



# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. BOX 226  
BARNSTABLE, MA 02630  
(508) 362-3828  
FAX (508) 362-3136

E-mail: [frontdesk@capecodcommission.org](mailto:frontdesk@capecodcommission.org)

Date: March 19, 2007

To: Attorney Eliza Cox  
Nutter, McClennen & Fish, LLP  
1513 Iyannough Road  
Hyannis, MA 02601

From: Cape Cod Commission  
Development of Regional Impact Hardship Exemption  
Cape Cod Commission Act, Section 23  
Applicant: Alex E. Nussbaumer  
144 East 44<sup>th</sup> Street,  
New York, NY 10017-4008

Project #: HDEX 04010

Project: Lookout Ridge Definitive Plan and Cluster Plan  
Off Popple Bottom Road and Great Hill Road, Sandwich, MA

Book/Page: Book 9713 Page 83                      Map/Parcel: Map 25, Lot 107  
Book 9713 Page 86                                      Map 20, Lot 127

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The March 3, 2005 DRI Decision issued to Alex E. Nussbaumer for Lookout Ridge Definitive Plan and Cluster Plan is hereby amended as a Minor Modification #2 by a vote of the Regulatory Committee on March 19, 2007. All findings and conditions within the March 3, 2005 decision continue to apply except those which are specifically modified herein.

### PROJECT DESCRIPTION

This modification is to allow design changes proposed by the applicant and to approve site and development plans that are consistent with town of Sandwich zoning bylaws.

### FINDINGS

The Regulatory Committee has considered the modification request of Alex E. Nussbaumer to approve changes to the site and development plans for the Lookout Ridge Definitive Plan and Cluster Plan, and based on consideration of such application and upon the information submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

Lookout Ridge Definitive Plan and Cluster Plan HDEX 04010  
Modification to the Decision  
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### General Findings:

G1. The proposed project involves the subdivision of approximately 40.5 acres of land into 19 residential lots and ~~two~~ **one** open space lot for construction of a **stable recreation building of approximately 3,300 s.f.** and 19 single-family residences containing footprints of approximately 2,934 square feet each. The applicant proposes to demolish three existing structures totaling approximately 3,788 square feet off Popple Bottom Road and redevelop that portion of the property as an 8 lot cluster. Off Great Hill Road, the applicant proposes to construct a cluster of 11 residences and a **stable recreation building**.

G3. ~~DELETE The Sandwich Board of Health and local zoning by laws contain regulations for stables and riding schools for residential and commercial uses. The applicant states that the stable will be used solely by the residents of the project, and will not be used commercially.~~

### Water Resources Findings:

WR10. ~~The project includes provisions for the stabling of 19 horses on Open Space Lot 2 (0.45 acres), including a barn and septic system for horse waste. Nineteen horses contribute 1.1 ppm to the nitrogen loading to groundwater averaged across the entire parcel. Sandwich Board of Health regulations are adequate for addressing health and runoff issues related to the stabling of livestock at the site. The original approval included provisions for the stabling of 19 horses, including a barn and septic system for horse waste. This modification allows a recreation building to be substituted for the barn. Replacing the stable with a recreation building will not have significant additional impact on water resources. Title-5 wastewater flows may be slightly larger than noted by the applicant if showers are being proposed because Title-5 regulations stipulate that flows are a function of the number of lockers. Removal of the horse barn from the plan lowers the project's nitrogen load.~~

### Transportation Findings:

T12. The total transportation mitigation cost (including safety, trip reduction, and congestion mitigation) for the development is estimated to be \$350,700. This represents a cost of approximately \$18,500 per lot. Of the \$350,700 total mitigation estimate, approximately \$205,200 (based on fair share and transit equivalency methods) is for fulfilling the congestion mitigation requirements of Goal 4.1.3 and MPS 4.1.3.4. The applicant proposes to pay ~~\$59,600~~ **\$59,120** of the \$205,200. Given the limited peak hour and daily traffic generation of the development, the literal enforcement of the RPP provisions would result in an unreasonable cost per building lot and consequently the remainder of the requirements of MPS 4.1.3.4 are relieved. This relief does not substantially derogate from the intent or purpose of the ACT, is the minimum relief necessary, and does not cause public harm.

### Affordable Housing Findings:

AH1. Minimum Performance Standard 5.1.1 states that any residential construction and redevelopment project of 10 units or more shall provide at least 10% of the units as affordable units. The applicant has proposed to meet the standard by providing ~~two~~ **one** affordable rental units on lots 11 and 19 in each cul-de-sac, for a total of **two affordable rental units**. The applicant would retain ownership of these two units. In addition, the applicant has agreed to cooperate in the preparation of, and provide any necessary documentation for, the Town's Local Initiative Program application for the Town to submit to the Department of Housing and Community Development in order to add the units to the Town's Subsidized Housing Inventory.

**Heritage Preservation/Community Character Findings:**

HPCC5. The proposed structures (~~gatehouse and barn~~) **recreation building** will have cedar shingle siding and wood framed windows on the facades. A nontraditional, standing seam metal roof is proposed for ~~both the barn and gatehouse~~. The proposed cedar shingles and windows and the form of the structures are consistent with the Commission's Design Guidelines "Designing the Future to Honor the Past", Technical Bulletin 96-001. MPS 6.2.6 allows nontraditional materials to be used in "areas not visible from scenic or regional roadways" and goes on to state that "In such areas, maintenance of adequate buffers on the subject property is required to ensure that the proposed development will not be visible from scenic or regional roadways such as Route 6A." These structures will be visible from the scenic roadway; however, given the scale and use of these structures, the nontraditional materials used for the roof are appropriate in this case.

**CONCLUSION**

**The Commission' Regulatory Committee hereby approves the request from Alex E. Nussbaumer to modify the following conditions of the Lookout Ridge Definitive Plan and Cluster Plan:**

**CONDITIONS**

**General Conditions:**

Condition G6. The proposed Lookout Ridge project shall be constructed in accordance with the following final plans:

	<u>Dated</u>	<u>Date Revised</u>	<u>Date Received</u>
<del>Preliminary Subdivision Plan for Lookout Ridge (Sheets 1 and 2)</del>	<del>06/04/04</del>	<del>10/29/04</del>	<del>11/02/04</del>
<b>Definitive Subdivision Plans for Lookout Ridge (Sheets 1,2,3,4)</b>	<b>4/11/05</b>	<b>11/10/05</b>	
Open Space Plan for Lookout Ridge (Sheets 1 and 2)	06/04/04	<b>11/10/05</b>	<del>11/02/04</del>
Septic Location Exhibit Plan for Lookout Ridge (Sheet 1)	2/28/05		3/02/05
Partial Building Limit Plan (Z1 and Z2)	11/08/04		11/09/04
<del>Stable Elevations and Plan (AS1 and AS2)</del>	<del>11/18/04</del>		<del>11/23/04</del>
Deed Restriction Plan (Z1 and Z2)	11/18/04		11/23/04
<del>Landscape Plans (L1 and L2)</del>	<del>11/18/04</del>		<del>11/23/04</del>
<b>Recreation Building Plans (AS.1)</b>	<b>02/28/07</b>		
<b>Community Center Plans (A.100, A. 200, A.300)</b>	<b>02/06/07</b>		
Landscape Plan (L.001)	11/10/05		
Landscape Plan (L.002)	02/06/07		
Bollard and Signage Plan (A.2)	07/06/04		10/8/04
Maxwell Lane Site Plan (A.002)	02/06/07		

**Water Resources Conditions:**

Condition WR3. ~~DELETE~~ Livestock stabling shall be restricted to no more than 19 horses at ~~Open Space Lot 2.~~

### Natural Resources Conditions:

Condition NROS1. In accordance with Finding NROS2, prior to the issuance of any preliminary Certificate of Compliance, the Applicant shall provide to the Cape Cod Commission a conservation restriction consistent with Massachusetts General Laws Chapter 184, § 31 – 33 and accompanying plan which provides that 26.20 acres identified as open space on the plan titled "Open Space Plan for Lookout Ridge" dated 11/10/05 prepared by Atlantic Design Engineers shall be preserved as permanent open space. The restriction and site plan shall be approved by Commission counsel, executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission prior to issuance of any preliminary Certificate of Compliance. To preserve the significant habitat values of the open space areas protected through this conservation restriction, the land subject to this conservation restriction shall remain undisturbed for conservation and wildlife habitat preservation purposes, with allowance for an unpaved walking/horse trail. **The placement of structures in the open space area shall be limited to one recreation building as referenced in Finding G1, and as provided for in section B(9) of the Conservation Restriction.** The conservation restriction shall also include a provision to allow for the construction of a sidewalk along the frontage of Great Hill Road, in accordance with Transportation Finding T6 and a provision for individual water supply wells in accordance with Condition WR1.

### Transportation Conditions:

Condition T5: The applicant shall install ~~yellow~~, two-way pavement reflectors on either side of the ~~Great Hill Road~~ roadway centerline at appropriate spacing **on Great Hill Road from Route 6 to Farmersville Road to Chase Road and on Chase Road from Great Hill Road to the limit of the town jurisdiction, as determined by Town staff, in the immediate vicinity of the Service Road.** The applicant shall work with the town of Sandwich and shall meet town standards regarding the type, location and frequency of these reflectors. **The reflectors shall be yellow except where the Town staff determines blue reflectors shall be substituted for yellow reflectors based on fire hydrant locations.** The reflectors shall be installed and a letter from the town of Sandwich Engineering Department stating that the installation is complete and satisfactory shall be provided to CCC staff prior to the issuance of any preliminary Certificate of Compliance.

Condition T12: Prior to the issuance of any preliminary Certificate of Compliance, the applicant shall pay ~~\$59,600~~ **\$59,120** to Barnstable County to be used for any transportation improvements within the town of Sandwich. Uses of the funds may include, but are not limited to: (i) purchase of vacant developable land for conservation, (ii) initiation, operation or marketing of transit services, (iii) planning, design and/or construction of bicycle paths or sidewalks, (iv) performance of transportation studies or installation of traffic monitoring devices, (v) planning, engineering and/or construction of transportation improvements, and/or (vi) purchase of easements and /or transportation rights-of-way. Expenditure of such funds shall be at the discretion of the CCC Executive Director.

### Affordable Housing Conditions:

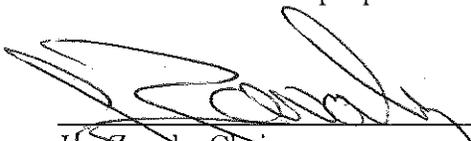
AH4. ~~The affordable housing rental units shall be constructed on lots 11 and 19~~ **One affordable housing rental unit shall be constructed in each cul-de-sac.** Prior to the construction of the affordable home in each cluster and prior to the issuance of a second preliminary Certificate of Compliance for each cluster, the applicant shall obtain Cape Cod Commission staff approval of construction plans and specifications of the market rate homes

built, under construction, or under agreement with a buyer and of the affordable homes demonstrating consistency with MPS 5.1.8.

**Community Character Conditions:**

CC2. All landscaping for the project shall be consistent with landscape plans (sheets L.1 and L.2 L.001 dated 11/10/05 and L.002 dated 02/05/07) ~~dated November 18, 2004~~. For each cluster, an executed landscape maintenance contract consistent with the approved draft shall be submitted to staff prior to issuance of the final Certificate of Compliance for that cluster. The applicant shall ensure that the landscaping associated with each cul-de-sac is maintained from the time of installation until such time as the homeowners association is incorporated and able to assume responsibility for maintenance, and shall provide Commission staff with documentation of such maintenance upon request.

The Cape Cod Commission hereby approves the request of Alex E. Nussbaumer for a modification for the proposed Lookout Ridge project located in Sandwich, MA.

  
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Jay Zavala, Chairman

  
\_\_\_\_\_  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

5/2, 2007

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

  
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Notary Public  
My Commission Expires:

