



CAPE COD COMMISSION

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DATE: February 17, 1994

APPLICANT: Marine Corporation, d/b/a Hyannis Marine
c/o Patrick M. Butler, Nutter, McClennen & Fish
P.O. Box 1630
Hyannis, MA 02601

PROJECT #: EX93024

PROJECT: Hyannis Marine Boat Storage Building
Arlington Street
Hyannis, MA

RE: Development of Regional Impact Exemption
Cape Cod Commission Act, Section 12(k)

BOOK/PAGE: Plan Book 247, Page 154
Registry Book 5920, Page 101

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby grants the application of Marine Corporation, d/b/a Hyannis Marine, for a Development of Regional Impact (DRI) Exemption under Section 12(k) of the Cape Cod Commission Act, (Act), c. 716 of the Acts of 1989, as amended, for a proposed boat storage building in Hyannis, MA. The decision is rendered pursuant to a vote of the Commission on February 17, 1994.

PROJECT DESCRIPTION

The proposed project is for construction of a 23,470 s.f. boat storage building at the Hyannis Marine boatyard located on Arlington Street in Hyannis, MA. The property straddles the Barnstable and Yarmouth town lines. The Barnstable portion of the site is zoned Business Limited-B and the Yarmouth portion is zoned residential. The site is surrounded to the north by Cape Cod Hospital, and to the east and west by mixed residential and commercial uses. Hyannis Inner Harbor lies directly to the south of the site. The building is proposed exclusively for the storage of recreational boats that are currently stored outside in the same general location.

PROCEDURAL HISTORY

The project was referred to the Commission by the Town of Barnstable Building Commissioner on December 16, 1993. The applicant submitted a complete application on January 4, 1994. A public hearing was held by an authorized subcommittee of the Commission on January 27, 1994 in Barnstable Town Hall, Barnstable, MA. On January 27, 1994, the subcommittee voted to close

the public hearing, leaving the record open until the close of business on February 4, 1994. A public meeting was held on February 4, 1994. Based upon testimony received at the public hearing, application materials submitted by the applicant, written material submitted by all interested parties, and supporting technical information provided by staff, the subcommittee voted unanimously on February 4, 1994 to recommend to the full Commission that the proposed boat storage building be granted a DRI Exemption. On February 17, 1994 a subcommittee report was presented to the full Commission. Also on February 17, 1994, the Commission voted unanimously to grant the applicant a DRI Exemption pursuant to Section 12(k) of the Act.

MATERIALS SUBMITTED FOR THE RECORD

From the applicant:

- application for Development of Regional Impact Exemption, dated December 3, 1993
- addendum to application for Development of Regional Impact Exemption, received January 4, 1994
- submittal with attachments concerning DRI Exemption request submitted on January 27, 1994, 25 pages
- letters from Nutter, McClennen & Fish dated June 22, 1993, July 7, 1993, October 26, 1993, December 6, 1993, December 9, 1993, December 31, 1993, January 6, 1994, January 27, 1994, January 31, 1994
- letter from Wayne Kurker to Ms. Patty Daley, Cape Cod Commission Counsel dated June 18, 1993
- Site Plan of Land, prepared by Weller & Associates, Yarmouthport, MA dated October 26, 1993, revised December 22, 1993, 2 sheets
- letter from Weller & Associates to Joseph DaLuz, Building Commissioner, dated March 11, 1993
- application for site plan review, dated February 1, 1992

From Commission staff:

- Cape Cod Commission Subcommittee report dated February 11, 1994
- Cape Cod Commission Staff report dated January 21, 1994
- Project summary sheet dated January 27, 1994

From Public Officials:

- DRI Referral Form and attachments, dated December 16, 1993
- memo from Robert Schernig, Barnstable Planning Director to Joseph DaLuz, Building Commissioner, dated February 23, 1993, March 18, 1993
- letters from Town of Barnstable Inspection Department to Mr. William Weller, Weller & Associates, to, dated February 8, 1993, March 5, 1993
- letters from Thomas Marcello, Town of Barnstable Engineer, to Joseph DaLuz, Building Commissioner, dated March 23, 1993, May 19, 1993
- letter from Robert Gatewood, Barnstable Conservation Department to Joseph DaLuz, Building Commissioner, dated May 14, 1993
- Barnstable Site Plan Review comments/minutes dated February 18, 1993, April 1, 1993, May 13, 1993, December 9, 1993
- letters from Joseph DaLuz, Barnstable Building Commissioner to Cape Cod Commission, dated May 21, 1993, January 20, 1994
- letter from Barnstable Planning Department to Cape Cod Commission, received October 8, 1993
- letter from Barnstable Local Planning Committee to Barnstable Town Council, dated December 10, 1993
- Town of Yarmouth Site Plan Review comments dated January 4, 1994
- letter from Terry Sylvia, Town of Yarmouth Assistant Town Planner to Sharon Rooney, dated

January 7, 1994

- letter from Town of Yarmouth Planning Board to Cape Cod Commission, dated January 12, 1994

letter from Town of Barnstable Planning Department to Cape Cod Commission dated January 12, 1994

- letter from Robert Lawton, Town of Yarmouth Town Administrator to Cape Cod Commission dated January 26, 1994

Other Materials:

- letter from Hyannis Main Street Waterfront Association to Sumner Kaufman, Cape Cod Commission, received January 14, 1994
- letter from Anchor-in Motel to Cape Cod Commission dated January 20, 1994
- letter from Barnstable Marine Service, Inc. to Cape Cod Commission received January 25, 1994
- letter from Hyannis Holiday Motel to Cape Cod Commission dated January 24, 1994
- letter from Harwich Port Boat Works, Inc. to Cape Cod Commission dated January 27, 1994
- letter from Ben Baxter, Sr. to Cape Cod Commission dated January 27, 1994
- letter from R. Bergen Van Doren to Cape Cod Commission dated January 28, 1994
- unsigned letter to Cape Cod Commission dated January 31, 1994
- letter from Patricia A. Bill to Cape Cod Commission dated January 30, 1994
- letter from Hyannis Park Civic Association to Cape Cod Commission received January 31, 1994
- letter from Joseph Lory to Cape Cod Commission dated February 1, 1994
- letter from Richard D. Wade to Cape Cod Commission dated January 31, 1994

The application and notices of public hearings relative thereto, the Commission's staff notes, exhibits and correspondence, the transcript and minutes of the hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

Patrick Butler, Attorney representing the applicant presented the project to the subcommittee. Mr. Butler said that the applicant was seeking a DRI exemption because the project would have no impacts outside of the municipalities in which the project is proposed. The applicant has also been to all applicable boards in the Towns of Barnstable and Yarmouth, with further review also expected. Mr. Butler then pointed out that there is written support from governmental bodies and area businesses, and that the applicant has had numerous discussions with neighbors and abutters. Mr. Butler said that there may be opposition from people that live in the area, but they do not live in close proximity to the project. The applicant has attempted to be responsive to all of the concerns that have been identified by Commission staff and local boards.

Mr. Butler noted that as the Commission cannot impose conditions on a DRI Exemption, the applicant was willing to work with the Town of Barnstable Site Plan Review Committee to address public access and architectural design issues. Mr. Butler noted that the applicant is willing to use paint colors that are compatible with other buildings in the area, not only on the proposed building, but on the buildings that are already on the site. Plantings will also be increased and the front of the building will have architectural features to further break up the bulk of the building.

The Commission staff report identified two issues of concern, including open space as it relates to the provision of public access along the waterfront, and the architectural design of the facades of the building which face Hyannis Harbor, a regional recreational resource.

Testimony from public officials included Representative Klimm who supported the request for the

exemption because he has thoroughly reviewed the project and finds no regional impacts. Roy Richardson, Barnstable Town Councilor, stated that Mr. Kurker is well known in the town and he has always been involved in town improvements. He also supported the exemption request. Bob Schernig, Planning Director from the Town of Barnstable, said that the impacts would be local and that he supported the exemption. He also said that design and access issues could be handled through Barnstable Site Plan Review. James Robertson, Town of Yarmouth Planning Board chair, noted that zoning of this site is an issue that Yarmouth will look at but that the project should get an exemption. Jeremy Gilmore, Chair of Barnstable Board of Assessors, said that he supports the exemption and that this project is exactly what the exemption process was designed for.

Van Northcross stated that Mr. Kurker has been a long time supporter of the Walkway to the Sea concept and was in favor of the exemption request. Mike Trevatto, Chair of the Hyannis Main Street Waterfront Association, stated that the Association supports the exemption. Howard Penn stated that he has been involved in the town for 35 years and he is sure that this project will work and is a great start for fixing the waterfront. Bergan Van Doren, President of the Hyannis Park Civic Association, said that he represents a subdivision that is adjacent to the marina and that the building as proposed is not typical Cape Cod architecture. He opposed the project. Bill Snowden, design chair of the Hyannis Main Street Waterfront Association, spoke in favor of the exemption and the town's ability to encourage businesses to improve the waterfront. Richard Wade, resident of Hyannis Park, opposed the exemption request.

JURISDICTION

The proposed project qualifies as a Development of Regional Impact (DRI) under Section 12(c)(6) of the Cape Cod Commission Act as ... " any proposed retail or wholesale business...which has a floor area...greater than ten thousand square feet."

FINDINGS

The Commission has considered the application of Marine Corporation, d/b/a Hyannis Marine, for a proposed boat storage building in Hyannis, MA, and based on consideration of such application, the information presented at the public hearing and submitted for the record, the Commission makes the following findings subject to Section 12(k) of the Act:

- 1). The stated purpose of the 23,470 sq. ft. structure is to provide indoor storage space for boats that are currently stored outdoors on the site.
- 2). The project is not expected to have any regional traffic or water quality related impacts.
- 3). The building is proposed exclusively for the storage of recreational boats that are currently stored outside in the same general location. The construction of the building will reduce the amount of outside boat storage which currently takes place over semi-permeable gravel material. The building will incorporate a concrete slab making the clean-up of spills easier while reducing the potential for hazardous materials to penetrate the ground. The existing marina operation also has a waste oil collection facility for boat owners at the marina with a bermed area for containment of hazardous materials in the event of a spill.
- 4). The project site straddles the town line of Barnstable and Yarmouth and has approximately 800 feet of frontage on Hyannis Harbor, a regional recreational resource. Views along the shoreline from this harbor are of regional significance. The regional visual impact of the boat storage building from this harbor was mitigated through actions agreed to by the applicant as listed

in finding #6 below.

- 5). The proposed storage building will be of standard metal construction. The height of the building will be 30 feet to the top of the sill with the roofline extending to a maximum of 45 - 50 feet in height. The south and west facades of the building will be visible from Hyannis Harbor.
- 6). The applicant agreed to reduce the visual impact of the storage building to Hyannis Harbor through the following measures: additional planting along the south and west facades; redesign along these facades to provide a stepped profile similar to that proposed for the north-facing facade; and painting all existing and proposed buildings on the site in a color which is harmonious with the site and surrounding area. The applicant agreed to provide additional mitigation to reduce adverse visual impact as identified by the Town of Barnstable Site Plan Review and Architectural Review Committees and the Town of Yarmouth Zoning Board of Appeals.
- 7). The applicant currently allows the marina premises to be open to the public during normal business hours, subject to security and safety considerations. Access by boat is available from the harbor and by foot and motor vehicle from three entrances to the site in the Town of Yarmouth. The applicant previously constructed a brick walkway and steps in the northwest corner of the property, immediately abutting a public landing owned by the Town of Barnstable. The walkway terminates abruptly, is fenced off and locked, is not accessible to the disabled from the Barnstable town landing, and is without signage that encourages public use.
- 8). The project site consists almost entirely of work space and boat storage for the marina and is therefore not representative of open space as defined in the Regional Policy Plan. In order to achieve greater conformance with the Act, open space goals of the RPP, and to enhance current Walkway to the Sea efforts in the Town of Barnstable, the applicant agreed to connect and make fully accessible the existing brick walkway to the Barnstable town landing upon construction of a bulkhead, boardwalk or walkway on the town property. The applicant also agreed to commit to additional public access enhancements as identified by the Barnstable Site Plan Review Committee in conjunction with its review of the boat storage building project. The Commission received testimony from the Barnstable Planning Director that the Town of Barnstable possesses sufficient authority to require additional public access enhancements.
- 9). The location, character, and environmental effects of the proposed boat storage building will prevent its having any significant impacts on the values and purposes protected by the Act outside of the communities of Barnstable and Yarmouth, provided that the applicant resolve open space and community character issues listed in findings #6 & 7 through the Town of Barnstable Site Plan Review and Yarmouth Zoning Board of Appeals permitting processes.

CONCLUSION

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

The location, character and environmental effects of the proposed boat storage building will prevent its having any significant impacts on the values and purposes protected by the Act outside of the communities of Barnstable and Yarmouth. This conclusion is supported by the findings that the applicant was willing to resolve open space and community character issues through the Town of Barnstable Site Plan Review and Yarmouth Zoning Board of Appeals permitting processes.

The Commission hereby grants Marine Corporation, d/b/a Hyannis Marine, a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act for a proposed boat

storage building in Hyannis, MA.

David Ernst
David Ernst, Chair

2-17-94
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 17th day of February 1994

Katharine X Peters
Name, Notary Public

My commission expires:

My Commission Expires December 5, 1997

