



CAPE COD COMMISSION

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Date: November 5, 1992

Applicant: Mr. Warren Rhodes, Inspector of Buildings
Wellfleet Town Hall
R.R. #1, Main Street
Wellfleet, MA 02667

Project #: JD92069
Project: Former IGA Supermarket
Route 6/Cove Road
Wellfleet, MA

RE: Development of Regional Impact
Jurisdictional Determination Request
Cape Cod Commission Act, Section 12(j)

Lot/Parcel: Sheet 23/Parcel 211
Owner: Martin T. Tan
Book 4914 Page 21

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby finds that the proposed renovation of the former IGA supermarket in Wellfleet, MA is not subject to review under Section 12(c) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended. The project is also not exempt under Section 22 of the Act. The decision is rendered pursuant to the vote of an authorized subcommittee of the Commission on November 2, 1992.

PROJECT DESCRIPTION

The project consists of a proposed renovation to the interior of the former IGA supermarket into four separate retail stores and one office. The total project consists of a gross floor area of approximately 12,000 square feet, and is within the same footprint as the original supermarket. The former supermarket is located on an approximately 2.8 acre site at the southwest corner of the intersection of Route 6 and Cove Road in Wellfleet, MA. Parking for approximately 120 cars is located to the front and side of the building. The site is surrounded by single-family residential use to the north, west and east, with the Wellfleet post office located directly south of the project site.

Former IGA Supermarket - Wellfleet, MA
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PROCEDURAL HISTORY

On October 9, 1992, Mr. George Mooney, trustee of Steep Trails Realty Trust, requested a determination from the Wellfleet Building Inspector as to whether the proposed project would come under Commission review. The Commission received a request for a jurisdictional determination from the Building Inspector on October 13, 1992. The Commission determined that the application was complete on October 16, 1992. A duly noticed public hearing pursuant to Section 5 of the Act was held by an authorized subcommittee of the Commission on the jurisdictional determination request on November 2, 1992 in the Wellfleet Library, Wellfleet, MA. The public hearing was also closed on November 2, 1992. At the close of the public hearing the subcommittee held a public meeting where the subcommittee voted unanimously that the project was not required to be reviewed as a DRI under Section 12(c) of the Act.

Materials submitted for the record:

- Jurisdictional Determination application
- Wellfleet Assessor's sheet 23
- application for business license, dated February 26, 1990
- letter from Martin T. Tan, Trustee, Well Realty Trust

Additional materials:

- Cape Cod Commission staff report
- letters from Cape Cod Commission staff to Mr. Warren Rhodes, dated October 16, 1992, and October 20, 1992

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

TESTIMONY

The Commission received oral testimony at the November 2, 1992 public hearing from Mr. Warren Rhodes, Wellfleet Building Inspector, who stated that the purpose of the jurisdictional determination request was to determine whether the proposed renovation of the IGA supermarket constituted a change of use under Section 12(c)(6) of the Act. Mr. George Mooney, the project petitioner, stated his belief that the project was not a change of use as all proposed stores would be selling products which were similar to those previously sold at the supermarket. Ed Zinsmeister spoke in favor of the Commission taking jurisdiction, citing concern for seasonal traffic impacts and existing multiple curb cuts in the vicinity of the site. Lawrence Gallagher, Cynthia Paine, Daniel and Janice Silverman, Janice Growan, and John Keebler spoke in opposition to the Commission's taking jurisdiction, expressing concern that estimated trip generation for the proposed project was excessive given the seasonal fluctuations in population found in this region of the Cape. Commission staff testified as to Commission's policy on determining a change of use. Under this policy, the project was expected to create additional transportation and water resource impacts.

JURISDICTION

The purpose of the Jurisdictional Determination request was to determine whether the proposed renovation of the IGA supermarket constituted a change of use under Section 12(c)(6) of the Act, which states in part that the Commission has the jurisdiction to review a project as a Development of Regional Impact when it involves "Any proposed retail or wholesale business, office or industrial development, as well as any private health, recreational or educational development which has a floor area as follows:....use changes which have a floor area greater than 10,000 square feet".

FINDINGS

The Commission has considered the applicant's request for a jurisdictional determination regarding the proposed renovation to the former IGA supermarket in Wellfleet, MA, and based upon consideration of such request, upon information presented at the public hearing and submitted for the record, makes the following findings:

- 1). The proposed uses consist of a 2200 s.f. grocery convenience store, a 3500 s.f. pharmacy, a 1500 s.f. flower shop, 3000 s.f. of general retail space, and 1800 s.f. of office space, for a total of approximately 12,000 s.f. The proposed project does not represent a significant change of use from the immediately prior use of the property as a supermarket and does not require an increase in floor area.
- 2). The proposed project is not exempt under Section 22 of the Act as a development which had received a special permit, variance, or order of conditions prior to July 1, 1989 or a building permit prior to the effective date of the Act.
- 3). If the proponent is required to file an Environmental Impact Report with the Executive Office of Environmental Affairs, the project shall be reviewed as a DRI pursuant to Section 12(i) of the Act.

CONCLUSION

Based on the findings above, the Commission hereby concludes that the proposed renovation of the former IGA supermarket in Wellfleet, MA is not required to be reviewed as a DRI under Section 12(c) of the Act. This conclusion is based on the finding that the proposed project does not represent a significant change of use from the immediately prior use of the property. The project is not exempt under Section 22 of the Act as a development which had received a special permit, variance, or order of conditions prior to July 1, 1989 or a building permit prior to the effective date of the Act.

This decision is rendered pursuant to a vote of an authorized subcommittee of the Cape Cod Commission on November 2, 1992.

Al Perperian
Al Perperian, subcommittee chair

Nov. 5, 1992
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 5th day of November 1992

Katharine L Peters
Name, Notary Public

My commission expires:

~~My commission expires December 5, 1997~~