

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand and Three

Ordinance 03-01

To amend the Code of Cape Cod Commission Regulations of General Application Chapter A Enabling Regulations for the purpose of defining the term "substantial compliance".

Barnstable County hereby ordains:

In Section 6 entitled "Transitional Exemption from DRI Review" add the following new section 6(c):

For the purposes of determining if a project is exempt under Section 22(b) of the Act, a development will be deemed to be constructed in substantial compliance with the applicable development permit or approval on a case by case basis.

The determination of whether a project is substantially complying with an original local permit or approval shall be based upon all of the following factors.

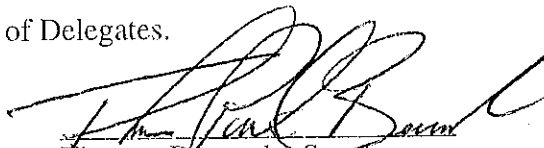
The project is in substantial compliance if:

- 1) the proposed project and use reflect the nature and purpose of the project and use in the original local approval; and
- 2) the changes do not result in the requirement for additional local development permit review in the form of a new permit, approval or a modification to the original approval; and
- 3) the changes do not result in different or increased impacts, as compared with the original local approval, to the interest protected by the Act and the Regional Policy Plan.

The burden is on the project proponent to demonstrate that the plan change is not substantial. In order to resolve any issues regarding the requirement of DRI, review, the project proponent has the option to file an application with the Commission for a jurisdictional determination, as authorized by section 12(j) of the Act.

The Commission will presume that the project is no longer in substantial compliance with the original permit or approval if the project was the subject of an enforcement order because of non-compliance with the original approval. The applicant may present evidence to the Commission that, notwithstanding the enforcement order, the project is still in substantial compliance with the originally issued permit or approval.

Adopted on February 19, 2003 by the Assembly of Delegates.


 Thomas Bernardo, Speaker

Approved by the Board of County Commissioners, MAR 5 2003 at 10:40 AM
 Date Time

