



CAPE COD COMMISSION

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Date: October 23, 2003

To: Patrick Butler, Esquire

From: Cape Cod Commission

RE: Development of Regional Impact Hardship Exemption
Cape Cod Commission Act, Section 23

Applicant: Falmouth Hospital Association, Inc.
C/o Patrick Butler, Esquire
Nutter, McClennen & Fish
1513 Iyanough Road
Hyannis, MA 02601

Project: Falmouth Hospital Pavilion Addition
Ter Heun Drive
Falmouth, MA

Project #: HDEX # 02032

Book/Page: Book 3384, Page 215

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Hardship Exemption application of the Falmouth Hospital Associates, Inc. (Applicant) for the Falmouth Hospital Pavilion Addition on Ter Heun Drive in Falmouth, MA pursuant to Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended. The decision is rendered pursuant to a vote of the Commission on October 23, 2003.

PROJECT DESCRIPTION

The proposed project is located at the existing Falmouth Hospital site on Ter Heun Drive, west of the intersection of Rt. 28 and Jones Road in Falmouth, MA. The property is zoned General Business District, and is surrounded by offices and businesses generally related to health care,



and an assisted living facility. Falmouth Hospital is a regional facility serving all of the communities of Upper Cape Cod.

The proposed development consists of a three-story, 63,350-square foot (sf) expansion on the east side of the existing Falmouth Hospital, with a footprint of 20,250 sf. The addition will accommodate: 1) relocation of the existing GI/Endoscopy facility (30,000 sf), 2) expansion of rehabilitation services, 3) space for physician specialists, 4) consolidation of services in the existing hospital as well as the new space, and 5) more efficient delivery of services resulting from a systems analysis completed by the architect. The hospital addition will not require any new parking to be created. The proposed addition does not include new parking as a parking lot was recently added to the east side of the proposed addition and is consistent with MPS 6.2.7. The proposed plans show an overall reduction of parking spaces by 34, due to more efficient placement of designated parking areas in relation to the buildings.

Associated with the hospital expansion is the redesign and reconstruction of the roadway intersection of Ter Heun Drive, Route 28, and Jones Road, to improve the safety and operation of the intersection.

PROCEDURAL HISTORY

The Falmouth Hospital Pavilion Addition was referred to the Cape Cod Commission (CCC) as a mandatory Development of Regional Impact (DRI) by the Falmouth Planning Board on October 31, 2002, and received by the Cape Cod Commission on November 1, 2002. The Project was subject to review under the 2002 Regional Policy Plan (RPP). The Applicant submitted a DRI application and a DRI Exemption application on October 17, 2002.

A duly noticed hearing was opened for both hearings by a hearing officer on December 30, 2002 and continued to February 11, 2003. The February 11, 2003 hearing was continued by a hearing officer to March 27, 2003. The Cape Cod Commission accepted the withdrawal of the DRI Exemption application on February 6, 2003. A hearing officer closed the DRI hearing on March 27, 2003. The Applicant requested and the Regulatory Committee granted an extension for DRI review until May 22, 2004. The Applicant submitted Hardship Exemption and DRI Exemption applications on May 23, 2003. A duly noticed hearing was held on July 23, 2003 at the Gus Cauty Recreational Center in Falmouth, MA. At this hearing the Subcommittee voted to recommend a Hardship Exemption with conditions to the full Commission. The Applicant requested a withdrawal of the DRI Exemption application on July 30, 2003, and the Commission accepted the withdrawal on August 14, 2003. The hearing was closed on October 9, 2003 and the record kept open. A duly noticed final hearing was held before the Cape Cod Commission on October 23, 2003, at which the Commission voted unanimously to approve the Hardship Exemption with Conditions.

MATERIALS SUBMITTED FOR THE RECORD

By Applicant:

- Fax from Brian Currie to M. Twombly - Oct. 21, 2003
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- Letter from R. Ament to L. Cox regarding extension of Historic District along Route 28 – October 16, 2003
- Revised Ter Heun/Rte 28 intersection improvement concept plans – October 15, 2003
- Falmouth Historic District Commission definition of district on either side of Jones Road – October 9, 2003
- Letter from P. Butler with revised conceptual plans for Route 28 and Ter Heun Road intersection improvement – September 24, 2003
- Withdrawal request from P. Butler of the DRI Exemption application dated July 30, 2003
- July 22, 2003 – Letter from David Beecy, Holmes and McGrath, to Eliza Cox, Attorney for the Applicant – via email
- May 21, 2003 – DRI Hardship Exemption and DRI Exemption applications
- April 22, 2003 – Extension agreement to May 4, 2004
- April 18, 2003 – Extension request from P. Butler
- February 24, 2003 – Letter from P. Butler re: clarification of intersection improvements
- February 4, 2003 – Letter from P. Butler re: February 11, 2003 public hearing
- December 16, 2002 – Letter from P. Butler with additional DRI Exemption information
- November 5, 2002 – MHC notification; Exterior lighting fixtures and footcandle map, site plan
- October 29, 2002 – Letter with DRI notification to the town of Falmouth
- October 28, 2002 – Landscaping Plan
- October 25, 2002 – Sign Standards
- October 22, 2002 – email from L. Cox to M. Twombly regarding additional application materials
- October 11, 2002 – DRI Application and support materials; existing conditions, grading drainage and utilities plans.

By State:

- July 16, 2003 – Letter from Bernard McCourt, District Highway Director of Mass Highway, via fax, July 22, 2003

By Town:

- August 7, 2003 – Email from Dan Bacon, Assistant Town Planner, regarding permits
- August 8, 2003 – Email from Falmouth Zoning Board of Appeals
- July 23, 2003 – Letter from Robert Whritenour, Falmouth Town Administrator via fax
- Nov. 1, 2002 – DRI Referral from Brian Currie, Falmouth Town Planner

By Commission Staff:

- July 16, 2003 – Staff Report
- Nov. 14, 2002 – Subcommittee Notice from M. Twombly
- Nov. 6, 2002 – DRI notice of receipt letter from M. Twombly to P. Butler
- Oct. 18, 2002 – Letter from M. Twombly to P. Butler regarding application and fee waiver request.

By Interested Parties:

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- August 20, 2003 – Letter from J. Hand dated August 18, 2003
- August 4, 2003 – Letter from Hillary and Paulette Nolan dated August 1, 2003
- July 31, 2003 – Letter from J. Hand dated July 29, 2003
- Feb. 20, 2003 – Letter from J. Hand dated Feb. 17, 2003
- Feb. 12, 2003 - Letter from J. Hand dated Feb. 10, 2003
- Jan. 13, 2003 – Letter from Jane Hand via fax, and copy of her letter dated Feb. 5, 2001

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

Hearing #1- July 23, 2003

Attorney Patrick Butler described the proposed addition and discussed the financial hardships experienced by the hospital. Mr. Butler stated the project meets the criteria for granting a hardship exemption. Mr. Butler said that the hospital is prepared to address site drive issues with roadway improvements at the intersection of Route 28 and Jones Road/Ter Heun Road.

Attorney Robert Ament, local counsel for the Applicant, stated the proposed improvements were estimated to cost approximately \$650,000. He noted that without the hospital funding the improvements, the state estimates it would take 5 years or more to complete. Mr. Butler said Mass. Highway has accepted the concept plans on intersection improvements for further development.

Mr. Crowell asked for clarification regarding the hardship. Butler replied that the hospital has an overall economic hardship, which would be exacerbated by the cost and time of going through the DRI review process.

Mr. Owens asked if Route 28 would be widened. Mr. Rick Bryant of Rizzo Associates said the road would be widened only within available right-of-way. Mr. Owens asked how much additional traffic would result from the project. Mr. Bryant replied approximately 100 vehicles during the peak hour. Mr. Butler added that the net number of new vehicle trips would be small due to the number of physicians on-site. Mr. Bryant stated that the level-of-service at the intersection is currently LOS F, and improvements would bring the intersection back to LOS D. Ms. Taylor requested that pedestrian countdown devices be included in the design.

Sharon Rooney explained the criteria for granting a DRI Exemption and Hardship Exemption request. She stated that staff believes the hospital expansion presents significant impacts in the area of transportation, due to increased traffic on Route 28, a regional roadway, and therefore does not recommend a DRI Exemption be granted.

Ms. Rooney discussed other issue areas which staff believed did not pose significant impacts, including water resources, natural resources, economic development, hazardous waste and community character. Ms. Rooney stated that the hospital's application outlines several factors including its not-for-profit status, costs of providing health services and reimbursement issues as reasons for finding that a financial hardship exists. She noted the Applicant is requesting relief from costs associated with transportation mitigation. The subcommittee will need to make a determination as to whether a hardship exists, and if so, if relief may be granted in the area of transportation without detriment to the public good or derogating from the intent of the Act.

Glenn Cannon noted that the Applicant did not use ITE trip generation rates or hospital ITE codes, and that the study did not comply with the requirements of the 2002 RPP. He stated that a DRI Exemption should not be granted, as the project poses significant transportation impacts, including impacts to an already hazardous intersection on a regional road, impacts to Bourne on MacArthur Boulevard, and impacts to other regional roads. He supported implementation of the intersection improvements, but noted that this work would not cover the entire cost of mitigation, including trip reduction, that the Applicant would normally be expected to provide.

Ms. Taylor asked staff's opinion of the proposed intersection improvements. Mr. Cannon replied that they would help to improve operations at the intersection. Mr. Virgilio expressed concern about the number of curb cuts adjacent to the intersection. Mr. Cannon replied that the Applicant had done a good job given the constraints they had, although the number of curb cuts was still a concern. Mr. Virgilio asked if the new signals would improve traffic flow. Mr. George Calise, Falmouth town engineer, noted that "intelligent" signal equipment exists today. Mr. Bryant replied that the signal could sense flow on different legs of an intersection.

Mr. Virgilio asked if Mr. Calise was comfortable with the design. Mr. Calise approved of the preliminary design, noting that the Applicant was working closely with the Falmouth town planner and Commission staff on the design.

Mr. Crowell asked if trips to the site accounted for physicians on site. Mr. Cannon replied that trip generation for the project does not give a reduction for physicians reducing the number of trips to and from the hospital. He noted that this would be difficult to quantify.

Public comments were received from George Calise, Falmouth town engineer who stated that the hospital had been willing to resolve problems as they arise.

Linda Simmons expressed concern for the lack of secondary access to the hospital, particularly when Route 28 traffic blocks Ter Heun Drive.

Janet Hand, former Falmouth planning board member, stated her concern for the intersection of Route 28/Ter Heun Drive, and the need for a secondary access to the hospital. She asked when the intersection would be completed. Mr. Butler replied that the Applicant would attempt to have the work completed prior to occupancy. Attorney Ament restated the hospital's willingness to resolve the secondary access issue, but believed it was a local concern.

Alan Fleer, Falmouth planning board, noted he was at the hearing to listen to public input. Tom Spar, Falmouth physician, expressed his interest in relocating to the hospital campus.

JURISDICTION

The Falmouth Hospital Pavilion Addition qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the DRI Enabling Regulations as new private healthcare development greater than 10,000 sf.

FINDINGS

The Commission has considered the application of Falmouth Hospital Association, Inc. for the proposed Pavilion Addition, and based on consideration of such application and upon the information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Section 23 of the Act:

General Findings:

- G.1** The proposed hospital addition will consist of 63,350 sf of new hospital floor space to accommodate existing operations, physician space, and new equipment and services. The addition will allow currently overcrowded uses to expand, and provide for improved care and coordination of in-patient and outpatient hospital services.
- G.2** The project will require a special permit and/or modification of previously granted variances and special permits from the Falmouth Zoning Board of Appeals regarding non-conforming uses and height restrictions. The project will require site plan review from the Falmouth Planning Board.
- G.3** The project includes approximately \$ 650,000.00 for the redesign and reconstruction of the roadway and traffic lights at the intersection of Ter Heun Drive, Route 28 and Jones Road. Falmouth Hospital will work in conjunction with the Town of Falmouth and the Massachusetts Highway Dept. to upgrade this intersection.
- G.4** The Falmouth Hospital has proposed this project to address the increasing demand for medical services in the Upper Cape area, both to a growing and to an aging population. In the past three years, admissions to Falmouth Hospital have increased by 25% and surgical procedures have increased by 20%.
- G.5** Falmouth Hospital relies heavily upon significant philanthropic and charitable giving to meet its capital requirements. The hospital anticipates this project will require the use of philanthropic dollars.
- G.7** Falmouth Hospital is subject to financial constraints existing within the healthcare system at the state and federal level, which place substantial financial burdens on the hospital, mainly due to uncompensated care costs, and uncollectible services.

G.6 The Applicant's Hardship Exemption filing outlines several factors influencing the fiscal environment for a not-for-profit medical center within the healthcare system, which is different from other commercial or business entities. In addition, the application concurs with the RPP as to the need on Cape Cod for high quality, accessible healthcare services to an aging population, while keeping pace with technological advances.

Water Resource Findings:

WR.1 The Applicant has indicated that existing parking will be adequate to accommodate the proposed redevelopment. Therefore, new impervious surface is limited to roof areas and ancillary walkways associated with the proposed redevelopment.

WR.2 The Applicant provided wastewater flows based on a proposal for 21 new doctor offices, and 24,000 sf of new clinic area within the proposed addition. These uses correspond to Title-5 wastewater flows of 5,250 gallon per day (gpd) and 1,800 gpd, respectively, for a total flow of 7,050 gpd.

WR.3 The project is not located in a Marine Water Recharge Area, although project wastewater will be directed to the Falmouth Wastewater Treatment Facility in the West Falmouth Harbor watershed, a Marine Water Recharge Area subject to MPS 2.1.1.2.C.

WR.4 The Applicant submitted a letter from the Falmouth Wastewater Superintendent confirming sufficient capacity at Falmouth's wastewater treatment facility for 7,050 gpd of project wastewater. The Falmouth Wastewater Treatment Facilities Plan was approved as a DRI by the Commission in 2001. Additional capacity has been provided through the Falmouth Wastewater Facilities Plan to accommodate wastewater from future development, thereby enabling the project to meet the 5-ppm nitrogen-loading standard required by MPS 2.1.1.1 and 2.1.1.2.C.3 for Marine Water Recharge Areas.

WR.5 The RPP requires DRIs to meet MPS 2.1.3 for management of stormwater runoff. Runoff from new impervious-surface areas will be directed to new catch basins and existing stormwater infrastructure, including vegetated basins.

WR.6 Standards applicable to DRI's in Wellhead Protection Areas also apply to Potential Public Water Supply Areas (PPWSAs), including a prohibition on hazardous materials above household quantities (MPS and 2.1.1.2.F.3; 2.1.1.2.A.2). The potential for development on the project parcel to impact future public water supplies was evaluated under the Commission's Priority Land Acquisition Assessment Project (PLAAP, 1999). PLAAP assigned a low-priority status to the tract of land on which development is proposed due to incompatibility of water production with existing land-use and natural-resource characteristics. Consistent with this characterization, the Beebe Woods well site (located within the subject PPWSA) was struck from the Town's Water Resource Protection District at Town Meeting in April, 2001. Based on this, MPS 4.3.1.3 and 2.1.1.2.F.3 do not apply to this project.

Natural Resource Findings:

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- NR.1** The proponents provided a natural resources inventory of the project site. According to the NRI, there are no wetlands or vernal pools within 100 ft of the proposed development area. The proposed expansion involves development on a portion of the Falmouth Hospital site that is largely previously disturbed, and as such minimizes disturbance of habitat areas, and thereby complies with the wildlife and plant habitat minimum performance standards.
- OS.1** DRIs are required to provide permanently protected open space. The Falmouth Hospital, including the site of the currently proposed addition, was reviewed as a DRI in 1994, and the Commission decision required the provision of open space in its 1994 decision. The open space conditions were ultimately met in 1996 when a cash contribution of \$90,000 was paid to the Falmouth conservation trust in July 1996.

Transportation Findings:

- T.1** Falmouth Hospital Association, Inc. proposes to add 63,350 sf to an existing 214,651 sf hospital/medical office facility for a total of 273,901 sf on Ter Heun Drive in Falmouth. Ter Heun Drive is a local road as defined in the RPP. The Town of Falmouth does have a certified Local Comprehensive Plan, but it does not designate any growth centers.
- T.2** As stated in the Traffic Impact and Access Study, the proposed hospital addition is expected to generate 1,436 new vehicle trips on an average weekday (718 in and 718 out), 92 in the weekday morning peak hour and 125 in the afternoon peak hour.
- T.3** The proponent has agreed to fund and implement a plan to improve the Palmer Avenue (Route 28)/Jones Road/Ter Heun Drive intersection. The project proponent has estimated this intersection improvement cost at \$650,000. The proponent has agreed to allow Cape Cod Commission transportation staff to review and approve the 25% design plans based on the Route 28/Jones Road Ter Heun Drive Revised Conceptual Plan, dated October 14, 2003 by Rizzo Associates, including community character standards of the 2002 Regional Policy Plan.
- T.4** MPS 4.1.1.1 states *that development and redevelopment shall not degrade safety for pedestrians, bicyclists, or motor vehicle operators or passengers.* The proponent's traffic engineer identified three regional intersections that require safety review under the 2002 Regional Policy Plan. These intersections include Palmer Avenue (Route 28)/Jones Road/Ter Heun Drive, Gifford Street/Jones Road and Route 28/Palmer Avenue. The subcommittee found that this intersection improvement offset the degradation in public safety caused by this project. Therefore, the project complies with MPS 4.1.1.1.
- T.5** MPS 4.1.1.7 requires that *acceptable sight distances shall be met and maintained at all access and/or egress locations for development and redevelopment regardless of project traffic volumes. At a minimum, these shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials' standards for safe-stopping sight distances.* The Applicant's traffic engineer

demonstrated that the existing driveways meet or exceed the minimum stopping sight distance.

T.6 With respect to Goal 4.1.2 (reducing dependence on the automobile), the Applicant has proposed a trip reduction plan that includes the following in-kind strategies:

- Designate an employee to serve as the Transportation Coordinator for the campus who will be responsible for promoting the rideshare program and other travel demand management (TDM) measures. The coordinator will integrate new programs for this facility with ongoing programs in place at Falmouth Hospital. Additionally, the coordinator will reach out to other employees along Ter Heun Drive to extend the benefits of the TDM program.
- Designate parking spaces convenient to building entrances, which will be reserved for carpool or vanpool vehicles.
- Establish an electronic bulletin board to aid in matching employees to carpools and vanpools.
- Provide a guaranteed ride home to carpool participants.
- Continue to provide local shuttle bus services to the Town Center and other local destinations for car-free employees who must conduct errands during the day.
- Provide incentives for employees to rideshare or use alternative modes. Incentives may take the form of weekly drawings for cash prizes.
- As part of the proposed intersection upgrade at Palmer Avenue/Jones Road/Ter Heun Drive, include signal indicators for pedestrians, cross walks and protected "walk" phases.
- Install secure bicycle racks at the proposed facility. Make existing showers at the Hospital available to employees of the new facility to support bicycle use.
- Coordinate the design of the proposed off-site intersection improvements to be compatible with the proposed bicycle path/mixed-use trail being constructed adjacent to the project site.
- Provide a café and ATM in the lobby of the proposed new building to eliminate the need to travel off-site for the services these facilities will provide.
- Provide information for visitors from Martha's Vineyard and Nantucket regarding public transit and hospital shuttle services between the Hospital and ferry terminals.

The employee trip reduction program outlined above partially complies with MPSs 4.1.2.1 and 4.1.2.2. The remaining trip reduction requirements are waived due to financial hardship demonstrated by the Applicant.

T.7 The Applicant submitted a preliminary traffic impact study. To offset the congestion impacts of this project, the Applicant has agreed to design and construct the intersection improvements as outlined in the Route 28/Jones Road Ter Heun Drive Revised Conceptual Plan dated October 14, 2003 by Rizzo Associates. The Cape Cod Commission subcommittee accepted the Route 28/Jones Road/Ter Heun Road signalization upgrade as mitigation for the congestion impacts caused by this project. The need for additional off-site level of service analysis and related mitigation under MPS 4.1.3.4 is waived due to the hardship.

- T.8** MPS 4.1.3.13 requires that *all road and intersection widening or new traffic signals proposed as part of development and redevelopment or used to support development of theoretical mitigation plans must be consistent with community character and not degrade scenic or natural resources. Road and intersection widening and new traffic signals shall not be used as actual mitigation or to support theoretical mitigation in local or regional historic districts.*

The Applicant submitted a conceptual plan dated January 8, 2003 by Rizzo Associates for improvements at the intersection of Route 28/Jones Road/Ter Heun Drive. Proposed improvements include upgraded signalization, road widening, relocation of utility poles, and tree removal. All proposed work is located within the existing right-of-way. The intersection upgrade, including widening is critical to the safe, effective operation of the traffic signal at Route 28/Jones Road/Ter Heun Road. Further, the Applicant has agreed to implement measures to mitigate impacts to community character including traditional style traffic signal hardware, imprinted and colored crosswalk treatment, and tree replacement.

- T.9** The expedited construction of the Route 28/Jones Road/Ter Heun Road intersection through the utilization of private funding from Falmouth Hospital is a significant benefit to the community and will result in substantial improvements to traffic flow, public safety and access to the hospital property.
- T.10** According to legislation establishing the Falmouth Village Green Local Historic District, the Historic District includes a strip 100' wide on the west side of Palmer Avenue/Route 28, and 200' to the east side of Palmer Avenue/Route 28. The northerly extent of the District terminates at the intersection of Jones Road. The revised concept plan dated October 14, 2003 minimizes the amount of roadway widening within this quadrant of the intersection to avoid impacts to the historic district. The safe function of the intersection requires the widening proposed on the concept plan for all four legs of the intersection.
- T.11** The existing tree canopy along Route 28/Palmer Avenue and Jones Road contribute to the character of Falmouth village. The proposed widening and sidewalk construction requires the removal of up to 8 trees ranging in size from 8" diameter at breast height (dbh) to over 30" dbh. Several of the trees proposed to be removed are in poor condition or are species that are susceptible to pest or disease problems. The Applicant has agreed to replace any trees removed as a result of the proposed intersection improvements at a ratio of 2:1. Further, the Applicant has agreed to incorporate measures into the design of the intersection improvements to ensure consistency with community character and the Falmouth Village Green Local Historic District, including traditional style traffic signal hardware and imprinted and colored crosswalk treatment. The Applicant has agreed to public notification of proposed improvements at the 25% design level to allow public input. Therefore, the proposed improvements are consistent with MPS 4.1.3.13 .

Economic Development Findings:

- ED.1** The Falmouth Hospital expansion will provide needed equipment and space to serve healthcare needs on the Upper Cape, particularly in the areas of cardiology and oncology. This is consistent with the RPP goal to encourage improvement in the availability of and services for healthcare on Cape Cod.
- ED.2** The Falmouth Hospital expansion project is expected to re-locate approximately 22 full-time physicians and 75 full-time professional and administrative support personnel.
- ED.3** The Applicant noted that the project, budgeted to cost approximately \$ 7,300,000, will utilize local labor and construction companies, to the extent that they are available on Cape Cod.
- ED.4** The project proposal will not significantly increase the number of jobs, however the types of jobs created are generally livable wage jobs and are high-value, knowledge-based for health facilities.
- ED.5** The Applicant has received a \$ 20,000 grant of matching funds for a feasibility study to explore comprehensive use of renewable energy options, energy efficiency measures, building construction and materials standards based on the LEED checklist for "green" building, and energy modeling to optimize energy systems incorporated into the building.
- ED.6** The study listed in finding # ED5 addresses all RPP MPSs and ODRPs, including underground utility lines, the development of energy-saving transportation alternatives, and the incorporation energy efficiency measures that exceed state standards.
- ED.7** The project proposal meets the Minimum Performance Standards of the RPP for Economic Development issues.

Affordable Housing Findings:

- AH.1** Based upon the information submitted, it appears that the addition will have very little impact upon net employment at the Hospital.

Hazardous Materials/Wastes Findings:

- HM.1** The DRI application included a Venn Diagram of Falmouth Hospital's Waste Management Program and an outline of the facility's Hazard Communications Program. These documents provided sufficient information for the Commission to determine that the Applicant has or will have one or more programs in place to address MPS 4.3.1.1.
- HM.2** The Venn Diagram of Falmouth Hospital's Waste Management Program indicated the Hospital understands the need to segregate and manage hazardous waste (primarily chemicals) from infectious and sharps waste. The Applicant also submitted an outline of the facility's Hazardous Materials Management Plan, which also deals with hazardous materials emergencies. Taken together with the copies of the Hospital's Chemical

Response and Mercury Spill protocols, MPS 4.3.1.2 has been addressed for the post-construction phase of the project.

Community Character Findings:

- CC.1** The Falmouth Hospital Pavilion Addition will be three stories, and constructed of brick with bands of glass windows, consistent with the design and materials of the existing buildings on site. As a 63,350 sf addition, the project exceeds the 50,000 sf threshold for full screening. While the project will be quite visible from parking areas that currently surround the hospital building, and somewhat visible from the hospital entrance drive, it will not be visible outside the hospital complex. This wooded setting and the site's elevation substantially above Route 28/Palmer Avenue are consistent with MPS 6.2.5.
- CC.2** The addition will be constructed on the east side of the existing building, and one story will be recessed into an earthen berm on the site. The berm is presently wooded with a mature stand of trees and shrub vegetation, and will partially screen the new addition. While some trees may be removed during construction, the majority will remain untouched, and proposed landscaping will provide additional screening.
- CC.3** The hospital is not visible from Route 28, a regional roadway, due to topography, distance, and screening from mature woodlands surrounding the site.
- CC.4** There are no historic structures on the site, and the Mass. Historical Commission determined that the proposed project is unlikely to affect significant historic or archaeological resources.
- CC.5** The proposed addition does not require additional parking, as parking was recently expanded.
- CC.6** Proposed signs are painted aluminum post and panels. The Applicant states that external illumination will comply with the RPP requirements.
- CC.7** Minimum Performance Standard 6.2.10 states that *exterior lighting...shall comply with standards including design, light source, total light cutoff and foot-candle levels as defined in...Technical Bulletin 95-001*. The project involves relocation of 3 to 5 existing bollard lights to supplement illumination along pedestrian paths, and relocation of 3 existing pole walkway lights to provide illumination for pedestrian paths and building entrances. The Applicant provided a foot-candle plan. The pole-mounted walkway lights conform to Technical Bulletin 95-001, but the bollard lights are not fully shielded. However, based on the limited number of bollards to be used, the fact that *existing* lights will be re-used, and given the proposed location of the bollards on the project site, the Commission found that the proposed exterior lighting was consistent with MPS 6.2.10. This Finding was also based on an understanding that no other exterior lights were proposed.

CONCLUSION

Based on the findings above, the Commission hereby concludes:

Due to the nature of this not-for-profit business, its heavy reliance on philanthropy for capital expenditures, and in light of its substantial commitment to fully reconstruct the Route 28/Jones Road/Ter Heun Drive intersection, the Cape Cod Commission finds that a Hardship Exemption is appropriate. A literal enforcement of the provisions of the Act would involve additional transportation mitigation that would represent a financial hardship to the Applicant. Partial relief from remaining transportation standards may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act.

The CCC hereby approves with conditions the Hardship Exemption application of Falmouth Hospital Association, Inc. for the Falmouth Hospital Pavilion Addition, provided the following conditions are met:

GENERAL CONDITIONS

General Conditions:

- G.1** The proposed Falmouth Hospital Pavilion Addition shall be constructed in accordance with the following final plans: Holmes & McGrath plans number 81-1-26A, and dated September 29, 2002 including Layout Plan, Existing Conditions Plan, Grading, Drainage and Utilities Plan; Elevation Plans from SMMA, Hoskins and Scott numbers A1.01, A1.02, A1.03, A1.04, A2.01, A2.02, C1.01 dated September 30, 2002; Ter Heun Intersection concept plans (including landscaping) by Rizzo Associates dated October 14, 2003.
- G.2** This DRI Hardship Exemption decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G.3** Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G.4** The Applicant shall obtain necessary state and local permits for the proposed project.
- G.5** No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- G.6** Prior to issuance of a building permit for any phase of proposed construction, the Applicant shall submit final plans as approved by local boards for review by Commission staff to determine their consistency with this decision and/or information submitted as part of the DRI review. If the final plans approved by local boards are inconsistent with

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this decision and/or supporting information, then they shall be reviewed subject to Section 7 of the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/30/02 and as amended from time to time.

- G.7** Prior to issuance of a demolition permit or building permit for any phase of construction, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a building permit have been met.
- G.8** The Applicant shall provide the Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision until such time as the applicant receives a Final Certificate of Compliance. The annual progress report shall describe the status of local development permitting and project construction, including the expected date of commencement of site preparation work. The Applicant shall report any project changes in the annual progress report.
- G.9** Prior to receiving a temporary or Final Certificate of Occupancy from the Town of Falmouth, the Applicant shall obtain a Final Certificate of Compliance from the Commission.
- G.10** The Applicant shall be responsible for providing proof of recording of the Decision prior to issuance of a Preliminary Certificate of Compliance.
- G.11** The Applicant shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.
- G.12** The intersection of Route 28 and Ter Heun Drive will be improved at the cost of approximately \$ 650,000.00 to be paid by Falmouth Hospital Association, Inc.
- G.13** The Commission requires 30 days notice prior to all certificates.

Water Resources Conditions:

- WR.1** Title 5 wastewater flows for the proposed addition shall be limited to 7,050 gallons per day.

Transportation Conditions:

- T.1** Prior to the issuance of a Preliminary Certificate of Compliance for the proposed Falmouth Hospital addition, the Applicant shall submit to Cape Cod Commission transportation staff 25% design, infrastructure and landscape plans for the Route 28/Jones Road/Ter Heun Drive intersection for review and approval prior to submission to the Massachusetts Highway Department (MHD). Design plans shall include the following: installation of ornamental signal hardware; imprinted or textured and colored crosswalk pavement; count down pedestrian signal heads; the quantity and sizes of trees to be removed and replacement at a size of 4" caliper and ratio of 2:1; and the relocation of

utility poles. All proposed work shall occur within the existing public layout or on property owned by the Falmouth Hospital. Commission staff shall review and comment on the 25% plans within thirty (30) days of submission. Such review and approval shall be based on the Applicant's conformance with the conceptual intersection improvement plan submitted by Rizzo Associates and dated October 14, 2003.

The Applicant shall submit to Cape Cod Commission Transportation staff 75% and 100% design plans for the Route 28/Jones Road/Ter Heun intersection for review and comment. The 100% design plans shall be provided to the Cape Cod Commission staff at least thirty (30) days prior to implementation. Modifications made during the development of the 75% and 100% design plans that are in accordance with the operational characteristics planned for the project shall be considered as Minor Modifications #1 and approved by Commission staff.

T.2 Prior to Final Certificate of Compliance, the Applicant shall construct roadway improvements at the Route 28/Jones Road/Ter Heun intersection based on the design plan approved by Cape Cod Commission transportation staff as outlined in condition T1.

T.3 Prior to occupancy, the Applicant shall implement the following trip reduction plan:

- Designate an employee to serve as the Transportation Coordinator for the campus who will be responsible for promoting the rideshare program and other travel demand management (TDM) measures. The coordinator will integrate new programs for this facility with ongoing programs in place at Falmouth Hospital. Additionally, the coordinator will reach out to other employees along Ter Heun Drive to extend the benefits of the TDM program.
- Designate parking spaces convenient to building entrances, which will be reserved for carpool or vanpool vehicles.
- Establish an electronic bulletin board to aid in matching employees to carpools and vanpools.
- Provide a guaranteed ride home to carpool participants.
- Continue to provide local shuttle bus services to the Town Center and other local destinations for car-free employees who must conduct errands during the day.
- Provide incentives for employees to rideshare or use alternative modes. Incentives may take the form of weekly drawings for cash prizes.
- As part of the proposed intersection upgrade at Palmer Avenue/Jones Road/Ter Heun Drive, include signal indicators for pedestrians, cross walks and protected "walk" phases.
- Install secure bicycle racks at the proposed facility. Make existing showers at the Hospital available to employees of the new facility to support bicycle use.
- Coordinate the design of the proposed off-site intersection improvements to be compatible with the proposed bicycle path/mixed-use trail being constructed adjacent to the project site.
- Provide a café and ATM in the lobby of the proposed new building to eliminate the need to travel off-site for the services these facilities will provide.
- Provide information for visitors from Martha's Vineyard and Nantucket regarding

public transit and hospital shuttle services between the Hospital

- T.4** The Applicant shall conduct a public informational meeting in conjunction with the Massachusetts Highway Department upon submission of the 25% design plans for the Route 28/Jones Road/Ter Heun Drive intersection. The Applicant shall submit documentation to Commission staff that all abutters to the proposed intersection improvements have been notified of said meeting. Prior to the public meeting, all trees to be removed shall be tagged in the field.
- T.5** The Applicant agrees to submit 25% design plans (including infrastructure and landscape plans) for informational review by the Falmouth Historic District Commission and the Falmouth Tree Warden.

Hazardous Materials:

- HM.1** If the Beebe Woods Well Site Water Resources Protection District is ever re-designated as such, or other action occurs that results in the Falmouth Hospital site being included in a Potential Public Water Supply Area or a Wellhead Protection District/Zone II, then the Hospital shall report such action to the Cape Cod Commission for a review of the Hospital's compliance within the addition with the Hazardous Materials and Waste Management section of the Regional Policy Plan by the Commission or its designee.
- HM.2** The Hospital shall maintain a Hazardous Materials Management Plan, a Waste Management Program, a Chemical Response Protocol, a Mercury Spill Protocol and a Hazard Communications Program as generally outlined in the DRI application for this project.
- HM.3** Prior to issuance of the Final Certificate of Compliance from the Commission, the Hospital shall submit evidence to the Commission that it has taken steps to eliminate, to the greatest extent feasible, the use of mercury-containing medical devices (thermometers, blood pressure gauges, etc.) in the new facility. The Hospital shall also submit evidence to the Commission that it has established a program to properly dispose of fluorescent bulbs and other non-medical mercury-containing products (if any). Such program may include but not be limited to establishment of a Universal Waste collection program on site, or evidence that a contract for service has been established with a licensed, permitted vendor, or both.

Community Character

- CC.1** The Hospital shall construct the exterior lighting for the project consistent with MPS 6.2.10 and Technical Bulletin 95-001. The Hospital shall use existing (relocated) bollard lights and pole-mounted walkway lights. There shall be no other exterior lights used. Should unexpected conditions arise during construction that require redesign of the exterior lighting, including substitutions of fixture heads, or addition of new fixtures, the Applicant shall obtain approval from Cape Cod Commission staff prior to the installation of such fixtures or fixture heads consistent with Section 7.0 of the *Administrative*

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Regulations. Modifications made during construction that are in accordance with MPS 6.2.10 and Technical Bulletin 95-001 may be considered as Minor Modifications #1 and may be approved by Commission staff.

- CC.2** Prior to issuance of a Final Certificate of Compliance from the Commission, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of this decision, Technical Bulletin 95-001 and MPS 6.2.10.
- CC.3** If all required site work and/or landscape improvements, including replacement of trees removed during construction of the improvements at the Route 28/Jones Road/Ter Heun Drive intersection, are not complete at the time a Final Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The check shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the Applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed within six (6) months of issuance of a Final Certificate of Compliance from the Commission.
- CC.4** Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit a draft maintenance contract for all proposed landscaped areas and proposed tree replacement at the intersection of Route 28/Jones Road/Ter Heun Drive based upon guidelines provided by Commission staff. Prior to issuance of a final Certificate of Compliance from the Commission, the Applicant shall provide a fully executed landscape maintenance contract for three (3) full growing seasons.
- CC.5** Plant materials specified by this decision may be substituted with prior written approval of Commission staff.

The Cape Cod Commission hereby approves with conditions the application of the Falmouth Hospital Pavilion Addition as a Development of Regional Impact Hardship Exemption pursuant to Section 23 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Falmouth Hospital Pavilion Addition in Falmouth, MA.



Susan Kadar, Chair



Date

Commonwealth of Massachusetts

Barnstable, ss.

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Approved, October 23, 2003

On this 28th day of October, 2003, before me personally appeared
Susan Kadar, to me known to be the person described in and who executed
the foregoing instrument, and acknowledged that she executed the same as her free act
and deed.

Kerien Ann Cahoon
Notary Public
Commonwealth of Massachusetts

My Commission Expires:



THIS ACKNOWLEDGMENT ATTACHED AND EMBOSSED TO Hardship Exemption Decision-
Falmouth Hospital Addition SIGNED BY Susan Kadar, Chair, DATED 10/28/03.