

# CAPE COD COMMISSION

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Date: October 10, 1991  
To: William O'Brien  
From: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Section 12(c)

Applicant: Lansing Realty Trust  
Project #: TR91016

Project: Super Stop & Shop  
Long Pond Drive  
South Yarmouth, MA 02664

Map/Parcel: Map 35/Lots 5,6,7  
Map 36/Lots 4 & 8

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact application of Lansing Realty Trust under Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed redevelopment of an existing commercial plaza in South Yarmouth, MA. The decision is rendered pursuant to a vote of the Commission on September 26, 1991.

### PROJECT DESCRIPTION

The proposal consists of the redevelopment of an existing commercial site at Long Pond Drive and Route 28 in South Yarmouth, MA. The shopping center will ultimately consist of 109,237 square feet of supermarket and retail space located on a 13.3 acre site. The redevelopment proposal includes the demolition of approximately 48,000 square feet of retail space, formerly occupied by a Bradlee's store which was closed in 1988, and facade improvements to an existing hardware store and drugstore totaling 38,365 square feet. New construction consists of a 61,802 Super Stop & Shop supermarket and 8800 square feet of additional retail space. Access to the site will be provided by three driveways, eliminating one existing curb cut. Parking will be provided for 490 vehicles, with extensive parking lot and perimeter landscaping proposed.

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## PROCEDURAL HISTORY

The Applicant filed an application with the Town of Yarmouth Site Plan Review Committee on January 22, 1991. The project was referred to the Commission by the Site Plan Review Committee on February 7, 1991. The Commission also received an Environmental Notification Form (ENF) on the project pursuant to the Massachusetts Environmental Policy Act (MEPA) on February 15, 1991. Pursuant to MEPA regulations, the project was categorically included for the preparation of an Environmental Impact Report (EIR). The Applicant requested that the Executive Office of Environmental Affairs (EOEA) waive the requirement to prepare an EIR and to proceed directly with Commission review. A duly noticed public hearing on this application pursuant to Section 5 of the Act was opened on April 3, 1991 in the Cape Cod Commission office, 3225 Main Street, Barnstable, MA, and continued until a determination could be made on the waiver request. This request was denied by the Secretary of EOEA on April 16, 1991.

At the request of the Applicant, the Commission agreed to conduct a review of the project concurrently with the preparation of the EIR in order for the Applicant to address issues relevant to both EOEA and the Commission in a single environmental review document. Public hearings pursuant to Section 5 of the Act were held on May 7, 1991 and June 18, 1991 in the Yarmouth Town Hall, Yarmouth, MA, and a public meeting held on June 25, 1991, in order for the subcommittee to receive testimony and for Commission staff to provide a technical review of the Draft EIR. The Draft EIR was deemed adequate by the Secretary of EOEA on June 28, 1991.

A public meeting was then held on July 30, 1991, prior to the submission of the Final EIR to EOEA. The Final EIR was submitted by the Applicant on July 31, 1991. Two additional public meetings were held on August 28, 1991, and September 3, 1991, during which staff provided additional technical review and the subcommittee formulated comments on the Final EIR. The Final EIR was certified by EOEA on September 13, 1991.

A final subcommittee hearing pursuant to Sections 5, 12(i) and 13(b) of the Cape Cod Commission Act was held on September 19, 1991, in the Yarmouth Town Hall, Yarmouth, MA. At that hearing, the subcommittee voted to recommend to the full Commission that the project be approved as a DRI, subject to conditions which were agreed to by the Applicant at a subcommittee meeting immediately following the hearing. A subcommittee report was presented to the full Commission on September 26, 1991. At this meeting, the Commission unanimously voted to approve the project as a DRI, subject to conditions.

### Materials submitted for the record include:

- DRI Application and supporting documents dated May 2, 1991
- Massachusetts Historical Commission Project Notification Form, dated May 6, 1991
- Proposed Site Plan, Expansion of Existing Shopping Center, dated October 18, 1990, revised November 8, 1990, December 15, 1990
- Landscape Concept Plan, Super Stop & Shop, David Szlag Associates, dated May 28, 1991, June 10, 1991, revised July 20, 1991, August 7, 1991
- Design Development proposal, David Szlag Associates, dated July 21, 1991
- Hydrogeologic Site Plan, Coastal Engineering Co. Inc., dated May 10, 1991
- Site Development Plan, Coastal Engineering Co. Inc., dated September 3, 1991, 2 sheets
- Proposed Building/Pylon Signage Plan, University Brink, dated September 5, 1991, 2

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## sheets

- Elevation & Partial Plan, JCA Architects, September 18, 1991
- Environmental Notification Form, dated February 14, 1991
- Draft Environmental Impact Report, 2 vols., prepared by Robert D. Vanasse & Associates, Inc., May, 1991
- Final Environmental Impact Report, 2 vols., prepared by Robert D. Vanasse & Associates, Inc., July, 1991
- letter from David Szlag Associates, received June 18, 1991
- Preliminary Construction Cost Estimate, Table 1-3, R. D. Vanasse & Assoc., Inc., received August 29, 1991
- Preliminary Construction Cost Estimate, 8 sheets, R. D. Vanasse & Assoc., Inc., received September 6, 1991
- Signalized Locations Average Month using CINCH 1.0, R. D. Vanasse & Assoc., Inc., received September 6, 1991
- letter from Stop & Shop Supermarket Co. to Ms. Susan Tierney, Secretary of Executive Office of Environmental Affairs, received March 20, 1991
- Technical Memorandum Addendum, R.D. Vanasse & Assoc., Inc. to Secretary Tierney, dated May 23, 1991
- letter from Coastal Engineering Co. to Commission staff, re: water resources, received June 24, 1991
- letter from R.D. Vanasse & Assoc., Inc. to Commission staff re: traffic mitigation, received July 25, 1991
- letter from R.D. Vanasse & Assoc., Inc. to MDPW, PPDU, re: traffic mitigation, dated September 6, 1991
- letter from Goulston & Storrs to Commission staff re: proposed conditions, received September 17, 1991

Additional Materials:

- DRI Referral Notification Form, dated February 14, 1991
- Cape Cod Commission staff reports, dated March 28, 1991, April 30, 1991, June 13, 1991, July 24, 1991, August 16, 1991
- Commission Transportation staff construction cost estimate, dated September 3, 1991
- letter from Mr. Richard Prince, subcommittee chair to Mr. William O'Brien, Stop & Shop Co., Inc. dated June 28, 1991
- letter from Tom Cambareri, Water Resources staff, to David Michniewicz, Coastal Engineering Co., dated July 19, 1991
- letter from Dorr Fox, Chief Regulatory Officer, to Mr. William O'Brien, Stop & Shop Co., Inc. dated August 12, 1991
- letter from Cape Cod Commission to Secretary Tierney, EOE, dated March 28, 1991, June 25, 1991, September 6, 1991
- Analysis and Recommendation Summary Matrix, VHB Associates, August, 1990, received July 30, 1991
- Route 28 Task Force Preliminary Report, dated February 11, 1991
- unsigned letter, 41 Wianno Ave., Yarmouthport, MA dated February 20, 1991
- letter from Mrs. Noris H. Baxter, received February 26, 1991
- letter from Mr. Michael Petrasko, President Cape Cod Astronomical Society, dated April 22, 1991
- letter from Bricklayers and Allied Craftsmen, received March 20, 1991, May 7, 1991

- letter from Mr. Harold N. Murphy, received April 1, 1991
- letter from Yarmouth Fire Dept. to Secretary Tierney, EOE, received April 1, 1991
- letter from Yarmouth Board of Selectmen to Secretary Tierney, EOE, received April 1, 1991
- letter from Mr. Herbert Schnitzer, Yarmouth Board of Selectmen, to Secretary Daniel S. Gregory, Executive Office of Economic Affairs, dated April 4, 1991
- letter from Ms. Leslie E. Campbell, received April 5, 1991
- letter from Mr. Joseph Rubino, Yarmouth Board of Selectmen, to Gov. William Weld, received April 8, 1991
- letter from Ms. Heidi S. Schadt, Dennis Board of Selectmen Chair, received April 22, 1991
- letter from Yarmouth Planning staff, dated April 30, 1991
- letter from Mr. Edward Teague, Massachusetts State Representative, received May 7, 1991
- Certificate of the Secretary of Environmental Affairs on Environmental Notification Form, dated April 16, 1991
- letter from Mr. Henri S. Rauschenbach, Massachusetts State Senator, dated May 3, 1991
- letter from Mr. David M. Angelica, received May 6, 1991
- letter from Route 28 Task Force to EOE, received May 7, 1991
- letter from Yarmouth Planning Board, dated May 7, 1991, June 20, 1991
- letter from Bricklayers and Allied Craftsmen to Yarmouth Board of Health, received May 20, 1991
- letter from Route 28 Task Force, received June 19, 1991
- letter from Bricklayers and Allied Craftsmen to Doug Vigneau, EOE, received June 20, 1991
- letter from Town of Yarmouth Engineering Dept. to Secretary Tierney, EOE, received June 27, 1991
- letter from Mr. Robert C. Lawton, Jr., Executive Secretary, Town of Yarmouth, dated June 24, 1991
- letter from Mr. Thomas F. McLoughlin, Director PPDU/MDPW to Secretary Tierney, EOE, dated June 21, 1991
- Certificate of the Secretary of Environmental Affairs on Draft Environmental Impact Report, received July 3, 1991
- letter from Town of Yarmouth Site Plan Review Committee, received August 26, 1991
- Certificate of the Secretary of Environmental Affairs on Final Environmental Impact Report, received September 18, 1991
- letter from Association for the Preservation of Cape Cod, received September 19, 1991

The application and notices of public hearings relative thereto, the Commission's staff notes, exhibits and correspondence, the transcript and minutes of the hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

#### TESTIMONY

##### MAY 7, 1991 SUBCOMMITTEE HEARING:

At this hearing, testimony was received on the scope of issues to be addressed in the joint DRI/MEPA review process. The Applicant had requested the joint review process in order to expedite this review, necessary if the Applicant was to begin construction of the shopping center in

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the fall of 1991. Otherwise, construction would be delayed by a year which might jeopardize the entire project. The Applicant noted that the Draft EIR would address a number of issues traditionally covered in the MEPA process, including traffic, air quality, and water quality, as well as additional issues which are under the Commission's jurisdiction, such as economic development and recycling. Commission staff commented that the Commission would also be reviewing architectural and landscape design. The traffic study scope would include nine or ten off-site intersections on Route 28, and four to five local intersections. Safety issues and alternative transportation modes would need to be addressed. Staff also noted that Yarmouth Board of Health regulations required a hydrogeologic study for this project due to wastewater flows. Groundwater flow direction also needed to be identified.

The project received letters of support from Massachusetts State Representative Edward Teague and State Senator Rauschenbach, as well as the Yarmouth Board of Selectmen, Planning Board, Route 28 Task Force and Chamber of Commerce, who cited the importance of redeveloping an existing site which is contributing to blight in the area. There was also concern that the Applicant provide opportunities for on-Cape contractors and suppliers. The Yarmouth Planning staff cited several issues which would need to be addressed by the Applicant, including traffic, economic and site/landscape issues. New issues brought out at this hearing to be addressed by the Applicant included the following: alternatives to auto access with pedestrian/handicapped access to Swan Pond Village, directly to the north; statement of corporate policy on equal opportunity employment; provision of adequate buffers; on-Cape employment opportunities; noise and air quality concerns.

#### JUNE 18, 1991 SUBCOMMITTEE HEARING:

Additional testimony was received by Commission staff, subcommittee and public officials in order for the subcommittee to prepare comments to EOEA on the Draft EIR, and to discuss issues related to the architectural and site design of the project. The Applicant stated that the Draft EIR was prepared as comprehensively as possible in an effort to make the Draft EIR acceptable as a Final EIR. The Applicant also noted that a hydrogeological study had been completed, with monitoring wells installed to determine groundwater flow direction. In addition, a total of seventeen intersections were analyzed in the traffic section of the EIR, with improvements and mitigation explored at each of these locations.

Staff commented that the DEIR did not adequately address groundwater flow direction and recommended additional monitoring wells and an analysis of groundwater flow to Swan Pond, an estuary and fish run. Traffic concerns with the DEIR included inconsistencies in the analysis used and a lack of commitment to mitigation at some of the affected locations. Design issues discussed included the need for visual relief from the long front facade of the building. Improvements to the conceptual landscape plan had been made by the Applicant, including additional landscaped parking islands and pedestrian amenities, with concern for adequate screening for residential areas to the rear of the site. Staff also recommended that the Applicant and all tenants participate in a recycling program.

#### JUNE 25, 1991 SUBCOMMITTEE MEETING:

At this meeting, the subcommittee reviewed a draft comment letter to be submitted to EOEA on the DEIR. This letter concluded that while issues remain to be addressed, the DEIR was adequate and that the Applicant be allowed to proceed to complete the FEIR. The Applicant noted that due to remaining issues, EOEA would most likely require the submission of a separate FEIR. The Applicant agreed to submit additional information on transportation issues, and provided an update

on an analysis of groundwater flow and nitrogen loading calculations for Swan Pond. The Applicant was also directed to submit project design information in a timely manner. Detailed discussion of traffic mitigation resulted in the subcommittee determination that the Applicant should participate in mitigation at any of the affected intersections, in particular for Route 28 locations where mitigation would involve improvements beyond the ability of the Applicant to solely complete, due in part to right-of-way limitations. The subcommittee discussed a contribution towards an escrow fund for future improvements at these locations.

#### JULY 30, 1991 SUBCOMMITTEE MEETING:

Discussion at this meeting focused on water resource, transportation and landscape/architectural design issues. Additional information was submitted on Bass River flushing capabilities, well gauging, and the establishment of three additional monitoring wells to analyze the direction of groundwater flow. These wells confirmed that there was some backflow of groundwater towards Swan Pond, with a groundwater divide found on the site. Due to this divide, groundwater flow was radially diffused across the site. The Applicant calculated that if 100% of the nitrogen loading was going to Swan Pond, this project would represent 2.7% of the critical loading for the pond. Therefore, this project could have an additional minimal impact to Swan Pond. Staff recommended that the Applicant be required to complete a cumulative loading analysis of Swan Pond to determine if the pond is at the critical loading limit and what incremental impact this project would have. However, as the no-build scenario was already 2.2% of the critical load, the net increase of .5% was determined to be very minimal by the subcommittee, which therefore concluded that groundwater issues had been satisfactorily addressed.

Discussion of transportation issues focused on proposed traffic mitigation and the need for the Applicant to prepare an estimate for the total cost of mitigation for the project in order to assess what the Applicant's fair share of mitigation should be. The Applicant also presented a conceptual landscape plan which proposed to re-establish wooded areas on the site by transplanting trees removed during construction into parking islands and buffer areas. Additional native plant materials would also be used. The Applicant also proposed a plaza area in front of the building which would include a shaded seating area, bike racks and a B-bus drop-off. The subcommittee recommended that the Applicant provide additional pedestrian/bike access to the site, as well as a redesign of the parking field to eliminate parking along the northernmost entry drive and to reduce total parking spaces which had been increased on the most recent plan submitted. Architectural elevations were also presented. The Applicant was directed to submit signage information for review.

#### AUGUST 28, 1991 SUBCOMMITTEE MEETING:

This meeting was held to organize comments of the subcommittee on the FEIR. Staff presented a report which reviewed the project in terms of conformance with the Minimum Performance Standards of the Regional Policy Plan (RPP), which would become effective on September 6, 1991. The Applicant indicated that the total costs of traffic mitigation necessary for all locations was approximately \$1.6M. The Applicant proposed a mitigation package totaling \$504,500.00. The subcommittee determined that the Applicant not be required to include right-of-way acquisition costs in the mitigation package. The subcommittee also agreed that any escrow funds be remitted to the Regional Transit Authority if traffic improvements were not implemented within a specified time period.

Solid waste/recycling issues were also discussed. The staff recommended that the Applicant and all tenants be required to recycle all corrugated cardboard, and that all solid waste be delivered to

the Yarmouth/Barnstable Regional rail transfer station. Staff also noted that while the Applicant is proposing to dispose of construction/demolition debris off-Cape, the Applicant should recycle this debris to the maximum extent possible. Economic development and project design issues were also discussed, with the Applicant revising project plans to address the subcommittee's concerns.

#### SEPTEMBER 3, 1991 SUBCOMMITTEE MEETING:

At this meeting, the subcommittee discussed the comment letter to EOEa on the FEIR. In addition, the subcommittee discussed transportation issues related to the project, including allocation of the proposed traffic mitigation to specific locations. The Applicant proposed to completely upgrade three local intersections, with the remainder of the mitigation package dedicated to improvements at state highway locations. This included a total of \$25,000.00 for planning efforts at Route 28 intersections to be held in an escrow fund. It was also noted that MDPW could require additional mitigation at state highway locations during the Section 61 finding process upon certification of the FEIR by EOEa. The subcommittee agreed that the outcome of an upcoming meeting with MDPW would play an important role in determining the subcommittee's recommendation on the FEIR to EOEa.

#### SEPTEMBER 19, 1991 SUBCOMMITTEE HEARING:

This hearing was conducted pursuant to Sections 12(i) and 13(b) of the Act and consisted primarily of a review of the joint DRI/MEPA process conducted to date. The Applicant noted that the Secretary of EOEa had certified the FEIR on September 13, 1991, therefore the Commission could now move forward to determine if an approval as a DRI could be granted. The Applicant noted the transformation of the site that would take place as a result of project construction, and cited the benefits of the project, including increased job opportunities, visual improvements to the existing building and site, enhancement of the tax base for the community, negligible water quality impact, as well as traffic improvements. He also noted that the Commission's Regional Policy Plan strongly encourages the rehabilitation of existing commercial facilities.

Staff noted new information supplied by the Applicant on project signage. Staff recommended that the sign area and height should conform with the requirements of the Yarmouth zoning bylaw. Local officials testified that the Commission defer to the town of Yarmouth on signage issues. Therefore, the subcommittee recommended that restrictions be imposed only to prohibit roof signs or internal illumination, with the size and height to be determined through the local review process.

#### SEPTEMBER 19, 1991 SUBCOMMITTEE MEETING:

The purpose of this meeting was to discuss proposed draft conditions prepared by Commission staff. Areas of disagreement on the draft conditions were related to the Applicant's concern over the Certificate of Compliance requirement of the Commission. The subcommittee agreed to include language which allowed for a performance agreement if improvements were not completed by the time the Applicant is seeking a Certificate of Compliance. The second issue related to establishment of an escrow fund for traffic improvements on state highways. The Applicant agreed to provide a contribution of \$25,000.00 towards the completion of 25% construction documents for four Route 28 intersections, with 25% of the fund dedicated to each of the four intersections. At this meeting the subcommittee voted to recommend to the full Commission that the project be approved as a DRI with conditions.

#### SEPTEMBER 26, 1991 FULL COMMISSION MEETING:

At this meeting, staff identified revisions to proposed conditions, and noted that there were two

areas of disagreement in the proposed conditions. One item was the use of the wording "escrow" fund, and the request that disbursement of the fund be delegated to the Executive Director. The Commission voted to retain the word escrow in the proposed condition and revised the condition to state that disbursement of the fund would be delegated to the Executive Committee upon the recommendation of the Executive Director. In addition, Commission members expressed concern over nitrogen loading to Swan Pond, stormwater drainage, parking lot design and disposal of demolition/construction debris. Subcommittee chair Richard Prince noted that the subcommittee voted not to pursue the nitrogen loading issue further due to the minor incremental impact and due to the fact that this was a redevelopment project. The Applicant would also be recycling demolition debris to the maximum extent possible. The full Commission voted unanimously to approve the Super Stop & Shop as a DRI subject to conditions as outlined in the subcommittee report and corrected at this meeting.

### JURISDICTION

The Super Stop & Shop redevelopment qualifies as a DRI under Section 12(c)(6) of the Cape Cod Commission Act (Act) as "any proposed retail or wholesale business, office or industrial development...which has a floor area...greater than ten thousand square feet."

### FINDINGS

The Commission has considered the application of Lansing Realty Trust for the proposed Stop & Shop redevelopment proposal in South Yarmouth, MA, and based on consideration of such application, the information presented at the public hearings and submitted for the record, the Commission makes the following findings subject to Sections 12 and 13 of the Act:

- 1). The existing property's vacant stores and unsightly appearance detract from the vitality of the surrounding commercial area. The redevelopment proposal will improve the existing site and encourage revitalization of the surrounding area through the following: renovation of the existing facade and provision of a uniform architectural design for the project; site/landscape improvements; improvements to the stormwater drainage system; a reduction in the total number of existing parking spaces; and elimination of one curb cut.
- 2). The project, including the existing NHD hardware and CVS stores, is expected to generate 13,000 vehicle trips/day and 1183 vehicle trips during the weekday p.m. peak hour. Proposed mitigation was identified which will improve the level-of-service for locations within the scope of the project. The Applicant has committed to a \$504,500.00 mitigation package, including design work for four Route 28 intersections. The Applicant will also pay the full cost of and complete the necessary improvements at two local intersections within the study area: 1) Long Pond Drive/Forest Road; and 2) Winslow Gray Road/Forest Road.
- 3). The Applicant shall proceed through the MDPW Section 61 finding process. Any mitigation on state highways must be approved by MDPW. Pursuant to Section 4.1.1.2 of the Regional Policy Plan, the Commission can require a contribution towards transportation improvements.
- 4). The project does not have direct access on Route 28, and the project site drives operate at acceptable levels-of-service.

- 5). The Applicant will provide a Cape Cod Regional Transit Authority B-bus drop-off and shelter on the project site to encourage the use of alternative modes of transportation. The project has also been designed to provide pedestrian/bicycle paths linking residential neighborhoods to the site and to existing walkways on Long Pond Drive, thereby reducing conflicts for these users with auto traffic.
- 6). The project will create up to two hundred (200) construction jobs and three hundred (300) permanent employment opportunities, and will increase the tax base of the Town of Yarmouth.
- 7). Initial studies completed by the Applicant indicated that groundwater flow from the site was towards Bass River. However, based upon further investigation as requested by the Commission, groundwater flow was found to be partially in a northwest direction towards Swan Pond, a coastal pond.
- 8). The redevelopment of the site will result in a total of 694 nitrogen pounds/year, an increase of 127 pounds/year over the historical existing nitrogen load. The critical nitrogen loading rate of Swan Pond is approximately 25,000 nitrogen pounds/year. Assuming all 694 nitrogen pounds/year generated by the project discharges to Swan Pond, this would represent approximately 2.7% of the critical load. Given the conservative nature of the assumptions and the marginal increase of the project over existing use, the proposed redevelopment will have a minimal impact on Swan Pond.
- 9). The project is expected to generate approximately four tons of solid waste/day. Corrugated cardboard is anticipated to account for 50-65% of this total. Due to the expected quantities generated from the proposed development, the need to conserve landfill space and the Town of Yarmouth's allotted capacity at the SEMASS facility, the Applicant and future tenants will provide the following: recycling of all corrugated cardboard; delivery of all solid waste not recycled or acceptable to SEMASS to the Yarmouth Regional Transfer Station; and recycling of construction and demolition debris to the maximum extent possible.
- 10). The project does not comply with the Town of Yarmouth Zoning By-law in the following areas: sign dimensions, paths within the buffer, curb cut offsets, and parking space dimensions. The Applicant has the ability to seek variances from the Yarmouth Zoning Board of Appeals. The granting of these variances will not create a regional impact.

### CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby concludes:

The benefits of the proposed project outweigh the detriments resulting from the proposed development. This conclusion is supported by the facts that the project will provide the following: redevelopment of an underutilized and unsightly property; increased job opportunities; enhancement of the tax base for the Town of Yarmouth; bidding opportunities for on-Cape contractors and suppliers; on-site recycling of corrugated cardboard; site and landscape improvements; traffic improvements; elimination of one curb cut; reduction in the total number of parking spaces; improved pedestrian, bicycle and bus access to the site; and improvements to the existing stormwater drainage system. Detriments include the minimal impact of nitrogen loading

on Swan Pond; and increased traffic resulting from the project. However, the Applicant was able to mitigate traffic impacts by making specific traffic improvements, rendering traffic impacts no longer a detriment. In conclusion, the benefits were found to outweigh the detriments.

The proposed project is not consistent with Town of Yarmouth Zoning By-laws. Commission approval is granted with the understanding that it is necessary for the Applicant to obtain variances from the Yarmouth Zoning Board of Appeals. The granting of these variances will not create a regional impact.

The Commission hereby approves with conditions the proposed Super Stop & Shop in South Yarmouth, MA, as a Development of Regional Impact, pursuant to Section 13 of the Act, provided that the following conditions are met:

**PROCEDURAL:**

- 1). Plans submitted and listed in this decision shall become a part of the written decision and any changes to these plans shall be approved by the Cape Cod Commission.
- 2). The Applicant shall obtain a Certificate of Compliance from the Commission or its designee before the local official responsible for issuing certificates of occupancy may issue a permanent or temporary Certificate of Occupancy for any portion of the proposed development.
- 3). The Applicant shall obtain all necessary state and local permits for the project, including a Section 61 Finding from the Massachusetts Department of Public Works (MDPW).

**TRANSPORTATION:**

- 4). Prior to issuing a Certificate of Compliance, the Applicant shall make substantial progress towards completion of the following mitigation measures at locations A-C and make a \$5000.00 contribution for location D to the Town of Yarmouth to offset traffic impacts created by the proposed development. The total cost of these improvements is estimated at \$479,500.00. The Applicant shall also bear the cost of project design, town review, construction management, inspection, and any required permits. The design of improvements A-C shall be approved by Cape Cod Commission staff, the Town of Yarmouth Department of Public Works (DPW) and MDPW as to the roadways within their respective jurisdictions. The Applicant is responsible for the following:

**A• Long Pond Drive/Forest Road**

At the expense of the Applicant, a new fully actuated traffic signal shall be installed, Forest Road shall be widened to provide a northbound left-turn lane, a southbound left-turn lane, and channelization islands on Long Pond Drive for right turns shall be constructed.

**B• Forest Road/Winslow Gray Road**

At the expense of the Applicant, an upgraded fully actuated traffic signal shall be installed, Winslow Gray Road shall be widened to provide an eastbound right-turn lane, and Forest Road shall be widened to provide a northbound left-turn lane.

**C• Route 28/Long Pond Drive(Interim)**

At the expense of the Applicant, the existing signal shall be upgraded, minor widening for a westbound right-turn lane within the existing right-of-way on Route 28 shall be provided, and re-configuration of Long Pond Drive shall be completed to provide a southbound right and left-turn lane within the existing right-of-way on Long Pond Drive.

D• Station Avenue/Long Pond Drive

The Applicant shall contribute \$5000.00 to the Town of Yarmouth for the sole purpose of future traffic improvements to be used at the intersection of Long Pond Drive and Station Ave.

Any work related to traffic improvements, as approved by the above agencies, which is incomplete at the time a Certificate of Compliance is sought, shall be subject to a performance guarantee. The amount of the guarantee shall be equal to that portion of the work which remains incomplete with the amount approved by Commission staff. The guarantee shall be in a form acceptable to Counsel of the Commission and shall be payable to the Town of Yarmouth. All work shall be approved by Commission staff and the Town of Yarmouth prior to the release of the guarantee.

5). Prior to the issuance of a Certificate of Compliance, the Applicant shall advance concept plans to twenty-five (25) percent construction documents or provide a financial contribution towards the completion of such plans or other transportation improvements for the following locations E-H:

E• Route 28/South Sea Avenue/Winslow Gray Road

F• Route 28/North Main/Main Streets

G• Route 28/Forest Road

H• Route 28/Long Pond Drive (ultimate)

The design of said plans for locations E-H shall be acceptable to Commission staff and MDPW. The Applicant shall contribute \$25,000.00 to a designated escrow fund, with 25% of this contribution dedicated to each of the above locations E-H. This fund shall be dedicated to the purposes of construction documents or other transportation improvements for the above locations. If the Applicant prepares such documents or undertakes such improvements, disbursement shall be made to the Applicant as reimbursement for the Applicant's expenditure from the escrow fund. The Applicant shall make such contribution to the escrow fund pursuant to an escrow agreement, which shall be of form and content satisfactory to Counsel to the Cape Cod Commission, and which shall designate a bank or other fiduciary as the escrow agent to hold and disburse the fund upon the vote of the Executive Committee upon the recommendation of the Executive Director of the Commission. The Applicant's contribution to the escrow fund shall be irrevocable, with interest earned in such account following the funds to offset inflation. The escrow fund is to be held for a maximum period of fifteen (15) years. The Commission shall remit to the Cape Cod Regional Transit Authority (RTA) any contributions plus accrued interest not expended within fifteen (15) years of the date of this decision.

SITE DESIGN/ARCHITECTURE/LANDSCAPE:

6). Prior to the issuance of a building permit, the Applicant shall submit landscape construction documents based upon the concept landscape plan prepared by David Szlag Associates, dated July 20, 1991 to the Commission staff for approval. The Applicant shall substitute nursery-grown plant material for transplanted material where use of such transplanted material is infeasible. Prior to the issuance of a Certificate of Compliance, the Applicant shall complete all landscape improvements as per the above construction documents subject to the following provisions. Prior to the issuance of this Certificate, any work related to landscape improvements, as approved by the Commission which is incomplete shall be subject to a performance guarantee. The amount of the guarantee shall be equal to that portion of the work which remains incomplete with the amount approved by Commission staff. The guarantee shall be payable to the Town of Yarmouth with the work approved by Commission staff prior to the release

of the guarantee.

7). All new signage for the project shall comply with the following requirements:

- No roof signs shall be permitted. Wall signs shall be limited to the signband or wall face as shown on architectural elevation drawing prepared by JCA Architects, Boston, MA dated September 18, 1991.
- Only externally illuminated signs shall be permitted for both wall and free-standing signs.

8). The Applicant shall pursue the renovation of the NHD hardware store sign in order to achieve compliance with condition #7 of this decision. This renovated sign shall be limited to the signband area. In the event that the Applicant is unable to obtain permission to renovate the sign, the Applicant shall be required to renovate the sign by April 30, 2007, or, if sooner, within sixty (60) days following the expiration of the NHD hardware store lease.

9). Paved pedestrian paths as indicated on project plans prepared by Coastal Engineering, Inc. dated September 3, 1991, shall be installed provided that the Applicant applies for and receives a variance from the Town of Yarmouth Zoning Board of Appeals for these pathways. The Applicant shall apply for this variance.

10). Prior to the issuance of a building permit, the Applicant shall submit final architectural elevations based on preliminary plans prepared by JCA Architects, Boston, MA, dated September 18, 1991 to Commission staff for approval. Prior to the issuance of a Certificate of Compliance, the Applicant shall complete all architectural renovations as per the approved construction documents.

#### SOLID WASTE/RECYCLING:

11). The Applicant shall separate and recycle all corrugated cardboard generated by the proposed supermarket. All leases executed after the date of this decision shall require the separation and recycling of all corrugated cardboard. The Applicant is not required to include other stores in the Applicant's own recycling program, nor will the Applicant be responsible to provide recycling equipment to tenants. Specific collection and storage techniques, including shared outdoor collection containers for tenants, shall be left to the Applicant's discretion. Recycling equipment shall be in place, as applicable, prior to the effective date of new leases for existing tenants, and prior to the Applicant's and new tenants' opening for business.

12). As required under the Town of Yarmouth Zoning By-Law, all solid waste generated on the project site, except wastes which are recycled or are unacceptable to SEMASS, shall be delivered to the Yarmouth/Barnstable Solid Waste Regional Transfer Station in Yarmouth, MA.

13). The Applicant shall recycle construction and demolition debris to the maximum extent possible.

#### WATER RESOURCES:

14). Total wastewater flow for the project site shall not exceed the current Title V requirements of 5420 gallons per day. This condition restricting wastewater flow may be varied by the Yarmouth Board of Health based on technical supporting data for nutrient reduction and/or enhanced treatment from currently proposed levels.

The Cape Cod Commission hereby grants Lansing Realty Trust an approval with conditions as a Development of Regional Impact, pursuant to Section 13, for the proposed redevelopment of a Super Stop & Shop in South Yarmouth, MA.

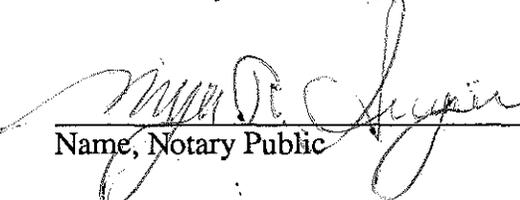
  
\_\_\_\_\_  
Richard S. Armstrong, Chairman

10/10/91  
\_\_\_\_\_  
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 10th day of October 1991

  
\_\_\_\_\_  
Name, Notary Public

My Commission Expires:

Dec. 12, 1991