



CAPE COD COMMISSION

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DATE: July 9, 1997 #MOD-96012 (3) (Modification/type 2)

TO: Laura M. Moynihan, Associate
Ament and Ament
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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 reflecting phasing of construction and changes to the Conditions as they relate to a Certificate of Compliance.

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 July 7, 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

Minor Modification Type #2

Burlington Self-Storage Project
Phasing Plan

July 9, 1997

Storage of Cape Cod) for a Development of Regional Impact for a self-storage facility 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 Conditions of the August 22, 1996 Decision dealt with the issuance of a Certificate of Compliance, in that certain actions had to be completed by the Applicant or plans submitted for Commission review prior to receipt of a Certificate of Compliance for the project.

PROCEDURAL HISTORY

On May 30, 1997, staff received a letter from Ms. Laura Moynihan of Ament & Ament, on behalf of the Applicants, noting that the Applicants wished to obtain a partial Certificate of Compliance for part of the project so that an occupancy permit could be obtained from the Town of Falmouth for Building D. The letter noted a revised conservation restriction and plan allowing an interconnect between the project site and the adjacent Lots 1 and 1A would be finalized and approved by both the Town and Commission staff prior to issuance of the full Certificate of Compliance for the project.

On June 16, 1997, the Commission received a copy of the revised Conservation Restriction and an accompanying plan.

On June 16, 1997, the Regulatory Committee approved as a Minor Modification #2 a revision to the text of the Conservation Restriction and its accompanying plan allowing the interconnection of the site and Lots 1 and 1A.

On June 24, 1997, the Commission received a copy of a letter and colored phasing plan which detailed three distinct phases for completion of the project. The letter also noted that Phase 1 should be complete by late July or August 1, 1997. It anticipated that Phase 2 would be substantially complete by October 1, 1997 and Phase 3 would be substantially complete by January 1, 1998.

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

No comments from the public were received at the July 7, 1997 Regulatory Committee meeting on this project. Staff noted that two letters had been received from Ms. Laura Moynihan of Ament & Ament on behalf of the Applicants discussing the phasing plan. Staff recommended that the Applicant's request to phase the completion of the project be considered a Modification #2 under Section 7 of the Administrative Regulations (as revised) so long as the issues concerning the revision of the conservation restriction and the landscape plan had been resolved.

Staff noted that a copy of the revised conservation restriction had been received on June 16, 1997 which reflected the changes as recommended by staff and the Falmouth Conservation Administrator. The Commission also sent a letter dated June 26, 1997 to Ament & Ament concerning the landscape plan. Staff noted that a response had been received on July 1, 1997 which included a modified landscape plan which addressed the concerns raised.

On July 7, 1997, the Commission's Regulatory Committee considered the Capozzolis' request to modify the August 22, 1996 DRI Decision with respect to receipt of a Certificate of Compliance and phasing of site construction. At this meeting, the Regulatory Committee voted unanimously to consider the request as 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	
Letter, phasing plan	6/24/97
Letter, revisions to landscape plan	7/1/97

B. Materials submitted by Cape Cod Commission:

Memorandum, to Regulatory Committee	6/27/97
-Included draft changes to the Conditions to reflect the proposed phasing plan	

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) and MOD-TR96012 (3) 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 Conditions as they relate to construction of the project in phases and issuance of a

Certificate of Compliance.

The Regulatory Committee found that the Applicant:

1. Had made changes to the Conservation Restriction text and plan as recommended by staff and the Falmouth Conservation Administrator.
2. Had submitted a new colored site plan with a letter dated 6/24/97 showing how site construction would be completed in phases.
3. Had responded to concerns raised by staff regarding the landscape plan by submitting a revised plan dated 6/26/97.

On July 7, 1997, the Commission's Regulatory Committee voted unanimously to consider the Capozzolis' request to modify the August 22, 1996 DRI Decision with respect construction of the project in phases and issuance of Certificate of Compliance a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised).

Section 7 of the Administrative Regulations (as revised) 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 on July 7, 1997, the Conditions of the original DRI Decision (dated 8/22/97) are modified as follows (see **bold text**):

GENERAL

G-1. All requirements of all Conditions of this Decision, except for TRANS-1, related to Transportation monitoring, below, or as otherwise noted in each Condition, shall be complied with prior to receipt of a Certificate of Compliance from the Cape Cod Commission for the relevant phase of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

G-2. The applicant shall remove the existing 5,000 square foot building and 7,200 square foot foundation on site and appropriately dispose of all construction and demolition debris.

G-3. The applicant shall obtain all applicable local permits for this project, including modifications to existing approvals and covenants as referenced in Findings G-2, G-3 and G-4 if applicable in accordance with the phasing plan as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

G-4. The facility shall be used solely for storage. No retail or other commercial or industrial use shall be permitted on the site.

TRANSPORTATION

TRANS-1. The applicant shall provide the Cape Cod Commission Transportation staff with actual hourly traffic counts over a 24-hour period for the facility on three weekdays and three Saturdays during the month of July during the first three years of facility operation. Traffic counting protocols shall be developed in consultation with Commission staff prior to commencement of the actual counts. Data from this field work shall be provided to the Cape Cod Commission Transportation staff no later than September 1 of each year monitoring is done.

WATER RESOURCES

WR-1. The applicant shall design and construct the storm water runoff catch basin system to handle at least a 25-year storm as described in Development Review Policy 2.1.1.8 in accordance with the Plan for this work submitted on 5/24/96 and the DRI application. In addition, this work shall include closing off any existing on-site connections to the Town or State drainage systems.

WR-2. The applicant shall provide no more than four (4) toilet facilities in the proposed project as described in the DRI application and/or Plans.

WR-3: The applicant shall, as a minimum, provide for at least annual regular maintenance and cleaning of the on-site stormwater drainage system. This

Condition is not intended to prohibit more frequent cleaning and/or maintenance.

HAZARDOUS MATERIALS/WASTE

HAZ-1. The applicant shall dispose of any accumulated hazardous materials or hazardous waste on site as a result of the current or previous tenants or discovered during any phase of site work or building construction. Such disposal shall be via a hazardous waste hauler licensed by the DEP and shall also be in compliance with the Massachusetts Hazardous Waste regulations, 310 CMR 30.00.

HAZ-2. All liquid collected in the existing on-site catch basins shall be tested to determine whether or not it is hazardous waste in accordance with the requirements of 310 CMR 30.00. Copies of test results shall be provided to the Falmouth Health Department. Disposal of any catch basin liquid determined to be hazardous waste shall be via a hazardous waste hauler licensed by the DEP and shall also be in compliance with 310 CMR 30.00.

HAZ-3. No floor drains shall be allowed in the self-storage facilities and office space.

HAZ-4. The facility owners shall retain the services of a Massachusetts-licensed hazardous waste disposal firm to assist should hazardous materials or waste be found to be stored at the facility.

HAZ-5. Any vehicles, boats, airplanes or equipment proposed to be stored at the facility shall be stored in accordance with local Health Department and/or Fire Department regulations. No vehicle, boat, airplane or equipment maintenance or repair shall be allowed on-site. The only limited equipment maintenance allowed on site is what is normally required for proper functioning of the passenger and freight elevators and other fixtures such as the security gates. The owners of the facility shall make these restrictions clear to prospective leasees at the time a lease agreement is proposed.

HAZ-6. All on-site manufacturing activities shall be prohibited.

NATURAL RESOURCES

NR-1. The applicant shall clearly designate the limit of work on the wetland side of the site using orange construction fencing (or equivalent). This limit of work shall be placed at the edge of clearing and grading. No removal of vegetation within the existing treeline along the wetland and no excavation or filling of land within the tree canopy shall be permitted.

NR-2. The applicant shall submit to the Cape Cod Commission and Falmouth Conservation Commission a narrative (and any necessary plans) describing the

proposed removal of siltation in the vicinity of the Massachusetts Highway storm water discharge pipe in the vicinity of Lot 4 as shown on the Town of Falmouth Assessor's Map No. 34-06-024-000, as well as trash and debris within the wetland on the site and within the Reserve Area immediately west the site as shown on the Town of Falmouth Assessor's Map No. 34-06-024-000, being 20,700 square feet, submitted in the DRI application. The applicant shall submit this application to the Falmouth Conservation Commission for this work prior to or at the same time as application is made for construction of the self-storage facility. In addition, the applicant shall complete the work required by this Condition prior to receipt of a Certificate of Compliance for the relevant phase of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

NR-3. The applicant shall loam and revegetate all areas between the proposed Building D roadway and the wetland with a mix of native herbaceous and shrub vegetation as depicted in the Site Plan dated 1/18/96 (received 5/24/96). As an exception, the applicant shall plant huckleberry in place of winterberry. The buffer area shall also be densely planted with Love Grass to stabilize the slope and eliminate existing erosion and sedimentation. The restriction required by Condition OPS-2, below, shall specify that no future disturbance or development of land within the wetland buffer area shall be permitted. Watering to insure survival of plant materials shall be allowed. **The work described in this Condition shall be completed prior to issuance of a Certificate of Compliance for Phase 1 of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.**

COMMUNITY CHARACTER

CC-1. The applicant shall submit a revised Landscape Plan showing areas in the wetland buffer to be planted with Love Grass for erosion control as well as information required by Conditions NR-3, above and CC-2, CC-3 and OPS-3, below, for Cape Cod Commission staff review and approval prior to issuance of a building permit. Work done in connection with this Condition or Conditions cited herein shall be completed prior to the issuance of a Certificate of Compliance for the relevant phase of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

CC-2. The existing vegetation along Route 28 between the "Existing Paved Entrance" as shown on the Landscape Plan dated 1/24/96 (received 5/24/96) and the property line to the west bordering Lot 1A shall be retained. Removal of vegetation in this area shall be limited to pruning of deadwood and weeding. Requirements described in this Condition shall be shown on the revised Landscape Plan referenced in Condition CC-1, above. **Work done in connection with this Condition shall be completed prior to issuance of a Certificate of Compliance for Phase 2 of the**

development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

CC-3. Street trees (3" caliper diameter at breast height, minimum) shall be planted along both sides of the "Existing Paved Entrance" as shown on the Landscape Plan dated 1/24/96 (received 5/24/96) according to the optimum spacing requirements for the species but not to exceed a spacing of 25 feet on center. In addition, the applicant shall provide no fewer than ten Leyland Cypress 6 to 7 feet in height or similar evergreen plantings along the facade of Building A between the building and the "Existing Paved Drive" as noted on the Landscape Plan dated 1/24/96 (received 5/24/96). Requirements described in this Condition shall be shown on the revised Landscape Plan referenced in Condition CC-1, above. **Work done in connection with this Condition shall be completed prior to issuance of a Certificate of Compliance for Phase 2 of the development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.**

CC-4. Prior to the Certificate of Compliance for the relevant phase of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97, the applicant shall provide to the Commission evidence of a maintenance contract for all plantings on the site for a period of two (2) years from the date of planting. The maintenance contract shall indicate the method and schedule of watering as well as other maintenance proposed for these areas of landscaping. As part of the maintenance contract referred to by this Condition, or as part of the revised Landscape Plan noted in Condition CC-1, above, the applicant shall provide for adequate watering of all landscape plantings, including trees. However, maintenance provided in the area of the wetland buffer to the west of Building D as shown on the Site Plan dated 1/18/96 (received 5/24/96) shall be limited to watering to insure survival of plant materials.

CC-5. Lighting for the proposed project shall be of the type, wattage and number as shown on the Revised Lighting Plan dated 8/1/96 (received 8/2/96). The level of light in footcandles provided on the site shall not exceed eight (8.0). Shielding of fixtures shall provide for total cutoff of all light at the property lines.

OPEN SPACE

OPS -1 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 for **Phase 1 of development as as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.** 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."

OPS-2. Prior to any development on the site, the applicant shall provide the Cape Cod Commission with a conservation restriction to be approved by Commission counsel and recorded at the Registry of Deeds or Land Court which provides that the 40% open space areas shown on the Plan noted in Condition OPS-1, above, shall remain as permanent open space. The restriction and site plan shall be recorded at the Land Court/Registry of Deeds prior to issuance of a Certificate of Compliance from the Commission for Phase 1 of development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.

OPS-3. The proposed berm to be located to the south of Building D as noted on the Site Plan dated 1/18/96 (received 5/24/96) shall be lengthened as described on the Landscape Plan dated 1/24/96 (revision date 8/15/96). In addition, the applicant shall augment the berm and/or the southwest corner of the wetland buffer area adjacent to Building D with a total of twenty (20) additional native plants (combined trees and shrubs), including those noted on the Revised Site Plan, of the types already indicated on the Landscape Plan dated 1/24/96 (received 5/24/96) to improve wildlife habitat. **Work done in connection with this Condition shall be completed prior to issuance of a Certificate of Compliance for Phase 2 of the development as described on the Site Detail Plan dated 1/24/96 (as revised 8/15/96), which was received by the Commission on 6/24/97.**

Vicky Behout
Vicky Behout, Chair
Cape Cod Commission

7/9/97
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 9th day of July 1997.

Katharine K Peters
NAME, Notary

My Commission expires:

~~My Commission Expires December 8, 1997~~