



# CAPE COD COMMISSION

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DATE: November 15<sup>th</sup>, 2002

TO: John McWeeney  
Tedeschi Realty Corp.

FROM: Cape Cod Commission

RE: Modification of Development of Regional Impact Decision  
dated August 8<sup>th</sup>, 2002, Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Tedeschi Realty, Inc.  
Shaw's Supermarket  
18 Sisson Road  
Harwich, MA 02370

PROJECT: Tedeschi Realty Corporation/Shaw's

PROJECT #: TR20061

BOOK/PAGE: Book 1389, Page 682

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## **MODIFICATION TO DEVELOPMENT OF REGIONAL IMPACT DECISION**

The Development of Regional Impact decision dated August 8<sup>th</sup>, 2002 for the Tedeschi Realty Corporation/Shaw's project is hereby amended by a vote of the Regulatory Committee on November 18<sup>th</sup>, 2002. All conditions attached to the original decision dated August 8<sup>th</sup>, 2002 continue to apply except as modified herein.

### **Background**

The project was approved with conditions by the Commission on August 8<sup>th</sup>, 2002. The applicant has subsequently requested a change in the trip reduction parcel outlined in Finding T6 and Condition T11 of the original decision. The change relates to the parcel to be conveyed and the timing of the conveyance.

Per the original T6 finding, the Applicant has committed to permanently dedicate vacant, commercially developable land to offset remaining trips per MPS 4.1.3.2. The dedicated land is a portion of two adjacent lots on Route 39 in East Harwich. Plan SK-4 "Preliminary Site Development Plan" dated May 14<sup>th</sup>, 2002 shows how the existing lots can be combined and subdivided into a legal subdivision meeting local zoning requirements. Under this plan, the dedicated parcel is noted as Lot 2 on Plan SK-4 and totals approximately 1.38 acres.



Commission Transportation Staff has calculated the trip potential of the mitigation land to meet the 328 daily trip reduction requirement.

Creation of the above-referenced subdivision would require the preparation and filing of a preliminary subdivision plan and subsequent approval as a definitive subdivision plan under the Subdivision Control Act and the rules and regulations of the Planning Board of the Town of Harwich. The SK-4 subdivision plan would also require road construction unless appropriate waivers are granted by the Planning Board. The SK-4 subdivision plan also has the potential to result in additional curb cuts on Route 39 for Lot 1 and the subdivision road.

To avoid these problems, the Applicant has committed to create a larger mitigation parcel through the utilization of the Approval Not Required (ANR) process. This ANR plan is shown on plan SK-4A dated November 1, 2002. In this plan, the permanently dedicated parcel is shown as Lot 2 which is approximately 1.77 acres. The remaining developable lot (Lot 1) on plan SK-4A is the same size as the remaining developable lot (Lot 1) on the plan SK-4.

The ANR plan proposed by the applicant (a) will result in the total donation of a greater amount of land, (b) will protect a larger land area within Zone B of the Six Ponds Special District, (c) does not require waivers from the Harwich Planning Board's subdivision rules and regulations, and (d) reduces the potential number of curb cuts along the frontage of the parcel to be divided. Utilization of the ANR process will also allow for expedited Planning Board endorsement and deeding of the dedicated parcel.

In addition, to allow time for the processes involved, the applicant has requested that the proof of recording the transfer of the trip reduction parcel occur on or before April 1<sup>st</sup>, 2003, instead of before the preliminary certificate of compliance.

The modification adds the following Finding to the original decision:

**T21** The applicant has committed to donating vacant land to offset remaining trips per MPS 4.1.3.2 and Finding T6. The applicant has committed to donating a modified parcel for conservation denoted as "Proposed Lot 2" as shown on the "Conceptual Subdivision Plan SK-4A" dated November 1<sup>st</sup>, 2002. The donation of this lot will provide comparable trip reduction benefits as the plan outlined in Finding T6 in that it: (a) will result in the total donation of 1.77 acres of land, (b) will protect a larger land area within Zone B of the Six Ponds Special District, (c) does not require waivers from the Harwich Planning Board's subdivision rules and regulations, (d) reduces the potential number of curb cuts along the frontage of the parcel to be divided and (e) does not change the overall area of Lot 1 on Plan SK-4A compared to Lot 1 on Plan SK-4.

Condition

Condition T11 is amended by deleting the same and inserting the following:

**T11** To reduce the remaining number of trips under MPS 4.1.2.1, the Applicant shall deed the approximately 76,998 square foot parcel denoted as "Proposed Lot 2" as shown on the "Conceptual Subdivision Plan SK-4A" dated November 1<sup>st</sup>, 2002 (Assessors' Map 86, Parcels MS and M6-2) to the Town of Harwich under the care, custody, and control of the Harwich Conservation Commission for permanent conservation purposes. The deed shall

provide for permanent extinguishment of the development potential on this lot, and shall not allow for a roadway easement. The deeds shall provide the Harwich Conservation Commission or its agent a permanent pedestrian easement across Lot 1 of Plan SK-4A to inspect and maintain Lot 2. The form and content of the donation shall be approved by Commission Counsel, and proof of recording shall be provided on or before April 1<sup>st</sup>, 2003. The permanent protection of this property shall be in addition to other open space requirements of this decision. In addition, Lot 1 as shown on Plan SK-4A shall be restricted to no more than one (1) driveway along the property's Route 39 frontage.

David Ansel  
David Ansel, Chair

11/25/02  
Date

Commonwealth of Massachusetts  
County of Barnstable

On this 25<sup>th</sup> day of Nov, 2002, before me personally appeared David Ansel, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he/she/they executed the same as his/her/their free act and deed.

Katharine L. Peters

Notary

Commonwealth of Massachusetts

My Commission Expires:

