



# CAPE COD COMMISSION

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Date: November 3, 2005.

To: Mr. Michael Ford, Esq.

From: Cape Cod Commission

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

Applicant: Riverview School, Inc  
C/o Ms. Maureen Brenner, Head of School  
551 Route 6A,  
Sandwich, MA 02537

Project: Riverview School Comprehensive Facilities Plan  
551 Route 6A,  
Sandwich, MA 02537

Project #: HDEX # 05011

Book/Page: Lot 76, Plan 32028-Z, Cert. #120755  
Lot A-2, Plan 11765-E, Cert. #22874  
Lots 115, 116, 117, 118, 119, 120, 121, 122, 123, Plan 11765-I, Cert. #30402  
(Hopefield School Inc.)  
Lots 124, 125, 126, 127, 128, 129, 130, 131, Plan 11765-I, Cert. #29582  
(Hopefield School Inc.)  
Lot 208, Plan 11765-J, Cert. #92993

Certificates: #138410; #76712; #84958; #137395; #135528

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Hardship Exemption (Project of Community Benefit) application of Riverview School, Inc. (Applicant) for



the Riverview School Comprehensive Facilities Plan at 551 Route 6A in Sandwich, 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 November 3, 2005.

### **PROJECT DESCRIPTION**

The proposed project is for a Comprehensive Facilities Plan (master plan) for the Riverview School, a school for students with learning disabilities located on approximately 15 acres on the north side of Route 6A in East Sandwich. The project area is east of Scorton Creek and is outside the Sandy Neck Barrier Beach System Area of Critical Environmental Concern (ACEC). The Riverview School property has two adjacent campuses that serve 171 residential and day students. The main campus provides a secondary school program and serves approximately 116 students ages 12 through 20. The Project GROW campus is a post-secondary school program providing continued instruction and independent living skills to approximately 55 students. The master plan for the site includes the replacement of existing facilities, construction of new facilities, and renovation of existing buildings, as well as associated landscaping, drainage and parking areas for the entire site. The master plan assumes no increase in student body and limited potential for increased activity on the site, but provides updated facilities consistent with the teaching philosophy used at the school. The master plan includes the following construction elements:

#### Main Campus

- Construction of a new dormitory
- Demolition of existing Horton House dormitory
- Demolition of existing gymnasium
- Construction of a new athletic center
- Renovation of existing Holtmeier House
- Renovation of existing Brooks House
- Demolition of existing infirmary
- Demolition of existing Janse Hall
- Construction of new performing arts center (Lund Center)

#### GROW site

- Renovation of existing Torrey House
- Construction of new tennis court

### **PROCEDURAL HISTORY**

The Applicant submitted a Development of Regional impact (DRI) Hardship Exemption on April 19, 2005. A hearing officer opened the public hearing period on June 17, 2005 and a hearing officer closed the public hearing period on September 14, 2005. A duly noticed public hearing was conducted by an authorized subcommittee of the Commission pursuant to Section 5 of the Act on September 22, 2005. On September 29, 2005 and October 20, 2005 the subcommittee held public meetings to deliberate on the project and on October 20, 2005 voted unanimously (4-0) to recommend to the full Commission that the Hardship Exemption (Project of Community

Benefit) be approved with conditions. A final public hearing was held before the full Commission on November 3, 2005, where the Commission voted unanimously to approve the Hardship Exemption (Project of Community Benefit), subject to conditions.

#### **MATERIALS SUBMITTED FOR THE RECORD**

##### ***By Applicant:***

- Memo from Mr. C. Garufo dated January 14, 2005, re: Trip Generation
- Letter from Mr. J. Gillon dated January 31, 2005 re: Trip Generation
- Letter from Mr. M. Ford dated April 19, 2005 re: DRI Hardship Exemption Application
- Letter from Mr. M. Ford dated May 11, 2005 re: Application Materials
- Email from Mr. C. Garufo dated June 1, 2005, re: Hearing schedule
- Transmittal from Mr. M. Farrell dated June 15, 2005, re: Drainage Plan
- Letter from Mr. C. Garufo dated June 29, 2005, re: Drainage Plan
- Memorandum from Mr. C. Garufo dated July 14, 2005, re: Drainage Plan
- Email from Mr. C. Garufo dated July 18, 2005, re: Drainage Plan and enrollment
- Email from Mr. C. Garufo dated August 3, 2005, re: Storm Drainage
- Letter from Mr. C. Garufo dated August 23, 2005, re: Preliminary Drainage Plan
- Letter from Mr. C. Garufo dated September 14, 2005, re: Drainage Plan
- Letter from Mr. C. Garufo dated September 15, 2005, re: Drainage calculations
- Email from Mr. C. Garufo dated September 14, 2005, re: Materials
- Letter from Mr. C. Garufo dated October 11, 2005, re: landscape plans
- Emails (3) from Mr. C. Garufo dated October 17, 2005, re: Draft Decision and enrollment

##### ***By State:***

- Letter from Mr. S. Chiltern dated June 15, 2005, re: Mass. Dev. Finance
- Letter from Ms. B. Simon dated June 30, 2005, re: MHC determination
- Letter from Mr. S. Chiltern dated July 22, 2005, re: Mass. Dev. Finance

##### ***By Commission Staff:***

- Email from Mr. P. Dascombe dated April 29, 2005, re: Incomplete Application
- Email from Mr. P. Dascombe dated May 26, 2005, re: Application status
- Email from Mr. P. Dascombe dated June 1, 2005, re: Hearing schedule
- Email from Mr. P. Dascombe dated July 18, 2005, re: Hearing schedule
- Email from Mr. P. Dascombe dated July 19, 2005, re: Drainage Plan and enrollment
- Commission Staff report dated September 22, 2005
- Email from Mr. E. Eichner dated October 7, 2005, re: Drainage Plan
- Email from Mr. P. Dascombe dated October 14, 2005, re: Draft Decision
- Memo from Mr. P. Dascombe dated October 14, 2005, re: Draft Decision
- Email from Mr. P. Dascombe dated October 17, 2005, re: Draft Decision

##### ***By Interested Parties:***

- Email from Mr. K. O'Haire dated September 20, 2005, re: Landscaping/design issues
- Letter from Mr. M. Scialdone dated September 26, 2005, re: Support from Scorton Shores
- Email from Mr. R. Hayden dated October 11, 2005, with attached letter from Torrey Road neighborhood association

The application and notices of public hearings relative thereto, the Commission staff 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

A public hearing was held on September 22, 2005 at the Sandwich Town Offices on Jan Sebastian Drive. Mr. Dascombe presented the history of the project, the applicable standards for a Hardship Exemption and Projects of Community Benefit and the key issues identified in the Commission's September 22, 2005 report. Mr. Ford, representing the School, presented information on the School's request as a project of community benefit and clarified the relief the School was seeking under that process.

Several neighbors spoke at the hearing with concerns about the landscape buffers along Torrey Road, parking lot landscaping, lighting and access issues associated with construction. Building design and removal of mature trees were also raised as issues for some neighbors.

The subcommittee members had comments and questions on the location of the proposed tennis court, the proposed parking lot, landscaping and the removal of mature trees at the proposed tennis court site.

#### JURISDICTION

The Riverview School Comprehensive Facilities Plan qualifies as a Development of Regional Impact under Section 3(e) of the DRI Enabling Regulations as private educational development with new construction of any buildings (including accessory and auxiliary structures) with a gross floor area greater than 10,000 square feet.

#### FINDINGS

The Commission has considered the application of Riverview School for the proposed Comprehensive Facilities Plan, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to the 2002 Regional Policy Plan and Section 23 of the Act:

##### **General Findings:**

G1. Riverview School is a private, non-profit school dedicated to the education of learning-disabled students of middle- and high-school age. The School serves up to 171 students on the campus, of which 116 are enrolled in its secondary school program and 55 students are enrolled in a post-secondary-school transitional program. The School campus occupies two sites on either side of Torrey Road in Sandwich. The GROW site located to the east of Torrey Road accommodates the residential post-secondary school program while the main campus site to the west of Torrey Road is the location of the School's remaining program activities.

- G2. The proposed master plan does not result in any change in student enrollment or staffing at the School but is intended to upgrade the existing facilities to meet current educational standards. The Commission's review of the application is based on the student enrollment remaining at current levels. Construction incorporated into the plan will occur in phases, as funding is available for construction.
- G3. The proposed project will allow completion of a Comprehensive Facilities Plan (master plan) developed for the upgrade of the School campus. The majority of the work contemplated under the master plan was previously approved by the Cape Cod Commission as a Development of Regional Impact (DRI) in August 1996 (File #: TR96009). The 1996 DRI approval was reviewed under the minimum performance standards contained in the 1991 Regional Policy Plan (RPP). The DRI approval granted in 1996 expired in August 2003 at which time the School had not completed all the work permitted. The Hardship Exemption application incorporates all the work left outstanding from the 1996 DRI approval, as well as an additional structure proposed for use as a performing arts center.
- G4. In the time between the 1996 DRI approval and the current Hardship Exemption application, the minimum performance standards within the Regional Policy Plan have been updated twice. The majority of the work proposed under the master plan remains the same as that proposed in 1996. Based on these updates, there are several additional requirements with which the School would have to conform to literally comply with the 2002 RPP standards.
- G5. The Riverview School is dependent upon philanthropic and charitable giving to fund, plan and complete its capital projects. As such, strict conformance with the additional requirements of the current RPP standards would result in additional expenditures not accounted for in the master planning process. These increased costs would affect the School's ability to complete the master plan process, which is integral to the School's mission.
- G6. The Riverview School confers distinct benefits on the community and citizens of Barnstable County by advancing the enhancement, protection and preservation of unique and local civic, cultural, economic and educational values. It enrolls students from 32 states and several foreign countries, and also 61 students from within Massachusetts. The School is recognized internationally for its role in providing a residential program for its students. The School also offers free use of its athletic facilities and meeting rooms to several local organizations and its students participate in regular community service. The School also contributes to the local economy by using local contractors on its capital projects, by employing mostly Barnstable County residents at the campus and by injecting money into the economy via expenditures from visiting family and students.
- G7. The project does not lie within a District of Planning Concern, and appears to be consistent with the Sandwich Comprehensive Plan and municipal development bylaws.

**Water Resource Findings:**

- WR1. The applicant has submitted a stormwater plan (Proposed Site Drainage, dated June 14, 2005 and revised October 13, 2005) that meets the Minimum Performance Standards in Section 2.1.3 of the RPP. The plan includes design components based on a 25 year/24 hour storm, 80% total suspended solids removal, use of vegetated swales, and the incorporation of a stormwater system maintenance and operation plan.
- WR2. A critical nitrogen load has not been determined for the Scorton Creek embayment and therefore, the Applicant is subject to MPS 2.1.1.2.C.1, which requires projects to make a monetary contribution for development of a critical nitrogen load for the applicable embayment. The Riverview School has agreed to provide this payment of \$1,775, which meets the requirements of MPS 2.1.1.2.C.1.
- WR3. The 1996 DRI approval (TR96009), as modified, required the installation of a package treatment plant and placed a limit on the number of staff and students at the facility. The installation of the treatment plant is subject to an administrative consent order with the Department of Environmental Protection (DEP) and is nearing completion. When operational, the project will be in compliance with the nitrogen loading (Section 2.1.1) and treatment facility Minimum Performance Standards (Section 2.1.2) of the RPP, if the Applicant meets the terms of the Operations, Management and Compliance Agreement adopted under the October 18, 2004 modification to DRI TR96009.

**Natural Resource Findings:**

- NR.1 The majority of work proposed under the master plan will be in previously disturbed areas, however, approximately one third of an acre associated with the installation of a second tennis court will take place on previously undisturbed areas. Under the 2002 RPP this additional development area should be offset through the preservation of an equivalent amount of open space. Due to the unique circumstances of the Riverview School, including its function as a school, the limited space on the school grounds to accommodate the school's development program for its curriculum, and consequently the lack of space to provide additional preserved open space, and the cost of providing open space off-site or through an equivalent cash contribution and the philanthropic nature of the institution, warrant an exception to the open space requirements. Therefore the Commission finds that:
- i. The Applicant has met its burden of showing that a hardship exists,
  - ii. Literal enforcement of the Minimum Performance Standards would be a hardship for the Applicant,
  - iii. Relieving the requirements of MPS 2.5.1.3 is the minimum relief required to alleviate the hardship, and,
  - iv. The relief does not nullify or substantially derogate from the intent of the Act nor will it result in a detrimental impact to the public good.

NR2. The proposed tennis court site contains four trees (two American basswood, and two maple species), which should be considered specimen trees. The total diameter at breast height (dbh) for these four trees is 73 inches. MPS 2.4.1.2 requires that specimen trees be preserved. The unique circumstances of the Riverview School, including its function as a school, the limited space on the school grounds to accommodate tennis courts, and the important role that the tennis program plays in the school's curriculum, warrant an exception to the specimen tree requirements. In the past, the Commission has allowed for the "replacement" of specimen trees, by dbh measure, at a 1:1.5 ratio, which in this situation would be 110 inches total diameter. The school is proposing 16, 4-4.5" caliper (diameter) hornbeam trees located along Torrey Road, as well as 11, 4-4.5" caliper American Delaware elm trees located at the school entrance to meet or exceed the 110 inches caliper requirement.

In addition, the loss of the trees represents some loss of habitat, which cannot be replaced under the proposed tree replacement. The school has agreed to plant fifty (50) native shrubs behind the GROW residence, where trees have been planted in the recent past, as a means toward improving wildlife habitat and creating a buffer to new single family homes to the north.

Therefore the Commission finds that:

- i. The Applicant has met its burden of showing that a hardship exists,
- ii. Literal enforcement of the Minimum Performance Standards would be a hardship for the Applicant,
- iii. Partially relieving the requirements of MPS 2.4.1.2 to allow for an equivalent total caliper replacement and habitat restoration is the minimum relief required to alleviate the hardship, and,
- iv. The relief does not nullify or substantially derogate from the intent of the Act nor will it result in a detrimental impact to the public good.

NR3. MPS 2.4.1.6 requires the preparation of a plan for managing invasive species on-site. The school has agreed to submit a plan that will be implemented by the school maintenance staff, and possibly incorporated into the school science curriculum.

#### **Transportation Findings:**

T1. Based on the information outlined below, no net increase in trip generation is expected from this proposed expansion; therefore this project has no new impacts on the regional roadway system.

- Most students are housed on site.
- The new buildings will be used for institutional, educational purposes.
- The new buildings are to be located within the existing school campus off Route 6A in Sandwich.
- The Institute of Transportation Engineers, *Trip Generation* manual uses students as an independent variable in calculating trip generation.

- The Riverview School proposes to maintain its current enrollment as outlined in a memorandum from Carmen Garufo to John T. Gillon, P.E. dated January 14, 2005 and letter from Mr. J. Gillon dated January 31, 2005.

T2. MPS 4.1.1.2 requires review of crashes at locations where proposed developments are expected to generate 25 or more peak hour trips. Because the project is not expected to generate any new traffic further crash evaluation is not required by the RPP.

**Economic Development Findings:**

ED1. The Riverview School's application cites several economic development benefits of the project. These include:

- The School's mission to educate moderately learning-disabled students and prepare them to become active members of society and the workforce.
- The School draws students from 32 states, several foreign countries, and other communities in Massachusetts as well as Barnstable County thereby drawing wealth to the region.
- Students and their families contribute to the regional economy through local spending, estimated by the applicant to equal over \$45,000 per year.
- According to the school, 91% of its employees are residents of Barnstable County and their payroll, including benefits, is \$7.9 million and overall operating budget is \$11.9 million per year.
- In completing the Master Plan, the Riverview School has and plans to continue to employ local contractors.

These findings are consistent with several of the Economic Development Other Development Review Policies. Specifically, the Riverview School is an economic activity that creates livable wage jobs within a high-value knowledge-based sector (ODRP 3.1.5). The Riverview School also provides permanent, well-paying, year-round jobs with health and other employee benefits for Cape Cod residents (ODRP 3.3.1) and employs Cape Cod contractors and uses local suppliers and workers (ODRP 3.3.3).

**Solid Waste Findings:**

SW1. MPS 4.2.1.1 requires the applicant to address the handling of solid wastes, recyclables and construction/demolition waste. Massachusetts solid waste regulations (310 CMR 19.017(3)) prohibit the incineration or landfilling of metal, glass and plastic containers; newspapers; cardboard; office paper; and yard waste such as leaves, grass clippings and brush. Because the project derives from a master plan, specific information in this area has yet to be developed. Therefore, the applicant will be required to describe the facility's recycling program that will serve to divert such material away from disposal facilities.

- SW2. MPS 4.2.1.2 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 4.2.1.2. Because the project derives from a master plan, specific information in this area has yet to be developed. Therefore, the applicant will be required to document how construction wastes associated with building demolition and construction will be recycled or disposed.
- SW3. MPS 4.2.1.3 requires the applicant to allocate adequate storage space for interim storage of recyclable materials. The applicant should ensure that the design of the facility has adequate space for storage, processing and handling of recyclables in areas where service vehicles can access them.

**Hazardous Materials/Wastes Findings:**

- HM1. The site is not located in a Wellhead Protection Area/Zone II or a Potential Future Public Water Supply Area according to maps produced by the Commission for the 2002 (revised) RPP.
- HM2. MPS 4.3.1.1 and MPS 4.3.1.2, taken together, seek to minimize a project's use of hazardous materials or generation of hazardous waste, and to ensure that hazardous waste is handled according to Massachusetts' statutes. This is accomplished through creation of a comprehensive management plan. According to the application, the School generates fluorescent lamps, metal halide lamps, sodium vapor lamps (all three contain mercury), batteries, waste oil and mercury thermostats, all of which are disposed of at the Sandwich Transfer Station. Riverview School also disposes of used paint thinner and oil paint through the Barnstable County Hazardous Waste collections. Cathode ray tubes (televisions, computer monitors) and unwanted electronics are either disposed of at Sandwich's Transfer Station or by a licensed recycler.

**Community Character Findings:**

- CC1. The buildings proposed under the master plan are of a height and scale that are consistent and harmonious with their surroundings and the existing buildings on site. Each of the buildings is designed to incorporate variation in the façade and the roof height in a manner consistent with Cape Cod development patterns. Materials selected are mostly traditional materials such as wood shingle, clapboards and stone. The proposed athletic center uses non-traditional materials, but due to the building's location and the presence of numerous trees and buildings, the structure will not be visible from the regional roadway (Route 6A). Therefore, the design is consistent with the requirements of MPS 6.2.4, 6.2.5 and 6.2.6.
- CC2. The Riverview School property is located within the Old Kings Highway Regional Historic District. Any proposal for new construction or alteration of existing buildings is subject to review and approval by the Sandwich Old Kings Highway Historic District Committee.

- CC3. The proposed Comprehensive Facilities Plan will involve alteration of the two historic buildings on the school campus, Holtmeier House and Torrey House. At the time of the Hardship Exemption application, no detailed scope of work had been submitted. When the School wishes to go forward with the planned renovation work, the applicant will be required to submit a detailed scope of work and elevation plans for review and approval by Cape Cod Commission staff to insure consistency with MPS 6.1.1.
- CC4. The applicant previously conducted an archaeological survey of the area, entitled "Intensive Archaeological Survey of the Riverview School Expansion in Sandwich, Massachusetts," prepared by Alan E. Strauss, and the Massachusetts Historical Commission (MHC) determined that the project would not have an adverse impact on significant archaeological resources. As such, the project is consistent with RPP Minimum Performance Standard 6.1.3, which requires projects to be configured to avoid negative impacts to significant archaeological resources.
- CC5. MPS 6.2.10 requires that "*exterior lighting in new development or redevelopment shall comply with standards including design, light source, total light cutoff, and foot-candle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.*" Materials provided in the application indicate that the proposed exterior lighting design for new or renovated buildings is consistent with prior Commission approvals for the site and with Technical Bulletin 95-001.
- CC6. The landscape plans for the athletic center, new dormitory and Torrey Road are consistent with the requirements of the RPP. Conceptual landscape plans for the new Lund Center were also presented and appear consistent with the RPP. In order to verify consistency with the RPP, the applicant will be required to submit completed landscape plans for staff review and approval as the Lund Center phase of the project commences.
- CC7. The Torrey Road Proposed Landscaping Plan dated October 11, 2005 meets the intent of the screening requirement of MPS 6.2.9, and includes species that are non-invasive, low-maintenance and tolerant of conditions to be expected at the site. The plan also responds to landscaping concerns raised by the adjacent Torrey Beach Community Association. The Torrey Road Proposed Landscaping Plan will be implemented in stages as agreed between the Riverview School and the Torrey Beach Community Association and as described in the letter dated October 11, 2005 from Mr. Carmen Garufo.
- CC8. MPS 6.2.9 requires a maintenance contract(s) or irrigation system for all development. Because the applicant has not presented plans to install an irrigation system, a maintenance contract(s) is required. For each phase of development, the maintenance contract(s) should run for three growing seasons from installation of the plant material, and longer if trees greater than 3.5-inch caliper are planted. The Torrey Beach Community Association is considering funding the installation of 6" caliper street trees to replace the 4-inch caliper trees currently proposed along Torrey Road. The larger the plant material installed, the greater the transplant shock for the trees, and the greater the

period of time that maintenance will be required. The length of the maintenance contract should be extended to provide adequate maintenance if larger trees are installed.

- CC9. Because of the phased nature of the project, the potential exists for landscaping planted in early phases of construction may be damaged or killed in later phases of construction. Therefore, the Applicant should replace any landscaping damaged during construction.

### CONCLUSION

Based on the findings above, the Commission hereby concludes:

- 1) That the probable benefits of the proposed development outweigh the probable detriments.
- 2) The Applicant has demonstrated that the proposed project is a Project of Community Benefit as defined under Section 1(c) of the Enabling Regulations. Due to the School's status as a non-profit institution and its heavy reliance on philanthropy for capital expenditures, the Cape Cod Commission finds that a Hardship Exemption is appropriate and that the Applicant has fulfilled its burden to show that a hardship exists in conforming with all of the requirements of the RPP, in particular MPS 2.5.1.3 and 2.4.1.2. A literal enforcement of the provisions of the Act would involve open space contributions that would represent a substantial financial hardship to the Applicant. Relief from the open space requirements (2.5.1.3) and specimen tree preservation requirements (2.4.1.2) 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 relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship.
- 3) The project does not fall within a District of Critical Planning Concern, and appears to comply with the local development bylaws and the Sandwich Local Comprehensive Plan.

The Cape Cod Commission hereby approves with conditions the Hardship Exemption (Project of Community Benefit) application of Riverview School, Inc. for the Comprehensive Facilities Master Plan, provided the following conditions are met:

### CONDITIONS

#### General Conditions:

- G1. All work shall be constructed in a manner consistent with the following plans:
- Comprehensive Facilities Plan received May 12, 2005 and titled "Project for Community Benefit Application for Exemption".
  - Existing Site Drainage Plans, dated June 14, 2005, prepared by Bennett O'Reilly, Inc.
  - Proposed Site Drainage Plans, dated June 14, 2005 and revised October 13, 2005, prepared by Bennett O'Reilly, Inc.
  - Torrey Road Proposed Landscaping Plan dated October 11, 2005, revised October 18, 2005 and prepared by CMG Architects.

Any deviation during construction from the approved plans, including but not limited to changes to the building design, building location, lighting, landscaping or other site work, shall require approval by the Cape Cod Commission through a modification process, pursuant to Section 12 of the Commission's Enabling Regulations. The applicant shall submit to the Commission any additional information deemed necessary to evaluate any modifications to the approved plans.

- G2. 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.
- G3. 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.
- G4. The Applicant shall obtain all necessary state and local permits for the proposed project.
- G5. 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.
- G6. Prior to issuance of a building permit for any 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 Hardship Exemption 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 12 of the Cape Cod Commission Enabling Regulations, as amended, and which are in effect at the time of the review.
- G7. Prior to issuance of a demolition permit, building permit for any construction, or commencement of work on the new tennis court as identified on the "Torrey Road Proposed Landscaping Plan" dated October 11, 2005, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Preliminary Certificate of Compliance have been met. The Commission may issue a Preliminary Certificate of Compliance for each structure or phase of construction.
- G8. Prior to receiving either a temporary or Final Certificate of Occupancy from the Town of Sandwich for either a structure, or phase of construction, or completion of the new tennis court, the Applicant shall obtain a Final Certificate of Compliance from the Commission. The Commission may issue a Final Certificate of Compliance for each structure or phase of construction.
- G9. The Applicant shall provide a minimum of 30 days notice prior to issuance of all certificates associated with this decision. Commission staff shall complete an inspection

under this condition within seven (7) business days of such notification and inform the applicant in writing of any deficiencies and corrections needed. The Applicants understand that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The Applicants agree to allow Cape Cod Commission staff to enter onto the property, which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.

- G10. The Applicant shall be responsible for providing proof of recording of the decision prior to the issuance of the first Preliminary Certificate of Compliance by the Commission.
- G11. The Applicant shall demonstrate to the Commission that a copy of this decision has been provided to the general contractor prior to the start of construction.
- G12. All applicable conditions of Development of Regional Impact decision TR96009 dated August 8, 1996, as modified, remain in effect and are not superceded by this decision.
- G13. The residential and day student population of the campus shall not exceed the current 171 students, of which 116 are enrolled in the secondary school program and 55 students are enrolled in the post-secondary-school transitional program.

**Water Resources Conditions:**

- WR1. The stormwater system shall be designed as detailed on the stormwater plan (Proposed Site Drainage, dated June 14, 2005 and revised October 13, 2005). The applicant shall keep records of system inspection in conformance with the maintenance and operation plan detailed on the Proposed Site Drainage Plan and shall allow inspection of such records and system components at a mutually agreeable time by Commission staff, not more than once a year.
- WR2. Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall make a one-time payment of \$1,775 to Barnstable County toward the completion of flushing studies for the Scorton Creek embayment.

**Natural Resources Conditions:**

- NR1. Prior to the issuance of the first Final Certificate of Compliance, the school shall install the sixteen (16), 4-4.5" caliper (diameter) hornbeam trees located along Torrey Road, as well as eleven (11), 4-4.5" caliper American Delaware elm trees located at the school entrance as shown on the Torrey Road Proposed Landscaping Plan dated October 11, 2005, revised October 18, 2005.
- NR2. Prior to the issuance of the first Preliminary Certificate of Compliance, the school shall submit a plan for revegetating the area behind the GROW residence for Commission staff review and approval. Prior to the issuance of the Final Certificate of Compliance for the tennis court, the school shall implement the approved plan. The plan shall include a mix of fifty (50) native shrubs that may provide some habitat for wildlife in the area, and in

time provide a buffer to the residences to the north, planted in clusters over one third of an acre behind the GROW residence and adjacent to the protected woodland to the west.

- NR3. Prior to the issuance of the first Preliminary Certificate of Compliance, the school shall prepare a plan for managing invasive species on-site for Commission staff review and approval. Following approval of the plan, the school shall incorporate the plan into the school maintenance staff's regular responsibilities, and shall consider incorporating invasive species education into the school science curriculum.

**Solid Waste Conditions:**

- SW1. Prior to the issuance of the first Preliminary Certificate of Compliance, the applicant shall submit to the Commission documentation that describes the facility's recycling program to ensure that it will serve to divert such material away from disposal facilities.
- SW2. Prior to the issuance of each Final Certificate of Compliance, the applicant shall document how construction wastes associated with building demolition and construction will be recycled or disposed by submitting a bill of lading/manifests from the receiving station.
- SW3. Prior to the issuance of a Preliminary Certificate of Compliance for each building, the applicant shall submit plans to Commission staff demonstrating that the design of the facility has adequate space for storage, processing and handling of recyclables in areas where service vehicles can access them.

**Hazardous Materials Conditions:**

- HM.1. Prior to issuance of the first Preliminary Certificate of Compliance for either a structure, or phase of construction, or completion of the new tennis court, the Applicant shall submit for Commission staff's review and approval a written plan, consistent with Technical Bulletin 03-001, to implement source-reduction and waste management techniques.
- HM2. Prior to issuance of a Preliminary Certificate of Compliance for either a structure, or phase of construction, or completion of the new tennis court, the Applicant shall submit evidence that the School has either notified the Department of Environmental Protection (DEP) of its hazardous waste and Universal Waste generator status, and/or registered with the DEP as a hazardous waste generator.
- HM3. Prior to issuance of any Preliminary Certificate of Compliance, the Applicant shall take steps to ensure that buildings scheduled to be demolished in that phase of construction are surveyed for asbestos-containing materials. Documentation shall be provided to the Commission staff to demonstrate compliance with this condition prior to issuance of a Preliminary Certificate of Compliance.
- HM4. Prior to issuance of any Final Certificate of Compliance, the Applicant shall submit to the Commission evidence that any underground tanks discovered during excavation have

been removed, and any contamination discovered during construction or excavation has been addressed.

### **Community Character**

- CC1. Prior to renovation of Torrey House and Holtmeier House, Riverview School shall submit a scope of work and elevation plans for the proposed work to the Cape Cod Commission staff and the Massachusetts Historical Commission (MHC) for review and approval regarding their consistency with RPP performance standards relating to historic preservation.
- CC2. Prior to issuance of a Preliminary Certificate of Compliance for the Performing Arts Center, Riverview School shall submit final design plans for the building and adjacent landscaping for Commission staff review and approval for their consistency with the Schematic Landscape Plan dated October 2, 2005 (sheet L.1) and architectural drawings for the Lund Center For Music And Performance (Sheets A.1, A.2, A.3, A.4 and A.5).
- CC3. Prior to issuance of the first Final Certificate of Compliance, the street trees and embankment stabilization groundcover (Stage One Planting) shown on The Torrey Road Proposed Landscaping Plan dated October 11, 2005, revised October 18, 2005, will be planted. The remainder of the landscaping shown on the Torrey Road Proposed Landscaping Plan will be planted at the time of construction of the tennis court, parking lot and Lund Center respectively, in accordance with the schedule detailed on the Torrey Road Proposed Landscaping Plan.
- CC4. All exterior lighting proposed and installed as part of project construction shall be in compliance with the plans included in the Comprehensive Facilities Plan received May 12, 2005 and titled "Project for Community Benefit Application for Exemption", and exterior lighting requirements of Technical Bulletin 95-001 (as amended). Prior to issuance of any Final Certificate of Compliance, Commission staff shall conduct in-the-field verification that the installed lighting design and light levels conform to this condition.
- CC5. The project shall be landscaped in accordance with the plans identified in Condition G1. No plant substitutions may be made without the prior written approval of Cape Cod Commission staff.
- CC6. No development work as development is defined by Section 2(e) of the Cape Cod Commission Act, with the exception of the installation of the Torrey Avenue street trees and embankment stabilization (Stage One Planting) shown on the Torrey Road Proposed Landscaping Plan dated October 11, 2005, revised October 18, 2005, shall commence without the issuance of a preliminary Certificate of Compliance.
- CC7. A draft maintenance contract shall be submitted for staff approval prior to issuance of the first Preliminary Certificate of Compliance for the project and shall include a provision for extended maintenance of all trees planted that are greater than 3.5 inch in caliper. Prior to installation of plant material and the issuance of any Final Certificate of

Compliance, an executed maintenance contract consistent with the approved draft shall be submitted to Commission staff. The maintenance contract(s) shall run for a minimum of growing seasons (a growing season is defined as the period between March 15 and October 31). The extended maintenance contract shall require watering of all trees exceeding 3.5 inches in caliper and shall run for a total of 5 years.

- CC8. If plant material installed in an earlier phase of project construction is substantially damaged or killed (as determined by Cape Cod Commission staff) during later phases of construction, it shall be replaced in kind prior to the issuance of any subsequent Certificates of Compliance subsequent to the Commission staff's notice to the Applicant's attorney of record that the plant material needs to be replaced.
- CC9. All required exterior lighting, site work, and/or other landscape improvements shall be completed prior to issuance of any Final Certificate of Compliance for each building or phase of construction. Any work not complete at the time a Final Certificate of Compliance is sought from the Commission 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 that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement shall be payable to the Cape Cod Commission 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.

The Cape Cod Commission hereby approves with conditions the application of Riverview School, Inc. 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 Comprehensive Facilities Plan in Sandwich, MA.

  
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Alan Platt, Chair

11/3/05  
\_\_\_\_\_  
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 3rd day of November, 2005, before me, the undersigned notary public, personally appeared Alan Platt, proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

  
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Notary Public, Commonwealth of Massachusetts

*My Commission expires: 10/13/11*