



CAPE COD COMMISSION

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Date: May 7, 1998

Applicant: Patrick M. Butler, Esq. for the Estate of James Campbell
Nutter, McClennen & Fish, LLP
P.O. Box 1630
Hyannis, MA 02601

Project #: TR97031
Project: Festival Mall Addition
Festival at Hyannis
Route 132
Hyannis, MA

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

Lot/Parcel: Map 295/Parcels 19.X01 & 19.X02
L.C. Plan 24921-H (lots 18 & 19)
Plan Book 392, Page 50 (lots 3, 4, 5, & 6)
Certificate of Title 121784

Owner: Estate of James Campbell

DECISION OF THE CAPE COD COMMISSION

SUMMARY AND PROJECT DESCRIPTION

The Cape Cod Commission (Commission) hereby approves with Conditions, the application for a free-standing retail building of 18,900 sq. ft. located on a vacant parcel at the Festival at Hyannis shopping center, Route 132, in Hyannis. This project coordinates with a previous Decision for the Southwind Plaza (TR930014, dated December 16, 1993) in which the Commission allowed for up to an additional 20,000 sq. ft. at Southwind Plaza, dependant upon the design and construction of a vehicular and pedestrian interconnect and a separate pedestrian interconnect between the two shopping centers. These interconnects are part of this project. The Decision is rendered pursuant to the vote of the Commission on May 7, 1998.

JURISDICTION

The proposed project is being reviewed as a Development of Regional Impact under Chapter A, Section 3(i) of the Commission's Regulations of General Application as "new construction with a gross floor area greater than 10,000 sq. ft."

PROCEDURAL HISTORY

The Commission received a Development of Regional Impact (DRI) Referral Form from Ralph M. Crossen, Building Commissioner for the Town of Barnstable, on December 23, 1997. A Hearing Officer held a hearing on February 11, 1998 at which no testimony was taken. The Commission staff and subcommittee participated in a Joint Site Plan review of the project with the Town of Barnstable on February 26, 1998. A duly noticed Public Hearing pursuant to Section 5 of the Cape Cod Commission Act was held by an authorized subcommittee of the Commission on the DRI request on March 5, 1998 at the Assembly of Delegates Chamber, Barnstable County Complex. A subcommittee meeting was subsequently held on March 26, 1998 to receive further information.

Materials Submitted for the Record:

Application Materials from Applicant:

- DRI Application with black three-ring binder
- Two sets of 10 site plans, full size
- Certified Abutters List
- Interconnect Agreement between the Flatley Company (Southwind Plaza) and Trustees of the Campbell/Massachusetts Trust (for Festival at Hyannis)
- 11"x17" site plan
- 8-1/2"x11" site plan
- Color aerial photo of the site
- 100 Line Performance Sconces, lighting brochures
- Copy of a letter from Armando J. Carbonell to Patrick M. Butler, Esq., May 11, 1995
- Letter to Patrick M. Butler from Richard Bryant, P.E., SPA, December 15, 1997
- Memo to Michael Connolly from Larry Farrer, Engineering Advantage, Inc., March 2, 1998
- Letter to Patrick M. Butler, Esq. from Michael B. Stusse, Esq, March 3, 1998
- Letter to Gay Wells from Patrick M. Butler, March 4, 1998
- Letter to Gay Wells from Patrick M. Butler, March 5, 1998
- Letter to Michael Stusse from Ralph Crossen, March 30, 1998
- Letter to Gay Wells from John M. Shields, The Flatley Co., April 1, 1998
- Memo and Transportation Report to Paul Tilton from R. Bryant, March 18, 1998
- Letter to Paul Tilton from Jennifer Conley, Rizzo Assoc., April 9, 1998
- Letter to Michael Connolly from Lawrence A. Farrer, P.E. April 22, 1998

- Letter to Gay Wells from Patrick M. Butler, April 23, 1998
- Building Elevations
- Revised Building Elevations
- Letter to Gay Wells from Patrick M. Butler, April 16, 1998
- Revised Landscape Plan,(original date December 10, 1997, revision no date)
- Letter to Gay Wells, AICP from Patrick M. Butler, Esq. February 17, 1998
- Letter to Dorr Fox from Patrick M. Butler, February 18, 1998
- Letter to Gay Wells from Patrick M. Butler, April 27, 1998

Correspondence and Materials. Cape Cod Commission:

- Memorandum to CCC Subcommittee from Gay Wells, January 13, 1998
- Letter to Patrick M. Butler, Esq. from Gay Wells, AICP, January 14, 1998
- Hearing Notice
- Memo to Subcommittee from Gay Wells, February 27, 1998
- Staff Report, February 27, 1998
- Fax sheet to Patrick Butler from Gay Wells, March 27, 1998
- Revised Staff Report, March 3, 1998
- Fax sheet to Anna Brigham from Gay Wells, March 5, 1998
- Letter to Gay Wells from Patrick M. Butler, March 5, 1998
- Agenda Public Hearing, March 5, 1998
- Note to the file from Paul Tilton
- Fax sheet to Patrick Butler from Gay Wells, April 16, 1998
- Southwind Plaza Decision, December 16, 1998

Correspondence and Materials from the Town of Barnstable:

- Letter to Anna Brigham from Maryanne Peters, November 18, 1997
- Memo to Anna Brigham from McKean Thomas, November 25, 1998
- Minutes, Informal Site Plan Review, December 4, 1997
- DRI Referral Form,
- Letter to Cape Cod Commission from Ralph M. Crossen, December 22, 1997
- Minutes, Joint Site Plan Review, February 26, 1998
- Minutes, Site Plan Review, March 5, 1998

TESTIMONY

Gay Wells presented the Commission staff report. Commencing with transportation issues, she explained that the staff recommended permitting a trip reduction credit for 20,000 square feet of retail area for the construction of the interconnect to Southwind Plaza. Ms. Wells noted that the staff is awaiting documentation that the project can connect to a public sewer. She also noted that since the project is within a Zone of Contribution to a water supply well, hazardous materials should be limited on the site.

Ms. Wells stated that a landscaping plan needs to be submitted for the site drive at Attuck's Lane and additional plantings need to be proposed at the east side of the new building. The staff believes that the proposed building should have additional architectural details. She noted that additional information needs to be submitted for outdoor lighting. She also noted that the staff recommends accepting the applicant's offer to provide funds for off-site Open Space at a rate of \$1.50 per square foot.

Paul Tilton, Transportation staff, continued the staff report by explaining the issues pertaining to the interconnect in more detail. Transportation staff concerns include truck movements, queues, conflicts with the Attuck Lane intersection, and a left turn lane. He also recommended a pedestrian connection in the vicinity of Pier One and Stop & Shop buildings.

Andrea Adams discussed limited amount of hazardous materials allowed on the site and also stated that additional information is needed for outdoor lighting. Sumner Kaufman inquired whether lighting levels could be measured considering there is existing lighting in the parking lot.

Patrick Butler, representing the applicant, explained the project. He explained that the applicant would meet the thirty percent open space requirement by providing twenty-seven percent on site and providing the remaining three percent through a cash contribution. This contribution would be at a rate of \$1.50 per square foot.

Mr. Butler and their consultant discussed the interconnect and explained that changes have been made in the design due a land swap involving Southwind Plaza.

Rick Alfonso of Daylor Consulting discussed the landscaping for the project. Mr. Butler discussed the design of the building. He stated that leases of the other tenants may prohibit having a building that stands out from the others in the plaza. He also stated the need for consistency of design. Their consultant reviewed the design changes that were proposed in response to staff concerns.

Mr. Butler stated that the applicant is willing to construct the requested additional pedestrian walkway. Mr. Butler concluded his presentation by stating that he believes that the project's benefits outweigh any detriments.

Mr. Deane and Robert Randolph expressed concern over the sight distance at the site drive to Attuck's Lane and potential landscaping that may block views. Mr. Kaufman expressed concern that the signatures are not on the agreement. Mr. Butler confirmed that the agreement has been approved.

Joseph Tamsky requested that the applicant state the benefits of the project. Mr. Butler stated the proposed addition will increase the municipal tax base. The interconnect with Southwind Plaza is a benefit. There are no nitrogen loading issues because the project will be on sewer. The project will provide a contribution for Open Space. Mr. Tamsky inquired about the on-site Open Space. Mr. Butler stated it is shown in green on the plan. Mr. Brock inquired where the money would go for the open space contribution. Mr. Butler stated that they are agreeable to any appropriate entity that the Commission suggests.

John Shields of the Flatley Company, the owners of Southwind Plaza, stated that they are in agreement with everything that was represented by the applicants.

FINDINGS

1. The proposed project is being reviewed as a Development of Regional Impact under Chapter A, Section 3(i) of the Enabling Regulations as "new construction with a gross floor area greater than 10,000 sq. ft."
2. The project proposes to construct an 18,900 sq. ft. free-standing building on a vacant piece of land within the existing Festival at Hyannis shopping center. The proposed use is retail.
3. The proposed project is located in a Zone of Contribution to a water supply well and hazardous materials should be limited on the site in accordance with Minimum Performance Standards in the Regional Policy Plan.
4. The proposed building will be connected to an existing sewer line linking to the Barnstable Wastewater Treatment Facility.
5. The proposed project's approval coordinates with Conditions in the Decision for the Southwind Plaza, TR930014 dated December 16, 1993, which requires a vehicular interconnection with a sidewalk and a separate pedestrian interconnection between Festival at Hyannis and Southwind Plaza.
6. The project includes a transportation trip reduction credit for an interconnection to Southwind Plaza. Since this interconnect will reduce traffic on Route 132, the Cape Cod Commission is granting a trip reduction credit which allows for 20,000 square feet of retail space for each shopping center.

7. The Town of Barnstable is in the process of designing the proposed Attuck's Lane Extension. The applicant has designed the new driveway and interconnect assuming that the proposed development will be occupied following the construction of the Attuck's Lane extension.
8. The pedestrian walkway between Festival at Hyannis and Southwind Plaza, from the rear of the proposed building and the rear of Stop & Shop as shown on a plan enclosed with a letter from Patrick M. Butler dated April 27, 1998, is inadequate. A detailed plan showing connection to a sidewalk on the Festival site as well as showing how this relates to the Southwind site and buildings is required.
9. A revised lighting fixture schedule dated March 2, 1998 was received as part of a letter from Nutter, McClennen & Fish received by the Commission on April 24, 1998. The revised fixture schedule indicates the lighting for the proposed project will include both wallpacks and pole-mounted lights. The wallpacks are proposed to be 150 watt high pressure sodium fixtures with a prismatic lens. The pole-mounted lights are proposed to be 250 watt high pressure sodium fixtures with an internal house shield on 20 ft 0 inch round tapered steel poles. Information submitted at the March 5, 1998 public hearing also states the wallpacks will have a cutoff of below seventy (70) degrees from vertical.
10. The Commission finds the applicant's lighting proposal to be adequate due to the information submitted for the record, the nature of this project, that the applicant's lighting proposal is based in part on relocating existing fixtures and the fact that the project site is surrounded by existing retail development with outdoor lighting. However, the Commission also finds that both the Development of Regional Impact (DRI) application at section 2.4(k) and Technical Bulletin 95-001 (*Development of Regional Impact Guidelines for Exterior Lighting Design Standards and Submittal Requirements*) require a point-to-point lighting plan as well as other detailed lighting-related information be submitted as part of the project review and this requirement will not necessarily be waived for future projects under DRI review.
11. The Commission approves the revised landscape plan for the proposed building and the area at the interconnection with Southwind Plaza and Attuck's Lane, dated March 5, 1998, except that an irrigation system or a maintenance plan must be provided.
12. The revised building design, dated April 30, 1998, while not in the traditional character of Cape Cod design, matches existing buildings in the shopping mall and, therefore, is acceptable to the Commission.

13. The thirty percent Open Space requirement of the Regional Policy Plan will be fulfilled by providing twenty-seven percent on site and an additional three percent through a cash contribution of \$1.50/square foot. These funds will be contributed to either the Town of Barnstable's Conservation Fund or the Barnstable Land Trust to be used solely for acquisition of land for conservation purposes. The Commission has not received a final Open Space plan and calculations for the cash contribution.
14. The project is consistent with the Barnstable Zoning Ordinance and the Barnstable Local Comprehensive Plan.

CONDITIONS

1. All conditions shall be met and a Certificate of Occupancy shall not be issued for the building nor shall it be used for retail purposes prior to the issuance of a Certificate of Compliance by the Cape Cod Commission.
2. At least 30 days prior to the time that a Certificate of Compliance is requested by the applicant, notification shall be given to the Cape Cod Commission to allow time for staff to inspect the site and ascertain that all conditions have been met.
3. The project is required to comply with the Minimum Performance Standards in the Regional Policy Plan for developments within Zones of Contribution.
4. Documentation of connection to the sewer for the Barnstable Wastewater Treatment Facility is required prior to issuance of a Certificate of Compliance.
5. The applicant shall coordinate with the Town of Barnstable in the design and construction of the interconnection, particularly as they relate to the Attuck's Lane extension.
6. All interconnects shall be constructed and operable prior to Certificate of Occupancy. This includes the Southwind Plaza portion of the interconnects, per the previously-referenced Decision for Southwind.
7. Truck routes shall be designated to and from the loading docks at Festival Mall and appropriate signage (including truck-exclusion signs for the interconnect) shall be provided prior to issuance of a Certificate of Occupancy.

8. In the event that the proposed development will be occupied prior to construction of the Attuck's Lane extension, the applicant should design a temporary interconnect with Southwind Plaza without the new site drive connection to Attuck's Lane.
9. The applicant will provide a detailed plan showing the pedestrian walkway and connection to a sidewalk on the Festival site as well as showing how this relates to the Southwind site and buildings for approval prior to issuance of the building permit. The pedestrian walkway will be constructed prior to a Certificate of Compliance.
10. Lighting for the proposed project shall be of the type, wattage and styles as described in the Revised Site Lighting Fixture schedule dated March 2, 1998 received by the Commission on April 4, 1998. Wallpacks shall include a prismatic lens, with means to adjust the beam cutoff in the field. The location of wallpacks shall not exceed 20 ft 0 inches in height and wallpacks shall be designed with a maximum cutoff of seventy (70) degrees from vertical. Pole-mounted lights shall have a total cutoff of all light at less than ninety (90) degrees from vertical. Poles shall not exceed 20 ft 0 inches in height. Flood and area lighting as well as internally-illuminated signs shall not be permitted.
11. Prior to issuance of a Certificate of Compliance, all landscaping at the building site shall be provided in accordance with the revised landscape plan, dated March 5, 1998, and an irrigation system or a maintenance plan as approved by Cape Cod Commission staff must be provided.
12. All landscaping at the interconnection site shall be provided in accordance with the revised landscape plan, dated March 5, 1998, prior to the issuance of a Certificate of Compliance. In the event that Attuck's Lane has not yet been constructed, landscaping in the Attuck's Lane area may be postponed until such time that Attuck's Lane is constructed and an Escrow Agreement may be provided as noted in Condition 16.
13. The building shall be constructed in accordance with the revised elevation drawings, dated April 30, 1998.
14. The applicant will supply the final Open Space plan, dated December 10, 1997, and calculations for the cash contribution to a conservation fund to the Commission for approval prior to issuance of a Certificate of Compliance.

