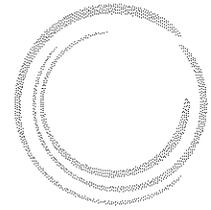


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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MINOR MODIFICATION TYPE #1

Date: August 17, 2010
To: Kathryn Zagzebski, President and Executive Officer
National Marine Life Center
From: Cape Cod Commission
RE: Modification of a Development of Regional Impact
Project of Community Benefit Hardship Exemption

Project & Location: National Marine Life Center
120 Main Street
Buzzards Bay, MA 02532

Project #: HDEX # 05018

Book/Page: Lot 2, Town of Bourne Barnstable Registry, Map 23 Book 2655, page 259; Lots 179, 180, 181, former Penn Central Lot Town of Bourne Barnstable Registry, Map 23.3 Book 2655, page 259; U.S. Army Corp of Engineers Map 16, Parcel 15 1/97, Book 453, Page 287

Background

The above referenced project, the National Marine Life Center (NMLC) was approved, with conditions, as Project of Community Benefit (POCB) Hardship Exemption (HDEX) a by a vote of the Cape Cod Commission (Commission) on November 17, 2005. The Commission Executive Director issued an April 26, 2006 Minor Modification Type 1 that allowed the proposed project to be divided into two phases: a utility building to take in seawater from and discharge seawater to the Cape Cod Canal (Phase 1) and all other development (Phase 2). A November 6, 2007 Minor Modification Type 1 decision authorized minor changes to the utility building's exterior.

The Commission's Regulatory Committee issued a Minor Modification Type 2 decision dated August 4, 2008, which allowed the NMLC to construct an entirely new animal hospital instead of reusing one of the Grossman's Hardware buildings because of a structural issue. The August 2008 Type 2 Minor Modification decision made various changes to the 2005 POCB/HDEX decision to accommodate the new construction. It also allowed for a third phase of development: Phase 1 = utility building, Phase 2 = new hospital, Phase 3=all other remaining portions of the project.



Keeping a Special Place Special

Jurisdiction

The Executive Director of the Commission has determined that revisions to the findings and conditions of the original decision, as modified on April 26, 2006, November 6, 2007 and August 4, 2008, to accommodate unfinished site work as part of Phase 3 constitutes a *de minimus* change, and can be approved as a Type 1 Minor Modification pursuant to Section 13(c)(i) of the Commission's *Enabling Regulations* (revised May 2010, corrected June 2, 2010).

The following changes shall be made to the findings and conditions of the original POCB/HDEX decision, as amended.

Changes to Original Decision as Modified

(Bold text indicates additions; struck out text indicates deletions)

General Findings

G.3 Phase One of the Project will be built in accordance with the following plans:

- Site Design Plans, sheets C 2.0 and C 3.0, prepared by Tibbetts Engineering, dated 3/13/06, received by the Commission on April 14, 2006
- Intake Structure Location Plan, sheet A-100, prepared by Chermayoff & Poole, Inc., dated 3/1/06, received by the Commission on April 14, 2006
- National Marine Life Center Rehabilitation Facility, Buzzards Bay, MA. *New Intake Structure/Utility Bldg.*, Site Plans and Exterior Elevations, Sheets S-0 to S-7, prepared by Blue Ridge Design, Inc., packet cover sheet dated 5/15/07, and Sheet M.1, Building Mechanicals, prepared by Comfort Design, Inc., dated 10/9/07, received by the Commission on October 23, 2007

Phase Two of the Project will be built in accordance with the following plans:

Existing Conditions site plans 1-6 prepared by Tibbetts Engineering, dated January 3, 2005; ~~included development plans dated May 30, 2003~~ Building Elevations A2.1, North-South Building Sections A2.3, Wall Sections A3.1, Life Support Legend LSO.1, Life Support Schedules LSO.2, Life Support Below Grade LS1.1, Life Support Lower Piping LS1.2, Life Support High Piping LS1.3, Site Plan A0.1; Sign Plan by Wendy Mellinger, dated May 30, 2003, of the architectural firm Chermeyeff, Sollogub and Poole Inc., Boston, MA; Scheme C-2, -5+15 Option, Plans: Main Level (No. SKA-12), Mezzanine Level (No. SKA-13), Section Study (No. SKA-14), Street Elevation Study/North Elevation (No. SKA-15), East Elevation Study/Fire Station Side (No. SKA-16), South Elevation Study/Main Receiving Side (No. SKA-17), from Cosestudi, dated June 24, 2008 and *Layout Plan*, Pesce Engineering & Associates, Sheet 1 of 1, dated June 24, 2008, revised July 18, 2008.

Phase Three of the Project will be built in accordance with the following plans, except as modified or replaced by those plans noted above for Phase One or Phase Two:

Existing Conditions **and Site Design Plan** ~~site plans~~ 1-6 prepared by Tibbetts Engineering, dated January 3, 2005; included development plans dated May 30, 2003 from of the architectural firm Chermeyeff, Sollogub and Poole Inc., Boston, MA, ~~Building Elevations A2.1, North-South Building Sections A2.3, Wall Sections A3.1, Life Support Legend LSO.1, Life~~

Modification Type 1 - Project of Community Benefit/Hardship Exemption Decision
Incomplete Site Work
National Marine Life Center
August 17, 2010

Support Schedules LSo.2, Life Support Below Grade LS1.1, Life Support Lower Piping LS1.2, Life Support High Piping LS1.3, Site Plan A0.1; Sign Plan by Wendy Mellinger, dated May 30, 2003, of the architectural firm Chermeyeff, Sollogub and Poole Inc., Boston, MA and *Layout Plan*, Pesce Engineering & Associates, Sheet 1 of 1, dated June 24, 2008, revised July 18, 2008.

General Conditions

G.1 Phase One of the proposed Project shall be constructed in accordance with the following plans:

- Site Design Plans, sheets C 2.0 and C 3.0, prepared by Tibbetts Engineering, dated 3/13/06, received by the Commission on April 14, 2006
- Intake Structure Location Plan, sheet A-100, prepared by Chermayoff & Poole, Inc., dated 3/1/06, received by the Commission on April 14, 2006
- Exterior Elevations, sheet A-200, prepared by Chermayoff & Poole, Inc., dated 8/3/05, received by the Commission on April 14, 2006

Phase Two of the proposed Project shall be constructed in accordance with the following plans:

Existing Conditions site plans 1-6 prepared by Tibbetts Engineering, dated January 3, 2005, including development plans dated May 30, 2003, Building Elevations A2.1, North-South Building Sections A2.3, Wall Sections A3.1, Life Support Legend LSo.1, Life Support Schedules LSo.2, Life Support Below Grade LS1.1, Life Support Lower Piping LS1.2, Life Support High Piping LS1.3, Site Plan A0.1; Sign Plan by Wendy Mellinger, dated May 30, 2003, of the architectural firm Chermeyeff, Sollogub and Poole Inc., Boston, MA Scheme C-2, -5+15 Option, Plans: Main Level (No. SKA-12), Mezzanine Level (No. SKA-13), Section Study (No. SKA-14), Street Elevation Study/North Elevation (No. SKA-15), East Elevation Study/Fire Station Side (No. SKA-16), South Elevation Study/Main Receiving Side (No. SKA-17), from Cosesudi, dated June 24, 2008 and *Layout Plan*, Pesce Engineering & Associates, Sheet 1 of 1, dated June 24, 2008, revised July 18, 2008.

Phase Three of the proposed Project shall be constructed in accordance with the following plans:

Existing Conditions **and Site Design Plan** site plans 1-6 prepared by Tibbetts Engineering, dated January 3, 2005, including development plans dated May 30, 2003, from Chermeyeff, Sollogub and Poole Inc., Boston, MA Building Elevations A2.1, North-South Building Sections A2.3, Wall Sections A3.1, Life Support Legend LSo.1, Life Support Schedules LSo.2, Life Support Below Grade LS1.1, Life Support Lower Piping LS1.2, Life Support High Piping LS1.3, Site Plan A0.1; Sign Plan by Wendy Mellinger, dated May 30, 2003, of the architectural firm Chermeyeff, Sollogub and Poole Inc., Boston, MA and the *Layout Plan*, Pesce Engineering & Associates, Sheet 1 of 1, dated June 24, 2008, revised July 18, 2008.

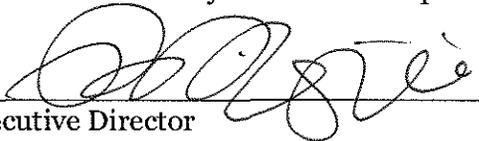
In addition, Phase Three shall include any landscaping, parking areas, gardens, site revegetation, site work or work on the new animal hospital or overall site and project not completed prior to issuance of a Final Certificate of Compliance for Phase Two. This includes but is not limited to the new hospital's loading dock, exterior egress stairs, awnings, and awning windows and any other site work shown on the Site Plans and drawings described above. This also includes any unfinished exterior lighting as described on these Site Plans and drawings and E-

mail correspondence received from Brian Moore of the National Marine Life Center by the Commission on October 6, 2009, and October 8, 2009 and by the Commission to Brian Moore of the National Marine Life Center on October 9, 2009.

Any deviation during construction from the approved plans **and related materials** shall require approval by the Cape Cod Commission through a modification process pursuant to the Commission's *Enabling Regulations*. The Applicant shall submit to the Commission any additional information deemed necessary to evaluate any modification to the approved plans.

Natural Resources Conditions

NR1. The Applicant shall revegetate the wetland buffer with an appropriate seed mix that does not contain plant species listed as invasive. The Applicant shall submit documentation, which identifies the contents of the proposed seed mix to be planted. Staff shall review this documentation to determine whether the mix contains any invasive species, and approve the final restoration plan prior to the Final Certificate of Compliance for **the project Phase One that includes completion of the wetland buffer restoration** provided that the **seed mix** does not contain any such invasive species.


Executive Director

8/17/10
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

8/17, 2010

Before me, the undersigned notary public, personally appeared

Paul Niedzwiecki, in his/her 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/she 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:
5-13-16