwelling Units.”

FINDINGS

The Commission has considered the DRI application for the proposed construction of a new, free-standing, 75 unit Memory Care facility and a new wing connected to the existing Mayflower Place facility proposed to house 50 independent living units plus one (1) caretaker's apartment; associated landscaping, parking, wastewater, drainage, and site upgrades, and based on the information presented at the public hearings and submitted for the record to date, makes the following findings, pursuant to Sections 12 and 13 of the Act and Sections 3 and 7 of the *Enabling Regulations*:

GENERAL FINDINGS

GF1. The proposed project qualifies as a Development of Regional Impact under Section 3(g) of Chapter A, *Enabling Regulations Governing Review of Developments of Regional Impact* (revised March 2011) as “Any proposed development that is planned to create or add 30 or more Residential Dwelling Units.”

GF2. As the date of the first substantive public hearing on the proposed project was December 17, 2012, the project was reviewed subject to the 2009 RPP, as amended in August 2011, which is the RPP in effect at the time of the first substantive public hearing on the project.

GF3. The proposed project includes construction of a new independent-living wing on the existing Mayflower Place campus, including one care taker's unit, located in a two-story building addition to be constructed in the northwest portion of the project site connected with the existing main building by way of an enclosed, second-story bridge connector. All common facilities will remain in the main building. The independent-living addition will have a footprint of 27,635 square feet and a total of 55,205 square feet of gross floor area. The proposed project also includes a new 75-unit memory care building to be located in the southeast portion of the project site, in an area occupied by the former Mill Hill Club, and several lots containing four (4) single-family dwellings, two (2) detached garages, two (2) sheds, and an old foundation; all proposed to be demolished and removed as part of the expansion and redevelopment. The new memory-care units will be located in a new two-story building with enclosed courtyards. The memory-care building will have a footprint of 30,960 square feet and a total of 58,490 square feet of gross floor area.

GF4. The Commission adopts the December 4, 2012 written testimony of Kathleen D. Williams, Town Planner, which states proposed development and redevelopment “*is consistent with the goals included in the Local Comprehensive Plan...*” and as such, the Commission finds the proposed development is consistent with Yarmouth's Local Comprehensive Plan.

GF5. The Commission adopts the December 4, 2012 written testimony of Kathleen D. Williams, Town Planner, the proposed development is “*generally consistent with municipal development bylaws as presented to the Yarmouth Site Plan Review Committee on September 8, 2012. The project will require a Special Permit from the Zoning Board of Appeals for a P5-Nursing and Personal Care use, and to raze, replace and redevelop under Section 104.3.2 of the zoning Bylaw. A Special Permit will also be required for minor dimensional and parking location relief. The Independent Living portion of the project is located in an Aquifer Protection*

Overlay District (APD) and will either require a Special Permit or an APD waiver from the Building Commissioner and Health Director. The project will need to be reviewed by the Conservation Commission due to buffer and other riparian impacts. The Board of Selectmen will have to approve the construction of a sewer force main under Mill Pond Road.” Based on this testimony, the Commission finds the proposed development and redevelopment is consistent with municipal development by-laws, including municipal zoning, provided that the Applicant successfully obtains all necessary municipal permits, licenses and approvals, including any required zoning relief.

GF6. Section 7(c)(viii)[4] of the Commission’s *Enabling Regulations* (revised March 2011, New Fees Schedule Effective July 1, 2012) states that the Commission shall approve, or approve with conditions, a DRI if the Commission finds after a public hearing that if the proposed development is located in whole or in part within a designated District of Critical Planning Concern, it is consistent with the regulations approved or adopted by the Commission pursuant to Section 11 of the Act. The Commission adopts the December 4, 2012 written testimony of Kathleen D. Williams, Town Planner, the Commission finds that there are no Districts of Critical Planning Concern in the Town of Yarmouth.

GF7. The Commission finds after a public hearing that the probable benefit from the proposed development is greater than the probable detriment. The Commission finds that the probable benefits of the project are that the project meets Regional Policy Plan Best Development Practices (BDP) BDP AH1.16 (Priority for Affordable Rental Housing), with BDP WPH1.8 (Un-development), BDP TR1.10 (Transportation Safety), BDP TR2.16 (Alternate Modes of Travel), and BPD TR2.21 (Shared Parking). In addition, the Commission finds that the probable benefits of the project include that the project provides additional independent living and memory care facilities on Cape Cod. The Commission also finds that, based on the January 30, 2013 and January 31, 2013 written testimony of Erik Tolley, Chairman of the Board of Selectmen, and Kathleen D. Williams, Town Planner, that the proposed project’s probable benefits also include the following:

- Direct and indirect job creation,
- Temporary construction employment,
- Increased property taxes,
- Improved aesthetics by eliminating a long-term blighted property, the Mill Hill Club
- Permit and construct new parking for the Baxter Grist Mill,
- Permit and construct a handicap accessible walking path from the new Baxter Grist Mill parking area to the Baxter Grist Mill,
- Provide directional signage to the Baxter Grist Mill,
- Provide viewshed maintenance of the Baxter Grist Mill property,
- Management of invasive Phragmites species in the southwest corner of Mill Pond,
- A monetary contribution of sufficient funds by the Applicant to Town for use by the Fire Department to purchase a Light Tower with generator, and
- A monetary contribution of sufficient funds by the Applicant to Town for use by the Police Department to purchase a solar-powered speed sign.

GF8. Should the Town of Yarmouth abandon a portion of Mill Pond Road bordering the project site to the West, and enter into a “land swap” agreement involving the same with the Applicant, the attendant land division and re-assembly of the project site, including revision to the Conservation Restriction and Plan may be approved as a Modification to this DRI decision

according to the *Modification* section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

LAND USE FINDINGS

LUF1. The proposed project includes the expansion and redevelopment of Mayflower Place with two components, an Independent Living wing proposed on the existing Mayflower Place campus, and a new Memory Care facility proposed on an adjoining developed site.

LUF2. On the Regional Land Use Vision Map, the Memory Care facility is mapped in the *Other* category, and the Independent Living facility portion is mapped as *Resource Protection Area*, reflecting the fact that part of the proposed project is located within a Wellhead Protection Area/Zone II.

LUF3. MPS LU1.1 requires that development and redevelopment shall be consistent with the category of desired land use where the project is located as well as the characteristics of that category. It also states in part that:

“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.”*

LUF4. The Yarmouth Board of Selectmen issued a municipal endorsement of the project on December 4, 2012, confirming that the project is consistent with the Town's Local Comprehensive Plan and Capital Facilities Plan, and that the Board supports the location of the proposed Independent Living facility and Memory Care facility outside a designated Local Economic Center.

LUF5. The proposed project is consistent with MPS LU1.1 because a portion of it is redevelopment and it does not present a threat to the resources and/or characteristics intended to be protected and maintained by its land use category.

LUF6. The proposed project is consistent with MPS LU1.2 (Compact Development) because it incorporates multi-story buildings, provides walking paths, and employs shared wastewater treatment.

LUF7. Land Use MPS LU2.1, MPS LU2.2, MPS LU3.1 and MPS LU3.2 do not apply to the project because it does not involve creation of new capital facilities or infrastructure, and the project is not adjacent to rural or agricultural lands.

ECONOMIC DEVELOPMENT FINDINGS

EDF1. Because the proposed project is not located in an Economic Center on the Regional Land Use Vision Map, it must seek the waiver under MPS ED1.3 (Waiver) in order to comply with MPS ED1.1 (Location in Economic Centers). Given that a portion of the project is new development, the Applicant must meet four (4) of the waiver criteria of MPS ED1.3.

EDF2. MPS ED1.2 (Industrial Service Trade Areas) does not apply to the proposed project because it is not located in an Industrial Service Trade Area as designated on the Regional Land Use Vision Map.

EDF3. Based on the materials submitted for the record, the Applicant has demonstrated that the project meets the following four waiver criteria according to MPS ED1.3:

1. *Green Design*: Because Applicant has provided a LEED checklist completed by a LEED certified professional. This checklist contained in the DRI record shows that the project meets the minimum required points for Homes (*Multifamily Residential*).
2. *Emerging Industry Clusters*: Because the Applicant provided an Economic and Fiscal Impact Report on the project from Clyde W. Barrow, Director of the Center for Policy Analysis at the University of Massachusetts Dartmouth. According to this document, the project will create 67 new full-time equivalent jobs with an average annual wage of \$36,732 and with a total payroll of \$2.5 million. The proposed project is a resident health facility with a number of positions (12 full time equivalents) that can be considered high-wage, high-skill, and knowledge based.
3. *Distributed Energy Generation*: Because the Applicant has provided a roofing plan with solar panels sufficient to meet 25% of their calculated net new energy demand.
4. *Municipal Endorsement*: Because the Yarmouth Board of Selectmen issued a municipal endorsement of the project on December 4, 2012, confirming that the project is consistent with the Town's Local Comprehensive Plan and Capital Facilities Plan, and that the Board supports the location of the proposed Independent Living facility and Memory Care facility outside a designated Local Economic Center.

EDF4. MPS ED1.4 (Resource-based Economic Areas) does not apply to the proposed project because it is not located on or next to working agricultural land, working waterfronts and harbors, fin-and shell-fishing grounds, or recreational areas.

EDF5. MPS ED2.1 (Gaming) does not apply to the proposed project because it does not include Class III gaming.

EDF6. MPS ED3.1 (Demonstrated Need and Public Benefit) does not apply to the proposed project because it does not involve the development of infrastructure or capital facilities.

WATER RESOURCES FINDINGS

WRF1. The Commission finds that the existing facility contains 126 residential units for the elderly and a 60-bed nursing home with permitted wastewater flows of 25,000 gallons per day (gpd). The project will eliminate four single family (4) homes and an unoccupied bar / restaurant/ lounge, and add 125 independent living and memory care units plus an additional three (3) bedroom caretaker's unit resulting in an increase in wastewater Title 5 design flow of 19,080 gpd for a total flow of 44,080 gpd when the project is completed.

WRF2. The Commission finds that the project will add approximately two (2) acres of impervious surface (roof and pavement). Nitrogen loading calculations submitted by the Applicant on February 11, 2013 indicate that there will be an increase in lawn of approximately 1.5 acres and a decrease in "natural area" of approximately 2.6 acres.

WRF3. The Commission finds, pursuant to RPP Section WR5 and according to Water Resources Classification Map I, that the existing and proposed expansion of the Mayflower Place building, including the existing and proposed wastewater disposal facilities, are located in a MassDEP-approved Zone II Wellhead Protection Area for the Maher wells that provide drinking water to Hyannis.

WRF4. The Commission finds, pursuant to RPP Sections WR3 and WR4 and according to Water Resources Classification Maps I & II, that the project is located in a Freshwater Recharge Area that drains to Mill Pond, a fresh-water pond. Mill Pond drains to Mill Creek, a tributary to Lewis Bay, a Marine Water Recharge Area.

WRF5. The Commission finds, pursuant to RPP Section WR5 and Water Resources Classification Maps I, that the project is located in a Water Quality Impaired Area.

WRF6. The Commission finds, pursuant to RPP Section WR5 and Water Resources Classification Maps I & II, that the project is located in a Water Quality Improvement Area because the project is located in a Water Quality Impaired Area, a mapped Zone II Wellhead Protection Area, a Fresh Water Recharge Area, and a Marine Water Recharge Area.

WRF7. The Commission finds that MPS WR5.3 does not apply because the project is not located in a designated Economic Center, Industrial and Service Trade Area, Village, or Growth Incentive Zone.

WRF8. The Commission finds that MPS WR5.4 does not apply because the project is not located outside a mapped Wellhead Protection Area, a Fresh Water Recharge Area, or a Marine Water Recharge Area.

WRF9. The Commission finds that the letter and attached information submitted by Kelly Engineering Group on February 11, 2013 depicts existing monitoring wells, measuring point elevations, water levels, and the direction of groundwater flow beneath the site, as shown on the plan attached to Kelly Engineering Group letter of February 11, 2013 (Attachment 4) entitled *Plan Showing Groundwater Contours*, dated February 8, 2013 from Coastal Engineering Company.

WRF10. The Commission finds that the letter and attached information submitted by Kelly Engineering Group on February 11, 2013 reports nitrogen concentrations groundwater and that the highest nitrogen-nitrate concentrations are reported for groundwater samples collected from monitoring well cluster MW-3, located on the downgradient portion of the site as shown in Attachment 8 to the February 11, 2013 letter, entitled *Total Nitrogen and Nitrate Nitrogen Levels Measured in Groundwater Monitoring Wells*.

WRF11. The Commission finds that the project meets MPS WR1.1, MPS WR2.1, and MPS WR5.1, the site-wide 5 milligram per liter (ppm-N) nitrogen loading limit.

WRF12. The Commission finds that MPS WR1.2, MPS WR1.3 and MPS WR5.5 do not apply because the Town of Yarmouth provides municipal water supply town-wide, and no wells are proposed as part of the project.

WRF13. The Commission finds that MPS WR1.4 does not apply because the project is not a residential subdivision.

WRF14. The Commission finds that the Applicants have provided Landscape Management and Integrated Pest Management Plans consistent with MPS WR1.5.

WRF15. The Commission finds that the project complies with MPS WR2.2 because no increase in Hazardous Materials is proposed.

WRF16. The Commission finds that MPS WR2.3 states that “[p]ublic and private wastewater or treatment facilities with Title 5 design flows greater than 10,000 gallons per day shall not be permitted in Wellhead Protection Areas, except as provided in MPS WR5.2 ... and subject to MPS WR6.1 through WR6.9.”

WRF17. The Commission finds that MPS WR5.2 states that “[u]se of public and private wastewater treatment facilities shall be as follows: Within Water Quality Improvement Areas that are in Wellhead Protection Areas, public and private wastewater treatment facilities may be used to remediate existing problems”

WRF18. Excerpts from the report entitled “Groundwater Modeling Evaluation of the Hyannis Water System Wells Zone II Delineation Surrounding the Mayflower Place Retirement Community” prepared by consultants Sevee & Maher Engineers, Inc., dated January 14, 2009, were provided by the Applicants to address MPS WR2.3. This report suggests that the Mayflower Place site does not likely contribute to the Maher wells under Zone II conditions, i.e. 180 days of drought and maximum pumping conditions.

WRF19. A Fact Sheet issued by the Massachusetts Department of Environmental Protection (the Department), dated January 4, 2011 and provided by the Applicant, contains information pertaining to an application filed by Mayflower Place for re-issuance of a Groundwater Discharge Permit for a previously-permitted discharge of 25,000 gpd. The Fact Sheet indicates that information received from Sevee & Maher Engineers, Inc. “shows that the discharge is not in a Zone II of a public water supply,” and that “[e]ffluent limitations are based upon the location of the discharge, the level of treatment, consideration of human health protection criteria and protection of the groundwaters of the Commonwealth.”

WRF20. The Commission finds, based on information contained in the record, a December 14, 2012 E-mail transcript of a Commission staff conversation with Brian Dudley of the Massachusetts Department of Environmental Protection that:

1. The approved Zone II for the Hyannis wells has not been formally changed by the Department and that the project is located in a mapped Zone II Wellhead Protection Area.
2. State regulation governing the administration of Groundwater Discharge Permits (314 CMR 5.00) provides the Department of Environmental Protection with the authority to consider new information when issuing permits for discharges in approved Zone II areas.
3. The Department of Environmental Protection suggested that the project’s location outside areas that likely contribute to the Maher wells is an appropriate basis for requiring effluent limits that are less stringent than limits that are otherwise required by 314 CMR 5.00 for discharges in approved Zone II areas.

WRF21. The Commission finds that the interests protected by MPS WR2.3 may be achieved by the alternate approach as described by findings WRF18, WRF19 and WRF20, above. The Commission finds that burden has been met to show that the proposed use will not be more detrimental to the protected resource than would be allowable under MPS WR2.3; that the location of the wastewater treatment facilities is as protective of water resources as the alternative location proposed by the Applicant outside the Zone II, referenced in WRF35; and therefore, grants flexibility in the application of MPS WR2.3 to the project.

WRF22. The Commission finds that MPS WR3.1 and WR5.1 limit project nitrogen loads to the greater of the nitrogen load from the prior use and the Critical Nitrogen Load.

WRF23. The Commission finds that the total project nitrogen load to the Lewis Bay watershed is 715 kilograms per year (kg-N/yr), calculated on the basis of proposed Title 5 wastewater flows of 44,080 gpd.

WRF24. The Commission finds that existing non-wastewater nitrogen load at the site totals 80 kg-N/yr.

WRF25. The Commission finds that the wastewater nitrogen load of the existing Mayflower Place facility is 345 kg-N/yr, calculated on the basis of presently permitted Title 5 wastewater flows of 25,000 gpd.

WRF26. The Commission finds that the wastewater nitrogen load from the existing residences proposed to be demolished at the site is 65 kg-N/yr, calculated on the basis of Title 5 wastewater design flows of 1,320 gpd.

WRF27. The Commission finds that the existing nitrogen load at the site described in Findings WRF24 to WRF26 totals 490 kg-N/yr.

WRF28. The Commission finds that, after crediting the existing nitrogen load described in Finding WRF27, the remaining project nitrogen load to be offset is 225 kg-N/yr.

WRF29. The Commission finds that the nitrogen load associated with Title 5 wastewater flows of 10,405 gpd for the former Mill Hill Club use as a restaurant/bar/lounge is 503 kg-N/yr.

WRF30. The Commission finds that, based on the testimony of the Applicant, and through the Town of Yarmouth's Selectmen's correspondence dated December 4, 2012 that the septic system that served the former Mill Hill Club is presently functional, though the Mill Hill Club has not been used as a restaurant/lounge/bar for at least five (5) years.

WRF31. The Commission finds that after applying the nitrogen load described in Finding WRF29 to offset the remaining project nitrogen load described in Finding WRF28, the project's nitrogen load does not exceed the existing nitrogen load and that the project thus complies with MPS WR3.1 and MPS WR5.1.

WRF32. The Commission finds that MPS WR3.2 and MPS WR3.5 do not apply because a critical nitrogen load has been determined for Lewis Bay.

WRF33. The Commission finds that MPS WR3.3 and MPS WR6.1 do not apply because the Commission has not approved a watershed nutrient management plan or a comprehensive wastewater management plan in the Town of Yarmouth.

WRF34. The Commission finds that MPS WR3.6 allows use of wastewater treatment facilities in Marine Water Recharge Areas and that the project shall be conditioned to ensure compliance with MPS WR3.6.

WRF35. The Commission finds that the expanded wastewater disposal facility depicted in the alternative *Utility Plan*, Sheet 6A/6B, submitted on January 23, 2013 is withdrawn. The project shall be conditioned to require that the expanded wastewater disposal facility be constructed in accordance with *Utility Plan*, Sheet 6A/6B submitted with the application on October 10, 2012, as revised March 5, 2013.

WRF36. The Commission finds that the project meets MPS WR4.1, which requires that proposed wastewater effluent discharges will occur more than 300 feet from Mill Pond, a freshwater pond.

WRF37. The Commission finds that MPS WR4.2 does not apply because Mill Pond does not have documented water quality problems.

WRF38. The Commission finds that MPS WR4.3 allows use of wastewater treatment facilities in Fresh Water Recharge Areas and the project shall be conditioned to ensure compliance with MPS WR4.3.

WRF39. The Commission finds that MPS WR6.2 limits projects with wastewater treatment facilities to a maximum nitrogen concentration of 5 ppm-N in groundwater. Referring to 1) water quality information submitted by Kelly Engineering Group and 2) the *Plan Showing Groundwater Contours*, prepared by Coastal Engineering Company on February 8, 2013, the Commission finds further that total nitrogen concentrations have exceeded 5 ppm-N in groundwater samples collected from monitoring wells located downgradient of the existing wastewater effluent disposal facility. The Commission also finds that nitrate concentrations have been reported at levels up to 5 ppm in groundwater samples collected from downgradient monitoring wells. The Commission finds further that the project shall be conditioned to ensure that groundwater nitrate concentrations do not exceed 5 ppm as required by MPS WR6.2., measured at the downgradient property line as shown the plan entitled *Plan Showing Groundwater Contours*, prepared by Coastal Engineering Company on February 8, 2013.

WRF40. The Commission finds that MPS WR6.3 is met because the anticipated increased discharge of treated wastewater effluent comprises approximately 0.20% of the total groundwater discharge to Mill Pond and that significant impact to the hydrologic balance of the aquifer is unlikely.

WRF41. The Commission finds that the December 4, 2012 letter from Kathleen Williams indicates that *"the proposed project is generally consistent with municipal development bylaws ... and will either require a Special Permit or an [Aquifer Protection District] waiver from the building commissioner and health director."* The Commission finds further that the project shall be conditioned to ensure compliance with MPS WR6.4, which prohibits the construction of private wastewater treatment facilities to allow development to occur at a higher density

than would be allowed by local zoning unless anticipated and approved through a Commission approved Comprehensive Wastewater Management Plan.

WRF42. The Commission finds that the project is consistent with MPS WR6.5 because the December 4, 2012 Yarmouth Board of Selectmen Mayflower Place Resolution finds that the project's location "*is consistent with both the goals of the Town's Capital Facilities Plan.*"

WRF43. The Commission finds that the project is consistent with MPS WR6.6 because the wastewater treatment facility is outside of FEMA A-Zones, V-Zones and floodways, Areas of Critical Environmental Concern (ACECs), wetlands and buffer areas, barrier beaches, coastal dunes, and critical wildlife habitats.

WRF44. The Commission finds that MPS WR6.7 and WR6.8 require a plan for sludge disposal and that the long-term ownership, operation, maintenance and replacement of the project's wastewater treatment facility shall be secured in accordance with Commission, state, and local guidelines. The Commission finds further that the project shall be conditioned to ensure compliance with MPS WR6.7 and WR6.8.

WRF45. The Commission finds that MPS WR6.9 does not apply because advanced wastewater treatment efficiencies greater than that allowed by a DEP permit may not be necessary, pursuant to MPS WR6.2, to meet Commission Minimum Performance Standards.

WRF46. The Commission finds that the project meets MPS WR7.1 and MPS WR7.2 with no new discharges of untreated stormwater, 44-percent total suspended solids (TSS) removal, 80-percent total TSS removal and runoff generated by the 25 year, 24 hour storm infiltrated on site.

WRF47. The Commission finds the proposed improvements to stormwater infrastructure are consistent with RPP requirements under Water Resources Goal WR7 (Stormwater Quality). These include the use of bioretention systems as specified by MPS WR7.4 and MPS WR7.6, proprietary treatment, subsurface recharge systems capable of accommodating frozen flow conditions pursuant to MPS WR7.5 and disconnected roof runoff specified by MPS WR7.3.

WRF48. The Commission finds the project meets MPS WR7.7 with the use of structured subsurface infiltration systems consistent with the project's location in a Water Quality Impaired Area (WQIA) on the RPP Water Resources Classification Map I.

WRF49. The Commission finds that MPS WR7.8 (Minimum two-foot Separation to groundwater) states "*new infiltration basins or other stormwater leaching structures shall maintain a minimum two-foot separation between points of infiltration and maximum high water table....*" The Commission finds that vegetated swales on the proposed Memory Care Building site are located in a tidally influenced area and, as such, the project shall be conditioned to determine the tidal influence on ground water at the vegetated swale locations in accordance with the Cape Cod Commission Technical Bulletin 92-001, as amended.

WRF50. The Commission finds that the project shall be conditioned to meet MPS WR7.8 (Minimum Two-Foot Separation to Groundwater) such that the calculated high groundwater level shall be below the bioretention soil mix of the vegetated swale infiltration systems.

WRF51. The Commission finds that MPS WR7.9 (Best Management Practices during Construction) requires the project provide a construction sequencing plan and that the project shall be conditioned to ensure compliance with MPS WR7.9.

WRF52. The Commission finds that MPS WR7.10 (Stormwater Maintenance and Operation Plan) requires a Professional Engineer-certified Stormwater Maintenance and Operation Plan be supplied to Commission staff for their review and approval prior to issuance of a Preliminary Certificate of Compliance. MPS WR7.10 also requires a Professional Engineer certification that the stormwater system is operating as designed one year after construction has been completed. The Commission finds that the project shall be conditioned to require compliance with MPS WR7.10.

WRF53. The Commission finds that MPS WR7.11, which requires shut-off valves in Wellhead Protection Areas for land uses with higher potential pollutant loads to eliminate or reduce the discharge to the maximum extent practicable, does not apply because the project does not involve a use with a higher potential pollutant load.

COASTAL and MARINE RESOURCES FINDINGS

CMRF1. Based on application materials submitted, including existing conditions site plans provided by the Applicant, none of the total project site is located inland of any of the coastal resources identified by the Regional Policy Plan's Coastal Resources section or within a Marine Resource Area, and therefore, the Minimum Performance Standards associated with these Regional Policy Plan issue areas do not apply to the proposed project.

WETLANDS AND PLANT AND WILDLIFE HABITAT FINDINGS

WETPWHF1. The project site is located within Significant Natural Resource Areas (SNRA) due to the presence of public water supply Wellhead Protection Area, wetlands, Mill Pond and its buffers, and mapped rare species habitat.

WETPWHF2. The Applicant submitted a Natural Resources Inventory consistent with MPS WPH1.1 (Natural Resources Inventory or NRI); the Natural Resources Inventory indicates that the proposed development areas do not contain wetlands or vernal pools. As such, MPS WPH1.5 (Vernal Pools) and MPS WET1.1 (Wetlands) do not apply to this project.

WETPWHF3. The proposed development, including buildings, clearing/grading, and parking for the new Memory Care facility, is located outside of the 100 foot buffers to wetlands with the exception of a paved walking path and installation of sewer force main. Specimen trees are not located within the proposed development areas.

WETPWHF4. Given the configuration of the wetlands relative to the proposed paved walking path and sewer force main, there is no alternative to these disturbances within protected resource areas. MPS WET1.3 (Wetlands, Buffers and Utility Line Installation) makes provision for the installation of utility lines where no alternative is available, and also for the installation of walking paths by MPS WET1.2 (Wetland Buffers).

WETPWHF5. According to the Natural Resources Inventory, the mapped rare species habitat on the northern portion of the site is associated with two state listed plant species, Heartleaf Twayblade (*Listera cordata*) and Swamp Oats (*Sphenopholis pensylvanica*), both of which are found in moist environments typically associated with wetlands. The NRI states that the Atlantic White Cedar swamp located off the site to the north of Buck Island Road is the likely main

habitat for these species. The Atlantic White Cedar Swamp will be unaffected by the proposed development.

WETPWHF6. The Applicant has not yet filed for project review with the Natural Heritage and Endangered Species Program (NHESP), and consequently there is no official determination from that office regarding the project's impact on rare species. However, the NRI includes a statement from NHESP staff indicating that based on the amount and location of the proposed work, the NHESP anticipates issuing a *No Take* determination. The Commission shall condition the project to ensure compliance with MPS WPH1.4 (Rare Species).

WETPWHF7. The buildings, site drives, and associated development proposed on the existing Mayflower Place campus is clustered with the existing development, and minimizes impacts on undisturbed areas that may serve as habitat.

WETPWHF8. The proposed parking for the Memory Care building incorporates an existing parking area, but relocates it closer to the road and out of the 100-foot wetland buffer, thus minimizing and reducing impacts to the wetland buffer. The Applicant proposes to revegetate portions of the site located along Mill Pond Road, including the former parking area, and the area where an old foundation, a vacant residence and garage are located.

WETPWHF9. The removal of a vacant residence and garage from within the 100 foot wetland buffer is consistent with Best Development Practice WPH1.8 (Un-development).

OPEN SPACE FINDINGS

OSF1. The Applicant has submitted calculations for the total area of new disturbance associated with the project, including new clearing adjacent to the main campus facilities, and new disturbance on the southeast portion of the site associated with parking for the Memory Care facility. The total area of new disturbance is 73,218 square feet. Redevelopment of the Mill Hill Club site, and reuse of existing parking areas do not count toward the total area of new disturbance for the purposes of calculating open space mitigation.

OSF2. Because the project site is located within Significant Natural Resources Area, the open space mitigation required by MPS OS1.3 is twice the total disturbed area, or 146,436 square feet.

OSF3. The Applicant has proposed to expand the acreage area subject to the existing Conservation Restriction on the site by an additional site area of 127,984 square feet (2.93 acres). These areas, annexed to the existing protected area, provide meaningful open space as they protect buffers to the Mill Pond and associated wetlands.

OSF4. There is a shortfall of open space mitigation of 18,452 square feet which the Applicant cannot provide onsite. The Applicant has opted to provide cash mitigation for the purpose of open space preservation in the Town of Yarmouth as allowed by MPS OS1.3. The cash mitigation calculated using current Assessor's data for the Town of Yarmouth is \$78,640 per acre, or \$33,000 for the shortfall.

OSF5. The Commission shall condition the project to ensure compliance with MPS OS1.3 by requiring the Applicant to expand the area of the existing Conservation Restriction on the site by an area of 127,984 square feet (2.93 acres), and to pay cash mitigation of \$33,000 to address the 18,452 square feet shortfall in the onsite protected open space.

TRANSPORTATION FINDINGS

TF1. The estimated new trip generation for the additional 50 units of independent living and 75 units of memory care facility based on data for similar facilities, as outlined in the Institute of Transportation Engineers (ITE) *Trip Generation, Eighth Edition, 2008*, shown in the table below:

Time Period	50 Units of Independent Living ¹	75 Units of Memory Care ²	Total New Trips
Weekday Daily Trips	102	178	280
Morning Peak Hour Trips	3	13	16
Evening Peak Hour Trips	9	16	25

¹ITE LUC 253, Congregate Care Facility, 50 units

²ITE LUC 620, Nursing Home, 75 Beds

TF2. The trip generation sources and calculations submitted on behalf of the Applicant for the proposed project were conducted in conformance with and comply with MPS TR0.1 (Sources of Trip-generation Data).

TF3. MPS TR0.2 (Traffic Credit for Past Use), MPS TR0.4 (Alternative Method for Compliance within Economic Centers), and MPS TR0.5 (Incentive for Mixed Use in Economic Centers) do not apply to the proposed project.

TF4. The proposed project complies with MPS TR1.1 (No Degradation of Public Safety).

TF5. The proposed project complies with MPS TR1.2 (Crash Frequency at Key Locations) and with MPS TR1.3 (Identification of Safety Impact) because there are no intersections of regional roadways or local road intersections with regional roads that are used by the project for access to the regional road network will experience an increase of 25 or more per hour trips generated by the proposed project.

TF6. The proposed site driveways for the proposed Memory Care facility comply with MPS TR1.4 (Standards for Driveway Construction).

TF7. Although the existing driveway for Mayflower Place “consists of a 15-foot wide entering travel lane and a 26-foot wide exiting travel lane separated by a landscaped median” and MPS TR1.4 states that a driveway opening shall “not exceed 12 feet per travel lane, except where deemed appropriate by the Commission,” the existing driveway at Mayflower Place does not pose a safety hazard or a mobility obstacle in its current configuration. For these reasons, the Commission deems the widths of the driveway appropriate, and therefore this site driveway complies with MPS TR1.4.

TF8. The proposed project site is not located within the limited-access portion of Route 6 and therefore, MPS TR1.5 (Route 6 Access/Egress) does not apply to this project.

TF9. No mitigation to address or offset safety concerns is required; therefore, the proposed project complies with MPS TR1.9 (Mitigation Timing).

TF10. While no safety concerns were identified as a result of the Commission's review of the proposed project, the Applicant has proposed the following offsite safety enhancements to improve overall safety in the area, and that meet Best Development Practice TR1.10 (Transportation Safety):

- Install STOP sign at Mayflower Place driveway at Buck Island Road;
- Install a diagonal downward pointing arrow (WP16-7P) on the existing pedestrian crosswalk signs at the Buck Island Road crosswalk;
- Replace the existing "Trucks Turning Left and Right" warning sign along Buck Island Road westbound in advance of the Fire Station;
- Replace the damaged Mill Pond Road street sign at Main Street;
- Replace the existing NO LEFT TURN signs at Main Street that is currently in poor condition;
- Reset the leaning STOP sign at Main Street and Mill Pond Road;
- A monetary contribution of sufficient funds by the Applicant to Town for use by the Fire Department to purchase a Light Tower with generator,
- A monetary contribution of sufficient funds by the Applicant to Town for use by the Police Department to purchase a solar-powered speed sign, and
- Replace or remove the two faded NO PARKING signs on Mill Pond Road depending on the Town's requirement.

TF11. MPS TR2.1 (Trip reduction Outside Growth Incentive Zones or Economic Centers) requires that project located outside Growth Incentive Zones or Economic Centers "*reduce and/or offset 25 percent of the expected increases in site traffic resulting from the DRI on a daily basis*" and that based on the increase in daily traffic of 280 trips per day, the trip reduction requirement for the proposed project is 70 [280 x .25] daily vehicle trips.

TF12. The Applicant has proposed implementation of the following Travel Demand Management measures to meet the 25 percent reduction requirement of MPS TR2.1:

- Carpool/vanpool matching program;
- 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;
- Designated parking spaces will be provided on-site for car/vanpools and alternatively fueled vehicles;
- A guaranteed-ride-home program will be provided for employees that car/van pool for emergencies that may arise during the workday;
- 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 residents of the project;
- Direct deposit of employee payroll checks will be offered;
- On-site services to decrease off-site trips by employees including a lunch room 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;
- Sidewalks and pedestrian areas will be provided within the project;
- Lighting will be provided within the project and around the building perimeters;
- Full handicapped access will be provided within the project;

- The project will include provision of safe, secure, weather protected bicycle racks and/or storage lockers. Signs will be provided at appropriate locations within the project directing bicyclists to the bicycle storage facilities;
- The project will provide on-site services including a common dining facility, social and recreational activities and wellness and health care programs; and
- The project proponent, in consultation with the Commission and the Town of Yarmouth has proposed to conduct a traffic monitoring and reporting program which will include a survey of residents and employee participation in the TDM 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 and will be conducted at 12 and 24 months after issuance of the Final Certificate of Occupancy for the project. The results of the traffic monitoring and reporting program will be provided to the Commission and Town of Yarmouth and will be used, in part, to develop additional strategies as necessary to increase and expand the TDM program.

TF13. Based on the robust Travel Demand Management program offered by the Applicant, the proposed project meets BDP TR2.16 (Alternative Modes of Travel.)

TF14. The proposed project is not located inside a Growth Incentive Zone or Economic Center; and therefore, MPS TR2.2 (Trip Reduction Inside of Growth Incentive Zones or Economic Centers) does not apply.

TF15. The proposed project complies with MPS TR2.3 (Interconnections) based on the Applicant's proposal to provide a pedestrian connection between Independent Living and Memory Care facilities, and to extend a walking path from the new proposed Memory Care facility parking lot to the existing Baxter Grist Mill path.

TF16. MPS TR2.4 (Incentives for Connection between Adjacent Properties) does not apply to this project.

TF17. The current Mayflower Place campus, including the proposed Independent Living building is not on a fixed transit route. The proposed Memory Care facility is on the Cape Cod Regional Transit Service's H2O Hyannis-Orleans line. However, based on the type of residents who will likely live at either facility, a bus stop, turn-out, or shelter is not appropriate for the project site, and MPS TR2.6 (Bus Stops, Turn-outs, and Shelters) does not apply to this project.

TF18. The proposed project complies with MPS TR2.9 (Parking Spaces) based on a 11/13/12 letter from VAI that justified the number of new parking spaces provided based on parking statistics published in the Institute of Transportation Engineers (ITE) *Parking Generation*, Fourth Edition.

TF19. The Applicant's Travel Demand Management plan to achieve trip reduction as presented in the Traffic Impact and Access Studies constitutes an acceptable trip reduction strategy, and the proposed project complies with MPS TR2.10 (Acceptable Trip-reduction Strategies).

TF20. Because no other trip reduction strategies are proposed, MPS TR2.11 (Other Trip-reduction Strategies) does not apply to the proposed project.

TF21. The Applicant's trip reduction estimates do not exceed the requirements of the Regional Policy Plan, and therefore MPS TR2.12 (Trip-Generation Credit) does not apply to the proposed project.

TF22. No trip reduction payments are proposed, and therefore MPS TR2.13 (Inflation Factor) and MPS TR2.14 (Use of Trip-reduction Funds) do not apply to the proposed project.

TF23. The proposed project meets Best Development Practice BDP TR2.21 (Shared Parking) by the Applicant's proposal to dedicate four (4) spaces in the main parking lot of the proposed Memory Care facility for visitors to the Baxter Grist Mill; by labeling these spaces with a "GRIST MILL PARKING ONLY" sign, and by extending a five (5) foot walking path from the designated parking spaces to the existing Baxter Grist Mill walking path.

TF24. The proposed project complies with MPS TR3.1 (Operation Requirements) based on the Traffic Impact and Access Studies that presented an operational analysis demonstrating that all new access and/or egress onto the road system operates at a Level of Service of C or better during the project's peak hour under 2017 build conditions.

TF25. The Applicant's Traffic Impact and Access Studies and a Memorandum summarizing the cumulative impact of the project comply with MPS TR3.3 (Traffic Studies).

TF26. To meet the requirements of MPS TR3.4 (Mitigation of Congestion Impacts Required), the Applicant has proposed a fair-share congestion mitigation payment of \$48,008. Per MPS TR3.6 ("Fair-share" Payments), the fair-share payment calculation, as presented in the Traffic Impact and Access Studies, was done in accordance with the Commission's *Guidelines for Transportation Impact Assessment*, Technical Bulletin, Revised January 9, 2003.

TF27. No mitigation fee payment is proposed for this project and therefore, MPS TR 3.5 (Mitigation Fee) does not apply to this project.

TF28. No structural transportation-related mitigation is proposed, and therefore, MPS TR3.7 (Restriction on Widening or New Signals), MPS TR3.8 (Year-round Structural Mitigation), MPS TR3.9 (Bicycle and Pedestrian Accommodation), MPS TR3.10 (Preserve Existing Right-of-Way), MPS TR3.11 (No Capacity Increase on Controlled-access Highways), MPS TR3.12 (Consistency with Other Plans), MPS TR3.13 (Operation and Maintenance Costs), and MPS TR3.14 (Traffic Monitoring Devices) do not apply to the proposed project.

HAZARDOUS WASTE MANAGEMENT FINDINGS

HWMF1. According to maps created for the 2009 (as amended) Regional Policy Plan, the proposed new wing on the Mayflower Place building is located in Wellhead Protection Area, and this component of the project is subject to the limit on Hazardous Waste in WHPAs imposed by MPS WM1.1 (Hazardous Materials/Waste Restrictions).

HWMF2. The Regional Policy Plan defines Hazardous Waste as any "*Hazardous Waste, Universal Waste or Waste as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.010. Hazardous Wastes do not include Hazardous Materials and bio-medical wastes regulated by 105 CMR 480.000.*"

HWMF3. MPS WM1.5 (Compliance with Massachusetts Hazardous Waste Regulations) 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 the three items are to be provided to show compliance with this standard: (a) registration with or notification to the Massachusetts Department of Environmental Protection as a generator of Hazardous Waste;(b) a written plan or protocol to manage the Hazardous

Waste prior to disposal; and(c) a signed contract with a registered, licensed company to dispose of the Hazardous Waste.

HWMF4. According to information from the Applicant included in the 10/15/12 DRI application and a subsequent 11/13/12 letter from Attorney Singer, Mayflower Place generates Hazardous Wastes including used fluorescent bulbs, old computers, used computer monitors and televisions, and occasionally mercury-containing batteries, and that based on a 3/5/12 Email from Attorney Singer, the amount generated includes two computer monitors in 2012 and 87 fluorescent bulbs of various types/shapes per month.

HWMF5. The existing Mayflower Place provides an on-site hair salon and art studio, but based on materials submitted for the record, the art studio uses only water-based/latex paints, and the hair salon waste comes from use of *Cosmetics*, both of which are not considered *Hazardous Wastes* as defined by the Regional Policy Plan (as amended).

HWMF6. Based on Attorney Singer's 11/13/12 letter the existing sewerage disposal system for the Mayflower campus and the new Memory Care facility does not currently utilize chemicals to function, and that no chemicals are proposed as part of the new proposal.

HWMF7. Attorney Singer's 12/5/12 Email indicates the Mayflower Place facility uses pool shock but consumes the chemical in use, stores approximately 20 gallons of gasoline on the property for snow blowers and small equipment, and uses the services of a third-party vendor for landscape maintenance and pest control, thereby eliminating the need to store pesticides or rodenticides on the property.

HWMF8. According to information from the Applicant included in the 10/15/12 DRI application and a subsequent 11/13/12 letter from Attorney Singer, used fluorescent bulbs "*are placed in a separate container in our locked hazmat room to be taken when our contracted medical waste vendor picks up trash every month,*" that "*used batteries are kept in a bin locked in the maintenance shop in the basement [of a building on the Mayflower Place campus],* computers, monitors and TVs are brought to the Yarmouth Transfer Station, and that when encountered, batteries are disposed of by Interstate Battery Company.

HWMF9. The Applicant has provided the necessary information to comply with the components of MPS WM1.5 for the project's operational phase.

HWMF10. Based on the information submitted by the Applicant, the proposed project complies with MPS WM1.1 and WM1.5 for the construction phase.

SOLID WASTE MANAGEMENT FINDINGS

SWMF1. 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*" and that MPS WM2.2 describes the requirements of a construction and demolition (C&D) waste management plan.

SWMF2. Based on an 11/13/12 letter from Attorney Singer which provides the outline of a C&D waste management plan, and an 11/19/12 letter from Attorney Singer that estimates three to four 30-yard containers of C&D waste, the Applicant has complied with the requirements of MPS WM2.1 and MPS WM2.2 for the construction phase.

SWMF3. MPS WM2.3 requires a post-construction waste and recyclables management plan, and based on an 11/19/12 letter from Attorney Singer, recyclables are and will be handled for the proposed new Memory Care facility at Mayflower Place, primarily through dedicated recycling rooms throughout the buildings, and several larger onsite containers dedicated to one or more recyclables streams, accordingly the proposed project complies with MPS WM2.3 for the project's operational phase.

SWMF4. MPS WM2.4 addresses food-waste recycling and requires in part that *"a post-construction management plan shall be provided by those developments (primarily supermarkets) generating significant amounts of food wastes to demonstrate how an Applicant will recycle organic materials."*

SWMF5. The Applicant has estimated that *"the approximate amount of food waste in pounds on a daily basis from the central kitchen [at Mayflower Place] is estimated to be 75 pounds."* (Emphasis in original) and in an 11/19/12 letter from Attorney Singer indicates the new Memory Care facility will have one central kitchen and each of the 5 resident "communities" will also have a kitchenette.

SWMF6. Food waste from all project components will be collected and transported to the Mayflower Place main campus, and based on an 11/13/12 letter from Attorney Singer, the total 125 new Independent Living units and the new Memory Care facility will increase the amount of food waste generated by Mayflower Place by an additional 50 pounds per year.

SWMF7. MPS WM2.4 states in part *"a post-construction management plan shall be provided by those developments (primarily supermarkets) generating significant amounts of food waste..."* The approximate amount of food waste currently generated on an annual basis by Mayflower Place is 27,375 pounds or 13.675 US short tons per year, and the proposed project would generate approximately 27,425 pounds or 13.713 US short tons per year. Based on this information, and the fact that the MPS WM2.4 refers to supermarkets as a type of development that produces a "significant amount" of food waste (225 tons per year or more), the proposed project will not generate a "significant amount" of food or compostable waste according to MPS WM2.4; therefore this MPS does not apply to the project.

ENERGY RESOURCES FINDINGS

ERF1. The Memory Care portion of the proposed project involves redevelopment of the existing Mill Hill Club site. MPS E1.1 (Redevelopment Energy Audit) requires that redevelopment shall perform an energy audit of existing conditions and incorporate recommendations into the project design. However, because the Applicant is proposing to demolish the existing building, rather than renovate it, there is no building to audit, and therefore, MPS E1.1 does not apply to the proposed project.

ERF2. The Applicant has complied with MPS E1.4 (Multi-family Projects) for the project, which requires multi-unit residential projects to select ENERGY STAR Qualified Homes Builder Option package specifications, which relate to cooling & heating equipment, thermostat, ductwork, building envelope, windows, and water heater, lighting and appliance selections.

ERF3. The Applicant has provided an energy analysis for solar photovoltaic (PV) panels to serve the project, and demonstrated the ability to generate 25% of the electrical demand for each site

building through two separate proposed rooftop PV arrays; a 51 KW PV array on the Memory Care building, and a 49 KW PV array on the Independent Living building.

ERF4. The Applicant's energy analysis supports the distributed generation waiver requirement in MPS ED 1.3 (Waiver), as well as the criteria contained in MPS E1.6 (Alternate Method of Meeting MPS E1.1 Through E1.5) for on-site renewable energy generation.

AFFORDABLE HOUSING FINDINGS

AHF1. The proposed project is consistent with the 10% affordability requirement of MPS AH 1.1 (Residential Requirement) and MPS AH 1.4 (Calculation of Affordable Units) by providing thirteen (13) affordable units on site: five (5) independent living one bedroom units and eight (8) memory care studio units, and that the Applicant's proposed maximum monthly rent and service charges for the affordable independent living and memory care units complies with MPS AH 1.11 (Pricing and Rent of the Affordable Units).

AHF2. The Applicant has complied with MPS AH 1.1 and AH 1.11 because the Applicant has specified in the DRI application and testimony that 10% of the proposed units will be affordable units, and that the Commission shall condition the project to ensure compliance with MPS AH1.1 and MPS AH1.11 as the project is built.

AHF3. The Applicant shall comply with MPS AH 1.8 (Timing and Mix of Units) by developing onsite affordable at the same rate and within the same timeframe as market rate units, and by providing a proportional mix of affordable and market-rate units sizes. The Applicant shall comply with MPS AH 1.12 (Permanent Affordability) through an affordable housing restriction. The Applicant shall comply with MPS AH1.13 (Monitoring of Affordability) by a monitoring agreement to ensure compliance with the affordability requirements. The Commission shall condition the project to ensure compliance with MPS AH1.8, MPS AH1.12, and MPS AH1.13 as the project is built.

AHF4. The Applicant shall comply with MPS AH1.10 (ENERGY STAR requirement) by a design that meets ENERGY STAR. The Commission shall condition the project to ensure compliance with MPS AH1.10 as the project is built.

AHF5. The Applicant has complied with the integration requirements of MPS AH1.9 (Size and Integration of the Affordable Units) through the project's design, and that the units are appropriately sized for housing of this type. The unit size requirement in MPS AH1.9 is not applicable as the project will not currently be considered by the Department of Housing and Community Development (DHCD) to qualify for inclusion on the Town's Subsidized Housing Inventory (SHI) because it will not be using a recognized public subsidy source.

AHF6. The Commission finds it shall condition the project such that the final apportionment among unit sizes as required by MPS AH1.8 and MPS AH1.9 is to be determined when the final unit and floor plans are developed, prior to issuance of the Preliminary Certificate of Compliance.

AHF7. While four single family homes will be demolished as part of the project, there will be 126 new residential units created in the project; therefore, as there is a net increase in the number of residential units, MPS AH1.14 (No Reduction in Number of Existing Units) does not apply to this project.

AHF8. The Applicant shall comply with MPS AH2.1 (Non-discrimination) and MPS AH2.2 (Visit-ability and/or Accessibility) through the project's design, and the Commission shall condition the project to ensure compliance with MPS AH2.1 and MPS AH2.2 as the project is built.

AHF9. The Applicant shall comply with MPS AH2.3 (Affirmative Marketing and Tenant Selection) and that the Commission shall condition the project to require the Applicant's marketing/tenant selection plan to include elements similar to and consistent with the affirmative marketing and selection policies as described in the Local Initiative Program (LIP) Affirmative Fair Housing Marketing Plan guidelines.

AHF10. There are occupied non-condemned homes proposed to be demolished as part of the project. Accordingly, the Commission shall condition the project to ensure compliance with MPS AH2.4 (Relocation Requirement).

AHF11. Based upon information submitted for the record, the Commission finds that the following properties are currently occupied and the occupants eligible for up to the following maximum amounts of relocation assistance: 24 Mill Pond Road- \$1,150 for moving expenses and up to \$7,350 for replacement housing costs; 3 Evergreen Road- \$1,300 for moving expenses and up to \$4,200 for replacement housing costs; 7 Evergreen Road- \$1,300 for moving expenses and up to \$2,100 for replacement housing costs.

AHF12. MPS AH1.2 (Ten Percent Requirement for Subdivision of 10 plus Lots) does not apply because the project does not involve a residential subdivision of 10 or more lots.

AHF13. MPS AH1.3 (Cash Contribution Option), MPS AH1.5 (Offsite Option Criteria), MPS AH1.6 (Location of Offsite Option), and MPS AH1.7 (Timing of Offsite Contributions) do not apply because the Applicant will comply with MPS AH1.1 by providing onsite units.

AHF14. MPS AH3.1 (Mitigation Standard), MPS AH3.2 (Alternate Mitigation Calculation Option), MPS AH3.3 (Annual Adjustment of Mitigation), MPS AH3.4 (on-Site Units Option), and MPS AH3.5 (Redevelopment/Change of Use) are not applicable because the proposed project is a residential development that is required to comply with MPS AH1.1.

AHF15. The proposed development complies with Best Development Practice AH1.16 (Priority for Affordable Rental Housing).

HERITAGE PRESERVATION AND COMMUNITY CHARACTER FINDINGS

HPCCF1. The proposed project does not directly impact any historic structures that are included on the State's Inventory of Historic and Archaeological Assets.

HPCCF2. The proposed project involves the demolition of the Mill Hill Club building and several adjacent residences. None of the buildings proposed for demolition are included in the state inventory of historic places or located within an historic district, or have any architectural significance.

HPCCF3. Given the distance and vegetation between the historic Baxter Grist Mill and the proposed facility, as well as the proposed improvements to the parking area which is set well back from Route 28 and will be shared with Baxter Grist Mill visitors, the proposed project will support preservation of the Baxter Grist Mill and is consistent with MPS HPCC1.1 (Historic Structures) and MPS HPCC1.2 (Cultural Landscapes).

HPCCF4. Based on a letter dated October 16, 2012, Massachusetts Historical Commission determined that the proposal would have no adverse effect on the Baxter Grist Mill, and that the proposed project area is not considered archaeologically sensitive. Therefore, the proposed project complies with MPS HPCC1.3 (Archaeological sites).

HPCCF5. MPS HPCC2.1 (Strip Development) does not apply because the proposed project does not include strip development.

HPCCF6. The proposed project complies with MPS HPCC2.2 (Protection of Existing Roadway Character) because it does not involve significant changes to either Buck Island Road or Route 28 at the project entrances.

HPCCF7. While the proposed project is adjacent to Mill Pond and the historic Baxter Grist Mill, it is set back from these areas, and improves access to these resources, and therefore complies with MPS HPCC2.3 (Avoid Adverse Visual Impacts).

HPCCF8. MPS HPCC2.7 (Non-traditional Materials and Design) does not apply because the proposed project is not located in an industrial park and is not seeking to use non-traditional materials.

HPCCF9. Both the proposed Independent Living and the Memory Care buildings are two-story structures with sloped roof forms and significant variation in their building footprints. Given their location outside of an historic district, village center or other area with distinctive character, the use of traditional sloped roofs, wood siding materials, and residential scale windows and entries make the building designs consistent with HPCC2.4 (Consistency with Regional Context).

HPCCF10. The proposed Independent Living building has an ell-shaped footprint of roughly 27,000 square feet. The proposed plans by TAT, The Architectural Team, dated October 12, 2012 and revised February 12, 2013, include variation in the roof height at the end of each ell and variation in the eave height on major projections so that the building appears to be composed of multiple building masses. In addition, the applicant has proposed landscape screening between the building and Buck Island Road to partially screen portions of the building. As such, the design meets the requirements of HPCC2.5 (Footprints over 15,000 square feet).

HPCCF11. The proposed Memory Care building has a footprint of approximately 30,000 square feet. The proposed plans by TAT, The Architectural Team, dated October 12, 2012 and revised February 12, 2013, include significant setbacks in the facade and variations in the roof height so that the front and rear portions of the building appear to be separate but attached building masses. The rear portion of the building also includes setbacks in the facade and changes in the roofline so that it appears to be composed of several smaller massings. These features make the design consistent with HPCC2.5 (Footprints over 15,000 square feet).

HPCCF12. The proposed Independent Living and Memory Care building plans by TAT, The Architectural Team dated October 12, 2012 and revised February 12, 2013 include the required amount of setback and projection in each building facade over 50 feet in length. The plans also include changes in roof form, roof height, eave height, and variation in the exterior siding materials to break up the large building facades, consistent with the Commission's Design

Guidelines for Large Scale Development and in compliance with HPCC2.6 (Building forms and facades).

Landscaping

LSDf9. The parking areas for the proposed new Memory Care facility are predominantly located to the side of the building with a small portion of the parking located in the front of the building, which is found to be necessary due to the nature of the facility. The project site is well-screened from Route 28, from the regional roadway, via a large landscaped buffer and is to be lushly planted and graded at a slope, which complies with MPS HPCC2.8 (Parking to the Side and Rear of Buildings).

LSDf10. The majority of the proposed parking spaces for the Independent Living facility on the existing Mayflower Place campus is located within the existing parking lot footprint, and is located at a setback of 80-100 feet from the road edge, shielded from view by existing vegetation, which complies with MPS HPCC2.8 (Parking to the Side and Rear of Buildings).

LSDf11. The proposed project complies with MPS HPCC2.9 (Landscaping Improvements for Redevelopment) through a proposed large landscaped area fronting Route 28, well planted parking lot islands, and buffer areas along side streets.

LSDf12. The landscape plans submitted by Hawk Design dated 10/12/2012, as revised 1/24/13, comply with MPS HPCC2.10 (Landscape Plan Requirements) by integrating buildings with the landscaped environment; dividing expansive parking areas, incorporating tree plantings, and including pedestrian amenities to improve the visual and functional character of the site.

Exterior Lighting

EXLF13. Based on the exterior lighting information submitted by the Applicant, including an *Independent Living Lighting Plan* (dated 10/12/12, Sheet L4), a *Memory Care Lighting Plan* (dated 10/12/12, Sheet L5) and a *Site Lighting Legend & Specifications* (dated 10/12/12, Sheet L6), the proposed project's exterior lighting design is consistent with MPS HPCC2.11 (Exterior Lighting) with the exception of the proposed mount height for pole fixtures, the pole mount fixture heads, and the proposed *Incon* cylinders which are not "*fully shielded*" and do not "*create a total cutoff of all light at less than ninety (90) degrees from vertical.*"

EXLF14. The proposed *Incon* cylinders will be under roof elements or porches, and this type of exterior illumination in these locations has been allowed by the Commission, and as such, these fixtures are consistent with MPS HPCC2.11 (Exterior Lighting).

EXLF15. Based on a 10/18/12 telephone conversation between Bennett LaFrance, the project's landscape designer and Commission staff, the pole mount lights will be flush mounted at finished grade, resulting in a total fixture height of 12 feet, 40 inches (pole + head). This total mount height is consistent with the requirements of MPS HPCC2.11 and the Commission's Exterior Lighting Technical Bulletin, as amended.

EXLF16. The proposed pole mounted fixture head is available in a "cut off optics" style (10/18/12 Email from Bennett LaFrance) which conforms to MPS HPCC2.11 and the Technical Bulletin.

CONCLUSION

Based on the above findings, the Commission hereby concludes:

1. That upon satisfaction of the conditions identified in this decision, the proposed development is consistent with the Act and 2009 Regional Policy Plan (as amended).
2. According to the December 4, 2012 written testimony of Kathleen D. Williams, Town Planner, the Commission finds the proposed development is consistent with Yarmouth's Local Comprehensive Plan as outlined in Finding GF4.
3. If the development successfully obtains the required local permits, the proposed development is consistent with Yarmouth's local development by-laws/ordinances as outlined in Finding GF5.
4. The development is not located within any District of Critical Planning Concern as outlined in Finding GF6.
5. That the probable benefit of the proposed project is greater than the probable detriment. This conclusion is supported by Finding GF7.

CONDITIONS

The Commission hereby approves, with conditions, the DRI application of Yarmouth Mayflower Place II, Inc. and Turino Associates LLC, subject to the following conditions:

GENERAL CONDITIONS

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. Unless otherwise more specifically addressed or conditioned herein, this decision shall be appurtenant to and run with the property which is the subject project site.

GC3. The term "Applicant" as used herein shall include its heirs, successors, and assigns in interest, and its employees, representatives, and agents, as the context implies. The decision shall be enforceable against the Applicant, its heirs, successors, and assigns.

GC4. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project. Specifically, prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary municipal permits, licenses and approvals for the project including but not limited to:

1. A Special Permit from the Zoning Board of Appeals for a P5-Nursing and Personal Care use, and to raze, replace and redevelop under Section 104.3.2 of the zoning Bylaw,
2. A Special Permit for minor dimensional and parking location relief,
3. A Special Permit or an Aquifer Protection Overlay District waiver from the Building Commissioner and Health Director for the Independent Living portion of the project which is located in an Aquifer Protection Overlay District,
4. Conservation Commission review and approval due to buffer and other riparian impacts, and
5. Town approval for the construction of a sewer force main under Mill Pond Road.

The project's consistency with municipal development by-laws or ordinances and Minimum Performance Standard WR6.4 shall be evidenced and confirmed by the Applicant obtaining all said necessary municipal permits, licenses and approvals.

GC5. Failure to comply, and remain in compliance, with all conditions stated herein, and with all related statutes, ordinances, laws and other regulations, shall be deemed cause to revoke or modify this decision.

GC6. No development, or application for local permits, licenses or approvals authorizing development work, as the term "*development*" is both defined in the Cape Cod Commission Act and is approved herein, shall be undertaken until the Commission Clerk certifies in writing that the decision appeal period has elapsed or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated or otherwise disposed of.

GC7. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as the term "*development*" is both defined in the Cape Cod Commission Act and is approved herein, the Applicant shall submit final project plans as approved by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those project plans approved, referenced and incorporated herein, the Commissions shall require that the Applicant seek a modification to this decision for further review and approval of the project plans in accordance with the "*Modification*" section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC8. All development shall be undertaken and constructed consistent with the following project plans and materials:

Site Development Plan Set, by Kelly Engineering Group

- Plan Set Sheet 1, Title Sheet, dated 10/10/12, revised 3/5/13
- Sheet 2, Overall Layout Plan, dated 10/10/12, revised 1/23/13
- Sheet 3A, Existing Conditions Plan, Mayflower Independent Living, dated 10/10/12, revised 1/23/13
- Sheet 3B, Existing Conditions Plan, Mayflower Independent Living, dated 10/10/12, revised 1/23/13
- Sheet 4, Layout Plan, Mayflower Place Independent Living, dated 10/10/12, revised 1/23/13
- Sheet 5, Grading Plan, Mayflower Place Independent Living, dated 10/10/12, revised 1/23/13
- Sheet 6A, Utility Plan, Mayflower Place Independent Living, dated 10/10/12, revised 3/5/13
- Sheet 6B, Utility Plan, Mayflower Place Independent Living, dated 10/10/12, revised 3/5/13
- Sheet 7, Existing Conditions Plan, Mayflower Place Memory Care, dated 10/10/12, revised 1/23/13
- Sheet 8, Layout and Zoning Plan, Mayflower Place Memory Care, dated 10/10/12, revised 1/23/13
- Sheet 9, Grading and Drainage Plan, Mayflower Place Memory Care, dated 10/10/12, revised 1/23/13
- Sheet 10, Utility Plan, Mayflower Place Memory Care, dated 10/10/12, revised 1/23/13
- Sheet 11, Detail Sheet, Mayflower Place, dated 10/10/12, revised 1/23/13
- Sheet 12, Detail Sheet, Mayflower Place, dated 10/10/12, revised 1/23/13

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Architectural Plans and Perspectives, Mayflower Place Expansion, TAT, dated 10/12/12

- Sheet T1.01, Project Cover Page, latest revision 2/12/13
- Sheet A1.01, Independent Living, First Floor, latest revision 2/12/13
- Sheet A1.02, Independent Living, Second Floor, latest revision 2/12/13
- Sheet A1.03, Independent Living, Roof Plan, latest revision 2/12/13
- Sheet A1.04, Memory Care, First Floor Plan, latest revision 2/12/13
- Sheet A1.05, Memory Care, Second Floor Plan, latest revision 2/12/13
- Sheet A1.06, Memory Care, Roof Plan, latest revision 2/12/13
- Sheet A4.01, Independent Living, Building Elevations, latest revision 2/12/13
- Sheet A4.02, Independent Living, Building Elevations, latest revision 2/12/13
- Sheet A4.03, Independent Living, Building Elevations, latest revision 2/12/13
- Sheet A4.04, Memory Care, Building Elevations, latest revision 2/12/13
- Mayflower Place Expansion, Independent Living Perspective from Buck Island Road, Looking Southeast, dated 12/4/12
- Mayflower Place Expansion, Independent Living Perspective from Buck Island Road, Looking Northwest, dated 12/4/12
- Mayflower Place Expansion, Memory Care Perspective from Route 28, Looking East, dated 12/4/12
- Mayflower Place Expansion, Memory Care Perspective from Route 28, Looking West, dated 12/4/12
- Mayflower Place Expansion, Materials Board, Independent Living, dated 11/9/12
- Mayflower Place Expansion, Materials Board, Memory Care, dated 11/9/12

Mayflower Place II, Site Landscape Plans, Hawk Design, dated 10/12/12, revised 1/24/13

- Title Sheet, dated 1/24/13
- Drawing L1, Site Reference Plan, dated 10/10/12, revised 1/24/13
- Drawing L2, Independent Living Planting Plan, dated 10/10/12, revised 1/24/13
- Drawing L3, Memory Care Planting Plan, dated 10/10/12, revised 1/24/13
- Drawing D1, Plant List and Planting Details, dated 10/10/12, revised 1/24/13
- Drawing D2, Planting Notes, dated 10/10/12, revised 1/24/13
- Drawing L4, Independent Living Lighting Plan, dated 10/10/12, revised 1/24/13
- Drawing L5, Memory Care Lighting Plan, dated 10/10/12, revised 1/24/13
- Drawing L6, Site Lighting Legend and Specifications, dated 10/10/12, revised 1/24/13

Conservation Exhibit Plan, Mayflower Place, by Kelly Engineering Group, dated 3/5/13

Energy Information

- ENERGY STAR Target Finder Results for Mayflower/Memory Care, printed 11/14/12
- ENERGY STAR Target Finder Results for Mayflower/Independent, printed 10/10/12
- Letter, Andrew Stebbins, TAT, dated 10/12/12, Mayflower Place Expansion MPS ED1.3
- Letter, Andrew Stebbins, TAT, dated 10/12/12, Mayflower Place Expansion, Green Design, 2 pages
- Letter, Andrew Stebbins, TAT, dated 11/20/12, MPS ED1.3, Revised Memory Care Bldg
- Letter, Andrew Stebbins, TAT, dated 10/12/12, MPS E1.4
- ENERGY STAR, Builder Options Package Notes, Memory Care, dated 10/12/12 (3 pgs)
- ENERGY STAR, Builder Options Package Notes, Memory Care, dated 10/12/12 (3 pgs)
- Statement of Energy Design Intent, Mayflower Independent, dated 10/10/12 (2 pgs)
- Plan A1.03 PV, Mayflower Place Expansion, Independent Living Schematic PV Layout, dated 10/12/12 by TAT
- LEED for Homes Simplified Project Checklist, Mayflower Independent, dated 1/1/11, 3 pages

- LEED 2009 for New Construction and Major Renovations, Independent, dated 10/10/12
- LEED for Homes Simplified Project Checklist, Mayflower Memory Care, dated 1/1/11, 3 pages
- LEED 2009 for New Construction and Major Renovations, Memory Care, dated 10/10/12

GC9. Unless otherwise more specifically addressed or conditioned herein, prior to issuance of a Building Permit or undertaking any development as the term “*development*” is both defined in the Cape Cod Commission Act and is approved herein, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied. Such Certificate of Compliance shall not be issued unless and until all applicable, required conditions have been satisfied.

GC10. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall provide written proof to the Commission that a copy of this decision has been provided to the general contractor(s) at least thirty (30) calendar days prior to commencement of any development, as the term “*development*” is both defined in the Cape Cod Commission Act and is approved herein.

GC11. Prior to issuance of any Certificate of Use/Occupancy, the Applicant shall obtain a Final Certificate of Compliance from the Commission that states that all conditions in this decision required to have been satisfied prior to the issuance of a Final Certificate of Compliance have been satisfied. Such Certificate of Compliance shall not be issued unless and until all applicable, required conditions have been satisfied.

GC12. Commission staff will undertake a review of a project’s compliance with the applicable conditions of the decision upon the Applicant’s request to the Commission for issuance of a Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a Certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission’s compliance review. As part of its compliance review, Commission staff may make, and the Applicant hereby authorizes, a site inspection, as needed. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

GC13. If determined that any development work is incomplete at the time a Final Certificate of Compliance is sought by the Applicant from the Commission, the Final Certificate of Compliance may issue, at the discretion of the Commission, provided that the decision is still in force and effect, and that any incomplete work shall be subject to an escrow agreement in form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the estimated cost of the incomplete work, including labor and materials. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow funds account shall be maintained by the *Barnstable County Treasurer*. Commission staff shall review the work as it is completed for its consistency with the decision prior to authorizing any release of the escrow funds. Unexpended escrow funds shall be returned to the Applicant upon completion of the work.

GC14. Prior to the issuance of a Preliminary Certificate of Compliance, but not until the appeal period for this decision has elapsed, or if such an appeal has been filed, until the appeal has been finally dismissed, adjudicated or otherwise disposed of, the Applicant shall record a copy of

this decision with the Barnstable Registry of Deeds, or as the case may be, register the same with the Barnstable Registry District of the Land Court, and provide written proof to Commission staff of such recording or registration. This decision shall not be effective until a copy of the same has been so recorded or, as the case may be, so registered.

ECONOMIC DEVELOPMENT CONDITIONS

EDC1. To confirm compliance with MPS ED1.3 (Waiver), prior to the Final Certificate of Compliance, the Applicant shall provide evidence to Commission staff that the project has been built consistent with the LEED checklist completed by a LEED certified professional contained in the DRI record, and show that the project has met the minimum LEED required points for *Multifamily Residential*.

WATER RESOURCES CONDITIONS

WRC1. The proposed expanded wastewater disposal facility shall be constructed in accordance with *Utility Plan*, Sheet 6A/6B, submitted on October 10, 2012, revised March 5, 2013.

WRC2. Title 5 wastewater design flows shall not exceed 44,080 gallons per day to ensure compliance with RPP MPS WR1.1, MPS WR2.1, MPS WR3.1 and MPS WR5.1.

WRC3. Prior to issuance of a Building Permit, the following information shall be submitted for Commission staff review and approval to ensure that the project complies with MPS WR6.2, MPS WR6.4, MPS WR6.7 and MPS WR6.8:

1. Logs for existing monitoring wells, including a description of well depths and screen intervals,
2. Monitoring reports/logs submitted to Department of Environmental Protection (DEP) in 2012 and 2013 as a condition of the groundwater discharge permit for the existing facility,
3. A copy of the groundwater discharge permit application submitted to DEP for wastewater design flows of 44,080 gallons per day, and
4. A groundwater monitoring plan that shall specify, at minimum, quarterly groundwater sampling of all monitoring wells identified on the plan entitled "Plan Showing Groundwater Contours," prepared by Coastal Engineering Company on February 8, 2013; plus, at minimum, one monitoring well cluster in a location approved by Commission staff. The plan shall incorporate monitoring requirements of the DEP-approved groundwater discharge permit and specify the timeframe within which analytical results will be reported to the Commission.

WRC4. Prior to issuance of a Certificate of Use/Occupancy, the Applicant shall submit a copy of the DEP-approved groundwater discharge permit for wastewater design flows of 44,080 gallons per day for Commission staff review and approval to ensure that the project complies with MPS WR6.2, MPS WR6.4, MPS WR6.7 and MPS WR6.8.

WRC5. Nitrate concentrations in groundwater samples collection from downgradient monitoring wells shall not exceed 5 ppm-N pursuant to MPS WR6.2. If the project is determined by Commission staff to be out of compliance with MPS WR6.2, Commission staff shall issue a notification of non-compliance indicating that a return-to-compliance plan shall be submitted for Commission staff review and approval. The Commission staff notice of non-compliance shall specify the timeframe within which the plan shall be submitted. The return-to-compliance plan

shall specify the timeframe within which the plan shall be implemented. Capital improvements to the wastewater treatment facility may be required to ensure compliance with MPS WR6.2.

WRC6. Prior to issuance of a Preliminary Certificate of Compliance, calculations demonstrating compliance with MPS WR7.8 shall be submitted for Commission staff review and approval. In accordance with the Cape Cod Commission Technical Bulletin 92-001, the calculations shall determine that the maximum high groundwater level at the location of the proposed vegetated swales lies below the bioretention soil mix. Areas of the project within 300 feet of a tidally influenced water bodies shall include measurements of the water level fluctuation over 24 hours (12 hours during a full or new moon).

WRC7. Prior to issuance of a Preliminary Certificate of Compliance a construction and sequencing plan shall be submitted for Commission staff review and approval pursuant to MPS WR7.9 (Best Management Practices during Construction).

WRC8. Prior to issuance of a Preliminary Certificate of Compliance a Professional Engineer-certified Stormwater Maintenance and Operation Plan pursuant to MPS WR7.10 (Stormwater Maintenance and Operation Plan) shall be submitted for Commission staff review and approval.

WRC9. One (1) calendar year after construction has been completed, certification by a Professional Engineer that the stormwater system is operating as designed shall be submitted to Commission staff for review and approval pursuant to MPS WR7.10 (Stormwater Maintenance and Operation Plan).

WETLANDS, WILDLIFE AND PLANT HABITAT CONDITIONS

WETWPHC1. The Applicant shall file a request for MESA Project Review with the Natural Heritage and Endangered Species Program (NHESP) and shall submit the NHESP determination on the rare plant species to the Commission prior to issuance of a Preliminary Certificate of Compliance.

WETWPHC2. In the event that the NHESP determines the project results in a *Prohibited Take* of the state listed plant species, the Applicant shall seek a modification to this decision in accordance with the Modification section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

OPEN SPACE CONDITIONS

OSC1. To ensure compliance with MPS OS1.3, prior to issuance of the Preliminary Certificate of Compliance, the Applicant shall prepare a revised Conservation Restriction, consistent with M.G.L Chapter 184, Sections 31-33, inclusive, and an accompanying plan, benefitting the Town of Yarmouth as grantee, for Commission staff review and approval that permanently protects the existing conservation restricted 23.52 acres plus the additional proposed 2.93 acres described in the record materials. The Conservation Restriction and plan shall be provided for review and approval by Commission Counsel prior to recording/registration.

OSC2. To ensure compliance with MPS OS1.3, prior to issuance by the Commission of a Final Certificate of Compliance, the Applicant shall provide to the Commission proof of recording/registration of the Commission-staff approved Conservation Restriction and plan at the Barnstable County Registry of Deeds or Registry District of the Land Court.

OSC3. The Applicant shall pay to the *Barnstable County Treasurer* \$33,000 as a mitigation payment for the shortfall in required on-site open space, which payment shall be made prior to issuance of the Final Certificate of Compliance and held in escrow to be used to protect open space in Yarmouth consistent with MPS OS1.3.

TRANSPORTATION CONDITIONS

TC1. To be consistent with MPS TR0.3 (Permits for Roadwork prior to Construction), prior to issuance by the Commission of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary approvals and permits for site access and egress and submit copies to Commission staff.

TC2. To comply with MPS TR1.6 (Sight-distance Obstructions), prior to issuance by the Commission of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drives.

TC3. To ensure compliance with MPS TR1.7 (Bicyclists and Pedestrians Safety and Access/Egress Requirements) and MPS TR2.7 (Bicycle and Pedestrian Accommodations), prior to issuance of the Final Certificate of Compliance, the Applicant shall provide upgrades to the curbing and sidewalk along Town Brook Road along the site frontage as shown on the *Mayflower Place Layout and Zoning Plan* dated 10/10/12 and onsite bicycle racks and/or storage lockers.

TC4. To comply with MPS TR2.1 (Trip reduction Outside Growth Incentive Zones or Economic Centers) which requires that projects located outside Growth Incentive Zones or Economic Centers “*reduce and/or offset 25 percent of the expected increases in site traffic resulting from the DRI on a daily basis*” and MPS TR2.5 (Estimating Trip Reduction), and based on the increase in daily traffic of 280 trips per day, the Applicant shall implement a Travel Demand Management Plan for the proposed project to reduce 70 [280 x .25] daily vehicle trips.

TC5. The Applicant shall implement of the following Travel Demand Management measures to meet the 25 percent reduction requirement of MPS TR2.1:

- Carpool/vanpool matching program;
- 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;
- Designated parking spaces will be provided on-site for car/vanpools and alternatively fueled vehicles;
- A guaranteed-ride-home program will be provided for employees that car/van pool for emergencies that may arise during the workday;
- 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 residents of the project;
- Direct deposit of employee payroll checks will be offered;
- On-site services to decrease off-site trips by employees including a lunch room 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;

- Sidewalks and pedestrian areas will be provided within the project;
- Lighting will be provided within the project and around the building perimeters;
- Full handicapped access will be provided within the project;
- The project will include provision of safe, secure, weather protected bicycle racks and/or storage lockers. Signs will be provided at appropriate locations within the project directing bicyclists to the bicycle storage facilities; and
- The project will provide on-site services including a common dining facility, social and recreational activities and wellness and health care programs.

TC6. Prior to issuance by the Commission of a Final Certificate of Compliance, Commission staff will conduct a site visit to confirm that the Travel Demand Management trip reduction program has been established and is in place.

TC7. The project shall be conditioned to provide the safety enhancements enumerated in Transportation Finding TF10, and as such, the proposed project meets BDP TR1.10 (Transportation Safety) for assisting and promoting transportation safety on Cape Cod.

TC8. To demonstrate that trip reduction being achieved, per MPS TR2.5 (Estimating Trip Reduction), the Applicant shall provide results of the annual survey of employee participation in the TDM program as outlined in Transportation Condition TC5 and a traffic monitoring/reporting plan including the measurement of traffic volumes at the project's access points over a continuous 7-day, week-long period. The survey and traffic monitoring required by this condition shall be conducted at 12 and 24 months after issuance by the Commission of a Final Certificate of Compliance and after issuance by the Town of Yarmouth the Certificate of Use/Occupancy for the project.

TC9. To ensure compliance with MPS TR2.8 (Preservation of Frontage), prior to the Preliminary Certificate of Compliance, the Applicant shall submit a set of plans detailing the design and location of the proposed sidewalk along Route 28 for review and approval by the Commission transportation staff in consultation with the Town of Yarmouth staff.

TC10. To ensure compliance with MPS TR2.8 (Preservation of Frontage), prior to the Final Certificate of Compliance, the Applicant shall construct a minimum 5-foot wide concrete sidewalk beginning at the crosswalk on the corner of Route 28 and Town Brook Road and ending at Mill Hill Road according to the plans approved according to Transportation Condition TC9.

TC11. To meet BDP TR2.21 (Shared Parking), the Applicant shall dedicate four (4) spaces in the main parking lot of the proposed Yarmouth Dementia Center for visitors to the Grist Mill. The Applicant shall also place a "*GRIST MILL PARKING ONLY*" sign at these spaces and shall extend a five (5) foot path from the designated parking spaces to the existing Grist Mill path.

TC12. To meet the requirements of MPS TR3.4 (Mitigation of Congestion Impacts Required), and MPS TR3.6 ("Fair-share" Payments), the Applicant shall remit payment of \$48,008 to the Barnstable County Treasurer prior to the issuance a Final Certificate of Compliance for the project. This congestion mitigation payment shall be used in accordance with MPS TR3.16 (Use of Congestion Mitigation Funds).

TC13. Commission staff shall conduct a site visit to verify compliance with Transportation Conditions TC2, TC3, TC6, TC7, TC10, and TC11. Until Commission staff issues a written determination that these conditions have been complied with, the Final Certificate shall not be issued.

HAZARDOUS WASTE MANAGEMENT CONDITIONS

HWMC1. The project shall not use, treat, generate, handle, store or dispose of Hazardous Materials and/or Hazardous Wastes, with the exception of Household Quantities or less on site at any one time.

HWMC2. The sewerage disposal system for the project shall not utilize treatment chemicals to function.

SOLID WASTE MANAGEMENT CONDITIONS

SWMC1. To comply with MPS WM2.2 for the project's construction phase, the Applicant shall implement the C&D waste management plan as described in an 11/13/12 letter from Attorney Singer which is included in the DRI application materials and made part hereof.

SWMC2. To comply with MPS WM2.1 and MPS WM2.2, prior to issuance by the Commission of the Final Certificate of Compliance, the Applicant shall provide Commission staff the amount and types of C&D waste managed and disposed of as a result of project construction, and shall also provide evidence where the C&D was recycled and/or disposed of.

SWMC3. To comply with MPS WM2.3 for the operational, post-construction phase, the Applicant shall implement the recycling plans for the Mayflower Campus and new Memory Care facility as outlined in Attorney Singer's 11/13/12 and 11/19/12 letters which are included in the DRI application materials and made part hereof.

SWMC4. Prior to issuance by the Commission of the Final Certificate of Compliance, Commission staff will conduct an inspection of both facilities' solid waste/recycling management method for compliance with MPS WM2.3.

ENERGY RESOURCES CONDITIONS

ERC1. To comply with the requirements of MPS E1.4, the Applicant shall implement ENERGY STAR Qualified Homes Builder Option package specifications, for both the Memory Care building and the new Independent Living building submitted as part of an October 12, 2012 letter from Andrew Stebbins, TAT, and made part hereof. Prior to issuance by the Commission of a Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval evidence from the project architect certifying that this condition has been satisfied.

ERC2. The project shall be designed and constructed consistent with the energy analysis and schematic PV layout for the Memory Care building and the new Independent Living building submitted by the Applicant submitted as part of an October 12, 2012 letter and a November 20, 2012 letter from Andrew Stebbins, TAT, and made part hereof which, specifies two separate rooftop PV arrays; a 51 KW PV array on the Memory Care building, and a 49 KW PV array on the Independent Living building.

ERC3. Prior to issuance by the Commission of a Final Certificate of Compliance, the Applicant shall install the photovoltaic panels.

ERC4. Prior to issuance by the Commission of a Final Certificate of Compliance, Commission staff shall conduct a site visit to verify compliance with Energy conditions as shown on the plan referenced in General Condition 8 (GC8).

AFFORDABLE HOUSING CONDITIONS

AHC1. To ensure compliance with MPS AH1.1 (Residential Requirement), MPS AH1.4 (Calculation of Affordable Units), MPS AH 1.8 (Timing and Mix of Units), MPS AH 1.11 (Pricing and Rents of the Affordable Units), and AH 1.12 (Permanent Affordability), the Applicant shall submit for Commission staff review and approval an affordable housing restriction and then submit a copy of the approved restriction that has been recorded at the Barnstable County Registry of Deeds and/or Land Court prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building Permit.

AHC2. At a minimum, the affordable housing restriction shall contain the following requirements:

- Five affordable independent living one bedroom units and eight affordable memory care studio units with affordable unit square footage sizes apportioned in a similar proportion as those of the market rate units.
- Maximum household income eligibility of 80% of the U.S. Department of Housing and Urban Development (HUD) area median income (AMI), adjusted for household size, with income eligibility determined in accordance with Barnstable County HOME Consortium guidelines (24 CFR Part 5).
- Maximum monthly rent and standard service charges for the affordable independent living one bedroom units calculated at 64% of the income of a household at the 80% AMI, based upon the HUD standard of using the income of a 1.5 person household for a one bedroom unit.
- Maximum monthly rent and service charges for the affordable independent living one bedroom units calculated at 75% of the income of a household at the 80% AMI, based upon the HUD standard of using the income of a 1.5 person household for a one bedroom unit, for those households who request and require 45 minutes per day of hands-on direct care in addition to the standard services package.
- The maximum monthly rent and service charges for the affordable memory care studio units calculated at 75% of the income of a household at the 80% AMI, based upon the HUD standard of using the income of a one person household for a studio unit.
- The maximum rents shall be the HUD "high" HOME rents.
- The term of the affordability restriction shall be perpetuity.

The standard package for the new *Independent Living Units* includes the following:

- A. Independent Living Housing Unit (one bedroom);
- B. Electric and HVAC utilities;
- C. One meal (dinner) per day;
- D. Standard housekeeping services;
- E. Standard facility-wide transportation (i.e., shuttle to shopping, etc.);
- F. Emergency call system for each residential unit;
- G. Social, recreational, and health promotion activities; and
- H. Access to onsite bank, hair salon, therapy and massages, and clinic.

Not included in the standard package for *Independent Living Units* and subject to additional costs are the following:

- A. Additional meals per day;
- B. Cable TV, telephone, and internet access;
- C. Apartment furnishings;
- D. Additional hands-on daily care (ADL);
- E. Prescriptions and medications;
- F. Nursing care as needed; and
- G. Medical or physician-oriented treatment.

The standard package for the new *Memory Care Units* includes the following:

- A. Memory Care Housing Unit (studio that includes a sleeping area);
- B. Electric and HVAC utilities;
- C. Three (3) meals per day;
- D. Standard housekeeping services;
- E. Nursing care as needed;
- F. Hands-on direct care relating to life care needs (ADL) as needed;
- G. Standard facility-wide transportation;
- H. Emergency call system for each residential unit;
- I. Social, recreational, and health promotion activities; and
- I. Access to onsite bank, hair salon, therapy and massages, and clinic.

Not included in the *Memory Care Units* standard package and subject to additional costs are the following:

- A. Cable TV, telephone, and internet access (all only as appropriate);
- B. Apartment furnishings;
- C. Prescriptions and medications; and
- D. Additional medical or physician-oriented treatment.

AHC3. Prior to issuance of a Preliminary Certificate of Compliance, and prior to issuance of a Building Permit, to ensure compliance with MPS AH1.8 (Timing and Mix of Units) and with MPS AH 1.9 (Size and Integration of the Affordable Units), the Applicant shall submit for Commission staff review and approval construction plans and a chart that shows unit square foot sizes with a similar proportion of affordable and market rate units among the various sized independent living and memory care units.

AHC4. Prior to issuance of a Preliminary Certificate of Compliance, and prior to issuance of a Building Permit, to ensure compliance MPS AH 2.2 (Visit-ability and/or Accessibility), the Applicant shall submit for Commission staff review and approval construction plans and specifications and/or an architect's certification that at least one of the affordable independent living units and at least one of the affordable memory care units are handicapped accessible and can be lived in by handicapped persons and/or meet visit-ability standards.

AHC5. To ensure compliance with MPS AH1.10 (ENERGY STAR requirement), the Applicant shall submit for Commission staff review and approval final construction plans and specifications and also submit an architect's certification that the final plans are consistent with the ENERGY STAR National Attached Builder Option Package Specifications or submit a preliminary HERS analysis of the plans and specifications by a certified independent HERS

rating company prior to issuance of a Building Permit and Preliminary Certificate of Compliance.

AHC6. To ensure compliance with MPS AH1.11 (Pricing and Rents of the Affordable Units), the Applicant shall submit for Commission staff review and approval the final proposed rents and service charges for all affordable units prior to issuance of a Final Certificate of Compliance and issuance of a Certificate of Use/Occupancy.

AHC7. To ensure compliance with MPS AH1.13 (Monitoring of Affordability), the Applicant shall submit for Commission staff review and approval a proposed monitoring agent(s) and a draft monitoring agreement and such approved monitoring agreement shall be executed with the agreed-upon monitoring agent prior to issuance of a Final Certificate of Compliance and prior to issuance of a Certificate of Use/Occupancy.

AHC8. To ensure compliance with MPS AH2.1 (Non-discrimination) and MPS AH2.3 (Affirmative Marketing and Tenant Selection), the Applicant shall submit for Commission staff review and approval an affirmative marketing and tenant selection plan that has similar elements and is consistent with affirmative marketing and selection policies as described in the Local Initiative Program Affirmative Fair Housing Marketing Plan guidelines prior to issuance of the Preliminary Certificate of Compliance and prior to issuance of a Building Permit.

AHC9. To ensure compliance with MPS AH2.4 (*Relocation Requirement*), the Applicant shall satisfy the following requirements prior to issuance of a Preliminary Certificate of Compliance or any local Building or Demolition Permit:

1. No more than ten (10) days after expiration of the DRI decision appeal period, the Applicant shall provide to Commission staff the following contact information for the occupants of the three homes identified in AHF11: Names, mailing addresses, and phone numbers and/or e-mail addresses, if available.
2. Further, no more than ten (10) days after expiration of the DRI decision appeal period, the Applicant shall provide for Commission staff review and approval a draft Notice of Displacement and Relocation Eligibility and a draft 90 Day Notice to Vacate for the occupants identified in AHC9(1) ("Occupants").
 - a. The Notice of Displacement and Relocation Eligibility shall include, at a minimum, the following: a general project description; that the occupants may be displaced and may need to relocate as a result of the project; that the occupants are eligible for up to the maximum amount of relocation assistance identified in AHF11, subject to the receipt of information from the occupants satisfactory to Commission staff; contact information for the Commission in order for the occupants to provide information and request assistance; and that the occupants will receive at least 90 days' notice prior to having to vacate.
3. No more than fifteen (15) days after Commission staff has notified the Applicant of its approval of the Notice of Displacement and Relocation Eligibility, the Applicant shall provide evidence that such Notice has been provided to the occupants identified in AHC9(1).
4. After or simultaneous with providing the occupants the approved Notice of Displacement and Relocation Eligibility, the Applicant shall provide evidence to Commission Staff that the approved 90 Day Notice to Vacate has been provided to the occupants. However, upon their receipt of the 90 Day Notice to Vacate, the occupants shall be provided at least 90 days to vacate their homes.
5. The Applicant shall deposit into escrow with the Barnstable County Treasurer funds of \$17,400 identified in AHF11 at the earlier of: (1) No more than (10) days following the Commission's notification to the Applicant of its receipt of the first request for relocation assistance from any of the occupants identified in AHC9 (1); or (2) No more than (10) days following the date the Commission staff approved 90 Day Notice to Vacate has been provided to the occupants.

- a. The Commission staff shall notify the Applicant when it has received the first request for relocation assistance from any of the occupants;
- b. The escrow funds account shall be maintained by the Barnstable County Treasurer with the administration and release of funds as approved by Commission staff.
- c. The Applicant may request that the Commission return any unexpended escrow funds upon the issuance of the Final Certificate of Compliance, other than those funds that Commission staff has determined will be necessary to make continuing relocation assistance payments to the occupants. Notwithstanding the above, the Commission shall return any unexpended funds to the Applicant that still remain in escrow 42 months after the issuance of the Preliminary Certificate of Compliance.

COMMUNITY CHARACTER CONDITIONS

Building and Site Design

BSDC1. The proposed Independent Living building shall be constructed as shown on the Floor Plans A1.01, A1.02, Roof Plan A1.03, and Elevations A4.01 and A4.02 as described in General Condition 8 (GC8). The Applicant shall submit final architectural plans for Commission staff review and approval prior to issuance of the Preliminary Certificate of Compliance, evidencing consistency with the approved schematic design plans and compliance with the Regional Policy Plan.

BSDC2. The proposed Memory Care building shall be constructed as shown on the Floor Plans A1.04, A1.05, Roof Plan A1.06, and Elevations A4.03 and A4.04 as described in General Condition 8 (GC8). The Applicant shall submit final architectural plans for Commission staff review and approval prior to issuance of the Preliminary Certificate of Compliance, evidencing consistency with the approved schematic design plans and compliance with the Regional Policy Plan.

Landscape Design

LSDC1. The Applicant shall submit final landscape plans for Commission staff review and approval prior to issuance of the Preliminary Certificate of Compliance, evidencing compliance with MPS HPCC2.10.

LSDC2. The Applicant shall submit a final landscape maintenance agreement for Commission staff review and approval prior to issuance of the Preliminary Certificate of Compliance, evidencing compliance with MPS HPCC2.10. Such landscape maintenance agreement shall also include use of satellite-based weather data to control the watering of landscape plantings.

Exterior Lighting Design

ELC1. All exterior lighting for the development, including but not limited to site, building and sign lighting shall be in conformance with MPS HPCC2.11 and Technical Bulletin 95-001 (as amended).

EXLC2. Prior to issuance by the Commission of a Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval information on exterior lighting for the site, signage and buildings to confirm that the exterior lighting selected is consistent with MPS HPCC2.11 and Technical Bulletin 95-001 (as amended).

EXLC3. If changes are made to the exterior lighting design referenced in General Condition 8 (GC8) as construction proceeds, prior to selection and installation of the revised exterior lighting fixtures, the Applicant shall submit for Commission staff review and approval additional

exterior lighting design information sufficient to allow Commission staff to determine if the proposed alternate fixtures are consistent with conditions relating to exterior lighting. Alternate exterior light fixtures found to be consistent with conditions related to exterior lighting then may be utilized upon written Commission staff approval.

EXLC4. Prior to issuance by the Commission of the Final Certificate of Compliance, Commission staff must conduct a site visit to verify conformance with exterior lighting conditions. If this inspection finds that the installed exterior lighting design is inconsistent with the exterior lighting conditions, the Applicant shall make amendments and changes necessary to bring the lighting design into compliance with the exterior lighting conditions. If such adjustments are required, Commission staff must conduct a follow-up site inspection to verify the adjusted design is consistent with the exterior lighting conditions. Such adjustments and inspections to the exterior lighting design shall occur prior to prior to issuance of a Final Certificate of Compliance by the Commission.

SEE NEXT PAGE FOR SIGNATURES

SIGNATURES

Executed this 28th day of March 2013.

[Handwritten Signature]
Signature

JOHN D. HARRIS, CHAIR
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss
2013

March 28 2013

Before me, the undersigned notary public, personally appeared John D. Harris,

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

Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18

