



## CAPE COD COMMISSION

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DATE: April 18, 2006  
TO: Cape Cod Cooperative Bank  
FROM: Cape Cod Commission  
RE: Modification of Development of Regional Impact decision  
dated February 9, 2006  
APPLICANT: Cape Cod Cooperative Bank  
PO Box 310  
Yarmouthport, MA 02675-0310  
PROPERTY OWNER: Cape Cod Cooperative Bank  
PROJECT: Cape Cod Cooperative Bank Operations Center  
Benjamin Franklin Way  
Independence Park, Hyannis, MA  
PROJECT #: #TR 05026  
MAP/PARCEL: Map 296, Parcel 29 and 30  
Map 314, Parcel 42  
BOOK/PAGE: Book 13196, Page 291  
Book 11462, Page 88

### **MODIFICATION TO DEVELOPMENT OF REGIONAL IMPACT DECISION**

The Cape Cod Commission approved a Development of Regional Impact (DRI) decision dated February 9, 2006 for a 36,250 square foot, two-story operations center located on Benjamin Franklin Way within Independence Park in Hyannis, MA.

According to condition NR2 in the February 9, 2006 decision, *the applicant shall contribute \$250,000 to the Barnstable County Treasury for the Town of Barnstable fund for open space acquisition prior to the issuance of a preliminary Certificate of Compliance.* In April 2006, the applicant made an application for a minor modification to allow for the establishment of an escrow agreement for the open space contribution as outlined in condition NR2.

The DRI decision dated February 9, 2006 is hereby amended as a minor modification #2 by a vote of the Regulatory Committee on April 18, 2006. All conditions attached to the original decision dated February 9, 2006 continue to apply except as modified herein.

**Condition NR2** is replaced with the following:

1. The applicant shall deposit Two Hundred Fifty Thousand (\$250,000.00) dollars ("the escrow funds") with the Barnstable County Treasurer prior to the issuance of a preliminary Certificate of Compliance, which funds will be held in escrow by the Barnstable County Treasurer ("the treasurer"). The treasurer shall hold the escrow funds



until May 31, 2006, unless the applicant provides a written request to the Executive Director for an extension as outlined in paragraph five of this condition. The applicant may seek the return of the escrow funds from the Treasurer by submitting a letter to the Executive Director of the Cape Cod Commission (the Commission) from a duly authorized officer of the Cape Cod Cooperative Bank, indicating that the applicant has failed to obtain a local building permit and/or failed to close on the purchase of the land upon which the project is sited, and further requesting that the Cape Cod Commission rescind the DRI approval decision.

2. The rescission of the DRI decision # 05026 shall be placed on the next Cape Cod Commission meeting agenda for a vote and the results of that vote shall be placed on record with the Barnstable Registry of Deeds. Once this vote is on record, the Executive Director may authorize the Treasurer to release the escrow funds to a duly authorized agent of the applicant.

3. Prior to May 31, 2006, the Executive Director may authorize the treasurer to release the escrow funds to the Town of Barnstable for open space acquisition once the local building permit has issued and the applicant has provided written notice to the Commission that development as defined by the CCC Act has commenced on site. In the event the Applicant does not provide written notice of development which has begun on the property, the CCC staff may make a written request to the Applicant that it be allowed to conduct a site inspection. The Applicant shall allow for such inspection within 5 calendar days of a written request. If CCC staff determines that development has begun upon the property, then the Executive Director of the CCC may authorize the treasurer to release the escrow funds to the Town of Barnstable for open space acquisition unless the Applicant seeks a determination as to the ownership of the escrow funds pursuant to paragraph eight of the escrow agreement.

4. In the event that the Executive Director of the Commission receives no written notice or correspondence from the Applicant prior to May 31, 2006 requesting either an extension or the return of the escrow funds as outlined in paragraph one, the Executive Director of the Commission may authorize the Treasurer to disburse the escrow funds to the Town of Barnstable fund for open space acquisition in accordance with the terms of the escrow agreement. Subsequent to May 31, 2006, in the event the applicant has sought an extension of time to obtain either a building permit from the Town of Barnstable or closing upon the property in accordance with paragraph five, the Executive Director of the CCC may authorize the Treasurer to release the escrow funds provided the conditions and the procedure outlined in paragraph three are completed.

5. The applicant may notify the Cape Cod Commission before May 31, 2006 by letter to the Executive Director of the Commission that it has not yet obtained a building permit or yet closed on the property and further requesting that the escrow period be extended until such time that the building permit has issued and the applicant has closed on the property. During the extended escrow period, the escrow funds shall remain in escrow with the Barnstable County treasurer. In no event shall the extension period exceed seven years from the date of the escrow agreement. Should the applicant seek the return of the

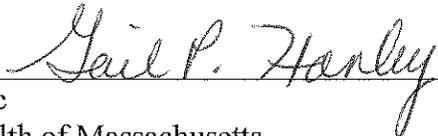
escrow funds at any time, the DRI decision # 05026 shall be rescinded in accordance with the procedure outlined in paragraph two of this condition.



Jay Zavala, Chairperson  
Cape Cod Commission  
Commonwealth of Massachusetts  
County of Barnstable

5/30/06  
Date

On this (30<sup>th</sup>) day of (May), (2006), before me, the undersigned notary public,  
personally appeared (Jay Zavala), proved to me through satisfactory evidence of  
identification, which was personal knowledge to be the person whose name is signed on the  
preceding or attached document, and acknowledged to me that (he)(she) signed it  
voluntarily  
for its stated purpose.



Notary Public  
Commonwealth of Massachusetts

My Commission Expires: 10/13/11