



CAPE COD COMMISSION

COPY

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E-mail: frontdesk@capecodcommission.org

DATE: November 13, 2000

TO: Bed, Bath & Beyond

FROM: Cape Cod Commission

RE: Change of Use
Cape Cod Commission Chapter A Enabling Regulations Section 4

APPLICANT: Bed, Bath & Beyond
C/o Attorney Michael D. Ford, Stinson & Ford
72 Main Street, Post Office Box 665
West Harwich, MA 02671

PROJECT #: CU20033

PROJECT: Bed, Bath & Beyond
Capetown Plaza, Route 132
Hyannis, Massachusetts

BOOK/PAGE: Book 257, Page 66

DECISION OF THE CAPE COD COMMISSION

SUMMARY

Under the Cape Cod Commission (Commission) Change of Use/Redevelopment provision the Regulatory Committee of the Commission hereby approves the application of Bed, Bath & Beyond Change of Use pursuant to Section 3 (f) (1) and (2) of the Cape Cod Commission, Chapter A Enabling Regulations for the proposed Bed, Bath & Beyond retail store. The decision is rendered pursuant to a vote of the Commission Regulatory Committee on November 13, 2000.

PROJECT DESCRIPTION

The redevelopment project is proposed at the current location of the Airport Cinemas Complex within the Capetown Plaza, located along Route 132 in the village of Hyannis and the Town of Barnstable. The site is within a Groundwater Protection Overlay District and located partially within the Highway Business District and partially within the Business District of Barnstable. The project involves the demolition of a 22,364



square foot (SF) eight-screen cinema and construction of a 25,500 SF Bed, Bath and Beyond retail store in its place.

PROCEDURAL HISTORY

The project was referred to the Commission by the Barnstable Building Commissioner as a mandatory referral on April 20, 2000. The Commission received the referral on April 20, 2000. A completed application under the Redevelopment/Change of Use provision was received on September 18, 2000. A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by the Regulatory Committee of the Commission on October 30, 2000 in the Commission offices. The public hearing and the record were closed on October 30, 2000.

At the October 30, 2000 Regulatory Committee meeting, the Committee voted unanimously to recommend that staff proceed with the drafting of a decision for the project. A final public meeting was held in the Commission offices by the Regulatory Committee on November 13, 2000. At this meeting, the Regulatory Committee voted to approve the written decision declining review of the project as a DRI.

Materials submitted for the record

From the applicant:

- Town of Barnstable Application for Site Plan Review, date 4/19/00
- Letter from Michael Ford, Stinson and Ford, to Seth Wilkinson dated 9/18/00
- Letter from Michael Ford, Stinson and Ford, to Linda Hutchenrider, Barnstable Town Clerk received 9/18/00
- Site Plans C1 and C2 received 9/18/00
- Existing Conditions plan received 9/18/00
- Layout and Dimension plan received 9/18/00
- Drainage and Utility plan received 9/18/00
- Grading plan received 9/18/00
- Landscaping plan received 9/18/00
- Detail Sheets C8 and C9 received 9/18/00
- Elevation Drawings dated 9/18/00.
- Elevation Drawings received 10/24/00
- Memo from F. Giles Ham, PE and Jeffrey S. Dirk PE to Sheldon Canto Dated 8/23/00

From Cape Cod Commission staff:

- Letter from Seth Wilkinson to Michael Ford dated 10/5/00
- Memo from Andrea Adams to Seth Wilkinson dated 10/18/00

From state/local officials:

- None

From the public:

- None

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

At the public hearing on October 30, 2000 Michael Ford, on behalf of the applicant, presented the Bed, Bath & Beyond project and advocated that the application should be approved. Seth Wilkinson, Cape Cod Commission Planner, recommended that the application be approved. There was no public testimony given at the October 30, 2000 public hearing.

JURISDICTION

The proposed Bed, Bath & Beyond project involves a change of use of more than 10,000 square feet of commercial space to retail space and therefore requires Commission review. The project qualifies for the Change of Use review by the Commission Regulatory Committee under Section 3(f) of the Commission Enabling Regulations governing review of Developments of Regional Impact, since the project is less than 40,000 total square feet in size.

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 than those of the immediately prior use and determine whether DRI review should be required.

FINDINGS

The Regulatory Committee has considered the application of Bed, Bath & Beyond for their proposed retail store and based on consideration of the Change of Use application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 3 (f) and 4 of the Commission Chapter A Enabling Regulations:

- The redevelopment project consists of the demolition a 22,364 square foot (SF) eight-screen cinema and construction of a 25,500 SF Bed, Bath and Beyond retail store in its place. The cinema complex has been vacant for approximately 18 months.
- The project is proposed to be constructed in accordance with Site Plans C1 through C9 received 9/18/00 and Elevation Drawings received 10/24/00.
- The building is not located within a Historic District, nor is the demolition affecting any historic structure.

- Community Character will not be adversely impacted by the project which was designed in a manner consistent with typical Cape Cod architecture. In addition, the project does not propose any internally illuminated signs.
- Transportation impacts resulting from the project will be reduced from the immediately prior use.
- The proponents have agreed to limit the amount of hazardous materials to 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time.
- The proposal does not have greater water resources, natural resources, open space, and economic development impacts than the immediately prior use.

The impacts of the proposed Bed, Bath & Beyond retail store will not be more detrimental than those of the immediately prior use and the project therefore does not require Development of Regional Impact review under the Change of Use provision of the regulations governing DRI's.

CONCLUSION

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

David J. Ansel
David J. Ansel, Regulatory Committee Chair

11/13/00
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 13th day of Nov 19 2000

Katharine L. Peters
Name, Notary Public

My commission expires:

