



# CAPE COD COMMISSION

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DATE: March 2, 2000 #TR-99037 (Exemption Denial)

TO: Robert Ament, Attorney, Representing the Applicant  
Ament and Ament  
39 Town Hall Square  
P.O. Box S  
Falmouth, MA 02541

FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Burlington Self Storage of Cape Cod, LLC.

PROJECT: Burlington Self-Storage of Cape Cod – Building E  
Falmouth, MA

BOOK/PAGE: Book: 10954 Page: 198

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (the Commission) hereby denies the application Burlington Self Storage of Cape Cod, LLC for a Development of Regional Impact Exemption pursuant to Section 12k of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Burlington Self Storage Building E project consisting of 23,100 square feet of gross leasable space to be used for storage on a parcel of 29,928 square feet off of Route 28/Teaticket Highway in East Falmouth, MA. The decision is rendered pursuant to a vote of the Commission on March 2, 2000.

### PROJECT DESCRIPTION

The project consists of the construction of a self-storage facility comprised of one three-story (basement and two floors) building consisting of 23,100 square feet of gross leasable space to be used for storage on a parcel of 29,928 square feet off of Route 28/Teaticket Highway in East Falmouth, MA. The project will also involve the removal of several buildings associated with a former concrete batching plant consisting of a main building and two garage buildings.

The proposed project will consist of approximately 60 self-storage units in a variety of sizes ranging from 100 square feet (10x10) to 200 square feet garage size. The facility

will offer climate-controlled storage areas. An internal freight/passenger elevator will be provided to move items between the first, second and third floors. Building E will be equipped with "dry" sprinkler systems, smoke and heat detectors and security gates. Entry to the facility will be permitted through a computer-controlled system operated through a key-code system.

### PROCEDURAL HISTORY

The project was referred to the Commission as a Development of Regional Impact (DRI) under the Cape Cod Commission Act, Sections 12(c), Chapter 716 of the Acts of 1989, as amended. The referral was made by Mr. Brian A. Currie, Falmouth Town Planner, on December 2, 1999 and was received on December 6, 1999 by the Commission. The applicant also filed for a DRI Exemption request.

A duly-noticed public hearing was scheduled for Thursday, January 27, 2000 at 7:00 PM at the Gus Canty Recreational Center in Falmouth. On January 10, 2000, the DRI/DRI Exemption application for the project was deemed sufficiently complete to proceed with a public hearing on January 27. At the applicant's request, the public hearing was changed to a Hearing Officer. On January 27, 2000, a Hearing Officer opened and continued a public hearing and the record on the DRI and DRI Exemption request to February 16, 2000 at 7:00 PM at the Falmouth Public Library, Katherine Lee Bates Road, Falmouth, MA. At the February 16, 2000 public hearing, the Subcommittee closed the DRI Exemption hearing and continued the DRI hearing and the record until March 2, 2000 at the Commission's regular business meeting at the First District Courthouse in Barnstable. The Subcommittee also decided to hold a public meeting at 1:00 PM at the Commission office on Tuesday, February 22, 2000 to discuss the project. At that Subcommittee meeting, the Subcommittee voted to recommend denial the DRI Exemption request and recommended approval of the DRI with conditions to the full Commission. At the March 2, 2000 Commission meeting, the Commission voted 7 in favor, 6 opposed to deny the DRI Exemption request.

### MATERIALS SUBMITTED FOR THE RECORD

#### 1. Applicant submittals

DRI application received from Ament & Ament to Cape Cod Commission	12/13/99
Letter from Ament & Ament to Cape Cod Commission re: additional application submittals	1/5/00
Letter from Ament & Ament to Cape Cod Commission re: comments on Staff Report	1/25/00
Letter from Ament & Ament to Cape Cod Commission re: additional plan submittal	2/2/00
Letter from Ament & Ament to Cape Cod Commission re: revised site plan	2/4/00
Letter from Ament & Ament to Cape Cod Commission re: comments on Staff Report	2/14/00
Letter from Ament & Ament to Cape Cod Commission re: comments on Staff Report	2/15/00
Letter from Ament & Ament to Cape Cod Commission re: revised site plan	2/16/00
Letter from Ament & Ament to Cape Cod Commission re: Transaction Screen	2/16/00
Letter from Ament & Ament to Cape Cod Commission re: comments on Staff Report	2/16/00
Copy of Transaction Screen with appendices	2/16/00
Letter from Ament & Ament to Cape Cod Commission re: concerns of abutters	2/16/00
Site Photos (4 on 8 x11 sheets of paper)	2/16/00
Copy of Fenno House Addition DRI Exemption Decision (10/22/98)	2/16/00
Copy of Hyannis Marine Boat Storage Building DRI Exemption Decision (2/17/00)	2/16/00
Letter from Ament & Ament to Cape Cod Commission re: exemption recommendation	2/18/00
Letter from Ament & Ament to Cape Cod Commission re: exemption & DRI	2/25/00
Check, Balance of DRI Fee	3/2/00

## 2. Cape Cod Commission

Letter from Cape Cod Commission to Ament & Ament re: DRI notification	12/8/99
Letter from Commission staff to Commission Subcommittee re: public hearing	12/8/99
Letter from Commission staff to Commission Subcommittee re: public hearing	12/20/99
Letter from Cape Cod Commission to Ament & Ament re: application	12/21/99
Letter from Cape Cod Commission to Ament & Ament re: application	1/10/00
Letter from Commission staff to Commission Subcommittee re: public hearing	1/20/00
Staff report	1/20/00
Letter from Cape Cod Commission to Teaticket Civic Association, Inc. re: information request	1/20/00
Letter from Cape Cod Commission to Ament & Ament re: public hearing	1/26/00
Hearing Notice	1/27/00
Fax from Cape Cod Commission to Ament & Ament re: public comments	2/8/00
Letter from Cape Cod Commission to Teaticket Civic Association, Inc. re: staff counsel opinion	2/8/00
Fax from Cape Cod Commission to Ament & Ament re: staff report	2/11/00
Fax from Cape Cod Commission to Brian Currie re: staff report	2/11/00
Fax from Cape Cod Commission to Falmouth Conservation Commission, town clerk, and ZBA re: staff report	2/11/00
Staff report	2/10/00
Memo from Commission staff to Commission Subcommittee re: public hearing	2/10/00
Meeting Notice	2/22/00

## 3. Town

DRI referral from Brian Currie	12/2/99
Proof of receipt of CCC application from Falmouth Conservation Commission	1/5/00
Proof of receipt of MHC notification form, from Massachusetts Historical Commission	1/3/00
Zoning Article on Town Warrant from Brian Currie to Cape Cod Commission	2/11/00

## 4. Members of the Public/Other Agencies

Letter from the Teaticket Civic Association, Inc. to the Cape Cod Commission re: information request	1/15/00
Letter from the Teaticket Civic Association, Inc. to the Cape Cod Commission re: concerns	1/21/00
Letter from the Teaticket Civic Association, Inc. to the Cape Cod Commission re: concerns	1/24/00
Letter from Peter Gallerani III to Cape Cod Commission re: concerns	1/24/00
Letter from Spencer and Kim Lehy to Raleigh Costa re: concerns	2/15/00
Copy of Assessors Map showing site and list of five items concerning stream from Civic Association	2/16/00
Pictures of Existing Self-Storage site (from abutter)	2/16/00
Letter from the Teaticket Civic Association, Inc. to Cape Cod Commission re: concerns	2/21/00
Letter from Janet Hand, expressing concerns about the project	2/25/00

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 the Commission's proceedings are incorporated into the record by reference.

## TESTIMONY

### Public Hearing, February 16, 2000

Kenneth Brock opened the public hearing at 7:00 p.m. Elizabeth Taylor read the hearing notice. Mr. Brock explained that the hearing would consider approval for both a DRI and a DRI Exemption. He also explained the concept of the DRI Exemption.

Laura Moynihan explained the position of the project proponent. She described the existing self storage facility on the site, noting that it is nearly at full capacity. There is a need for more storage area in the vicinity. She stated that the proposal is a low impact project. There are few impacts to water resources, traffic, natural resources and other areas of concern to the Commission. The project is to be located on the site of a former concrete batching plant. The site consists of approximately 30,000 square feet and is primarily zone Light Industrial A in accordance with the Official Zoning Map of the Town of Falmouth with a small portion zoned residential. The adjoining sites are primarily in commercial or industrial use. The site is not environmentally significant.

Ms. Moynihan reviewed the plan for the three-story building, which has approximately sixty units and 23,000 square feet of floor space. She noted that the applicant would close off the curb cut on the site to Route 28. Access will be through the existing facility. The project will have 49 percent lot coverage, which is a reduction from the current situation. The adjoining wetland will be revegetated. The area abutting Route 28 will be revegetated.

She reviewed the traffic statistics for the existing facility and stated that the additional traffic from the proposal will be negligible. There will be a reduction in nitrogen loading, since there will be no septic system on the site. She reviewed the elevation drawings of the proposed building and the landscaping plans. She noted that parking on the site was not required, nor will it be provided.

She noted that the applicant has applied for an exemption for the project, based on the belief that it has low impacts. She distributed the Hyannis Marine and Fenno House decisions as examples of previous projects that were granted DRI Exemptions. She believes that this project is comparable. She also noted that the project would undergo considerable review by local boards and municipal departments. She concluded her presentation by stating that the project should be approved as a DRI, if an exemption is not granted.

Thomas Broidrick inquired whether it would be possible to grow vegetation in the area that is currently concrete and crushed rock. Christopher Costa, the applicant's engineer assured the subcommittee that landscaping would grow in this area.

Joseph Travelo questioned the sight distance information and inquired whether circumstances had changed since the first portion of the project was reviewed in 1996. It was determined that this issue would be addressed by Mr. Glenn Cannon in his presentation.

Andrea Adams presented the Staff Report. On Hazardous Materials/Wastes, she noted a Transactional Site Assessment was distributed by the applicant at the site visit and that staff have not had a chance to review this document.

On Community Character issues, Ms. Adams noted that the proposed project is located on Route 28/Teaticket Highway, a regional roadway in Falmouth. She noted that the project has the potential to have regional impacts in the area of Community Character. Ms. Adams stressed that staff believes it is important for the Commission to consider a

Development of Regional Impact approval with conditions to insure through conditions that these impacts are mitigated.

Frank Shephard inquired about the status of the zoning on the site. Ms. Adams explained that the site was considered to contain a non-conforming use and that the Zoning Board of Appeals could grant approval of a special permit to allow the proposal.

Mr. Cannon presented the transportation section of the staff report. Mr. Cannon stated that the project's peak hour traffic impacts were below the Regional Policy Plan's thresholds requiring analysis or mitigation and that closing the existing cement plant driveway would be a benefit to the regional roadway system. Mr. Cannon did state that transportation staff was concerned with a potential safety issue associated with the western driveway and recommended posting the driveway with exit signs to guide the self storage clients in the direction of Village Commons Drive.

Mr. Cannon also inquired into the prior years of operation of the cement plant. Mr. Cannon stated that if the project were determined to be a Development of Regional Impact, then the project would be required to reduce site generated daily traffic by 20%. If the cement plant has been in operation in the past five years, then the project can be credited with removing that traffic from the roadway system and thus satisfying the Regional Policy Plan trip reduction requirements.

Mr. Avido, an abutting property owner stated that the applicant never completed the landscaping on the previous portion of the project. He stated that other than this issue, they were good neighbors.

Mr. Leaghy said he was upset about how the landscaping on the other portion the project turned out. He is also concerned about debris in the open space.

Kim Spencer stated that she is also concerned about the landscaping issue.

Elizabeth Kent questioned the applicant's statement that there will be no parking on the site. She stated that it is obvious that when the customers visit the site they will need to park their cars. Ms. Moynihan clarified that there will be parking allowed in front of the individual units, but that otherwise no parking spaces will be provided. Ms. Kent inquired whether parking would be allowed in the units. Ms. Moynihan stated that such parking would not be permitted.

Mrs. Souza stated that she had concerns over parking since the project was being built over a former wetland.

Mr. Raleigh Costa of the Teaticket Village Civic Association stated that he believes that the zoning is not just a local issue and should be addressed by the Commission. He distributed a list of five conditions that pertained to landscaping and the upkeep of property located adjacent to the site and not owned by the applicant. He stated that if the applicant agreed to these conditions, many of the neighbors would have no problem with the project.

Jay Schlijker requested that the staff investigate issues pertaining to site debris, open space and landscaping.

Robert Ament, attorney for the applicant, rebutted the statements made by the neighbors and the Commission staff. He stated that the debris is located on another abutter's land. He stated that if the landscaping has died, it would be replaced. In regards to zoning, he stated that the site has a non-conforming status and that the use can be modified by the Zoning Board of Appeals. He stated that the Conservation Commission would never allow the applicant to do most of the work that is requested by Mr. Costa's five conditions. He stated that the project had minimal traffic impacts and disagreed with the provision of signs and trip reduction measures.

Virginia Rebossa stated that she is not in favor of the project.

Mr. Avido stated additional concerns about the landscaping.

Mr. Shephard moved to deny the DRI Exemption and pursue approval of the DRI. The motion was not seconded and was withdrawn.

Elizabeth Taylor inquired whether the town boards could impose all the conditions the Commission desired to place on the project. She inquired about the Hyannis Marine project and the recent exemption granted to Renaissance Place. Dorr Fox responded that the staff could not verify whether the Town of Barnstable had incorporated the suggested conditions for Renaissance Place, but could verify that they believed that they had limited authority to place conditions pertaining to community character on a project.

Mr. Shephard moved to close the DRI Exemption hearing and continue the DRI hearing until March 2, 2000 at 3:00 p.m. at the First District Courthouse in Barnstable. Mr. Broidrick seconded the motion and it was unanimously approved. The committee decided to meet at 1:00 p.m. at the Commission office on Tuesday, February 22, 2000 to discuss the project.

#### Public Meeting, February 22, 2000

Mr. Brock decided that the committee should review the issue areas in the minutes to determine whether the project has regional impacts. This would determine whether an exemption should be granted for the project.

The committee discussed water resource issues. It was noted that since the storm water drainage issues had been addressed, there were no remaining regional issues. The committee reviewed the hazardous materials issues. It was determined that all the issues were resolved with the exception of asbestos removal. This issue could be handled by the Board of Health and through state programs. Elizabeth Taylor inquired about pre-existing contamination of the site. Andrea Adams responded.

The committee discussed natural resource issues. Committee members noted that the project has construction within eighty-five feet of the wetland. Committee members suggested that there should be additional re-vegetation within the buffer. The open

space plan should be improved and there should be an amendment to the conservation restriction.

The committee discussed community character issues. Tana Watt discussed the status of the landscaping from the previous portion of the project. Some of the plantings are missing or have died. Ms. Taylor inquired why some of the trees in the front of the site have been removed. Mr. Schlaikjer responded that additional trees will be planted. Ms. Watt noted that they would not be mature trees. She also stated that the earlier project had a maintenance agreement and that many plantings had died. She recommended that the committee approve the project as a DRI to allow for greater enforcement opportunities. Laura Moynihan stated that the local boards will look after these issues.

Frank Shephard inquired whether the exemption approval should be withheld to ensure compliance with the 1996 decision. Dorr Fox stated that the two projects should be considered separate. Ms. Moynihan stated that the applicant would replace the trees on the site. Ms. Taylor stated that she believes that the removal of the debris in the wetland is the applicant's responsibility. Ms. Moynihan stated that she is not sure of the source of the trash.

The committee discussed the topic of traffic. Glenn Cannon stated that if an exemption was granted, there would be no trip reduction requirement. He stated that there is still a concern over the sight distance at the western entrance drive. Ms. Moynihan stated that conditions could be placed on the local approval to resolve the issue.

Mr. Schlaikjer stated that there was no correspondence from the town objecting to the exemption. Thomas Broidrick stated that the exemption should be denied and that the committee should focus on the DRI. Mr. Shephard stated that there are issues that should be addressed and therefore the exemption should be denied.

Mr. Brock inquired what the detriments for a DRI would be if an exemption is not granted. Mr. Fox stated that the major issues including timing, an increase in fees and enforcement capability. Ms. Moynihan stated that the conservation restriction would take time, effort and cost. She also noted that the compliance inspection would create difficulties. She also expressed concerns over plan modifications.

Mr. Shephard inquired whether the project is contingent on a zoning change. Ms. Moynihan stated that it was not.

Mr. Brock stated that the Commission's contribution to the project is marginal and that the Commission should not review the project as a DRI. Ms. Taylor stated that there is no guarantee that town boards will place Commission recommended conditions on the project.

Mr. Schlaikjer inquired about whether there are regional impacts from the project. Ms. Watt stated that there are community character impacts. Mr. Cannon stated that there are traffic impacts.

Mr. Shephard made a motion to recommend denial of the DRI Exemption and approval of the DRI to the full Commission. Ms. Taylor seconded the motion. Three members voted in favor of the motion and two opposed it.

The committee and staff discussed possible conditions of approval. Ms. Watt inquired about whether there should be an escrow account to ensure survival of landscaping. Mr. Brock reviewed conditions for storm water plans, hazardous materials, landscaping and the other topic areas. Ms. Moynihan objected to a suggested by staff to increase the number of blueberry bushes in the wetland buffer. She stated that ecology mix grasses would be less expensive to the applicant. Mr. Schlaikjer moved to accept the most recent proposal with further distribution of the ecology mix. Mr. Broidrick seconded the motion and it was unanimously approved.

The subcommittee decided to review the draft decision by the end of the week. If there is disagreement concerning the decision there will be a meeting on February 28, 2000.

Mr. Schlaikjer moved to approve the minutes of the hearing from February 22, 2000. Mr. Shephard seconded the motion and it was unanimously approved. The meeting adjourned at 2:45 p.m.

#### Public Meeting, February 28, 2000

The Subcommittee and the applicant reviewed the draft DRI exemption decision and proposed no changes.

The Subcommittee reviewed and made several minor, non-substantive changes to the draft DRI decision. Conditions CC2 and CC3 of the decision were amended. Relative to the issue of signage, Attorney Laura Moynihan proposed to add a condition to allow for future installation of signs by requiring the submission of plans to Commission staff prior to installation. The Subcommittee agreed on the wording of Natural Resources/Open Space Finding #4.

Ms. Adams noted that she is waiting a response from Brian Curry, Falmouth Town Planner, relative to the project's consistency with the local comprehensive plan. She said that staff is comfortable with the adding a clause to Condition G8 to provide reasonable notice to the property owner when staff needs to access the property.

Ms. Adams proposed a modification to NR/OS Condition 1 that would allow for trash removal in the wetland buffer, but would not allow for the removal of existing vegetation in the wetland buffer once construction is completed. The Subcommittee requested that staff refine this condition later and review it with the applicant.

The Subcommittee discussed Condition CC1 and decided to keep language relative to the "ecology mix" grass and dispersed planting located in the wetland buffer. The Subcommittee agreed that the landscape plan should be annotated accordingly.

Elizabeth Taylor suggested a pH test to determine soil acidity and plant material suitability. Ms. Moynihan noted that new soil is being introduced into the site.

Ms. Watt said that she believes that the proposed plantings are appropriate and will grow given the area soil profiles. She noted that the landscaper is usually responsible for ensuring appropriate soil composition when installing new plant materials.

Ms. Adams reviewed Condition CC5. Ms. Moynihan said that the escrow amount is too costly and proposed that it should be reduced from \$7,500 to \$2,000, particularly given that this is a redevelopment project.

Ms. Watt believes that a lower escrow amount is adequate, but that \$2,000 is too low an amount.

Mr. Fox suggested that a escrow agreement include a percentage rather than a lump sum amount to allow for increased costs over time. Ms. Moynihan said that the applicant is looking for occupancy next fall and argued that the \$2,000 lump sum be used.

Mr. Shephard made a motion seconded by Mr. Broidrick to reduce the escrow amount by 75% to \$2,000. All voted in favor of the motion.

Ms. Moynihan proposed that the decision include a provision for the written certification for test borings.

Mr. Broidrick noted concern about test borings in down-gradient, wetland areas. Ms. Moynihan noted that the buffer is being filled and re-graded.

Ms. Taylor expressed concern over potential leaching groundwater impacts to Perch Pond.

Ms. Moynihan said that the site assessment indicated that there was a low risk for debris leaching into the groundwater in adjacent areas.

Ms. Adams said that the site assessment revealed that the groundwater flow runs cross-gradient to the Burlington Self-Storage facility, from the Jeep & Eagle dealership down and around to Perch Pond. She added the only source of potential contamination appeared to be coming from the Jeep & Eagle dealership.

Ms. Taylor said that if the concrete slabs remain they would act as a clay layer and serve to prevent leaching from plant materials fertilizers.

Ms. Watt said the presence or absence of the concrete slab will not affect the survivability of the plant materials.

Ms. Adams noted that if contaminated materials are uncovered during excavation, the proponent would be required to remove such materials.

The Subcommittee agreed that the concrete be filled as proposed by proponent, and that if future removal of the concrete is needed, the proponent would be required to secure Commission approval prior to the first certificate of compliance. It was also

decided that water resources staff would look into effects of concrete leaching into the down-gradient wetland areas.

Mr. Shephard made a motion seconded by Ms. Taylor that Condition CC6 be modified and approved by the Chair. All voted in favor of the motion.

### **JURISDICTION**

The proposed project qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of "any of the following proposed commercial, service, retail or wholesale business, office or industrial development, as well as any private health, recreational or educational development: \*new construction with a gross floor area greater than 10,000 sq. ft." The applicant also filed for consideration of a Development of Regional Impact Exemption under Section 12(k) of the Act.

### **FINDINGS**

The Commission has considered the Development of Regional Impact Exemption application of Burlington Self-Storage of Cape Cod, LLC for construction of a self-storage facility comprised of one three-story (basement and two floors) building consisting of 23,100 square feet of gross leasable space to be used for storage on a parcel of 29,928 square feet off of Route 28/Teaticket Highway in East Falmouth, MA., and based on consideration of such application, and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Section 12(k) of the Act:

#### GENERAL

G1. The proposed project qualifies as a Development of Regional Impact (DRI) pursuant to Section 3(e) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of "any of the following proposed commercial, service, retail or wholesale business, office or industrial development, as well as any private health, recreational or educational development: \*new construction with a gross floor area greater than 10,000 sq. ft." This project was reviewed for conformance with the 1996 Regional Policy Plan (RPP).

G2. The site is located on two lots designated Lot 1 and 1A. Both lots are within Falmouth's Light Industrial zone. At the same time, the application notes (Addendum A) that a small portion of Lot 1A is possibly zoned Residential C. At the local level, this project will require Planning Board review, Conservation Commission review, an application to the Building Commissioner (signage, building permit) and Board of Appeals (Special Permit and/or Variance). The applicant has indicated they intend to seek a Special Permit from the Zoning Board of Appeals to allow change or alteration of a pre-existing, non-conforming structures or use due to the fact that the existing building, as well as the proposed new building does not meet setback requirements and that Lot 1A may include a small residentially-zoned area.

#### TRANSPORTATION

T1. Burlington Self Storage of Cape Cod, LLC proposes to add 23,100 square feet (SF) to an existing 89,216 SF self storage facility for a total of 112,316 SF on Route 28 (Teaticket Highway) in Falmouth. Motor vehicle access will be provided through two existing

driveways, one onto Village Common Drive, which intersects Route 28 and one directly on to Route 28. Route 28 is a regional road as defined in the Regional Policy Plan. The site was previously developed and operated as a cement plant.

T2. MPS 4.1.1.5 requires all Developments of Regional Impact (DRIs) access/egress locations with public ways to meet Massachusetts Highway Department (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. Based on field observations, the Village Common Drive/Route 28 intersection provides both stopping sight distance and decision sight distance that exceed AASHTO and MHD standards.

T3. MPS 4.1.1.7 states that there shall be no degradation in public safety because of a DRI. Transportation staff conducted a field investigation relative to the sight distance available at the existing Route 28 driveway. Our findings are as follows:

- Route 28 in Falmouth, in the vicinity of the development is posted 35 MPH.
- The Route 28 driveway provides minimum stopping sight distance requirements. However, stopping sight distance is the absolute minimum that should be provided at any point on the highway. Greater distances should be available wherever possible.
- Route 28 has a 2.5% upgrade at the Route 28 driveway.
- The decision sight distance for the existing Route 28 driveway is not adequate based on minimum decision sight distance requirements for passenger vehicles at 35 MPH. The existing decision sight distance for a motorist exiting the Route 28 driveway is 425 feet, and the required decision sight distance for a 35 MPH traveling speed is 500 feet.

Due to the nature of the vehicles to be utilizing the Route 28 driveway (storage trucks), the geometric configuration of the roadways (a slight upgrade for left turning vehicles), the minimum safe stopping sight distance for passenger vehicles, and the lack of safe decision sight distance for exiting passenger vehicles, transportation staff finds that the project will have regional public safety issues relative to the left turns exiting the site. The proponent could mitigate the regional public safety issue by directing site generated traffic to exit via Village Common Drive, thus avoiding the Route 28 driveway.

T4. MPS 4.1.1.17 requires that access/egress be designed to minimize impacts on the adjacent road system. The Route 28 driveway poses a regional public safety issue due to the limited sight distance, the roadway grade for exiting vehicles and the nature of the vehicles exiting the site. The project does not comply with MPS 4.1.1.17 based on the egress conditions at the Route 28 driveway. The proponent should pursue minimizing the impacts on the regional roadway system by restricting the exiting vehicles from the Route 28 driveway.

#### HAZARDOUS MATERIALS/WASTES

HAZ1. MPS 4.2.2.2 requires that development and redevelopment shall be in

conformance with the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. At the site visit on 2/16/00, the applicant provided a copy of a Transaction Screen Environmental Site Assessment conducted by R.W. Crandlemere & Associates, Inc. on 2/14/00. The Screen consisted of a site walk and an interview with Mr. Wesley Leite representing the property owner. A visual observation was conducted for the presence of asbestos-containing material (ACM). The Screen indicates that asphalt roofing shingles on the garage, hung ceiling tiles and drywall in the office/parts room were determined to be suspect ACM. The Screen also recommended that the suspect ACM be sampled and analyzed for the presence of asbestos prior to disturbance of the materials.

#### COMMUNITY CHARACTER

CC1. Based on the application and architectural elevations provided by the applicant, the proposed building will be constructed in a style and color similar to the buildings approved by the Commission in 1996 for Burlington Self-Storage. The proposed building will be constructed of steel and concrete with two small windows along the 110-foot façade that is visible from Route 28.

The existing buffer to Route 28 consists of a row of mature deciduous trees and evergreen shrubs and is insufficient to adequately limit adverse visual impacts. Removal of existing trees in the course of grading the site will further reduce the effectiveness of the existing buffer.

CC2. The Regional Policy Plan designates Route 28 as a regional roadway. The proposed project has regional impacts since views onto the site from Route 28 are an important part of the area's community character.

#### **CONCLUSION**

Based on the public hearings, public meetings, the materials submitted for the record and the above findings, the Commission hereby concludes:

1. The proposed development literally qualifies as a Development of Regional Impact. This is supported by finding G1.
2. The proposed development will have environmental effects and significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is to be located. This is supported by findings T1, T3, T4, HAZ1, CC1 and CC2.

**SUMMARY**

The Commission hereby denies the Development of Regional Impact Exemption application of Burlington Self-Storage of Cape Cod, LLC for this project located in Falmouth, Massachusetts, pursuant to Section 12(k) of the Cape Cod Commission Act, as amended.

Thomas Broidrick  
Thomas Broidrick, Chairman

3/9/00  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this 9<sup>th</sup> day of March, 2000.

Katharine L. Peters  
Name, Notary Public

My Commission expires:

