



CAPE COD COMMISSION

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DATE: May 23, 1996 #TR-96007
#EX-96007

TO: Falmouth Academy, Inc.
c/o Jeffrey Oppenheim, Esq.
156 Locust Street
P.O. Box 704
Falmouth, MA 02541

FROM: Cape Cod Commission

RE: Development of Regional Impact Application
Barnstable County Ordinance 94-10, Chapter A, Section 3(e)

Development of Regional Impact Exemption
Section 12(k) of the Cape Cod Commission Act

APPLICANT: Falmouth Academy, Inc.

PROJECT: Falmouth Academy Gymnasium
7 Highfield Drive
Falmouth, MA 02540

BOOK/PAGE: Book 4862, Page 209

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby approves the application of Falmouth Academy, Inc. for a Development of Regional Impact Exemption. The project qualifies as a Development of Regional Impact under Barnstable County Ordinance 94-10, Chapter A, Section 3(e), for the construction of a new 11,808 square foot gymnasium. The applicant has filed for a Development of Regional Impact Exemption pursuant to Section 12(k) of the Cape Cod Commission Act, as amended, or in the alternative, a DRI approval. This decision is rendered pursuant to the vote of the Commission on May 23, 1996.

PROJECT DESCRIPTION

The project consists of the construction of a proposed 11,808 square foot metal building on the 33.65-acre campus of Falmouth Academy in Falmouth. The property is located at 7 Highfield Drive within the Beebe Woods Potential Public Water Supply Area. The building will include an 11,520 square foot gym area with basketball courts and a 288 square foot "mud entry." The athletic storage areas, locker rooms, shower and toilet facilities for students and spectators using the new gym were built as part of the existing 1989 school building. The gym will not include bleachers for spectators: spectators will either stand or use chairs brought over from the school building. Current Academy enrollment is 192 students. No increase in enrollment is planned, and no new parking areas are proposed with the new gymnasium.

#TR 96007/#EX 96007 Falmouth Academy Gymnasium
DRI Exemption Decision May 23, 1996

PROCEDURAL HISTORY

The project was referred as a Development of Regional Impact by Mr. Eladio Gore, the Falmouth Building Commissioner, on March 21, 1996. The referral was received by the Cape Cod Commission on March 25, 1996. On April 17, 1996, the applicant filed a Development of Regional Impact application as well as a Development of Regional Impact Exemption application. A site visit was conducted by the Subcommittee on April 29, 1996. A duly noticed public hearing was held on the DRI and DRI Exemption applications on May 15, 1996 and was continued (both the hearing and record) to May 23, 1996. On May 15, 1996, the Subcommittee voted three in favor and one opposed to recommend to the full Commission that the project be granted a DRI Exemption subject to resolution of issues related to archeological resources. A draft decision on the DRI Exemption was presented to the full Commission on May 23, 1996. At this meeting, the Commission voted unanimously to grant the DRI Exemption request.

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Plans, interior building layout	3/25/96
Draft DRI/DRI Exemption application exhibits	4/2/96
Copy, fee payment check	4/16/96
DRI and DRI Exemption application text	4/17/96
DRI application form	4/17/96
DRI Exemption application form	4/17/96
Letter, application submittals	4/17/96
Locus maps (2)	4/17/96
Copy, return receipt for Mass. Historical Commission	4/17/96
Letter, Mass. Historical Commission	4/17/96
Chemical inventory (Exhibit G)	4/17/96
Letter, plant and wildlife habitat assessment (Exhibit F)	4/17/96
Reduced topography plan (Exhibit E)	4/17/96
Water usage data (three water bills) (Exhibit E)	4/17/96
Nitrogen loading calculations (three examples) (Exhibit D)	4/17/96
Locus map to Beebe Woods well site (Exhibit C)	4/17/96
Water resources district map	4/17/96
Site plans, full size (2 copies)	4/17/96
Topography site plan, full size (2 copies)	4/17/96
Reduced size site plan (2 copies)	4/17/96
Reduced size topography plan (2 copies)	4/17/96
Interior building layout (2 copies)	4/17/96
Interior building layout, structural details and proposed exterior treatment (2 sets of 6 drawings)	4/17/96
Letter, Exemption application	4/18/96
Letter, applications and Town information	4/22/96
Letter, local receipt of application materials	4/22/96
Letter, information on decision of Falmouth Conservation Commission	5/23/96
Photos (2) of site in early 1980's	5/23/96

B. Materials submitted by the State:

Letter, from Massachusetts Historical Commission, project is unlikely to
affect significant historic/archeological resources 5/17/96

C. Materials submitted by the Town:

Development of Regional Impact referral form 3/25/96
Falmouth Building Dept. Building Permit application 3/25/96
Facility Use form, Morse Pond School 4/12/96
Letter, Falmouth Conservation Commission 5/23/96

D. Materials submitted by the Public:

Article, Enterprise 5/7/96
Letter, Christine Dolen, in support of the Exemption application 5/15/96

E. Materials submitted by Cape Cod Commission:

Fax, letter of intent to review 3/28/96
Letter, intent to review 3/28/96
Memo, to Subcommittee, selection to serve 3/28/96
Staff Form Q 4/1/96
Staff Form Q 4/3/96
Notes, meeting with applicant on project 4/2/96
Letter, followup to meeting with applicant 4/4/96
Memo, Subcommittee, site visit and hearing dates 4/4/96
DRI application checklist 4/17/96
Draft, water resources comments 4/23/96
Letter, deeming application complete 4/24/96
Site visit notes 4/29/96
Notes, phone call to applicant on natural resource issues 4/29/96
Site visit photos (ten photos of inside Academy and outside) 4/29/96
Notes, phone call to Massachusetts Historical Commission 5/2/96
Draft, transportation resources comments 5/6/96
Draft, community character and lighting comments 5/8/96
Staff Report 5/8/96
Memo, to Town officials, Staff Report and hearing reminder 5/8/96
Fax, applicant, Staff Report 5/8/96
Fax, to staff, natural resources issues 5/8/96
Minutes, 5/15/96 hearing 5/15/96
Draft, natural resources comments Undated
Locus map Undated
Notes, fee calculation Undated
Hearing notice Undated
Calculation of hazardous materials and waste amounts Undated
Subcommittee members list and project schedule Undated

The DRI and DRI Exemption applications and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file #TR-96007 and #EX-96007 are incorporated into the record by reference.

#TR 96007/#EX 96007 Falmouth Academy Gymnasium

DRI Exemption Decision May 23, 1996

TESTIMONY

The Commission's Subcommittee received testimony at the May 15, 1996 public hearing on this project at the Morse Pond School on Jones Road in Falmouth MA. Mr. Ken Brock opened the hearing at 7:00 p.m. Mr. Richard Prince read the hearing notice. Mr. Brock introduced the Subcommittee and staff.

Mr. Jeffrey Oppenheim, Esq. representing the Academy described the proposal. He noted the application had been completed by volunteer efforts and introduced Mr. Bruce Buxton, Headmaster and Mr. Rob Wells, Dean of Students and Director of Athletics.

Mr. Buxton described Falmouth Academy, its mission, current enrollment and staff size. He noted the present campus dated to 1989 and that the gym was part of the Academy's proposed campus at that time. Mr. Buxton noted the Academy has a small parking lot and was not proposing to expand parking as part of the new gym.

Mr. Wells described how the Academy currently experienced scheduling conflicts for programs using the multi-purpose room. He noted how the lack of adequate gym space restricted the number of students able to participate in school sports. Mr. Wells said that having the gym space would allow scheduling changes to allow drama, music and arts programs to better use the existing multi-purpose room.

Mr. Oppenheim stated the Academy was willing to contact the Falmouth Conservation Commission and file a Determination of Applicability if the Conservation Commission requested it and follow their recommendations. He said the area in question filled seasonally with water primarily from roof drainage. He noted the area was created in 1989 as a result of construction of the present Academy building. Mr. Oppenheim said he felt the plant-life in the area of the structure was there as a result of planting and/or transplanting activities by Academy volunteers. He said he did not feel there was a regional natural resources impact from the project.

Mr. Prince asked if the area was dry when the Academy was built.

Ms. Barbara Woll Jones responded that it was dry when she visited the site in 1987-1988.

Mr. Broidrick asked if aerial photos were available of the project site.

Mr. Richard Sperduto responded he had a photo of the site.

The Subcommittee discussed the site using Mr. Sperduto's photos.

Ms. Andrea Adams presented the majority of the Staff Report. She noted staff had reviewed the project for the Regional Policy Plan issue areas of transportation resources, water resources, hazardous materials and hazardous waste, natural resources and open space and community character. She noted that the applicant had submitted additional information to address hazardous materials and waste issues.

Ms. Kathy Sferra presented the issues related to Natural Resources. She noted that the area in question near the volley-ball sand court was not a pond based on her review of state regulations. She noted it was likely that the area was also not a wetland in 1988 when the Academy building was constructed. Ms. Sferra noted that state wetland regulations and the Regional Policy Plan (RPP) do not exempt man-made wetlands from regulation. She said plant species and hydrology were key to determining the status of the area as a wetland. Ms. Sferra said that based on her review of the information presented by the applicant, the state regulations and the RPP that the area could be a vernal pool or an isolated wetland. She noted an on-site meeting with the Falmouth Conservation Commission had been

scheduled for May 16, 1996 at 1:00 pm to discuss the issues.

Mr. Broidrick asked what options were available to the Falmouth Conservation Commission. Ms. Sferra noted that if the area was determined to be a wetland, the local Conservation Commission would have jurisdiction over it. She also noted that vernal pools were not protected from alteration by either the Town of Falmouth or state wetland regulations unless they are located within another wetland area. She noted that if the area was a vernal pool, the RPP would have jurisdiction over it in any case.

Mr. Broidrick questioned whether man-made wetlands could be filled in. Ms. Sferra responded it was not her understanding that this was the case.

Mr. Silverman noted the applicant had provided a wildlife and plant assessment done by Ms. Schwarzman.

Mr. Broidrick questioned whether roof drainage was the sole source of water for the area. Ms. Sferra responded roof run-off was probably the area's primary water source. She noted that if the area was a wetland, diverting the run-off would be considered prohibited wetland alteration. Ms. Sferra said the state wetland regulations contained exemptions for man-made impervious structures. She noted also that the plant assessment information provided by the applicant was not based on and did not include survey and test plot data.

Mr. Oppenheim noted the Academy disposed of less than one quart of hazardous waste and about 15 pounds per year of biological lab specimens.

Mr. Prince asked if the applicant could re-grass the volley-ball sand court area if the depression was determined to be a wetland. Ms. Sferra responded it might be possible for the applicant to do this, but that a permit would be needed for any work within 100 feet of a wetland.

Mr. Brock asked if there were any further comments from the applicant or Commission staff. Hearing none, he asked for public comments.

Ms. Vicki Lowell, Barnstable County Commissioner, spoke in favor of granting the project an exemption.

Ms. Julie Taylor, Falmouth Assembly representative, spoke in favor of granting the project an exemption.

Mr. Russ Kingman spoke in favor of granting the project an exemption.

Mr. William Munson spoke in favor of granting the project an exemption.

Mr. Chuck Hopkinson said he was a scientist with the Woods Hole Marine Biological Laboratory. He said he had extensive experience in wetland biology and wetland delineation work. Mr. Hopkinson said he did not feel the area in question was a wetland and that the water present at this time was due to an overly wet Spring. He said the only wetland vegetation present had been transplanted there by Academy volunteers. He noted he did not think it was a vernal pool because it did not flood annually.

Mr. Prince asked if Mr. Hopkinson had seen evidence of frogs ("peepers") at the site when he had visited it earlier this year. Mr. Hopkinson said when he was at the site he did not see "peepers" although it was probably too early in the season. He reiterated that he did not think the area in question had wetland soils.

Ms. Sara Lafaver, a senior at Falmouth Academy, spoke in favor of granting an exemption for the project.

Mr. Lester Lafaver spoke in favor of granting an exemption for the project.

Mr. Oppenheim submitted a letter from Christine Dolen in favor of the project for the record.

Mr. Bob Ament spoke in favor of granting an exemption for the project.

Ms. Adams noted she had not been able to reach the Massachusetts Historical Commission for their comments on the project.

The Subcommittee recessed the public hearing and held a public meeting to discuss the project issues.

Mr. Prince noted the Subcommittee could recommend the exemption subject to receipt of information from the Massachusetts Historical Commission (MHC). He recommended the Subcommittee hold a public meeting Monday (5/20/96) to allow the Falmouth Conservation Commission to review the site and to allow time for MHC to provide comments.

Ms. Sferra noted the area could be a vernal pool or an isolated wetland.

Mr. Prince felt it was important to give the Falmouth Conservation Commission an opportunity to comment.

Mr. Silverman moved to recommend approval of the DRI Exemption pending confirmation that the Massachusetts Historical Commission did not have concerns for archeological resources to be present at the site. Mr. Broidrick seconded the motion. The Subcommittee voted Mr. Brock, Mr. Silverman and Mr. Broidrick in favor. Mr. Prince voted opposed. There were no abstentions.

The public hearing was resumed.

Mr. Broidrick moved to continue the hearing and the record until May 23, 1996 at the Commission meeting. Mr. Silverman seconded the motion and it was unanimously approved.

On May 23, 1996, the Commission took up the continued hearing on the DRI/DRI Exemption for the purpose of taking additional testimony. At the hearing, Mr. Brock asked for a motion to approve the May 15, 1996 Minutes. Mr. Broidrick moved the Minutes be approved. Mr. Silverman seconded the motion. The Subcommittee voted all in favor of approving the Minutes. Mr. Brock then presented the Subcommittee's report. Ms. Adams noted changes to Finding #2 of the draft decision and that the applicant and Falmouth Conservation Commission had submitted additional information for the record. Mr. Oppenheim spoke for the Academy. He said the letter submitted by the Falmouth Conservation Commission incorrectly stated the drainage structure "was created when an existing leaching field and French drain overflowed....". He said this was not the case and that the area in question was in fact a purposely-built drainage structure. Mr. Brock moved to close the hearing and the record. Mr. Lambros seconded the motion. The Commission voted all in favor of closing the hearing and the record. Mr. Brock moved the Cape Cod Commission approve the DRI Exemption Decision, as amended. Mr. Silverman seconded the motion. The Cape Cod Commission voted all in favor of approving the DRI Exemption Decision as amended.

JURISDICTION

The proposed project qualifies as a DRI under Chapter A, Section 3(e), Barnstable County Ordinance 94-10: new construction with a gross floor area greater than 10,000 square feet. This DRI Exemption is granted subject to Section 12(k) of the Cape Cod Commission Act, as amended.

FINDINGS

The Commission has considered the combined DRI/DRI Exemption application of Falmouth Academy for a new 11,808 square foot building to serve as a gymnasium. Based on consideration of such application, the information presented at the public hearing and submitted for the record, the Commission makes the following findings:

1. Student enrollment at the Academy will remain unchanged with the addition of the new gymnasium building.
2. The facility will be in use only during the 165 days of the school year which occur in the fall, winter and spring months. Use of the gymnasium during the summer months will not intensify the pre-existing level of activity at the school during the summer season. As a result, use of the gymnasium facility will not have a significant traffic impact during the summer months, when traffic is highest on Cape Cod.
3. The Academy's sports program will remain substantially unchanged with the addition of the new gymnasium with the exception that some basketball games will be held at the Academy rather than at off-site locations.
4. The new gym will allow two basketball teams to practice simultaneously. This will eliminate the need to have staggered scheduling of events at the current multi-purpose room which causes some students to leave and return for later basketball practices. These trips will be eliminated with the new gym facility.
5. Currently, drama and music students are transported off-site when the multi-purpose room is being used for sports activities. These trips will be eliminated with the new gym.
6. Typical trip arrival and departure patterns of the school are expected to remain unchanged once the new gymnasium is built with the exception of days when basketball practices occur on campus and on all days when "home" basketball games will be played at the Academy.
7. All 14 'home' basketball games will be held on-campus with the new facility. There will be no need to transport students to other off-campus locations but there will be a need to transport other school students to the Falmouth Academy for games, maintaining the current number of shuttle-bus trips made in to and from the school. Though not considered significant, it is expected that new traffic will be generated with the proposed facility when some students from the 'away' team are picked-up by parents at Falmouth Academy and when visitors arrive and leave the 'home' games.
8. The existing site circulation pattern will remain unchanged with the new gymnasium as vehicles continue to enter and exit the site via Highfield Drive/Depot Avenue to Route 28. The proponent has indicated these roadways adequately serve the school functions.
9. The proposed project is located within the Beebe Woods Potential Public Water Supply Area (PPWSA). Existing nitrogen loading on the site is 1.1 parts per million (ppm) based on measured school water use from 1995-1996 and 3.3 ppm based on Title 5 waste water estimates.

10. The expected increase in nitrogen loading will be from spectators at events held in the gym building. This is because the addition of a gym will not increase the Academy's student population. Based on Title 5 estimates, the gym facility could accommodate 115 spectators without exceeding the Regional Policy Plan's 5 ppm nitrogen loading standard for PPWSAs. According to information submitted by the applicant, approximately 25 spectators are anticipated for gymnasium events.
11. According to information in the application materials, the Academy presently handles and uses approximately 16.5 gallons of hazardous materials on site at any given time as part of its academic programs and building maintenance.
12. According to information submitted by the applicant in a letter dated May 13, 1996, Falmouth Academy's science programs generate approximately 15 pounds of biological specimens and under one quart of hazardous waste each year needing disposal. Disposal for these wastes are provided through arrangements with the Marine Biological Laboratory and Falmouth Hospital.
13. The proposed project site is located outside of any critical habitat areas and contains no identified rare species habitat. There is a White Cedar Swamp on the northern property line, but it is located more than 500 feet away from the proposed gym location.
14. There is a man-made drainage swale on the site which seasonally contains standing water. It is located next to the existing sand volley-ball court where the new gym is proposed to be located. This swale is approximately 1,700 to 2,100 square feet in size and does not exhibit a predominance of wetland vegetation based on reports submitted by the applicant.
15. A letter received for the file from the Massachusetts Historical Commission on May 17, 1996 indicates the proposed gymnasium project site does not contain archaeologically significant resources or buildings which are significant historic structures.
16. The proposed gymnasium will be located well onto the site. Approximately 375 feet to the north of the proposed gym site is Town of Falmouth conservation land. To the southeast are soccer fields, a Commonwealth Electric easement and a railroad right-of-way. To the southwest, about 700 feet away from the new gym location is the Falmouth Sports Center. On the northeast, some 300 feet away, is the Bramblebush medical office complex. The proposed plan utilizes existing topography to minimize the impact of the size and height of the building and uses exterior building materials that are compatible with the existing school building. There are no publicly-accessed views onto the project site.
17. The application states the exterior lighting for the new gym will be wall-mounted and similar in type, number and intensity as the wall-mounted lighting on the existing building. On April 30, 1996 staff visited the site at night to verify footcandle intensity of existing lighting fixtures. Of those measured, field readings indicated the brightest existing fixtures are globe lights mounted along the northwest side of the existing building. These lights measured approximately 35 footcandles. Other wall-mounted fixtures facing the parking lot and volley-ball sand court as well as parking lot pole-mounted square fixtures were measured at between 5 and 8 footcandles. Additional shoe-box style pole mounted roadway lights, which are used on a limited basis, measured approximately 10 footcandles. Information from the applicant indicates that no additional parking lot lights are planned as a result of the new gymnasium.
18. Based on the field footcandle measurements, the fact that the new gym will be located well onto the site, and the applicant's intent to use lighting similar to what is on the existing building, the proposed lighting for the

gymnasium project will not result in regional impacts.

CONCLUSION

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

- 1. So long as the project is constructed consistent with the Findings set forth above, the location, character and environmental effects of the proposed new gymnasium for Falmouth Academy prevent its having any significant impacts on the values and purposes protected by the Cape Cod Commission Act, as amended, outside of the municipality in which the proposed project is to be located.

The Cape Cod Commission hereby grants a Development of Regional Impact Exemption for the proposed new gymnasium at Falmouth Academy in Falmouth, MA pursuant to Section 12(k) of the Cape Cod Commission Act, as amended. This Exemption Decision is valid for three (3) years from the date of issuance.

Sumner Kaufman
 Sumner Kaufman, Chairman

5/23/96
 Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 23rd day of May, 1996.

Katharine L Peters
 NAME, Notary

My Commission expires:

NOTARY PUBLIC
 STATE OF MASSACHUSETTS
 COMMISSION EXPIRES 05/23/99