CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: December 1, 2005

TO: Stuart Bornstein

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Stuart Bornstein
Duck Pond LP
297 North Street
Hyannis, MA 02601

PROJECT: Augat Project
106 Falmouth Road (Route 28)
Mashpee, MA

PROJECT #: TR-02021

RECORDING INFORMATION: Map 54 Parcel 50 (Town Assessor)
Certificate Number: 153788

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves, with conditions, the application of Stuart Bornstein as a Development of Regional Impact pursuant to Section 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Augat project on Route 28 in Mashpee. This decision is rendered pursuant to a vote of the Commission on December 1, 2005.

PROJECT DESCRIPTION

The revised project involves construction and operation of a total of 108,300 square feet, divided between two buildings of two stories each to house a mix of self storage, contractor storage, and non-manufacturing business incubator/light industrial. The

project, as originally proposed, would have been for a self storage facility consisting of two new buildings, each with three stories, for a total of 167,400 square feet. The site is located on 5.19 acres at 106 Falmouth Road (Route 28) in Mashpee, MA. The former Augat Industries building is located at the front of the site. This building is not part of this DRI application or review.

PROCEDURAL HISTORY

On June 5, 2002, the Mashpee Planning Board, Dennis H. Balzarini, Chair, referred the project to the Commission. The Commission received the referral on June 6, 2002. On August 1, 2002, the Commission procedurally opened a hearing via a hearing officer. On October 28, 2002, the Commission procedurally closed a hearing via a hearing officer. On November 18, 2002 and April 7, 2003, the Commission's Regulatory Committee granted the applicant extensions of the DRI review timeframe. A public hearing was noticed for April 22, 2003 but was cancelled due to a question concerning whether or not the Augat Industries building was part of the project under review. Subsequently, the Commission's Chief Regulatory Officer determined that the Augat Industries building was not part of the DRI review. On July 22, 2003, Commission staff deemed the application sufficiently complete to proceed to a public hearing. Application materials were submitted by the applicant on several occasions to address project issues, or changes to the proposed project. A public hearing was noticed for August 7, 2003. On July 29, 2003, the Commission received a request from the applicant that the public hearing noticed for August 7, 2003 be postponed to allow for completion of a transportation study. On August 7, 2003, a hearing officer closed the hearing. In October, 2003, the Commission's Regulatory Committee granted another Extension Agreement to November 7, 2004. A substantive public hearing was held on September 21, 2004. At the September 21, 2004 public hearing, the Subcommittee voted to continue the public hearing to the October 21, 2004 full Commission meeting, and to keep the record open. The Subcommittee also voted to hold a public meeting on September 28, 2004 at 3:00 PM at the Commission office to discuss the project. At that Subcommittee meeting, the Subcommittee voted to grant an additional Extension Agreement for one year, or to November 7, 2005. On October 18, 2005, the Subcommittee held a public hearing to consider a revised project. At that hearing, the Subcommittee voted to continue the hearing to the November 3, 2005 full Commission meeting. The Subcommittee also voted to grant a 30 day extension of the project review timeframe, and to recommend to the Executive Committee that the extension fee be waived. At the November 3, 2005 Commission meeting, the Commission voted to continue the hearing on the Augat project until the December 1, 2005 Commission meeting. At the December 1, 2005 Commission meeting, the Commission voted to approve the Augat project, with conditions.

MATERIALS SUBMITTED FOR THE RECORD

Applicant Submittals

Tax receipt	4/1/02
Nitrogen loading calculation sheet	6/2/02
Site Plan, DownCape Engineering (Eng.)	6/2/02
Site Plan, DownCape Eng., Existing conditions	6/2/02
Receipt, mailing to Massachusetts Historical Commission	6/4/02
DRI Application Form	6/6/02
Fee payment (copy of check)	6/6/02
Copy, ENSR, Natural Resources inventory	9/2/02
Memo, DownCape Eng., model of buildings	10/4/02
Memo, Carlson Consulting, transportation issues	10/21/02
Fax, w/attachments, DownCape Eng., architectural plans	10/24/02
Letter, Economic development information	10/31/02
Site Plan, DownCape Eng., Grading/Utilities	11/14/02
Site Plan, DownCape Eng., Landscaping/Septic	11/14/02
Site Plan, DownCape Eng., Details sheet	11/14/02
Memo, DownCape Eng., revised landscape plans, water resources information, and stormwater information	11/15/02
Letter, Trachte Building, recycled content of structures	11/18/02
Color chips of exterior colors	11/18/02
Letter, Attorney Taipale, Extension Agreement fee	11/18/02
Exterior lighting foot-candle plans (initial/maintained)	11/18/02
Letter, Carlson Consulting, transportation issues	2/17/03
Bound document, Carlson Consulting, Traffic Impact Assmt.	3/3/03
Letter, Open space, cash contribution proposed	3/11/03
Abutter list	3/20/03
Memo, DownCape Eng., revised landscape plan	3/25/03
Planting Plan, DownCape Eng.	3/25/03
Letter, to Regulatory and Executive Committees, concerning Extension and fee payment, request for fee waiver	4/2/03
Copy of check for $2,000	4/7/03
Memo, Carlson Consulting, accident data	4/9/03
Letter, Paul Revere III, concerning Augat Industries building	4/13/03
Memo, Carlson Consulting, ITE data	4/14/03
Letter, Paul Revere III, concerning Augat Industries building	4/24/03
Letter, Trachte Buildings, concerning facility configuration	6/24/03
Deed	6/24/03
Letter, Attorney Taipale, postpone hearing	7/28/03
Letter, Attorney Taipale, fee waiver	9/16/03
Letter, Attorney Taipale, return of Extension Agreement	10/8/03
Fax, Carlson Consulting, revised traffic data	2/19/04
Fax, Carlson Consulting, trip generation	3/10/04
E-mail, Attorney Taipale, request for update on issues	3/25/04
Site plan, theoretical on-site development for trip reduction	4/6/04
Memo, Carlson Consulting, transportation issues	4/20/04
Memo, Carlson Consulting, transportation issues	6/2/04
Fax, Mr. Bornstein, letter from Building Dept.	6/15/04
Letter, Abutters list	8/9/04
Letter, Abutters list	8/12/04
Letter, Attorney Taipale, confirm hearing date	8/24/04
Letter, Attorney Taipale, copies of information	9/7/04
Letter, Attorney Taipale, copies of information	9/13/04
Memo, Carlson Consulting, transportation information	9/24/04

Fax, memo, DownCape Eng., sketch plan of proposed off-site parcel for transportation mitigation	9/28/04
DownCape Eng., copy of sketch plan of off-site parcel	9/28/04
Fax, Letter and fee check, Mr. Bornstein, extension	10/6/04
Letter, originals of 1/6/04 fax	10/8/04
Fax, Attorney Taipale, extension	10/13/04
Fax, Mr. Bornstein, proposed on-site open space	5/12/05
E-mail, Deidre Kyle, Holly Legal, meeting with staff	8/15/05
Nitrogen loading calculations & site plan, DownCape Eng.	9/14/05
Fax, Mr. Bornstein, economic data	9/27/05
E-mail, revised site plans, DownCape Engineering	10/4/05
Letter, Attorney Taipale, revised site plans and other info.	10/4/05
-revised project narrative	
-document list	
-Memo from DownCape Engineering	
-Nitrogen loading calculations	
-Deed to proposed off-site open space parcel	
-Economic development information	
-Plan of proposed off-site open space parcel	
-Revised site plans (reduced & large size copies)	
Sketch Plan, untitled, shows preliminary locations of restrooms	11/9/05
Landscape Plan, DownCape Engineering, drawn by Bill Lewis	11/9/05
E-mail, Attorney Taipale, certificate # for recording	11/30/05
Attorney Taipale, copy of packet of information submitted for the full Commission meeting scheduled for	12/1/05
Copy, Flagship Self Storage, Commission Staff Report	10/11/01
Locus map	Undated
Copy, Cotuit Quad map	Undated
Memo, Hazardous waste controls during construction	Undated
Lease agreement	Undated
Memo, Hazardous materials/waste protocol for employees	Undated
Partial article, from self storage industry	Undated
Partial article, concerning traffic from self storage facilities	Undated
Partial article, concerning parking for self storage facilities	Undated

<u>Cape Cod Commission</u>

Letter, DRI notification	6/11/02
Letter, Need for additional information	7/15/02
Hearing Notice	8/1/02
Minutes, Hearing Officer	8/1/02
Letter, Need for additional information	9/13/02
Letter, Community Character comments	10/4/02
Letter, Possible Procedural Denial	10/17/02
Hearing Notice	10/28/02
Minutes, Hearing Officer	10/28/02
Fax, Information for Regulatory Committee to applicant	11/13/02
Memo, Transportation issues	11/13/02
Report, to Regulatory Committee	11/13/02
Extension Agreement (to 5/9/03)	11/18/02
Fax cover sheet, to Julie Robillard	11/18/02
Letter, Extension Agreement return	11/18/02
Letter, Possible Procedural Denial	3/10/03
Letter, Correction of date	3/11/03
Letter, Project issues, procedure	3/13/03
Facility Use Form, Mashpee	3/20/03
Fax cover sheet, Facility Use Form	3/20/03
Memo, Subcommittee, hearing date	3/20/03

Report, w/attchmts., to Regulatory Committee	4/2/03
Fax cover sheet, Report to Regulatory Committee	4/3/03
Hearing Notice	4/22/03
Extension Agreement (to 11/7/03)	4/7/03
Fax cover sheet, Transportation issues	6/2/03
Facility Use Form, Mashpee	6/27/03
Memo, to Subcommittee, hearing scheduled	6/27/03
Letter, Application sufficiently complete	7/22/03
Memo, Open space issues	7/25/03
Memo, Transportation issues	7/25/03
Letter, Transportation issues	7/28/03
Hearing Notice	8/7/03
Minutes, Hearing Officer	8/7/03
Letter, Possible Procedural Denial	9/5/03
Extension Agreement (to 11/7/04)	10/2/03
Letter, Transportation issues	12/11/03
E-mail, Response to Capozzoli	3/31/04
Letter, Impact of Augat Industries building	4/13/04
Memo, to Mashpee Town Planner, seeking guidance on applicant's proposed transportation mitigation proposal	4/22/04
Fax cover sheet, delivered by hand, to Mashpee Town Planner, seeking guidance on applicant's revised transportation mitigation idea	6/3/04
Letter, Transportation issues	7/12/04
Letter, Possible Procedural Denial	8/13/04
Facility Use Form, Mashpee	8/18/04
E-mail, Response to Chris Capozzoli	8/25/04
Staff Report	9/13/04
Memo, to Subcommittee, Added information for hearing	9/13/04
Memo, Transmittal of 9/13/04 Staff Report	9/14/04
Hearing Notice	9/21/04
Minutes, Public Hearing	9/21/04
Fax, to Dan Ojala, transmittal of Fire Dept. letter	9/22/04
Meeting Notice	9/28/04
Minutes, Public Meeting	9/28/04
Letter, Need for Extension Agreement by certain date	9/30/04
Fax cover sheet	10/8/04
Letter, transmittal of Extension Agreement	10/8/04
Extension Agreement (to 11/7/05)	10/4/04
Memo, transportation issues	10/20/04
Letter, revisions to project	12/10/04
Fax cover sheet	12/10/04
Letter, transportation issues	12/14/04
Fax cover sheet	4/27/05
Fax cover sheet	4/27/05
Letter, transportation issues	4/28/05
Fax cover sheet	4/28/05
Memo, to Subcommittee Chair, project correspondence	5/2/05
E-mail, scheduling meeting	6/24/05
Letter, project revisions	7/20/05
Fax cover sheet, economic information	9/21/05
E-mail, to Mr. Bornstein, economic information	9/21/05
E-mail, about scheduling a public hearing	9/28/05
Fax cover sheet, to Meg Santos, use of Town Hall	9/28/05
Letter, project issues and project revisions	9/29/05
Fax cover sheet	9/29/05
E-mail, hearing date scheduled	9/29/05
Fax cover sheet, to Meg Santos, copy of hearing notice	9/29/05

Fax cover sheet, Memo on applicant submissions	10/3/05
E-mail, to Commission staff, PDFs from DownCape Eng.	10/5/05
Memo, to Commission staff, applicant information	10/5/05
E-mail, to DownCape Engineering, water resources info.	10/6/05
Memo, to Subcommittee, staff report	10/11/05
E-mail, to Subcommittee, hearing scheduled	10/11/05
Staff Report	10/11/05
Fax cover sheet, staff report	10/12/05
E-mail, to Subcommittee, concerning a mailing	10/12/05
Hearing Notice	10/18/05
Outline for Subcommittee Chair	10/18/05
Sign in Sheet from hearing	10/18/05
Minutes, Public Hearing	10/18/05
E-mail, to "Sharon," reply concerning project status	10/19/05
Fax cover sheet, to Mr. Bornstein, fee waiver form	10/20/05
Fax cover sheet, to Mr. Bornstein, Extension Agreement	10/20/05
Letter, to Mr. Bornstein, Extension Agreement	10/20/05
Memo, to Executive Committee, about fee waiver	10/24/05
Extension Agreement (to 12/6/05)	10/31/05
E-mail, to James Sorensen, copy of staff report	11/1/05
Memo, to full Commission, recommend hearing continued	11/3/05
Memo, to Mashpee Town Planner, seeking comments on project concerning local zoning, and the Local Comprehensive Plan	11/4/05
Fax, to Mashpee Health Agent, draft plan of restrooms	11/15/05
E-mail, to Mashpee Health Agent, draft decision	11/16/05
Fax cover sheet, draft decision	11/18/05
Memo, to Subcommittee, draft decision and meeting	11/21/05
E-mail, from Ed Eichner, water resources info. from DownCape	11/21/05
Memo, to Subcommittee, draft decision	11/22/05
Memo, to full Commission, draft decision	11/22/05
E-mail, to James Sorensen, copy of draft decision	11/28/05
E-mail, to Blaise Stapleton, copy of draft decision	11/29/05
E-mail, to Mashpee Planner and Health Agent, draft decision	11/29/05
E-mail, draft decision	11/30/05
E-mail, to Blaise Stapleton, copy of draft decision	11/30/05
Meeting Notice	11/21/05
Meeting Minutes	11/21/05
Hearing Notice – Hearing cancelled	Undated
Site Map showing water resource areas	Undated
Memo, Transportation Equivalency Calculation	Undated

Town/Other Public Agencies

DRI Referral Form	6/6/02
Letter, Massachusetts Historical Commission, survey needed	6/28/03
Letter, Massachusetts Historical Commission, survey accepted	10/3/02
Letter, Mashpee Fire Chief, w/atchmts., concerns	7/31/03
Copy, first page of Barnstable ZBA transmittal letter, Cotuit Equitable Housing 40(B) project dated	9/13/05
E-mail, Town Planner, comments on project re: zoning, LCP	11/18/05

Members of the Public

Letter, Signed by many people, traffic concerns	8/5/03
E-mail, Chris Capozzoli, information about project	3/31/04
E-mail, Chris Capozzoli, information about project	8/25/04
Letter, Blaise Stapleton, traffic and access concerns	10/1/04
Letter, James Sorensen, economic impact concerns	10/18/05
E-mail, "Sharon," seeking project update	10/19/05

Fax, Donald Priestly, comments on draft decision 12/1/05

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 the Commission's proceedings are incorporated into the record by reference.

TESTIMONY

Public Hearing – September 21, 2004
The Commission heard oral testimony at a public hearing held on September 21, 2004 at the Carol Jacobsen Senior Center in Mashpee.

Attorney Taipale, representing the applicant, described the proposed project and its location in Mashpee. Mr. Dan Ojala, of DownCape Engineering, the applicant's site engineer, noted the site's zoning, location of curb cuts, and discussed the proposed stormwater treatment system and vegetated buffers. Mr. Bill Carlson, the applicant's transportation consultant, discussed the transportation study he had prepared in 2002.

The Subcommittee members asked questions of the applicant concerning transportation issues.

Ms. Adams, the Commission staff Planner on the project, presented the staff report. She requested direction from the Subcommittee concerning which trip generation estimate should be used or request additional information from Commission staff and applicant to inform such a decision. Ms. Adams described key procedural issues for the project.

The Subcommittee members asked questions of the Commission staff concerning transportation issues.

Chief Baker, Mashpee Fire Chief, noted he had submitted a comment letter to the Commission in July, 2003 expressing concerns about the ability Fire Department apparatus to access and maneuver around the site, adequate water pressure, and the adequacy of Simon's Road for Fire Department access.

Mr. Blaise Stapleton, Shellback Place property manager, expressed concern over the traffic issues. He noted that at least 3 serious accidents had happened in proximity to the site and Shellback Place in the past 6 months. Mr. Stapleton expressed concern for multiple driveways so close to each other. He said any more trips through that stretch of roadway would be a problem. He said right or left turns were extremely difficult.

The Subcommittee discussed issues related to site access and accidents in the area. Mr. Jones questioned how the economic impacts could be judged.

Ms. Richardson, Commission staff Economic Development officer, noted that if the facility turned out not to be viable, Mashpee would be left with two large, empty special-purpose buildings.

Mr. Bornstein said the facility would be built in phases.

Mr. John Sweeney, builder of Trinity Place, expressed concern about traffic on Route 28. He said his development, which was just next to the western driveway of the former Augat Industries building, had 6,200 square feet over 4 buildings. He said the front part of Simon's Road had been improved to meet Mashpee's requirements. He noted there was a plan on file with the Town of Mashpee showing a concept by Willowbend to improve Simon's Road.

Mr. Ojala noted Simon's Road is also called "Mashpee Neck Road" on a Land Court plan.

After the Mashpee Fire Chief had left the hearing, Mr. Jones asked about fire access to the site using Simon's Road. Mr. Ojala said the Fire Department had said they were satisfied with use of the dirt road with a secondary paved access onto the project site. He said this would be gated for use only by the Department.

Public Hearing – October 18, 2005

The Commission heard oral testimony on the revised project at a public hearing held on October 18, 2005 at the Mashpee Town Hall.

Ms. Adams presented the staff report. She described how the project had changed since the Commission had received the referral, in that the original proposal was for a construction and operation of a total of 167,400 square feet, divided between two buildings of three stories each, for self storage. Ms. Adams said the revised project was for 108,300 square feet, in two buildings of two stories each, for self storage, contractor storage, and non-manufacturing business incubator/light industrial. She summarized concerns in each issue area covered by the staff report. She noted a recent concern from the Mashpee Health Agent concerning proposed incubator space and the number of proposed restrooms. Ms. Adams noted that it was at the Subcommittee's discretion whether or not the applicant would be allowed to address 100% of the anticipated trip reduction requirements through payments and the cost of vacant developable land. She also noted Mr. Bornstein had agreed to site plan changes, closing the western driveway, to address turning movement conflicts. Ms. Adams noted the tests for Commission approval of a project, and said staff was seeking guidance from Subcommittee members concerning the project's benefits and detriments. She also discussed procedural issues.

The Subcommittee asked questions related to the proposed mix of uses, the Mashpee Health Agent's concerns about restrooms, and how to address exterior lighting.

Mr. Bornstein described the proposed project. He said incubator space was envisioned to be anywhere from 500 to 900 square feet each. He said he envisioned no more than 2 to 3 of such uses would locate in each building. Mr. Bornstein said he hoped to foster people developing new businesses in the incubator space. He said the issue of bathrooms could be addressed. He said a central bathroom could provide sufficient facilities, but also said it would not be a problem to comply with what the Mashpee Health Department would want. Mr. Bornstein said the security cameras were needed because there was no on-site office that would be occupied at all times.

The Subcommittee asked questions about why Mr. Bornstein had decided to change the proposed project, transportation impacts from the revised project, exterior lighting, how to ensure the required open space was permanently protected, and the proposed mix of uses.

Mr. Bornstein said the second floors of both buildings would be records storage, with climate control. He said incubator space was typically smaller than contractor storage. He said the incubator space also tends to turn over more. Mr. Bornstein said the contractor storage was envisioned to provide storage for things like large air conditioners, or products for distributors. He said the high ceilings would help with this.

Mr. Crowell asked if the incubator space would be to code for office space – heated, climate controlled.

Mr. Bornstein said it was envisioned to be garage type, with a door and possibly windows, or a door with glass in it. He said this had not been given much thought. He suggested the incubator and contractor storage areas would not necessarily be interchangeable, given the higher ceilings envisioned for contractor storage.

Ms. Frazer asked if the issue raised by the Mashpee Fire Chief, fire suppression, had been addressed.

Mr. Bornstein said both buildings would be equipped with sprinklers.

Mr. Jones noted the letter that had been received by Anchor Self Storage. He asked if the applicant would like to comment on it.

Mr. Bornstein said the Anchor project was 85% leased up. He said he would not make such a large investment in this site if he was not confident that a return could be made. Mr. Bornstein said he felt there was still a market. He said potential reuse of the facility was not a concern, and expressed confidence that the project would

succeed. He also suggested that the project would be phased in part to account for this.

Chris Tufts, an abutter, noted he had a well located behind his home. He hoped the space between the project's septic system and his well would be sufficient. Mr. Tufts expressed concern that the project would result in commercial condos.

Mr. Bornstein said the facility users would not be allowed to generate hazardous waste. He said the type of business being looked for were things like software developers.

Mr. Tufts said the existing vegetation to the west should be maintained and kept in place. He said it was important to maintain a thick buffer, and to ensure the outside lighting did not cause problems. He asked for clarification regarding the proposed fire access road.

Mr. Bornstein said the fire access road would be kept gated, such that the Fire Department had a key.

Mr. Dan Ojala, the applicant's site engineer, addressed Mr. Tufts' concerns. He described proposed landscaping and site plantings.

Jim Sorenson, Anchor Self Storage, said he wrote the letter to the Subcommittee. He disagreed with Mr. Bornstein about the market data. He said there was a large amount of vacant self storage space. He noted the Commission had approved close to 200,000 square feet of self storage. He said he had been required to provide a large amount of data to the Commission at the time of the review of Anchor Self Storage.

Donald Priestly, Anchor Self Storage, expressed a concern about site contamination, drainage issues on the Augat Industries building site, and potential adverse effects on other businesses from the proposed project.

Ms. Adams said she was aware that the Augat Industries building was the subject of a 21-E site. She said she was not aware of any such assessment at the project site. Ms. Adams noted that the Augat Industries site and building was not part of the current project review.

Ms. Rooney said there had been a decision made that the Augat Industries building was not found by the Chief Regulatory Officer to be a *Change of Use* and therefore the Augat Industries building was not part of this DRI review.

Ms. Richardson said the Regional Policy Plan requires an applicant to provide economic development information, which Mr. Bornstein has done. She suggested that the question of project need and market share could be addressed as benefits

and detriments. Ms. Richardson said self storage and the types of uses contemplated by Mr. Bornstein are not listed as priorities in the RPP.

Don Demaris said he had come to the Town Hall for another reason, but had stayed and decided to comment based on his being a Health Inspector in Barnstable. He said the incubator space use in his experience was potentially problematic. He said they might start out as software development, but noted they can turn into auto body shops, and even apartments. He cautioned the Commission to take this into account.

Mr. Jones said Mr. Sorensen and Mr. Priestly had commented that they felt the demands placed on their application for a self storage facility is different than what is being required for Mr. Bornstein's project.

Ms. Richardson said she reviewed the Commission's files for the Anchor self storage project and did not find any specific questions and responses concerning economic development and impacts.

Mr. Crowell asked Commission staff to address Mr. Tufts concerns.

Ms. Adams said that if the Commission was concerned that certain actions be taken by an applicant, or that certain actions occur prior to others, that the Subcommittee should direct staff to develop specific findings and conditions address these concerns. She said the Commission's ultimate recourse to ensure that the decision was followed was to take court action.

Ms. Rooney noted Mr. Tufts had expressed a concern about the location of certain uses in the proposed buildings. She said she knew of no practical way to address this through a Commission condition.

Ms. Frazer said a conservation restriction in a form that was satisfactory to Commission staff was needed in hand at the outset – or at very least prior to issuance of a building permit. She suggested that there were things that still needed to be clarified.

Ms. Frazer said it was important to get feedback from the Mashpee Health Department on the number of bathrooms.

The Commission staff responded to questions from the Subcommittee concerning wastewater, how much of each building would be devoted to each potential use, project phasing, payment of mitigation monies, and ensuring the proposed open space would be permanently protected through a conservation restriction.

Mr. Bornstein said he did not have a problem paying the water resources mitigation up front, based on a full-build project.

JURISDICTION

The proposed project qualifies as a DRI under Section 3(e) of the *Enabling Regulations* as a *"proposed commercial, service, retail or wholesale business, office or industrial development…"* which is *"new construction of any building (including accessory and auxiliary structures) with a Gross Floor Area greater than 10,000 square feet."*

FINDINGS

The Commission has considered the Development of Regional Impact application of Mr. Stuart Bornstein for construction and operation of the proposed project, and based on consideration of such application, including the revised project, and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Section 12 and 13 of the Act:

GENERAL

G1. As the first substantive public hearing was held on September 21, 2004, the project was reviewed for conformance with the 2002 Regional Policy Plan (as amended).

G2. The proposed revised project involves construction and operation of a total of 108,300 square feet, divided between two buildings of two stories each to house a mix of self storage, contractor storage, and business incubator/light industrial. The project is to be located on 5.19 acre site at 106 Falmouth Road (Route 28) in Mashpee, MA. The former Augat Industries building, located at the front of the site, was not part of the DRI application or the Commission review of this project.

G3. The applicant has requested that the proposed project be constructed in stages. The uses will be:

54,300 square feet of self storage (including an office for the development)
38,000 square feet of warehousing (including contractor storage)
16,000 square feet of light industrial / manufacturing / incubator space

The 16,000 square feet of light industrial / manufacturing / incubator space may also be used in whole or in part as warehousing, depending on demand.

G4. According to a November 8, 2005 E-mail received from the Mashpee Town Planner, the proposed project is consistent with Mashpee's certified Local Comprehensive Plan. It is also located in a Commission-certified Growth Center.

G5. According to a November 8, 2005 E-mail from the Mashpee Town Planner, Mashpee zoning "allows self-storage warehouses, but no outdoor storage is allowed." In addition, the E-mail states that " 'contractor/warehouse' space has been allowed…under…section 174-25G(6)." This E-mail further states that "[t]here is no listing for 'incubator space,'…" but that it "could be treated as offices…laboratory or

research facility…or wholesale business…" depending on which section of Mashpee zoning was applied to the project.

G6. The proposed project is not located within a District of Critical Planning Concern (DCPC).

Economic Development
ED1. MPS 3.1.1 requires that commercial/industrial DRIs provide economic data. According to data provided by the applicant in accordance with MPS 3.1.1., the Augat project will be neutral in terms of regional employment (*i.e.* no positive or negative effect) and it will not markedly increase employment diversity.

In an October 4, 2005 letter, the applicant provided specific information on construction and operations employment. Construction of the facility was estimated to employ approximately 10 workers over a period of approximately 6 months. The applicant estimated long-term employment as follows:

Position Title	No. of Employees	FTE	Wage
General Manager	1	1	$45,000
Asst. Manager	1	1	$35,000
Asst. Manager	1	1	$35,000
Gardener		1	$12.00/hr
Maintenance		1	$12.00/hr
Truck Driver		1	$15.00/hr

According to the applicant, all employees will receive medical benefits of which they will be responsible for 50% of the benefit cost. The applicant estimates the total value of the benefits at $384.59/month. Disability insurance will be covered. Retirement, dental, and life insurance benefits will not be provided. No prior training or education is required for these positions.

Community Character

Project Siting
CCS1. MPS 6.2.1 requires in part that new development be focused on infill construction in designated Growth/Activity Centers. The proposed project consists of infill within a certified Growth/Activity Center for the town of Mashpee and is therefore consistent with this MPS.

Screening/Landscaping
CCS2. MPS 6.2.5 states in part that *for all new development, no individual structure shall exceed a footprint of 15,000 square feet unless it is fully screened or located within a Growth Incentive Zone. Full screening may be achieved through the use of traditionally scaled frontage buildings or a vegetated buffer at least 200 feet in depth.*

The method of screening shall be consistent with the character of the surrounding area and preserve the distinction between village centers and outlying areas. The proposed buildings exceed a 15,000 square foot footprint and no Growth Incentive Zones have been designated in the Town. Therefore, the project must be fully screened.

While the existing Augat building is not technically a *traditionally scaled frontage building* within the meaning of MPS 6.2.5, it provides screening of the proposed buildings from Route 28 to the north. The project is also well screened from views along the roadway from the east by existing evergreens, topography and other buildings and from the west by proposed landscaping and retention of existing wooded buffers. The applicant has also proposed some landscaping adjacent to the site entrance and in front of the office portion of the facility to help screen views from the roadway. The proposed project, therefore, is consistent with MPS 6.2.5.

CCS3. MPS 6.2.9 requires all development to implement a landscape plan that addresses the functional aspects of landscaping and to provide a maintenance agreement for all proposed landscaping. The revised landscape plan entitled *Landscape Screening Plan*, drawn by Bill Lewis, DownCape Engineering, dated March 24, 2003, received by Commission November 9, 2005, is consistent with MPS 6.2.9. The applicant has not yet submitted a maintenance agreement for proposed landscaping required by this MPS.

<u>Parking</u>
CCPARK1. MPS 6.2.7 requires that parking be located to the side or rear of a building. Proposed parking is located to the side of each building, in conformance with this MPS.

<u>Signage</u>
CCSIGNS1. MPS 6.2.11 prohibits the installation of internally illuminated signs. The applicant has not submitted any information on proposed signage, but has agreed that any signage will be consistent with this MPS.

<u>Historic Preservation</u>
CCHP1. On June 28, 2002, the Massachusetts Historical Commission (MHC) determined that the project area was archaeologically sensitive. The MHC required an intensive archaeological survey of the project site and the MHC staff reviewed the final report. In a letter dated October 3, 2002, MHC determined that no further survey work was warranted and that the project was unlikely to affect significant historic or archaeological resources. The proposed work will not impact historic resources and thus is consistent with the RPP performance standards related to heritage preservation.

CCHP2. The two proposed structures each have a footprint of 27,000 square feet, exceeding the maximum building footprint allowed for new development without full

screening. Both buildings, however, will be screened by the existing building on the site and by site vegetation. In addition, the applicant has modified the massing on the northeast corner of the eastern building, where the 400 square foot office area will project from the structure by approximately 10 feet. This variation in the building footprint will partially shield the rest of the building mass from view. The proposed project is therefore consistent with RPP performance standard 6.2.5 regarding building screening. The applicant will need to provide a complete set of elevation drawings that illustrate this variation in the building form consistent with the site plan dated Feb. 22 2002, revised October 3, 2005, and the Landscape and Septic site plan dated Nov. 14. 2002, revised 10-3-05.

CCHP3. The applicant has proposed two large rectangular metal buildings with a shallow sloping roof. The proposed structures are not traditional in style or materials, but given the industrial nature of the site and its distance from historic or otherwise distinctive neighborhoods, the use of metal siding and non-traditional forms is allowed by the RPP. RPP performance standard 6.2.6 permits the use of non-traditional building materials and forms in industrial parks or areas not visible from scenic or regional roadways or otherwise distinctive neighborhoods.

CCHP4. Based on a Trachte Building Systems color chart submitted on November 18, 2002, the applicant proposes to use “slate gray” siding and roofing, and “evergreen” trim and standing seam roof panels. The applicant will need to provide samples of the proposed metal siding and roof materials to demonstrate that it has a matte finish and is not overly reflective.

<u>Exterior Lighting</u>
CCEXL1. MPS 6.2.10 of the 2002 RPP requires that *development and redevelopment shall comply with standards including design, light source, total light cutoff, and foot-candle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.* An October 4, 2005 Memo from DownCape Engineering states that the lighting design will remain as originally proposed, regardless of changes to the project. The last technical information on exterior lighting design was two foot-candle plans submitted by the applicant on November 8, 2002.

CCEXL2. The fixture shown on the November 8, 2002 foot-candle plans is a 175 watt metal halide wall-mount made by RUUD Lighting. This fixture is consistent with Technical Bulletin 95-001 standard 2.1. The fixture's style and luminaire configuration are consistent with Technical Bulletin standards 2.2, 2.3 and 2.4. According to the foot-candle plans, no pole mounted lights are proposed, so Technical Bulletin 95-001 standard 2.5 is not applicable to this project. Without factoring in light levels relative to proposed security cameras, the foot-candle plans indicate the exterior lighting design will be consistent with Technical Bulletin 95-001 standard 2.6.

CCEXL3. Information received discussing the original self storage project refers to use of security cameras. Security cameras need foot-candle levels in excess of the

8.0 maximum set by Technical Bulletin 95-001.

Noise

CCN1. RPP MPS 2.6.1.1. requires that DRIs *shall be in compliance with…DEP's Air Pollution Control Regulations.* These regulations deal with noise attenuation. The revised project narrative received on October 4, 2005 states that the project will use two large heating/air cooling/ventilation (HAVC) units, one for each building. It states these units operate at 84 dBA. Based on reviews of other DRIs, common sources of noise include construction equipment and roof-top mechanical devices. The applicant did not submit a study to estimate the amount of existing sound/noise around the site. Without such a study, it is not possible for the Commission to determine if the proposed project, particularly the new HVAC units, will or will not be consistent with MPS 2.6.1.1.

Natural Resources and Open Space

NR1. The site is partially located within a Significant Natural Resources Area due to the presence of unfragmented forest. The site abuts commercial development to the east, a utility easement and residences to the south and west, and a wetland/bog system further to the west.

NR2. According to the natural resources inventory submitted by the applicant, the site does not contain any wetlands or vernal pools. The site is vegetated with the typical Cape Cod mix of pitch pines and oaks with a low brush understory. While the wildlife presently using the site will be completely displaced following the proposed development, many of the mammals and birds may be able to relocate to the protected open space to the north of Route 28.

OS1. According to plans submitted by the applicant, the total disturbed area for the project is 182,042 square feet. Based on this project area, and the location of the project within a Certified Growth Center, the open space requirement is calculated on a 3:2 development to open space ratio, equaling 121,361 square feet or 2.79 upland acres.

OS2. The applicant proposes to protect 4.1 acres of an 8.8 acre parcel located on Great Neck Road South through a conservation restriction, consistent with the requirements of MPS 2.5.1.3. The parcel, located within the Mashpee National Wildlife Refuge boundary and adjacent to land held by the Wampanoag Tribal Council, as well as mapped significant natural resource area, provides both excellent upland and wetland habitat. The overall parcel contains both a bog and an Atlantic white cedar swamp, a significant natural community in Massachusetts. The area the applicant proposes to protect includes the cedar swamp and the upland around 3/4 of the swamp's edge, extending to within 33 feet of the edge of the bog. The upland area is 3.1 acres, and the wetland area is 1.4 acres, providing excess upland and partial protection of the swamp. The open space proposal exceeds the open space requirements for the project, and thus is a project benefit.

OS3. The applicant will need to find a qualified conservation entity, such as the Mashpee Conservation Commission, to hold a conservation restriction on the off-site open space parcel.

Water Resources

WR1. The proposed Augat project is located within the watershed to the Shoestring Bay, which is part of the Popponesset Bay coastal embayment system. Because of the water quality problems in these bays documented in the Massachusetts Estuaries Project Technical Report (Howes, *et al*., 2004) and excessive nitrogen loading documented in the Cape Cod Coastal Embayment Project Report (Eichner, *et al*., 1998), this project must meet the Regional Policy Plan's "no-net" nitrogen loading requirement (MPS 2.1.1.2.C.2).

WR2. The proposed facility has a small office, as well as a number of bays that will be available as "incubator" space. The applicant has designed a denitrifying septic system with a Title 5 flow of 340 gallons per day; this calculation assumes the equivalent of 20 factory workers. In addition to this small wastewater nitrogen load, the site will have approximately 3 acres of impervious surface. The combined nitrogen load from these surfaces, wastewater, and a small lawn on the site will produce an annual nitrogen load of 27.7 kilograms (kg).

WR3. MPS 2.1.1.2.C.2 allows an applicant to offset nitrogen loads using an appropriate technological solution approved by the Commission, such as upgrading existing Title 5 septic systems within the same watershed to denitrifying septic systems, or providing an equivalent contribution to a town or watershed activity that achieves the intent of the no-net standard. The applicant has decided to meet MPS 2.1.1.2.C.2 by providing an offset contribution of $42,890.

WR4. Commission staff held a number of discussions with the applicant and the Mashpee Board of Health (BOH) Agent regarding toilet facilities for the incubator bays. Based on the plans currently submitted, the site will have one bathroom connected to the planned denitrifying septic system, and use of this common bathroom by those who occupy the incubator bays. In order to address BOH concerns, the applicant has proposed installation of a number of bathrooms in incubator bays, but has submitted only a conceptual plan showing three bathrooms in each of the two buildings, received by Commission November 9, 2005. Final plans showing the final interior configuration and wastewater connection designs have not been submitted. The applicant has agreed that wastewater flows will be limited to 340 gallons per day.

WR5. The applicant has submitted a stormwater design plan that includes deep sump hooded catch basins and a grass lined discharge swale that overflows into subsurface leaching system. This design meets the applicable minimum standards for stormwater treatment in the RPP (MPS 2.1.3.1., MPS 2.1.3.2, and MPS 2.1.3.3.). In addition, DownCape Engineering submitted a maintenance and operation plan as a PDF file attached to an E-mail dated November 21, 2005 which meets MPS 2.1.3.6.

Hazardous Materials/Wastes

HAZ1. According to maps produced for the revised 2002 Regional Policy Plan, the project site is not located within a Wellhead Protection Area or a Potential Public Water Supply Area.

HAZ2. MPS 4.3.1.1., 4.3.1.2 and 4.3.1.3 require that development and redevelopment shall make *reasonable efforts to minimize their hazardous material use and/or waste generation* by various methods including *source reduction, reuse, material substitution, employee education, and recycling*, that development shall *be in compliance with Massachusetts Hazardous Waste Regulations* and that development and redevelopment shall *prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases and describes ways to reduce those threats.* As part of the application materials, the applicant provided summaries to satisfy MPS 4.3.1.1, 4.3.1.2 and 4.3.1.4 for both the construction and post-construction phases of the project.

HAZ3. The revised narrative provided on October 4, 2005 states that the rental agreements for the project will inform potential tenants that certain materials/wastes cannot be stored in or generated at the facility. The project will be constructed without floor drains, and with catch basin sumps to contain leaks in the event of a spill. It further states that no equipment maintenance, repair or washing will be allowed on site.

HAZ4. A copy of the lease for the facility when it was proposed to be just self storage was submitted as part of the DRI review. This lease prohibits the storage of *flammable, explosive, corrosive…or other inherently dangerous or hazardous material.* It also gives the owner/operator the right *to access the premises upon two days prior notice.*

HAZ5. Per MPS 4.3.1.2, the facility will generate used fluorescent bulbs, a regulated hazardous waste in Massachusetts. The applicant submitted a *Post-Construction and Employee Training* leaflet that deals with handling and storage of used fluorescent bulbs.

Solid Waste

SW1. MPS 4.2.1.1, 4.2.1.2 and 4.2.1.3 of the 2002 RPP requires that projects address how solid waste, including construction debris, will be diverted from disposal to recycling, and that adequate storage space be provided for storage of recyclables. The applicant submitted narratives to satisfy these standards for both the construction and post-construction phases of the project. The applicant will need to show the location of solid waste dumpsters on site plans, ensuring that those facilities are well screened from general viewing areas.

Transportation

T1. Per MPS 4.1.3.1, area regional roadways include: Route 28, Route 130, Main Street (Cotuit), Santuit Newtown Road, Orchard Road, Ashers Path, Quinaquisset Avenue, Meetinghouse Road, Great Neck Road, Route 151, Cotuit Road, and South Sandwich Road.

T2. MPS 4.1.1.2 requires analysis of safety at all regional roadway locations where the project is expected to increase traffic by 25 or more peak hour trips. Only the project driveways are expected to be impacted by this many trips. A search of three years of MassHighway crash data yielded no identifiable crashes at the site driveways.

T3. MPS 4.1.1.3 requires all access and egress locations for developments to meet access management standards and requires developments with frontage on more than one street to use the lower volume road for access. Access to the current site development is provided by two driveways on Route 28. The western driveway is within a few feet of the intersection of Simon's Road and Noisy Hole Road. The applicant has agreed to close this driveway and build a new connection from the parking lot to Simon's Road, thereby providing similar access with improved access management.

T4. MPS 4.1.1.5 requires signage to minimize visual obstruction and safety conflicts. The development's sign will be located at the eastern driveway and should not cause safety conflicts.

T5. MPS 4.1.1.6 requires accommodation for all users in site access design. MPS 4.1.2.5 requires provision of pedestrian and bicycle connections where appropriate. MPS 4.1.3.9 requires rights-of-way along the frontage of development properties to accommodate expected needs for bicycles and pedestrians. Given the project's location in an industrialized commercial area and given the nature of the proposed development, no accommodation at the site access is appropriate. However, per MPS 4.1.3.9, the applicant will provide a 10 foot sidewalk easement along the Route 28 frontage of the site if a sidewalk is built in the future and if such land is needed for the sidewalk.

T6. MPS 4.1.1.7 requires safe stopping sight distances at all access/egress locations. The current site driveways and Simon's Road appear to have sufficient

sight distance based on a preliminary review by Commission Transportation staff. The applicant will be required to provide written sufficiency of sight distances from a professional engineer prior to occupancy.

T7. MPS 4.1.1.9 requires driveway openings to not exceed MassHighway standards, or 24 feet for two-way driveways. The western existing driveway will be closed and thus complies with the standard. The eastern existing driveway is approximately 26 feet wide. Given that the eastern driveway already exists, is not being rebuilt, appears to have sufficient sight distances, has no identifiable crash history or access management problems, and will experience a modest traffic increase due to the proposed development, the Commission finds that the eastern driveway does not need to be modified.

T8. MPS 4.1.1.10 allows for use of alternative trip generation sources. The Commission considered alternative trip generation studies for the project and rejected these studies based on data collection inconsistent with Commission and Institute of Transportation Engineer's (ITE) guidelines. The Commission used the ITE's *Trip Generation* manual (7th edition) to estimate trip generation for the project based on the project's self storage, warehousing, and light industrial uses.

T9. MPS 4.1.2.1 requires all developments to reduce 25% of expected daily traffic. The applicant has proposed to pay funds commensurate with the cost of buying vacant developable land capable of generating the same number of trips as the development per MPS 4.1.2.7 (b) and thus meets MPS 4.1.2.1.

T10. MPS 4.1.2.4 allows for a reduction of trip generation for sites served by regularly scheduled transit. The site is served by the Cape Cod Regional Transit Authority's year-round regularly scheduled bus service running on Route 28. Consequently, the applicant's trip generation was reduced by 5%, resulting in a 5% reduction in the 100% trip reduction payment as noted below. To allow this credit, the MPS requires adequate amenities to promote transit usage. Trips to and from the proposed development, by nature, cannot generally be made by transit. Consequently, the applicant has agreed to not only post and distribute transit information for the new development, but also for the existing development at the front of the site.

T11. MPS 4.1.2.6 requires the number of parking spaces provided to be limited to the number of spaces allowed by zoning, which was 120 as of the October 18, 2005 public hearing. Although the site plan shows 158 spaces, the number will be reduced to comply with the MPS and will be subject to staff approval prior to construction.

T12. MPS 4.1.2.8 allows, at the Commission's discretion, an applicant to exceed the trip reduction requirements of MPS 4.1.2.1 and receive a corresponding reduction in trip generation for the purpose of meeting MPS 4.1.3.4. The applicant is proposing to pay a fee which, under MPS 4.1.2.7(a), is commensurate with the cost of purchasing vacant developable land capable of generating the same amount of daily trips as the

development. Consequently, the project's trip generation is reduced to zero for the purposes of meeting MPS 4.1.3.4.

T13. MPS 4.1.3.2 requires Level of Service (LOS) analysis at all access points onto the Regional Road system. The analysis conducted by the applicant shows the site accesses are forecasted to operate at LOS F. The project nonetheless complies with MPS 4.1.3.2 because the site driveways currently exist.

T14. ODRP 4.1.13 encourages the elimination of existing curb cuts. While the western curb cut was required to be removed through a safety related MPS, the elimination of the curb cut also improves access management for current use of the development site, and thus is a project benefit.

CONCLUSION

Based on the public hearings, public meetings, the materials submitted for the record, and the findings above, the Cape Cod Commission hereby concludes:

The proposed project complies with the Minimum Performance Standards of the RPP and the probable benefits of the proposed project outweigh the probable detriments resulting from the development, as supported by the findings above. The proposed development is consistent with Mashpee's certified LCP, and with Mashpee zoning, as supported by findings G4 and G5. The project is not in a DCPC, as supported by finding G6.

The Commission hereby approves with conditions the application of Stuart Bornstein for the proposed Augat project as a Development of Regional Impact, provided the following conditions are met:

CONDITIONS

General

G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.

G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.

G3. The applicant shall obtain all state and local permits for the proposed project.

G4. The applicant shall be responsible for providing proof of recording of this decision at the Barnstable Registry of Deeds prior to issuance of the Preliminary Certificate of Compliance for the first building. Until and unless the applicant provides the Commission proof of recording, no Preliminary Certificate shall be issued. Prior to issuance of a building permit for the first building, or any development activity on the site (as the term "development" is defined in the Commission Act), the applicant shall

obtain a Preliminary Certificate of Compliance from the Commission stating that the conditions in this decision that are required to be met/satisfied before issuance of that Certificate of Compliance have been met.

G5. No development work, as the term "development" is defined in the Cape Cod Commission Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

G6. Prior to issuance of a Certificate of Use/Occupancy, and regardless of whether the project is phased or not, the applicant shall obtain a Final Certificate of Compliance from the Commission stating that the conditions in this decision that are required to be met/satisfied before issuance of that Certificate of Compliance have been met. If the applicant chooses to phase construction of the project, a Final Certificate of Compliance shall be required for each phase.

G7. Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit to the Commission for review and approval project plans as approved by local boards. Such submission shall be for Commission staff to determine whether the locally-approved plans are consistent with this decision and/or information submitted as part of the DRI review. If the final plans approved by local boards are inconsistent with this decision and/or supporting information, then they shall be reviewed subject to the Commission's *Enabling Regulations* as amended, and which are in effect at the time of the review for the purposes of determining whether a modification may be made to this decision. The applicant shall also submit to the Commission any additional information deemed necessary to evaluate any changes to the approved plans, and proposed modifications to this decision.

G8. All work shall be constructed in a manner consistent with the following plans and other information/documents as noted:

Landscape and Septic Plan, drawn by DownCape Engineering, dated November 14, 2002, revised October 3, 2005, received by Commission October 4, 2005

Landscape Screening Plan, drawn by Bill Lewis, DownCape Engineering, dated March 24, 2003, received by Commission November 9, 2005

Site Plan drawn by DownCape Engineering, dated February 22, 2002, revised October 3, 2005, received by Commission October 4, 2005

Grading & Utilities Site Plan, drawn by DownCape Engineering, dated February 22, 2002, revised October 3, 2005, received by Commission October 4, 2005

Detail Sheet to Accompany Site Plan, produced by DownCape Engineering, dated November 14, 2002, revised October 3, 2005. received by Commission October 4, 2005

Foot-candle/exterior lighting plans and information received by Commission November 8, 2002

Conceptual plan of restroom locations, received by Commission November 9, 2005 (also referred to in finding WR4)

Stormwater Operations and Maintenance Plan, created by DownCape Engineering, dated 11/21/05, submitted by DownCape Engineering to the Commission as part of an E-mail dated November 21, 2005

G9. The applicant shall notify Commission staff of the intent to seek a Certificate of Compliance at least thirty (30) days prior to the anticipated date of issuance of a building permit, and prior to the anticipated issuance of a Certificate of Use/Occupancy. Such notification shall include a list of key contact(s) and their telephone numbers for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within fourteen (14) business days of receipt of such notification and inform the applicant in writing of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions that are required as a condition precedent to that Certificate are complied with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in this decision are met.

G10. The project may be phased, with the first phase consisting of the eastern building, which shall consist of:

27,300 square feet of self storage (including the office for the facility)
19,000 square feet of warehousing
8,000 square feet of warehousing or light industrial/manufacturing/incubator space

And the second phase, consisting of the western building, which shall consist of:

27,000 square feet of self storage
19,000 square feet of warehousing
8,000 square feet of warehousing or light industrial/manufacturing/incubator space

There shall be no outdoor storage at the facility.

Community Character
CC1. Existing wooded buffers on the project site shall remain in their natural state without alteration over the life of the project.

CC2. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall submit a draft maintenance contract for all proposed landscaped areas based upon guidelines provided by Commission staff. Prior to issuance of the first Final Certificate of Compliance from the Commission, the applicant shall provide a fully executed landscape maintenance contract for three (3) full growing seasons (April to October). If the applicant chooses to phase the project, the fully executed landscape maintenance contract for three (3) full growing seasons shall be provided prior to issuance of the first Final Certificate.

CC3. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.

CC4. If all required site work and/or landscape improvements are not complete at the time a Final Certificate of Compliance is sought from the Commission for the project or for a project phase, any work that is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The check shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed within six (6) months of issuance of a Final Certificate of Compliance from the Commission for the project, or for the project phase.

CC5. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall submit plans for any proposed building or pylon signs for staff approval to ensure their consistency with MPS 6.2.11. Such plans shall include proposed materials, method of illumination and dimensions.

CC6. The applicant shall construct the proposed buildings in accordance with approved *Site Plans* dated February 22, 2002, revised October 3, 2005 by DownCape

Engineering, and received by the Commission on October 4, 2005. Should unexpected conditions arise during demolition and construction that require redesign of the buildings, the applicant shall obtain approval from the Commission prior to the start of construction consistent with the modification procedures described in the Commission's *Enabling Regulations* as amended, and which are in effect at the time of the modification review.

CC7. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall provide to the Commission a complete set of elevation drawings for the proposed buildings consistent with the approved site plans.

CC8. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall provide to the Commission samples of the proposed metal siding materials to demonstrate that the material is not reflective and is neutral in color.

Exterior Lighting

EXL1. All exterior lighting for the proposed project shall be consistent with MPS 6.2.10 and Technical Bulletin 95-001.

EXL2. Should unexpected conditions arise that require redesign or adjustments to the site's exterior lighting fixtures, including substitutions of fixture heads, the applicant shall first obtain written approval from the Commission prior to implementing the changes, including prior to installation. Modifications made to the exterior lighting design that are found by Commission staff to be in accordance with Technical Bulletin 95-001 may be approved by Commission staff. The applicant shall submit information as outlined in Section 3.0 of Technical Bulletin 95-001 as may be required by Commission staff in order to make such a determination.

EXL3. Prior to issuance of a Final Certificate of Compliance, in-the-field verification of light levels and the lighting design must be conducted by Commission staff to verify conformance with the requirements of this decision, Technical Bulletin 95-001 and MPS 6.2.10. If the project is phased, a field verification of the design and light levels shall be conducted by Commission staff to verify conformance with this decision, Technical Bulletin 95-001 and MPS 6.2.10 for that phase prior to issuance of a Final Certificate of Compliance for that phase.

Noise

N1. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall submit to the Commission for inclusion in the file a document describing guidelines related to reduction of noise from site preparation and construction activities.

Natural Resources and Open Space

OS1. Regardless of whether construction of the project is phased, prior to the first Preliminary Certificate of Compliance, the applicant shall provide the Commission

with a conservation restriction of a form and substance satisfactory to the Commission or its designee and consistent with Massachusetts General Laws Chapter 184, § 31 – 33 and an accompanying plan which provides that 4.1 acres located on Mashpee Assessor's Map 99 Parcel 38 and identified as Lot 2 on the plan titled *Plan of Land prepared for Duck Pond Limited Partnership in Mashpee* prepared by Holmes and McGrath and dated 7/27/05 shall be preserved as permanent open space.

OS2. Regardless of whether construction of the project is phased, prior to the issuance of the first Preliminary Certificate of Compliance, the conservation restriction and site plan shall be approved by Commission Counsel, and the Commission-approved restriction and site plan shall be executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission. In order to preserve the significant habitat values of the open space area protected through this conservation restriction, the land subject to this conservation restriction shall remain undisturbed for conservation and wildlife habitat preservation purposes.

Water Resources

WR1. Title 5 wastewater flow on the site shall be limited to 340 gallons per day and wastewater shall be treated with a denitrifying septic system as shown on the *Site Plan* drawn by DownCape Engineering, dated 2/22/02, revised 10/3/05, received by Commission 10/4/05, the *Grading & Utilities Site Plan*, drawn by DownCape Engineering, dated 2/22/02, revised 10/3/05, received by Commission 10/4/05, and the *Detail Sheet to Accompany Site Plan*, produced by DownCape Engineering, dated 11/14/02, revised 10/3/05, received by Commission 10/4/05.

WR2. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall provide a nitrogen loading offset contribution of $42,890 to the Commission, consistent with MPS 2.1.1.2.C.2.

WR3. Prior to issuance of the first Preliminary Certificate of Compliance, the applicant shall submit a final set of plans detailing the incubator bays and toilet locations. These plans will be reviewed and approved by Commission staff for consistency with finding WR4, and the conceptual plan described in finding WR4.

WR4. The applicant shall construct a stormwater system as detailed on the following plans, and shall follow maintenance and inspection procedures described in the *Stormwater Operations and Maintenance Plan*, created by DownCape Engineering, dated 11/21/05, submitted by DownCape Engineering as part of an E-mail dated November 21, 2005.

Plans: *Grading & Utilities Site Plan*, drawn by DownCape Engineering, dated 2/22/02, revised 10/3/05, received by Commission 10/4/05.
Detail Sheet to Accompany Site Plan, produced by DownCape Engineering, dated 11/14/02, revised 10/3/05, received by Commission 10/4/05.

Hazardous Materials/Wastes
HAZ1. Prior to issuance of the first Final Certificate of Compliance, the applicant shall submit to the Commission copies of the proposed rental/lease agreements for each type of interior space (self storage, warehouse, contractor, incubator space) to ensure they are consistent with those submitted during the project review, including containing a prohibition on on-site maintenance, repair or washing of construction, contractor or heavy equipment.

HAZ2. The project shall be constructed without floor drains except for those required in lavatory/bathrooms per the Massachusetts Plumbing Code. The project shall also be constructed with catch basin sumps to contain leaks in the event of a spill. Prior to issuance of a Final Certificate of Compliance for each phase, Commission staff will conduct a site visit to verify compliance with this condition.

HAZ3. Prior to issuance of the first Final Certificate of Compliance, the applicant shall submit to the Commission copies written procedures to be implemented at the facility to dispose of used fluorescent bulbs.

Solid Waste
SW1. Prior to the issuance of the first Preliminary Certificate of Compliance, the applicant shall submit plans to Commission staff demonstrating that the design of the facility has adequate space for storage, processing and handling of recyclables in areas where service vehicles can access them. The applicant shall also submit site plans or other documents indicating the location of solid waste dumpsters so as to ensure that those facilities are well screened from general viewing areas.

Transportation
T1. Prior to the issuance of the first Preliminary Certificate of Compliance, the applicant shall submit detailed plans and approved permits for the removal and relocation of the western driveway access to Route 28. These submissions shall be subject to Commission staff review and approval consistent with MPS 4.1.1.3. Prior to the issuance of the first Final Certificate of Compliance, the applicant shall close the existing western site driveway on Route 28, reducing the total driveways directly accessing Route 28 to one. New access shall be constructed from the current parking lot in the northwest corner of the site to Simon's Road as shown on plan entitled *Site Plan,* drawn by DownCape Engineering, dated February 22, 2002, revised October 3, 2005, received by Commission October 4, 2005. The closed driveway paving shall be removed and the area landscaped according to a landscape plan to be reviewed and approved by Commission staff.

T2. The applicant shall locate any new signage as to not obstruct driveway sight lines and to not cause any safety conflicts. Prior to the issuance of the first Preliminary Certificate of Compliance, the sign design, size, and location will be submitted to Commission transportation staff for approval. Prior to the issuance of the first Final Certificate of Compliance, the sign installation shall be inspected by Commission transportation staff.

T3. The applicant shall provide a 10 foot sidewalk easement on the site frontage on Route 28 extending the entire length of the site. Regardless of whether construction of the project is phased, prior to the issuance of the first Preliminary Certificate of Compliance, the language of the easement shall be submitted for Commission staff review and approval consistent with this decision. In addition, proof of recording of the easement shall also be submitted to Commission staff prior to the issuance of the first Preliminary Certificate of Compliance.

T4. Prior to the issuance of the first Final Certificate of Compliance, the applicant shall provide to the Commission staff a letter describing sight distances in detail and certifying that the sight distances for both the eastern driveway and Simon's Road curb cuts on Route 28 meet the American Association of State Highway Transportation Officials requirements for safe stopping sight distances. The letter shall be signed and sealed by a Massachusetts registered Professional Engineer.

T5. Prior to the issuance of a Preliminary Certificate of Compliance for the building with the on-site office (eastern building), the applicant shall pay a fee of $58,300 to address MPS 4.1.2.1, MPS 4.1.2.7(b), MPS 4.1.2.8 and MPS 4.1.3.4. Prior to the issuance of a Preliminary Certificate of Compliance for the building without the on-site office (western building), the applicant shall pay a fee of $57,700 to address MPS 4.1.2.1, MPS 4.1.2.7(b), MPS 4.1.2.8 and MPS 4.1.3.4. All funds under this requirement shall be held by Barnstable County / Cape Cod Commission. Twenty-five percent of funds collected under this requirement shall be expended upon the recommendation of the Commission's Executive Director to support projects or strategies that encourage alternatives to automobile travel. These include but are not limited to planning, design, or construction of alternatives to automobile travel such as bicycle paths and sidewalks; supporting, marketing, or promoting bus or shuttle services; the purchase of land for the creation of bicycle or pedestrian ways; the purchase of land capable of generating trips and the preservation of such land in a way that permanently prohibits trip generation; and/or the monitoring of traffic volumes, speeds, and vehicle classification. The remaining seventy-five percent of the funds may be use for the above purposes and may also be used to fund the expansion of roadway capacity including but not limited to planning, engineering, permitting, and construction. Subject to the 25% / 75% restrictions noted above, half of the funds shall be used for such improvements in the Town of Mashpee, while the other half of the funds shall be used for such improvements in the Town of Barnstable, consistent with MPS 4.1.3.4. Any funds remaining after 10 years from the time of receipt of the

funds shall be transferred to the Cape Cod Regional Transit Authority or its successor agency to fund public transportation on Cape Cod.

T6. The applicant shall post public transit route fare and schedule information in a prominent area of each tenant space in the Augat Industries building and in the office of the self storages/warehousing facility. This information shall be updated every six months. The applicant shall give a copy of this information to each new tenant of any building on the entire site at the beginning of the initial lease/rental agreement period for that tenant. Prior to the issuance of a Final Certificate of Compliance, the applicant shall post said information in the Augat Industries building tenant spaces and in the office of the self storage / warehousing building.

T7. Prior to the issuance of the first Preliminary Certificate of Compliance, the applicant shall submit to Commission staff a site plan showing the minimum number of parking spaces required by the town of Mashpee, not to exceed 120 parking spaces. If parking spaces are eliminated per this condition, the applicant shall submit a revised site plan for review and approval by Commission staff per MPS 4.1.2.6.

The Commission hereby approves with conditions the Development of Regional Impact application of Stuart Bornstein for the proposed Augat project located in Mashpee, Massachusetts, pursuant to Sections 12 and 13 of the Cape Cod Commission Act, as amended.

_____ _____

Commission Chair Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____

Before me, the undersigned notary public, personally appeared_____, in his capacity as Chairman of the Cape Cod Commission, 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 personal knowledge of the undersigned.

_____

Notary Public

My Commission Expires: