

# CAPE COD COMMISSION

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DATE: July 25, 1996 TR# 96011

TO: Mr. Joseph Martyna, Falmouth Hospital Association, Inc.  
100 Ter Huen Drive  
Falmouth, MA. 02540-2559

FROM: Cape Cod Commission

RE: Development of Regional Impact Modification  
Cape Cod Commission Act, Section 12

APPLICANT: Falmouth Hospital Association, Inc.

PROJECT: The Falmouth Hospital's Outpatient Care and Maternity Center

BOOK/PAGE: Book 3384, Page 215

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## MODIFICATION OF DEVELOPMENT OF REGIONAL IMPACT DECISION

### INTRODUCTION:

The Cape Cod Commission voted to deny the applicant's request to consider the modification of conditions 23, 24 and 25 of the approved Development of Regional Impact (DRI) dated October 20, 1994 and modified on November 14, 1994.

### LOCATION AND DESCRIPTION:

The hospital property is located on Ter Huen Drive just to the west of the intersection with Palmer Avenue (Route 28) in Falmouth. The 40,933 sq.ft. addition was constructed adjacent to the southeast corner of the existing hospital. The recently opened three story addition includes a new maternity floor, a new outpatient care and ambulatory care unit floor and a basement with a mechanical room and a storage area. There is also 13,600 sq.ft. in renovations to the existing hospital buildings underway as part of the project. The hospital complex is located within the Regional Policy Plan's open space \ greenbelt area as described in Regional Policy Plan Minimum Performance Standard (6.1.1.).

### JURISDICTION:

The approved addition to the Falmouth Hospital qualified as a Development of Regional Impact under Section 3(6) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, because it was an addition greater than ten thousand square feet.

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**BACKGROUND:**

I.) The original open space conditions read as follows:

*23. The applicant has provided a site plan entitled "Plan of Dedicated Open Space", prepared by Michael McGrath, dated October 6, 1994, showing 8.4 acres of open space located on-site and on other Falmouth Hospital property shall be set aside as permanent open space. Any change in the reserved open space as shown on said plan shall require a major modification to the DRI permit.*

*24. The open space designated or acquired pursuant to Condition# 23 (above) shall remain permanently protected open space and shall be used solely for passive, non-motorized recreation and conservation purposes. The removal or alteration of naturally- occurring vegetation or topography is prohibited within the open space. No development may occur within this area.*

*25. If the Falmouth Hospital site is included within a growth center certified by the Cape Cod Commission as part of Falmouth's Local Comprehensive Plan prior to issuance of the Certificate of Compliance, the applicant may request a modification of this decision to delete the open space requirement contained in conditions 23 and 24 above pursuant to section 6.1.4 of the Regional Policy Plan.*

II.) In November of 1994 the applicant requested and was granted a minor modification to the DRI decision which replaced condition 23 with the following:

*The applicant has provided a site plan entitled " Plan of Dedicated Open Space", prepared by Michael McGrath, Professional Land Surveyor, dated October 6, 1994, showing 8.4 acres of open space located on-site and on other Falmouth Hospital property which 8.4 acres shall be set aside as permanent open space. Any change in the reserved open space as shown on said plan shall require a major modification to the DRI permit. As an alternative the hospital may make a cash contribution of ninety thousand dollars (\$90,000.00) to the Town of Falmouth's Open Space Fund or a qualified land trust approved by the Commission to be used solely for the acquisition of open space in Falmouth. Said donation shall be made prior to the issuance of a Certificate of Compliance for the project.*

**THE REQUESTED MODIFICATION:**

The applicant submitted a check for \$90,000.00 to the Cape Cod Commission on April 10, 1996 as well as a request for a modification to this requirement. The applicant is requesting that conditions 23 and 24 be deleted and condition 25 be deleted and replaced with the following language:

***P25. If the Falmouth Hospital site is included within a growth center certified by the Cape Cod Commission as part of Falmouth's Local Comprehensive Plan within two years following the issuance of a Certificate of Compliance, the applicant may request a modification of this decision to delete the open space requirement contained in conditions 23 and 24 above pursuant to Section 6.1.4 of***

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*the Regional Policy Plan. While such a request is possible or pending, the Hospital's cash contribution of ninety thousand dollars (\$90,000.00) for open space, paid by the Hospital on April 10, 1996, as allowed by Condition 23 as modified, shall be held in escrow by the Commission. If the Hospital is included in a growth center so certified by the Commission, and if the Commission on request of the Hospital modifies this decision to delete the open space requirement contained in conditions 23 and 24 above, then escrow sum, with any interest thereon, shall be released to the Hospital. Said escrow sum, with any interest thereon, shall be released to the Conservation Trust Fund of the Town of Falmouth upon the first to occur of any of the following:*

*A. Approval of a Local Comprehensive Plan by the Town of Falmouth Town Meeting, wherein such Local Comprehensive Plan the Falmouth Hospital site is not designated as a growth center:*

*B. Failure of the Commission to certify Falmouth's Local Comprehensive Plan within two years following issuance of the Certificate of Compliance;*

*C. Failure of the Hospital, within sixty (60) days following the Commission's Certification of Falmouth's Local Comprehensive Plan, to request that the Commission modify the decision to delete conditions 23 and 24; or*

*D. Vote of the Commission to deny the hospital's said request that the Decision be modified to delete conditions 23 and 24.*

At the time the DRI was approved the applicant was given a choice of providing open space on site, off site, or making a cash contribution towards open space. The decision about the method of providing open space and the actual donation was to be finalized prior to issuance of a certificate of compliance, as is the Commission's practice. During the final public hearing on this project, the applicant's attorney stated that he did not want to see the open space dedication being made prior to the town finishing the local comprehensive plan. The Commission at that time chose to keep the open space requirement deadline with the issuance of the certificate of compliance.

**TESTIMONY:**

The subcommittee held a public hearing in the Civil Defense Room of Falmouth Town Hall on the requested modification on June 4, 1996. The subcommittee received the following testimony:

Joe Martyna, Manager of Construction Projects for Falmouth Hospital introduced Bob Ament, attorney with Ament and Ament. Mr. Ament introduced Laura Moynihan, his associate.

Mr. Ament stated that when the Cape Cod Commission approved the Development of Regional Impact in 1994 it recognized that Falmouth Hospital might be in an area designated as a growth center. That decision authorized the Hospital to return to the Commission to seek relief from the open space requirement if this growth center designation occurred. He stated that redevelopment in growth centers does not require designation of open space and the recently completed maternity/outpatient center is redevelopment as defined in the Regional Policy Plan. If the Local Comprehensive Plan (LCP) had been completed and if the growth center had been designated no open space requirement would apply. He stated that the Cape Cod Commission is only 7 years old, we are still in a transitional period, the framework for local and regional planning is still being put into place. The LCP regulations were not adopted until 1993 and the towns are working on their plans. The Falmouth Plan will be ready for submission in the next year. The Town Planner has said that Falmouth Hospital will be proposed to be included in a Growth Center and it is certainly logical that it would be so that medical facilities are centrally located.

Mr. Ament added that if the Hospital may be a growth center, and the Town Planner has said that it is likely, then it is a planning mistake and inconsistent with the RPP to require the provision of open space as part of the project. He noted that the same family donated land for hospital purposes and for open space. The Hospital addition is 14,000 square feet plus parking. The RPP would require 8.4 of 20 acres to be dedicated as open space which is 40% of the site. He said that during the hearing it was agreed that a sum of money could be substituted for a dedication of land. He said that the decision contemplated that the Hospital could return if the growth center designation occurred prior to issuance of a Certificate of Compliance (COC). He said that the Hospital has the COC and is now occupied, but the LCP hasn't been completed. He said that if it is consistent with the RPP to not require open space in designated growth centers it is not consistent to require open space at this time. He requested that the Commission hold funds in escrow for a reasonable period to see if growth center designation occurs. If it occurs then the money would be released to the Hospital. He added that it would be poor planning to require open space as part of the recent Hospital expansion. He said that there will still be land to be bought two years from now. There would be no harm to the interest of open space. He said that \$90,000 represents 1000 gifts of \$90 each to the Hospital and noted that it is the entire cost of the Hospital's community benefits program. He noted the benefits the Hospital provides to the community. He concluded by saying that the issue isn't whether open space is good or bad. It is whether it makes sense to impose the open space requirement when there will be a growth center.

Mr. Silverman said that isn't it true that this area has been proposed as a growth center in the Local Comprehensive Plan through a number of drafts of the appropriate element of the Plan. Mr. Ament responded that it is his understanding that it has consistently been proposed as a growth center. He is aware not everyone on the Planning Committee is in favor of such a designation because of access/transportation concerns, but those who are in favor are in the majority.

Mr. Silverman asked had the Hospital also asked for a fee waiver? He had not spoken to that yet. Mr. Ament said yes, but he understood that this is not a matter for the subcommittee. Mr. Silverman noted that the subcommittee could make a recommendation.

Mr. Ament said the fee waiver request is a matter of principle. He thought that this should have been a minor modification and was surprised that a hearing had to be held. A previous amendment was a minor modification.

Ms. Bebout asked Mr. Ament what leads him to believe that the majority of the LCP favors growth center designation. Mr. Ament said that in drafts of the Plan to date the Hospital has been within a designated growth center according to the Town Planner.

Ms. Bebout noted that she serves on a Local Planning Committee. The Commission has certified 2 Local Comprehensive Plans. It is her experience that people are shying away from designation of growth centers. She wonders if the LPC in Falmouth will be successful in making such designations. Mr. Ament said that he believes that this designation makes sense and that the existing infrastructure would allow for more intense growth. He notes that if the area is not designated the open space will be provided.

Mr. Kaufman asked when a growth center is designated, can it apply to one facility or does it encompass a number of facilities? Mr. Guimond responded that it could be one parcel or many. If you are avoiding spot zoning there should be more than one parcel involved. Mr. Olsen recognized Brian Currie, Town Planner, since Mr. Currie had to leave for a Planning Board meeting.

Brian Currie stated that he as Town Planner will recommend the Falmouth Hospital area as a growth center for medical and allied health care professions to the Planning Board. He noted there are multiple medical facilities in this area. The Planning Board to date has not furthered these discussions to the point that it appears in the draft LCP. There is currently no designation for this area in the LCP. There are two access issues that will need to be resolved and will undergo strenuous debate. They've had some debate among the Planning Board and a decision is due in December.

Mr. Reilly asked about the prior modification. Was the deadline extended previously? Mr. Guimond responded that it was not. A modification was done through the regulatory committee and it was to allow the substitution of a cash contribution for land.

Mr. Reilly said that he believes that it is poor public policy to charge charitable institutions for open space.

Mr. Olsen clarified the modification requests. He noted that money was permitted to be substituted for the 8.4 acres. He asked Mr. Ament, then how does your argument hold that the Hospital needs the land for future expansion? You will still retain the land for expansion.

Mr. Ament responded that this is true. But he is missing the point that the money is important as well. Mr. Olsen said he understands that and he believes that is the real argument. Mr. Ament said they would not have the right to argue if the RPP didn't provide for growth centers. Mr. Olsen responded that they don't have a growth center. It is the Commission's practice to require the fulfillment of conditions before a Certificate of Compliance is issued. He noted that Mr. Ament said that it is a mistake for the Commission to require this dedication of open space. The Policy Plan is clear about what is required for open space when the Commission grants a DRI approval with conditions.

Mr. Silverman said that he takes issue that the RPP is clear. Having reviewed the matter in preparation for tonight's meeting, it is clear to him that the RPP contemplates exemption from the open space requirement to encourage certain forms of development in growth centers. Granted, the Falmouth Plan is behind schedule and the area that appears to be likely to designated has not formally received that designation. Certainly the intent of the policy is not altered by something as arbitrary as the particular date by which a particular area is actually designated. Granted there is uncertainty at this particular moment about whether it will be designated. The applicant has complied by putting the money in escrow. He is asking us to maintain the status quo to see if the area is designated. If it is, then doing so would further the policy contained in the RPP as it is now written. He does not see that it is contrary to the RPP.

Mr. Olsen asked for the staff report. Mr. Guimond noted that during the original decision this issue was raised and the subcommittee and the Commission decided to give the Hospital up to the date of the Certificate of Compliance. The modification language allows either a dedication of land or money. They still have these two options. The impervious cover requirement for the zoning district would require at least 40% of the land to be left pervious anyway. The town planner has confirmed this. Staff recommends that the open space requirement be based on present conditions. The DRI should meet the conditions at the time of the Certificate of Compliance. He would be concerned that conditions have not been met at the time a COC is granted. The Commission has very little means of enforcement after this. The growth center standards should only apply to designated and approved growth centers. Staff recommends denial of the modification request. He noted letters received from a member of the Planning Board, Conservation Commission and member of the public.

Mr. Olsen asked for questions from the subcommittee. Mr. Silverman asked Mr. Guimond where staff sees a compliance problem. He noted that money has been placed in escrow that the Commission controls. The issue is only whether the growth center is designated. If its not we keep the money; if it is we release it. Mr. Guimond responded that in this case it is a question of when do you close the book on a project. In the long run, if you start leaving things open it creates a problem.

Mr. Kaufman noted the importance of process. He asked on previous projects have we allowed conditions to be met after Certificates of Compliance?

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Mr. Guimond said on two projects he has been involved with, the Commission has granted partial certificates of compliance. Neither project has been completed and there have been problems with follow through. Mr. Silverman stated that staff doesn't have a concern in this case.

Ms. Bebout said that Eastham recently purchased 63 acres of land. They paid \$18,000 an acre. This is \$10,714/acre. The 8.4 acres is probably worth a lot more than that. Mr. Ament responded that \$90,000 is much better than 8.4 acres.

Mr. Reilly asked staff if any consideration was given to the fact that the Hospital is a nonprofit corporation? Mr. Guimond and Ms. Sferra said that none was given. All applicants are treated the same by the Regional Policy Plan. The Rehabilitation Hospital complied with the open space requirement. Mr. Reilly said he believed that was a for-profit institution. Mr. Guimond was not certain and offered to check.

Mr. Silverman added that there was also no claim that Spaulding Hospital was in a regional growth center or would be in one. Mr. Guimond said that was correct.

Ms. Sferra noted that the cost per acre is determined by a formula in the Open Space Technical Bulletin. In this case, that cost was calculated and the applicant felt it was too high. The applicant submitted information from The 300 Committee noting that there were parcels of land of approximately 8.4 acres that could be purchased for \$90,000 and so it was agreed that this was a reasonable figure. She also noted that in previous cases, applicants had requested the benefit of the reduced standards in the RPP for growth centers prior to designation. The Commission has consistently held that the rules that are in effect at the time an application are submitted are the rules that should be applied. Growth centers have to be designated and certified before you can get that benefit.

Vicky Bebout clarified that the formula would have required more than \$90,000. Ms. Sferra said yes.

Mr. Olsen asked for testimony from the public.

He noted and read a letter from the Falmouth Conservation Commission recommending that the open space requirement be unchanged. Mr. Guimond noted and read a letter from Alan Flear a member of the Planning Board asking that the subcommittee leave the record open for the Planning Board's comments. He noted that the current LCP only includes the Falmouth Technology Park as a growth center. He said he believes there is a question regarding the adequacy of current infrastructure in this area for access purposes.

Elizabeth Cant, Teaticket, said that she believes that it is presumptuous to guess what the Planning Board will decide with regard to the growth center. She feels strongly that we should go by the situation that we have right now. Whenever there is an opportunity to preserve open space it is always a good thing to do. She doesn't know whether to be

amused or appalled by Mr. Ament's statement that open space can be good or bad. She believes that it is always good.

Mr. Ament closed by saying that the framework of regulation is not yet complete. If the LCP was complete and this was not a growth center they would not be here. They are asking for an opportunity to complete the regulatory framework before an irrevocable requirement is made. He noted that the Town Planner has indicated consistently since 1994 that his recommendation is that it be designated as a growth center. He encouraged the subcommittee to look favorably upon the modification request.

Mr. Kaufman moved to continue the hearing to July 11th before the full Commission, keeping the record open until then. Mr. Reilly seconded the motion and it was approved unanimously. Mr. Silverman moved to convene a subcommittee meeting. Ms. Bebout seconded the motion and it was approved unanimously.

Mr. Olsen noted that he felt it was premature for the subcommittee to make a decision since they had not had input from the Falmouth Planning Committee. Mr. Silverman noted that they have heard from the Town Planner. He doesn't mind waiting, but he doesn't see it as an essential thing. Ms. Bebout said she would prefer to wait. Mr. Kaufman also said he believed that it was important.

Mr. Kaufman moved to hold a subcommittee meeting on June 17th at 12 noon at the Cape Cod Commission. Mr. Silverman seconded the motion and it was approved unanimously. Mr. Ament stated that neither he nor the applicant would likely attend. Mr. Olsen said that if the subcommittee had questions, they might ask them of the applicant.

Ms. Bebout moved to adjourn. Mr. Reilly seconded the motion and it was approved unanimously. The meeting adjourned at 8:10 pm.

June 17, 1996 subcommittee meeting:

The subcommittee discussed the Minutes of June 4, 1996. Mr. Olsen noted he thought Ms. Bebout said she served on the Cape Cod Commission's Planning Committee, not the Eastham Local Planning Committee. Mr. Kaufman said there was a statement made by the applicant's representative that the Hospital was a not for profit charitable organization. Mr. Guimond said that in fact, the Rehabilitation Hospital of the Cape and Islands in Sandwich is also a not for profit charitable organization. Mr. Silverman noted that in order to fund-raise, an organization must register with the Commonwealth as a public charity. Mr. Kaufman noted the Commission had required open space conditions of the Rehabilitation Hospital of the Cape and Islands and Cape Cod Hospital. Mr. Silverman said he felt a key issue related to there being or not being a growth center. Mr. Riley suggested that Mr. Ament had spoken to the issue of whether or not the Hospital was a for-profit enterprise in testimony relating to the October 20, 1994 DRI Decision. Mr. Kaufman felt requiring open space in connection with the Falmouth Hospital would be consistent. Mr. Kaufman moved the Minutes of June 4, 1996 be approved as amended. Mr. Silverman seconded the motion. The Subcommittee voted all in favor of the motion.

Mr. Olsen noted Ms. Bebout could not be present due to a family crisis. Mr. Riley asked Mr. Silverman to comment on the letter received from the Falmouth Planning Board.

Mr. Silverman said the vote of the Planning Board was not unanimous. He said the growth center concept had been recommended but that the Planning Board and Town Planner were not in agreement. Mr. Silverman noted the Local Planning Committee is the body which designates areas as growth centers, not the Planning Board. He noted at the same time, the Planning Board was also an important town board. Mr. Silverman said he expected a draft Falmouth Local Comprehensive Plan to be available in January, 1997.

Mr. Riley said he felt that given that a draft plan should be available by January, 1997, allowing the Hospital a 9-month extension did not seem unreasonable. Mr. Silverman said he felt an extension to January, 1997 seemed reasonable, but not an extension for one or two years.

Mr. Olsen said he felt there was a real issue of consistency relating to Conditions put on a DRI project, noting that the applicant was given a choice at the time of the original DRI approval of providing on-site open space, off-site open space or making a cash contribution. He noted there was a controversy at the local level relating to the designation of the growth center. He also noted there was the possibility of additional development in the area (a new court) which would have additional impacts.

Mr. Guimond noted the applicant had put \$90,000.00 into an escrow account which the Commission is holding. He said the Condition was an either-or requirement -- land or cash contribution.

Mr. Kaufman noted the Hospital could take back the escrow monies and provide the Commission with the required amount of open space. Mr. Riley noted the land in question could be more valuable than the escrow amount. Mr. Kaufman asked for clarification as to how the proposed modified Condition would be implemented. Ms. Sferra explained what the applicant was now requesting as a modification.

Mr. Olsen asked about the Zoning District's impervious/pervious cover requirements. Mr. Guimond responded the zoning requirements apply on site. He noted the applicant could approach the Falmouth Zoning Board of Appeals for a variance. Mr. Riley said it was his sense that the applicant was concerned that the Hospital was moving ahead faster than the Falmouth LCP was.

Mr. Silverman said he had not been on the subcommittee but he felt the intent of the original Subcommittee was that the LCP be completed by the time this decision had to be made. Mr. Olsen, who was on the subcommittee, disagreed.

Ms. Sferra noted that when the Condition was originally drafted specifying that the open space contribution be provided prior to the Certificate of Compliance. Mr. Ament asked

the subcommittee to reconsider the deadline. Mr. Ament made the same request to the full Commission which also chose to retain the Certificate of Compliance deadline and not leave the condition open-ended. She noted that Mr. Ament had asked for additional time.

Mr. Riley suggested allowing an extension to January, 1997 as adequate. He said if it was not done by then, then that's it. Mr. Kaufman questioned why Mr. Riley would allow for another extension. Mr. Riley responded that this was the first time he had seen that an applicant was provided with such an option. He said that he felt it was reasonable given that the LCP was not yet ready.

Mr. Kaufman said the Condition was not stopping construction or delaying operation of the Hospital's facility. Mr. Silverman said the funds were already in escrow. He also noted Falmouth had a significant amount of open space.

Mr. Olsen noted that in a June 4, 1996 letter from the Conservation Commission it was noted that Falmouth had a lower percentage of open space than any other town of its size on Cape Cod. Mr. Olsen asked the opinion of staff counsel, Patty Daley on the modification request.

Ms. Daley responded it was unknown if the area was going to be included in a designated growth center. She noted it was unclear when the LCP would be ready. Ms. Daley said it was her opinion that the information the applicant was relying on at this point was very questionable and it would be largely unprecedented to leave it open-ended. Ms. Daley also noted the Subcommittee had existing DRI Condition language to apply. Mr. Silverman noted the draft LCP might be available in January, 1997.

Ms. Daley noted there did not seem to be a hardship on site; that the Hospital had the land available on site to set aside as open space. Mr. Olsen felt it was possible to postpone a vote until July 8, 1996 Subcommittee meeting when all members could be present.

Mr. Kaufman moved the meeting be adjourned. Mr. Silverman seconded the motion. The Subcommittee voted all in favor of the motion. Meeting adjourned at 12:30 pm.

July 8, 1996 subcommittee meeting:

The Subcommittee discussed the project. Mr. Kaufman noted the Commission had received a letter from the Falmouth Town Administrator dated June 25, 1996 indicating the Board of Selectmen were opposed extending the time frame on the project. Mr. Kaufman also noted the Commission had received a letter from the Falmouth Planning Board on June 13, 1996 in opposition to the extension. Mr. Olsen noted the Falmouth Conservation Commission on June 4, 1996 indicated their opposition to an extension. Mr. Kaufman noted a strong feeling on the part of local officials that there should not be an extension of the time frame. He said he felt there was no justification for an extension based on these letters and the testimony received to date on the project. Ms. Bebout said she concurred with Mr. Kaufman.

Mr. Kaufman moved that the Falmouth Hospital expansion modification request be denied. Ms. Bebout seconded the motion. Mr. Olsen noted the agreement of the local elected officials in opposition. He saw no reason to modify a Condition of the Decision further. Mr. Olsen noted the Conditions had been modified once to allow the substitution of a cash payment of \$90,000 in lieu of 8.4 acres of open space. He said he felt a \$90,000 payment was a bargain and had been agreed to by the Hospital's attorney at the June 4, 1996 public hearing. He felt the Conditions gave the Hospital the flexibility to either grant the land as open space or contribute \$90,000 toward off-site open space. Mr. Olsen expressed concern that development in that area would lead to problems in the future, particularly at the key intersection. He said he would prefer to see the restriction of 8.4 acres of on-site open space to help alleviate the development impacts. Mr. Kaufman added the Decision is in keeping with previous decisions on open space. Ms. Bebout noted that the \$90,000 payment worked out to \$11,000 dollars an acre and that this was a bargain. The Subcommittee voted all in favor of the motion to deny the modification request.

Mr. Olsen noted for the record that two members of the Subcommittee were not present. He noted that the Minutes of June 17, 1996 indicate they may have been in favor of a reduced extension of time, not a full two-year extension. Meeting adjourned at 12:15 pm.

**RECORD:**

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file TR# 96011 are incorporated into the record by reference.

**FINDINGS:**

The Commission has considered the Development of Regional Impact modification request of Falmouth Hospital Association, Inc. Based on consideration of such modification, the information presented, Subcommittee and staff recommendations, the Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. The Town of Falmouth does not have a Commission certified Local Comprehensive Plan (LCP).
2. The project site is not located in an approved growth center and there is some question whether it will be identified as such in the Falmouth LCP.
3. That the Board of Selectmen on June 25, 1996, the Planning Board on June 13, 1996, Conservation Commission on June 4, 1996 all sent letters to the Commission opposing the requested modification.
4. That all conditions of the DRI decision should be met prior to issuance of the certificate of compliance.

5. The reduced standards that apply within growth centers should pertain only to growth centers which are actually designated and certified by the Commission.

6. That the \$ 90,000.00 dollars currently held in escrow should be released immediately as specified in condition # 23 of the November 14, 1994 DRI approval.

**CONCLUSION:**

The Commission hereby denies the requested modification of conditions 23, 24 and 25 of the approved Development of Regional Impact (DRI) dated October 20, 1994 and modified on November 14, 1994 for the Falmouth Hospital Expansion, pursuant to Section 12 and 13 of the Act.

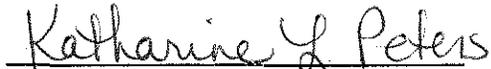
  
Greg Silverman, Chairman

7/25/96  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this 25<sup>th</sup> day of July 1996

  
NAME, Notary

My Commission expires: