

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Nineteen Hundred and Ninety-Six

Ordinance 96-5

DRI Thresholds Change Proposal for Change of Use and/or Demolition and Replacement resulting in a Change of Use.

Barnstable County hereby ordains:

To amend the Code of Cape Cod Commission Regulations of General Application, Chapter A Enabling Regulations, as follows:

1. In Section 1 (c) Definitions add the following language:

Change of use: A change in the nature or purpose of the use of a developed parcel of land, including but not limited to any material change in the use of any structure or any material change in the intensity of use of land such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use. In cases where use of a developed parcel has been discontinued for more than five consecutive years, any use of such parcel is considered a change of use.

Historic Structure: Any building, structure or site which is now listed or is qualified to be listed on the National or State Registers of Historic Places as determined by the State Historic Preservation Officer in consultation with the applicable local historical commission. Qualifications for listing shall be those administered by the Massachusetts Historical Commission, including but not limited to:

- a) association with events that are historically significant;
- b) association with person(s) significant in our past;
- c) embodiment of distinctive characteristics of a type, period, or method of construction; and
- d) likelihood of yielding information significant in history or prehistory.

2. In Section 3 Developments Presumed to be Developments of Regional Impact, subsection (e) add the following language:

Following the words: "use changes which have a gross floor area greater than 10,000 square feet", **insert the words:** "except as provided in Section 3 (f) below;"

and add the following language:

(f) Any proposed change of use, or demolition and replacement resulting in a change of use, of an existing commercial, service, retail or wholesale building(s), office or industrial building(s), as well as any private health, recreational or educational building(s) as follows:

(1) For existing commercial, service, retail, office building(s) or any private health, recreational or educational building(s): Building(s) with a gross floor area greater than 40,000 square feet;

(2) For existing industrial or wholesale building(s): Building(s) with a gross floor area greater than 50,000 square feet;

The threshold set forth in this subsection (f) shall only be applicable if the project meets the criteria set forth in **Section 4(b)1** below and obtains a determination from the Commission as set forth in **Section 4(b)2-5** below.

and re-letter the subsequent sections as follows:

(g) Any proposed development, including the expansion of existing developments, that is planned to create or add thirty or more residential dwelling units.

(h) Any development providing facilities for transportation to or from Barnstable County, including but not limited to ferry slips, bus, rail, trucking terminals, transfer stations, air transportation and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary or accessory uses meet the criteria of Section 3 (e) above.

3. Amend Section 4 Developments Presumed Not to be Considered Developments of Regional Impact to read as follows:

(a) Single Family Dwellings: The new construction, repair, change, alteration or extension of a single family dwelling or an accessory structure, septic system or water well relative thereto, which is referred to the Commission pursuant to Section 12(e) of the Act, and not otherwise exempted from Commission review by Section 22 of the Act, will be considered not to have significant impacts on the values and purposes protected by the Act outside the municipality in which it is located.

(b) Determination of Impacts for Change of Use, or Demolition and Replacement resulting in a Change of Use.

1. In order to qualify for the threshold set forth in Section 3 (f) (1) and (2) of these regulations, a development must comply with the following requirements and obtain a determination of applicability from the Commission as set forth below:

(a) Such thresholds apply only to sites with existing building(s), not to vacant sites.

(b) The total gross floor area of any change of use or demolition and replacement shall not exceed the total gross floor area of the existing building(s) (plus any addition allowed under subsection (c) below) and shall be located entirely on the same lot or lots upon which the original existing building(s) were located or which are contiguous and in common ownership at the time of application.

(c) The total gross floor area of any additions shall not exceed 10,000 square feet and shall not result in the total gross floor area of the building(s) exceeding

the applicable 40,000 and 50,000 square foot thresholds set forth above.

(d) These thresholds shall not be applicable to developments that include demolition or substantial alteration of Historic Structure(s).

(e) The **overall** impacts of the proposed use on the resources protected by the Regional Policy Plan shall not be more detrimental than those of the immediately prior use.

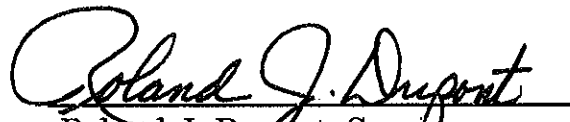
2. The Regulatory Committee of the Commission or its designee shall review any proposed change of use or demolition/replacement to determine if the **overall** impacts of the proposed use are more detrimental than those of the immediately prior use. In making such determination, the Committee or its designee shall consider the resources protected by the Regional Policy Plan, including but not limited to: water resources, coastal resources, wetlands, wildlife/plant habitat, economic development, transportation, waste management, capital facilities, energy, affordable housing, open space and recreation, historic preservation and community character. **Any increased impact that involves significant deviation from the minimum performance standards of the Regional Policy Plan shall be considered a more detrimental impact.**

3. The Regulatory Committee or its designee shall review information provided by the project proponent and staff, and within **30 days of receipt of a completed application, advertise and hold a public hearing. The Commission staff shall notify and consult with appropriate town officials on the proposed change of use prior to the public hearing. Within 15 days of such public hearing the Regulatory Committee shall determine** if the project qualifies for Section 3 (f) (1) and (2) thresholds under the criteria established in this subsection. Nothing herein shall prevent an applicant from seeking a jurisdictional determination under Section 12 (j) of the Cape Cod Commission Act, nor prevent a municipal agency from making a discretionary referral under Section 12 (e) of said Act.

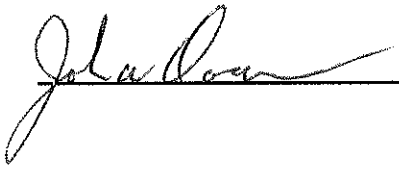
4. If the Regulatory Committee or its designee determines that the project qualifies for Section 3 (f) (1) and (2) thresholds under the criteria established in this subsection, the project may proceed without Development of Regional Impact (DRI) review.

5. If the Regulatory Committee or its designee finds that the project would cause more detrimental impacts on any of the resources protected by the Regional Policy Plan than those of the immediately prior use, the proposed project shall be subject to DRI review. However, the scope of that review may be limited to those subject areas where impacts are **significantly** increased. The Regulatory Committee or its designee shall specify the proposed scope of the DRI review in its determination.

Adopted on July 3, 1996 by the Assembly of Delegates.


Roland J. Dupont, Speaker

Approved by the Board of County Commissioners, JUL 10 1996, at, 3:00 p.m.
Date Time

 Victor A. Lowell 