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CAPE COD
COMMISSION

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DRI MINOR MODIFICATION TYPE #1

DATE: DECEMBER 12, 2016

TO: SSJ REAL ESTATE HOLDINGS LLC
C/O ANDREW SINGER, ESQ.
P.O. BOX 67
DENNIS PORT, MA 02639

PROJECT: H.H. SNOW & SONS INC.
DBA SNOW'S HOME AND GARDEN
22 MAIN STREET, ORLEANS, MA
(CCC NO. 99024)

ASSESORS PARCEL ID: MAP 25 PARCEL 59

TITLE REFERENCE: BCRD BOOK 27092 PAGE 88
BCRD PLAN BOOK 553 PAGE 69
LAND COURT CERT. OF TITLE NO. 202360
LAND COURT PLAN 40135-A

SUMMARY

Pursuant to Section 13 of the Cape Cod Commission (Commission) Development of Regional Impact (DRI) Enabling Regulations, the Commission hereby further modifies the Development of Regional Impact Decision approved by the Commission for the above-referenced Project dated October 7, 1999, subsequently modified by decisions dated 2/28/2000, 10/16/2000 and 10/30/2000 (collectively the "DRI Decision"), as a Minor Modification Type #1 to allow *de minimus* changes to the approved Project as discussed herein that will not result in different or increased impacts to the resources protected by the Cape Cod Commission Act or the Regional Policy Plan.

DISCUSSION

The DRI Decision required the Applicant to permanently restrict approximately four acres as open space mitigation for the Project. The Applicant ultimately imposed a conservation restriction on approximately four acres of the Project Site, said restriction recorded with the Barnstable Registry of Deeds in Deed Book 13472 Page 302 and filed with the Barnstable Land Court as Document No. 821, 302 (“Conservation Restriction”). The Commission issued a Final Certificate of Compliance for the Project on 1/19/01.

With an eye towards expanding operations at Snow’s Home and Garden, and needing additional unrestricted, developable area on the Project Site to do so, the Applicant sought and obtained state and local approvals to amend the Conservation Restriction, removing approximately 40,000 sq ft of area from the land subject to the Conservation Restriction and depicted as “Unrestricted Area C 40,000+/- S.F.” on the sketch plan titled, “EXHIBIT PLAN ‘A’ BEING A PORTION OF ASSESSOR MAP 25 PARCEL 59, PROPERTY OF SSJ REAL ESTATE HOLDINGS, LLC, ORLEANS MA, Sheet SKC-1,” prepared by Coastal Engineering Co., Orleans, MA, dated 4/14/2016 (“40,000 sq ft area”), in exchange for a payment of \$200,000 to the Town of Orleans for open space protection purposes. The Amended Conservation Restriction is recorded with the Barnstable Registry of Deeds in Deed Book 30093 Page 297 and filed with the Barnstable Land Court as Document No. 1,308,646. The \$200,000 allowed the Town to acquire, pursuant to authorization by special town meeting vote on October 24, 2016, a parcel of land at 61 Namequoit Road, Orleans that the Town considered a priority for open space acquisition; the purchase completed the Town’s acquisition of the 46 acre John Kenrick Woods Conservation Area in South Orleans near Arey’s Pond, in partnership with the Orleans Conservation Trust.

Under the Regional Policy Plan, land may be appropriately restricted off-site, as well as on-site, for open space mitigation. The 40,000 sq ft area removed from the Conservation Restriction is commercially-zoned buildable upland, contains previously disturbed area associated with the Snow’s Home and Garden use, and the DRI Decision recognizes that the Project Site is not mapped Significant Natural Resource Area. Notwithstanding removal of this 40,000 sq ft area from the Conservation Restriction, three acres of land remains restricted on the Project Site under the Amended Restriction, providing for significant naturally vegetated buffers to the Site and to wetlands on or proximate to the Site. The 40,000 sq ft area does not contain any wetland areas and is outside any 100 ft buffer to wetlands.

The \$200,000 payment made to the Town represents the average, per acre assessed value of raw, residentially developable land in the Town of Orleans. The payment allowed the Town and Orleans Conservation Trust to complete the priority acquisition of the Kenrick Woods Conservation Area, which has high conservation value, being an integral part of an extensive greenbelt on the lower Cape covering over 600 acres. This conservation area is primarily a White Pine-Oak forest with a dominance of white pine, and also contains more than 75 American chestnut trees. The land is also part of the watershed contributing to Arey’s Pond, which connects to Pleasant Bay.

MODIFICATION TO THE DRI DECISION

This modification recognizes, approves and incorporates into the DRI Decision the Amended Conservation Restriction, including removal of the 40,000 sq ft area from the conservation restricted area on the Project Site as discussed herein. The remaining three acre conservation restricted area on the Project Site, together with the \$200,000 payment made by the Applicant to the Town of Orleans, especially given the purpose for which the funds were applied,


appropriately satisfies open space mitigation requirements for the Project under the DRI Decision and the Regional Policy Plan.

Under the DRI Decision, as modified herein, there shall be no categorical restriction on potential development within this 40,000 sq ft area on the Project Site. However, no approval is granted under this modification decision for any work or development within and on this 40,000 sq ft area of the Project Site. Prior to and as a condition to undertaking proposed work or development within and on this 40,000 sq ft area of the Project Site, the Applicant shall make application for review to and obtain approval from the Commission for the same, the type and level of Commission review to be determined based on the scope and extent of the proposed work or development.

SEE NEXT PAGE FOR SIGNATURE(S)

Signature(s)

Executed this 12th day of December 2016.



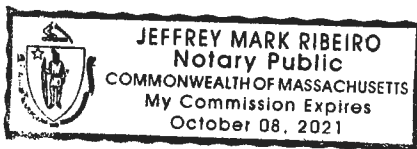
Jonathon Idman, Chief Regulatory Officer

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

December 12, 2016

Before me, the undersigned notary public, personally appeared Jonathon Idman, in his capacity as Chief Regulatory Officer of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he 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.



SEAL



Notary Public:

My Commission Expires: