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Attn.: Thomas Wilson, Chair
Cape Cod Commission
3225 Main St.
Barnstable, MA 02630

Re: Application of Wychmere Harbor Real Estate, LLC
Cape Cod Commission File No. 25026 | Rebuttal to Opposition Comment Letters

Dear Chair Wilson and Commission Members:

On behalf of Wychmere Harbor Real Estate, LLC, this letter is submitted for inclusion in the administrative record in response to recent public comment letters, including the January 25, 2026 submission from Attorney Polloni, as well as additional public correspondence submitted since the Subcommittee's January 7, 2026 meeting. Public participation and disagreement are expected components of the Development of Regional Impact process. However, the current record contains a number of assertions that are plainly false and unsupported by the materials presented in the record. This rebuttal is intended to correct the record and ensure that the Commission's final determination rests on verified facts and the applicable regulatory framework.

At the outset, clarification of the project's scope and scale is necessary. This project will result in a total of 72 guest rooms and have a total gross floor area of 75,355 square feet. This proposal replaces approximately 34,860 square feet of existing development across two obsolete structures and represents a substantial reduction from a previously withdrawn concept. Despite this, several opposition submissions continue to misstate the project's size, including repeated references to substantially larger square footage figures that do not appear anywhere in the application, Staff Report, or Commission record. Opposition submissions further allege that the project fails to comply with Community Design Objective CD1 by being out of scale and visually incompatible with its surroundings. These assertions rely on generalized characterizations rather than the design evidence in the record. The building form has been intentionally configured to reflect the historic resort context of the site, which has supported large-scale hospitality uses since the late 19th century. The Staff Report found the revised design to be context sensitive and consistent with CD1, and no credible expert evidence has been submitted to rebut that conclusion. These misstatements materially distort the nature of the project under review and obscure the actual scale of redevelopment being proposed and should be disregarded.

With respect to Coastal Resilience Objective CR1, the Polloni letter asserts that the project fails to satisfy the Regional Policy Plan because it does not establish an overriding public purpose for construction within the floodplain. That assertion mischaracterizes both the applicable standard and the Staff's analysis. As the Staff Report explains, this is a redevelopment project occurring within previously developed areas, and the proposed work results in a net improvement to floodplain conditions. The occupied structures are elevated out of the floodplain and designed to meet current building code standards for flood resistance,

eliminating existing hazards to people and property from storm events that are present today. No new occupied construction will occur within the floodplain footprint; rather, the redevelopment improves physical floodplain conditions relative to the existing Snow Inn design. Critically, the existing Channel House will be removed to allow for construction of a new on-site wastewater treatment facility located outside of the floodplain. The existing wastewater treatment infrastructure is approximately 40 years old and currently located within the floodplain, including vulnerable mechanical systems. The proposed replacement facility incorporates advanced treatment with tertiary nitrogen removal and, based on updated engineering analysis prepared by Tighe & Bond, will eliminate approximately 95 kg of nitrogen per year from discharge to the Wychmere Harbor Marine Water Recharge Area. This represents a direct and measurable improvement to water quality in Wychmere Harbor and Nantucket Sound and is an environmental benefit that is neither speculative nor incidental. These improvements are integral to the redevelopment and are being undertaken voluntarily by Wychmere rather than as minimum regulatory compliance.

The Polloni letter suggests that such environmental improvements could occur independently of redevelopment and therefore do not constitute a public benefit under CR1. That argument ignores practical and regulatory reality. The relocation of the wastewater treatment facility, elevation of structures, and comprehensive redesign of site infrastructure are functionally and economically tied to the redevelopment and would not occur absent the proposed project. The Staff Report concluded that the project satisfies CR1 and does not require a waiver, and the Subcommittee voted on January 7, 2026 that the project meets the goals and objectives of the Regional Policy Plan, including CR1. Although certain opponents have suggested that Wychmere is required to upgrade its wastewater treatment facility, any such upgrade could have occurred within the existing treatment plant footprint located below base flood elevation and within the existing hotel structure. Wychmere's decision to relocate the facility entirely out of the floodplain and construct a modern, state-of-the-art treatment system represents a voluntary project enhancement that goes well beyond baseline regulatory compliance and directly advances coastal resilience and water quality objectives.

Submissions that claim that the project is incompatible with Snow Inn Road similarly misconstrue the intent of CD1. The project improves internal site circulation, removes heavy vehicle conflicts, and restructures operations in a manner that reduces traffic to Snow Inn Road. Wychmere's traffic engineer, VHB, demonstrated that the project will reduce vehicular traffic on Snow Inn Road during peak season by eliminating 100% of large motor coaches and shifting approximately 80% of truck deliveries, representing 8,126 vehicle trips over the 13-week summer season, to an off-site commissary owned by Wychmere on Route 28. The Staff Report expressly recognized these operational improvements as consistent with the Regional Policy Plan. Additionally, the Subcommittee expressly found that Wychmere's proposed safety improvements for Snow Inn Road were tailored, project-specific responses that directly addressed and mitigated the safety concerns raised earlier in the review process and therefore constituted affirmative benefits of the proposed redevelopment rather than unresolved impacts.

Transportation and safety concerns raised under Objective TR1 are among the most exaggerated and unsupported assertions in the opposition letters. Several submissions assert that the Snow Inn Road and Route 28 intersection is "one of the most dangerous in the state," that accidents are frequent, and that pedestrians face imminent risk. These claims are not supported by police data, MassDOT records, or any expert analysis submitted into the record by the opposition. In fact, police records show that there have been no vehicular-related pedestrian injuries or accidents on Snow Inn Road. In addition to crash rate analysis, VHB reviewed MassDOT's Highway Safety Improvement Program database. That database identifies crash clusters eligible for state and federal safety funding. The Route 28 at Snow Inn Road and Freeman Street intersection is listed as a 2019 to 2021 HSIP-eligible cluster, meaning it qualifies for funding to address preexisting safety issues unrelated to the proposed redevelopment. This designation underscores that any safety concerns at the intersection are longstanding, regionally recognized conditions and not caused by either the existing hotel operations or the proposed project.

It is also important to address a recurring inconsistency in the opposition's safety narrative. Snow Inn Road is a narrow public way on which parking is prohibited. Nevertheless, vehicles owned by abutters, visitors, and private contractors frequently park along the roadway in violation of these no-parking restrictions. This illegal roadside parking constricts travel lanes and creates the very pedestrian and vehicular hazards that opposition letters now attribute to the proposed project. These conditions are not caused by Wychmere's operations or by the proposed redevelopment. They result from private behavior occurring on a public way that is subject to Town enforcement. The project, by contrast, removes employee parking from the site, maintains valet operations that keep vehicles on-site, completely eliminates coach traffic, and reduces delivery traffic that would otherwise exacerbate roadway conflicts.

Notably, the Harwich Fire Department has confirmed that Snow Inn Road does not present a safety condition warranting seasonal speed tables and has stated that the proposed site plan represents an improvement over existing circulation conditions. That determination directly contradicts claims that the roadway is presently unsafe due to hotel activity. Wychmere has nevertheless committed to conducting a Road Safety Audit of Snow Inn Road, Freeman Street, and Route 28 to assist the Town in pursuing available grant funding for further improvements and to studying sidewalk feasibility along the west side of Snow Inn Road to enhance pedestrian safety. These commitments reflect proactive mitigation and cooperation with the Town, not an acknowledgment that the project creates new hazards.

Assertions in several opposition letters that guests routinely leave the property while impaired and cause damage to neighboring properties are speculative, inflammatory, and unsupported by any enforcement records, police reports, or empirical data. Such allegations do not constitute evidence and should not be afforded weight in this proceeding.

One notable opposition correspondence submitted by Robert Nickerson asserts significant loss of public views based on photographic images and diagrams that do not accurately depict the proposed building. The project architect, JCJ Architecture, has reviewed those materials and determined that the images materially misrepresent the scale, placement, and visual impact of the project. Using the actual three-dimensional building model, verified site data, and fixed reference points including existing structures, JCJ Architecture prepared corrected visual overlays that reflect the approved design. Those analyses demonstrate that substantial view corridors are maintained and that the building's massing and siting are consistent with the visual conditions previously presented to and reviewed by the Commission. Claims of widespread or significant view obstruction are therefore based on inaccurate graphics rather than the actual project design and should not be relied upon in evaluating compliance with the Regional Policy Plan.

Other opposition letters, including Polloni's, also allege violations of Objectives CH3 and CH4, asserting among other things that the project impairs public access to Merkel Beach and adversely affects maritime uses within Wychmere Harbor. No such evidence exists in the record. The project does not eliminate or restrict any public access rights. It does not remove or privatize parking and it does not alter public rights along the shore. Pedestrian access to Merkel Beach occurs along Snow Inn Road, which is a public way maintained by the Town. Wychmere has offered in good faith to assist the Town in evaluating sidewalk feasibility to address existing conditions that predate and are independent of the proposed redevelopment. The project also includes installation of a comprehensive stormwater management system designed to capture and treat existing uncontrolled runoff from surrounding neighborhoods that currently sheets across the site, flows down Snow Inn Road, and impacts the Merkel Beach dune. This represents a net benefit to public access and environmental conditions rather than a detriment.

With respect to alleged impacts on wind, navigation, and sailing conditions in Wychmere Harbor, no credible technical evidence has been submitted by the opposition. Wychemere's coastal consultant evaluated these issues and found no measurable adverse impact. The Staff Report acknowledged this analysis and identified no violation of CH4. Speculation about wind patterns, absent modeling or data, cannot overcome

expert evidence in the record. In fact, the Town Planner's January 22, 2026, letter reaffirms that there is no evidence of any negative impact to the Wychmere Harbor or Channel.

The Polloni letter further raises issues regarding prior Historic Commission approvals. The Historic Commission's demolition approval addressed historic resource considerations under local authority. The present application before the Cape Cod Commission is jurisdictionally distinct and properly evaluates regional impacts under the Regional Policy Plan. Assertions that a new notice of intent is required misunderstand the scope of the Commission's authority and have no bearing on the RPP analysis.

Finally, the nature of the opposition submissions themselves warrants consideration. A review of recent public comments shows that many letters are substantially identical and appear to be template-based submissions repeating the same language and assertions, in some cases verbatim. Several were submitted with minimal modification (if any), and at least one was uploaded incomplete. More troubling is that these coordinated submissions repeatedly assert demonstrably false claims, including that the Snow Inn Road and Route 28 intersection is among the most dangerous in the state or that accidents are frequent and severe. These claims are contradicted by traffic engineering analysis, public safety input, and MassDOT data. Repetition of inaccurate assertions does not convert them into evidence, and their coordinated inclusion should be weighed accordingly when assessing credibility.

It should also be noted that the repeated publication and circulation of statements that are knowingly false or materially misleading, particularly when directed at a specific property or development project, carries consequences. Dissemination of such misinformation may give rise to claims sounding in slander of title or related claims where false statements are made with the intent, or foreseeable effect, of impairing property rights or development approvals.

None of the opposition letters, including Attorney Polloni's, undermine the Staff Report, the Subcommittee's findings, or the January 7, 2026 vote that the project meets the goals and objectives of the Regional Policy Plan, nor do they call into question the Subcommittee's January 27, 2026 determination that the project is consistent with the Cape Cod Commission Act and the Harwich Local Comprehensive Plan. The January 27th vote expressly found that the probable benefits of the project outweigh the probable detriments, which is the controlling legal standard under the Commission's enabling act. The Subcommittee also indicated that these targeted safety commitments constitute project-specific public benefits and concluded that, when weighed against any remaining impacts, the project's benefits significantly outweigh its probable detriments.

Please include this letter as part of the administrative record.

Sincerely,

/s/ Ryan G. Douglas
Ryan G. Douglas

cc: Andrew Singer, Singer & Singer LLC
Glenn A. Wood, Rubin and Rudman LLP
Stephen Cullen, Wychmere Beach Club
Jonathan M. Polloni, Senie & Associates, PC
Christine Flynn, Director of Planning and Community Development, Harwich