



CAPE COD COMMISSION

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Date: November 18, 2008

To: Michael D. Ford, Esquire

From: Cape Cod Commission

RE: Modification of a Development of Regional Impact Exemption

Applicant/Owner: Hearth N' Kettle Properties, LP / Cape Codder Resort

Project: Cape Codder Resort Expansion
1225 Iyannough Road
Hyannis, MA 02601

Project #: EX 07019

Book/Page: Book 15617 Page 338

Land Court: Certificate of Title # 160228 Land Plan: 31689-A

Background

The above referenced project, the Cape Codder Resort Expansion, was approved as a Development of Regional Impact Exemption (DRI Exemption) by a vote of the Cape Cod Commission (Commission) on January 10, 2008.

In a letter received by the Commission on November 13, 2008, Attorney Michael Ford, Esq., representing Hearth N' Kettle Properties, LLP/ Cape Codder Resort (Cape Codder) notes that the Cape Codder has requested that the Town of Barnstable issue Occupancy Permits for seven (7) of the fifteen (15) proposed new hotel units authorized by the DRI Exemption decision, and requests that the decision be amended to allow for issuance of a Certificate of Compliance by the Commission for the seven new residential units. The reason for the request is to accommodate a phased construction schedule which is anticipated to include three (3) occupancy phases.

The DRI Exemption decision states that *prior to the issuance of a Certificate of Occupancy from the Town of Barnstable, the Applicant must receive a Certificate of Compliance from the Cape Cod Commission to ensure that the project for which the Applicant received an exemption is*



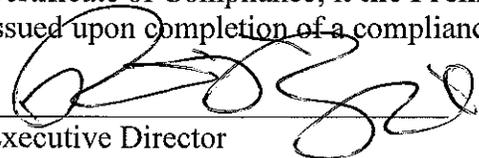
constructed according to the proposed plans filed with the DRI Exemption application and is consistent with the findings of this decision.

Determination

The Executive Director of the Cape Cod Commission has determined that the requested revision to the original DRI Exemption decision to accommodate a phased construction schedule constitutes a *de minimus* change to the DRI Exemption decision. Based on this, the Commission's Executive Director hereby approves this request as a Type 1 Minor Modification. The following changes shall be made to the original DRI Exemption decision to reflect Attorney Ford's request as described above.

Changes to Second Paragraph, Conclusion Section of Original DRI Exemption Decision

Prior to the issuance of a **temporary or final** Certificate of Occupancy from the Town of Barnstable, the Applicant must receive a **Preliminary or Final** Certificate of Compliance from the Cape Cod Commission. **Prior to issuance of a temporary or final Certificate of Occupancy from the Town of Barnstable for the last phase of construction, the Applicant must first obtain a Final Certificate of Compliance from the Cape Cod Commission.** This **These** provisions **is are** necessary to ensure that the project for which the Applicant received an exemption is constructed according to the proposed plans filed with the DRI Exemption application and is consistent with the findings of this decision. The Applicant shall provide a minimum of ten (10) business days notice of the intent to seek **either a Preliminary or Final** Certificate of Compliance; ~~the Preliminary or Final Certificate of Compliance~~ will be issued upon completion of a compliance inspection by Commission staff.


Executive Director

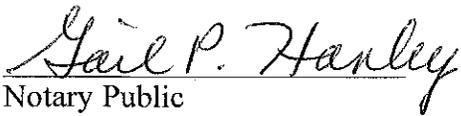
11/18/08
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

11/18, 2008

Before me, the undersigned notary public, personally appeared Paul Niedzwiecki in his capacity as Executive Director 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: 10/13/11