

# **PAESANO REALTY TRUST - 123 WATERHOUSE ROAD, BOURNE**

## **Application to the Cape Cod Commission's Committee on Planning and Regulation for a Modification of DRI Hardship Exemption (HDEX#08022)**

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# PAESANO REALTY TRUST

## Memorandum in Support

Franco Raponi, Trustee of the Paesano Realty Trust (the "Trust"), owner of the subject property addressed 123 Waterhouse Road, Bourne (the "Property"), requests further relief, as described in this memorandum, from the Cape Cod Commission's Committee on Planning and Regulation (the "Committee") in connection with the Trust's proposal to build-out and occupy a second floor within the existing structure located on the Property and construct a small, 1,500 square foot, one-story outbuilding. The nature and form of this request – a modification to be considered by the Committee – is contemplated by the Cape Cod Commission's Hardship Exemption originally issued for the Property in January of 2009 (Project No. HDEX#08022), a copy of which is attached as **Tab 2** of these application materials (hereafter, the "Hardship Decision").

## Procedural History

By way of background, in April of 2007, the Town of Bourne (the "Town") Planning Board approved the development of a single story, multi-tenant office building consisting of approximately 9,400 square feet, together with associated infrastructure and site work on the approximately 2.62 acre Property. In June 2007, the Town issued a building permit and construction commenced.

In August 2008, while a building official was at the site inspecting the build-out of one of the units, the Trust inquired whether it would be possible to pour a concrete surface for what would eventually become a second floor. In response, the building official advised that Planning Board approval would be required. Accordingly, the Trust sought what it understood was the necessary permission and in late August 2008, the Planning Board approved the pouring of the second floor concrete surface with conditions that there be (1.) no use of that space, and (2.) no access to the second floor. It was further clarified that should the Trust desire to access or occupy the second floor, that the development had to be reviewed by the Cape Cod Commission. The Trust agreed to those conditions, and proceeded to pour the second floor concrete surface in accordance with the Town's approval.

At the same time, the Trust also began to outfit and lease up the first floor of the building. In September of 2008, the Cape Cod Commission (the "Commission") became aware of the development, and on October 2, 2008, the Commission voted to review the building as a development of regional impact ("DRI"). At the time the Commission asserted its jurisdiction, two of the five units on the first floor of the building were fully outfitted and occupied by the Community Health Center of Cape Cod, a non-profit organization. The remaining three units on the first floor were in various stages of being finished.

In response to the Commission's vote to review the building as a DRI, which had the effect of halting any further construction, the Trust immediately sought hardship relief from the Commission to enable it to complete construction. At the time the CCC asserted jurisdiction, the Trust had already expended (and largely borrowed) over \$2.3 million in land, site, development and construction costs, and was netting a monthly loss of approximately \$(6,500). Because of

these outstanding mortgage and construction loan payments, it was critical for the Trust to proceed expeditiously through the hardship process so that the Trust could finish construction and realize the revenue from the other three units on the first floor of the building which were needed to pay the outstanding loan payments. Recognizing the extreme financial hardship under the circumstances, the Commission acted quickly and approved the Hardship Decision.

The Hardship Decision (Tab 2) essentially postpones consideration and implementation of mitigation in certain issue areas until such time as the Trust desired to occupy the second floor of the building, while at the same time reserving the Trust's ability to seek a waiver of the mitigation. The Hardship Decision also clarified that the Commission's Regulatory Committee (now known as the Committee on Planning and Regulation) would have the jurisdiction to review any such request.

### **The Property / Current Level of Development**

As shown on the site plan (Tab 4) and the aerial photographs (Tab 5), the Property, which consists of approximately 2.78 acres, is triangular in shape, with frontage on MacArthur Boulevard, a state highway, and Waterhouse Road, a public way. The Property is presently developed with the two-story building which has a footprint of approximately 9,400 square feet and, including the unoccupied second floor, contains approximately 18,800 square feet of gross floor area. There are 71 parking spaces disbursed throughout the site into small parking clusters which serve the existing structure.

The Property contains an access way providing one-way access from MacArthur Boulevard to Waterhouse Road. This access way was constructed, and is maintained, by the Trust. And, although the access way is on private property, it functions as a public connector between the two roadways. Significant volumes of traffic, unrelated to the development, use this connector for access to Waterhouse Road. There are two points of access into the development – (1.) a full access curb-cut on Waterhouse Road and (2.) a left in/left out curb-cut into the access way.

The building is currently served by a Title 5 septic system that is proposed to be upgraded to a de-nitrification system. There is a stormwater system for the development which, as discussed in the Hardship Decision, is sized to accommodate runoff for the 25 year 24 hour storm event.

There are attractive landscaped planting areas within and surrounding the developed portions of the site with shrubs, trees and other plantings. In addition, mature trees exist along the Property's frontages on MacArthur Boulevard and Waterhouse Road.

The existing building contains five tenant suites, all on the first floor, and all of which are occupied, as follows:

- Units 1 and 2 – These two units, which together consist of 3,750 square feet, are occupied by the Community Health Center of Cape Cod, Inc. ("CHCCC"), a non-profit charitable organization offering primary and preventative health services to all patients, regardless of their ability to pay or their insurance status. CHCCC has leased space

within the building since 2008 and recently extended their lease for an additional five (5) years at the same rate.

- Unit 3 – Consists of 1,350 square feet and is occupied by the New England Baptist Hospital (“NEBH”), a non-profit charitable organization. Within the unit, NEBH provides orthopedic care to Cape-based patients who have been operated on at NEBH in Boston. NEBH’s current lease term will expire in 2016, however, the tenant has a right to extend its term under the lease.
- Units 4 and 5 – These two units, which together consist of 3,550 square feet, are occupied by Life Choice Hospice (“LCH”) which provides hospice care. The current term will expire in May 2015, however, LCH has the option to renew.

In addition to the above-noted units, there is approximately 750 square feet of “common area” on the first floor.

The surrounding development to the north, west and south is consistent with the structure on the Property in terms of size and scale. The Town of Bourne landfill is located directly east on the other side of MacArthur Boulevard. Photographs of the surrounding development are included in **Tab 6** of the application materials.

### **Proposed Development**

As noted above, the Trust now proposes to finish the second floor of the existing building. The space is proposed to be configured to have four (4) tenant suites ranging from 1,000 square feet to 2,272 square feet. In addition, the second floor will include common areas and a utility area which, together, will total approximately 1,788 square feet. The proposed second floor plan is included in **Tab 4** of the application materials. All together, the total common areas within the building (first and second floor) will total approximately 2,540 square feet leaving approximately 16,260 square feet of leasable area.

In addition, the Trust is also proposing construction of a small, one-story outbuilding containing 1,500 square feet in the southerly corner of the Property. The Property owner intends to use this building as an office for his property management services. Because of the unique triangular shape of the Property together with the multiple frontages, the Trust obtained a variance from the 50 foot setback requirement off of MacArthur Boulevard. A copy of the variance decision is included in **Tab 16** of the application materials.

A total of 90 parking spaces are proposed to serve the existing building and proposed outbuilding. This is 5 less spaces than the Bourne Zoning Bylaw requires and, as such, relief will be necessary for this reduction. After reviewing the existing demand, it was determined that 90 spaces is adequate for the anticipated usage and that this reduction will help minimize the amount of pavement on the Property.

### **Compliance / Relief from Hardship Decision**

The Hardship Decision sets forth the issue areas and the potential mitigation to be assessed by the Committee at such time as the Trust proposed to occupy the second floor of the

building. Consistency with and/or relief from the conditions of the Hardship Decision (which are assessed using the 2002 RPP) are discussed below:

- Condition CCC1 – As depicted on the site plan and as shown on the photographs of the locus (Tab 6), there is a substantial amount of existing landscaping as well as clusters of undisturbed natural vegetation. Nonetheless, with the proposed work, consistent with this condition, the Trust will be adding additional plantings along the Property's frontages and within the proposed new parking areas, all as shown on the site plan. Relative to the parking layout, the condition also references MPS 6.2.7. The parking design is consistent with this standard. The Trust is proposing fewer parking spaces than zoning mandates thereby encouraging shared parking by the tenants and reducing the amount of land devoted to parking. Further, because of the shape of the property, together with the fact that it has street frontage on two roadways, it is impossible to locate the parking on just the sides and rear of the structures. Nevertheless, the great majority of the parking is sited to the sides of the buildings. And, the parking spaces that are between the existing building and Waterhouse Road are largely screened by the existing mature vegetation that exists along the Waterhouse Road frontage.
- Condition OSC1 –As is noted in the Hardship Decision, the Property is not located within a Significant Natural Resources Area. Further, the pre-development open space and natural resource quality of this Property, which is bounded by major roadways, was very poor. As the aerial photographs of the locus, circa 1995 and 2001 (attached as Tab 5) which were obtained from the Town of Bourne Planning Department, depict, the Property was largely cleared and disturbed prior to the Trust's acquisition of the Property<sup>1</sup>. According to the Trust's engineer's calculations, the aerial photographs in Tab 5 show approximately 35,000 square feet of the Property disturbed prior to the Trust's acquisition. The total amount of disturbance associated with the development of the Property (existing and proposed) is approximately 84,000 square feet. This equates to 49,000 square feet of new disturbance beyond what existed prior to the Trust's acquisition of the Property. The Trust is requesting relief from having to provide open space mitigation for the development. Based on 2011 open space values for the Town of Bourne which we have been advised is approximately \$32,000 per acre, the cash equivalency for 49,000 square feet of open space is approximately \$35,900. As detailed herein below, having to pay this mitigation is economically infeasible and represents a significant financial hardship. Moreover, because of the location of this Property and its previously disturbed state, its development without the provision of open space will not substantially derogate from the purposes or intent of the Act, nor cause substantial detriment to the public good. Indeed, if this amount of new disturbance (49,000 square feet outside of a Significant Natural Resource Area) were assessed against the Commission's current Limited Review Scoping Checklist, it seems unlikely that this issue area would even be reviewed. This further suggests that relief may be appropriately granted from this requirement.

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<sup>1</sup> The Trust purchased the Property from Paesano Co., LLC (a nominee) in 2008 for nominal consideration. Paesano Co., LLC purchased the land in an arm's length transaction for consideration in 2004.

- Condition TC2 – As required by this condition, the Trust has consulted with MassDOT relative to signing the access road connector, and has installed a sign labeling “Paesano Way” in compliance with MASS DOT sign specifications.
- Condition TC3 – The Trust requests relief from having to make a congestion mitigation payment. The Hardship Decision recognizes the value of the access road connector between MacArthur Boulevard and Waterhouse Road, which was constructed on the Trust’s property and solely at the Trust’s expense. Recently, the Trust offered the Town of Bourne a perpetual easement over the road (see Tab 12) thereby ensuring its ongoing use by the public. In addition, the Board of Selectmen recently voted to name the connector road “Paesano Way” (see Tab 11). Further, as noted in the Hardship Decision, the Trust expended \$105,000 to construct Paesano Way, which should be credited, together with the easement donation, toward any congestion mitigation payment given its public benefit and beneficial effect on the traffic flow to Waterhouse Road. Finally, the Trust has expended, and continues to expend, significant monies to maintain and insure Paesano Way. Tab 13 of the application materials contains a breakdown of these expenses since Paesano Way was installed. To date, the Trust has expended \$32,694.80 toward maintenance of Paesano Way, averaging approximately \$467 per month. Finally, as noted on the site plan, the Trust is also offering to build a connection off Paesano Way to the commercial property located directly to the north. There is tremendous value having Paesano Way perpetually available to public traffic. The costs expended by the Trust to construct, together with the ongoing costs to and maintain the Way, plus the public easement granted to the Town, and its offer to connect the adjoining property to the north to the Way, more than off-set any congestion impact associated with the development.
- Condition TC4 – In compliance with this condition, the Trust is proposing the Travel Demand Management Plan included in Tab 10 of the application materials.
- Condition WRC1 – In accordance with the Hardship Decision, this Trust has agreed to an install an I/A system in place of the existing Title 5 septic system. The Town of Bourne Health Agent has reviewed the proposed system specifications and reports in her correspondence of October 30<sup>th</sup> (Tab 14) that she sees no problems with the proposed design. Relative to the nitrogen loading mitigation payment contemplated by the Hardship Decision, the Trust requests hardship relief. As described in correspondence from the Trust’s engineer (Tab 15), the total nitrogen generated by the existing development (9,400 square feet), which would not be subjected to Commission review, using a standard Title 5 system, would generate more nitrogen than proposed by the Trust using the I/A system. Thus, because the proposed use with the I/A system is more protective of the resource than existing conditions, there is no substantial detriment to the public good or significant derogation from the Act. Further, as detailed below, having to pay \$64,000, as contemplated by the Hardship Decision, is a significant financial hardship, rendering the development uneconomic.
- Condition WRC2 – The project does not involve new clearing in the southerly portion of the Property. The area where the outbuilding is proposed was cleared as a result of the prior drainage easement which the Commonwealth had on the Property. This easement

was abandoned in 2005 (see plan in **Tab 3**). The Commonwealth presently has 3 easements for drainage over the Property, as shown on the takings plan in **Tab 3**. These easements impact re-planting in the southerly area of the Property.

The economics of this development are exceedingly tight. In 2013, with the first floor of the building fully occupied, the Trust realized a net profit of just \$11,201.00 for the entire year. Factoring in full occupancy of both floors of the building, plus the cost of construction to finish the building, the financial pro forma prepared by North Middlesex Bank (**Tab 9**) indicates that the expanded building will generate a net annual profit of just \$10,284. Based on these numbers, although the Trust wants to permit the outbuilding, it anticipates that it will not be able to construct the outbuilding at the same time that it adds the second floor. Therefore, although the infrastructure (parking, sizing of septic, etc...) for the outbuilding will be constructed at the same time as the infrastructure needed for the second floor, the actual building construction will likely be as second phase of development.

The existing and proposed finances confirm that any additional mitigation costs beyond those budgeted would render the development, which already has such tight margins, uneconomic. In assessing the financial hardship, it is also worth noting that the existing tenants are primarily non-profit organizations. And, for two of the units (units 1 & 2), the lease was already in place prior to the Cape Cod Commission taking jurisdiction in 2008. As such, the Trust had no ability to pass along any added costs associated with mitigation to the tenants, as would be the typical course of action. Moreover, because of the timing of the construction, which started in 2007, when the economy was stable, but which was completed just as the Great Recession took effect, the Trust had to offer reduced rental rates, further reduced to the non-profit tenants, in order to survive. These leases further prevent the Trust from passing along the costs of mitigation and the economics of the project cannot afford additional costs as is clearly shown on the pro forma.

The Trust is proposing to comply, to the maximum extent possible, with the provision of the 2002 RPP and the mitigation contemplated by the Hardship Decision. The areas where additional relief is requested are the minimum necessary and, as described above, will not result in a substantial public detriment, nor substantially derogate from the purposes of the Act.





## CAPE COD COMMISSION

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Date: January 8, 2009

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

From: Cape Cod Commission

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

Applicant/  
Owner: Franco Raponi, Trustee of Paesano Realty Trust  
P.O. Box 3139  
Pocasset, MA 02559

Project: Paesano Company Office Building  
123 Waterhouse Road  
Bourne, MA

Project #: HDEX #08022

Book/Page: Lot 5, Plan Book 581, Pages 28 & 29  
Book 22975 Page 95

### DECISION OF THE CAPE COD COMMISSION

#### SUMMARY

The Cape Cod Commission (the "Commission") hereby approves with conditions the Hardship Exemption application of Mr. Franco Raponi, Trustee of Paesano Realty Trust (the "Applicant") for the Paesano Company Office Building at 123 Waterhouse Road in Bourne, MA pursuant to Section 23 of the Cape Cod Commission Act (the "Act"), c. 716 of the Acts of 1989, as amended. The decision is rendered pursuant to a vote of the Commission on January 8, 2009.





## PROJECT DESCRIPTION

The subject property situated at 123 Waterhouse Road in Bourne, MA and identified by Bourne Assessor's records as Map 27 Parcel 87 consists of approximately 2.62 acres (the "Site"). The Site is owned by Mr. Franco Raponi, Trustee of Paesano Realty Trust. In June 2007, following receipt of a building permit from Bourne's Planning Board, the Applicant began construction of an approximately 9,400-square foot (s.f.) office building on the Site. In August 2008, the Applicant received permission from the Bourne Planning Board to pour a 9,400-s.f. concrete, second floor in the existing building. Five units comprise the first floor; the Community Health Center of Cape Cod currently occupies one unit and the remaining units are vacant. The second floor remains unoccupied. The Site is served by 71 paved parking spaces and is accessed by a curb-cut on Waterhouse Road. A one-way only roadway is situated on the northern portion of the Site and connects Waterhouse Road and MacArthur Boulevard; the Applicant constructed this interconnect/access road as part of the development of the Site. The building is serviced by the municipal water system and a private septic system.

## PROCEDURAL HISTORY

On October 2, 2008, the Commission voted to review the development located at 123 Waterhouse Road in Bourne under Section 12(h) of the Act. The Applicant submitted a Development of Regional Impact (DRI) Hardship Exemption application on October 17, 2008. A public hearing was noticed for November 24, 2008 and was continued to December 8, 2008 at the request of the Applicant's counsel. A hearing officer opened the public hearing period on November 24, 2008 and on December 8, 2008 a duly noticed public hearing was conducted by an authorized subcommittee of the Commission pursuant to Section 5 of the Act. Immediately following the public hearing on December 8, 2008, and again on December 22, 2008, the subcommittee held public meetings to deliberate on the project. On December 22, 2008 the subcommittee voted unanimously to recommend to the full Commission that the Hardship Exemption be approved with conditions. A final public hearing was held before the full Commission on January 8, 2009, where the Commission voted twelve (12) in favor and one (1) opposed to approve the 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 hearings relative thereto, correspondence, the minutes of public meetings and hearings, and all other writings contained in the DRI file are hereby incorporated into the record by reference.

TABLE 1: Materials Submitted for the Record	
<i>Materials From the Applicant</i>	<i>Date Submitted</i>
Hardship Exemption Application materials submitted by E. Cox, P. Butler to K. Senatori	10/17/08
Email from E. Cox to K. Senatori re: meeting	10/20/08

Email from E. Cox to K. Senatori re: meeting time	10/23/08
Email from E. Cox to K. Senatori re: meeting	10/24/08
Memorandum from E. Cox, P. Butler to J. Wielgus, K. Senatori w/attached financial information and appraisal	11/3/08
Email from E. Cox to K. Senatori re: meeting time	11/5/08
Email from E. Cox to K. Senatori re: packets for mailing	11/6/08
Memorandum and enclosed packets for subcommittee from E. Cox to K. Senatori	11/11/08
Emails from E. Cox to K. Senatori re: site visit	11/12/08
Email and attached exterior lighting cuts from E. Cox to K. Senatori	11/14/08
Email from E. Cox to K. Senatori re: rescheduled hearing date	11/21/08
Email from E. Cox to K. Senatori re: site visit	11/21/08
Email from E. Cox to K. Senatori re: letter request	11/24/08
Faxed letter from E. Cox, P. Butler to K. Senatori re: continue hearing request	11/24/08
Letter from E. Cox, P. Butler to K. Senatori re: continue hearing request	11/25/08
Email from A. Brigham to A. Adams re: site visit	11/26/08
Drainage plans from E. Cox to K. Senatori	12/2/08
Memorandum with abutters letters from E. Cox to K. Senatori	12/5/08
Email from E. Cox to K. Senatori re: subcommittee meeting	12/11/08
Email from P. Butler to K. Senatori re: receipt of decision	12/16/08
Email from E. Cox to K. Senatori re: suggested edits	12/19/08
Memorandum from S. Turano-Flores to K. Senatori	12/30/08
Email from E. Cox to K. Senatori re: copies for mailing	12/29/08
Email from E. Cox to K. Senatori re: draft decision changes	12/31/08
Email from E. Cox to K. Senatori re: meeting with Dan Ojala	12/31/08
Emails from E. Cox to K. Senatori re: meeting change	1/5/09
Appendix I The Rational Method of Drainage Design submitted by Dan Ojala for the Applicant	1/7/09
Email from E. Cox to K. Senatori, S. Michaud w/attached drainage information	1/8/09
Email from S. Turano-Flores to K. Senatori re: comments to WRF6, WRC2	1/8/09
<b><i>Materials from Commission Staff</i></b>	<b><i>Date Submitted</i></b>
Email w/attached letter from J. Wielgus to C. Moore	9/18/08
Letter from J. Wielgus to C. Moore re: referral	9/18/08
Memorandum from A. Adams to C. Moore w/agenda packet	9/26/08
Email from A. Adams to M. Handler	9/29/08
Certified letter to E. Cox from A. Adams re: 12(h)	10/2/08
Email from K. Senatori to E. Cox re: application received	10/20/08
Email from K. Senatori to E. Cox re: fee waiver	10/20/08
Certified letter from A. Adams to E. Cox re: 12(h)	10/21/08

Email from K. Senatori to E. Cox re: meeting	11/5/08
Email from K. Senatori to E. Cox re: hearing date	11/6/08
Staff Report	11/17/08
Email from K. Senatori to C. Moore w/attached staff report	11/17/08
Email from K. Senatori to E. Cox, P. Butler w/attached staff report	11/17/08
Email from K. Senatori to E. Cox re: dates for rescheduled hearing	11/20/08
Email from K. Senatori to C. Moore re: postponed hearing	11/20/08
Email from K. Senatori to C. Moore re: rescheduled hearing date	11/21/08
Email from K. Senatori to E. Cox re: hearing / site visit date	11/21/08
Email from K. Senatori to E. Cox re: letter request	11/24/08
Fax from K. Senatori to E. Cox w/letter from Community Health Ctr	11/25/08
Email to A. Brigham from A. Adams re: site visit	11/26/08
Email from A. Adams to E. Cox re: lighting	12/1/08
Email from K. Senatori to E. Cox re: drainage	12/4/08
Email from K. Senatori to C. Moore with attached comment ltrs	12/5/08
Email from K. Senatori to E. Cox re: subcommittee meeting	12/11/08
Email from K. Senatori to C. Moore re: subcommittee meeting	12/11/08
Email from K. Senatori to C. Moore with attached draft decision	12/16/08
Email from K. Senatori to C. Moore re: LCP, zoning	12/16/08
Email from K. Senatori to E. Cox, P. Butler with attached draft decision	12/16/08
Email from K. Senatori to E. Cox, S. Turano-Flores with attached draft decision	12/23/08
Email from K. Senatori to E. Cox re: copies for mailing	12/29/08
Email from K. Senatori to E. Cox re: additional language for water resources	12/30/08
Email from K. Senatori to E. Cox re: meeting	12/31/08
Email from K. Senatori to E. Cox, S. Turano-Flores w/draft decision	1/2/09
Email from K. Senatori to C. Moore w/draft decision	1/2/09
Emails from K. Senatori to E. Cox re: meeting	1/5/09
Email from K. Senatori to E. Cox re: revisions to WRF6 and WRC2	1/8/09
<b><i>Materials from Town of Bourne</i></b>	<b><i>Date Received</i></b>
Email letter from C. Moore to A. Adams	9/17/08
Email from C. Moore to K. Senatori	11/20/08
<b><i>Materials from Others</i></b>	<b><i>Date Received</i></b>
Email from M. Handler to A. Adams	9/29/08
Comment letter from K. Gardner, Community Health Center of Cape Cod to CCC	11/24/08

## TESTIMONY

A hearing officer opened the public hearing period on November 24, 2008 at 6:00 pm at the Jonathan Bourne Public Library at 19 Sandwich Road in Bourne, MA. A public hearing was held on December 8, 2008 at the Jonathan Bourne Public Library at 19 Sandwich Road in Bourne, MA. Mr. Michael Blanton, the Commission representative from Bourne, opened the continued hearing at 6:00 pm.

Attorney Eliza Cox of Nutter, McClennen & Fish, LLP presented on behalf of the Applicant. Ms. Cox described the Site noting that the first floor was built to accommodate five units. She stated that unit one is occupied by the Community Care Center of Cape Cod, and units two through five are vacant because the Town is precluded from issuing permits during the pendency of the DRI review. She stated that the second floor has no access other than a ladder. She noted that there are seventy-one parking spaces with frontage on two sides of the building. She noted that the new connection road between Waterhouse Road and MacArthur Boulevard was constructed in accordance with a Massachusetts Highway Department permit. Attorney Cox then discussed the project chronology and discussed the standards for Hardship Exemptions. Attorney Cox stated that she believed that this standard was met, and described the requested relief, which was to allow for the full use and occupancy of the first floor. Attorney Cox requested that the subcommittee exempt the project from having to prepare a traffic study, provide fair share traffic payments, provide open space mitigation, and comply with the exterior lighting requirements. She further requested relief to allow for the deferral of the implementation of the TDM program, nitrogen mitigation, and additional landscaping, as necessary, prior to use or occupancy of the second floor. Attorney Cox stated that the Applicant would agree to the condition that prior to the use and occupancy of the second floor, the he would implement the trip reduction program, install a denitrification septic system, make a payment for nitrogen mitigation, enter into a monitoring and compliance agreement with the Commission for nitrogen removal, and add additional landscaping as is necessary at that time to help screen the building. Attorney Cox stated that the Applicant was currently seeking relief from traffic study, fair share traffic payments, open space, and exterior lighting requirements. Attorney Cox described the Applicant's financial hardship and concluded by stating that currently, the Applicant does not have the financial ability to conduct additional studies or make any significant changes to the building, and the Applicant cannot continue to bear the financial losses caused by the project.

Ms. Kristy Senatori, Chief Regulatory Officer for the Commission, presented the Staff Report, briefly describing the project history, the Commission's jurisdiction over the project, the purpose of the hearing, the Commission staff analysis in the specific resource issue areas, and the conclusions regarding the hardship exemption application.

Mr. Chris Farrell, chairman of the Town of Bourne's Planning Board said that in no way did Mr. Raponi ever do anything without the knowledge of the Town of Bourne's Planning Department. Mr. Farrell stated his opinion that the land in terms of vegetation is better now than it was over the last thirty years. According to Mr. Farrell, the Bourne Planning Board told Mr. Raponi that

he could pour a second floor but that if he were to occupy one square inch of the second floor, that the Planning Board would refer the project to the Commission, to which Mr. Raponi agreed. According to Mr. Farrell, Mr. Raponi said the only thing on the second floor would be mechanicals and a stairway up there, and that there would be no occupancy of the second floor. Mr. Farrell stressed again that Mr. Raponi did nothing without local knowledge.

Mr. Farrell stated that regarding the color scheme, mentioned in staff report, that Bourne did not have a local plan to dealing with architecture. Mr. Farrell stated that the Board asked Mr. Raponi to provide landscape screening along McArthur Boulevard, which he has done to the satisfaction of the Board. Mr. Farrell stated that the parking configuration was not excessive and that the Town of Bourne was satisfied with the exterior lighting. Mr. Farrell stated that all development contributes to increased transportation, and that even if all development was halted, there would still be increased traffic. He added that trip generation analysis in the staff report is based on 18,800 s.f. and not on 9,400 s.f. Mr. Farrell discussed nitrogen loading, stating that the loading calculation was based on 18,800 s.f. and not on 9,400 s.f. and that nitrogen loading was a local issue which could be addressed by the local Board of Health. Mr. Farrell concluded by stating that he felt that there was a hardship because Mr. Raponi did everything that was asked of him by the Bourne Planning Board.

Linda Zuern, an abutter, had no problems with the building itself, but noted that she had been an abutter since 1996 and disagreed with Mr. Farrell's statements. In particular, she stated there were trees in the lot, that the lot was stripped only a few years ago, and that Mr. Raponi had encroached on state property. Ms. Zuern said that when the building was being constructed, she heard that it was going to be a one-story building. She brought her concerns to the building inspector's attention and the building inspector told her that the second floor was for storage only. Her other concern was whether the storage upstairs would be rented out, or was for office use.

The subcommittee members had questions regarding the Commission's jurisdiction and the ability to defer mitigation. Attorney Jessica Wielgus, Commission Counsel, responded that the project was under Commission review and that the Applicant needs a decision from the Commission regarding the hardship exemption application but that in the course of its review, the subcommittee could consider the deferment of mitigation. The subcommittee members had other questions regarding parking layout, nitrogen loading, uses of the building, transportation mitigation, the access road, and the size of the building.

Mr. Peter Meier of the Bourne Planning Board stated that the footprint of the building is 9,400 s.f. and it has a provision for occupancy on two floors. When the subcommittee members had questions regarding how to monitor whether the second floor is being used, Mr. Meier stated that enforcement is not a problem.

Ms. Coreen Moore, the Bourne Town Planner, stated that prior to construction of the building, she met with Mr. Raponi and that he was aware of the 10,000 sq. ft. threshold and inquired about the second floor. She stated that Mr. Raponi did not install a second floor after being informed that this would trigger Commission review. Ms. Moore noted that the definition of Gross Floor

Area differs in the Building Code and in the Commission's regulations. She said that the resulting situation was because of a miscommunication. She added that she supported deferred mitigation and that the Town deserved some mitigation when Mr. Raponi occupies the second floor.

Mr. Blanton adjourned the hearing at 7:33 pm at which point a subcommittee meeting was conducted.

Mr. Blanton opened the subcommittee meeting at 7:34 pm.

The subcommittee deliberated in the issue areas of natural resources, open space, exterior lighting, parking, landscaping, transportation, and wastewater.

The subcommittee found that the Applicant fulfilled its burden to show that a hardship exists in complying with the requirements of the RPP.

The subcommittee approved unanimously motions to waive the requirements of a natural resources inventory, and to defer the requirements of open space, exterior lighting, parking, landscaping and wastewater prior to any access to, occupancy of, or use of the second floor, including but not limited to requesting any building permits for the second floor. The subcommittee found that a literal enforcement of the provisions of the Act with respect to open space, exterior lighting, parking, landscaping and wastewater requirements as they relate to the use of the first floor, would involve substantial financial hardship and relief from the requirements as they relate to the first floor, 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 subcommittee noted at that time, the Commission could consider a credit of \$105,000, which was the cost to construct the on-Site access road, to offset transportation mitigation impacts of this project.

The subcommittee directed staff to draft a decision and the meeting was adjourned at 9:15 pm.

#### **JURISDICTION**

On October 2, 2008, the Commission voted to review the development located at 123 Waterhouse Road in Bourne under Section 12(h) of the Act. The project qualifies as a DRI under Section 3(e)(i) of the DRI Enabling Regulations as new construction of a building with a Gross Floor Area greater than 10,000 square feet.

#### **FINDINGS**

The Commission has considered the application of Mr. Franco Raponi, Trustee of Paesano Realty Trust for the Paesano Company Office Building, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to the 2002 Regional Policy Plan (RPP) and Section 23 of the Act:

**General Findings:**

- GF1. As the first substantive hearing was held on December 8, 2008, the RPP in effect for this project is the 2002 RPP.
- GF2. On October 2, 2008, the Commission voted to review the development located at 123 Waterhouse Road in Bourne under Section 12(h) of the Act. The project qualifies as a DRI under Section 3(e)(i) of the DRI Enabling Regulations as new construction of a building with a Gross Floor Area greater than 10,000 square feet.
- GF3. The Site consists of 2.62 acres of land at 123 Waterhouse Road in Bourne that is improved with a two-story, 18,800-s.f. office building known as the Paesano Company Office Building. The building consists of a 9,400-s.f. first floor and a 9,400-s.f. second floor. Presently, there is no access to or use of the second floor. Five tenant spaces comprise the first floor. The Site building is serviced by the municipal water system and a private septic system. Seventy-one (71) paved parking spaces are located on-Site.
- GF4. Prior to the Commission asserting its jurisdiction over the development, the Applicant received a Certificate of Occupancy for one unit on the first floor, which is currently occupied by the Community Health Center of Cape Cod.
- GF5. The Commission finds that the Applicant has a significant financial hardship as it relates to the use of the first floor. The Applicant is losing approximately \$6,483.43 per month as the Applicant is unable to obtain revenue on the vacant first floor units. According to financial information provided by the Applicant, the monthly rental income based on one unit rented is \$2,486.66 and the monthly mortgage payment of \$7,985.00, the monthly real estate taxes of \$500.00, the monthly insurance payment of \$100.00, the monthly utility bills of \$250.00, and monthly miscellaneous expenses of \$135.00, leave the Applicant with a monthly loss of \$6,483.43. The Applicant further estimates as of October 28, 2008, the land, site, development and construction costs associated with the property and the building amounted to over \$2,361,342.04. This includes approximately \$105,000 for construction of the roadway interconnect between Waterhouse Road and MacArthur Boulevard.
- GF6. The Applicant has met his burden to show that fully complying with the requirements of the RPP prior to obtaining use of the first floor commercial space would create a financial hardship, particularly the required open space contribution, the expense of transportation studies and mitigation, the community character requirements, and the expense of water resource mitigation.
- GF7. The development does not lie within a District of Planning Concern, and is consistent with the Bourne Local Comprehensive Plan and municipal development bylaws.
- GF8. The probable benefits of the development outweigh the probable detriments.

- GF9. Due to financial hardships, the Commission finds that a Hardship Exemption is appropriate and that the Applicant has fulfilled its burden to show that a hardship exists in conforming with the requirements of the RPP at this time. A literal enforcement of the provisions of the Act would involve an open space contribution, community character requirements, transportation studies and mitigation, and water resources studies and mitigation, that would represent a substantial financial hardship to the Applicant. Relief from these requirements, as it relates to use of the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship.

**Community Character Findings:**

- CCF1. The Site is triangular shaped and is bounded by both Waterhouse Road and MacArthur Boulevard which presents difficulty in meeting Minimum Performance Standard (MPS) 6.2.7 which requires that parking to be located to the rear or side of a building.
- CCF2. MPS 6.2.7 requires that parking to be located to the rear or side of a building unless such location will have an adverse or detrimental impact or is infeasible. The Commission finds that relocating the parking relative to the use/occupancy of the first floor is infeasible. The Commission finds that it is appropriate to grant the hardship waiving the requirement of MPS 6.2.7 as it relates to the use of the first floor, because the Applicant demonstrated a substantial hardship and because relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission allows the Applicant to defer further compliance with MPS 6.2.7 until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to, requesting any building permits for the second floor, at which time, the Applicant shall, unless a further waiver is granted by the Committee, be required to seek a modification of the Commission's decision.
- CCF3. MPS 6.2.9 requires that development implement a landscape plan and Goal 6.2 of the RPP calls for development to be consistent with the Commission's Design Guidelines. The Commission finds that it is appropriate to grant the hardship waiving the screening requirement as it relates to the use of the first floor, because the Applicant demonstrated a substantial hardship and because relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission finds that landscaping may be needed prior to access to, occupancy of, or any use of the second floor, including, but not limited to, requesting any building permits for the second floor.

*Exterior Lighting*



- EXLFF1. MPS 6.2.10 requires that *“development and redevelopment conform with the Cape Cod Commission's exterior lighting design standards and submission requirements, Technical Bulletin 95-001.”* According to the *As-Built Site Plan* (9/24/08), exterior lighting for the project consists of two single-headed and two double-headed parking area pole mounted lights and nine (9) on-building mounted fixtures. The *As-Built Plan* indicates the pole lights use 15-foot poles. Eight of the on-building lights are mounted at 20 feet; one is mounted at 8 feet. The fixture light source types, light styles, mounting heights, shielding, cutoffs, and pole and total fixture heights are consistent with Technical Bulletin standards.
- EXLFF2. No information was provided on foot-candle levels. Technical Bulletin standard 2.6 stipulates a maximum foot-candle level of 8.0 as measured directly below the light at grade. A nighttime visit to the Site by Commission staff on 11/28/08 indicates the foot-candles measured for the single and double-headed pole mounted lights (16.8 and 28.7 foot-candles respectively) significantly exceeds the levels stipulated by standard 2.6. Foot-candle levels for all other fixtures on the Site at the time of the staff visit conformed to the Technical Bulletin.
- EXLFF3. To bring the pole-mounted lights into conformance with the Technical Bulletin foot-candle standard 8.0 the Applicant would have to replace the fixture heads with ones that use a lower wattage lamp. Because this process could cost the Applicant several hundred dollars per fixture head, and would likely involve several weeks for removal of the existing heads, and receipt and installation of the new, lower wattage ones, the Commission finds that a literal enforcement of the provisions of the Act with respect to the foot-candle requirements articulated in the RPP and Exterior Lighting Technical Bulletin would involve substantial financial hardship and relief from the foot-candle requirements may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act.

#### **Natural Resources / Open Space Findings:**

##### *Natural Resources*

- NRF1. The project is not located in a Significant Natural Resource Area as mapped by the RPP. The Site does not have wetlands present, and due to the complete disturbance of the property associated with the existing building, there does not appear to be a need to evaluate the Site for habitat values. In light of these facts, the Commission waives the requirement for a natural resource inventory per MPS 2.4.1.1.

##### *Open Space*

- OSF1. Based on the open space requirement of MPS 2.5.1.3, the Commission finds that a literal enforcement of the provisions of the Act with respect to the open space requirement as it related to the use of the first floor only would involve substantial hardship and relief from this requirement as it relates to use of the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. Based on

the findings of hardship, the Commission allows the Applicant to defer the provision of open space until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to requesting any building permits for the second floor.

**Transportation Findings:**

- TF1. Commission staff conducted a site visit and reviewed material submitted by the Applicant. Based on the information submitted, the Commission concludes that this project will have significant impacts on adjacent roadways.
- TF2. Commission staff calculated trip generation estimates for a 9,400-s.f. office building and an 18,800-s.f. office building. These trip generation calculations are based on the Institute of Transportation Engineer (ITE) *Trip Generation, 7<sup>th</sup> Edition* for General Office Use (ITE LUC 710). The trip generation estimates are outlined below in Table 1.

**Table 1 – Trip Generation Comparisons**

Use	Daily Trips	AM Peak Hour	PM Peak Hour
9,400 s.f. office building	216	28	38
18,800 s.f. Office Building	368	49	64

Based on the trip generation analysis submitted by the Applicant, the proposed 18,800 s.f. office building will have a significant transportation impact on the regional roadway network.

- TF3. In part, MPS 4.1.3.4 requires all DRIs to provide an adequate traffic study to identify the impacts of the project. The Applicant has not submitted a traffic study in conformance with the RPP. The Commission finds that a literal enforcement of the provisions of the Act with respect to the traffic study requirements as it relates to use of the first floor only, would involve substantial financial hardship and relief from this requirement as it relates to the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. Based on the findings of hardship, the Commission allows the Applicant to defer the traffic study requirement until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to requesting any building permits for the second floor.
- TF4. MPS 4.1.1.7 requires all DRIs access/egress locations with public ways to meet Massachusetts Highway Departments and American Association of State Highway Transportation Officials standards for safe stopping sight distance. The Site has full access onto Waterhouse Road and a second driveway onto the on-Site interconnect/access road (constructed by the Applicant) with no direct access onto

MacArthur Boulevard. The Waterhouse Road driveway and the access road driveway both have adequate sight distance. Commission staff has stated and the Commission finds that both site driveways for this project comply with MPS 4.1.1.7.

- TF5. The Applicant constructed a one-way access road on the property connecting MacArthur Boulevard to Waterhouse Road. This access road is not signed for regional traffic. Commission staff estimates that about forty (40) percent of MacArthur Boulevard southbound traffic destined for Waterhouse Road currently utilizes this access road. Commission staff has stated that mainly local traffic is utilizing the roadway due to the lack of signage. The access road is approximately 360 feet long and cost \$105,000 to construct. The cost to construct this road is \$292 per linear foot (\$105,000/360 ft), which is a reasonable expense to build a new roadway.

The Applicant agreed to consult with the Massachusetts Highway Department (MassHighway) relative to signing this access road for motorists traveling southbound on MacArthur Boulevard (Route 28).

- TF6. MPS 4.1.3.4 requires DRIs to mitigate all traffic-related impacts associated with the proposed project. Appropriate mitigation can be achieved through in-kind strategies (roadway widening, signalization, etc.), non-structural means (transit, preservation of developable land) or a combination of these measures. In determining the cost to offset the impacts of an 18,800-s.f. office building, Commission staff estimates the cost to maintain the transportation infrastructure based on a vehicle miles traveled formula, which is a formula that multiplies the impact of the project by the cost to maintain the roadway infrastructure by the number of estimated miles traveled by the traffic accessing the project divided by the capacity of the roadway. This calculation produces a cost per vehicle miles traveled estimate of the transportation infrastructure required of a development project. Based on current infrastructure expenses, the cost to maintain the transportation infrastructure required for this development is estimated to be \$153,704.

The Commission finds that a literal enforcement of the provisions of the Act with respect to the fair share transportation mitigation requirement as it relates to use of the first floor only, would involve substantial financial hardship and relief from this requirement as it relates to the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. Based on the findings of hardship, the Commission allows the Applicant to defer the fair share transportation mitigation requirement until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to requesting any building permits for the second floor. At such time, the Commission may consider a transportation credit of \$105,000, the cost to construct the on-Site access road, to offset the mitigation impacts of this project.

- TF7. Waterhouse Road currently has a sidewalk in front of the Site. The Commission encourages the planning, design and construction of sidewalks to connect existing commercial and residential properties to allow for safe convenient access for all modes of transportation and to maintain sustainable/walk-able communities.
- TF8. The standard of review for transportation safety impacts is 25 or more new peak hour trips through a high crash location. A high crash location is defined as a location where three (3) or more crashes have occurred for three (3) consecutive years. Based on a trip generation estimate for a 9,400-s.f. office building and trip distribution of fifty (50) percent from the north, thirty (30) percent from the south and twenty (20) percent from Waterhouse Road, the project would not impact any know high crash location by twenty-five (25) peak hour trips.
- TF9. MPS 4.1.2.1 requires all DRIs to reduce new vehicle trips in and out of the site by 25 percent over what is typically expected for the land use. Based on the increase in average daily traffic of 368 trips per day, the trip reduction requirement for this project is 92  $[368 \times .25]$  daily vehicle trips. The Commission finds that a literal enforcement of the provisions of the Act with respect to the trip reduction requirement as it relates to use of the first floor only, would involve substantial financial hardship, and relief from this requirement as it relates to the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. Based on the findings of hardship, the Commission allows the Applicant to defer the trip reduction requirement until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to requesting any building permits for the second floor.

**Water Resource Findings:**

- WRF1. The project is not located in a wellhead protection area.
- WRF2. The project, as constructed, does not meet MPS 2.1.1.1 which limits the project's nitrogen-loading concentration to 5 parts per million (ppm-N).
- WRF3. The project, as constructed, does not meet MPS 2.1.1.2.C, which limits the project's nitrogen load to the Back River watershed. The watershed drains to the Back River, a nitrogen-sensitive coastal resource in an Area of Critical Environmental Concern. The nitrogen offset required by MPS 2.1.1.2.C depends on the level of wastewater treatment and nitrogen removal. The project, as constructed, uses a standard Title-5 septic system with a design capacity of 1,332 gallon per day (gpd). Standard Title-5 systems are not designed to remove nitrogen to the levels required by MPS 2.1.1.1.
- WRF4. To meet MPS 2.1.1.1 and 2.1.1.2.C for project wastewater, the Applicant needs to:
- (i) install Massachusetts Department of Environmental Protection (DEP)-approved innovative/alternative septic components and denitrify project wastewater to an effluent nitrogen strength of 17 ppm-N; and

- (ii) provide \$64,400 nitrogen offset for use by the Town of Bourne to develop nitrogen management strategies in the Back River watershed.

Because the permits issued by the DEP for de-nitrification septic systems allow for a nitrogen effluent in excess of the 17 ppm required to meet the Cape Cod Commission standards per MPS 2.1.1.1, the Applicant would need to enter into a nitrogen monitoring agreement with the Commission and provide an additional nitrogen offset in order to meet MPS 2.1.1.2.C.

- WRF5. The Commission finds that a literal enforcement of the provisions of the Act with respect to water resource mitigation MPS 2.1.1.1 and MPS 2.1.1.2C as it relates to the use of the first floor only, would involve substantial hardship, financial or otherwise and that desirable relief from these requirements as they relate to the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. Based on the findings of hardship, the Commission allows the Applicant to defer the water resources mitigation requirements of MPS 2.1.1.1 and MPS 2.1.1.2C until such time as prior to access to, occupancy of, or any use of the second floor including but not limited to requesting any building permits for the second floor.
- WRF6. The goal under RPP section 2.1.3 is to protect *“the overall water quality of the aquifer and its resources by providing adequate stormwater management and treatment.”* This goal is achieved in part through MPS 2.1.3.2, which requires drainage designs adequate to handle the 25-year 24-hour storm and consistency with Massachusetts Stormwater Guidelines, and MPS 2.1.3.3, which requires use of best management practices. An operation and maintenance plan for the stormwater collection and infiltration system is required by MPS 2.1.3.6 to ensure the system’s proper function.

The project Site is fully developed except for the southern portion of the Site. A landscape/stormwater plan has not been provided for this area where soil in and around an unfinished stormwater retention basin is presently devoid of vegetation. On January 8, 2009, the Applicant submitted a certified statement from a professional engineer indicating that the stormwater system is sized to accommodate the runoff from the project site for the 25 year 24 hour storm event in accordance with MPS 2.1.3.2. The referenced statement further indicates that, as constructed, the stormwater system infiltrates runoff directly beneath the parking areas without the bio-filtration required by MPS 2.1.3.3. The Applicant has constructed a stone swale on the MacArthur Boulevard side of the building that partially infiltrates storm-water runoff off of MacArthur Boulevard and transports it to an off site retention area South of locus. No storm-water from MacArthur Boulevard impacts the onsite retention basin shown on the as-built plan as "drainage area" on the South of the parking lot.

## **CONCLUSION**

Based on the findings above, the Commission hereby concludes:

- 1) That the probable benefits of the development outweigh the probable detriments.
- 2) Due to financial hardships, the Commission finds that a Hardship Exemption is appropriate and that the Applicant has fulfilled its burden to show that a hardship exists in conforming with the requirements of the RPP at this time. A literal enforcement of the provisions of the Act would involve an open space contribution, community character requirements, transportation studies and mitigation, and water resources studies and mitigation, that would represent a substantial financial hardship to the Applicant. Relief from these requirements, as it relates to use of the first floor only, may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship.
- 3) The project does not fall within a District of Critical Planning Concern, and complies with the local development bylaws and the Bourne Local Comprehensive Plan.

The Cape Cod Commission hereby approves with conditions the Hardship Exemption application of Franco Raponi, Trustee for Paesano Realty Trust, for the Paesano Company Office Building, provided the following conditions are met:

## **CONDITIONS**

### **General Conditions:**

- GC1. The building was constructed in a manner consistent with the following plans:
- As-Built Site Plan, dated September 24, 2008, prepared by Warwick & Associates, Inc.
  - Sewage Disposal System Design, dated January 21, 2008, prepared by Warwick & Associates, Inc.
  - Site Plan with Revised Septic Layout, dated January 21, 2008, prepared by Warwick & Associates, Inc.
  - Window Location Plan A-1, dated January 25, 2008, prepared by RESCOM Architectural, Inc.
  - Parking Plan C1.0, dated August 1, 2008, prepared by MEDCOM Architectural Group LLC
  - Elevations A-2, dated January 25, 2008, prepared by RESCOM Architectural, Inc.

Any deviation from the above plans, including but not limited to changes to the building design, building location, lighting, landscaping or other site work, construction of, access to, occupancy of, or any use of the second floor, including but not limited to requesting any building permits for the second floor, storage of any materials, or the leasing of any space on the second floor, shall require approval by the Cape Cod Commission through a modification of this decision, pursuant to Section 12 of the Commission's Enabling Regulations. The Applicant shall submit to

the Commission any additional information deemed necessary to evaluate any modifications to the approved plans.

- GC2. This DRI Hardship Exemption decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- GC3. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- GC4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- GC5. The Applicant agrees to allow Cape Cod Commission staff to enter onto the property, which is the subject of this decision at reasonable times and after reasonable notice for the purpose of determining whether the conditions contained in the decision are met.
- GC6. No additional development (as that term is defined by the Act) or construction of the second floor, including but not limited to any access to, occupancy of, or any use of the second floor including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, shall be undertaken at the Site without approval by the Cape Cod Commission through a modification of this decision, pursuant to Section 12 of the Commission's Enabling Regulations. Prior to the time that any development, prior to building permits are sought for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the storage of materials or leasing of the second floor, the Applicant shall return for DRI review of the entire development and associated impacts in the areas of community character, open space, transportation, and water resources, and shall either comply with the 2002 RPP or seek and obtain a waiver therefrom. Nothing in this decision shall be interpreted to preclude the Applicant from seeking and the Commission from granting further hardship exemption relief, or any other type of relief available at that time, as it relates to access to, occupancy of, or use of the second floor including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor.

**Community Character:**

- CCC1. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the project shall be reviewed by the Commission's Regulatory Committee (the "Committee") as a modification and unless a further waiver is granted by the Committee the Applicant shall be required to provide landscape screening consistent

with the Commission's Design Guidelines and RPP Goal 6.2 and MPS 6.2.9 and unless a further waiver is granted by the Committee, shall be required to seek a modification to the Commission's decision with respect to parking design in accordance with MPS 6.2.7.

**Natural Resources / Open Space Conditions:**

- OSC1. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant shall be required to seek a modification of this decision in order to comply with the open space requirements in effect at the time of the original DRI approval unless a further waiver is granted by the Committee.

**Transportation Conditions:**

- TC1. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant shall seek a modification of this decision in order to address the traffic study requirements of the RPP as outlined in TF4.
- TC2. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant shall consult with the MassHighway relative to signing the access road (as shown on the "As-Built Site Plan" dated September 24, 2008 by Warwick & Associates, Inc.) for motorists traveling southbound on MacArthur Boulevard (Route 28) as outlined in TF6.
- TC3. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant shall make a monetary payment of \$153,704 as outlined in TF6 to comply with MPS 4.1.3.4 unless a further waiver is granted by the Committee. As outlined in TF6, the Commission may consider a transportation credit of \$105,000 toward this mitigation, which was the cost to construct the on-Site access road. These funds shall be held by the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Executive Director to support the planning, design of, and/or implementation of transportation improvements in the Town of Bourne.
- TC4. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on



the second floor, the Applicant shall implement an trip reduction plan as identified in TF10.

**Water Resource Conditions:**

WRC1. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant should seek a modification of this decision and the project be reviewed by the Regulatory Committee of the Commission to ensure compliance with MPS 2.1.1.1 and MPS 2.1.1.2.C. Project modifications necessary to meet these standards that increase the existing septic system's present capacity of 1,332 gpd shall be required to be reviewed by the Commission as a modification to this decision.

WRC2. Prior to seeking building permits for the second floor, and prior to any access to, occupancy of, or use of the second floor is proposed including but not limited to the request of any building permits, storage of any materials, or leasing of any space on the second floor, the Applicant shall seek a modification of this decision and the project should be reviewed by the Regulatory Committee of the Commission. The Applicant shall submit a landscape / re-vegetation plan for the southern portion of the site for Commission staff approval in accordance with MPS 2.1.3.3 unless a further waiver is granted by the Committee. In accordance with MPS 2.1.3.6, the plan, if required, shall detail protocol, schedules and the party responsible for the stormwater system's operation and maintenance to ensure the system's proper function.

The landscape / re-vegetation plan, if required, shall be implemented prior to any occupancy permit for the second floor of the building to ensure that plantings have adequate time to become established.

The Cape Cod Commission hereby approves with conditions the application of Franco Raponi, Trustee of Paesano Realty Trust as a Development of Regional Impact Hardship Exemption pursuant to Section 23 of the Act, c. 716 of the Acts of 1989, as amended for the Paesano Company Office Building in Bourne, MA.

John D. Harris, Chair

8-Jan 2009  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Jan 8, 2009

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

[Signature]  
Notary Public

My Commission Expires:

10/13/11



QUITCLAIM DEED

Paesano Co., LLC, a Massachusetts Limited Liability Company, for nominal consideration paid, grants to Franco Raponi, Trustee of Paesano Realty Trust under Declaration of Trust dated June 11, 2008 as evidenced by Certificate of Trust recorded at the Barnstable County Registry of Deeds herewith,\*with Quitclaim Covenants, \*of P. O. Box 3139, Pocasset, MA 02559

The land in Bourne, Barnstable County, Massachusetts, being shown as LOTS 5 & 6 on a "Definitive Subdivision Plan Prepared for William Anthony, of Lot 87, Warehouse Road, Bourne, MA, J. E. Landers-Cauley, P.E., Civil Environmental Engineering, P. O. Box 364, West Falmouth, MA, 02574, Scale 1" = 40'", which plan is recorded at the Barnstable County Registry of Deeds in Plan Book 581 Pages 28 and 29.

Subject to and with the benefit of all rights, reservations, restrictions and easements of record insofar as the same are in force and applicable.

For title reference see deed recorded in Book 18992, Page 237.

Property address: 123 Waterhouse Road, Pocasset, MA 02559

Executed as a sealed instrument this 11<sup>th</sup> day of June, 2008.

Paesano Co., LLC

By: [Signature]  
Franco Raponi, Manager

Commonwealth of Massachusetts  
County of Barnstable

On this 11<sup>th</sup> day of June, 2008 before me, the undersigned notary public, personally appeared Franco Raponi, Manager of Paesano Co., LLC proved to me through satisfactory evidence of identification, which were MA license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

[Signature]  
Notary Public  
Name:  
My commission expires: 1-22-10

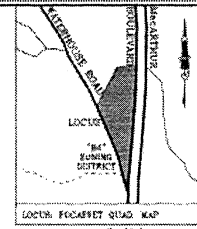
6/11/2008w:\dk6\winword\commercial closings\raponi\quitclaim deed.doc12:14 PM

BARNSTABLE REGISTRY OF DEEDS



ELIZABETH A. McNICHOLS  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires Jan. 22, 2010

123 Waterhouse Rd, Bourne



NOTES:

LOCUS OF BROWNS IN THE 'B-A' ZONING DISTRICT  
LOCUS IS BROWNS IN THE 'X' FLOOD ZONE  
EACH LOT CORNER, POINT OF CURVE AND POINT OF  
TANGENCY SHALL BE MARKED WITH A CONCRETE  
STAKE AS REQUIRED IN SECTION 2460 OF THE  
ZONING BYLAW.  
NO WETLAND EXIST ON OR WITHIN 100' OF ANY  
PORTION OF THIS SUBDIVISION AS DEFINED BY  
MASS GENERAL LAW 131B, § 2C, 4D.

**J.E. LANDERS-CAULEY, P.E.**  
CIVIL ENVIRONMENTAL ENGINEERING  
P.O. BOX 364 WEST PALMBeATH, MA 02574  
(508) 540-7733 ph (508) 540-3022 ph  
(508) 540 - 3844 fax

THIS PLAN WAS PREPARED IN CONFORMITY WITH THE  
RULES AND REGULATIONS OF THE REGISTER OF  
DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

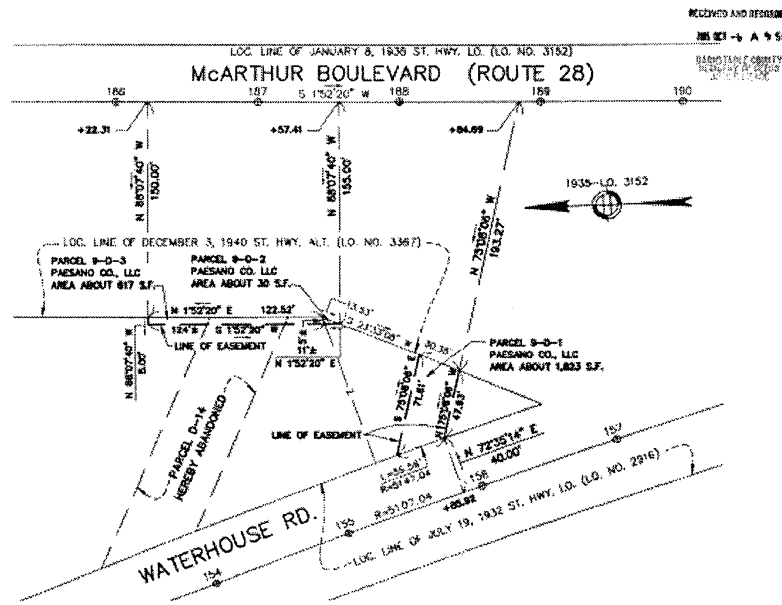
ASS. # 27-87	DATE 02/28/02
SCALE: 1" = 40'	DRAWN BY: JDR
JOB NO. 10192518	SHEET 2 OF 2

NY 06/24/02 JDI

603-40

BOOK 603 PAGE 40

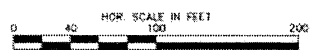
BOURNE-2005-ONE SHEET  
DRAINAGE EASEMENT AND ABANDONMENT



I CERTIFY THAT THIS PLAN HAS BEEN  
PREPARED IN CONFORMITY WITH THE RULES AND  
REGULATIONS OF THE REGISTRARS OF DEEDS OF  
THE COMMONWEALTH OF MASSACHUSETTS.



September 7, 2005 *Michael P. Chiodini*  
DATE SIGNATURE



APPROVED: SEPTEMBER 7, 2005  
*Ann L. Murphy*  
COMMISSIONER  
MASSACHUSETTS DEPARTMENT OF HIGHWAYS

MASS HIGHWAY  
THE COMMONWEALTH OF MASSACHUSETTS  
PLAN OF LAND IN THE TOWN OF  
**BOURNE**  
BARNSTABLE COUNTY  
SHOWING LOCATION OF EASEMENTS  
FOR DRAINAGE PURPOSES TAKEN AND  
ABANDONED BY THE DEPARTMENT OF HIGHWAYS  
SEPTEMBER 7, 2005  
SCALE: 40 FEET TO THE INCH  
*Robert L. ...*  
C.E.P. ENGINEER



ZONE: B-4

MAP: 27 PARCEL 87

FLOOD ZONE: X

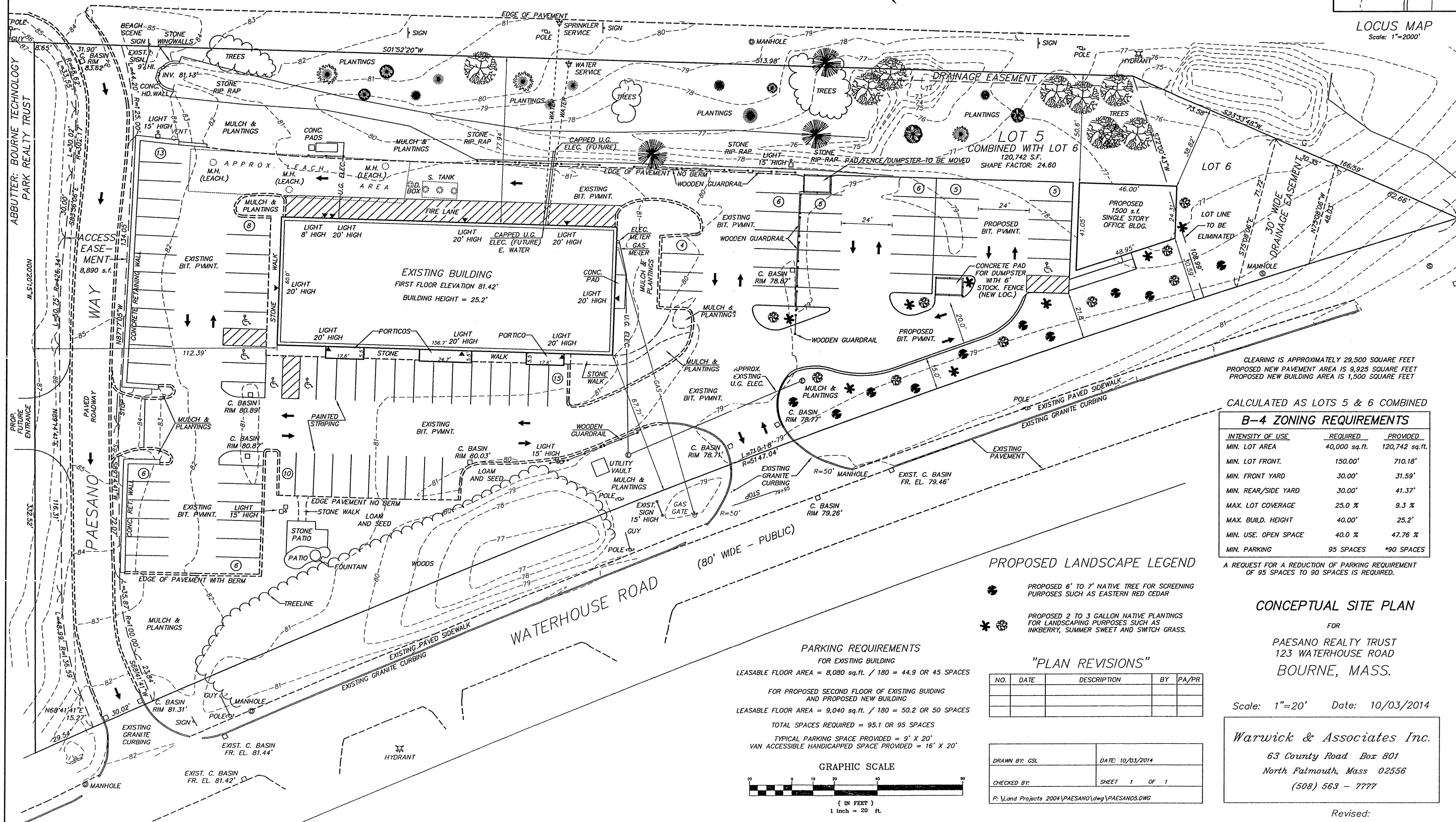
PLAN REFERENCE: BOOK 581 PAGE 29

NOTE: THIS SITE IS NOT LOCATED IN A  
WATER RESOURCE PROTECTION DISTRICT

MacARTHUR'S BOULEVARD  
STATE HIGHWAY  
PUBLIC - VARIABLE WIDTH

Bk 581 Pg 29

LOCUS MAP  
Scale: 1"=2000'



CLEARING IS APPROXIMATELY 29,500 SQUARE FEET  
PROPOSED NEW PAVEMENT AREA IS 9,925 SQUARE FEET  
PROPOSED NEW BUILDING AREA IS 1,500 SQUARE FEET

CALCULATED AS LOTS 5 & 6 COMBINED

B-4 ZONING REQUIREMENTS		
INTENSITY OF USE	REQUIRED	PROVIDED
MIN. LOT AREA	40,000 sq.ft.	120,742 sq.ft.
MIN. LOT FRONT	150.00'	710.18'
MIN. FRONT YARD	30.00'	31.59'
MIN. REAR/SIDE YARD	30.00'	41.37'
MAX. LOT COVERAGE	25.0 %	9.3 %
MAX. BUILD. HEIGHT	40.00'	25.2'
MIN. USE. OPEN SPACE	40.0 %	47.76 %
MIN. PARKING	95 SPACES	*90 SPACES

A REQUEST FOR A REDUCTION OF PARKING REQUIREMENT  
OF 95 SPACES TO 90 SPACES IS REQUIRED.

CONCEPTUAL SITE PLAN

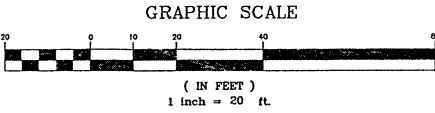
FOR  
PAESANO REALTY TRUST  
123 WATERHOUSE ROAD  
BOURNE, MASS.

Scale: 1"=20' Date: 10/03/2014

Warwick & Associates Inc.  
63 County Road Box 801  
North Falmouth, Mass 02556  
(508) 563 - 7777

Revised:

PARKING REQUIREMENTS  
FOR EXISTING BUILDING  
LEASABLE FLOOR AREA = 8,080 sq.ft. / 180 = 44.9 OR 45 SPACES  
FOR PROPOSED SECOND FLOOR OF EXISTING BUILDING  
AND PROPOSED NEW BUILDING  
LEASABLE FLOOR AREA = 9,040 sq.ft. / 180 = 50.2 OR 50 SPACES  
TOTAL SPACES REQUIRED = 95.1 OR 95 SPACES  
TYPICAL PARKING SPACE PROVIDED = 9' X 20'  
VAN ACCESSIBLE HANDICAPPED SPACE PROVIDED = 16' X 20'



PROPOSED LANDSCAPE LEGEND

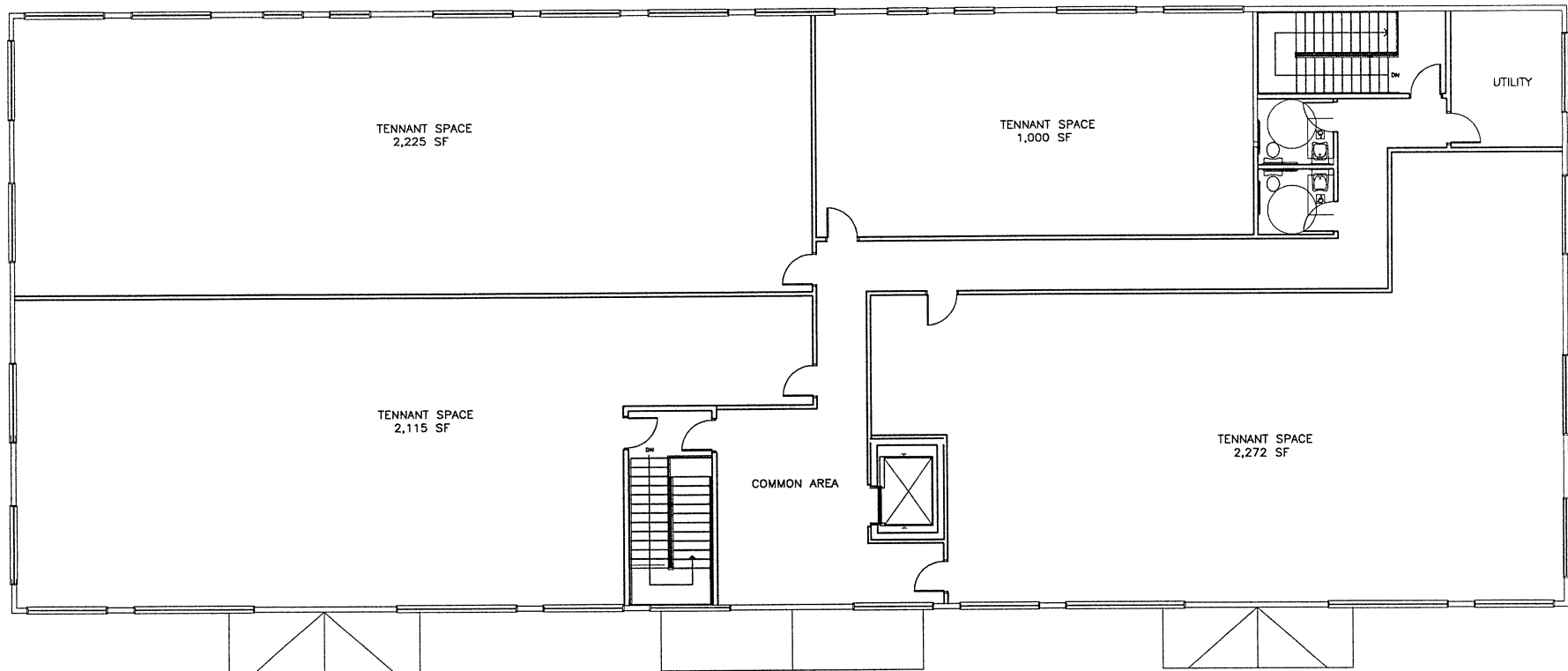
- PROPOSED 6" TO 7" NATIVE TREE FOR SCREENING  
PURPOSES SUCH AS EASTERN RED CEDAR
- PROPOSED 2 TO 3 GALLON NATIVE PLANTINGS  
FOR LANDSCAPING PURPOSES SUCH AS  
INKBERRY, SUMMER SWEET AND SWITCH GRASS.

"PLAN REVISIONS"

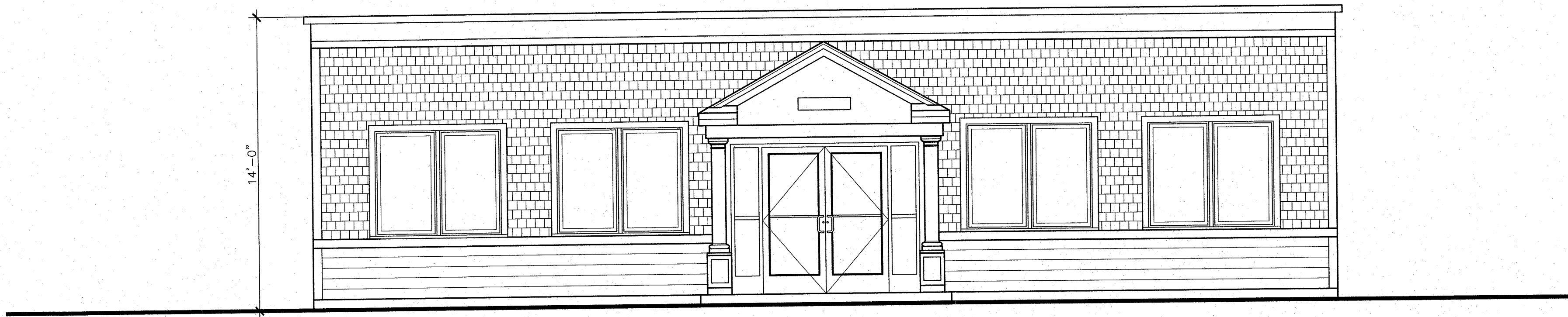
NO.	DATE	DESCRIPTION	BY	PA/PR

DRAWN BY: GSL	DATE: 10/03/2014
CHECKED BY:	SHEET 1 OF 1
P:\Land Projects 2004\PAESANO\dwg\PAESANOS.DWG	

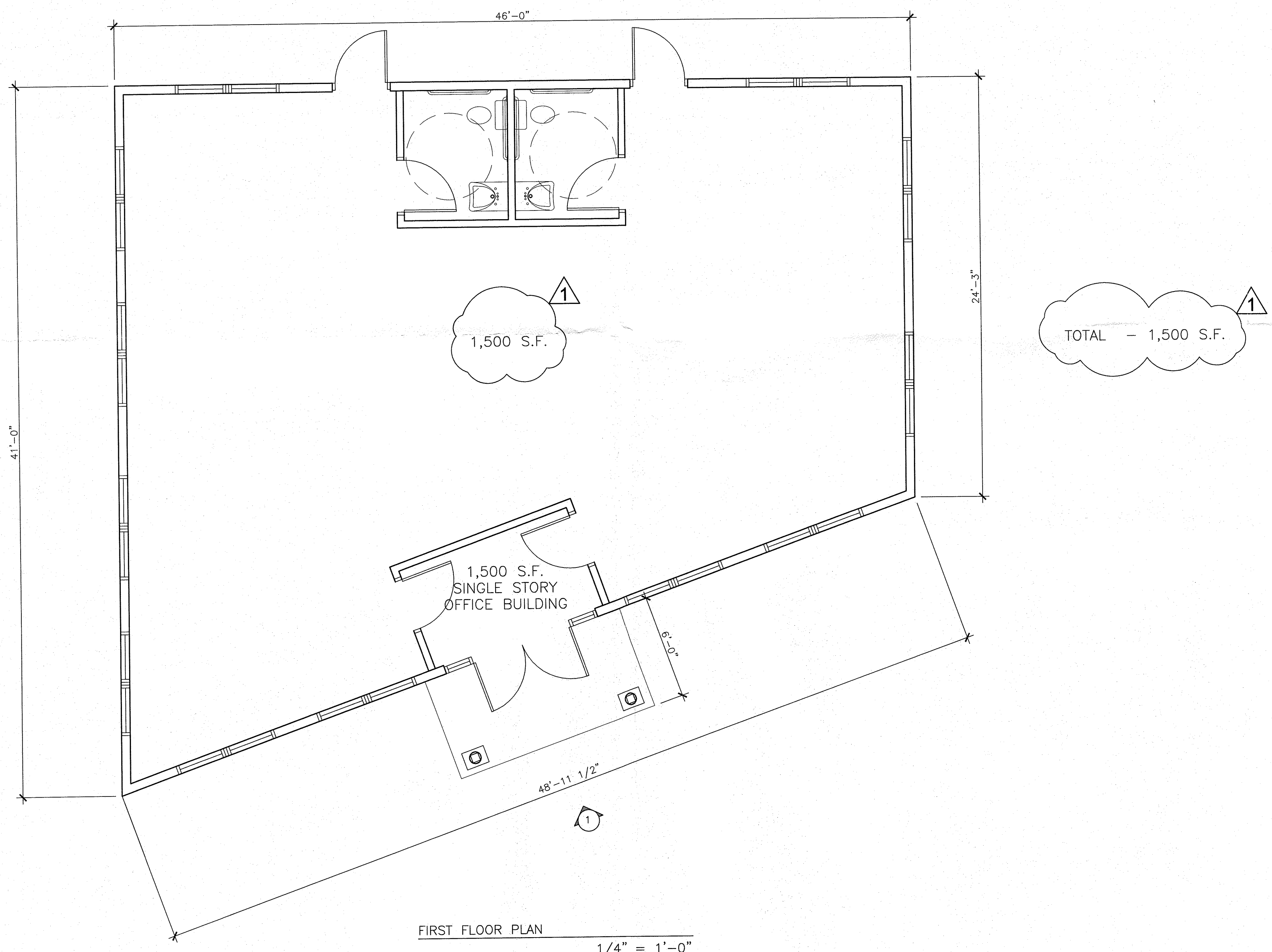




1 SECOND FLOOR PLAN  
A1.0 SCALE: 3/32" = 1'-0"



FRONT ELEVATION-1  
1/4" = 1'-0"



FIRST FLOOR PLAN  
1/4" = 1'-0"

RESCOM  
Architectural, Inc.  
P.O. BOX 157 MONUMENT BEACH, MA 02553  
118 WATERHOUSE ROAD, BOURNE, MA 02532  
  
Medical & Commercial  
Architecture  
  
Phone (508) 759-9828  
Fax (508) 759-9802  
CONTACT PERSON GREGORY SIROONIAN

PROJECT  
  
Paesano  
123 Waterhouse Rd.  
Bourne, MA 02352

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DEVELOPER / CONTRACTOR

DRAWING TITLE  
  
FLOOR PLAN

REVISIONS  

NO	DATE	DESCRIPTION
1	10-03-14	GENERAL

PROJECT NO.  
  
DATE OF ISSUE 06/02/14  
  
DRAWN BY: MRH CHECKED BY: GBS  
  
DRAWING NUMBER  
  
A-1





© 1995





Brookside Rd

Waterhouse Rd

Waterhouse Rd

Dornick Rd

Herman Perry Rd

MacArthur Blvd (State Rte 28)



**Aerial 2001**



Google

To see all the details that are visible on the screen, use the "Print" link next to the map

























































**N. Middlesex Bank - Ayer, MA****10/7/2014****Form: DEBT SERVICE COVERAGE & PRO-FORMA****PAESANO PLACE - Projections based on information provided by the Borrower, 6/2014**

Tenant	Rentable SF	Rent/SF	Monthly Rent	Rent for 2014	Projected Annual
CHC of CapeCod-Suite 1&2	3750	\$ 18.00	\$ 5,625.00	\$ 67,500.00	\$ 67,500.00
NEBH - Suite 3	1350	\$ 15.00	\$ 1,687.50	\$ 20,250.00	\$ 20,250.00
Life Choice - Suite 4&5	3550	\$ 23.00	\$ 6,804.17	\$ 81,650.00	\$ 81,650.00
<b>Net Rentable area 2nd Fl</b>	<b>7650</b>	<b>\$ 12.00</b>	<b>\$ 7,650.00</b>	<b>\$ -</b>	<b>\$ 91,800.00</b>
<b>Raponi Inc - New Bldg</b>	<b>1500</b>	<b>\$ 12.00</b>	<b>\$ 1,500.00</b>	<b>\$ -</b>	<b>\$ 18,000.00</b>
<b>Totals</b>	<b>17800</b>		<b>\$ 14,116.67</b>	<b>\$ 169,400.00</b>	<b>\$ 279,200.00</b>

Income / Expenses	Actual 2013	Budget 2014	Projected
Gross Rent	\$ 191,831.00	\$ 169,400.00	\$ 279,200.00
Less Vacancy & Coll Loss @ 10%	10% \$ -	\$ -	\$ (27,920.00)
<b>Effective Gross Income</b>	<b>\$ 191,831.00</b>	<b>\$ 169,400.00</b>	<b>\$ 251,280.00</b>
<b>Less: Operating Expenses (OE)</b>			
RE Taxes	\$ 14,437.00	\$ 14,500.00	\$ 19,000.00
Insurance	\$ 2,619.00	\$ 3,200.00	\$ 5,000.00
Repairs / Maintenance	\$ 54,548.00	\$ 64,241.00	\$ 41,000.00
Utilities	\$ 2,445.00	\$ 4,150.00	\$ 5,000.00
Other Operating Expenses	\$ 4,253.00	\$ 2,000.00	\$ 4,000.00
Management (5%)	\$ 12,000.00	\$ 12,000.00	\$ 12,000.00
Reserves (5%)	\$ 9,592.00	\$ 9,444.00	\$ 10,000.00
<b>Total Operating Expense (OE)</b>	<b>\$ 99,894.00</b>	<b>\$ 109,535.00</b>	<b>\$ 96,000.00</b>
<b>Net Operating Income (NOI)</b>	<b>\$ 91,937.00</b>	<b>\$ 59,865.00</b>	<b>\$ 155,280.00</b>
1st Mtg - 1.15M, 25 Yrs, 4.50% - Existing Loan	\$ 80,736.00	\$ 80,736.00	
1st Mtg - 1.75M, 20 Yrs, 4.50% - New Loan	\$ -	\$ -	\$ 130,956.00
<b>Total Proposed Annual Debt Service (ADS)</b>	<b>\$ 80,736.00</b>	<b>\$ 80,736.00</b>	<b>\$ 130,956.00</b>
<b>Net Cash Flow</b>	<b>\$ 11,201.00</b>	<b>\$ (20,871.00)</b>	<b>\$ 24,324.00</b>

<b>Project Value</b>	<b>V=NOI/Cap Rate</b>	<b>8%</b>	<b>\$ 1,941,000.00</b>
----------------------	-----------------------	-----------	------------------------

<b>Debt Serv. Cov. Rate</b>	<b>DSCR=NOI/ADS</b>	<b>1.14</b>	<b>0.74</b>	<b>1.19</b>
-----------------------------	---------------------	-------------	-------------	-------------

<b>Money needed to complete 2nd Floor</b>	<b>\$ 500,000.00</b>
<b>Money needed to complete Foundation for 1500sf building</b>	<b>\$ 60,000.00</b>
<b>Allowance for Legal Fees (CCC Permitting, Leases Negotiation Fees &amp; Misc.</b>	<b>\$ 50,000.00</b>

Comments: Projected Rents assumes current lease rates plus \$12 per sf for the new space. The assumption of an 8% Capitalization Rate will have to be verified with an appraisal



## Transportation Demand Management

### ***Paesano Place Transportation Management Program***

We will have preferred parking for carpoolers.

We have electric car charging stations.

We are installing bicycle racks.

We have a carpooling bulletin board for employees to use to match rides and drivers.

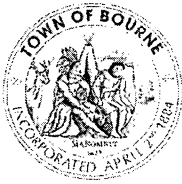
We will have Mass Rides Information displayed in a bulletin board.

We have menu boards of local establishments that deliver food and we encourage people to group order to save on delivery charges and delivery trips.

We have an on- site transportation coordinator and we will be creating a quarterly bulletin reminding employees about TDM programs.

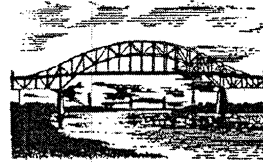






**TOWN OF BOURNE**  
**Town Administrator**

24 Perry Avenue  
Buzzards Bay, MA 02532  
Phone 508-759-0600 - Fax 508-759-0620



Thomas M. Guerino  
Town Administrator

October 7, 2014

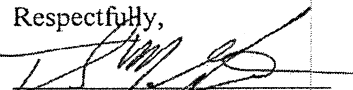
Mr. Franco Raponi  
Paesano Realty Trust  
P.O. Box 3139  
Pocasset, MA 02559

Dear Mr. Raponi:

The Board of Selectmen approved your request for the road name Paesano Way at their regularly scheduled Selectmen's Meeting on October 7, 2014.

You are requested to notify the post office of the exact location of the road.

Respectfully,

  
Thomas M. Guerino

cc: Bourne Fire Department  
Bourne Police Department  
Engineering Department  
Town Planner  
Planning Board  
Assessor's Office  
Town Collector  
DPW



## CONVEYANCE OF EASEMENTS

Paesano Realty Trust of P.O. Box 3139, Pocasset, MA 02559, Barnstable County, Massachusetts, for good and adequate consideration of One (\$1.00) dollar, grants to the Town of Bourne, a municipal corporation in Barnstable County, Massachusetts, with quitclaim covenants, the perpetual rights and easements to utilize the paved roadway described as Paesano Way as shown on a plan entitled "Site Plan for Paesano Realty Trust, 123 Waterhouse Road, Bourne, MA," dated October 3, 2014 and drawn by Warwick & Associates, Inc., 63 County Road, P.O. Box 801, North Falmouth, MA 02556 (to be recorded herewith) for all purposes for which a roadway may be used in the Commonwealth of Massachusetts, including, without limitation the right to: pass and re-pass over said roadway; construct, inspect, repair, renew, replace, operate and forever maintain the surface of said roadway as well as any subsurface drain or drains, with any manholes, pipes, conduits, and their appurtenances, and to do all other acts incidental to the foregoing.

To have and to hold the above described rights and easements unto the said Town of Bourne and its successors and assigns forever.

Grantor and the Grantor's successors and assigns, retain the right to construct, install, maintain and use the said roadway and to permit Grantor's tenants to use the said roadway to access Grantor's buildings and parking areas as shown on said plan.

Grantee shall have no obligation to maintain or repair said roadway. If it chooses to do so it shall have no responsibility to use materials other than those consistent with the present roadway construction and surface.

Grantor and the grantor's successors and assigns shall not place any permanent or temporary structures within easement areas (such as fences, outbuildings and/or recreational equipment) nor to prohibit or obstruct the free passage of persons or vehicles over said roadway.

Grantor warrants that the aforesaid easement is free and clear of all liens and/or encumbrances, that it has good and clear title and the right to transfer the same, and that it will defend the same against claims of all persons.

Being the same premises conveyed to Franco Raponi, Trustee of Paesano Realty Trust by deed of Paesano Realty Trust, dated June 12, 2008 and recorded in the Barnstable County Registry of Deeds, Book 22975, Page 95.

IN WITNESS WHEREOF the undersigned hereunto sets its hand and seal this

4 day of OCTOBER, 2014.

Paesano Realty Trust

Franco Raponi

By: Franco Raponi, Trustee

COMMONWEALTH OF MASSACHUSETTS

Barnstable, SS.

October 4, 2014

Then personally appeared the above named Franco Raponi and acknowledged the foregoing to be his free act and deed, before me.

Anne Marie Dillon

Notary Public



ANNE MARIE DILLON  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires November 15, 2015

My commission expires: Nov. 15, 2015



## Paesano Place

10/18/2014

**Maintenance Expense for Paesano Way, the Connecting Road from Rte28 to Waterhouse Rd, starting from January 2009 to April 2014**

	Expense for the all Site 100%	Expense for Paesano Way 40%	Months of usage	Cost per Month
Landscaping Expense	\$ 29,355.00	\$ 11,742.00	70	\$ 167.74
Snow Removal	\$ 26,458.00	\$ 10,583.20	70	\$ 151.19
Ice melt & Sand	\$ 10,466.00	\$ 4,186.40	70	\$ 59.81
Liability Insurance	\$ 15,458.00	\$ 6,183.20	70	\$ 88.33
<b>Totals</b>	<b>\$ 81,737.00</b>	<b>\$ 32,694.80</b>		<b>\$ 467.07</b>





Cynthia A. Coffin  
Health Agent

## TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue  
Buzzards Bay, MA 02532  
Phone (508) 759-0615 x 1  
Fax (508) 759-0679



October 30, 2014

To: Cape Cod Commission  
From: Cynthia A. Coffin, Health Agent  
Re: 123 Waterhouse Rd

To Whom It May Concern:

This letter is to serve as comment on the site and septic design plan for 123 Waterhouse Road dated October 14, 2014 and submitted to the Board of Health for preliminary review on October 30, 2014. It is my understanding that the Cape Cod Commission has required an alternative technology system in order for the project proponent, Franco Raponi, to finish off the second floor of Building #1, 8,645 square feet of office space, and to construct a second building, #2 with 1500 square feet of office space. The plans submitted show the installation of an additional 6,000 gallon two compartment tank, a BioMicrobics MBR 2.0, a pump chamber and a new field designed for a total of 1968.4 gallons per day. The total flow from the existing and proposed uses will be 1,862.5 gallons per day. I see no problem with the proposed design as presented. Before the office will issue any permits I will just require that information on the design calculations include reference to the existing and proposed septic tanks. Also the Town will require a valid contract with a wastewater operator for the BioMicrobics unit. Otherwise I concur with the conceptual plan and septic design submitted.

If you have any questions, please contact me at this office at 508-759-0615 x1.

Sincerely,

Cynthia A. Coffin, R.S., C.H.O.  
Health Agent

c.c. Franco Raponi





**J.E. LANDERS-CAULEY, P.E.**  
**civil-environmental engineering**  
P.O. Box 364  
West Falmouth, MA 02574  
(508)-540-7733; 540-3344 (fax)

Franco Raponi  
Paesano Realty Trust  
P.O. Box 3139  
Pocasset, MA 02559

December 17, 2014

**Re: Paesano Company Office Building**  
123 Waterhouse Road  
Pocasset, MA  
**Nitrogen Loading**

Mr. Raponi,

Upon your request, we have reviewed the proposed use of the property assuming two different build-out scenarios. The first scenario being the present use of a 9,400sf building with a combination of professional offices and doctors office(s) employing the use of a traditional gravity flow Title V on-site sewerage disposal system. And, the second scenario of a 18800sf building with the same the intensity of use on the first floor and a use of only professional offices on the second floor, and a detached professional office of 1500sf where both buildings are employing the use of a single advanced treatment on-site system utilizing a combination of aeration, recirculation and pressure application of the effluent. In particular we have focused on the benefits of nitrogen removal (meaning total nitrogen reduction) when advanced wastewater treatment has been provided. Below we offer these comments.

A traditional Title V on-site wastewater system is not highly efficient in total nitrogen reduction. The median total N concentration of effluent from a traditional one compartment septic tank is 65mg/l (a). Note we are defining effluent as the waste stream flow discharging from a single chamber septic tank after primary settling.

Innovative and Alternative nitrogen reduction system routinely reduce effluent nitrogen in order of 50-60%. A median reduction value of 55% shall be assigned.

Below we provide two nitrogen loading scenarios based upon the development of the site as defined above.

#1: 9,400sf building with a daily flow of 1200gpd

$(\text{daily flow/gpd}) \times (3.875\text{l/gal}) \times (\text{effluent nitrogen loading}) \times (1\text{lb}/454\text{mg}) \times (1\text{g}/1000\text{mg}) = \text{lbs./day}$

$(1200\text{gpd}) \times (3.875\text{l/gal}) \times (65\text{mg/l}) \times (1\text{lb}/454\text{mg}) \times (1\text{g}/1000\text{mg}) = \mathbf{0.665\text{lbs/day}}$

#2: The combination of a 18, 800sf building and a detached 1500sf with a total daily flow of 1950\*\*gpd and advanced treatment.

$(\text{daily flow/gpd}) \times (3.875\text{l/gal}) \times (\text{effluent nitrogen loading}) \times (1\text{lb}/454\text{mg}) \times (1\text{g}/1000\text{mg}) = \text{lbs./day}$

$(1950\text{gpd}) \times (3.875\text{l/gal}) \times (\mathbf{35.8\text{mg/l}}) \times (1\text{lb}/454\text{mg}) \times (1\text{g}/1000\text{mg}) = \mathbf{0.596\text{lbs/day}}$

\*\*Is a maximum value. Actual daily flow may be less.

$0.55\% \times 65\text{mg/l} = 35.8\text{mg/l}$

a- University of Florida IFAS Extension

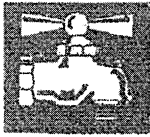
It is apparent from the calculations that the proposed additional flow with advanced treatment can reduce the nitrogen entering the groundwater better than the simple design of a traditional on-site sewerage disposal system.

Jack Landers-Cauley, PE

cc :  
Eliza Z. Cox

office\francocapecodcomm





BOURNE WATER DISTRICT  
211 BARLOWS LANDING ROAD  
P.O. BOX 1447  
POCASSET, MA 02559-1447  
(508) 563-2294

## WATER BILL

Customer Copy - Return for your records

Customer charge: \$32.00

Usage rate per 1000 gallons: \$2.75

PAESANO CO., LLC

P.O. BOX 3139  
POCASSET, MA 02559-3139

Date: 3/15/2014  
Account #: A 0745  
Meter Location: 123 WATERHOUSE RD  
Billing period:

PRIOR READ	CURRENT READ	USAGE
261	286	25
CONSUMPTION CHARGE:		68.75
CUSTOMER CHARGE:		32.00
SPRINKLER CHARGE:		33.00
PRIOR BALANCE:		0.00
TOTAL DUE		133.75
DUE DATE		4/14/2014

TO PAY ONLINE: HAVE BILL & CHECKBOOK/CREDIT CARD IN HAND.

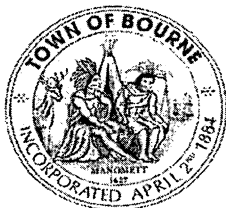
GO TO: [www.enitaxonline.com](http://www.enitaxonline.com) CLICK ON BOURNE WATER DISTRICT  
CLICK ON: WATER - ENTER ACCT.# AS SHOWN ON WATER BILL.  
COMPLETE EACH SCREEN TO PROCESS YOUR PAYMENT.  
MASTERCARD, DISCOVER OR DEBIT CARD PAYMENTS ARE ACCEPTED.  
VISA IS NOT ACCEPTED. AS OF 1/1/13, .25 CENT CHARGE FOR DEBIT CARD USE.

Please see the reverse side of this bill for important information about billing rates and major rules and regulations.

\* → 1/2 OF 2014 25,000 gallons  
2013 47,000  
2012 50,000  
2011 50,000  
2010 53,000



12-16-2014 @ 10:50a



**TOWN OF BOURNE**  
**BOARD OF APPEALS**  
 24 PERRY AVENUE  
 BUZZARDS BAY, MA 02532  
 TEL. 508-759-0615 EXT. 3  
 FAX 508-759-0611



## VARIANCE FINAL DECISION

**PETITION NUMBER:** 27-14  
**NAME OF APPLICANT/CURRENT PROPERTY OWNER:** PAESANO CO. LLC  
**PROPERTY ADDRESS:** 123 WATERHOUSE ROAD  
**REGISTRY OF DEEDS TITLE REFERENCE:** BOOK # 22975 PAGE # 95  
**TOWN MAP:** 27 **PARCELS:** 87 AND 87.1

On November 19, 2014, the Board of Appeals voted to grant a Variance, in accordance with Massachusetts General Laws Chapter 40A, section 10, and Section 1320 of the Bourne Zoning Bylaws, for the property located at 123 Waterhouse Road, as shown on assessor's map # 27, parcels # 87 and 87.1 in a B-4 zoning district.

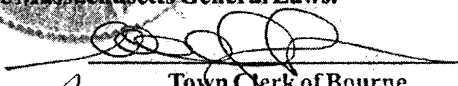
The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to grant a Variance and that copies of said decision, and all plans referred to in the decision, have been filed with the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no Variance, special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed or that, if an appeal has been filed, it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that recorded or registered decision shall be submitted to the Inspection Department office, as proof of filing, along with an application for a Building Permit.

Any person aggrieved by this decision may appeal to the Superior Court or Land Court as provided in M.G.L. Chapter 40A, Section 17, and by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.

  
 For the Board of Appeals

I hereby certify that 20 days have elapsed after the decision was filed in the office of the Town Clerk of Bourne and no appeal has been filed in accordance with Section 17, Chapter 40A of the Massachusetts General Laws.

  
 Town Clerk of Bourne

## DECISION - VARIANCE

After hearing and due deliberation: On motion made by Lee Berger and seconded by John O'Brien, it was voted:

1. To **Grant** a Variance in Case No. 27-14, only to the extent set forth in paragraph # 5 of this Decision, with any conditions, safeguards, and limitations that may be contained in paragraph # 6 of this Decision, and further to incorporate as the reasons therefore, that the Board of Appeals has made the preceding findings of fact set forth in paragraphs # 2, # 3, and # 4 of this Decision.

2. Owing to the circumstances relating to the soil conditions, shape, or topography of such land or structures, the conditions especially affecting this parcel of land or structure but not affecting generally the zoning district in which it is located are as follows: the shape of the lot is unusual, caused by the layout of the surrounding roads; and the topography of the land caused by the drainage area creates the hardship to the land.

And

3. A substantial hardship, financial or otherwise, to the petitioner or applicant would be imposed by literal enforcement of the By-Law(s) as follows:

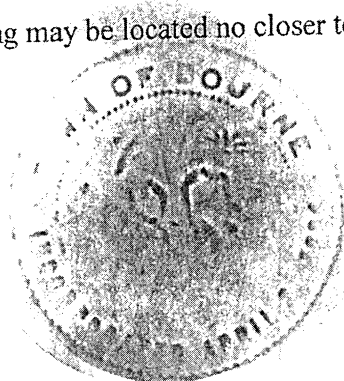
Due to the shape and topography, as discussed in paragraph 2 above, the location of this second building on the lot needs to have a reduced setback.

and

4. 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 Zoning By-Law(s) because: The required setback from MacArthur Boulevard is 50 feet. While the reduced setback is 38.82 feet from the MacArthur Road layout, the setback is significantly more than 50 feet from the paved road. Lot 6 will be combined with lot 5.

5. The specific Variance(s) to be granted is (are) as follows:

The southeasterly corner of the proposed building may be located no closer to the MacArthur Road layout than 38.82 feet.





6. Conditions, Safeguards, and Limitations:

The new structure must be no higher than 14 feet;

The building must be built in accordance with plans prepared by Rescom Architectural dated 6/2/14, and be located in accordance with the Conceptual Site Plan prepared by Warwick & Associates dated 7/29/10.

The building permit must be based upon a Special Permit issued by the Planning Board after site plan review;

The Cape Cod Commission must approve the project.

7. The Vote:

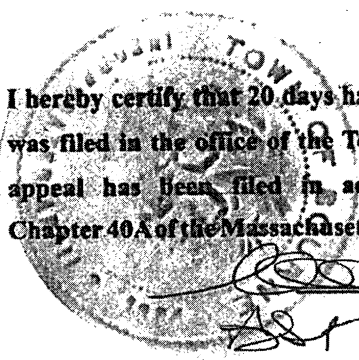
Voting in favor of the motion: Lee Berger, John O'Brien, Harold Kalick, Thomas Armstrong, and Wade Keene.

Voting in opposition to the motion: no one.

8. Other Members Present: Timothy Sawyer



For the Board of Appeals

  
I hereby certify that 20 days have elapsed after the decision was filed in the office of the Town Clerk of Bourne and no appeal has been filed in accordance with Section 17, Chapter 40A of the Massachusetts General Laws.

  
Town Clerk of Bourne

BARNSTABLE REGISTRY OF DEEDS  
John F. Meade, Register