

CAPE COD COMMISSION

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Date: March 8, 2005

To: Joseph Potzka, Administrator
Cape Cod Regional Transit Authority
P.O. Box 1988
Hyannis, MA 02601

From: Cape Cod Commission

Re: Development of Regional Impact Jurisdictional Determination
Cape Cod Commission Act, Section 12 (j)

Applicant: Town of Dennis
c/o Daniel Fortier, Dennis Town Planner
P.O. Box 1419
South Dennis, MA 02660-1419

Project #: #JD05004

Project: Cape Cod Regional Transit Authority Operations and Maintenance Center
Project, South Dennis

Book/Page: 15017/165

DECISION OF THE CAPE COD COMMISSION

SUMMARY

Pursuant to Section 12 (j) of the Cape Cod Commission Act (Act), the Cape Cod Commission (Commission) hereby determines that the proposed Cape Cod Regional Transit Authority Operations and Maintenance Center Project located on Lot 5, 40 American Way, South Dennis, is a project that qualifies for review as a Development of Regional Impact (DRI) under Section 3(h) of the DRI Enabling Regulations Barnstable County Ordinance 90-12 as amended. This decision is rendered pursuant to a vote of the Commission on March 8, 2005.



PROJECT DESCRIPTION

The Cape Cod Regional Transit Authority (CCRTA) is proposing to construct a new vehicle operations and maintenance center at Lot 5, 40 American Way, South Dennis. This facility will replace an existing, but inadequate, facility in Dennis that will provide service to its fleet of vans, trucks, and buses.

This parcel is approximately 10 acres in size and lies within an industrial zoning district of Dennis. The Cape Cod Rail Trail borders the southern property line and is set approximately seven feet below the grade of the CCRTA's southern property boundary.

Two buildings are proposed, including:

- 19,000 square feet (SF) operations and maintenance center for administration, dispatch, and maintenance and washing of vehicles. According to the submitted plans the office space in this building totals approximately 7,200 SF;
 - 21,000 SF vehicle storage building for parking of up to 50 vehicles.
- Associated parking and a driver training area are also proposed on site.

PROCEDURAL HISTORY

Daniel Fortier, Dennis Town Planner, submitted an application for a jurisdictional determination to the Cape Cod Commission on February 7, 2005, which was supplemented on February 14, 2005, on behalf of the Town of Dennis. The application was deemed complete on February 16, 2005. The Commission voted to delegate the authority to render a final decision to the Subcommittee at the Cape Cod Commission meeting on February 16, 2005.

Pursuant to Section 5 of the Act, a duly noticed public hearing was conducted by an authorized Subcommittee of the Commission in the Town of Dennis on March 8, 2005, at which the Subcommittee voted that the project does qualify as a DRI.

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant:

- Jurisdictional Determination Application submitted by D. Fortier dated February 7, 2005
- Supplemental application materials submitted by D. Fortier dated February 14, 2005
- Memorandum from T. Hayes to D. Fortier re: Dennis Health Department issues received February 25, 2005

From Cape Cod Commission staff:

- Letter from D. Fox to D. Walsh re: determination on mandatory referral under Section 3(h) dated July 26, 2001
- Letter from S. Justus to D. Fortier re: application complete dated February 16, 2005

- Memorandum to Subcommittee members dated February 17, 2005
- Staff Report dated March 1, 2005

From Abutters, others:

- Letter from 9 New Venture Drive Condominium Association Members to B. Kilroy, Esq., re: easement over New Venture Drive received March 8, 2005

The application and notices of public hearings relative thereto, the Commission staff's notes and correspondence, the transcript and minutes of meetings and hearings and all written submissions or materials received in the course of these proceedings are incorporated into the record by reference.

TESTIMONY

The Commission heard oral testimony at the March 8, 2005 public hearing.

Dennis Walsh, Assistant Administrator, Cape Cod Regional Transit Authority (CCRTA), described the services provided by the CCRTA as public transportation for Barnstable County and explained the need for the proposed new operations and maintenance facility. Mr. Walsh described the site purchasing procedures that the CCRTA underwent in 2002 for Lot 5, 40 American Way. Mr. Walsh described the operations that are proposed to occur at this new facility including vehicle maintenance, dispatch, and storage.

Mr. Walsh stated that since 2001, the time of a determination on mandatory referral under Section 3(h) by Dorr Fox to Mr. Walsh (letter dated July 26, 2001), the CCRTA has added an on-demand bus service that involves travel outside of Barnstable County. Through this service that was taken over by the American Red Cross, the CCRTA now provides transportation for Barnstable County residents to certain hospitals and medical centers in the Boston area.

Dan Fortier, Dennis Town Planner, stated that the Town requested a determination from the Commission because the development proposed is clearly over 10,000 square feet and that the Town is unsure whether this project constitutes a mandatory DRI referral under Section 3(e) or Section 3(h).

Stacey Justus, Planner, for the Cape Cod Commission described the applicable jurisdictional issues as outlined in the March 1, 2005 Staff Report. She indicated that based on new information submitted for the record tonight regarding the on-demand service to Boston, that the conclusion in the March 1, 2005 Staff Report is no longer the position of staff. Ms. Justus indicated that in light of the fact that the CCRTA does provide transportation to or from Barnstable County, it is the position of the staff that the Commission does have mandatory jurisdiction over this project under Section 3(h) of the Enabling Regulations.

Janet Boudreau submitted a letter for the record on behalf of 9 New Venture Drive Condominium Association Members who rejected the CCRTA's request for an access easement over New Venture Drive.

FINDINGS

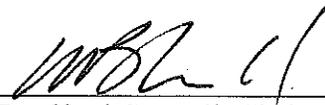
The Commission has considered the Applicant's request for a Jurisdictional Determination for the proposed Cape Cod Regional Transit Authority (CCRTA) Operations and Maintenance Center Project, and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

- G1. Section 22(b) of the Cape Cod Commission Act exempts from Commission review any development that prior to July 1, 1989 has received certain local permits. The project did not receive any local permits prior to July 1, 1989. Therefore, the project is not exempt under Section 22(b) of the Act.
- G2. The CCRTA provides public transportation to the residents and visitors of Barnstable County. They provide both fixed route as well as on-demand service. The CCRTA does provide on-demand service traveling outside of Barnstable County to certain hospitals and medical centers in the greater-Boston area.
- G3. The DRI Enabling Regulations, Barnstable County Ordinance 90-12, Section 3(e), requires DRI review of "commercial, service, retail or wholesale business, office or industrial development...[of] new construction with a gross floor area greater than 10,000 sq. ft." The CCRTA is proposing the construction of two buildings totaling approximately 40,000 SF. Because of the status of the CCRTA as an "authority" this proposed project is not considered to be a commercial development but rather that of a quasi-government or public agency. Contained within the proposed 19,000 SF operations and maintenance building is approximately 7,200 SF of office space, a square footage that is below the 10,000 SF threshold for new office space that would otherwise trigger Section 3(e) of the DRI Enabling Regulations.
- G4. The DRI Enabling Regulations, Barnstable County Ordinance 90-12, Section 3(h) requires DRI review of "any development providing facilities for transportation to or from Barnstable County... and/or auxiliary uses...." The CCRTA had previously contemplated this project and sought a determination from Commission staff as to the applicability of the DRI thresholds. In a July 26, 2001 letter to Dennis Walsh, Assistant Administrator, CCRTA, Dorr Fox, Chief Regulatory Officer, Commission, stated that the project, as proposed at that time, "does not constitute a mandatory referral [under Section 3(h)], as it involves only transportation within Barnstable County."

G5. Since the 2001 staff determination, the CCRTA has expanded its operations and at the time of this Decision does provide transportation to or from Barnstable County. Therefore, the Commission does have mandatory jurisdiction to review the project as a DRI as it qualifies as a DRI under Section 3(h) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12.

CONCLUSION

The Commission finds that the proposed Cape Cod Regional Transit Authority Operations Center Project in Dennis does qualify for review under Section 3(h) of the Development of Regional Impact Enabling Regulations.



W. Bradford Crowell, Chair

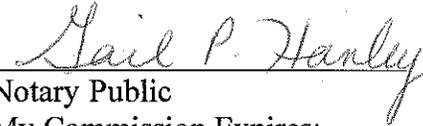
3-17-05
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

March 17, 2005

Before me, the undersigned notary public, personally appeared W. Bradford Crowell, 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:

October 13, 2011