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BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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DRI MINOR MODIFICATION TYPE #2

DATE: OCTOBER 12, 2017

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

PROJECT: H.H. SNOW & SONS INC.
DBA SNOW'S HOME AND GARDEN
(COMMISSION FILE NO. 99024)

PROJECT SITE/
PROPERTY: 22 MAIN STREET, ORLEANS, MA

ASSESSORS 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

DRI DECISION RECORDED IN BCRD BOOK 12707 PAGE 331 & FILED WITH THE
BARNSTABLE REGISTRY DISTRICT OF THE LAND COURT AS DOC. NO. 824,596

The Committee on Planning and Regulation finds as follows:

FINDINGS

1. The Applicant/ Property Owner, SSJ Real Estate Holdings LLC (Successor to original permittee Snow Realty Trust) has applied by letter dated August 30, 2017 to further modify its Development of Regional Impact (DRI) decision for the the above referenced Project dated October 7, 1999, subsequently modified by decisions dated 2/28/2000,

10/16/2000, 10/30/2000 and 12/12/2016 (collectively the "DRI Decision"), to permit the construction and use of a new ~7,400 sq. ft. dry storage building on the Project Site, accessory to the Snow's Home and Garden store. The DRI Decision authorized the construction and use of additions totaling approximately 12,000 sq. ft. to the then existing ~21,000 sq.ft. Snow's Home & Garden store, along with related site improvements.

2. Pursuant to Section 13 of the Cape Cod Commission's (Commission) *Enabling Regulations Governing Review of Developments of Regional Impact* (Enabling Regulations), the Commission's Committee on Planning and Regulation (CPR) hereby further modifies the DRI Decision as a Minor Modification Type #2 to permit the construction and use of said dry storage building, which will not result in different or increased impacts to the resources protected by the Cape Cod Commission Act or the Barnstable County Regional Policy Plan (RPP). The proposed DRI modification includes a proposal substantially similar and related to the original Project and minor changes to the site plan approved under the DRI Decision. The modification does not involve major changes to findings and conditions, or the intent or outcomes of said findings or conditions, contained in the DRI Decision.
3. The CPR held public meetings on the proposed DRI modification on September 28, 2017 and October 12, 2017, at which it, among other things, took and considered public testimony.
4. The storage building and associated site changes are proposed to be constructed and undertaken pursuant to the following materials submitted by the Applicant:

See Exhibit A attached

5. The proposed storage building is located to the rear of the Project Site, in a previously cleared area where nursery stock is currently stored, as authorized under the DRI Decision. This area was subject to a Conservation Restriction required by the original DRI decision, however, pursuant to a DRI Modification issued in December 2016, a one-acre area of the Project Site, in which the new building is proposed, was released from the Conservation Restriction (see further discussion in December 2016 DRI Minor Modification Type #1). The remaining three-acre Conservation Restricted area is naturally vegetated, encompasses the rear of the Project Site and surrounds the area of the proposed new storage building.
6. The proposed building will be used to temporarily house dry goods for sale in the Home and Garden store like gas and charcoal grills, outdoor furniture, and outdoor seasonal and holiday items. The building will not have water service or plumbing, and there is no additional wastewater flow or vehicle trips associated with the new building. Existing employees from the store will be used at the new storage building when and as needed, and no new employees are proposed.
7. The Orleans Architectural and Site Plan Review Committees have reviewed the proposed building, and comments from these committees have been incorporated into and addressed in the Applicant's modification filing request with the Commission. Notably, based on comments from these Committees, the building has been reduced in size from

~9,600 sq ft, exterior building finishes have been revised and additional landscaping has been provided. The proposed building still requires a Special Permit from the Orleans Board of Appeals.

8. Proposed landscaping consists of 19 evergreen and 3 deciduous trees planted around the eastern face of the building to screen it from adjacent residential condominium development to the east, supplementing the existing naturally vegetated buffer, which consists in part of mostly deciduous trees and some evergreens with higher canopies. The natural vegetation and supplemental landscape plantings will together provide a ~70 foot vegetated buffer to the closest abutting property to the east of the Site. The planting is proposed in such a way to avoid removal of existing trees beyond that necessary to construct and site the new building. The Applicant provided a landscape maintenance protocol that deals with installation, establishment and maintenance of these proposed plantings.
9. There are no known historic resources on or within close proximity to the Project Site. The Massachusetts Historic Commission confirmed by letter during the original DRI review that the area proposed for the new building is not archaeologically sensitive.
10. The size and scale of the proposed storage building is compatible with development on the Site and with buildings on neighboring properties. The building is 7,400 square feet and is a single massing, approximately 80 feet by 92 feet, with a low sloping roof and a maximum height of 25 feet. The location and height of the building will prevent it being seen from any public ways, including Main Street, and it will have extremely limited visibility from neighboring properties due to the topography of the Site, the height of existing vegetation and the low profile of the proposed building. The proposed building will be significantly below the surrounding existing tree canopy, and has deep setbacks from property lines and buildings on neighboring properties. The use of wood shingle siding on the east and west facades and its finishes (ash grey in color) will also help the building blend in with surrounding vegetation. The metal roof material is anticipated to weather to gray. If the building were more visible, the Commission might require more variation along each building façade to reduce the visual massing of the building, but in this case that might require the removal of more existing vegetation which would be less desirable. The Committee also recognizes the functional design and layout of the building that is related to its purpose for storage.
11. The Applicant's proposed wall mounted light packs meet RPP lighting standards including for cut-off, brightness and shielding.
12. The Project Site is not located within a Significant Natural Resources Area, including within any Zone II Wellhead Protection Area.
13. The Applicant's Nitrogen loading calculations were performed according to the Commission's Nitrogen Loading Technical Bulletin. The calculations evidence that, principally because there is no building water service or wastewater generation, there will be a *de minimis* change in existing site wide N loading concentration. The site wide Nitrogen loading concentration meets the limit of 5ppm/N established under the RPP and, though the Site is located in the Cedar Pond watershed which contributes to Rock

Harbor, a nitrogen-impaired estuary, there will be negligible additional Nitrogen load to the watershed.

14. Though some tree clearing is proposed for construction of the proposed building, preparation of a natural resources inventory was not required due to existing site activity, the limited nature of the clearing, and the disturbed nature of the Project Site. All proposed work and development, including stormwater facilities, is located outside of the remaining Conservation Restricted area, wetland areas and the 100-foot buffer to wetlands.
15. The Applicant proposes to directly infiltrate roof runoff via drip trenches, consistent with RPP goals and standards, reserving stormwater system capacity for runoff from parking and access areas. A new, small area is proposed for parking and access from an existing asphalt driveway. Runoff from these areas will be captured and infiltrated using a catch basin, a trench drain and a series of subsurface infiltration basins beneath the parking area, and will not directly discharge to nearby wetlands. The Applicant's proposed stormwater management, including its stormwater operations and maintenance plan, meet the RPP's stormwater management standards, including for TSS removal and site recharge.

CONCLUSION

Based on the above Findings and determinations, the Commission's Committee on Planning and Regulation hereby approves the requested further modification to the Snow's Home and Garden DRI Decision as described herein as a Minor Modification Type#2, subject to the following Conditions:

CONDITIONS

1. All findings and conditions in the DRI Decision continue to apply as written except as expressly modified herein. To the extent there is conflict or ambiguity between this modification decision and the DRI Decision, this modification shall control.
2. The Decision, as modified, shall be appurtenant to and run with the property which is the subject Project Site, and shall bind and be enforceable against, and inure to the benefit of, the Applicant/Owner, its heirs, successors, and assigns.
3. This decision shall be effective upon its recording by the Commission at the Barnstable Registry of Deeds. The Applicant shall have three years from the date of this decision to obtain necessary local permits, licenses and approvals for the proposed Project changes pursuant to and in accordance with this decision. The Applicant shall provide the Commission copies of such licenses, permits and approvals as obtained, and as the case may be, as filed with the Barnstable Registry of Deeds.
4. Project modifications, as described and approved herein, shall be undertaken, constructed, used and maintained in accordance with the Findings and Conditions set out herein, including the plan sets and other information and documents reviewed, approved and referenced herein

under Finding 4 and Exhibit A (“Approved Project Plans for Modification”), which plans, documents and other information shall either substitute or supplement, as the context allows, for plans, documents and other information previously reviewed and approved in the DRI Decision.

4a. The proposed plantings shall be maintained in good order; any proposed plantings that die or become diseased over time shall be replaced in kind as soon as is practicable.

5. Prior to and as a condition to use and occupancy of the proposed building and issuance of the Certificate of Use and Occupancy by the Town for the proposed building, the Applicant shall have obtained all other required licenses, permits, and approvals, and obtain a Certificate of Compliance from the Commission that evidences that all conditions in the DRI Decision, as modified herein, have been satisfied and that the Project is in compliance with the DRI Decision, as modified herein. Commission staff shall undertake a review of the Project’s compliance with the DRI Decision, as modified herein, upon the Applicant’s request to the Commission for issuance of said Certificate of Compliance, including that the Project modifications were constructed and undertaken according to the plans approved hereunder. As part of its review of the Certificate request, Commission staff may make, and the Applicant hereby authorizes, a site inspection, as needed, at reasonable times and upon reasonable notice to the Applicant. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

5a. Without limiting the foregoing, the Applicant shall install the proposed landscaping and stormwater facilities, per the plans approved hereunder, prior to and as a condition to issuance of the Certificate of Compliance for the storage building.

5b. Prior to and as a condition to issuance of a Certificate of Compliance, the Applicant shall submit to the Commission a copy of the proposed storage building plans, approved hereunder, with a correct and accurate revised date.

SIGNATURE PAGE FOLLOWS

Signature Page

Executed this _____ day of _____ 2017.

Signature

Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____, 2017

Before me, the undersigned notary public, personally appeared _____,
in his/her capacity as _____ 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.

SEAL

Notary Public:

My Commission Expires:

EXHIBIT A

Snow's Home and Garden, 22 Main Street, Orleans (Commission File No. 99024)
DRI Minor Modification Type #2
Approved Project Plans for Modification

Stormwater facilities separation from groundwater calculations prepared by Coastal Engineering, dated 9/27/17

RAB Lighting "SLIM12" wallpack lighting specification consisting of 5 sheets dated 9/18/17

Storage Building plans prepared by Cape Building Systems Inc. dated 5/03/17, consisting of a cover sheet (rendering), Sheet A1.1 (elevations), Sheet A1.2 (cross section) and Sheet E1.1 (floor plan) *(Note: elevations and rendering were revised and submitted to the Commission 9/26/17 to show the proposed passage door wall pack light on the south façade, though the plan date was not updated to reflect the revision)*

Nitrogen loading calculations prepared by Coastal Engineering dated 9/22/17

Stormwater Management Report & Operations and Maintenance Manual prepared by Coastal Engineering, dated 9/26/17

Landscape Maintenance Protocol prepared by Hawk Design dated 9/8/17

Letter from storage building designer Michael Walker Design/ Builder LLC dated 9/8/17 regarding roof materials

Drainage Calculations prepared by Coastal Engineering, dated 2/24/17

Letter from Coastal Engineering dated 5/3/17 regarding Title 5 flows

Planting Plan and Elevation by Hawk Design dated 8/10/17 (Sheet L1)

Site Plan prepared by Coastal Engineering dated 8/14/17 consisting of Sheets C2.1.1, C2.4.1 (Details), and sheet depicting aerial view of proposed building relative to neighboring buildings (undated).