



CAPE COD COMMISSION

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Date: April 14, 2005

To: Joseph Potzka, Administrator
Cape Cod Regional Transit Authority
P.O. Box 1988
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From: Cape Cod Commission

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

Applicant: Cape Cod Regional Transit Authority

Project #: EX05007

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

Book/Page: 15017/165

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 Cod Regional Transit Authority for the proposed Cape Cod Regional Transit Authority Operations and Maintenance Center Project located on Lot 5, 40 American Way, South Dennis, pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended. This decision is rendered pursuant to a vote of the Commission on April 14, 2005.

PROJECT DESCRIPTION

The project is proposed to be located at 40 American Way, South Dennis in an industrial zoning district on approximately 10.07 acres. The site access driveway is at the end of American Way, a cul-de-sac located south of the former Dennis landfill, accessed by Theophilus Smith Road (T. Smith Road). Area regional roadways include T. Smith Road, Gages Way, Great Western Road, Upper County Road, and Route 134. The Cape Cod Rail Trail borders the southern edge of the property site.

The CCRTA is proposing to construct a bus/vehicle operations and maintenance center. Two buildings are proposed:

- 24,100 square foot bus maintenance garage and operations office (including a 4,600 square foot mezzanine) for administration, dispatch, and maintenance and washing of vehicles. According to the submitted plans the total office space in this building is approximately 7,000 SF; and
- 21,450 square foot bus storage facility for indoor parking of up to 50 vehicles.

Additional site features include an outdoor paved driver training area of approximately 38,000 square feet, 54 parking spaces (2 handicapped), a propane fueling facility, a location for a future fueling facility, and ancillary roadways and pavement turning areas necessary for the facility's operations. The facility is expected to employ approximately 19 – 25 people. This facility shall include a self-contained vehicle exhaust control system.

JURISDICTION

The project qualifies as a DRI under Section 3(h) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, which provides that “any development providing facilities for transportation to or from Barnstable County including but not limited to ferry, bus, rail, trucking terminals... and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 s.f. of gross floor area or 40,000 s.f. of outdoor area...”

PROCEDURAL HISTORY

On March 16, 2005, the Cape Cod Regional Transit Authority (hereinafter CCRTA or Applicant) filed a Development of Regional Impact (DRI) Exemption Application for the proposed new maintenance and operations center in South Dennis. On March 23, 2005, the Commission determined this application to be complete.

The proposed project previously came before the Commission for a Jurisdictional Determination, filed on February 7, 2005 by Daniel Fortier, Dennis Town Planner, on behalf of the Town of Dennis. On March 8, 2005 the Commission determined that it 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. Section 3(h) requires DRI review of “any development providing facilities for transportation to or from Barnstable County including but not limited to ferry, bus, rail, trucking terminals... and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 s.f. of gross floor area or 40,000 s.f. of outdoor area...”

A duly noticed Public Hearing pursuant to Section 5 of the Act was held on the DRI Exemption request by an authorized Subcommittee of the Commission on Thursday, March 31, 2005 at 5:30 p.m. at the Assembly of Delegates Chamber, First District Courthouse, Barnstable, MA. At this hearing, the Subcommittee voted unanimously to recommend to the full Commission that a DRI Exemption be granted for the proposed project, and to continue the public hearing on the Exemption to the Commission’s April 14, 2005 meeting for consideration of the project by the full Cape Cod Commission. The Subcommittee also voted on March 31, 2005 to authorize the Subcommittee Chair to review the draft DRI Exemption Decision.

On April 14, 2005, the full Commission voted unanimously (by a vote of 11 to 0) to grant a DRI Exemption to the Cape Cod Regional Transit Authority for the proposed new maintenance and operations center.

TESTIMONY

The Commission heard the following oral testimony at the March 31, 2005 public hearing: Joseph Potzka, Administrator, CCRTA, presented the proposed project and the reasons for which the RTA seeks an exemption from DRI review. Stacey Justus, Commission staff, summarized the extent of impacts from the proposed project in relation to the RPP issues areas of water resources, natural resources, transportation, community character and hazardous materials, according to the March 23, 2005, Staff Report. The Subcommittee deliberated on the exemption request and voted unanimously (5-0) to recommend approval of the DRI Exemption request to the full Commission.

MATERIALS SUBMITTED FOR THE RECORD

In addition to the list below of materials submitted for the record, the application and notices of public hearings relative thereto, the Commission’s staff notes and correspondence, the minutes of public meetings and hearings, and all other written submissions received in the course of the Commission’s proceedings are hereby incorporated into the record by reference.

Materials from the Applicant:

- DRI Exemption Application from D. Walsh, Assistant Administrator, CCRTA, received March 16, 2005
- Supplemental materials re: septic and lighting from M. Haire, Gannett Fleming, Inc., received March 16, 2005

Materials from Commission Staff:

- Staff Report dated March 23, 2005
- Letter re: application complete dated March 28, 2005

FINDINGS

The Commission has considered the application of the CCRTA for a DRI Exemption regarding the proposed operations and maintenance center. 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 Findings:

- F-G1.** The project literally qualifies as a DRI under Section 3(h) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, which provides that “any development providing facilities for transportation to or from Barnstable County including but not limited to ferry, bus, rail, trucking terminals... and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 s.f. of gross floor area or 40,000 s.f. of outdoor area...” shall be subject to mandatory DRI review.
- F-G2.** The CCRTA provides both fixed route and on-demand public transportation services to the residents and visitors of Barnstable County. CCRTA provides an on-demand service traveling outside of Barnstable County to certain hospitals and medical centers in the greater-Boston area. The CCRTA took over this service previously provided by the American Red Cross to ensure that the elderly, veterans, and others have access to regional medical facilities. Although this on-demand service encompasses less than 1% of the services of the CCRTA, it brought the proposed project as one that literally qualifies as a DRI under the Commission’s mandatory jurisdiction.
- F-G3.** The proposed project on the 10.07-acre site at 40 American Way, South Dennis, involves the construction of a new operations and maintenance center. This site is located in a local Industrial zoned area. Development includes the construction of two buildings totaling approximately 45,550 square feet. According to the submitted plans the total office space on site will total approximately 7,000 SF. Additional site features include an outdoor paved driver training area of approximately 38,000 square feet, 54 parking spaces (2 handicapped), a propane fueling facility, a location for a future fueling facility, and ancillary roadways and pavement turning areas necessary for the facility’s operations. The facility is expected to employ approximately 19 to 25 people.

- F-G4.** 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 protected by the Act outside of the Town of Dennis and, therefore, although it literally qualifies as a DRI, it does not require DRI review.
- F-G5.** Based on the information submitted for Commission review, the Commission finds that 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 according to Section 12, Modifications to Approved Projects, of the *Enabling Regulations* (as amended).

Water Resources Findings:

- F-WR1.** The CCRTA Operations and Maintenance Center is located on a 10.07-acre parcel that is located on the watershed boundary between Swan Pond and Bass River. The proposed center will have two buildings, including approximately 7,000 square feet of office space, six service bays, a washing bay, and vehicle storage space. These uses will generate 1,425 gallons per day of wastewater flow, which is proposed to be treated in a standard Title 5 septic system. Approximately 4.6 acres of the site will be impervious.
- F-WR2.** The project will have a nitrogen loading concentration of 3.1 parts per million and an annual mass loading of 96 kilograms. The concentration is less than the regional 5 parts per million (ppm) standard (RPP MPS 2.1.1.1).
- F-WR3.** Because the project site straddles the watershed boundary between two coastal systems, the impervious surface and landscaping nitrogen loads discharge within the Bass River watershed, while the wastewater load will discharge within the Swan Pond watershed. Accordingly, 69 kg/yr. of nitrogen will discharge with the wastewater into the Swan Pond watershed, while 27 kg/yr. will discharge to the Bass River.
- F-WR4.** Neither of the Swan Pond or the lower portion of Bass River have a tidal flushing study or water quality data available. Because of Bass River's more open configuration, it is thought that it should have better water quality and a higher assimilative capacity for nitrogen. Because tidal flushing studies have not been completed, critical nitrogen loads are not available for these systems.
- F-WR5.** The stormwater system is designed based on a 25-year storm and will attain 80% total suspended solids removal, uses non-structured detention basins for recharge, and the bottom of the detention basins will have greater than two foot separation to maximum high groundwater, consistent with Goal 2.1.3 of the RPP.

Natural Resources Findings:

- F-NR1.** The proposed project site is located in a significant natural resource area (SNRA) due to the presence of mapped unfragmented forest habitat. The site does not contain any wetlands based on site plans provided by the Applicant. A natural resources inventory has not been conducted on the site; however, a site visit conducted by Commission staff revealed that the site is vegetated with pitch pine and mixed oak with a blueberry/huckleberry understory—a typical vegetation mix for Cape Cod.
- F-NR2.** While the project site is located in an area mapped SNRA, the surrounding woodland area has been significantly disturbed and fragmented by light industrial-type development in recent years. In addition, the Dennis landfill is located just to the north of the site. Impacts to natural resources of regional significance as a result of site development are not anticipated.

Transportation Findings:

- F-T1.** The project is located at the end of American Way, a cul-de-sac located south of the former Dennis landfill, accessed by Theophilus Smith Road (T. Smith Road). Area regional roadways include Smith Road, Gages Way, Great Western Road, Upper County Road, and Route 134. The Cape Cod Rail Trail borders the southern edge of the property site.
- F-T2.** Based on a CCRTA estimate of 15-20 buses leaving the facility during the morning peak hour and 19 to 25 employees, the facility is expected to generate:
- 185 to 203 new daily trips
 - 39 to 45 new weekday peak hour trips
- F-T3.** MPS 4.1.1.1 requires developments to not degrade safety for all users including bicycles and pedestrians. The project is located in an industrial area in a commercial subdivision. The roadways leading to the facility (T. Smith Road, Gages Way, and American Way) are generally commercial in nature with no residences. The cul-de-sac subdivision was built using the Town's subdivision regulations and consequently should have adequate sight distances where the cul-de-sac roadway meets T. Smith Road.
- F-T4.** MPS 4.1.1.1 requires development to not degrade safety for all users, MPS 4.1.1.6 requires allowances for pedestrian and bicycle connections, and MPS 4.1.2.5 requires accommodation of the needs of bicyclists and pedestrians. While the project borders the Cape Cod Rail Trail to the south, there are no proposed connections through the property to the Trail. While such connections are required by the RPP where appropriate, a connection through the project site to American Way would duplicate similar access about 1200 feet east provided by Gages Way, a public roadway. In addition, there is a significant grade difference between the trail and the site.

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Consequently, a connection to the rail trail through the site is not necessary or appropriate.

- F-T5.** MPS 4.1.1.2 requires developments to analyze crashes at locations where the project is expected to generate 25 or more new peak hour trips. For this project, the locations that may reach this threshold include the intersection of American Way and T. Smith Road as well as the intersection of Route 134 and T. Smith Road. A review of 1999-2001 state crash data showed no crashes for the intersection of American Way and T. Smith Road. There were a total of 11 crashes during the same time period at Route 134 and T. Smith Road. A crash rate analysis showed there were 0.40 crashes per million entering vehicles (m.e.v.) at Route 134 and T. Smith Road, which is less than the statewide average of 0.87 crashes per m.e.v. Consequently, per the Commission transportation technical bulletin, no further review under MPS 4.1.1.2 would be required.
- F-T6.** MPS 4.1.2.1 requires projects to reduce 25% of the expected daily traffic from the development. The proposed project is expected to generate new trips to and from the facility on regional roadways. However, the Applicant is the primary public transit provider on Cape Cod and its role is to provide transit service throughout Barnstable County. Consequently, the unique nature of the Applicant leads to trip reduction throughout the region and the Applicant inherently meets the trip reduction goals of the RPP. The Applicant is bringing new trip reduction to the County in the form of the Outer Cape Flex Route service. The trip reduction from this service will far exceed any trips generated by the proposed facility. Considering the Applicant's current and proposed services, the Applicant provides more than 100% reduction of expected trip generation for the proposed facility.
- F-T7.** Through MPS 4.1.2.8, the Commission may allow trip generation reductions if an Applicant exceeds the trip reduction requirements of MPS 4.1.2.1 for the purposes of addressing congestion requirements in MPS 4.1.3.4. Given the expected 100% trip reduction inherent to the Applicant's nature, as noted above, the Applicant offsets 100% of the expected trip generation from the facility and thus can be relieved of the MPS 4.1.3.4 requirements.
- F-T8.** Given the location, nature, and character of the proposed development, the proposed project is not expected to have increased impacts on regional transportation resources.

Hazardous Materials Findings:

- F-HM1.** The project site is not located in a Wellhead Protection Area or a Potential Public Water Supply Area. As such, MPS 4.3.1.3 does not apply to the review of this project.
- F-HM2.** Based on information submitted to the Commission, including a comparison with the CCRTA's existing vehicle maintenance facility in Dennis, the Commission finds the

proposed new facility will not have significant regional hazardous materials/waste impacts.

Community Character Findings:

- F-CC1.** The proposed CCRTA operations and maintenance facility is located in an industrial zoning district at the end of an existing subdivision road. Proposed building forms and materials are not consistent with traditional Cape styles. MPS 6.2.6 allows the use of nontraditional materials and forms in industrial parks that are not visible from scenic or regional roadways or other distinctive areas. Due to the project's location, the use of these building materials and forms does not present regional impacts.
- F-CC2.** The proposed site plans include both wall mount and pole lights for the facility. A review of manufacturer's specification sheets indicates that proposed lighting is consistent with the Commission's lighting technical bulletin.
- F-CC3.** Plans and specifications for any proposed signage were not submitted with the DRI Exemption application. Correspondence from the Applicant indicates that any signage will be designed in accordance with the Dennis zoning bylaw and MPS 6.2.11 that prohibits internally illuminated signs.
- F-CC4.** The Cape Cod Rail Trail is located directly south of the project site. The rail trail is approximately 6 – 8' below the proposed elevation of the parking area for the facility and is separated by approximately 40' of existing vegetation. The Applicant proposes additional screening consisting of evergreen trees between the edge of the proposed pavement and the property line adjacent to the rail trail. Based on the grade separation and proposed planting, the proposed project does not present regional 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 CCRTA's proposed project, as described in this Decision, will prevent its having any significant impacts on the values and purposes protected by the Act outside of the Town of Dennis (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 Cape Cod Regional Transit Authority Operations and Maintenance Center Project located at 40 American Way, South Dennis, MA.

Prior to the issuance of a Certificate of Occupancy from the Town of Dennis, 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 was 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 from the Commission, and one shall be issued upon completion of a compliance inspection conducted by Commission staff.

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

David Ansel, Chair, Cape Cod Commission

Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

_____, 2005

Before me, the undersigned notary public, personally appeared _____, 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: