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CAPE COD
COMMISSION

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MINOR MODIFICATION TYPE #2 DECISION

DATE: September 14, 2023
PROJECT: Excel Switching Corp Corporate Facilities (CCC File No. 08020)
PROJECT SITE: 75 Perseverance Way, Hyannis, MA 0260
APPLICANT/OWNER: Switch Gears, LLC
c/o Stuart Bornstein
297 North Street, Hyannis, MA 02601
ASSESSOR REFERENCE: Map 295 Parcel 011
TITLE REFERENCE: BCRD Book 25909 Page 191
ORIGINAL DRI DECISION: BCRD Book 23495 Page 188

The Committee on Planning and Regulation finds as follows:

FINDINGS

- F1. The Excel Switching Corp Corporate Facilities located at 75 Perseverance Way in Hyannis has the benefit of a January 22, 2009 Development of Regional Impact Hardship Exemption Decision, (CCC File No. 08020) (hereafter, the "DRI Decision") that allowed for two, approximately 32,000-s.f., two-story, office buildings, 84 parking spaces, and associated landscaping ("the Approved Project").
- F2. On September 19, 2019 the Committee on Planning and Regulation granted the Applicant's request for a five-year extension to the DRI Decision to January 22, 2025.
- F3. The Applicant has not started construction on the Approved Project.
- F4. On May 8, 2023, the Applicant submitted an application requesting the following modifications to the DRI Decision, citing changed economic circumstances and lack of demand for office space:
 - replace the two-story office buildings with larger, three-story self-storage buildings;

Excel Switching Corp Corporate Facilities - CCC File No. 08020
Minor Modification Type #2 Decision
September 2023
Page 1

- reduce in parking spaces from 84 to 16;
 - shift the buildings and site driveway to the north, away from Attucks Lane;
 - install solar panels on the buildings; and
 - revise landscaping and stormwater management to address the changes to the layout (collectively, the "Modification").
- F5. Pursuant to Section 11 of the Cape Cod Commission's ("Commission") Enabling Regulations Governing Review of Developments of Regional Impact ("Enabling Regulations"), the modification request is reviewed in accordance with the Regional Policy Plan ("RPP") in effect at the time of the original DRI Decision, which was the 2002 RPP.
- F6. The modifications to the buildings include changes to the footprint of the buildings and to the height of the buildings, with the footprint of each building increasing by 13,380-s.f.+/- and the height increasing from two to three stories.
- F7. The impervious coverage proposed for the Modification is similar to that of the Approved Project. Where the Modification includes an increase in building coverage of 28,749-s.f.+/-, it reduces impervious paved area by 29,569-s.f., which is to be accomplished by using pervious pavement.
- F8. The stormwater system proposed for the Modification is designed to meet the requirements of the RPP Minimum Performance Standard ("MPS") 2.1.3.2 as stormwater will be managed and infiltrated on site to minimize runoff and maximize water quality treatment. Stormwater treatment designs are based upon a 25-year 24-hour storm and attain 80% total suspended solids removal and at a minimum and the Modification meets the 5-ppm nitrogen-loading limit.
- F9. Wastewater impacts from the Modification are decreased or unchanged as the self-storage facility will generate less wastewater (15 gallons per day, per employee) than the Approved Project (75 gallons per day, per 1000-s.f.).
- F10. The Modification is expected to generate approximately 18 vehicle trips in both the weekday morning and weekday afternoon peak hours, a decrease from 99 and 95 vehicle trips, respectively, from the Approved Project. Due to the decrease in trip generation, a reduced mitigation payment of \$35,640 would be required as part of the offsite mitigation along with implementation of the TDM program.
- F11. Consistent with the safety and trip reductions goals of the RPP, Applicant has agreed to extend a small section of sidewalk along the eastern side of Wilkens Lane to connect to the site which will allow pedestrians to access the site safely as part of the Modification.
- F12. The Modification is consistent with the surrounding context and incorporates façade variation and landscape screening to reduce the visual impact of the larger buildings.
- F13. The Modification is consistent with Community Character MPS 6.2.6 of the RPP, which states that in "*industrial parks or areas not visible from scenic or regional roadways or other distinctive*

areas...use of nontraditional materials and forms may be appropriate. In such areas, maintenance of adequate buffers on the subject property is required to ensure that the proposed development will not be visible from scenic or regional roadways such as Route 6A." The building façade is proposed to be predominantly white metal cladding. The layout for the Modification shifts the buildings toward the Northern portion of the lot, away from Attucks Lane, reducing any visual impact of nontraditional materials and forms from a regional roadway.

- F14. The current proposal involves a substantially similar proposal to the original Project approved in the DRI Decision but involves minor changes which are consistent with, and do not affect the intent or outcome of, the DRI Decision.
- the proposed use remains commercial in nature, is consistent with the context, and is of a similar or lesser intensity than the Approved Project in terms of Transportation and Water Resources impacts;
 - the Project changes are consistent with the applicable RPP and impacts to protected resources are minimized or mitigated in the design of the proposed changes, subject to the Conditions of this modification decision;
 - such impacts are not different in kind than those addressed in the DRI Decision; and
 - the proposed changes are not contrary to the findings and conditions contained in the DRI Decision.
- F15. The Committee on Planning and Regulation held a public meeting on the proposed DRI modification on September 14, 2023.
- F16. The proposed changes to the site plan do not result in different or increased impacts to the resources protected by the Regional Policy Plan and the Cape Cod Commission Act and the Modification involves a substantially similar proposal to the Approved Project.

CONCLUSION

Based on the above Findings and determinations, the Commission's Committee on Planning and Regulation hereby approves the requested modification to the Excel Switching Corp Corporate Facilities DRI Decision as described herein as a Minor Modification Type #2, subject to the following Conditions:

CONDITIONS

- C1. All findings and conditions in the DRI Decision continue to apply as written except as expressly modified herein. To the extent there is conflict or ambiguity between this modification decision and the DRI Decision, this modification decision shall control.
- C2. The DRI Decision, as modified, shall be appurtenant to and run with the Property which is the subject Project Site, and shall bind and be enforceable against, and inure to the benefit of, the Applicant, its heirs, successors, and assigns.

- C3. This modification decision shall be effective upon being filed by the Commission at the Barnstable Land Court. The Applicant shall obtain necessary local permits, licenses, and approvals for the proposed Project changes pursuant to and in accordance with this decision. The Applicant shall provide the Commission copies of such licenses, permits, and approvals as obtained.
- C4. The Modification is to be constructed and undertaken pursuant to the following plans and documents submitted by the Applicant:
- Civil Set entitled "*Plan of Land of Attucks Lane Hyannis, MA prepared for Perseverance, LLC, Cape Cod Custom Storage*" prepared by Down Cape Engineering, inc. dated 04/27/23 consisting of the following sheets:
 - C100 - Site Layout/Landscape Plan, last revised on 08/14/23
 - C200 - Site Grading Utilities
 - C401 - Detail Sheet
 - C402 - Detail Sheet 2
 - Building Dimensions submitted as a PDF by email from S. Bornstein to J. Velozo on 07/12/23, entitled "*_08-072 PERSEVERENCE Exact Building Dimensions*"
 - Building Materials submitted as a PDF by email from S. Bornstein to J. Velozo on 07/07/23, entitled "*CANAM - Building Materials-Colors*"
- C5. Project modifications, as described and approved herein, shall be undertaken, constructed, used, and maintained in accordance with the Findings and Conditions set out herein, including the plan sets and other information and documents reviewed, approved and referenced herein under Condition C4, which plans, documents and other information shall either substitute or supplement, as the context allows, for plans, documents and other information previously reviewed and approved in the DRI Decision.
- C6. Prior to and as a condition to issuance of a Building Permit for the Project by the Town, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that evidences that all requisite conditions in the DRI Decision, as further modified by this decision, required to have been satisfied prior to issuance of a Preliminary Certificate of Compliance have been satisfied and that the Project is in compliance with the DRI Decision.
- C7. Prior to and as a condition to issuance of a Certificate of Use/Occupancy for the Project by the Town, the Applicant shall obtain a Final Certificate of Compliance from the Commission that evidences that all requisite conditions in the DRI Decision, as further modified by this decision, required to have been satisfied prior to issuance of a Final Certificate of Compliance have been satisfied and that the Project is in compliance with the DRI Decision.
- C8. Storage of hazardous materials and wastes in the self-storage units shall be limited or prohibited in the Applicant's standard self-storage rental agreement document such that no more than 'Household Quantities' may be stored in the self-storage units (as the term 'Household Quantities' is used and defined in the Commission's Water Resources Technical Bulletin). Prior to and as a Condition to issuance of a Final Certificate of Compliance by the

Excel Switching Corp Corporate Facilities - CCC File No. 08020

Minor Modification Type #2 Decision

September 2023

Page 4

Commission, the Applicant shall provide Commission staff with a final version of its self-storage rental agreement for review and approval.

- C9. Prior to and as a Condition to issuance of a Preliminary Certificate of Compliance the Applicant shall provide an updated plan set, for Commission staff review and approval, which shall include: (a) the extension of the section of sidewalk along the eastern side of Wilkens Lane referenced in F10, to be constructed by the Applicant; and (b) detailed elevations, depicting building dimensions for both storage buildings.
- C10. Prior to and as a Condition to issuance of a Final Certificate of Compliance by the Commission, the Applicant shall construct a section of sidewalk along the eastern side of Wilkens Lane to connect to the site referenced in F10.
- C11. Pursuant to F9, Conditions TC1 and TC2 in the DRI Decision are replaced with the following Condition: "Prior to and as a Condition to issuance of a Final Certificate of Compliance, the Applicant shall make a monetary payment of \$35,640 as outlined in TF5. These funds shall be held by the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Executive Director to support the planning, design of implementation of transportation improvements in the Town of Barnstable."
- C12. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit, for Commission staff review and approval, a draft landscape maintenance agreement for the approved site landscaping, covering a minimum three growing seasons after landscape installation. The provisions in the landscape maintenance agreement shall be consistent with the Commission's Sustainable Landscape Design Guidance.
- C13. Prior to and as a condition to issuance of the Final Certificate of Compliance by the Commission, the Applicant shall provide a signed copy of the landscape maintenance agreement, as reviewed and approved by Commission staff. Thereafter, the Project, as modified herein, shall be subject to said agreement.
- C14. Prior to and as a condition to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit, for Commission staff review and approval, a draft operations and maintenance protocol for the permeable pavement installation referenced under F7.
- C15. Prior to and as a condition to issuance of the Final Certificate of Compliance, the Applicant shall submit, for Commission staff review and approval, an operations and maintenance protocol and maintenance agreement for the permeable pavement installation referenced under F7.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this ____ day of September 2023.

For the Cape Cod Commission by:

Tom Wilson, Chair, Committee on Planning and Regulation

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

September __, 2023

Before me, the undersigned notary public, personally appeared Tom Wilson, in his capacity as Chair of the Cape Cod Commission Committee on Planning and Regulation, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose on behalf of the Cape Cod Commission. The identity of such person was proved to me through satisfactory evidence of identification, which was [] photographic identification with signature issued by a federal or state governmental agency, [] oath or affirmation of a credible witness, or [x] personal knowledge of the undersigned.

Notary Public:
My Commission expires:

SEAL