



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

Date: August 20, 2007

To: Jerry E. Rogers, Trustee
45 Juliette Street
Dartmouth, MA 02747

From: Cape Cod Commission

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

Project Applicant: Falmouth Self Storage
5 Mark Lane (2nd Floor)
Hyannis, MA 02601

Property Owner: Jerry E. Rogers, Trustee
45 Juliette Street
Dartmouth, MA 02747

Project: Falmouth Self Storage
689 Gifford Street
Falmouth, MA

Project #: #CU07012

Book/Page: 18216-157
Map/Parcel: 34-01-03-000

DECISION OF THE CAPE COD COMMISSION

Decision of the Cape Cod Commission
Falmouth Self Storage - #CU07012
August 20, 2007
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SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby determines that the redevelopment of the property located at 689 Gifford Street, Falmouth, MA, from the existing auto salvage yard (operating with several accessory uses) to Falmouth Self Storage under the criteria established under Section 4(b) of Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended (DRI Enabling Regulations), may proceed without Development of Regional Impact (DRI) review. This decision is rendered pursuant to a vote of the Regulatory Committee on July 23, 2007.

PROJECT DESCRIPTION

The applicant proposes the change of use and redevelopment of a 4.08 acres site located at 689 Gifford Street in Falmouth, MA. The project site is located on a portion of Gifford Street that is zoned Agricultural B and that includes a mix of residential and commercial uses.

The applicant proposed the demolition/decommissioning of an existing auto salvage yard that currently operates with several accessory uses. The auto salvage yard operates with a permit to store 900 auto salvage vehicles. The accessory uses include the sale of vehicles, auto parts and accessories sales, an auto repair and paint shop, and Budget Truck rental. There is one small (2,906 SF) structure on site that accommodates the offices for these uses.

The applicant proposed to construct an 80,000 square foot (SF) self-storage facility consisting of 600 climate-controlled units with a small office and show room. The 80,000 SF self-storage building is proposed to be built in three phases as follows:

- Phase 1 – a two-story self-storage building with 20,000 SF on each floor (40,000 SF total);
- Phase 2 – a 20,000 SF self-storage expansion;
- Phase 3 – a 20,000 SF self-storage expansion.

PROCEDURAL HISTORY

The Commission received a Limited DRI Determination for Change of Use application from Falmouth Self Storage on May 24, 2007. 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 July 23, 2007, at the Cape Cod Commission office in Barnstable, MA. The public hearing and record were closed on 7/23/07, 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>
Limited DRI Determination for a Change of Use Application	5/24/07
E-mail from S. Raleigh to P. Dascombe	6/6/07
E-mail from S. Raleigh to P. Dascombe	6/19/07
Color Sample sheet	6/19/07
Elevations	6/19/07
Letter re: supplemental information from D. Thompson to S. Justus	6/21/07
Foot candle Plan from Ruud Lighting	7/17/07
Revised Landscape Plan from Heather Wright	7/23/07
<i>Materials from Commission Staff</i>	<i>Date Submitted</i>
E-mail from P. Dascombe to S. Raleigh	5/3/07
E-mail from S. Justus to D. Thompson	5/9/07
E-mail from S. Justus to D. Thompson	5/31/07
Letter from G. Hanley to C. Murphy	6/7/07
E-mails from P. Dascombe to S. Raleigh	6/6/07
E-mail from P. Dascombe to S. Raleigh	6/19/07
Letter from S. Justus to D. Thompson	6/28/07
Memo from S. Justus to Regulatory Committee Members	7/17/07
Staff Report	7/18/07
<i>Materials from Town of Falmouth</i>	<i>Date Submitted</i>
E-mail from B. Currie to S. Justus (for Regulatory Committee)	7/20/07
<i>Materials from Others</i>	<i>Date Submitted</i>
Mass Historical Commission – project stamp of no significance	6/25/07

TESTIMONY

Public Hearing on July 23, 2007:

Ms. Justus summarized the Commission Staff Report, described the standards of review for a Change of Use/Limited DRI review, and described the proposed project and the types of uses currently on the site. Ms. Justus noted the applicant and consultants had made many changes to the project based on several meetings with Commission staff prior to this hearing. In terms of hazardous materials/wastes, she said it was a concern given the site's location in a Wellhead Protection District. Ms. Justus explained that the

applicant agreed to additional signage and catch basin stenciling per the Staff Report. She noted that while the project would result in a reduction of hazardous materials/wastes over the present uses, allowing self-storage in a WHPD does deviate from the RPP, citing the Commission's 2001 Cape Light Commons DRI decision. Ms. Justus noted that in the areas of Natural Resources and Transportation, the conclusion was that the proposed project would result in improvements over the existing uses. Ms. Justus said the applicant had submitted a revised landscape plan this morning, and that staff felt the changes were consistent with staff recommendations. In conclusion, Commission staff recommended that no DRI review be required for this proposed project.

Ms. Taylor asked if a 21-E site assessment was being done. Ms. Adams said that two site assessments had been done in the past. Ms. Thompson, consultant for the Applicants, said an extensive 21-E site assessment was done in 2002, which gave the property a clean bill of health and that monitoring wells had been placed on the site. Mr. Rogers, property owner, said there were six wells on the property: along Gifford Street and bordering the Steam Ship Authority site. He said the wells had been tested semi-annually and then annually. He said the wells had been placed in these locations because groundwater flowed northeast to southwest. Mr. Rogers noted the Town also had a series of wells across the street, which are tested periodically. He said a bank was involved in 2000, which conducted its own site assessment for the purposes of a bank loan.

Ms. Thompson said the proposed use – a climate controlled interior access self storage use – was less conducive to businesses like contractors that might more readily use hazardous materials. She suggested this should factor in the Committee's decision. Ms. Thompson said the response from the Town of Falmouth to the proposed self-storage facility was very positive. She discussed the existing accessory uses on site.

Ms. Thompson stated that Falmouth had a bylaw that restricted certain uses in the local Water Resources Protection District, but that self-storage was allowed. Ms. Thompson noted the facility would use a restrictive lease agreement allowing for unannounced inspections. She also noted Mr. Raleigh's prior experience with the Flagship Self Storage DRI review in Mashpee, and said many of the techniques developed as a result of that review would be implemented in the Falmouth facility. She noted the list of prohibited materials in the lease agreement, and that the facility would be on a slab without drains.

Ms. Thompson said the facility would include an emergency response plan, and all facility staff would receive training in terms of who to contact and what actions to take. She noted the Falmouth facility would include a manual of steps in the event of an emergency, including a spill kit and directions to close the valves in the stormwater drainage system. Ms. Thompson suggested the proposed new use would have less of a water resources impact than the existing uses.

Ms. Thompson said the site is zoned Agricultural B and that the first permits for the operating use were issued in 1959 as a use variance.

Mr. Harris asked if and how the applicants would coordinate with local emergency responders and if the design of the facility met the Commission's standards for containment. Ms. Adams said the design of the facility was a good practices measure. Mr. Harris said he welcomed the design addition, and recommended the applicant coordinate with the local public safety agencies on what to do if hazardous materials are found in the facility. Ms. Thompson said part of the emergency response plan included a list of key contacts and a spill control kit. Mr. Harris suggested the fire and police departments need to know what the policy is in terms of first response and contacts.

Mr. Zavala asked if there would be procedures in place to inspect materials to be stored or while they are being stored, to verify that the facility's policies were being honored. Mr. Raleigh said that during daylight hours, facility staff would work to monitor what is stored in the facility. He said the extensive camera system around and within the facility could also be used to scrutinize materials. He noted the draft Space and Occupancy Agreement allowed the operator to access units without prior approval by the person leasing the space.

Mr. Hogan suggested the applicant also consider implementing other Staff Report recommendations, such as additional signage in and around the building notifying prospective lessees about the prohibitions. Mr. Raleigh noted this had been done in the Mashpee Flagship Self Storage facility and would be done here. Ms. Taylor suggested additional postings describing the list of prohibited materials or recommending that facility staff be trained to about the prohibited materials. Mr. Raleigh said the Mashpee self-storage facility did not provide dumpsters for general use by persons leasing space.

Mr. Pires, abutter to the site, noted the location of his house next door. He expressed support for the proposed self-storage facility. He said it was a definite improvement for his community and his family.

Ms. Taylor also said the proposed self-storage facility was a definite improvement. She asked if there would be safeguards in place to prevent spills during removal of existing vehicles. Mr. Rogers said many of the existing vehicles had already been removed over the last year. He suggested the applicants would reach out to the local Fire Department for training on spill response.

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 Falmouth Self Storage for the proposed change of use project at 689 Gifford Street, Falmouth, MA, 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 3 and 4 of the DRI Enabling Regulations:

General Findings:

F-G1. The applicant proposes the change of use and redevelopment of a 4.08 acres site located at 689 Gifford Street in Falmouth, MA. The project site is located on a portion of Gifford Street that is zoned Agricultural B and that includes a mix of residential and commercial uses.

The applicant proposed the demolition/decommissioning of an existing auto salvage yard that currently operates with several accessory uses. The auto salvage yard has a permit to store 900 auto salvage vehicles on site. Four accessory uses include the sale of vehicles, auto parts and accessories sales, an auto repair and paint shop, and Budget Truck rental. There is one small (2,906 SF) structure on site that accommodates the offices for these uses.

The applicant proposed to construct an 80,000 square foot (SF) self-storage facility consisting of 600 climate-controlled units with a small office and show room. The 80,000 SF self-storage building is proposed to be built in three phases as follows:

- Phase 1 – a two-story self-storage building with 20,000 SF on each floor (40,000 SF total);
- Phase 2 – a 20,000 SF self-storage expansion;
- Phase 3 – a 20,000 SF self-storage expansion.

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 RPP in determining the scope of DRI review. The Committee, in making its determination, considered the resources protected by the Act and the RPP. The Regulatory Committee finds that the project does not present nor will it

result in impacts that are more detrimental than the immediately prior use in any RPP issue areas.

- F-G3.** The proposed project is to be constructed according to the following plans:
- Foot-candle plan, dated 7/11/07, prepared by Dan Walter of Ruud Lighting, for project name 79728-Falmouth Site, and dated as received by the Commission on 7/17/07;
 - *Landscape Plan*, dated 7/17/07, prepared by Heather Wright, Landscape Design, for Jerry Rogers, and dated as received by the Commission on 7/23/07;
 - *East & West Elevations, North & South Elevations, and Storefront Plan*, dated 5/10/07, prepared by SV Raleigh Corp for Jerry Rogers, sheets 1-3, and dated as received by the Commission on 6/19/07;
 - *Site Plan*, dated 12/15/06 as revised 5/3/07, prepared by Warwick & Associates Inc., for Jerry Rodgers, and dated as received by the Commission on 5/24/07;
 - *Phase II and III Grading Site Plan*, dated 12/15/06 as revised 5/3/07, prepared by Warwick & Associates Inc., for Jerry Rodgers, and dated as received by the Commission on 5/24/07;
 - *Septic Design and Drainage Detail Plan*, dated 2/23/07, by Warwick & Associates Inc., for Jerry Rodgers, and dated as received by the Commission on 5/24/07.

Water Resources Findings:

- F-WR1.** The project is located within a public water protection area to Falmouth's Long Pond. The project is most likely within the contributing area to the Falmouth Inner Harbor marine embayment, however the watershed delineation for this area is not complete, nor is the water quality studies that will determine the Total Maximum Daily Load. The impacts to marine water quality therefore were not considered in this review.
- F-WR2.** The project design flow is 400 gallons per day (gpd) of wastewater effluent on a 4-acre site. Incorporation of a MicroFAST Innovative/Alternative septic system is proposed for wastewater disposal. The proposed project therefore does comply with MPS 2.1.1.1.C.3.
- F-WR3.** Nitrogen loading calculations for the project are 2.08 parts per million (ppm) of nitrogen with a watershed loading equivalent of 26.36 kg/year (6.46 kg/acre/year). This meets the general RPP nitrogen-loading MPS of 5 ppm. At 2.08 ppm the proposed project will have greater nitrogen impacts than the existing development (at 0.70 ppm), however the 5 ppm standard of the RPP is adequately met.

F-WR4. The proposed stormwater design would significantly improve on-site stormwater treatment, which in effect has no control or treatment of site stormwater. Stormwater will be discharged to catch basins equipped with deep sumps and flow into a vegetated detention basin located to the rear of the property. Catch-basins will be clearly labeled " Do Not Dump, Drains to Groundwater".

F-WR5. The applicant has stated that no hazardous materials will be allowed in storage units, which will be enforced through a written contract, periodic inspections and through the use of video cameras. Signs will also be posted throughout the facility stating that no hazardous materials are allowed to be stored or discharged on the property. A manual shutoff valve is also proposed in the storm-water distribution system just prior to the retention basin. This mechanism would allow the isolation of a spill from the surface drainage area in the event of an emergency.

Hazardous Materials and Waste Findings:

F-HM1. The following factors were considered relevant to determining the amount of on-site hazardous materials and waste associated with the prior use(s) of the property and attributable to the proposed use:

1. The prior uses of the site include businesses that used, handled, stored or treated hazardous materials and generated hazardous wastes as a matter of doing business, including automotive repair, painting and salvage.
2. A gas line will serve the new facility eliminating the need for on-site fuel storage and an existing waste oil furnace.
3. The style of the proposed self-storage facility (interior-only access to units) is less conducive to tenants that may utilize, handle or generate hazardous materials or wastes as a matter of doing business than a self-storage facility with ground level exterior access roll-up doors.
4. The applicant's sample lease agreement prohibits the storage of hazardous materials/wastes on site, and allows unannounced inspection of the units.

F-HM2. Invoices provided by the applicant indicate that between June 2001 and June 2003, approximately 1,220 gallons of waste antifreeze was removed from the site. This averages approximately 51 gallons per month (1,220 gallons divided by 24 months), although the invoices show that the amount removed varied, sometimes reaching 80 to 100 gallons per disposal shipment.

F-HM3. The applicant indicated at the public hearing on 7/23/07 that the facility staff would receive training in spill response techniques, that the facility would maintain an on-site spill kit, and that staff would develop an emergency response plan.

Natural Resources Findings:

F-NR1. The project will not have impacts on natural resources greater than what exists presently onsite. It is also considered likely that the proposed project will be an improvement over current conditions to the extent that vegetated buffers will be installed at the property boundaries.

Transportation Findings:

F-T1. Gifford Street in Falmouth is defined in the RPP as a regional roadway. The existing businesses operating on site have two full access driveways on Gifford Street. The applicant proposes to remove one driveway and retain one full access driveway. This is consistent with good access management practices.

F-T2. The applicant's traffic engineer calculated the traffic impact of the existing five businesses (222 daily trips). Cape Cod Commission transportation staff calculated the expected trip generation of the 80,000 SF self-storage building based on information contained in the Institute of Transportation Engineers Trip Generation manual 7th Edition (190 daily trips). A comparison of the traffic impacts of the existing five businesses (222 daily trips) to a proposed self-storage building (190 daily trips) indicates a net decrease in daily traffic.

F-T3. The standard of review for transportation safety impacts is 25 or more peak hour trips through a high crash location. Assuming an equal ratio of daily traffic to peak hour, the proposed change to a self-storage building would result in a net decrease in peak hour traffic. Therefore a safety analysis is not required for this project.

Community Character Findings:

F-CC1. The proposed project is not located within an historic district and is not adjacent to individual historic buildings listed on the National or State Register of Historic Places. The Massachusetts Historical Commission (MHC) determined, in a response dated June 19, 2007, that the project is unlikely to affect significant historic or archaeological resources. As such, the project is consistent with Minimum Performance Standards relating to preservation of historic and archaeological resources.

- F-CC2.** The site is located on a portion of Gifford Street that is zoned Agricultural B and which includes a mix of residential and commercial uses. To the north, the property is bounded by a single-family home (on the adjacent site) with a self-storage use and boat storage yard further to the north. To the immediate south is a Steamship Authority parking lot, with a mix of residential uses and the Falmouth Service Center beyond. Across the street from the site is a wooded area that surrounds Long Pond and to the rear of the property are overhead utility lines and residential development.
- F-CC3.** The majority of the existing site is used as an auto-salvage yard that includes the storage of large numbers of wrecked cars over the entire property. Also, the site is used by a small auto-repair use and a truck rental business, with associated storage of vehicles. There is little or no landscaping on the property and multiple curbcuts to a paved front yard parking area. The site has a fairly small (2,906 SF) structure that accommodates the offices for the uses noted above but the character of the site is dominated by the auto-oriented storage rather than this modest structure.
- F-CC4.** The building is proposed to be built in three phases, resulting in a two-story, 80,000-square-foot storage facility. The building will be a modular type structure that is metal framed and will have a metal roof and sides, except for the front façade that will have CMU cladding. When finished, the building will be significantly larger than the existing structure, however, this will be mitigated in part as the building will be partially buried into the natural slope of the site. Therefore, from the street side of the property the building will appear as a single story structure with views to the rear two-story portion of the building screened by the building façade, landscaping and the topography of the site.
- F-CC5.** The building has been designed to further minimize the impact of the building on the street by incorporating variation in both the height and footprint of the front façade to help break the long façade into smaller segments that are more characteristic of the regional development forms. At each corner, the façade treatments have been carried around to the sides of the building and small “bump-outs” help to screen the metal rear of the building from the street. The choice of colors and materials are muted to further minimize the impact of the structure when viewed from the street. The applicant will select the color of the building canopy on the front façade prior to occupancy of the structure.
- F-CC6.** The *Landscape Plan*, dated 7/17/07, prepared by Heather Wright, Landscape Design, for Jerry Rogers, and dated as received by the Commission on 7/23/07, includes massed plantings that will replace the paved front yard and significantly improve the character of the site. The existing uses are poorly screened from view from the street and the front

yard area is paved and used for parking. A small parking area to be used by customers (8 spaces) will remain in front of the building that is screened from the roadway by a row of Eastern Red Cedars. The proposed landscape plan incorporates a mix of evergreen and deciduous species that will provide both color and screening from the regional road.

F-CC7. The application does not contain information on existing exterior lighting at the site. However, it was considered likely that existing exterior lights have been added over time, and are aged, and uncoordinated in style, shielding and lamp type.

F-CC8. The site lighting will be constructed according to the foot-candle plan, dated 7/11/07, prepared by Dan Walter of Ruud Lighting, for project name 79728-Falmouth Site, and dated as received by the Commission on 7/17/07. The proposed site lighting will consist of 11 pole-mounted lights in a ring around the building, and 4 wall-mounted lights at the rear of the building. Selected lights are metal halide, with a 90-degree cutoff. The pole-mounted lights will be 20 feet above finished grade, with wattage of the luminaries adjusted accordingly. Standard 2.8 of the lighting technical bulletin requires that the maximum initial horizontal foot-candle level as measured directly below the fixtures at grade will be not more than 8.0. As designed, the site lighting will comply with Technical Bulletin 95-001.

CONCLUSION

Based on the findings above, the Commission hereby determines that the proposed change of use at 689 Gifford Street, Falmouth, 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. This conclusion was also drawn in part after the Regulatory Committee's careful consideration of the resources protected by the Act and whether the project's impacts involve deviation from the minimum performance standards of the RPP.

Prior to the issuance of a Certificate of Occupancy from the Town of Falmouth, the Applicant must receive a Certificate of Compliance from the Cape Cod Commission. This provision is necessary to ensure that the project for which the Applicant received a Limited DRI Determination Decision (of no mandatory review required) was constructed according to the proposed plans referenced herein in Finding F-G3 and is consistent with the Findings of this Decision. The Applicant shall provide a minimum of fifteen (15) business days notice of the intent to seek a Certificate of Compliance from the Commission.

