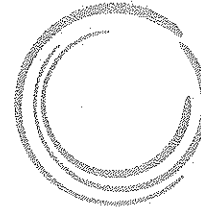


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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Minor Modification Type #2

DATE: September 13, 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 and Modification Request

As described in a February 2008 Change of Use decision, the project site is a 2.2 acre parcel that encompasses 1555 Iyannough Road (Route 132) and 1575 Iyannough Road (Route 132), Hyannis, MA. The site is bounded on the south by Shallow Pond, on the north by Route 132, on the east by an office building at 1545 Iyannough Road (Route 132), and open space to the west owned by the Town of Barnstable.

The 2008 project proposed to demolish the existing Rose Motel, an approximately 17,580 square foot, 27-unit, 38-room motel, and redevelop the site with a then 18,260 square foot, 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), consisting of nine (9) residential single room occupancy units was to remain on the site.

The 2/12/08 Change of Use decision, with conditions, determined that the redevelopment of the property from the Rose Motel to an office building qualified as a DRI. At that time, the Applicant was not proposing to change or demolish the Rose Lodge. The Change of Use decision also determined that the proposed project could undergo limited DRI review in the single issue area of transportation. In a decision dated 3/20/08, the Commission approved with conditions a DRI Hardship Exemption for the redevelopment of the site into Lakeside Commons.

The February 2008 Change of Use decision for the Rose Motel Redevelopment/Lakeside Commons project included the following two Affordable Housing findings that concern the Rose Lodge building (shown in italics):

F-AH2. The Rose Lodge building on the site has six one bedroom apartments with a shared kitchen, and the applicant has proposed no change to that building. MPS 5.1.13 [of the 2002 amended Regional Policy Plan] states that "For DRIs, residential and/or commercial construction, redevelopment, or subdivision development projects resulting in the reduction of non-condemned residential units shall be prohibited, unless otherwise permitted by the Commission."

F-AH3. Any proposed change to the current residential use at the Rose Lodge building will require Commission review as a modification of the DRI.

On 9/4/12, Commission staff received a request from Attorney Peter Freeman to modify the Change of Use decision to allow demolition of the Rose Lodge building.

Other Modifications Granted to Date

The first modification affected only the Hardship Exemption decision. The first modification was by a decision dated 11/18/08, and accommodated changes made by Barnstable's Site Plan Review Committee, and the removal of a 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.

The second modification, dated 7/2/12, changed both the Change of Use and Hardship Exemption decisions. The second modification allowed five changes to the proposed project: a) elimination of the proposed drive-through bank, b) replacing the drive-through bank with office space, c) increasing the size of the office building from 18,260 square feet to 18,870 square feet, d) revising the parking to add 5 parking spaces, and e) to reduce the required transportation mitigation payment in recognition of elimination of the drive-through bank.

Commission Jurisdiction and Determination on Modification Request

Section 13(a)(i) of the Commission's *Enabling Regulations* (Revised March 2011/New Fee Schedule Effective 7/1/12) provides that an Applicant "*who has obtained a favorable decision from the Commission, or a successor in interest to a favorable and transferable Commission decision, may apply for a decision modification.*"

The *Enabling Regulations* describe a Minor Modification Type #2 as "*a substantially similar proposal to the original project but involves a minor Change of Use, a minor change to the site plan, or a small change to the findings or a condition of the original approval which does not affect the intent or outcome of the finding or condition.*" The *Enabling Regulations* also state

Minor Modification Type #2 "shall not result in different or increased impacts to the resources protected by the Act and/or the RPP."

After consideration of the request by Attorney Freeman demolish the Rose Lodge building, the Commission's Regulatory Committee determined at a meeting on September 13, 2012 that the request to demolish the building constitutes a change to the Affordable Housing Findings of the Change of Use decision, and is approved as a Minor Modification Type #2.

MODIFICATION TO 2008 CHANGE OF USE DECISION

The following changes are hereby made to the Rose Motel Redevelopment/Lakeside Commons Change of Use decision, as amended, as shown below. 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.

FINDINGS

F-AH4. The Cape Cod Commission's Regulatory Committee has determined that the Applicant may demolish the Rose Lodge building which exists on the Rose Motel Redevelopment/Lakeside Commons project site. The Regulatory Committee grants this action as a Minor Modification Type #2 to the Rose Motel Redevelopment/Lakeside Commons Change of Use decision on September 13, 2012.

Royden Richardson 9-13-2012
Royden Richardson, Regulatory Committee Chair Date

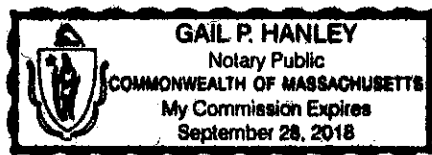
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Sept 13, 2012

Before me, the undersigned notary public, personally appeared Royden Richardson in his/her capacity as the Chair of the Cape Cod Commission Regulatory Committee, 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.

Gail P. Hanley
Notary Public



My Commission Expires: 9-28-18