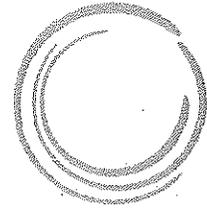


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Minor Modification Type #1

Date: August 9, 2012

To: Emerald Physician Services, Inc.

From: Cape Cod Commission

Project Applicant: Emerald Physician Services, Inc.
C/o Attorney Eliza Cox
Nutter, McClennen & Fish
1471 Iyannough Road.
P.O. Box 1630
Hyannis, MA 02601-1630

Property Owners: Cape Cotuit Center, LLC
C/o Stuart Hunziker
Eastern Real Estate, LLC
120 Presidential Way, Suite 300
Woburn, MA 01801

Project: Cotuit Landing Redevelopment and Expansion

Location: Route 28/Falmouth Road
Marston's Mills, Massachusetts

Project Number: JR-99013

Book/Page: Parcel 2, 3, and 4: Cape Cotuit Center, LLC
Book 10805, Page 177

Parcel 6: Cape Cotuit Center, LLC
Lot 12-B on Plan Book 475, Page 4
Book 10805, Page 177

Certificate #: Parcels 1, 5, and 7: Cape Cotuit Center, LLC
L.C. 22824-J, Lots 112, 114 and 115
Certificate of Title 144821

Parcel 8: EDT Cotuit, LLC
Book 13230, Page 58 and Book 12107, Page 258 and
Book 10805, Page 177

DECISION OF THE CAPE COD COMMISSION

Background

In a Development of Regional Impact (DRI) decision dated June 21, 2001, the Cape Cod Commission (Commission) approved with conditions the redevelopment and expansion of the existing Cotuit Landing Shopping Plaza on Route 28/Falmouth Road in Marston's Mills Massachusetts.

The original June 21, 2001 decision was modified by decisions dated 2/19/02, 3/18/02, 6/10/02, 10/7/05, 5/11/06 and 2/13/12. These modification decisions made a number of changes to the original decision, including updating the plans of record, modifying the Transportation conditions relating to Route 28 roadwork, changing the schedule for required field inspection of the exterior lighting, adjusting the schedule for provision of required open space, acknowledging that some retail shops could locate in the Plaza consistent with Condition WM1 which imposed certain limits on Hazardous Materials, and acknowledging an easement and plan that revised the site plan of record.

The project was granted a Preliminary Certificate of Compliance dated November 19, 2001 and was constructed. The project was granted a Partial Certificate of Compliance for Phase 1 on July 10, 2002 and a Partial Certificate of Compliance for Phase 2 on July 10, 2002.

Modification Request

In a letter dated 6/26/12 with attachments, Attorney Eliza Cox, Nutter, McClennen & Fish, requests a modification to the June 21, 2001 DRI decision, as amended, to allow Emerald Physician Services, Inc. to utilize one (1) of the 2,500 square foot liner buildings on the site for a medical office. A 4/2/12 letter included with Attorney Cox's 6/26/12 letter describes the type of medical office, number of exam rooms, number of employees and estimated number of patients seen per day.

Jurisdiction and Modification

Section 13(a)(i) of the Commission's *Enabling Regulations* (revised March 2011) 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.*"

Section 13(c) of the *Enabling Regulations* sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "*revisions that are a 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 #1 "*shall be approved by the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission.*" A Minor Modification Type #1 is governed by the Regional Policy Plan in effect at the time of the original Commission approval.

Determination

The Executive Director of the Cape Cod Commission has determined that revision to General Condition G7 of the June 21, 2001 DRI decision (as amended) to allow a physician's office as described in the 4/2/12 letter from Attorney Cox to utilize one (1) of the 2,500 square foot liner buildings on the site without modifications to the site or existing building other than a new exterior sign constitutes a *de minimus* change to the decision, and is approved as a Type 1 Minor Modifications according to Section 13 of the Commission's *Enabling Regulations* (as amended March 2011).

Changes to DRI Decision

Based on the Executive Director's determination, the following changes are made to the June 21, 2001 DRI decision, as amended. New text is shown in **bold**. All conditions attached to the June 21, 2001 decision, as modified, continue to apply except as modified herein.

Condition G7 is hereby modified as follows:

G7. The proposed Cotuit Landing Redevelopment and Expansion project shall be constructed in accordance with the following final plans:

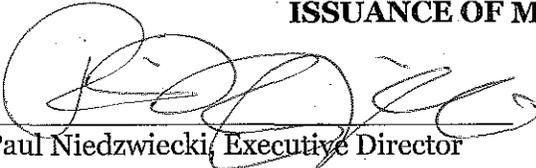
	Dated	Revised Date	Mod Approved
• <i>Layout and Materials Plan, C5</i>	11/30/00	02/20/01	Revised by an
<i>easement dated 9/28/00 and plan showing the easement dated 6/22/00 as granted to John T. Peck</i>			
• <i>Grading and Drainage Plan, C6</i>	11/30/00	05/09/01	
• <i>Utilities Plan, C7</i>	11/30/00	05/09/01	
• <i>Site Electrical Plan, SE-1</i>	11/30/00	05/09/01	
• <i>Landscape Plan, C8</i>	11/30/00	05/15/01	
• <i>Median Planting Plan, L-1</i>	01/26/01	02/22/01	
• <i>Open Space Plan</i>	05/15/01		
• <i>Elevations and Plans:</i>			
<i>Stop & Shop/Retail A, EL1</i>	03/22/01		
<i>Retail B, C, D, E, EL2</i>	04/13/01		
<i>Stop & Shop, EL3</i>	11/23/00		
<i>Retail, EL4</i>	11/23/00		
<i>Stop & Shop, F1</i>	05/15/01		
<i>Wastewater Treatment Shed, 1</i>	03/27/01		
• <i>Cotuit Liquors – Proposed Cooler</i>	11/29/01		2/19/02
• <i>Garden Center Plan</i>	undated		2/19/02
• <i>Elevations and Plans:</i>			
<i>Retail Bldg. A – Plans, Elevations & Details, A.A-1</i>	3/01/01	9/19/01	2/12/02
<i>Retail Bldg. A – Sections & Details, A.A-2</i>	5/21/01	9/19/01	2/12/02
<i>Retail Bldg. A – Refl. Clg. Plan & Details, A.A-3</i>	3/01/01	9/19/01	2/12/02
<i>Retail Bldg. B – Elevations, B.A-1</i>	7/01/01		2/12/02
<i>Retail Bldg. H – Plan, Elevations & Details, H.A-1</i>	3/01/01	9/19/01	2/12/02
<i>Retail Bldg. H – Sections & Details, H.A-2</i>	5/21/01	9/19/01	2/12/02
<i>Retail Bldg. H – Refl. Clg. Plan &</i>			

<i>Details, H.A-3</i>	<i>3/01/01</i>	<i>9/19/01</i>	<i>2/12/02</i>
<i>Retail Bldg. H – Roof Plan & Details, H.A-4</i>	<i>3/01/01</i>	<i>9/19/01</i>	<i>2/12/02</i>
<i>Retail Bldg. D – Elevations & Roof Plan, D.A-1</i>	<i>3/29/02</i>		
<i>Retail Bldg. E – Floor Plan, Elevations, Schedule & Details E.A-1</i>	<i>4/04/02</i>	<i>6/10/02</i>	

And as revised to allow a physician's/medical office to occupy one of the 2,500 square foot liner buildings without changes to the exterior of the building and without changes to the site.

The one exception to the prohibition on changes to the exterior of the building is that the physician's/medical office noted above may have signage on the exterior of the building so long as the signage is consistent with the requirements of the DRI decision, as amended.

ISSUANCE OF MODIFICATION DECISION


 Paul Niedzwiecki, Executive Director

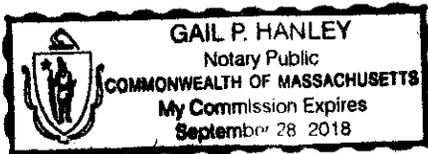
8/9/12
 Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

August 9, 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.



Gail P. Hanley
 Notary Public

My Commission Expires: 9-28-18