



CAPE COD COMMISSION

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DATE: June 24, 1993

APPLICANT: Donald R. Edwards, Trustee
Governor William Bradford Realty Trust
314 Commercial Street
Provincetown, MA 02657

PROJECT #: TR93006

PROJECT: The Pilgrim House
336 Commercial Street
Provincetown, MA 02657

RE: Development of Regional Impact
Cape Cod Commission Act, Section 12(c)

BOOK/PAGE: 7977/342

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) application of Mr. Donald R. Edwards, Trustee of Governor William Bradford Realty Trust under Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed hotel/restaurant redevelopment project in Provincetown, MA. The decision is rendered pursuant to a vote of the Commission on June 24, 1993.

PROJECT DESCRIPTION

The Pilgrim House, located between Commercial and Bradford Streets in Provincetown, MA, was built by Phineas Nickerson circa 1800. The building was once the oldest hotel in Provincetown, and was listed as a contributing structure to a National Register Historic District prior to its destruction by fire in 1990. Extensive alterations were made to the building by numerous owners over its 200+ year history. Prior to the fire, the building contained a hotel, cabaret, patio bar, and possibly office and retail uses.

The proposed project consists of the redevelopment of the original hotel site for the purposes of constructing a 20-room inn, a 500 s.f. office, and a 180-seat restaurant/lounge on an approximately 19,000 s.f. lot. The site is zoned for commercial use, with a mixture of residential and commercial uses surrounding the site. The building is proposed as a 2 -1/2 story shingle and

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vinyl clad structure with a total floor area of 16,703 s.f. The site is almost completely cleared of vegetation and slopes slightly to the west.

PROCEDURAL HISTORY

In December, 1989, a previous owner received a building permit to renovate the original hotel and to construct an addition. On October 28, 1990, a fire destroyed the hotel but not the addition which was under construction at that time. Following the fire, the Bank of New England foreclosed on the owner of the property, and was itself subsequently taken over by the FDIC.

In April, 1992, the applicant, Mr. Donald Edwards, purchased the property and completed renovations to the addition and one other building fronting on Commercial Street. Since the redevelopment did not comply with current zoning bylaws, the Provincetown Building Inspector required completion of reconstruction on all previously existing buildings within two years of the fire (October 28, 1992), in order for the buildings to retain their legal pre-existing non-conforming status.

Since the reconstruction of the hotel could not be completed prior to October 28, 1992, the Provincetown Building Inspector denied a building permit for the project. The applicant appealed this decision to the Provincetown Zoning Board of Appeals (ZBA) in February, 1993, which overturned the Building Inspector's denial, thereby re-establishing the project. The applicant then filed for site plan review approval from the Provincetown Planning Board, which referred the project to the Commission for review as a DRI on March 31, 1993.

A public hearing was held by a duly authorized subcommittee of the Commission in the Provincetown Town Hall on May 19, 1993. The public hearing was closed on May 19, 1993, with the record closed on June 7, 1993. Subcommittee meetings were held on May 19, 1993 and June 7, 1993.

Based upon testimony received at the public hearings, application materials submitted by the applicant, written materials submitted by all interested parties, and supporting technical information provided by staff, the subcommittee voted unanimously on May 19, 1993 to recommend to the full Commission that the proposed redevelopment of the Pilgrim House site be approved as a Development of Regional Impact, subject to conditions. On June 10, 1993 the full Commission voted unanimously with one abstention to approve the project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant:

- Pilgrim House, sketch plan of landscape planting bed, dated June 7, 1993, 1 sheet, prepared by George Hitchcock
- Site Plan of Land, Governor William Bradford Realty Trust, dated February, 1993 and revised through April 21, 1993, 1 sheet, prepared by William N. Rogers, P.E., R.L.S., Provincetown, MA
- Governor William Bradford Realty Trust Proposed New Building "C", 336 Commercial Street, floor plans/elevations, prepared by G.P. & J.P. Kelley, dated January 30, 1993, 4 sheets
- Pilgrim House Inc., Hotel/Boarding House Exterior Fire Escape Systems and Structures,

February 20, 1981, 1 sheet, prepared by William N. Rogers Engineers, P.E., R.L.S., Provincetown, MA

- Pilgrim House Inc., Hotel/Boarding House Egress/Fire Safety Schematic Layouts, dated August 8, 1980, 1 sheet, prepared by William N. Rogers Engineers, P.E., R.L.S.
- As-Built Floor Plans, 336 Commercial Street, February 18, 1988, 2 sheets, prepared by R. Wendell Phillips and Associates Inc., Cambridge, MA
- Don Edwards & Co. Proposed Renovations to 336 Commercial Street, Provincetown, MA, dated May 13, 1992, 4 sheets, prepared by J.P. Kelley
- Floor Plans/Elevations, Goldcoast Properties, Inc., 336 Commercial Street, February 10, 1990, 6 sheets, prepared by G.P. & J.P. Kelley

- Easement Agreement, Book 6859/Page 036-043, Barnstable County Registry of Deeds, received June 3, 1993
- general letter from Provincetown Historical Commission, received June 3, 1993
- Perennial Planters Inc., Job Estimate, dated June 2, 1993
- Hardship Exemption application with Development of Regional Impact application with attachments, received April 23, 1993
- Pilgrim House history, untitled, received May 6, 1993
- Massachusetts Historical Commission Nomination Form, dated December 15, 1976
- Cape Codder article, October 30, 1990
- Cape Cod Times article, dated October 30, 1990
- letter from Attny. Myer Singer to Cape Cod Commission staff, dated May 6, 1993
- letter from William N. Rogers II, P.E., R.L.S. to Donald R. Edwards, dated May 6, 1993
- Applicant's calculations of sewage flows, undated, 2 sheets
- Facsimile from Attny. Myer Singer to Cape Cod Commission staff, received May 12, 1993

From public officials/members of the public:

- letter from Provincetown Department of Municipal Finance/Assessors' Office to Cape Cod Commission, dated May 18, 1993
- letter from Provincetown Department of Public Works to George Hitchcock, dated May 17, 1993
- letter from Massachusetts Historical Commission to Lester J. Murphy, Jr. dated May 14, 1993
- letter from Provincetown Planning Board to Cape Cod Commission, dated May 6, 1993
- letter from Provincetown Department of Municipal Finance/Assessors' Office to Cape Cod Commission, dated April 30, 1993
- letter from Provincetown Department of Municipal Finance/Assessors' Office to George Hitchcock, dated April 23, 1993
- DRI Referral Form, received March 31, 1993
- letter from Provincetown Department of Police, to William N. Rogers II, P.E., R.L.S., dated March 2, 1993
- letter from Joseph J. Borgesi, Director of Public Works to Robert O'Malley, Acting Chairman, Provincetown Planning Board, dated March 1, 1993
- letter from Warren G. Alexander, Provincetown Building Inspector to William N. Rogers II, P.E., R.L.S., dated March 1, 1993
- Provincetown Zoning Board of Appeals Decision dated February 4, 1993
- Draft Provincetown Site Plan Review Agreement with Donald R. Edwards, Trustee of Governor William Bradford Realty Trust, undated
- letter from Warren G. Alexander, Provincetown Building Inspector to Attny. Lester J. Murphy,

Jr., dated August 24, 1992

- report from Warren G. Alexander, Provincetown Building Inspector to Sue Harrison, Provincetown Planning Board Chair, dated August 3, 1992

- letter from Margaret Roberts, 8 Center Street, Provincetown, MA, citing noise/traffic concerns, received May 19, 1993

- letter from Anne Fausto Sterling, 149 Ivy Street, Provincetown, MA, citing noise concerns, received May 17, 1993, with attached letter dated May 12, 1993

- letter from Peter Tompkins, 139A Bradford Street, Provincetown, MA, in opposition, received May 19, 1993

- letter from Guida Rodrigues, 342B Commercial Street, Provincetown, MA, in opposition, received May 19, 1993

From Cape Cod Commission staff:

- Cape Cod Commission Staff Report, dated May 14, 1993

- Cape Cod Commission Subcommittee Report, dated June 7, 1993

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

TESTIMONY

Testimony was received at the May 19, 1993 subcommittee hearing from attorney Myer Singer, who made a presentation of the project for the applicant. Mr. Singer noted that the Pilgrim House had been used as a 57-room hotel, as well as providing food service and a lounge for approximately 400 people since its construction in the early 1800's, until a fire destroyed the building in 1990. The property was unused until Mr. Edwards purchased it in 1992. He stated that the proposed project, with 20 rooms, a 500 s.f. office, and 180-seat restaurant/lounge represented a less intensive use and smaller building mass than the original Pilgrim House. He also stated that the applicant would be willing to incorporate suggestions made in the Commission staff report into the project plans. George Hitchcock, builder for the project, added that the hotel will provide information for guests on alternative modes of transportation available to the site. William Rogers, engineer on the project since 1980, testified that the previous uses of the property outlined by the applicant were based on historic observations conducted by his firm. Commission staff reported on water resources, transportation and community character issues.

Comments from officials included Alix Ritchie, speaking on behalf of the Provincetown Planning Board, who stated that the project will be subject to extensive review by the Provincetown Site Plan Review Committee, which can require an assessment of many development issues such as traffic impacts, water or septic demand. Kevin Mullaney, Provincetown Health Agent, stated that the historic uses of the property included a lounge or tavern, and that Title V design flow requirements for this use are 35 gpd, as compared to 3 gpd for a theater. Carlos Eliot, Provincetown Historical Commission, requested that the Historical Commission be involved in the review of the project.

Comments from the public included Peter Tompkins, abutter to the project, who expressed concern

for noise impacts and a lack of sunlight to neighboring structures as a result of the project. Guida Rodrigues expressed opposition to a bar or nightclub use on the property. Sarah Peek spoke on behalf of Margaret Robinson, citing concerns for noise caused by people leaving the facility late at night. Harry Parsekian, abutter, stated that proposed revisions to Title V regulations may impact this project. He also noted that additional impacts to Provincetown Harbor may result from the project.

At the May 19, 1993 subcommittee meeting, the subcommittee voted unanimously to recommend to the full Commission that the project be approved as a DRI, subject to conditions. On June 10, 1993 the full Commission voted unanimously with one abstention to accept the recommendation of the subcommittee, and voted to approve the project as a DRI, subject to conditions.

JURISDICTION

The project qualifies as a DRI under Section 12(c)(6) of the Cape Cod Commission Act (Act) as "any proposed...business...development which has a floor area...greater than 10,000 square feet."

FINDINGS

The Commission has considered the application of Mr. Donald Edwards, Trustee of Governor William Bradford Realty Trust, and based upon consideration of such request, upon information presented at the public hearing and submitted for the record, makes the following findings subject to Sections 12 and 13 of the Act:

1). The proposed project is located in an Impaired Area as classified under Section 2.1.1.2.D of the Regional Policy Plan (RPP). Under Minimum Performance Standard 2.1.1.2.D.2 of the RPP, where existing development exceeds the 10 ppm nitrate-nitrogen loading standard, redevelopment of that property shall not increase existing levels of nitrogen loading. Based on information provided by the Provincetown Building Inspector, the historic use of the site resulted in a nitrogen loading value of 32.4 ppm or 760 kg/yr. based on a Title 5 flow of 15,690.5 gpd. The calculated nitrogen loading from the proposed project is 30.74 ppm or 439 kg/yr. based on a Title 5 wastewater flow of 9030.5 gpd. Therefore, redevelopment of the property will not increase nitrogen loading as compared to the previous use of the site.

2). Commercial Street in downtown Provincetown is characterized as a densely developed, pedestrian-oriented area. An existing shuttle bus serves the downtown area during the summer months, with several satellite parking areas available to serve customers and guests in the immediate area. Therefore, the project will not provide on-site parking for customers or guests. Most patrons will be expected to either walk to the site or utilize off-site parking, with a shuttle car service provided for hotel guests. Traffic to and from the site will be limited primarily to deliveries, pick-ups and drop-offs. The estimated increase in vehicle trips to/from the site will be approximately 25 round trips per day.

3). Trip reduction measures include providing a shuttle car for hotel guests, pedestrian walkways and bicycle enhancements, and use of the existing Provincetown shuttle bus. The combination of project location, no customer parking and this trip reduction program will result in a reduction in trip generation that far exceeds the 20% requirement under Section 4.1.2.1 of the RPP. The expected trip reduction offsets any level-of-service impacts that may be caused by the

increase in vehicle trips of approximately 25 round trips per day. The applicant has also agreed to provide the Commission with documentation that promotional literature regarding alternative transportation has been provided to all hotel guests.

4). The proposed project will redevelop a formerly used hotel site and will provide 20 hotel rooms, contributing to the accommodations offered to tourists in Provincetown. According to the Provincetown Assessor's Office, the assessed value of the property will increase by \$1,190,700.00, and the net annual change in local government revenue will be approximately \$16,500.00.

5). The applicant estimates that the proposed project will create jobs for a total of thirty-three full and part-time seasonal employees, with one full-time and two part-time year round employees. The applicant intends to hire a Provincetown general contractor who traditionally employs on-Cape workers and suppliers.

6). Section 6.1.4 of the RPP requires commercial developments to retain 40% of the site as permanent open space, including landscaped areas designed to screen and buffer the development. The project provides a total of 38.7% open space, which is in violation of this minimum performance standard. Under the flexibility provision of the RPP, the project may be approved if the applicant can demonstrate that the interests protected by a given Minimum Performance Standard can be better served by an alternate approach. The applicant proposes to provide the majority of the open space in the form of brick walks and gravel drives, with the remainder to be used as landscaped entry planters and to screen the development from adjacent residential properties. Thus the open space component of this project will provide for pedestrian access and buffering of the project. This type of open space is typical in downtown Provincetown, which consists of densely developed small lots with a pedestrian emphasis. Because Provincetown's downtown area is densely developed, with an urban character, and because the proposed open space will facilitate pedestrian access and screening, the proposal meets the intent of Goal 6.1 of the RPP.

7). Goal 6.1 of the RPP is to preserve and enhance the availability of open space on Cape Cod in order to provide wildlife habitat, recreation opportunities, and protect the natural resources, scenery, and character of Cape Cod. The applicant has demonstrated that the proposed project will redevelop a site which is almost completely devoid of vegetation and wildlife value due to a previous fire which destroyed the original hotel. The applicant has agreed to provide the maximum amount of open space for the redevelopment as actual landscaped area to screen the development from abutters directly east and west of this site, and to provide the brick walks as a means of public pedestrian access to Commercial Street. These provisions and the overall design of the project's open space are consistent with Goal 6.1 of the RPP.

8). Section 7.2.1 of the RPP requires that the height and scale of a proposed building be compatible with its site and surrounding buildings. The proposed hotel is a 2-1/2 story structure, ranging from 28 - 30 feet in height. This building height is generally compatible with other structures surrounding the site.

9). Section 7.2.2 requires that where redevelopment is surrounded by buildings with distinctive architectural styles, building height and exterior materials shall be harmonious with the character of the surrounding area. The property is a non-contributing structure to a National

Register Historic District for the Town of Provincetown. The applicant has agreed to provide a wooden clapboard exterior finish on facades visible from public ways in order for the building to be compatible with other surrounding National Register District structures and consistent with this section of the RPP.

10). The building has been designed to minimize noise impacts to residential areas through the elimination of windows on the first floor east elevation, by locating HVAC equipment in the basement of the structure, and through the use of sound-resistant wall construction/insulation throughout the structure based on concerns expressed by abutters for noise emanating from the proposed lounge area.

CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby concludes:

The benefits of the proposed project outweigh the detriments. This conclusion is supported by Findings #1 - 5. These benefits outweigh the detriment of potential noise impacts to adjacent residential properties.

The proposed development is consistent with the Minimum Performance Standards of the Regional Policy Plan (RPP) except where indicated in Findings #6 & #7. In this case, the project violates Minimum Performance Standard 6.1.4, which requires commercial developments to retain 40% of the site as permanent open space, including landscaped areas designed to screen and buffer the development. Under the flexibility provision in the Regional Policy Plan, the Applicant was able to demonstrate an alternate approach which will not be more detrimental than would be allowable under Section 6.1.4 of the RPP and will be consistent with Goal 6.1 of the RPP.

The alternate approach to open space proposed by the applicant is to provide the majority of the open space in the form of brick walks and gravel drives, with the remainder to be used as landscaped entry planters and to screen the development from adjacent residential properties. This type of open space is typical in downtown Provincetown, which consists of densely developed small lots with a pedestrian emphasis and an area with an urban character. The applicant has also demonstrated that the proposed project will redevelop a site which is almost completely devoid of vegetation and wildlife value due to a previous fire which destroyed the original hotel. These provisions and the overall design of the project's open space are consistent with Goal 6.1 of the RPP given the densely developed urban character of downtown Provincetown.

The proposed project is consistent with the Town of Provincetown's zoning bylaws.

The Commission hereby approves with conditions the proposed Pilgrim House redevelopment in Provincetown, MA as a Development of Regional Impact, pursuant to Section 13 of the Act, provided that the following conditions are met:

1. The plans as submitted and listed in this decision shall become part of the written decision and any changes shall be approved by the Cape Cod Commission or its designee.
2. Prior to issuance of a building permit for the project, final construction documents shall be submitted to Cape Cod Commission staff for a determination of compliance with conditions

attached herein.

3. The applicant shall obtain a Certificate of Compliance from the Commission or its designee before the proposed project is open to the general public and before the local official responsible for issuing certificates of occupancy may issue a permanent or temporary Certificate of Occupancy for any portion of the proposed development. All conditions attached to this decision must be met prior to issuance of a Certificate of Compliance from the Commission.

4. The applicant shall obtain all necessary local permits and licenses for the project.

5. The size of the Pilgrim House project shall not exceed the following development limitations:

- 180 restaurant/lounge seats
- 20 hotel units (20 bedrooms)
- 500 s.f. office/conference room

Any increase in the number of restaurant/lounge seats shall require approval by the Cape Cod Commission.

6. The north and south exterior elevations of the Pilgrim House shall be constructed of wooden clapboards with a red cedar shingled roof. The east and west exterior elevations shall be constructed of vinyl siding to match the width of the exposed wooden clapboards, with an asphalt shingle roof. Sound-resistant wall construction shall also be provided throughout the structure.

7. On-site parking shall be restricted to the following vehicles: emergency vehicles, shuttle car, patrons requiring handicapped access, or building caretaker. Access to this parking and all deliveries to the project shall be made via the driveway off of Freeman Street, as indicated on the plan titled Site Plan of Land, Governor William Bradford Realty Trust, dated February, 1993, revised March 2, 1993. A security gate shall be provided at the entrance to this driveway off of Freeman Street to control this access.

8. The applicant shall provide promotional literature regarding alternative transportation to all hotel guests. The applicant shall submit a copy of this information to the Commission prior to the issuance of a Certificate of Compliance.

9. Subject to approval by appropriate authorities of the Town of Provincetown, all walkways shall be kept open for the purposes of pedestrian use only as shown on the plan titled Site Plan of Land, Governor William Bradford Realty Trust, dated February, 1993, revised March 2, 1993.

10. Prior to issuance of a building permit for the proposed project, the applicant shall submit a final landscape plan to Commission staff for approval. This plan shall include, at a minimum, the location, quantity and species of all plant materials to be provided, as well as the location of proposed outdoor lighting. The gravel parking area as shown on the plan titled Site Plan of Land, Governor William Bradford Realty Trust, dated February, 1993, and revised March 2, 1993, shall be amended as shown on sketch plan dated June 7, 1993 to provide a minimum three-foot wide buffer strip for 130 feet in length along the western property boundary, with a five-foot wide buffer on the eastern property boundary. These buffer strips shall be planted with evergreen trees

at a minimum of six (6) feet in height at time of planting, with spacing at six (6) feet-on-center. In all cases, the screening effect of the planting shall be total from ground to eye level at the time of planting. The buffer requirement along the western property boundary shall be subject to abandonment of a five-foot walkway easement agreement recorded in Barnstable Registry of Deeds in Book 6859, Pages 036 - 043.

11. Prior to the issuance of a Certificate of Compliance, the applicant shall complete all site and landscape improvements as per the above referenced construction documents and site plans. If all required site and landscape improvements are not completed at the time a Certificate of Compliance is sought from the Commission, any work related to site and/or landscape improvements, as approved by the Commission, which is incomplete shall be subject to a standby letter of credit or performance guarantee. The amount of the letter of credit or performance guarantee shall equal 110% of that portion of the work which remains incomplete, with the amount approved by Commission staff. The guarantee shall be payable to the Cape Cod Commission with the work approved by Commission staff prior to the release of the letter of credit or guarantee.

The Cape Cod Commission hereby grants Mr. Donald R. Edwards, Trustee of Governor William Bradford Realty Trust, an approval with conditions as a Development of Regional Impact, pursuant to Section 13 of the Act, for the proposed redevelopment of the Pilgrim House site in Provincetown, MA.

	
Andrew Young, Vice-Chairman Cape Cod Commission	Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 24th day of June 1993


Name, Notary Public

My commission expires: