



# CAPE COD COMMISSION

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DATE: March 2, 2001 TR-93025 (Modification - Type 2)

TO: Attorney Patrick M. Butler  
Nutter, McClennen & Fish (Representing the Rehabilitation Hospital)  
Route 132 - 1513 Iyannough Road  
P.O. Box 1630  
Hyannis, MA 02601-1630

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

APPLICANT: Rehabilitation Hospital of the Cape & Islands

PROJECT: Modification to the 60-bed, 60,000 square feet  
Specialty Rehabilitation Hospital  
Service Road, Sandwich, MA

BOOK/PAGE: Book: 462 Page: 28  
Book: 6772 Page: 60

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of the Rehabilitation Hospital of the Cape & Islands, in care of Attorney Patrick M. Butler, Attorney of Nutter, McClennen & Fish, LLP, for modifications to an approved Development of Regional Impact (DRI) decision under Section 9(n) of the DRI *Enabling Regulations* to allow the construction of a 3,000 square foot pre-fabricated building to be used for dry storage of files and hospital equipment.

The change is hereby approved as a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised). This decision is rendered pursuant to a vote of the Commission's Regulatory Committee on February 26, 2001.

At this meeting, the Regulatory Committee also voted to rescind its vote of June 20, 2000 determining that the 3,000 square foot pre-fabricated building to be used for dry storage of files and hospital equipment was a Major Modification.

### ORIGINAL PROJECT DESCRIPTION and PROCEDURAL HISTORY

In a DRI decision dated March 30, 1994, the Commission approved, with conditions, the construction of a 60 bed, 60,000 square foot specialty rehabilitation hospital building. The project site is described in the DRI decision as a 76.57 acre parcel located off Service Road in Sandwich, MA. This project was reviewed and approved under the 1992 Regional Policy Plan (RPP).

A condition of the original decision (as modified) required the applicants to provide the Commission with a site plan showing 40% of the site (as required by the 1992 RPP) to be donated to the Town of Sandwich Conservation Commission through either a deed in fee simple or a Conservation Restriction. Donation of the on-site open space was required prior to issuance of a Certificate of Compliance by the Commission.



On May 24, 2000, the Commission received a DRI referral from Robert F. Walton, Sandwich Building Inspector, of the proposed construction of a 3,000 square foot pre-fabricated building to be used for dry storage of files and hospital equipment.

On June 20, 2000, the Commission's Regulatory Committee voted to deem the proposed 3,000 square foot storage building to be a Major Modification under Section 7 of the *Administrative Regulations* in large part based on the fact that the required on-site open space had not been provided.

Since the June 2000 vote, the project was subject to DRI review, although Extension Agreements had been granted to allow the Hospital representatives time to work with the Town to meet the open space requirements.

On February 15, 2001, Attorney Butler submitted for the Regulatory Committee's consideration a letter with attachments which indicated that 31 acres of the site (40%) had been transferred to the Town of Sandwich, effectively complying with the requirements of the 1994 DRI decision.

Staff developed a Memorandum analyzing the modification request for the Regulatory Committee. Attorney Butler was informed that the matter had been placed on the Regulatory Committee's regular meeting Agenda for consideration on February 26, 2001.

Staff also conducted a site visit to the Hospital on February 23, 2001 confirming that other conditions of the decision, with the exception of on-going monitoring for nitrogen loading, had been complied with.

#### **COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING**

No comments from the public were received at the February 26, 2001 Regulatory Committee meeting on this project.

Andrea Adams, the project Planner, described the modification request. She noted the required 31 acres had been transferred to the Town of Sandwich. She also noted that the Hospital had complied with the other conditions of the 1994 DRI decision, except for the on-going nitrogen monitoring. Ms. Adams said that based on the proposed location of the storage building, it would not have community character impacts. And, as proposed, without a bathroom, it was unlikely to have increased traffic impacts (from additional staff office space) or nitrogen loading.

Gabrielle Belfit of the Commission's Water Resources Office said that the nitrogen loading monitoring required by other modifications to the original DRI decision were on-going.

The Committee discussed the matter and suggested that the storage building could be deemed a Minor Modification provided it was only used for storage – that it did not become office space or include a bathroom. Attorney Butler suggested this compromise was acceptable, and could be reflected in the findings of the Regulatory Committee's decision.

Staff also recommended that the Regulatory Committee should formally vote to rescind its earlier June 20, 2000 vote to deem the project a Major Modification subject to DRI review if the Committee felt that issues had been resolved.

The Commission's Regulatory Committee considered the request of Attorney Butler, representing the Rehabilitation Hospital to consider the construction of a 3,000 square foot

pre-fabricated building to be used for dry storage of files and hospital equipment. At this meeting, the Regulatory Committee voted unanimously to consider the change a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised) provided that the facility was used only for storage and was not equipped with a bathroom.

The Regulatory Committee also voted to rescind its vote of June 20, 2000 deeming the project a Major Modification under Section 7 of the *Administrative Regulations* (as amended) and therefore subject to DRI review.

### **MATERIALS SUBMITTED FOR THE RECORD**

A. Materials submitted by the Applicant:

Letter, with attachments 2/15/01

B. Materials submitted by Cape Cod Commission:

Memorandum, to Regulatory Committee 2/21/00

C. Materials submitted by Town Officials

None

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

The information and notice of the public hearings relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and meetings and all submissions received in the course of the proceedings, including materials submitted on file TR-93025 and all subsequent modification decisions, including this decision, are incorporated into the record by reference.

### **JURISDICTION**

The proposed change to the approved DRI decision for the Rehabilitation Hospital of the Cape & Islands (TR-93025) qualifies as a modification to an approved DRI Decision under Section 9(n) of the *DRI Enabling Regulations*.

### **FINDINGS**

The Commission's Regulatory Committee considered the proposed construction of a 3,000 square foot pre-fabricated building to be used for dry storage of files and hospital equipment and finds this change to be a Minor Modification #2 under Section 7 of the *Administrative Regulations* (as revised) provided that the facility is used only for storage and is not equipped with a bathroom.

**MODIFICATION TO THE DRI DECISION**

In accordance with the vote of the Regulatory Committee, the following modifications are made to the March 30, 1994 DRI decision and incorporated plans:

The applicant is permitted to construct a 3,000 square foot pre-fabricated building to be used for dry storage of files and hospital equipment in the approximate location as shown on the "Proposed Site Plan" drawn by David C. Thulium, PE, PLS, dated March 28, 2000, Sheet #00-021.

The Town of Sandwich and the applicant should also note, however, that issuance of this modification by the Cape Cod Commission does not obligate the Town to act on requests for local permits, nor does it prevent the Town from imposing its own requirements to obtain such permits.

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

3/2/01  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this 2<sup>nd</sup> day of March, 2001.

Katharine L. Peters  
NAME, Notary

My Commission expires:

