



CAPE COD COMMISSION

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Date: February 20, 2003

To: Ren Drews
Realty Resources Chartered
247 Commercial Street
Rockport, ME 04856

From: Cape Cod Commission

Applicant: Realty Resources Chartered

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

Project: Bourne Assisted Living

Project #: TR # 02051

Lot/Plan: Lot #7 Plan 24204C; Lot #8 Plan 24204D
Cert. of Title: 18176

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Realty Resources Chartered (Realty Resources or Applicant) as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Bourne Assisted Living facility (the Project). The decision is rendered pursuant to a vote of the Commission on February 20, 2003.

PROJECT DESCRIPTION

The project location is the site of the former Barnstable County Hospital, on the west side of County Road in Bourne, MA. The property is approximately 65.6 acres of land, most of which is undeveloped. The applicants are leasing the parcel from the County, and propose to construct an eighty-four unit, 100% affordable, independent elderly housing and assisted living facility substantially within the footprint of the former county hospital complex. Additionally, the

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Thorne Clinic, an existing mental health outpatient clinic, will remain on the property with its associated driveway and parking. The applicants propose to demolish the majority of the existing hospital and other associated buildings. However, the former doctor's quarters, which currently houses AmeriCorps, and two other historic structures close to County Road, will be preserved. The location of the proposed new building is also set back from County Road to preserve the historic campus-like setting within a mature forest and preserve a stone gateway at the entrance to the site.

The Town of Bourne will hold a conservation restriction on approximately 37 acres of the property. The complex will be operated and maintained by Senior Living Residences, LLC of Boston, Massachusetts.

The proposed facility will consist of the construction of a new two and one-half story, wood-frame building of approximately 85,000 square feet in gross floor area. The new building is proposed to be constructed in the same general area as the existing buildings in order to reduce its visibility from County Road. On-site supervisory staff, dining facilities and common community services will be provided in the new building. A total of 70 parking spaces are proposed. The applicant proposes to build a new wastewater treatment facility with a capacity to treat wastewater from the assisted living building, the Thorne Clinic, and remaining buildings on, and adjacent to, the project site.

PROCEDURAL HISTORY

The project was referred to the Commission on Feb. 26, 2001 by the Bourne Planning Board. The Commission received the referral on Feb. 26, 2001. A hearing officer opened a hearing on April 25, 2001 for procedural purposes and closed a hearing on July 23, 2001. The project has received three extensions of the decision period for DRI review, to March 23, 2002, September 20, 2002, and September 20, 2003. The project was subject to review under the 1996 Regional Policy Plan (RPP).

A duly noticed public hearing pursuant to Section 5 of the Act was conducted by a subcommittee of the Commission on January 6, 2003 at the Bourne Middle School, where public testimony was received. The hearing was closed and the record kept open. A subcommittee meeting was held on Feb. 3, 2003, to receive additional information from the applicant. At this meeting, the subcommittee voted unanimously to recommend an approval with conditions to the full Commission. The Commission opened a final hearing on February 20, 2003, at the Assembly of Delegates Chamber in Barnstable, MA. At the conclusion of this hearing the Commission voted unanimously to approve the project with conditions.

MATERIALS SUBMITTED FOR THE RECORD

By Applicant:

- Feb. 26, 2001 - Site plan, topography plan, utilities plan
- Oct. 12, 2001 – Overall site plan
- Dec. 14, 2001 – Financial statements, project overview, Memorandum of Intent

- Dec. 21, 2001 – MHC Project Notification form
- Jan. 2, 2002 – Letter from Stacey Weinstein, Mass. Historical Commission, to Robert Fitzgerald
- Aug. 13, 2002 – Meeting notes from Ren Drews to Commission Staff, County staff, HAC
- Aug. 14, 2002 – Copy of a letter from Gay Wells and a site density analysis to Paul Ruchinskas
- Aug. 23, 2002 – Fee waiver request from Ren Drews to Executive Committee
- Sept. 26, 2002 – Letter from Scott Horsley, Horsley and Whitten, to Realty Resources
- Oct. 15, 2001 – Overall Site Plan 1"=100', Site Development Plan from Coastal Engineering
- Oct. 24, 2002 – Fax from Stephen Minassian to applicant
- Oct. 28, 2002 – Site plan, existing conditions, Layout & Materials, Grading & Drainage, Utilities, Landscape & lighting, first and second floor plans, elevations; Transportation information; Economic Development narrative; Hazardous Materials and demolition plans
- Nov. 1, 2002 - Letter and color photos to Mass. Historical Commission
- Dec. 5, 2002 – Traffic accident data, monitoring well logs, plan with additional wells
- Feb. 3, 2003 – Revised site plans from Coastal Engineering
- Feb. 3, 2003 – Letter from Mark Zielinski, County Administrator, outlining preservation efforts for historical buildings
- Feb. 5, 2003 – Outdoor lighting fixture cut sheets, lighting levels, Assembly of Delegates approval of area for conservation restriction dated 12/30/98, revised set of site development plans
- Feb. 10, 2003 – Revised site density calculations
- Feb. 18, 2003 – Full size revised site plans

By Town Officials:

- Nov. 11, 2002 – Letter from Bourne Water district dated 12/6/01, to Robert Fitzgerald
- Feb. 23, 2001 – DRI referral from the Bourne Planning Board
- Jan. 6, 2003 – Email from Mark Tirrell, member of the Bourne Selectboard, to subcommittee

by County Officials:

- Sept. 27, 2000 – Letter from M. Zielinski to Paulette Vass
- April 17, 2001 – Letter from County Commissioners to Bourne Selectmen
- Aug. 2, 2001 – Letter from M. Zielinski to Realty Resources
- Nov. 20, 2002 – Letter from M. Zielinski to Bourne Selectmen
- Dec. 4, 2002 – Letter from County Commissioners to Bourne Selectmen
- Dec. 9, 2002 – Letter from M. Zielinski to Bourne Selectmen regarding ground lease
- Jan 18, 2002 – Fact Sheet
- Jan. 31, 2003 – Letter from M. Zielinski regarding reuse of County Hospital Buildings
- Feb. 5, 2003 – Copy of Barnstable County Ordinance 98-26, adopted December 16, 1998 by the Assembly of Delegates, regarding land to be placed aside under conservation restriction, and references Land Court Plan # 24204

by Commission staff:

- May 7, 2001 – Letter from G. Wells to Realty Resources
- July 25, 2001 – Letter from M. Fenn to Jane Gumble, DHCD
- Aug. 6, 2001 – Letter from M. Twombly to Jane Gumble, DHCD
- Feb. 5, 2002 – Letter from M. Twombly to Realty Resources
- Feb. 20, 2002 – Project update from M. Twombly to subcommittee
- July 12, 2002 – Letter from M. Twombly to Realty Resources
- July 18, 2002 – Letter from M. Twombly to Realty Resources
- Aug. 14, 2002 – Memo from M. Twombly to Cape Cod Commission Regulatory Committee regarding filing and extension fee waivers
- Aug. 15, 2002 – Letter from M. Twombly to Robert Fitzgerald, Coastal Engineering
- Aug. 19, 2002 – Letter from M. Twombly to Mark Zielinski, County Administrator
- Oct. 11, 2002 – Project update from M. Twombly to subcommittee
- Nov. 13, 2002 – Fax from M. Twombly to Realty Resources
- Dec 13, 2002 – Memo from M. Twombly to subcommittee
- Dec. 16, 2002 – Staff Report, memo, and accompanying DRI application submittals
- Jan. 22, 2003 - Letter from Andrea Adams to M. Zielinski

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

TESTIMONY

A duly noticed public hearing was held January 6, 2003, at the Bourne Middle School, to hear testimony. Ren Drews of Realty Resources explained the successful funding of this 100% affordable housing project, and pointed out the need to move ahead as quickly as possible to meet required expenditures according to a very tight schedule. Bob Fitzgerald of Coastal Engineering described the site plan and wastewater system. Pat Fiero of Housing Assistance Corp. said that HAC is the local partner for the project. She stated that a local advisory committee will be formed to have long-term oversight of the project. Mark Zielinski, County Administrator, said the project has the full support of the County Commissioners, particularly due to the 100% affordability and the conservation restriction on much of the remaining property.

Commission staff summarized their findings in the Staff Report. One remaining issue was the location of the leachfield and the technology of the wastewater treatment facility to meet the minimum performance standards for nitrogen loading at the property boundary. The second was preservation of the original County Hospital buildings, which are eligible for the National Register of Historic Places. Ms. Korjeff reported that MHC and the Commission will have to be satisfied that the applicants have researched and exhausted all possibilities for re-use of the existing historic buildings, prior to any demolition. The final determination will depend on approval by MHC.

Mr. Aitchison asked about wastewater calculations, and Mr. Michaud said the Thorne Clinic was included.

Ms. Kadar asked about the number of doctors, and Mr. Michaud answered that the applicant had indicated there would be no doctors in the Thorne Clinic.

Ms. Kadar asked about redirecting the leachfield outflow away from the wetlands. Mr. Michaud said the leachfield may have to be located closer to the assisted living facility.

Mr. Virgilio asked if Bourne fire and safety representatives had visited the site regarding emergency access and safety. Mr. Drews said he would set up a meeting with them immediately.

Mr. Aitchison asked about insuring affordability. Mr. Zielinski said that if there were to be any change in use, it would have to go before the Assembly of Delegates.

Mr. Randolph asked about asbestos analysis. Ms. Korjeff said it would be managed in the demolition, not through the MHC, as conditioned by the Commission.

Ms. Kadar questioned the historic value of the "nurse's building". Ms. Korjeff said that buildings over 50 years old are considered significant, and many of the original buildings on the site were built in 1918. She further explained that the significance of historic buildings also included their purpose, historic representation, and link to unique period of time. She stated that MHC would want alternatives to demolition researched before they would allow any demolition.

Mr. Deane asked why it took so long for MHC to respond. Ms. Korjeff noted that MHC had requested photo documentation in 1999, but the applicant didn't provide any until October of 2002, after they had received their funding. Ms. Korjeff said MHC had done a site visit in December of 2002.

Mr. Randolph asked if the public health issues of asbestos conflicted with the desire to save a historic building. Ms. Korjeff said that asbestos is not dangerous until it is disturbed. Restoration of any buildings would require clean up by the proper contractors. Mr. Drews said that the project contains no provisions or funding to re-use the nurse's building, plus it would challenge their "lease-up" if a vacant building were left on the site. Mr. Zielinski concurred, stating that the building lacks a heating system and has other code-related problems.

Public testimony:

Jim Grady, Selectboard Chair, stated that the Selectboard and town are in favor of the project.

Mark Tirrell, member of Bourne Selectboard, spoke in favor.

Joseph Ferrare, Bourne representative to the Assembly of Delegates, said the public has shown support in conversations with him.

Coreen Moore, Bourne town planner, said she was pleased the entranceway to the site was being preserved. She also said that Bourne had done an inventory of the site and knew the buildings were historic. She asked the applicant to communicate to her regarding any waivers they would need.

Joseph Walters asked about potential future expansion on the site. The applicant stated there could be no further expansion due to site density requirements in Bourne.

Ruth Walters asked about the location of the wetlands and the conservation restriction.

Diane Spears asked about retaining trees along County Road, about lighting, and voiced concerns about potential odors from the treatment facility. Ms. Korjeff said the park-like entryway was being preserved as is. Mr. Randolph said Commission decisions require that lighting does not spillover onto adjacent properties. Mr. Fitzgerald said the treatment facility is under the new building and will not have any odors.

JURISDICTION

The proposed Bourne Assisted Living facility qualifies as a Development of Regional Impact (DRI) under Section 3(g) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of "any development that is planned to create or add 30 or more residential units ...".

FINDINGS

General Findings

- G.1** The proposed assisted-living center will consist of 24 independent- and 60 assisted-living units on a 65.6-acre parcel of County owned land subject to a lease agreement between the applicant and the County. The parcel is presently occupied by the former Barnstable County Hospital complex, other detached buildings, and an out-patient service clinic (Thorne clinic).
- G.2** The project will require a variance from the Bourne Zoning Board of Appeals for the number of dwelling units per building.
- G.3** The project will require a waiver from the Bourne Planning Board for a reduction in the number of parking spaces required by the local bylaw.
- G.4** The project will require a special permit from the Bourne Planning Board for density under the Bourne "open space community" bylaw.
- G.5** The county and applicant are retaining existing public parking areas to insure that the property under the conservation restriction to be held by the town of Bourne, is accessible to the public for passive recreation.

Water Resource Findings

WR.1 Title-5 wastewater flows from the proposed assisted living facility will be 12,600 gallons per day (gpd). Total aggregated wastewater flows of 14,670 gpd (which includes flows from the assisted-living facility and 2,070 gpd from the Thorne Clinic and existing structures remaining on the adjacent County-owned parcel, as required by Title 5 wastewater regulations) will be treated by a Bioclere treatment facility under a MADEP Groundwater Discharge permit (GWDP) to 10 (parts per million) ppm.

The project's 14,670 gpd wastewater flow is comparable to existing approved County Hospital flows of 14,330 gpd and 1,320 gpd for existing adjacent residences currently on their own septic systems and subject to aggregation of flows as part of this project.

WR.2 Based on the wastewater flows described in Finding WR.1 and reported landscaped areas and impervious surfaces (2.48 acres and 3.58 acres, respectively, according to Table 4, *Nitrogen-Loading - Proposed Assisted Living, Barnstable County Hospital*, DRI compliance narrative), the project will meet the regional 5-ppm nitrogen standard (MPS 2.1.1.1) with a nitrogen load of less than 2 ppm nitrogen.

WR.3 MPS 2.1.2.2 requires the project to "*achieve tertiary treatment with denitrification that meets a maximum 5 ppm total nitrogen discharge standard in the groundwater at the downgradient property line*". The applicant must demonstrate that groundwater moving off site from the wastewater leachfield will meet the 5-ppm nitrogen standard through groundwater-quality monitoring.

WR.4 The project site is located in the Hen Cove watershed, a subsystem of the greater Red Brook /Pocasset Harbor marine embayment system and a Marine Water Recharge Area (MWRA) as defined by MPS 2.1.1.2.C and Water Resources Classification Map II. Based on land uses allowed by current zoning in the Hen Cove watershed, the embayment is not projected to experience nitrogen loading near or above its aggregate critical nitrogen load (Cape Cod Surface Water Management Study, 2002). Therefore, the project meets MPS 2.1.1.2.C.1.

WR.5 The project is located in a Potential Public Water Supply Area (PPWSA, MPS 2.1.1.2.F; Water Resources Classification Map I) that has been assessed under the Commission's Priority Land Acquisition Assessment Project (PLAAP, 1999). Developments of Regional Impact in PPWSA's are generally subject to the same hazardous-material and nutrient-loading restrictions applied to projects located in Wellhead Protection Areas (WHPA, MPS 2.1.1.2.A).

Through the PLAAP process, the project parcel was given low-priority status for future water-supply development due to existing land-use and natural-resource characteristics associated with the parcel and surrounding areas. Based on the PLAAP assessment and a December 6, 2001 statement issued by the Bourne Water District declaring no interest in the parcel for water-supply development, MPS 2.1.1.2.F does not apply to the parcel.

WR.6 Plans submitted by the applicant to the Commission on February 3, 2003: Drainage and Grading Plan, SD-4 dated January 31, 2003, describe on-site stormwater discharge to

groundwater, as required by the RPP (MPS 2.1.1.6). Stormwater treatment will be provided by vegetated swales for stormwater runoff from the parking area on the west side of the assisted-living facility. Stormwater runoff from the remaining new impervious areas will be directed to catch basins and subsequently to subsurface infiltration basins for direct discharge to groundwater on the east side of the assisted-living facility. Management of stormwater runoff from existing parking areas, which currently discharge stormwater runoff from the Thorne clinic and northern parking areas to nearby surface outfalls, will remain unchanged.

Natural Resources/ Open Space Findings

NR/OS.1 The undeveloped portions of the project site are located in a Significant Natural Resource Area (SNRA) due to the presence of unfragmented forest habitat. Wetlands are present on the site, but all development is located well away from wetlands and their 100 ft. buffers. In addition, the proposed project is located entirely within the previously developed portions of the site; consequently, a Natural Resources Inventory was not required.

NR/OS.2 As the project does not propose new development outside the existing "envelope" of development, the project is consistent with the performance standards for wetlands and wildlife habitat.

NR/OS.3 As a redevelopment project, Bourne Assisted Living is required to maintain the existing percentage of open space on the lot, up to the amount that would have been required if it were new development. Since the project is proposed on the previously developed portions of the site, which according to the Site Density Analysis, dated February 10, 2003, provided by the applicant is 7.21 acres, the open space requirement is based on 50% of the developed portions of the lot plus 65% of the upland, undeveloped, SNRA portions of the lot. Based on these calculations, the open space requirement is 37.0 acres.

NR/OS.4 The Assembly of Delegates approved the provision of a conservation restriction on approximately 29 acres of upland and 7 acres of wetland on the project site, referred to in an ordinance and map dated 12/20/98 and referencing Land Court Plan # 24204. Since the open space requirement may only be met through the provision of upland acres, an additional 8.0 acres is required. Barnstable County has agreed to provide this additional amount, pending approval by the Assembly of Delegates. The ordinance indicates that the conservation restriction will be held by the town of Bourne.

Economic Development Findings

ED.1 The Economic Development section of the 1996 Regional Policy Plan addresses three Goals: 3.1 *To promote businesses that are compatible with Cape Cod's environmental, cultural, and economic strengths in order to ensure balanced economic development;* 3.2 *To locate development so as to preserve the Cape's environment and cultural heritage, minimize adverse impacts, and enhance the quality of life;* and 3.3 *To encourage the creation and diversification of year-round employment opportunities.*

ED.2 The project is not located in a growth/activity center, but is redevelopment of the former Barnstable County Hospital.

ED.3 The primary market area consists of two sub areas: 1) the inner market area within 15 minutes driving time of the project site, and 2) the outer market area between 15 and 25 minutes driving time. The secondary market area includes the remainder of the Cape.

ED.4 The Assisted Living project is expected to provide 29 year-round positions. Employees will have paid vacation, sick days, a 401K, and a health benefits package. All positions would have training opportunities and all positions would be open to Cape residents and advertised on the Cape. Although, the top management and top resident services positions would be filled internally by experienced current employees of Senior Living Residences. The salary ranges for these positions reflect a range of educational levels and training needs for employees. The above points are considered a benefit of the project.

ED.5 The applicant noted that the construction of the project would have in excess of 100 workers with various subcontractors involved at different times. Laborers will be hired locally, to the extent that they are available on Cape Cod. Efforts will be made to hire local contractors through the standard trade sources; although, it is noted that because of the requirements of some of the funding sources, salary rates will fall under the Davis Bacon guidelines.

ED.6 Development Review Policy 3.3.4 states that, "*[t]he Commission should encourage projects reviewed as Developments of Regional Impact to use minority and women contractors listed with the State Office of Minority and Women's Business Assistance (SOMWBA), and encourage the employment of minorities, disabled, elderly, unemployed and underemployed persons in permanent positions.*"

ED.7 The applicant's report states that there are three points to consider regarding the fiscal impact on the Town of Bourne. The first is that an assisted living facility would have a very low impact on town services, due to the fact that social services are generally provided by the facility. Additionally, no school children are added to the school system, and police and fire calls are infrequent due to the nature of the elderly residents.

The applicant's second point is that it has been determined through their engineering consultant, in conjunction with the Cape Cod Commission staff and Barnstable County, that the Pocasset Assisted Living project, considered as a redevelopment of the old hospital and its previous entities, constitutes fewer impacts than those of the previous uses at the site.

The third point is that current users pay no taxes to the Town; however, the Assisted Living Center would pay approximately \$48,000 annually for personal property taxes. The applicant notes that these points represent a net gain for the Town of Bourne.

ED.8 The applicant's report states that they surveyed assisted living facilities in the remainder of the Cape Cod region, which generally have high occupancy levels. The survey showed that the prevailing price structure is in excess of that planned for the Pocasset facility.

ED.9 The applicant states that by providing safe, affordable, state-of-the-art care and housing for some of the Cape's frail elderly citizens, the project would help ensure balanced economic development by providing these services to residents with fewer resources. This helps to ensure a desirable quality of life for these residents and this is considered a benefit of the project.

ED.10 The Regional Policy Plan encourages improvement in the availability of and services for healthcare on Cape Cod. This is of particular importance for its retirement community. This is considered a benefit of the project.

Energy Findings

ED.11 The application narrative states the Bourne Assisted Living facility will be constructed to meet or exceed Massachusetts State Building Codes for energy efficiency.

Transportation Findings

T.1 The proposed development consists of 64 assisted living units and 20 independent living units for the elderly on the previous County Hospital site. The facility has a main access drive on County Road with a secondary access drive to the south on County Road. County Road is a Regional Roadway as defined by MPS 4.1.1.2. Other Regional Roadways in the area include Williams Avenue, Lake Drive, Long Hill Road, Shore Road, and Barlows Landing Road. The site is located near the Route 28 "Otis" Rotary.

T.2 The project is eligible for trip generation credits from land-uses in operation in the last five years that will be discontinued. This consists of about 6,000 square feet of outpatient medical office and 2,500 square feet of office occupied by the state medical examiner. The proposed development is expected to change vehicle trips) as follows:

- Morning Peak Hour 16 Fewer Trips
- Evening Peak Hour 6 Fewer Trips
- Weekday Daily 5 New Trips

T.3 MPS 4.1.1.1 requires analysis and mitigation of traffic if the expected peak hour trip generation from a development results in 25 or more new trips on regional roadways. Since the project is estimated to generate fewer Regional Roadway peak hour trips than the past uses, the project complies with MPS 4.1.1.1.

T.4 MPS 4.1.1.5 requires all DRIs, regardless of trip generation, to have safe sight distances at site access driveways. The applicant's engineer has measured the sight distances and

stated they will meet the MPS requirement. Commission staff measured the sight distances and concurs that they will be sufficient for the speed limit along County Road. However, the sight distance to and from the north is currently partially blocked by a sign at the site driveway and could be further blocked by vegetation along the south side of County Road in the future. The applicant has agreed to locate all signage to the south of the driveway on a single sign and to work with the agency maintaining County Road to keep vegetation trimmed to maintain clear sight distances.

- T.5** MPS 4.1.1.7 requires that there be no degradation of public safety. Commission research has shown crash frequency at the site driveway and in the vicinity of the site is relatively low. The Otis Rotary does have a high 27.3 crashes per year for the 1998-2000 time period. However, since the proposed development will be reducing peak hour traffic, the project will likely not further degrade public safety and consequently is in compliance with MPS 4.1.1.7.
- T.6** MPS 4.1.1.14 requires developments to provide adequate parking. MPS 4.1.1.15 requires parking to be limited to the needs identified in a Commission approved traffic study or the requirements of local communities, whichever is greater. The applicant has proposed fewer parking spaces than required by the town of Bourne and will be seeking a waiver for the reduced number of spaces.
- T.7** MPS 4.1.1.16 requires adjacent commercial uses to share access points and provide connections between parcels where appropriate. MPS 4.1.1.17 requires internal site circulation and access/egress to minimize impact on the adjacent road system. The proposed development will share the existing driveways with the Thorne Clinic and with the AmeriCorps housing on-site. No new driveways will be created and existing driveway configuration is not expected to increase impacts on the adjacent road system.
- T.8.** MPS 4.1.2.1 requires all DRIs to reduce expected weekday trips by 20%. For the estimated five new weekday trips, this amounts to one trip. The applicant has proposed a comprehensive trip reduction plan. The plan will likely reduce more than the one required trip and thus the project complies with MPS 4.1.2.1.

Affordable Housing Findings

- AH.1** MPS 5.1.2 states that any residential construction and redevelopment project of 10 units or more shall provide at least 10% of the units as affordable units. The applicant is proposing to construct eighty-four apartments for low income elderly households with incomes at or below 60% of the area median income. This project is targeting a lower income population (60% of median) than the RPP standard of households at or below 80% of area median income.

Twenty-four (24) of the units will be for independent living, and sixty (60) of the units will be for assisted living. All twenty-four (24) independent living units will be affordable. Of the sixty (60) assisted living units, thirty-eight (38) units will have room rent and services charges at or below what Medicaid-eligible applicants who are also eligible for the Group Adult Foster Care program can afford to pay (the affordability

standard that the Commission has used in prior assisted living DRI projects). The tenants of the other twenty-two (22) units will need to use assets to cover their monthly rent and services charges; however, the rent and service charges (\$2,775- \$2,975) for these units are still below what market rate assisted living facilities charge. Thus, sixty-two (62) of the eighty-four (84) units will be affordable- 74%. This far exceeds the RPP standard of 10%, and represents a significant benefit of the project.

The proposed development targets the creation of affordable rental units. Provision of affordable rentals has been identified as a top priority in the Commission's Regional Policy Plan, and the HOME Consortium's Consolidated Plan. In addition, there is a significant need for affordable assisted living. Currently, there are only twenty-three (23) affordable assisted living units among the four hundred eighteen (418) assisted living units in the County. There are no affordable assisted living units in the upper Cape.

Finally, the proposed development targets a particularly vulnerable section of the area's population: low income, elderly households. The provision of housing for this population is a priority in the RPP and the HOME Consortium's Consolidated Plan.

AH.2 MPS 5.1.10 states that the units created through this section shall remain affordable year-round through the use of deed restrictions that require the units to remain affordable for 40 years. The ground lease that will be executed between the applicant and Barnstable County will contain a fifty-year affordability period with an option to extend for another twenty-five years.

AH.3 MPS 5.1.11 states that affordable units within a market rate development shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units. Location of the affordable units and construction specifications are to be approved by the Commission prior to the start of construction. Consistent with this MPS, the 38 affordable assisted living units will be randomly scattered within the assisted living wing of the facility and shall provide studio and one bedroom units in proportion to the overall ratio of such units within the facility at any time.

AH.4 MPS 5.1.12 states that the applicant shall submit a marketing plan to the Commission for its approval which describes how the affordable units will be marketed.

Heritage Preservation/ Community Character Findings

CC.1 The Barnstable County Hospital complex was constructed between 1918 and 1951, and comprises ten buildings. The hospital was founded by an act of the state legislature in 1915 and was developed in stages to serve the increasing number of patients with tuberculosis and other contagious diseases. The first buildings were constructed in 1918. The main hospital building, which includes numerous additions from throughout the early 20th century, was constructed in both wood and brick, in a variety of architectural styles reflecting the various periods during which the construction occurred.

- CC.2** In 1999, an historic inventory of the hospital complex was conducted and the property was included in the Inventory of Historic and Archaeological Assets of the Commonwealth. The applicant subsequently filed plans with Massachusetts Historical Commission (MHC) to demolish the existing buildings on the property. On December 5, 2002, MHC informed the applicant that the buildings are eligible for listing in the National Register of Historic Places, based on both their architectural significance and their association with the development of contagious disease treatment facilities in the early 20th century. MHC determined that proposed demolition constitutes an "adverse effect" and required the applicant to enter into a consultation process to explore possible means to avoid the adverse effect on the historic buildings.
- CC.3** Goal 6.1 of the Regional Policy Plan seeks to protect and preserve the important historic and cultural features of the Cape landscape and built environment that are critical components of the Cape's heritage and economy. Minimum Performance Standard 6.1.2 states that "*the needless destruction, removal or alteration of historic materials or architectural features shall be avoided unless the applicable local authority determines that such removal will not substantially alter or damage the integrity of the building or the site*". In addition, Development Review Policy 6.1.4 states that historic buildings that may be slated for demolition or relocation should be preserved on site and reused or incorporated into the overall design of the project. Commission staff worked with the applicant to identify alternatives to demolition of some of the buildings and possibilities for their continued re-use.
- CC.4** After discussions with MHC and Commission staff, the applicant has agreed to preserve several aspects of original county hospital campus, including the entrance gate and the open landscaped approach to the interior of the site, the two historic buildings fronting on County Road (Doctor's residence #2, and Doctor's residence #1) along with a garage building to the rear, and the Doctor's Residence #4 (currently housing Americorps) in the interior of the site. In addition, the 1951 brick Thorne Clinic building will be retained and will continue its current use. In accordance with Minimum Performance Standard 6.1.2 and Development Review Policy 6.1.4, the applicant revised their proposed site plan to accommodate preservation of the Doctor's Residence #4 in its current location.
- CC.5** The applicant will enter into a Memorandum of Agreement (MOA) with MHC to mitigate the adverse effect of demolition of the remaining hospital buildings. Such mitigation will be determined through discussions with MHC staff, with input from Commission staff and local historical representatives, but will likely involve photo-documentation and contribution of materials to local exhibits on the history of the county hospital.
- CC.6** *MPS 6.2.3 requires all new development to provide adequate landscaped buffers in order to limit adverse visual impacts on the surrounding community. Preservation of existing natural vegetation in these buffer areas is preferred.* The former county hospital site is heavily wooded and includes stands of mature white pine trees between County Road and the former hospital. The applicant proposes to retain the majority of the existing woodland, including a substantial buffer between the proposed assisted living facility and County Road, consistent with MPS 6.2.3.

CC.7 *MPS 6.2.5 requires all development to provide landscaping that integrates buildings with their environment, enhances architectural features and provides amenities for pedestrians. MPS 6.2.6 requires applicants to address the functional aspects of landscaping such as drainage, screening and buffering.* Proposed plans include a network of pedestrian paths around the majority of the building and central courtyard and supplemental planting around the building's grounds. Proposed plant materials are suitable to the climate and location of the site.

CC.8 *MPS 6.2.10 requires that parking shall be located to the rear or side of a building in order to promote traditional village design in commercial areas unless such location would have an adverse or detrimental impact on environmental or visual features on the site, or is completely infeasible.*

The applicant proposes to re-use some existing parking lots on-site with construction of additional parking adjacent to the building's entrance and to the rear of the building. Existing and proposed parking is consistent with MPS 6.2.10.

CC.4 The applicant initially proposed use of "Cedar Impressions" molded vinyl siding for the building exterior. This may not be consistent with the Design Manual, which requires the use of traditional designs and materials. The applicant has sent samples for staff to review.

CC.5 *MPS 6.2.8 prohibits the installation of internally illuminated signs.* In addition, the Commission's design manual recommends the use of carved, wooden signs. The DRI application indicates that an entrance sign will be designed to replace the existing county hospital sign located at the entrance to the property, with appropriate directional signage provided on-site. Though no plans were submitted to verify the location, materials or lighting of any proposed signs, the applicant has agreed to review plans with Commission staff to insure their consistency with the MPS.

CC.6 Minimum Performance Standard 6.2.7 of the 1996 RPP states that *exterior lighting in new development or redevelopment shall comply with standards including design, light source, total light cutoff and footcandle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.* Information on exterior lighting provided as part of the DRI review consisted of a Landscape and Lighting Plan (SD-6) with a key showing existing and proposed fixtures, and a Lighting Levels Plan that showed ISO foot-candle diagrams.

Hazardous Materials/Wastes Findings

HM.1 According to maps produced for the 1996 RPP, the project site is not located in an existing Wellhead Protection District/Zone II, but it is located in an area mapped as a Potential Public Water Supply Area. Because it is located in a Potential Public Water Supply Area, the RPP limits the amount of hazardous materials and/or wastes to household quantities. The Commission received a copy of a December 6, 2001 letter from the Bourne Water District stating that the District "has never considered this property for a future well site."

HM.2 MPS 4.2.2.1 states that *development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling.* MPS 4.2.2.2 states that *development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.* As part of the DRI process, the applicant submitted draft guidelines, protocols and specifications that will be used to select contractors to do demolition work, site work and new construction. These materials indicated that the applicant is aware of the requirements of MPS 4.2.2.1 and MPS 4.2.2.2 for the project.

Solid Waste Findings

SW.1 MPS 4.2.1.1 requires that *“the applicant address how waste will be diverted, to the maximum extent possible, away from disposal facilities (landfills and incinerators) and be composted and/or recycled, per the integrated solid waste management system”.* According to the DRI compliance narrative submitted to staff, the proposed project will implement an office-recycling plan.

SW.2 MPS 4.2.1.2 requires the applicant *“allocate adequate storage space for interim storage of recyclable materials”.* The Assisted Living Facility will likely generate significant quantities of cardboard. The final site plan should provide a location for a recycling baler on-site.

SW.3 MPS 4.2.1.3 requires the applicant to *“manage construction wastes (asphalt, brick, concrete, wood, sheetrock and metals) in a manner consistent with the integrated solid waste management system outlined in MPS 4.2.1.1.”* The applicant is in the process of developing guidelines, protocols and specifications that will be used to select contractors to complete all of the necessary demolition, site work and new construction. Also, the DRI application stated that the applicant will recycle brick and other recyclable materials from the demolition waste stream. The applicant should outline the types of construction demolition that will be generated, a work program demonstrating that recyclable materials will be separated on site from wastes being delivered to a disposal facility, and how the materials will be stored on site. Also, the applicant should designate the facility and address the manner by which waste and recyclables will be transported to a disposal facility.

CONCLUSION

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

1. The benefits of the proposed development based on Findings G4, WR1, WR6, ED10, T8, AH1, and AH2, as conditioned, outweigh the detriments based on Finding CC2.
2. Provided that the Project obtains all permits required by the Town of Bourne, including the grant of a waiver for parking requirements from the Bourne Planning Board and a variance for density from the Bourne Zoning Board of Appeals as noted in Findings T6 and G2, the Project is

in compliance with local development bylaws. The granting of the DRI approval is in no way intended to support or oppose the granting of zoning relief at the local level.

3. The Project is consistent with the Minimum Performance Standards of the Regional Policy Plan.

4. The proposed project is not within a District of Critical Planning Concern (DCPC).

The Cape Cod Commission hereby approves the Bourne Assisted Living facility as a DRI under Sections 12 and 13 of the Act, provided the following Conditions are met.

CONDITIONS

General Conditions

- G.1** The proposed Bourne Assisted Living facility shall be constructed in accordance with the following final plans, prepared by Coastal Engineering, Orleans, Mass.: Site Plan SD-1 dated 1/31/03, Existing Conditions Plan received Feb. 5, 2003, Layout and Materials dated 1/31/03, Grading and Drainage SD-4 dated 1/31/03, Utilities Plan SD-5 dated 1/31/03, Landscape and Lighting Plan SD-6 dated 1/31/03.
- G.2** This DRI 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 all 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 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. 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 Bourne, 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.

Water Resource Conditions

- WR.1** Title-5 wastewater flows from the proposed assisted-living facility shall not exceed 12,600 gpd. Aggregate Title-5 wastewater flows from the proposed redevelopment and from the existing development on the adjacent County-owned parcel shall not exceed 14,670 gpd. Flows exceeding these amounts shall be subject to Commission approval.
- WR.2** Prior to issuance of the Preliminary Certificate of Compliance, the draft GWDP application materials shall be submitted to the Commission. Future renewals of the GWDP shall be submitted to the Commission allowing comment within the MADEP draft GWDP review period.
- WR.3** Total nitrogen in wastewater-treatment-facility effluent as required by the GWDP shall not exceed 10 ppm. Total nitrogen in groundwater at the property boundary shall not exceed 5 ppm (MPS 2.1.2.2).
- WR.4** The applicant shall site the wastewater treatment facility and leachfield in accordance with plans submitted by the applicant to the Commission on February 3, 2003, titled Utilities Plan, SD-5, January 31, 2003, subject to Commission staff approval based on results of tasks required under Condition WR.5.
- WR.5** Prior to issuance of the Preliminary Certificate of Compliance, the applicant shall complete the following tasks:
1. Install three (3) water-table observation wells for purposes of siting the wastewater leachfield in the location indicated in plans submitted by the applicant to the Commission on February 3, 2003: Utilities Plan, SD-5, January 31, 2003;
 2. Based on results of Task 1, above, the applicant shall consult with Commission staff regarding placement of a fourth observation well to further refine the groundwater-flow direction necessary to demonstrate compliance with MPS 2.1.2.2. (see Conditions WR.3 and 6); and

3. The applicant shall provide to Commission staff a simulation of the dilution of wastewater-treatment-facility effluent in groundwater to further demonstrate that MPS 2.1.2.2 will be met. To ensure that the model adequately simulates site conditions, the applicant shall consult with Commission staff regarding model type, boundary conditions and parameters.
- WR.6** Prior to issuance of the Final Certificate of Compliance, the applicant shall install three (3) water-quality monitoring wells for purposes of meeting MPS 2.1.2.2, subject to siting approval of Commission staff. The first monitoring well shall be installed hydraulically upgradient of the proposed leachfield to characterize antecedent groundwater quality. The remaining wells shall be installed at an appropriate location on the hydraulically-downgradient property boundary, as determined from information provided pursuant to Condition WR.5, to characterize the wastewater-treatment-facility effluent plume at the property boundary and to ensure compliance with MPS 2.1.2.2.
- WR.7** Prior to issuance of the Final Certificate of Compliance, the applicant shall submit to the Commission a copy of the approved GWDP for the proposed Bioclere treatment facility to ensure that an adequate escrow fund as specified in the GWDP and the monitoring/maintenance schedules are in place.
- WR.8** All monitoring required under the GWDP, including monitoring required for purposes of meeting MPS 2.1.2.2 under Condition WR.3, shall be submitted to the Commission on an annual basis, commencing one year from the date of this decision. Monitoring of groundwater quality at the property boundary - at the two monitoring wells required under Condition WR.6 - shall be conducted on a quarterly basis following startup of the wastewater treatment facility. At a minimum, groundwater samples collected at the property boundary shall be analyzed for nitrate, nitrite, TKN (Total Kjeldahl Nitrogen), and ammonia.
- WR.9** The stormwater management system shall be constructed as shown on plans submitted by the applicant to the Commission on February 3, 2003: Drainage and Grading Plan, SD-4, dated January 31, 2003. Operation and maintenance of the stormwater systems shall be the responsibility of the Bourne Assisted Living facility. The systems shall be inspected by a qualified firm on a monthly basis during the first 6 months of operation and annually thereafter. A copy of the stormwater management plan shall be provided to the Commission prior to issuance of a Preliminary Certificate of Compliance (MPS 2.1.1.6).

Natural Resources/ Open Space Conditions

- NR/OS .1** Prior to issuance of the Final Certificate of Compliance, the applicant shall provide the Cape Cod Commission with a conservation restriction consistent with Massachusetts General Laws Chapter 184, § 31 – 33, and accompanying plan, to be approved by Commission counsel and recorded at the Registry of Deeds or Registry District of the Land Court which provides that 37.0 upland acres located on the Project site and as shown conceptually on the sketch plan titled “Site of the Barnstable County Sanatorium” and dated December 1, 1998 shall be preserved as permanent open space. The 37.0 acres shall include portions of the site adjacent to the identified open space and to the west and

south of the proposed buildings. The open space areas may also include the wetlands located on the project site, but these wetland areas may not be used to calculate the open space requirement. The restriction and site plan shall be executed and recorded and proof of recording shall be provided to the Commission prior to the receipt of the Final Certificate of Compliance. In order to preserve the significant habitat values of the open space areas protected through this conservation restriction, the land subject to this conservation restriction shall remain undisturbed for conservation and wildlife habitat preservation purposes. The conservation restriction shall provide for public access.

Economic Development Conditions

ED.1 Within two months following completion of construction the project will document its hiring methodology and will provide to the Cape Cod Commission and the Town of Bourne a listing of construction jobs, pay scales, number of employees, and number of Cape Cod contractors and residents employed in the construction of the project. The project will also list the number of minorities and women contractors employed by the project.

ED.2 After six months of operation the project will document its hiring methodology and provide to the Cape Cod Commission and the Town of Bourne a listing of the types of jobs, pay scales, number of employees, full- and part-time positions, benefits received, and number of Cape Cod residents employed. These figures should include the number of minorities, disabled, elderly, unemployed and underemployed persons.

Energy

ED.3 The applicant shall meet with the program manager of the Cape Light Compact during building design phases to utilize all possible programs that provide funding to specify and incorporate energy efficient lighting fixtures, heating systems, and motors into the facility.

Transportation Conditions

T.1 The applicant shall maintain the Project's driveways according to the plans noted in the General Conditions. The applicant shall maintain American Association of State Highway Transportation Officials safe stopping sight distances at both driveways. The applicant shall work with the Town of Bourne to trim vegetation on town-owned property if necessary to maintain appropriate sight distances at the site driveways. All signage shall be located to the south of the main driveway, and on a single sign, to avoid inhibiting sight distances to and from the north as well as to and from the south. Prior to the Final Certificate of Compliance, Commission staff shall verify that the applicant has met this condition.

T.2 The applicant shall provide a maximum of 70 parking spaces unless the Town of Bourne requires more. However, the applicant shall provide no more than the 84 spaces required under town zoning without further Cape Cod Commission review.

T.4 The applicant shall implement a trip reduction program at the facility. The assisted living

staff will work with other on-site entities including the Thorne Clinic, Americorps, Elder Services, etc. to continue to look for trip reduction strategies. The program will include:

For employees:

Carpooling:

- Information exchange relating to addresses and schedules
- A sign-up / ride matching board
- Preferred designated parking for car pools
- Occasional awards for trip reduction program participants

Bicycling:

- A bicycle rack will be available in a prominent and convenient space

On-Site Services:

- Lunch / break area for staff
- Mail drop

For residents:

- Coordinated off-site transportation through driven car and/or chartered van service

Affordable Housing Conditions

AH.1 The applicant, in conformance with Minimum Performance Standard 5.1.2 of the RPP, shall provide all twenty-four (24) of the independent living units and thirty-eight (38) of the sixty (60) assisted living units within the facility as affordable units. All of the independent living units shall be available to elderly households whose gross income is sixty percent (60%) or less of the area median income. The applicant shall designate at any one time twenty (20) of the assisted living units for elderly households whose gross income is sixty percent (60%) or less of the area median income and who are eligible for the Group Adult Foster Care Program (GAFC) under the MassHealth Medicaid Program for Group Adult Foster Care in addition to the Supplemental Security Income- Group (SSI-G) for the payment of rent. The applicant shall designate at any one time eighteen (18) of the assisted living units for elderly households whose gross income is sixty percent (60%) or less of the area median income and who have assets in excess of GAFC and/or SSI-G guidelines. Assets are calculated for income purposes in accordance with the federal low income housing tax credit program. The income limits are established by the U.S. Department of Housing and Urban Development, as may be adjusted from time to time, for Barnstable County- Non Metro Area.

AH.2 Assisted living is a special combination of housing and personalized support services designed to respond to individual needs of those requiring help in activities of daily living (ADL) but who do not require skilled medical care provided in a nursing home. Each affordable assisted living unit shall also receive the standard package of services which will include the following:

1. Housing Unit (studio or one bedroom)

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2. Electric and HVAC utilities
3. Up to three (3) meals per day
4. Standard housekeeping services (i.e., change of linen etc.)
5. Up to one hour per day of hands-on direct care relating to activities of daily living (ADL) [bathing, dressing, etc.]
6. Assistance arranging transportation for shopping, appointments, etc.
7. Emergency call system for each residential unit
8. Social, recreational and health promotion activities

Not included and subject to additional costs are the following:

1. Additional hands-on daily care (relating to ADL)
2. Self administered medication management
3. Cable/phone
4. Personal laundry services

For the purposes of condition AH2, the rent of the affordable independent living units and the room rental component of the assisted living units shall not exceed 30% of the residents' gross annual income and shall be subject to the maximum rent limits of the HOME Investment Partnerships program established by the U.S. Department of Housing and Urban Development, as may be adjusted from time to time.

Also, the combined allowable rent and service charges for the affordable assisted living units shall not exceed the greater of 80% of the household's income or the total amount of revenue the owner could receive from a GAFC/SSI-G recipient who retains at least \$75 of discretionary income monthly as a personal needs allowance.

In the event any of the above listed programs are discontinued and no similar substitutions exist, the applicant shall provide written notification of such discontinuance to the Cape Cod Commission. The specific method of providing the affordable housing in compliance with Section 5.1.2 of the RPP may be adjusted according to Section 7 of the Cape Cod Commission's *Administrative Regulations, Modifications to Approve DRIs*, dated 5/30/02 and as amended from time to time. Without such modification, the applicant shall continue to provide the affordable housing units as specified.

AH.3 The 38 affordable assisted living units shall be randomly scattered within the assisted living wing of the facility and shall provide studio and one bedroom units in proportion to the overall ratio of such units within the facility at any time.

AH.4 Prior to the issuance of a Preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall provide to the Commission copies of the following:

1. Preliminary tenant location plan for the assisted living units

2. Final construction specifications and plans
3. Copy of draft marketing and tenant selection plan
4. Recorded deed restriction requiring the affordability of the sixty (60) units as described in Conditions AH-1 and AH-2. The deed restriction shall be reviewed and approved by Commission Counsel prior to recording.
5. Draft monitoring agreement by and between the applicant and an organization with experience in income and rent certifications, which shall provide, *inter alia*, for the applicant to file a report annually listing each unit occupied within the independent living/ assisted living facility by a household whose income is sixty percent (60%) or less than the median income in the area, the rents and services (if applicable) charged for each unit and the income levels of the occupant(s) of each of the identified units. The agreement shall further provide for the payment of monitoring fees to the selected contractor by the applicant for preparation of a monitoring report to be issued to the Cape Cod Commission. The applicant's obligation to pay the fee and provide a report shall commence upon the issuance of an occupancy permit and shall be payable yearly on or before April 15th of each year.

AH.5 Prior to the issuance of a Final Certificate of Compliance, the applicant shall deliver to the Cape Cod Commission the following:

1. Executed monitoring agreement
2. Final marketing and selection plan
3. List of any residents who have reserved units and meet the affordability requirements set forth within this decision
4. Copy of mortgage and/or construction financing documents showing conformance with this decision

The final marketing and selection plan shall include the policy for balancing eligible internal transfers and external applicants when filling subsequent vacancies in the affordable units. Tenant selection guidelines should also include a preference for Barnstable County residents (defined as a person who lives, works, grew up, or has immediate family in a town in the County).

Rental of the affordable assisted living units shall be carried out on a first-come, first-served basis, with no preference given to households with family members who can supplement the cost of the non-standard assisted living services.

AH.6 Prior to any future refinancing, the applicant shall submit to the Cape Cod Commission copies of documents related to the refinancing, including but not limited to, mortgage documents.

Heritage Preservation/ Community Character Conditions

- CC.1** The applicant shall preserve the following historic components of the former county hospital complex: the entrance gate and the open landscaped approach to the interior of the site, the two historic buildings fronting on County Road (Doctor's residence #2, and Doctor's residence #1), and the Doctor's Residence #4 (currently housing Americorps) in the interior of the site. The applicant shall construct the proposed Assisted Living project using the revised site plan (dated 1/31/03) to accommodate preservation of these historic features, including preservation of Doctor's Residence #4 in its current location.
- CC.2** The applicant shall mitigate the loss of the remaining historic county hospital buildings through photo-documentation of the buildings to be demolished and through other means identified in the Memorandum of Agreement (MOA) to be signed with MHC. Such MOA shall be signed and the mitigation completed prior to receipt of a preliminary Certificate of Compliance.
- CC.3** Plant materials specified by this decision may be substituted with prior written approval of Commission staff.
- CC.4** If all required exterior lighting, site work, and landscape improvements are not complete at the time a Final Certificate of Compliance is sought from the Commission, any work that is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall be equal to 150% 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 and landscape work shall be completed within six months of issuance of a Final Certificate of Compliance.
- CC.5** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit for Commission staff review and approval a draft landscape maintenance agreement for three (3) full growing seasons which follows guidelines established by Commission staff. Prior to issuance of a Final Certificate of Compliance, the applicant shall submit documentation of a final maintenance agreement contract.
- CC.6** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit for Commission staff review and approval plans for any proposed signs to ensure their consistency with MPSs 6.2.8 and 4.1.1.5.
- CC.7** The exterior walls shall be surfaced with traditional materials such as wood shingles, clapboards, cementitious clapboard, or the equivalent, for consistency with the design guidelines. Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit material samples for Commission staff approval.
- CC.8** All exterior lighting for the project shall conform to the requirements of MPS 6.2.7 and Technical Bulletin 95-001. Should unexpected conditions arise during project construction that require adjustments to exterior lighting fixtures, including substitutions

of fixture heads, the applicant shall obtain approval from Commission staff prior to their installation and/or use, consistent with Section 7 of the Commission's *Administrative Regulations* with respect to revisions to approved DRIs. Modifications to the Project's exterior lighting design made during construction that are in accordance with the Commission's Technical Bulletin 95-001 shall be considered as Minor Modifications #1 and may be approved by Commission staff.

- CC.9** Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to verify conformance of the exterior lighting design with MPS 6.2.7, Technical Bulletin 95-001 and exterior lighting condition C.6 of this decision.

Hazardous Materials/Wastes Conditions

- HM.1** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit for Commission staff review and approval specifications, guidelines or other documents to insure that structures scheduled for demolition have been surveyed for the presence of asbestos-containing materials, PCB-containing capacitors, lighting ballasts and devices, mercury-containing devices, lead-based paint and other hazardous materials.
- HM.2** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit for Commission staff review a copy of at least a Phase I Environmental Assessment of the hospital property.
- HM.3** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit for Commission staff review and approval specifications, guidelines or other documents to insure that construction contractors will conform to MPS 4.2.2.1 and 4.2.2.2.
- HM.4** Prior to issuance of a Final Certificate of Compliance, the applicant shall submit for Commission staff review and approval a hazard communications plan or other employee education plan for the project that addresses the requirements of MPS 4.2.2.1 for the post-construction phase of the project.
- HM.5** Prior to issuance of a Final Certificate of Compliance, the applicant shall submit for Commission staff review and approval a program to handle, store and dispose of fluorescent bulbs, any waste chemicals used in the on-site sewage treatment system, and any other hazardous waste generated on site.

Solid Waste Conditions

- SW.1** Prior to the issuance of a Preliminary Certificate of Compliance, the applicant shall submit a draft contract for Cape Cod Commission staff approval specifying the disposal method and location that the contractor shall use to dispose of all asphalt, brick, concrete (ABC), untreated wood, metals and other solid waste generated by the construction activities. These materials shall be managed according to an integrated waste management system, and disposed of at a facility permitted to dispose of construction demolition materials.

SW.2 Adequate equipment and storage space shall be provided to accommodate a recycling program. Prior to the issuance of a Final Certificate of Compliance, Commission staff shall complete an inspection of the project to ensure that an adequate recycling vessel for the recycling of cardboard has been installed.

The Cape Cod Commission hereby approves with conditions the application of Realty Resources Chartered as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Bourne Assisted Living facility located in Bourne, MA.

Susan Kadar for
Robert D. Deane, Chairman

March 20, 2003
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 20th day of March, 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.

Katharine L. Peters
Notary Public
Commonwealth of Massachusetts

