

# CAPE COD COMMISSION

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BARNSTABLE, MA 02630  
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Date: October 17, 1996

Re: Development of Regional Impact Hardship Exemption  
Modification Request  
Cape Cod Commission Act, Section 23

Applicant: Cape Cod Hospital

Project #: MOD96018  
Project: Cape Cod Hospital Cancer Treatment Center and  
Ambulatory/Day Surgery  
27 Park Street  
Hyannis, MA 02601

Lot/Plan: Book 7184, Pages 236-238  
Book 472, Pge. 40

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Cape Cod Hospital for a Hardship Exemption Modification qualifying under Chapter A, §3 (e) of the Regulations of General Application, Barnstable County Ordinance 94-10, for the proposed construction of an Ambulatory/Day Surgery and Cancer Treatment Center at Cape Cod Hospital in Hyannis, MA. The decision is rendered pursuant to a vote of the Commission on October 17, 1996.

### PROJECT DESCRIPTION

The Applicant is requesting modifications to the approved 1991 Hardship Exemption Decision, as follows:

- 1) The Applicant is proposing to modify previously approved plans for the Hospital entrance and lobby areas.
- 2) The Applicant is requesting a modification allowing the landscape planters on the doctors parking deck to be capped.
- 3) The Applicant is requesting to defer landscaping relating to the completion of Phase III of the Emergency Room expansion until such time as a determination is made about the construction of the parking deck.

4) The Applicant is proposing two new phases, Phases IV and V, that were not included in the original project review. Phase IV consists of the construction of a 13,000 s.f. addition to allow relocation and reconfiguration of the existing Ambulatory/Day Surgery areas.

Phase V consists of 9,600 s.f. for the relocation of the Cancer Treatment Center (Department of Oncology/Hematology) that is currently housed in the Medical Center Building adjacent to the main Hospital building.

#### PROCEDURAL HISTORY

On July 25, 1991, the Commission approved a DRI Hardship Exemption application from the Cape Cod Hospital to be completed in three phases. Phases I and II, for an Emergency Medicine Center and a Radiology Department, were completed. Phase III, for the construction of a 75 car parking deck over a portion of the main lot near the entrance to the hospital and improvements to the lobby and entrance area of the hospital, has not been completed.

On July 2, 1993 the Applicant requested that the Regulatory Committee approve two requests as modifications to the Hardship Exemption Decision. The first was to issue an irrevocable standby letter of credit to cover the costs of incomplete landscaping in the visitor's parking lot until such time as the lobby/entrance area construction is complete. The second request was for the renovation and new construction of surgical daycare and emergency room trauma surgery departments as a modification requiring Commission approval. The Regulatory Committee voted to accept a letter of credit in lieu of completing the landscaping prior to the issuance of a Certificate of Compliance, and to designate the Applicants proposal as a category four modification as defined in the Commission's policy on modifications.

The Commission issued a Certificate of Compliance dated September 16, 1993, for the Radiology and Emergency Room expansion. Conditions 3 and 5 dealing with the parking deck, landscaping, and lobby/entrance have not been completed and therefore were not included in the Certificate of Compliance. Completion of the landscaping requirements is secured by an existing letter of credit.

#### MATERIALS SUBMITTED FOR THE RECORD:

- Cape Cod Hospital Hardship Exemption Modification Application dated 6/30/96
- Cape Cod Hospital Surgery and Oncology Construction Documents  
A2.1, A2.3, A2.5, A3.2 (3 copies, full size) dated 7/17/96
- Letter from Patrick M. Butler to Sharon Rooney, with attached plan, dated 7/31/95
- Town of Barnstable Site Plan Review Comments dated 8/16/96
- Site Plan Review Agenda dated 8/20/96
- Eight photographs of existing conditions within the Hospital submitted on 9/4/96
- Phone call from Brenda Naman-Hellstroman, abutter, to Tana Watt regarding landscaping concerns, on August 21, 1996.
- Proposed Parking Layout Plan date August 30, 1996
- Letter from Patrick M. Butler to Tana Watt dated September 10, 1996.
- Preliminary Subdivision Plan of Land in (West) Yarmouth, Ma.(dated September 1982) received on September 10, 1996.

- Letter from Sam Park Associates Inc. to Sue Pommrehn regarding regional impacts and parking demand dated September 11, 1996.
- Letter from Stephen J. Guimond to Lance Lambros dated September 13, 1996.
- Kennedy & Rossi Construction Site Layout Plan dated September 13, 1996.
- Traffic Assessment (Proposed Cape Cod Hospital Emergency Room Projects) submitted on September 23, 1996.

#### ADDITIONAL MATERIALS:

- Cape Cod Commission Policy on Revisions to Approved DRI's adopted 10/15/92
- Copy of Irrevocable Letter of Credit No. 93-21 dated May 2, 1996
- Copy of Irrevocable Letter of Credit No. 93-21 dated May 31, 1995
- Copy of Irrevocable Letter of Credit No. 93/21 dated September 15, 1993
- Copy of Certificate of Compliance dated September 16, 1993
- Copy of Staff Report to the Regulatory Committee dated July 2, 1993
- Copy of Regulatory Committee Minutes dated July 6, 1993
- Cape Cod Commission Policy on Hardship Exemption Requests adopted October 21, 1993
- Correspondence from Sharon Rooney to Patrick Butler, Esq. dated March 29, 1996
- Memo from Tana Watt to Nancy Pyy dated August 7, 1996
- Letter from Tana Watt to Ralph Crossen, Barnstable Bldg. Inspector dated August 8, 1996
- Letter from Tana Watt to Patrick Butler, Esq. dated August 8, 1996
- Cape Cod Commission Staff Report dated August 29, 1996
- Hearing Notices for September 4, 1996 and October 3, 1996
- Minutes for Public Hearings held on September 4, 1996 and October 3, 1996
- Minutes of Subcommittee meeting held on September 16, 1996

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on file MOD96018 are incorporated into the record by reference.

#### TESTIMONY

*September 4, 1996 Public Hearing:* Commission members present included Lance Lambros, Chair, Sumner Kaufman, Tom Broidrick, Paul Wightman and Vicky Bebout. Mr. Lambros opened the hearing at 7:30 PM. Vicky Bebout read the hearing notice.

Mr. Patrick Butler, representing the Applicant, presented the project and explained its procedural history. He noted that in 1993 the Regulatory Committee determined that the current proposal is a modification to a previous project. Mr. Butler described the proposed project and the public need for this facility.

Mr. James Lyons, President of Cape Cod Hospital, discussed why the proposed project was required by both the public and the Hospital. He noted several factors relating to health care that give the Hospital a financial hardship.

Mr. Butler showed the subcommittee a parking and recirculation plan that the Hospital administration believes will improve traffic flow as well as the parking situation in general. Mr. Butler proposed that a portion of upland adjacent to the

Hospital campus could be placed under an open space restriction to meet the Commission's open space requirement. He also stated that the funds secured in the Letter of Credit could be applied to landscaping projects that could be completed at this time.

Mr. Butler stated that final recommendations for the Barnstable/Yarmouth traffic study have not been completed, and noted that the Commission staff has determined that the project does not meet threshold requirements for performing a traffic study.

Tana Watt presented the Commission staff report. Sue Pommrehn presented suggestions as to how the Hospital might mitigate the localized traffic impacts of the project.

Mr. Butler discussed the financial hardship criteria as set out by the Commission Act and the 1993 hardship exemption policy in relation to this project. He noted that the facility is beneficial to the public good. He stated that the relief granted by the hardship exemption is desirable, the project has no detriment to the public good and the project will not derogate or nullify the intent of the Act. In relation to this, he stated that the project does not trigger off-site traffic review and mitigation, the project meets the Regional Policy Plan goals and policies in relation to health care and the economy and the construction process will benefit the economy. He also noted that the hospital is a modification of a previous hardship exemption. He also stated that there must be a rational nexus for traffic mitigation.

Mr. Lambros opened the hearing to public comment. There was no public comment.

Ms. Bebout moved to hold the next meeting on September 16, 1996 at 10:00 AM at the Commission offices and to hold the next hearing at the Commission meeting on October 3, 1996. The motion was seconded by Mr. Kaufman and unanimously approved. The hearing was closed at 9:05 PM.

*September 16, 1996 Subcommittee Meeting:* Commission members present included Lance Lambros, Chairman, Tom Broidrick and Sumner Kaufman. Lance opened the meeting at 10:00 AM for the purpose of reviewing the draft decision.

Patrick Butler stated that there had been an error in the application. The ambulatory/day surgery facility will consist of 13,000 square feet and the Cancer Treatment Center will consist of 9,600 square feet. The application originally stated that the total project consisted of 20,000 square feet. The subcommittee requested that transportation staff review this change to determine traffic impacts. Mr. Butler submitted additional materials, including correspondence from the Chief Financial Officer of the Hospital as requested by the subcommittee.

The subcommittee, Sue Pommrehn, and Tana Watt discussed the draft findings and conditions, making several changes and additions. A new finding was made that the provision of open space in the urban area around the hospital is a benefit of the project. A new condition was added that the designated parking spaces and ambulance pick-up area that would be lost due to construction be relocated before beginning construction of Phases IV and V.

The subcommittee, staff and Applicant reviewed an open space plan for the parcel of land to be designated as permanent open space.

Sumner Kaufman moved to recommend approval of the project to the full Commission as written in the decision as amended at the meeting. Tom Broidrick seconded the motion and it was unanimously approved. Mr. Broidrick moved to approve the minutes of the September 4 1996 public hearing. Mr. Kaufman seconded the motion and it was unanimously approved. Mr. Broidrick moved to have Lance Lambros review and approve the final draft of the written decision before it is sent to the full Commission. Mr. Kaufman seconded the motion and it was unanimously approved.

The meeting concluded at 11:20 A.M.

### FINDINGS

The Subcommittee has considered the Applicant's request for a Hardship Exemption Modification request. Based upon information presented at the public hearings and submitted for the record, the Subcommittee makes the following findings:

1. On July 2, 1993, the Regulatory Committee designated the proposed project as a category four modification as defined in the Commission's policy on Revisions to Approved DRI's dated 10/15/92.
2. The Commission issued a Certificate of Compliance dated September 16, 1993, for the Radiology and Emergency Room expansion. Conditions 3 and 5 dealing with the parking deck, landscaping, and lobby/entrance have not been completed and therefore were not included in the Certificate of Compliance. As allowed by the Regulatory Committee on July 2, 1993, the Certificate of Compliance was issued prior to completion, however, the Regulatory Committee obtained a Letter of Credit to ensure completion of those improvements.
3. At the time of the original Hardship Exemption review for this project, the RPP had not been finalized, and as a result the requirements for open space had not been established. The RPP has since been adopted, and the Minimum Performance Standards contained therein apply to this proposal. Minimum Performance Standard 6.1.4 requires the provision of 40% of the lot area, excluding wetlands, as permanent open space. Where appropriate, open space may be provided off-site within the same towns. The Applicant has proposed to designate the required 40% open space both off-site and on the Hospital Campus. The Applicant stated that the area of the Hospital Campus is 12.07 acres. The Hospital is the owner of property adjacent to the employee parking lot located to the east of Bay View Street, which property has been partially used as cranberry bogs and is identified as potential open space on Exhibit B.
4. Viewed separately, the impacts of the current proposal are not regionally significant with respect to transportation impacts, and it is possible that future modifications and/or new projects may not be regionally significant. The result is that cumulative impacts to the area roadway system as a result of individual Hospital projects have not been reviewed as part of a traffic study. Any new projects or modifications shall include the traffic impacts of this project.

5. The project will create short-term construction jobs. The Applicant is encouraged to make a commitment to employ on-Cape contractors, suppliers and laborers.
6. The proposed project is a modification to a previously granted hardship exemption.
7. The expanded facility will serve all of the Cape Cod towns. Phases IV and V will generate approximately 230 additional daily trips and less than 25 additional PM peak hour trips and approximately 28 AM peak hour trips. The applicant provided trip distribution data for the Hospital based upon August 1991 conditions. The distribution of increased traffic due to this modification is likely to be similar, with the additional traffic accessing the Hospital via School Street, Lewis Bay Road, Gleason Street and Bayview Street. Based upon this distribution and assignment of the project traffic to the area roadway system, no significant impacts would occur on the regional roadway system.
8. The demand for parking peaks between 3 and 4 PM, during a shift change within the hospital. The Hospital has committed to lengthen the time to complete the shift changes to reduce the number of employees within the hospital at one time. This will reduce the demand for parking during the peak period.
9. The Hospital has voluntarily agreed to cease utilization of 35 parking spaces off of Bay View Street, due to potential negative impacts on the cranberry bogs owned and operated by the Hospital.
10. The Hospital is proposing to relocate an existing curb-cut along Gleason Street to provide access to the main parking lot.
11. The Hospital is relocating the designated parking spaces and private ambulance drop-off and pick-up area as per the circulation plan dated August 30, 1996.
12. The Commission finds that the Applicant's agreement to abide by Conditions #7 and #9 below is a benefit of the project.
13. Because of the urban nature of the area surrounding the Hospital campus, the Commission finds that the provision of open space as conditioned in #2 and #3 below is a benefit to the public good.

#### CONCLUSION

This is a modification of a previously granted hardship exemption. The Commission concludes that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purposes of the Act, provided that the following conditions are met.

#### CONDITIONS

1. Landscape plans and estimates shall be submitted for review and approval by Commission staff prior to December 1, 1996. The Landscaping Plan shall address the following areas as marked on the attached site plan Exhibit A:

A:

- Screening of generators and equipment on the Bay View Street side of the Hospital.
- Screening associated with the guard house and entrance area to the employee parking lot off Bay View Street. The Applicant shall also investigate and provide documentation about screening along the length of the lot adjacent to the cranberry bog.
- Revegetation of the parking lot that is proposed for closure across from the Barton House on Bay View Street.

B:

- Additional landscaping on both sides of the existing Hospital main entrance to complete Phase III main entrance/lobby area construction.
- Landscaping and screening at the new main entrance area in the northwest corner of the main campus to complete Phase III.

Funds guaranteed by the Irrevocable Letter of Credit in the amount of \$36,222 shall be applied toward landscape projects under this decision.

The Applicant shall complete all landscaping consistent with the above required plans: for landscaping required under subsection A above, by June 1, 1997, and for landscaping required under subsection B above, prior to the issuance of the Certificate of Compliance.

The existing Irrevocable Letter of Credit held by the Cape Cod Commission for landscaping associated with Phase III of the project shall be retained by the Commission to ensure completion of the landscaping required under subsection A of this condition. The Letter of Credit shall be released upon completion of all landscaping work required in subsection A above.

2. Prior to the issuance of a Certificate of Compliance, the Applicant shall submit a final site plan delineating 4.83 upland acres or more to be permanently restricted as open space in compliance with the Regional Policy Plan Minimum Performance Standard 6.1.4 for this modification. It is acknowledged and understood that the permanent restriction of 4.83 acres fulfills the 40% open space requirement for this modification, and additional upland areas provided in excess of 4.83 acres may be applied toward open space calculations for future projects associated with Cape Cod Hospital on properties within the Towns of Barnstable and Yarmouth. Such open space shall be located within the area outlined on the attached site plan Exhibit B. Future activities within this area shall be governed by the terms of the conservation restriction required by condition #3. The Hospital shall also provide an engineer's certificate with calculations of proposed existing open space on the Hospital Campus to be approved by Commission staff, and the amount of upland and wetland acreage

within the area delineated in Exhibit B. Both areas shall be subject to a conservation restriction to be approved by Commission staff.

3. With reference to the open space described in Condition #2 above, the Applicant shall provide the Cape Cod Commission with a permanent conservation restriction consistent with M.G.L. c. 184 , § 31-33, inclusive, the form and content of which shall be approved by Commission counsel. The Applicant shall record the conservation restriction at the Registry of Deeds or Land Court prior to the issuance of the Certificate of Compliance.

4. All future Cape Cod Hospital additions meeting or exceeding Development of Regional Impact (DRI) thresholds will be considered new projects and not modifications of the July 25, 1991 Hardship Exemption Decision.

5. Site and building plans submitted become a part of the written decision and any changes to these plans shall be approved by the Cape Cod Commission.

6. 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 each phase of construction.

7. The Hospital shall cooperate with the Town, the Cape Cod Commission, and the State to develop a list of improvements to region-wide Hospital signage and to develop a list of intersection locations for future signal pre-emption capabilities to give priority to emergency vehicles on area roadways.

8. The Hospital shall implement the parking management and circulation control plan depicted on plans dated August 30, 1996 prepared by Sam Park Associates, Inc., as same may be amended by Site Plan Review of the Town of Barnstable prior to beginning construction of Phases IV and V. The Hospital shall relocate the designated parking spaces and ambulance pick-up area that is displaced through construction.

9. The Hospital shall pursue a curb-cut modification with the Town of Barnstable to ensure adequate intersection design, sight-distances and appropriate location to relocate the existing curb-cut along Gleason Street to provide access to the main parking lot. Yearly maintenance of vegetation management to maintain sufficient sight-distances at this intersection shall be the responsibility of the hospital.

10. The Hospital will continue to cooperate and actively participate in the Yarmouth/Barnstable Regional Traffic Study.

11. The Hospital shall, one year after obtaining a Certificate of Occupancy for Phases IV and V, submit a written report to the Regulatory Committee of the Cape Cod Commission providing an analysis of the implementation of the parking control and traffic circulation management plan described in Condition 8 herein. Should the Regulatory Committee determine that additional parking spaces are necessary to provide sufficient capacity for Hospital operations, the Hospital agrees to use its best efforts to obtain such permits as may be necessary to construct up to 150 parking



spaces in the area depicted as Lot 5A on the Parking Lot Plan submitted by the Hospital and to construct such parking within a reasonable time following the receipt of such permits and approvals.

Greg Silverman  
Greg Silverman, Chairman

10/17/96  
Date

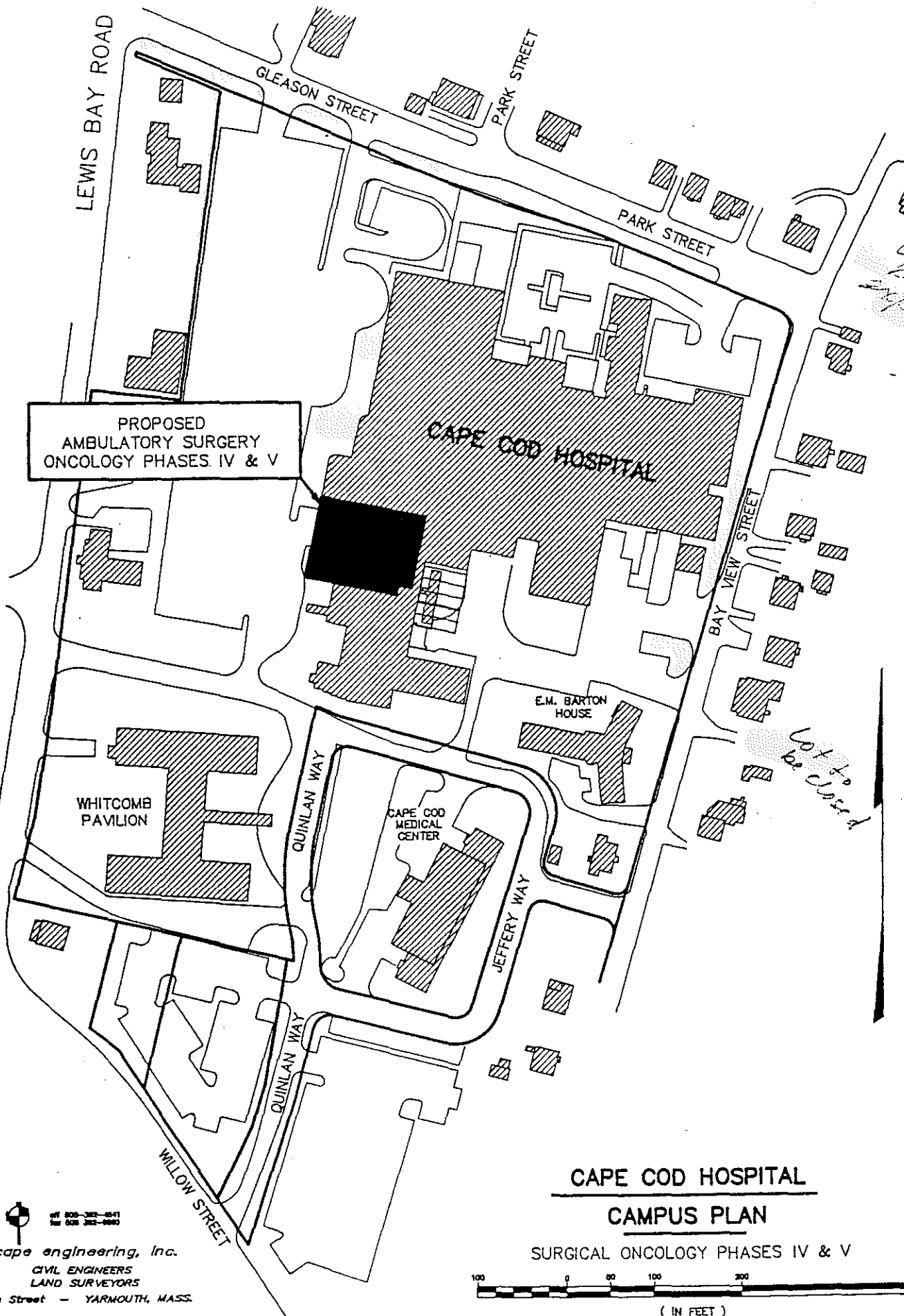
Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 17<sup>th</sup> day of October 1996

Katharine Y Peters  
Name, Notary Public

My commission expires:



PROPOSED  
 AMBULATORY SURGERY  
 ONCOLOGY PHASES IV & V

CAPE COD HOSPITAL

WHITCOMB  
 PAVILION

CAPE COD  
 MEDICAL  
 CENTER

E.M. BARTON  
 HOUSE

CAPE COD HOSPITAL

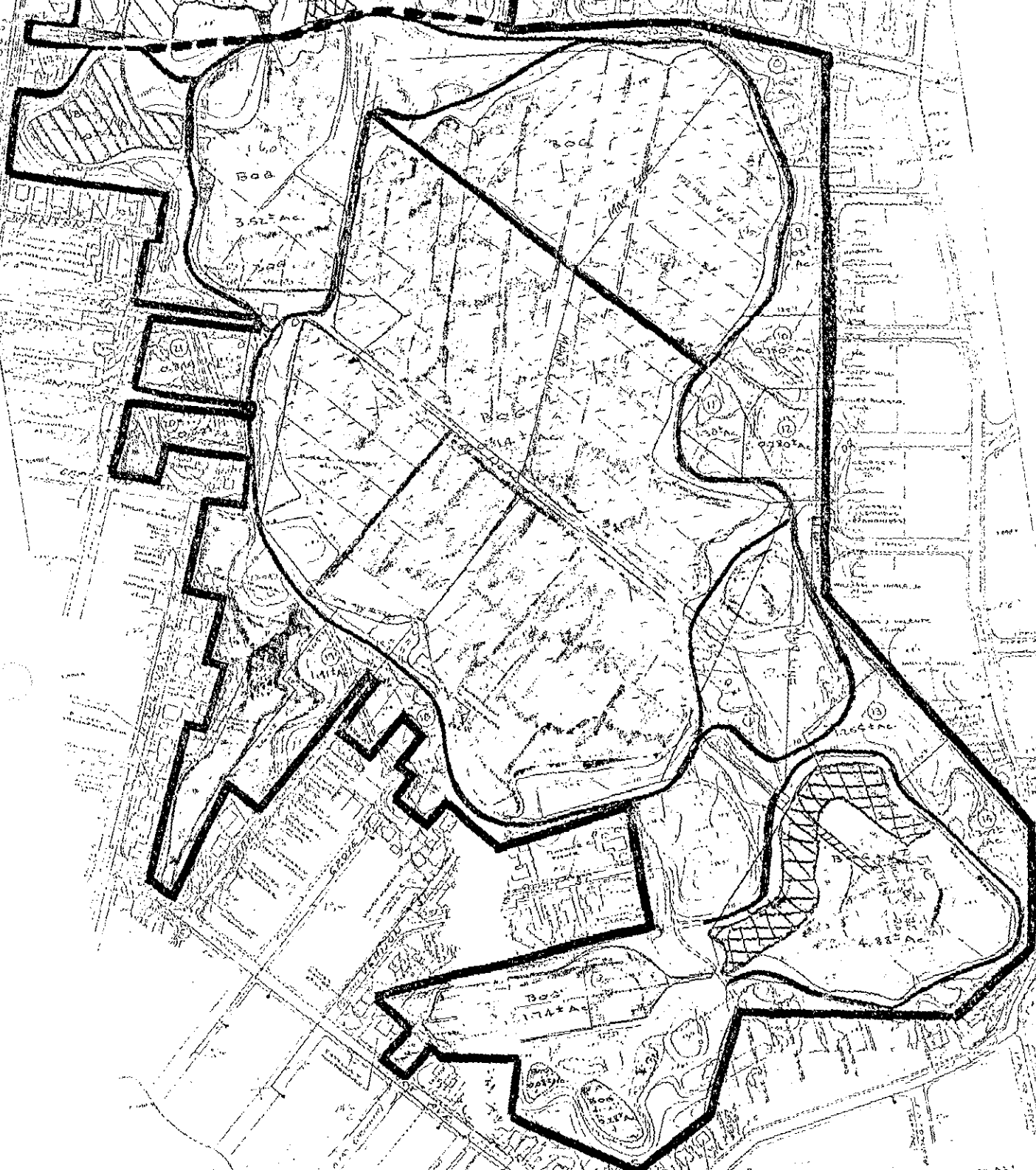
CAMPUS PLAN

SURGICAL ONCOLOGY PHASES IV & V



( IN FEET )  
 1 Inch = 150 ft.

down cape engineering, inc.  
 CIVIL ENGINEERS  
 LAND SURVEYORS  
 839 Main Street - YARMOUTH, MASS.



PRELIMINARY SUBDIVISION PLAN  
 OF LAND IN  
 (WEST) YARMOUTH, MASS.

PREPARED FOR  
 CAPE GOD HOSPITAL

SCALE 1"=100'  
 PREPARED BY  
 ENGINEER

MASS. REG. ENG. 2, 1951 GARY A. H. M. E. I. N. G.