

# CAPE COD COMMISSION

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DATE: April 15, 1993 #CCCTR93003

TO: Michael Connelly  
Trammell Crow NE, Inc.  
800 South Street, Suite 190  
Waltham, MA 02154

FROM: Cape Cod Commission

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

APPLICANT: The Campbell/Massachusetts Trust

PROJECT: Proposed Addition to the Festival at Hyannis  
1070 Iyanough Road - Hyannis, MA

CERTIFICATE #: 121784  
BOOK/PAGE: Book 7334, Page 149 & 156

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby denies without prejudice the application of the Campbell/Massachusetts Trust for a Development of Regional Impact (DRI) permit under Sections 12 & 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed addition to the Festival at Hyannis in Hyannis, MA. The decision is rendered pursuant to the vote of the Commission on April 15, 1993.

### PROJECT DESCRIPTION

The project consists of a proposed 47,682 s.f. addition in four buildings to the Festival at Hyannis retail shopping plaza in Hyannis, MA. The 27.16 acre property is zoned both Business and Highway Business, and is within the Town of Barnstable's Groundwater Protection Overlay District. The site is surrounded by commercial use directly to the east, south and west, with Independence Park located to the north of the project site. Site development is complete, with a total of 1256 parking spaces provided to serve both the existing seven retail stores and the proposed addition.

Addition to the Festival at Hyannis Decision - Barnstable, MA  
#TR93003 - April 15, 1993

## PROCEDURAL HISTORY

The Applicant filed an application for a building permit to construct foundations for additional retail buildings with the Town of Barnstable Building Commissioner on November 25, 1992. The building permit application was denied by the Barnstable Building Commissioner on December 29, 1992. The Applicant then filed an appeal of the Building Commissioner's denial of the building permit with the Barnstable Zoning Board of Appeals on January 27, 1993. The proposed project was referred to the Cape Cod Commission as a Development of Regional Impact by Mr. Warren Rutherford, Barnstable Town Manager, on February 3, 1993.

## MATERIALS SUBMITTED FOR THE RECORD

### From the Applicant:

- application for a Town of Barnstable Building Permit, dated November 25, 1992
- Festival at Hyannis Site Plans, 3 sheets, prepared by Daylor Consulting Group, Inc., June 23, 1989, and revised through November 26, 1992
- letter from Foley, Hoag & Eliot to Joseph Daluz, Barnstable Building Commissioner, dated December 1, 1992
- application for Site Plan Review with the Town of Barnstable, received December 3, 1992
- Applicant's Notice of Appeal from the Town of Barnstable Building Commissioner's denial of a building permit, filed January 27, 1993
- letter with attachments from Foley, Hoag & Eliot, Esq. to Town of Barnstable Town Clerk, dated January 27, 1993
- letter from Foley, Hoag & Eliot to Sharon J. Rooney, Cape Cod Commission, dated February 23, 1993
- letter from Foley, Hoag & Eliot to Katherine Peters, Cape Cod Commission Clerk, dated March 19, 1993

### From Cape Cod Commission staff:

- letter from Cape Cod Commission staff to subcommittee, dated February 9, 1993
- DRI Notification Form to applicant, dated February 9, 1993
- letter from Cape Cod Commission staff to Ms. Sandra Shapiro, Foley, Hoag & Eliot, dated March 1, 1993
- letter from Cape Cod Commission staff to Barnstable municipal officials, dated March 17, 1993
- letter from Ms. Patty Daley, Commission staff counsel to Attorney Ruth Weil, Barnstable Assistant Town Counsel, dated March 18, 1993
- letter from Commission staff counsel to Foley, Hoag & Eliot, dated April 6, 1993

### From the Town of Barnstable:

- letter from Town of Barnstable Building Commissioner to Ms. Sandra Shapiro, dated December 29, 1992
- DRI Referral Form and cover letter received February 4, 1993

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

### TESTIMONY

A public hearing was opened and closed by a hearing officer on March 31, 1993 in the Cape Cod Commission office at 3225 Main Street, Barnstable, MA. No substantive testimony was heard on the project due to the failure of the Applicant to file a complete application.

### JURISDICTION

The proposed addition to the Festival at Hyannis was referred to the Cape Cod Commission under Section 12(c)(6) of the Act as "any proposed retail business...which [is] an addition...of greater than 5000 square feet" by Mr. Warren Rutherford, Town of Barnstable Town Manager, on February 3, 1993.

### FINDINGS

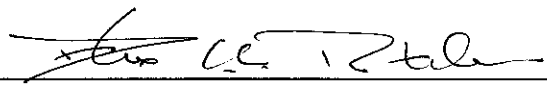
The Commission makes the following finding subject to Sections 12 and 13 of the Act:

1). The Applicant failed to submit to the Cape Cod Commission a fully completed application for DRI review. Specifically, the Applicant failed to provide the DRI review fee and complete application required by Cape Cod Commission regulations. The Applicant therefore provided no information on which to base a favorable decision.

### CONCLUSION

Based upon the finding above, the Cape Cod Commission hereby denies without prejudice the addition to the Festival at Hyannis as a Development of Regional Impact. This conclusion is supported by the finding that the Applicant failed to comply with procedures of the Act and Commission regulations requiring submission of a fully completed application, including the review fee, to the Commission.

The Commission hereby denies without prejudice the application of the Campbell/Massachusetts Trust for the addition to the Festival at Hyannis as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act. This decision is rendered pursuant to a vote of the Commission on April 15, 1993.

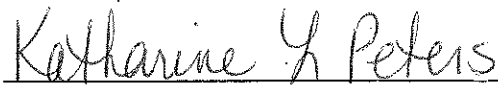
  
Alix Ritchie, Chair  
Cape Cod Commission

4/15/93  
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 15<sup>th</sup> day of April 1993

  
Name, Notary Public

My Commission expires: \_\_\_\_\_  
My Commission Expires December 3, 1997