



CAPE COD COMMISSION

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DATE: June 23, 1997 #MOD-96012 (2) (Modification/type 2)

TO: Laura M. Moynihan, Associate
Ament and Ament
39 Town Hall Square
P.O. Box S
Falmouth, MA 02541

RE: Modification of an Approved DRI Decision
Section 9(n) of Enabling Regulations

APPLICANT: Mr.L. Ron Capozzoli and Mr. Christopher Capozzoli
(Burlington Self Storage of Cape Cod)

PROJECT: Burlington Self-Storage of Cape Cod
Falmouth, MA

BOOK/PAGE: Book 8650, Page 100
Book 6515, Page 171
Book 3037, Page 285

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of Mr. L. Ron Capozzoli and Mr. Christopher Capozzoli (Burlington Self Storage of Cape Cod) for a Modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations for the sole purpose of changes to the permanent open space area.

The application is hereby approved as a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised). The Decision is rendered pursuant to a vote of the Commission's Regulatory Committee on June 16, 1997.

ORIGINAL PROJECT DESCRIPTION and MODIFICATION REQUEST

On August 22, 1996, the Cape Cod Commission approved, with Conditions, the application of Mr.L. Ron Capozzoli and Mr. Christopher Capozzoli (Burlington Self Storage of Cape Cod) for a Development of Regional Impact for a self-storage facility

Minor Modification #2

Burlington Self-Storage Project
Changes to Open Space Area

June 23, 1997

in Falmouth. The original project consisted of the construction of a self-storage facility comprised of four buildings consisting of 89,216 square feet of gross leasable space to be used for storage on a parcel of 4.19 acres at Village Common Drive in Falmouth, MA.

Several Findings of the August 22, 1996 Decision dealt with natural resources concerns and open space. Several Natural Resources, Community Character and Open Space Conditions of the Decision addressed the type and location of open space on the lot.

PROCEDURAL HISTORY

On May 30, 1997, staff received a letter from Ms. Laura Moynihan of Ament & Ament, on behalf of the Applicants, requesting a modification of the conservation restriction area of the DRI Decision. The letter noted that the Applicants were in the process of "executing a purchase and sale agreement...for the purchase of Lot 1A and Lot 1 adjacent to Lot 1A." The letter stated that an existing cement plant was located on Lot 1, with a garage and associated driveway from Route 28. The letter stated "the Capozzolis will remove the cement plant building...on Lot 1, with a view to possible future expansion of the self-storage facility to Lots 1 and 1A." It also noted that "the conservation restriction area [as presently proposed in the DRI Decision] would inhibit any access from the existing self storage site to lots 1 and 1A."

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

No comments from the public were received at the June 16, 1997 Regulatory Committee meeting on this project. Staff noted that a letter had been received from Ms. Laura Moynihan of Ament & Ament on behalf of the Applicants requesting a minor modification to the DRI Decision. Staff also recommended that the request be seen as a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised).

Mr. Robert Ament indicated that the conservation restriction has already been approved locally and the applicant would like to revise the location of the open space area now rather than after the state has given final approval of the restriction. He also indicated the area for the interconnect is proposed as lawn.

On June 16, 1997, the Commission's Regulatory Committee considered the Capozzolis' request to modify the August 22, 1996 DRI Decision with respect to the open space area. At this meeting, the Regulatory Committee voted unanimously to consider the modification a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised).

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Letter, requesting modification	5/30/97
Copy of a Site Plan Showing Revised Open Space Area	6/16/97
-Dated 6/14/97 by engineer	

B. Materials submitted by Cape Cod Commission:

None

Note: No written materials or verbal comments were submitted on this modification request by the State, Town officials or the Public.

The Application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file TR-96012 and MOD-TR96012 (2) are incorporated into the record by reference.

JURISDICTION

The proposed changes to Burlington Self Storage project qualify as a modification to an approved DRI Decision under Section 9(n) of the DRI Enabling Regulations.

FINDINGS

The Commission's Regulatory Committee has considered the application of Mr.L. Ron Capozzoli and Mr. Christopher Capozzoli (Burlington Self Storage of Cape Cod) for a Modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations for the sole purpose of changes to the permanent open space area.

On June 16, 1997, the Commission's Regulatory Committee voted unanimously to consider the Capozzolis' request to modify the August 22, 1996 DRI Decision with respect to the open space area as a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised). The Applicant submitted a new conservation restriction plan showing the changes to the permanent open space area. The Applicant also agreed to modify the existing text of the conservation restriction to reflect the changes to the open space area.

Section 7 of the Administrative Regulations (revised 3/6/97) describes a Minor Modification #2 as one which "includes a substantially similar proposal to the original project but involves a minor change of use, a minor change to the site plan, or a technical correction or a small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition. A proposed change shall not result in different or increased impacts to the resources protected by the Cape Cod Commission Act and/or the RPP."

The Section also notes that such revisions "may be approved by the Regulatory Committee and does not require further review by the Commission." Also, according to Section 9(a)(i)(vii) of the Administrative Regulations (as revised) there is no review fee for this category of modification.

The Administrative Regulations require that revised plans shall be filed with the Clerk of the Commission for recording at the Barnstable County Registry of Deeds. The applicant is also responsible for all filing fees at the Registry of Deeds, according to Section 7 of the Administrative Regulations. Finally, the Administrative Regulations state that the Regulatory Committee's determination shall be effective for one (1) year from the date of its determination and the approval of a Modification shall not extend the seven year time period of validity of the originally issued DRI Approval.

CONDITIONS

In accordance with the vote of the Regulatory Committee, Condition OPS-1 of the original DRI Decision (dated 8/22/97) is modified as follows (see **bold** text):

The applicant shall submit a final plan depicting 40% of the site to be permanently restricted as open space in compliance with the Regional Policy Plan Minimum Performance Standard 6.1.4. prior to a Certificate of Compliance. This area shall include the area as generally shown on the Conservation Restriction Plan dated 8/20/96, **as further modified by and shown on the Conservation Restriction Plan submitted on 6/16/97 (dated 6/14/97).** Future activities within this area shall be governed by the terms of the conservation restriction required by OPS-2, below."

Vicky Bebout
Vicky Bebout, Chair
Cape Cod Commission

6/23/97
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 23rd day of June 1997.

Katharine G Peters
NAME, Notary

My Commission expires: My Commission Expires December 5, 1997