



CAPE COD COMMISSION

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Date: February 12, 2008

To: Eliza Cox, Esq.
Nutter, McClennen & Fish, LLC
P.O. Box 1630
Hyannis, MA 02630

From: Cape Cod Commission

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

Project Applicant: Shallow Pond Nominee Trust and Sixty North Street Realty Trust

Property Owner: Shallow Pond Nominee Trust and Sixty North Street Realty Trust

Project: Rose Motel Redevelopment/Lakeside Commons
1555 Iyannough Road and 1575 Iyannough Road (Route 132), Hyannis, MA

Project #: CU#07018

Book/Page #: 22146/76
Map/Parcel: 253/16
Lot/Plan: n/a

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 1555 Iyannough Road (Route 132), Hyannis, MA, from the existing Rose Motel to an 18,260 square foot office building qualifies as a Development of Regional Impact pursuant to Section 3(f)(i) of Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended (DRI Enabling Regulations). Pursuant to Section 4(b) of, the DRI Enabling Regulations, the project shall undergo limited Development of Regional Impact (DRI) review in the issue area of transportation only. This decision is rendered pursuant to a vote of the Regulatory Committee on January 7, 2008.

Limited DRI Determination for a Change of Use
Rose Motel/Lakeside Commons Redevelopment - #CU07018
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PROJECT DESCRIPTION

The project site is a 2.2 acre parcel that encompasses both 1555 Iyannough Road (Route 132) and 1575 Iyannough Road (Route 132), Hyannis, MA. This site is bounded on the south by Shallow Pond, on the north by Route 132, on the east by an office building at 1545 Iyannough Road (Route 132), and open space to the west owned by the Town of Barnstable. While the development is proposed on the parcel identified as 1555 Iyannough Road (Route 132), the adjacent property (1575 Iyannough Road) is considered part of the developed site because a portion of the parking for the project is located there.

The project site is located in a Growth Activity Center as designated in the Barnstable Local Comprehensive Plan. The parcel is split between two local zoning districts - highway business and residential zones.

The project proposes to demolish the existing Rose motel, an approximately 17,580 Square foot (SF), 27-unit, 38-room motel. The site will be redeveloped with an 18,260 SF, two-story professional office building and drive-thru bank with associated parking, landscaping and stormwater and wastewater infrastructure. The Rose Lodge building (1575 Iyannough Road) will remain on the site.

Currently the site has vehicle access through two driveways on Iyannough Road. The proposed redevelopment will close one of those access points to create a single, right in, right out access to Iyannough Road. The proposed redevelopment will also provide an interconnect to the adjacent development located at 1545 Iyannough Road, and subsequent continual access through the neighboring mixed-use developments on to Old Strawberry Hill Road. Local zoning requires 58 parking spaces, however only 55 are being proposed.

PROCEDURAL HISTORY

The Commission received a Limited DRI Determination for Change of Use application from Shallow Pond Nominee Trust and Sixty North Street Realty Trust on September 25, 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 January 7, 2008 at the Assembly of Delegates chamber in Barnstable, MA. The public hearing and record were closed on 1/8/08, after which the Regulatory Committee voted unanimously that the project undergo DRI review in the Regional Policy Plan (RPP) issue area of Transportation, and that, based upon the facts presented and the current proposal presented by the applicant, all other issue areas are not included in the scope of this 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>
Site Drainage Calculations	1/7/08
Nitrogen Loading Calculations	1/7/08
Revised Landscape Plan	1/7/08
Revised Lighting Photometric Plan from Brown Lindquist Fenuccio & Raber Architects	12/13/07
Roof Plan via Memo from L. Cox	11/27/07
Lighting & Bollard Product Info from Brown Lindquist Fenuccio & Raber Architects	11/20/07
Signed Mass Historical Commission Project Notification Form via letter from L. Cox	11/16/07
Supplemental application materials via letter from L. Cox	11/13/07
Limited DRI Application for a Change of Use and corresponding application materials	9/25/07
Cover Memo from L. Cox	9/25/07
Notice of Mass Historical Commission Project Notification Form filing via letter from L. Cox	9/25/07
<i>Materials from Commission Staff</i>	<i>Date Submitted</i>
Memo to L. Cox from R. Christenberry	10/3/07
E-mail to L. Cox from R. Christenberry	12/12/07
Staff Report	1/2/08
Letter to L. Cox from R. Christenberry	11/29/07

TESTIMONY

Regulatory Committee Hearing - January 7, 2008

Attorney Liza Cox, Nutter, McClennen & Fish, presented the project, noting that the applicant was in agreement with the staff's recommendation that the project be reviewed for transportation impacts. The Town also supported this recommendation. Changes made to the project's drainage and stormwater management infrastructure based on comments received from Commission staff were also described.

Several questions were raised by Commissioners with respect to; handicap accessibility, public access to Shallow Pond, parking, water resources, exterior lighting, and options for maintaining affordability of the Rose Lodge located on the adjoining parcel and considered part of the project site due to parking for the project overlapping with that parcel.

A discussion ensued of how the Commission could or would retain control into the future over the site on which the affordable housing was located. It was agreed the issue would be discussed with Commission staff counsel. It was also noted that this is a commercial project, therefore no

residential or affordable components apply. The Town also raised the legality of the existing housing.

Staff presented their recommendation that the Committee find the project was a Development of Regional Impact with the scope limited to the area of transportation impacts. It was agreed that a decision be written with findings that address the subcommittee's concerns with exterior lighting, stormwater management, public access to Shallow Pond, and future redevelopment of the Rose Lodge. These findings would be enforceable through both the Commissions' Certificate of Compliance process for projects and Town Site Plan Review.

Mr. Richardson moved to that the project be subject to further Commission review in the area of only transportation resources, and that the staff be directed to draft a decision to this effect. Mr. Zavala seconded the motion. The Committee voted unanimously for the motion.

Mr. Platt moved to close the hearing. Ms. Taylor seconded the motion. The Committee voted unanimously for the motion.

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 Shallow Pond Nominee Trust and Sixty North Street Realty Trust for the proposed change of use project at 1555 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 project that is the subject of this Decision is as follows:

The project site is a 2.2-acre parcel located at 1555 Iyannough Road (Route 132), Hyannis, MA, and is bounded on the south side by Shallow Pond, on the north by Route 132, on the east by an office building at 1545 Iyannough Road and on the west by open space owned by the Town of Barnstable. While the development is proposed on the parcel identified as 1555 Iyannough Road (Route 132), the adjacent property (1575 Iyannough Road) is considered part of the developed site because a portion of the parking for the project is located there.

The project site is located in a Growth Activity Center as designated in the Barnstable Local Comprehensive Plan. The parcel is split between two local zoning districts—highway business and residential zones.

The project proposes to demolish the existing Rose motel, an approximately 17,580 Square foot (SF), 27-unit, 38-room motel. The site will be redeveloped with a 18,260 SF, two-story professional office building and drive-thru bank with associated parking, landscaping and stormwater and wastewater infrastructure. The Rose Lodge building (1575 Iyannough Road) will remain on the site.

Currently the site has vehicle access through one driveway on Iyannough Road. An interconnect with the abutting parcel(s) (1545 Iyannough Road) is proposed. The existing access easement that provides a connection between commercial properties fronting on Route 132 and Old Strawberry Hill Road will be maintained. Local zoning requires 60 parking spaces and 55 will be provided.

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 considered 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 will result in impacts that are more detrimental than the immediate prior use in the RPP issue area of transportation.

F-G3. The proposed project is to be constructed according to the following plans:

- *Site Permitting Plans*, Lakeside Commons Redevelopment Project Proposed Office Building and Drive-Thru Bank, prepared by BSC Group as revised 12/18/07 and dated as received by the Commission on 9/25/07, sheets C-1 – C-11.

- *Site Drainage Plans*, Lakeside Commons Redevelopment Project Proposed Office Building and Drive-Thru Bank, prepared by BSC Group as revised 12/18/07 and dated as received by the Commission 9/25/07.
- *Floor plans, roof plan and exterior elevations* for the Proposed Lakeside Commons Office Building and Bank, prepared by Brown Lindquist Fenuccio & Raber Architects, Inc., dated 11/01/07 and dated as received by the Commission on 11/13/07, sheets A1.1, A1.2, A1.3, A2.1 and A2.2.

Should unexpected conditions arise during demolition and construction that require redesign of the building, the applicant shall obtain approval from Cape Cod Commission staff prior to the start of construction consistent with Section 12 of the Commission's Enabling Regulations and Modifications to approved projects. Modifications made during construction that are in accordance with the approved elevation drawings shall be considered as Minor Modifications #1 and approved by Commission staff.

- F-G4.** In accordance with findings F-LS2, F-EL3, and F-AH3 the Town of Barnstable will conduct local review through both Site Plan Review Conditions and the Zoning Board of Appeals' special permit process, which will ensure that all applicable components of this proposed project are executed according to the application reviewed for this Decision.

Water Resources Findings:

- F-WR1.** The project does not significantly deviate from the MPS's of the water resource section of the RPP and the impacts are not more detrimental than the immediate prior use.
- F-WR2.** The project is located in the following significant water resource areas: Wellhead Protection Area (WHPA), Marine Water Recharge Area (MWRA; Lewis Bay), and Water Quality Improvement Area (WQIA). The project site also has shoreline on Shallow Pond with 17,203 s.f. of land bordering vegetated wetland protected by a 100-foot buffer.
- F-WR3.** The project results in a net 7,180 s.f. increase in impervious coverage, including a 10,095 s.f. increase in impervious pavement. Increased impervious surface results in an increased nitrogen load of 0.48 kg-N per year. Approximately 57% of impervious pavement is treated using vegetation (i.e. biofiltrated), consistent with MPS 2.1.3.4.
- F-WR4.** A new standard Title-5 septic system will be used to manage project wastewater. Title-5 wastewater flows will decrease from 4,180 gallons per day (gpd) to 1,370 gpd. Motel Title-5 wastewater flows of 4,180 gallons per day (gpd) compare with 2,750 gpd of actual water use measured during the 3-year period ending in September 2007. The average wastewater nitrogen load will decrease by 101.2 kg-N per year.

- F-WR5.** The project's nitrogen loading concentration in groundwater across the entire 4.63-acre site is 6.25 milligrams-N per liter (mg-N/L), reduced from 12.3 mg-N/L under existing site conditions. The reduction is consistent with MPS 2.1.1.2.E.1, which requires that there be no net addition of nitrogen loading where existing development exceeds identified nitrogen-loading standard - the 5 mg-N/L limit applicable to WHPAs.

Natural Resources & Open Space Findings:

- F- NR1.** The applicant proposes to redevelop previously disturbed portions of the property; consequently, the project will not result in alteration of naturally vegetated areas. In addition, all proposed work is located outside of estimated habitat of rare species as mapped by the Natural Heritage and Endangered Species Program. As such, the project is not expected to result in impacts to habitat or open space greater than those resulting from existing conditions.
- F- OS1.** The rear portion of the property, abutting Shallow Pond, will be permanently protected as open space through a conservation restriction as a result of the Supply NE DRI HDEX#05009. At the request of the Town of Barnstable, the applicant has agreed to permit public access across a portion of the subject property for the purposes of providing recreational access to Shallow Pond. The details of such public access shall be negotiated with the Town of Barnstable in the conservation restriction.

Community Character, Landscaping & Exterior Lighting Findings:

- F-CC1.** The proposed project is consistent with performance standards in the Heritage Preservation section of the RPP. The project includes demolition of three existing hotel structures that are not historically significant. The Massachusetts Historical Commission (MHC) confirmed on October 10, 2007 that the project is unlikely to affect significant historic or archaeological resources.
- F-CC2.** Goal 6.2 of the RPP encourages redevelopment and seeks to ensure that future development respects the traditions and character of Cape Cod consistent with the Commission's design manual, Technical Bulletin #96-001. The proposed building is consistent with RPP community character goals and standards. The proposed building has a footprint of approximately 9,000 square feet, which is well below the 50,000 square foot footprint allowed for redevelopment projects under MPS 6.2.5. MPS 6.2.2 requires "in all cases, where new buildings and additions are proposed, that the mass and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows shall be harmonious among themselves and consistent with traditional Cape Cod architectural styles." The proposed design includes variation in the massing, façade, and roof form to reduce the apparent mass of the building, and the proposed materials are consistent with regional traditions.

- F-LS1.** 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 proposed project includes 52 parking spaces that are located to the side and rear of the building, consistent with MPS 6.2.7. The proposed site design is not more detrimental than the immediate prior use.
- F-LS2.** MPS 6.2.8 requires in part that redevelopment of existing strip development provide adequate buffers between parking areas and the street, and significant improvement to interior parking-lot landscaping to improve the visual character of the site. The proposed project will improve the existing site design with the provision of additional landscaping including a 2 – 3' high earthen berm along the majority of the front buffer area to Route 132. The applicant has incorporated Low Impact Design stormwater features into the landscape design. Plant materials are generally adaptable to the site and are not invasive species.
- F-EL1.** No existing conditions lighting photometric plans were provided. However, based on color photographs and a site visit, it appears the existing exterior lighting consists of scattered pole and on building mounted fixtures, few of which are consistent with the Commission's exterior lighting standards.
- F-EL2.** Exterior lighting for the proposed project consists of 28 total fixtures comprised of five pole-mounted metal halide fixtures, five metal halide bollards, nine recessed metal halide fixtures at the drive up, three recessed fluorescent fixtures, and six half-round wall lights. All of these light types are consistent with MPS 6.2.10 and Technical Bulletin 95-001. In addition, all of these lights meet the shielding and cut-off requirements specified by Technical Bulletin 95-001. It also appears that the lights will meet the mounting height limits for pole and on-building fixtures stipulated by the Technical Bulletin.
- F-EL3.** A revised foot-candle (Fc) plan dated 12/12/07 done by OMNI-LITE, Inc. provided by the project architects shows levels of 9.8 or less below the bank drive-up canopy, and lower foot-candle levels elsewhere on the site. *(The boldface numbers and letters shown on the 12/12/07 OMNI-LITE INC. plan are based on the Luminaire Location Summary table. The actual foot-candle levels shown on this plan are maintained levels, and are shown in small, lightface type arranged in a grid pattern.)* The revised and lower foot-candle levels shown on the OMNI-LITE INC. plan are slightly more than what Technical Bulletin 95-001 allows (8.0 Fc), however, the Commission's Regulatory Committee finds that based on normal fixture wear, the light levels will be under 8.0 foot-candles in a relatively short time, and therefore, the proposed project's exterior lighting does not have more detrimental impacts than the exterior lighting of the immediate prior use.

Transportation Findings:

- F-T1.** The project site consists of two adjacent parcels approximately 2.2 acres in size and bounded by Shallow Pond, Route 132, and the Lakeside Center office plaza. Uses in the vicinity include, commercial, residential, and office. Only one of the parcels is the primary site for development; however a portion of the proposed parking for that development is located on the adjoining property (1575 Iyannough Road), therefore both parcels are considered as the project site. The adjacent parcel contains a residential structure consisting of six (6) below market rate units rented on a weekly basis. This building will remain with its existing use under the current redevelopment proposal. The project site is located in a Commercial Growth Center as designated in the Barnstable Local Comprehensive Plan.
- F-T2.** The Rose Motel (1555 Iyannough Road) and the adjacent lodging house property (1575 Iyannough Road) each have a full access driveway on Iyannough Road (Route 132) in Hyannis, therefore this site has two full-access curb cuts. Iyanough Road (Route 132) is a regional road as defined in the Regional Policy Plan (RPP). The applicant has proposed to close one existing driveway and restrict the other driveway to right turn in/right turn out. The right turn in/right turn out restrict will be further enforced by the MassHighway Route 132 project which is currently under construction and will install a raised median along this section of Route 132.
- F-T3.** The applicant's transportation engineer calculated the expected trip generation of this project based on information contained in the Institute of Transportation Engineers Trip Generation manual 7th Edition. As shown in Table 1, the net increase in vehicle trips from the existing use is significant during the afternoon peak hour.

Table 1 – Trip Generation Estimates/Net Increases Over Current Use

Time Period	Vehicle Trips
Average Daily Traffic	105
Morning Peak Hour	13
Afternoon Peak Hour	53

Based on ITE Trip generation manual, 7th Edition.

- F-T4.** Cape Cod Commission transportation staff calculated trip generation estimates substantially different than the estimates submitted by the applicant. Commission staff notes that a partial discrepancy is due to the applicant's use of a 43 % pass-by rate. The Cape Cod Commission has never approved more than a 25% pass-by rate (the 25% pass-by rate is consistent with Massachusetts Environmental Policy Act standards). Even without this difference, the applicant's trip generation estimates still show a significant traffic impact on the regional roadway network.
- F-T5.** Based on the increase in trip generation, Cape Cod Commission Regulatory Committee has determined that this proposed change of use will result in impacts on

the regional roadway and determine that the impacts of the development are more detrimental than the immediate prior use. For this reason, the Regulatory Committee finds that this project undergo DRI review in the area of transportation.

Hazardous Materials/Waste Findings:

- F-HM1.** The project site is located in an existing Wellhead Protection Area/Zone II. An 11/13/07 Memo from Nutter, McClennen & Fish states the site is currently served by a natural gas line, and the proposed new development will also be served by it. The Memo also states "*there are no hazardous materials on-site...*" with the possible exception of asbestos in the existing motel building. *Hazardous materials or hazardous wastes* attributable to the proposed development are likely to include fluorescent bulbs, computer equipment, and other electronics. This is in part because the on-site septic system will not need methanol or a replacement chemical to function. The November 13, 2007 Memo from Nutter also states the applicant "*will prohibit hazardous materials in excess of household quantities...similar to the condition imposed by the Commission in the...Rainbow Motel Change of Use decision.*"

Affordable Housing Findings:

- F-AH1.** According to the data from the Commission's 2005 Nexus Study, it is likely that overall the jobs in the redevelopment will be on average higher paying in the office occupations than existed in its current use as a motel; therefore, the Commission did not see the need to have the applicant complete the jobs/average wage affordable housing analysis. Therefore, the Commission finds that the aspect of the project that involves a change from one commercial use- motel- to another- office- has no detrimental affordable housing impacts that are more detrimental than the immediate prior use.
- F-AH2.** The Rose Lodge building on the site has six one bedroom apartments with a shared kitchen, and the applicant has proposed no change to that building. MPS 5.1.13 states that "For DRIs, residential and/or commercial construction, redevelopment, or subdivision development projects resulting in the reduction of non-condemned residential units shall be prohibited, unless otherwise permitted by the Commission."
- F-AH3.** Any proposed change to the current residential use at the Rose Lodge building will require Commission review as a modification of the DRI.

CONCLUSION

Based on the findings above, the Commission hereby determines that the proposed change of use at 1555 Iyannough Road (Route 132), Hyannis, MA is subject to mandatory review as a Development of Regional Impact (DRI) in the Regional Policy Plan issue area of Transportation in accordance with Sections 3 & 4 of the DRI Enabling Regulations because the impacts of the proposed project are more detrimental than those of the immediate prior use.

Prior to the issuance of a Certificate of Occupancy from the Town of Barnstable, 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 was constructed according to the proposed plans referenced herein in Finding F-G3 and is consistent with all 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.

This decision is rendered pursuant to a vote of the Cape Cod Commission Regulatory Committee on February 19, 2008.


Mr. Frank Hogan
Chairman of the Regulatory Committee

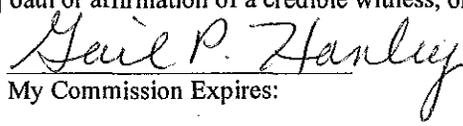
2/21/08
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

2.21, 2008

Before me, the undersigned notary public, personally appeared Mr. Frank Hogan, in his capacity as Chairman of the Regulatory Committee, whose name is signed on the preceding document, and such person acknowledged to me that he 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.


My Commission Expires:

10.13.11