



CAPE COD COMMISSION

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DATE: July 7, 2003

TO: Cape Cod Aggregates
In care of Attorney Patrick M. Butler
Nutter, McClennen & Fish
1513 Iyannough Road
P. O. Box 1630
Hyannis, MA 02601-1630

RE: Modification of an Approved DRI Decision

APPLICANT: Cape Cod Aggregates Corporation

PROJECT: Modification of Development of Regional Impact decision
TR-96020

LOCUS: Book 5041 Page 284
Book 6656 Page 147
Book 10212 Page 145

MODIFICATION TO DEVELOPMENT OF REGIONAL IMPACT DECISION

The Development of Regional Impact (DRI) decision dated May 21, 1998 issued by the Cape Cod Commission (Commission) approved, with conditions, the application of Cape Cod Aggregates for a subdivision of approximately 108 acres of land off of Kidds Hill Road in Barnstable into eight lots and one ANR lot.

On June 25, 2003, the Commission received a request from Attorney Butler of Nutter, McClennen & Fish to modify the Cape Cod Aggregates (Aggregates) Development of Regional Impact (DRI) decision. On June 30, 2003, the Commission received additional information from Attorney Butler's office concerning this request.

The Commission's Regulatory Committee (Committee) considered the requests to modify the Cape Cod Aggregates decision on July 7, 2003. At this meeting, the Regulatory Committee voted to allow a modification of condition G3, condition NR/OS-3, and parts c and d of finding NR/OS-7. The Committee also voted to allow corrections to various findings and conditions in the original May 21, 1998 DRI decision to reflect a revised site plan. The Committee voted that these changes to the May 21, 1998 DRI decision were a minor modification #2 under Section 7 of the *Administrative Regulations* (as revised).

Modification to Cape Cod Aggregates Decision

In accordance with the July 7, 2003 vote of the Regulatory Committee, the following modifications are made to the May 21, 1998 Cape Cod Aggregates DRI decision.

Condition G3 is modified as follows:

"G3. Any level of development as defined by Section 2(e) of the Cape Cod Commission Act proposed for a lot within the subdivision as described on the plans entitled "Preliminary Plan of Land in Barnstable, Massachusetts prepared for Cape Cod Aggregates, revision #3, dated January 23, 1997" or on a subsequent Definitive Plan as approved and endorsed by the Town of Barnstable Planning Board shall be reviewed as a Development of Regional Impact (DRI) by the Cape Cod Commission. **This condition shall not apply to any development on Lot A, Lot C and Lot 4 as shown on the *Plan of Land* prepared for Cape Cod Aggregates, drawn by Down Cape Engineering, dated June 4, 2003, and which is substantially similar to that area described in the Cape Cod Healthcare Development Agreement. Said Lots A, C and 4 shall be governed by the terms and requirements of the Cape Cod Healthcare Development Agreement.** Any subsequent DRI Modifications, **except for Lots A, C and 4 which shall be governed by the Cape Cod Healthcare Development Agreement**, shall be governed by the Code of Cape Cod Commission Regulations of General Application, Chapter C, Section 5, as amended.

Condition NR/OS-3 is modified as follows:

"NR/OS-3. Prior to the issuance of a Certificate of Compliance **according to the schedule articulated in Section VI, "Community Character" of the Cape Cod Healthcare Development Agreement for Lots A, C and 4**, and prior to the sale or conveyance of any **other** lot and the application for any building permit and/or foundation permit from the Town of Barnstable for any **other** lot as described on the plans entitled "Preliminary Plan of Land in Barnstable, Massachusetts prepared for Cape Cod Aggregates, revision #3, dated January 23, 1997" or on the subsequent Definitive Plan as approved and endorsed by the Town of Barnstable Planning Board, **as modified by the plan entitled *Plan of Land* prepared for Cape Cod Aggregates, drawn by Down Cape Engineering, dated June 4, 2003, where Lots A, C and 4 are to be governed by the Cape Cod Healthcare Development Agreement**, the applicant shall submit a restoration plan for currently unvegetated portions of this area. The restoration plan shall provide for regrading (no greater than 3:1 slopes), loaming and revegetation of this area with native shrubs and trees consistent with the applicant's July 28, 1997 letter and shall be first approved by the Cape Cod Commission."

Finding NR/OS-7, parts c and d are modified as follows:

".....c.) the existing vegetation along Phinney's Lane would be enlarged to approximately 200 feet in depth. Fill used would be clean clay/sand and the area would be re-vegetated with native scrub pines. , and

d.) a 35-foot high L-shaped **According to the subsequent Cape Cod Healthcare Development Agreement, Section VI, item CC6, an earthen berm would will** be constructed to shield the proposed new Attucks Lane Extension from the existing Cape Cod Aggregates business which will continue to operate on Lots 5 and 9 as shown on the plans entitled "Preliminary Plan of Land in Barnstable, Massachusetts prepared for Cape Cod Aggregates, revision #3, dated January 23, 1997."

Changes to Findings and Conditions to be consistent with a new ANR plan

The Findings and Conditions are modified as follows to reflect a new site plan:

"...the plans entitled "Preliminary Plan of Land in Barnstable, Massachusetts prepared for Cape Cod Aggregates, revision #3, dated January 23, 1997" or on the subsequent Definitive Plan as approved and endorsed by the Town of Barnstable Planning Board, **and as modified by the plan entitled *Plan of Land* prepared for Cape Cod Aggregates, drawn by Down Cape Engineering, dated June 4, 2003, where Lots A, C and 4 are to be governed by the Cape Cod Healthcare Development Agreement.**"

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

2/5/04
Date

**Commonwealth of Massachusetts
County of Barnstable**

On this 5th day of February, 2004, before me personally appeared

David Ansel, to me known to be the person(s) described in and

who executed the foregoing instrument, and acknowledged that he

executed the same as his free act and deed.

Katharine L. Peters
Notary
Commonwealth of Massachusetts



My Commission Expires: