

CAPE COD COMMISSION

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Date: October 23, 2003

To: Tom Sousa, Esquire
Carter & Associates
509 Falmouth Road, Suite 5
Mashpee, MA 02649

From: Cape Cod Commission

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

Applicant: Dan DeLuca
Adventure Isle
21 Buckthorne Path
Forestdale, MA 02664

Project: Adventure Isle Redevelopment
343 MacArthur Boulevard
Bourne, MA

Project #: TR # 02018

Book/Page: Book 2002, Page 338; Book 3094, Page 061

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the DRI application of Dan DeLuca, owner of the Adventure Isle Amusement Center in Bourne, MA 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 Adventure Isle Redevelopment (Project). The decision is rendered pursuant to a vote of the Commission on October 23, 2003.

PROJECT DESCRIPTION

The proposed Project is located on a 7.9-acre site at 343 MacArthur Boulevard in Bourne, MA. The site is currently developed for the seasonal Adventure Isle amusement park, which currently

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extends onto leased land at 320 MacArthur Blvd. The proposed redevelopment plan will vacate its lease on 320 MacArthur Blvd. and consolidate all elements onto 343 MacArthur Boulevard. The proposed Project consists of demolition of an existing building, construction of a single story 23,452 square foot building to house a new roller skating rink, snack bar, and party rooms. With the construction of the new building, and the bumper car ride, arcade, and laser tag arena amusements will move indoors, and will be able to operate year-round. Outdoors, the go-cart track will be modified, and several existing amusements, including miniature golf course, bumper boat lagoon, super slide and kiddie rides will remain. The mini bikes and batting cages will be removed.

The site is zoned B-4, "business development along arterial routes with careful control of environmental and traffic impacts". The property abuts a driving range to the north (currently leased by the Applicant), MacArthur Boulevard on the east, business condominiums on the west, and mixed use commercial-residential, and a gas station on the south.

PROCEDURAL HISTORY

The Project was referred to the Commission by the Bourne Planning Board on April 23, 2002. The Commission received the referral on April 29, 2002. A procedural hearing was opened on June 25, 2002 by a hearing officer and continued. The hearing was closed by a hearing officer on September 20, 2002. Extensions for project review until November 18, 2002, and then to November 18, 2003 were granted by the Regulatory Committee on October 3, 2002 and May 18, 2003 respectively. A duly noticed public hearing was conducted pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on August 6, 2003 at the Bourne Public Library. The public hearing was closed on July 23, 2003 and the record was left open for submission of written materials.

The subcommittee held a public meeting after the close of the public hearing to deliberate on this project on September 29, 2003. At the September 29, 2003 meeting, the subcommittee voted unanimously to recommend to the full Commission that the Project be approved as a DRI, subject to conditions. A final public hearing was held before the full Commission on October 23, 2003. At this hearing, the Commission voted unanimously to approve the Project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

Materials submitted by the Town:

- Letter from Bourne Board of Health dated September 18, 2003
- Letter from Cape Cod Canal Region Chamber of Commerce dated July 30, 2003
- Project referral from Bourne Planning Board – April 29, 2002

Materials submitted by the Applicant:

- Revised site plan received October 15, 2003

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- Revised landscape plans received October 14, 2003 via fax
- Revised elevations - October 9, 2003
- Fax from F. Graham to P. Dascombe re: revised elevations – October 9, 2003
- Revised site plan – October 7, 2003
- Revised site plans – October 7, 2003
- Fax from M. Judd of Davis & Davis to P. Dascombe regarding parking – October 2, 2003
- Letter from Carter & Association dated September 29, 2003
- Letter from Bourne Board of Health dated September 18, 2003
- Lighting specifications from Davis & Davis – September 17, 2003
- Revised site plans – September 15, 2003
- Letter from Clivus New England – September 12, 2003
- Draft maintenance plan – September 9, 2003
- Letter from D. DeLuca including supplemental drainage calculations, and EPA application for hazardous waste generation – September 8, 2003
- Letter from Warwick & Associates dated September 5, 2003
- Fax from Davis & Davis dated September 4, 2003 – September 5, 2003
- Letter from Nauset Environmental Services dated August 27, 2003 re: asbestos inspection
- Letter from Lead Paint Inspections dated August 23, 2003
- Hazardous Materials and Waste Management Plan – August 15, 2003
- Property listing for satisfying transportation mitigation – August 14, 2003
- Revised entrance elevations – August 6, 2003
- Letter from M. Herlihy, P.E., to Warwick & Associates dated July 9, 2002 re: stormwater design – July 16, 2003
- Letter dated July 16, 2003 from Vanasse & Association to G. Cannon – July 16, 2003
- Revised grading and drainage plans by Warwick & Associates, dated July 10, 1002 – July 16, 2003
- Revised initial site lighting plans by RUDD dated June 27, 2003 – July 2, 2003
- Revised lighting plans by RUDD dated June 27, 2003 – July 2, 2003
- Fax from Frank Graham, Davis & Davis, dated June 16, 2003, to P. Dascombe re: design changes – June 16, 2003
- Fax from Frank Graham, Davis & Davis, dated June 16, 2003, to Phil Dascombe re: rough dimensions – June 16, 2003
- Letter from Vanasse & Associates to Glenn Cannon, dated June 11, 2003 – June 16, 2003
- Abutters list from Falmouth Assessors office – June 7, 2002
- Letter from Tom Sousa, Attorney for the Applicant, to Tana Watt – June 4, 2002
- Narrative from Applicant to Commission staff – May 20, 2003
- Lighting, Open Space Plans dated April 23, 2003 – April 28, 2003
- Letter from D. DeLuca – April 28, 2003
- Feasibility Report, Shumaker Products & Services, dated September 6, 2001 – April 9, 2003
- Extension letter – March 25, 2003
- DRI consistency narrative report and application – March 7, 2003
- Traffic Impact Study dated October 2002 from Vanasse & Associates – March 7, 2003
- Existing conditions plan (9/10/02), proposed master site plan (1/27/03), lighting plan (1/27/03), grading and drainage plans (1/31/03), floor plans and elevations (10/28/02), proposed landscaping plan (1/27/03) – March 7, 2003

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- Letter from T. Sousa, Attorney for the Applicant, re: MHC review – March 4, 2003
- Extension letter – September 24, 2002

Materials submitted by Cape Cod Commission:

- Memo from A. Adams to M. Twombly dated October 8, 2003
- Email from P. Dascombe to M. Judd regarding dock configuration – October 8, 2003
- Subcommittee memo from M. Twombly – September 23, 2003
- Meeting notes for September 9, 2003 meeting
- Meeting notes for August 15, 2003 meeting
- Staff Report – July 31, 2003
- Letter to D. DeLuca from M. Twombly summarizing façade, design and landscaping issues – June 11, 2003
- Meeting minutes to T. Souza from April 18, 2003 meeting – April 23, 2003
- Meeting notes to T. Souza from April 9, 2003 meeting
- Memo dated March 27, 2003 from Gay Wells to T. Souza – April 3, 2003
- Letter to T. Souza from M. Twombly – April 1, 2003
- 45-day letter to T. Souza – March 3, 2003
- 45-day letter to Tom Souza – September 9, 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

Hearing #1- August 6, 2003

Jeremy Carter, attorney representing Delknap, Inc., introduced Dorothy and Dan DeLuca, owners of Adventure Isle, Ken Cram, traffic engineer from Vanasse & Associates, and attorney Tom Sousa from Carter & Associates. Mr. Carter described the history of the use on site, and emphasized that the business has always been a family-oriented one. He explained the current owners want to enlarge, improve and modernize the facility with minimum impact on town services, and noted that the expansion will contribute to local taxes and wages. Mr. DeLuca said that the activities currently housed in two other buildings within the leased area would be moved inside the new building.

Ken Cram noted that the roller skating use is not listed in the ITE manual, so they obtained traffic data from other sources, with a resulting traffic generation statistic of 302 daily trips. He found no significant change in the level of service (LOS) on MacArthur Boulevard, but noted that the Applicant will have to file for a new permit with Mass. Highway.

Planner Martha Twombly submitted a letter of support from the Cape Cod Canal Region Chamber of Commerce. She reviewed the generally positive economic impacts and stated that open space requirements would be met on site.

Gabrielle Belfit, staff hydrologist, noted that the site is located in a nitrogen sensitive marine embayment and also the ACEC for Eel River and Back Bay. She discussed wastewater flow, nitrogen loading and several alternative options for nitrogen removal, including: a cash contribution, the installation of water-less toilets, or proposing a system accepted by DEP into a pilot program.

Glenn Cannon, staff transportation engineer, stated that the Applicant's traffic study had been calculated according to the 1996 RPP, not the 2002 RPP, and that it needed to be updated regarding trip generation, study area, trip reduction plans, safety at the Bourne and Otis Rotaries, and traffic congestion. He stated that staff was only looking at the net change in trip generation as a result of new uses on the site. He also discussed the need to offset traffic congestion, and discussed methods such as the purchase and protection of vacant developable land to offset impacts in all these areas.

Ms. Twombly stated that more specific details were needed to complete the requirements for hazardous materials/wastes management, and discussed remaining community character issues.

Mr. Aitchison asked the Applicant what their response to the nitrogen-loading options may be. Mr. Carter answered that would consider Ms. Belfit's suggestions to comply with the regulations.

Mr. Hogan asked how far away the embayments were. Mr. Carter said about two miles "as the crow flies."

Ms. Kadar asked for clarification of the size of the skating arena. Mr. DeLuca explained that the rink itself was 6200 sf.

Mr. Deane asked where the deceleration lane starts, and if there were problems with access or egress into the current parking area. Mr. Cannon answered that he believes the entrance will be an actual improvement from current conditions. Mr. Deane asked about the location of the U-turns on Rte. 28. Mr. Sousa indicated their locations about 1/4 mile south of the entrance and across from the leased property to the north of the site.

Ms. Kadar asked if the 3000-gpd flow was just for the new skating rink, or for the entire facility. Mr. DeLuca stated there is no classification for this kind of industry regarding wastewater flow. He said he would work with Commission staff and his water consultant to get verifiable figures.

Mr. Aitchison asked about the number of go-carts, and issues of servicing, oil spillage and containment. Mr. DeLuca said the new track would have 20 go-carts, while the current track has 25. Mr. DeLuca stated that servicing would take place in a building further from the track, and that they would build an appropriate containment area requested by staff.

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Mr. Jones asked how stormwater was handled today. Mr. DeLuca said it drained on the property, and that there was no treatment.

Ms. Kadar asked staff if a better arrangement for open space could be found, and questioned whether the inside green of a go-cart track would operate as high-quality open space.

Mr. Hogan asked about the location of the invasive Russian Olive. Ms. Rooney said the Applicant should incorporate a removal plan into the landscaping plan, but noted that Russian Olive was also in the vicinity and may be an ongoing maintenance effort.

Mr. Hogan expressed concern that traffic be mitigated.

Mr. Carter submitted a service contract from Safety Kleen to address a staff request for proper hazardous material/waste disposal.

JURISDICTION

The proposed Adventure Island Redevelopment qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the DRI Enabling Regulations as new commercial space greater than 10,000 sf.

FINDINGS

The Commission has considered the application of Dan DeLuca for the proposed Adventure Isle Redevelopment, and based on consideration of such application and upon the information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General Findings:

- G.1** The proposed Project will consist of demolition of an existing arcade building, construction of a single story 23,452 square foot building to house a snack bar, arcade, party rooms, bumper car ride, laser tag arena, and roller skating rink. Several existing rides will be moved inside the building, and all operations will be consolidated onto a single site owned by Dan DeLuca.
- G.2** Based on consultation with the Bourne town planner, the Project is consistent with local zoning.
- G.3** The Project is being reviewed under the 2002 RPP.

Water Resource Findings:

- WR.1** The Project is located in an identified nitrogen sensitive Marine Recharge Area for Eel Pond and the Back River. Back River has also been designated by EOEAs as an Area of Critical Environmental Concern. Eel Pond is currently an impaired coastal embayment with documented levels of low dissolved oxygen and algal blooms.
- WR.2** Water quality monitoring and assessment is continuing in this area as part of the Massachusetts Estuaries Project. The town has contributed funds towards completion of a management plan for this area. According to MPS 2.1.1.2.C.1 if the critical nitrogen load has not been determined, development shall be required to make a monetary contribution to complete the necessary analyses.
- WR.3** Nitrogen loading from the Project as designed must meet the general RPP MPS 2.1.1.1. nitrogen-loading standard of 5 ppm. In addition, based on the Project location in a Marine Recharge Area (MRA) the Project must comply with MPS "no net increase" loading policy.
- WR.4** The redevelopment plans call for an increase in wastewater flow from about 1000 gallons per day (gpd) to 3000 gpd on the 7.9-acre site. The Project addresses the relevant water resource minimum performance standards through upgrades proposed for the wastewater and stormwater discharge facilities, through the use of Clivus Multrum water-less toilets. By eliminating the "black water" component of the wastewater stream, the Project will remove a significant portion of the nitrogen load and will meet the MPS no net increase loading policy.
- WR.5** Stormwater disposal facilities will be upgraded with the creation of a grass lined bioinfiltration swale to handle road runoff from parking areas. Stormwater improvements to the race track area include creating a vegetated swale along the inside of the race track that will be regraded, additional loam added and a thick rooting sod grass planted.
- WR.6** Improved wastewater treatment and an improved stormwater disposal design result in a net decrease in nitrogen loading that falls below the MPS 2.1.1.A.1 threshold of 5.00 ppm and meets the RPP stormwater management criteria.

Natural Resource/Open Space Findings:

- NR.1** This project is not located in a Significant Natural Resources Area (SNRA) as mapped by the Regional Policy Plan (RPP), nor is it mapped as rare species habitat. Due to the developed and disturbed nature of the site, the preparation of a natural resources inventory was not required.
- NR.2** As a redevelopment project located outside of a SNRA, the open space requirement is equivalent to the total developed area of the site, or approximately 120,658 sq ft as shown on the plan dated October 7, 2003. The proponent proposes to meet the open space requirement by preserving 120,663 sq ft onsite.

- NR.3** The quality of this open space is limited by the pre-developed nature of the site, but is deemed acceptable because the Project is a redevelopment which largely preserves or improves existing vegetated buffers along the front, north side, and back of the property. The open space is also considered acceptable due to the fact that the Project is not located in a SNRA, and is located in an existing densely developed commercial area, isolated from other protected open space.
- NR.4** Given the character and location of the open space, and the fragmentation of the proposed open space due to existing developed areas both onsite and in the vicinity of the site, preservation of the open space will be more appropriately effected through deed restriction in lieu of the typical conservation restriction or donation.

Transportation Findings:

- T1.** For the purposes of DRI review of transportation mitigation, the existing development and the existing traffic from that development were not included in the review of this project beyond the site driveways. As a redevelopment project, the new traffic generated from the indoor roller skating rink was the basis of the review. Other amusements and uses on the site are existing, and will be incorporated into the new building to allow for year-round operations and to improve the aesthetics, design, and customer safety of the facility.
- T.2** Route 28 is a regional road, as defined in the RPP. The Town of Bourne does not have an approved Local Comprehensive Plan; therefore this project is not located within a certified growth center.
- T.3** The proponent's traffic engineer has calculated that the proposed indoor roller-skating rink will generate 302 new vehicle trips on an average weekday (151 in/151 out). The expected net increase in traffic on Route 28 from the Project, after complying with the trip reduction (25%) requirements of the Regional Policy Plan (RPP), is as follows:

Average weekday	226 trips
Average morning peak hour	N/A
Average evening peak hour	106 trips
Average Saturday	429 trips
Average Saturday peak hour	111 trips

- T.4** MPS 4.1.1.3 requires that *all access and egress locations for development and redevelopment shall meet local, county, and/or state and federal access management bylaws, technical bulletins, standards and/or policies for driveway spacing and separation from the nearest intersections. Development and redevelopment with frontage on more than one street shall be restricted to access and egress via the lower volume road when deemed appropriate by the Commission.* Currently, three (3) site driveways access the existing amusement park. The north and middle site driveways belong to the adjacent property, and all Adventure Isle traffic will enter the main site driveway.

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- T.5** MPS 4.1.1.7 states that *acceptable sight distances shall be met and maintained at all access and/or egress locations for development and redevelopment regardless of project traffic volumes. At a minimum, these shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials' standards for safe-stopping sight distances.* The Applicant demonstrated that the existing driveways meet or exceed the minimum stopping sight distance.
- T.6** MPS 4.1.2.1 requires that *all development and redevelopment not located within Growth Incentive Zones shall implement adequate and acceptable measures to reduce and/or offset 25% of the expected increase in summer site traffic resulting from the development on a daily and project peak-hour basis. Employee carpooling, flexible work hours, and incentives for alternatives to automobile travel are strategies consistent with this standard. Trips generated from public transit buses shall not be included in trip generation for purposes of determining the trip-reduction requirement. Truck, tractor/trailer combination, and other non-automobile trips shall be considered as passenger car equivalents based on the ratio of two axles per vehicle. For example, a three-axle truck shall be considered 1.5 vehicles; a five-axle combination unit shall be considered 2.5 vehicles.*

The Applicant has proposed a trip reduction plan that includes the following in-kind strategies:

- Designate an employee to serve as the Transportation Coordinator for the amusement park who will be responsible for promoting the rideshare program and other travel demand management (TDM) measures.
- Designate parking spaces convenient to building entrances, which will be reserved for carpool or vanpool vehicles.
- Provide a guaranteed ride home to carpool participants.
- Provide group discount rate of 20% off admission for carpool/vanpools of five (5) or more patrons.
- Provide a lunchroom within the proposed new building to eliminate the need to travel off-site.

The employee trip reduction program outlined above is not sufficient to comply with standards under Goals 4.1.2 and 4.1.3 of the Regional Policy Plan. Compliance with Goal 4.1.2 is outlined in finding T7.

- T.7** The proponent has proposed to mitigate all daily and peak hour traffic through Minimum Performance Standard (MPS) 4.1.2.8, (preservation of vacant developable land). The proponent has demonstrated that a parcel of land within the Project's study area is available for purchase and the proponent is willing to place this land under a conservation restriction. Cape Cod Commission transportation staff has determined that this land has the potential to offset all of the daily and peak hour traffic from the proposed development. The purchase price of this land is \$149,900. As allowed under MPS

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4.1.2.7 (a) the Applicant has proposed a payment of equivalent funds (\$149,900) to be used for transportation purposes or land conservation. This form of mitigation is acceptable for this project at this location.

T.8 The allocation of the funding based on the trip reduction requirement of the RPP calls for a minimum of 25% of the mitigation funding being reserved for trip reduction (149,900 x .25 = \$37,475).

T.9 MPS 4.1.2.5 states that *development and redevelopment shall consider and accommodate the needs of bicyclists, pedestrians, and other non-automobile users in site planning and roadway and/or intersection changes. Where appropriate, historic footpaths shall be maintained and safe bicycle and walking links shall be created to establish an interconnected regional bicycle and walking path system. Where appropriate, bikeways and footpath connections between commercial and residential neighborhoods and other compatible uses shall be provided to create a safe alternative to travel on or along major roads.*

The Applicant will create a pedestrian/bicycle way allowing access from the abutting Mobil property located on the south boundary and maintain the existing pedestrian/bicycle way with the property located on the north boundary, consistent with MPS 4.1.2.5.

Economic Development Findings:

ED.1 The Applicant has provided economic data consistent with MPS 3.1.1, including:

- Estimates for an increase of approximately 68,000 customers per year to the improved facility, based on a market feasibility study by Shumaker Products & Services, dated September 6, 2001 (Other Development Review Policy (ODRP) 3.1.8)
- A breakdown of potential customers from primary, secondary and tertiary markets on Cape Cod based on statistics from the Massachusetts Office of Travel and Tourism.
- Also consistent with MPS 3.1.1, and ODRPs 3.1.3 and 3.3.2 regarding job creation, there will be an increase of 15-20 part-time staff, and at least three full-time management positions, drawn from existing staff and the local area. The management positions will have salaries in the range of \$15.00 to \$20.00 per hour and provide partial health benefits.
- MPS 3.1.1 requires analysis of impacts on local services. The Applicant states that the expansion and redevelopment will contribute approximately \$145,000 in local wages, and approximately \$10,000-\$12,000 in tax revenues to the Town of Bourne. The Applicant also estimates that with improvements to the site and building there will be a reduction in the cost of town services, such as fire and police.

- ED.2** The proposed Project is a redevelopment of an existing business, and is not located in a Growth/Activity Center or Growth Incentive Zone. Bourne currently does not yet have a Local Comprehensive Plan or designated Growth Centers, so MPS 3.2.2 does not apply to this project.
- ED.3** The proposed redesign and new building will allow the proposed Project to operate on a year-round basis. This is consistent with infill and revitalization of existing strip developments under ODRP 3.2.7.
- ED.4** Consistent with ODRP 3.3.3, the Applicant will contract with a firm from Attleboro, MA for the construction of the foundation of the proposed new building, and will work with Cape Cod companies for all remaining construction.

Affordable Housing Findings:

- AH.1** Based upon the information submitted, it appears that the proposed Project will have little impact upon net employment at the facility. Therefore, MPS 5.3.1 and 5.3.2 do not apply to the Project.

Hazardous Materials/Wastes Findings:

- HM.1** According to information submitted by the Applicant as part of the DRI review, as well as information on the maps produced for the 2002 Regional Policy Plan, the Project site is not located in an existing Wellhead Protection Area/Zone II or a Potential Public Water Supply Area according to the 2002 Regional Policy Plan.
- HM.2** Minimum Performance Standard 4.3.1.1 requires that *“development and redevelopment shall make reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.”* MPS 4.3.1.4. requires that *“development and redevelopment shall prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases and describes ways to reduce those threats.”* On August 15, 2003, the Commission received a Hazardous Materials and Waste Management Plan from the Applicant. Commission staff recommended changes to this Plan in a Memorandum dated October 8, 2003.
- HM.3** MPS 4.3.1.2 requires that *“development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.”* Based on information provided as part of the DRI review, the facility primarily uses automotive-related hazardous materials (gasoline, motor oil, and parts washer) and as such, it generates these used hazardous materials as hazardous wastes. The facility will also generate a limited number of fluorescent bulbs (a regulated waste). As part of the DRI process, the Applicant submitted evidence of a contract with Safety-Kleen (Clean

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Harbors) to remove used oil, used parts washer solvent and fluorescent bulbs. Information received by the Commission on August 15, 2003, indicated that Dan DeLuca was in the process of registering with the Massachusetts Department of Environmental Protection as a Small Quantity Generator of hazardous waste and used oil. Commission staff also recommended changes to the ways in which the proposed Project manages its hazardous waste in a Memorandum dated October 8, 2003.

- HM.4** The proposed Project involves the demolition of a 3,000 +/- square foot building which the DRI application narrative states "was built in 1978 without the use of asbestos or lead paint." As part of the DRI review, the Applicant submitted copies of an August 23, 2003 assessment done by Fred Hemmila Inspections for lead-based paint showing that there was no evidence of lead-based paint, and an August 27, 2003 assessment for asbestos conducted by Nauset Environmental Services, Inc.
- HM.5** The August 15, 2003 Hazardous Materials and Waste Management Plan and other information submitted as part of the DRI review indicates that activities involving oil and gasoline (primarily go-carts) will be conducted on impervious surfaces. Also, the go-cart storage shed will have a concrete floor without drains. Absorbents and a spill kit will also be kept on site.

Community Character Findings:

Site Design/Landscaping findings

- CC.1** MPS 1.1.2 and MPS 6.2.1 state *that the creation or extension of strip development shall not be permitted. Reuse, redevelopment or infill within existing strip developments in a way that does not extend the linear nature of the development or increase traffic conflicts may be permitted.* The existing Adventure Isle business consists of linear roadside development with a large expanse of paved parking in the front of the site and three curb cuts, consistent with strip development patterns. Redevelopment of the site is proposed on already developed areas, and does not extend the linear nature of the development. The Applicant proposes to continue to use an existing curb cut so as not to increase traffic conflicts. Therefore, the Project is consistent with MPS 1.1.2 and MPS 6.2.1.
- CC.2** MPS 1.1.4 and MPS 6.2.7 require that *parking shall be located to the rear or the 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 infeasible.* Based on a revised master site plan dated October 2, 2003 prepared by Davis & Davis, Inc., all but 3 parking spaces are located to the side or rear of the proposed building. The three remaining spaces are proposed for delivery vehicles which require access to the front of the building. Therefore, the Project is in conformance to the extent feasible with MPS 1.1.4 and MPS 6.2.7.

- CC.3** MPS 6.2.8 requires that *redevelopment of existing strip development shall provide adequate buffers between parking areas and the street, and significant improvement to interior parking-lot landscaping, as well as façade improvements and frontage buildings, as necessary, to improve the visual character of the site.* The proposed landscape plan prepared by Davis & Davis, Inc. revised October 16, 2003 provides substantial buffers between the parking areas and MacArthur Boulevard and improvements to parking lot landscaping. The site currently contains a loose collection of structures and outdoor uses that are highly visible from MacArthur Boulevard. The proposed Project will bring both existing and proposed uses into a single structure, improving the visual character of the site. Therefore, the Project is consistent with MPS 6.2.8.
- CC.4** MPS 6.2.9 requires that *all development shall implement a landscape plan that addresses the functional aspects of landscaping,* and includes a maintenance agreement for all landscaped areas. The proposed landscape plan revised October 16, 2003 includes plant materials that are adaptable to site conditions and provide buffering from the roadway. Further, the Applicant has agreed to remove invasive species (Rugosa Rose, Russian Olive) from the site during construction. The interior of the existing go-cart track will also be renovated to provide additional organic topsoil and sod to assist in the attenuation of stormwater runoff. The Applicant has submitted a draft maintenance agreement for all landscaped areas. Therefore, the Project is consistent with MPS 6.2.9.
- CC.5** The Applicant has provided walkways within the development and connecting to adjacent developments to the south of the Project site, as recommended by Other Development Review Policy 6.2.15.

Building Design

- CC.6** MPS 6.2.5 allows redevelopment projects to expand buildings up to 50,000 sq.ft. without full screening (defined as a 200-foot wide buffer), provided the expansion occurs on previously developed impervious or landscaped areas. This standard also requires that the massing, façade and roof configuration be varied to reduce the apparent mass of the building and that the building include a minimum of 10 foot of set-back or projection in the façade footprint for every 50 feet. Full screening (200 foot-wide buffer) is not required for this project as the expansion is occurring on previously disturbed areas. The building footprint shown on the Sheet A1.101 of plans revised with the date 9-12-03 incorporates variation in the façades that exceed the minimums required in this standard. The building elevations show a structure with gable-ends and varying ridge heights that provide a varied roof form that reduces the mass of the building. The Project is therefore consistent with MPS 6.2.5.
- CC.7** The south and east facing façades will be finished with a wood clapboard system painted with a non-reflective, muted color and wood trim. This color selection will serve to de-emphasize the building and in combination with the landscape buffer, reduce its visibility from MacArthur Boulevard. The building will use non-traditional (metal) materials for the roof and west and north facing walls. These materials are appropriate given the

“warehouse” design of the building, its location on Route 28 and its use as an amusement center. Therefore, the proposed materials are consistent with Goal 6.2 of the RPP and Technical Bulletin 96-001 – “*Designing the Future to Honor the Past, Design Guidelines for Cape Cod.*”

CC.8 MPS 6.2.11 prohibits off-site advertising, and internally lit or flashing signs. The Master Site Plan (Sheet AS1.1) of the submitted plans show that the existing sign, that is not internally illuminated or flashing, is to remain in its current location on the subject property. Therefore the Project is consistent with MPS 6.2.11.

Lighting

CC.9 Minimum Performance Standard 6.2.10 requires that “*exterior lighting in new development or redevelopment shall comply with standards including design, light source, total light cutoff, and foot-candle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.*”

CC.10 Based on the point-to-point foot-candle Lighting Plans (Sheets AS1.2 and AS1.3) by RUUD Lighting (received September 8, 2003), and technical cuts of fixtures received from Davis and Davis on September 5, 2003 and September 17, 2003, the Project will use pole and on-building mounted lights. A September 4, 2003 letter from Davis and Davis also stated the foot-candle plans show all lights proposed for the Project, including any lights as may be required by the Massachusetts Building Code. The lights shown on the plans and in the accompanying technical cuts are consistent with Design Standards 2.1 to 2.6 of Technical Bulletin 95-001 (as amended). In particular, the pole-mounted lights will not exceed 20.0 feet as stipulated by Standard 2.5 and fixtures will not exceed the 8.0 foot-candle maximum set by Standard 2.6

CC.11 The Lighting Plans and Master Site Plan (Sheet AS1.1) by Davis and Davis dated “for review purposes 9-04-03” indicate existing halogen lights on the site will be removed.

Heritage Preservation

HP.1 The proposed Project is not located in a historic district. MHC has determined that the Project is unlikely to affect significant historic or archaeological resources.

CONCLUSION

Based on the findings above, the Commission hereby concludes:

1. The Project is consistent with the Minimum Performance Standards of the Regional Policy Plan as described above.
2. The proposed Project is not within a District of Critical Planning Concern (DCPC).

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3. The benefits of the proposed development based on Findings ED3, ED4, CC1, and T4, outweigh the detriments based in Findings WR4 and T3, which were mitigated by the Applicant.
4. The proposed Project is consistent with local zoning, based on consultation with the Bourne town planner.

The Cape Cod Commission hereby approves the Adventure Isle Redevelopment as a DRI under Sections 12 and 13 of the Act, provided the following Conditions are met.

CONDITIONS

General Conditions

- G.2 This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G.3 Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G.4 The Applicant shall obtain all state and local permits for the proposed Project.
- G.5 No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- G.6 Prior to issuance of a building permit for any phase of proposed construction, the Applicant shall submit final plans as approved by local boards for review by Commission staff to determine their consistency with this decision and/or information submitted as part of the DRI review. If the final plans approved by local boards are inconsistent with this decision and/or supporting information, then they shall be reviewed subject to Section 7 of the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/30/02 and as amended from time to time.
- G.7 Prior to issuance of a building permit for any phase of construction, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a building permit have been met.
- G.8 The Applicant shall provide the Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision. The annual progress report shall describe the status of local development permitting and project construction, including the expected date of commencement of site preparation work. The Applicant shall report any project changes in the annual progress report.

- G.9** Prior to receiving a temporary or final Certificate of Occupancy from the Town of Bourne, the Applicant shall obtain a Final Certificate of Compliance from the Commission.
- G.10** The Applicant shall be responsible for providing proof of recording of the Decision prior to issuance of a Preliminary Certificate of Compliance.
- G.11** The Applicant shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.
- G.12** The Project shall be constructed in accordance with the following plans: Master Site Plan dated October 23, 2003, Landscaping Plan dated October 23, 2003, Lighting Plans dated October 23, 2003, Elevation Plans and dated October 21, 2003.
- G.13** Prior to issuance of a Preliminary Certificate of Compliance final grading plans based on the Master Site Plan dated October 23, 2003 and the Landscape Plan dated October 23, 2003 shall be submitted for approval by Commission staff.
- G.14** The applicant shall notify Commission staff of the intent to seek a Certificate of Compliance at least thirty (30) days prior to the anticipated date of occupancy. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within seven (7) business days of such notification and inform the applicant in writing of any deficiencies and corrections needed. The Applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property, which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.

Water Resources Conditions:

- WR.1** The existing standard Title 5 septic system shall be upgraded by incorporating a Clivus Multrum system for toilet waste. The Board of Health shall approve the design prior to issuance of a Final Certificate of Compliance.
- WR.2** Prior to issuance of a Final Certificate of Compliance, the Applicant shall make a monetary contribution towards the development of a study to determine the flushing rate of the embayment and the critical nitrogen-loading rate based on MPS 2.1.1.2.C.1. The one time monetary contribution is based on 15 cents per gallon and shall be \$494. The funds shall be used for completion of flushing studies or for implementation of appropriate nitrogen management strategies as determined by the town of Bourne and Cape Cod Commission Water Resources staff.

WR.3 Prior to issuance of a Preliminary Certificate of Compliance the Applicant shall submit a management plan for the stormwater system to assure maintenance of the catchbasins and infiltration areas in accordance with guidelines from the CCC staff.

Natural Resources/Open Space Conditions:

NR.1 Prior to issuance of a Preliminary Certificate of Compliance, the proponent shall provide the Commission staff with a deed restriction to be approved by Commission Counsel that provides that the 120,663 sq ft open space shown on the plan titled Adventure Isle Master Site Plan and dated October 15, 2003, shall remain as permanent open space. The approved restriction shall be recorded at the Barnstable Registry of Deeds, and re-recorded every thirty years thereafter. Proof of initial recording of the restriction shall be provided to the Commission prior to issuance of the Final Certificate of Compliance.

Transportation Conditions:

T.1 Prior to issuance of a Final Certificate of Compliance, the Applicant shall make a monetary contribution of \$37,475 to comply with RPP Goal 4.1.2. These funds shall be held by the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Executive Director. The funds shall be used to support projects or strategies that encourage alternatives to automobile travel, which may include, but are not limited to, monitoring of traffic volumes, speeds and vehicle classification, planning, design or construction of alternatives to automobile travel such as bicycle paths and sidewalks, supporting, marketing or promoting bus or shuttle services or the purchase of land for the creation of bicycle or pedestrian ways in the town of Bourne.

T.2 Prior to receiving a Final Certificate of Compliance, the Applicant shall make a monetary contribution of \$112,425 to comply with RPP Goal 4.1.3. These funds shall be held by the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Executive Director to support the planning, design or implementation of transportation improvements in the town of Bourne.

T.3 Prior to receiving a Final Certificate of Compliance, the Applicant shall implement the following trip reduction plan:

- Designate an employee to serve as the Transportation Coordinator for the amusement park who will be responsible for promoting the rideshare program and other travel demand management (TDM) measures.
- Designate parking spaces convenient to building entrances, which will be reserved for carpool or vanpool vehicles.
- Provide a guaranteed ride home to carpool participants.
- Provide group discount rate of 20% off admission for carpool/vanpools of five (5) or more patrons.
- Provide a lunchroom within the proposed new building to eliminate the need to travel off-site.

The trip reduction plan will remain in place for the life of the Project.

Hazardous Materials/Wastes Conditions:

- HM.1** Fluorescent bulbs generated as a result of demolition or construction activities shall be segregated from general construction and demolition wastes. Fluorescent tubes shall be stored and handled consistent with the Massachusetts Hazardous Waste Regulations in a manner such as to prevent breakage. Prior to issuance of the final Certificate of Compliance by the Cape Cod Commission, the Applicant shall submit evidence that a dedicated storage area has been created for fluorescent bulbs which is consistent with the Massachusetts Hazardous Waste Regulations, and/or that those generated as a result of construction or building demolition have been disposed of with Safety-Kleen.
- HM.2** Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit evidence of efforts to find an alternative, less-toxic product to replace the parts washer solvent to demonstrate compliance with MPS 4.3.1.1.
- HM.3** Prior to issuance of the Final Certificate of Compliance, the Applicant shall submit a revised copy of the August 15, 2003 Hazardous Materials and Waste Management Plan, which is consistent with the Commission Memorandum, dated October 8, 2003. Prior to issuance of the Final Certificate of Compliance, Commission staff shall also inspect the Project site for consistency with the Hazardous Materials/Waste findings and conditions of this Decision, and with the 2002 RPP, particularly MPS 4.3.1.2.

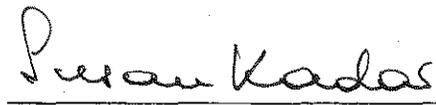
Community Character Conditions:

- CC.1** The location of plantings in the field shall be approved by Commission staff prior to installation to ensure the most effective placement of plant materials for buffering purposes. The Applicant shall provide Commission staff with a minimum of seven (7) days notice of the commencement of landscape construction.
- CC.2** Prior to issuance of a Final Certificate of Compliance, the Applicant shall remove any invasive species (Rugosa Rose, Russian Olive) from the site.
- CC.3** Prior to issuance of a Final Certificate of Compliance from the Commission, the Applicant shall submit a fully executed landscape maintenance contract for three (3) full growing seasons based upon guidelines provided by Commission staff. The name and business address of the firm performing the work shall be clearly identified in the maintenance contract.
- CC.4** If all required site work and/or landscape improvements are not complete at the time a Final Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost

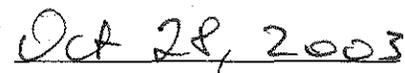
of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The check shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the Applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed within six (6) months of issuance of a Final Certificate of Compliance from the Commission.

- CC.5** Plant materials specified by this decision may be substituted with prior written approval of Commission staff.
- CC.6** Prior to issuance of building permit, the Applicant shall submit a paint swatch/sample of the selected paint color for the wood clapboard siding for Commission staff approval.
- CC.7** All exterior lighting fixtures shall be consistent with the requirements and standards of Technical Bulletin 95-001 (as amended).
- CC.8** Prior to issuance of a Preliminary Certificate of Compliance by the Commission, the Applicant shall submit an "as to be installed" exterior lighting plan. This plan shall be used in connection with condition CC.9, below, and shall conform to the standards and information submission requirements of Technical Bulletin 95-001, including, if necessary, submission of one or more point-to-point foot-candle plans.
- CC.9** Prior to issuance of a Final Certificate of Compliance from the Commission, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.7. Should unexpected conditions arise during construction that require redesign or adjustments to site exterior lighting fixtures, including substitutions of fixture heads, the Applicant shall obtain approval from Cape Cod Commission staff prior to the construction or installation of such fixtures consistent with the Commission's regulations governing *Revisions to Approved DRI's*. Modifications made during construction that are in accordance with Technical Bulletin 95-001 may be considered as Minor Modifications #1 and approved by Commission staff.

The Cape Cod Commission hereby approves with conditions the application of Dan DeLuca as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Adventure Isle Redevelopment located in Bourne, MA.



Susan Kadar, Chair



Date

Commonwealth of Massachusetts

Adventure Isle Redevelopment TR # 02018

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Commonwealth of Massachusetts

Barnstable, ss.

On this 28th day of October, 2003, before me personally appeared
Susan Kadar, Chair, 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.

Kerian Ann Cahoon
Notary Public
Commonwealth of Massachusetts

My Commission Expires:



THIS ACKNOWLEDGEMENT ATTACHED AND EMBOSSED TO Adventure Isle Redevelopment
Decision SIGNED BY Susan Kadar, Chair, DATED 10/28/03.