

CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136

E-mail: frontdesk@capecodcommission.org

DATE: January 3, 2005

TO: Kevin M. Boyar, Sales Manager, JCJ Inc.

FROM: Cape Cod Commission

RE: Modification of Development of Regional Impact Decision
dated September 23, 1999
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: JCJ Inc
C/o Kevin M. Boyar
184 West Boylston Street
West Boylston, MA 01583

PROJECT: Norse Pines Cluster Subdivision - Sandwich, MA

PROJECT DRI NUMBER(s): TR-9044 and TR-9904

BOOK and PAGE:

Book 6579	Page 093
Book 6638	Page 038
Book 2363	Page 123
Book 2741	Page 072
Book 4701	Page 288
Book 4701	Page 290
Book 4759	Page 302
Book 5787	Page 115
Book 10344	Page 115

MODIFICATION TO DEVELOPMENT OF REGIONAL IMPACT DECISION

The Development of Regional Impact (DRI) decision dated September 23, 1999 for the Norse Pines Cluster Subdivision project is hereby amended by a vote of the Regulatory Committee on January 3, 2005. All conditions attached to the original decision dated September 23, 1999 continue to apply except as modified herein.

To date, there have been two other modifications of the DRI decision. In 2001, the Town of Sandwich requested that the then-property owner (Atwood & Spring Hill Cranberries) re-record a modified set of plans that included cross-hatching to delineate wetlands and other non-substantial corrections. These modifications to the site plans were determined to be



Minor Modifications Type #1 by Cape Cod Commission staff.

In a decision dated August 30, 2004 the Regulatory Committee granted JCJ Inc. modifications of Natural Resources Condition NR14 and Affordable Housing Condition AH1. These modifications were deemed to be Minor Modifications Type #2 by the Regulatory Committee.

CHANGES TO 1999 FINDINGS

The following changes are made to the Affordable Housing Findings of the 1999 DRI decision (as amended):

Finding AH1

Change as shown:

"AH1. Minimum Performance Standard 5.1.3 of the Regional Policy Plan requires any residential Development of Regional Impact to set aside at least 10% of the lots for affordable housing. ~~In this instance, the Norse Pines subdivision is required to set aside four lots.~~"

Finding AH2

Change as shown:

"AH2. The applicant has agreed to comply with MPS 5.1.3, through one of the means allowed by Regional Policy Plan MPS ~~5.1.2~~. **5.1.4**. The applicant has proposed to provide ~~four lots (Lots 2, 9, 21 and 34) within the proposed subdivision to the town of Sandwich to be used for affordable housing purposes. The provision of these lots will be phased as the project is constructed and as described in this decision~~ **a cash contribution of equivalent value of lots 2, 9, 21 and 34 within the Norse Pines subdivision to a local fund for affordable housing.**"

Finding AH3

Delete as shown:

~~"AH3. Following a review of the site plan and a site visit to the approximate location of the four lots, the Commission has determined the proposed lots acceptable for the provision of affordable housing."~~

Finding AH4

Change and renumber as shown:

"~~AH4.~~ **AH3**. The units created **via a cash contribution** will be subject to an Affordable Housing Deed Restriction **that includes an affordability period of in perpetuity or the longest period allowable by law**. The intent of the restriction is to preserve the long term affordability of the unit in order to provide housing opportunities for future low-income homebuyers. Consistent with that stated purpose the Commission has established sales price and rent limits for housing units."

Finding AH5

Renumber as shown:

"~~AH5.~~ **AH4**. The Commission has determined that a priority need exists for purchase of affordable homes by first-time homebuyers in Sandwich and throughout Barnstable County. The Commission has also determined that a priority need exists for the provision of affordable

rental units for low income households in Sandwich and throughout Barnstable County. The Commission has further determined that a priority need exists for the provision of two and three bedroom units to rent or own in Sandwich and throughout Barnstable County."

Finding AH6

Delete as shown:

~~"AH6. As noted in finding G7, the applicant is proposing to create a Declaration of Covenants and Restrictions for the proposed subdivision. The applicant has agreed to modify the draft of this document dated 3/15/99 to reflect a minimum house size of no greater than 1100 sq. ft. for houses in the subdivision. This provision is intended to ensure that affordable units can be constructed on the four lots and that such units are as consistent in character, as much as possible, with other houses within the proposed subdivision."~~

CHANGES TO CONDITIONS

The following changes are made to the Affordable Housing Conditions of the 1999 DRI decision (as amended):

Condition AH1

Delete condition AH1 as modified by August 30, 2004 Modification decision and add new language as shown:

~~AH1. The applicant shall contribute one affordable housing lot to the Town of Sandwich prior to application for each of the Phase 3, Phase 4 and Phase 5 Certificates of Compliance and one (1) affordable lot prior to application for the Final Certificate of Compliance. The final affordable housing lot shall be provided immediately after the covenant release for the final group of ten lots, and in no case later than issuance of the fifth building permit for the final group of ten lots. These affordable housing lots shall be deeded to the Town of Sandwich, to be used solely for affordable housing purposes in accordance with the conditions of this decision. To insure compliance with this decision, but to also accommodate discussions between the applicant, Town of Sandwich, and Cape Cod Commission on alternative methods of meeting the affordable housing requirements of this decision, the applicant shall place in escrow the deed to one (1) of the affordable lots prior to issuance of the Phase 3 Partial Certificate of Compliance by the Cape Cod Commission.~~

"AH1. (a) Prior to application for a Phase 4 Partial Certificate of Compliance from the Cape Cod Commission, the Applicant shall provide, to the Cape Cod Commission, two separate payments, each in the amount of \$312,500.00. Such payments shall be made upon the retail conveyance by Applicant to an independent retail Buyer of any of the lots identified in the list of lots requested by the Applicant as part of the Phase 4 Partial Certificate of Compliance. In no event shall full payment of \$625,000.00 be issued by the Applicant later than March 1, 2005.

(b) Prior to application for a Phase 5 Partial Certificate of Compliance from the Cape Cod Commission, the Applicant shall provide to the Cape Cod Commission, two separate payments, each in the amount of \$312,500.00. Such payments shall be made upon the retail conveyance by the Applicant to an independent retail Buyer of any of the lots identified in the list of lots requested by the Applicant as part of the Phase 5 Partial Certificate of Compliance. In no event shall full payment of \$625,000.00 be issued by the Applicant later than June 1, 2005.

(c) All funds, as described above shall be held in escrow by the Cape Cod Commission, to be released in conjunction with the Town of Sandwich/Housing Assistance Corporation/Cape Cod Commission Affordable Housing Program for this project, and as outlined in the attached document."

Condition AH2

Delete part of condition AH2 and add new language as shown:

"AH2. Prior to application for a Phase 1 Partial Certificate of Compliance, the applicant shall provide a letter from the Sandwich Board of Selectmen committing to the development of **affordable units in connection with this project.**" ~~the four affordable housing units no later than two years from the date the final lot is conveyed to the town of Sandwich. In the event the town is unable to meet this deadline, it may request an extension from the Commission. In the event that an extension is not requested by the town, or if the town fails to develop the four lots within the two year period, the four lots shall be conveyed, at no expense, to the Commission. This requirement will be enforced through a Cape Cod Commission approved deed restriction. The letter provided by the town shall specify that the affordable units created by this section shall consist of either two or three bedrooms and, at the time of transfer, shall be subject to the Commission's income and purchase price limits, as well as, the Commission's definition of a first time homebuyer. Further, the affordable units will be subject to the Commission's forty year deed restriction. The affordable units created through this section shall be purchased by an eligible household through a lottery process established by the Commission. Preference shall be given to Barnstable County residents with regard to purchase of the affordable housing unit created by the section.~~

SEE NEXT PAGE FOR ADDITIONAL NEW LANGUAGE AND SIGNATURE

Condition AH3

Add a new Condition AH3 as shown:

"AH3. All affordable units created as a result of this decision shall be subject to the Cape Cod Commission's affordable housing restriction that includes an affordability period of in perpetuity or the longest period allowable by law."



Frank Hogan, Chair, Regulatory Committee

1/8/05

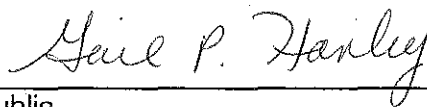
Date

**Commonwealth of Massachusetts
County of Barnstable**

Before me, the undersigned notary public, personally appeared Frank Hogan, in his capacity as Chairman of the Regulatory Committee of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was

proved to me through satisfactory evidence of identification, which was _____ photographic identification with signature issued by a federal or state governmental agency,

_____ oath or affirmation of a credible witness, or personal knowledge of the undersigned.



Notary Public

My Commission Expires: October 13, 2011