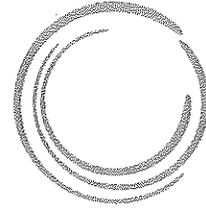


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CAPE COD
COMMISSION

Minor Modification Type #1

DATE: July 2, 2012

TO: Attorney Peter L. Freeman
Freeman Law Group LLC
86 Willow Street
Yarmouthport, MA 02675

FROM: Cape Cod Commission

RE: Modification of a Development of Regional Impact

PROJECT APPLICANTS: Floyd J. Silvia, Trustee, Sixty North Street Realty Trust and
Rose Capeway LLC

PROPERTY OWNER: Sixty North Street Realty Trust and Rose Capeway LLC

PROJECT # CU/HDEX/07018

PROJECT: Rose Motel Redevelopment/Lakeside Commons

LOCATION: 1555 Iyannough Road and 1575 Iyannough Road
Route 132, Barnstable, MA

BOOK / PAGE: Book 22146 Page 76

MAP/ PARCEL: Map 253 Parcel 16

Background

In a decision dated 2/12/08, the Cape Cod Commission (Commission), through the Regulatory Committee, issued a Limited Development of Regional Impact Determination for Change of Use (CU) decision, with conditions, Shallow Pond Nominee Trust and Sixty North Street Realty Trust which determined that the redevelopment of the property from the Rose Motel to an 18,260 square foot office building qualifies as a DRI. The CU decision also determined that the proposed project shall undergo limited DRI review in the issue area of transportation only.

In a decision dated 3/20/08, the Commission approved with conditions the application of Shallow Pond Nominee Trust and Sixty North Street Realty Trust for a DRI Hardship Exemption for the redevelopment of the Rose Motel as Lakeside Commons.

The March 2008 Hardship Exemption decision was modified by a decision dated 11/18/08 to accommodate changes made by Barnstable's Site Plan Review Committee, and the removal of the raised island proposed for the right in/right out driveway for the project. The raised island was determined to no longer necessary given the raised median in place as part of the completed Route 132 improvements.

Modification Request

On 6/19/12, Commission staff received a request from Attorney Peter Freeman representing Sixty North Street Realty Trust and Rose Capeway LLC to modify the Hardship Exemption decision to reflect proposed project changes. These changes include: a) elimination of the proposed drive-through bank, b) replacing the drive-through bank with office space (adding 900 square feet of office space on the first floor) c) increasing the size of the office building from 18,260 square feet to 18,870 square feet, d) revising the parking to add five (5) parking spaces, and e) to modify the decision to reduce the required transportation mitigation payment in recognition of elimination of the drive-through bank.

Commission Jurisdiction and Modification Types

Section 13(c) of the Commission's *Enabling Regulations*, as amended May 2011, sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "*revisions that are the result of more restrictive conditions imposed by a local board or technical corrections or changes that the Executive Director or his/her designee determine are de minimus changes to the project.*" The *Enabling Regulations* also state that Minor Modifications Type #1 "*shall be approved by that the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission.*"

Determination on Modification Requests

After consideration of the request by Attorney Freeman make changes to the proposed redevelopment of the Rose Motel into Lakeside Commons in Barnstable, MA the Commission's Executive Director has determined the requested changes constitute *de minimus* changes, and are approved as Minor Modifications Type #1.

Changes to 2008 Change of Use Decision and 2008 Hardship Exemption Decision

The following changes are hereby made to the Rose Motel Redevelopment/Lakeside Commons Change of Use decision and to the Hardship Exemption decision, as amended, as shown below to reflect the proposed project changes. New, added text is shown in **bold**. Text to be deleted is shown on ~~strikeout~~.

All findings and conditions attached to the original Change of Use decision and the Hardship Exemption decision, as amended, continue to apply except as modified herein.

CHANGE OF USE DECISION FINDINGS

F-G1. The project that is the subject of this Decision is as follows:

The project site is a 2.2-acre parcel located at 1555 Iyannough Road (Route 132), Hyannis, and is bounded on the south side by Shallow Pond, on the north by Route 132, and on the east by an office building at 1545 Iyannough Road and on the west by open space owned by the Town of Barnstable. While the development is proposed on the parcel identified as 1555 Iyannough Road (Route 132), the adjacent property (1575 Iyannough Road) is considered part of the developed site because a portion of the parking for the project is located there.

The project is located in a Growth Activity Center as designated in the Barnstable Local Comprehensive Plan. The parcel is split between two local zoning districts – highway business and residential zones.

The project proposes to demolish the existing Rose motel, an approximately 17,580 Square foot (SF), 27-unit, 38-room motel. The site will be redeveloped with an **18,870 SF** ~~18,260 SF~~, two-story professional office building and drive-thru bank with associated parking, landscaping, and stormwater and wastewater infrastructure. The Rose Lodge building (1575 Iyannough Road) will remain on site.

Currently the site has vehicle access through one driveway on Iyannough Road. An interconnect with abutting parcel(s) (1545 Iyannough Rod) is proposed. The existing access easement that provides a connection between commercial properties front on Route 132 and Old Strawberry Hill Road will be maintained. Zoning requires 60 parking spaces and **55** ~~57~~ will be provided.

F-G3. The proposed project is to be constructed according to the following plans:

- **Site Permitting Plans, Lakeside Commons Redevelopment Project Proposed Office Building and Drive-Thru Bank, prepared by BSC Group as revised 12/18/07 and dated as received by the Commission on 9/25/07, sheets C-1 – C-11, and as amended by Proposed Site Plan at 1555 Route 132, Hyannis/Layout by JC Engineering, Inc., 2845 Cranberry Highway, East Wareham, MA dated 6/22/12, prepared for Silvia & Silvia Associates, Sheet 1 of 1**
- **Site Drainage Plans, Lakeside Commons Redevelopment Project Proposed Office Building and Drive-Thru Bank, prepared by BSC Group as revised 12/18/07 and dated as received by the Commission on 9/25/07**
- **Floor plans, roof plan and exterior elevations for the Proposed Office Building and Drive-Thru Bank, prepared by Brown Linquist and Fenuccio & Raber Architects, Inc., dated 11/01/07 and dated as received by the Commission on 11/13/07, sheets A1.1, A1.2, A1.3, A2.1 and A2.2 and as amended by sheet A1.1, sheet A2.1 and sheet A2.2 entitled New Office Building/Lakeside Commons from Brown Linquist and Fenuccio & Raber Architects, Inc. dated 11/18/08, revised 3/30/12, received by the Commission on 6/19/12.**

Should unexpected conditions arise during demolition and construction that require redesign of the building, the applicant shall obtain approval from Cape Cod Commission staff prior to the start of construction consistent with ~~Section 12 of~~ the Commission's *Enabling Regulations* and Modifications to approved projects. Modifications made during construction that are in accordance with the approved elevation drawing shall be considered as Minor Modifications #1 and approved by Commission staff.

F-CC2. Goal 6.2 of the RPP encourages redevelopment and seeks to ensure that future development respects the traditions and character of Cape Cod consistent with the Commission's design manual, Technical Bulletin #96-001. The proposed building is consistent with RPP community character goals and standards. The proposed building has a footprint of approximately ~~9,000~~ **9,480** square feet, which is well below the 50,000 square foot footprint allowed for redevelopment projects under MPS 6.2.5. MPS 6.2.2 requires "in all cases, where new buildings and additions are proposed, that the mass and scale of the building, roof shape, roof pitch, and proportions and relationship between the doors and windows shall be

harmonious among themselves and consistent with traditional Cape Cod architectural styles.” The proposed design includes variation in the massing, façade, and roof form to reduce the apparent mass of the building, and the proposed materials are consistent with regional traditions.

F-LS1. MPS 6.2.7 requires parking to be located to the side or rear of a building in order to promote traditional village design in commercial areas, unless such location would have an adverse or detrimental impact on environmental or visual features on the site, or is infeasible. The proposed project consists of ~~52~~ 57 parking spaces that are located to the side and rear of the building, consistent with MPS 6.2.7. The proposed site design is not more detrimental than the immediate prior use.

F-EL2. Exterior lighting for the proposed project consists of ~~28~~ **nineteen (19)** total fixtures comprised of five pole-mounted metal halide fixtures, five metal halide bollards, ~~nine recessed metal halide fixtures at the drive-up~~, three recessed fluorescent fixtures, and six half-round wall lights. All of these light types are consistent with MPS 6.2.10 and Technical Bulletin 95-001. In addition, all of these lights meet the shielding and cut-off requirements specified by Technical Bulletin 95-001. It also appears that the lights will meet the mounting height limits for pole and on-building fixtures stipulated by the Technical Bulletin.

F-EL3. A revised foot-candle (Fc) plan dated 12/27/07 done by OMNI-Lite, Inc. provided by the project architects shows levels of 9.8 or less below the bank drive-up canopy **which is to be eliminated as part of a revised project design**, and lower foot-candle levels elsewhere on the site. *(The boldface number and letters shown on the 12/12/07 OMNI-LITE INC. plan are based on the Luminaire Location Summary table. The actual foot-candle levels shown on this plain are maintained levels, and are shown in small, lightface type arranged in a grid pattern.)* The revised and lower foot-candle levels shown on the OMNI-LITE plan for **the bank drive up canopy** are slightly more than what Technical Bulletin 95-001 allows (8.0 Fc), however, **these lights are to be eliminated as part of the new design that eliminates the bank drive up and canopy** the light levels will be under 8.0 foot-candles in a relatively short time; and therefore, the proposed project’s exterior lighting does not have more detrimental impacts than the exterior lighting of the immediate prior use.

HARDSHIP EXEMPTION DECISION FINDINGS

F-G5. In light of the projected trip generation for the proposed use, the Applicant ~~is proposing~~ **originally proposed** a fair-share mitigation contribution for use by the Town of Barnstable in the amount of \$84,000. **Based on Commission staff calculations, a congestion mitigation amount of \$54,600 would reflect the proposed project as modified.** These funds will be held at Barnstable County/Cape Cod Commission.

F-T3. The applicant’s transportation engineer calculated the expected trip generation of this project based on information contained in the Institute of Transportation Engineers Trip Generation manual 7th Edition. **Commission staff revised this estimate to reflect the proposed project as modified.** As shown in Table 1, the net increase in vehicle trips from the existing use is significant during the afternoon peak hour.

See Next Page for Table 1

Table 1 – Trip Generation Estimates (Increase From Current Use)

Time Period	Vehicle Trips Original Proposal ¹	Vehicle Trips Proposal As Modified ²
Average Daily Traffic	170	53
Morning Peak Hour	14	13
Afternoon Peak Hour	57	37

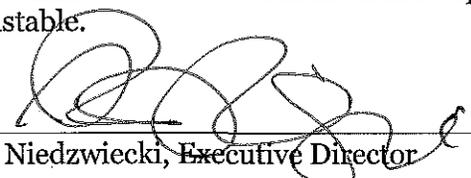
¹Based on ITE Trip generation manual, 7th Edition.

²Based on ITE Trip generation manual, 8th Edition.

F-T3. The transportation section of the RPP requires Developments of Regional Impact (DRI) to mitigate all traffic-related impacts associated with the proposed project. Appropriate mitigation can be achieved through in-kind strategies (roadway widening, signalization, etc.), non-structural means (transit, preservation of developable land) or a combination of these measures. The applicant's transportation engineer has submitted "fair share" calculations demonstrating compliance with the congestion requirements for the RPP. Based on the "fair-share" congestion mitigation calculations, the applicant has agreed to contribute \$84,000 into a congestion mitigation fund for the Town of Barnstable. **Based on Commission staff calculations, a congestion mitigation amount of \$54,600 would reflect the proposed project as modified.**

HARDSHIP EXEMPTION DECISION CONDITIONS

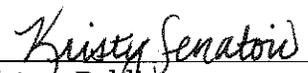
C-T6. Prior to receiving a Final Certificate of Compliance, the applicant shall contribute ~~\$84,000~~ **\$54,600** to a transportation mitigation fund to be held at Barnstable County/Cape Cod Commission. These funds shall be applied to any transportation project within the Town of Barnstable.


 Paul Niedzwiecki, Executive Director 7/5/12
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss 7/5, 2012

Before me, the undersigned notary public, personally appeared Paul Niedzwiecki in his/her capacity as the Cape Cod Commission's Executive Director, 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:

