

CAPE COD COMMISSION

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Date: July 21, 2005

To: Mr. Patrick M. Butler, Esq.
Nutter, McClennen & Fish, LLP
P.O. Box 1630
Hyannis, MA 02601

From: Cape Cod Commission

Re: Limited DRI Determination for Change of Use
DRI Enabling Regulations, Sections 3 and 4

Project Applicant: Joseph P. Keller
843c Main Street
Osterville, MA 02655

Property Owner: Brook Valley Realty Trust
550 Willow Street
West Yarmouth, MA 02673

Project: Office Building Redevelopment Project
Keller Office Building
1545 Route 132
Hyannis, Massachusetts

Project #: #CU05012

Book/Page: 17100/301
Map/Parcel: 253/15

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby determines that the redevelopment of the property located at 1545 Iyannough Road (Route 132), Hyannis, MA, from the existing Country Lake Lodge motel to a 17,338 square foot office building qualifies for Section 3(f)(i) thresholds under the criteria established under Section 4(b) of Chapter A, Enabling Regulations Governing Review of

Limited DRI Determination Decision CU#05012
Joseph Keller—Office Building Redevelopment Project/Hyannis
July 21, 2005
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Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended (DRI Enabling Regulations), and may proceed without Development of Regional Impact (DRI) review. This decision is rendered pursuant to a vote of the Regulatory Committee on July 7, 2005.

PROJECT DESCRIPTION

The project site is a 2.2-acre parcel, located at 1545 Iyannough Road (Route 132), Hyannis, MA, bounded on the south side by Shallow Pond and on the north by Route 132. Surrounding uses include motels, commercial, and a mixed-use (commercial and office) plaza. The project site is located in a Commercial Growth Center as designated in the Barnstable Local Comprehensive Plan. The parcel is split between two local zoning districts—the highway business and residential zones.

The project proposes to demolish the existing Country Lake Lodge, a 20-room strip motel with a 3-bedroom manager's office. The site will be redeveloped with a 17,338 square foot, two-story professional office building. The site driveway on Route 132 is designed to provide right turn in/right turn out-only access. Revegetation and landscaping has been proposed for the area to be disturbed as well as for the existing disturbed area between the south side of the proposed building and Shallow Pond. In an attempt to screen the parking lot from Route 132, berms and landscaping have been proposed. Subsurface impervious surface runoff and wastewater disposal systems are proposed to be located outside of the 300-foot buffer to Shallow Pond.

One to three professional office tenants will occupy the 17,338 square foot building. The proposed future anchor tenant is expected to be Merrill Lynch, a national financial services company. The applicant has also indicated that they anticipate one additional tenant to be the engineering firm of Stearns & Wheeler. The third tenant remains unidentified at this time.

PROCEDURAL HISTORY

The Commission received a Limited DRI Determination for Change of Use application from Joseph Keller on April 29, 2005. A duly noticed public hearing pursuant to Section 5 of the Act to consider the application was held by the Regulatory Committee of the Commission on June 6, 2005, at the Cape Cod Commission office in Barnstable, MA. The public hearing was continued to June 20, 2005, and then to July 5, 2005. The July 5, 2005, hearing was continued by a hearing officer of the Commission to July 7, 2005. The public hearing and record were closed on this date, after which the Regulatory Committee voted unanimously that the project not be subject to mandatory DRI review in any Regional Policy Plan (RPP) issue area, and therefore be returned to local review.

In addition to the list of materials submitted for the record (see Table 1 below) the application and notices of public hearings relative thereto, Commission staff's notes and

correspondence, the minutes of public meetings and hearings, and all other written submissions received in the course of the proceedings are hereby incorporated into the record by reference.

TABLE 1: Materials Submitted for the Record	
<i>Materials From the Applicant</i>	<i>Date Submitted</i>
Application for Limited DRI Determination for Change of Use	4/29/05
Memo from P. Butler to S. Justus re: scheduling	5/12/05
Supplemental application materials	5/13/05
Memo from K. Raber to A. Adams re: exterior lighting	5/24/05
Elevations for Lakeside Center, prepared by Brown Lindquist Fenuccio & Raber, sheets A2.1 and A2.2, dated 5/23/05	5/24/05
Memo with attachments re: responses to issues raised at 5/19/05 meeting with Commission staff	5/25/05
Ltr from Rizzo Associates to D. Fox re: transportation issues	5/27/05
E-mail from D. Ojala to S. Michaud re: sketch of modified subsurface systems	6/3/05
Response to Limited DRI Staff Report	6/6/05
Summary of Improved Impacts	6/6/05
RUUD Lighting Plan, prepared by Down Cape Engineering, revision #3, dated 5/23/05	6/6/05
Landscape Mitigation Plan, prepared by Hamlyn Consulting, dated 6/2/05	6/6/05
E-mail from E. Cox to A. Adams re: hazardous materials restrictions	6/13/05
Memo from P. Butler to S. Justus re: response to Staff memo of 6/8/05	6/13/05
Site Plan and Utilities & Grading Site Plan, prepared by Arne H. Ojala, as revised 6/16/05	6/16/05
Memo from E. Cox to Commission staff re: well site on easterly property	6/17/05
Memo from E. Cox to Commission staff re: hazardous materials restrictions	6/17/05
Landscape Mitigation Plan, prepared by Hamlyn Consulting, as revised 6/17/05	6/20/05
Ltr from E. Cox to S. Justus with Landscape Mitigation Plan, prepared by Hamlyn Consulting, as revised 6/28/05	6/29/05
<i>Materials from Commission Staff</i>	<i>Date Submitted</i>
Ltr from D. Fox to T. Broadrick and R. Giangregorio re: jurisdictional determination	4/15/05
Ltr from S. Justus to P. Butler re: application incomplete	5/9/05
Ltr from S. Justus to P. Butler re: application complete	5/17/05
E-mail from S. Justus to T. Broadrick re: scheduling	5/17/05
Staff Report	6/1/05
Landscape Sketch Plan, prepared by S. Rooney, dated 6/6/05	6/6/05
Memo from S. Justus to P. Butler re: review of materials received since 6/6/05	6/8/05
E-mail from A. Adams to E. Cox re: hazardous materials restrictions	6/15/05
Memo from S. Justus to Regulatory Committee re: project review update	6/15/05
E-mail from A. Adams to E. Cox re: hazardous materials restrictions	6/16/05

Memo from S. Justus to E. Cox re: project review update	6/23/05
Memo from S. Justus to Regulatory Committee re: project review update	6/30/05
E-mail from S. Justus to T. Broadrick re: conditions requested for Barnstable Site Plan Approval	7/1/05
E-mail from S. Justus to R. Giangregorio re: conditions requested for Barnstable Site Plan Approval	7/14/05
Memo from S. Justus to T. Broadrick re: conditions requested for Barnstable Site Plan Approval	7/14/05
<i>Materials from Town of Barnstable</i>	<i>Date Submitted</i>
Ltr from T. Broadrick to S. Justus re: comments on materials	6/2/05
E-mail from R. Giangregorio to S. Justus re: conditions requested for Barnstable Site Plan Approval and local process	6/9/05
E-mail from R. Giangregorio to S. Justus re: conditions requested for Barnstable Site Plan Approval	7/14/05

TESTIMONY

Public Hearing on June 6, 2005:

Stacey Justus summarized the proposed project and Staff Report dated June 1, 2005. Ms. Justus discussed the change of use review standards and identified five issue areas of concern that the staff focused its review of impacts on, including water resources, wetland and plant habitat, transportation, hazardous materials, and community character. Ms. Justus said the applicant has made some changes since staff reviewed initial application materials, and that they are willing to make additional changes in response to staff concerns. Glenn Cannon made one technical correction to the 6/1/05 Staff Report relating to the use of the term “significant” in the area of transportation.

Patrick Butler distributed and discussed two handouts: 1) identifying improvements the proposed project was making compared to the existing use; and 2) presenting the applicant’s responses to the Staff Report. He stated his belief that the proposed change of use is significantly reducing impacts on the property, and felt that the Regulatory Committee could determine they could forego DRI review, or require very limited review. Mr. Butler asked the Regulatory Committee to continue the hearing to their next meeting so issues could be resolved with staff in order for the Committee to grant an approval to waive DRI review.

Joseph Keller discussed expected tax benefits to the Town as a result of the proposed change. He explained that there was strong market demand in the commercial market for office space, as evidenced by the pre-leasing of two of the three spaces in the proposed building. Mr. Keller stated that he was addressing market needs with the location, design, and quality of the new building.

John Klimm, Barnstable Town Manager, spoke on behalf of the proposal for the Town. He commended the Staff Report for its comprehensiveness. He stated that the proposed

building will replace what is now an eyesore, and will provide a significant improvement to an area the Town considers the gateway into Hyannis. Mr. Klimm stated that Mr. Keller and Mr. Butler met early on with representatives of the Town to accommodate the Town's concerns about traffic and access on Route 132. He said this is the type of use the community wants in this location and encouraged an expedited review process.

Robin Giangregorio said the planning department supports a waiver of DRI review under the change of use regulations, and said they believed all issues could be successfully addressed at the local level.

Alan Platt asked about the disposition of the swimming pool and economic issues. Dan Ojala addressed the removal of the pool debris. Leslie Richardson said the applicant provided economic information and she believed that there were no detrimental impacts related to economic issues.

Frank Hogan and Larry Cole asked for clarification regarding the pier. Heather McElroy explained that the wetland areas were mapped as rare species habitat by the Natural Heritage and Endangered Species Program, thus should be reviewed by Natural Heritage for a determination prior to any construction. She also explained that RPP protections for rare species habitat were stronger than local protections. Mr. Butler stated that the idea of the pier was requested by Barnstable Conservation, but is not part of the proposal at this time.

Frank Hogan asked how the five issues would be resolved. Stacey Justus explained that Commission staff would review new materials, meet with the applicant, and return to the Regulatory Committee on June 20, 2005 with a recommendation if possible.

Catherine Frazer asked about roof height and building design. Stacey Justus answered that it would not be addressed unless the Regulatory Committee opted for a limited DRI for Community Character.

Public Hearing on June 20, 2005:

Stacey Justus reported that Commission staff met with the applicant to discuss the concerns reported at the previous hearing, particularly regarding the buffer between the proposed building and Shallow Pond. Ms. Justus said that the applicant had agreed to several changes to the original proposal to reduce impacts related to the issues of hazardous materials and waste management, site access, and buffer landscaping. Ms. Justus reported that staff researched the possibility of changes to the site design to move the parking to the rear of the site to comply with RPP standards and eliminate strip development, but that local zoning constraints made that impossible. Ms. Justus discussed the remaining outstanding issues that included impacts to water and natural resources.

Eliza Cox stated that the applicant and staff had reached agreement on all other issues in order for the Regulatory Committee to find that no DRI review is necessary. She noted that the remaining concerns can be mitigated through the inclusion of a revegetation plan

for the buffer area, and that should be viewed as a benefit to the project, and an improvement to the existing use. She reminded the committee that the existing pool and shuffleboard court are within the 100-foot buffer to the pond, and that they were being removed.

Lynn Hamlyn discussed the components of the Landscape Mitigation Plan. Heather McElroy noted that Ms. Hamlyn's plan was roughly consistent with discussions held at a site the prior week, but needed to review this new plan in order to assess the relative impacts between the existing and proposed uses. Scott Michaud suggested removal of all lawn area within the 300-foot buffer to the pond.

Commissioners questioned and discussion followed regarding these issues: the revegetation plan, conditioning through local site plan review, fertilizer use, and reopening/expanding the existing motel use.

Public Hearing on July 7, 2005:

Stacey Justus summarized the June 30, 2005 staff update to the Regulatory Committee and stated that the staff believes that the Landscape Mitigation Plan satisfactorily addresses all potential impacts. She stated receipt of an E-mail from Thomas Broadrick stating that certain components of the project as proposed can be incorporated into conditions of the Barnstable site plan review approval. She stated that the staff opinion at this time is that the project as now proposed is not more detrimental than the existing use in any RPP issue area.

Catherine Frazer inquired whether the construction of a pier on the site would require a Modification of the Decision. Stacey Justus concurred that it would.

The Regulatory Committee voted unanimously not to require DRI review in any RPP issue area under this Limited DRI Determination for Change of Use application.

JURISDICTION

The proposed project qualifies as a DRI under Section 3(f)(i) of the DRI Enabling Regulations as a change of use with a gross floor area greater than 10,000 square feet. Pursuant to Section 4(a) of the DRI Enabling Regulations, the Chief Regulatory Officer determined that the project constitutes a Change of Use. Further, as provided in Section 4(a)(iii), the applicant then applied for a Limited DRI Determination in accordance with Section 4(b), which requires the Regulatory Committee to determine the scope of the DRI review required.

FINDINGS

The Commission, through the Regulatory Committee, has considered the application of Joseph Keller for the proposed change of use project at 1545 Iyannough Road (Route 132), Hyannis, MA, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 3 and 4 of the DRI Enabling Regulations:

General Findings:

- F-G1.** The proposed project consists of the redevelopment of 2.2-acre parcel located at 1545 Iyannough Road (Route 132), Hyannis, MA. The proposed project consists of the demolition of the existing Country Lake Lodge, an approximately 8,522 square foot 20-room strip motel with a three bedroom manager's office. The site will be redeveloped with a 17,338 square foot, two-story professional office building that will accommodate up to three tenants.
- F-G2.** In accordance with Section 4(b)(vi) of the DRI Enabling Regulations, the Regulatory Committee reviewed the proposed change of use to determine the scope of the project review, which may be limited to those RPP issue areas where the impacts are more detrimental (quantitatively and/or qualitatively) than the immediate prior use. The Regulatory Committee did consider whether the project's impacts involve deviation from the minimum performance standards (MPS) of the Regional Policy Plan (RPP) in determining the scope of DRI review. The Committee, in making its determination, considered the resources protected by the Act and the RPP. Those RPP issue areas that the Regulatory Committee determined to be relevant to this change of use project review and considered in their scope of review included water resources, wetland and plant habitat, economic development, transportation, hazardous materials and waste management, and community character.
- F-G3.** The project is proposed to be constructed according to the following plans:
- Landscape Mitigation Plan, prepared by Hamlyn Consulting, dated 6/2/05, as revised 6/28/05 (hereinafter the *Landscape Mitigation Plan*)
 - Site Plan, #1545 Rt. 132 Office Building, Hyannis, MA, prepared by Arne H. Ojala, dated 3/3/05, as revised 6/16/05 (hereinafter the *Site Plan*)
 - Utilities & Grading Site Plan, #1545 Rt. 132 Office Building, Hyannis, MA, prepared by Arne H. Ojala, dated 3/3/05, as revised 6/16/05 (hereinafter the *Utilities & Grading Site Plan*)
 - Elevations for Lakeside Center, 1545 Iyannough Road (Rte. 132), Hyannis, MA, sheets A2.1 and A2.2, prepared by Brown Lindquist Fenuccio & Raber Architects, Inc., dated 5/23/05 (hereinafter *Elevations*)

Water Resources Findings:

- F-WR1.** The project is located in an Impaired Water Quality Area according to RPP Water Resource Classification Map I. Due to the site's location in a number of water resource areas defined under MPS 2.1.1.2, the project site meets the definition of a Water Quality Improvement Area under MPS 2.1.1.2.E. Water quality will improve as a result of the project.
- F-WR2.** A small portion of the northern part of the site is located in the Barnstable Harbor watershed while most of the parcel is located in the Centerville River watershed according to RPP Water Resource Classification Map II. A study of the Centerville River system has shown that the nitrogen loading to the Centerville River watershed exceeds the estuary's critical nitrogen load. The project will result in a decreased nitrogen load to groundwater, including to the Centerville River watershed.
- F-WR3.** The entire site is located within a Fresh Water Recharge Area according to RPP Water Resource Classification Map I. The project is located in the Shallow Pond watershed and has frontage on Shallow Pond. The Cape Cod Pond and Lake Atlas (Cape Cod Commission, 2003) indicates that Shallow Pond's water quality is impacted from development within its watershed. The proposed project's subsurface disposal facilities for runoff from impervious pavement and wastewater effluent are located more than 300 feet from Shallow Pond as shown on the *Utilities & Grading Site Plan*.
- F-WR4.** The entire site is located within a Wellhead Protection Area according to RPP Water Resource Classification Map I. Nitrogen loading currently exceeds the regional five parts per million nitrogen (ppm-N) loading standard also applicable to Wellhead Protection Areas. Using Title-5 flow rates, *existing* nitrogen loading exceeds 15 ppm-N. The project will result in a nitrogen load of 7.3 ppm-N, an improvement in water quality relative to existing conditions.
- F-WR5.** Two small-volume water-supply wells are shown on RPP Water Classification Map I on parcels near the project site. The applicant identified a well located approximately 300 feet to the west and cross-gradient (not in the direction of groundwater flow) relative to the proposed project's wastewater disposal area. The applicant has indicated that there is no record available at the Barnstable Health Department of a well on the adjacent parcel to the east, a property owned by the applicant, and that public water supply is available for this parcel.
- F-WR6.** The project is expected to result in reduced wastewater flows. The existing motel relies on standard Title-5 septic systems to dispose wastewater at the site. Title-5 flow from the existing motel is 2,530 gallons per day (gpd) based on the number of rooms.

Title-5 wastewater flow for the proposed project is 1,300 gpd. Title-5 flow rates typically exceed actual wastewater flows to account for peak flows. Historic water-use information was provided by the applicant for the period September 21, 2001 through April 26, 2005 indicating that an average 1,444 gallons of water per day was used by the motel during that period.

- F-WR7.** Existing standard Title-5 septic systems will be replaced by an Amphidrome system that will remove nitrogen from project wastewater. Amphidrome treatment systems are approved for general use under the Massachusetts Department of Environmental Protection's (MADEP) Innovative/Alternative (I/A) Technologies Program.

A 25 ppm-N level of treatment for nitrogen removal is recognized for I/A systems approved under the MADEP I/A program, compared to 35 ppm-N for standard Title-5 systems. Treated wastewater will be infiltrated outside the 300-foot buffer to Shallow Pond to mitigate phosphorus loading to the pond as shown on the *Utilities & Grading Site Plan*.

- F-WR8.** The project will increase impervious pavement by 42% to 29,395 square feet. The project will use standard catch basins to remove sediment. Infiltration basins capturing runoff from impervious pavement have been located outside of the 300-foot buffer to Shallow Pond to mitigate phosphorus loading to the pond as shown on the *Utilities & Grading Site Plan*.

- F-WR9.** The applicant has proposed turf on the south (pond) side of the proposed building within the 300-foot buffer to Shallow Pond. This area is designated as "Formal Landscape" on the *Landscape Mitigation Plan*, on which the applicant has indicated that the area "shall be planted with vegetation consistent with minimal maintenance practices that do not require fertilizer and/or chemical pesticide applications." The applicant has agreed to meet the provisions of the *Landscape Mitigation Plan* as a condition of Barnstable's Site Plan Review to ensure compliance with this finding.

Wetlands and Plant Habitat Findings:

- F-NR1.** Based on the *Landscape Mitigation Plan*, the proposed project is not more detrimental to wetland and wetland buffer resources than the immediately prior use. In addition, the applicant has agreed to incorporate the *Landscape Mitigation Plan* into the conditions of Barnstable Site Plan Review to ensure compliance with this finding.

- F-NR2.** In a Memorandum dated 6/13/05 from Nutter McClennen & Fish to Commission staff, the applicant has stated that a pier or dock will not be constructed as part of this redevelopment. With the removal of the proposed pier or dock from the project plans, the proposed project is not more detrimental to estimated rare species habitat than the immediate prior use.

Any future installation of a pier or dock would require a Modification of this Decision and concurrence between the Cape Cod Commission, the Barnstable Conservation Commission, and the applicant. In addition, the applicant has agreed to a prohibition on installation of a pier or dock into the conditions of Barnstable Site Plan Review to ensure compliance with this finding.

Economic Development Findings:

- F-ED1.** MPS 3.3.1 requires applicants to provide economic data from which the Commission may determine the economic impacts of the proposed project. Given that this is a change of use proposal, the applicant has generally complied with this standard and the information supplied is outlined in the following economic development findings.
- F-ED2.** The proposed project is located within a certified Commercial Growth Center. MPS 3.2.1 specifies the incentives to be provided to this project since it is located in a certified growth center. Given its location within a certified growth center no further justification for its location is required under MPS 3.2.2.
- F-ED3.** This project will add 17,338 square feet of professional office space to the market. The applicant characterizes this new space as “high end” and to be a commodity in limited supply in the region. The applicant did not provide written information in support of this statement and a brief review of the current commercial real estate available was inconclusive. Without further information, the Commission considers the impact to the regions’ real estate market neutral.
- F-ED4.** According to the applicant, up to three tenants will occupy the completed office space. The anchor tenant is expected to be Merrill Lynch, which will be relocating from their current offices at 973 Iyannough Road. A second tenant, Stearns & Wheeler, LCC a professional engineering firm, has signed a letter of intent to lease according to the applicant. They will be relocating from their current offices at 255 Stevens Street, adjacent to downtown Hyannis. Copies of any lease agreements have not been requested or provided to date. These types of businesses are consistent with the economic development goals of the RPP and specifically with Other Development Review Policy 3.1.5. It should be noted, however, that neither of these tenants are locally owned businesses.
- F-ED5.** Generally, the types of employment planned as a result of this redevelopment will require higher skill levels and therefore provide higher salaries than those associated with the immediate prior use as a motel. It is not possible, however, to conclude that this project will result in a net increase in the number of total jobs or high-skill jobs in the region. The Commission

therefore considers the long-term impact on employment diversity (RPP Goal 3.3) to be neutral.

Construction Phase:

According to the applicant, the construction phase of this project should take approximately six months. No specific information was provided regarding the expected total work hours, labor costs, average wage, or percentage of local labor and firms employed during the construction phase of the project.

Long-term Employment:

Given the information provided by the applicant, this project will not result in net new employment to the region or town since the two tenants currently named will be relocating from other locations within Hyannis, MA. The applicant describes the positions associated with this project generally as professional office positions. Those associated with Merrill Lynch are described as “high paying, year round jobs with substantial benefits.” The specific employment and wage data provided by the applicant is included in the following table:

Tenant	Sq. Feet	Employees	Total Payroll	Average Wage
Sterns & Wheeler	4,000	15	\$800,000	\$53,333

F-ED6. The proposed redevelopment of this site will have direct fiscal impacts on local property tax revenues and on state rooms tax revenues. The change in use from motel to office will result in a net reduction to zero in rooms tax that is more than offset by the expected increase in local property taxes due to the improvements made to the property. The following table includes the current revenues generated from the property and the applicant’s estimates for revenue generation after the site is redeveloped. The net increase in revenue is expected to exceed \$9,000 per year in the form of property taxes to the Town of Barnstable.

Revenue Sources	Current use	Proposed Use (Est.)	Estimated Net Change
Property tax (2005)	\$5,935	\$20,255	\$14,320
Rooms Tax (2004)	\$5,100	\$0	(\$5,100)
Total	\$11,035	\$20,255	\$9,220

Transportation Findings:

F-T1. The existing motel currently has one full access curb cut on Iyannough Road (Route 132) in Hyannis, MA, which is defined as a regional roadway in the RPP. Under the proposed change of use project plans, the existing full access

Route 132 driveway will be reconstructed as a right turn in/right turn out-only access. Also, a secondary access is proposed to be provided that would connect this project site to the adjacent mixed-use (commercial and office) plaza to the east as shown on the *Site Plan*.

- F-T2.** Based on trip generation estimates submitted by the applicant, this project is expected to have an increase in trip generation, however this net increase is estimated at less than 25 peak hour trips and therefore is not considered significant. The applicant calculated the traffic impact based on the number of motel rooms of the existing facility and proposed facility (office space) and a traffic credit for the proposed vehicle interconnect between this parcel and the adjacent mixed-use parcel to the east. A comparison of the trip generation estimates is shown in the table below.

Trip Generation Estimates (vehicles per hour):			
	Existing Use ¹ (20 unit motel)	Proposed Use ² (17,338 SF office space)	Net Increase
Average Daily Traffic	113	162	49
Morning Peak Hour	9	23	14
Afternoon Peak Hour	9	22	13

¹Based on ITE Trip generation manual, 7th Edition, LUC 320 (20 room motel).

²Based on ITE Trip Generation manual 7th Edition, LUC 710 (office).

- F-T3.** The standard of review for transportation safety impacts is 25 or more peak hour trips through a high crash location. As stated above, this project is not expected to generate more than 25 new peak hour trips; therefore no regional intersection would be impacted by 25 or more new peak hour trips.

Hazardous Materials and Waste Management Findings:

- F-HM1.** In order to protect the groundwater and adjacent pond, the applicant has agreed to place the following language into any lease used for the site as well as into the conditions of Barnstable Site Plan Review in order to control hazardous materials and waste on site:

“To protect the public drinking water supply from potentially hazardous materials associated with specific land uses, the following uses are prohibited on the site: landfills, open dumps; junkyards; automobile graveyards; underground fuel storage tanks; storage for resale of heating fuels (e.g., gas, oil, coal and kerosene); metal plating, finishing or polishing; boat, motor vehicle and aircraft cleaning, servicing or repair; dry-cleaning processing establishments; storage, use, treatment, generation or disposal of hazardous materials or hazardous wastes except in a household quantity, or for emergency

power or heating of a structure. Also prohibited on the site is any use which involves as a principal activity the use, generation, storage, treatment, transportation or disposal of one or more hazardous materials or hazardous waste. Notwithstanding and in addition to the foregoing, one (1) 55 gallon drum containing methanol (or a replacement chemical) shall be allowed on site to be utilized in connection with the proposed advanced treatment septic system.”

In addition to the incorporation of such language, the applicant will need to take steps during construction to protect the groundwater and adjacent pond from releases resulting from construction equipment fueling or maintenance. Therefore, the proposed project is not likely to pose impacts that are more detrimental than the immediate prior use in the area of hazardous materials and waste management.

Community Character Findings:

- F-CC1.** MPS 6.2.7 requires parking to be located to the side or rear of a building 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. The existing motel is sited perpendicular to Iyannough Road (Route 132) with parking located to the side of the building, consistent with MPS 6.2.7. The redevelopment project proposes all of the parking in front of the building. However, relocating the building and parking to meet MPS 6.2.7 is infeasible due to local zoning requirements. Therefore, even though the proposed site design is more detrimental than the previous use, a DRI review applying this MPS would not result in a requirement for a revised site design.
- F-CC2.** The proposed *Site Plan* incorporates substantial planting and a 4-foot earthen berm to buffer the proposed development from Iyannough Road (Route 132). The buffer planting is designed to tie into existing buffer plantings immediately to the east of the project site.
- F-CC3.** The proposed office building is a two-story structure that incorporates traditional Cape materials and forms that are generally consistent with the architectural standards of the RPP and Commission design guidelines.
- F-CC4.** Exterior lighting for the proposed project is consistent with Technical Bulletin #95-001.
- F-CC5.** The applicant has not yet proposed freestanding or building signage, however has stated that when designed it shall comply with MPS 6.2.11, which prohibits internally lit or flashing signs.

CONCLUSION

Based on the findings above, the Commission hereby determines that the proposed change of use at 1545 Iyannough Road (Route 132), Hyannis, MA is not subject to mandatory review as a Development of Regional Impact (DRI) in any Regional Policy Plan issue area in accordance with Sections 3 & 4 of the DRI Enabling Regulations because the impacts of the proposed project are not more detrimental than those of the immediate prior use.

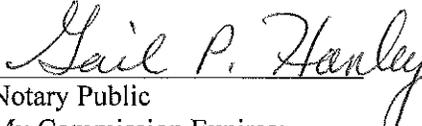
The Commission hereby approves the application of Joseph Keller for the proposed change of use redevelopment project to proceed without mandatory DRI review. This decision is rendered pursuant to a vote of the Cape Cod Commission Regulatory Committee on July 7, 2005.


Mr. Frank H. Hogan 7/21/05
Chairman of the Regulatory Committee Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Before me, the undersigned notary public, personally appeared Frank H. Hogan ^{7/21}, 2005, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, or personal knowledge of the undersigned.


Notary Public
My Commission Expires:
10/13/11