



CAPE COD COMMISSION

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Date: January 3, 2000

To: Gladstone Limited Partnership,
c/o Attorney Patrick Butler, Nutter, McClennen & Fish
1513 Iyanough Road
Hyannis, MA 02601

From: Cape Cod Commission

Project #: CU99038

Project: Linens & Things
76, 80, and 94 Enterprise Road
Hyannis, MA 02601

RE: Determination of Change of Use
Cape Cod Commission Act, Section 3 (f)(1)&(2)

Book/Page: C138492, C137679, C138493

Lot / Plan #:

Certificate #:

DECISION OF THE CAPE COD COMMISSION

Summary:

The Cape Cod Commission (Commission) hereby finds that the proposed Linens & Things retail specialty store in Barnstable, MA is subject to mandatory review as a Development of Regional Impact (DRI) limited to the subject areas of Community Character and Transportation under Section 3 of the Development of Regional Impact (DRI) Enabling Regulations, Barnstable County Ordinance 90-12, as amended. The decision is rendered pursuant to the vote of the Regulatory Committee of the Commission on January 3, 2000.

Linens & Things #CU99038
Change of Use Decision January 3, 2000



Project Description:

The project consists of plans by Gladstone Limited Partnership to demolish existing structures and construct one 34,042 square foot retail building on 2.55 acres of land. The site currently consists of 36,000 square feet of mixed-use development housed in three separate buildings. The proposed Linens & Things site abuts the southwestern side of the Cape Cod Mall and has frontage along Enterprise Road in the village of Hyannis.

Procedural History:

The Commission received a Determination of Change of Use application from Gladstone Limited Partnership, c/o Attorney Patrick Butler on November 30, 1999. A duly noticed public hearing pursuant to Section 5 of the Act to consider the Change of Use application was held by the Regulatory Committee of the Commission on December 29, 1999 at the Cape Cod Commission offices in Barnstable, MA. The public hearing was continued to January 3, 2000. At this public hearing the Regulatory Committee voted unanimously that the project was subject to mandatory review as a DRI, limited to the subject areas of community character and transportation.

Materials Submitted for the Record:

From the Applicant:

- Change of Use application dated 11/17/99.
- Letters from Patrick Butler dated; 4/12/99, 5/19/99, 5/27/99, 10/4/99, and 11/30/99.
- Certified abutters list for 76, 80, and 94 Enterprise Road dated 12/8/99.
- Letter from Arne H. Ojala P.L.S., P.E. to Attorney Patrick M. Butler dated 12/28/99.
- Locus Map.
- Site Plans dated 3/28/99 and 12/27/99.
- Letter from Jennifer Conley, Rizzo Assoc. to Glenn Cannon, Cape Cod Commission dated 9/22/99.

From the Cape Cod Commission:

- Letters from Andrea Adams, Commission Planner to Patrick Butler dated 5/17/99, 9/23/99, and 11/3/99.
- Memo from Glenn Cannon to Andrea Adams dated 5/18/99.
- Fax from Seth Wilkinson, Commission Planner to Ralph Crossen, Barnstable Building Commissioner dated 12/20/99.
- Memos from Seth Wilkinson to Regulatory Committee dated 12/23/99, 12/29/99, and 1/3/00.

From local officials:

- Letter from Ralph Crossen, Barnstable Building Commissioner to Patrick Butler dated 4/6/99.
- Letter from Ralph Crossen, Barnstable Building Commissioner to Regulatory Committee dated 12/21/99.
- Letter from Ralph Crossen, Barnstable Building dated 12/30/99.

From the public:

- Letter from Susan Friedman to Members of the Commission dated 12/14/99.

The application and notices of public hearings relative thereto, the Commission's staff notes, exhibits and correspondence, the transcript and minutes of the hearing and all written submissions received in the course of the proceedings of #CU99038 are incorporated into the record by reference.

Testimony:

The Commission received testimony at the December 29, 1999 and January 3, 2000 public hearings. No public officials testified at these hearings.

December 29, 1999 Public Hearing

Attorney Patrick Butler, representing the applicant, argued that the project should not be under the jurisdiction of Commission review because it satisfied the criteria of the Change of Use redevelopment provision.

Seth Wilkinson, Project Planner, stated that the Commission should assert jurisdiction and review the project as a DRI limited to the areas of areas of community character, water resources, natural resources and transportation because the negative impacts to these subject areas mentioned outweigh the proposed site improvements.

Glenn Cannon, Commission transportation engineer, stated that the project warranted review as a DRI because there were significant transportation safety issues in proximity to the site and there was the potential for a substantial amount of new trips to be generated as a result of this project.

Mr. Jack Jordan, of Jordan Sign Company and an abutter to the proposed project, stated that he had traffic concerns relating to the proposed Linens & Things.

Janice Gold, of Gold's Collision, explained that she was a current tenant in the location of the project and that she had nowhere to relocate to if this project is constructed.

The commission members discussed the project with the applicant and staff which resulted in a unanimous vote to continue to January 3, 2000 following the Regulatory Committee meeting.

January 3, 2000 Public Hearing

Seth Wilkinson, Project Planner, continued the public hearing which had begun on December 29, 1999 by reporting that he and Gabrielle Belfit, of the Commission Water Resources staff, had met with two professional engineers regarding the issue of compensatory flood storage capacity. He explained that staff were satisfied with the two

engineers plans to create flood storage capacity and the scope of the proposed limited Development of Regional (DRI) review could be limited to the areas of Community Character and Transportation.

Attorney Butler argued that the remaining issues should be worked out at the site plan level without needing a DRI at all.

Mr. Ansel made a motion to close the hearing and accept the project as a DRI limited to the areas of Community Character and Transportation. Mr. Ansel added that Mr. Cannon should work with the town to expedite the process. Mr. Broidrick seconded the motion, which was carried unanimously.

Findings:

- 1). The project consists of plans by Gladstone Limited Partnership to demolish existing structures and construct one 34,042 square foot retail building on 2.55 acres of land in a district zoned for business. Currently, the site contains 36,000 square feet of mixed-use development housed in three separate buildings.
- 2). Section 4 of the Enabling Regulations governing Developments of Regional Impact authorizes the Regulatory Committee to limit the review of commercial development projects to specific subject areas.
- 3). With the connection of Enterprise Road to Route 132 as a result of the Cape Cod Mall expansion, redevelopment of Enterprise Road is likely to have significant community character impacts as this area becomes a significant part of the Route 132 commercial corridor. At the town level, design review would be a significant benefit since this site is not located within a historic district and Site Plan Review does not ordinarily regulate community character issues outside of historic districts.
- 4). Transportation safety issues in proximity to the project site have been identified as well as the potential for a significant increase in new vehicle trips from the proposed project. The anticipated traffic impacts of this project warrant DRI review.
- 5). The proposed Linens and Things project design may not significantly impact existing site conditions in the subject areas of Natural Resources and Water Resources due to an innovative system to create artificial compensatory flood storage capacity in an area which currently experiences flooding. Two professional engineers have reviewed the plans for this system and have determined that the proposal should adequately function. Town engineers have testified, in writing, that they will be capable of reviewing this proposal at the town level.
- 6). Other issue areas such as affordable housing and economic development should not have significant regional impacts. These other issue areas will not be included in the scope of review.

7). The detrimental impacts of this project to the subject areas of community character and transportation are greater than those of the immediately prior uses on the site. Therefore, the proposal should be subject to DRI review. The Linens & Things project should be reviewed for all aspects of the community character and transportation subject areas of the RPP.

Conclusion:

Based on the findings above, the Commission hereby finds that the Linens & Things retail specialty store in Barnstable, MA is subject to mandatory review as a Development of Regional Impact (DRI) limited to the subject areas of Community Character and Transportation under Section 3 of the DRI Enabling Regulations. This conclusion is based on findings #1 - 7 above.

This decision is rendered pursuant to a vote of the Cape Cod Commission Regulatory Committee on January 3, 2000.

Materials submitted for the public record on this application are available for examination at the office of the Cape Cod Commission, 3225 Main Street, Barnstable, MA from 8:30 a.m. to 4:30 p.m. For more information, please call (508) 362-3828.

Robert D. Deane
Robert D. Deane, Regulatory Committee Chair

January 18, 2000
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 18th day of January 2000

Katharine L. Peters
Name, Notary Public

My Commission expires:

