

CAPE COD COMMISSION STAFF REPORT



PROJECT **Paesano Company Office Building
Hardship Exemption (HDEX08022)**

SUBCOMMITTEE Michael Blanton (chair), Royden Richardson, John Harris, Roslyn Garfield, Leo Cakounes, Roger Putnam (alternate), Elizabeth Taylor (alternate)

STAFF Kristy Senatori, Regulatory Officer
Sarah Korjeff, Historic Preservation Specialist
Scott Michaud, Hydrologist
Glenn Cannon, Transportation Engineer
Andrea Adams, Senior Regulatory Planner
Heather McElroy, Open Space / Natural Resource Specialist

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INTRODUCTION

A public hearing will be held at the Jonathan Bourne Public Library at 19 Sandwich Road in Bourne, MA on Monday, November 24, 2008 at 6:00 pm. The subject of the public hearing is the Paesano Company Office Building Hardship Exemption application for the property at 123 Waterhouse Road in Bourne. To be approved by the Cape Cod Commission (Commission), the project must be consistent with local zoning by-laws, the local certified comprehensive plan (LCP) and the Minimum Performance Standards (MPS) in the Regional Policy Plan (RPP). In addition, the project must demonstrate that the probable benefits of the project outweigh the probable detriments of the project. Consistency with the RPP's "Other Development Review Policies" (ODRP) may be considered project benefits. The project has been reviewed for consistency with the 2002 RPP, which is the plan in effect at the time of the first substantive public hearing on the application.

units, the Applicant estimates his monthly loss at \$6,483.34. Moreover, the Applicant has expended sums to develop the Site and construct the building and estimates his land, Site, development, and construction costs at over \$2,361,342.04. The Applicant has expressed in his application that he is experiencing a severe hardship in being unable to proceed with the development without the anticipated income of the additional tenants.

Based on financial hardships, the Applicant is requesting hardship relief to allow for occupancy of the entire first floor without further study. He is also requesting that the mitigation be deferred until prior to any permits being issued for the second floor. At that time, the hardship exemption decision would need to be modified as it relates to the use of the second floor.

STAFF ANALYSIS

Commission staff has reviewed the application and all supplemental materials provided by the Applicant and offers the following comments:

Open Space / Natural Resources

The project is not located in a Significant Natural Resource Area (SNRA) 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. Staff recommends waiving the requirement for a natural resource inventory (MPS 2.4.1.1).

The Applicant should provide information about the total disturbed area on the property. The disturbed area appears to include almost the entire property, or approximately 2 1/2 acres. The open space requirement is based on the total disturbed area, and since the project is not located in SNRA, the requirement is equivalent to the disturbed area. The Applicant has indicated that it is seeking relief from this and all other mitigation requirements. The subcommittee will have to determine the appropriateness of this request. Staff would recommend that a finding of hardship conditions the decision to require the provision of open space prior to any expansion into the second story of the building.

Community Character

Exterior Lighting

MPS 6.2.10 of the 2002 RPP 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-head 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 eight feet.

Based on photos of the Site taken by Commission staff, the fixture style is decorative, which is allowed by the Technical Bulletin. Also, the pole and on-building lights appear to be fully shielded and full cutoff, consistent with Technical Bulletin standards. All of the on-building fixtures are consistent with Technical Bulletin's limits on mounting height. The pole lights may

Generation, 7th 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
18,800 SF Office Building	368	49	64

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

Study Area

MPS 4.1.3.4 states “*Developments of Regional Impact shall perform Level of Service analysis and provide for full mitigation of project impacts on all regional road links, at all intersections of regional roads, and at local road intersections with regional roads that are used by the project for access to the regional road network, including but not limited to bridges, intersections, rotaries, roundabouts, interchanges, and U-turns where traffic increases are expected from the project, after traffic adjusts in compliance with the Minimum Performance Standards supporting 4.1.2.*”

The Applicant has not submitted a traffic study in conformance with the RPP. Staff has calculated the impact and related cost that this project will have on the transportation infrastructure of Cape Cod based on a vehicle miles traveled (VMT) approach. The cost this project will have on the infrastructure of Cape Cod comes to \$153,704 (as shown below in the Congestion Impacts section). The high transportation cost of this development project is due to the cost of new development along a roadway outside of a Growth Center.

If the Applicant agrees to an employee trip reduction plan (as outlined below) and to offset their impacts on the transportation infrastructure, Cape Cod Commission transportation staff recommends waiving the traffic study requirements of this project under the flexibility clause of the Regional Policy Plan.

Site Access

MPS 4.1.1.7 requires all DRIs access/egress locations with public ways to meet Massachusetts Highway Departments (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance.

The Site will have full access onto Waterhouse Road and a second driveway onto the 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. Cape Cod Commission transportation staff believes that both driveways for this project comply with MPS 4.1.1.7.

vehicle trips. Staff recommends the Applicant agree to the following employee trip reduction plan:

- Assemble information regarding carpooling and its benefits to be distributed to tenants and their employees.
- Designate an area where carpool information will be posted for all employees of the project.
- Implement a guaranteed ride home program (taxi service) for use in the case of an emergency for program participants.
- Designate preferential parking spaces for employees that carpool.
- Provide secure bicycle storage areas to accommodate bicycles for both employees and patrons.
- Work with tenants to provide on-site services to decrease employee midday trip making. The on-site services shall include a lunchroom, microwave, refrigerator, and prepared foods.
- Provide an on-site transportation coordinator. The transportation coordinator shall be responsible for ensuring that the complete rideshare program, including car/vanpools; accommodating work shifts; promotions; incentives; preferential parking; and guaranteed ride home program, is consistently promoted and provided.
- Provide flexible work hours for employees that car/vanpool.
- Work with tenants to develop employee work hours to match transit schedules for transit riders.
- Implement an annual transportation fair to be held at least once a year.
- Distribute to all employees a new employee information packet that will include information about the various TDM programs that are available and the ways in which employees can participate.
- Provide a quarterly bulletin or newsletter reminding employees about the TDM programs and making the employees aware of any new or modified services.
- Provide bicycle maps indicating the location of bicycle facilities in the area will be posted in central locations within the development to encourage bicycle commuting.
- Provide a reference in all promotional materials or link, in the case of a website, to the Cape Cod Commission transportation information center Travel Demand Management services at www.gocapecod.org/tdm. In addition, website based materials and advertising developed for the project will include listing and links to available public transportation services serving the project site.
- Provide incentives each day for each employee who commutes to work using alternative methods that reduce automotive trips such as bicycling, walking, carpooling or transit. These incentives shall include free meals through coupons/discount cards for use toward the purchase of goods and services within the development or at adjacent retailers and entries into weekly raffles for prizes such as movie tickets, free meals and/or goods and services.

Water Resources

The project is not located in a wellhead protection area. The project is located in a watershed that drains to the Back River, a nitrogen-sensitive estuary within an Area of Critical

N level of wastewater treatment, the project's nitrogen mass is reduced to 17.7 kg-N/yr/a, which still exceeds the 1.872 kg-N/yr/a critical nitrogen load for the Back River system. The difference (15.9 kg-N/yr/a) could be offset with a monetary contribution to be applied to nitrogen management strategies in the Back River watershed. Table 2 below shows that the estimated required nitrogen offset if a standard Title-5 septic system is used is at the Site is \$115,740. Consequently, the use of a denitrifying septic system that demonstrates a wastewater effluent treatment level of 17 ppm-N reduces the required nitrogen offset to \$64,400.

Table 2

	Level of Treatment (ppm-N)	Nitrogen loading concentration (ppm-N)	Nitrogen mass in excess of critical nitrogen load (kg-N/yr/a)	Monetary contribution (nitrogen offset per MPS 2.1.1.2.C)
Standard Septic	35	8.6	28.5	\$ 115,740
DEP-approved denitrifying septic	25	6.6	21.5	\$ 87,220
Needed to meet MPS 2.1.1.1	17	5	15.9	\$ 64,400

Drainage

It is difficult to fully ascertain the Site's drainage because conveyances to at least two drainage structures are not depicted on plans provided to the Commission. Project plans and aerial photos submitted with the application indicate that managed turf, another source of project nitrogen, is limited to the north edge of the property and a small area adjacent to the parking area on the west side near Waterhouse Road. The southern, undeveloped end of the property is cleared and grubbed, but is unclear how this area will be planted. A stone-lined rip-rap drainage swale occupies the east edge of the property and appears to drain runoff from MacArthur Boulevard.

In summary, to meet RPP standards, the Applicant will need to treat project wastewater for nitrogen and contribute nitrogen offset funds for nitrogen management in the Back River watershed. Because denitrifying septic systems are permitted by DEP at a treatment level that does not enable the project to meet the 5-ppm-N nitrogen loading standard, the Applicant would need to enter into a monitoring and compliance agreement with the Commission to ensure that the standard is met. The Applicant should also supply staff with drainage calculations, plans that quantify these areas, and show stormwater conveyances and landscaping for the south portion of the Site.

CONCLUSION

The subcommittee should consider:

- Whether the Applicant has demonstrated that a literal enforcement of the Act would involve substantial hardship; and
- Whether based on the information presented, that the relief granted is the minimum relief necessary; and

Water Resources

10. To meet RPP standards, the Applicant will need to treat project wastewater for nitrogen by installing a denitrifying septic system and contribute funds in the amount of approximately \$64,400 for nitrogen management in the Back River watershed (*see Table 2 supra*). The Applicant would need to enter into a monitoring and compliance agreement with the Commission to demonstrate that a wastewater effluent nitrogen limit of 17 ppm-N is achieved and to ensure that the 5-ppm-N nitrogen loading standard is met.
11. To support the project's ability to meet stormwater standards (MPS 2.1.3) and aforementioned nitrogen standards, the Applicant should supply staff with drainage calculations, plans that quantify these areas, and show stormwater conveyances and landscaping for the southern portion of the Site.