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CAPE COD
COMMISSION

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Minor Modification Type #1

Date: August 9, 2012

To: Richard Hayden
Stratford Capital Group
100 Corporate Place
Suite 404
Peabody, MA 01960

From: Cape Cod Commission

Re: Minor Modification
Development of Regional Impact Hardship Exemption
Project of Community Benefit
Cape Cod Commission Act, Sections 12, 13 and 23

Applicant: Stratford Capital Group
100 Corporate Place
Suite 404
Peabody, MA 01960

Project: Simpkins School Redevelopment

Project #: TR/HDEX 10018

Project Location: 134 Old Main Street, South Yarmouth, MA

Book and Page: Book 10 Page 180

Land Court: Certificate of Title # 2399 Plan # 14244-A

INTRODUCTION

The Simpkins School redevelopment project was approved as a Development of Regional Impact (DRI) Hardship Exemption/Project of Community Benefit (HDEX/POCB), with conditions, by a vote of the Cape Cod Commission (Commission) on January 6 2011. The 2011 DRI/HDEX/POCB decision has been modified once, in a decision dated 5/31/11. The 5/31/11

modification changed the project's proposed mix of market rate and affordable housing units from 65 affordable units to 58 affordable and 7 market rate units.

MODIFICATION REQUEST

On June 20, 2012, Commission staff discussed the timing of review and recording of affordable housing restriction with Richard Hayden of Stratford Capital Group. Mr. Hayden indicated that the affordable housing restriction documents would be finalized by the time the Applicant sought a Preliminary Certificate of Compliance from the Commission, and a Building Permit from the Town of Yarmouth. Mr. Hayden indicated, however, that the affordable housing restriction would not be recorded until prior to receipt of the local Certificate of Use/Occupancy.

COMMISSION ENABLING REGULATIONS - MODIFICATIONS

Section 13(c) of the *Enabling Regulations* (as amended July 2012) 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.*"

DETERMINATION

The Executive Director of the Commission has determined that revisions to findings and conditions of the January 6, 2011 DRI/HDEX/POCB decision, as amended, to allow the Applicant to record the affordable housing restriction prior to issuance by the Commission of a Final Certificate of Compliance, and prior to issuance by the Town of Yarmouth of the Certificate of Use/Occupancy constitutes a *de minimus* change, and is approved as a Type 1 Minor Modification according to Section 13 of the Commission's *Enabling Regulations* (as amended July 2012).

Changes to DRI/HDEX/POCB Decision

The following changes shall be made to the findings and conditions of the January 6, 2011 DRI/HDEX/POCB decision, as amended, reflect the requested change as described above. New text is shown in **bold**. Text to be deleted is shown in ~~strikeout~~.

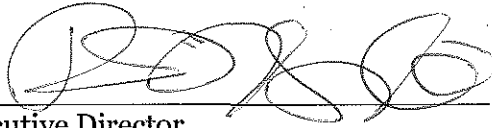
Findings

- AHF3. The Commission finds that in order to ensure compliance with MPS AH1.1 and MPS AH1.4, it is appropriate to require the Applicant to submit for Commission staff review and approval an affordable housing restriction **prior to issuance of a Preliminary Certificate of Compliance and to require the Applicant to submit** proof of recording of this restriction at the Barnstable County Registry of Deeds **and/or Land Court** prior to issuance of a ~~Preliminary Final~~ Certificate of Compliance in accordance with condition AHC1 of this decision.

AHF12. The Commission finds that to ensure compliance with MPS AH1.12 and MPS AH1.13, it is appropriate to require the Applicant to submit for Commission staff review and approval an affordable housing restriction prior to issuance of the Preliminary Certificate of Compliance and Building Permit and that such approved restriction be recorded at the Barnstable County Registry of Deeds **and/or Land Court** prior to issuance of a **Preliminary Final** Certificate of Compliance and prior to issuance of a Building Permit in accordance with condition AHC8 of this decision.

Conditions

AHC1. To ensure compliance with MPS AH1.1 and MPS AH1.4, the Applicant shall submit for Commission staff review and approval an affordable housing restriction **prior to issuance of a Preliminary Certificate of Compliance and prior to issuance of a Building permit** and shall record this restriction at the Barnstable County Registry of Deeds **and/or Land Court** prior to issuance of a **Preliminary Final** Certificate of Compliance and prior to issuance of a ~~Building Permit~~ **Certificate of Use/Occupancy**.


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 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.

Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18

