



CAPE COD COMMISSION

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DATE: October 9, 1997 MOD-TR95016(5)

TO: Mr. Tudor G. Ingersoll
for Hope Ingersoll, Trustee
120 Lakeview Avenue
Cambridge, MA 02138

FROM: Cape Cod Commission

RE: Modification of Approved Development
of Regional Impact Decision
Section 9(n) of DRI Enabling Regulations

APPLICANT: Mr. Tudor G. Ingersoll

PROJECT: Grazing Fields Farms (Modification - 5)
Bourne, MA

BOOK/PAGE: Book 606, Page 404
Book 8376, Page 137
Book 505, Page 315
Book 275, Page 249

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby approves the application of Mr. Tudor G. Ingersoll for a Modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations for the sole purpose of eliminating Condition 2 which requires that the applicant obtain a Certificate of Compliance within a set time frame. The decision is rendered pursuant to the vote of the Commission's Regulatory Committee on October 6, 1997.

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PROJECT DESCRIPTION

On October 19, 1995, the Cape Cod Commission approved, with conditions, the application of Mr. Tudor G. Ingersoll for a DRI for the Grazing Fields Farm project.

The Grazing Fields Farm project consists of the subdivision of a 120+ acre parcel located off Head of the Bay and Bournedale Roads in Bourne into four additional lots. The DRI decision placed several Conditions on the project. Condition #2 of the Decision states:

"[t]he Applicant shall obtain a Certificate of Compliance from the Cape Cod Commission within six months of the filing of the final Decision on this project with the Clerk of the Commission, except as otherwise provided in this Decision" (page 9)

The original six-month time frame was in part to allow Mr. Ingersoll to finalize the donation of 5.03 acres of land (Lot 22) as off-site open space to the Department of Fisheries and Wildlife, a procedure which had to be ratified by the state Legislature.

Since the 1995 DRI Decision, the Commission's Regulatory Committee has granted Mr. Ingersoll four (4) extensions of the original six-month timeframe described in Condition #2. As such, Mr. Ingersoll had until October 19, 1997 to obtain a Certificate of Compliance.

On September 25, 1997, staff received a letter from Mr. Ingersoll requesting an extension to the time period allotted for receipt of a Certificate of Compliance.

The Commission's policy entitled "Revisions to Approved DRIs, DRI Exemptions and Hardship Exemptions" (Administrative Regulations, revised 3/6/97, Sect. 7) describes a Minor Modification #2 as one which "involves a...small change to a finding or a condition of the original approval which does not affect the intent or outcome of the finding or condition. Such changes would not result in different or increased impacts to the resources protected by the Cape Cod Commission Act and/or the Regional Policy Plan." The policy also notes that "[t]here shall be no review fees for this category, however the applicant shall be responsible for all filing fees at the Registry of Deeds."

On October 6, 1997, the Commission's Regulatory Committee considered Mr. Ingersoll's request for yet another modification to Condition #2 of the Grazing

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Fields Farm Decision. At this meeting, the Regulatory Committee voted unanimously to approve elimination of Condition #2 of the Grazing Fields Farms Decision based on the fact that removing the set time frame described in Condition #2 would not affect compliance with the other Conditions of the Decision. The Regulatory Committee also voted to consider the request a Minor Modification #2 under Section 7 of the Administrative Regulations (revised on 3/6/97) without need for a public hearing, a project review fee, or further action by the Commission.

Based on this decision, Condition #2 has been eliminated from the Decision. No other modifications were requested or have been made to the original DRI Decision.

PROCEDURAL HISTORY

On September 25, 1997, staff received a letter from Mr. Ingersoll again requesting an extension to the time period allotted to obtain of a Certificate of Compliance which would require a modification to Condition #2.

On October 6, 1997, the Commission's Regulatory Committee considered Mr. Ingersoll's request to again extend the time allotted to receive a Certificate of Compliance for the Grazing Fields Farm Decision, thereby requiring another modification of Condition #2. At this meeting, the Regulatory Committee voted unanimously to approve the elimination of Condition #2 from Grazing Fields Farm Decision because elimination of a set time to obtain a Certificate of Compliance would not affect compliance with the other Conditions of the Decision. The Regulatory Committee also voted to consider the request a Minor Modification #2 subject to Section 7 of the Administrative Regulations (revised on 3/6/97) without need for a public hearing, a project review fee, or further action by the Commission.

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Letter, requesting modification	9/25/97
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B. Materials submitted by Cape Cod Commission:

Memo, to Regulatory Committee	9/29/97
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Note: No written materials or verbal comments were submitted on this modification request by the State, Town officials or the Public.

The Application and notice of the public hearing relative thereto, the Commission's

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staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file TR-95016, MOD-TR95016 and MOD-TR95016(2), MOD-TR95016(3) and MOD-TR95016(4) are incorporated into the record by reference.

COMMENTS OR DISCUSSION

No comments from the public were received at the October 6, 1997 Regulatory Committee meeting on this project. Staff noted that a letter had been received from Mr. Ingersoll requesting a further extension of the date by which a Certificate of Compliance had to be obtained. Staff recommended the elimination of Condition #2 based on the fact that this action would not affect Mr. Ingersoll's duty to comply with the other Conditions of the original DRI Decision, or the need for him to obtain a Certificate of Compliance. Staff also recommended that Mr. Ingersoll's request be seen as a Minor Modification #2 under the Administrative Regulations (revised on 3/6/97), Section 7. Mr. Prince moved that Condition #2 be removed from the DRI Decision and that the modification request be deemed a Minor Modification #2. Mr. Deane seconded the motion. The Regulatory Committee voted all in favor of the motion.

JURISDICTION

The proposed project qualifies as a modification to an approved DRI Decision under Section 9(n) of the DRI Enabling Regulations.

FINDINGS

The Commission's Regulatory Committee has considered the application of Mr. Tudor Ingersoll to again modify Condition #2 of the Grazing Fields Farm Decision. The purpose of Condition #2 as written in the original Decision was in part to allow Mr. Ingersoll six months to finalize the donation of 5.03 acres of land as off-site open space to the Department of Fisheries and Wildlife, a procedure which had to be ratified by the state Legislature.

The proposed modification of the Decision would eliminate Condition #2 and thus eliminate the set time frame obtain the Certificate of Compliance. The Regulatory Committee found that a modification of the Decision in this way would not affect compliance with the other Conditions of the Decision. No other changes to the Decision were approved. The Regulatory Committee also voted on October 6, 1997 to deem the request a Minor Modification #2 under the Administrative Regulations (revised on 3/6/97), Section 7. A Minor Modification #2 is one which does not

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require a public hearing, a project fee or other action by the full Cape Cod Commission.

CONDITIONS

The Cape Cod Commission hereby modifies the DRI Decision rendered on October 19, 1995 to eliminate Condition #2 of the Grazing Fields Farm Decision (TR-95016). Specifically, the following language is hereby eliminated from the Decision:

"2. The Applicant shall obtain a Certificate of Compliance from the Cape Cod Commission within six (6) months of the filing of the final Decision on this project with the Clerk of the Cape Cod Commission, except as otherwise provided in this Decision."

Vicky Bebout
Vicky Bebout, Chair
Cape Cod Commission

10-9-97
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 9th day of Oct 1997.

Katharine G. Peters
NAME, Notary

My Commission Expires December 5, 1997

My Commission expires:

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