

CAPE COD COMMISSION

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Date: March 20, 1997

Applicant: Daniel Griffin, Jr.
70 Crest View Circle
Centerville, MA 02632

Project #: TR96015
Project: Mall Liquors
20 Independence Drive
Hyannis, MA

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

Book/Page #s: Book 7899, Page 93 Barnstable County Registry of Deeds

Owner: Lavinia M. Chiotellis, Trustee
P.O. Box 37
Osterville, MA 02655

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby approves with conditions the application of Mall Liquors for a Development of Regional Impact (DRI) permit under Section 12 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the development of a liquor store and coffee shop on Route 132 in Barnstable, MA. This decision is rendered pursuant to a vote of the Commission on March 20, 1997.

PROJECT DESCRIPTION

The proposed project includes construction of a 19,944 square foot building for use as a liquor store (including a cigar cafe) and coffee shop. The building includes 9,472 square feet of retail space on the first floor, a full basement with 9,472 square feet of storage area, and a second floor/mezzanine with 1,000 square feet of office space. The project site includes 2.44 acres located on the northeast corner of Independence Drive and Route 132 in Hyannis. Route 132 is classified as a Major Regional Roadway (Class A) in the Regional Policy Plan. Independence Drive is a private roadway providing access to businesses within Independence Park. A small freshwater pond and wetland of 0.3 acres is located on the site, close to the intersection of the two roadways. The remainder of the site is tree covered,

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primarily with pines and oaks. The site includes moderate slopes, generally sloping downward toward Route 132 and the pond in the southern portion of the site. The site is located in a Wellhead Protection Area and will be served by town sewer.

The applicant is pursuing this proposal as a new location for an existing business. The building currently occupied by Mall Liquors is proposed for demolition as part of the Cape Cod Mall expansion and renovation project. The current proposal represents an increase of approximately 4,500 square feet of retail space over the existing location. The proposed store is expected to provide bookkeeping and central management functions for the expanded business, which is opening several new stores off-Cape.

PROCEDURAL HISTORY

The project was referred as a Development of Regional Impact by the Barnstable Building Commissioner on June 6, 1996. When initially referred to the Commission, the Mall Liquors project comprised two new buildings containing four separate retail establishments and a total of 14,516 square feet of first floor retail space. In pre-application meetings with Commission staff, the proposed project was determined to be inconsistent with minimum performance standards in the Regional Policy Plan. The applicant chose not to submit a DRI application, and instead indicated that he would redesign the project and submit a new plan. A duly noticed public hearing was opened on August 1, 1996 by a hearing officer because no application had been received. A hearing officer closed the public hearing on October 18, 1996. An extension agreement was signed subsequently, extending the decision period to March 21, 1997.

A duly noticed public hearing was held on January 21, 1997, at the Assembly of Delegates Chamber for the purpose of taking testimony on the proposed project. The hearing was continued to February 20, 1997, and to March 3, 1997. The hearing was continued again to the March 20, 1997 Cape Cod Commission meeting in the Assembly of Delegates Chamber in Barnstable. A subcommittee meeting was held on March 20, 1997 at the Assembly of Delegates Chamber to review the draft decision and the project's consistency with the Regional Policy Plan. The subcommittee reviewed the draft decision and voted on their recommendation to the Commission.

Materials Submitted for the Record

Town Submittals:

- DRI referral form and attachments, submitted by Barnstable Building Commissioner, dated June 6, 1996.
- Letter from Robert A. Burgmann, Town Engineer, to Sarah Korjeff regarding signage and drainage easement, dated February 11, 1997.

Staff Reports and Correspondence:

- Development of Regional Impact Notification Form dated June 17, 1996.
- Letter from Sarah Korjeff to Daniel Griffin, Jr., re: application materials, dated Aug. 9, 1996.
- Extension Agreement, dated November 4, 1996.
- Letter from Sarah Korjeff to John Kenney re: application information needed, dated October 21, 1996.

- Memo from Sarah Korjeff to Dan Griffin and John Kenney re: application information needed, dated November 12, 1996.
- Memo from Sarah Korjeff to subcommittee re: joint scoping session with Barnstable Site Plan Review, dated December 12, 1996.
- Letter from Susan M. Pommrehn, P.E., to Daniel Griffin, Jr., re: trip generation, dated December 17, 1996.
- Letter from Susan M. Pommrehn, P.E., to Ralph Crossen re: trip generation, dated December 19, 1996.
- Letter from Sarah Korjeff to Daniel Griffin, Jr., re: joint site plan review, dated Jan. 3, 1997.
- Staff Report dated January 16, 1997.
- Letter from Sarah Korjeff to Ralph Crossen re: project proposal, dated January 24, 1997.
- Letter from Sarah Korjeff to Daniel Griffin, Jr., re: staff report, dated February 12, 1997.
- Staff Report dated February 14, 1997.
- Memo from Sarah Korjeff to subcommittee re: information for March 3 public hearing, dated February 28, 1997.
- Memo from Susan Pommrehn to subcommittee re: trip generation, trip reduction, on-site issues, site drive issues, and roadway impacts, undated.
- Public hearing and subcommittee meeting minutes dated August 1, 1996, August 15, 1996, October 18, 1996, January 21, 1997, February 20, 1997, and March 3, 1997.

Submittals from the Applicant:

- Original site plan proposal, dated May 20, 1996.
- DRI Application, received October 10, 1996.
- Proposed modified site plan, dated May 20, 1996, revised June 11, 1996 and Aug. 30, 1996.
- Electrical site plan, sheet ES, undated; Landscape plan, sheet L1, undated; and Building elevations, sheets A1 and A2, dated Nov. 4, 1996; all received Nov. 5, 1996.
- Plant and Wildlife Habitat Report, conducted by Donald Schall, received Nov. 15, 1996.
- Building elevations and floor plans, sheets A1 through A5, by Lohr Construction Company, undated.
- Proposed modified schematic site plan, dated May 20, 1996, revised Nov. 19, 1996.
- Letter from Robert A. Burgmann, P.E., Town Engineer, to Dan Griffin re: Town sewer availability, dated Nov. 26, 1996.
- Proposed modified site plan, dated May 20, 1996, revised Dec. 11, 1996.
- Letter from Daniel M. Griffin, Jr., to Sarah Korjeff re: employment positions, undated, received Nov. 5, 1996.
- Letter from A. Craig Lohr to Dan Griffin, Jr., re: sitework costs, dated Nov. 21, 1996.
- Letter from John W. Kenney to Anna Brigham, Site Plan Review Coordinator, re: joint site plan review, dated Dec. 3, 1996.
- Lighting specifications, from HADCO and STONCO, undated.
- Pole sign elevation, by Plymouth Sign Company, undated.
- Proposed modified site plan, dated May 20, 1996, revised Jan. 6, 1997.
- Letter from F. Giles Ham, P.E. to Susan M. Pommrehn, P.E. re: Mall Liquors trip generation, dated Jan. 13, 1997.
- Proposed modified site plan, dated May 20, 1996, revised Jan. 13, 1997.
- Point to point footcandle printout and lighting plan, by Ford Diamond Electric Supply Corp., dated Jan. 16, 1997.

- Landscape Plan, by Cheney-Gallagher, dated Jan. 16, 1997.
- Letter from John W. Kenney to Sarah Korjeff re: issues raised in previous meetings, dated January 21, 1997.
- Fax from F. Giles Ham to Susan Pommrehn re: preliminary trip generation and trip assignment, dated Feb. 4, 1997.
- Proposed modified site plan, dated May 20, 1996, revised Feb. 3, 1997.
- Modified building elevation, sheet A1, dated Feb. 11, 1997.
- Letter from Daniel Griffin, Jr., to Susan Pommrehn re: delivery service, dated Feb. 13, 1997.
- Point to point footcandle printout and lighting plan, prepared by HADCO/Ford Diamond Electric Supply Corp., dated Feb. 14, 1997.
- Description of post sign and building sign, by Plymouth Sign Company, dated Feb. 18, 1997.
- Letter from John W. Kenney to Sarah Korjeff re: wetlands proposals, dated Feb. 19, 1997.
- Draft Traffic Impact and Access Study, Robert D. Vanasse & Assoc., Feb. 20, 1997.
- Letter from F. Giles Ham, P.E., to Dan Griffin re: level of service and mitigation recommendations, dated Feb. 28, 1997.
- Traffic Impact and Access Study, Robert D. Vanasse & Assoc., March 11, 1997.
- Proposed modified site plan, dated May 20, 1996, revised March 13, 1997.
- Letter from Kenneth P. Cram, P.E. to Susan Pommrehn re: proposed relocated Mall Liquors, dated March 17, 1997.

Submittals from Government Agencies:

- Massachusetts Historical Commission Project Notification Form, reviewed and stamped by Constance Crosby, Archaeologist/Preservation Planner, dated July 15, 1996.

Submittals from the Public:

None.

The application and notice of the public hearing relative thereto, the Commission's staff reports, correspondence, notes and exhibits, minutes of the hearing and all written submissions received in the course of the proceedings, including materials submitted on file TR#96015, are incorporated into the record by reference.

TESTIMONY

At the January 21, 1997 public hearing, John Kenney, attorney for the applicant, described the proposed site plan and how it had changed from the original proposal for the site. The subcommittee discussed issues raised at the joint scoping session with the Barnstable Site Plan Review Committee, including access for delivery trucks, parking requirements, and the wetland buffer. Dan Griffin, applicant, described the proposed building. Sarah Korjeff, Commission staff, discussed issues raised in the staff report, including the 100 foot wetland buffer, 40% required open space, community character concerns, and transportation impacts. The traffic impact analysis and mitigation proposals were not completed, but trip generation numbers were compiled for the project. The subcommittee discussed the benefits of improving the stormwater runoff situation on the site. They also voiced concerns about cumulative transportation impacts on the Route 132 corridor. Ralph Crossen, Barnstable Building Commissioner, noted that several changes had been made to the project design and stated concern regarding the parking ratio and loading zone

circulation. The subcommittee discussed signage illumination options with the applicant.

At the February 20, 1997 public hearing, Sarah Korjeff, Commission staff, summarized the changes in the proposed project design and stated that the new design includes construction of parking within the 100 foot wetland buffer. John Kenney, attorney for the applicant, described the applicant's proposal to improve stormwater quality entering the wetland and pond through a drainage easement, a leaching galley, a filtration fence, and pond maintenance. He stated that all drainage generated by the project is directed to leaching catch basins. Herb Olsen questioned whether the proposal meets the town parking requirements. Mr. Kenney stated that the applicant expects to get relief from the town for parking. Kathy Sferra, Commission staff, discussed the work proposed in the wetland buffer and the flexibility clause in the Regional Policy Plan. She stated that further detail is needed on the stormwater improvements. Alix Ritchie suggested the use of parallel parking to reduce the impact on the wetland buffer. Ken Brock noted that less parking would be desirable to limit the impact on the wetland buffer. The subcommittee discussed the town's use of the drainage easement and the uncertain timing of the project. Commission staff and the applicant reviewed the project landscaping, building design, lighting and signage. The subcommittee noted that traffic information is still needed.

At the March 3, 1997 public hearing, Susan Pommrehn, Commission staff, reviewed traffic information provided by the applicant. She discussed the project's traffic generation and the applicant's proposal to meet the 20% trip reduction standard. The applicant proposed a sidewalk along the Independence Drive frontage and a delivery service for the liquor store. Ms. Pommrehn described site issues such as restricting deliveries to morning hours, providing bumpers in the front parking spaces, and providing appropriate signage on the site. Ms. Pommrehn described the project's roadway impacts and the applicant's proposal to place money in escrow for future improvements. Commission staff summarized the additional details needed to complete the project review. The subcommittee discussed the preparation and review of a draft decision on the project.

JURISDICTION

The proposed project qualifies as a Development of Regional Impact (DRI) under the Code of Cape Cod Commission Regulations of General Application, Chapter A, Section 3(e), Barnstable County Ordinance 94-10 as proposed new construction of a commercial development with a gross floor area greater than 10,000 square feet.

FINDINGS

Based on the testimony received at the public hearings, application materials submitted by the project proponent, written material submitted by all interested parties, and supporting technical information provided by staff, the subcommittee decided on March 20, 1997 to recommend to the full Commission that the proposed Mall Liquors project be granted a DRI approval with conditions based upon the following findings:

General:

G1. The proposed plan is consistent with local zoning regulations with the exception that the proposed amount of parking does not meet town standards and a special permit is

required for the portion of the use within the Highway Business Zone. The applicant may apply for relief from the town parking standard and for a special permit. The project site does not lie within a District of Critical Planning Concern.

G2. The proposed project includes construction of a 19,944 square feet building for use as a liquor store (with cigar cafe) and coffee shop. The building includes 9,472 square feet of retail space on the first floor, a full basement with 9,472 square feet of storage area, and a second floor/mezzanine with 1,000 square feet of office space.

G3. The project is located within a Wellhead Protection Area. Robert A. Burgmann, Barnstable Town Engineer, has confirmed that the property will be served by town sewer.

Transportation:

TR1. The total amount of traffic generated by the project is estimated to be 4,192 weekday daily trips (419 in the PM peak hour). Of these daily trips, 1,230 weekday daily trips (123 in the PM peak hour) will be new to the regional roadway system. The remaining trips are believed to already be on the roadway system, diverted from or passing by the project site on the way to another destination. The trip generation estimates for the proposed liquor store are based on empirical data from two existing liquor stores on Cape Cod. The applicant also surveyed customers at the existing Mall Liquors and determined that 68 percent were traveling by the store on their way to other destinations. Trip generation for the cigar cafe is based upon the most current ITE Trip Generation information for drinking places and the portion of traffic assumed to be already traveling on the regional roadway system is 25 percent. The applicant based traffic generation estimates for the coffee shop on data gathered by their traffic consultant. The portion of coffee shop traffic assumed to be already traveling by the shop on its way to other destinations is 90 percent.

TR2. To satisfy RPP Minimum Performance Standard 4.1.2.1, which requires 20% trip reduction, the applicant has agreed to make a monetary contribution equivalent to the estimated cost (\$7,500) of providing sidewalks along the project's frontage of Independence Drive to be used for improving pedestrian travel along Route 132, and to provide a delivery service for the liquor store. These improvements and services would reduce travel to and from the project site and would reduce the need for on-site parking.

TR3. The applicant has agreed to provide a delivery service for the liquor store business. The applicant anticipates a minimum of 100 customers per week would utilize and benefit from this service and indicates that the geographical area of service would be from Provincetown to Falmouth. Customers will be informed of the delivery service through direct mailings to known customers, and through radio and newspaper advertising. There will be no fee charged to customers for the delivery service. The applicant has agreed to provide Commission staff with monitoring information on the delivery service for its first three years of operation.

TR4. The one-time cost to remove 20% of the new project trips from the regional roadway system with transit is determined by the following calculation: 246 weekday daily trips x 2.55 analysis miles per trip x \$112 per vehicle mile of travel = \$70,257.60. The applicant

estimates that the cost of providing the delivery service is \$24,200 each year. This estimate is based upon the cost of acquiring and retrofitting one delivery van (\$30,000 over 5 years), \$10,000 in annual manpower and advertising costs, and \$8,200 to operate and insure the vehicle annually. The applicant has agreed that if the delivery service is terminated, the applicant will place in escrow an amount of money which reflects the difference between the cost of the delivery service actually provided and the equivalent transit cost (\$70,257.60), less the amount paid by the applicant to improve pedestrian travel (\$7,500). The funds in escrow will be used for enhancing transit service and/or improving bicycle and pedestrian travel in the area.

TR5. The proponent has agreed to restrict truck deliveries for goods sold by the liquor store, coffee shop and cigar cafe to the morning hours of the day. This will reduce traffic impacts during the peak hours of the day.

TR6. The Proposed Modified Site Plan dated May 20, 1996, revised March 13, 1997 allows for adequate circulation of trucks for on-site deliveries.

TR7. Automobiles parked in the 14 spaces along the front of the building would overhang the 5 foot sidewalk by as much as 2.5 feet, reducing the effective width of the sidewalk to 2.5 feet. To address this condition, the applicant has agreed to provide wheel stops (bumpers) placed at the front of each of the 14 parking stalls, 2.5 feet from the edge of the sidewalk.

TR8. The site access is a single driveway onto Independence Drive which allows for right-turns in and out only, as shown on the Proposed Modified Site Plan dated May 20, 1996, revised March 13, 1997. No additional direct access is proposed along Route 132, so no additional conflict points will be created on Route 132 and the potential for additional accidents is minimized.

TR9. The Town of Barnstable has recommended that no additional break in the median along Independence Drive be provided for this project site. In addition, the town recommends a "Right Turn only" sign at the site access to reinforce the one-way travel pattern on Independence Drive. In addition to providing this sign, the applicant has agreed to provide a One Way Sign (R6-1 from the Manual on Uniform Traffic Control Devices) located directly opposite the site drive within the vegetated median of Independence Drive.

TR10. The applicant has agreed to provide a "Stop" sign and painted stop bar located at the project's site drive for exiting traffic onto Independence Drive and a double yellow centerline along the driveway access to Independence Drive. The traffic impact study prepared for the project estimates that the proposed site drive will operate at Level of Service A.

TR11. RPP Minimum Performance Standards 4.1.1.1 and 4.1.1.2 require DRIs to mitigate intersections or roadways degraded below Level of Service C as a result of project traffic. An analysis of the project study area was conducted by Robert D. Vanasse & Associates. The study indicated that four intersections and one roadway link will be degraded below Level of Service C and that these impacts need to be mitigated. The intersections are Route 132

and Phinney's Lane, Route 132 and Airport Road, Route 132 and the Cape Town Plaza/Cape Cod Mall Driveway, and Bearse's Way and Pitcher's Way. The roadway link is Bearse's Way from Route 132 to Pitcher's Way. The applicant has agreed to provide \$17,300 toward improving traffic conditions at these locations or along the Route 132 or Bearse's Way corridors within the impact area of this project. This monetary commitment toward mitigation allows for consistency with mitigation of other Developments of Regional Impact currently under review by the Cape Cod Commission and located along Route 132.

TR12. Route 132 is classified a Class A Major Regional Roadway in the Regional Policy Plan. Traffic volumes during the summer were measured in August of 1995 at 33,500 vehicles per day in the vicinity of this project. Bearse's Way is an Urban Extension of a Rural Minor Arterial. Independence Drive is a privately owned roadway.

TR13. Occupancy of the proposed development is expected to occur before pedestrian and roadway improvements take place. Therefore, traffic from the proposed site will negatively impact the existing transportation system until improvements are made.

Natural Resources/Open Space:

NR1. The project site contains a small, natural, unnamed kettle pond located at the corner of Independence Drive and Route 132. This pond, and its associated bordering vegetated wetland, receives both direct and indirect discharges of stormwater from Independence Drive and Route 132. The 100' buffer to this pond consists of moderately sloping pine/oak woodlands. Portions of the two roadways are also within the 100' buffer, but are located off the site.

NR2. Regional Policy Plan Minimum Performance Standard 2.3.1.2. requires the provision of a minimum 100' undisturbed buffer to wetlands and waterbodies. A portion of the parking area for the project is located within the 100' foot buffer to the pond. Work in the buffer consists of removal of vegetation, grading, construction of a retaining wall, and parking. No alteration will occur within 75' of the wetland surrounding the kettle pond. This alteration of the 100' buffer is shown on the Proposed Modified Site Plan dated May 20, 1996, revised March 13, 1997.

NR3. The applicant is proposing mitigation for work within the outer 25' of the 100' buffer consisting of the following:

- a) Construction of a mesh "filtration fence" along Route 132 and Independence Drive to prevent wind and water borne debris from degrading the pond/wetland area.
- b) Construction of a 40 foot long vegetated swale/leaching galley in the southeast corner of the property designed to recharge stormwater that is currently entering the pond.
- c) Pre-construction removal of debris & litter currently within the pond/wetland area and regular monitoring and maintenance of this area to remove debris.
- d) Grant of an easement to the Town of Barnstable in the southeast corner of the property for the purposes of additional stormwater remediation of direct discharges into the pond by the Town of Barnstable.

These measures will improve the functioning of the pond.

NR4. Based on Findings #NR2 and NR3, the Commission finds that it is appropriate to modify the 100' undisturbed buffer requirement because the buffer mitigation measures proposed by the applicant will better serve the interest of protecting the functioning of the pond and its associated wetland than if this portion of the site remained undisturbed and the existing unmitigated stormwater discharge was allowed to continue.

NR5. The applicant is providing 40% of the site as permanently restricted open space in compliance with the Regional Policy Plan's 40% open space requirements. The permanently restricted open space is provided in the southern portion of the site, surrounding the existing pond and including the majority of the 100 foot buffer to the wetland. It does not include the proposed drainage easement for the Town of Barnstable.

NR6. There are no known documented occurrences of rare species on the parcel and none were identified in the applicant's plant and wildlife habitat assessment, which was completed by Fugro East, Inc.

Community Character:

CC1. The brick facade material proposed on the north, south and west elevations is consistent with the Commission's design guidelines, and the amount of window articulation on the two-story portion of the building is compatible with traditional commercial structures in the region. The east elevation of the building will not be visible from public areas and will be sided with metal siding and painted with a color that will blend in with the natural surroundings. The northern portion of the front facade will be articulated with inset brick vaults to make the windowless facade more consistent with the rest of the structure.

CC2. The proposed post sign and wall sign will be constructed of breakage resistant plastic with vinyl graphics and will be externally lit. The proposed wall sign will be 3 feet by 25 feet. The proposed post sign will be 6 feet by 8 feet.

CC3. The proposed lighting fixtures are consistent with Commission guidelines regarding height and design. Site lighting will be provided by 10-foot high pole lamps with acorn-shaped globes and decorative posts. Lighting will be provided using forward throw fixtures and recessed soffit lights as shown on the lighting plan/point to point footcandle print out prepared by Ford Diamond Electric Supply Corp., dated February 14, 1997. Based on this plan, initial and maintained footcandle levels are within the 8.0 level cited in the Commission's Lighting Technical Bulletin.

CC4. The applicant has submitted a landscape plan dated January 16, 1997 and has agreed to supplement the landscaped buffer along Independence Drive with earth berms, evergreen and deciduous trees and shrubs to provide additional screening of the parking area and to achieve an effective year-round buffer.

CC5. The Massachusetts Historical Commission reviewed the project and found that it is unlikely to affect significant historic or archaeological resources.

CONDITIONS

Based on the findings above, the Cape Cod Commission hereby concludes that the benefits of the proposed project outweigh the detriments. This conclusion is supported by the findings that the project will provide long-term delivery service to its customers, that it will not create additional conflict points along the Route 132 corridor, that it will improve the quality of stormwater entering the pond on site, and that the proposed new structure and lighting are consistent with the Commission's design guidelines.

The Commission has reviewed the project against the Minimum Performance Standards in the Regional Policy Plan and has determined that the project, as conditioned, complies with all RPP Minimum Performance Standards except 2.3.1.2. which requires the provision of a minimum 100' undisturbed buffer to wetlands and waterbodies. The Commission has determined that it is appropriate to modify the 100' undisturbed buffer requirement because the buffer mitigation measures proposed by the applicant will better serve the interest of protecting the pond and its associated wetland. The project requires special permits from the Board of Appeals regarding parking requirements and use in the Highway Business Zone to meet local bylaws and regulations.

The Commission hereby approves the proposed Mall Liquors in Barnstable, MA, subject to the following conditions:

General:

G1. The site shall be developed consistent with the Proposed Modified Site Plan dated May 20, 1996, revised March 13, 1997, the Lighting plan dated February 14, 1997, and the Landscape plan, dated January 16, 1997, revised as required in the Community Character section below. The building shall be constructed consistent with the Elevations, sheet A1, dated February 11, 1997, and sheet A2, dated November 4, 1996. Signage shall be provided as described and shall be externally illuminated.

G2. Prior to receiving a permanent or temporary Certificate of Occupancy and prior to opening the business to the public, the applicant shall obtain a Certificate of Compliance from the Cape Cod Commission. All conditions of this decision shall be met prior to issuance of a Certificate of Compliance.

G3. The applicant shall obtain relief from the Town of Barnstable parking requirements. Should said relief be denied, the applicant shall apply for a modification to this decision.

Transportation:

TR1. The applicant shall provide \$7,500 in escrow, in form and content satisfactory to counsel of the Cape Cod Commission, to be used toward pedestrian improvements along Route 132 from Phinney's Lane to the Cape Cod Mall/Cape Town Plaza intersection. Monies not expended or obligated for the design and/or construction of pedestrian improvements within ten (10) years of the date of deposit shall revert to the Cape Cod Regional Transit Authority (CCRTA) for general transit service expenses.

TR2. The applicant shall provide free delivery service with minimum order requirements

to liquor store customers from Provincetown to Falmouth for 20 years. At a minimum, the applicant shall inform these customers of the delivery service through direct mailings to known customers, and through radio and newspaper advertising. If the delivery service is terminated, the applicant will place in escrow an amount of money which reflects the difference between the cost of the delivery service actually provided and the equivalent transit cost (\$70,257.60), less the amount paid by the applicant to improve pedestrian travel (\$7,500). The funds in escrow will be used for enhancing transit service and/or improving bicycle and pedestrian travel in the area. The escrow shall be of a form and content satisfactory to the Cape Cod Commission counsel.

TR3. The applicant shall provide the Cape Cod Commission transportation staff with a count of how many deliveries are made, the number of customers served by those deliveries, and the total vehicle miles traveled to serve those deliveries during one week in July and during one week in April for the first three years of operation. This information shall be provided within six months of each count.

TR4. The applicant shall provide \$17,300 to be used toward improving traffic conditions at the intersection of Route 132 and Phinney's Lane, Route 132 and Airport Road, Route 132 and the Cape Town Plaza/Cape Cod Mall Driveway, Bearse's Way and Pitcher's Way, or along Bearse's Way from Route 132 to Pitcher's Way, or within the Route 132 corridor within the impact area of this project. The money shall be held in escrow by the Cape Cod Commission. Monies not expended within ten (10) years of the date of deposit shall revert to the Cape Cod Regional Transit Authority for general transit service expenses in the Town of Barnstable. The escrow shall be of a form and content satisfactory to the Cape Cod Commission counsel.

TR5. The applicant shall restrict truck deliveries for goods sold by the liquor store, coffee shop, and cigar cafe to the morning hours of the day.

TR6. The applicant shall provide wheel stops (bumpers) 2.5 feet from the front of each of the 14 parking stalls along the front of the building to prevent vehicles from overhanging into the sidewalk area.

TR7. The applicant shall provide a "Right Turn Only" sign at the site access to reinforce the one-way travel pattern on Independence Drive. The applicant shall also provide a "One Way" sign (R6-1 from the Manual on Uniform Traffic Control Devices) directly opposite the site drive within the vegetated median of Independence Drive. The applicant shall also provide a "Stop" sign and painted stop bar at the project's site drive, and a double yellow centerline along the driveway access to Independence Drive.

Natural Resources/Open Space:

NR1. The applicant shall clearly designate the limit of work on the wetland side of the site using orange construction fencing or an equivalent. This limit of work shall be placed at the edge of clearing and grading. No development, as defined by the Cape Cod Commission Act, shall occur beyond this limit of work line. The Commission shall be notified when this limit of work line has been marked and given an opportunity to inspect it for compliance

with the site plan prior to the commencement of site work.

NR2. All areas of the wetland buffer that are temporarily disturbed during construction shall be allowed to revegetate naturally with native plant materials.

NR3. Prior to any development on the site, the applicant shall provide the Cape Cod Commission with a conservation restriction pursuant to Chapter 184 to be approved by Commission counsel which provides that the 40% open space shown as "Reserve Area" on the Proposed Modified Site Plan dated May 20, 1996, revised March 13, 1997, shall remain as permanent open space. The restriction, along with a conservation restriction plan showing the area subject to restriction, and site plan shall be recorded at the Registry/Land Court by the applicant prior to issuance of a Certificate of Compliance from the Commission.

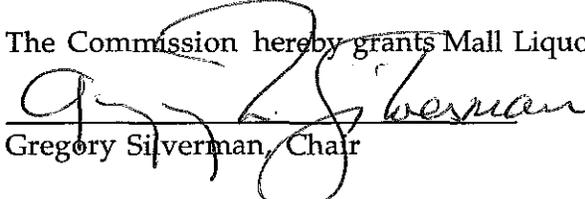
NR4. Prior to issuance of a Certificate of Compliance, the applicant shall install a mesh "filtration fence" acceptable to Commission staff along Route 132 and Independence Drive, construct a vegetated swale/leaching galley in the southeast corner of the property as shown on the Proposed Modified Site Plan dated May 20, 1996, modified March 13, 1997, and grant an easement acceptable to Commission counsel to the Town of Barnstable for the purposes of additional stormwater remediation as shown on the Proposed Modified Site Plan dated May 20, 1996, modified March 13, 1997.

NR5. The applicant shall be responsible for removal of debris from the pond and buffer prior to issuance of a Certificate of Compliance. The applicant shall, at appropriate intervals, inspect and remove debris from this area.

Community Character:

CC1. Prior to issuance of a Certificate of Compliance, the applicant shall submit to Commission staff for review and approval a revised landscape plan which includes earth berms, evergreen and deciduous trees and shrubs to provide additional screening of the parking area and to achieve an effective year-round buffer. Shade trees shown on the plan shall be a minimum of 3" caliper in size. Prior to receiving a Certificate of Compliance, the applicant shall install the landscaping plan as agreed to on the Cape Cod Commission-approved revised landscape plan.

The Commission hereby grants Mall Liquors a DRI Approval with Conditions.


Gregory Silverman, Chair

3/20/97
Date

Commonwealth of Massachusetts
Barnstable, ss.

Subscribed and sworn to before me this 20th day of March 1997

Katharine J. Peters

My commission expires:

Name, Notary Public