



CAPE COD COMMISSION

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Date: December 3, 2001

To: Davenport Realty Trust

From: Cape Cod Commission

RE: Determination of Change of Use
Sections 3 & 4, DRI Enabling Regulations

Applicant: Davenport Realty Trust
20 North Main Street
South Yarmouth, MA 02664

Project #: CU20079

Project: Retail Re-Use at 515 Workshop Road, South Yarmouth
515 & 519 Workshop Road
South Yarmouth, MA 02664

Lot/Plan: 17/30491C
71/30491E

Certificate #: 28846

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby determines that the proposed retail re-use at 515 & 519 Workshop Road, in South Yarmouth, MA is subject to mandatory review as a Development of Regional Impact (DRI) limited to the subject areas of Water Resources, Natural Resources and Open Space, Transportation, and Community Character in accordance with Sections 3 & 4 of the DRI Enabling Regulations. The decision is rendered pursuant to a vote of the Regulatory Committee of the Commission on December 3, 2001.

Retail Re-Use at 515 Workshop Road, South Yarmouth, MA #CU20079
Determination of Change of Use Decision
December 3, 2001



PROJECT DESCRIPTION

The applicant proposes to redevelop the property located at 515 & 519 Workshop Road in South Yarmouth, MA to replace an approximately 17,912 s.f. pet and grain store with a retail pharmacy building containing 11,235 s.f. and an office building containing 12,400 s.f. The applicant proposes a complete site upgrade, including landscaping and parking, stormwater drainage, and sewage disposal systems.

The project site is located in a B1 zoning district and the Aquifer Protection District for the town of Yarmouth. The site is surrounded by numerous commercial uses. Site access is from Workshop Road at a signalized intersection with Station Avenue. The project site is approximately 1/4-mile south of exit 8 at Route 6. The town of Yarmouth Solid Waste transfer station and septage treatment plant are just west of the project site.

PROCEDURAL HISTORY

The Commission received a Change of Use application from Davenport Realty Trust on October 11, 2001. 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 November 13, 2001 at the Cape Cod Commission office in Barnstable, MA. The public hearing was continued to December 3, 2001 at 9:30 a.m. The December 3, 2001 hearing was continued by a hearing officer of the Commission to December 3, 2001 at 2:00 p.m. The public hearing and record were closed on this date. After closing this hearing, the Regulatory Committee held a public meeting and voted six in favor with one abstention that the project was subject to review as a DRI, limited to the subject areas of Water Resources, Natural Resources and Open Space, Transportation, and Community Character.

Materials submitted for the record:

From the applicant:

- Change of Use application dated October 11, 2001
- Proposed Development Plans prepared by Coastal Engineering Co., Inc. dated October 5, 2001, 5 sheets
- Traffic Impact and Access Study, prepared by MS Transportation Systems, Inc. dated October 2001
- Correspondence from attorney Myer Singer dated October 11, 2001, November 27, 2001, and December 3, 2001
- Photos from CVS stores received November 13, 2001
- Front and Side Elevations of proposed office building prepared by Northside Design Associates dated May 25, 2001
- Memorandum from MS Transportation Systems, Inc. to Andrew Singer dated October 17, 2001

From the Cape Cod Commission:

- Cape Cod Commission staff report dated November 7, 2001

From local officials:

- Letter in support from Yarmouth Board of Selectmen dated October 24, 2001
- Site Plan Review Comment Sheet, received October 30, 2001
- Letter in support of project from Yarmouth Area Chamber of Commerce received November 15, 2001
- Letter noting traffic concerns from Yarmouth Engineering Division, dated November 9, 2001
- Letter from Brad Goodwin, Yarmouth Planning Board stating personal concerns regarding traffic, received December 3, 2001

From the public:

- No letters received

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

TESTIMONY

November 13, 2001 Public Hearing:

Myer Singer, attorney for Davenport Realty Trust described the proposed project and submitted photos of other similar CVS stores and elevations of the proposed office building. He explained that the site plan would include an extra roadway island that will add green space between the main road and the site, which will improve traffic safety. He stated that the new site would have a new wastewater treatment system that would meet the requirements of the Regional Policy Plan. He stated that with regards to traffic there is already a CVS pharmacy 1/8 of a mile away that will be closing when the new CVS building is built. He noted that the traffic engineer William Scully of MS Transportation did a comparison between the existing store and the proposed store and believes there will be no substantial increase in traffic. Mr. Singer presented a letter from the Yarmouth Selectmen that had been received by the Commission, requesting the Commission not review the project as a DRI.

Senior Planner Sharon Rooney described the five criteria for a determination of a change of use. She stated that staff believes the project qualifies under the first four criteria, that are related to the size of the demolition and replacement. The fifth criterion focuses on the regional impacts. Ms. Rooney explained if the Committee finds that there are more detrimental impacts than the previous immediate prior use the DRI review can be limited

to those issue areas. She stated that there are two and possibly three issue areas under the Regional Policy Plan that the project could be reviewed for. Those impact areas are transportation, community character and potentially water resources.

Hydrologist Gabrielle Belfit stated that although a Bio-Clear system is proposed, no information was submitted regarding current nitrogen loading levels. She stated that even with a new system, flows could increase, which could result in higher nitrogen loading in the area. She stated that she also has concerns about hazardous materials, noting that the in-store film processing materials are a large concern.

Traffic Engineer Glenn Cannon reported that there would be a significant transportation impact as a result of the project. He stated that the information that has been provided indicates the proposed use would be significantly over the regional threshold of 25 new peak hour trips. He stated that the proposed intersection of Whites Path and Station Avenue is an existing hazardous intersection with 16 automobile crashes a year which is twice the state average. He then stated that the existing CVS is located in a multi-use shopping area where there is an A & P supermarket. The new store will be a stand-alone store that could result in an increase in traffic.

Senior Planner Sharon Rooney noted that the project site is in close proximity to exit 8 off of the Route 6 ramp and is also visible from Station Avenue which is a regional road. She added that it is a gateway into the town of Yarmouth. She explained that until today no renderings have been received and no landscape plans have been proposed. She stated that she believes the proposed parking will be more visible than the current parking. Staff recommended that the project be reviewed for community character issues.

Beth Schultz from the Town of Yarmouth Engineering Department explained that they have sent a letter to the Commission agreeing with the staff report.

Brad Goodwin, Yarmouth Planning Board Chairman stated that the town is concerned about the project being labeled as a "reuse" when the applicant will take down the building and rebuild changing the footprint of the building. He explained that the Planning Board is requesting assistance from the Commission in reviewing the project.

December 3, 2001 Public Hearing:

Chairman David Ansel noted additional materials supplied since the last hearing on November 13, 2001 from the applicant and town officials.

Project Planner Sharon Rooney reported that at the hearing of November 13, 2001 staff recommended that the project be review as a DRI under the Change of Use threshold for potentially four issue areas: water resources, natural resources and open space, transportation, and community character. She stated that at the last hearing the Commission received photographs from another CVS on the Cape and a rendering of the proposed office buildings. She reported that staff has not changed their position from the prior hearing.

Myer Singer, attorney for Davenport Realty Trust, explained that the applicant believes the project qualifies for non-review as a change of use and presented a list of how the project complies with the RPP. He also reported that the applicant would agree to comply with staff's recommendation that there be pedestrian interconnects between this site and the adjoining business sites. He also noted that the Massachusetts Historical Commission has informed the applicant that the site is unlikely to contain significant archeological resources. He concluded by stating that the overall impacts of the proposed use are less detrimental than the prior use. He then added that the Committee should find that the proposed project meets the criteria for a Change of Use. He then stated that the committee could place conditions with regard to nitrogen loading and pedestrian interconnects.

Ms. Kadar asked if the office building would be used for the proposed drug store. Mr. Singer responded that it would be a professional office building with rental units. Mr. Schlaikjer asked about the width of the new road being wide enough to accommodate the large trucks from the auto dealer. Mr. Scully from MS Transportation explained that the proposed roadway would be sufficient for trucks. Ms. Kadar commented that traffic in this area seems quite complex. She noted that the position of the town with respect to this project is unclear.

Mr. Ansel explained to Mr. Singer that the committee does not have authority (in the event they opt to exempt the project) to place any conditions on its decision. Transportation Engineer Glenn Cannon stated that he has not been given any information that would cause him to change his position on transportation since the last meeting. He reported that the project would cause substantial increase in traffic on the regional roadways, particularly right at the intersection which is a high traffic accident location.

Mr. Deane asked Ms. Rooney if the committee could require the store to have a Cape Cod appearance without DRI review. Ms. Rooney replied that the Commission could not require it without DRI review, which would ensure that the project design is consistent with the RPP and Design Manual.

Mr. Bob Dubois, Yarmouth Chamber of Commerce reported that a letter had been sent stating that it is the opinion of the Chamber that the Town has the ability to review the project within the town structure. He stated that the Route 28 Task Force sits in on Site Plan Review up to Route 6 and could review design issues. He spoke to the transportation issue commenting that there are much more significant accidents down the road at another intersection. He stated that the project would be a significant visual improvement for Yarmouth, noting the proposed increase in green space. Ms. Rooney stated that the Route 28 Task Force would be acting in an advisory capacity only.

Ms. Taylor asked about issues concerning hazardous materials in the Zone II area, where the proposed drug store would be. She then raised the question about medical facilities possibly renting office space. Hydrologist Gabrielle Belfit reported that she has not received any new information since the last hearing. She stated that they would be able to have household quantities or greater depending on the amount in the existing store. She

stated that an inventory would be required, which was not submitted with the application. Mr. David Bisby from Davenport Realty stated that there would be no capacity for medical offices to occupy the professional office building because of limitations on the septic system.

FINDINGS

The Commission has considered the application of Davenport Realty Trust for the proposed retail re-use at 515 & 519 Workshop Road in South Yarmouth, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 3 and 4 of the DRI Enabling Regulations:

- 1). The proposed project consists of the demolition of an approximately 17,912 s.f. pet and grain store and redevelopment of the site with two buildings consisting of an 11,235 s.f. retail pharmacy and a 12,400 s.f. office. The proposed project meets Section 4(b)(1)(a – d) criteria set forth in the DRI Enabling Regulations concerning the size of the proposed change of use.
- 2). In accordance with Section 4(b)(2) of the DRI Enabling Regulations, the Regulatory Committee reviewed the proposed change of use or demolition/replacement to determine if the overall impacts of the proposed use are more detrimental than those of the immediately prior use. In making such determination, the Committee considered the resources protected by the Regional Policy Plan (RPP).
- 3). The project site is located in a wellhead protection area as well as a nitrogen sensitive marine embayment. The applicant proposed the use of a bioclear unit to treat wastewater. The applicant did not provide a comparison of nitrogen loading and hazardous material usage from the existing and proposed uses. A photo center and hazardous materials were proposed for the retail pharmacy building.
- 4). The project site is located in a Significant Natural Resource Area under the RPP due to the presence of a public water supply wellhead protection area. The proposed redevelopment would reconfigure the site in such a way as to eliminate a small wooded area located between the existing building and an adjacent auto dealership. The elimination of this wooded area will result in an increased impact on resources protected by the Act, particularly insofar as it provides for groundwater recharge within the public wellhead protection area.
- 5). The proposed project is located on Workshop Road in South Yarmouth, approximately 1/4 mile south of exit 8 at Route 6. All vehicle access would be through the Station Avenue/White's Path/Workshop Road intersection, which is an existing regional intersection as defined by the Regional Policy Plan.
- 6). Based on Institute of Transportation Engineers (ITE) trip generation data, the proponent has projected that the new pharmacy and office building will generate:

- 1,258 additional daily vehicle trips
- 154 additional morning peak hour trips
- 203 additional afternoon peak hour trips

7). The applicant did not perform traffic counts at the existing 18,000 s.f. store to establish the net increase in traffic. Cape Cod Commission transportation staff observed approximately 28 vehicle trips during an afternoon site visit. Allowing for the traffic from the existing store (28 trips), this project would distribute 175 new afternoon peak hour trips through the Station Avenue/White's Path/Workshop Road regional intersection and onto regional roadways. The RPP outlines a threshold of 25 peak hour trips through a regional roadway or regional intersection. This project will result in a significant amount of new traffic on regional roadways.

8). The TIAS included crash data at the Station Avenue/White's Path/Workshop Road intersection. As stated in the TIAS, the intersection experiences approximately 16 crashes per year and has a crash rate twice the state average.

9). The existing building consists of a warehouse type structure without much fenestration or differentiation of the facade, constructed circa 1960. The application stated that no historic or archaeological resources were present on the project site, although no documentation was received from the Massachusetts Historical Commission to confirm the potential of the site to contain historic or archaeological resources.

10). Station Avenue serves as a gateway to the town of Yarmouth. The proposed project is located in a highly visible location adjacent to the exit 8 Route 6 off-ramp. Construction of the proposed project would result in the clearing of a wooded lot to the north of the existing building and parking in front of the site. The clearing of the wooded lot and visible parking will result in a significant impact on the character of this regional roadway.

11). The application indicated that significant improvements would be made to site landscaping, including a green space reclamation project immediately adjacent to Station Avenue. However, landscape and lighting plans were not provided with the application materials.

12). The application indicated that proposed buildings would be complementary to Cape Cod and the surrounding neighborhood. However, insufficient information was provided to determine if the proposed pharmacy and office buildings would comply with the RPP and Commission's Design Manual.

13). The issue areas of coastal resources, wetlands, and affordable housing do not apply to the proposed project. Other issue areas such as economic development and solid waste management should not have significant regional impacts. These issue areas will not be included in the scope of review for the project.

14). Pursuant to Section 4(b)(1)(e) and 4(b)(2) of the DRI Enabling Regulations, the impacts of this project in the areas of water resources, natural resources and open space, transportation, and community character are more detrimental than those of the immediately prior use on the site. Therefore, the project is subject to DRI review

15). Pursuant to Section 4(b)(5), the scope of review shall be limited to the subject areas of water resources, natural resources and open space, transportation, and community character under the Regional Policy Plan.

CONCLUSION

Based on the findings above, the Commission hereby determines that the proposed retail re-use at 515 & 519 Workshop Road, in South Yarmouth, MA is subject to mandatory review as a Development of Regional Impact (DRI) limited to the issue areas of Water Resources, Natural Resources and Open Space, Transportation, and Community Character in accordance with Sections 3 & 4 of the DRI Enabling Regulations. This decision is rendered pursuant to a vote of the Cape Cod Commission Regulatory Committee on December 3, 2001.

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

12/20/01
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 20th day of December, 2001, before me personally appeared David Ansel, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Katharine L. Peters
Notary Public
Commonwealth of Massachusetts

My Commission expires:

