

CAPE COD COMMISSION

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DATE: September 22, 1994 EX# 94011

TO: Ms. Paulina M. Reilly
Hayes & Hayes, Attorneys-At-Law, P.C.
23 East Main Street
Hyannis, MA. 02601

FROM: Cape Cod Commission

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

APPLICANT: Roland's Tire Service, Inc.

PROJECT: A 13,048 Sq. Ft. Tire sales and service facility

BOOK/PAGE: Ctf. of Title #91453

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby denies the application of Roland's Tire Service, Inc., for a Development of Regional Impact Exemption under Section 12 (k) of the Cape Cod Commission Act, as amended, for the construction of a 13,048 sq.ft. tire store. The decision is rendered pursuant to the vote of the Commission on September 22, 1994.

PROCEDURAL HISTORY

The project was referred by Alfred E. Martin, Building Inspector for Barnstable on June 27, 1994. On September 8, 1994, the subcommittee opened the public hearings to consider if the proposed tire store was a Development of Regional Impact. The exemption hearing was conducted pursuant to Section 12(k) of the Act. The proposed tire store qualifies as a DRI under Section 3 (6) of the DRI Enabling Regulations as proposed new commercial construction greater than ten thousand square feet.

After receiving testimony from the development team, town officials and the public, the subcommittee voted 3 to 2 to recommend to the full Commission that the proposed tire store was a Development of Regional Impact and was not entitled to a DRI exemption under 12(k) of the Act. The subcommittee voted to continue the DRI public hearing until September 29, 1994.

September 22, 1994

Roland's Tires/Barnstable

Exemption Decision

PROJECT LOCATION / DESCRIPTION:

The proposed Roland's Tires development is located in Marstons Mills, on a vacant 2.06 acre parcel bounded by Route 28 (Falmouth Road) to the south, Old Post Road to the east and Industry Road to the north. The site is adjacent to and across from existing businesses including the Cotuit Landing shopping plaza, Windmill Square shopping plaza, a boat yard and funeral home. The proposed 13,048 sq.ft. building will contain 3,120 sq.ft. of retail area, 4,680 sq.ft. of service area containing four (4) service bays and a 6,240 sq.ft. tire storage area. The proposed building will have 49 parking spaces and have access off of both Old Post and Industry Road. Proposed operating hours for tire service are between 7:30 AM- 5:00 PM on weekdays and between 7:30 am and 12 Noon on Saturdays. The business will be closed on Sundays.

MATERIALS SUBMITTED FOR THE RECORD**A. Materials submitted by the applicant:**

1. Waiver request Plan/Wildlife	Hayes & Hayes	July 14, 1994
2. DRI/Exemption App. forms	Hayes & Hayes	July 26, 1994
3. Maps/soils/lighting inform.	Baxter & Nye, Inc.	Aug. 2, 1994
4. Doc. on Minimum Performance S.	Hayes & Hayes	Aug. 3, 1994
5. MHC/proof of local filing	Hayes & Hayes	Aug. 3, 1994
6. Site Plan	Baxter & Nye, Inc.	Aug. 4, 1994
7. Traffic study	Baxter & Nye, Inc.	Aug. 12, 1994
8. Open Space Deed information	Hayes & Hayes	Aug. 17, 1994
9. Hazardous Waste information	Hayes & Hayes	Sept. 6, 1994
10. Additional traffic information	Fay, Spofford & Thorndike, Inc.	Sept. 15, 1994

B. Materials submitted by the State:

1. Mass. Historical Com.	No significant resources	August 8, 1994
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C. Materials submitted by the Town:

1. Alfred E. Martin	Comment letter	July 29, 1994
2. Alfred E. Martin	Comment letter	August 4, 1994
3. Thomas Marcello	Traffic island	August 4, 1994
4. Martin MacNeely	Fire Dept. concern	August 4, 1994

D. Materials submitted by the public:

1. Bill Archibald	Concerns with buffers	August 25, 1994
2. John Lawrence Funeral Home	Concerns with noise	Sept. 7, 1994
3. Craig Rockwood, Esq.	Concerned with com. char.	Sept. 8, 1994

The application and notice of the public hearing relative thereto, the Commission's staff reports, and exhibits, minutes of the hearing and all submissions received in the course of the proceedings, including materials submitted on file EX# 94011 are incorporated into the record by reference.

September 22, 1994

Roland's Tires/Barnstable

Exemption Decision

TESTIMONY

The subcommittee received testimony at the September 8, 1994 public hearing on this project in the First District Court House, Chamber of the Assembly of Delegates, Barnstable, MA.

Comments from the public included Harry Zebergasi and Graham Harrison, expressing concern for left hand turns onto Old Post Road and the lack of truck traffic analysis.

Michael Lloyd expressed similar concerns, and doubted that a no left turn sign would work as planned, as there is no easy way to reverse direction. He felt that residential streets will be affected by this project.

Robert Hayden also expressed similar concerns for traffic and whether repairs will be completed outside on the site. The applicant replied that all service work will be completed indoors. Questions were also asked re: truck servicing. The applicant replied that trucks can also be serviced inside.

G. Hebert noted that the estimated truck trips would account for 15% of the total traffic to and from the site. He also stated that based on 290 trips/day, this would result in 8 left hand turns/hour.

Rick Barry from the Cotuit/Santuit Civic Association noted concerns regarding this project's location on the edge of the zone of contribution and hazardous materials use and the potential for a spill. Based on this concern and traffic issues the association believed a DRI Exemption was not appropriate.

Brian Bernier recommended holding tanks for cleaning solvents.

Robert Hayden asked whether trucks would be brought in from other sites.

JURISDICTION

The proposed Roland's Tire Service development qualifies as a Development of Regional Impact under Section 3(6) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, because it is an addition greater than ten thousand square feet.

Section 12(k) of the Act states that " any applicant may apply to the commission for an exemption from the commission review because the location, character and environmental effects of the proposed development will prevent its having any significant impacts on the values and purposes protected by this act outside the municipality in which the development is located."

FINDINGS

The Commission has considered the Development of Regional Impact application of Roland's Tire Service, Inc., to construct a Tire Sales, Storage and Service Center on Old Post Road and Route 28 in Marstons Mills, MA. Based on consideration of such application, the information presented, Subcommittee and staff recommendations, the Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. The project is located on an has access to Route 28, which is identified as a regional roadway in the Regional Policy Plan, Barnstable County Ordinance 91-6, as amended.
2. The subcommittee has determined additional traffic information is needed to determine the full impacts of this project to the regional road network and alternatives for mitigation.
3. The subcommittee has determined further work is needed on the proposed deed restriction in order to conform with the guidelines set forth in the Commission's recently adopted Open Space Guidelines Technical Bulletin regarding ownership and restriction of open space.
4. The proposed commercial development is located on the boundary of a Zone II Wellhead Protection Area for the Centerville-Osterville Wells as defined by Geraghty and Miller in 1993, and approved by the Massachusetts Department of Environmental Protection in 1994.
5. A small portion of the back part of the parcel crosses the Zone II boundary.
6. According to plot plans attached to the DRI Application, no part of the actual tire service facility, storage area, or retail floor space will be within the Zone of Contribution.
7. Roland's Tire currently uses hazardous materials at its Fair Haven facility including tire bead sealer, tire cement, and tire cleaner and those proposed materials are likely to be used in the proposed development.
8. Roland Tire currently generates hazardous wastes at its Fair Haven facility including solvent-soaked rags and solvent containers. Rinsates from truck/car washing operations are likely to be hazardous waste depending on their constituents and those proposed materials are likely to be used in the proposed development.
9. The new lead weights which are used to balance customers' tires, along with the used weights removed from customers' tires, are considered to be scrap metal by the Department of Environmental Protection.
10. The building must have a sprinkler system according to state fire code.

11. Based on information received to date and the project's proximity to a public supply well, the subcommittee is concerned with the protection of the Centerville-Osterville Wells.

12. Concerns about community character and noise were raised at the public hearing.

13. The proposed project has received a "no further review" determination from the Massachusetts Historical Commission.

CONCLUSION

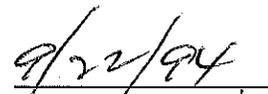
Based on the findings above, the Cape Cod Commission hereby concludes:

That the location, character and environmental effects, of the proposed tire store may adversely affect the values and purposes protected by the act outside the municipality in which the development is located.

The Commission hereby denies the Development of Regional Impact Exemption Application for Roland's Tires Service, Inc., pursuant to Section 13 of the Act.



Kenneth Brock, Chairman

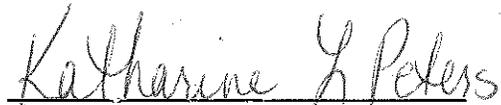


Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 22 day of Sept 1994



NAME, Notary

My Commission expires: _____