



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: June 21, 2001
TO: Stuart Bornstein
FROM: Cape Cod Commission
RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 & 13
APPLICANT: Bornstein Companies
297 North Street, Hyannis, MA 02601
PROJECT #: TR 20049
PROJECT NAME: Cape Light Commons
Willow Street, Yarmouth, MA 02673
LOT/PLAN: 3 / 37201A, 4 & 6 / 37201B
CERTIFICATE: 153578

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission hereby denies the application of the Bornstein Companies as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended, for the proposed Cape Light Commons project located on Willow Street in Yarmouth. The decision is rendered pursuant to a vote of the Commission on June 21, 2001.

PROJECT DESCRIPTION

The Cape Light Commons project is a proposal to build one office building of 25,620 square feet and six self-storage buildings totaling 40,450 square feet on a parcel of 6.4 acres on Willow Street in Yarmouth. The site is in a commercial zone, labeled B-3, surrounded by other offices, service businesses, an electric company station, and some residential development. The parcel lies wholly within a Wellhead Protection Area (zone of contribution) for four public water supply wells, and in an area designated by the town as an Aquifer Protection District. At a



special town meeting on February 6, 2001, the Town of Yarmouth voted to amend its zoning bylaws to prohibit self-storage facilities in Aquifer Protection Districts. However, the applicant had submitted an ANR plan in July 1998 that froze the zoning bylaws for a three-year period; this grandfathered use allowance expires on July 22, 2001.

PROCEDURAL HISTORY

The Commission received a mandatory project referral from the Town of Yarmouth Building Department on February 22, 2001 under Section 3(e) of the Cape Cod Commission Enabling Regulations. The application from the proponent was received on March 2, 2001. A hearing officer of the Commission opened a public hearing on April 10, 2001. The hearing officer continued the hearing until April 24th. A duly noticed public hearing for April 24, 2001 was changed to a hearing officer; the hearing was continued to May 10th. The first duly noticed public hearing by an authorized subcommittee of the Commission was held on May 10, 2001 at the South Yarmouth library. This hearing was continued to a public hearing on May 31, 2001, at the South Yarmouth library. That hearing was continued to the full Commission meeting of June 21, 2001. The subcommittee held public meetings to discuss the project on May 10, May 31, and June 11, 2001.

At the June 11, 2001 subcommittee meeting, the subcommittee voted, 4-to-1, to recommend that the Commission deny the project. A final public hearing was held before the full Commission on June 21, 2001. At this hearing, the Commission voted, (X to X), to deny the project.

Materials submitted for the record

From the applicant:

- DRI application and supporting materials, received March 2, 2001
- Traffic report, prepared by Rizzo Associates, received March 2, 2001
- Drainage system calculations, prepared by Down Cape Engineering, received March 21, 2001
- Revised drainage system calculations, prepared by Down Cape Engineering, Inc., received April 27, 2001
- Traffic impact study, prepared by Rizzo Associates, Inc., received April 27, 2001
- "Project Information" narrative, received April 27, 2001
- Revised site plan drawings, received May 10, 2001
- Update to "project information" narrative, received May 10, 2001
- Memorandum from Stuart Bornstein, with photograph of proposed fencing, received May 16, 2001
- Spill Contingency Plan, prepared by Bennett & O'Reilly, Inc, received May 17, 2001
- Revised site plan drawings, received May 17, 2001
- Sample rental contract (currently used at Mashpee Sun Self Storage), received May 17, 2001
- Stormwater Management information, prepared by Down Cape Engineering, received May 18, 2001
- Sketch Plan showing fence materials and sections, received May 18, 2001

- Letter from Rizzo Associates, Inc., on traffic mitigation, received May 21, 2001
- Wetlands and soils information, prepared by Hamlyn Consulting, faxed by Stuart Bornstein, received May 21, 2001
- Photographs of self-storage buildings, as sample model for applicants proposal, received May 21, 2001
- Draft of customized rental storage agreement, received May 29, 2001
- Sketch drawing of proposed exterior treatment for two buildings, received May 29, 2001
- Letter and report on traffic trip reduction, prepared by Rizzo Associates, Inc., received May 31, 2001
- Copy of traffic safety report, prepared by Rizzo Associates, Inc. for Stuart Bornstein, received May 31, 2001
- Building elevation drawing for Building #2, received June 5, 2001
- Letter describing whether any hazardous materials are used in construction, received June 8, 2001
- Revised site plan drawings, received June 8, 2001
- Updated commitment letter, prepared by Rizzo Associates, Inc., received by fax June 8, 2001

From Cape Cod Commission staff

- Confirmation letter of DRI referral, sent to applicant February 27, 2001
- Memorandum from Seth Wilkinson to Commission subcommittee, notifying of first scheduled public hearing, sent March 7, 2001
- Memorandum from Seth Wilkinson to Ed Taipale listing information needed for project review, sent March 8, 2001
- Memorandum from Seth Wilkinson to Commission subcommittee, notifying of public hearing postponement from April 10 to April 24, sent March 20, 2001
- Memorandum from Seth Wilkinson to Ian Aitchison, giving list of items requested from applicant, sent April 11, 2001
- Memorandum from Seth Wilkinson to Commission subcommittee, notifying of postponement of public hearing from April 24 to May 10, sent April 18, 2001
- Staff Report, May 3, 2001
- Supplemental staff report, May 24, 2001
- Memorandum from Sharon Rooney to Peter Dimeo Associates, Inc., architects for the project, giving suggested revisions to building elevation, sent June 5, 2001
- Letter from Sharon Rooney to Yarmouth Zoning Board of Appeals, sent June 5, 2001

From state or local officials

- Copy of letter from Richard Crowley, superintendent of Yarmouth Water Department to Site Plan Review committee, February 13, 2001
- DRI referral form, from Yarmouth building inspector, received February 22, 2001
- Letter from George Allaire, Department of Public Works Director, received March 5, 2001
- Copy of Site Plan Review comment sheet, for meeting of May 8, 2001, received same date
- Letter from Richard Crowley, superintendent of Yarmouth Water Department, received May 8, 2001
- Letter from Elizabeth Schultz, Town Engineering Division, stating concerns on trip generation and pavement impact from project, received May 30, 2001

- Copy of letter sent by Corey Kittila of Town Health Department to Diamond Chemical Company, regarding improper storage of hazardous materials, received May 31, 2001
- Copy of Site Plan Review comment sheet, for meeting of June 5, 2001, received same date
- Copy of Special Town Meeting warrant, results of vote, and Attorney General's office validation of Article 14, which prohibits the placement of self-storage facilities in the Aquifer Protection District; received June 7, 2001
- Memorandum from Richard Crowley, Water Department superintendent, received June 8, 2001
- Memorandum from Corey Kittila, Hazardous Materials Inspector for the Yarmouth Board of Health, received June 11, 2001
- Determination of Applicability, prepared by Yarmouth Conservation Commission, confirming wetland boundaries delineated by applicant, received by fax, June 14, 2001.

From the public

- Letter from Richard Knutson, of Yarmouth Camp Ground Association, received May 8, 2001

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

TESTIMONY

The Commission heard oral testimony at the public hearings of May 10 and May 31, 2001. On May 10th, the applicant presented the project's features and benefits. Attorney Ed Taipale explained that the project scale had been reduced by roughly half its original size, largely in response to the potential reconfiguration of the layout for Old Townhouse Road. He also noted that they believe that their open space proposal meets the RPP requirement. Dan Ojala, the project engineer, noted the use of an advanced septic system for wastewater, and that there are no private water supply wells within 400 feet of the parcel. Rick Bryant discussed the traffic impacts of the proposal. Seth Wilkinson gave the staff comments on the project. He noted that the open space proposal did not meet the RPP, based on the total area of the two parcels controlled by the applicant. He explained that the parcel is within a Significant Natural Resources Area for several resources. Glenn Cannon reviewed the traffic proposals and situation, noting that the nearest intersection is on a state list of most accidents, and the need to work with the town to develop an improvement to it.

Mr. Richard Knutson was the only person of the general public present. He asked if the project would affect a proposed bike path nearby. Mr. Bornstein, the applicant, and Mr. Ojala, the engineer, explained that a bike path might still be created along Willow Street, although it was still in the conceptual stage, and that their development would not preclude building the path. Mr. Knutson also inquired about any impact of the project on the flight paths of planes to the Hyannis airport. Mr. Ojala stated that the buildings would be two stories high, and no taller than other nearby buildings; he noted that the FAA had been notified of the proposed project.

At the May 31 hearing, Mr. Taipale reviewed the benefits of the project, including revenue to the town, jobs, and self-storage facilities. He acknowledged the concern about potential of hazardous materials being stored, but that their rental contract provided as much prevention and protection as can be expected. He noted that they found no incidents of hazardous materials release from self-storage facilities. Dan Ojala reviewed the site plan revisions made since the previous hearing. Van Morrill presented the supplemental staff report comments. He stated that their open space arrangement does now appear to meet the RPP requirement, after it was determined that the applicant does not own or control the Old Townhouse Road layout, which separates Lots 1, where the buildings would be constructed, and Lot 2, which would be kept as open space. This separation makes Lot 2 an off-site parcel.

On May 31st, no members of the general public were present. However, comments were provided by Yarmouth Deputy Fire Chief William Greene. He stated that the existing site plan does not provide adequate space between the storage buildings for large fire vehicles to turn. He also stated that having only one entrance to the site, from Old Townhouse Road, would increase response time to any emergencies. The applicant offered to provide an emergency access way through the southwest corner of the site, directly from Willow Street into the self-storage area. Deputy Greene indicated that this was a good idea, and suggested it be discussed further at the site plan review meeting of June 5th.

JURISDICTION

The proposed Cape Light Commons 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 commercial development which proposes new construction with a gross floor area greater than 10,000 square feet".

FINDINGS

The Commission has considered the application of Bornstein Companies for the proposed Cape Light Commons, 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 12 and 13 of the Act:

General

G1. The Cape Light Commons development is a proposal to construct one office building of 25,620 square feet and six self-storage buildings totaling 40,450 square feet, on a parcel of 6.4 acres on Willow Street in Yarmouth.

G2. Self-storage facilities were prohibited in Aquifer Protection Districts by an Article passed at a special Town Meeting on February 6, 2001 (Article 14). However, the applicant had filed an Approval-Not-Required plan in July 1998 that gave three years of use protection, which expires on July 22, 2001.

G3. The probable detriments from the proposed development are greater than the probable benefits.

The benefits include: providing self-storage facilities, a service apparently in high demand; possibly providing jobs and income during the construction of the project and the subsequent business operations in the office building; a net income gain to the town through new property tax revenue and low demand for municipal services.

The detriments include: risk of contamination to public water supply wells through release of hazardous materials held in self-storage buildings that could occur especially in the event of human error; a fire, or other catastrophe; increased volume of vehicle traffic on a road of presently high volume (Willow Street); greater potential for vehicle accidents at the Route 6 ramps and the nearby intersection with Higgins-Crowell Road; loss of trees and natural woodland vegetation, especially in a zone of contribution for public water supply; and placement of storage buildings that do not incorporate traditional materials within view of a regional road.

G4. The Town of Yarmouth does not have a certified Local Comprehensive Plan.

G5. The proposed project fails to satisfy two of the requirements for DRI approval set out by the Cape Cod Commission Act, Section 13(d) as follows: 1) the probable benefit of the project does not outweigh the probable detriment, and 2) the project is not consistent with the Regional Policy Plan as described in the findings contained in this Decision.

Land Use/Growth Management

LU1. MPS 1.1.3 states that "*extension or creation of new roadside 'strip' commercial development outside of certified growth/activity centers shall be prohibited.*" The proposed project is designed so that buildings are along the roadway with parking effectively shielded to the side or rear of these buildings, consistent with MPS 1.1.3.

LU2. MPS 1.1.4 requires that "*development shall be directed away from Significant Natural Resource Areas (SNRA) as illustrated on the Cape Cod Significant Natural Resource Area Map dated September 5, 1996, as amended.*" The proposed project is located entirely within a SNRA due to the presence of unfragmented forest and a wellhead protection area for Yarmouth public water supply wells. The proposed project would result in fragmentation of the SNRA. Further, the proposed self-storage use and potential for storage of hazardous materials or waste posed a potential threat to the town's public water supply especially in the event of human error, a fire, or other catastrophe.

Water Resources

WR1. Water resource areas in which the project is located include contributing areas (Zone-II) to municipal public water supply wells and to Lewis Bay. The project is located in the Zone-II area to three Yarmouth municipal supply wells and is less than 1,000 feet from one of these

wells. The project is also proposed for a tract of land that has been identified as a Potential Public Water Supply Area, as defined in Section 2.1.1.2.F of the Regional Policy Plan (RPP).

WR2. RPP Minimum Performance Standard (MPS) 2.1.1.2 A.2 states ***commercial and industrial development and redevelopment that involves the use, treatment, generation, storage or disposal of hazardous waste, or hazardous materials, with the exception of household quantities, shall not be allowed in Wellhead Protection Districts.*** For this project, control of hazardous materials would have been primarily accomplished through a detailed rental storage contract. A customized contract for this facility was submitted for review on May 29, 2001, and was a significant improvement over a generic rental contract example provided previously. The applicant also agreed to post warning signs inside and outside of the building enforcing hazardous material prohibition. Education provided through the rental agreement and sign posting is an important component of water resource protection, but could not guarantee that hazardous materials will not be present on the site. No contract is able to guarantee compliance with the MPS, especially in the event of human error, a fire, or other catastrophe.

WR3. The project would meet the RPP MPS 2.1.1.1 and 2.1.1.2.A.1 for nitrogen loading. Calculations provided by the applicant's engineer indicate that the nitrogen concentration would be 3.87 ppm, through the use of a Bioclere wastewater treatment system.

WR4. A one-time contribution to fund a tidal flushing study of Lewis Bay in the amount of \$300.00 would be required from the applicant, pursuant to MPS 2.1.1.2.C.1.

WR5. Stormwater design would allow bio-infiltration of the majority of storm-water run-off through the use of a vegetative detention basin. The Yarmouth engineering department suggested revisions to the storm-water design including some conveyance structures adjacent to the office building and water quality inlets preceding discharge to the detention basins. These modifications would enhance water recharge and provide an additional water quality protection mechanism in the event of a spill on any paved surfaces. This design modification would be consistent with the Minimum Performance Standards and DEP Stormwater Policy Guidelines.

WR6. The project would meet MPS 2.1.1.2.A.4 and 2.1.1.2.C.3 by utilization of a DEP-approved alternative innovative septic system technology for removal of nitrogen from wastewater.

WR7. The applicant provided a spill contingency plan for post-construction operation.

Hazardous Materials/Wastes

HM1. According to the site maps, the project site is located within a Wellhead Protection District/Zone II as shown on maps created for the 1996 Regional Policy Plan (RPP). As such, Minimum Performance Standard (MPS) 4.2.2.3 applies to both the construction and post-construction phases the project which states "***commercial and industrial development and redevelopment that involves the use, treatment, generation, storage or disposal of hazardous waste, or hazardous materials, with the exception of household quantities, shall not be allowed in Wellhead Protection Districts.***" The self-storage component of this project was determined

by the Commission to be inconsistent with and incapable of coming into conformance with this MPS. This is based on the information submitted for the record, which included but was not limited to draft lease restrictions, a requirement for move-in inspections, prohibitions on liquid storage in drums, prohibitions on motorized vehicles or boat storage, and a clause in the lease to grant to the operator and "representatives of any governmental authority" access to leased space. These measures are not sufficient to protect the public water supply.

Information in a June 8, 2001 applicant's letter indicated that hazardous materials and wastes would result from land clearing and construction, particularly equipment fueling and servicing. Based on the information submitted, the proposed project was not in compliance with MPS 4.2.2.3 for these activities.

Natural Resources

NR1. The project is located within a Significant Natural Resource Area (SNRA) due to its location within unfragmented forested habitat, public water supply wellhead protection area, and potential public water supply area. The site is not mapped for estimated habitat of state listed endangered species habitat according to the Natural Heritage Atlas, 2000 – 2001 Edition.

NR2. The proponent has provided a natural resources inventory consistent with the requirements of MPS 2.4.1.1. While there are no wetlands documented on the project site, there is a wetland located off-site to the southeast. Based on a wetland Resource Determination provided by the Yarmouth Conservation Commission, the wetland is located at least 100 ft from a proposed stormwater detention basin on the project site. The Yarmouth Conservation Commission also determined that this wetland does not function as a vernal pool. Location of the stormwater detention basin 100 ft from the wetland is consistent with MPS 2.3.1.4.

NR3. The project site is the 6.4 acre parcel, labeled as Lot 1 on the plan titled "Site Plan of land in West Yarmouth, MA, Cape Light Commons" dated June 8, 2001. Based on this site area, the project is required to provide 4.16 acres as permanently protected open space. The proponent proposes providing 1.76 acres of on-site open space on Lot 1 in landscaped buffers to Willow Street and the proposed Old Town House Road, as shown on the plan titled "Site Plan of land in West Yarmouth, MA, Cape Light Commons" and dated 5/17/01. An additional 3.01 acres of open space is proposed to be provided off-site on Lot 2. The open space proposal exceeds the requirement by 0.61 acres.

NR4. While MPS 2.5.1.3 allows for off-site open space in appropriate situations, the proposed configuration of open space on-site (mostly in buffers to roads, and a small buffer to the off-site wetland) is marginally adequate. The bulk of the open space proposal is not contiguous with existing protected open space (as required by MPS 2.5.1.2) and to sensitive resources such as the wetland to the southeast of the project site (as required by MPS 2.5.1.1).

Transportation

T1. Bornstein Companies proposes to construct general offices and self-storage buildings on Willow Street in Yarmouth. Willow Street is a regional road as defined in the Regional Policy Plan.

T2. As stated in the April 26, 2001 letter from Rizzo Associates, the proposed development is expected to generate the following peak hour traffic after allowing for the trip reduction credit.

Average weekday	310 trips
Average morning peak hour	42 trips
Average evening peak hour	42 trips

T3. Minimum Performance Standard 4.1.1.1 states that DRIs *shall mitigate all year-round and summer transportation impacts caused by the development on all regional road links and intersections where the project is expected to add 25 new trips during the project's peak hour (50 new trips in a certified growth center)*. The Town of Yarmouth does not have a certified Local Comprehensive Plan; therefore this project is not located in a certified growth center. Based on the trip generation and trip distribution information provided by the applicant in the April 26, 2001 letter, the following regional intersection and regional roadway links are included in the traffic study.

Regional Intersections:	Willow Street at Higgins Crowell Road
Regional Roadway Links:	Willow Street between site driveway and Higgins Crowell Road

T4. Other Development Review Policy 4.1.1.20 allows DRIs to mitigate peak hour impacts by contributing a payment of \$100 per peak hour trip to comply with MPS 4.1.1.1. The proponent proposed to provide \$2,500 to offset peak hour impacts at the Willow Street/Higgins Crowell Street intersection and \$2,500 to offset peak hour impacts on the Willow Street roadway link to comply with MPS 4.1.1.1.

T5. The project site is adjacent to a right-of-way that is controlled by the Town of Yarmouth ("the Old Townhouse Road right-of-way"). This portion of Old Townhouse Road has not been constructed. Presently, the Town of Yarmouth is considering a relocation of Higgins Crowell Road that would utilize this portion of the Old Townhouse Road right-of-way. Under the Town's plan, Higgins Crowell Road would not intersect Willow Street at its present location but would be connected with the Old Townhouse Road right-of-way to intersect Willow Street. Cape Light Commons has presented an access and roadway plan that would be consistent with the Town's conceptual roadway relocation plan.

T6. MPS 4.1.1.6 states that *regardless of project size or traffic generation, access/egress onto public ways shall follow accepted access management practices, guidelines and policies*. All new driveways on the regional road system for Developments of Regional Impact shall operate at Level-Of-Service C or better as defined in the Highway Capacity Manual. MPS 4.1.1.17 states that *internal site circulation and access/egress shall be designed to minimize impacts on the adjacent road system*. Other Developmental Review Policy (ODRP) 4.1.1.21 states that roadway access for new development and redevelopment should be consistent with the functional classification of the road. Where possible, driveways should gain access to collector and arterial streets via the local street system. To address these minimum performance standards and ODRP, the proponent agreed to gain access to Willow Street via a single driveway onto Old Townhouse Road and restrict left turns out of Old Townhouse Road (as shown on the site plans revised June 8, 2001).

T7. MPS 4.1.1.7 states *regardless of project size or traffic generation, there shall be no degradation in public safety as a result of a Development of Regional Impact*. This project would increase traffic through the intersection of Willow Street and Higgins Crowell Road, which is on the "Top 1000 Accident Locations" published by the Massachusetts Highway Department and is the fourth highest crash location on Cape Cod. Crash data available at the Cape Cod Commission office indicate that the intersection has experienced 31 crashes between 1997 and 1999 (the most recent three years available) for an average of 10 crashes per year. The 31 crashes resulted in 14 injuries or approximately 5 injuries per year.

The Town of Yarmouth has plans to reconfigure the Route 6 interchange (exit 7) and improve Willow Street. This project is currently programmed for 2006. At this time no interim plans exist to address safety or congestion along Willow Street. The roadway improvements for the Willow Street Corridor improvements are not scheduled until 2006 and construction could be further delayed due to funding, right-of-way takings and/or lack of community support.

To address the safety impacts at the Willow Street/Higgins Crowell Road intersection, the proponent agreed to:

- contribute \$5,000 to implement the Higgins Crowell Road relocation,
- tree trimming along the east side of Willow Street, north of Higgins Crowell Road,
- install a directional sign opposite the Route 6 eastbound ramp. The directional sign will inform motorists that Higgins Crowell Road is 300 feet south of the Route 6 ramp,
- install a directional sign on Willow Street, south of Higgins Crowell Road informing motorists of the Higgins Crowell Road turn, the Route 6 eastbound turn and the Route 6 westbound ramps,

Cape Cod Commission transportation staff requested that the proponent complete a safety analysis at the Willow Street/ Higgins Crowell Road intersection. The proponent's safety study (Rizzo memorandum to Mr. Bornstein, dated May 31, 2001) was incomplete, listing only 3 of the 31 total crashes at the Willow Street/Higgins Crowell Road intersection. Incomplete data was submitted, therefore the proponent has not demonstrated compliance with MPS 4.1.1.7.

T8. Regardless of project size, all Developments of Regional Impact (DRIs) are required to meet MPS 4.1.2.1 (trip reduction). The proponent's traffic engineer estimates that the development will generate 310 daily vehicle trips. The proponent must reduce the average daily automobile trips by 20%, (62 trips) to comply with MPS 4.1.2.1. At the time of this decision, the proponent has not committed to an employee trip reduction plan. The proponent submitted a scope of trip reduction measures (Rizzo letter dated June 8, 2001) that only included support measures for ridesharers. Based on the *Trip Generation Handbook*, published by the Institute of Transportation Engineering (ITE), the vehicle trip reduction support measures alone have no influence on commuter vehicles. Therefore, the project does not comply with MPS 4.1.2.1 of the RPP.

T9. The proponent indicated that a 7,000 square-foot office development could be built within the open space parcel required by Minimum Performance Standard 2.5.1.3. Other Development Review Policy 4.1.3.2 allows vacant developable land as an acceptable mitigation alternative, in

excess of the open space requirement of the RPP, providing that the land is developable. A final determination regarding the appropriateness of the proposal was not made.

Historic Preservation / Community Character

HP1. Goal 6.1.3 of the RPP states that *"to protect and preserve the important historic and cultural features of the Cape landscape and built environment that are critical components of Cape Cod's heritage and economy."* The applicant submitted a Project Notification Form on August 26, 1999 to the Massachusetts Historical Commission (MHC). On September 15, 1999, the MHC determined that the proposed project was unlikely to affect significant historic or archaeological resources.

HP2. MPS 6.2.1 requires in part that *"the height and scale of a new building or structure and any addition to an existing building shall be compatible and harmonious with its site and existing surrounding buildings."* Based on proposed elevations submitted and refined during the course of the DRI review process, the proposed office building is a two-story structure of approximately 25,000 square feet, which would be in scale with surrounding office buildings. The proposed self-storage buildings are one-story structures that would also be in scale with nearby existing commercial uses.

HP3. MPS 6.2.2 requires in part that *"the mass and scale of new buildings, roof shape and pitch, and proportions and relationships between doors and windows shall be harmonious among themselves and consistent with traditional Cape Cod architectural styles."* The proposed office building was revised to provide additional variation in the facade and traditional materials to ensure consistency with MPS 6.2.2. The office associated with the proposed self-storage units was designed with traditional roof shape and materials, and was relocated to a more visually prominent location within the site. The remaining self-storage buildings were proposed with metal roofing and concrete block siding, which are not traditional materials. The applicant indicated that fire code requires the use of metal and block buildings for this use. The applicant would be required to provide alternative colors and textures for the proposed storage buildings to ensure their consistency with MPS 6.2.2.

HP4. MPS 6.2.10 requires that *"parking be located to the rear or side of a building or commercial complex in order to promote traditional village design in commercial areas unless such location would have an adverse or detrimental impact on environmental or visual features on the site, or is completely infeasible."* The proposed project is designed so that buildings are along the roadway with parking located to the side or rear of these buildings, and would therefore be consistent with MPS 6.2.10.

HP5. MPS 6.2.3 requires that *"all new development provide adequate landscaped buffers in order to limit adverse visual impacts on the surrounding community. MPS 6.2.6 requires all development to implement a landscape plan which addresses the functional aspects of landscaping."* The applicant agreed to provide an 80-100-foot vegetative buffer of existing trees to screen proposed uses, in particular the self-storage buildings, from Willow Street and Old Townhouse Road. In addition, the applicant agreed to provide additional understory planting along both roadways to improve the effectiveness of the existing buffer. Parking lot plantings

were provided to help break up the massing of proposed office and self-storage buildings. Based on proposed landscape plans submitted and refined during the course of the DRI review process, the project would comply with MPS 6.2.3 and 6.2.6.

HP6. MPS 6.2.8 states that *"the installation of billboards, offsite advertising, and internally lit or flashing signs shall not be permitted."* The applicant proposes the use of wooden, carved signs for site signage. The applicant agreed that lighting for all signage will be externally illuminated. The applicant would be required to provide final sign plans to ensure their consistency with MPS 6.2.8.

HP7. MPS 6.2.11 requires that *"open storage areas, exposed machinery, refuse and waste removal areas, service yards and exterior work areas and parking lots shall be visually screened from roads and adjacent residential areas through fencing, stone walls or landscaping."* The applicant proposed fencing to provide security for the self-storage buildings. Wrought-iron metal fencing was proposed along the length of the parking lot and along the Willow Street frontage, with chain link fencing elsewhere. Several security gates were proposed to provide access to the self-storage buildings, with gated emergency fire access on Willow Street to the self-storage portion of the site. The applicant agreed to provide supplemental plantings of the buffer between Willow Street and the self-storage buildings. This proposal would therefore be consistent with MPS 6.2.11.

HP8. MPS 6.2.7 requires development or redevelopment to comply with the standards in Technical Bulletin 95-001. Technical Bulletin Standard 2.7 applies to wall-pack lights, and requires in part that such *"lighting should be designed to a maximum cutoff of seventy (70) degrees from vertical."* The lighting plans called for 83 wall-packs to be used exclusively to illuminate the self-storage units. The catalog information submitted during project review indicated these lights would have an 80 degree cutoff, which would not be in conformance with Standard 2.7.

HP9. Technical Bulletin Standard 2.8 requires that the maximum horizontal foot-candle level (initial) as measured directly below the luminaires at grade not exceed 8.0 and that the minimum horizontal foot-candle level (maintained) measured at the point of least illumination at grade is not less than 1.0. Based on the 5/17/00 point-to-point plans, it appeared that the light levels would meet Standard 2.8. At the same time, at a meeting with the applicant on June 5, 2001, and at the June 11, 2001 Subcommittee meeting, staff questioned whether the lighting plans, including the point-to-point information, accounted for the security cameras. Staff expressed the concern that the surveillance cameras would require ambient light levels resulting in foot-candle levels well in excess of 8.0, the maximum set by Standard 2.8. For these reasons, the proposed design would, in fact, not meet the requirements of the Technical Bulletin.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

The proposed project is not consistent with the following Minimum Performance Standards of the Regional Policy Plan: MPS 2.1.1.2 A2., 4.1.1.7, 4.1.2.1., and 4.2.2.3, and 6.2.7.

The probable detriments of the project outweigh the probable benefits resulting from development, as detailed in this Decision.

The Town's zoning bylaw prohibits self-storage facilities in an Aquifer Protection District. This proposal is inconsistent with this bylaw. However, the proposal is grandfathered until July 22, 2001 under a previous bylaw which did not contain this prohibition.

The Commission hereby denies the application of the Bornstein Companies for the proposed Cape Light Commons as a Development of Regional Impact, pursuant to Sections 12 and 13 of the Act, c.716 of the Acts of 1989, as amended.



Frank Shephard, Chairman

6-21-2001
Date

Commonwealth of Massachusetts

Barnstable, ss.

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



Notary Public

My commission expires:

