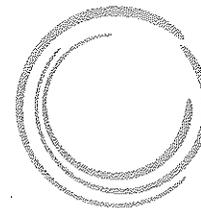


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BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Date: August 4, 2011

To: Eliza Cox, Esq.
Nutter McClennen & Fish LLP
PO Box 1630
Hyannis, MA 02601

From: Cape Cod Commission

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

Applicant: Community Health Center of Cape Cod, Inc.
107 Commercial Street
Mashpee, MA 02649

Co-applicant: Town of Mashpee, as Property Owner
Joyce Mason, Town Manager
16 Great Neck Road North
Mashpee, MA 02649

Project & Location: Mashpee Community Health Center
107 Commercial Street
Mashpee, MA 02649

Project #: HDEX#11009

Book/Page: Book 587 Page 553
See also Ground Lease recorded in Book 22000, Page 1

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions, the application of the Community Health Center of Cape Cod, Inc, (the Applicant), represented by Attorney Eliza Cox (of Nutter McClennen & Fish, LLP) and the Town of Mashpee, as property owner (Co-applicant), as a Development of Regional Impact (DRI) Project of Community Benefit Hardship Exemption pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a 22,200 square foot addition to an existing 9,900 s.f. health center, located at 107 Commercial Street in Mashpee, MA. This decision is rendered pursuant to a vote of the Commission on August 4, 2011.

PROJECT DESCRIPTION

The project consists of a 22,200 square foot expansion to the west side of the existing 9,900 square foot health center. The addition has been sited to take advantage of the site's topographical elevation changes so that the second floor of the addition is accessed from the current building.

PROCEDURAL HISTORY

The Commission received the DRI Project of Community Benefit Hardship Exemption application for the 22,200 s.f. expansion on April 14, 2011. The DRI Project of Community Benefit Hardship Exemption application was deemed substantively complete to proceed to a public hearing on May 25, 2011, and a letter was sent to the Applicant and town officials on June 2, 2011 informing them as such.

In accordance with the Cape Cod Commission Act, the hearing period was opened with a duly noticed public hearing held on June 28, 2011 at the Mashpee Town Hall in Mashpee, MA. At this hearing the subcommittee voted to continue the public hearing to a meeting of the Cape Cod Commission on August 4, 2011.

A subcommittee meeting was held immediately following the public hearing on June 28, 2011 where the subcommittee deliberated on the project and voted unanimously to direct staff to draft an approval (with conditions) Project of Community Benefit Hardship Exemption DRI decision. A second subcommittee meeting was held on July 27, 2011 where the subcommittee reviewed the draft decision and moved to forward the draft decision, as modified, to the August 4, 2011 Commission meeting.

A final public hearing was held before the full Cape Cod Commission on August 4, 2011. At the close of this hearing, the Commission voted unanimously to approve the project as a DRI Project of Community Benefit Hardship Exemption, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

In addition to the list of materials submitted for the record (see Table 1 below), the application and notices of public hearing relative thereto, Commission staff's notes and correspondence, the minutes of public meetings and hearings, and all other written submissions received in the course of the proceedings are hereby incorporated into the record by reference.

TABLE 1: Materials Submitted for the Record	
<i>Materials from Cape Cod Commission</i>	<i>Date Sent</i>
Email from Page Czepiga (PC) to Eliza Cox (EC) re: attached letter regarding application completeness	4/27/11
Email from PC to EC re: attached draft subcommittee procedures, confirming receipt of Holmes & McGrath information	5/6/11
Email from Andrea Adams to PC, EC re: attached memo regarding application completeness and Solid Waste, Hazardous Waste, Exterior Lighting	5/9/11
Email from PC to EC re: confirming receipt of additional information	5/19/11
Email from PC to Commission staff re: requesting staff report comments	5/26/11
Memo from Andrea Adams to PC re: attached staff report comments	5/31/11

Email from PC to Joyce Mason (Town Manager), Tom Fudala (Town Planner) re: public hearing information	6/2/11
Email from PC to Joyce Mason re: confirming receipt of letter	6/2/11
Letter from PC to EC re: letter deeming application complete	6/2/11
Email from PC to subcommittee members re: public hearing/site visit information	6/2/11
Email from PC to EC re: please call, attached letter from Joyce Mason & Fire Chief	6/2/11
Letter from Gail Hanley to EC re: payment for hearing notices	6/9/11
Email from PC to EC, Mike McGrath re: comments regarding nitrogen loading	6/9/11
Email from Gabrielle Belfit to PC re: attached Water Resources staff report comments	6/9/11
Email from Gail Hanley to Deborah Dami (Mashpee Town Clerk) re: please post attached hearing notice	6/10/11
Email from PC to Tom Fudala re: please provide comments on LCP, local zoning	6/14/11
Memo from Glenn Cannon to PC re: attached transportation staff report comments	6/15/11
Email from Tom Cambareri to PC re: attached revised water resource staff report comments	6/15/11
Email from Glenn Cannon to Jeff Dirk re: attached technical memo outlining concerns relative to trip reduction credit	6/16/11
Email from Paul Ruchinskaskas to PC re: revisions to affordable housing staff report section	6/16/11
Staff Report	6/20/11
Memo from PC to subcommittee members re: attached directions to site visit, public hearing, correspondence from town officials and members of the public, staff report	6/20/11
Email from PC to EC re: exterior lighting	6/27/11
Email from PC to EC re: tentative subcommittee meeting date	7/13/11
Email from PC to Commission staff re: attached draft decision	7/14/11
Email from Gail Hanley to Debora Dami (Mashpee Town Clerk) re: please post attached meeting notice	7/18/11
Email from PC to Joyce Mason, Tom Fudala re: attached draft decision and subcommittee meeting date, Commission meeting date	7/22/11
Email from Ryan Christenberry to PC re: Energy Star guidance document	7/26/11
Email from PC to EC re: below email from Ryan Christenberry	7/26/11
Materials from Applicant	Date Received
DRI application with attachments	4/14/11
Letter from EC to PC re: attached copy of Grant Award, copy of Health Center's pre-construction drawing/pre-bid budget	4/22/11
Email from Jeffrey Dirk to PC re: copies of traffic study	4/27/11
Email from Cindy McGrath re: town attending meeting?	4/28/11
Letter from EC to PC re: attached Health Center's recycling policy, policy pertaining to fluorescent lamp tubes, information on dental amalgam/mercury recycling, traffic assessment, minutes from 4/11/11 Board of Selectmen's Meeting (endorsing project), 4/11/11 minutes from	4/29/11

Board of Selectmen's meeting confirming site will not serve as potential public well site, email communication between EC and Andy Marks (Mashpee Water District) confirming site not under consideration for a public water supply, attached LEED checklist	
Letter from EC re: information about ASHRAE standards and WR1.5	5/4/11
Email from Cindy McGrath re: attached letter from EC	5/4/11
Email from EC to PC re: expect correspondence from Holmes & McGrath	5/6/11
Letter from EC to PC re: attached updated fluorescent tube handling policy, updated health center's hazardous waste policy, narrative re: HVAC information, letter from Glenn Electric noting updated fixtures, specifications, and updated photometric plan	5/6/11
Site Plan Set, prepared by Stantec, dated 3/25/11, revised 5/6/11	5/6/11
Letter from Mike McGrath (Holmes & McGrath) re: attached information regarding Nitrogen Loading, copies of revised site plans	5/6/11
Email from Jeffrey Dirk to PC re: attached letter re: speed limit on Commercial Street	5/9/11
Email from EC to Andrea Adams re: question about fluorescent tubes	5/10/11
Email from EC to Andrea Adams re: dental facility regulations	5/10/11
Letter from EC to PC re: attached civil site plans (prepared by Stantec, dated 3/25/11, revised 5/17/11), revised developed area estimate, minor changes to parking lot/canopy, May 16, 2011 letter from Glynn Electric with updated photometric plan	5/18/11
Email from EC to PC re: requesting receipt of information	5/18/11
Email from EC to PC re: public hearing dates	5/26/11
Email from Cindy McGrath to PC re: confirming site visit/public hearing	6/2/11
Email from EC to PC re: no meeting needed on nitrogen loading	6/9/11
Email from EC to PC re: contact Jeffrey Dirk	6/9/11
Email from Jeffrey Dirk to PC re: in agreement with traffic analysis	6/16/11
Email from EC to PC re: requesting hardship for transportation	6/17/11
Email from EC to PC re: exterior lighting	6/27/11
Copy of powerpoint presented by EC at 6/28/11 public hearing	6/28/11
Copy of exterior renderings and floor plans presented at 6/28/11 public hearing	6/28/11
Sheet entitled " <i>Organization History & Mission</i> " presented at 6/28/11 public hearing	6/28/11
Email from EC to PC re: dates for subcommittee meeting?	7/12/11
Email from EC to PC re: will hold date	7/13/11
Email from Cindy McGrath re: attached memo from EC with requested revisions	7/25/11
Email from EC to PC re: thanks for information	7/26/11
Materials from Local, State, Federal Agencies	Date Received
Letter from Joyce Mason (Town Manager) to PC re: supporting POCB request	5/13/11
Letter from Joyce Mason & George Baker (fire chief) re: specifying town requested emergency access to Rte 28 and confirmation of maintenance agreement	5/31/11
Email from Tom Fudala to PC re: town strongly supports project	6/14/11
Email from Tom Fudala to PC re: email address	6/14/11

Email from Tom Fudala to PC re: project complies with local zoning and local comprehensive plan	6/28/11
Letter from EDIC in support of the project	8/1/11
Materials from General Public or Other	Date Received
Letter from Chester & Jo Anne Derr re: concerns about public safety and lighting	6/17/11

TESTIMONY

June 28, 2011 Public Hearing

A public hearing was held at 5:30 p.m. on June 28, 2011 at the Mashpee Town Hall. Ms. Page Czepiga, Regulatory Officer for the Cape Cod Commission, presented the staff report. She gave a brief overview of the existing setting and proposed project, the Cape Cod Commission's jurisdiction and procedural history, the *Enabling Regulations* definition of Project of Community Benefit (POCB), and staff analysis regarding Economic Development, Affordable Housing, Energy, Natural Resources & Open Space, Water Resources & Hazardous Materials, Heritage Preservation and Community Character, and Transportation. She said the subcommittee should determine whether the project qualifies as a POCB as defined by the *Enabling Regulations* and if so, whether full compliance with the MPS of the RPP would constitute a hardship by diminishing the community benefit(s) to be conferred. She reviewed the mitigation the Applicant is requesting relief from and said the subcommittee should determine whether granting the requested relief is the minimum necessary to address the hardship and whether it may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act.

Ms. Karen Gardener provided information on the history and mission of the health Center, noting that approximately 40% of the health center's clients are below 100% of the federal poverty level. Ms. Cox explained that there is a rapidly increasing demand for the health center services and that Cape Cod is designated as a federal medically underserved area with both dental and health professional shortages. She explained the center received a \$6 million dollar grant and that the remaining \$3 million would need to be raised by the non-profit applicant through a private capital campaign. She said part of the federal grant conditions requires the health center to be occupied by September 2012. She explained that the applicant is requesting relief from MPS AH3.1, WPH1.1, OS1.3, WR3.1, WR3.4, TR2.1, and TR3.4 as full compliance with these standards is a significant financial hardship as evidenced by the provided 2010 financial statement, the fact that the applicant must raise over \$3 million, and that there are significant time constraints to fundraise the balance of the construction budget as the building must be occupied by September 2012. She said providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising.

Mr. John Cahalane said the health center provides a much needed service to the town and provides good jobs. He urged the subcommittee to recommend approval of the project.

Ms. Theresa Cook said the project provides a large community benefit, good jobs, and supports local economic development. She urged approval of the project.

The subcommittee asked questions of the Applicant and Commission staff regarding the possibility of a federal extension of the construction timeline, fundraising efforts to date, the letter submitted into the record by Chester Derr and Jo Ann Simons Derr and the floor plan of the expansion.

A unanimous vote was made on the motion to leave the record open and to continue the hearing to a meeting of the full Cape Cod Commission on August 4, 2011 at 3:00 pm at the Assembly of Delegates Chamber in the First District Courthouse, Route 6A, Barnstable, MA.

June 28, 2011 Subcommittee Meeting

A subcommittee meeting was held immediately following the public hearing on June 28, 2011 at the Mashpee Town Hall.

The subcommittee made a motion that the project qualifies as a Project of Community Benefit (POCB) as defined by Section 1(c) of the Commission's *Enabling Regulations*. The motion passed unanimously.

The subcommittee made a motion that full compliance with MPS AH3.1, WPH1.1, OS1.3, WR3.1, WR3.4, TR2.1, and TR3.4 would constitute a hardship by diminishing the community benefits to be conferred as providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising. The motion passed unanimously.

The subcommittee made a motion that the requested relief relates directly to the nature of the identified hardship and is the minimum extend needed to address the hardship and that desirable relief 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 motion passed unanimously.

The subcommittee made a motion that the project complies with, or can be conditioned to comply with the remaining MPS of the RPP. The motion passed unanimously.

The subcommittee made a motion that project complies with local zoning bylaws and Mashpee's Local Comprehensive Plan. The motion passed unanimously.

The subcommittee found the following to be probable benefits of the project: that the center will provide care for those targeted in the RPP's affordable housing section and provides care to an underserved market, the project is not proposed to be located in an SNRA, the nitrogen load would only be increasing by 1.27 ppm compared to existing conditions and was being treated with an innovative septic system, the project is also promoting alternatives to automobile traffic through an outstanding trip reduction plan that could be utilized by patrons of the center, not just employees, and the project meets BDPs ED2.2, ED3.2, and TR2.16. The subcommittee found that the previously mentioned probable benefits outweigh the probable detriments (non-fully enclosed canopy over main entrance). The motion passed unanimously.

The subcommittee found that the Applicant has met its burden and has shown that a Project of Community Benefit hardship exists and moved that they approve the POCB

Hardship Exemption application with conditions and directed staff to draft a decision. The motion passed unanimously.

July 27, 2011 Subcommittee Meeting

Ms. Czepiga reviewed changes to the draft decision. The subcommittee found the additional potential benefits listed in the revised GF5 to be additional benefits of the project and made a motion to adopt the revised language. The subcommittee moved to adopt the revised language in GF9 as additional supporting information as to why the project qualifies as a PO CB and moved to adopt the revised language. The subcommittee moved to include the fact the project meets BDP TR2.15 as an additional benefit of the project and to adopt the revised language of TF11. The subcommittee moved to approve the draft decision, as amended, and to forward it to the Cape Cod Commission for their consideration at the August 4, 2011 meeting.

JURISDICTION

The development, as described by the application materials, qualifies as a DRI pursuant to Section 3(e)(ii) of the Commission's *Enabling Regulations* (revised March 2011) as an addition to an existing building that results in an increase of greater than 10,000 square feet of Gross Floor Area.

FINDINGS

The Commission has considered the Project of Community Benefit Hardship Exemption application of the Community Health Center of Cape Cod, Inc. and the Town of Mashpee for the proposed 22,200 s.f. expansion to an existing 9,900 s.f. Health Center 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 Sections 12 and 13 of the Act:

General Findings

- GF1. As the date of the first substantive public hearing was June 28, 2011, this project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in May 2011 (ordinance 11-05).
- GF2. As of the date of this decision, the Town of Mashpee has a Local Comprehensive Plan (LCP). The project, as proposed, is consistent with Mashpee's LCP as confirmed by written testimony provided by Tom F. Fudala, Mashpee Town Planner, dated June 28, 2011 which was presented to and considered by the subcommittee at the public hearing on June 8, 2011. This correspondence states *"The proposed Community Health Center is consistent with our Local Comprehensive Plan (Land Use & Growth Management Element, page 7-9 and Map 7-1), as it is located in the 'Mashpee Industrial Park Industrial Growth/Activity Center', which encourages office (including medical) as well as industrial uses."* The Commission adopts the written testimony of Mr. Fudala and finds that the project is consistent with Mashpee's LCP.
- GF3. As provided in written testimony dated June 28, 2011 from Tom F. Fudala, which was presented to and considered by the subcommittee at the public hearing on June 28, 2011, the project will legally comply with local zoning once it has been granted a Special Permit modification from the Planning Board. The Commission adopts the written testimony of Mr. Fudala and

finds that the project approval should be conditioned only upon the Applicant obtaining a modified Special Permit in accordance with GC11, to ensure compliance with local zoning bylaws.

- GF4. As the project is not located in a District of Critical Planning Concern, the Commission finds that the project can be considered to be consistent with this criterion.
- GF5. The Commission finds that the probable benefits of the project (including that the center will provide care for those targeted in the RPP's affordable housing section and provides health and dental care to an underserved market; is not proposed to be located in an SNRA; proposes an innovative septic system; provides alternatives to automobile traffic through an outstanding trip reduction plan that could be utilized by patrons of the center, not just employees; the health center delivers approximately \$210,000 worth of uncompensated care and approximately \$384,000 worth of "enabling services" for which no reimbursement is received [these include assisting patients with health insurance applications, helping patients navigate through the health care system, and helping and connecting patients with human service organizations outside of the health center]; receipt of \$6,000,000 from the federal government which is being invested in the community, the health center is one of only eight community health centers in Massachusetts to be awarded federal funding for a major capital improvement; the project is designed to achieve LEED certification; the organization employs over 125 individuals with an annual salary budget of over \$6,000,000 per year; the expansion will enable the health center to provide expanded dental and medical programming, imaging, vision, lab and pharmacy services for the uninsured and underinsured and expand those services to over 18,000 residents) and the fact the project complies with BDPs ED2.2, ED3.2, TR2.15, and TR2.16 (as outlined in EDF2, EDF3, and TRF11) outweigh the probable detriment that the entrance canopy is not fully enclosed and protected on all sides from the elements.
- GF6. The proposed project consists of a 22,200 s.f. two-story expansion to an existing one-story 9,900 s.f. existing health center. The subject property is located at 107 Commercial Street and consists of approximately 4.65 acres of land and fronts on Falmouth Road/Route 28 to the west and on Commercial Street to the east. The locus property is owned by the Town of Mashpee and in 2007 the Town of Mashpee and the Health Center entered into a 95 year ground lease. The lease requires that the subject property be utilized for the "*construction, development and operation of a Community Health Center*". Prior to entering into the lease, the Mashpee Selectmen received the authorization from the voters of the Town of Mashpee to lease the subject property in accordance with the foregoing terms via Article 1 at the October 2005 Annual Mashpee Town Meeting.
- GF7. The project will be constructed in accordance with the following plan set (dated 3/25/11) from Stantec, received by the Commission on May 18, 2011 as follows(attached to this decision as Exhibit A and incorporated by reference):

- Sheet C-1, Proposed Layout Plan (last revised 5/17/11)

- Sheet C-2, Existing Conditions Plan (last revised 5/6/11)
- Sheet C-3, Grading, Drainage, & Utilities Plan (last revised 5/17/11)
- Sheet C-4, Ruck Construction Details (last revised 5/6/11)
- Sheet C-5, Leaching Field Construction Details (last revised 5/6/11)
- Sheet C-6, Septic Construction Details (last revised 5/17/11)
- Sheet C-7, Construction Details (last revised 5/6/11)
- Sheet C-8, Construction Details (last revised 5/6/11)
- Sheet C-9, Erosion & Sediment Control Plan (last revised 5/17/11)
- Site Lighting Plan, Drawing Number ES001, dated 4/29/11

GF8. The Applicant has applied for a Project of Community Benefit Hardship Exemption. The *Enabling Regulations* define a Project of Community Benefit (POCB) as "A project determined by the Commission to confer upon or result in distinct benefits to the community and the citizens of Barnstable County, consistent with Sections 1(a) and 1(c) of the Act.

Application materials state the Community Health Center of Cape Cod was created as a non-profit organization pursuant to Chapter 180 of the Massachusetts General Laws. Their Articles of Organization explain that the purpose of the corporation is to "increase access to healthcare for uninsured and underinsured people by providing a free clinic or system of free clinics as a charitable corporation...". The mission of the Community Health Center is "to improve the health status of the patients and community we serve through the provision of comprehensive, high-quality, compassionate, health care to all, regardless of their ability to pay." Application materials also state that Cape Cod has been designated as a federal medically underserved area with both dental and health professional shortages.

GF9. The Commission finds that the proposed project will be providing access to a continuum of health and wellness services (including dental services) for over 5,000 low income and underserved individuals. Since the health center building was constructed in 2007, the Health Center has: (a.) assisted nearly 5,000 individuals and families gain access to health insurance; (b.) assisted patients, families and caregivers in obtaining free or access to low cost medications totaling over \$1.5 million so that they would not need to decide between filling a prescription, buying food or paying housing costs; (c.) connected hundreds of individuals with Veteran's benefits, food stamps, transportation assistance and other private and publically sponsored programs; (d.) cared for thousands of people diagnosed with chronic conditions; (e.) served as the medical home for nearly 12,000 individuals, providing access to nearly 14% of the upper Cape population and growing to over 45,000 patient visits per year; and (f.) faced an ever increasing demand for its services, presently experiencing a demand of 180 new patients every month. In addition to this, the Commission finds that by providing health care at a reasonable cost to a low income population, the Health Center enables clients to be able to conserve their remaining resources to meet their

other basic needs, including housing. As such, the Commission finds that the project qualifies as a POCB as it confers upon/results in distinct benefits to the community and residents of Barnstable County (specifically provision of adequate capital facilities, and balanced economic growth) consistent with Sections 1(a) and 1(c) of the Act.

Land Use

LUF1. MPS Lu1.2 requires development to be clustered on site. Application materials and plans demonstrate that the project has been designed to cluster development to the extent possible in an industrial area by utilizing multi-story buildings and incorporating pedestrian-friendly design elements, including sidewalk connections to Route 28. As such, the Commission finds the project complies with MPS LU1.2.

Economic Development

EDF1. MPS ED1.1 requires projects in towns that do not have a Land Use Vision Map to meet the waiver requirements of MPS ED1.3. The Commission finds that as a redevelopment, the project must meet at least two out of the nine waiver criteria of MPS ED1.3.

EDF2. The Green Design Criterion of ED1.3 requires that projects be New Construction certifiable at the base level by the Leadership in Energy and Environmental Design (LEED) program. According to the LEED certification checklist, provided as part of the DRI application, the project will meet the "certified" level, scoring 49 out of 110 points. As such, the Commission finds that the project complies with this criterion.

The Emerging Industry Clusters criterion of ED1.3 requires that projects be designed to and also accommodate a business or businesses within the region's Emerging Industry Clusters, which include marine sciences and technology; arts and culture; information and related technology; renewable and clean energy, and education and knowledge-based industries or other high-skill, high-wage, knowledge-based business activity. The Commission finds that the health care industry, while not specifically listed as an emerging industry, does provide "high-skill, high-wage, knowledge-based business activity." The applicant has provided the employment documentation (see table of annual wages from 2008 to projected post-construction) submitted in Tab #15 of the DRI application) required under the Economic Development Technical Bulletin (Technical Bulletin 04-002). As such, the Commission finds that the project complies with this criterion.

The Municipal Endorsement criterion of ED1.3 requires that a project is endorsed through a resolution from the selectmen or town council of the town(s) in which the project is located. The applicant has provided the minutes of the Mashpee Selectmen's meeting on April 11, 2011 that documents their vote to approve and endorse the project. The vote was 5-0 in favor of the project. As such, the Commission finds the project complies with this criterion.

As the project meets three of the nine waiver criteria (Green Design, Emerging Industry, and Municipal Endorsement), the Commission finds the project complies with MPS ED1.1 and MPS ED1.3.

- EDF3. Best Development Practice (BDP) ED2.2 calls for the provision of competitive wage jobs with benefits. Application materials note the proposed project will create 12 new full-time positions and 7 new part-time positions. The wages and benefits for these and the existing positions (outlined in Section 15 of the application materials submitted April 14, 2011) indicate that wages compare favorably with the 2010 occupational averages for the Barnstable Metropolitan Statistical Area as reported by the US Bureau of Labor Statistics. As such, the Commission finds that the project complies with BDP ED2.2.
- EDF4. BDP ED3.2 supports the development of non-formula locally owned businesses as defined in the RPP. Application materials state the Community Health Center is a 501(c)(3) governed by a local board of directors and with a mission to increase access to healthcare for the uninsured or underinsured. In addition, the administration of this facility is done on-site in Mashpee; as such, the Commission finds the project complies with BDP ED3.2.

Affordable Housing

AHF1. As a redevelopment project that is maintaining the same use, under MPS AH3.5 the applicant receives a credit for the required amount of mitigation based upon the existing square footage. As such, the Commission finds the affordable housing mitigation is calculated solely on the 22,200 s.f. associated with the expansion.

Total square footage- Redevelopment	31,990
Existing square footage	9,900
Net new square footage	22,200

- AHF2. AH3.1 requires commercial projects to provide Affordable Housing mitigation. As the DRI is located in a town without a Land Use Vision Map, the mitigation for health and medical uses is \$9.87 per square foot. As such, the Commission finds the required affordable housing mitigation is \$219,114 (\$9.87 per square foot X 22,200 net new square feet).
- AHF3. Application materials state that after construction, the Health Center is projected to increase the number of full time equivalent positions (FTE's) by 25% from 2010 levels and to add 19 new employees to bring projected employment to 138 people. The 2005 Nexus Study found that 54% of health and medical services jobs pay less than the average wage, while 46% pay more than the average wage; therefore the Commission finds that the project will have some affordable housing impacts through the creation of some additional jobs that pay less than the regional average wage (as of 2009, \$749/week and \$38,968/year- Massachusetts Executive Office of Labor and Workforce Development).
- AHF4. The Commission finds that the \$219,114 of affordable housing mitigation would add approximately 2.4% to the new facility's projected total development costs of \$9,011,420. Application materials explain that the

applicant has received a \$6,000,000 grant from the U.S. Department of Health and Human Services; however, the remaining \$3 million will need to be raised by the non-profit applicant through a capital campaign. The Commission finds that the affordable housing mitigation would require an approximately 7% increase in the amount needed to be privately raised.

- AHF5. The Commission finds that the project will have affordable housing impacts, however based on the fact the project is being proposed by a non-profit organization that will have to raise at least \$3,000,000 for the project from private sources, the Commission further finds that a literal enforcement of the provision of the Commission Act and the amount of affordable housing mitigation would pose an additional financial burden on the applicant and diminish the care and benefits the facility would be able to provide to the community as providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising.
- AHF6. In addition, according to application materials, the overwhelming majority of the Health Center's clients (87% have incomes below 200% of the Federal Poverty Level) are people who would be eligible and qualify for affordable housing. By providing health care at a reasonable cost to a low income population, the Commission finds the Health Center does enable clients to be able to conserve their remaining resources to meet their other basic needs, including housing.

The Commission further finds that desirable relief, (waiving the affordable housing mitigation requirement), is the minimum extent needed to address the hardship and may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Commission Act.

Energy

- EF1. MPS E1.1 requires redevelopment projects to perform an energy audit of existing conditions and to incorporate recommendations into the project design. However, site plans demonstrate that the expansion is designed mostly as a separate structure with only two connections to the existing walls. As a result, the exterior walls of the existing building will largely remain intact; based on the foregoing, the Commission finds that MPS E1.1 does not apply to this project.
- EF2. MPS E1.2 requires projects to be designed to earn the ENERGY STAR Target Rating of 75 or higher and MPS E1.5 requires projects to either provide a certain percentage of electrical demand through on-site renewable energy systems or demonstrate that the project is certifiable by the LEED program.
- EF3. The Preliminary LEED checklist submitted April 29, 2011 demonstrates that the Applicant has designed the building to achieve a LEED minimum rating of 49 points (out of 110). As such, the Commission finds that the project is "LEED certifiable", consistent with MPS E1.5. LEED standards for energy efficiency go beyond ENERGY STAR standards, therefore the Commission

also finds that the project is consistent with MPS E1.2. To ensure compliance with MPS E1.2, the Commission finds the Applicant shall submit a Statement of Energy Performance pursuant to EC1.

- EF4. MPS E1.3 requires that building design comply with ASHRAE 90.1-2007 standards pertaining to insulation, fenestration, and doors. A detailed narrative provided by the project architect, states that the project is compliant with ASHRAE 90.1-2007 guidelines by specifying products that provide venting and moisture control behind the finish cladding material, continuous sealing of the exterior shell to prevent air infiltration, and required use and installation of insulation in the foundation, roof and walls. Based on this information, the Commission finds that the project complies with MPS E1.3.

Natural Resources/Open Space

NR/OSF1. The project is not located in a Significant Natural Resource Area (Potential Public Water Supply Area designation was lifted, see finding WRF1 below). The site contains no wetlands and is not mapped for rare species. Application materials indicate that the location of the proposed expansion is on an already disturbed portion of the property and on a relatively isolated patch of undeveloped woodland sandwiched between the existing building and parking lot, Route 28 to the west, and existing development to the south.

NR/OSF2. MPS WPH1.1 requires the provision of a Natural Resources Inventory (NRI) when development is proposed on undisturbed sites. The applicant is requesting relief from this requirement due to the expense of conducting a NRI. The Commission finds that the small size of the project site, its isolation from the remaining woodland in the area, and the habitat that currently remains, likely does not provide significant habitat for the wildlife that may be utilizing it.

NR/OSF3. MPS OS1.3 requires an open space contribution for new development outside of mapped SNRA in a proportion equivalent to the area of new site disturbance, or a cash contribution. The applicant is requesting relief from this requirement due to the additional expense of providing open space. In order to comply with MPS OS1.3, the Commission finds that the applicant would have to provide an offsite 0.9 acre parcel to either donate to the town, or over which to provide a conservation restriction. Alternatively, the Commission finds that the applicant may provide a cash contribution in the amount of \$45,551 (calculated according to Technical Bulletin 94-001) to comply with MPS OS1.3.

NR/OSF4. The Commission finds that the town has submitted a letter (dated May 11, 2011) that supports the request for hardship relief from the open space requirements. The letter also notes that in the fall of 2005, Mashpee town meeting voters approved the use of this previously vacant town-owned parcel of land for the health center use.

NR/OSF5. Based on the fact the project is being proposed by a non-profit organization that will have to raise at least \$3,000,000 for the project from private sources, the Commission finds that a literal enforcement of the provisions of the Commission Act and requiring a NRI and Open Space mitigation would

pose an additional financial burden on the applicant and diminish the care and benefits the facility would be able to provide to the community as providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising. The Commission further finds that waiving the NRI requirement and Open Space mitigation is the minimum relief needed to address the hardship and may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Commission Act.

NR/OSF6. MPS WPH1.2 states that clearing of vegetation and alteration of natural topography shall be minimized and specimen trees shall be protected. The site will require some additional clearing and grading in order to construct the project; however, the Commission finds that the areas to be developed appear to have been minimized by virtue of project siting and design. To ensure compliance with WPH1.2, the Commission finds the Applicant shall revegetate the disturbed areas on the site with native species, as the wildlife presently using the site may later utilize restored buffers as corridors between adjacent woodlands pursuant to NRC1 and NRC2.

Water Resources

WRF1. Portions of the project site are located in an area mapped as a Potential Public Water Supply Area. Minutes from a Board of Selectmen's meeting on April 11, 2011 indicate that the board voted (five in favor, zero opposed) to confirm in writing that the project site shall not serve as a potential public well site. An email dated April 28, 2011 from Andrew Marks (Operations Manger of the Mashpee Water District) to Eliza Cox confirms that the site is not under any consideration for a public water supply for the Mashpee Water District. With such documentation from the Town and Water District, the Commission finds it is appropriate to lift the Potential Public Water Supply Area designation.

WRF2. MPS WR1.1 states that redevelopment shall not exceed a 5-parts per million (ppm) nitrogen loading standard in groundwater. The nitrogen loading calculations provided for the applicant for the existing conditions result in a nitrogen loading of 2.59 ppm. Based on the increased wastewater design flow of 2,390 gallons per day and an average concentration of 13 ppm, the combined nitrogen load for the existing and the proposed conditions is 3.86 ppm. As such, the Commission finds the project complies with MPS WR1.

WRF3. The project is located in a marine embayment that contributes to the Mashpee River. MPS WR3.1 requires redevelopment to not exceed the identified critical nitrogen loading standard where one has been established through a Total Maximum Daily Load (TMDL). Commission staff have estimated that the allowable fair share credit for the Lower Mashpee River subembayment is 0.52 kg/year/acre based on the watershed target load published in the Massachusetts Estuaries Project Technical Report. As the project site is 4.65 acres, this results in a fair share credit of 2.42 kg/year for the project site.

Based on the design flow for existing and future conditions, the project is expected to contribute an annual nitrogen load of 67.75 kg/year; on a per acre basis, the nitrogen load would be 14.57 kg/year/acre. The Commission finds that this nitrogen load exceeds fair share for the Lower Mashpee River subembayment and will have to be offset pursuant to MPS WR3.4.

- WRF4. The applicant is requesting hardship relief from MPS WR3.4. MPS WR3.4 allows projects that exceed the TMDL limit (pursuant to MPS WR3.1) to meet the nitrogen loading limits by providing an equivalent contribution of \$1,550 per excess kg/year of nitrogen to be used towards a municipal or watershed effort that achieves the intent of WR3.1.

As the applicant is proposing a nitrogen load of 67.75 kg/year and they may be given a fair share credit of 2.42 kg/year; this results in an excess load of 65.33 kg/year (67.75kg/year – 2.42 kg/year). The Commission finds that this excess amount of nitrogen (65.33 kg/year) needs to be offset, pursuant to MPS WR3.4. At a cost of \$1,550 per kg/year of excess nitrogen; the Commission finds the cash equivalent to mitigate this additional 65.33 kg/year of nitrogen to be \$101,262 (65.33 kg/year X \$1,550) consistent with MPS WR3.4.

- WRF5. The Commission finds that the town of Mashpee is currently in the process of selecting an approach that will achieve the TMDL for the Mashpee River through its Comprehensive Wastewater Management Planning process.

- WRF6. Though the project will have nitrogen loading impacts, based on the fact the project is being proposed by a non-profit organization that will have to raise at least \$3,000,000 for the project from private sources, the Commission finds that a literal enforcement of the provisions of the Commission Act and requiring nitrogen loading mitigation (of \$101,262) would pose an additional financial burden on the applicant and diminish the care and benefits the facility would be able to provide to the community as providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising. The Commission further finds that desirable relief, (waiving the nitrogen loading mitigation requirement of \$101,262), is the minimum extent needed to address the hardship and may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Commission Act.

- WRF7. MPS WR6.9 (*Operation, Monitoring, and Compliance Agreement*) requires private wastewater treatment facilities to submit an Operation, Monitoring, and Compliance Agreement between the Board of health and the Cape Cod Commission. The Commission finds that additional information is needed to address WR6.9. Specifically, the Applicant should provide a revised Tri-Party agreement of an Operation and Maintenance Agreement for approval by the Mashpee Board of Health for Commission execution prior to any Preliminary Certificate of Compliance that specifies future reports will be submitted regularly to the Cape Cod Commission and reflects the upgrade to the RUCK

system, performance requirements, and increased design flow in accordance with WRCi.

- WRF8. MPS WR7.1 prohibits direct discharge of untreated stormwater, parking-lot runoff, and/or wastewater into marine and fresh surface water and wetlands. WR7.4 requires stormwater design for the first inch of stormwater flow to be treated with biofiltration practices. Application materials indicate that the design includes the use of two vegetated bio-retention areas to handle the first inch of stormwater runoff and that it is designed to overflow to subsurface leaching gallery to accommodate unusually large storms or frozen soil conditions. In addition to this, the expanded emergency vehicle access will be constructed using reinforced turf, which should minimize additional stormwater runoff. As such, the Commission finds the project complies with MPS WR7.1 and WR7.4.
- WRF9. MPS WR7.10 (*Stormwater Maintenance and Operation Plan*) requires that redevelopment projects submit a Professional Engineer-certified stormwater maintenance and operation plan that demonstrates compliance with the MA Stormwater Guidelines, including a schedule for inspection, monitoring, and maintenance. It also requires that a Professional Engineer inspect the system and submit a letter certifying that the system was installed and functions as designed one year from completion of the system. In accordance with conditions WRC2 and WRC3, the project is conditioned to comply with MPS WR7.10.

Hazardous Waste

- HWF1. MPS WM1.5 requires that “[a]ny development or redevelopment that uses, handles, generates, treats, or stores Hazardous Waste...” be in compliance with the state’s Hazardous Waste regulations and specifies three items be provided to show compliance with this requirement for purposes of Commission review. These three items are: 1) registration or notification to the Massachusetts Department of Environmental Protection as a Hazardous Waste Generator, 2) a written plan to manage the Hazardous Waste prior to disposal and 3) a signed contract with a registered, licensed company to dispose of the Hazardous Waste. Application materials include a copy of the Health Center’s Administrative Policies that deal with Hazardous Waste, as well as lists of Hazardous Materials that are maintained on the site for medical and dental procedures. The RPP definition of Hazardous Waste is “Any Hazardous Waste, Universal Waste or Waste as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.010. Hazardous Wastes do not include Hazardous Materials and bio-medical wastes regulated by 105 CMR 480.000.” As such, the Commission finds that most of the wastes generated by the Health Center (hypodermic needles, bandages, etc) are excluded from the RPP definition of Hazardous Waste.
- HWF2. Information provided by the Applicant indicates the facility stores ten containers of replacement light bulbs on site. According to a May 10, 2011 Email from Attorney Cox, these are fluorescent bulbs, and as such, are a regulated waste in Massachusetts, and cannot be disposed of in general trash. According to another 5/10/11 Email from Attorney Cox, the Health Center is in the process of identifying a vendor to transport the used fluorescent bulbs

from the site for disposal. In accordance with condition HWC1, the project is conditioned to comply with MPS WM1.5.

- HWF3. The application materials indicate that various dental procedures are currently done on site, and will be expanded as a result of the proposed addition. The application also states, "*suction equipment in each exam room will collect/filter material*" and that "*a contract is in place to clean and dispose of filter contents.*" The second 5/10/11 email from Attorney Cox indicates that the Health Center understands the requirements and documentation needed to demonstrate compliance with State Hazardous Waste regulations governing dental facilities per 310 CMR 73.00. In accordance with condition HWC1, the project is conditioned to comply with MPS WM1.5.

Solid Waste

- SWF1. MPS WM2.1 requires that "*[d]evelopment and redevelopment projects shall address the disposal of construction waste...*" and that "*a plan shall be provided to demonstrate how the applicant proposes to handle solid wastes, construction and demolition waste and recyclable materials currently categorized by the [DEP] as a waste ban material.*" MPS WM2.2 describes the requirements of a construction and demolition (C&D) waste management plan. The renovation and new construction of the health center will generate C&D. The application also includes a Construction Waste Management Plan from JK Scanlan, the primary construction contractor. Because the project is the redevelopment of an existing building, and is designed to meet LEED certification, which includes a strong waste management/recycling component, the Commission finds the Construction Waste Management Plan from JK Scanlan complies with MPS WM2.1 and MPS WM2.2.
- SWF2. MPS WM2.3 requires that a solid waste and recycling management plan be provided for the post-construction phase of development, which details how recyclables, particularly waste ban items, will be collected, stored on site, and recycled. The DRI application also includes a copy of the Health Center's Administrative Policies that deal with recycling. This policy covers paper and "*consumables*" recycling, which the Applicant has clarified are recyclable food and beverage containers. Based on this, the Commission finds the proposed project is consistent with MPS WM2.3.
- SWF3. MPS MW2.4 requires a post-construction management plan for those developments that generate a significant amount of food waste, such as supermarkets. The project, once completed, will be a medical office with no overnight or inpatients needing meals. As such, the Commission finds that MPS WM2.4 is not applicable to this project.

Heritage Preservation & Community Character

- HPCCF1. HPCC1.1 requires preservation of identified historic structures and HPCC1.2 requires that identified cultural landscapes be preserved. HPCC1.3 requires that Massachusetts Historic Commission (MHC) be consulted to determine if there are potential impacts to known archeological sites or resources. The proposed project is located outside of any historic districts and there are no historic structures or cultural landscapes on the site. On April 14, 2010, MHC

determined that the proposed project was unlikely to have a significant effect on historic or archaeological resources. As such, the Commission finds that the project is consistent with HPCC1.1, HPCC1.2 and HPCC1.3.

- HPCCF2. The two-story addition is proposed to the rear of the existing structure, with the lower floor located partially into the slope such that the second story of the addition is at the same level as the existing first story. This design helps to minimize the mass of the structure, particularly from Commercial Street. The addition will be located approximately 370 feet from Route 28. The proposed elevations show that the addition will incorporate projections into the building façade to break down the mass of the structure. Pitched roof forms are proposed around the perimeter of the addition. The plans indicate the façade will be clad with cementitious clapboard, and the roof clad with asphalt shingles which are appropriate for a building of this type.
- HPCCF3. The proposed project is an expansion of a building currently located on a town-owned property that is zoned for industrial use. As such, MPS HPCC2.7 applies to the project which allows the use of non-traditional materials, forms and site designs in industrial parks without the need to meet the massing, variation and other design requirements of the RPP, provided that adequate buffers are maintained to screen the proposed development from view. The expansion of the parking area will result in the clearing of some of the vegetated buffer that is located between Route 28 and the existing development. However, the parking will be located only slightly closer to Route 28 than the current parking (approximately 109 feet). A new pedestrian access way is proposed to extend through the buffer area resulting in some clearing, but its curved design means that views into the site through the cleared area will be limited. As such, the Commission finds that the project is consistent with MPS HPCC2.7.
- HPCCF4. MPS HPCC2.8 requires the building and layout of proposed parking lots be located to the rear or side of the building. The location of the proposed parking lot expansion is depicted in the rear of the proposed building expansion. As such, the Commission finds the project is consistent with MPS HPCC2.8.
- HPCCF5. HPCC2.9 requires that redevelopment projects significantly improve interior parking lot landscaping and buffers between parking areas and the street. The Commission finds that this project proposes a significant planted island within the proposed parking lot expansion, consistent with MPS HPCC2.9.
- HPCCF6. MPS HPCC2.10 requires that all development implement a landscape plan that addresses the functional aspects of landscaping and requires a landscape maintenance agreement. The Commission finds the type, quantity and location of proposed plantings to be appropriate for the site, as well as the design specifications which provide for pedestrian amenities, consistent with the landscape plan requirements of HPCC2.10. The Commission further finds that a landscape maintenance agreement must be provided by the applicant to comply with the landscape maintenance agreement aspect of HPCC2.10 in accordance with HPCC1.

Exterior Lighting

- EXLF1. MPS HPCC2.11 requires that site lighting and exterior building lights in all projects meet certain standards including use of fully shielded “shoe-box” type or decorative fixtures; use of a mounting configuration that creates a total cutoff of all light at less than ninety (90) degrees from vertical; a prohibition on flood, area, and up-lighting; lights that achieve a total cutoff at the property lines and lights that meet a maximum initial horizontal foot-candle level of not more than 8.0 foot-candles, as measured directly below the luminaire(s) at grade.

- EXLF2. Application information submitted to date consists of photographs of thirteen (13) existing acorn-style pole mounted parking lot lights and a May 16, 2011 letter from Glynn Electric with a foot-candle plan and technical cuts for new fixtures. The letter from Glynn states that “...the new parking lot fixtures will be Dark Sky compliant...and this will not affect the existing lot lights.” The May 16, 2011 letter from Glynn also clarifies that new cylindrical wall/canopy fixtures will be down-only lights, installed at 9 feet, 4 inches above finished grade, and the new pole mounts will be 15.0 feet once installed on a base.

- EXLF3. Based on the technical cuts provided, the Commission finds the six (6) new proposed parking lot pole mount (INVUE) and two (2) new cylindrical wall/canopy (Kirlin) lights and estimated resultant foot-candle levels are consistent with the requirements of MPS HPCC2.11 and the Commission’s exterior lighting Technical Bulletin (as amended).

Transportation

TRF1. The applicant’s transportation engineer, Vanasse & Associates, Inc., has calculated the estimated trip generation for the proposed 22,200 square foot health center based on data for similar facilities, as outlined in the Institute of Transportation Engineers (ITE) *Trip Generation*, Eighth Edition, 2008, as summarized in the table, below.

Proposed Development	Morning Peak Hour	Afternoon Peak Hour	Daily
22,200 square foot	38	54	756

As such, the Commission finds that the trip generation source of data (ITE) and calculations were conducted in compliance with MPS TR 0.1.

- TRF2. The applicant has submitted a Traffic Impact and Access Study (TIAS) for the proposed expansion that is consistent with the Cape Cod Commission Guidelines for Transportation Impact Assessment, Technical Bulletin 96-003, as amended. As such, the Commission finds that the TIAS was conducted in compliance with MPS TR3.3.

- TRF3. MPS TR 2.7 requires projects to accommodate bicycle and pedestrian access to the facility. Based on the bicycle and pedestrian accommodations outlined on the site plans and the trip reduction plan, the Commission finds that the project complies with MPS TR 2.7.

TRF4. MPS TR2.1 requires DRIs to reduce/offset twenty-five percent of the expected daily increase in site traffic. Based on the increase in average daily traffic of 756 trips per day, the Commission finds that the applicant must reduce/offset 189 [756 x .25] daily vehicle trips.

TRF5. The Commission finds that the applicant has proposed the following trip reduction plan in an effort to offset the above referenced 189 trips:

- Carpool/vanpool matching program
- Priority parking for car/vanpools
- A “guaranteed-ride-home program” for emergencies
- Hosting of an annual “Rideshare Event”
- Electronic e-Transit Information Center (U: Transit Information Center)
- Dissemination of rideshare promotion materials at all new employees
- Each month, each employee that commutes by public transit on the CCRTA Breeze Line will receive a free CCRTA Breeze bus pass
- Bicycle racks and locks will be provided at employee entrances to the existing and expanded health center building
- On-site shower facility and locker room will be provided.
- A “guaranteed-ride-home program” policy will apply to all employees who bicycle to work
- Internal sidewalks and pathways will link to Route 28
- A “guaranteed-ride-home program” policy will apply to all employees who walk to work
- Alternative work arrangements such as flextime, compressed workweek and telecommuting will be offered to eligible employees
- Community Health Center “Rideshare Dollars” will be provided each work day to employees that commute using an alternative mode. Accumulated “Rideshare Dollars” will be redeemable for various gift cards
- Employees that commute using an alternative transportation mode 50 percent of the workdays will be entered into an annual drawing to receive an additional five (5) days of paid time off
- Provide an annual survey of employee participation in the trip reduction program

It has been the past practice of the Commission to allow a twenty-five percent trip reduction credit for outstanding trip reduction plans. As such, the Commission finds it is appropriate to grant the twenty-five percent trip reduction credit for employee trips. The Commission finds that applying this twenty-five percent trip reduction credit to the total daily trips results in a credit of 62 daily trips being reduced.

- TRF6. The Commission finds that the above calculations leave a short fall of 127 daily trips (189 trips that must be reduced – credit for 62 trips being reduced as a result of the trip reduction plan). Pursuant to MPS TR2.1, the applicant has calculated the financial cost to mitigate these additional 127 daily trips in the amount of \$315,600 (according to the methods contained in Technical Bulletin 96-003: *Guidelines for Transportation Impact Assessment*) and has requested a financial hardship to be relieved of this mitigation amount.
- TRF7. MPS TR 3.6 requires applicant to calculate the “fair-share” mitigation amount to offset the amount of new peak hour traffic generated by the project. The applicant has calculated the “fair-share” mitigation to offset the project in the amount of \$134,646. The procedure used to calculate the “Fair-share” mitigation amount was conducted in a professional manner consistent with Commission standards. As such, the Commission finds that the applicant has complied with MPS TR3.6.
- TRF8. MPS TR3.4 requires the applicant to offset or mitigate all peak hour traffic impacts of the project. The applicant has calculated this amount (\$134,646) and has requested relief from this standard.
- TRF9. Though the expansion will have transportation impacts, based on the fact the project is being proposed by a non-profit organization that will have to raise at least \$3,000,000 for the project from private sources, the Commission finds that the amount of trip reduction mitigation (\$315,600) and congestion mitigation (\$134,646) would pose an additional financial burden on the applicant and diminish the care and benefits the facility would be able to provide to the community as providing additional financial mitigation would necessitate (a) cutting or reducing programs/services provided to the community, (b) changes to the important/needed project, and/or (c) additional capital campaign fundraising. The Commission further finds that a literal enforcement of the provisions of the Commission Act would involve substantial hardship and would diminish the care and benefits the facility provides to the community. The Commission further finds that desirable relief (waiving the trip reduction and congestion mitigation) is the minimum extent needed to address the hardship and may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act.
- TRF10. MPS TR3.1 requires Level of Service analysis at all site driveways. The applicant has provided the required Level of Service analysis and both driveways will function at Level of Service A. As such, the Commission finds that the project complies with MPS TR3.1.
- TRF11. BDP TR2.16 encourages the applicant to provide trip-reduction programs. The applicant has provided an extensive trip-reduction project offering alternative modes of travel (carpooling, transit, bicycling, walking, working at home) and incentives for alternatives to automobile travel. BDP TR2.15 encourages the applicant to provide bike racks and shower facilities. Application materials indicate that the project provides both of these amenities. As such, the Commission finds that the project complies with BDP TR2.16 and BDP TR2.15 and recognizes this as a benefit of the project.

- TRF12. MPS TR1.1 requires that project not result in a degradation in public safety. Based on the project plans and DRI application materials, the Commission finds the project will not result in a degradation in public safety and therefore complies with MPS TR 1.1.
- TRF13. MPS TR1.2 requires applicants to provide the most recent crash data at all site access locations. MPS TR 1.3 requires applicants to provide the most recent crash data at all study area locations impacted by twenty-five (25) or more peak hour trips. The Applicant has provided the most recent available three years of crash data as provided by the Massachusetts Department of Transportation. Neither the site driveway nor any intersection within the study area experienced an average of three crashes per year for three years, and therefore the Commission finds that the project complies with MPS TR1.2 and TR1.3.
- TRF14. MPS TR1.4 requires all site driveways be built in conformance with access management guidelines. Based on a review of the site plans, the Commission finds that the proposed site driveway will be built in conformance with Commission access management guidelines. As such, the Commission finds that this project complies with TR 1.4.
- TRF15. MPS TR1.6 requires that the applicant does not place signs or vegetation in places that would obstruct drivers' view of exiting traffic. Based on a review of the site plans, the Commission finds that this project will not place any obstruction that has the potential to block the sight of any exiting driver and further finds that this project complies with TR 1.6.
- TRF16. MPS TR1.8 requires applicants to ensure that safe stopping sight distance is available at all driveway locations. Following the guidelines set forth by the American Association of State Highway and Transportation Officials, the Applicant based their analysis on a 30 mile per hour roadway (based on the 85th percentile speeds). The applicant has measured the stopping sight distance at both driveway locations and the stopping sight distance at each driveway location exceeds the minimum required by the American Association of State Highway and Transportation Officials. As such, the Commission finds that the project complies with MPS TR 1.8

CONCLUSION

Based on the above findings, the Commission hereby concludes:

1. That the probable benefits of the proposed project are greater than the probable detriments. This conclusion is supported by findings GF5, EDF2, EDF3, and TRF11.
2. That upon satisfaction of the conditions identified in this decision, the proposed project is consistent with the 2009 (as amended) Regional Policy Plan.
3. Upon issuance of a modified Special Permit from the Planning Board pursuant to GC11, the project can be found consistent with Mashpee's Local

Comprehensive Plan and its local development by-laws/ordinances, as outlined in findings GF2 and GF3.

4. The project is not located in a District of Critical Planning Concern and therefore can be considered to be consistent with this criterion.

CONDITIONS

The Commission hereby approves, with conditions, the Project of Community Benefit Hardship Exemption application of Community Health Center of Cape Cod, Inc. and the Town of Mashpee for the proposed project located at 107 Commercial Street, Mashpee, MA provided the following conditions are met:

General Conditions

- GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.
- GC2. The applicant shall obtain all necessary federal, state, and local permits for the proposed project.
- GC3. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, and remain in compliance herewith, shall be deemed cause to revoke or modify this decision.
- GC4. No development work, as the term "development" is defined in the Cape Cod Commission 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.
- GC5. Prior to issuance of a Building Permit for any proposed "development" as defined by the Cape Cod Commission Act and as approved herein, the applicant shall submit final plans as approved by state, federal, and local boards for review by Commission staff to determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those plans approved as part of this decision, the Commission shall require that the Applicant seek a modification to this decision in accordance with the Modification Section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.
- GC6. All development shall be constructed in a manner consistent with the following plan set (dated 3/25/11) from Stantec, received by the Commission on May 18, 2011 as follows(attached to this decision as Exhibit A and incorporated by reference)
- Sheet C-1, Proposed Layout Plan (last revised 5/17/11)
 - Sheet C-2, Existing Conditions Plan (last revised 5/6/11)
 - Sheet C-3, Grading, Drainage, & Utilities Plan (last revised 5/17/11)
 - Sheet C-4, Ruck Construction Details (last revised 5/6/11)
 - Sheet C-5, Leaching Field Construction Details (last revised 5/6/11)

- Sheet C-6, Septic Construction Details (last revised 5/17/11)
- Sheet C-7, Construction Details (last revised 5/6/11)
- Sheet C-8, Construction Details (last revised 5/6/11)
- Sheet C-9, Erosion & Sediment Control Plan (last revised 5/17/11)
- Site Lighting Plan, Drawing Number ES001, dated 4/29/11

- GC7. Any deviation to the proposed project from the approved plans, including but not limited to changes to the design, location, lighting, landscaping, or other site work, shall require approval by the Cape Cod Commission through its modification process, pursuant to 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.
- GC8. Prior to the issuance of a Building Permit for the project, 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 Building Permit have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.
- GC9. Prior to the issuance of a Certificate of Use/Occupancy for the project, the applicant shall obtain a Final Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Certificate of Use/Occupancy have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.
- GC10. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall provide written proof to the Commission that a copy of this decision has been provided to the general contractor(s) at least thirty (30) calendar days prior to commencement of construction.
- GC11. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain a Special Permit modification from the Planning Board to comply with local zoning bylaws.
- GC12. The Applicant shall notify Commission staff in writing at least thirty (30) calendar days prior to its intent to seek each Preliminary and each Final Certificate of Compliance. Such notification shall include a list of key contact(s), along with their telephone numbers and email addresses, for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition, if needed, and inform the Applicant in writing of any deficiencies and corrections needed. The Commission has no obligation to issue any Certificate of Compliance unless and until all conditions are complied with.
- GC13. The Applicant agrees to allow Commission staff to enter onto the property, which is the subject of this decision, after reasonable notice to the Applicant, for the purpose of determining whether the conditions contained in this decision including those linked to each Preliminary and Final Certificate of Compliance have been met.

- GC14. If all required site work and/or landscape improvements are not complete at the time the Final Certificate of Compliance is sought from the Commission, any landscape improvements or site work which is incomplete may be subject to an escrow agreement of form and content satisfactory to Commission counsel in lieu of completion of said work as a modification to this decision per the Commission's *Enabling Regulations*. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials, with the final determination of the cost of the required work to be 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 the Barnstable County Treasurer. Prior to the release of the escrow funds, the work must be reviewed and approved by Commission staff as completed as required by either this decision, or the terms of the escrow agreement. Any escrow agreement shall provide that all site work and/or landscape improvements shall be completed within six months of issuance of the Final Certificate of Compliance from the Commission that relates to the site work and/or landscape improvements for that project subpart, with the work approved by Commission staff prior to release of the escrow funds.

Energy

- EC1. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval a Statement of Energy Design Intent to demonstrate compliance with MPS E1.2.

Natural Resources

- NRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval a revegetation plan that specifies revegetation of the disturbed areas on the site with native species.
- NRC2. Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to verify the revegetation plan has been implemented. The Final Certificate of Compliance shall not be issued until Commission staff issues a written approval of the revegetation plantings.

Water Resources

- WRC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval a revised Tri-Party agreement of an Operation and Maintenance Agreement for approval by the Mashpee Board of Health for Commission execution that specifies future reports will be submitted regularly to the Cape Cod Commission and reflects the upgrade to the RUCK system, performance requirements, and increased design flow to ensure consistency with MPS WR6.9.
- WRC2. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval revised Stormwater System and Inspection Maintenance documents. The revised plan should address vegetation in the bioinfiltration areas, specifically, the vegetation in these areas must be inspected to make sure coverage is established and should specify watering as needed through the first growing season. The

revised plan should also ban fertilization of the bioinfiltration areas after vegetation establishment. In addition to this, to avoid damaging the vegetation in these areas, the revised plan should specify a procedure or provide signage that prohibits the stockpiling of snow in or around these areas.

- WRC3. Within a year of receiving the Final Certificate of Compliance, the Community Health Center of Cape Cod, Inc. shall submit to the Commission staff a written inspection of the entire stormwater management system conducted by a professional engineer. Such inspection report must include a finding from the engineer that the system was installed and functions as designed.

Hazardous Waste

HWC1. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall provide for Commission staff review and approval:

- 1) Registration or notification to the Massachusetts Department of Environmental Protection as a Hazardous Waste Generator,
- 2) A written plan to manage the Hazardous Waste prior to disposal, and
- 3) A signed contract with a registered, licensed company to dispose of the Hazardous Waste.

The information provided for Commission staff review and approval shall address management of used fluorescent bulbs and mercury-containing dental wastes, including documentation needed to demonstrate compliance with State Hazardous Waste regulations governing dental facilities per 310 CMR 73.00. Unless Commission staff issues a written approval of the information provided per this condition, the Final Certificate of Compliance shall not be issued.

Solid Waste

SWRC1. Prior to the issuance of the Final Certificate of Compliance, the Applicant shall submit to the Commission written evidence that the Construction Waste Management Plan from JK Scanlan was implemented.

SWRC2. To be consistent with MPS WM2.3, the Applicant shall implement its policy for recycling office paper and recyclable food and beverage containers.

Heritage Preservation & Community Character

HPCCC1. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval a draft landscape maintenance agreement for a minimum of three growing seasons to insure vegetation is properly established.

HPCCC2. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval an executed landscape maintenance agreement for a minimum of three growing seasons to insure vegetation is properly established.

Exterior Lighting

- EXLC1. To be consistent with MPS HPCC2.11, the Applicant shall use the proposed six (6) new proposed parking lot pole mount (INVUE) and two (2) new cylindrical wall/canopy (Kirlin) lights. The new cylindrical wall/canopy fixtures shall be down-only lights, installed at 9 feet, 4 inches above finished grade, and the new pole mounts shall be not more than 15.0 feet once installed on a base. All new light fixtures, regardless of mounting configuration, shall not exceed a maximum foot-candle level of 8.0 foot-candles, as measured directly below the luminaire(s) at grade.
- EXLC2. All new signage, including but not limited to exterior lights on the site, on the building, or to illuminate signs, shall be designed to meet the requirements of MPS HPCC2.11 and MPS HPCC2.12.
- EXLC3. Prior to the issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to verify that the installed exterior lighting design is consistent with this decision, MPS HPCC2.11, and that any new signage is consistent with MPS HPCC2.11 and MPS HPCC2.12. Until Commission staff issues a written approval of the final exterior lighting design, including that for any new signage, no Final Certificate of Compliance may be issued.
- EXLC4. Commission staff may approve in writing any change to or deviation from the approved exterior lighting design, including sign illumination that is consistent with this decision, MPS HPCC2.11 and MPS HPCC2.12. If a change is made to the approved exterior lighting design, the Applicant shall submit information to Commission staff that allows Commission staff to determine if the changed design could be consistent with this decision, MPS HPCC2.11, MPS HPCC2.12 and this decision.

Transportation

- TRC1. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall implement the Trip Reduction program as outlined in TRF5.

SUMMARY

The Cape Cod Commission hereby approves with conditions the application of Community Health Center of Cape Cod, Inc. and the Town of Mashpee for a 22,200 s.f. expansion to an existing 9,900 s.f. building at 107 Commercial Street, Mashpee, MA as a DRI Project of Community Benefit Hardship Exemption as outlined in this decision pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended.

SIGNATURE LINE ON NEXT PAGE



Royden Richardson, Commission Chair
Peter Graham

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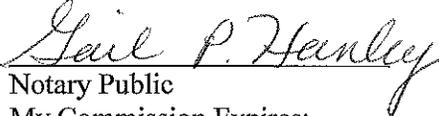
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

August 4, 2011

Before me, the undersigned notary public personally appeared Peter Graham, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he 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:
10.13.11