



CAPE COD COMMISSION

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DATE: October 30, 2000 TR-99024 (Modification/Type 2)
(Third Modification Decision)

TO: Attorney Andrew Singer
26 Upper County Road
P.O. Box 67
Dennisport, MA 02639

RE: Modification of an Approved DRI Decision
Section 9(n) of Enabling Regulations

APPLICANT: Sid Snow of H.H. Snow & Sons, Inc

PROJECT: H.H. Snow & Sons, Inc
Orleans, MA

BOOK/PAGE: Book 9300, Page 269 Cert # 85571
Book 12700, Page 296 Plan 40135A

William C. Snow, Stanley H. Snow and Robert W. Snow, Trustees of the Snow Realty Trust dated March 29, 2000 and registered as Document No. 795,962

DECISION OF THE CAPE COD COMMISSION

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of Mr. Sid Snow of H.H. Snow & Sons, Inc. for two Modifications to an Approved Development of Regional Impact. The Modifications are approved under Section 7 of the Administrative Regulations (as revised). This Decision is rendered pursuant to a vote of the Commission's Regulatory Committee on October 30, 2000.

PROCEDURAL HISTORY

In a decision dated October 7, 1999, the Commission approved with conditions a 12,000 square foot addition to the existing H.H. Snows Home and Garden Center at Main Street in Orleans. Subsequent to this approval, the Commission issued a Preliminary Certificate of Compliance dated November 29, 1999 so that the applicant could apply for a building permit. The applicant then requested that the Commission's Regulatory Committee consider a Minor Modification #2 to allow issuance of a temporary Final Certificate of Compliance because of a concern that the new roof façade would not be completed. The Regulatory Committee approved this as a Minor Modification #2 in a decision dated February 28, 2000 with the requirement that all other aspects of the project would be completed. A Phase Two Final Certificate of Compliance was also required for the new roof façade once it was finished.

In letters dated October 16th, October 20th and October 23rd, 2000 Attorney Andrew Singer representing H. H. Snow & Sons, Inc. requested two further modifications to the Commission's DRI decision (as modified). One was to revise condition G2 further to allow the applicant to obtain a Second Preliminary Certificate of Compliance from the Commission and to amend condition WR1 to require sampling of well discharge only once a month instead of twice a month for two years.

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

On October 30, 2000, the Commission's Regulatory Committee considered Attorney Singer's request to further modify the October 7, 1999 DRI decision. Planner Andrea Adams explained the applicant's request to modify condition G2. Water Resources staff member Scott Michaud commented on the request to modify condition WR1.

The Regulatory Committee voted unanimously to consider the requested revisions of conditions G2 and WR1 as described in Attorney Singer's October 23, 2000 letter to be Minor Modifications Type #2.

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

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|---|----------|
| Letter, requesting modification | 10/16/00 |
| -attachments include a revised site plan showing onsite open space areas and results of sampling for nitrogen loading | |
| Letter, revised request | 10/20/00 |
| Letter, revised request | 10/23/00 |

B. Materials submitted by the Commission

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|--|----------|
| Memorandum, with attachments | 10/25/00 |
| -attachments included materials submitted by the applicant's attorney, a copy of water resources conditions from the 1999 original DRI decision, a copy of the 1999 Preliminary Certificate of Compliance, a copy of the February 2000 Modification decision | |

Note: No written materials or verbal comments were submitted on this modification request by the State, Town officials or the Public.

The application, the Commission's staff reports, exhibits, minutes of all meetings and all submissions received in the course of the proceedings, including materials submitted on file TR-99024 and the two previous modification decisions are incorporated into the record by reference.

SUMMARY

The Commission's Regulatory Committee hereby approves as Minor Modifications #2 under Section 7 of the Administrative Regulations (as revised) the request of H.H. Snow & Sons, Inc. for two modifications to an approved Development of Regional Impact decision relating to changes to conditions G2 and WR1.

The Modifications as approved are:

1. To revise condition G2 as it existed in the February 28, 2000 Modification decision to the following:

G2. Prior to receiving a permanent or temporary Certificate of Occupancy for the H.H. Snow & Sons project, the applicant shall obtain a **Second Preliminary** ~~phase one final~~ Certificate of Compliance from the Cape Cod Commission. Unless otherwise stated in this decision, the project shall be constructed in accordance with final plans listed elsewhere in the decision.

The temporary Certificate of Occupancy from the Town and the Second Preliminary Certificate of Compliance from the Commission shall both expire on January 19, 2001.

Prior to receiving a temporary or permanent Certificate of Occupancy from the Town and the Second Preliminary Certificate of Compliance from the Commission, the applicant shall:

- a.) Complete all interior aspects of the project, particularly the building code life safety requirements.
- b.) Provide an Escrow Agreement sufficient to secure certain exterior aspects of the project, including final landscaping, site lighting, signs and site work. The amount of the escrow fund shall be approved by Commission staff and the form of the Escrow Agreement shall be satisfactory to Commission Counsel. Both the form and content of the Agreement and the amount of the escrow fund shall be approved by Commission staff and Counsel prior to issuance of the Second Preliminary Certificate of Compliance.
- c.) Obtain a sign-off/approval of the Orleans Conservation Commission and Orleans Board of Selectmen on the Conservation Restriction required by conditions NR2 and NR3.
- d.) Mail the signed Conservation Restriction to the Division of Conservation Services for final State approval.

Upon subsequent receipt of the approved Conservation Restriction document from the State, and no later than January 19, 2001, the applicant shall record and/or register it with the Barnstable County Registry of Deeds and the Barnstable Registry District of the Land Court.

Upon satisfactory completion of the new roof facade for the project's pre-existing showplace building, **submission of proof of recording and/or registration of the Conservation Restriction with the Barnstable County Registry of Deeds and Registry District of the Land Court, and completion of all other relevant project conditions,** the Commission may issue a ~~phase two~~ Final Certificate of Compliance. ~~shall be granted.~~

The applicant shall notify Commission staff of the intent to seek a ~~Final phase one or phase two~~ Certificate of Compliance at least 30 days prior to the **desired date of** issuance of ~~either~~ **such** Certificate of Compliance. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless conditions are complied with or secured consistent with this Decision.

2. To revise condition WR1 as it existed in the original DRI decision to the following:

WR1. An irrigation well shall be installed downgradient from the septic leachfield and shall be metered to establish the rate of groundwater pumping. Well discharge shall be sampled ~~twice~~ **once** a month for a period of 2 years and analyzed for nitrate-N, ammonia, TKN and total coliform bacteria. If, after two years of monitoring, the average removal rate over the ~~two~~ years is less than 11.7 kg/yr, the applicant shall install a denitrifying septic system that meets DEP approval at the time of installations.

David J. Ansel
David J. Ansel, Regulatory Committee Chair

11/3/00
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 3rd day of November, 2000.

Katharine L. Peters
Name, Notary Public

My Commission expires:

