

CAPE COD COMMISSION

3225 MAIN STREET
P.O. Box 226
BARNSTABLE, MA 02630
508-362-3828
FAX: 508-362-3136

Date: October 19, 1995

Applicant: Bon Repose Furniture Showroom/Warehouse
Marcia L. Gladstone

Project #: EX95018

Project
Proponent: Bassett Lane Realty Trust

RE: Development of Regional Impact Exemption
Section 3(e) of the DRI Enabling Regulations
Barnstable County Ordinance 90-12

Lot/Parcel: 294/47

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby grants the Development of Regional Impact Exemption of Ms. Marcia L. Gladstone, Trustee, Bassett Lane Realty Trust, under Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed furniture showroom and warehouse. The proposal qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12 as "new construction with a gross floor area greater than 10,000 square feet." This decision is rendered pursuant to a vote of the Commission on October 19, 1995.

PROJECT DESCRIPTION

The Applicant proposes the demolition of five existing structures and the construction of a proposed furniture showroom/warehouse for Bon Repose Furniture. The buildings no longer house businesses and are currently vacant, except for use as storage. Bon Repose Furniture is a locally-owned business with a primary retail location at 106 Bassett Lane, Hyannis, Massachusetts 02601. The proposed new construction consists of approximately 19,380 sq. ft. including 5,250 sq. ft. of

showroom space and 4,430 sq. ft. of storage space on the main floor and 9,700 sq. ft. of basement storage. Total project acreage is 36,970 square feet. The primary objective of the building is to serve as a consolidated storage/warehouse facility with ancillary use as a secondary showroom.

PROCEDURAL HISTORY

Patrick M. Butler, Esq. brought the project to the Commission staff for a preliminary meeting on April 26, 1995 to discuss potential impacts of the project and Commission requirements. The application for a Development of Regional Impact Exemption was received on August 11, 1995. A follow-up meeting was held with the applicant on August 24, 1995 at which Commission staff requested further information regarding 1) total square footage of existing buildings, 2) square footage and percent of natural landscaping, 3) nitrogen loading for existing and proposed uses, and 4) revised traffic data providing information regarding traffic from former businesses, as well as documentation of recent occupancy, and anticipated traffic. This information was provided by the applicant prior to the Public Hearing on October 2, 1995. Due to staff concerns about hazardous materials, information regarding disposal of debris and a preliminary environmental report was also requested of the applicant prior to the Public Hearing. The Public Hearing was continued to October 19, 1995 before the full Cape Cod Commission.

Materials submitted for the record:

- Notes from preliminary meeting April 26, 1995.
- Application, received August 11, 1995.
- Letter from Dorr Fox, Chief Regulatory Officer to Patrick M. Butler, Esq.
- Letter from Gay D. Wells, Planner to Patrick M. Butler dated August 21, 1995 requesting further information for application.
- Notes on traffic generation.
- Commission cost estimates for Lazy Boy and The Women's Body Shopp.
- Letter from Patrick M. Butler to Gay D. Wells dated August 22, 1995 providing requested information.
- Notes from meeting on August 24, 1995.
- Letter from Patrick M. Butler dated August 30, 1995 to Massachusetts Historical Commission with Project Notification Form.
- Letter from Gay D. Wells to Patrick M. Butler dated August 31, 1995 re: provision of information.
- Memorandum from Gay D. Wells to Executive Committee re: fee waiver request, dated September 5, 1995.
- FAX from Gay D. Wells to Patrick M. Butler re: fee waiver request, dated September 5, 1995.

- Memorandum from Gay D. Wells to Subcommittee, September 7, 1995, re: hearing date.
- Letter from Patrick M. Butler to Gay Wells re: building size and occupancy history, September 11, 1995.
- Affidavit from Christopher Kehoe received September 13, 1995 re: prior occupancy
- Letter from Gay D. Wells to Patrick M. Butler dated September 13, 1995, application completed.
- Memorandum from Gay D. Wells to Subcommittee dated September 15, 1995 re: Site Visit and Public Hearing.
- Letter from Patrick M. Butler to Gay Wells dated September 20, 1995 with copies of records from Town of Barnstable Assessor's office.
- Letter from Gay D. Wells to Patrick M. Butler dated September 22, 1995, enclosed staff report.
- Staff Report from Gay D. Wells to Subcommittee, dated September 22, 1995.
- Letter from Patrick M. Butler to Gay Wells dated October 2, 1995 with enclosures: 1) \$1,100 filing fee; 2) letter from Robert B. Out Co., Inc., September 29, 1995 regarding disposal of demolition materials; 3) copy of preliminary environmental transaction screen report prepared by Nobis Engineering, Inc. in April, 1994.
- Memorandum from Andrea Adams to Gay Wells dated October 2, 1995 re: hazardous materials.
- Memorandum from Gay D. Wells to Subcommittee dated October 2, 1995 re: landscaping request from Jim Curtis, Iyanough Village Condominium.
- Proposed Site Plan dated March 8, 1995.
- Building Plans dated August 29, 1995.
- Abutters list certified August 23, 1995.
- Public Hearing notice for October 2, 1995
- Sign-in list from Public Hearing, October 2, 1995.
- Time Schedule from Public Hearing.

The 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

On Monday, October 2, 1995 a Public Hearing was held with the subcommittee and the applicant. Patrick M. Butler, Esq. presented the project, Gay D. Wells gave the staff report, Gabrielle Belfit voiced staff concerns regarding hazardous wastes on the site, landscaping issues were discussed, and Ms. Gloria M. Urenas, representing Mr. Ralph Crossen, Building Inspector for the Town of Barnstable spoke in favor of the project. There was a request from Mr. Jim Curtis, Manager of Iyanough Village Condominium

complex through Ms. Wells and a direct phone call from Mr. Curtis to Mr. Gladstone asking the applicant to retain the mature trees along the back property line which provide a screen and privacy between the two properties. Mr. Gladstone agreed to retain the trees or to replace them with mature Maples if they have to be removed during construction.

Jack Jordan spoke in favor of the project.

Due to staff concerns regarding the possible presence of hazardous materials on the site, primarily due to previous uses as an automobile repair shop and a pet grooming business, as well as the use of asbestos building materials, the applicant has represented through Mr. Butler that he will apply for proper closure procedures and will follow the proper Town and State procedures for identification and disposal of any hazardous materials. Because of staff concerns about follow-up with the Town of Barnstable and State regulatory agencies regarding the hazardous waste issues and landscaping concerns, it was agreed that the staff would write a letter to the Town Site Plan Review Committee detailing these concerns. Given this understanding, the project is coming before the Commission with a recommendation from the Subcommittee to grant the application for a Development of Regional Impact Exemption.

JURISDICTION

The Project comes before the Commission for review because it qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12 as "new construction with a gross floor area greater than 10,000 square feet."

FINDINGS

The Commission has considered the DRI Exemption application of Marcia L. Gladstone, Trustee, Bassett Lane Realty Trust for the property at 760 Bearses Way, Hyannis, MA. Based on consideration of such application, the information presented and the Commission staff recommendations, the Commission makes the following findings subject to Sections 12(k) of the Act:

1. The Project meets the threshold of a Development of Regional Impact specified in Section 3(e) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "new construction with a gross floor area greater than 10,000 square feet."
2. The project property consists of 36,970 square feet and is located at 760 Bearse's Way, Hyannis, Massachusetts. Bearse's Way is designated as a Minor Extension within the Region's Highway Functional Classification System.
3. The applicant applied to the Commission for a DRI Exemption prior to formally applying to the Town of Barnstable.
4. The Project received a Preliminary Site Plan Review by Ralph Crossen, Building Inspector, Town of Barnstable and he is in favor of the Project.
5. The Project is within an Economic Opportunity Area.
6. The site is within a Zone of Contribution to a public drinking water supply.
7. Based upon a report developed by Timothy J. Brady, East Cape Engineering, and Gabrielle Belfit, Cape Cod Commission Water Resources staff, "the proposed sewage system has been designed at a rate of 50 gallons per 1,000 sq. ft. for a total design flow of 250 gallons per day. This translates into 295 gallons per acre in accordance with the Barnstable Bylaw Requirements. The Non-Residential NO₃-N Loading calculation prepared for the site shows the Nitrogen Loading Concentration is 4.94 ppm. This concentration of less than 5 ppm is in accordance with the Regional Policy Plan Goals and Policies for Wellhead Protection Areas, Impaired Areas and Water Quality Improvement Areas."
8. There are no wetlands or other areas of environmental sensitivity on the site.
9. The existing site is basically devoid of vegetation. Open Space calculations by Timothy J. Brady, East Cape Engineering, show the following: "the proposed design calls for a 9,400 sq. ft. building, a parking area of 12,200 sq. ft. (including some pervious parking) and vegetated area of 14,370 square feet. It is intended that shrubbery will be planted in the open spaces upon completion of the construction. The final vegetated open space area will be 39% of the lot."
10. The Applicant has agreed to retain the trees along the rear property line abutting Iyanough Village Condominium or to replace them with mature Maples if they have to be removed during construction.

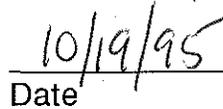
11. Based upon traffic generation figures provided by the applicant and verified by CCC Transportation staff, there will be no significant traffic impacts on the surrounding roadway network associated with the Project.
12. The Town of Barnstable and the Massachusetts Historical Commission have both reviewed the project and find that the five buildings on the site have no historical significance. This was verified by Sarah Korjeff, Cape Cod Commission Historic Preservation Planner, through a call to the Town of Barnstable and a call from Gay Wells to the MHC.
13. Due to concerns about hazardous demolition materials, the applicant has arranged with the Robert B. Our Co., Inc. of North Harwich, Massachusetts for the demolition debris and asbestos shingles to be disposed of properly according to State requirements.
14. Hazardous waste recommendations by Roger B. Keilig, P.E., Senior Project Manager for Nobis Engineering, Inc. in a report prepared for Bon Repose in April, 1994 are the following: "Based on information obtained from this preliminary transaction screen, there was no direct evidence of oil/hazardous waste releases to the site in the context of Massachusetts General Laws Chapter 21E and the Massachusetts Contingency Plan 310 CMR 40,000. There were, however, several abandoned automobiles, one inactive 275-gallon AST, storage of waste oil and several identified off-site issues that could potentially impact the subject site. Therefore, subsurface investigation (i.e., test pits) would be necessary to determine whether the subject site has been impacted by on-site or off-site sources." Stated in a letter from Patrick M. Butler dated October 2, 1995, " as noted during the site visit, all abandoned automobiles have been removed from the site."
15. In view of the environmental report by Nobis Engineering, Inc. and staff concerns, the applicant has represented through Mr. Butler that he will apply for proper closure procedures and will follow the proper Town and State procedures for identification and disposal of any hazardous materials.
16. Because of concerns about follow-up with the Town of Barnstable and State regulatory agencies regarding the hazardous waste issues and landscaping concerns, it was agreed that the staff would write a letter to the Town Site Plan Review Committee detailing these concerns.

CONCLUSION

After reviewing the Bon Repose Furniture Showroom/Warehouse Project as a DRI Exemption in relation to Section 12(k) of the Act, the Commission concludes that a DRI Exemption approval be granted due to the fact that the Project presents no impacts of a regional nature. Therefore, the Project will not have significant impacts on the values and purposes protected by the Act, due to the location, character and environmental effects of the proposal outside of the Town of Barnstable, as supported by findings five (5) through sixteen (16) listed above.



Sumner Kaufman, Chair

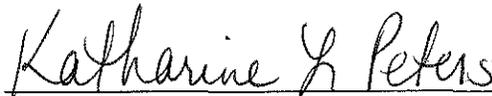


Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 19th day of Oct, 1995



Name, Notary Public

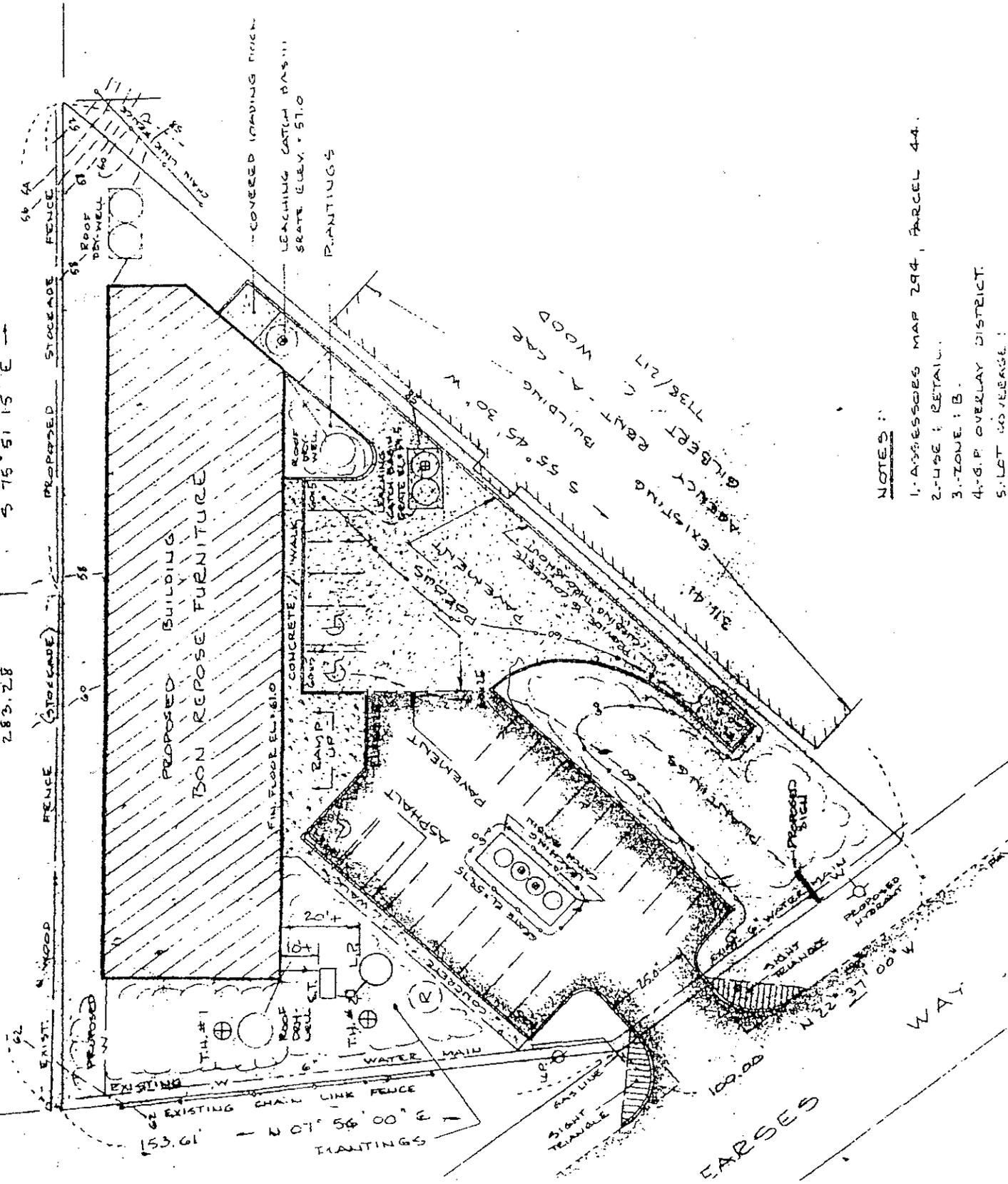
My commission expires: 10/19/95

RYANBOUGH VILLAGE
CONDOMINIUM

ROBERT S. KESTEN
3548/188

S 75° 51' 15" E →

283.28



- NOTES:
1. ADDRESSES MAP 294, PARCEL 44.
 2. USE: RETAIL.
 3. ZONE: B.
 4. B.P. OVERLAY DISTRICT.
 5. LOT 40 RELEASE.