

CAPE COD COMMISSION

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P.O. Box 226
BARNSTABLE, MA 02630
508-362-3828
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DATE: August 4, 1994 CCC# TR94008

TO: Harwich Road Realty Trust
873 Harwich Road, Drawer QQ
Brewster, MA 02631

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

PROJECT: BREWSTER HOUSE DRI - TR94008
873 Harwich Road, Brewster, MA 02631

BOOK/PAGE: Brewster Assessor's Map 40, Parcels 15-28, 15-29, 9-2
Land Court Certificate of Title # 71626 and 85967

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application by the Harwich Road Realty Trust for the Brewster House (the Project), for a Development of Regional Impact under Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the redevelopment and expansion of the existing Brewster Manor Nursing and Retirement Home into Brewster House - to have 68 assisted living units and 163 nursing home beds, off Route 124 in Brewster, MA. The decision is rendered pursuant to the vote of the Commission on July 21, 1994.

Brewster House - TR94008
Cape Cod Commission Decision - 8/4/94

BACKGROUND INFORMATION

The proposed BREWSTER HOUSE (hereafter the Project) was referred to the Cape Cod Commission as a Development of Regional Impact (DRI) under Section 3(7) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "any proposed development, including the expansion of existing developments, that is planned to create or add more than thirty residential dwelling units." The referral was made by the Brewster Building Commissioner /Zoning Agent on May 26, 1994, and was received by the Commission on May 27, 1994.

The applicant had also applied for a DRI Exemption under Section 12(k) of the Act. The application was received on April 14, 1994, accepted as complete on June 1, 1994, and withdrawn by the applicant on June 30, 1994.

PROJECT DESCRIPTION

The Project, on 9.98 acres of land, will redevelop and expand the existing Brewster Manor Nursing and Retirement Home into Brewster House - to have 68 assisted living units and 163 nursing home beds. The existing building contains 83,682 +/- square feet of space. The redevelopment and expansion will result in 121,778 square feet of total space - an increase of 38,096 square feet (45.5%). The Project will result in the creation of 45 additional dwelling units (rooms) within the facility.

JURISDICTION

The proposed Project qualifies as a DRI under Section 3(7) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "any proposed development, including the expansion of existing developments, that is planned to create or add more than thirty residential dwelling units." The referral was made by the Brewster Building Commissioner/Zoning Agent on May 26, 1994.

PROCEDURAL HISTORY

A properly-noticed public hearing was held on June 28, 1994 at 7:00 PM in the Brewster Town Hall to hear testimony on both the DRI Exemption and DRI application. The hearing was continued to July 7, 1994 at 2:00 PM in the Cape Cod Commission Library in Barnstable. At that time the Subcommittee accepted a letter of withdrawal for the DRI Exemption application and closed that portion of the hearing. The Subcommittee voted to recommend approval, with conditions, of the

DRI application. The public hearing for the DRI was closed; however, the written record was left open until the close of business on July 19, 1994. The Subcommittee voted unanimously to recommend approval of the DRI application, with conditions. The Subcommittee's report was submitted to, and accepted by, the full Commission on July 21, 1994.

MATERIALS SUBMITTED FOR THE RECORD

<u>From the Applicant:</u>	<u>Prepared by:</u>	<u>Date:</u>
DRI Application	Myer Singer	4/14/94
Letter (supplemental to App.)	Myer Singer	5/4/94
Letter (supplemental to App.)	Myer Singer	6/13/94
Hand Delivery (supplemental to App.)	DeFeo, Wait and Pare	6/24/94
Fax (regarding DRI conditions)	Myer Singer	6/27/94
Fax (regarding DRI conditions)	Myer Singer	6/30/94
Fax (ltr. of withdrawal)	Myer Singer	6/30/94
Preliminary Site Map	DeFeo, Wait and Pare	7/7/94
Architectural Rendering	The Architectural Team	7/7/94
Architectural Site Plan	The Architectural Team	7/14/94
First and Second Floor Plans	The Architectural Team	7/14/94

<u>From Interested Parties:</u>	<u>Issue:</u>	<u>Date:</u>
Letter from MHC	No impact	6/24/94
Letter from Walter and Peggy Bordewieck	Abutter's issues	6/28/94
Newspaper article submitted by Walter and Peggy Bordewieck	Character of Project	7/7/94

The Commission also received oral testimony from interested parties as described in the minutes of the public hearings held on 6/28/94 and 7/7/94. The application and notice of public hearings relative thereto, the Commission's staff reports, and exhibits, minutes of all hearings and all written submissions received in the course of the proceedings, including materials submitted on file # EX 94008 and TR94008 are incorporated into the record by reference.

TESTIMONY

At the public hearing on 6/28/94, the following people testified on the proposed project:

Brewster House - TR94008
Cape Cod Commission Decision - 8/4/94

Myer Singer, attorney representing the applicant, presented the Project to the Subcommittee, including a description of the assisted living component. He stated that recent revisions have been made to the Project, which he would like incorporate into the proposal under consideration at this public hearing.

Bruce Wait, engineer representing the applicant, explained the site plan, including the proposed sewage treatment plant.

Michael Lu, architect representing the applicant, presented the architectural aspects of the project, including the proposed facade improvements.

Walter Bordewieck, abutter, read and submitted a letter into the record, addressing the septic system, landscaping, noise pollution, light pollution, and general comments.

Steven Jones, abutter, asked what would happen if the proposed sewage treatment system fails. he also expressed concern over visual screening of the sewage treatment plant from the property to the east.

Mark Pare, engineer representing the applicant, said that this proposed system is subject to a groundwater discharge permit from the state, and would be subject to substantial penalties if the system malfunctioned. He also stated that odors would be contained primarily within the sewage treatment building.

Michael Lu explained the proposed roof design and height, particularly how the decorative facade would conceal air conditioning equipment. He scaled off the height of the roof to be 31 feet.

At the public hearing on 7/7/94, the following people testified on the proposed project:

Myer Singer reviewed additional information submitted by the Applicant since the first public hearing.

Walter Bordewieck, an abutter, expressed concern over the intrusion of light off the property.

FINDINGS

The Commission has considered the DRI application of the Harwich Road Realty Trust for the Brewster House redevelopment and expansion off Route 124 in

Brewster, MA. Based on consideration of such application, the information presented and the Commission staff recommendations, the Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. The Project meets the threshold of a Development of Regional Impact specified in Section 3(7) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "any proposed development, including the expansion of existing developments, that is planned to create or add more than thirty residential dwelling units."
2. The Project will result in the redevelopment and expansion of an existing elder care facility at the same location.
3. Given the Project's enhanced wastewater treatment, improved architectural facade, reduced traffic generation, redevelopment of an existing site, and provision of needed health and housing services, the benefits of the project exceed the detriments.
4. The project, with the attached conditions, is compliant with the Minimum Performance Standards in the RPP.
5. The long-term affordability of ten percent of the dwelling units as required in the RPP will be assured through conditions listed herein.
6. The project, as proposed, will retain open space in excess of the RPP standard of 60% for residential projects. A notation has been placed upon the final site plan stating that open space shall not be reduced to below 60% of the entire site in the future.
7. Revegetation of disturbed areas on the site will be assured through conditions listed herein, which require approval of a landscape plan prior to application for a building permit.
8. Water quality will be further addressed by the placement of a monitoring well downgradient of the leaching fields as indicated on the final site plan, and through the addition of phosphorous to the list of components for analysis, according to the conditions of the groundwater discharge permit.
9. Existing noise pollution and a potential for light pollution have been identified by abutting property owners as issues of concern. The Project shall result in installation of exterior lighting of no greater

intensity than presently exists on site. New noise-producing exterior equipment, such as roof-top air conditioners, shall be designed and built with sound-deadening baffles so as to reduce noise levels off-site.

10. Visual screening of the project from Route 124 and from adjacent properties is a concern that will be addressed through plantings as indicated on the final site plan.
11. The proposed facility will provide residency in a state-aided or federally-aided housing development for the elderly as defined by MGL c. 151B, Section 6.
12. The project is a pre-existing, non-conforming use and will obtain the necessary variances and special permits from the Town of Brewster prior to construction.
13. The project site is not within a designated District of Critical Planning Concern.
14. The Massachusetts Historical Commission has commented that the Project will have no adverse impacts upon historic or archeologic resources.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

The probable benefit from the proposed development is greater than the probable detriment. This conclusion is supported by findings # 2,3 and 11, listed above.

The application is consistent with Commission's Regional Policy Plan. This conclusion is supported by the findings # 4,5,6,7,8,9 and 10, listed above.

The application is consistent with local development bylaws. This conclusion is supported by finding # 12, listed above.

The application is not located within a District of Critical Planning Concern. This conclusion is supported by finding # 13, listed above.

After reviewing the Project as a DRI in relation to Sections 12 and 13 of the Act, the Commission concludes that a DRI approval may be granted, with conditions, without substantial detriment to the public good and without substantially

derogating from the intent or purpose of the Act. This conclusion is supported by the findings listed above.

CONDITIONS

The Commission hereby approves the DRI application for the Brewster House, pursuant to Sections 12 and 13 of the Act. The following conditions are to be attached to this approval:

General Conditions:

1. Plans, written documents and oral representations submitted by the applicant and listed or discussed in this decision shall become a part of the written decision and any changes to these plans, documents or representations shall be approved by a vote of the Cape Cod Commission, except as expressly provided otherwise in this Decision.
2. The Applicant shall obtain a Certificate of Compliance from the Commission or its designee before the local official responsible for issuing certificates of occupancy may issue a permanent or temporary Certificate of Occupancy for any portion of the proposed development.
3. The Applicant shall obtain all necessary state and local permits for the Project.

Specific Conditions:

4) In compliance with Section 5.1.2 of the Regional Policy Plan, the applicant shall make available 10% of the units for elderly households who are low income, as the term "low income" is defined by the Department of Housing and Urban Development, and who are eligible for Medicaid, Group Adult Foster Care, and Supplemental Security Income or such other similar programs as may be substituted therefore, for so long as said government programs exist. The 10% set-aside shall total 23 units (defined as rooms). The 10% set-aside may be apportioned from time to time between the assisted living units and the nursing home units, but shall at all times consist of at least 7 assisted living units, and shall total 23 units. The room-rental component of the affordable assisted living units will not exceed 30% of said resident's gross annual income, excluding the above-mentioned government programs. Rental of the assisted living units designated as affordable will be carried out on a first-come, first-served basis, with no preference given to households with family members who can supplement the cost of the assisted living unit.

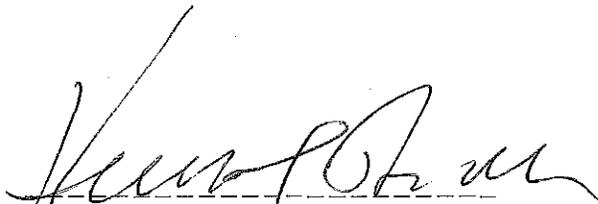
In the event any of the above-listed programs are discontinued and no similar substitutions exist, the applicant shall provide notice of such discontinuance to the Cape Cod Commission. The specific method of providing the affordable housing in compliance with Section 5.1.2 of the Regional Policy Plan may be adjusted through the DRI permit modification process. Without such modification, the applicant shall continue to provide affordable units as specified.

- 5) The applicant must provide ongoing documentation that verifies that the residents residing within the affordable units are eligible for and receiving the above-listed government programs, as requested by the Cape Cod Commission. Ongoing documentation shall also be submitted that the room-rental costs of the assisted living units does not exceed 30% of resident's gross annual income at any time, as requested by the Cape Cod Commission.
- 6) The designated 60% open space as shown on the site plan, excluding wetlands, shall remain as permanent open space. Said open space shall not be developed in any way, including the creation of impervious surfaces, to equal less than 5.99 acres. Such restriction shall be shown on the final site plan as approved by the Commission.
- 7) Areas of the Project site affected by development activities such as, but not limited to clearing, grubbing, grading or excavation shall be loamed and seeded upon completion of construction. Areas identified as "proposed new slope and grading to be loamed and seeded," old leaching field to be loamed and seeded," and "proposed sewage treatment plant effluent disposal area" shall be loamed and seeded, and in addition, shall be planted with indigenous shrubs and trees. The shrubs shall be planted at sufficient intervals to provide landscaping that will grow into a dense coverage. Trees shall be no less than 3" in diameter at the time of planting. Plant materials shall be taken from the Commission's design guidelines as found in the area regarding landscaping (see attached). A landscaping plan shall be submitted for approval by the Commission staff prior to application for a building permit, and shall include a monitoring and maintenance component. Said monitoring and maintenance component shall last a minimum of 2 years to ensure the long-term survival of the plantings. Trees shall not be required where they will interfere with subsurface disposal facilities. Local boards, in subsequent reviews of this Project, may impose more specific conditions in the area of revegetation, provided such conditions are not less restrictive than here stated.
- 8) Project development shall not result in exterior lighting fixtures of greater intensity than that which currently exists on the site with respect to wattage, footcandle intensity, spacing, height, beam direction, and width of beam path.

Exterior lighting shall be limited to existing lighted areas and similar areas associated with new development. The Applicant shall provide Commission staff with baseline information on all of the above lighting criteria and a site plan showing proposed lighting changes prior to application for a building permit. All new exterior lighting, and all exterior lighting on the south side of the building, shall conform to the lighting requirements set forth in the Brewster Development Plan Review Bylaw for Zone A, as may be varied by the Development Plan Review Committee. Local boards, in subsequent reviews of this Project, may impose more specific conditions in the area of lighting, provided such conditions are not less restrictive than here stated.

9) New noise-producing exterior equipment, such as air conditioners and generators, shall be equipped with sound-deadening baffles so as to reduce noise levels off-site.

10) Phosphorous (orthophosphate as phosphorous) shall be added to the list of components for analysis according to the conditions of the groundwater discharge permit.



Kenneth Brock, Chair

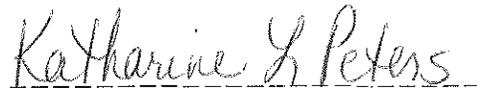
8/8/94

Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn before me this 8th day of August, 1994



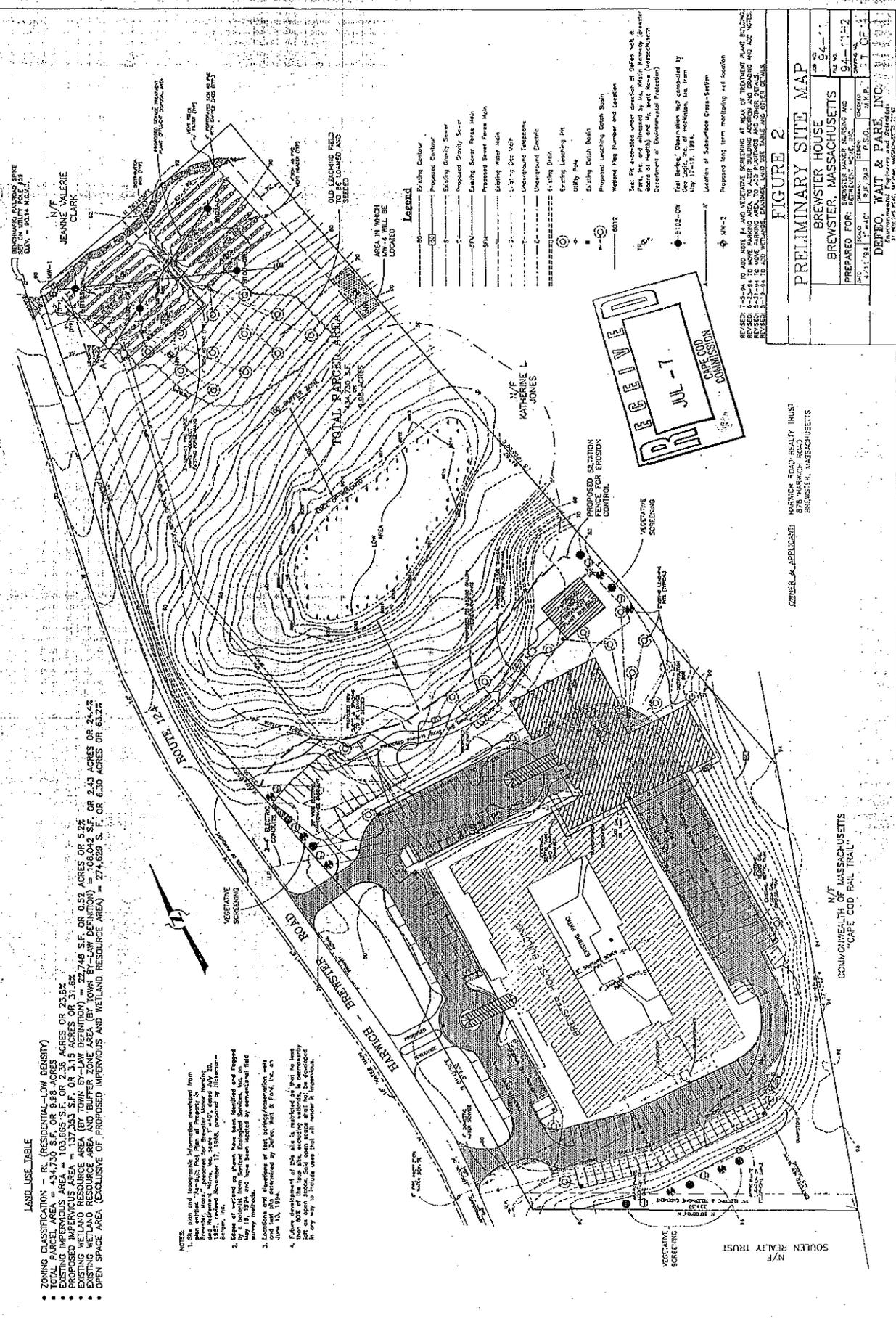
Name, Notary Public

My Commission expires: _____

LAND USE TABLE

- ZONING CLASSIFICATION: R-1 (RESIDENTIAL-LOW DENSITY)
- EXISTING IMPERVIOUS AREA = 415,000 S.F. OR 9.43 ACRES
- EXISTING IMPERVIOUS AREA = 103,665 S.F. OR 2.33 ACRES OR 23.8%
- PROPOSED IMPERVIOUS AREA = 1,377,353 S.F. OR 31.5 ACRES OR 31.6%
- EXISTING WETLAND RESOURCE AREA (BY TOWN BY-LAW DEFINITION) = 22,748 S.F. OR 0.52 ACRES OR 5.2%
- EXISTING WETLAND RESOURCE AREA (BY TOWN BY-LAW DEFINITION) = 106,604 S.F. OR 2.43 ACRES OR 10.4%
- EXISTING WETLAND RESOURCE AREA (EXCLUSIVE OF PROPOSED IMPERVIOUS AND WETLAND RESOURCE AREA) = 27,958 S.F. OR 0.64 ACRES OR 0.62%
- OPEN SPACE AREA

- NOTES:**
1. Site plan and topographic information reviewed from plan method No. 202, 2nd Ed. of Practice No. 1000, International Surveying, Inc., dated July 20, 1988, and dated November 11, 1988, prepared by International Surveying, Inc.
 2. Eriqes of wetland as shown have been identified and mapped by the Massachusetts Department of Environmental Affairs, dated May 18, 1994, and have been verified by conventional field survey methods.
 3. Locations and elevations of tree springs/seasonal wetlands were determined by 2000, field of 1994, etc.
 4. Future development of this site is restricted to that which is shown on the site plan, and any future development shall be in any way to include areas that will make a topographic



Legend

- Existing Contour
- Proposed Contour
- Existing Grassy Swale
- Proposed Grassy Swale
- Existing Shrub Swale
- Proposed Shrub Swale
- Existing Sewer Force Main
- Proposed Sewer Force Main
- Existing Water Main
- Proposed Water Main
- Existing Gas Line
- Proposed Gas Line
- Underground Telephone
- Existing Electric
- Proposed Electric
- Existing Leaking Pit
- Proposed Leaking Pit
- Utility Pole
- Existing Catch Basin
- Proposed Catch Basin
- Proposed Leaking Catch Basin
- Proposed Flag Number and Location

**FIGURE 2
PRELIMINARY SITE MAP**

BREWSTER HOUSE
BREWSTER, MASSACHUSETTS

PREPARED FOR: BREWSTER HOUSE TRUST AND
CAFÉ GOD REALTY TRUST

DATE: 7/21/94
SCALE: 1" = 25' 0"

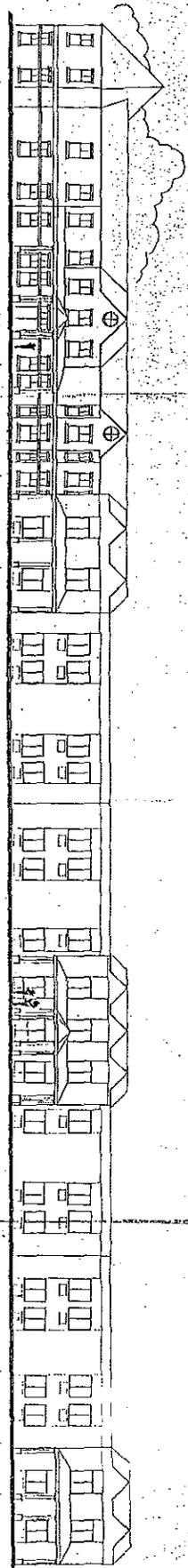
DEFFO, WAIT & PARE, INC.
100 WASHINGTON STREET
BOSTON, MASSACHUSETTS 02108

REVISION: 7-20-94 TO ADD NOTE #4 AND VEGETATIVE SCREENING AT REAR OF TREATMENT PLANT BUILDING
REVISION: 8-1-94 TO ADD SCREENING AREA, TO ADD FENCE AND TO ADD SCREENING AND TO VEGETATIVE
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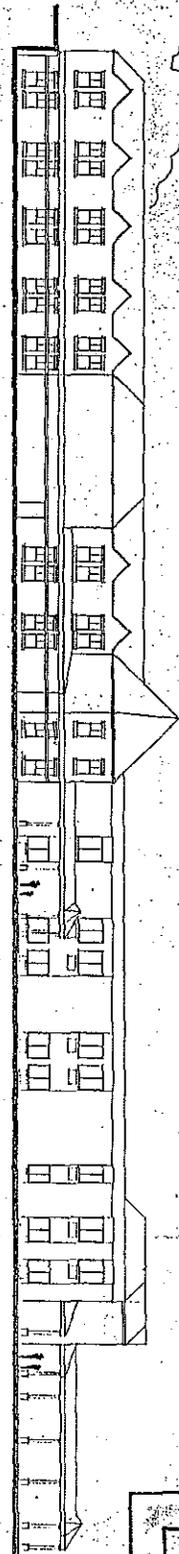
OWNER & APPLICANT: HARVEICH ROAD REALTY TRUST
875 HARVEICH ROAD
BREWSTER, MASSACHUSETTS

N/F MASSACHUSETTS
CAFÉ GOD REALTY TRUST

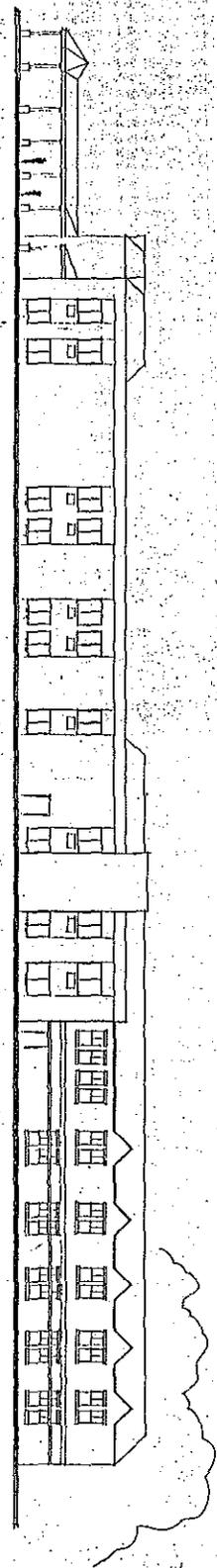
West (Front) Elevation
1/20-1/20



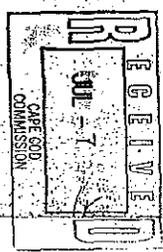
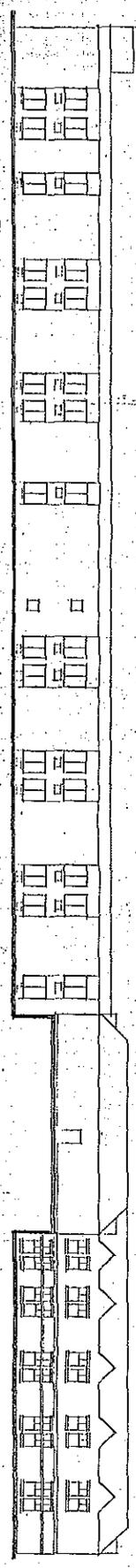
North (Side) Elevation
1/20-1/20



South (Side) Elevation
1/20-1/20



East (Rear) Elevation
1/20-1/20



The
Architectural
Team

30 Commonwealth Way
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BREWSTER
MANOR
NURSING
HOME AND
BREWSTER
HOUSE



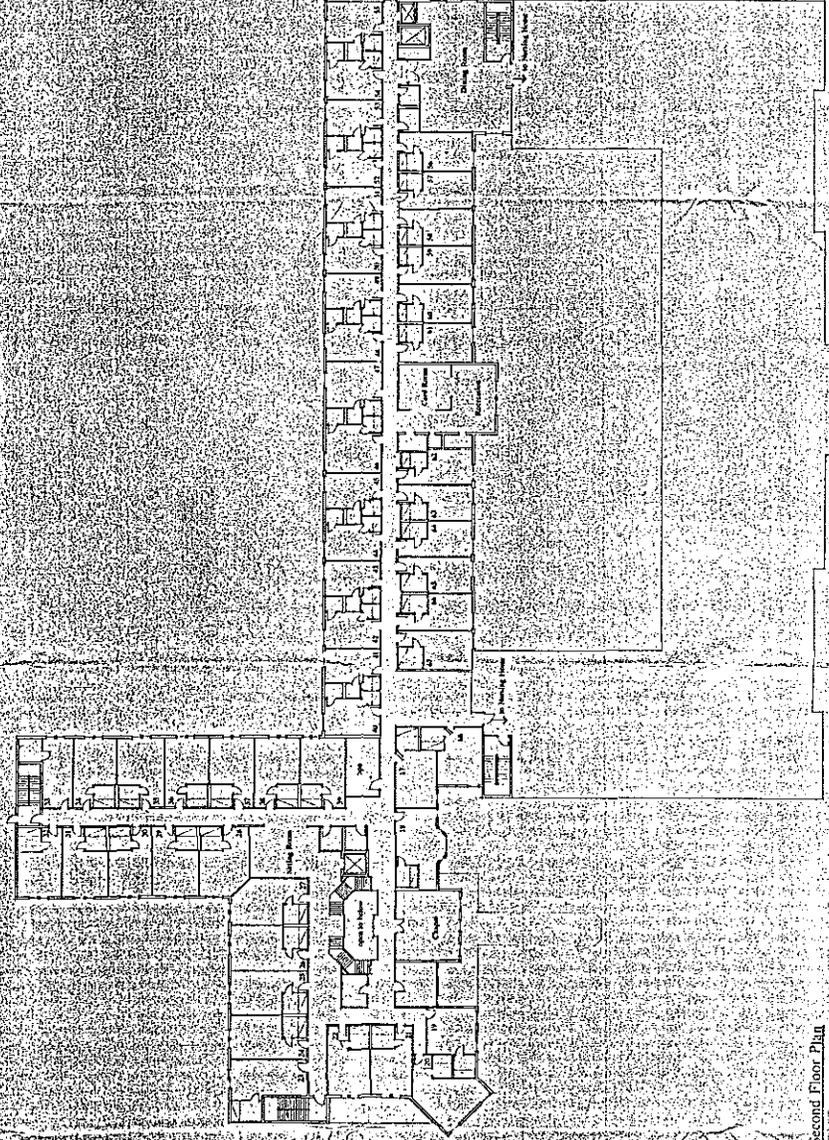
Second Floor Plan



9405

28 June 94

A1.02

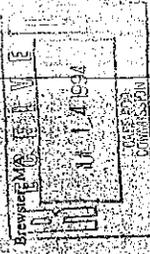


Second Floor Plan
1/2" = 1'-0"

The
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BREWSTER
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HOME AND
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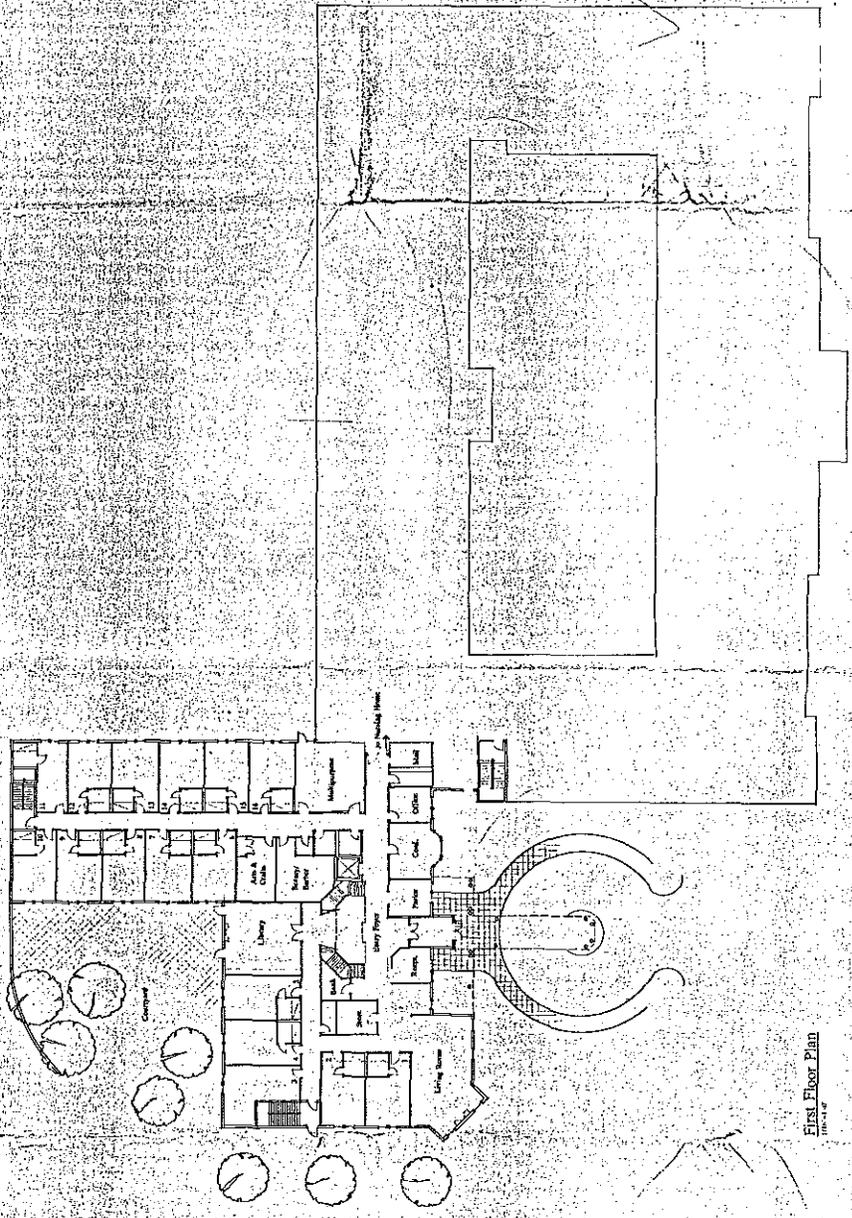


First Floor Plan



9403
28 June 94

A1.01



First Floor Plan
11.1.1994

