



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136
E-mail: frontdesk@capecodcommission.org

DATE: January 10, 2008

TO: Michael D. Ford, Esq.
P.O. Box 485
West Harwich, MA 02671

FROM: Cape Cod Commission

RE: Development of Regional Impact Exemption Request
Section 12(k) of the Cape Cod Commission Act

APPLICANT: Cape Codder Resort
c/o Michael D. Ford, Esq.

PROJECT #: EX07019
Owner: **Hearth N Kettle Properties, LP**
PROJECT: The Cape Codder Resort Expansion
1225 Iyannough Road
Hyannis, MA 02601

BOOK/PAGE: 15617/338; Certificate of Title #160228 Land Plan: 31689-A

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby grants the Development of Regional Impact (DRI) Exemption request of the Cape Codder Resort ("Applicant") for the proposed expansion to the Cape Codder Resort located at 1225 Iyannough Road in Hyannis, pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended and Section 7 of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12 as amended. This decision is rendered pursuant to a vote of the Commission on January 10, 2007.

PROJECT DESCRIPTION

The Applicant proposes an expansion of the Cape Codder Resort located on a 12.54 acre site on Iyannough Road (Route 132) in Hyannis. The property is bordered by Route 132 to the north, Bearse's Way to the east, the Barnstable police station to the west, and residential development to the south. The site is located within the Business and Highway Business

Cape Codder Resort Expansion/EX07019

Decision

January 10, 2008

Page 1



zoning districts and inside a Regional Commercial Center under the Barnstable Local Comprehensive Plan.

The Cape Codder currently consists of a 215,000 s.f. hotel building with 258 licensed units. The property also contains a spa, swimming pool, tennis court, restaurant, several function rooms, and site parking. The proposed expansion would add 24,000 s.f. (a 6,000 s.f. footprint) to the southeast of the main building where the spa (currently 5,045 s.f.) will be relocated. In addition, 15 new hotel units (nine two-bedroom and six three-bedroom) are proposed to be constructed in the existing second and third floor space of the eastern portion of the main hotel building. The proposal also includes enclosure of the 19,000 s.f. atrium/swimming pool area.

PROCEDURAL HISTORY

The Applicant submitted a DRI Exemption application on November 9, 2007. The Commission received a mandatory DRI referral from the town of Barnstable on October 16, 2007. The DRI Exemption application was deemed complete on November 15, 2007. A duly noticed public hearing was conducted pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on December 12, 2007 at the Barnstable Superior Courthouse. The public hearing was continued to December 28, 2007, where it was closed by a hearing officer. The record was left open for the submission of written materials until January 10, 2007.

At the December 12, 2007 subcommittee meeting, the subcommittee recommended unanimously that the project be granted a DRI Exemption. A final public hearing was held before the full Commission on January 10, 2008 where the Commission voted unanimously to grant the DRI Exemption.

Materials submitted for the record

From the Applicant

- DRI Exemption application
- Traffic study, revised plans, hazardous materials inventory, partial filing fee
- Abutters list, remainder of filing fee
- Lighting plan and letter from G. Siroonian re: exterior lighting
- Revised hazardous materials inventory
- Stormwater facility operations & management plan

Date received

October 1, 2007
November 9, 2007
November 13, 2007
November 28, 2007
December 5, 2007
December 7, 2007

From Cape Cod Commission:

- Letter to M. Ford re: incomplete application
- Letter to M. Ford re: receipt of DRI referral
- Email to B. Catania re: additional information
- Letter to M. Ford: application complete
- Staff report

Date sent:

October 12, 2007
October 19, 2007
November 8, 2007
November 15, 2007
December 6, 2007

From State and Local Officials:

- DRI referral

Date received:

October 19, 2007

Cape Codder Resort Expansion/EX07019

Decision

January 10, 2008

Page 2

From the Public:

- No submittals

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

TESTIMONY

A public hearing was held on December 12, 2007 at the Barnstable Superior Courthouse. Attorney Michael Ford, representing the Applicant, introduced the proposed project to the subcommittee and discussed why he believes the project qualifies for a DRI exemption. He said the project would have no significant or regional impacts. He explained that the applicant further reduced the amount of hazardous materials on site (by decreasing the pool chemicals and the oil based paint) to be under the RPP limit. He explained how they are upgrading the stormwater management system, resulting in reduced nitrogen loading.

Martha Hevenor presented a summary of the staff report, noting that a revised hazardous materials inventory was submitted that evening. She discussed how the staff believes the project would not have significant impacts on transportation resources, water resources, natural resources, and community character. Scott Michaud commented on the revised hazardous materials inventory, noting the reduction of oil based paint and pool chemicals.

Theresa Fallon, an abutter, expressed concern about noise from the swimming pool. Mr. Ford and Mr. Catania said that the new pool is on the other side of the site from her property and that the other pool area will be covered by a retractable roof. Ms. Fallon expressed concern about the noise of the generator.

Peter Fallon, an abutter, expressed concern about the pool and said he'd like some more trees planted.

The subcommittee asked questions concerning the hazardous materials inventory, the stormwater management plan, the vegetated buffer at the rear of the site. They voted unanimously to recommend approval of DRI Exemption request.

JURISDICTION

The project qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as a proposed development with "additions to existing buildings that results in an increase of 10,000 square feet of gross floor area"

FINDINGS

The Commission has considered the application of the Cape Codder Resort for a DRI Exemption for the proposed Cape Codder Resort expansion. Based upon its consideration of such application and information presented at the public hearing and submitted for the record, the Commission makes the following Findings pursuant to Section 12(k) of the Act:

General

- G1. The project literally qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, which provides that "additions to existing buildings that result in an increase of 10,000 square feet of gross floor area" shall be subject to mandatory DRI review.
- G2. The project consists of an expansion to the Cape Codder Resort on Route 132 in Hyannis. The Cape Codder currently consists of a 215,000 s.f. hotel building with 258 licensed units. The 12.5 acre property also contains a spa, swimming pool, tennis court, restaurant, several function rooms, and site parking. The proposed expansion would add 24,000 s.f. (a 6,000 s.f. footprint) to the southeast end of the main building where the spa (currently 5,045 s.f.) will be relocated. In addition, 15 new hotel units (nine two-bedroom and six three-bedroom) are proposed to be constructed in the second and third floor space of the eastern portion of the main hotel building. The proposal also includes enclosure of the 19,000 s.f. atrium/ swimming pool area. The site is located with the Business and Highway Business zoning districts and inside a Regional Commercial Center under the Barnstable LCP.
- G3. Based on the information submitted for Commission review, the Commission finds that the location, character and environmental effects of the proposed development will prevent its having any significant impacts on the values and purposes specified in Section One of the Cape Cod Commission Act outside of the Town of Barnstable and, therefore, although it literally qualifies as a DRI, it does not require DRI review.
- G4. Based on the information submitted for Commission review, any change in the impacts of the proposed project as articulated in this decision and/or a change to the findings of this decision may require further Commission review in accordance with Section 12, Modifications to Approved Projects, of the *Enabling Regulations* (as amended).
- G5. The Applicant has met its burden to show that the project should be exempt from DRI review.

Water Resources

- WR1. The project is located in a number of significant water resource areas as classified by the RPP, including an Impaired Water Quality Area. The project site is classified as a Water Quality Improvement Area (as defined by MPS 2.1.1.2.E) because the Impaired Area is also located in a Wellhead Protection Area (as defined by MPS 2.1.1.2.A) and Marine Water Recharge Area (as defined by MPS 2.1.1.2.C) that discharges to Lewis Bay. Improved water quality in these areas is a major goal of the RPP.
- WR2. The existing development on the project site is currently connected to sewer. New sanitary wastewater flows from the proposed additional development will also be treated at the municipal wastewater treatment facility. The Applicant

explained at the December 12, 2007 public hearing that a wastewater leachfield on the site discharges wastewater from the existing swimming and spa facilities to groundwater and will continue to be used to discharge wastewater from the existing swimming/wave pool. He indicated that wastewater generated by the proposed new pool and spa facilities will be discharged to sewer for disposal at the municipal wastewater treatment facility.

- WR3. The proposed project will result in a no-net addition of nitrogen to groundwater and a nitrogen-loading concentration in groundwater of less than 1.5 ppm-N across the entire site. The project meets the 5-ppm nitrogen loading limit applicable to DRIs in WHPAs. Nitrogen from increased impervious areas will be reduced by vegetation incorporated into proposed stormwater facilities, as detailed on the Stormwater Management plan dated September 2007.
- WR4. The Applicant provided a hazardous materials inventory for both the existing and proposed development that indicates a net reduction in the hazardous materials to be stored at the site. Chemicals currently used to disinfect and adjust the pool/spa water pH levels and sanitize laundry will be replaced with new ozone, ultra-violet and carbon-dioxide treatment systems. In addition, the amount of oil based paint stored at the site will be reduced. The hazardous materials inventory details the following changes in the amount of hazardous materials to be stored at the site:
- 150-lb decrease in bromine biocide (pool chemical),
 - 75-gallon increase in chlorine biocide (pool chemical),
 - 20-gallon decrease in muriatic acid (hydrochloric acid; pool chemical),
 - 45-gallon decrease in bleach (laundry), and
 - 30-gallon decrease in oil-based paint.
- WR5. Given the proposed project's wastewater treatment, stormwater management improvements, and reduction in hazardous materials on-site, the project will not result in any significant impacts to regional water resources.

Natural Resources/Open Space

- NR1. The project site is located within a public wellhead protection area (Zone II), and therefore is mapped as a Significant Natural Resources Area under the 2002 RPP. The site is not mapped for rare species or rare species habitat, nor are any wetlands located on the site. The site has been substantially developed and almost entirely disturbed.
- NR2. Given the location and existing conditions at the project site, the proposed expansion of the Cape Codder would not have any significant impacts or environmental effects to natural resources of regional significance.

Transportation

- T1. The hotel currently has (and will retain) two (2) full access driveways: a main driveway on Barse's Way and a secondary driveway on Route 132. Route 132

is a regional road as defined in the RPP. The Route 132 driveway is within the limits of the MassHighway project currently underway along the roadway.

- T2. 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. Table 1 shows the net increase in vehicle trips from the existing use. The increase is not significant.

Table 1 – Trip Generation Estimates/Increase From Current Use

Time Period	Vehicle Trips
Average Daily Traffic	142
Morning Peak Hour	6
Afternoon Peak Hour	8

Based on ITE Trip generation manual, 7th Edition, LUC 310 (Hotel) and LUC 320 (motel).

- T3. The RPP standard of review for safety impacts is 25 or more new peak hour trips through a high crash location. As shown in Table 1, the proposed 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.
- T4. The Cape Codder currently provides the following employee trip reduction strategies:
- A shuttle bus for employees;
 - Bicycle racks on site
 - A seasonal Olde Barnstable trolley stop.
- Proposed future trip reduction measures include:
- A guest shuttle to area beaches and location attractions;
 - Planning for a future bicycle path along Route 132.
- T5. No significant new traffic would be added to the roadway system during the morning and afternoon peak hours as a result of the proposed project. As such, the proposed project is not expected to have any significant impacts on regional transportation resources.

Community Character

- CC1. The proposed Cape Codder expansion consists of the enclosure of the atrium, construction of a new spa area in the southeast portion of the main building, and adding 15 residential units within the existing second floor and additional third floor story space of the eastern portion of the main building. Although exterior building samples were not provided, the applicant indicated that the addition will be constructed of a mix of brick, cedar shingles, clapboard siding and other materials, in concert with the existing building.
- CC2. A large portion of the addition is the in-fill and enclosure of the existing atrium area, and except for the roofline, will not be visible from the roadways. The building layout and configuration of the site will help screen views of the additional residential units and the spa area from adjacent roadways.

- CC3. The new parking area at the southeast edge of the site will extend approximately 30 feet southward into the existing 70 foot vegetated buffer area that borders the adjacent residential property. Project representatives indicated that approximately 40 feet of the buffer area would remain undisturbed.
- CC4. Exterior lighting for the proposed project will involve reuse of some existing lights and the addition of new fixtures, including new pole lights, on-building fixtures, and recessed fixtures. The majority of the existing and proposed lights are consistent with the Commission's exterior lighting technical bulletin. Given the limited number of fixtures in question and that the proposed project is a redevelopment/addition to an existing hotel and is located in an already-developed area, the lighting impacts are not significant.
- CC5. Given the layout of the site, the configuration of the additional building space, and the site location, the proposed project does not present significant community character impacts.

CONCLUSION

Based upon the above findings, the Cape Cod Commission hereby concludes that as proposed, the location, character, and environmental effects of the Cape Codder Resort expansion project, as described in this decision, will prevent its having any significant impacts on the values and purposes specified in Section One of the Act outside of the Town of Barnstable (the municipality in which the development is located). Based upon the above findings, the Commission hereby grants the Applicant a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act for the proposed expansion to the Cape Codder Resort, located at 1225 Iyannough Road in Hyannis.

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 an exemption is constructed according to the proposed plans filed with the DRI Exemption application and is consistent with the findings of this decision. The Applicant shall provide a minimum of ten (10) business days notice of the intent to seek a Certificate of Compliance; it will be issued upon completion of a compliance inspection by Commission staff.

This DRI Exemption decision shall be strictly construed, and is valid for three years from the date of issuance.

Robert Jones _____ 1/10/08
Robert Jones, Chair, Cape Cod Commission Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Before me, the undersigned notary public, personally appeared Robert Jones ^{1/10}, 2008, in his capacity as Chair 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.

Gail P. Hanley
Notary Public
My Commission Expires:
10/13/11