



CAPE COD COMMISSION

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DATE: March 7, 2002

TO: Patrick Butler, Esquire
Nutter, McClennen & Fish, LLP
1513 Iyannough Road
Hyannis, MA 02601

FROM: Cape Cod Commission

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

APPLICANT: Michienzi Trust
One Trowbridge Road
Bourne, MA 02649

PROJECT #: CU # 20083/ EX # 20083

PROJECT: One Trowbridge Road Redevelopment Project

BOOK/PAGE: Book 9719, page 0223; Lots 24.3/21 and 24.3/22

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the Exemption of the application of the Michienzi Trust (Applicant) 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 One Trowbridge Road redevelopment project (Project). The decision is rendered pursuant to a vote of the Commission on March 7, 2002.

PROJECT DESCRIPTION

According to architectural plans prepared by Rescom Architectural, Inc. dated Oct. 16, 2001, and site plans prepared by Holmes and McGrath, Inc. dated Oct. 4, 2001, an existing 16,000 square foot, two-level building at One Trowbridge Road will be partially demolished and renovated with two additions totaling approximately 9,900 square feet. The total gross floor area of the



Project will be approximately 25,893 square feet on three levels. The complex currently is unoccupied, and in a bad state of disrepair. Previous uses on the main level of approximately 8,000 square feet included: retail space, a pizza restaurant, a pharmacy, two office spaces, a beauty salon and an ice cream parlor. The most recent use on the lower level of approximately 8,000 square feet was for storage. The new complex will house primarily an 11,462 square foot medical "primary care" facility as well as office and retail space. The parking area is proposed to expand to the north and northeast of the building to accommodate approximately 109 paved spaces, an increase from the existing 36 spaces.

There is an isolated wetland in the northeast corner of the site. The parking lot expansion extends into wetland buffer but is an area that is already disturbed and is inhabited by invasive plant species.

An existing septic system will be replaced and improved to Title V compliance.

The project is located on a 1.45-acre site in the northeast quadrant of the 5-way junction of Sandwich Road, Perry Ave., Shore Road, County Road and Trowbridge Road in Bourne with a sixth road (Waterhouse Road) directly across from the eastern access road into the site. Trowbridge, Shore, Waterhouse and County Roads are considered regional roadways under the Regional Policy Plan. Sandwich and Trowbridge Roads are state-owned. The parking planned in front of the building (adjacent to Sandwich and Trowbridge Roads) is within the Mass. Highway right-of-way.

PROCEDURAL HISTORY

The Bourne Board of Selectmen referred this project to the Cape Cod Commission for a jurisdictional determination on Oct. 26, 2001. At a public hearing on Nov. 15, 2001, the Regulatory Committee of the Cape Cod Commission found that it had jurisdiction of the One Trowbridge Road redevelopment, as a Development of Regional Impact meeting the threshold for change of use greater than 10,000 square feet of floor area.

Subsequently, the Michienzi Trust submitted DRI Exemption and DRI Change of Use applications on November 14, 2001. The application was deemed complete on Jan. 23, 2002. The Regulatory Committee held a duly noticed public hearing on Feb. 13, 2002 at 6:00 pm at the Bourne Town Hall in Bourne, MA. At the conclusion of that hearing the Regulatory Committee voted three to one to recommend an Exemption from DRI review to the full Commission. Both Exemption and Change of Use hearings were continued to the full Commission meeting on March 7, 2002. On March 7, 2002 at a duly noticed public hearing held at the Assembly of Delegates Chamber in Barnstable, MA the Cape Cod Commission voted _____ to _____.

Materials Submitted by Applicant:

- Change of Use and Exemption applications including site plans, notice of intent and wetland

- resource area report, DEP Order of Conditions, Mass. Historic Commission notification, deeds from Mr. Patrick Butler, Nutter, McClennen & Fish representing the applicant – Nov. 14, 2001
- Revised plans dated 10/16/01, floor plans and elevations, Mass. Historic Commission correspondence, nitrogen-loading calculations prepared by Holmes & McGrath, title transfer re: septic system – Dec. 17, 2001
- Letter from Mr. Butler re: prior and future tenants, hazardous materials management program, proposed services for new medical facility – Jan. 16, 2002
- Exemption application narrative from Mr. Butler – Feb. 7, 2002
- Letter from Mr. Butler re: Bourne Enterprise article – Feb. 8, 2002
- Copy of a letter from Robert A. Gundersen, Chief Administrative Officer, Falmouth Hospital – Feb. 13, 2002
- Map of Cape Cod Healthcare satellite facilities – Feb. 13, 2002
- Map of DRI Exemptions near regional roadways in Hyannis – Feb. 13, 2002
- Chart of project impacts and improvements regarding staff report issue areas - Feb. 13, 2002

Materials submitted by town officials

- Planning Board meeting minutes from Oct. 11 Planning Board meeting - Oct. 25, 2001
- Memo from Dody Adkins-Perry, Planning Office, to the Planning Board outlining conditions required by the Planning Board at their Sept. 27, 2001 and Oct. 11, 2001 Planning Board meetings – Oct. 26, 2001
- Planning Board decision for site Plan # 362 Noreen Michienzi – Feb. 22, 2002
- Revised Planning Board Decision for site Plan # 362 Noreen Michienzi – Feb. 26, 2002

Materials submitted by Commission staff

- Staff report on JD – Nov. 28, 2001
- Letter from M. Twombly to Mr. Butler about additional information needed to complete the applications – Nov. 28, 2001
- Email from M. Twombly to Mr. Butler about hazardous materials information – Jan. 2, 2002
- Email from M. Twombly to Mr. Butler – Jan. 3, 2002
- Letter from M. Twombly to Mr. Butler stating that the Change of Use and Exemption applications are complete – Jan. 23, 2002
- Fax to Coreen Moore, Bourne Town Planner re: applications – Jan. 23, 2002
- Subcommittee memo from M. Twombly confirming hearing – Jan. 24, 2002
- Fax to Mr. Butler from M. Twombly re: hearing date and time – Jan. 24, 2002
- Fax to Mr. Scott Fitzmaurice – Feb. 1, 2002
- Staff report – Feb. 7, 2002
- Fax to Christine Ferullo – Feb. 7, 2002
- Fax to Mr. Butler w/staff report – Feb. 8, 2002
- Fax to Bourne Town Hall w/staff report – Feb. 8, 2002
- Fax to Bourne Town Hall w/staff report – Feb. 11, 2002
- Fax copy of S. Fitzmaurice letter to Mr. Butler – Feb. 13, 2002

Materials from Interested parties

- Letter from Scott Fitzmaurice – Feb. 6, 2002
- Email from Tom Moccia – Feb. 14, 2002

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 our proceedings are incorporated into the record by reference.

TESTIMONY

The Commission heard oral testimony at the Feb. 13, 2002 public hearing in Bourne, MA. Mr. Butler, attorney for the applicant, asked for a 12(k) Exemption and submitted a chart asserting that impacts are all local in nature and are improvements from the prior use. The traffic consultant said there would be a decrease in traffic generation for the new use. Mr. Butler stated that the project had gone through all local permitting including Orders of Conditions from the Bourne Conservation Commission and site plan approval from the Planning Board. Ms. Raymond, natural resource specialist, said the project will replace and improve a failed septic system and move the leach field out of the wetland buffer area, and the design will incorporate best management practices for stormwater drainage. Mr. Butler said the majority of retail businesses in the past have been unable to be sustained and explained that Falmouth Hospital chose this site for Bourne residents and to reduce trips local residents would otherwise make to Mashpee or Falmouth health facilities.

Mr. Schlaikjer asked about the level of disturbance to the wetland buffer and nitrogen loading. Ms. Raymond said the buffer was already disturbed by past use and supported invasive species.

Mr. Deane asked if the building would remain. Mr. Saronian, Rescom Architects, said the majority of the building would remain.

Martha Twombly gave the staff presentation, pointing out that several regional resources were impacted by the project. Tom Boesch discussed traffic and safety impacts. Staff recommended the project be given a limited DRI review.

Mr. Platt asked about accident statistics. Mr. Saronian said the town required documentation from the state as part of the site plan approval, and the parking in the ROW is still unresolved.

Mr. Jim Grady, Selectboard member but speaking as an individual, believes the project will draw clients from outside of Bourne and believes the overall project will be more detrimental.

Jack Elwood, representing the Bourne Triad, would like to see a more in-depth engineering study of the location to protect public safety.

Hayden Coggeshall, Board of Selectmen, believes the project is a good one, but that it should be smaller and would like to see a review of the traffic, parking and safety issues.

Clem delFavero (Bourne Planning Board) and Matt Trask (Bourne Planning Board and Bourne Committee) asked the subcommittee to support a DRI Exemption.

Dan Doucette spoke on behalf of the fire department, and stated the project would have to get Mass Highway Dept. agreement, and that a new stop sign had recently been posted at this intersection. He expected that the accident rate would drop.

Coreen Moore, Bourne Town Planner and DRI liaison to the Commission, stated that traffic was the main concern from the beginning of the review but that the project didn't have regional impacts. She said the Planning Board conditions must be met before the project can go forward.

Al Benoir said redevelopment would benefit this site but supports a limited DRI review.

Richard Kelliher, Steve Cody, Greg Saronian, Richard Ragoui, Bob Heller and Don Ellis (Bourne Historic Commission) spoke in support of an Exemption.

Noreen Michienzi said she purchased the site hoping to revitalize it. She believes that retail cannot work at this location, and that the medical facility is more viable. She believes it will reduce travel to Falmouth, and is trying to do the right thing for the town.

JURISDICTION

The proposed One Trowbridge Road redevelopment qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the Code of Cape Cod Commission Regulations of General Application, Chapter A of the Cape Cod Commission Act, which requires review of "any use changes which have a gross floor area of more than 10,000 square feet ...".

FINDINGS

The Commission has considered the application of the Michienzi Trust for the proposed Project, 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 Sections 12 (k) of the Act:

General Findings:

G1. The proposed Project involves the renovation of a 16,000 sf building, and additions of approximately 9,900 sf for a total square footage of floor area of approximately 25, 893 sf according to plans submitted by Rescom Architectural, Inc. dated Oct. 16, 2001, and site plans prepared by Holmes and McGrath, Inc. dated Oct. 4, 2001.

G2. The proposed Project will lease 11,462 square feet of space in the building to the Falmouth Hospital for medical offices and labs to serve as a local primary care facility for Bourne residents.

G3. The Bourne Planning Board approved the site plans contingent with meeting conditions on October 11, 2001. Those conditions are summarized in the minutes of the Oct. 11, 2001 Planning Board hearing, in a memo from Dody Adkins-Perry to the Planning Board dated October 12, 2001, and a revised Planning Board Decision dated Feb. 26, 2002.

G4. The property is zoned "VB" (village business).

Transportation Findings:

T1. The Project is located in Bourne at the intersection of County, Trowbridge, Sandwich, Perry, and Shore Roads. The site also borders the intersection of Trowbridge and Waterhouse Roads. Trowbridge, County, Shore, and Waterhouse Roads are regional roadways as defined by the Regional Policy Plan. In addition, Trowbridge, Sandwich, and Waterhouse Roads are owned by the State and are administered by the Massachusetts Highway Department.

T2. The proposed uses will likely cause changes in trip generation to and from the site as follows:

- 14 additional weekday afternoon peak hour trips;
- 2 additional Saturday peak hour trips; and,
- 15 fewer total weekday trips.

T3. Given the small net change in forecasted traffic, the Project will not trigger the 25 new peak hour trip threshold of Minimum Performance Standard (MPS) 4.1.1.1.

T4. Sight distances at the development driveways on Sandwich Road and Trowbridge Road are deficient and do not meet the accepted Association of American State Highway Transportation Officials guidelines for safe stopping sight distance per MPS 4.1.1.6. However, the Town Planning Board has conditioned the project on providing safe egress to the development.

T5. Review of crash statistics for 1998 through 2000 show the five-way intersection as a high accident location with an average of more than five crashes per year. Recently, the Town of Bourne installed an additional "Stop" sign on Shore Road to attempt to improve this situation.

T7. MPS 4.1.1.7 requires developments to have no negative impact on public safety. The improvement of the five-way intersection, the required egress improvements required by the Planning Board, and the change in traffic generation below the thresholds of MPS 4.1.1.1 may lessen the public safety impacts of the development.

T8. Due to the limited change in traffic, recent intersection changes, and conditions placed on the One Trowbridge Road development by the Bourne Planning Board, the Commission finds that for transportation review, the development will not have significant transportation impacts outside of the Town of Bourne.

Economic Development Findings:

ED1. The Economic Development goals of the Regional Policy Plan are: 3.1 *“to promote businesses that are compatible with Cape Cod’s environmental, cultural, and economic strengths in order to ensure balanced economic development”*; 3.2 *“to locate development so as to preserve the Cape’s environment and cultural heritage, minimize adverse impacts, and enhance the quality of life”*; and 3.3 *“to encourage the creation and diversification of year-round employment opportunities.”*

ED2. According to the Falmouth Hospital Chief Administrative Officer, their primary care facility in the One Trowbridge Road complex will be a local one serving residents of Bourne as their other similar satellite offices serve Mashpee and Sandwich residents.

ED3. The RPP states that it is economically important for Cape Cod to maintain strong health services. The One Trowbridge Road redevelopment provides a convenient locus in Bourne to serve Bourne residents on the Cape side of the Cape Cod Canal. In addition, this location will reduce automobile trips to other surrounding healthcare facilities in such places as Falmouth, Sandwich, and Plymouth.

ED4. Approximately 11,462 square feet of the space in the proposed Project will be leased to the Falmouth Hospital to house a primary care facility. In addition, there will be other office and business spaces in the complex for lease. This facility will provide business opportunities with permanent, professional and skilled technical medical positions in the town of Bourne.

ED5. As redevelopment, the Project addresses the goals of the RPP.

Natural Resource and Open Space Findings:

NR1. The project is not located within a Significant Natural Resource Area according to RPP maps, nor is it located within estimated rare species habitat according to the Natural Heritage Atlas, 2000 – 2001 Edition. Information submitted by the applicant indicates that a wetland is located in the northeast corner of the project site.

NR2. The applicant has provided a Notice of Intent Report for this redevelopment project which includes information adequate to evaluate the impacts of the proposed project on wetlands and wetland buffers. Due to the previously disturbed and developed nature of the site, and the density

of development found at this location in the Town of Bourne, the Commission finds that the proposed project expansion will not impact resources of regional significance.

NR3. The applicant proposes some limited revegetation with native species within the buffer to wetlands, which may likely improve habitat for wildlife. The Planning Board conditions also require additional plantings between the parking area and the wetland.

Heritage Preservation/Community Character Findings

HP1. The Project design is a three-story, steep-roofed building, which incorporates colonial-style architecture consistent with traditional Cape Cod design. In addition, the building will be finished with traditional clapboard and cedar shingles, with multi-pane, trimmed windows and doors.

HP2. Though there is not a historic district in Bourne, the Project site is adjacent to several historic structures. The Project design will be consistent with the historic period represented in this area.

HP3. The existing structure is currently in a dilapidated condition with a failed septic system. This redevelopment will expand and renovate these structures into a facility that can house viable businesses in a manner that is compatible with the neighborhood character. The Falmouth Hospital plans to lease 11,462 sf of space for use as a primary care medical facility, leaving an additional 14,000 sf for independent retail and office use.

Hazardous Materials Finding:

HM1. The proposed One Trowbridge Road Project is not located in a Wellhead Protection District/Zone II or a potential future public water supply area, so hazardous materials are not a direct threat to public water supplies.

CONCLUSION

The Cape Cod Commission hereby finds that the Project as proposed will not have significant impacts on the values and purposes protected by the Cape Cod Commission Act outside the town of Bourne. This is supported by the findings listed above. The Cape Cod Commission hereby grants Noreen Michienzi, Trustee for the Noreen Michienzi Trust, a Development of Regional Impact Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act, c. 716 of the Acts of 1989, as amended for the proposed One Trowbridge Road redevelopment project located in Bourne, MA.

This exemption decision shall be valid for three (3) years and its scope shall be strictly construed.

Elizabeth Taylor
Elizabeth Taylor, Chair

March 7, 2002
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 7th day of MARCH, 2002, before me personally appeared ELIZABETH TAYLOR, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that SHE executed the same as HER free act and deed.

Dorr Steven Fox

Notary Public
Commonwealth of Massachusetts

My Commission expires:

