CAPE COD COMMISSION

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DATE:	April 20, 2006
TO:	Young Men's Christian Association of Cape Cod PO Box 188 West Barnstable, MA 02669
FROM:	Cape Cod Commission
RE:	Hardship Exemption/Project of Community Benefit Cape Cod Commission Act, Section 23
Applicant:	Young Men's Christian Association of Cape Cod
PROJECT#	HDEX/06001
PROJECT:	Young Men's Christian Association of Cape Cod
BOOK/PAGE	Book 4284/Page 41 Book 8271/Page 279 Book 6242/Page 323

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Hardship Exemption application of the Young Men's Christian Association of Cape Cod (YMCA) and the Town of Barnstable 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 April 20, 2006.

PROJECT DESCRIPTION

The YMCA is proposing to construct an 18,563 square foot addition onto the existing 23,131 square-foot structure for a total of 41,694 square feet to address programmatic deficiencies in services offered to its members. The proposed expansion includes child-watch and childcare program space, a health/wellness center, adult locker/shower areas, and a new entrance, reception area and parking facilities. These improvements will bring the facility into compliance with the

Americans with Disabilities Act. The YMCA is also providing new stormwater and wastewater facilities, as well as an enlarged parking facility.

PROCEDURAL HISTORY

The applicants submitted an application for review as a Project of Community Benefit through a DRI Hardship Exemption application dated January 19, 2006 that was deemed complete on February 2, 2006. A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on February 27, 2006. At the February 27, 2006 public hearing the subcommittee recommended to the full Commission that the project be granted a Hardship Exemption as a Project of Community Benefit and to approve a decision subject to conditions. At the April 6, 2006 public meeting the subcommittee met to review the draft decision. At the final public hearing before the full Commission on April 20, 2006 the Commission voted ____ to approve the Hardship Exemption, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the applicant:

- Letter from Barnstable YMCA regarding employment and hazardous materials information dated January 8, 2006
- Hardship Exemption application dated January 19, 2006
- Memorandum from Nutter, McClennen and Fish regarding POCB/Hardship Exemption application dated January 20, 2006
- Memorandum from Nutter, McClennen and Fish regarding fee waiver request dated January 30, 2006
- Email from Coastal Engineering to Commission staff regarding "area of impact" dated February 3, 2006
- Memorandum from Nutter, McClennen and Fish regarding MHC filing and Hardship Exemption application dated February 10, 2006
- Memorandum from Nutter, McClennen and Fish regarding landscaping, MHC and hazardous materials dated February 16, 2006
- Memorandum from Nutter, McClennen and Fish regarding traffic information dated February 17, 2006
- Memorandum from Nutter, McClennen and Fish regarding elevations dated February 24, 2006
- Memorandum from Nutter, McClennen and Fish regarding lighting cuts dated February 27, 2006
- Supporting documents from Nutter, McClennen and Fish submitted to subcommittee dated February 27, 2006
- Memorandum from Nutter, McClennen and Fish regarding Massachusetts Historical Commission dated March 22, 2006
- Letter from Ms. Joanie Sutherland, YMCA Chief Executive Office outlining financial hardship of redevelopment dated March 27, 2006
- Memorandum from Nutter, McClennen and Fish regarding TDM program dated March 29, 2006
- Nitrogen loading calculations from Coastal Engineering dated March 30, 2006

- Memorandum from Nutter, McClennen and Fish regarding nitrogen loading calculations and traffic information dated March 30, 2006
- Memorandum from Rizzo Associates regarding sight line distance evaluation dated March 30, 2006

From Cape Cod Commission staff:

- Memorandum from Andrea Adams to Greg Smith regarding hazardous materials dated January 26, 2006
- Letter of completeness of application from Commission staff to Nutter, McClennen and Fish dated February 2, 2006
- E-mail from Paul Ruchinkas to Greg Smith regarding affordable housing dated February 21, 2006
- Staff report dated February 27, 2006

From state and local officials:

- Letter of support from Town of Barnstable Growth Management Department dated February 26, 2006
- Letter from Massachusetts Historical Commission regarding completion of staff review dated March 14, 2006

From the public:

- Letter from Mark Whirtenen dated February 27, 2006

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.

JURISDICTION

The YMCA project qualifies as a Development of Regional Impact (DRI) under Section 3(e) (ii) of the DRI Enabling Regulations Governing Review of Developments of Regional Impact as "any private health, recreational or educational development that exceeds the criteria: addition to an existing building that result in an increase greater than 10,000 square feet of gross floor area."

FINDINGS

The Commission has considered the application of the YMCA and the Town of Barnstable for a DRI hardship exemption and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to the 2002 Regional Policy Plan and Section 23 of the Act:

General

G1 The proposed project consists of the redevelopment of the existing YMCA structure by building an 18,563 square foot addition to the existing building to address programmatic deficiencies in that building as well as bring the structure into compliance with the Americans with Disabilities Act.

G2 As the first substantive public hearing was conducted on February 27, 2006, the project is being reviewed under the 2002 Regional Policy Plan.

G3 The proposed project is located within a Certified Growth Area according to the Barnstable Local Comprehensive Plan.

G4 The project does not lie within a District of Critical Planning Concern (DCPC).

G5 According to a letter submitted by the Barnstable Growth Management Department on February 26, 2006, the project is consistent with the Town of Barnstable's Local Comprehensive Plan

G6 The redevelopment project is consistent with all applicable municipal by-laws.

G7 The redevelopment project will be constructed in accordance with the following plans:

1. Site Development Plans SD1-SD8 prepared by Coastal Engineering dated March 30, 2006
2. Planting plan prepared by Hammer Design dated February 16, 2006
3. Building elevations and floor plans prepared by Shuskey Architects dated July 15, 2005
4. Lighting specifications identified as Kim Lighting and referenced in a memorandum from Nutter, McClennen and Fish dated February 27, 2006

G8 The Commission finds that the project is a Project of Community Benefit as defined by Section 1 (c) of the Enabling Regulations. The YMCA confers distinct benefits to the community and to the citizens of Barnstable County by advancing recreational, cultural and educational values. Benefits to the community and Barnstable County include without limitation: Summer Day Camp program, High Flight program, Team Works program, Teen Nights and Dances, Outdoor School program, and the Earth Services Corps program.

G9 The applicants have shown that fully complying with the requirements of the RPP would create a financial hardship. The Commission further finds that a literal enforcement of the provisions of the Act would involve a financial hardship to the applicants. Partial relief from the Minimum Performance Standards in the area of Open Space may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purposes of the Act.

G10 According to a letter submitted by Ms. Joanie Sutherland, Chief Executive Officer of the YMCA, the YMCA is a private, non-profit organization that is heavily reliant on fundraising. According to the information submitted and the testimony provided, the entire cost of the expansion is being fundraised by philanthropic donations. Full compliance with all applicable minimum performance standards would require scaling back on programs and services that would result in diminished community benefit.

G11 At the February 27, 2006 public hearing, the subcommittee found that the proposed redevelopment project improvements were both needed and would be of benefit to the

community, and full compliance with the Minimum Performance Standards would constitute a hardship by diminishing the community benefits to be conferred.

Transportation

T1 The YMCA proposes to renovate and expand the existing YMCA facility located on Route 132 in Barnstable, which is a Regional Roadway as defined in the 2002 RPP.

T2 MPS 4.1.1.7 requires all DRIs access/egress locations with public ways to meet Massachusetts Highway Departments (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. Based on the field observations the stopping sight distances are adequate based on AASHTO and MHD standards.

T3 MPS 4.1.3.2 requires all new driveways on regional roads to operate at Level of Service C or better as defined in the Highway Capacity Manual. The proposed facility will utilize existing driveways; therefore this MPS does not apply.

T4 Regardless of project size, DRIs are required to reduce site-generated traffic by 25 percent (MPS 4.1.2.1) based on the net increase in traffic generated by the development. Appropriate strategies to reduce automobile travel may include car/van pooling programs, public transportation, enhancing bicycle and pedestrian access to the site, donation of vacant developable land and/or a monetary commitment to alternatives to automobile transportation. The YMCA has agreed to the employee trip reduction plan as outlined in condition T1.

Water Resources

WR1 The project is located outside of any current Public Water Supply Protection areas. A private well located on the abutting Conservatory Property is no longer in service and public water is utilized for both properties.

WR2 The project is located within the Marine Water Recharge Area to Barnstable Harbor. Preliminary assessments completed by the Massachusetts Estuaries technical team indicate that the system is currently not impaired.

WR3 The proposed addition to the YMCA has the potential to impact regional water resources due to activities associated with wastewater and stormwater flows.

WR4 There will be a significant increase in the design flow for wastewater based on an increase in the locker room area. The design flow overestimates the water use by approximately 40 percent. This is substantiated by a comparison of the existing Title V design flows and existing water use records. Wastewater will be disposed of in a traditional Title V design septic system without the addition of a denitrifying system. The YMCA agrees to connect to town sewer as soon as the extension main becomes available in this area.

WR5 Nitrogen loading calculations performed by Coastal Engineering dated March 30, 2006 for the project show a slight increase in nitrogen loading. However it remains below 10 parts

per million which is consistent with the findings for a project in a designated Growth/Activity Center according to MPS 3.2.1 provided that there are no adverse impacts to water resources. Based on the location outside of a public water supply area or impaired marine water recharge area there are no anticipated adverse impacts.

WR6 Stormwater will be disposed of onsite. Clean roof runoff will directly infiltrate via an abandoned leaching area, with an overflow provided to a depressed wooded area. Stormwater from paved surfaces will flow through a series of connected catch basins to a vegetated retention area equipped with a subsurface overflow area. The design calls for a shallow retention area with plantings.

Community Character/Heritage Preservation

CC1 The Massachusetts Historical Commission (MHC) reviewed the proposed redevelopment project and, in a letter dated March 14, 2006 determined that the proposed project "appears to meet the Secretary of the Interior's Standards." Therefore, the project is consistent with the minimum performance standards requiring archaeological resources be maintained and enhanced (MPS 6.1.3).

CC2 The project is located in the Kings Highway Historic District and the project has received an approval from the Old King's Highway District Committee in a Certificate of Appropriateness dated August 24, 2005.

CC3 The proposed project includes the expansion of the current building in previously disturbed areas of the site. The project consists of one and two-story additions with the majority of the additional floor area concentrated to the west side of the existing building in a new two-story expansion. The addition will be screened from the street (Route 132) by the existing vegetation and existing building, which is consistent with MPS 6.2.4 that requires that the character of the street in historic districts be retained.

CC4 The building incorporates variety in both the building height and façade to be consistent with the mass and scale of the existing building and the character of the region. Traditional building materials are selected throughout, with wood shingles on the exterior of the upper levels and painted clapboards on the lower levels. The entry incorporates a gable-end roof that is consistent with the existing building and will be finished with architectural shingles. The remainder of the addition will use a flat roof that will be used for roof-top equipment. Therefore, the proposed design is consistent with the minimum performance standards that require elements of the area's character to be maintained (MPS 6.2.4) and variation in the height and façade of structures with a footprint greater than 10,000 square feet (MPS 6.2.5).

CC5 MPS 6.2.10 requires that development and redevelopment conform to the Cape Cod Commission's exterior lighting design standards and submission requirements, Technical Bulletin 95-001. A February 27, 2006 Memo and attachments from Nutter, McClennen & Fish provided manufacturer's information on some proposed exterior lights. The luminaires shown in the 2/27/06 manufacturer's technical cuts indicate these fixtures will be consistent with Technical Bulletin 95-001 standards 2.1 to 2.4. No foot-candle

information was provided, and it is not clear from the information that was submitted if an on-building mounted, recessed or landscape fixtures will be used.

Natural Resources/Open Space

NR1 The project site is located mostly outside of mapped Significant Natural Resource Area (SNRA), though a small portion is located in SNRA. The majority of the proposed site development is located in previously disturbed areas on the project site, and development located in naturally vegetated areas is clustered adjacent to the existing development, consistent with MPS 2.5.1.1. The one exception is the new fire access road located on the eastern part of the site which functions as a wooded buffer between Route 132 and the YMCA buildings. The installation of this road in this location appears to require considerable grading, which may significantly impact the buffer from the road.

NR2 The applicants did not provide a natural resources inventory, as required by MPS 2.4.1.1. However, given the previously developed nature of the site the Commission finds the requirement of a natural resource inventory would create a financial hardship to the YMCA, especially given the fact that the site of the expansion is previously developed. Therefore, the Commission finds that: i) the applicants have met their burden of showing that a hardship exists; ii) literal enforcement of the minimum performance standards would be a hardship for the applicants; iii) relieving the requirement of MPS 2.4.1.1 to allow for the waiver of the natural resource inventory of the previously developed site 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 detriment to the public good. Plans provided do not indicate the presence of wetlands within 100 feet of proposed development, consistent with MPS 2.3.1.2. With the exception of the fire road, development is clustered and minimizes impacts to existing naturally vegetated areas, consistent with MPSs 2.4.1.2 and 2.4.1.3. Adverse impacts to regionally significant wildlife and plant habitat are not anticipated from this project.

NR3 Due to a demonstrated financial hardship, the YMCA is not required to provide open space mitigation.

Hazardous Materials

HW1 Maps produced for the 2002 RPP indicate the project site is not within an existing Wellhead Protection Area or a Potential Public Water Supply Area.

HW2 MPS 4.3.1.1. requires "*reasonable efforts to minimize…hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling.*" This standard applies to a project's construction and post-construction phases. The YMCA was advised to conduct a facility audit and to design a source reduction program to reduce the YMCAs overall use of hazardous materials.

HW3 MPS 4.3.1.2 requires *"compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00."* This standard applies to a project's construction and post-construction phases. According to a February 16, 2006 letter from Nutter, McClennen & Fish, as well as Commission staff knowledge, the YMCA generates wastes that cannot be disposed of in

general trash including pool chemicals, fluorescent bulbs, used computers. The applicant was advised to develop protocols to manage any regulated wastes.

CONCLUSION

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

1) that the probable benefits of the proposed redevelopment outweigh the probable detriments; and
2) the applicants demonstrated that the proposed project is a Project of Community Benefit as defined under section 1(c) of the DRI Enabling Regulations, as noted in Finding G8. The applicants have a financial hardship, as noted in Finding G9. Desirable relief may be granted to the applicants without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission grants the minimum relief necessary to address the hardship and the relief granted relates directly to the nature of the identified hardship.

The Cape Cod Commission hereby approves with conditions the Hardship Exemption application of the YMCA and the Town of Barnstable pursuant to Section 23 of the Cape Cod Commission Act, c. 716 of the Acts of 1989, as amended, for the YMCA redevelopment project located in Barnstable, MA., provided the following conditions are met:

CONDITIONS

General

G1 All work shall be constructed in a manner consistent with the following plans:

1. Site Development Plans SD1-SD8 prepared by Coastal Engineering dated March 30, 2006
2. Planting plan prepared by Hammer Design dated February 16, 2006
3. Building elevations and floor plans prepared by Shuskey Architects dated July 15, 2005
4. Lighting specifications identified as Kim Lighting and referenced in a memorandum from Nutter, McClennen and Fish dated February 27, 2006

Any deviation during construction from the approved plans, including but not limited to changes in 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 applicants shall submit to the Commission any additional information deemed necessary to evaluate any proposed modifications to the approval process.

G2 This Project of Community Benefit 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 applicants 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 The applicants shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Barnstable Site Plan Review Committee shall be submitted to the Commission upon receipt of local approvals.

G7 Prior to the issuance of a building permit for any phase of construction, the YMCA 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 is inconsistent with this decision and/or supporting information, then they shall be reviewed subject to the Cape Cod Commission's Enabling Regulations, Modifications to Approved DRI's, as amended, which are in effect at the time of this review.

G8 Prior to issuance of a building permit for any phase of construction, the YMCA shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a building permit for such phase have been met.

G9 Prior to receiving a temporary or final Certificate of Occupancy from the Town of Barnstable, the YMCA shall obtain a Final Certificate of Compliance from the Commission.

G10 The expansion/addition area shall not be open for business to the public until a Final Certificate of Compliance is received from the Cape Cod Commission.

G11 The applicant shall notify Commission staff of the intent to seek a Preliminary or Final Certificate of Compliance at least thirty (30) days to the anticipated date of receipt of such Certificate. Such notification shall include a list of key contact(s) and phone numbers for questions that may arise during the Commission's compliance review. 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 YMCA understands that the Commission has no obligation to issue either a Preliminary or a Final Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The YMCA agrees to allow Cape Cod Commission staff to enter onto the property that is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.

G12 The YMCA shall be responsible for providing proof of recording of the decision prior to issuance of a Final Certificate of Compliance.

G13 The YMCA shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.

Transportation

T1 The YMCA has agreed to and shall implement the following employee trip reduction plan:

- The YMCA will post and provide access to public transportation including: the B-Bus, the Breeze and the Plymouth/Brockton Bus Lines. In addition, the YMCA will coordinate for onsite scheduled transportation with the Barnstable Villager and RTA Breeze-Yellow line.
- The YMCA will market these measures to members and employees through bulletin boards, news letters, brochures and the YMCA Cape Cod website. In addition, links to related transportation schedules and the Cape Cod Commission transportation information center (www.gocapecod.org) will also be provided on the YMCA website.
- Access to the YMCA facility with sidewalks from Route 132 as shown on the site plan.
- Bicycle racks to accommodate both employees and members.
- Preferential parking areas for employees that carpool.
- Post information regarding carpooling and public transportation options on bulletin boards and in staff newsletters.
- Provide onsite services in a staff lunchroom, including a microwave, refrigerator and prepared food vending.
- Emergency travel program and taxi service access will be available, as appropriate.
- An onsite human resource specialist will serve as the transportation coordinator.
- The YMCA will distribute information regarding the TDM programs in the employee information packets that are available at quarterly staff orientation/staff development sessions. Updates will be provided as appropriate.
- The YMCA will provide flexible work schedules, as appropriate, for employees that car/van or bus pool when possible.

Water Resources

WR1 As reflected in the submitted plans, the stormwater design shall be modified to apply low impact development guidelines. Stormwater will be disposed of onsite and the design is consistent with MPS 2.1.3.2 and 2.1.3.3. Essential components of this design shall be to separate the stormwater to discharge to several smaller areas including tree boxes within the parking area, or other perimeter infiltration areas, provide drainage via vegetated swales along the roadside, and to modify the retention basin to blend into the landscape and serve as a functional landscape element, with substantive plantings and no perimeter fence. Plantings to be placed shall be of a type and height subject to staff approval.

Community Character/Heritage Preservation

CC1 All exterior lighting for the project shall conform to the requirements of MPS 6.2.10 and Technical Bulletin 95-001. Should conditions arise during project construction that require adjustments to site 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 12 of the Commission's *Enabling Regulations*. Modifications to the project's exterior lighting design made during construction that are in accordance with

the Commission-approved lighting information shall be considered as Minor Modifications #1 and may be approved by Commission staff.

CC2 Prior to issuance of a Final Certificate of Compliance by the Commission, and prior to issuance of a Certificate of Use and Occupancy at the local level, Commission staff shall conduct a site visit to verify conformance of the exterior lighting design with MPS 6.2.10, Technical Bulletin 95-001 and EXLC1 of this decision. No Final Certificate shall be issued until Commission staff issues a written assessment of the exterior lighting design to the applicants indicating that it is consistent with MPS 6.2.10, Technical Bulletin 95-001 and EXLC1.

Hazardous Materials

HW1 Prior to issuance of a Preliminary Certificate of Compliance by the Commission, the YMCA shall submit for the file evidence that the building has been surveyed for the presence of asbestos-containing materials, PCB-containing devices, mercury-containing devices, lead-based paint.

HW2 Prior to issuance of a Final Certificate of Compliance by the Commission, and prior to issuance of a Certificate of Use and Occupancy at the local level, the YMCA shall submit for Commission staff review and approval a program to handle, store and dispose of any regulated wastes, including but not limited to used pool chemicals, used fluorescent bulbs, used electronic equipment, used computers, used televisions, and any other Universal or hazardous wastes generated on site. A Final Certificate of Compliance may not be issued until Commission staff issues a written approval of the management program.

The Cape Cod Commission hereby approves with conditions the Hardship Exemption/Project of Community Benefit application of the YMCA and the Town of Barnstable pursuant to Section 23 of the Cape Cod Commission Act, c. 716 of the Acts of 1989, as amended, for the YMCA project located in Barnstable, MA

_____ _____

Alan Platt, Chair Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____, 2006

Before me, the undersigned notary public, personally appeared _____, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [_] photographic identification with signature issued by a federal or state governmental agency, [_] oath or affirmation of a credible witness, or [_] personal knowledge of the undersigned.

_____

Notary Public

My Commission Expires: