



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

Date: Nov. 21, 2001

To: Bourne Board of Selectmen
24 Perry Ave.
Bourne, MA 02649

From: Cape Cod Commission

RE: Jurisdictional Determination, Cape Cod Commission Act Section 12(j)

Project #: #JD 20080

Project: Michienzi Redevelopment and Expansion
One Trowbridge Road
Bourne, MA

Book/Page: Map 24.3, Parcels 21 and 22
Book: 12585 Page: 319

DECISION OF THE CAPE COD COMMISSION

SUMMARY:

Pursuant to Section 12(j) of the Cape Cod Commission Act, the Cape Cod Commission (Commission) hereby determines that the proposed change of use of an existing building owned by the Michienzi Trust and located at One Trowbridge Road, Bourne, from mixed commercial space to a medical facility and some retail and office space is a project over which the Cape Cod Commission has jurisdiction as a Development of Regional Impact (DRI) under Section 3(e) of the Development of Regional Impact Enabling Regulations, Chapter A Barnstable County Ordinance 90-12, as amended ("Enabling Regulations"). The decision is rendered pursuant to the vote of an authorized subcommittee of the Commission on November 15, 2001.

PROJECT DESCRIPTION:

Michienzi Redevelopment - Jurisdictional Determination Decision
November 21, 2001



The project consists of the partial demolition and redevelopment of an approximately 16,000 square foot (sf) mixed-use commercial building on two levels. Existing uses on the main level include approximately 8,000 sf of retail space, a pizza restaurant, a pharmacy, two office spaces, and an ice cream parlor, and 8,000 sf of storage space on a lower level. The proposed project includes a 625 sf single level addition on the west side of the existing building, and new construction of approximately 8,393 sf in three levels, on the east side of the building for a total of approximately 25,893 sf. The new complex will house primarily a 12,480 sf medical facility and office and retail space. The parking area is expanding to the north and northeast of the building to accommodate approximately 109 paved spaces from the existing 36. An existing septic system will be partially or completely replaced. The project is a 1.45 acre site located in the northeast quadrant of the 5-way junction of Sandwich Road, Perry Ave., Shore Road, County Road and Trowbridge Roads in Bourne. Trowbridge, Shore and County Roads are regional roadways.

PROCEDURAL HISTORY:

Site plans for the proposed Michienzi redevelopment on One Trowbridge Road, dated Oct. 4, 2001 by Holmes and McGrath, were approved with conditions by the Bourne Planning Board on Oct. 12, 2001.

The Cape Cod Commission received a request for jurisdictional determination along with site plans prepared by Holmes and McGrath from the Bourne Board of Selectmen on Oct. 26, 2001. The Commission received revised site plans dated Oct. 29, 2001 on Oct. 30, 2001 and based its determination on this second set of plans.

The JD application was deemed complete on Nov. 1, 2001.

A duly noticed public hearing pursuant to Section 5 of the Cape Cod Commission Act to consider the request was held by an authorized subcommittee of the Commission on Nov. 15, 2001 at the Bourne Town Hall in Buzzards Bay, MA. The public hearing and record were closed on Nov. 15, 2001. After the close of the public hearing, the subcommittee deliberated and voted unanimously that the project was subject to mandatory review as a Development of Regional Impact (DRI).

Materials Submitted for the Record

From the Applicant:

- Jurisdictional Determination application and supporting materials, received 10/25/01
- Existing Conditions plans dated Oct. 4, 2001 from Holmes and McGrath received 10/25/01
- Architectural plans dated Oct. 16, 2001 by A.P. Whitaker and Sons, Architects received 10/25/01
- Revised site plans from Holmes and McGrath dated Oct. 24, 2001, received 10/30/01

From the Town:

- Planning Board minutes and conditions for Michienzi site plan approval from Oct. 12, 2001 regular planning board meeting received 10/25/01
- Letter from Jim Grady to the subcommittee received 11/15/01

From the Commission:

- Letter deeming the JD application complete received 11/1/01
- Staff report dated 11/8/01
- Staff report faxed to Town of Bourne, Attorney Pat Butler on 11/8/01
- Revised staff report dated 11/15/01

From interested parties:

- Letter from Attorney Pat Butler to Mr. Haydon Coggeshall, Board of Selectmen Chair, concerning jurisdiction, dated 11/9/01, received via fax.
- Change of Use Application from Pat Butler representing Michienzi Trust, dated 11/14/01
- DRI Exemption Application from Pat Butler, dated 11/14/01
- Letter from Attorney Pat Butler to the subcommittee concerning change of use and transportation impacts, received 11/15/01.

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 our proceedings are incorporated into the record by reference.

TESTIMONY:

The Commission received the following testimony at the Nov. 15, 2001 public hearing:

James Grady, Selectman, spoke on behalf of the Board of Selectmen to express concerns about wetlands, project size and traffic impacts of this project. In addition, the he stated that this project constitutes over 10,000 square feet (sf) of change of use, and should be reviewed by the Cape Cod Commission as a Development of Regional Impact.

Leo Locke also spoke on behalf of the Board of Selectmen, and said they voted 5-0 to ask the Cape Cod Commission to make a determination of its jurisdiction, even though they had received a letter from Attorney Patrick Butler stating his client's plans to submit Change of Use and Exemption applications and presume jurisdiction by the CCC. At the time of the Board of Selectmen's regular meeting, Tuesday, Nov. 13, 2001, the applications had not been submitted, and the letter had been received too late to be addressed in their agenda.

Patrick Butler, attorney for the Michienzi Trust, spoke on behalf of the developer to express their belief that the project does not meet thresholds for mandatory referral to the Cape Cod Commission, based on their interpretation of local bylaws and change of use definitions. He stated that in submitting both Change of Use and DRI Exemption applications his client presumes jurisdiction by the Cape Cod Commission, in order to move the project forward expeditiously. He provided information from Rizzo Associates showing that transportation impacts would be reduced.

Martha Twombly spoke for the Commission staff and stated that under the Enabling Regulations of the Cape Cod Commission Act, the definition of Change of Use included changes in the nature and purpose of a developed parcel of land, which is the case in the Michienzi proposal. Also, she pointed out that previous Change of Use determinations have calculated the square footage of a change of use based on the sum total of all square footage involved in the project. She stated that the project was not exempt under Section 22 of the Act because no permits had been issued. Staff concluded that the project did therefore meet the 10,000 square foot threshold for mandatory review as a DRI under the Cape Cod Commission Act.

In questions from the subcommittee, Mr. Butler and Greg Siroonian, the developer's architect, clarified the amount of redevelopment and new space on the architectural plans.

Mr. Butler conceded jurisdiction on behalf of his client.

FINDINGS:

1. The proposed project consists of the redevelopment of an existing 16,000 sf building which includes approximately 8,000 sf of restaurant, office, and retail space on one level, and approximately 8,000 sf of storage space on the lower level, and an expansion of approximately 9,900 sf. The project is located at the intersection of Sandwich, Trowbridge, County and Shore Roads and Perry Ave. Three of these roads are regional roads and two are state highways. Plans dated Oct. 24, 2001 by Holmes and McGrath indicate that two curb cuts onto Trowbridge and Sandwich Roads will be closed.
2. According to plans prepared by A.P. Whitaker and Sons, the existing 16,000 square foot building will be partially demolished and renovated, and additions of approximately 9,900 sf will be built for a total gross floor area of approximately 25,893 sf. The gross floor area included in the calculation of the square footage undergoing a change of use includes the total square footage of the pre-existing building plus the newly proposed addition.
3. According to the proposal, the facility will be renovated and expanded from mixed-use commercial and storage space into a medical facility with office and retail space. The

increased size and proposed use of this complex constitutes a change of use as defined in Section 1 of the Enabling Regulations.

4. The project is not exempt under Section 22 of the Act because none of the provisions of Section 22 apply to this project.

5. The Michienzi redevelopment and expansion project at One Trowbridge Road qualifies as a DRI under section 3(e) of the DRI Enabling Regulations as a use change that has a gross floor area greater than 10,000 square feet.

CONCLUSION:

Based on the findings above, the Commission hereby finds that the proposed expansion and change of use of the existing building owned by the Michienzi Trust and located at One Trowbridge Road in Bourne, MA from mixed-use commercial and storage space, to a medical facility and retail and office space is subject to mandatory review as a Development of Regional Impact under Section 3(e) of the DRI Enabling Regulations. This decision is rendered pursuant to a vote of an authorized subcommittee of the Commission on Nov. 15, 2001.

David J. Ansel
David J. Ansel, Subcommittee Chair

11/21/01
Date

Commonwealth of Massachusetts
Barnstable, ss.

Subscribed and sworn to before me this 21st day of November, 2001

Patricia Bumpree, Notary Public

My Commission expires:

TABLE OF CONTENTS

- SHEET 1 EXISTING CONDITIONS PLAN
- SHEET 2 PROPOSED LAYOUT PLAN
- SHEET 3 CHANGING/ADJUSTING PLAN
- SHEET 4 CONSTRUCTION DETAILS

LOT COVERAGE

EXISTING BUILDING FOOTPRINT & PARKING 15.5% SF = 13.2% < 15%
 EXISTING & PROPOSED BUILDINGS 26,648 SF = 23.6% < 30%
 EXISTING & PROPOSED BUILDINGS 12,438 SF = 10.7% < 10%
 EXISTING & PROPOSED BUILDINGS 52,500 SF = 45.5% < 100%

PARKING REQUIREMENTS

DOORS/PROFESSIONAL SERVICES: 1 SPACE/100 SF X 24,800 SF = 248 SPACES REQUIRED
 PROPOSED PARKING SPACES (NEW AND RE-REQUIRED) = 112

NOTES

- BUILDING NUMBERS: 1. BUILDING NUMBER MAP 24.3 PARCELS 21 and 22
- ZONING DISTRICT: 2. ZONING DISTRICT: VB
- FLOOD HAZARD ZONING: 3. FLOOD HAZARD ZONING: C
- TOPOGRAPHIC INFORMATION: 4. TOPOGRAPHIC INFORMATION COMPILED FROM AN ON THE GROUND INSTRUMENT SURVEY
- ELEVATIONS: 5. ELEVATIONS SHOWN ARE BASED ON THE NATIONAL DATUM
- REFERENCE: 6. REFERENCE: PLAN BOOK 214 PAGE 47

CONCRETE SHALL BE PLACED WITH HOOP REINFORCING PLACED TO ESTABLISH A MINORAL CURVE WITHIN THE FACE OF THE CURVE AND SHALL BE APPROVED UNDER THE DIRECTION AND SUPERVISION OF THE TOWN ENGINEERING COMMISSION

NOTICE

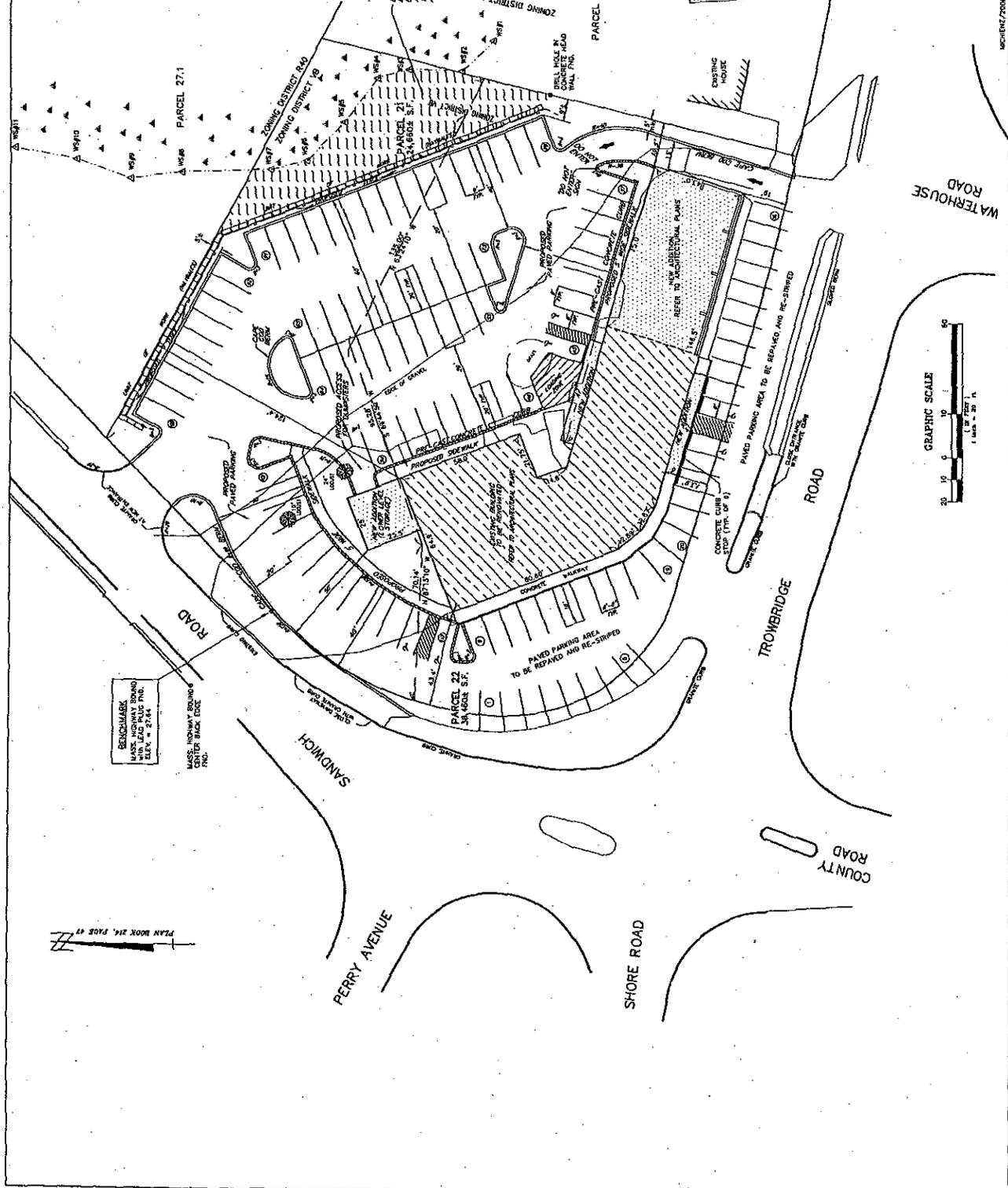
Drawings and specifications were prepared by the undersigned on the basis of information furnished by the client and on the basis of a site visit on the date indicated on the drawings. The undersigned does not warrant the accuracy of the information furnished by the client or the results of the site visit. The undersigned shall not be held responsible for any errors or omissions in the drawings or specifications or for any consequences arising therefrom.



DATE	REVISIONS	DESCRIPTION	BY	CHECKED
10/23/01	1	ISSUE FOR PERMITS	MD	MD
10/24/01	2	ISSUE FOR PERMITS	MD	MD

SITE PLAN
 PREPARED FOR
NOREEN MICHENZI
 IN
BOURNE
 MA

SCALE: 1" = 20'
 DATE: APR. 20, 2001
 Holmes and Narver, Inc.
 1000 Main Street, Suite 200
 Bourne, MA 02532
 Telephone: 508-862-6600
 Fax: 508-862-6601
 DRAWN: S.S. DUS, L.M.
 CHECKED: M.J.T.
 LICENSE NO.: 200273 DWG. NO.: 74-4-22-01 SHEET 1 OF 4



BENCHMARK
 MASS. HIGHWAY BOUNDARY
 CENTER BACK EDGE
 ELEV. = 27.64'

MASS. HIGHWAY BOUNDARY
 CENTER BACK EDGE
 ELEV. = 27.64'

PLAN BOOK 214, PAGE 47

RECEIVED
 OCT 25 2001
 TOWN PLANNER
 TOWN OF BOURNE