

CAPE COD COMMISSION

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Date: April 26, 2004

Applicant: Mark Grenier
North Bay Partners, Inc.
C/o Attorney Michael Ford
72 Main Street
P.O. Box 665
West Harwich, MA 02671

Re: Change of Use Determination

Project: North Bay Partners, Inc. - Hyannis

Project #: CU-04005

Book: 15841 Page: 328

Land Court Certificate #: 167140 Plan(s): 33817(B)

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), through its Regulatory Committee, has determined that the project as proposed by North Bay Partners Inc., represented by Attorney Michael Ford of Stinson & Ford, which is described as the proposed conversion of a building at 22 Attucks Lane in Hyannis, MA, formerly occupied by a lithography business to professional office condominiums, does not warrant further review by the Commission. This decision is rendered subject to Section 3(f)(1) and 3(f)(2) of the *Enabling Regulations*. This decision is rendered pursuant to a vote of the Regulatory Committee on April 26, 2004.

PROJECT DESCRIPTION

The project under consideration by the Regulatory Committee was the conversion of an existing building at 22 Attucks Lane, Hyannis to eight (8) professional office condominiums. The site had been formerly occupied by a lithography company through 2001. Another company called Widax, which designed and manufactured Internet



equipment, had sought to develop the building as an office technology center in 2002 but was unable to do so because of bankruptcy.

The site was the subject of a Cape Cod Commission review (as a Development of Regional Impact) in 1993. At that time, the building was 19,392 square feet in size, and On-Cape Lithographers proposed a 7,742 square foot addition and associated site work to accommodate additional storage and expansion of bindery operations. The DRI review resulted in the issuance by the Commission of an August 19, 1993 DRI decision with conditions. The project that was the subject of the 1993 DRI review never went forward.

Also, in the time between occupancy of the site by On-Cape Lithographers and its ownership by North Bay Partners, a portion of the building was raised for construction of a second floor. As such, the square footage of the building was increased from 19,768 in approximately 2001 to 28,787 square feet (an increase of 9,019 square feet). The site is supplied by sewer.

PROCEDURAL HISTORY

On March 8, 2004, Commission staff met informally with Town of Barnstable staff and the applicant to discuss the project. On March 16, 2004, the applicant filed a Change of Use application with the Commission. On April 8, 2004, Commission and Town of Barnstable staff met formally with the applicant to discuss the project. On April 12, 2004, Commission staff determined that the application was substantially complete to proceed to a public hearing. The Regulatory Committee held the public hearing on this project on April 26, 2004.

Materials Submitted for the Record

Applicant

Cover Letter and attachments	3/16/04
Quit-claim Deed (part of Change of Use Application)	
Change of Use Fee (part of Application)	
Site Plans (large set and reduced size) (part of Application)	
Letter indicating receipt of information by Town	4/7/04
Letter indicating receipt of information by Town (2 nd copy)	4/8/04
E-mail concerning site plan	4/21/04
Information on transportation issues	4/26/04
Certified Abutters List	

Cape Cod Commission

In House Staff Routing Sheet for the project	3/22/04
E-Mail – Commission Staff – Energy	3/23/04
E-Mail – To Commission Clerk – Water Company	3/24/04
E-Mail – To Town – Project issues	3/24/04
Fax – Transmission of letter from public to Attorney Ford	3/25/04
Letter (and Fax Cover Sheet) deeming application complete	4/12/04

Cape Cod Commission (continued)

Fax (and attachments) to Attorney Albert Shultz	4/13/04
Letter – Proceed at your risk	4/13/04
Staff Report	4/21/04
Letter – Staff Report to Attorney Ford	4/21/04
Fax Cover Sheet – Staff Report to Attorney Ford	4/21/04
Copy of Sections of <i>Enabling Regulations</i>	
Hearing Notice	
Agenda – Regulatory Committee (for 4/26/04)	

Town of Barnstable and Other Public Entities

E-mail – Scheduling Meeting with Staff	3/24/04
Letter – Deputy Fire Chief Coffin – Concerns about project	4/9/04
Letter – Barnstable Planning Director – General comments	4/12/04

General Public

Letter – Concerned Citizen – Expresses concerns about project	2/13/04
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The application and notices of public hearings relative thereto, the staff reports, exhibits and correspondence, the transcript and minutes of hearings, and all written submissions received in the course of our proceedings including materials submitted with file CU-04006 are incorporated into the record by reference.

JURISDICTION

The proposed project is subject to review by the Commission, through the Regulatory Committee, based on Sections 3(f) and 4(b) of the *Enabling Regulations* (as revised September, 2002).

TESTIMONY

The Regulatory Committee of the Cape Cod Commission held a public hearing beginning at 9:30 AM on Monday, April 26, 2004 at the Commission's office at 3225 Main Street in Barnstable MA.

Mr. Ansel opened the hearing for the Change of Use for North Bay Partners at 9:35 A.M. Mr. Platt read the hearing notice. Mr. Dorr Fox, Commission staff, explained the change of use regulations. Ms. Andrea Adams presented the Commission staff report. She explained that the staff recommended that the Commission review the project as a DRI for transportation and hazardous materials impacts.

Mr. Cole noted that it was uncertain whether there would be hazardous materials impacts and suggested that the Commission not review this topic for the project. Ms. Adams noted that the project is within a Wellhead Protection District/Zone II and if the Commission reviewed this issue, conditions could be placed on it to protect the groundwater. Mr. Ansel stated that he agreed with Mr. Cole, and questioned whether the units would be sold as condominiums.

Attorney Michael Ford gave the applicant's presentation. He explained that the building previously housed On-Cape Lithographers. The building was converted to offices to house a company named Widax, but was never occupied. An addition was completed and the applicant was intending to lease the building for professional offices, including medical offices. He stated that the overall increase in impacts did not warrant DRI review. He noted that the physical appearance of the building has been improved and that the hazardous materials on the site have decreased.

The applicant stated that he believed that the transportation infrastructure in the vicinity had been improved, and the traffic in the area had decreased because there are several vacant buildings.

Ms. Taylor inquired about hazardous materials associated with X-ray machines and mercury thermometers. The applicant responded that he did not know the answers to Ms. Taylor's questions.

Mr. Cole noted that there was a large discrepancy in the traffic generation numbers submitted by the applicant and the Commission staff. He questioned how the Saturday peak hour trips could be so high. Mr. Tim Boesch, Commission staff, explained that there would be major transportation impacts from the project. He noted that the adjacent intersection may need to be reconstructed in the future and the medical offices could be open on Saturday.

Mr. Glen Coffin, Barnstable Deputy Fire Chief, requested that the Commission require devices on the signals that would change traffic lights for fire and other emergency vehicles. Mr. Ford stated that the applicant would discuss this matter with the fire department.

Commission members questioned whether the Commission had jurisdiction over the project. Mr. Fox and Attorney Margaret Callanan, Commission Counsel, stated that the Commission did have jurisdiction over the project. Attorney Callanan explained the change of use process.

Mr. John Harris stated that he did not find that there would be greater impacts from the proposal in comparison to the previous use on the site. Ms. Susan Kadar, Mr. Broidrick and Mr. Cole stated that they agreed with this position.

Ms. Kadar moved to allow the project to proceed without further Commission Development of Regional Impact (DRI) review. Mr. Broidrick seconded the motion and it was unanimously approved.

Ms. Kadar moved to close the hearing at 10:25 a.m. Mr. Frank Hogan seconded the motion and it was unanimously approved.

FINDINGS

The Commission, through the Regulatory Committee, has considered the Change of Use application of North Bay Partners, Inc., as represented by Attorney Michael Ford, for the proposed conversion of the On-Cape Lithographers building at 22 Attucks Lane in Hyannis, MA into eight professional office condominiums.

Based upon consideration of such application, and information presented at the public hearing and submitted for the record, the Commission, through the Regulatory Committee, found that the project qualified for no further Commission review because the overall impacts of the proposed project were found to be not more detrimental than those of the immediately prior use.

CONCLUSION

Based upon the above finding, the Regulatory Committee concluded that as proposed, the project may proceed without Development of Regional Impact review.

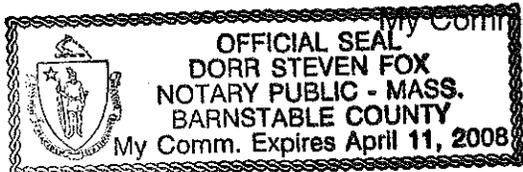
David Ansel
David Ansel, Chair, Regulatory Committee

4/29/07
Date

**Commonwealth of Massachusetts
Barnstable, ss.**

On this 29th day of April, 2004, before me, the undersigned notary public, personally appeared David J. Ansel, proved to me through satisfactory evidence of identification, which were personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Dorr Steven Fox
Notary Public
Commonwealth of Massachusetts



My Commission expires: