



CAPE COD COMMISSION

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Date:	March 4, 1993	Project:	151 North Market Street Route 151/Great Neck Rd No Mashpee, MA 02649
Applicant:	Fields Point Limited Partnership		
Project #:	TR90009A		
RE:	Development of Regional Impact Cape Cod Commission Act, Section 12c	Book/Page:	Book 912, page 40; Land Court 11520
		Lot/Parcel:	Assessor's map 74, lot 22

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) application of Fields Point Limited Partnership under Section 12 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed commercial development in Mashpee, MA. The decision is rendered pursuant to a vote of the Commission on February 18, 1993.

PROJECT DESCRIPTION

The proposed project calls for the construction of approximately 93,300 square feet (s.f.) of retail space on a 12.38 acre site, including a 61,000 s.f. grocery store, a 2,500 s.f. drive-in bank and 29,800 s.f. of general retail. A total of 522 parking spaces are proposed. The project site is north of Route 151 and adjacent to the Mashpee Rotary. It is considered by the project proponent to be an extension of the existing Mashpee Commons retail core. The site is zoned for commercial use. All proposed buildings will be connected to an existing Wastewater Treatment Facility operated by Fields Point. The majority of the site consists of oak/pine forested upland with topography ranging from 36 feet to 70 feet above sea level. No wetlands or vernal pools exist on the site. Residential, commercial and municipal land uses abut the property to the north.

PROCEDURAL HISTORY

Two public hearings on the Mashpee Commons proposal (which includes North Market Street, East Steeple Street, Trout Pond, Quashnet West, Whittings Road, Jobs Fishing Road North and South), were held on November 7, 1990 and January 9, 1991. At the conclusion of the second hearing, the subcommittee voted to postpone further Development of Regional Impact (DRI)

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review of the entire Mashpee Commons proposal until Certification of the Environmental Impact Report had been received from the Secretary of Environmental Affairs. As a result, the public hearing was closed on January 9, 1991. The written record was kept open at the conclusion of the hearing. The DRI review to date for all of the Mashpee Commons neighborhoods, has been continued by extensions to the decision period. The decision period currently runs until June 1, 1993.

The Executive Office of Environmental Affairs issued a certificate on the Final Supplemental Environmental Impact Report (FSEIR) on October 15, 1992 in which the Secretary identified a number of issues requiring further analysis. However, in a letter of clarification dated October 23, 1992, the Secretary released the North Market Street parcel from further MEPA review contingent upon satisfactory resolution of MEPA's concerns through the Commission's DRI review process.

The North Market Street project application was submitted to the Commission by the proponent on September 22, 1992. A site visit was conducted by members of the subcommittee, the applicant and Commission staff on October 23, just prior to the first public hearing. The October 23, 1992 hearing was conducted by a duly authorized subcommittee of the Commission in the Mashpee Town Hall, Mashpee, MA. This hearing was continued and four other hearings were held subsequent to it on December 1, 1992, December 15, 1992, January 6, 1993 and January 14, 1993. At the January 14 hearing, the subcommittee voted to close the hearing and allow the record to remain open. A Public meeting was held on February 3, 1993 to consider additional requests from Mashpee town officials. The Subcommittee voted to close the record on February 8, 1993.

Based upon testimony received at the public hearings and meetings, application materials submitted by the applicant, written material submitted by all interested parties, and supporting technical information provided by staff, the Subcommittee voted unanimously on February 3, 1993 to recommend to the full Commission that the North Market Street project be approved as a DRI, subject to conditions which had been agreed to by the applicant. A subcommittee report was presented to the commission on February 18, 1993. At this meeting the Commission voted ten in favor and one opposed with one abstention to approve the project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

DRI Application and Subsequent information submitted by the Applicant:

- Extension to the 60 day decision period for all Mashpee Commons neighborhoods, dated September 30, 1992
- North Market Street DRI application, dated October 5, 1992
- Letter responding to staff wastewater concerns, GZA Geoenvironmental Inc., October 5, 1992
- Letter responding to staff traffic concerns, R.D. Vanasse and Assoc., dated October 5, 1992
- Letter responding to staff natural resources, solid and hazardous waste concerns, Fields Point L.P., dated October 28, 1992
- Letter responding to staff wastewater concerns, GZA Geoenvironmental Inc., November 2, 1992
- Preliminary report of traffic impacts, Robert D. Vanasse and Associates, dated November 9, 1992
- Letter summarizing significant review issues, Fields Point L.P., November 13, 1992
- Letter summarizing issues agreed upon to date, Fields Point L.P., November 23, 1992
- Preliminary fair share calculations for off-site improvements, Robert D. Vanasse and Assoc., dated November 30, 1992

- Flushing Study proposal, Aubrey Consulting, Inc., dated December 3, 1992
- Letter summarizing the status of review, Fields Point L.P., December 7, 1992
- Letter regarding 20% trip reduction, Fields Point L.P., December 14, 1992
- Fax including fair share data and revised plan of rear parking lot, Fields Point L.P., dated December 14, 1992
- Letter responding to staff hazardous waste concerns, Fields Point L.P., dated December 17, 1992
- Letter to water resources staff identifying other parcels owned by F.P.L.P. within the watershed to Popponesett Bay, Fields Point L.P., dated December 21, 1992
- Letter to transportation staff regarding traffic issues, Fields Point L.P., dated December 29, 1992
- Fair share calculations, Fields Point and R.D. Vanasse, dated December 30, 1992
- Letter summarizing agreements between staff and the applicant regarding traffic issues and fair share analysis, Fields Point L.P., January 5, 1993
- Preliminary Drainage Calculations, Bunker Stimson Solien, Inc., dated January 5, 1993
- Fair share calculations, R.D. Vanasse, received January 6, 1993
- Fair share calculations, R.D. Vanasse, received January 8, 1993
- Fair share calculations for road links and intersections, R.D. Vanasse, received January 11, 1993
- Letter to Patty Daley, Commission Counsel from Michael Ford, applicant's counsel, dated January 21, 1993
- Letter summarizing agreements made at the January 14 hearing, Fields Point L.P., dated January 26, 1993
- Master plant list to accompany landscape plan, Mary LeBlanc, dated January 26, 1993
- Mashpee Commons Design and Construction Criteria, Fields Point L.P., received January 29, 1993
- Section 61 Finding from Massachusetts Highway Dept., R.D. Vanasse and Assoc., dated February 16, 1993

Staff Reports, correspondence and minutes:

- Memorandum to Doug Storrs from Ed Eichner, water resources staff re: flushing study, dated November 23, 1992
- Cape Cod Commission staff reports, dated October 16, November 25, December 11, December 31, 1992 and January 13, 1993
- Public hearing and meeting minutes dated October 23, December 1, December 15, 1992 and January 6, January 14, February 3, 1993
- Memorandum to Doug Storrs from Transportation staff re: fair share calculation, dated December 3, 1992
- Draft Subcommittee Reports, dated February 3 and February 11, 1993
- Staff recommendations for 151 site drive proposal, dated January 8, 1993
- Two letters to John Friel, Board of Appeals from Patty Daley, Commission Counsel, dated January 20, 1993 and January 22, 1993

Letters from State officials including MEPA:

- Certificate of the Secretary of Environmental Affairs on the Final Supplemental Environmental Impact Report (FSEIR), Exec. Office of Environmental Affairs MEPA Unit, dated May 18, 1990
- Commission comments on MEPA Final Supplemental Environmental Impact Report, dated October 6, 1992
- Clarification of Certificate of October 15, 1992; North Market Street Parcel (EOEA#5913), Exec.

Office of Environmental Affairs MEPA Unit, dated October 23, 1992

- Letter from the Massachusetts Historical Commission regarding archaeological resources, dated November 18, 1992

Letters from Town Officials:

- Fax identifying Fields Point properties within the Popponessett Bay watershed, Tom Fudala (Town Planner), dated December 3, 1992
- Letter to the Selectmen commenting on August 28, 1992 FSEIR, Tom Fudala, dated September 15, 1992
- Letter from Tom Fudala, Mashpee Town Planner, re: project issues dated October 9, 1992
- Letter from Nancy Caffyn, Mashpee Board of Selectmen, re: traffic and bike path issues dated October 19, 1992
- Letter from Greg Taylor, Mashpee Dept. of Public Works, re: traffic issues dated October 20, 1992
- Letter from Robert Ridgeway, Mashpee Fire Chief, re: project impact on town services dated November 24, 1992
- Comments from the Mashpee Conservation Commission received at the public hearing on December 1, 1992.
- Letter from Mashpee Board of Health in support of flushing study, dated December 4, 1992
- Letter from Fields Point to Greg Taylor requesting approval of curb cuts, dated December 8, 1992
- Letter from Tom Fudala, Mashpee Town Planner, re: general issues, dated December 21, 1992
- Letter from Greg Taylor, Mashpee Dept. of Public Works, re: traffic issues, dated December 21, 1992
- Letter from Greg Taylor and Tom Fudala opposing a Donna's Lane credit, received by Fax January 5, 1993
- Letter from Tom Fudala to Fields Point re: traffic issues, dated December 31, 1992
- Letter from Tom Fudala, Town Planner to Board of Selectmen re: Donna's Lane credit, dated January 4, 1993
- Fax from Greg Taylor, Mashpee Dept. of Public Works, re: bike path dated January 7, 1993
- Letter from Carol Jacobson, Mashpee Selectman, re: general issues dated January 13, 1993
- Letter from Greg Taylor, Mashpee Dept. of Public Works, re: redesigning the project to address site plan concerns, dated January 12, 1993
- Letter from Tom Fudala, Mashpee Town Planner, re: traffic, bike path and open space issues, dated January 12, 1993
- Letter from Board of Selectmen re: bike paths, Jobs Fishing Road credit and open space, dated January 20, 1993
- Letter from Tom Fudala, Town Planner re: traffic and bike path issues, dated January 27, 1993
- Letter to Patty Daley, Commission Counsel, re: suspension of variance application, John Friel, Mashpee Board of Appeals, dated January 28, 1993

Letters from abutters and other interested parties:

- Letter from Garry Melia, project abutter, dated November 16, 1992
- Letter from Gary Conway, dated November 30, 1992
- Letter from Peggy Sloan, Association for the Preservation of Cape Cod regarding wastewater and open space concerns, dated December 1, 1992
- Letter from Bruce Berrian, dated January 8, 1993

Plans submitted for the record:

- Project Mitigation Schematic Figure 4-15, R.D. Vanasse, dated August 31, 1992
- Existing Conditions Plan, Fields Point, dated November 12, 1992
- Preliminary Site Plan, Bunker Stimson Solien, dated August 26, 1992 and revised October 6, November 24, November 30, December 8, December 15, December 24, 1992, January 25 and February 4, 1993
- Grading/ Drainage and Utility Plans, Bunker Stimson Solien, dated December 8, 1992 and revised December 24, 1992 and February 4, 1993
- Landscape Site Plan, Mary LeBlanc, dated December 4, 1992 and revised December 15, December 24, 1992, January 25 and February 4, 1993
- Landscape Plan/151 Entrance Details, Mary LeBlanc, dated October 19 and revised December 7, December 10, 1992, January 26 and February 4, 1993
- Survey of subject property, BSC Cape Cod Survey Consultants, dated December 16, 1985
- Interior Floor/Fixture Plan of the Stop and Shop building, Stop and Shop Companies, dated November 22, 1991
- Site section through Sandpiper Village, parking and Route 151, no date.
- Exterior elevations of Stop and Shop building, Imai Keller Inc., dated December 30, 1992
- Supermarket roof plan, Stop and Shop Companies, no date.
- Conceptual intersection plans, Highway and Traffic Signal Design Inc., dated January 7, 1993
- Site plan options sent by fax, Fields Point L.P., dated January 12, 1992
- 8 1/2x11" map identifying agreed upon bicycle path route, prepared by staff, dated January 19, 1993

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

At the subcommittee hearing held on October 23, 1992 at the Mashpee Town Hall a preliminary presentation of the North Market Street project was given by staff and the applicant. Public comments and concerns focused on the impacts to ground water quality and traffic in the area. Residents of Sandpiper village, an abutting residential community, were concerned about adequate buffering to screen the development from view and to obscure noise and bright lights.

The December 1, 1992 public hearing was also held at the Mashpee Town Hall. Staff summarized water, traffic and open space issues that had been agreed upon during the month of November during meetings between staff and the applicant. Town officials spoke in favor of requiring strong environmental mitigations from the applicant and expressed concern over traffic backup into the rotary. The adjoining commercial property owner expressed dismay over the orientation of the supermarket building and the negative impacts of its proximity to his property.

At the December 15, 1992 public hearing, staff explained that the benefits provided by a flushing study of Popponessett Bay would outweigh the potential negative water quality impacts of this project. Traffic issues were discussed at length and an abutter asked the Subcommittee to require the applicant to redesign the site plan to use more of the acreage on the site.

At the January 6, 1993 hearing, the Subcommittee discussed the applicant's request that a credit be

given for Fields Point's contributions towards Donna's Lane. After lengthy discussion, the Subcommittee decided against granting the credit. Fair share cost estimates, the construction of a bicycle path by Fields Point to reduce trip generation and the parking requirements of Stop and Shop were also discussed.

At the January 14, 1993 hearing, the Subcommittee agreed to give the applicant a \$50,000 credit against fair share traffic mitigation for the construction of Jobs Fishing Road. The applicant agreed to pay for construction of a bike path and suggested giving the needed funds to the Town to allow the DPW to do the design and construction. The Subcommittee also discussed various parking lot options with the applicant and Stop and Shop representatives. Due to the fact that the applicant plans to phase construction of the small retail buildings, staff requested that a phasing plan for landscape improvements be prepared.

At the February 3, 1993 public meeting, the Subcommittee reversed their position of allowing a credit for Jobs Fishing Road based on testimony from the Selectmen and the Town Planner and decided to require the signalization of Jobs Fishing Road and Route 28 by the applicant before the issuance of the Certificate of Compliance. It was also decided that an easement would be provided to the adjacent commercial property owner. The Subcommittee made minor revisions to the draft conditions prepared by staff. At this meeting, the Subcommittee voted unanimously to recommend to the Commission that the proposed North Market Street project be approved as a DRI, subject to conditions which had been agreed to by the applicant.

JURISDICTION

The project qualifies as a DRI under Section 12(c)6 of the Cape Cod Commission Act (Act) as "any proposed retail or wholesale business...development...which (is) greater than 10,000 square feet."

FINDINGS

The Commission has considered the application of Fields Point Limited Partnership for the proposed commercial development in Mashpee, 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 proposed project is not consistent with Town of Mashpee Zoning by-laws. Commission approval is granted with the understanding that it is necessary for the Applicant to obtain two separate variances from the Mashpee Board of Appeals. The granting of the two variances (size of parking space and setback from Route 151 in the area of the entrance) will not create a significant regional impact.
- 2). The project design includes the placement of six small retail buildings along the North Market Street entrance drive that define the street edges and establish a strong "Main Street" character. These small buildings, along with street tree plantings, other pedestrian amenities and significant buffering along the regional roadways as indicated on the site plan dated February 4, 1993, contribute greatly to the design success of the project. The large parking field in front of the supermarket building is not consistent with the Regional Plan, however the design strength of the six smaller clustered buildings and surrounding buffer areas

mitigate those negative visual impacts associated with the proposed supermarket complex design.

- 3). The North Market Street site is located within the Marine Water Recharge Area to Popponesset Bay.
- 4). Wastewater from the North Market Street site is proposed to be treated at the Fields Point wastewater treatment plant (WWTP). This treatment plant discharges to open sand beds with the effluent plume eventually discharging to the Mashpee River, which flows into Popponesset Bay. The WWTP currently discharges a median flow of 8,390 gpd with a median nitrogen concentration of 15.8 ppm. The WWTP will be upgraded to a denitrifying system, under Fields Point's state groundwater discharge permit, when additional wastewater flows beyond the flows from the North Market Street site are added to the WWTP.
- 5). The portion of the Mashpee River receiving the effluent plume from the WWTP is at the upper end of a transition zone from the freshwater river to the saline waters of Popponesset Bay. Total nitrogen concentrations in the Mashpee River downgradient of the WWTP and in the more saline portion of the transition zone have exceeded 1 ppm, which is greater than nitrogen concentrations generally associated with nutrient enrichment of saline waters.
- 6). The proposed development will create significant traffic impacts to the local and regional roadways. These impacts have been identified in analyses prepared by Fields Point, including a draft EIR on the planned build-out of Fields Point properties in Mashpee and a DRI traffic impact analysis and follow-up material prepared specifically for the North Market Street property.
- 7). Access to the site is proposed via two curb cuts. The primary access is via a signalized driveway (called North Market Street) on Route 151, located directly opposite the previously constructed access to Mashpee Commons (known as Market Street). The location of this access will allow for a four-way signalized intersection. The secondary access is via a driveway on Great Neck Road North, located near the northerly edge of the property line so as to allow adequate separation from the Mashpee Rotary.
- 8). The proponent has agreed to provide substantial transportation improvements to mitigate the regional traffic impacts of the North Market Street project (thirteen intersections are deemed to be impacted). The Applicant's fair-share commitment to roadway capacity improvements in the study area is \$263,000. This amount does not include roadway improvements that are entirely the responsibility of Fields Point, such as the site access improvements.
- 9). The construction of Donna's Lane by the Town of Mashpee is independent of this project and therefore should not be considered as part of the total traffic mitigation package required of the applicant. Property owners with frontage on Donna's Lane (including a Fields Point parcel) are required by the Town to pay a portion of Donna's Lane improvements as a betterment assessment.

- 10). Fields Point constructed Job's Fishing Road, at a cost of approximately \$280,000. This road provides a connection from Route 151 and Route 28. It is used by patrons of the Fields Point properties and is also open to public use however the road and accompanying bicycle path have never been fully completed. The construction of Job's Fishing Road, which was intended as the relocation of a previous road layout, was the subject of an agreement between Fields Point and the town in 1985, under which a number of zoning changes and other Town Meeting votes to the benefit of Fields Point were enacted in exchange for certain lands and actions by Fields Point. A copy of the May 8, 1985 memorandum to the Mashpee Board of Selectmen from Fields Point memorializing this agreement, as well as a profile of Job's Fishing Road, have been submitted as part of the record for this DRI. Due to the prior agreements between Fields Point and the Town regarding Jobs Fishing Road construction, no credit to fair share commitment should be allowed for all or part of its construction.
- 11). Fields Point has previously committed to paying for 50% of the construction cost of the realignment of the Police/Fire station driveway onto Route 151 with Job's Fishing Road and the signalization of the four-way intersection. This agreement is between the Town of Mashpee and Fields Point. Fields Point has reaffirmed their commitment to paying for 50% of the cost of the improvement at this location, in addition to any mitigation required because of the North Market Street project or any other related properties.
- 12). In the subcommittee's opinion, based on analysis submitted by Fields Point, the signalization of the Route 28/Donna's Lane/Job's Fishing Road intersection is the highest priority roadway improvement in the impacted area; the signalization of Route 151/Job's Fishing Road is the second highest priority in the impacted area.
- 13). The signalization of the Route 28/Donna's Lane/Job's Fishing Road intersection would improve traffic operations at this location. It would also enhance the use of Donna's Lane and Job's Fishing Road as an alternative to travelling through the Mashpee Rotary.
- 14). Fields Point agrees to improve and signalize the Route 28/Donna's Lane/Job's Fishing Road intersection. The applicant agrees to pay the full cost of the necessary improvements at this location. Should the cost of intersection improvements exceed the North Market Street fair-share commitment of \$263,000, the subcommittee recommends that the excess be deducted from fair-share improvements required of a future Fields Point project. This deduction would not apply to road improvements where previous agreements had been made between Fields Point and the Town of Mashpee.
- 15). The Town of Mashpee has developed a bicycle trail master plan that identifies existing and desired bicycle routes. Town officials, in keeping with this plan, have requested in letters submitted to the record on October 19, 1992, January 12, 1993, January 20, 1993 and January 27, 1993 that the applicant construct approximately 5,600 feet of bicycle path in the vicinity of Mashpee Commons.
- 16). Fields Point has agreed to construct the following pedestrian and bicycle enhancements in order to partially meet the 20% trip reduction requirement of the RPP, as shown on Revised Bikeway Alternative #2 as prepared by the Town Planner:

- (a) Approximately 628' of 4' wide sidewalk from their site along Great Neck Road to Old Barnstable Road,
- (b) A 13' wide combination sidewalk/bicycle path along Market Street from within the Mashpee Commons development through the Route 151 project site to the property line with Sandpiper Village,
- (c) An 8' wide bicycle path approximately 500' long along Great Neck Road North from the Senior Center to the intersection with Old Barnstable Road,
- (d) An 8' wide bicycle path approximately 840' long along Old Barnstable Road from Great Neck Road North to a point opposite the Coombs School driveway,
- (e) An 8' wide bicycle path approximately 500' long from the southerly end of the Coombs School driveway to Old Bates Road and the property line of the North Market Street parcel,
- (f) An 8' wide bicycle path approximately 1,550' long along Old Bates Road from Sandpiper Village property corner to Route 151 at the relocated Police/Fire driveway opposite the existing intersection of Route 151 and Job's Fishing Road.

Note: the lengths stated above, provided by the Town Planner, assume level areas. The Mashpee DPW director recommends that 10% be added to the above lengths to provide a contingency for topography. Construction shall be in accordance with American Association of State Highway and Transportation Officials (AASHTO) specifications and standards. Furthermore, Fields Point and the Town will jointly determine the design and bidding process.

- 17). A vehicle connection to the adjacent commercial property (Assessor's Map 67, Block 75, Lot 0, aka #8 Ryan's Way) will reduce traffic on the adjacent street network, especially at the Great Neck Road site drive, should that adjacent property be developed. Allowing for this connection will meet a portion of the 20% trip reduction requirement in the RPP.
- 18). A pedestrian connection to Sandpiper Village will reduce site traffic by facilitating walking between the properties. Allowing for this connection will meet a portion of the 20% trip reduction requirement in the RPP.
- 19). A bus stop, shelter and appropriate signage within the project site will result in a reduction in site traffic. Providing these amenities will meet a portion of the 20% trip reduction requirement in the RPP.
- 20). Crosswalks, pedestrian actuation and pedestrian signal phasing of the Route 151/North Market Street/Market Street intersection will meet a portion of the 20% trip reduction requirement in the RPP.
- 21). Illegal left-turns occur at the northernmost Mashpee Commons site drive on Route 28, potentially interfering with roadway operations, including the Mashpee Rotary.
- 22). The proposed development will have a significant visual impact on the Regional road network. The proponent will provide mitigation through natural buffers, landscaping, limitations on signage and lighting design.
- 23). The construction of a 61,000 square foot supermarket building, associated parking and the

rear entry drive will require the removal of significant amounts of natural buffer now existing between the North Market Street development and the abutting residential neighborhood. Significant revegetation will be necessary.

- 24) The applicant estimates that 260 permanent and 200 part-time, minimum wage jobs will be created by the supermarket tenant. It is also estimated that the tax revenue from this property will rise from \$11,250 to approximately \$100,000.
- 25). In order to meet Other Development Review Policy 3.2.2. of the RPP the applicant has agreed to hire on-Cape, qualified and bondable contractors and suppliers during the construction of the project to the greatest extent possible. The applicant has further agreed to provide the Commission with documentation regarding hiring local contractors. The hiring of Cape contractors will be considered a benefit when weighing the benefits and detriments of the project.
- 26). Significant amounts of solid waste will be generated by the retail tenants on site.
- 27). The retail tenants on the site may be using, storing, selling or disposing of hazardous materials. At this time, only the tenant of the supermarket building is known.
- 28). Section 6.1.4. of the RPP requires commercial developments to retain 40% of the site area in open space. 3.44 acres will be provided on site. The applicant has chosen to provide the remaining portion of this open space off-site to fulfill this requirement.
- 29). The North Market Street project is a portion of Assessor's Map 74, lot number 22 which is 15.1 acres in size. The area proposed for development involves approximately a 12.38 acre portion of this lot.
- 30). The two westernmost small retail buildings (10,000 and 4,100 square feet) may not be constructed immediately although grading and tree removal will take place in these areas in order to construct the remainder of the buildings.

CONCLUSION

Based on the findings contained in this decision, the Commission hereby concludes:

The benefits of the proposed project outweigh the detriments. This conclusion is supported by Findings 2,7,8,13,17 through 21, 23, 25, 26, and 29, and Conditions 4 through 34 listed below.

The proposed development is consistent with the Minimum Performance Standards of the Regional Policy Plan except where indicated in Finding #2. Although the Minimum Performance Standards are mandatory standards, the Regional Policy Plan provides some flexibility in the application of these standards. In approving a project that does not entirely comply, the Commission must find that "the proposed use will not be more detrimental to the protected resource than would be allowable under the applicable Minimum Performance Standard." In this case the project violates standard 7.2.8. which requires that parking be located to the rear or side of a building or commercial complex. However, the applicant was able to demonstrate that the interests protected by standard 7.2.8. can be better served by an alternate approach. This conclusion is supported by

Finding #2.

The proposed project is not consistent with town of Mashpee zoning by-laws. Commission approval is granted with the understanding that it is necessary for the Applicant to obtain two variances from the town of Mashpee for parking stall size and reduced buffer width along Route 151. The project will require modification to the approved February 4, 1993 site plan and the Commission decision if variances are not granted. This conclusion is supported by Finding 1 and Condition 3.

The proposed development is not located within a designated District of Critical Planning Concern.

Therefore, the Commission hereby approves with conditions the proposed North Market street project in Mashpee, MA as a Development of Regional Impact, pursuant to Section 13 of the Act, provided that the following conditions are met:

PROCEDURAL:

- 1). The final revised site plan, utility, grading and drainage and landscape plans dated February 4, 1993 and architectural elevations prepared by Imai & Keller, Inc., December 30, 1992 shall become part of the decision and any changes shall be approved by the 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 temporary or permanent Certificate of Occupancy for 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 Highway Department (MHD) and any necessary variances, waivers and/or special permits. If variances are not granted, the project will require modification to the approved February 4, 1993 site plan and the Commission decision.

WATER RESOURCES:

- 4). Fields Point will conduct and complete a flushing analysis of Popponesset Bay prior to issuance of the Certificate of Compliance. The flushing analysis shall be completed with the use of a two-dimensional model calibrated against field data. The results of the analysis must be reviewed and accepted by the Commission. If another DRI is proposed within twelve months of the North Market Street local special permit approval on property that lies within the Popponesset Bay watershed, the Commission shall assess a fair-share contribution from the proponent(s) for the flushing analysis and shall reimburse Field's Point that amount.

The flushing analysis will be a component of a nitrogen loading assessment of Popponesset Bay. The applicant's portion of this assessment shall include a determination of flushing rate and a trophic level assessment. Commission staff shall complete the cumulative assessment portion of the nitrogen loading assessment including delineation of the recharge area to Popponesset Bay and evaluation of the land use potentials within the recharge area. The staff will provide additional guidance as needed.

- 5). The Applicant shall complete stormwater drainage improvements on the basis of a 25 year storm, as recommended in the RPP, per the Drainage Plan prepared by BSS Design, dated February 4, 1993. The following modifications to the plan by the Town of Mashpee shall be considered less restrictive and therefore would be inconsistent with this approval:
- a). drainage swale of any kind along the Route 151 site boundary;
 - b). increase of the proposed two foot height of the stone retaining wall along the southern parking lot boundary;
 - c). encroachment on the 72 foot undisturbed buffer along the rotary and other perimeter buffers as identified on the Site Plan prepared by BSS Design dated February 4, 1993.

ECONOMIC DEVELOPMENT:

- 6). The Applicant shall provide a report to the Commission on the use of Cape Cod suppliers and sub-contractors prior to issuance of a Certificate of Compliance from the Commission.

TRANSPORTATION:

The following transportation conditions must be met prior to the issuance of a Certificate of Compliance, except for exceptions noted:

- 7). The Applicant shall improve and signalize the Route 151/North Market Street/Market Street intersection. The Route 151 westbound approach shall include separate left and right turn channelization lanes with storage lengths (exclusive of necessary tapers) of between 175 and 235 feet. The actual length shall be determined by agreement between the Mashpee DPW Director, MHD and the CCC staff. The intersection improvements shall include crosswalks, pedestrian phasing and pedestrian actuation.
- 8). The Applicant shall pay for all Great Neck Road North site drive improvements.
- 9). The Applicant shall modify the island at the Mashpee Commons northernmost site drive on Route 28 to improve channelization so that the frequency of illegal left turns is reduced.
- 10). The Applicant shall provide a dedicated area of adequate width for a future vehicle connection, including adequate turning radii, to the adjacent commercial property (Assessor's Map 67, Block 75, Lot 0, aka #8 Ryan's Way). This dedicated area shall be 30 feet wide and shall be located along their common boundary starting 20 feet from the rear property line of #8 Ryan's Way.
- 11). In order to reduce trip generation by 20% per Section 4.1.2.1. of the RPP, the applicant has agreed to the following: (a) to construct approximately 3,729 feet of paved bicycle path and approximately 628 feet of sidewalks as specified in Finding 16, (b) to provide a Cape Cod Regional Transit Authority B-Bus drop off, shelter and signage on site, (c) to complete other pedestrian enhancements including a connection to Sandpiper Village, (d) bicycle racks, (e) a pedestrian actuated traffic signal at the Route 151 site drive and (f) the vehicle connection to the adjacent commercial property.
- 12). The Applicant agrees to signalize and improve the intersection of Route 28/Donna's Lane/Job's Fishing Road to the satisfaction of the Massachusetts Highway Department, the Town of Mashpee and the Cape Cod Commission. The cost of this improvement shall be

considered a portion of the Fields Point fair-share commitment of \$263,000. However, Fields Point shall pay for this improvement, even if the cost exceeds \$263,000. Any excess will be deducted from fair-share improvements required of future Fields Point/Mashpee Commons projects related to property included in its 1988 master plan. This deduction would not apply to road improvements where previous agreements pertaining to this location exist between Fields Point and the Town of Mashpee. If the cost is less than \$263,000, the difference shall be placed in escrow to be dedicated to other off-site improvements in the impacted area. If due to circumstances outside of the Applicant's control, the improvements cannot be implemented prior to the issuance of a Certificate of Compliance, the Cape Cod Commission may allow the establishment of an escrow fund in an amount sufficient to pay for the necessary improvements. The Applicant shall make such contribution to the escrow fund pursuant to an escrow agreement, which shall be of a 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.

- 13). Job's Fishing Road shall remain open to public use from Route 151 to Route 28.

SOLID WASTE:

- 14). The Applicant shall assure the recycling of construction and demolition debris. Wood waste and stumps generated by clearing of the site shall be chipped and the material stored for future use/sale as mulch. The Applicant shall maintain a tally of the tonnages of this material and provide it to the Commission prior to the issuance of a Certificate of Compliance.
- 15). The Applicant shall comply with the following requirements:
- all corrugated cardboard generated on the project site shall be collected, separated and recycled
 - food waste generated by the food store shall be sold to pig farms
 - rubbish generated by the project will be delivered to a DEP approved disposal site
 - a separate bottle return section in the food store to enhance the return/recycling of glass and aluminum shall be provided
 - all businesses shall be supplied with receptacles for the collection of recyclable paper products
 - the food store shall provide for the collection/recycling of both plastic and paper bags and shall provide for the repair or recycling of all wooden pallets.

HAZARDOUS WASTE:

- 16). Construction equipment fueling shall take place at a designated portion of the site and any spills shall be reported to the Mashpee Fire and Health Departments. Prior to any development activities on the project site, the Applicant shall submit a program for separating empty hazardous waste containers from general construction debris to the Commission for approval. The above information must be approved by the Commission staff in order to be in compliance with this condition. All hazardous and potentially hazardous material utilized during construction shall be stored in a construction trailer or in a fenced area and disposed of separately from general debris generated by construction

activities. The Commission staff will provide the Applicant with additional technical assistance in the development of Contingency Plans for hazardous materials/waste management for the space of currently unknown occupancy.

- 17). All material considered hazardous which is being held as inventory prior to being offered for sale by the tenant stores shall be stored on concrete pad storage areas with berms. All tenant stores shall be required to both report and clean up releases of any hazardous material or waste.
- 18). Prior to the applicant signing a lease with any small retail tenant, any business that qualifies as a Very Small Quantity Generator of hazardous waste and a). stores less than 110 gallons of hazardous materials in total at any one time, or b). stores hazardous materials in any quantity provided each container is 5 liquid gallons or 5 pounds dry weight or less, will be required to submit a hazardous materials Contingency Plan to the town Health Department, Fire Department, and Cape Cod Commission Hazardous Waste Planner. The Plan must be approved by Commission staff in order to be in compliance with this condition. The plan shall include:
 - the person(s) responsible for coordinating a spill response, and/or managing disposal of hazardous waste with their contact numbers,
 - the inspection schedule for waste storage areas,
 - locations of spill containment products,
 - an emergency evacuation plan that shows the location of exits, fire escape routes, safety apparatus, indoor and outdoor storage areas,
 - a post-emergency cleanup plan that includes a list of cleanup contractors and notification to the state,
 - a training plan that details a schedule for familiarizing employees with evacuation procedures, waste and materials handling, and spill response protocols,
 - procedures for removing hazardous wastes through a licensed hazardous waste hauler.

Businesses that store hazardous materials in excess of 110 gallons (unless all the containers are 5 liquid gallons or 5 pounds dry weight or less) and/or are a Small or Large Quantity Generator of hazardous waste shall not be allowed within the development.

OPEN SPACE:

- 19). Prior to the issuance of a Certificate of Compliance, Field's Point Limited Partnership shall deed approximately 1.64 acres to the Town of Mashpee to be predominantly left in a natural state except for the construction of a bike path, in accordance with Section 6.1.4. of the RPP. This parcel is identified as Lot 33 on Assessor's Map # 73. The applicant shall provide proof of recording of said deed with the Barnstable County Registry of Deeds to the Commission. Said deed shall be of a form and content satisfactory to Commission Counsel.
- 20). Field's Point agrees to provide an easement on Lot 34 (Assessor's Map 73) for continuation of the Town bicycle path between Lot 33 and existing Town land on Lot 1, Assessor's Map 67.

SITE DESIGN/LANDSCAPING:

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- 21). Site landscaping shall be undertaken per the concept landscape plan prepared by Mary LeBlanc dated February 4, 1993. All undisturbed buffer areas along the site periphery shall be surrounded with construction fencing and inspected by Commission staff prior to grading of any kind. Prior to issuance of a Certificate of Compliance, all site/landscape improvements shall be in all material respects completed as per landscape plans and construction documents listed above. Any substantial deviations from the plans as submitted shall require the approval of the Commission staff.
- 22). Due to the phasing of the building construction, the applicant shall install temporary landscape materials in areas indicated on Landscape Plan L-1A dated February 4, 1993.
- 23). The applicant shall plant 8'-10' hemlock trees 8' on center as well as other evergreen materials to screen views from the abutting residences per the landscape plan referred to in Condition 21, along the entire northern property boundary abutting Sandpiper Village.
- 24). Planting in addition to the approved landscape plan may be specified by the Planning Board through the local review process however plans approved by the Commission reflect the minimum plantings allowed.
- 25). The installation of billboards, free standing signs, roof signs, off-site advertising and internally lit or flashing signs shall not be permitted for any building on the project site. In general, all signs shall comply with the signage criteria developed by Mashpee Commons and approved by the Town.
- 26). Entrance signs for the development shall be limited to informational signs placed on fencing along entrance ways according to plans by Clifford Selbert Design dated January 26, 1993.
- 27). Attached building signage for the supermarket shall be limited to two signs, one located on the building's front facade above the awning and below the roof and the other located on the east side. The sign on the east facade shall be no larger than 3' by 36'; the south facade sign shall be no larger than 4' by 48'. In addition, a maximum of ten hanging signs, a maximum of two feet by fourteen feet in size, may be hung from the eave of the market's south facade. These signs shall conform to the "Stop and Shop Store Signs" detail submitted for the record on November 2, 1992 and shall have a white background with black lettering.
- 28). The exterior of the structures within the development shall consist of clapboard, cedar shingles, or brick masonry, with the exception of the supermarket building where stucco will be used in limited amounts above the south facade awnings.
- 29). Total cutoff of all light shall occur within the property lines of the parcel to be developed. Parking areas shall have luminaires with fixtures that have a total cutoff of all light at less than 90 degrees and a beam cutoff less than 75 degrees. The luminaire shall maintain a minimum 1.0 footcandle measured on the ground surface within the parking lot at the point of least illumination, and maintain a maximum 7.0 footcandle measured four feet from the ground beneath the light source. The maximum luminaire wattage shall be restricted to 250 watts with maximum luminaire height for parking areas restricted to 20 feet except along

the northern property line where height shall be restricted to 15 feet. Wall pack lighting shall have a 45 degree cutoff and shall have a maximum maintained footcandle of 7.0. Wall packs shall be allowed only to illuminate loading docks to OSHA standards on the supermarket building.

- 30). Pedestrian lighting shall have a maximum luminaire wattage of 175 watts for luminaires with less than a 45 degree cutoff and 100 watts for non-cutoff fixtures. Pedestrian luminaire height shall be restricted to 15 feet.
- 31). Lighting standards and luminaires should be consistent with the architectural concept of the development and may be specified by the Planning Board through the local review process.
- 32). All trees in the parking areas and along interior roadways shall be at least 3" caliper (DBH) in size.
- 33). Tractor trailer refrigerator units shall not be left running in the loading dock area for more than one hour except in emergency situations.
- 34). Fencing to screen the HVAC roof units shall be consistent with the building's architectural style and shall be completely opaque.

The Commission hereby grants Fields Point Limited Partnership an approval with conditions as a Development of Regional Impact, pursuant to Section 13 of the Act, for the proposed North Market Street commercial project in Mashpee, MA.

This DRI approval is valid for a period of seven years from the date signed below.

Alix Ritchie
Alix Ritchie, Chairman

3/9/93
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 9th day of March, 1993

Katharine L. Peters
Name, Notary Public

My commission expires:

~~My Commission Expires December 5, 1997~~

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