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CAPE COD
COMMISSION

Date: October 11, 2012

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: Cape Cod Hospital

Project & Location: Cape Cod Hospital
8, 16, 20, 27, and 47 Park Street
Hyannis, MA 02630

Project #: HDEX# 12031

Map/Parcel: 342/1; 342/8; 342/39; 342/7; 342/6; 327/217
Lot/Plan: 604/62
Book/Page: 12588/295; 21898/133; 20017/335; 11906/163
Cert. of Title: 4951

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions, the application of Cape Cod Hospital (the Applicant), represented by Attorney Eliza Cox (of Nutter McClennen & Fish, LLP) as a Development of Regional Impact (DRI) Project of Community Benefit (POCB) 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 an approximately 25,000 square foot single story addition to Cape Cod Hospital ("CCH") which will enable the reconfiguration of CCH's emergency center in Barnstable, MA. This decision is rendered pursuant to a vote of the Commission on October 11, 2012.

PROJECT DESCRIPTION

The project consists of a 25,000 square foot addition to the west side of the current emergency center. The overall number of treatment spaces (74) will remain the same,

but each treatment space will be located within its own exam room. The new treatment spaces will be sized in accordance with current standards. The reconfiguration will increase working spaces, including new and enlarged nursing stations and increased and enlarged support spaces. In connection with the proposed development, alterations to existing parking circulation and access/egress in the main campus lot, as well as additional parking along Park Street and Lewis Bay Road, are also being proposed. One existing building located at 8 Park Street is proposed to be demolished to accommodate this additional parking.

PROCEDURAL HISTORY

The Commission received the DRI referral form from Thomas Perry, Town of Barnstable Building Commissioner, on August 24, 2012. The DRI POCB Hardship Exemption application, submitted by Attorney Eliza Cox on behalf of the Applicant, was deemed sufficiently complete to proceed with a substantive public hearing on September 4, 2012. The application is being reviewed as a DRI POCB Hardship Exemption pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, and pursuant to Section 9 of the Commission's *Enabling Regulations*. The first substantive public hearing on this project was held on September 25, 2012 at the Cape Cod Commission office in Barnstable, MA. A public meeting was held on October 2, 2012.

MATERIALS SUBMITTED FOR THE RECORD

TABLE 1: Materials Submitted for the Record

Materials from Cape Cod Commission	***Date Sent***
Email from Andrea Adams to Eliza Cox re: exterior lighting	8/9/12
Email from AA to EC re: exterior lighting	8/9/12
Email from AA to EC re: hazardous waste	8/10/12
Email from AA to EC re: hazardous waste	8/13/12
Email from Elizabeth Enos to EC re: Community Character	8/14/12
Email from AA to EC re: exterior lighting	8/14/12
Email from Jessica Rempel to EC re: landscaping	8/14/12
Email from AA to EC re: exterior lighting	8/14/12
Email from JR to EC re: nitrogen loading calculations	8/17/12
Email from JR to EC re: landscape maintenance agreement	8/22/12
Email from JR to EC re: town referral	8/24/12
Email from JR to Jo Anne Miller Buntich re: standards of review	8/28/12
Email from JR to JMB re: standards of review	8/28/12
Letter from Gail Hanley to EC re: referral, application, and hearing	9/4/12
Letter from Gail Hanley to EC re: hearing notice	9/6/12
Email from JR to Skip Simpson with requested project site plans attached	9/10/12
Email from JR to EC with draft staff report attached	9/13/12
Email from JR to EC re: draft staff report	9/17/12
Email from JR to George Hanscom with requested project narrative and site plans attached	9/20/12
Email from JR to EC with Mary and Edward Doyle letter attached	9/20/12

Email from JR to EC forwarding JR email to GH	9/20/12
Email from JR to EC forwarding JR email to SS	9/20/12
Email from JR to EC and JMB with staff report attached	9/20/12
Email from JR to EC with Ann O'Rourke letter attached	9/21/12
Email from JR to EC with Jean Baker letter attached	9/24/12
Email from JR to EC re: draft decision and with Patricia Debs letter attached	9/25/12
Email from JR to Cindy McCormick with site plans attached	9/25/12
Email from JR to George Hanscom with requested application materials attached	9/25/12
Email from JR to George Hanscom with requested application materials attached	9/25/12
Email from JR to EC re: request for application materials	9/25/12
Email from JR to EC re: meeting	9/26/12
Email from Gail Hanley to Linda Hutchenrider re: postings	9/26/12
Email from EE to Cindy McGrath with draft decision attached	10/1/12
Email from EE to EC re: draft decision	10/2/12
Email from EE to EC re: draft decision	10/3/12
Email from EE to EC re: draft decision	10/4/12
Email from EE to EC and JMB with attached draft decision	10/4/12
Materials from Applicant	***Date Received***
Application for DRI POCB Hardship Exemption	8/8/12
Letter from EC to Brona Simon cc:ed to EE re: PNF submitted to MHC	8/9/12
Letter from EC to JMB and Thomas Perry cc:ed to EE re: filing of application with the town	8/9/12
Email from EC to AA re: exterior lighting	8/9/12
Email from EC to AA re: exterior lighting	8/9/12
Email from EC to AA re: hazardous waste	8/10/12
Email from EC to AA re: exterior lighting	8/13/12
Email from EC to AA re: hazardous waste	8/13/12
Email from EC to AA re: hazardous waste	8/13/12
Email from EC to AA re: exterior lighting	8/14/12
Email from EC to JR re: landscaping	8/14/12
Email from EC to AA re: exterior lighting	8/14/12
Email from EC to AA re: exterior lighting	8/17/12
Letter from EC to EE re: landscape maintenance agreement	8/17/12
Email from EC to JR re: landscape maintenance agreement	8/22/12
Letter from EC to EE with revised nitrogen loading calculations	8/23/12
Email from EC to JR re: lighting, landscaping, and architecture	8/23/12
Email from EC to JR re: town referral	8/24/12
Email from EC to JR re: exterior lighting	8/24/12
Letter from EC to JR with additional information re: landscaping and plans attached	8/31/12
Email from EC to JR re: draft staff report	9/17/12
Email from EC to JR re: draft staff report	9/17/12

Email from EC to JR re: materials submitted to the record	9/20/12
Email from EC to JR re: materials submitted to the record	9/20/12
Email from C. McGrath to JR re: materials submitted to the record	9/24/12
Email from C. McGrath to JR re: materials submitted to the record	9/24/12
Email from EC to JR re: email to Cindy McCormick	9/25/12
Email from EC to JR re: requested materials and meeting schedule	9/25/12
Email from EC to JR re: meeting	9/25/12
Email from EC to JR re: meeting	9/26/12
Email from EC to EE re: treatment spaces with chart attached	10/1/12
Email from EC to EE re: draft decision	10/2/12
Email from EC to EE re: draft decision	10/2/12
Email from EC to EE re: draft decision	10/2/12
Email from C. McGrath to JR with letter re: treatment spaces attached	10/4/12
Email from EC to EE re: draft decision	10/4/12
Materials from Public Agencies/Towns/State/Federal	***Date Received***
Letter from EC to EE with MA Historical Commission determination	8/22/12
Email from JMB to JR re: standards of review	8/28/12
Email from JMB to EE re: thank you	10/4/12
Materials from Members of the Public	***Date Received***
Letter from Mary and Edward Doyle in support of the project	9/18/12
Letter from Ann O'Rourke in support of the project	9/21/12
Letter from Jean E. Baker recommending multi-storied parking	9/24/12
Letter from Patricia Debs questioning need for expansion, parking	9/25/12
Anonymous letter submitted at public hearing	9/25/12

TESTIMONY

September 25, 2012 Public Hearing

A public hearing was held on September 25, 2012 at the Cape Cod Commission office at 3225 Main Street in Barnstable, MA. Ms. Elizabeth Enos, Regulatory Officer for the Commission, acted as a hearing officer on the project. Attorney Eliza Cox, representing the Applicant, gave an overview of the project and asked that the project be deemed a Project of Community Benefit and be granted hardship relief. She said that with the requested relief granted and appropriate conditions, the proposed project meets the Minimum Performance Standards (MPS) of the RPP and asked that the project be approved by the Commission. Ms. Jessica Rempel, Regulatory Officer for the Commission, presented the Commission's 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, and staff's analysis relating to the issue areas of the RPP including Land Use, Economic Development, Affordable Housing, Energy, Natural Resources & Open Space, Water Resources & Hazardous Materials, Heritage Preservation and Community Character, and Transportation. She said the Commission will need to 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 Affordable Housing mitigation the Applicant is requesting relief from and said the Commission

must 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. Jo Anne Miller Buntich, Director of Growth Management for the Town of Barnstable, stated that she and Ruth Weil, Attorney for the Town of Barnstable, were available for any questions. The hearing was continued to the October 11, 2012 Commission meeting.

October 2, 2012 Public Meeting
Elizabeth Enos, Regulatory Officer for the Commission, reviewed the draft written decision page by page in a public meeting. Attorney Eliza Cox, representing the Applicant, provided additional language and suggested edits to the draft written decision.

JURISDICTION

The development, as described in the application materials, qualifies as a DRI pursuant to Section 3(e)(ii) of the Commission's *Enabling Regulations* (revised July 2012) 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 Cape Cod Hospital for the proposed 25,000 square foot single story addition to CCH 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 September 25, 2012, this project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in August, 2012 (Ordinance 12-07).

GF2. As of the date of this decision, the Town of Barnstable has a Commission certified Local Comprehensive Plan (LCP). The project, as proposed, is consistent with Barnstable's LCP as confirmed by written testimony provided by Jo Anne Miller Buntich, Director of the Growth Management Department for the Town of Barnstable, dated August 28, 2012. The Commission adopts the written testimony of Ms. Buntich and finds that the proposed project is consistent with Barnstable's LCP.

GF3. As provided in written testimony dated August 28, 2012 from Jo Anne Miller Buntich, the project is an allowed use in the Medical Services Zoning District in which it is located. Ms. Buntich notes that local determinations regarding proposed structure demolition and parking provisions will be needed for the proposed project to be deemed consistent with applicable municipal development bylaws. The Commission adopts the written testimony of Ms. Buntich and finds that project approval shall be conditioned upon the Applicant seeking and obtaining relief from local zoning requirements, if

needed. The Commission further finds that provided relief is sought and obtained, if needed, the proposed project is consistent with local zoning.

GF4. As provided in written testimony dated August 28, 2012 from Jo Anne Miller Buntich, the Town-wide DCPC, designated in September 2001 to manage residential growth and encourage affordable housing, does not apply to this project. The Commission adopts the written testimony of Ms. Buntich and finds that the proposed project is consistent with this criterion.

GF5. The Commission finds that the probable benefits of the proposed project include compliance with BDP ED3.1 (Local Labor and Service Providers), BDP ED3.2 (Local Ownership), BDP TR1.11 (Curb Cuts), BDP TR2.16 (Alternative Modes of Travel), and BDP HPCC2.16 (Specimen Trees and Original Topography).

GF6. The Commission finds that the demolition of the 75 year old structure located at 8 Park Street proposed as part of the project is a probable detriment.

GF7. The Commission finds that the probable benefit of the proposed project is greater than the probable detriment.

GF8. The Commission finds that the proposed project consists of a 25,000 square foot addition to the west side of the current emergency center. The overall number of treatment spaces (74) will remain the same, but each treatment space will be located within its own exam room. The Commission finds that the hospital engaged a national consultant, Freeman White, to assess the appropriate square footage for the emergency center based upon the area demographics and demand and the consultant confirmed that the existing number of treatment spaces was the correct number of spaces for the hospital but that the size and the configuration of each treatment space should be increased. The new treatment spaces will be sized in accordance with current standards. The expansion will increase working spaces, including new and enlarged nursing stations and increased and enlarged support spaces. In connection with the proposed expansion, alterations to existing parking circulation and access/egress in the main campus lot, as well as additional parking along Park Street and Lewis Bay Road, are also proposed. One existing building located at 8 Park Street is proposed to be demolished to accommodate the additional parking.

GF9. The Commission finds that Cape Cod Hospital's emergency center was last expanded pursuant to a Cape Cod Commission DRI hardship exemption decision (project number #TR91037) dated July 25, 1991, and modified on October 17, 1996. As provided in written testimony submitted by the Applicant for the current project, at the time of the previous expansion, the Hospital's emergency center was experiencing approximately 53,000 visits annually and the approximately 38,000 square foot expansion approved in 1991 was designed to accommodate an estimated 60,000 visits per year.

GF10. The Commission finds the project will be constructed in accordance with the following plan set titled "Emergency Center Expansion: Cape Cod Hospital" prepared by Isgenuity, dated July 27, 2012:

Architectural

- Sheet A2.05: Site Plan
- Sheet A2.08: Level 1 Demolition Plan
- Sheet A2.09: Overall Floor Plan, revised August 29, 2012
- Sheet A2.23: Second Floor/Roof Plan, revised August 29, 2012
- Sheet A2.24: Third Floor/Roof Plan, revised August 29, 2012
- Sheet A3.10: Exterior Elevations, revised August 29, 2012
- Sheet A3.11: Exterior Elevations, revised August 29, 2012

Civil

- Sheet C100: Site Overview Existing
- Sheet C101: Site Overview Proposed
- Sheet C102: Existing Conditions Plan South
- Sheet C103: Existing Conditions North
- Sheet C201: Layout Site Plan South
- Sheet C202: Layout Site Plan North
- Sheet C301: Utilities Grading South
- Sheet C302: Utilities Grading North
- Sheet C400: Civil Detail Sheet
- Sheet C401: Civil Detail Sheet
- Sheet C402: Civil Detail Sheet
- Sheet C403: Civil Detail Sheet

GF11. 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 Cape Cod Hospital is a Massachusetts not-for-profit 501(c)(3) corporation and that human lives depend on access to and care provided within the emergency center. The application materials further state that "*in FY 2011, Cape Cod Healthcare provided $21,400,000 in charity and subsidized care. This translates to over 34,000 patients receiving charitable support by Cape Cod Hospital. These figures further demonstrate the tremendous amount of support that the Hospital and Cape Cod Healthcare are already giving to the community.*"

GF12. The Commission finds that the proposed project will enable each treatment space to be located within its own exam room and they will be sized in accordance with current standards and allow, as appropriate, a patient's family to remain with the patient receiving the care. The expansion will also increase Hospital working spaces, including new and enlarged centralized nursing stations, which provide better visibility into each of the treatment areas, as well as increased and enlarged support spaces. Overall, the Project will provide a modern and appropriately sized facility which significantly

improves patient privacy, comfort, access and flow, and improves the working environment for the Hospital's caregivers.

GF13. The Commission finds that Cape Cod Hospital serves the community in its provision of charity and subsidized care as well as overall medical care to the community. 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. The Commission finds that any additional costs or mitigation associated with permitting in addition to the existing budget would result in reduced services and/or scaling back aspects of the proposed project, which would detrimentally impact the community. The Commission finds that Cape Cod Hospital has met its burden to show hardship, financial or otherwise. As such, the Commission grants Cape Cod Hospital hardship relief as outlined in this decision and finds that the relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship. Further, the Commission finds the relief granted does not nullify or substantially derogate from the intent and purposes of the Act, nor does it result in a substantial detriment to the public good.

Land Use

LUF1. The Commission finds the project site is located within a designated Economic Center on the Regional Land Use Vision Map, and as such, the proposed project is consistent with MPS LU1.1.

LUF2. The Commission finds that the proposed project is consistent with MPS LU1.2 as it is located on the existing hospital site on land that has been used for surface parking, and the remaining parking is proposed to be redesigned for more efficient use.

LUF3. The Commission finds that the proposed project does not involve new infrastructure or development adjacent to rural lands and as such, Land Use standards MPS LU2.1 through MPS LU3.2 do not apply.

Economic Development

EDF1. The Commission finds the proposed project is located within an Economic Center and, as such, complies with MPS ED1.1.

EDF2. The Commission finds that according to the application materials, Down Cape Engineering and JK Scanlon, both Cape Cod based companies, will be used for project design and construction. As such, the Commission finds the project meets Best Development Practice (BDP) ED3.1. Further, Cape Cod Hospital is a 501(c)(3) domiciled in Barnstable County that is governed by a Board of Directors and all 16 directors are residents of Barnstable County. As such, the Commission further finds the project meets BDP ED3.2.

EDF3. The Commission finds the remaining MPS under Economic Development do not apply to the proposed project.

Water Resources

WRF1. The Commission finds that according to the application materials, the proposed expansion will displace existing access drive and parking areas. Additional parking spaces will be added at a new parking lot proposed on three adjacent lots opposite the emergency center on Park Street and Lewis Bay Road. Plans indicate that the new parking lot will displace an existing office building operated by the hospital. The Commission further finds that according to the application materials, this parking lot will utilize low-impact stormwater designs and other stormwater improvements on the west side of the hospital will utilize structured subsurface collection, infiltration and leaching designs consistent with MPS WR7.7, and wastewater generated by the hospital is conveyed to the Barnstable Water Pollution Control Facility for treatment and disposal.

WRF2. The Commission finds that the proposed project is not located in a Wellhead Protection Area, Potential Public Water Supply Area, or Fresh Water Recharge Area, and as such, MPS under Water Resources Goal WR2 (Drinking Water Quality and Quantity), Goal WR4 (Freshwater Ponds and Lakes), and MPS WR7.11 (Shut-off Valve in Wellhead Protection Areas), do not apply to the proposed project.

WRF3. The Commission finds the proposed project is located in a Marine Water Recharge Area (MWRA) that drains to Lewis Bay, which is a nitrogen overloaded system for which a critical nitrogen load has been developed by the Massachusetts Estuaries Project (MEP). The MEP published its final technical report for Lewis Bay in 2008 and this report informs the draft nitrogen Total Maximum Daily Load (TMDL) published by Massachusetts Department of Environmental Protection (DEP) in 2010. The Commission finds that in MWRAs, MPS WR3.1 applies where a critical nitrogen load has been established and limits project nitrogen loads to the critical nitrogen load (fair share).

WRF4. The RPP describes Impaired Water Quality Areas (IWQA) as comprising "water resource areas where groundwater may have been degraded by point and non-point sources of pollution, including... areas of high-density commercial and industrial development." Water Quality Improvement Areas (WQIA) are Impaired Water Quality Areas that are also located in other water resource areas such as MWRAs. The Commission finds that based on the intensity of development in the proposed project area and the project's location in a MWRA, the project is located in an IWQA and a WQIA. In WQIAs, MPS WR5.1 limits nitrogen loads from redevelopment to the existing nitrogen load at the site when existing development exceeds nitrogen loading standards.

WRF5. The Commission finds that nitrogen loading calculations submitted by the Applicant indicate a site-wide nitrogen loading concentration of below 1.8 ppm-N, and results in reductions in pavement and landscaped area, and a net reduction in nitrogen load at the site. As such, the Commission finds that the proposed project complies with MPS WR1.1, MPS WR3.1, and MPS WR5.1.

WRF6. As the proposed project is located in an Economic Center and wastewater generated by the hospital is conveyed to the Barnstable Water Pollution Control Facility for treatment and disposal, the Commission finds that MPS under Water Resources Goal WR6, MPS WR3.6, and MPS WR5.2, and MPS WR5.3 do not apply to the proposed project. The Commission further finds that as the project is located in an IWQA and a MWRA, a critical nitrogen load has been determined for Lewis Bay, and the Town of Barnstable does not have an approved nutrient management plan, MPS WR3.2, WR3.3, WR3.4, WR3.5, and MPS WR5.4 also do not apply to the proposed project.

WRF7. The Commission finds the proposed project is located in a densely developed urban area where properties are connected to public water supplies, no new drinking water supply is being proposed at the site, the project does not involve the subdivision of land, the nitrogen loading calculations indicate a reduction in landscaped areas, and no substantial new plantings are proposed. As such, the Commission finds that with the exception of MPS WR1.1, MPS under Water Resources Goal WR1 (General Aquifer Protection) and MPS WR5.5 (Alternative Water Supply in Designated Mapped Areas) do not apply to the proposed project.

WRF8. The Commission finds the proposed improvements and added capacity to stormwater infrastructure are consistent with RPP requirements under Water Resources Goal WR7 (Stormwater Quality), including the use of vegetation to treat runoff from the new parking area on Park Street and use of structured infiltration devices allowed in Economic Centers.

WRF8. The Commission finds that the project shall be conditioned to require certification of the Stormwater Operations and Maintenance Plan submitted with the DRI application by a Professional Engineer licensed by the State of Massachusetts to ensure MPS under Goal WR7 will be met, including system performance and sizing requirements, and to require a construction sequencing plan to ensure compliance with MPS WR7.9 (Best Management Practices during Construction), prior to issuance of a Preliminary Certificate of Compliance.

WRF9. The Commission finds that the project shall be conditioned to require certification by a professional engineer that the stormwater system is operating as designed one year after construction has been completed to ensure compliance with MPS WR7.10.

Coastal Resources

CRF1. The Commission finds the project site is not located in any Coastal Resource area and as such, MPS under Coastal Resources do not apply to the proposed project.

Marine Resources

MRF1. The Commission finds the project site is not located in a Marine Resource area and as such, MPS under Marine Resources do not apply to the proposed project.

Natural Resources/Open Space

NRF1. The Commission finds the proposed development site is located within previously developed portions of the CCH property and is not mapped as a Significant Natural Resource Area. Further, the project, as proposed, will not impact wetlands, wildlife, or plant habitat. As such, the Commission finds that MPS under Wetlands and Wildlife and Plant Habitat do not apply to the proposed project. The Commission further finds that as the Applicant is proposing a redevelopment of previously disturbed areas on the CCH property, there are no open space requirements for the proposed project.

Transportation

TF1. The Commission finds that according to the application materials, the overall number of treatment spaces (74 spaces) and the number of employees will not increase as a result of the proposed expansion. The *Institute of Transportation Engineers Trip Generation Manual, 8th Edition* estimates the number of trips generated by a hospital facility based on the number of beds or the number of employees. As such, the Commission finds that no new trips will be generated as a result of the proposed project, and as such, the project complies with MPS TR0.1.

TF2. The Commission finds the project shall be conditioned to comply with MPS TR0.3 to ensure that all necessary approvals and permits from the Town of Barnstable are obtained and copies submitted to Commission staff prior to issuance of a Preliminary Certificate of Compliance.

TF3. As no new trips are anticipated to be generated and traffic credits for past use are not being proposed, the Commission finds that MPS TR0.2, MPS TR0.4, and MPS TR0.5 do not apply to the proposed project.

TF4. The Commission finds that according to the application materials, a number of modifications to access/egress points are proposed as part of the expansion. There are currently two (2) one-way site drives onto Gleason Street/Park Street from the main campus parking lot. The westerly site drive will become a two-way drive that will serve as the primary point of access/egress to the main campus parking lot. The easterly site drive will operate as an exit-only drive for emergency vehicles exiting the emergency vehicle tunnel. No geometric changes are proposed to these site drives. The access/egress to both the parking lot on Lewis Bay Road and the parking lot at 16 and 20 Park Street will be improved by defining narrower curb-cuts and designating one (1) enter-only and one (1) exit-only site drive from each parking lot. As such, the Commission finds that the project complies with MPS TR1.1 and MPS TR1.4. The Commission further finds that sufficient sight distance exists at all access/egress location in compliance with MPS TR1.8. As no mitigation is being proposed to address or offset safety concerns, the Commission finds that the proposed project complies with MPS TR1.9.

TF5. The Commission finds the project shall be conditioned to comply with MPS TR1.6 with the provision that, prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no

signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drives.

TF6. In order to ensure compliance with MPS TR1.7 and MPS TR2.7, the Commission finds that the project shall be conditioned to provide sidewalk and crosswalk improvements in compliance with ADA requirements as depicted on the project plans, and provide pavement markings, signage, and other appropriate improvements to Gleason Street/Park Street in a manner consistent with Complete Streets principles.

TF7. The Commission finds that the project proposes to reduce the curb-cuts at the Lewis Bay Road parking lot and the 16 and 20 Park Street parking lot, and as such, the proposed project meets BDP TR1.11. The Commission further finds that this is a probable benefit of the proposed project.

TF8. As no new trips are anticipated to be generated by the proposed project and as the site is not located within the limited-access portion of Route 6, the Commission finds the remaining MPS under RPP Transportation Goal TR1 do not apply to the proposed project.

TF9. The Commission finds that vehicular and pedestrian interconnections are currently provided to the greatest extent feasible on the project site. According to the application materials, parking supply and demand has been studied as recently as February 2012 by the Applicant's transportation engineer and the Commission finds that the number of parking spaces included in the site layout, seven (7) fewer than currently exists, is justified. As such, the Commission finds that the proposed project complies with MPS TR2.3 and MPS TR2.9.

TF10. The Commission finds that the Applicant has elected to continue the robust Travel Demand Management (TDM) program currently in place, and as such, the proposed project complies with MPS TR2.10. The Commission further finds that the TDM program detailed in the application materials meets BDP TR2.16, and that this is a probable benefit of the proposed project.

TF11. The Commission finds that trip reduction is not required for the proposed project as new trips are not anticipated to be generated. The Commission further finds that CCH has an existing bus stop on a public transit route and there is sufficient right-of-way existing within the town-owned roadway layout to accommodate expected needs for bicycle and pedestrian accommodations and/or relocation of utilities. As such, the Commission finds that remaining MPS under RPP Transportation Goal TR2 do not apply to the proposed project.

TF12. The Commission finds that according to the application materials, all movements at the project site driveways will operate at level-of-service of "C" or better during the peak periods of the peak season traffic conditions. As such, the Commission finds that the project complies with MPS TR3.1. The Commission further finds that the Memorandum from Randall C. Hart of VHB to Mr. Edward Browne of Cape Cod Healthcare provided by the

Applicant and prepared in accordance with Technical Bulletin 96-003, complies with MPS TR3.3.

TF13. The Commission finds that as new trips are not anticipated to be generated by the proposed project, no congestion mitigation is required. Further, no credits for trip reduction are proposed. As such, the Commission finds that the remaining MPS under RRP Transportation Goal TR3 do not apply to the proposed project.

Waste Management

WMF1. The Commission finds that the proposed project is not located in a Wellhead Protection Area or Potential Public Water Supply Area, and as such, MPS WM1.1, MPS WM1.2, MPS WM1.3, and MPS WM1.4 do not apply to the proposed project.

WMF2. According to information available from the Massachusetts Department of Environmental Protection (DEP), CCH is a Small Quantity Generator of Hazardous Waste and has a State Generator Identification Number. The Commission finds that according to the application materials, CCH has a contract with Triumvirate, a company that is registered and licensed by DEP to dispose of the Hazardous Waste, and CCH's biomedical waste, which is not classified by the RPP as Hazardous Waste, is handled separately by SteriCycle. Further, the application materials include copies of CCH's Hazardous Materials Management Plan, Hazardous Materials and Waste Management Program, Mercury Spills policy, Universal Waste Policy for management of fluorescent bulbs, and several other policies dealing with specialty wastes generated by medical procedures, and these policies and programs are updated as needed by CCH staff. As such, the Commission finds the proposed project complies with MPS WM1.5.

WMF3. The Commission finds that the application materials include a narrative description of CCH's recycling programs for office paper, cardboard, glass, plastic and aluminum containers, and a Construction Waste Management Plan to be implemented by JK Scanlan, the construction company for the proposed project. The Commission finds the Applicant has provided sufficient information to demonstrate that CCH has programs in place to comply with MPS WM2.1, MPS WM2.2, and MPS WM2.3, for the proposed project's construction and post-construction phases. The Commission finds the project shall be conditioned to ensure the Construction Waste Management Plan is implemented in compliance with MPS WM2.1 and MPS WM2.2.

WMF4. The Commission finds that as the amount of food waste produced by CCH will not significantly increase as a result of the proposed project, MPS WM2.4 does not apply.

Energy

EF1. The Commission finds that as the proposed expansion is a new addition to an existing building, MPS E1.1 does not apply to the proposed project.

EF2. The Commission finds that the Applicant has stated their intent to pursue sustainable design strategies, including following LEED principles, post

construction commissioning of the buildings HVAC, electrical and plumbing equipment, and purchasing renewable energy from an off-site solar PV array. The Commission finds the combination of these different approaches would exceed ENERGY STAR requirements. As such, the Commission grants flexibility from the requirements of MPS E1.2 as the interests protected by this standard can be achieved by the proposed alternate approach. The Commission further finds that the proposed approach will not be more detrimental to the protected resources than would be allowable under MPS E1.2. The Commission finds that the project shall be conditioned to ensure that these proposed sustainable design strategies, not including the purchase of renewable energy, have been implemented.

EF3. The Commission finds that the Applicant has indicated that the proposed project will meet or exceed the ASHRAE 90.1 – 2010 standard, a successor standard to the ASHRAE 90.1 – 2007 standard found in the 2009 RPP. The Commission finds that the project shall be conditioned to ensure compliance with ASHRAE standards in order to comply with MPS E1.3.

EF4. As the proposed project is not a multi-family project and is located in an Economic Center, the Commission finds MPS E1.4 and MPS E1.5 do not apply to the proposed project.

Affordable Housing

AHF1. The Commission finds that the proposed expansion is a non-residential redevelopment project that also involves the demolition of a house at 8 Park Street. As the structure is used for CCH and not residential purposes, the Commission finds that MPS AH1.14 does not apply to the proposed project.

AHF2. The Commission finds that as the Applicant is proposing to add approximately 25,000 square feet to the existing CCH emergency room, pursuant to MPS AH3.5 the affordable housing mitigation is calculated solely on the basis of the additional square footage and is $127,000.

AHF3. As noted in the application materials, the Applicant last updated the emergency room in 1993 and designed it to accommodate 60,000 patients annually and CCH has averaged 88,900 emergency room patients annually from 2009-2011 and has staffed the emergency room to serve that visitation. The addition to the emergency room is designed to accommodate the recent visitation of about 90,000 patients annually. The Applicant is not proposing to add any additional treatment areas or employees, and as such, the Commission finds that additional employees will not be needed based upon the annual visitation of approximately 90,000 visits. In addition, CCH is a non-profit organization and will need to privately fundraise to finance the $20,000,000 cost of the proposed expansion. As such, the Commission finds that the affordable housing mitigation poses a financial hardship to the Applicant and that a waiver of the Affordable Housing mitigation requirement may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Act. The Commission further finds that the relief granted is the minimum necessary to address the hardship.

Heritage Preservation and Community Character

HPCCF1. The Commission finds the proposed project involves demolition of a structure over 75-years old to construct a small off-site parking lot at 8 Park Street. Though there is no historic inventory form for this building in the town of Barnstable, the age of the building triggers review by the Barnstable Historical Commission (BHC) under the Town's Demolition Delay bylaw. Though the building has a form similar to many historic residential structures in the area, the Barnstable Preservation Plan Update 2010 does not identify the property for additional survey and documentation, and the Plan does not identify the area for potential expansion of the nearby Hyannis Main Street/Waterfront Historic District. Further, in written correspondence dated August 15, 2012, the Massachusetts Historical Commission reviewed the proposal and found the proposed project is unlikely to affect significant historic or archaeological resources. As such, the Commission finds the proposed project complies with MPS HPCC1.1

HPCCF2. The Commission finds the proposed project does not involve a cultural landscape or undisturbed areas, and as such, MPS HPCC1.2 and MPS HPCC1.3 do not apply to the proposed project.

HPCCF3. The Commission finds MPS HPCC2.1 through MPS HPCC2.3 do not apply to the proposed project.

HPCCF4. The Commission finds the proposed project is consistent with MPS HPCC2.4 as it is not located in a distinctive area and the addition generally follows the region's traditional development patterns in its modest massing at the street edge and its use of brick exterior materials there. The Commission further finds the addition adds variation to the hospital's primary building façade by projecting farther forward into the existing parking area, and uses some of the same exterior building materials, colors, and window elements that are found on the primary hospital façade, creating a distinctive and separate Emergency Center entrance marked by a granite wall.

HPCCF5. The Commission finds that the overall building footprint of the proposed project exceeds 50,000 square feet, but the proposed addition reads as a distinct massing and effectively helps to screen the large parking area adjacent to the hospital building. The Commission further finds the maintenance of existing vegetation along Park Street and the presence of other small structures that act as frontage buildings to shield the addition from other streets, along with the varied form of the proposed addition make the proposed project consistent with MPS HPCC2.5.

HPCCF6. The Commission finds the proposed expansion adds to the existing building's overall façade variation, increasing the amount of setback and projection along the façades, and introducing additional variation in the roofline, consistent with MPS HPCC2.6.

HPCCF7. The Commission finds the proposed main campus parking lot re-configuration reduces the number of parking spaces in order to accommodate the proposed expansion and all proposed parking in the main lot lies within the boundaries of the existing parking lot. The Commission finds the

proposed design improves upon the current configuration by adding a landscaped island to buffer parking from Lewis Bay Road to the west and additional parking will be screened with vegetation. As such, the Commission finds the proposed project is consistent with MPS HPCC2.8.

HPCCF8. The Commission finds that a vegetated buffer is proposed to the northwest building edge along with several planted median improvements in the parking areas. As such, the Commission finds the proposed project complies with MPS HPCC2.9.

HPCCF9. The Commission finds the Applicant submitted landscape plans (Sheets A2.06 and A2.07, dated July 27, 2012, revised August 28, 2012, prepared by Isgenuity, LLC) that properly integrate buildings with the landscaped environment, divide expansive parking areas, incorporate tree plantings, include pedestrian amenities to improve the visual and functional character of the site, and foster sustainability by including a mix of native and drought tolerant plantings alongside traditional ornamentals. The Commission finds these plans are in partial compliance with MPS HPCC2.10 and that the project shall be conditioned to require the Applicant to submit final landscape plans with planting details that indicate a scale, specify greenscreen installation and planting in more detail, and propose a compact cultivar of parking lot shrubs or an approved substitution and to landscape according to the final approved plans in order to ensure full compliance with this standard. The Commission finds the draft landscape maintenance agreement submitted by the Applicant meets the intent of MPS HPCC2.10. The Commission finds the project shall be conditioned to require the Applicant to submit an executed landscape maintenance agreement prior to issuance of a Final Certificate of Compliance.

HPCCF10. The Commission finds the project proposes preservation of specimen trees in the parking area and along Park Street adjacent to the proposed expansion. As such, the Commission finds the proposed project meets BDP HPCC2.16, and that this is a probable benefit of the proposed project.

HPCCF11. The Commission finds that the proposed exterior lighting is consistent with MPS HPCC2.11 and the Commission's Exterior Lighting Technical Bulletin, 95-001, as amended. The Commission finds the project shall be conditioned to require the Applicant to submit a final exterior lighting plan that includes information on the type, number, lamping, location and foot-candle levels of all exterior lighting fixtures to Commission staff for review and approval prior to issuance of a Preliminary Certificate of Compliance to ensure compliance with MPS HPCC2.11. The Commission finds Commission staff shall conduct a site visit to ensure consistency with the final approved plan prior to issuance of a Final Certificate of Compliance.

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.

2. That upon satisfaction of the conditions identified in this decision and with relief granted in the area of Affordable Housing, the proposed project is consistent with the 2009 (as amended) Regional Policy Plan.

3. That the proposed project is consistent with the Town of Barnstable's Local Comprehensive Plan, and that upon obtaining zoning relief, if needed, from applicable municipal development bylaws from the Town of Barnstable, the project can be found consistent with local development by-laws.

4. That the Town-wide DCPC, designated in September 2001 to manage residential growth and encourage affordable housing, does not apply to this project and therefore the proposed project is consistent with this criterion.

CONDITIONS

The Commission hereby approves, with conditions, the Project of Community Benefit DRI Hardship Exemption application of Cape Cod Hospital for the 25,000 square foot addition to the west side of the current emergency center located at 27 Park Street, Hyannis, 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 "Emergency Center Expansion: Cape Cod Hospital" prepared by Isgenuity, dated July 27, 2012 as follows:

Architectural

- Sheet A2.05: Site Plan
- Sheet A2.08: Level 1 Demolition Plan
- Sheet A2.09: Overall Floor Plan, revised August 29, 2012
- Sheet A2.23: Second Floor/Roof Plan, revised August 29, 2012
- Sheet A2.24: Third Floor/Roof Plan, revised August 29, 2012
- Sheet A3.10: Exterior Elevations, revised August 29, 2012
- Sheet A3.11: Exterior Elevations, revised August 29, 2012

Civil

- Sheet C100: Site Overview Existing
- Sheet C101: Site Overview Proposed
- Sheet C102: Existing Conditions Plan South
- Sheet C103: Existing Conditions North
- Sheet C201: Layout Site Plan South
- Sheet C202: Layout Site Plan North
- Sheet C301: Utilities Grading South
- Sheet C302: Utilities Grading North
- Sheet C400: Civil Detail Sheet
- Sheet C401: Civil Detail Sheet
- Sheet C402: Civil Detail Sheet
- Sheet C403: Civil Detail Sheet

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 seek and obtain relief from local zoning requirements, if needed, to comply with municipal development 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.

Water Resources

WRC1. The Stormwater Operations and Maintenance Plan submitted with the DRI application shall be certified by a Professional Engineer licensed by the State of Massachusetts to ensure MPS under Goal WR7 will be met, including system performance and sizing requirements, and to require a construction sequencing plan to ensure compliance with MPS WR7.9, prior to issuance of a Preliminary Certificate of Compliance.

WRC2. The Applicant shall submit proof of certification by a professional engineer that the stormwater system is operating as designed one year following the completion of construction to ensure compliance with MPS WR7.10.

Transportation

TC1. Copies of all necessary project approvals and permits shall be submitted to Commission staff prior to issuance of a Preliminary Certificate of Compliance in order to ensure compliance with MPS TR0.3.

TC2. Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drives in compliance with MPS TR1.6.

TC3. In order to ensure compliance with MPS TR1.7 and MPS TR2.7, the sidewalk and crosswalk improvements proposed by the Applicant and shown on the project plans shall be constructed in compliance with ADA requirements. The Applicant shall install new pavement markings and signage on Gleason Street/Park Street in a manner consistent with Complete Streets principles to the greatest extent possible given the existing conditions. Commission staff shall conduct a site visit prior to issuance of a Final Certificate of Compliance to ensure compliance with these standards.

Solid Waste

WMC1. The Construction Waste Management Plan submitted by the Applicant shall be implemented in compliance with MPS WM2.1 and MPS WM2.2. A copy of the completed Waste Management Tracker Form shall be submitted to Commission staff prior to issuance of a Final Certificate of Compliance.

Energy

EC1. The sustainable design strategies listed in the application materials, including following LEED principles and post-construction commissioning of the buildings HVAC, electrical and plumbing equipment, shall be implemented prior to issuance of a Final Certificate of Compliance in order to comply with MPS E1.2, or establish an escrow account pursuant to Condition GC14.

EC2. Prior to issuance of a Final Certificate of Compliance, the Applicant shall demonstrate compliance with ASHRAE standards in order to comply with MPS E1.3.

Heritage Preservation and Community Character

HPCCC1. The Applicant shall submit final landscape plans prior to issuance of a Preliminary Certificate of Compliance with planting details that indicate a scale, specify greenscreen installation and planting in more detail, and propose a compact cultivar of parking lot shrubs or an approved substitution. Commission staff shall conduct a site visit prior to issuance of a Final Certificate of Compliance in order to ensure the project was landscaped according to the final approved plans. The Applicant shall submit an executed landscape maintenance agreement for a minimum of three growing seasons prior to issuance of a Final Certificate of Compliance to ensure vegetation is properly established at the site.

HPCCC2. The Applicant shall submit a final exterior lighting plan that includes information on the type, number, lamping, location and foot-candle levels of

all exterior lighting fixtures to Commission staff for review and approval prior to issuance of a Preliminary Certificate of Compliance to ensure compliance with MPS HPCC2.11. Commission staff shall conduct a site visit prior to issuance of a Final Certificate of Compliance to ensure that the lighting is installed according to the approved plan.

SUMMARY

The Cape Cod Commission hereby approves, with conditions, the application of Cape Cod Hospital for a 25,000 square foot addition to the west side of the current emergency center located at 27 Park Street, Hyannis, MA, as a Project of Community Benefit DRI 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)

John D. Harris, Commission Chair

11 Oct 2012
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Oct 11, 2012

Before me, the undersigned notary public personally appeared John D. Harris 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.

Gail P. Hanley
Notary Public
My Commission Expires:
9-28-18

GAIL P. HANLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
September 28, 2018