



CAPE COD COMMISSION

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Date: April 21, 1998

Re: Development of Regional Impact Change of Use Determination
Cape Cod Commission Act, Section 23

Applicant: Holly Management & Supply

Project: 276 Falmouth Road
Hyannis, MA 02601

Project Number: CU98018

Lot/Plan: Land Court C37770 Plan 17786F

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby determines that the Development of Regional Impact (DRI) Change of Use Determination for the project known as 276 Main Street, Hyannis, qualifies for Section 3(f)(1) and (2) thresholds under the criteria established under Section 4/(b)(1) and may proceed without Development of Regional Impact review.

PROJECT DESCRIPTION

The site is located on Route 28, east of Bearses Way, in Hyannis. The applicant proposes to demolish the existing buildings, including a former motel and other commercial buildings, and replace them with a single 22,528 square foot building. The proposed single story structure is approximately 2800 square feet larger than the combined footprints of the existing buildings. Within the 50' wetland buffer, the applicant proposes to remove the existing buildings and the impervious hardtop and revegetate the area with native species as per the Order of Conditions from the Town of Barnstable.

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JURISDICTION

Section 3(f)(1) & (2) of the Cape Cod Commission DRI Enabling Regulations sets forth thresholds governing Development of Regional Impact review of existing commercial, service, retail or wholesale buildings, office or industrial buildings, as well as any private health, recreational or educational buildings that propose a change of use, or demolition and replacement resulting in a change of use.

Section 4(b)(2) authorizes the Cape Cod Commission Regulatory Committee to review proposed change of use projects under this threshold to determine if the overall impacts of the proposed use are more or less detrimental than those of the immediate prior use. If the impacts of the proposed use is equal to or less detrimental than the prior use, the committee may determine that DRI review is not required.

PROJECT CHRONOLOGY

On March 25, 1998, application materials were received from Holly Management & Supply, represented by Mr. Patrick Butler, Esq., for a Change of Use Determination by the Regulatory Committee.

On April 21, 1998, a public hearing was held at which the Regulatory Committee voted that the impacts of the proposed uses on the resources protected by the Regional Policy Plan are not more detrimental than those of the immediate prior uses and that the project therefore did not require Development of Regional Impact Review under the Change of Use Threshold.

MATERIALS SUBMITTED FOR THE RECORD

- Received January 16, 1998: January 15, 1998 letter from Ralph Crossen, Barnstable Building Commissioner.
- Received March 25, 1998: March 24, 1998 letter and application materials from Atty. Patrick Butler representing Holly Management & Supply. Application materials included: small site plan, Vehicle Trip Generation table, Order of Conditions, GIS site plan, and Site Plan dated January 21, 1998 drawn by Down Cape Engineering, Inc.
- Received April 15, 1998: April 15, 1998 Change of Use Application Form
- Received April 21, 1998: September 1997 Landscape Plan detailing Conservation Plantings within the 50' buffer to Fresh Pond drawn by Bill Lewis.

- Received April 21, 1998: April 20, 1998 Retail Building Elevations and Floor Plan drawn by Peter F. Dimeo Associates, Inc.

- Received April 21, 1998: February 2, 1998 Revised Site Plan drawn by Down Cape Engineering, Inc.

The notice of the Regulatory Committee meeting relative thereto, the Commission's staff reports, and exhibits, minutes of the Regulatory Committee and all submissions received in the course of the proceedings are incorporated into the record by reference.

TESTIMONY

Regulatory Committee Members present: Tom Broidrick, Chairman, Richard M. Prince, William F. Riley, Alix Ritchie, Kenneth Brock, Robert Deane. Other Commission Members present: Sumner Kaufman. Mr. Broidrick opened the public hearing at 12:45 p.m. Mr. Kaufman announced that the project has come before the Barnstable Board of Health, of which he is a member. Mr. Prince read the hearing notice.

Attorney Patrick Butler, representing the applicant, presented the project. He discussed the Change of Use Threshold and its intent, the local permits the project has received, and the impacts of the project. He presented additional plans for wetland buffer landscaping, architectural elevations and floor plan, and a revised site plan.

Tana Watt, Commission staff planner, and Paul Tilton, transportation engineer, presented the staff report. Ms. Watt noted that the Committee's determination about whether the impacts of the proposed uses are more or less detrimental than the immediate prior use should be based on the overall impacts of the project. She briefly presented an evaluation of the proposed project's impacts on community character, wetland and water quality. She noted that revegetation of the wetland buffer was required by the Order of Conditions issued by the Town. Mr. Tilton presented an evaluation of the project's impacts on traffic generation based on the applicant's proposed uses, which include specialty retail, office and storage. As the previous uses are no longer in operation, he was only able to compare existing and proposed traffic based on ITE trip generation. These calculations resulted in a decrease of 99 trips per day, and 11 less p.m. peak hour trips with the proposed project. He noted that a shopping mall would generate significantly more traffic than specialty retail.

The subcommittee discussed the community character and traffic impacts of the project. Mr. Butler noted that he would be willing to provide documentation that the existing uses would remain specialty retail.

Mr. Robert Schernig, Barnstable Planning Director, noted that the proposed project is strongly supported by the Town, and requested that the project not undergo DRI review. Mr. John Doherty, neighboring landowner, felt that the proposed plan is an improvement over existing conditions. Mr. Gene Berman, a real estate agent representing the owner, stated the project will clean up a blighted area.

Mr. Broidrick commented that it is unfortunate that the building will include metal siding, as noted on the elevations. Mr. Butler and Mr. Schernig replied that they understood that the building would be constructed of brick and wood trim.

Ms. Ritchie made a motion to close the public hearing and the record. Mr. Prince seconded the motion. Ms. Ritchie made a motion to find that the overall impacts of the project are not more detrimental than the immediate prior uses, and that the project does not require Cape Cod Commission review at this time. Mr. Brock seconded the motion. The Committee voted unanimously in favor of the motions. Ms. Ritchie noted that any future projects reviewed under this threshold should submit information in a timely manner.

FINDINGS

The Commission's Regulatory Committee has considered the application of Holly Management & Supply for a Change of Use Determination under Section 3(f)(1) and (2) of the DRI Enabling Regulations for the purpose of making a determination about whether the project requires DRI review. The Committee makes the following findings:

1. The proposal includes demolishing the existing buildings and replacing them with a single 22,528 square foot building. The proposed single story structure is approximately 2800 square feet larger than the combined footprints of the existing buildings.
2. The five existing buildings and three sheds on the site are in poor condition. Most have been vacated in anticipation of the redevelopment of the site. Two existing buildings, an existing 5' wide sidewalk and an asphalt drive are located within the 50' buffer to Fresh Pond.
3. Within the 50' wetland buffer, the applicant proposes to remove the existing buildings and the impervious hardtop and revegetate the area with native species as per the Order of Conditions from the Town of Barnstable.
4. The project has received site plan review approval and a Conservation Commission Order of Conditions from the Town of Barnstable.

5. Little landscaping or natural vegetation of high quality exists on the site; well-maintained landscaping associated with the proposed project could be an improvement over existing landscaping.

6. Assuming that the proposed uses (storage, specialty retail, and general office building) will be similar to the existing uses (storage, specialty retail, general office building, motel and restaurant) and that existing specialty retail is replaced by new specialty retail, the proposed project shows a reduction of 99 Daily Vehicle Trips and 11 PM Peak Hour Trips from existing uses based on ITE trip generation numbers. Attorney Patrick Butler will submit verification that the existing specialty retail will be replaced by new specialty retail.

7. The pre-Title V septic system currently existing on the site will be abandoned and the proposed building will be connected to the municipal sewer system, which would improve groundwater quality.

CONCLUSION

Based on the above findings, the Regulatory Committee concludes that the proposed use of the property will not have increased impacts on the resources protected by the Regional Policy Plan in relation to the existing uses on the site. Therefore, the proposed development will not require Cape Cod Commission Development of Regional Impact Review.

T. Broidrick, Jr.
Tom Broidrick, Regulatory Committee Chairman

5/18/98
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 18th day of May 1998

Katharine Y. Peters
Name, Notary Public

My commission expires:

