

# 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](mailto:frontdesk@capecodcommission.org)

## Minor Modification Type #2

Date: June 12, 2008

To: Michael D. Ford, Esq.      *Applicant:* Couto Management Group, LLC  
P.O. Box 485                      169 Main Street  
West Harwich, MA 02671              Stoneham, MA 02180

From: Cape Cod Commission

Project #: HDEX #06013

Owner: JJ Realty Trust June 1, 1992  
Joseph P. Sullivan, Trustee

Project Name: Dunkin Donuts/Retail Development

Site Location: 927 Route 28 (Main Street)  
West Dennis, MA

Recording Information: Map and Parcel:      Map 84      Parcel 51-0-R

Certificate of Title #: 127221  
Land on Plan: 40416-A

---

## MODIFICATION TO DEVELOPMENT OF REGIONAL IMPACT HARDSHIP EXEMPTION DECISION

The October 5, 2006 Development of Regional Impact (DRI) Hardship Exemption (HDEX) decision issued by the Cape Cod Commission (Commission) to Couto Management Group, LLC for construction of a 2,050 square foot Dunkin Donuts restaurant and a 1,500 square foot retail business at the southwest corner of Route 28 and Route 134 in Dennis is hereby amended by a vote of the Commission's Regulatory Committee on June 12, 2008. All findings and conditions attached to the original decision dated October 5, 2006 continue to apply except as modified herein.



## Transportation Findings

Finding T3. The standard of review for transportation safety impacts is 25 or more peak hour trips through a high crash location. Based on information outlined in the Cape Cod Commission's draft Route 28 Safety and Traffic Flow Study, dated January 13, 2006, the Route 28/Route 134/Swan River Road intersection is a high crash location and the project is expected to generate more than 25 peak hour trips through this intersection. Therefore, this project is expected to create a safety concern at the regional intersection of Route 28/Route 134 and Swan River Road.

The Cape Cod Commission's draft Route 28 Safety and Traffic Flow Study, dated January 13, 2006 documented that angle crashes were prevalent at this location and recommended a potential solution at this intersection of having left turn lanes. Several meetings were held with the applicant, Town of Dennis Officials and Cape Cod Commission staff to discuss the problems at this intersection and potential solutions. All parties agreed that exclusive left turn lanes on Route 28 and upgraded traffic signal equipment would help reduce these types of crashes.

The applicant's transportation engineer determined that the cost to construct the left turn lanes and new traffic signal equipment would be approximately \$460,000. The applicant has stated that the cost of this improvement is beyond the scope of this project. Based on previous DRI projects, Cape Cod Commission transportation staff agrees with the applicant's assessment. The applicant has offered to redesign the intersection and the applicant's transportation engineer has determine that the cost to redesign this intersection with left turn lanes and upgraded traffic signal equipment would be approximately \$100,000. Cape Cod Commission transportation staff agrees with this cost assessment. The Subcommittee concludes that the per square foot cost ( $\$100,000/3,550 \text{ SF}=\$28.17/\text{SF}$ ) of this mitigation is comparable with other Developments of Regional Impact reviewed and approved by the Cape Cod Commission.

The Subcommittee recommends the applicant design the Route 28/Route 134/Swan River Road intersection such that the Town of Dennis can advance the project through the Cape Cod Transportation Improvement Program (TIP). **As of June 9, 2008, the Applicant had undertaken work to complete the redesign of the Route 28/Route 134/Swan River Road intersection as described in this Finding (T3). However, this work was not complete as of June 9, 2008. Commission transportation staff discussed with the Town of Dennis the possibility of completing the redesign of the Route 28/Route 134/Swan River Road intersection. The Town of Dennis had been involved in the redesign project, and had anticipated continued involvement in completion of the intersection redesign. To complete the intersection redesign work, the Applicant proposes to provide a payment of \$16,084.29 to the Town of Dennis, to be either held in escrow or used as a cash mitigation payment. The Town of Dennis, through the Town Engineer, has agreed to accept the responsibility to complete the intersection redesign, and the amount of**

**\$16,084.29 is acceptable to the Town of Dennis to complete the intersection redesign.**

Transportation Conditions

Condition T2. Prior to issuance of a final Certificate of Compliance (allowing for issuance of a certificate of occupancy) for the proposed 3,550 square foot development, the Applicant shall provide to the Commission staff for review and approval (including 25%, 75% and 100% submissions) all necessary plans and permits (including all MassHighway and town of Dennis permits) for the Route 28/Route 134/Swan River Road intersection redesign, as outlined in the Route 28/Route 134 Concept Improvement Plan by Rizzo Associates dated June 14, 2006 (revised September 18, 2006), in accordance with Transportation Finding T3. Such plans shall be approved by Cape Cod Commission staff prior to the issuance of the Certificate of Compliance.

**Condition T4: As of June 9, 2008, the design plans for the Route 28/Route 134/Swan River Road intersection were not complete. To complete the remaining design work, the Applicant shall provide to the Town of Dennis a payment in the amount of \$16,084.29 to be held in escrow or used as mitigation at the discretion of the Town of Dennis.**

  
\_\_\_\_\_  
Frank Hogan, Chair, Regulatory Committee

6/12/08  
\_\_\_\_\_  
Date

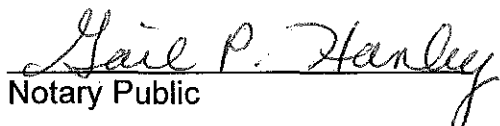
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

June 12, 2008

Before me, the undersigned notary public, personally appeared

Frank Hogan, in his capacity as Chairman of the Cape Cod Commission's Regulatory Committee, 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 personal knowledge of the undersigned.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 10/13/11