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CAPE COD
COMMISSION

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Date: January 30, 2014

To: Eliza Cox, Esq.
Nutter McClennen & Fish LLP
PO Box 1630
Hyannis, MA 02601

From: Cape Cod Commission

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

Applicant: ND Acquisitions, LLC

Owner: Shaw's Realty Trust

Project & Location: Bridges at Mashpee
Old Barnstable Road/ Rte. 151, Mashpee

Project #: TR# 13015

Assessors Map/Parcel: 73-46, 73-47, 66-107, 73-31, 73-30
Plan Reference: Plan Book 406 Page 18 Lots 1 through 5
Title Reference: Deed Book 5168 Page 218

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves, with conditions, the application of ND Acquisitions, LLC (the Applicant), represented by Attorney Eliza Cox (of Nutter McClennen & Fish, LLP) as a Development of Regional Impact (DRI) pursuant to Sections 12 & 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, and Section 7 of the Cape Cod Commission Enabling Regulations, as amended, (herein, "Enabling Regulations") for a 54-unit, memory care assisted living residential development. This decision (herein, "Decision") is rendered pursuant to a vote of the Commission on January 30, 2014.

PROJECT DESCRIPTION

The project is a 54-unit, memory care assisted living residential development, which will occupy approximately 5 acres of the 24 acre +/- project site. The project site consists of five separate lots that will be combined into a single lot in connection with the project. The project site is currently vacant and undeveloped, and approximately 19 acres of the project site is proposed to remain in a natural, undisturbed state dedicated as permanent open space through a conservation restriction. The proposed gross floor area of the project is approximately 45,000 square feet. The proposed 54 residential apartment units contain a total of 60 beds, grouped into three "household" wings in a single story.

PROCEDURAL HISTORY

The Commission received initial Development of Regional Impact (DRI) application materials on September 17, 2013. The Commission received a referral of the project as a DRI from the Mashpee Planning Board on September 20, 2013. Commission staff sent a letter to the Applicant's representative, Attorney Cox, on October 1, 2013 stating that the DRI application was not complete. The Applicant's consultants submitted additional information and met with Commission staff throughout October 2013, and the DRI application was deemed complete by email to Attorney Cox dated October 31, 2013. A Hearing Officer opened the DRI hearing period by a pro-forma hearing on November 18, 2013. The Commission subcommittee consisted of Woody Mitchell (Chair, Sandwich), Richard Roy (Dennis), Michael Blanton (Bourne), Andrew Putnam (Falmouth) and Jacqueline Etsten (Harwich). On November 26, 2013, the subcommittee conducted a site visit, at which the applicant described the project's relationship to the site, and then held a substantive public hearing at the Mashpee Town Hall, Waquoit Hearing Room. At this public hearing, the subcommittee heard presentations on the project by the Applicant's representatives and Commission staff. The subcommittee also heard comments from the public. The hearing was continued to December 10, 2013 to receive further information from the applicant requested by the subcommittee, as well as to review a draft decision for recommendation to the full Commission. The subcommittee voted to recommend the draft written decision approving the DRI project with conditions for consideration by the full Commission, and the hearing was continued to the regularly scheduled Cape Cod Commission meeting of January 2, 2013, 3 PM, at the Assembly of Delegates Chambers, First District Courthouse, Barnstable, MA.

JURISDICTION

The project qualifies as a mandatory DRI pursuant to Section 3(g) of the Commission's *Enabling Regulations* (revised March, 2013; Revised Fee Schedule Effective July 1, 2013) "*as any proposed development...that is planned to create 30 or more Residential Dwelling Units.*"

BRIDGES AT MASHPEE-MATERIALS SUBMITTED FOR THE RECORD

TABLE 1: Materials Submitted for the Record	
<i>Materials from Cape Cod Commission</i>	<i>Date</i>
Staff Email to T.Kinderman	8/26/2013
Staff Email to Samantha Gajewski	9/3/2013
Letter re: DRI referral received	9/24/2013
Email from James Sherrard (JS) to applicant	9/30/2013
Letter from Jon Idman (JI) to Atty. Cox re: application incomplete	10/1/13
Email from JS to applicant re: nitrogen loading	10/22/2013
Email from Andrea Adams (AA) to applicant re: waste management	10/23/2013
Two Emails from JI to applicant re: additional materials needed	10/24/2013
Transportation staff email to applicant	10/25/2013
Email from AA to applicant re: waste management	10/29/2013
Water resources staff email to applicant	10/29/2013
JI email to Mashpee Town Planner T. Fudala	10/30/2013
JI email to Atty. Cox re: completed application	10/31/2013
Letter to Applicant re: procedural hearing 11/18	10/31/2013
Affordable Housing staff email	11/6/2013
Letter to Applicant re: substantive hearing 11/26	11/6/2013
JI email to applicant re: outstanding issues, staff report and hearing	11/18/2013
JI email to applicant re: refueling	11/20/2013
JI email to applicant re: landscaping plan	11/20/2013
JI email to applicant re: entry sign	11/22/2013
JI email to applicant re: draft OMCA for septic system	11/25/2013
JI email re: Zone II/ hazardous waste and materials information provided	11/25/2013
Staff Report	11/26 /2013
Power Point presentation from Staff	11/26/2013
JI Email to Town Planner re continued hearing Bridges	2013-11-29
JI email to Atty. Cox re: Comments on 12/6/13 draft OMCA	12/9/13
Draft decision to Subcommittee	12/10/13
JI email to Atty. Cox re: comments on draft DRI decision	12/10/13
JI email Town Planner re: comments on draft DRI decision	12/11/13
<i>Materials from Applicant</i>	<i>Date</i>
Project overview narrative	8/12/2013
Project concept image- colored rendering	8/12/2013
Preliminary Transportation letter to staff	8/14/2013
Application filing submission (24 tab binder)	9/17/2013
Stormwater Report from Stantec	10/12/2013

Additional application materials, including NHESP 'no take' letter (10 tab binder)	10/17/2013
Transportation figures to CCC Staff	10/25/2013
Letter to CCC water resources staff	10/25/2013
Zoning/ LCP consistency analysis	10/31/2013
Municipal Development By-law consistency analysis	11/1/2013
Letter to staff re: amphidrome plus plus system	11/4/2013
Letter to staff re: affordable housing MPS	11/5/2013
Letter from LMH (contractor) re: haz mat and site clearing wastes	11/5/2013
Revised Plan set with new entry configuration	11/7/2013
Letter to staff re: revised plan set	11/7/2013
Revised site concept rendering	11/7/2013
Natural Resources inventory Appendix	11/8/2013
Letter to staff re: affordable housing rents	11/08/2013
Revised Nitrogen Loading calculations and map	11/12/2013
Stantec Response to staff comments on Exterior Lighting package	11/12/2013
Food waste narrative	11/14/2013
Haz. Waste Policy	11/14/2013
Recycling Policy	11/14/2013
Letter from Stantec- exterior lighting responses	11/12/2013
Revised architectural plan set from JSA Architects, 16 sheets	11/19/2013
Applicant email to staff re: site visit	11/20/2013
Letter from LMH re: designated refueling area (with plan)	2013-11-20
Draft O M C A Plan Bridges at Mashpee	2013-11-20
Applicant email to staff re: draft OMCA	11/21/2013
Applicant email to staff re: re-fueling	11/21/2013
Applicant email to staff re: entry sign	11/23/2013
Applicant email to staff re: preservation funds	11/25/2013
Photometric plans: recessed porch lighting at 8 fc (plan and elevation views) and fixture cut sheets for new porch lights	11/25/2013
Energy Star Checklist from Architect to staff (Builder Option Package)	11/25/2013
Email to Commission staff re: revised landscape plans	12/4/13
Revised Landscape Plans- Sheets L401, L402, L403	12/4/13
Email from Atty. Cox to JI re: draft OMCA and MBOH comments	12/6/13
Draft OMCA and Draft Notice of OMCA for recording	12/6/13
Email from Applicant re: minimum companion unit sizes	12/9/13
Email from Atty. Cox re: draft OMCA flow 4050 gpd	12/10/13
Email from Att. Cox re: comments on draft DRI decision	12/10/13
Materials from Public Agencies/Towns/State/Federal	Date
Abutters List from Mashpee Assessing Department	8/12/13
MHC PNF response	8/23/2013

DRI Referral from Mashpee Planning Board (submitted by Atty. Cox)	9/18/13
MESA No Take Letter from NHESP	9/17/2013
Email from Mashpee Town Planner T. Fudala w/ LCP attachment	10/30/2013
Letter from J. Mason, Mashpee TM, re project support	11/13/2013
Email from Mashpee Historical Commission re: ED 1.3 "Preservation" contribution	11/15/2013
Letter from Mashpee Historical Commission re: ED 1.3 "Preservation" contribution	11/25/2013
Email from Mashpee Health Agent Glen Harrington re: BOH party to septic OMCA	12/6/13
Email from Town Planner re: comments on draft DRI decision	12/10/13
<i>Materials from Members of the Public</i>	<i>Date Received</i>
Support Letter from resident Jocelyn Braeburn	11/15/2013
Comment Letter Alex DeBaggis	11/18/2013

TESTIMONY

Subcommittee hearing- November 26, 2013

Mr. Ted Tye, principal National Development, the Applicant, described the proposed memory care assisted living facility. He said National Development is based in Newton, MA. Mr. Tye said the company has constructed several other award-winning senior housing developments in the state. He said the company had done a careful market analysis which indicated a need for an assisted living facility with memory care in this area of the Cape. He said the proposed project was a joint venture with EPOCH Senior Living. Mr. Tye described the proposed project noting that the entire site was 24 acres and that the development would only utilize about 5 acres. He said the remainder of the site, not used for development, would be placed under a Conservation Restriction. He said the Applicant had chosen to site the project on the parcel so as to preserve the most valuable open space, as the site was mapped by the State Natural Heritage and Endangered Species Program (NHESP) as rare species habitat, and also to keep development out of the area of the site mapped for a Wellhead Protection Area/Zone II. He said the Applicant's team had met informally with the Planning Board and Site Plan Review staff, and also went to Town Meeting to rezone the parcel. Mr. Tye also said that one outcome of the Town Meeting vote was that the building was limited in height. He said that due to concerns articulated by Southport, a residential development, the site drive had been moved to its present location, aligned with the entrance drive to Southport. He noted that a 50-75 foot undisturbed, vegetated buffer would be maintained around the edge of the property. He described the proposed building as having a central core and three wings or "residential households." He said the core contained the kitchen and support functions. He noted each wing would also have access to an enclosed outdoor area. Mr. Tye noted the proposed parking areas, and that staff parking was to the rear of the building. He also noted that the Applicant was proposing 40 fewer parking spaces than was required by zoning, in part because residents would not be allowed to have vehicles, and would have to receive Planning Board approval for the proposed number of spaces. He also noted that because of this, the facility's traffic generation would be very low: probably 20 vehicles in the PM Peak hour. Mr. Tye described the facility's proposed

onsite septic system, noting it would have two leaching fields: one in use and one for reserve. Mr. Tye described the proposed building's architectural design. He noted the massings had been broken up, and that landscaping would be provided using drought-tolerant, native plants.

Attorney Eliza Cox, representing the Applicant, addressed the Subcommittee, noting that there had been a significant amount of pre-planning outreach to the Town, and that the Applicant had also worked with Commission staff to address compliance with the Regional Policy Plan.

Jonathon Idman, the Commission's Chief Regulatory Officer, gave a Power Point presentation on the proposed development relative to the project's consistency with the standards for DRI approval, including consistency with the RPP. The presentation concluded that staff believed the project was consistent with the standards for DRI approval, subject to satisfaction of certain conditions and receipt of some additional information and materials from the applicant.

Mr. Mitchell asked the Subcommittee for any questions.

Mr. Etsten asked what services would be provided to the residents, and if the proposed onsite affordable units would receive the same menu of services?

Mr. Tye described the services to be provided, and said yes, the affordable units would receive the same menu of services.

Ms. Etsten asked about the types of new jobs to be created?

Mr. Tye responded he did not have the exact figures, but suggested that about 35 new FTE's would be hired. He described National Development's program at other assisted living facilities where the company hired high school students at minimum wage to work in the building. He said this provides an opportunity for interaction between young people and older people. At the same time, Mr. Tye said most of the adult positions were full time with benefits.

Ms. Etsten asked about the proposed landscaping, suggesting the landscaping to the rear of the facility be increased, and the area be made more curvilinear in shape. She also asked if both the main and reserve leaching areas had to be constructed as part of the project.

Mr. Theo Kindermans, STANTEC, representing the Applicant, described the proposed landscaping, and suggested it would be augmented with additional trees. Mr. Kindermans responded to Ms. Etsten's comment about making the rear area more curvilinear by suggesting the Applicant did not want to clear more area to accomplish this. He also said that the Applicant was required to construct both the main and reserve leaching fields when the project was constructed.

Ms. Etsten asked what the depth of the soil/mulch would be on the landscaped beds?

Mr. Kindermans responded that it is typically 6 inches in depth.

Mr. Mitchell asked about the number of parking spaces and the expectation that the site would be a low traffic generator?

Mr. Tye responded that National Development was comfortable with this in that it had constructed similar facilities in Massachusetts. He said that the Applicant had chosen to use the Institute of Traffic Engineers (ITE) Manual numbers instead of facility data to be conservative. He said the facility data was available as a supplement to ITE.

Ms. Betty Mendez, 17 Classic Circle, Mashpee, said she was concerned about the project's traffic. She noted the site drive would be opposite an entrance to the Southport development. She said Southport is scheduled to construct more houses, and would reach a maximum of 750 total units. She expressed concern about the existing and potentially to be worsened traffic in the area, particularly in the summer months. Ms. Mendez suggested that a yellow light be installed to slow down and warn drivers on Old Barnstable Road about the new driveway for the proposed project. Ms. Mendez also asked if the facility would accept people who did not have dementia or memory care difficulties as residents

Mr. Tye responded that the project's focus was on memory care. He said as such, the project would not typically accept as a resident someone who did not have memory impairment or dementia. At the same time, Mr. Tye said the proposed facility was not a nursing home.

Mr. Blanton said he applauded the Applicant for meeting several Best Development Practices in the Regional Policy Plan, and for seeking base LEED Certification. He suggested the Applicant consider other alternative energy sources, such as solar panels.

Mr. Roy moved to continue the hearing to December 10, 2013 starting at 5:00 PM at the Cape Cod Commission office, 3225 Main Street, Barnstable, MA. Mr. Putnam seconded the motion, and it was unanimously approved.

Continued December 10, 2013 Subcommittee hearing

Attorney Jonathon Idman, the Commission's Chief Regulatory Officer, described additional information that had been requested of the Applicant since the 11/26/13 public hearing. He noted the Applicant has submitted revised landscape plans and a draft Operations, Maintenance and Compliance Agreement (OMCA) for the proposed onsite septic system. He said the OMCA, if acceptable to the Commission, would be finalized by the time of the Preliminary Certificate of Compliance/local Building Permit. He suggested this timeframe would allow the Applicant, Commission staff and the Mashpee Board of Health to discuss the OMCA in more detail. He noted the OMCA would be a three-party agreement, and committed the Applicant to a flow limit of one half of what would be allowed by Title 5. Mr. Idman said another issue the Commission staff wanted to provide additional comments on was the alignment of the proposed site driveway with the entrance/exit for Southport.

Mr. Roy asked Commission staff to clarify why the alignment as shown on the aerial photo with the site development superimposed was selected?

Mr. Steven Tupper, Technical Services Planner, used the conference room Smart Board with an aerial photo showing the site driveway and the entrance to Southport to illustrate his points. Mr. Tupper said the choice of the alignment is somewhat complicated, given that Southport has

two driveways that exit its site. He said in this case, the focus is on the left turn movements, and making that movement the safest it can be. He suggested the current alignment, which aligns the proposed site drive for The Bridges with the second Southport exit is the most optimal.

Mr. Roy asked if Commission staff were persuaded by comments made at the 11/26/13 public hearing concerning the need for a blinking yellow light to alert drivers?

Mr. Tupper said that installing a flashing yellow light would have to be done according to specific warrants for that type of signal, which were not present in this case. He suggested that the proposed project had low traffic volumes, and suggested that installation of a beacon may confuse drivers.

Mr. Tupper addressed the southbound approach and the existing painted median on the roadway. He suggested that it may be advisable for the Applicant to investigate changes to the painted median so as to allow a dedicated left turn lane into The Bridges site. He acknowledged the relatively low volume of left turns, and the crossover of the multi-use path. He said the investigation should be limited to changes to the painted median. He suggested the investigation of options could be done through a condition of approval, with the results required to be submitted for Commission staff review prior to a Preliminary Certificate of Compliance.

Mr. Roy asked if Southport had the one entrance/exit and questioned how many units the development would have at build out?

Mr. Idman said he was not certain as to whether Southport had other exits or entrances, and cautioned against the testimony of an abutter without recourse to other sources to confirm the number of units in Southport at build out. He also suggested this was not necessarily germane to The Bridges traffic profile.

Ms. Etsten said The Bridges was the development in question, and it had relatively low traffic volumes relative to Southport.

Mr. Idman suggested that staff could create a condition in the draft decision to require the Applicant to explore changes in the painted median relative to turning movements.

Mr. Ted Tye, National Development, said the Applicant had submitted revised landscape plans as requested and asked Mr. Theo Kindermans to describe them for the Subcommittee.

Mr. Theo Kindermans, STANTEC, described the proposed changes to the landscape plans using a large sized set of black and white plans. He noted the updates included adding plant types and quantities, adding more plants in the courtyards, adding benches, paths, rocks and mounds to the courtyards, adding more pine trees along the buffer to be retained to the adjacent public street, adding vegetated parking lot islands, and an updated seed mix. Mr. Kindermans said the changes to the courtyard areas were to provide mental stimulation and enrichment activities for facility residents.

Mr. Tye addressed Ms. Etsten's comments at the 11/26/13 hearing with regard to the rectangular shaped leaching fields to the rear of the property. He said the development team had looked at

several options, but settled on keeping the rectangular shape so as not to disturb more of the natural vegetation to be left in place.

Mr. Mitchell asked Subcommittee members to discuss the proposed project and draft written decision.

Mr. Blanton asked his fellow Subcommittee members their thoughts on the requirement for a potential left turn lane?

Mr. Mitchell said he did not see the need of it, given the low volume of traffic generated by the proposed project.

Mr. Putnam agreed with Mr. Mitchell. He also suggested the proposed alignment of the entrance drive for The Bridges and Southport was a good one.

Mr. Roy said the alignment of The Bridges site drive and the Southport entrance/exit made sense. He said the Applicant should explore changes to the pavement marking to accommodate a left turn lane.

Mr. Blanton said he was in favor of having the Applicant explore changes to the pavement marking to accommodate a left turn lane so as to address concerns expressed at the 11/26/13 public hearing.

Mr. Idman suggested that Commission staff could draft a condition of the decision requiring the Applicant to investigate changes to pavement marking only in terms of a possible left turn lane. He also reviewed the key points in the draft decision. In the Regional Policy Plan (RPP) issue area of Economic Development, he noted the project would be LEED certified, and that the Applicant was proposing a monetary contribution to the Mashpee Historic Commission. In the area of Open Space, he noted the Applicant was going to place more than the RPP required amount of area under a Conservation Restriction. In the area of Water Resources, he noted the OMCA and that the Applicant would make a monetary contribution of \$23,000. For Transportation, he noted the Applicant would be required to make a monetary contribution of \$108,000 for congestion mitigation. In the RPP area of Affordable Housing, he noted that six (6) beds in the facility would be permanently affordable, and would have the same package of services as the market rate units.

Mr. Idman said that the monetary contributions for project mitigation were tied to the Preliminary Certificate of Compliance, because this is when the Cape Cod Commission has the most ability to ensure the payments are made in a timely manner. He noted that the Applicant has requested that some of the mitigation payments be tied to the Final Certificate of Compliance. Attorney Idman suggested that the Commission staff supported the shift of the payment to the Mashpee Historic Commission. He suggested, however, the Water Resources mitigation payment be made prior to the Preliminary Certificate of Compliance, as has been done on other Development of Regional Impact projects.

Mr. Mitchell asked the Subcommittee their opinion of the draft OMCA?

Mr. Roy said he was in favor of the draft OMCA so long as the final agreement was acceptable to the Town and in place before the facility's occupancy.

Mr. Blanton said tying finalizing the OMCA to the Preliminary Certificate of Compliance was a good idea, because it would allow the Mashpee Board of Health to further review and comment on the draft OMCA.

Mr. Idman suggested the Subcommittee deliberate on additional probable benefits and any probable detriments. He noted the draft decision currently listed several probable benefits in General Finding #6. He noted the draft decision did not currently list any probable detriments.

Mr. Blanton suggested another probable benefit to the project was that as a 100% memory care facility, it would be serving an underserved population on Cape Cod.

Mr. Mitchell acknowledged Attorney Liza Cox to comment on the draft decision.

Attorney Cox, Nutter, McClennen and Fish, representing the Applicant, suggested an addition to one of the already listed probable benefits in General Finding #6. She suggested the finding be re-written to specifically acknowledge how much additional open space acreage was being protected, approximately 4.13 acres in excess of what the Regional Policy Plan requires.

Attorney Cox also suggested an additional benefit to the project was that it was going to seek approval from the Mashpee Planning Board to limit the number of onsite parking spaces to less than what would be required by Mashpee's zoning.

Mr. Idman suggested the Subcommittee could consider the Applicant's additional probable benefits for recommendation.

Mr. Blanton moved that the Subcommittee adopt the probable benefits as suggested by Attorney Cox revising language to reflect the specific amount of additional protected open space and the reduction in parking to below the amount required by local zoning. Mr. Roy seconded the motion, and it was unanimously approved.

Ms. Etsten suggested that reduced pavement and compact development could be probable benefits.

Mr. Idman noted that Regional Policy Plan Minimum Performance Standards already required compact development, and as such, he suggested this could not also be a probable benefit.

Mr. Blanton moved that the fact that the proposed facility would be 100% memory care, and serve an underserved population on Cape be considered a probable project benefit. Mr. Roy seconded the motion, and it was unanimously approved.

Mr. Mitchell acknowledged Mr. Tye to respond to Ms. Etsten.

Mr. Tye said the Applicant had committed to reduce parking, which would reduce onsite impervious pavement, and also worked with the Mashpee Fire Department to have the circumferential fire access drive be gravel with grass, thereby also reducing pavement areas.

Ms. Etsten suggested the coordinated development of the site as a whole, instead of parcel by parcel for single family homes was a probable project benefit. She also complimented the Applicant on the design of the buildings.

Attorney Cox noted the articulation of the building facades was more than what was required by the Regional Policy Plan. She also noted that the Applicant was currently obligated to pay approximately \$50,000 in mitigation prior to the Preliminary Certificate of Compliance, and suggested this would be a hardship. She also noted that the impacts that the mitigation monies were addressing would not occur before project occupancy.

Mr. Blanton said he was amenable to moving payment to the Mashpee Historic Commission to the Final Certificate of Compliance, but not the other mitigation payments.

Mr. Putnam said the Water Resources mitigation payment should be made at the time of the Preliminary Certificate of Compliance. He agreed with Mr. Blanton that the payment to the Mashpee Historic Commission could be shifted to the Final Certificate of Compliance.

Mr. Blanton moved that the draft decision be amended to allow the payment to the Mashpee Historic Commission to be made prior to the Final Certificate of Compliance, but that the Water Resources mitigation payment be made prior to the Preliminary Certificate of Compliance. Mr. Putnam seconded the motion, and it was unanimously approved.

Mr. Mitchell acknowledged Attorney Cox to comment.

Attorney Cox suggested that should a left turn be implemented, that some of the \$108,000 in traffic mitigation monies be used for this purpose.

Mr. Mitchell suggested that the type of analysis that the Subcommittee was proposing was not as complicated or expensive to warrant a significant expenditure by the Applicant. He said it was limited to an investigation of possible changes in pavement markings.

Mr. Tupper responded to Attorney Cox by noting that what Commission Transportation staff had suggested was an investigation limited to changes in pavement markings relative to the existing painted median. This could also include repainting the crosswalk. Mr. Tupper also noted the \$108,000 was instead for congestion mitigation, and was intended to be used by Mashpee within the entire road network, and suggested that the uses to which this money can be put relative to the requirements in the RPP are relatively narrow.

Mr. Blanton questioned whether expenditure of part of the congestion mitigation could be used for pavement restriping and made part of a condition of the decision?

Mr. Roy suggested the Applicant would be required to look at limited options, such as restriping the pavement, and not additional paving or work outside the existing road layout. As such, he suggested the potential changes, if any, could be accommodated at a relatively low cost.

Mr. Putnam asked Commission staff to explain how the \$108,000 congestion mitigation payment was calculated?

Mr. Tupper explained that the \$108,000 figure was based on the Applicant's estimates of expected new trips. He noted The Bridges was a low volume traffic generator, and as such, the amount of the congestion mitigation was relatively low.

Mr. Idman did note that though the proposed use was a low traffic generator, the site is currently vacant and undeveloped.

Mr. Blanton moved that the draft decision be amended to include a condition that would require the Applicant to investigate pavement marking options to accommodate a left turn lane into The Bridges site. Mr. Roy seconded the motion. The motion passed with Mr. Mitchell, Mr. Blanton, Ms. Etsten and Mr. Roy voting in the affirmative and Mr. Putnam voting opposed.

Mr. Idman reviewed the changes to the draft decision as directed by the Subcommittee, including timing for payment to the Mashpee Historic Commission and the additional transportation condition, and the additional probable benefits articulated by the Subcommittee.

The Subcommittee voted unanimously to include in the recommended decision as other probable benefits of the project, and to so revise the recommended decision; that the facility would be 100% memory care, and serve an underserved population on Cape; the beneficial building design; minimization of pavement associated with the emergency vehicle lane; that the site could have been developed more intensely; specification of the amount of additional protected open space (4.13 acres); and the minimization of pavement by reducing the number of parking spaces to below the amount required by local zoning. The Subcommittee voted unanimously that the recommended decision be amended to allow the payment to be made to the Mashpee Historical Commission prior to the Final Certificate of Compliance. The Subcommittee voted four to one that the draft decision be amended to include a condition that would require the Applicant to investigate options for repainting the existing median, including to accommodate a left turn lane into The Bridges site. The Subcommittee voted to approve the draft written decision for recommendation, with revisions as discussed and adopted. The Subcommittee voted to recommend approval of the project, with conditions, to the full Cape Cod Commission, according to the draft written decision, as revised and approved.

FINDINGS

Having considered testimony and other information submitted for the record, the Commission makes the following findings:

General Findings

GF1. As the date of the first substantive public hearing was November 26, 2013, this project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in August, 2012 (Ordinance 12-07)(herein, "RPP" or "Regional Policy Plan").

GF2. According to the Applicant's submissions and other information received from the Town, local permits, licenses and approvals required for the project include A Planning Board use special permit and parking waiver, a curb cut permit, a Board of Health Permit for the septic system, and a Building Permit.

GF3. As of the date of this decision, according to the Commission records, Mashpee has a Local Comprehensive Plan (LCP) that has been certified by the Commission as consistent with the Regional Policy Plan. Based on materials submitted for the record from the applicant and the town of Mashpee, the project is consistent with the goals and objectives identified in the Town's LCP, created to provide a long-range focus for Mashpee's land use planning and growth management activities. The Action Plan of the Land Use & Growth Management section of the LCP specifically calls for the development and adoption of zoning regulations for congregate care and assisted living facilities, and the appendix includes a proposed by-law authorizing these uses in commercial areas. On page 9-8 of Chapter 9, "Action Plan," it is stated under "Zoning and Regulatory Issues" that "in order to enhance our tax base while not increasing school costs, the Town should specifically allow, encourage and possibly provide incentives for, residences that are age-restricted to persons over 55...[including] nursing homes, 'congregate care' and 'assisted living' facilities." Mashpee Town Meeting adopted such a by-law in October 2013, allowing such uses in commercial zones such as the C-3 zone in which the Bridges project is proposed. As a "Congregate Care/Assisted Living facility," defined by the Zoning Bylaw of the Town of Mashpee, the Bridges at Mashpee is consistent with the goals and objectives of the Town of Mashpee's land use planning and growth management activities.

GF4. According to the Applicant's submissions and other information received from the Town, the project is consistent with municipal development by-laws, including the town's zoning by-law, provided the project obtain all required local permits, licenses and approvals, included but not limited to those identified in General Finding 2. The proposed assisted living use is a specially permitted in use in the underlying C-3 zoning district. There is sufficient land area for the project pursuant to the zoning by-law provided the septic system is approved by the Board of Health allowing a maximum 5 mg/l total nitrogen in its effluent. The single floor project proposes 45,000 sq. ft. of gross floor area; under town zoning, assisted living facilities of two or fewer stories may have up to 50,000 sq. ft. gross floor area. Under zoning, 86 parking spaces are required. Given the anticipated parking demand associated with assisted living uses, 54 spaces are proposed. The Planning Board is authorized to waiver the required number of spaces under the Mashpee Zoning By-law.

GF5. There are no Town specific Districts of Critical Planning Concern (DCPCs) designated in Mashpee. A Cape-wide fertilizer management DCPC (Barnstable County Ordinance 13-06) applies to the Town of Mashpee, but as of the date of this decision, no implementing regulations have been adopted by the town and approved by the Cape Cod Commission pursuant to the DCPC designation; therefore there are no implementing regulations with which the proposed project needs to be consistent.

GF6. As discussed further in the respective RPP Issue Area findings, below, the project meets the following Best Development Practices (BDP's) in the RPP, which constitute project benefits: BDP TR1.10 (Transportation Safety); BDP TR2.16 (Alternate Modes of Travel); BDP AH 1.16

(Priority for Affordable Rental Housing); BDP WR5.6 (21-E Report). Other project benefits are that the project is committed to achieving energy efficiency measures detailed in the application materials of 9/17/2013 and 10/17/2013 over and above those required by the applicable minimum performance standards in the RPP; that the project permanently protects approximately 4.13 acres of on-site open space in a significant natural resources area over and above the open space required under the applicable minimum performance standards in the RPP; that the land could have been developed as smaller individual lots each containing separate buildings and individual, non-denitrifying septic systems; that the building exceeds RPP design standards and its unique design complements the overall site and area; that subject to approval from the Mashpee Planning Board, the applicant is proposing to minimize the development's footprint by limiting the number of parking spaces to the amount that is actually needed for the proposed use, which is less than what zoning would require; that the applicant has minimized impervious cover by reducing the pavement width of the emergency vehicle access surrounding the building, after discussions with emergency service providers in the Town of Mashpee; and that the project serves an underserved population on Cape Cod by providing 100% of its beds/ units as memory care-type assisted living. No project detriments were identified during the DRI review and hearing process.

GF7. The project shall be constructed in accordance with the plans and other information received as part of the application and supplemental filings, including the plan set prepared by Stantec for National Development and Epoch Senior Living entitled "Town of Mashpee- Special Permit Planset, Cape Cod Commission- Development of Regional Impact Planset, Bridges at Mashpee, Mashpee Massachusetts," reissue date 11/7/2013, consisting of sheets ex-01, L-001, L-002, L-101, L-201, L-301, L-302, L-303, L-401, L-501, L-601 through L-606, and Landscape Plan sheets L401, L402 & L403 with revision dates of 12/4/2013; Architectural Plan Set prepared JSA Architects for National Development and Epoch Senior Living entitled "Bridges at Mashpee, Mashpee Massachusetts, Schematic Progress" dated 11/19/2013, consisting of 16 sheets (including cover sheet); and Supplemental Photometric plan and cut sheet for recessed building entry fixtures dated 11/25/13.

GF8. The project is a 54-unit, memory care assisted living residential development, which will occupy approximately 5 acres of the 24 acre +/- project site. The project site consists of five separate lots that will be combined into a single lot in connection with the project. The project site is currently vacant and undeveloped, and approximately 19 acres of the project site is proposed to remain in a natural, undisturbed state dedicated as permanent open space through a conservation restriction. The proposed gross floor area of the project is approximately 45,000 square feet. The proposed 54 residential apartment units contain a total of 60 beds, grouped into three "household" wings in a single level.

Regional Policy Plan Issue Areas

Land Use Findings

LUF1. The proposed project site is located at the intersection of Route 151 (Nathan Ellis Highway) and Old Barnstable Road. The site is a C3 Limited Commercial Zone, and surrounded by the R-5 residential zone. The property is currently undeveloped and wooded, surrounding land uses include Mashpee High school (south), and residential uses to the north and west. The Quashnet River is located to the east of the site.

LUF2. MPS LU1.1 (Development Location) requires that development be located in a manner consistent with the endorsed land use vision map. Mashpee does not have an endorsed Land Use Vision Map and therefore this standard does not apply.

LUF3. MPS LU1.2 (Compact Development) requires nonresidential development to be clustered on the site and with adjacent uses, and also requires that residential subdivisions cluster development. The project is a residential project, but not a subdivision, and therefore this standard does not apply to development of the type proposed.

LUF4. The proposed project is not an infrastructure project and therefore minimum performance standards LU2.1 and LU2.2 concerning Capital Facilities and Infrastructure do not apply to the project.

LUF5. MPS LU 3.2 (Impacts to Agricultural Lands) requires that development unrelated to agricultural operations be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use.

There are no current agricultural uses located on the adjacent properties, or in the vicinity of the site. According to the Department of Agriculture Soil Survey of Barnstable County, the site has Merrimac silt loam (MeA) soils that are classified as Prime Agricultural Soils.

The project meets MPS LU 3.2. It clusters development within the site and adjacent to the road, and avoids or minimizes development on lands with soils capable of sustained agricultural production by virtue of permanent protection of the remaining 19 acres of the site through a conservation restriction.

Economic Development Findings

EDF1. MPS ED1.1 (Location in Economic Centers) requires that developments be located in *Economic Centers* or *Industrial and Service Trade Areas* or *where appropriate, villages as designated on the Regional Land Use Vision Map*. For Towns without a Land Use Vision Map, all DRIs must meet the waiver requirements under MPS ED1.3. The Town of Mashpee does not have a Land Use Vision Map. As such, the proposed project must meet MPS ED1.3 waiver criteria.

EDF2. MPS ED1.2 (Industrial and Service Trade Areas) reserves *Industrial and Service Trade Areas* for light industry, warehousing, business-to-business wholesale, research and development facilities and other uses related to the development, production, and/or distribution of goods. For Towns without a Land Use Vision Map, all DRIs shall meet waiver requirements under MPS ED1.3. Mashpee does not have a Land Use Vision Map, so the proposed project must meet waiver requirements under MPS ED1.3.

EDF3. MPS ED1.3 (Waiver) allows the Commission to waive MPS ED1.1 and MPS ED1.2 if the Applicant demonstrates that it meets certain criteria set out in this standard. New development must meet at least four of the listed criteria. The project constitutes new development because the site is currently vacant and undeveloped.

The project meets at least four of the criteria set out under this standard as follows, and therefore complies with the standard:

Emerging Industry Clusters: The project is designed to and will accommodate a business or businesses within the region's Emerging Industry Clusters, because memory care assisted living is a knowledge-based industry or business that provides a number of high-skill, high-wage positions.

Green design: project LEED/ new construction certifiability at the base level.

Un-development: The project contributes to the reduction of sprawl development, in equal proportion to the proposed development, through the permanent protection of land proposed to be held under a statutory conservation restriction. Un-development achieved to meet this criterion is in addition to any un-development or open space contributions made in order to meet other Minimum Performance Standards. The project meets the un-development criterion by virtue of placing more undeveloped land under protection than required under the RPP's open space MPS. The total amount of open space to be protected is 19.04 acres. The open space MPS require that 9.94 acres be permanently protected. This economic development criterion requires that the area removed from development must equal that being developed. The area to be developed is a total of 4.97 acres; the applicant proposes to set aside the equivalent area as protected open space, thereby removing it from potential commercial development. The total amount of permanently protected open space required under the RPP is thus 14.91 acres, where 19.04 acres are proposed.

Preservation: Pursuant to a letter from the Mashpee Historical Commission dated 11/25/2013, the applicant shall make a payment to the Mashpee Historical Commission to further the preservation and protection of historic properties in the town.

EDF4. MPS ED1.4 (Resource-based Economic Areas) states that "*[d]evelopment shall not eliminate or significantly impair the current and future function of working agricultural land, working waterfronts and harbors, fin- and shell-fishing grounds, and recreational areas.*" The proposed project is not adjacent to any working agricultural land, working waterfronts and harbors, or fin- and shell-fishing grounds or recreational areas, and as such, this MPS does not apply to the project.

EDF5. MPS ED2.1 (Gaming) states that "*[d]evelopment shall not involve Class III gaming given the stresses it places on the region's environment, transportation infrastructure, and economy.*" The proposed project does not involve Class III gaming and therefore this MPS is not applicable to this project.

EDF6. MPS ED4.1 (Demonstrated Need and Public Benefit) states that "*[d]evelopment of infrastructure and/or capital facilities shall be in response to existing regional demand and shall improve the availability, reliability, quality, and cost of services.*" This MPS does not apply because the proposed project is not the development of infrastructure or a capital facility.

Water Resources Findings

WRF1. The project is located on approximately five acres to be disturbed within a twenty-four and a half acre undisturbed forested upland site. The site lies wholly within a Marine Water Recharge Area (MWRA, Section WR3 of the RPP) and a watershed that contributes to the Upper Quashnet River, a tributary of Waquoit Bay. The project is also located in a Potential Public Water Supply Area (PPWSA; Section WR2 of the RPP). Portions of the site, including parking areas associated with the facility, lie within Wellhead Protection Areas (WHPA; Section WR2 of the RPP).

WRF2. This 54 unit facility proposes a denitrifying Amphidrome septic system permitted with a Provisional Permit of 25 mg/L Total Nitrogen effluent concentration through the Massachusetts Department of Environmental Protection (Mass DEP). Traditionally, through the Mass DEP Innovative Alternative Program, nitrogen loading calculations utilize the permitted treatment efficiencies as put forth by Mass DEP. For the proposed project, Town of Mashpee Board of Health regulations and the Mashpee zoning by-laws require the Applicant to meet a 5 mg/L effluent concentration for the denitrifying septic system. The Applicant has proposed an Amphidrome Plus Plus septic system designed to achieve a nitrogen effluent concentration less than 5 mg/L.

WRF3. The use of an effluent value of 5 mg/L for nitrogen loading for the project's proposed septic system, as calculated under the Commission's Nitrogen Loading Technical Bulletin 91-001, is permissible so long as the project complies with MPS WR6.9 (Operation, Monitoring and Compliance Agreement). An Operation, Monitoring and Compliance Agreement (OMCA) created in coordination with the Applicant, the Town of Mashpee Board of Health and the Cape Cod Commission will ensure that the required nitrogen effluent concentration of 5 mg/L is met.

WRF4. The Title 5 wastewater design flow for the project is 8,100 gpd. The Nitrogen Loading Technical Bulletin 91-001 notes that "Title 5 flows are, by design, overestimates of usual wastewater flows." The project is residential in nature, and the Technical Bulletin allows the use of flows other than Title 5 flows for residential projects. As an alternative to Title 5 flows, the Applicant has provided actual water usage data for two similar Massachusetts based assisted living facilities. Based on this data an average of 62 gpd per bed is offered as an appropriate flow, alternative to Title 5 design flows, resulting in a proposed actual daily flow rate of 3,720 gpd. Upon review of actual flows provided by the Applicant from similar facilities and in conjunction with an evaluation of existing facilities previously reviewed and/or approved by the Cape Cod Commission, a suggested flow using half the Title 5 daily flow rate (4,050 gpd) for nitrogen loading calculations within the Nitrogen Loading Technical Bulletin 91-001 is appropriate. An Operation, Monitoring and Compliance Agreement (OMCA) created in coordination with the Applicant, the Town of Mashpee Board of Health and the Cape Cod Commission will ensure that the approved 4,050 gpd average flow limit is not exceeded.

WRF5. Nitrogen loading for the proposed project with an effluent concentration of 5 mg/L for the denitrifying septic system and an average daily flow rate of 4,050 gpd results in a loading concentration of 0.73 ppm-N, below the 5 ppm-N loading limit. Commission Staff notes nitrogen loading calculations are below the general aquifer protection MPS of 5 ppm-N and suggest that the project meets MPS WR1.1 and WR 2.1.

WRF6. The Applicant has demonstrated through a Response to Comment letter dated September 17, 2013 that there are no existing private drinking water wells on abutting properties within 400 feet of the development. As such, the project meets MPS WR1.2.

WRF7. The applicant's Landscape Maintenance Contract/Maintenance Plan includes water conservation measures and minimized use of pesticides and fertilizers and thus meets MPS WR1.5.

WRF8. Under the MPS for WR Goal 3, for projects located in MWRAs where a critical nitrogen limit has been determined, Developments of Regional Impact are required to limit the project's nitrogen load to the greater of the critical load or the site's existing load. A critical nitrogen loading rate (CNLR) for Waquoit Bay has been determined by the Massachusetts Estuary Project (MEP). The CNLR, as defined in the RPP, is the nitrogen load a coastal embayment or estuary can assimilate without resulting in eutrophication. The nitrogen load to the Quashnet River for the proposed development presently exceeds the CNLR necessary to restore water quality and habitat.

WRF9. By email dated 12/6/13, Glen Harrington, Mashpee health agent, has indicated that the Mashpee Board of Health will participate as a party in the OMCA, and as reflected in an email dated 12/6/2013 from Attorney Cox to Commission staff on behalf of the applicant, Mr. Harrington has already provided some comments on the OMCA on behalf of the Mashpee Board of Health.

WRF10. According to MPS WR3.1 in watersheds where CNLR has been determined, development and redevelopment shall not exceed the CNLR. As an alternative to meeting WR 3.1, a project may satisfy one of the nitrogen offset methods set out in WR 3.4 that includes a monetary contribution of \$1,550 per Kg-N/Yr above the CNLR, for which the applicant has opted. The monetary offset represents the cost to remove the equivalent amount of nitrogen as required under WR 3.1 within the same watershed. Nitrogen offset contributions are made to the town in which the project is proposed to use for municipal or watershed nitrogen reduction efforts.

WRF11. The critical load for the Waquoit Bay watershed can be expressed in terms of the per acre loading rate, referred to internally by Commission Water Staff as the "Fair Share" rate (1.2 Kg-N/Yr/acre). The CNLR (29.56 Kg-N/Yr) is the Fair Share rate applied to the 24.6 acre project site.

WRF12. The prior use of the project site, as undisturbed upland forest, is not assigned a nitrogen loading rate through the Nitrogen Loading Technical Bulletin 91-00. As the CNLR for the project is calculated at 29.56 Kg-N/Yr and any existing natural load is *de minimis*, the project will be required to offset nitrogen loads that exceed the CNLR, rather than any existing use.

WRF13. In calculating the monetary contribution, suggested flows half that of Title 5 design flows is appropriate. At the suggested flow rate of 4,050 gpd, a monetary contribution of **\$23,294.71** is required in order to comply with WR 3.4 (See Table 01 below for more detail).

Table 01: Wastewater Flow Scenario and Associated Nitrogen Offset Contribution

	Wastewater Flow	Wastewater Nitrogen Load	Non-Wastewater Nitrogen Load ¹	Total Nitrogen Load	Excess Over CNLR	Nitrogen Offset Contribution
	(gpd)	(Kg-N/Yr)	(Kg-N/Yr)	(Kg-N/Yr)	(Kg-N/Yr)	
Commission Staff Suggested Flow	4,050	27.98	16.61	44.58	15.03	\$ 23,294.71
CNLR	-	-	-	-	29.56	-

¹The Non-Wastewater Nitrogen Load will be unchanged with variations in Wastewater Flow rates.

WRF14. Pursuant to MPS WR6.9, the project is conditioned on the execution of a final Operation, Monitoring, and Compliance Agreement (OMCA) between the Applicant, the Mashpee Board of Health and the Cape Cod Commission, ensuring that the septic system performs at maximum 5 mg/l total nitrogen in its effluent, consistent with the draft OMCA provided to the Commission.

WRF15. The project meets MPS WR7.1, which prohibits any new direct discharge of untreated stormwater, through the use of infiltration trenches, bioretention systems and subsurface recharge systems.

WRF16. The project meets MPS WR7.2. Stormwater runoff from roadways and parking lots will be captured and treated on site for the first inch of runoff from a 25-yr 24-hr event. Treatment will be consistent with MPS WR7.2 and the Massachusetts Stormwater Management Handbook to attain 80% total suspended solids (TSS) removal and achieve nutrient reduction. All infiltration systems capturing runoff from roadways and parking lots shall provide for at least 44% TSS removal prior to discharge to an infiltration system. The stormwater nitrogen reducing systems have been designed for effective nutrient reduction.

WRF17. Roof runoff will be captured and directed to infiltration trenches lining the building exterior. As such the project meets MPS WR7.3.

WRF18. Bioretention systems have been sized to capture and treat the first inch of runoff from parking and roadway areas for a 25-yr 24-hr event, and comply with the MA Stormwater Policy Handbook. As such, the project meets both MPS WR7.4 and MPS WR7.6.

WRF19. Structured infiltration devices for the proposed project are designed to accommodate frozen flow condition, storms that exceed the 25-year 24-hour storm and to be consistent with the Massachusetts Stormwater Standards under 310 CMR10 and the Massachusetts Storm Water Management Handbook. As such, the project meets MPS WR7.5.

WRF20. Upon review of the soil testing analysis provided by the Applicant in its Nitrogen Loading Analysis, the project, including its proposed infiltration areas, meet MPS WR7.8.

WRF21. Construction BMPs are contained on the Erosion Control Plan submitted with the project Site Plan set and the project complies with MPS WR7.9.

WRF22. The Professional Engineer-certified Stormwater Operations and Maintenance Plan, Stormwater Pollution Prevention Plans, and Stormwater Report comply with Massachusetts Stormwater Policy Guidelines and MPS WR7.10, and thus the project complies with MPS WR 7.10. To ensure continued compliance with MPS WR7.10, the project will be conditioned to require certification by a Professional Engineer that the stormwater system is operating as designed one year after construction of the system has been completed.

WRF23. As the project does not propose to withdraw more than 20,000 gallons of water per day MPS WR1.3 does not apply to the project.

WRF24. As the project does not propose subdivision of land MPS WR1.4 does not apply to the project.

WRF25. As the project does not propose a public or private wastewater treatment facility with Title 5 design flows greater than 10,000 gallons per day MPS WR2.3 does not apply to the project.

WRF26. In correspondence provided to Commission Staff dated September 3, 2013 (and part of the initial application filing materials) the Applicant adequately demonstrates that the project site is not under consideration by the Mashpee Water District for future well development. Accordingly the proposed project, while mapped a PPWSA in the RPP Water Classification maps, will not be considered a future well site location. As such, MPS WR2.5 & 2.6 and PPWSA designation does not apply to the project or project site.

WRF27. Because an MEP critical nitrogen load, but no Commission approved local nutrient management plans, have been established for the Waquoit Bay watershed, MPS WR3.2, MPS WR3.3 and MPS WR3.5 do not apply to the project.

WRF28. As the proposed project is not located in a Fresh Water Recharge Area (FWRA) or a Water Quality Improvement Area (WQIA), the Minimum Performance Standards in Sections WR4 and WR5 of the RPP do not apply to the project.

WRF29. As the project does not propose a wastewater treatment facility with a Title 5 design flow greater than 10,000 gpd MPS WR3.6, WR6.1, WR6.2, WR6.3, WR6.4, WR6.5, WR6.6, WR6.7, WR6.8 do not apply to the project. The intent of Section WR6 of the RPP is that MPS WR 6.1-6.8 apply only to wastewater treatment facilities with a Title 5 design flow greater than 10,000 gpd.

WRF30. As the proposed project is in a town without a Land Use Vision Map and is not redevelopment MPS WR7.7 does not apply to the project.

WRF31. The project does not propose a land use with a high risk of contaminating groundwater, so MPS WR7.11 does not apply to the project.

WRF32. The applicant submitted a 21-E Report to detail the project site's condition relative to hazardous waste. Accordingly, the project meets BDP WR 5.6.

WRF33. Pursuant to MPS WR2.2 and 2.4, application materials, including correspondence from the Applicant's contractor LMH, demonstrate that project construction and post construction activities, including on-site refueling, will either not occur in areas of the site mapped WHPA, or do not involve the use, treatment, generation, handling, storage, or disposal of Hazardous Materials or Hazardous Wastes, with the exception of household quantities, or any other use prohibited by state law in a Zone II/ WHPA. The applicant has designated a site refueling area for construction related activities outside designated WHPA/ Zone II areas of the project site as depicted on a map provided to the Commission on November 20, 2013.

Coastal and Marine Resources Findings

CMRF1. All of the Coastal Resources Minimum Performance Standards pertain to activities affecting, within or proximate to coastal resources, including flood hazard areas. The project site is not located within an area affecting, containing or proximate to such coastal resources, and consequently, the Coastal Resources MPS do not apply to the project.

CMRF2. All of the Marine Resources Minimum Performance Standards pertain to activities affecting, within or proximate off shore marine resource areas. The project site is an upland site and does not affect or contain such marine resources, and consequently the Marine Resources MPS do not apply.

Natural Resources Findings: Wetlands, Wildlife and Plant Habitat

NRF1. The Wetlands minimum performance standards (MPS) do not apply to this project, as there are no known wetlands on or in the vicinity of the project site.

NRF2. MPS WPH1.1 (Natural Resources Inventory) requires that applications for Developments of Regional Impact that propose to alter undeveloped areas must contain a natural resources inventory consistent with the requirements of Technical Bulletin 92-002. The Applicant has provided a NRI that is consistent with the requirements of the TB. Accordingly, the project is consistent with this standard.

NRF3. MPS WPH1.2 (Clearing and Grading) requires that clearing of vegetation and alteration of natural topography is minimized, and that specimen trees are protected. The proposal clusters development within the site and adjacent to the road, and limits the overall impacts to the site from clearing and grading. The NRI notes that there are no specimen trees on the site. The project development envelope will be permanently established on the 24 acre parcel through the permanent protection of the remaining 19 acres of the site through conservation restriction. Accordingly, the project is consistent with this standard.

NRF4. MPS WPH1.3 (Wildlife and Plant Habitat) requires that fragmentation of wildlife and plant habitat is minimized, that development is clustered, and that large unfragmented areas are protected. The proposal is consistent with this standard as mentioned in WPH1.2: the proposal clusters development within the site and proximate to the road, and the development envelope will be permanently established on the 24 acre parcel through the permanent protection of the remaining 19 acres of the site through conservation restriction. Accordingly, the project is consistent with this standard.

NRF5. MPS WPH1.4 (Rare Species) requires that DRIs within critical wildlife and plant habitat areas shall submit the development proposal to the Massachusetts Natural Heritage Program for review and comment, and that projects must not adversely affect rare species habitat. The standard allows development within such areas where the proponent can demonstrate that the development will not adversely affect such habitat. The applicant submitted the proposal to the NHESP, and learned that the site is mapped as Eastern box turtle habitat, but also received a letter dated September 17, 2013 from NHESP indicating that the project as proposed will not result in a prohibited take of Eastern box turtle. In light of this determination from NHESP, the project is consistent with this rare species standard.

NRF6. MPS WPH1.5 (Vernal Pools) requires the protection of vernal pools and their buffers. There were no vernal pools identified on the site, per the NRI. In addition, the NHESP has not mapped this site for potential vernal pools. Accordingly, this standard does not apply to the project.

NRF7. MPS WPH1.6 (Invasive Species) requires the management of invasive species on sites where the NRI identifies the presence of invasive plant species. The NRI did not identify invasive species on this site. Accordingly, this standard does not apply to the project.

Open Space Findings

OSF1. MPS OS1.1 Clustering of Development

This standard requires that development or redevelopment within Significant Natural Resource Areas (SNRA) is clustered away from sensitive resources. The entire site is located in SNRA due to the presence of rare species habitat and public wellhead protection areas. The proposal is consistent with this standard for the reasons mentioned in WPH1.2: the proposal clusters development within the site and adjacent to the road, and the development envelope will be permanently established on the 24 acre parcel through the permanent protection of the remaining 19 acres of the site through conservation restriction. Accordingly, the project is consistent with this standard.

OSF2. MPS OS1.2 Open Space Connections

This standard requires the permanent protection of open space, and that the proposed open space shall be designed to be contiguous and interconnecting with adjacent open space. The proposal has clustered the development away from the wellhead on the adjacent property, and has configured the on-site open space to be contiguous with the permanently protected wellhead area, to the extent feasible given the configuration of the property. Accordingly, the project is consistent with this standard.

OSF3. MPS OS1.3 Open Space Requirements

This standard requires that development must provide permanently restricted upland open space in accordance with the location of the site within certain resource or land use areas and the project's total developed area. As this project is located in SNRA, the development requirement is twice the total developed area. The developed area is 4.97 acres; the open space requirement is therefore 9.94 acres. The applicant is proposing to provide 19.04 acres of on-site undisturbed land adjacent to a public wellfield, within a public wellfield protection area and within mapped habitat for Eastern box turtle. The applicant has opted to permanently protect the open space through a statutory conservation restriction.

The standard also requires that open space proposed by an applicant is designed to protect those portions of the site with the highest natural resource values. As discussed previously, the clustering of the development near the road and away from the wellfield maximizes the contiguity of protected rare species habitat and wellfield protection area, and is therefore consistent with the requirements of this standard.

The standard also requires that in the design of developments, agricultural soils are protected. According to the Department of Agriculture Soil Survey of Barnstable County, the site has Merrimac silt loam (MeA) soils that are classified as Prime Agricultural Soils. The proposal clusters development within the site and adjacent to the road, and will result in the permanent protection of the remaining 19 acres of the site through a conservation restriction (CR), including that portion of the land with agricultural soils.

The other provisions of OS1.3 do not apply to this project, specifically: the proponent is not proposing off-site open space or to meet the requirement with a cash contribution; the applicant is not seeking a credit for low impact development or to protect land with existing restrictions; the project is not proposed in a GIZ or Economic Center; and the applicant is not seeking to change the SNRA designation on this property. Accordingly, the project is consistent with this standard, subject to a corresponding condition requiring the applicant to permanently protect the 19.04 acres with a CR.

OSF4. MPS OS1.4 Sensitive Natural Resources

This standard requires that in the design of developments, significant natural and fragile areas including critical wildlife and plant habitat shall be protected. Staff recommends that the project is consistent with this standard as NHESP has issued a 'no take' letter, indicating that NHESP does not anticipate adverse impacts to rare species from the project. Accordingly, the project is consistent with this standard.

OSF5. MPS OS1.5 Residential Cluster

This standard does not apply as the project is not a residential cluster project.

OSF6. MPS OS1.6 Sensitive Open Space Resources

This standard requires that where development is proposed adjacent to land held for conservation and preservation purposes (the public wellfield) the development shall be configured so as to prevent adverse impacts to these lands and in a manner that maximizes contiguous open space. The project is consistent with this standard.

OSF7. MPS OS 1.7 Open Space in GIZ/Economic Centers

The project is not located within a Growth Incentive Zones/Economic Centers, and thus this standard does not apply.

OSF8. MPS OS1.8 Open Space Requirements and Parking Garages

The project is not proposing a parking garage, and thus this standard does not apply.

Transportation Findings

TF1. MPS TRo.1 (Sources of Trip-generation Data) requires that “*trip-generation data from the Institute of Transportation Engineers shall be used as the preferred source.*” As presented in the October 10, 2013 Stantec letter, trip generation estimates were developed for the proposed 60 bed assisted living facility based on data for similar facilities, as outlined in the *Institute of Transportation Engineers (ITE) Trip Generation, Ninth Edition, 2012*, and is summarized in the table, immediately below:

Time Period	Total New Trips¹
Weekday Daily Trips	214
AM Peak Hour Trips	8
PM Peak Hour Trips	24

¹ITE LUC 254, Assisted Living, 60 beds

The trip generation source of data (ITE) and calculations were conducted in conformance with MPS TRo.1; therefore, the project complies with MPS TRo.1.

TF2. MPS TRo.2 (Traffic Credit for Past Use) states that “*for analysis and mitigation purposes a traffic credit may be allowed, at the discretion of the Commission, for past uses on the site of the DRI based on the estimated average daily and peak-hour trip generation of the immediate prior use.*” No traffic credits for past uses are proposed; therefore, TRo.2 does not apply to this project.

TF3. MPS TRo.3 (Permits for Roadwork prior to Construction) requires that “*all necessary approvals and permits from federal, state and/or local government agencies for transportation mitigation or DRI site access and egress shall be obtained and copies submitted to the Cape Cod Commission prior to the issuance of a preliminary Certificate of Compliance for the DRI.*” The project shall be conditioned to comply with MPS TRo.3.

TF4. MPS TRo.4 (Alternative Method for Compliance within Economic Centers) allows DRIs located in within Economic Centers “*to meet certain trip-reduction and congestion standards of the RPP as identified in this MPS by making a payment of funds based on the DRI’s daily or peak-hour trip generation.*” The site is not within a designated Economic Center; therefore, MPS TRo.4 does not apply to this project.

TF5. MPS TRo.5 (Incentive for Mixed Use in Economic Centers) allows certain DRI mitigation requirements to be waived as identified in the MPS “*for residential and/or office development above the first floor in areas that have been mapped as designated Economic Centers.*” The site is not within a designated Economic Center; therefore, MPS TRo.5 does not apply to this project.

TF6. MPS TR1.1 (No Degradation of Public Safety) states that “*regardless of project traffic generation, DRIs shall not degrade safety for pedestrians, bicyclists, or motor vehicle operators or passengers.*” The Applicant has proposed voluntary safety-related pedestrian improvements on Old Barnstable Road. As presented in the September 11, 2013 Stantec letter the Applicant is proposing the following bicycle and pedestrian accommodations:

- a. Bicycle and pedestrian accommodations will be provided within the project site as illustrated on the project site plan. These include provision of a sidewalk along one side of the driveway leading to the building entrance. Internal roadways will be at least 20 feet wide offering sufficient space for cyclists given the low vehicular traffic volumes generated by the proposed use and the low vehicular travel speeds expected on the site. Bike racks will be provided near the building entrance as noted on the plans.
- b. Prior to the opening of the proposed facility the applicant will repaint the existing sidewalk crossing Old Barnstable in the vicinity of Southport Drive. The existing crosswalk markings are well worn. A warning sign, (MUTCD W11-2 sign and W16-7P plaque), will be installed on each side of Old Barnstable Road identifying the crosswalk location.
- c. As part of the proposed site development, a crosswalk will be striped across the site driveway where the driveway will cross the existing sidewalk on the east side of Old Barnstable Road. A STOP bar and STOP sign will also be provided on the site driveway in advance of the sidewalk.

With the additional consideration of the condition relative to MPS TR1.6 concerning sight line safety, the project complies with MPS TR1.1.

TF7. MPS TR1.2 (Crash Frequency at Key Locations) states that a *“review of crash frequency over the most recent three years shall be required on all intersections of regional roads as well as at local road intersections with regional roads that are used by a project for access to the regional road network, where the DRI is expected to increase traffic by 25 vehicle trips or more during the project’s peak hour.”* Based on the fact that the DRI is not expected to increase traffic by 25 vehicle trips or more during the project’s peak hour on any road links or at any intersections, the project complies with MPS TR1.2.

TF8. MPS TR1.3 (Identification of Safety Impact) requires that Applicant to *“identify safety impacts at road and intersection locations with three or more crashes per year where the project is expected to add 25 or more peak-hour trips.”* MPS TR1.3 further requires the Applicant *“to implement the needed safety improvements as determined by the Commission prior to obtaining a final Certificate of Compliance.”* Based on the fact that the DRI is not expected to increase traffic by 25 vehicle trips or more during the project’s peak hour on any road links or at any intersections, the project complies with MPS TR1.3.

TF9. MPS TR1.4 (Standards for Driveway Construction) states that *“all access and egress locations for DRIs shall meet local, county, and/or state and federal access management bylaws, technical bulletins, standards, and/or policies for driveway spacing and separation from the nearest intersections.”* MPS TR1.4 further states that *“DRIs with frontage on more than one street shall be restricted to access and egress via the lower volume road when deemed appropriate by the Commission.”* MPS TR1.4 additionally requires that *the width of driveway and/or curb-cut openings to serve DRIs shall not exceed 12 feet per travel lane, except where deemed appropriate by the Commission”* and that *“driveway openings of more than 24 feet shall include a center pedestrian refuge island where deemed appropriate by the Commission.”*

The proposed development has frontage on Old Barnstable Road and Route 151. The access and egress is proposed on Old Barnstable Road, the lower volume roadway, consistent with MPS TR1.4. As presented on the site plans dated 11-7-13, the proposed development is served by a single two-lane, 20 foot wide driveway. In order to safely accommodate vehicles entering and exiting the facility, the driveway flares out with a 20 foot radius to Old Barnstable Road resulting in an overall driveway opening of approximately 60 feet. As presented in the September 11, 2013 Stantec letter, *“a crosswalk will be striped across the site driveway where the driveway will cross the existing sidewalk on the east side of Olde Barnstable Road. A STOP bar and STOP sign will also be provided on the site driveway in advance of the crosswalk.”* As such, the driveway width and the pedestrian accommodations proposed are appropriate. Based on information in the record, the proposed site access and egress location meets local, county, and state and federal access management by-laws, technical bulletins, standards, and policies for driveway spacing and separation from the nearest intersections. Given the relatively low volumes expected at the driveway and the need to accommodate emergency vehicles, a center island would not be appropriate at this location. Accordingly, the project complies with MPS TR1.4.

TF10. MPS TR1.5 (Route 6 Access/Egress) states that *“new direct access or egress”* shall not be allowed onto the limited-access portions of Route 6 unless no alternative access or egress is available. The site is not located within the limited-access portion of Route 6; therefore, MPS TR1.5 does not apply to this project.

TF11. MPS TR1.6 (Sight-distance Obstructions) requires that *“human-made objects such as signage, utility poles and boxes, and lighting to service DRIs shall be located to minimize visual obstruction and possible safety conflicts for the traveling public, including glare or other distractions for drivers, bicyclists, and pedestrians.”* The project shall be conditioned to comply with MPS TR1.6 (Sight-distance Obstructions) with the provision that, 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 drive.

TF12. MPS TR1.7 (Bicyclists and Pedestrians Safety and Access/Egress Requirements) requires that *“site planning and access/egress for DRIs shall minimize adverse impacts on the adjacent road system and shall adequately and safely accommodate all users including pedestrians, bicyclists, and motorists.”* As presented in the September 11, 2013 Stantec letter the Applicant is proposing the following bicycle and pedestrian accommodations:

“a. Bicycle and pedestrian accommodations will be provided within the project site as illustrated on the project site plan. These include provision of a sidewalk along one side of the driveway leading to the building entrance. Internal roadways will be at least 20 feet wide offering sufficient space for cyclists given the low vehicular traffic volumes generated by the proposed use and the low vehicular travel speeds expected on the site. Bike racks will be provided near the building entrance as noted on the plans.

b. Prior to the opening of the proposed facility the applicant will repaint the existing sidewalk crossing Old Barnstable in the vicinity of Southport Drive. The existing crosswalk markings are well worn. A warning sign, (MUTCD W11-2 sign and W16-7P

plaque), will be installed on each side of Old Barnstable Road identifying the crosswalk location.

c. As part of the proposed site development, a crosswalk will be striped across the site driveway where the driveway will cross the existing sidewalk on the east side of Old Barnstable Road. A STOP bar and STOP sign will also be provided on the site driveway in advance of the sidewalk.”

With the pedestrian and bicycle accommodations proposed in the September 11, 2013 Stantec letter, all users are safely accommodated and adverse impacts on the adjacent road system are minimized. To ensure consistency with MPS TR1.7, the project shall be conditioned to require implementation of the pedestrian and bicycle accommodations as set out in the September 11, 2013 Stantec letter prior to issuance of a Final Certificate of Compliance.

TF13. MPS TR1.8 (Sight Distance Requirements) requires that “*acceptable sight distances shall be met and maintained at all access and/or egress locations for DRIs regardless of project traffic generation.*” As suggested in the August 14, 2013 Stantec letter and confirmed by a site visit conducted by Commission Transportation staff, the driveway has been located on a tangent section of Old Barnstable Road that provides acceptable sight distances; therefore the project complies with MPS TR1.8.

TF14. MPS TR1.9 (Mitigation Timing) requires that “*transportation mitigation to address or offset safety concerns at a minimum shall occur prior to issuing a Final Certificate of Compliance for the DRI.*” Since no transportation mitigation to address or offset safety concerns is required of this project, MPS TR1.9 does not apply to the project.

TF15. MPS TR2.1 (Trip reduction Outside Growth Incentive Zones or Economic Centers) requires that “*DRIs located outside Growth Incentive Zones or Economic Centers, or DRIs in towns without designated Economic Centers shall implement adequate and acceptable measures to reduce and/or offset 25 percent of the expected increase in site traffic resulting from the DRI on a daily basis.*” As presented in the October 10, 2013 Stantec letter, the proposed project is expected to generate 214 new weekday daily trips. MPS TR2.1 requires the project to implement adequate and acceptable measures to reduce and/or offset 25%, 54 trips [214×0.25], of the expected increase in site traffic resulting from the DRI on a daily basis. In order to meet the 25% trip reduction requirement of MPS TR2.1 the Applicant has proposed implementation of a travel demand management (TDM) plan. The TDM plan, as presented in the September 11, 2013 Stantec letter includes the following elements:

a. Providing an on-site transportation coordinator to assist site visitors and employees in choosing to travel by alternative modes.

b. Provide a sidewalk along the site driveway and bike racks on site as noted above.

c. Showers are not currently included in the design plan but may be pursued as design progresses.

d. Provide incentives for the use of alternative modes including but not limited to: raffles; free lunch for alternative mode users; preferred parking for carpools; subsidized transit passes; ride-matching services; and, a guaranteed ride home for emergencies. The applicant will report on the status of the TDM to the Commission on an annual basis.”

For the type of development that is being proposed implementation of the TDM plan as detailed in the September 11, 2013 Stantec letter meet the requirements of MPS TR2.1, subject to a condition requiring implementation of the TDM plan as detailed in the September 11, 2013 Stantec letter prior to issuance of a Final Certificate of Compliance in order to comply with MPS TR2.1. After allowing for the 25% trip reduction it would be anticipated that the development would generate 160 new weekday daily trips, 6 new AM peak hour trips, and 18 new PM peak hour trips.

TF16. MPS TR2.2 (Trip Reduction Inside of Growth Incentive Zones or Economic Centers) requires that “*DRIs located within Growth Incentive Zones or Economic Centers shall implement adequate and acceptable measures to reduce and/or offset 12.5 percent of the expected increase in site traffic resulting from the development on a daily basis.*” The site is not with a designated Economic Center; therefore, MPS TR2.2 does not apply to this project.

TF17. MPS TR2.3 (Interconnections) requires that “*DRIs shall implement procedures to allow connections (vehicular and pedestrian) between parcels to minimize curb cuts, driveways, and vehicle turning maneuvers.*” Given that the site is bordered by roadways on two sides and undisturbed wooded area on the other sides, interconnections are not feasible for this project. Thus, MPS TR2.3 does not apply to this project.

TF18. MPS TR2.4 (Incentives for Connections between Adjacent Properties) states that “*DRIs that allow for site traffic to travel conveniently and safely to adjacent properties without traveling on or crossing a public way or that allow for mixed-use development that minimizes dependence on automobile travel shall be allowed a 10-percent traffic credit apportioned between the two properties or, if greater, a traffic credit as outlined in the Institute of Transportation Engineers Trip Generation Handbook, October 1998, or another acceptable methodology subject to Commission approval.*” No credits for connections to adjacent properties are proposed; therefore, TR2.4 does not apply to this project.

TF19. MPS TR2.5 (Estimating Trip Reduction) states that “*the estimates of the number of trips reduced through proposed trip-reduction measures including trip-reduction support measures, transportation services, economic incentives, and locating on a transit line shall be based on an analysis that is accepted and approved by the Commission based upon the methodology provided by the Cape Cod Commission Guidelines for Transportation Impact Assessment, Technical Bulletin 96-003, as amended.*” The estimated trip reduction success of 25% for implementation of the TDM plan detailed in the September 11, 2013 Stantec letter is appropriate for this type of development and complies with said Technical Bulletin; therefore, the project complies with MPS TR2.5.

TF20. MPS TR2.6 (Bus Stops, Turn-outs, and Shelters) states that “*Where appropriate, the Commission may require construction of a bus stop and/or bus turn-out and/or bus shelter as*

part of DRI approval either internal to the property or along the property's roadway frontage." The site is not on any fixed-route bus route; therefore, it would not be appropriate to require the project to include a bus stop and/or bus turn-out and/or bus shelter. Accordingly, the project complies with MPS TR2.6.

TF21. MPS TR2.7 (Bicycle and Pedestrian Accommodations) requires that "*DRIs shall accommodate the needs of bicyclists, pedestrians, and other non-automobile users in site planning and roadway and/or intersection changes.*" The Applicant is proposing a number of bicycle and pedestrian accommodations. These accommodations as outlined in the September 11, 2013 Stantec letter comply with MPS TR 2.7. The project shall be conditioned to require implementation of the pedestrian and bicycle accommodations proposed in the September 11, 2013 Stantec letter prior to issuance of a Final Certificate of Compliance in order to comply with MPS TR2.7.

TF22. MPS TR2.8 (Preservation of Frontage) states that "*where deemed appropriate by the Commission, DRIs shall provide appropriate rights-of-way along their street frontage to accommodate expected needs for bicycle and pedestrian accommodation and/or relocation of utilities.*" Appropriate rights-of-way currently exist along the site's street frontage to accommodate expected needs for bicycle and pedestrian accommodation and/or relocation of utilities; therefore, it would not be appropriate to require the Applicant to provide additional rights-of-way. Accordingly, the project complies with MPS TR2.8.

TF23. MPS TR2.9 (Parking Spaces) requires that "*the maximum parking allowed for DRIs shall be no more than the minimum number of spaces required by the town(s) in which the DRI is located unless, in the Commission's discretion, a greater number of spaces are justified by a parking analysis accepted by the Commission.*" As presented in the October 10, 2013 Stantec letter the zoning requirement for the proposed development is 86 parking spaces. The Applicant is proposing 50 parking spaces which they indicate is "*more than adequate to serve the project needs*" and will "*minimize the amount of impervious cover on the site.*" The applicant shall seek a parking space waiver from the town planning board. The Applicant is proposing no more than minimum number of spaces required by the Town; therefore, the project complies with MPS TR2.9.

TF24. MPS TR2.10 (Acceptable Trip-reduction Strategies) details acceptable trip-reduction strategies available to the Applicant for meeting the trip-reduction requirement of Goal TR2. The Applicant is proposing implementation of a TDM plan to reduce vehicle trips to the site. This approach constitutes an acceptable trip-reduction strategy as detailed in MPS TR2.10; therefore, the project complies with MPS TR2.10.

TF25. MPS TR2.11 (Other Trip-reduction Strategies) details additional trip-reduction strategies for meeting the trip-reduction requirement of Goal TR2 that may be allowed with Commission discretion. No other trip-reduction strategies, as defined by MPS 2.11, have been proposed by the Applicant; therefore, MPS TR2.11 does not apply to the project.

TF26. MPS TR2.12 (Trip-Generation Credit) states that "*the Commission may allow a DRI to exceed the requirements of this section and receive a corresponding reduction in trip generation for the purpose of meeting MPS TR3.4.*" No credits for trip reduction in excess of the

requirements of this section have been proposed by the Applicant; therefore, MPS TR2.12 does not apply to this project.

TF27. MPS TR2.13 (Inflation Factor) states that “*where deemed appropriate by the Commission, an annual inflation rate, determined at the time of the DRI decision, shall be applied to any trip-reduction payment amounts.*” No trip reduction payments have been proposed by the Applicant; therefore, MPS TR2.13 does not apply to this project.

TF28. MPS TR2.14 (Use of Trip-reduction Funds) states that “*funds collected for trip reduction shall be used only to support projects or strategies that encourage alternatives to automobile travel.*” No trip reduction payments have been proposed by the Applicant; therefore, the MPS TR2.14 does not apply to this project.

TF29. MPS TR3.1 (Operation Requirements) requires that “*regardless of traffic volumes, Level of Service analysis shall be required at all access and/or egress points onto the road system for DRIs.*” MPS TR3.1 further sets minimum Level of Service requirements for driveways based on Level of Service “*for a minimum of five years after project occupancy.*” Since the site is not located in an Economic Center the site driveway must operate at a Level of Service C or better during the project’s peak hour. As presented in the October 10, 2013 Stantec letter, the site driveway will operate at Level of Service C during the PM peak hour (project’s peak hour) under 2018 build conditions. Thus, the site driveway meets the operation requirements of MPS TR3.1, and the project complies with MPS TR3.1.

TF30. MPS TR3.2 (Credit for Trip-reduction Mitigation) states that “*for the purpose of meeting the requirements of Goal TR3 and the supporting Minimum Performance Standards, DRIs shall be allowed to reduce their estimated trip generation by 25 percent after compliance with all Minimum Performance Standards under Goal TR2.*” As conditioned, the project will comply with all MPS under Goal TR2; therefore, for the purpose of meeting the requirements of Goal TR3 the project is allowed to reduce its estimated trip generation by 25 percent, and thus the project complies with MPS TR3.2.

TF31. MPS TR3.3 (Traffic Studies) requires that “*DRIs shall provide an appropriate traffic study in accordance with the Cape Cod Commission Guidelines for Transportation Impact Assessment, Technical Bulletin 96-003, as amended, as determined by the Commission in consultation with the town and the applicant.*” The transportation-related materials submitted by the Applicant in the application and supplemental application materials were prepared in accordance with Cape Cod Commission Technical Bulletin 96-003 and constitute an appropriate traffic study; therefore, the project complies with MPS TR3.3.

TF32. MPS TR3.4 (Mitigation of Congestion Impacts Required) requires that “*DRIs shall provide for full mitigation of adverse impacts on all road links, and at all intersections that are used by the DRI, including but not limited to bridges, intersections, rotaries, roundabouts, interchanges, and U-turns where the DRI is expected to increase peak-hour traffic after traffic adjustments in compliance with the Minimum Performance Standards supporting Goal TR2.*” As presented in the October 10, 2013 Stantec letter, the Applicant has proposed a payment of \$108,300, following the methodology of MPS TR3.6 (“Fair-share” Payments), to meet the congestion mitigation requirements of MPS TR3.4. Calculation of the “Fair-share” payment of

\$108,300 was performed in accordance with the requirements of MPS TR3.6 and guidance in Technical Bulletin 96-003, and a payment in lieu of construction and/or implementation of measures is appropriate. Thus, the project complies with MPS TR3.4.

TF33. MPS TR3.5 (Mitigation Fee) allows, “*at impact locations, as specified in MPS TR3.4, where the increase is less than 25 peak hour trips, DRIs may make a payment per peak-hour trip to comply with MPS TR3.4.*” No mitigation payment per MPS TR3.5 has been proposed by the Applicant; therefore, MPS TR3.5 does not apply to the project.

TF34. MPS TR3.6 (“Fair-share” Payments) allows, “*in lieu of construction and/or implementation of measures to mitigate adverse traffic impacts prior to a final Certificate of Compliance, the Commission, at its discretion, may allow a payment of funds to Barnstable County to meet the requirements of MPS TR3.4 commensurate with the DRI’s impact.*” As presented in the October 10, 2013 Stantec letter, the Applicant has proposed a payment of \$108,300, following the methodology of MPS TR3.6 (“Fair-share” Payments), to meet the congestion mitigation requirements of MPS TR3.4. Calculation of the “Fair-share” payment of \$108,300 was performed in accordance with the requirements of MPS TR3.6 and guidance in Technical Bulletin 96-003, and a payment in lieu of construction and/or implementation of measures is appropriate. Accordingly, the project complies with MPS TR3.6, subject to a condition that the Applicant makes the \$108,300 Fair Share payment prior to issuance of the Final Certificate of Compliance.

TF35. MPS TR3.7 (Restriction on Widening or New Signals) states that “*road and intersection widening and new traffic signals shall not be used as actual mitigation or to support mitigation payments under MPS TR3.6 in local or regional historic districts.*” No road widening, intersection widening, or new traffic signals have been proposed by the Applicant; therefore, MPS TR3.7 does not apply to the project.

TF36. MPS TR3.8 (Year-round Structural Mitigation) states that “*road widening, intersection widening, and new traffic signals shall be allowed as mitigation for DRIs only if the Commission finds that the improvement will have substantial benefit to the transportation system throughout most of the year.*” No road widening, intersection widening, or new traffic signals have been proposed by the Applicant; therefore, MPS TR3.7 does not apply to the project.

TF37. MPS TR3.9 (Bicycle and Pedestrian Accommodation) requires that “*all road and intersection widening and new traffic signals or modification of existing traffic signals required as DRI mitigation shall include appropriate bicycle and pedestrian accommodation.*” No road widening, intersection widening, new traffic signals, or modification of existing traffic signals have been proposed by the Applicant; therefore, MPS TR3.9 does not apply to the project.

TF38. MPS TR3.10 (Preserve Existing Right-of-Way) requires that “*existing transportation rights-of-way shall be preserved for transportation uses as well as to limit trip generation.*” Existing transportation rights-of-way are preserved in the project for transportation and not for other uses; therefore, the project complies with MPS TR3.10.

TF39. MPS TR3.11 (No Capacity Increase on Controlled-access Highways) states that “*DRI*s shall not increase the mainline capacity of limited-access highways on Cape Cod, including portions of Route 6, Route 3, and the Route 25 extension within Barnstable County.” No increases in the mainline capacity of limited-access highways on Cape Cod have been suggested in the project proposed by the Applicant; therefore, the project complies with MPS TR3.11.

TF40. MPS TR3.12 (Consistency with Other Plans) requires that “*all roadway infrastructure projects proposed as DRI mitigation, including but not limited to roadway segment widening, intersection widening, new traffic signals, interchange ramp changes, and grade separation, shall be consistent with local and regional plans, including but not limited to Local Comprehensive Plans, and the Cape Cod Metropolitan Planning Organization’s latest Regional Transportation Plan.*” No roadway infrastructure projects have been proposed by the Applicant as DRI mitigation; therefore, the project complies with MPS TR3.12.

TF41. MPS TR3.13 (Operation and Maintenance Costs) states that, “*where deemed appropriate by the Commission, all new traffic signals under town jurisdiction proposed as DRI mitigation shall include payments for 20 years of operations and maintenance costs. All new traffic signals used to support development of payment mitigation plans under MPS TR3.6 shall include payments for 20 years of operations and maintenance.*” No new traffic signals have been proposed by the Applicant; therefore, this standard is not applicable to the project.

TF42. MPS TR3.14 (Traffic Monitoring Devices) states that, “*where deemed appropriate by the Commission, all roadway widening, intersection signals, and other roadway capacity alterations proposed as DRI mitigation to accommodate automobile travel shall include continuous year-round traffic-recording devices to monitor traffic volumes, vehicle classification, and travel speeds, and shall include devices to access the data remotely both at the data-collection site and at the data-processing site.*” No roadway widening, intersection signals, or other roadway capacity alterations have been proposed by the Applicant; therefore, this standard is not applicable to the project.

TF43. MPS TR3.15 (Inflation Factor) states that, “*where deemed appropriate by the Commission, an annual inflation rate, determined at the time of the DRI decision, shall be applied to all congestion mitigation payments.*” MPS TR3.15 further states that “*the period of increase shall be from the date of the final Commission decision until the funds are paid.*” An inflation factor is appropriate and shall be applied to the congestion mitigation payment as a condition of this decision for the period of time from the date of the final Commission decision until the funds are paid. Based on a 10-year annual average increase of the National Highway Construction Cost Index prepared by the Federal Highway Administration, an annual inflation rate of 1% is appropriate.

TF44. MPS TR3.16 (Use of Congestion Mitigation Funds) states that “*funds collected for congestion mitigation shall be used to support projects or strategies that encourage alternatives to automobile travel consistent with MPS TR2.13 or to support actual expansion of roadway capacity including but not limited to planning, engineering, permitting, and construction.*” To ensure compliance with MPS TR3.16, the project shall be conditioned to

require that the use of congestion mitigation funds be in accordance with the purposes enumerated in MPS TR3.16.

TF45. BDP TR1.10 (Transportation Safety) encourages DRIs *“to promote and assist in improving transportation safety on Cape Cod.”* The Applicant is proposing voluntary off site safety-related pedestrian improvement on Old Barnstable Road, over and above the site specific safety measures it is required to undertake. Specifically, as presented in the September 11, 2013 Stantec letter, *“prior to the opening of the proposed facility the applicant will repaint the existing crosswalk crossing Old Barnstable [Road] in the vicinity of Southport Drive. The existing crosswalk markings are well worn. A warning sign, (MUTCD W11-2 sign and W16-7 plaque), will be installed on each side of Old Barnstable Road identifying the crosswalk.”* Thus the project meets BDP TR1.10.

TF46. BDP TR2.16 (Alternate Modes of Travel) encourages DRIs *“to include trip-reduction programs to encourage alternative modes of travel including carpooling, transit, bicycling, walking, and, where appropriate, working at home to reduce congestion, pollution, and energy usage; flexible work hours; and incentives for alternatives to automobile travel.”* The TDM plan proposed by the Applicant in the September 11, 2013 & October 10, 2013 Stantec letters, along with other bicycle and pedestrian accommodations proposed by the Applicant, also includes provision or incentives facilitating alternate modes of travel. Thus, the project meets BDP TR2.16.

Solid Waste Findings

SWF1. MPS WM2.1 requires submission of a plan to demonstrate how the *“applicant proposes to handle solid wastes, construction and demolition (C&D) wastes, and recyclable materials currently categorized by the DEP as a waste ban material.”* MPS WM2.2 requires that any C&D plan provided specify the types of C&D wastes generated during construction, the method for separating out wallboard and sheet rock, and methods to dispose of or recycle the remaining C&D materials. MPS WM2.3 requires that a *“solid waste and recycling management plan shall be provided that identifies how both solid wastes and recyclable materials will be handled in the post-construction phase.”* MPS WM2.4 requires a food-waste recycling plan be provided by *“...those developments (primarily supermarkets) generating significant amounts of food waste.”*

SWF2. The 10/17/13 supplemental Application materials include a plan that demonstrates how the Applicant proposes to handle solid wastes, construction and demolition waste and recyclables. The Design Narrative and Natural Resources Assessment state that the proposed project will encompass approximately 5 acres of a 24 acre of wooded, upland and that the majority (approximately 19 acres) be preserved as open space. The Applicant provided supplemental Application materials to the Commission by Email on 11/14/13. Included in these materials was a 11/5/13 letter from LM Heavy Civil Construction LLC which addresses land clearing wastes. This letter provides an estimate of the volume of land clearing waste, some 3500 to 4000 cubic yards of material. The letter anticipates that a mobile wood/stump grinder will be used on site to produce wood chips. The letter then proposes that the wood chips may be used on site as mulch, or sent off site to wood burning power plants or recyclers. The construction company’s letter also states that trees of sufficient size may be shipped off site for lumber. This information is sufficiently addresses MPS WM2.1 and MPS WM2.2.

SWF3. It is appropriate that the project be conditioned to comply with MPS WM2.1 and MPS WM2.2 for the construction phase, so that the Construction Waste Management Plan is implemented as and when the project is being built.

SWF4. The 10/17/13 supplemental Application materials acknowledge that food waste is a portion of the solid waste generated on-site in the introduction to the policy on Food Waste and Other Solid Waste. The Applicant's 11/14/13 additional application materials provide an estimate of the amount of food waste to be generated by the facility based on similar facilities in operation in Hingham and Westford, MA. The Applicant has estimated the food waste generation to be approximately 20,000 pounds per year. This converts to about 13 tons per year of food waste/compostables. MPS WM2.4 specifically cites a supermarket as the type of development that generates "significant" amounts of food waste. A 2002 Massachusetts Department of Environmental Protection study found that supermarkets generate approximately 225 tons per year of compostable waste. Based on the data from the Applicant's existing facilities, in light of a supermarket use that is considered a significant generator of food waste, the proposed project is not a significant generator of food/compostable waste per MPS WM2.4, and as such, this MPS does not apply to the project.

SWF5. The 10/17/13 supplemental Application materials include a basic outline of a proposed policy on post-construction recyclables management plan. The Applicant's 11/14/13 additional application information provides additional procedures for the management of recyclable materials, including newspapers, glass, cans, cardboard, plastic and metal. The new procedure indicates proposed locations of the collection bins inside the facility, and provides an outline of how the recyclables will be stored/ managed prior to collection by the solid waste management vendor. Based on this information, the proposed project complies with MPS WM2.3 for the subject to a condition that the recycling plan is implemented as and when the project is being built.

Hazardous Waste Findings

HWF1. MPS WM1.5 is not area specific, and applies to all projects subject to Commission DRI review, regardless of whether or not the project is located in a Wellhead Protection Area or Potential Public Water Supply Area. MPS WM1.5 states *"any development or redevelopment that uses, handles, generates, treats, or stores Hazardous Waste shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00 for the purposes of Cape Cod Commission review by providing the Commission with evidence of the following:*

- (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;...*

HWF2. Both project construction and operation will generate Hazardous Wastes. These Hazardous Wastes include used fluorescent bulbs, old computers, monitors, and televisions, and mercury-containing batteries. The Applicant's 11/14/13 supplemental materials also address management of Hazardous Wastes from the construction phase. The supplemental Application materials received on 10/17/13 address how used fluorescent bulbs from facility operations (post-construction) will be managed. The Commission received further supplemental Application materials from the Applicant by Email on 11/14/13 which provides several proposed

new Administrative Policies on the recycling/disposal of old computers, televisions, and mercury containing batteries generated from facility operations directly. These proposed policies are sufficient to address MPS WM1.5 for the project's operational phase. The facility will also be required to either register with or notify the Massachusetts Department of Environmental Protection as a generator of Hazardous Waste, and it is appropriate to condition the project to require this in compliance with MPS WM1.5.

HWF3. According to the Water Classification maps referenced in the Regional Policy Plan, portions of the project site are located in Zone II/Wellhead Protection Areas or a Potential Public Water Supply Area (PPWSA).

HWF4. Based on correspondence from the Town of Mashpee dated September 3, 2013, the project site will not be considered for public water supply use, and thus PPWSA designation does not apply to the project site.

HWF5. The Applicant's 11/14/13 supplemental materials also address management of Hazardous Wastes from the construction phase. The Applicant has provided an 11/5/13 letter from LM Heavy Civil Construction LLC which addresses equipment servicing and fueling. Servicing is to be limited to oiling of machinery outside of Zone II/ WHPA portions of the site. The letter from LM Heavy Civil Construction (LMH) indicates that fueling will "be performed daily in a designated area by an offsite fuel truck..." An 11-20-2013 follow-up letter from LMH includes a plan depicting the designated fueling area outside the areas of the site designated Zone IIs/ WHPAs. Accordingly, as no development is proposed with the Wellhead Protection Area (WHPA) that involves the use, treatment, generation, handling storage or disposal of Hazardous Materials or Hazardous Wastes with the exception of Household quantities or less, WM1.4 has been met, and the project complies with MPS WM 1.1, subject to a condition that equipment fueling and servicing occur outside Zone II/ WHPA portions of the project site.

HWF6. MPS WM1.2 & MPS WM 1.3 do not apply because the project neither involves redevelopment, nor proposes to exceed the quantity limits on hazardous material use set out in MPS WM1.1.

Energy Findings

EF1. MPS E1.4 requires residential apartment development such as the project to be designed according to current ENERGY STAR National Attached Builder Option Package specifications. The applicant's architect provided a specifications "checklist" containing this information responsive to this standard on 11/25/13. Thus the project complies with this standard subject to the condition that the final building construction plans submitted for the local building permit comply with this checklist.

EF2. The applicant submitted a LEED checklist and narrative detailing the minimum 40 points required for base level LEED certifiability that the applicant will pursue, plus an additional 18 potential points. The narrative also outlines building energy efficiency measures the project will pursue, which also seek to satisfy local stretch code requirements. This information has been provided above and beyond an applicable Energy minimum performance standard and is considered a project benefit, subject to the condition that the project shall attain base level LEED certifiability.

EF3. E1.1 does not apply to the project because the project is not redevelopment; E 1.2, 1.3 & 1.5 do not apply to the project because it is residential; E1.6 does not apply to the project because the applicant has chosen to comply with E1.5; E1.7-E1.11 do not apply to the project because the project is not a Wind Energy Conversion Facility (WECF).

Affordable Housing Findings

AHF1. MPS AH 1.1 requires that *“residential construction and redevelopment of 10 units or more shall provide at least 10 percent of the proposed units as affordable units.”* This MPS also allows Applicants to provide *“comparable housing units off site through the purchase of existing units, redevelopment, new construction, a contribution of land that can support as of right the required number of affordable units or a cash contribution as described in MPS AH 1.3.”*

As there will be one building with forty-eight (48) studio rental units for the memory care assisted living residents and six (6) companion units with two beds in each unit, there will be fifty-four (54) units and sixty (60) beds in the facility.

AHF2. MPS AH 1.4 (Calculation of Affordable Units) requires that all numbers be rounded up in order to calculate the 10% requirement. As the facility will be charging the residents a monthly fee on a per resident or per bed basis, the 10% requirement is calculated based upon the sixty (60) beds; therefore, six (6) affordable beds shall be the minimum required.

The Applicant’s submission of November 5, 2013 clarified that it would meet the 10% requirement by providing six affordable beds on site. This complies with MPS AH 1.1 and MPS AH 1.4.

AHF3. As the Applicant is not proposing a residential subdivision, MPS AH 1.2 (Ten-percent Requirement for Subdivisions of 10-plus Lots) does not apply to the project.

AHF4. As the Applicant has chosen the on-site affordable housing restriction option, the following MPS’ that relate to off-site options do not apply: MPS AH 1.3 (Cash-contribution Option); MPS AH 1.5 (Off-site Option Criteria); MPS AH 1.6 (Location of Off-site Option); and MPS AH 1.7 (Timing of Off-site Contributions).

AHF5. AH 1.8 (Timing and Mix of Units) states that *“For DRIs, development of affordable housing shall take place at the same rate and within the same time frame as the development of the market-rate units. There shall be a similar proportion of affordable and market-rate units in those DRIs with a mix of unit/bedroom sizes and/or in those DRIs with a mixture of housing types (for example, ownership and rental; independent living and assisted living, etc.).”*

As there will be a single building that will include both the affordable and the market rate units, the project complies with the Timing of Units aspect of MPS AH 1.8.

There will be forty-eight (48) beds in the studio units and twelve (12) beds in the six (6) companion units; therefore, the Mix of Units aspect of MPS AH 1.8 requires 10% of each type be affordable: five (5) of the studio units/beds and one (1) bed in the companion units.

The Applicant in its November 5, 2013 submission proposed a mix of four (4) studio beds and two (2) companion beds that would provide an opportunity for a couple to live together. The project complies with the Mix of Use provisions of MPS AH 1.8, subject to the condition that the Applicant may provide the required Mix of Units alternatively as follows: 1) five (5) studio and one (1) companion beds; or 2) four (4) studio beds and two (2) companion beds in the sole event that a couple will be occupying the companion unit.

AHF6. With respect to MPS AH 1.9 (Integration and Size of the Affordable Units), the project complies with the Integration aspect of the standard as the market rate and affordable units will be compatible in exterior design, appearance, construction and quality of materials, subject to the condition that Commission staff review final building plans and specifications prior to issuance of a preliminary certificate of compliance to ensure consistency with this standard.

The Applicant has proposed that the approximate average square footage of the studio units would be from approximately 275-375 square feet while the companion units would be from approximately 519-583 square feet. The Unit Size aspect of the standard references the Department of Housing and Community Development's (DHCD) Local Initiative Program (LIP) guidelines. As LIP does not have unit size requirements for studio units and as this development 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, the standard's reference to DHCD LIP guidelines is not applicable to the project, and the project complies with the Size of Units aspect of the standard, subject to the condition that Commission staff review final building plans and specifications prior to issuance of a preliminary certificate of compliance to ensure consistency with this standard.

AHF7. The project complies with MPS AH 1.10 (ENERGY STAR Requirement), by virtue of the information contained in the ENERGY STAR National Attached Builder Option Package specifications "checklist" provide by the applicant's architect on 11/25/13, subject to the condition that the final building plans submitted for the local building permit comply with this checklist.

AHF8. With respect to MPS AH 1.11 (Pricing and Rents of the Affordable Units), income eligibility for the affordable units is households at or below 80% of the area median income (AMI) based upon the most current U.S. Department of Housing and Urban Development (HUD) incomes for Barnstable County. The Applicant has committed to comply with the use of HOME program guidelines for determination of income eligibility; HOME does not have an asset limit for determining income eligibility for affordable rental units.

For the monthly rent and service charge for the affordable units, the Applicant is proposing that the maximum monthly rent and service charges be calculated on the basis of 75% of the household income of a one person household whose income is 80% of the AMI, based upon the most current HUD incomes for Barnstable County. Based upon 2013 HUD incomes, the current

monthly fee would thus be \$2,819. Staff notes that the monthly fee would be for the standard package of services as described in the Applicant's submission of 11/9/13.

As MPS AH 1.11 references MassHousing's Elder Choice guidelines that use the 75% of 80% AMI as a basis for assisted living fees and calculations are in accordance with this methodology, the project complies with MPS AH 1.11.

AHF9. The Applicant has committed to comply with AH 1.12 (Permanent Affordability) and AH 1.13 (Monitoring of Affordability), and the project shall be conditioned to comply with MPS AH 1.12 and 1.13.

AHF10. As this will be new development on an undeveloped site, AH 1.14 (No Reduction in Number of Existing Units) does not apply to this DRI.

AHF11. The Applicant has committed to comply with MPS AH 2.1 (Non-discrimination), and the project shall be conditioned to comply with MPS AH 2.1.

AHF12. The Applicant has committed to comply with MPS AH 2.2 (Visit-ability and/or Accessibility), which requires that 10% of the affordable units, one unit in this case, either be fully accessible for those with mobility impairments or be visit-able for those with mobility impairments, and the project shall be conditioned to comply with MPS AH 2.2.

AHF13. The Applicant has committed to comply with MPS AH 2.3 (Affirmative Marketing and Tenant Selection). However, as noted for MPS AH 1.9, the affordable units in this development will not currently qualify for inclusion on the Town's SHI by DHCD. Accordingly, the marketing/selection plan is not required to receive DHCD approval, but is nonetheless consistent with the state's LIP guidelines for affirmative marketing and selection policies as described in the Local Initiative Program (LIP)/Chapter 40B Affirmative Fair Housing Marketing Plan guidelines, and the project shall be conditioned to comply with MPS AH 2.3.

AHF14. As this is new development on an undeveloped site, staff suggests that MPS AH 2.4 (Relocation Requirement) does not apply.

AHF15. As this is a new residential development on an undeveloped site and thus not a commercial development, staff suggests that all of the MPS' under Goal AH3 do not apply: MPS AH 3.1 (Mitigation Standard); MPS AH 3.2 (Alternate Mitigation Calculation Option); MPS AH 3.3 (Annual Adjustment of Mitigation); MPS AH 3.4 (On-site Units Option); and MPS AH 3.5 (Redevelopment/Change of Use).

AHF16. All beds/ units proposed in the project will be for rent, including the six affordable beds. Thus the project meets BDP AH 1.16 (Priority for Affordable Rental Housing), which encourages the creation of rental housing.

Heritage Preservation and Community Character Findings Parking & Landscaping

HPCCF1. The proposed project is a proposed 45,000 square foot residence for memory care assisted living, located in the Town of Mashpee at the intersection of Route 151 and Old

Barnstable Road on a 20 acre site. As a new development project, RPP MPS HPCC2.8 and 2.10 would apply to the projects landscaping scheme. MPS HPCC 2.9 does not apply because the project does not involve redevelopment.

HPCCF2. HPCC2.8 specifies that parking should be located to the side and rear of the building unless such location would have an adverse or detrimental impact on environmental or visual features on the site. The proposed parking areas of the project are divided into two (2) mid-size lots, located to the southwest and northwest of the building. The north façade serves as the functional building “front” (because of the presence of front doors) and south façade as the “rear” (because it is opposite the front), with a wide landscaped island located at the site entry and front patient drop-off/parking area.

Though the north façade serves functionally as the building front, the parking is technically located to the sides of the building based on the unique “Y” shape of the building. Site design considerations undertaken to accommodate the Y-shaped building footprint have altered the traditional building approach. Furthering the concept that the parking is located to the sides of the building is the building’s location and single site access/ egress relative to Old Barnstable Road. Because of the dual road frontage on Route 151 and Old Barnstable Road, locating the parking alternatively on-site would have an adverse or detrimental impact on environmental or visual features of the site by intruding into the unfragmented open space area, or the wide naturally vegetated buffers along the roadway. This, combined with the significant landscaped island at the site entry and retention of natural vegetated buffer to Old Barnstable Road, supports siting parking as proposed. Therefore, due to the nature of the building shape, footprint, road frontages, site access and natural features on-site, locating the parking as proposed complies with HPCC 2.8.

HPCCF3. The landscape plans submitted by Stantec dated 9/12/13 and revised dated 12/4/13 are designed in compliance with standard HPCC2.10. This MPS requires buildings to be integrated into their environment, which is clearly shown in the preservation of onsite open space and efficient use of space on the site. The plans enhance architectural features, foster sustainable practices, provide adequate buffers and clearly divide parking lots into smaller areas. The plans include tree canopy cover and sufficient planted islands to provide shade, break up the area of pavement, and foster sustainability on site. The plans provide amenities for pedestrians entering from Old Barnstable Road, and pedestrian connections between site facilities. Additionally, benches have been provided for the use of patrons, visitors and staff to improve the visual and functional character of the site. The plans also foster sustainability by including a mix of native and drought tolerant plantings throughout, and no invasive plantings appear on the plans. Additionally, the seed mixes specified in the plan notes are appropriate.

HPCC4. A draft landscape maintenance agreement has been submitted and complies with HPCC 2.10. The project shall be conditioned on submission of a final, signed agreement covering at least three growing seasons after full site construction for Commission staff review and approval prior to issuance of the final certificate of compliance.

Historical, Cultural and Archaeological Resources

HPCCF5. HPCC1.1 (Historic Structures)

The proposed project site does not include any historic structures and the project does not propose any direct impact to historic structures. Massachusetts Historical Commission reviewed the proposed project and determined in comments dated 8-28-13 that the project is unlikely to affect significant historic or archaeological resources. The project complies with this standard.

HPCCF6. HPCC1.2 (Cultural Landscapes)
There are no cultural landscapes on or adjacent to the project site. The project complies with this standard.

HPCCF7. HPCC1.3 (Archaeological Sites)
There are no archaeological sites on the project site. Massachusetts Historical Commission reviewed the proposed project and determined in comments dated 8-28-13 that the project is unlikely to affect significant historic or archaeological resources. The project complies with this standard.

Project Siting

HPCCF8. The project is located at the corner of Route 151 and Barnstable Road, on an undeveloped wooded parcel of approximately 24 acres. The existing character of the property is a wooded lot, and the proposed project has been sited well back from the intersection in a way that retains the wooded character of the intersection and most of the roadway frontage. By siting the project well back from the road edge and providing screening and a single access point to limit the visibility of parking areas and buildings, the project avoids the negative characteristics of strip development. The project also does not propose changes to the adjacent road network, so the existing roadway character will be maintained.

HPCCF9. The proposed project is not located in an area of identified scenic resources, and does not include scenic roads or scenic vistas, though the wooded road edge currently serves as a distinguishing feature of the area. The project siting maintains a large vegetated buffer (in excess of 150 feet) along much of the Route 151 frontage, though the buffer is reduced to roughly 100 feet at the southeast corner of the development. The applicant has proposed some additional landscape plantings to improve screening in this location. The proposed project is unlikely to be visible through this vegetated buffer, and the project area does not include designated scenic resources.

HPCCF10. HPCC2.1 Strip development
The project does not constitute extension or creation of strip development because it is not roadway oriented and highly visible, is not retail in nature, and does not contain other features typical of strip development. The project complies with this standard

HPCCF11. HPCC2.2 Protection of Existing Roadway Character
The proposed project does not involve changes to the road network adjacent to the facility, so the project complies with HPCC2.2.

HPCCF12. HPCC2.3 Avoid Adverse Visual Impacts
The project area does not include a scenic road or scenic vista or other designated scenic resource, is not adjacent to a scenic resource and the project is unlikely to be visible through the

existing vegetation that will be retained along the roadway. As such, the project is consistent with standard HPCC2.3.

Building Design

HPCCF13. HPCC2.4 Consistency with Regional Context or Surrounding Distinctive Area
The proposed building involves an approximately 45,000 square foot building footprint, with a maximum building height of 28 feet. The building is broken down into smaller components arranged around a central massing. The design is consistent with regional context in terms of mass, height, scale, roof shape, building materials and proportions, employing pitched roof forms and traditional siding materials. The central building element is proposed to be roofed with standing seam metal roofing, but use of a non-traditional material in this small area is appropriate, since the project is not located in an area with distinctive character and the project is well screened. Thus, the project is consistent with this standard.

HPCCF14. HPCC2.5 Footprints over 15,000 Square Feet
The proposed building is designed as multiple attached massings, with each element less than 15,000 square feet, thus meeting the RPP standard for maintaining smaller building masses. The project is also screened by existing natural vegetation and proposed plantings to limit its visibility from adjacent roadways. For all development, the RPP requires building façades more than 50 feet in length to include a minimum of 10 feet of variation in the building footprint (setback or projection in the building wall) for every 50 feet of façade length, as well as related changes in the roofline in order to reduce the apparent mass of the building. The proposed building facades incorporate numerous setbacks and projections, exceeding the required amount of variation in the building façade. Each wing of the building is required to provide approximately 35-40 feet of variation for the 180-foot façade length, but provides at least 60 feet of setback or projection, as well as corresponding changes in the roofline. Thus, the project is consistent with this standard.

HPCCF15. HPCC2.6 Building Forms and Façades
The proposed building facades incorporate numerous setbacks and projections, exceeding the required amount of variation in the building façade. Each wing of the building is required to provide approximately 35-40 feet of variation for the 180-foot façade length, but provides at least 60 feet of setback or projection, as well as corresponding changes in the roofline. Thus, the project is consistent with this standard.

HPCCF16. HPCC2.7 Non-traditional Materials and Designs
The proposed project design includes traditional materials, forms, and site designs. While the design includes one non-traditional material -- standing seam metal roofing -- on a small portion of the building, it will be screened from the regional roadway and the project is thereby consistent with this standard.

Exterior Lighting

HPCCF19. HPCC2.11 requires that site lighting and exterior building lights in all development shall employ "shoe-box" type or decorative fixtures which are fully shielded; create a total cutoff of all light at less than ninety (90) degrees from vertical; provide a total cutoff of all light at the property lines of the parcel to be developed; and that all lights used shall meet a

maximum initial horizontal foot-candle level of not more than 8.0 foot-candles, as measured directly below the luminaire(s) at grade.

The 10/17/13 supplemental information resubmits the STANTEC foot-candle plan, Sheet L-501, dated September 20, 2013, which includes estimated foot-candle levels for just the pole mounted lights.

At the same time, the exterior lighting design includes recessed cans at the main building entrance and decorative "coach lamps" at the other entrance/exit doors.

The Applicant submitted additional information on exterior lighting in an Email received by the Commission on 11/14/13. This information clarifies that the proposed mount height of the recessed cans to be installed in the ceiling of the main entrance will be ten (10) feet from grade. Additional new information received 11/25/13 indicates that the resultant foot-candle levels in the area of the entrance will not exceed the maximum initial horizontal foot-candle level of 8.0 foot-candles, as measured directly below the luminaire(s) at grade.

The Applicant's 11/14/13 information from Stantec provides decorative coach lamps which are consistent with MPS HPCC2.11 or Technical Bulletin 95-001 because they are fully shielded. The 10/17/13 additional Application materials clarify that the decorative pole (supplied by Sternberg) mounts will use LEDs and that the luminaires will be fully shielded.

The 10/17/13 additional Application materials clarify that the proposed site sign will be illuminated using goose-neck fixtures from LSI Industries, consistent with MPS HPCC2.11 as applied to signs, and MPS HPCC2.12.

The 10/17/13 additional Application materials clarify that the final, installed mounting height of the proposed pole fixtures by describing the finished height as (base+pole+head) will be not more than 18 feet tall, which is consistent with the exterior lighting requirements.

Based on the foregoing, the project meets MPS HPCC 2.11, subject to the condition that, prior to issuance of the final certificate of compliance, the Applicant submit the final exterior lighting design for staff review and approval, including a field site visit by Commission staff to verify that the installed exterior lighting design complies with this standard and the exterior lighting technical bulletin.

Sign and Sign Lighting

HPCCF20. Site signage must be illuminated in a manner consistent with MPS HPCC2.11, which when applied to signs requires any lights to be down-angle, and to be configured in a top-down direction on the sign. Any signage must also be consistent with MPS HPCC2.12 which states in part "[t]he installation of billboards, off-site advertising (except approved directional signs), and internally lit or flashing signs shall not be permitted. The size and color of all signs shall be in scale and compatible with the surrounding buildings and streets."

The Lighting/Photometric Plan (Sheet L-501) submitted with the DRI site plan set indicates at least one free-standing site sign located at the beginning of the entrance drive. Sheet L-501 also

indicates this sign will be illuminated from the top down, using a goose-neck style of fixtures. This is consistent with MPS HPCC2.11 as applied to sign lighting, and also with the applicable parts of MPS HPCC2.12 which deals with methods of sign illumination.

HPCCF21. Based on the sign plan included in the DRI plan set, and applicant's email of 11/23/13, the freestanding entrance sign design is consistent with MPS HPCC 2.12.

CONCLUSION

Based on the above findings, the Commission hereby concludes and further finds:

1. That the probable benefit of the proposed project is greater than the probable detriment.
2. That upon satisfaction of the conditions identified in this decision, the project is consistent with the 2009 (as amended) Regional Policy Plan.
3. That Mashpee has a Commission certified Local Comprehensive Plan (LCP), and that the project is consistent with the LCP.
4. That provided the Applicant successfully obtains all necessary municipal permits, licenses and approvals, including any required discretionary zoning approvals or relief, including but not limited to those approvals referenced in finding GF2, the project is consistent with municipal development by-laws.
5. That the project is located in the Cape-wide fertilizer Management District of Critical Planning Concern, but consistency with DCPC implementing regulations is not applicable because no corresponding implementing regulations have been adopted by the and approved by the Cape Cod Commission.

CONDITIONS

The Commission hereby approves, with the following conditions, the DRI application of ND Acquisitions, LLC for a 54-unit, memory care assisted living residential development at Old Barnstable Road/ Rte. 151 in Mashpee.

General Conditions

GC1. Subject to Section 13(e) of the Act, 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. This decision shall run with the land and apply to and bind the owner's/ applicant's heirs, successors and assigns, and where applicable and the context allows, their agents, employees and representatives.

GC2. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project, including but not limited to those permits, licenses and approval referenced in General Finding GF2. The project's consistency with municipal development by-laws shall be ratified and confirmed upon issuance of all such required local permits, licenses and approvals.

GC3. Failure to remain consistent with the findings herein, and comply with all conditions stated herein, and with all related statutes and other regulatory measures, and remain in compliance herewith, shall be deemed cause to revoke or modify this decision.

GC4. This decision shall not be effective and no development work, as the term “development” is defined in the Cape Cod Commission Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until such appeal has been dismissed or adjudicated in favor of the Applicant.

GC5. Prior to issuance of a Building Permit for any proposed “development” as defined by the Cape Cod Commission Act and as approved herein, the applicant shall submit final plans as approved by state, federal, and local boards for review by Commission staff to determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those plans approved as part of this decision, the Commission shall require that the Applicant 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.

GC6. The project shall be constructed in accordance with the plans and other information received as part of the application and supplemental filings, including the plan set prepared by Stantec for National Development and Epoch Senior Living entitled “Town of Mashpee- Special Permit Planset, Cape Cod Commission- Development of Regional Impact Planset, Bridges at Mashpee, Mashpee Massachusetts,” reissue date 11/7/2013, consisting of sheets ex-01, L-001, L-002, L-101, L-201, L-301, L-302, L-303, L-401, L-501, L-601 through L-606, and Landscape Plan sheets L401, L402 & L403 with revision dates of 12/4/2013; Architectural Plan Set prepared JSA Architects for National Development and Epoch Senior Living entitled “Bridges at Mashpee, Mashpee Massachusetts, Schematic Progress” dated 11/19/2013, consisting of 16 sheets (including cover sheet); and Supplemental Photometric plan and cut sheet for recessed building entry fixtures dated 11/25/13.

GC7. Any deviation to the proposed project from the approved plans, including but not limited to changes to the design, location, lighting, landscaping, or other site work, shall require approval by the Cape Cod Commission through its modification process, pursuant to the Commission’s *Enabling Regulations* in effect at the time the modification is sought. The Applicant shall submit to the Commission any additional information deemed necessary to evaluate any modifications to the approved plans.

GC8. Prior to the issuance of a Building Permit for the project, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this Decision required to have been met prior to issuance of a Preliminary Certificate of Compliance, have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.

GC9. Prior to the issuance of a Certificate of Use/Occupancy for the project, the applicant shall obtain a Final Certificate of Compliance from the Commission that states that all conditions in this Decision required to have been met prior to issuance of a Final Certificate of Compliance, have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.

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 construction.

GC11. Prior to the issuance of a Preliminary Certificate of Compliance, a copy of this decision shall be recorded/registered at the Barnstable Registry of Deeds/ Barnstable registry District of the Land Court with written proof of recording/ registration provided to Commission staff.

GC12. The Applicant shall notify Commission staff in writing at least thirty (30) calendar days prior to its intent to seek each Preliminary and each Final Certificate of Compliance. Such notification shall include a list of key contact(s), along with their telephone numbers and email addresses, for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition, if needed, and inform the Applicant in writing of any deficiencies and corrections needed. The Commission has no obligation to issue any Certificate of Compliance unless and until all conditions are complied with, and the Applicant is otherwise in compliance with the Decision.

GC13. At the time any Certificate of Compliance is sought, the Applicant agrees to allow Commission staff to enter onto the property, which is the subject of this decision, after reasonable notice to the Applicant, for the purpose of determining whether the conditions contained in this Decision including those linked to each Preliminary and Final Certificate of Compliance have been met, and whether the project is otherwise in compliance with this Decision.

GC14. If any required construction, site work and/or landscape improvements, including exterior lighting, are not complete at the time the Final Certificate of Compliance is sought from the Commission, the Final Certificate may issue subject to an escrow agreement to secure performance of any such required work which is incomplete, with the escrow agreement of form and content satisfactory to Commission staff. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials, with the final determination of the cost, scheduling and scope of the required work to be approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The funds shall be deposited by bank or treasurer's check payable to the Barnstable County Treasurer. Prior to the release of the escrow funds, the completed work must be reviewed and approved by Commission staff. Any escrow agreement shall provide that all work shall be completed within six months of issuance of the Final Certificate of Compliance.

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 Conservation Restriction (CR), consistent with M.G.L Chapter 184, Sections 31-33, inclusive, and an accompanying conservation restriction plan for Commission staff review and approval that permanently protects the proposed 19.04 acres of open space depicted in the record site plans. A grantee shall be designated in the draft CR. At its option, the applicant could incorporate language into the conservation restriction, which would be consistent with MPS OS 1.3 & LU3.2, allowing for compatible accessory agricultural

uses on this 19.04 acre portion of the site, provided that the agricultural use is conducted in a manner consistent with habitat and water resources protection goals.

OSC2. Prior to issuance by the Commission of a Final Certificate of Compliance, the Applicant shall provide to the Commission a copy of said final executed Conservation Restriction and plan, as approved by Commission staff, and written proof of its recording/ registration at the Barnstable County Registry of Deeds or Barnstable Registry District of the Land Court, as applicable.

Economic Development Conditions

EDC1. To ensure consistency with MPS ED 1.3, \$22,500 shall be paid to the Mashpee Historical Commission consistent with the historic preservation purposes set out in the Mashpee Historical Commission's letter of 11/25/13. Payment to the Mashpee Historical Commission shall be made prior to issuance of a Final Certificate of Compliance.

EDC2. The applicant submitted a LEED checklist and narrative detailing the minimum 40 points required for base level LEED certification that the applicant will pursue, plus an additional 18 potential points. The project shall achieve base LEED certifiability, consistent with this checklist. The Applicant shall submit for Commission staff review and approval final construction plans and specifications and also submit an architect's written certification that the final plans and specifications are consistent with said LEED base level certification checklist prior to issuance of a Preliminary Certificate of Compliance.

Water Resources Conditions

WRC1. To ensure compliance with MPS WR7.10, the Applicant shall submit to Cape Cod Commission staff a certification by a Professional Engineer that the stormwater system is operating as designed and approved one year after construction of the system has been completed.

WRC2. The Applicant shall make a monetary contribution of **\$23,294.71** to the Commission in order to comply with WR 3.4 prior to the issuance of a Preliminary Certificate of Compliance, which shall be used for nitrogen reduction efforts in the town of Mashpee or in the watershed to which the project contributes.

WRC3. Pursuant to MPS WR6.9, the project's septic system shall be subject to an Operation, Monitoring, and Compliance Agreement (OMCA) between the Applicant, the Mashpee Board of Health and the Cape Cod Commission. A further draft of the OMCA consistent with staff comments provided shall be provided to Commission staff for review and approval prior to issuance of a Preliminary Certificate of Preliminary Compliance, which OMCA shall ensure, among other things, that the site septic system performs at a maximum 5 mg/l total nitrogen in its effluent and that average flow shall be limited to 4,050 gpd. Prior to issuance of the Final Certificate of Compliance, a copy of the final, executed Commission-staff approved OMCA shall be provided to Commission staff, with written proof of its recording/ registration at the Barnstable Registry of Deeds, or as applicable, the Barnstable Registry District of the Land Court, provided to the Commission. In lieu of the requirement to record/ register a copy of the OMCA, a notice or abstract of the OMCA may be so recorded/registered, consistent with the draft notice provided.

WRC4. No fueling or servicing of equipment shall occur in those areas of the project site mapped as Zone IIs/ WHPAs. Fueling of construction vehicles shall be in the area depicted on the re-fueling site plan attached to the 11-20-2013 letter from the applicant's contractor LM Heavy Civil Construction LLC.

Transportation Conditions

TC1. Pursuant to MPS TR0.3 (Permits for Roadwork prior to Construction), the Applicant shall submit to the Cape Cod Commission copies of all necessary approvals and permits from the Town of Mashpee associated with roadwork and site access/egress prior to issuance of a Preliminary Certificate of Compliance.

TC2. Pursuant to MPS TR1.6 (Sight-Distance Obstructions), the Cape Cod 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 drive prior to issuance of a Final Certificate of Compliance.

TC3. Pursuant to MPS TR1.7 & 2.7, the pedestrian and bicycle accommodations set out in the September 11, 2013 Stantec letter shall be implemented prior to issuance of a Final Certificate of Compliance.

TC4. Pursuant to MPS TR2.1, the TDM plan as detailed in the September 11, 2013 Stantec letter shall be implemented prior to issuance of a Final Certificate of Compliance.

TC5. Pursuant to MPS TR3.6 & 3.16, the Applicant shall make the \$108,300 Fair Share payment to the Commission prior to issuance of the Final Certificate of Compliance, such payment used to support projects or strategies in the Town of Mashpee that encourage alternatives to automobile travel or to support actual expansion of roadway capacity including but not limited to planning, engineering, permitting, and construction.

TC5. Pursuant to MPS TR3.15 a 1% inflation rate shall be applied to the congestion mitigation payment for the period of time from the date of the final Commission decision until the funds are paid.

TC6. Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall investigate and discuss with Commission staff any potential repainting options for the existing painted median on Old Barnstable Road, north of the project's driveway access onto the roadway, to enhance safety at this location. Such investigation and discussion shall be evidenced in writing by Commission staff. If any options are deemed feasible and desirable by Commission staff, in consultation with the Town, performance of such repainting option shall be required pursuant to this Condition and occur prior to issuance of a Final Certificate of Compliance.

Solid Waste Conditions

SWC1. Pursuant to MPS WM2.1, WM2.2 & WM2.3, the Applicant shall implement its Construction Waste Management Plan and recycling policy as and when the project is being constructed.

Hazardous Waste Conditions

HWC1. Pursuant to MPS WM1.5, the project facility will be required to either register with or notify the Massachusetts Department of Environmental Protection as a generator of Hazardous Waste.

HWC2. Pursuant to MPS WM1.5, the Applicant shall implement its hazardous waste management and disposal policies during the project's construction and operational phases.

Energy Resources Conditions

EC1. Prior to issuance of a Preliminary Certificate of Compliance, the project architect shall certify in writing to the Commission that the final building construction plans accord with the current Energy Star National Attached Builder Option Package specifications, and the ENERGY STAR Checklist submitted to the Commission on 11/26/13.

EC2. In addition to the Applicant's intention to seek base LEED certifiability the application materials dated 9/17/13 & 10/17/13 also outline other building energy efficiency measures the project shall pursue, including satisfaction of local stretch code requirements, provided above and beyond the applicable Energy Resource minimum performance standards.

Affordable Housing Conditions

AHC1. The Applicant shall submit for Commission staff review and approval a permanent affordable housing restriction for six affordable beds, and record/ register a Commission-staff approved restriction at the Barnstable County Registry of Deeds and/or Land Court, with proof of recording/ registration provided to the Commission, prior to issuance of a Preliminary Certificate of Compliance.

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

- Six affordable beds in unit square footage sizes apportioned in a similar proportion as those of the market rate beds.
- Maximum household income eligibility of 80% of the U.S. Department of Housing and Urban Development (HUD) area median income (AMI), for Barnstable County, adjusted for household size, with income eligibility determined in accordance with the methodology of the Barnstable County HOME Consortium (24 CFR Part 5).
- The maximum monthly rents and service charges shall be consistent with AHC3.
- The mix of affordable units shall be consistent with AHC5.
- There shall be the same standard package of services for the affordable and the market rate units.
- The term of the affordability restriction shall be perpetuity.

AHC3. Pursuant to MPS AH1.11 (Pricing and Rents of the Affordable Units), the Applicant shall submit for Commission staff review and approval the final rents and service charges for all affordable beds prior to issuance of a Preliminary Certificate of Compliance. The maximum monthly rent and service charges for the affordable beds shall be calculated at 75% of the

income of a one person household at the 80% AMI, based upon the most current HUD AMI's for Barnstable County.

AHC4. The rents and service charges for the affordable beds shall include the standard resident package of services. The standard resident package of services shall include the following:

- Personal care services for the supervision and assistance with the activities of daily living.
- Use of the Unit and Common Areas.
- Three meals daily in the dining room of the Community.
- Once a week housekeeping services.
- Once a week laundry service of flat linens, towels, and personal items.
- Emergency response system.
- Social and recreational activities.
- Enrichment activity program that provides activities to assist with various areas of resident functioning.
- Basic grounds keeping services.
- Utilities including heat, electricity, air conditioning, water, sewage disposal, trash collection, and pre-wiring for telephone and cable access.
- Transportation on a group and scheduled basis to local medical shopping, local shopping and recreational facilities and places of worship within a fifteen (15) mile radius on a first come, first served basis as reasonably available.
- Medication management.

Not included in the standard resident package of services and subject to additional costs are the following:

- Private cable television.
- Private telephone services.

AHC5. The Applicant may satisfy the required Mix of Affordable Units (MPS AH 1.8) as follows, either as a) five (5) studio and one (1) companion beds; or b) four (4) studio beds and two (2) companion beds in the sole event that a couple will be occupying the companion unit.

AHC6. Commission staff shall review final building plans and specifications prior to issuance of a preliminary certificate of compliance to ensure consistency with MPS AH 1.9 (Integration and Size of the Affordable Units). Studio units shall be no less than 275 square feet while the companion units shall be no less than 519 square feet. Final building plans and specifications shall evidence unit square foot sizes with a similar proportion of affordable and market rate beds among the various sized units.

AHC7. Prior to issuance of a Preliminary Certificate of Compliance, pursuant to MPS AH 2.2 (Visit-ability and/or Accessibility), the Applicant shall submit for Commission staff review and approval final building plans and specifications and an architect's written certification that at least one of the units containing an affordable bed can be lived in by handicapped persons and/or meet visit-ability standards.

AHC8. Pursuant to 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 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.

AHC9. Pursuant to 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 written certification that the final plans are consistent with the ENERGY STAR National Attached Builder Option Package Specifications prior to issuance of a Preliminary Certificate of Compliance.

AHC10. 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 Commission staff approved monitoring agreement shall be executed with the agreed-upon monitoring agent prior to issuance of a Final Certificate of Compliance.

**Heritage Preservation and Community Character Conditions
(Landscape and Exterior Lighting Design Conditions)**

HPCCC1. Pursuant to MPS HPCC2.10, the applicant shall provide a final, executed landscape maintenance agreement for Commission staff review and approval, covering at least three growing seasons after full landscape installation, prior to issuance of the final certificate of compliance, substantially similar to the draft submitted.

HPCCC2. 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).

HPCCC3. If changes are made to the exterior lighting design referenced in General Condition GC6 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 MPS HPCC2.11 & MPS HPCC2.12, Technical Bulletin 95-001 (as amended), and this decision related to exterior lighting then may be utilized upon written Commission staff approval.

HPCCC4. Prior to issuance by the Commission of the Final Certificate of Compliance, Commission staff shall conduct a site visit to verify project conformance with MPS HPCC2.11 & MPS HPCC2.12, Technical Bulletin 95-001 (as amended), and this decision concerning exterior lighting.

SIGNATURES

Executed this 30th day of January 2014

Richard E. Roy
Signature

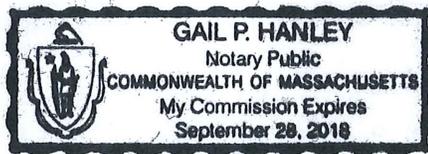
Richard E. Roy Vice-Chairman
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss January 30, 2014

Before me, the undersigned notary public, personally appeared Richard E. Roy,
in his/her capacity as Vice-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 [x] personal knowledge of the undersigned.

SEAL



Gail P. Hanley
Notary Public:

My Commission Expires: 9-28-18