



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136

E-mail: frontdesk@capecodcommission.org

DATE: May 16, 2002

TO: Cumberland Farms

FROM: Cape Cod Commission

RE: Cumberland Farms/Gulf Gas Station project
Bourne Rotary, Bourne, MA
Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Cumberland Farms, Inc.
Attorney Robert R. Pellegrini, Jr.
777 Dedham Street
Canton, MA 02021

PROJECT #: TR-20070

PROJECT: Redevelopment of Gas Station at Bourne Rotary
Bourne, MA

MAP/PARCEL: Map 24 Parcel 22

BOOK/PAGE: Book 5105 Page 2

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby procedurally denies without prejudice the application of Cumberland Farms, Inc., represented by Attorney Robert R. Pellegrini, Jr., as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Cumberland Farms/Gulf Gas Station at the Bourne Rotary in Bourne, MA. The decision is rendered pursuant to a vote of the Commission on May 16, 2002.

PROJECT DESCRIPTION

According to the referral form, the project site is a 16,419 square foot, triangular shaped lot at 4 MacArthur Boulevard in Bourne, right on the Bourne Rotary. The project involves the redevelopment of the existing 1,406.50 square foot gas/service station with four existing gas pumps (9 fueling positions) and automatic teller machine (ATM) into a gas station with a convenience store. The project will also involve upgrading the gas pumps, and related site changes including removal of the ATM.



PROCEDURAL HISTORY

The project was referred to the Commission by the Bourne Board of Selectmen pursuant to Section 12(e) of the Cape Cod Commission Act (Act). The Selectmen voted on August 10, 2001 to submit the project to the Commission as a limited discretionary referral, which was received by the Commission on August 13, 2001. At a Cape Cod Commission public meeting on August 23, 2001, the Commission voted to accept this project for a limited DRI under the issue areas of land use/growth management, economic development, transportation, and capital facilities/infrastructure.

In a letter dated August 27, 2001, the applicant was notified that the Commission had voted on August 23, 2001 to accept the project for a limited DRI review, and that a DRI application had to be filed.

On September 19, 2001, a pre-application meeting was held with representatives of Cumberland Farms, Inc., the Town of Bourne and Commission staff to discuss the DRI application process and application materials.

On October 16, 2001, the Commission received a letter from Cumberland Farms, Inc. requesting withdrawal of the project from the Commission's review.

On October 18, 2001, a hearing officer opened a public hearing on the project at the Commission's office pursuant to Section 5 of the Act.

In a letter dated November 8, 2001, the Commission noted it had received the applicant's request for a withdrawal of the project from the Commission's review, but noted that the Commission must also receive evidence that the project had been withdrawn at the local level.

On December 14, 2001, the Commission received a request from Cumberland Farms, Inc. requesting a 90-day extension of the DRI decision time.

On January 10, 2002, a hearing officer closed a hearing on the project and left the record open pursuant to Section 5 of the Act.

In a letter dated January 14, 2002, the applicant was notified that the Commission's Regulatory Committee would be discussing the project, and a possible Extension Agreement at its next meeting on January 22, 2002.

At its regularly scheduled meeting on January 22, 2002, the Commission's Regulatory Committee voted to recommend a 90-day extension of the DRI timeframe.

In a letter dated April 1, 2002, the applicant was notified that the Commission's Regulatory Committee would be discussing the project, and a possible procedural denial at its next meeting on April 16, 2002.

At its regularly scheduled meeting on April 16, 2002, the Commission's Regulatory Committee voted to recommend to the full Cape Cod Commission that the project be procedurally denied due to the lack of a complete DRI application.

In a letter dated April 16, 2002, the applicant was notified that the full Commission would be discussing a procedural denial of the project at its meeting on May 16, 2002.

A final public hearing was held before the full Commission on May 16, 2002. At this hearing, the Commission voted unanimously to deny the application of Cumberland Farms, Inc. for the proposed Cumberland Farms store and gas station as a limited Development of Regional Impact.

Materials submitted for the record

From the applicant:

Fax, Bryant Associates, Inc., Memo on traffic issues	8/17/01
E-Mail, Robert J. Moitzo, Bryant Associates, Inc., accident data	8/17/01
Printout of accident data (Excel charts)	8/17/01
Fax, Cumberland Farms, Inc., affidavit of Richard Boyle	10/2/01
Fax, Cumberland Farms, Inc., withdrawal request	10/16/01
Letter, Cumberland Farms, Inc., withdrawal request	10/17/01
Letter, Cumberland Farms, Inc., extension agreement	12/14/01
E-Mail, Cumberland Farms, Inc., update on project	1/22/02
Large size site plans - plan date of 5/22/01	Not noted
Site Plans - 2 large size - existing conditions and proposed	8/13/01

From Cape Cod Commission staff:

Meeting notes	8/15/01
Staff Report	8/17/01
Fax cover sheets, transmitting Staff Report	8/20/01
Agenda, Commission meeting	8/23/01
Letter, to Cumberland Farms, Inc., Commission acceptance of referral	8/27/01
Letter, to Cumberland Farms, Inc.	9/27/01
Minutes, hearing officer	10/18/01
Letter, to Cumberland Farms, Inc.	11/8/01
Copy, Notice, hearing officer	1/10/02
Minutes, hearing officer	1/10/02
Letter, to Cumberland Farms, Inc.	1/14/02
Letter, to Cumberland Farms, Inc.	1/30/02
Copy, extension agreement	1/30/02
Letter, to Cumberland Farms, Inc.	4/1/02
Staff Report	4/10/02
Fax cover sheets, transmitting Staff Report	4/11/02
Letter, to Cumberland Farms, Inc., concerning procedural denial	4/16/02
Fax cover sheets, transmitting 4/16/02 letter	4/16/02
E-mail, response to Nutter, McClennen & Fish	4/30/02
Copy, draft procedural denial decision	5/9/02
Fax cover sheet, transmitting draft denial decision to applicant, Town	5/9/02
Fax cover sheet, transmitting second copy of denial decision to applicant and Town	5/15/02
Copy, Notice, hearing on procedural denial	5/16/02
Reduced-sized site plans	Not applicable

From state/local officials:

Copy, DRI referral form and attachments	8/10/01
Fax, from Coreen Moore, Bourne Town Planner, traffic data	8/15/01
Site Plan Review Narrative	8/15/01

From the public:

E-mail, Nutter, McClennen & Fish, concerning project status

4/30/02

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

TESTIMONY

No testimony was provided on this project. Hearing officers opened and closed hearings.

JURISDICTION

The proposed project is subject to Commission jurisdiction based on the Commission's acceptance by its August 23, 2001 vote of a limited discretionary referral of the project from the Bourne Board of Selectmen pursuant to Section 12(e) of the Act.

FINDINGS

The Commission has considered the application of Cumberland Farms, Inc. for the proposed Cumberland Farms store and gas station to be located at the Bourne Rotary in Bourne, MA, and based on consideration of such application, and materials submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

1. The project is subject to Cape Cod Commission jurisdiction under Section 12(e) of the Act.
2. On August 23, 2001, the Commission voted to accept the project as a limited discretionary DRI referral from the Bourne Board of Selectmen.
3. Since the Commission's August 23, 2001 vote, the applicant has filed an incomplete DRI application. The Commission sent a letter to the applicant, through its designated legal counsel, dated August 27, 2001 noting that a DRI application had to be filed. A September 27, 2001 letter to the applicant noted that the Commission would open a pro-forma hearing to give the applicant time to file a complete application.
4. Due to the lack of a complete DRI application, a hearing officer opened a pro-forma hearing at the Cape Cod Commission office in Barnstable, MA on October 18, 2001. No testimony or substantive action was taken at this hearing.
5. The Commission received a letter from the applicant on October 16, 2001 requesting that the project be withdrawn from Commission review. In a letter dated November 8, 2001, the Commission notified the applicant that in order for the pending DRI to be withdrawn from Commission review, the Commission also needed evidence that the project had been withdrawn from permitting at the local level.
6. Due to the required 90-day time limit for DRI hearings, a hearing officer closed a pro-forma hearing on the project at the Cape Cod Commission office in Barnstable, MA on January 10, 2002. No testimony or substantive action was taken at this hearing.

7. On December 14, 2001, the Commission received a letter from the applicant requesting a 90-day extension of the DRI review timeframe. On January 22, 2002, the Commission's Regulatory Committee granted the applicant a 90-day extension of the DRI review timeframe.

8. As of April 16, 2002, the applicant had failed to submit a completed DRI application. On April 16, 2002, the Regulatory Committee voted to recommend to the full Commission that the project be procedurally denied without prejudice.

9. The applicant failed to submit a completed DRI application, thereby providing no information on which to conduct a substantive hearing, or on which to base a decision by the Commission.

CONCLUSION

The Commission hereby denies the application of Cumberland Farms, Inc. for the proposed Cumberland Farms store and gas station as a limited Development of Regional Impact. This denial is rendered pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended.

This conclusion is supported by the finding that the applicant failed to comply with the procedures of the Commission Act and Commission regulations requiring submission of a completed DRI application.

Elizabeth Taylor
Elizabeth Taylor - Chair, Cape Cod Commission

May 30, 2002
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 30th day of May, 2002, before me personally appeared

Elizabeth Taylor, to me known to be the person described in and who

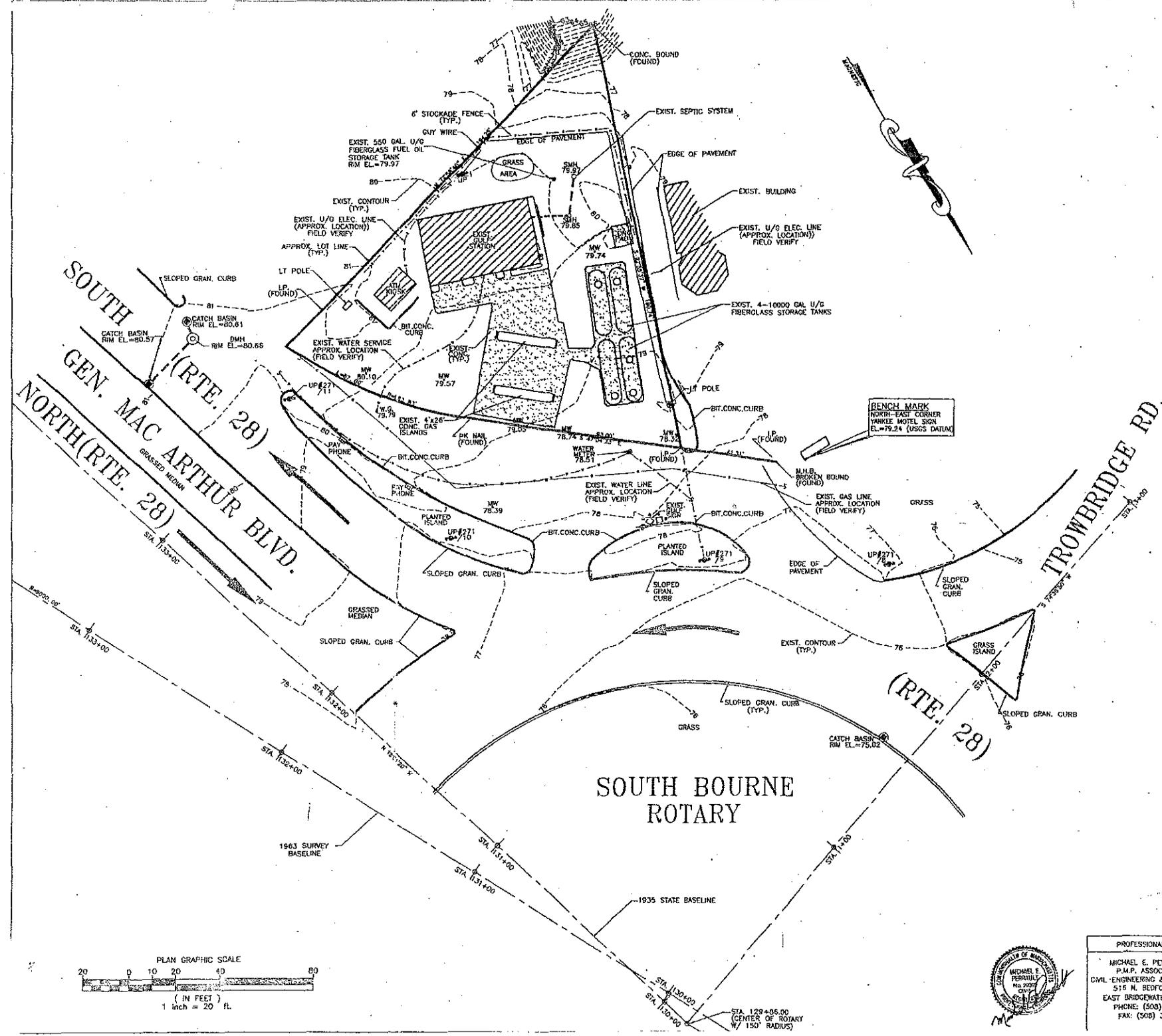
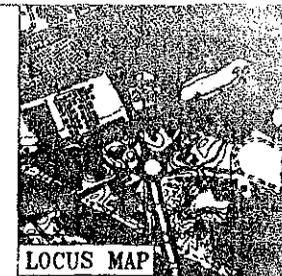
executed the foregoing instrument, and acknowledged that she executed the same as

her free act and deed.

Katharine L. Peters
Notary Public

My Commission expires:





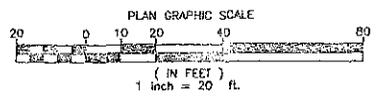
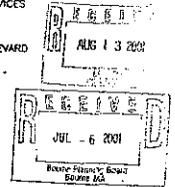
- LEGEND**
- EXIST. LOT LINE
 - EXIST. CURB LINE
 - EXIST. SEWER MANHOLE
 - EXIST. CATCH BASIN
 - EXIST. WATER MAIN
 - EXIST. GAS MAIN
 - EXIST. UNDERGROUND ELECTRIC
 - EXIST. STOCKADE FENCE
 - EXISTING CONTOUR
 - MW EXIST. MOTERING WELL
 - 78.32 EXIST. FIRE HYDRANT
 - EX-100 EXIST. FIRE HYDRANT
 - UP EXIST. UTILITY POLE

EXISTING CONDITIONS/TOPOGRAPHIC SURVEY BY:
 P.M.P. ASSOCIATES LLC
 516 N. BEDFORD STREET
 EAST BRIDGEWATER, MA

PLAN REFERENCES
 PLAN OF LAND IN BOURNE
 TO BE CONVEYED BY ROBERT S. HANDY &
 MABEL N. WING TO GULF OIL CORP.
 NEWELL B. SNOW P.L.S.
 DATED JULY 9, 1964

AS-BUILT SITE PLAN
 BOURNE, MASS.-NEW SERVICE STATION
 CUMBERLAND FARMS, INC.
 BY: AZIMUTH SURVEY SERVICES
 DATED 11/3/95

CONSTRUCTION PLAN
 RTE.28-MACARTHUR BOULEVARD
 BOURNE, MA.
 SHEET 6 OF 31
 FED. AID PROJ. NO.
 RF-137(003)
 RS-577(001)



PROFESSIONAL ENGINEER MICHAEL E. PERRAULT, P.E. P.M.P. ASSOCIATES, LLC CIVIL ENGINEERING & LAND PLANNING 516 N. BEDFORD STREET EAST BRIDGEWATER, MA 02333 PHONE: (508) 378-3421 FAX: (508) 378-8382	V# 1258 Store# 2347 Gas Station# 852186	140 RIVER BLVD. BOURNE, MASS. 02532 BOURNE, MASSACHUSETTS OFFICE / PHOTOGRAPHY PHONE: (508) 852-1300 777 DUDMAN STREET, CHATHAM, MASSACHUSETTS 01929 EXISTING CONDITIONS SITE PLAN	1" = 20.00' MAY 27, 2001
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ZONING DISTRICT: BUSINESS B-2

SYSTEM USE: PROPOSED USE: CHANGING STORE VEHICLE OPERATING

INTENSITY REGULATIONS

REQUIRED	EXISTING	PROPOSED
LOT AREA	10,000 SQ. FT.	9,419 SQ. FT.
LOT FRONT	100 FEET	90 FEET
LOT DEPTH	100 FEET	104 FEET
FRONT YARD SETBACK	50 FEET	27 FEET
REAR YARD SETBACK	20 FEET	20 FEET
SIDE YARD SETBACK	5 FEET	5 FEET
MAX. BUILDING HEIGHT	35 FEET	35 FEET
MAX. OPEN SPACE	20% MAX.	0.0%

TANK NOTES

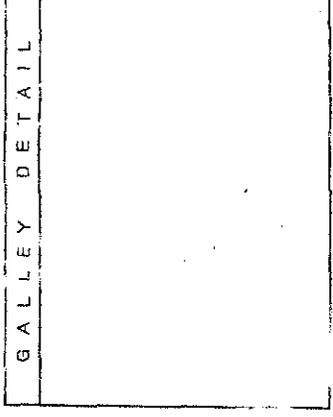
- TANK CAPACITY: 1,000 GALLONS
- INSTALLATION: SEE PLAN

PARKING CALCULATIONS

1 space per 100 sq. ft. of floor area

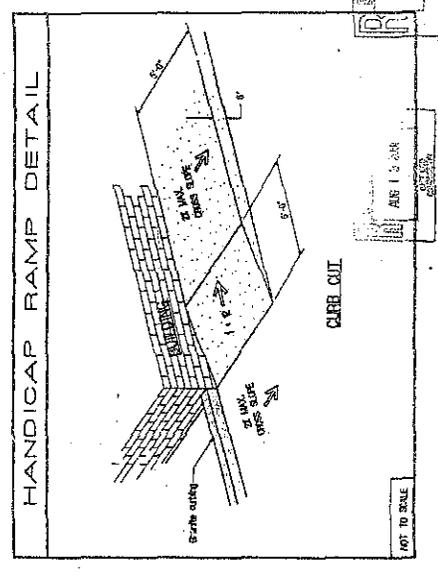
1,000 sq. ft. floor area = 10 spaces

100 sq. ft. floor area = 1 space



LEGEND

- EXISTING CONDUIT LINE
- EXISTING SPOT ELEVATION
- EXISTING OVERHEAD ELECTRIC LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING GAS LINE
- EXISTING SANITARY SEWER LINE
- EXISTING CATCH BASIN
- EXISTING FLOOR PALE
- EXISTING WATER GATE
- EXISTING LIGHTING WELL
- PROPOSED SPOT ELEVATION
- PROPOSED 8" DIA. CURB, SLOTTED DRAIN LANE
- PROPOSED 6" DIA. WOODEN ENCLOSURE FENCE



General Note: After Releasement From Traffic Circle

BOURNE, MASSACHUSETTS

Cumberland Farms

PROPOSED SITE PLAN

REVISIONS

NO.	DATE	DESCRIPTION
1	10/20/00	ISSUE FOR PERMITS
2	11/15/00	REVISED PERMITS
3	12/15/00	REVISED PERMITS
4	01/15/01	REVISED PERMITS
5	02/15/01	REVISED PERMITS
6	03/15/01	REVISED PERMITS
7	04/15/01	REVISED PERMITS
8	05/15/01	REVISED PERMITS
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10	07/15/01	REVISED PERMITS
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240	09/15/20	REVISED PERMITS
241	10/15/20	REVISED PERMITS
242	11/15/20	REVISED PERMITS
243	12/15/20	REVISED PERMITS
244	01/15/21	REVISED PERMITS
245	02/15/21	REVISED PERMITS
246	03/15/21	REVISED PERMITS
247	04/15/21	REVISED PERMITS
248	05/15/21	REVISED PERMITS
249	06/15/21	REVISED PERMITS
250	07/15/21	REVISED PERMITS
251	08/15/21	REVISED PERMITS
252	09/15/21	REVISED PERMITS
253	10/15/21	REVISED PERMITS
254	11/15/21	REVISED PERMITS
255	12/15/21	REVISED PERMITS
256	01/15/22	REVISED PERMITS
257	02/15/22	REVISED PERMITS
258	03/15/22	REVISED PERMITS
259	04/15/22	REVISED PERMITS
260	05/15/22	REVISED PERMITS
261	06/15/22	REVISED PERMITS
262	07/15/22	REVISED PERMITS
263	08/15/22	REVISED PERMITS
264	09/15/22	REVISED PERMITS
265	10/15/22	REVISED PERMITS
266	11/15/22	REVISED PERMITS
267	12/15/22	REVISED PERMITS
268	01/15/23	REVISED PERMITS
269	02/15/23	REVISED PERMITS
270	03/15/23	REVISED PERMITS
271	04/15/23	REVISED PERMITS
272	05/15/23	REVISED PERMITS
273	06/15/23	REVISED PERMITS
274	07/15/23	REVISED PERMITS
275	08/15/23	REVISED PERMITS
276	09/15/23	