



# CAPE COD COMMISSION

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DATE: December 14, 2006

TO: Mashpee Commons, Limited Partnership

FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Mashpee Commons, Limited Partnership  
PO Box 1530  
Mashpee, MA 02649

PROJECT #: TR #98049

PROJECT: Jobs-Whitings Neighborhood Master Plan

OWNER: Mashpee Commons Limited Partnership  
Mashpee Commons  
PO Box 1530  
Mashpee, MA 02649

CERTIFICATE #: 121818 (Land Court Plan No. 34844B, Lots 5 and 6)

BOOK/PAGE: Book 7408 Page 46 (Lot 16 on Plan Book 417 Page 54)  
Book 5798 Page 94 (Lot 19 Plan Book 432 Page 64)  
Book 5410 Page 119 and Book 5798 Page 94 (Lot 20 Plan Book  
432 Page 64)

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## DECISION OF THE CAPE COD COMMISSION SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Mashpee Commons, LP 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 Jobs-Whitings Neighborhood Master Plan in

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Mashpee, MA. The decision is rendered pursuant to a vote of the Commission on December 14, 2006.

### **PROJECT DESCRIPTION**

The proposed project is a master plan for the construction of 40,900 square feet (sf) of new commercial space, distributed between 33 mixed-use buildings with small tenant spaces ranging in size from 1,000 square feet to 4,700 square feet. The proposal is part of a larger mixed-use development that has been submitted to the Town of Mashpee's Zoning Board of Appeals as a Comprehensive Permit (under Mass. General Laws Chapter 40B) that includes 382 residential units. The Jobs-Whiting Neighborhood is also part of a larger Master Plan for Mashpee Commons and will be an addition to the existing North Market Street and Mashpee Commons Village Center Neighborhood at the current site located west of the Mashpee Rotary in Mashpee, MA.

The proposed project is located on approximately 6.38 acres of commercially-zoned property in the Mashpee Certified Growth Center and includes:

- Twenty-nine live/work buildings, each with 1,000 sf commercial space
- One live/work building with 2,800 sf of commercial space (lot 74)
- One live/work building with 3,200 sf of commercial space (lot 81)
- Two commercial /loft buildings, with 1,200 sf and 4,700 sf of commercial square footage respectively (lots 121 and 127).

The live/work units are designed with separate exterior entrances for access to the residential and commercial spaces, but are internally connected to allow internal egress between the residential and commercial areas. The plan provides 164 parking spaces distributed between on-street parking (140) and dedicated on-site parking (24). The application includes building elevations, design guidelines and prototypical building types that are aimed at guiding the form and style of development as the area is built out.

### **PROCEDURAL HISTORY**

The proposed project is part of a larger master plan for Mashpee Commons. An Environmental Impact Report (EIR) was prepared for the project and was reviewed jointly by the Executive Office of Environmental Affairs and the Cape Cod Commission under a Memorandum of Understanding between the two agencies. The EIR for the project was completed and the Secretary of Environmental Affairs certified that the Final EIR adequately and properly complied with the requirements of MEPA on March 2, 2001.

Under Section 6(c)(vi) of the Commission's Enabling Regulations, the Commission must open a public hearing within 45 days of the Secretary's certification of the adequacy of the Final EIR. A Hearing Officer opened the public hearing period on April 14, 2001 and closed the hearing period on July 10, 2001. Since that time, numerous extensions to the decision period have been mutually agreed to as the plans for the various neighborhoods were developed. The Jobs-Whiting Neighborhood plans are a significant portion of the

total Mashpee Commons plan, however, plans for the remaining neighborhoods (i.e. East Steeple Street, the remaining portions of North Market Street (Phase 2), and Trout Pond) are yet to be developed and have not yet been brought forward for further DRI review by the Commission. During the course of discussions on these extension agreements, the Applicant agreed to be subject to the 2002 Regional Policy Plan (RPP) for the purposes of the DRI review, and the latest extension agreement expires on January 1, 2008.

A duly noticed public hearing for the review of the commercial portion of the Jobs-Whiting Neighborhoods was held at the Mashpee Senior Center on September 12, 2006. The subcommittee met on November 30, 2006 and at that meeting the subcommittee reviewed a draft decision and made a recommendation to approve the proposed commercial portion of the Jobs-Whiting Neighborhoods with conditions. A final public hearing was held before the full Commission on December 14, 2006 at which time both the public hearing and record was closed. At this hearing, the Commission voted unanimously to approve the project as a DRI, with conditions.

#### **MATERIALS SUBMITTED FOR THE RECORD**

\*\*\*Note: The following list reflects materials submitted to the Commission for the Jobs-Whiting Neighborhoods from January 2006 to December 4, 2006. Additional submittals have been made regarding previous plans for this and other locations within the Mashpee Commons Master Plan. These materials are contained within the project files at the Commission offices (file reference TR #98049), but did not directly relate to the decision on the Jobs-Whiting Neighborhoods.

#### **From the Applicant:**

- Letter from Mr. D. Storrs, dated January 26, 2006, Re: Application materials
- Email from Mr. D. Storrs, dated March 2, 2006, Re: Subcommittee Meeting 3-6-06
- Letter from Mr. D. Storrs, dated March 9, 2006, Re: Traffic Study
- Email from Mr. D. Storrs, dated April 3, 2006, Re: Water analysis
- Email from Mr. D. Storrs, dated April 3, 2006, Re: Cover Letter
- Email from Mr. D. Storrs, dated April 5, 2006, Re: Meeting with Jeff Dirk
- Email from Mr. D. Storrs, dated April 12, 2006, Re: Open Space
- Email from Mr. D. Storrs, dated April 12, 2006, Re: Update
- Email from Mr. D. Storrs, dated April 13, 2006, Re: Open Space
- Email from Mr. D. Storrs, dated April 13, 2006, Re: Update
- Email from Mr. D. Storrs, dated April 25, 2006, Re: Update
- Email from Mr. D. Storrs, dated June 12, 2006, Re: Next ZBA Meeting
- Email from Mr. D. Storrs, dated June 20, 2006, Re: Conversation of June 14
- Email from Mr. D. Storrs, dated June 21, 2006, Re: Conversation of June 14
- Letter from Mr. D. Storrs, dated July 17, 2006, Re: DRI Extension
- Letter from Mr. D. Storrs, dated July 25, 2006, Re: DRI submittal update
- Email from Mr. D. Storrs, dated July 26, 2006, Re: CCC submittal
- Three emails from Mr. D. Storrs, dated July 28, 2006, Re: Date of meeting
- Email from Mr. D. Storrs, dated August 7, 2006, Re: Potential Meeting Change
- Email from Mr. D. Storrs, dated August 8, 2006, Re: Potential Meeting Change
- Email from Mr. D. Storrs, dated August 10, 2006, Re: Responses to DRI questions
- Letter from Mr. D. Wood, dated August 1, 2006 and received August 11, 2006, Re: Nitrogen Loading Assessment
- Two emails from Mr. D. Storrs, dated August 14, 2006, Re: Hearing Dates

- Email from Mr. D. Storrs, dated August 16, 2006, Re: Hearing dates
- Email from Mr. D. Storrs, dated August 17, 2006, Re: Jobs-Whiting Trust
- Memorandum from Mr. D. Storrs, dated August 21, 2006, Re: Plans
- Email from Mr. D. Storrs, dated August 21, 2006, Re: Jobs-Whiting Trust
- Email from Mr. D. Wood, dated August 21, 2006, Re: Stormwater Management Strategy
- Email from Mr. D. Storrs, dated August 23, 2006, Re: Jobs-Whiting Trust
- Email from Mr. D. Storrs, dated August 23, 2006, Re: Jobs/Whiting Neighborhoods – Mashpee Commons
- Email from Mr. D. Storrs, dated August 23, 2006, Re: Mashpee Commons DRI-Affordable Housing
- Email from Mr. D. Storrs, dated August 23, 2006, Re: Jobs Whiting Trust
- Email from Mr. D. Storrs, dated August 24, 2006, Re: Square Footage
- Email from Mr. D. Storrs, dated August 24, 2006, Re: Memo Update
- Letter from Mr. D. Storrs, dated August 24, 2006, Re: Updated DRI application
- Email from Mr. D. Storrs, dated August 24, 2006, Re: Cover Letter
- Email from Mr. D. Storrs, dated August 24, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. D. Wood, dated August 24, 2006, Re: Summary of phone conversation of 8/24/06
- Email from Mr. D. Storrs, dated August 30, 2006, Re: Solid Waste
- Letter from Mr. D. Storrs, dated August 30, 2006, Re: Commercial Zoning in Mashpee
- Email from Mr. D. Storrs, dated September 8, 2006, Re: CCC Subcommittee
- Facsimile from Mr. J. Dirk, dated September 11, 2006, Re: Traffic mitigation
- Email from Mr. D. Storrs, dated September 13, 2006, Re: Land Set Aside
- Email from Mr. D. Storrs, dated September 14, 2006, Re: Open Items
- Email from Mr. D. Storrs, dated September 15, 2006, Re: Open Items
- Email from Mr. D. Storrs, dated September 15, 2006, Re: Size of Development Parcel
- Email from Mr. D. Storrs, dated September 15, 2006, Re: DRI update material
- Email from Mr. D. Storrs, dated September 15, 2006, Re: CCC letter
- Email from Mr. D. Storrs, dated September 18, 2006, Re: Subcommittee minutes
- Email from Mr. D. Storrs, dated September 18, 2006, Re: Staff Report
- Email from Mr. D. Storrs, dated September 19, 2006, Re: Staff Report
- Email from Mr. D. Storrs, dated September 22, 2006, Re: Meeting in Mashpee
- Email from Mr. D. Storrs, dated September 25, 2006, Re: Meeting in Mashpee
- Email from Mr. D. Storrs, dated September 27, 2006, Re: Development set aside parcel
- Email and memorandum from Mr. J. Dirk, dated September 28, 2006, Re: Traffic information
- Email from Mr. D. Storrs, dated October 5, 2006, Re: Update
- Two emails from Mr. D. Storrs, dated October 6, 2006, Re: Mashpee
- Email from Mr. D. Storrs, dated October 10, 2006, Re: Mashpee
- Two emails from Mr. D. Storrs, dated October 11, 2006, Re: Mashpee
- Two emails from Mr. D. Storrs, dated October 16, 2006, Re: Jobs-Whittings
- Email from Mr. D. Storrs, dated October 16, 2006, Re: Jobs-Whittings set aside
- Email from Mr. D. Storrs, dated October 19, 2006, Re: LCC # and Book and Page
- Email from Mr. D. Storrs, dated October 19, 2006, Re: Size of 40B
- Email from Mr. D. Storrs, dated October 23, 2006, Re: Size of 40B
- Email from Mr. D. Storrs, dated October 27, 2006, Re: Trip Reduction
- Email and Memorandum from Mr. J. Dirk, dated October 31, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Email from Mr. J. Dirk, dated November 1, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Email from Mr. D. Storrs, dated November 1, 2006, Re: Phone Call
- Email from Mr. D. Storrs, dated November 1, 2006, Re: Stormwater Management Plan
- Email from Mr. D. Storrs, dated November 1, 2006, Re: Updated Thoroughfares
- Email from Mr. J. Dirk, dated November 3, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Email from Mr. D. Storrs, dated November 3, 2006, Re: CCC Street Plans
- Two emails from Mr. D. Storrs, dated November 6, 2006, Re: Status of DRI

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- Two emails from Mr. D. Storrs, dated November 9, 2006, Re: Status of DRI
- Two emails from Mr. D. Storrs, dated November 9, 2006, Re: Transportation Summary
- Email from Mr. D. Storrs, dated November 9, 2006, Re: Response to Ed Eichner
- Email from Mr. D. Storrs, dated November 15, 2006, Re: Update
- Email from Mr. D. Storrs, dated November 15, 2006, Re: Intersections
- Letter from Mr. D. Storrs, dated November 17, 2006, Re: DRI Extension
- Email from Mr. D. Storrs, dated November 19, 2006, Re: DRI
- Email from Mr. D. Storrs, dated November 20, 2006, Re: DRI
- Email from Mr. D. Storrs, dated November 20, 2006, Re: Draft Decision
- Email from Mr. D. Storrs, dated November 20, 2006, Re: DRI title reference
- Email from Mr. D. Storrs, dated November 22, 2006, Re: Draft DRI
- Email from Mr. D. Storrs, dated November 26, 2006, Re: Draft DRI Decision
- Email and letter from Mr. D. Storrs, dated November 27, 2006, Re: Extension Request
- Email from Mr. D. Storrs, dated November 27, 2006, Re: Letter re: intersections
- Email from Mr. D. Storrs, dated November 27, 2006, Re: Stormwater responses
- Email from Mr. D. Storrs, dated November 27, 2006, Re: Barnstable Intersection
- Email from Mr. D. Storrs, dated November 28, 2006, Re: Talking by phone
- Email from Mr. D. Storrs, dated November 28, 2006, Re: Open items on DRI decision
- Email from Mr. D. Storrs, dated November 30, 2006, Re: Meeting follow up
- Email from Mr. D. Storrs, dated December 1, 2006, Re: Jobs-Whiting
- Email from Mr. D. Storrs, dated December 4, 2006, Re: Jobs-Whiting

#### **From the Cape Cod Commission:**

- Email from Mr. P. Dascombe, dated March 27, 2006, Re: DRI Application materials
- Email from Mr. P. Dascombe, dated April 4, 2006, Re: Friday Meeting
- Email from Mr. E. Eichner, dated April 3, 2006, Re: Water analysis
- Email from Mr. P. Dascombe, dated April 13, 2006, Re: Update
- Email from Ms. H. McElroy, dated April 13, 2006, Re: Open Space Question
- Email from Mr. P. Dascombe, dated June 12, 2006, Re: Next ZBA Meeting
- Two emails from Mr. P. Dascombe, dated June 21, 2006, Re: Conversation of June 14
- Email from Mr. E. Eichner, dated June 21, 2006, Re: Mashpee Commons
- Email from Mr. P. Dascombe, dated July 14, 2006, Re: Timeline for Mashpee Commons Review
- Memorandum from Mr. P. Dascombe, dated July 18, 2006, Re: Extension
- Three emails from Mr. P. Dascombe, dated July 28, 2006, Re: Date for meeting
- Email from Mr. P. Dascombe, dated August 7, 2006, Re: Potential Meeting Changes
- Email from Mr. P. Dascombe, dated August 8, 2006, Re: Potential Meeting Changes
- Two emails from Mr. P. Dascombe, dated August 14, 2006, Re: Hearing Dates
- Email from Mr. P. Dascombe, dated August 15, 2006, Re: Hearing Dates
- Email from Mr. P. Dascombe, dated August 22, 2006, Re: Jobs-Whiting Trust
- Email from Mr. P. Ruchinskaskas, dated August 22, 2006, Re: Housing Needs
- Email from Mr. P. Dascombe, dated August 24, 2006, Re: Memo Update
- Email from Mr. P. Dascombe, dated August 24, 2006, Re: Subcommittee Hearing
- Email from Mr. P. Dascombe, dated August 24, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. P. Dascombe, dated August 24, 2006, Re: Jobs-Whiting Trust
- Email from Mr. E. Eichner, dated August 24, 2006, Re: Summary of phone conversation of 8/24/06
- Email from Mr. P. Dascombe, dated August 25, 2006, Re: Hearing
- Email from Mr. P. Dascombe, dated August 31, 2006, Re: Solid Waste
- Email from Ms. A. Adams, dated August 31, 2006, Re: Lighting
- Memorandum from Mr. P. Dascombe, dated September 1, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. E. Eichner, dated September 5, 2006, Re: Nitrogen Loading
- Commission staff report dated September 12, 2006
- Four emails from Mr. P. Dascombe, dated September 6, 2006, Re: Staff Report
- Email from Mr. P. Dascombe, dated September 11, 2006, Re: CCC Subcommittee

- Email from Mr. P. Dascombe, dated September 13, 2006, Re: Follow up
- Two emails from Mr. P. Dascombe, dated September 15, 2006, Re: Open items
- Email from Mr. P. Dascombe, dated September 19, 2006, Re: Staff Report
- Email from Mr. G. Cannon, dated September 25, 2006, Re: Meeting in Mashpee
- Email from Mr. P. Dascombe, dated September 29, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. P. Dascombe, dated October 3, 2006, Re: Jobs-Whiting Neighborhoods
- Two emails from Mr. P. Dascombe, dated October 4, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. P. Dascombe, dated October 6, 2006, Re: Mashpee
- Two emails from Mr. P. Dascombe, dated October 10, 2006, Re: Mashpee
- Two emails from Mr. P. Dascombe, dated October 11, 2006, Re: Mashpee & Re: Questions on Lots
- Two emails from Mr. G. Cannon, dated October 16, 2006, Re: Jobs-Whitings
- Email from Mr. G. Cannon, dated October 19, 2006, Re: Jobs-Whitings
- Email from Mr. P. Dascombe, dated October 23, 2006, Re: Size of 40B
- Two emails from Mr. P. Dascombe, dated October 27, 2006, Re: Mashpee Commons Traffic Credits
- Memorandum from Mr. G. Cannon, dated October 26, 2006, Re: Barnstable traffic safety
- Email from Mr. P. Dascombe, dated October 27, 2006, Re: Trip Reduction
- Two emails from Mr. G. Cannon, dated October 27, 2006, Re: Trip Reduction
- Email from Mr. E. Eichner, dated October 27, 2006, Re: Stormwater
- Email from Mr. P. Dascombe, dated October 31, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Two emails from Mr. G. Cannon, dated November 1, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Email from Mr. P. Dascombe, dated November 1, 2006, Re: Updated Thoroughfares
- Email from Mr. G. Cannon, dated November 3, 2006, Re: Jobs Whiting Neighborhood Commercial Component
- Email and Memorandum from Mr. G. Cannon, dated November 3, 2006, Re: Barnstable Safety Mitigation
- Email and Memorandum from Mr. G. Cannon, dated November 3, 2006, Re: Falmouth Safety Mitigation
- Email from Mr. P. Dascombe, dated November 3, 2006, Re: CCC Street Plans
- Three emails from Mr. G. Cannon, dated November 9, 2006, Re: Status of DRI
- Email from Mr. G. Cannon, dated November 9, 2006, Re: Transportation Summary
- Email from Mr. E. Eichner, dated November 9, 2006, Re: Jobs Neighborhood Stormwater Management Plan
- Email from Mr. P. Dascombe, dated November 16, 2006, Re: 151/sandwich Road
- Email from Mr. P. Dascombe, dated November 16, 2006, Re: Jobs/Whiting subcommittee meeting
- Email from Mr. P. Dascombe, dated November 20, 2006, Re: DRI
- Email from Mr. P. Dascombe, dated November 20, 2006, Re: Jobs-Whiting Proposal
- Email from Mr. P. Dascombe, dated November 21, 2006, Re: Draft Decision
- Memorandum from Mr. P. Dascombe, dated November 27, 2006, Re: Subcommittee Meeting
- Email from Mr. P. Dascombe, dated November 28, 2006, Re: Stormwater responses
- Email from Mr. P. Dascombe, dated November 28, 2006, Re: Barnstable Intersection
- Email from Mr. P. Dascombe, dated November 29, 2006, Re: New Draft for jobs Whiting
- Email from Mr. P. Dascombe, dated November 30, 2006, Re: Meeting follow up
- Email from Mr. P. Dascombe, dated December 1, 2006, Re: Jobs-Whiting
- Email from Mr. P. Dascombe, dated December 4, 2006, Re: Jobs-Whiting
- Email from Mr. P. Dascombe, dated December 4, 2006, Re: Decision

**Letters from state/local officials:**

- Letter from Ms. J. Mason, dated March 15, 2006, Re: ZBA process coordination
- Letter from Ms. J. Mason, dated September 12, 2006, Re: Commercial space DRI
- Email from Mr. T. Fudala, dated September 29, 2006, Re: Jobs-Whiting Neighborhoods
- Email from Mr. T. Fudala, dated October 3, 2006, Re: Jobs-Whiting Neighborhoods

- Email from Ms. J. Mason, dated October 6, 2006, Re: Jobs-Whiting Neighborhoods
- Letter from Ms. M. Geist and Mr. D. Keeran representing the Association to Preserve Cape Cod, dated October 17, 2006
- Email from Ms. C. Laurent, dated October 27, 2006, Re: Mashpee Commons –151/Jobs Fishing/Frank Hicks Drive
- Email from Ms. J. Mason, dated October 27, 2006, Re: Mashpee Commons Traffic Credits
- Email from Mr. B. Currie, dated November 20, 2006, Re: 151/Sandwich Road

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 proceedings are incorporated into the record by reference.

### TESTIMONY

At the September 12, 2006 Public Hearing, Mr. Douglas Storrs representing Mashpee Commons, LP (Applicant) provided an overview of the proposed project and described how the project is currently being reviewed by the Mashpee Zoning Board of Appeals as a Comprehensive Permit. Mr. Philip Dascombe, Commission planner, provided an overview of the project before the subcommittee and explained that it was the commercial component of the Comprehensive Permit application only and described how the project related to the larger Mashpee Commons project. Mr. Dascombe summarized the staff report and said the project was consistent with the Economic Development, Affordable Housing and Land Use requirements of the RPP. Mr. Dascombe noted that the Applicant had requested re-designation of Significant Natural Resource Area in the vicinity and intended to offset nitrogen loading from the project by using credits established from hooking up public safety buildings on Frank Hicks Drive to the Mashpee Commons wastewater treatment plant. Mr. Dascombe noted the traffic mitigation proposed and noted the remaining information needed by the Commission.

Testimony was received from Mr. Robert Nelson, Chair of the Mashpee ZBA, who said there are a few things to resolve on the project and said that the ZBA would wait to decide on Comprehensive Permit until the Commission had finished its review.

Mr. Tom Fudala, Town Planner, asked a question about the direct infiltration of water from roof run-off, as this was not allowed under local zoning.

Mr. Jason Streebel, Town Assessor, asked about the market price for the live/work units and who would be able to afford both house and business.

Mr. Marshall Brem, ZBA member, noted that the project would be built out over 15 years.

Mr. Don Keeran, representing the Association to Preserve Cape Cod, said there were many positives about the project including the denser development, village-style and mixed-use characteristics. He also noted concern over the cumulative impacts of traffic, particularly at the rotary.

## JURISDICTION

The proposed project qualifies as a Development of Regional Impact (DRI) under Section 3(e)(i) of the Cape Cod Commission Enabling Regulations, Chapter A, Barnstable County Ordinance 90-12, as amended, which requires review of new commercial construction with a gross floor area greater than 10,000 square feet and under Section 12(i) and 13(b) of the Cape Cod Commission Act as a project for which the Secretary of Environmental Affairs has required the preparation of an Environmental Impact Report (EIR).

## FINDINGS

The Commission has considered the application of Mashpee Commons, LP ("Applicant") for the proposed 40,900-square-foot commercial development in the Jobs-Whiting Neighborhoods, and based on consideration of such application and upon the information presented in the public hearings and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

### General Findings:

- G1. The proposed commercial project involves the construction of 40,900 square feet of new commercial space ("Project") on commercially zoned property within an area designated under the Mashpee Comprehensive Plan as a Certified Growth Center. The project is part of a mixed-use development (described in Findings G3 and G4) that incorporates the principles of Traditional Neighborhood Development (TND) and seeks to create a well-defined center that incorporates sustainable development and minimizes sprawl. The area occupied by the proposed commercial space is approximately 6.38 acres. The plan provides 164 parking spaces distributed between on-street parking (140) and dedicated on-site parking (24). The application includes building elevations, Architectural and Landscape Codes and prototypical building types that are aimed at guiding the form and style of development as the area is built out.
- G2. The project's commercial floor area is proposed to be distributed among small commercial spaces ranging in size from 1,000 square feet to 4,700 square feet. Specifically, the proposed project includes (lots identified on Subdivision Plan dated July 26, 2006):
- Twenty-nine live/work buildings, each with 1,000 sf commercial space
  - One live/work building with 2,800 sf of commercial space (lot 74)
  - One live/work building with 3,200 sf of commercial space (lot 81)
  - Two commercial /loft buildings, with 1,200 sf and 4,700 sf of commercial square footage respectively (lots 121 and 127).

The proposed live/work units are structures that have commercial space on the lower level and residential space above that are connected in a way that would allow an individual to live and work within the same building. The buildings are

designed with separate exterior entrances for access to the residential and commercial spaces, but are internally connected to allow internal egress between the residential and commercial areas.

- G3. The project is part of a larger mixed-use development called the Jobs-Whiting Neighborhood that is the subject of a Comprehensive Permit Master Plan and subdivision application submitted to the Mashpee Zoning Board of Appeals (under Mass. General Laws Chapter 40B). The Jobs-Whiting Neighborhood site is comprised of approximately 40 acres of residentially zoned land and 20 acres of commercially zoned land. The Comprehensive Permit application includes 382 residential units, distributed between flats, townhouses and single-family homes and 40,900 square feet of commercial space distributed among several mixed-use buildings. The Comprehensive Permit application seeks numerous waivers from the Town of Mashpee zoning regulations for both the residential and commercial portions of the project. It is anticipated that the Jobs-Whiting Neighborhood Master Plan will be built-out over an extended period, although it is unknown whether the commercial space within the proposed buildings will be constructed by Mashpee Commons, LP or if the sites will be sold and developed separately by a third party.
- G4. The Jobs-Whiting Neighborhood is itself a part of a larger Master Plan for Mashpee Commons that was subject to the preparation of an Environmental Impact Report that was certified by the Secretary of Environmental Affairs on March 2, 2001. That Master Plan included the development of several neighborhoods, including the Jobs-Whiting Neighborhood. The Mashpee Commons Master Plan includes the potential for future additional development in the East Steeple Street, the remaining portions of North Market Street (Phase 2), and Trout Pond Neighborhoods. This decision is valid for a portion of the Jobs-Whiting Neighborhood only, as shown on the Site Plan (L1.1) dated July 2006. Any future plans for the development of other neighborhoods within the Mashpee Commons Master Plan area (i.e. East Steeple Street, the remaining portions of North Market Street (Phase 2), and Trout Pond Neighborhoods as described and illustrated in the Final Environmental Impact Report dated January 15, 2001) will be subject to separate Cape Cod Commission review at the time they are brought forward for permitting.
- G5. The project does not lie within a District of Critical Planning Concern (DCPC).
- G6. According to an email dated September 29, 2006 submitted by the Mashpee Town Planner, the project is consistent with the Town of Mashpee's Local Comprehensive Plan and Local Development Bylaws.

### **Land Use Findings**

- LU1. The aim of the Land Use section of the RPP is to direct development toward existing village centers and developed areas and to promote greater density and a

mix of residential and commercial uses. The RPP requires that new development be located in growth/activity centers and compact mixed use residential/commercial areas (MPS 1.1.1) and that development in these centers be constructed with the minimum feasible setback from the street to encourage village-style development (MPS 1.1.2). The RPP also requires that the parking lot layout reinforce traditional village streetscape patterns, including locating parking lots to the side and rear of commercial complexes and providing shared and on-street parking where feasible (MPS 1.1.4). The site is located within an area designated by the Mashpee LCP as a Certified Growth Center and is a mixed use, village-style development that incorporates traditional neighborhood design. The proposed buildings are at the edge of the sidewalk with a minimum setback, and the majority of the parking is located on-street or parking lots behind or to the side of the commercial buildings. Therefore, the proposed plan is consistent with the goals and standards of the land use section of the RPP.

### **Affordable Housing Findings**

AH1. The RPP requires that commercial projects provide an analysis of the affordable housing needs that will be generated by the project (MPS 5.3.1). The Technical Bulletin (04-001) provides guidance on the relative impacts of the project on affordable housing needs based on the average wages generated by the project. For example, projects with an average wage of 80% or less of the County average are considered to have a high impact, average wages between 100% and 80% of the County average are considered to have a moderate impact, average wages between 120% and 100% of the County average are considered to have a low impact and average wages between 150% and 120% of the County average are considered to have a very low impact. The Applicant conducted the required analysis in accordance with the Technical Bulletin and projected that the thirty-one (31) live work spaces and the additional 5,900 square feet of commercial space in the multifamily buildings will result in employment of sixty-five (65) full time equivalent positions and an average wage of \$49,692. According to the Department of Workforce Development (DWD), the average wage for the County for all of 2005 was \$675/week or \$35,100/year. The Applicant's analysis thus resulted in an average wage of 141% of the County's average, and that results in a very low impact on affordable housing needs. The Applicant acknowledged that the wages given were estimates and not based upon any data source, and therefore the Commission staff conducted its own analysis using DWD's industry classification data. Commission staff's analysis resulted in a project average wage of \$35,040, slightly below the Cape average wage of \$35,100. Based on this analysis and using the most conservative estimate, the project would have a neutral impact on affordable housing needs as it is on the border between the moderate and low impact categories (around 100%) described in the technical bulletin.

### Water Resource Findings:

- WR1. The Jobs Whiting Neighborhood is located within the watershed to the Mashpee River, the estuary portion of which is part of Popponneset Bay. Water quality in Popponneset Bay has been the subject of a Massachusetts Estuaries Project Technical Report, which determined that the Bay system is overloaded with nitrogen and total nitrogen concentrations need to be reduced to 0.38 ppm to restore eelgrass in the system (Howes, *et al.*, 2004<sup>1</sup>). The Massachusetts Department of Environmental Protection has determined that a Total Maximum Daily Load (TMDL) of 16.2 kilograms per day (kg/d) is necessary to attain this threshold concentration (MADEP, 2006<sup>2</sup>).
- WR2. If the TMDL is converted from a daily load to an annual load and divided by the watershed area, the TMDL translates into an annual areal load of 0.81 kg/acre. This load is an “identified critical nitrogen loading standard” under the Minimum Performance Standards in Section 2.1.1.2.C of the RPP. The non-residential portion of the Jobs Whiting Neighborhood of Mashpee Commons is proposed to be located on 6.9 acres, which translates into a fair share TMDL portion of 5.6 kg/yr.
- WR3. The non-residential Jobs Whiting Neighborhood proposal is estimated to have 20,450 square feet of office use and another 20,450 square feet of retail use, which combined will generate 2,556 gallons per day of Title 5 (per 310 CMR 15) wastewater flow. After accounting for stormwater loads and treatment of the wastewater at the Mashpee Commons treatment facility, the overall annual load from the Jobs Whiting Neighborhood proposal is 47.1 kg. This load is approximately nine times the fair share of the TMDL for the commercial part of the Jobs Whiting Neighborhood. During a previous regulatory review of the 151 North Market Street portion of the Mashpee Commons Master Plan (Hardship Exemption HDEX 02031, dated December 19, 2002, as modified), Mashpee Commons agreed to connect the Mashpee Senior Center/Fire Station/Police Station complex to the Mashpee Commons wastewater collection system and treat the wastewater at the Mashpee Commons facility. As a result of this, the Commission granted Mashpee Commons a nitrogen loading credit of 87 kg/yr. If this credit is applied to the Jobs Whiting Neighborhood project as is allowed under Hardship Exemption HDEX 02031, dated December 19, 2002, as modified,

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#### <sup>1</sup> References:

Howes, B., Kelley, S., Ramsey, J., Samimy, R., Eichner, E., Schlezinger, D., and Wood, J., 2004. Linked Watershed-Embayment Model to Determine Critical Nitrogen Loading Thresholds for Popponneset Bay, Mashpee and Barnstable, Massachusetts. Commonwealth of Massachusetts, Department of Environmental Protection, Massachusetts Estuaries Project, 138 pp. + Executive Summary, 10 pp.

<sup>2</sup> Massachusetts Department of Environmental Protection. 2006. Final Popponneset Bay Total Maximum Daily Loads For Total Nitrogen (Report # 96-TMDL-4 Control #217.0). Boston, MA.

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the commercial portion of the Jobs Whiting Neighborhood meets the RPP loading standard and Mashpee Commons' credit is reduced to 39.9 kg/yr.

- WR4. Section 2.1.3 of the RPP contains a number of MPSs related to stormwater system design, performance, and maintenance. Among these are the following requirements: 1) system design shall be based on a 25-year, 24-hour storm and attain 80% total suspended solids removal (MPS 2.1.3.2), and 2) design should use best management practices such as vegetated swales and wetland detention basins (MPS 2.1.3.3), and 3) a stormwater maintenance and operation plan shall be approved by the Commission and shall include, at a minimum, a schedule for inspection, monitoring, and maintenance, and the party responsible for plan implementation (MPS 2.1.3.6).
- WR5. A conceptual stormwater diagram, including a large swale downstream of most of the stormwater collection system has been submitted, but has not been accompanied by final design plans or calculations. Commission staff and Commons consultants have also discussed the incorporation of a number of system details, which are summarized in a November 1, 2006 letter from Duncan Wood, Sanborn, Head & Associates to Douglas Storrs, Mashpee Commons Limited Partnership and in subsequent emails (dated November 9, 2006). These details include: 1) tree boxes as primary discharge locations for road runoff, 2) direct infiltration of roof runoff, 3) permeable surfaces for lanes and some sidewalks, 4) sheet runoff to vegetated swales along southern edge of the project, 5) swirl particle concentrators for street runoff prior to swale discharge, and 6) regular street sweeping. In addition, details related to the stormwater system maintenance and operation plan, such as formal identification of a responsible party and incorporation of the maintenance and operation plan, shall be required to be presented in final design plans. The final details with the stormwater design and system maintenance and operation plan will be reviewed as part of the Mashpee Zoning Board of Appeals review of the Comprehensive Permit for the Jobs Whiting Neighborhood. The Commission finds that the stormwater plans submitted to the Commission to date meet the requirements of the MPSs in Section 2.1.3 of the RPP, provided however, the Applicant demonstrates that the stormwater MPSs are met by submitting the additional information as described by this finding, in Condition WR1, and illustrated in the Drainage System and Stormwater Treatment Swale draft plans (both dated November 6, 2006), for Commission staff approval after the Mashpee Zoning Board of Appeals approves the Comprehensive Permit for the Jobs-Whiting Neighborhood.

#### **Natural Resource Findings:**

- NR1. The project site is not located within a significant natural resource area (SNRA) due to the presence of roads and prior development located within the area designated as unfragmented forest in the RPP. A natural resources inventory (NRI) was prepared in conjunction with the Draft Environmental Impact Report (DEIR) in March 2000. According to the NRI, the Jobs Fishing parcel contains a

mix of oak and pitch pine with a typical understory of black huckleberry, blueberry and dwarf oak. No unusual plants, wildlife, or natural communities were observed at that time.

- NR2. As the project is not located in SNRA, but is within an area designated as a Certified Growth Center under Mashpee's Local Comprehensive Plan, the open space requirement for the project is based on a 3:2 development to open space ratio. The project area of 6.38 acres therefore requires 4.25 acres of open space, per MPS 2.5.1.3. The Applicant has proposed providing open space adjacent to the Quashnet River, on a parcel that is located within SNRA, within the Mashpee National Wildlife Refuge boundary, and that is located adjacent to town-owned conservation land. Conservation of the parcel will allow for public access. The open space requirement in the RPP (MPS 2.5.1.10) allows a further reduction by 10% where "high quality, naturally vegetated open space is provided in a Significant Natural Resource Area contiguous to existing permanently protected open space and is made accessible to the public." This credit reduces the open space requirement to 3.83 acres, which the Jobs/Whiting Trust has proposed to protect through a conservation restriction.

#### **Community Character Findings:**

- CC1. The Environmental Impact Report prepared for the entire Mashpee Commons Master Plan included an Intensive (Locational) Archaeological Survey, prepared by the Public Archaeological Laboratory (PAL). Ms. Brona Simon, State Archaeologist for the Massachusetts Historical Commission (MHC), confirmed in a letter dated April 17, 2001 that no significant archaeological resources were identified in the area and determined that no further archaeological testing would be warranted for the Mashpee Commons site. Therefore, the project is consistent with the MPS in regard to historic and archaeological resource protection.
- CC2. The application includes conceptual building elevations and floor plans of the 24-foot and 30-foot-wide, live/work units, and is accompanied by an Architectural Code (dated October 2006 v.8) that provides guidance to future developers (whether Mashpee Commons, LP or other) as the building design is created. These design guidelines include direction to future designers on appropriate roof forms, building lines, doors, windows, porches, materials, lighting, landscaping and other building/site design elements. All of the proposed commercial spaces are contained within buildings that have a building footprint of less than 10,000 square feet. Therefore, the RPP standard (MPS 6.2.5) that requires variation in the roof and façade of a building and full screening of the development does not apply. The Architectural Code proposed is consistent with the Commission's Design Guidelines (*Technical Bulletin 96-001 – Designing the Future to Honor the Past: Design Guidelines for Cape Cod*) in that it supports village-style development and encourages variety in building style, massing and materials. The commercial spaces will incorporate display/storefront windows that will wrap

around both street sides of corner buildings and are consistent with the creation of a pedestrian-oriented environment. As such, the proposed conceptual elevations and Architectural Code are consistent with the goals and standards of the architecture portion of the RPP and, provided that the provisions of the Architectural Code are followed, will result in appropriately scaled buildings of traditional form and mass and that use an appropriate palette of materials.

- CC3. The Applicant has proposed a process for review of the future buildings for consistency with the Architectural Code (October 2006, v.8) in the Jobs-Whiting Neighborhood Design Review Process (December 2006, v.4). This process would require all future development to first be subject to approval by a "Neighborhood Architect", whose job it would be to ensure that the Architectural Code is followed. The "Neighborhood Architect" would be a privately hired design professional in the employ of either Mashpee Commons, LP, its successors or assigns, or the Homeowners Association. Once approved by the "Neighborhood Architect", the developer could proceed to the local approval process with the Town of Mashpee. In order to ensure that the Architectural Code is followed for the commercial space of the future buildings as described in finding G2, those buildings containing commercial floor area should receive review and approval from the Mashpee Design Review Committee (DRC) without further need for Commission approval as to the community character standards of the RPP only. However, in the event that either the Mashpee DRC does not exist as a Board in the future, or if the Mashpee DRC deems it appropriate to receive input from the Commission staff on the proposed design, or if the Mashpee DRC determines that the design significantly deviates from the Jobs and Whittings Neighborhood Architectural Code (October 2006, v.8) and Jobs and Whittings Neighborhood Landscape Code (Version 2), administrative review of the building design by the Commission staff is required.
- CC4. MPS 6.2.9 requires in part that all development implement a landscape plan that *addresses the functional aspects of landscaping*. Due to the nature of the proposed development as traditional neighborhood design, proposed landscaping in the Jobs and Whittings Neighborhoods is limited to street trees and planting strips along commercial and urban streetscapes, consistent with MPS 6.2.9. Trees are proposed to be a minimum of 3" caliper in size at time of planting, and plant species are generally tolerant of roadside conditions, as recommended by ODRP 6.2.14.
- CC5. MPS 6.2.9 also requires that *a maintenance agreement or irrigation system, as appropriate, be provided by all development*. Tree maintenance procedures included in the Jobs and Whittings Neighborhood Landscape Code (Version 2) were revised to address maintenance issues such as watering, fertilization, pruning, and replacement of dead plant materials. A landscape maintenance agreement should be finalized prior to issuance of the first Preliminary Certificate of Compliance by the Commission to ensure that a contract exists with a property

manager and/or that an entity is in place to maintain proposed landscaping within the Jobs and Whittings neighborhoods.

- CC6. Proposed parking for the commercial portion of Jobs and Whittings neighborhoods is almost entirely on-street parking, which is consistent with MPS 6.2.7 for development within certified Growth/Activity Centers. The exception is parking for Lot 127, which is located behind the building, also consistent with MPS 6.2.7.
- CC7. MPS 6.2.11 *prohibits the installation of internally illuminated signs*. Commercial signage will be governed by the Architectural Code, which limits the size, materials and location of signage on the buildings. The Code also prohibits neon signs, and requires signs to be lit from above the sign, which are consistent with the Commission's lighting technical bulletin and MPS 6.2.11.
- CC8. The Architectural Code (dated (October 2006, v.8)) is in compliance with MPS 6.2.10 and Technical Bulletin 95-001, the Commission's standards for exterior lighting.

**Transportation Findings:**

T1. According to the July 17, 2006 technical memorandum submitted for the project, the proposed development is expected to generate 1,768 vehicle trips on an average weekday and 2,344 vehicle trips on an average Saturday. The RPP allows a 10% traffic credit for any development proposed within a growth center, and standard engineering practice allows for a "pass-by" rate up to 25% (those vehicles accessing a retail site as part of a multi-purpose trip). An internal capture credit was given to the project due to interaction between the commercial and residential components of Mashpee Commons. The RPP also requires that all DRIs reduce the site-generated traffic by 25 percent (MPS 4.1.2.1). The expected net increase in daily traffic from the project, after allowing for these traffic reductions and assuming the trip reduction requirement is met, is as follows:

Average weekday	822 trips
Average morning peak hour	N/A
Average evening peak hour	75 trips
Average Saturday	1,090 trips
Average Saturday peak hour	103 trips

T2. All DRIs are required to reduce new vehicle trips in and out of the site by 25% over what is typically expected for the land use (MPS 4.1.2.1). MPS 4.1.2.4 allows for the project's trip reduction requirement to be reduced from 25% of the summer daily traffic to 20% because the site is on a fixed bus route. Based on the increase in average daily traffic of 1,768 trips per day, an 8 percent internal capture rate credit, and a 10% growth center credit, the trip reduction requirement for this project is 293 [1,768 x .92 x .90 x .20] daily vehicle trips.

The Applicant has proposed to donate approximately 7.03 acres of vacant developable land off Job's Fishing Road in Mashpee, in excess of open space requirements, to a conservation land trust to partially meet the trip reduction requirements. The parcel of land is identified in an OffSite Open Space Plan (L1.2) by Imai Keller Moore Architects dated August 21, 2006. This vacant developable land has the ability to support 6.3 dwelling units per acre. The 7.03 acres have the potential to generate 221 daily trips, which is 72 trips less than the 293 trips required to be reduced under the RPP. The donation of vacant developable land in excess of open space requirements as an offset to the trip reduction requirements of the RPP is allowable under MPS 4.1.2.7 (a).

The Applicant has also proposed a monetary contribution of \$86,359 based on the Cape Cod Commission Guidelines for Traffic Impact Assessment Technical Bulletin 96-003, Part 3 Automobile Trip Reduction to offset the remaining 20% trip reduction requirement (72 trips). This monetary contribution and the proposed vacant developable land together will satisfy the trip reduction requirements.

The Applicant currently has a \$648,564.17 transportation credit resulting from the prior installation of a traffic signal at Route 28/Donna's Lane/Job's Fishing Road. The traffic signal installation credit was awarded to Mashpee Commons per Condition #12 of the Route 151 North Market Street decision (#TR90009-A) dated March 4, 1993. The amount of the transportation credit (\$648,564.17) and supporting documentation was summarized in a Cape Cod Commission memorandum from Bob Mumford to Sharon Rooney dated January 9, 2006, which is attached to this decision and is incorporated by reference. The Applicant has proposed that the \$86,359.00 monetary contribution for trip reduction be deducted from the Applicant's \$648,564.17 transportation credits.

- T3. MPS 4.1.1.1 states "Development and redevelopment shall not degrade safety for pedestrians, bicyclists or motor vehicles operators or passengers." MPS 4.1.1.2 requires DRIs to identify all high crash locations impacted by 25 or more new peak hour trips. Twenty-five (25) or more new peak hour trips through a high crash location constitutes a degradation in public safety and requires safety mitigation.

The Applicant has identified four (4) high crash locations as required by the RPP. At these four (4) locations, the following safety mitigation is offered to offset the degradation in public safety caused by this project.

<b>Location</b>	<b>Safety Mitigation</b>
1. Mashpee Rotary 2. Route 151/Old Barnstable Road 3. Route 130/Great Neck Road North	The Applicant has designed and installed a traffic signal at the intersection of Route 28/Donna's Lane/Job's Fishing Road as an offset to the deteriorating safety conditions at these locations.
4. Route 151/Sandwich Road	Contribute to the County of Barnstable for future safety improvements in Falmouth, as described in finding T4.

T4. The RPP requires DRIs to mitigate all transportation impacts from the project per MPS 4.2.3.4. This mitigation can be achieved by in-kind strategies (roadway widening, signalization, etc.), non-structural means (transit, preservation of developable land) or a combination of these measures. The Applicant has compiled and submitted to the Commission a fair share cost analysis following Technical Bulletin 96-003, Part 2 – Fair Share Overview and Methodology Guidelines. The Applicant must mitigate 103 Saturday midday vehicle trips to comply with MPS 4.1.3.4 of the RPP. The fair share cost to offset 103 Saturday midday peak trips has been calculated for the Applicant by Vanasse Associates, Inc., at \$398,500.00.

The Applicant has determined that the transportation impacts of this project affect the Towns of Barnstable, Mashpee and Falmouth. Based on the impacts to these Towns, the fair share transportation mitigation costs are outlined in the table below.

<b>Town</b>	<b>Mitigation amount</b>
Barnstable	\$25,746
Falmouth	\$38,006
Mashpee	\$334,748
<b>Total</b>	<b>\$398,500</b>

The Applicant has proposed that \$25,746 of the fair share transportation mitigation will be available to the Town of Barnstable for transportation improvements, \$38,006 of the fair share transportation mitigation will be available to the Town of Falmouth for transportation safety improvements and that \$334,748 be deducted from the transportation credits that exist from the previous transportation mitigation (i.e. installation of a traffic signal at Route 28/Donna's Lane/Job's Fishing Road) for Mashpee's portion of the fair-share mitigation costs. The traffic signal installation credit was awarded to Mashpee Commons per Condition #12 of the Route 151 North Market Street decision (#TR90009-A) dated March 4, 1993. The amount of the transportation credit (\$648,564.17) and supporting documentation is summarized in a Cape Cod

Commission memorandum from Bob Mumford to Sharon Rooney dated January 9, 2006, which is attached to this decision and is incorporated by reference.

**Solid Waste and Hazardous Waste Management Findings:**

- SW1. The project site is not located in a Wellhead Protection District.
- SW2. The Applicant has committed to following the LEED system guidelines developed by the Green Building Council, and has committed to working with users of the commercial spaces that may have more specialized needs for disposal of hazardous materials and wastes. These commitments address MPS 4.3.1.1, 4.3.1.2 and 4.3.1.4 for the project's construction and post-construction project phases.
- SW3. MPS 4.2.1.3 requires that suitable locations for the collection, storage and removal of recyclable materials and related equipment be provided. The project will be built over an extended period of time and it is likely that some of the lots will be sold and that individual or groups of buildings will be developed by unidentified future owners. Given the nature of the project and the small amount of commercial square footage in each building, it is acceptable to rely on individual building owners to recycle materials in accordance with existing state laws on a building-by-building basis. However, in the case where the buildings will be constructed and owned by Mashpee Commons Limited Partnership (or their subsidiaries, successors or assigns), adequate equipment and storage space should be provided to accommodate recycling for the commercial spaces in those buildings.

**Economic Development Findings:**

- ED1. The project will develop 31 live/work units and 2 office/commercial units for a total of 40,900 square feet of commercial space. The live/work units are unique in contemporary commercial development, reminiscent of traditional village centers in which individuals owned both their home and workplace. This is a particularly good model in a region like Cape Cod where the underlying cost of land combined with traditional suburban zoning can price smaller businesses out of the market. These spaces will generally appeal to individual professionals, artists, and small boutique owners, which provides greater commercial real estate diversity. The two larger commercial units, while more typical, will not significantly impact the overall diversity of the market. According to the Applicant's August 10, 2006 memo, the commercial elements of this project will be in place by 2010 at the earliest. The greater market diversity created by the project is consistent with the applicable goals (Goal 3.1) and standards (MPS 3.1.1) of the Economic Development section of the RPP.
- ED2. The Applicant estimates that once constructed, this development will generate 58 full-time year-round positions. The following table explains how the Applicant has arrived at these estimates.

Year-round Employment Estimate				
Type of Unit	Number of Units	Square Feet per Unit	FTE/unit or /1,000 sq. feet	Total FTE
Live/Work	29	1,000	1.5	43.5
Live/Work	1	2,800	3	3
Live/Work	1	3,200	3	3
Other Commercial	1	4,700	1.5	7.05
Other Commercial	1	1,200	1.5	1.8
<b>Total</b>	<b>33</b>	<b>40,900</b>		<b>58.35</b>

In addition to the 58 projected full-time year-round positions, the Applicant estimates an additional 29 summer jobs equal to 6.7 Full Time Equivalents (FTE) when annualized. Thus, the total full time equivalent employment for the project is approximately 65 positions. The types of jobs created by this project will likely range in skill level from that of store clerks to professional positions. Given this range, the Applicant has allocated the 65 FTE's estimated above into three pay level categories – low, medium, and high. The total annual payroll is estimated to be approximately \$3 million with the average annual wage estimated to be range between \$35,000 and \$49,000. The range of jobs to be generated by the project is consistent with Goal 3.3 of the RPP to encourage the creation and diversification of year-round employment opportunities.

- ED3. This project is located in a designated Certified Growth Center established by the Town of Mashpee's certified Local Comprehensive Plan and is therefore consistent with the standards that pertain to the location of projects relative to Certified Growth/Activity Center or Growth Incentive Zone (MPS 3.2.1 and 3.2.2). The project is also consistent with the following Other Development Review Policies (ODRP) to concentrate development in Growth/Activity Centers to use land more efficiently, allow for non-auto transportation, and reinforce village character and mix of uses (ODRP 3.2.3) and to maintain and restore village centers by concentrating small-scale retail, office, home-based industry, and community activities in these areas (ODRP 3.2.4).
- ED4. As proposed, this development is also consistent with the following Other Development Review Policies (ODRP) to recognize the role of private market and market forces in the local and regional economy (ODRP 3.1.2), to encourage businesses that are locally-owned and that employ Cape Cod Residents (ODRP 3.1.3), to encourage office & technology businesses to locate in growth centers (ODRP 3.1.4) and to encourage local businesses that will not adversely impact Cape Cod resources (ODRP 3.1.7).

## CONCLUSION

Based upon the findings listed above, the Cape Cod Commission hereby concludes:

- The probable benefits of the proposed project outweigh the probable detriments. As proposed, the project will result in community character benefits (Findings CC 4) and economic development benefits (Findings ED3 and ED4).
- The project is consistent with the Mashpee Local Comprehensive Plan,
- The project does not lie within a District of Critical Planning Concern (DCPC),
- The project, as proposed, is consistent with the Regional Policy Plan, as supported by the Findings above,
- The project is in compliance with the local zoning requirements provided that the project obtains all permits required by the Town, including a Comprehensive Permit from the Zoning Board of Appeals. As the Cape Cod Commission review of this project is as to the commercial component only, this DRI approval does not speak to the Comprehensive Permit that will be under review by the Town of Mashpee.

The Cape Cod Commission hereby approves the application of Mashpee Commons, LP for the commercial portion of the Jobs-Whiting Neighborhoods provided the following conditions are met:

## CONDITIONS

### **General Conditions:**

G1. This decision pertains to the commercial portions and related infrastructure of the proposed Jobs-Whiting Neighborhood only and all work shall be constructed in a manner consistent with the following plans and documents:

- Jobs and Whittings Neighborhoods, Commercial Space Permit Set dated July 2006, including the following drawings:
  - Context Plan (L0.1 dated July 2006)
  - Site Plan (L1.1 dated July 2006)
  - Offsite Open Space Plan (L1.2 dated August 21, 2006)
  - Grading Plan (L2.1 dated July 2006)
  - Water and Wastewater Distribution Plan (L2.2 dated July 2006)
  - Thoroughfare Designations (L3.1, L3.2 and L3.3 dated August 21, 2006)
  - Elevation Designation Plan (A1.1 dated July 2006)
  - Site Elevations (A1.2, A1.3 and A1.4 dated July 2006)
  - Schematic Plans (A2.1 and A2.3 dated July 2006)
  - Typical Storefront (A2.2 and A2.4 dated July 2006)
- Jobs/Whiting Residential Neighborhoods: Subdivision Plan dated November 1, 2006
- Stormwater Management Plan, including Drainage System and Stormwater Treatment Swale, dated November 6, 2006
- Jobs Neighborhood Permeability Plan dated November 1, 2006
- Jobs and Whittings Neighborhood Architectural Code (October 2006, v.8)

- Jobs and Whitings Neighborhood Design Review Process (December 2006, v.4)
- Jobs and Whitings Neighborhood Landscape Code (Version 2)

Any deviation or revision from the approved plans or documents, including but not limited to changes to the Architectural Code (October 2006, v.8) or Landscape Code (Version 2), building location, landscaping or other site work, shall require approval by the Cape Cod Commission through a modification process, pursuant to the Commission's Enabling Regulations in effect at the time of the review. The Commission modification process allows for an administrative review of minor or "de minimus" changes that may be applicable to small revisions to the documents listed above, however, more significant revisions may require action by the Regulatory Committee or full Commission. The Applicant shall submit to the Commission any additional information deemed necessary to evaluate any modifications to the approved plans.

- G2. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G3. Failure to comply with all conditions stated herein shall be deemed cause to revoke or modify this decision.
- G4. The Applicant shall obtain all necessary state and local permits for the proposed project.
- G5. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- G5.5 The following certificates of compliance are required by this decision: Preliminary Certificate of Compliance; Partial Certificate of Compliance #1; Partial Certificate of Compliance #2; Partial Certificate of Compliance #3; and, Final Certificate.
- G6. Upon issuance of each building permit for any proposed construction involving commercial floor area for any development as described and illustrated by those plans listed in Condition G1, the Applicant shall submit final approved plans (including building elevations and site plans) to the Commission staff. These plans will be used to verify consistency with this decision, with the Architectural Code (October 2006, v.8) and Landscape Code (Version 2) and with the approved plans prior to the Commission's issuance of each Partial or Final Certificates of Compliance for the project. If the final plans for the project approved by the town are inconsistent with this decision and/or supporting information submitted to the Commission to obtain the decision, then prior to issuance of any Partial or Final

Certificate by the Commission, those plans shall be reviewed as a modification subject to the Cape Cod Commission Enabling Regulations, as amended, and which are in effect at the time of the review.

- G7. Prior to issuance of a demolition permit or building permit from the Town of Mashpee for any commercial floor area for any development as described and illustrated by those plans listed in Condition G1, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision required before issuance of the Preliminary Certificate have been met.
- G8. Prior to receiving either a temporary or Final Certificate of Occupancy from the Town of Mashpee for commercial floor area for any development as described and illustrated by those plans listed in Condition G1, the Applicant shall obtain the respective certificates from the Commission in accordance with the schedule below. The Commission may issue a Partial or Final Certificate of Compliance for each phase of construction described in the schedule below.

Schedule of Partial and Final Certificates of Compliance required by the Cape Cod Commission:

Partial Certificate #1: Required prior to the issuance of an occupancy permit for any commercial floor area for any development as described and illustrated by those plans listed in Condition G1, herein after described as the "Jobs-Whiting Neighborhoods", that would result in the total floor area of commercial space occupied in the Jobs-Whiting Neighborhood to exceed 10,000 square feet.

Partial Certificate #2: Required prior to the issuance of an occupancy permit for any commercial floor area for any development as described and illustrated by those plans listed in Condition G1, herein after described as the "Jobs-Whiting Neighborhoods", that would result in the total floor area of commercial space occupied in the Jobs-Whiting Neighborhood to exceed 20,000 square feet.

Partial Certificate #3: Required prior to the issuance of an occupancy permit for any commercial floor area for any development as described and illustrated by those plans listed in Condition G1, herein after described as the "Jobs-Whiting Neighborhoods", that would result in the total floor area of commercial space occupied in the Jobs-Whiting Neighborhood to exceed 30,000 square feet.

Final Certificate: Required prior to the issuance of an occupancy permit that results in the completion and occupancy of all commercial floor area of the Jobs-Whiting Neighborhood (reaching the maximum 40,900 square feet).

- G9. The Applicant shall provide a minimum of 30 days written notice prior to seeking from the Commission issuance of each Preliminary, Partial or Final certificate associated with this decision. Commission staff shall complete an inspection under this condition within seven (7) business days of receipt of such notification and inform the Applicant in writing of any deficiencies and corrections needed. The Applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The Applicant agrees to allow Cape Cod Commission staff to enter onto the property, which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met. Should the Commission staff issue a notice of correction and/or deficiency, the Applicant shall make such correction and resubmit its request for a certificate in accordance with the procedure outlined in Condition G9. When resubmitting a request for a Preliminary, Partial or Final Certificate following a correction made by staff, the Applicant will be deemed to have met the initial 30-day written notice requirement of this condition.
- G10. The Applicant shall demonstrate to the Commission that a copy of this decision has been provided to the general contractor prior to the start of construction on any development described and illustrated by those plans listed in Condition G1.
- G11. This decision shall be binding upon and inure to the benefit of the Applicant (including without limitation its officers, employees, consultants, agents, attorneys, subsidiaries) and their respective successors or assigns.
- G12. The Applicant shall notify the Commission on an annual basis of the amount of commercial floor area that has been occupied in the Jobs-Whiting Neighborhood to date. The annual notification shall be submitted annually on the anniversary of the date of this decision and sent to the attention of the Executive Director of the Cape Cod Commission. The purpose of this annual notification is to track the construction of the commercial floor area in anticipation of requests for Certificates of Compliance.

## **WATER RESOURCES**

- WR1. Prior to the issuance of a Preliminary Certificate of Compliance from the Commission, the Applicant shall submit materials for Commission staff review and approval demonstrating that the proposed stormwater system meets the RPP Minimum Performance Standards in Section 2.1.3. These materials shall be based on and be consistent with the conceptual diagrams (Stormwater Management Plan Drainage System and Stormwater Treatment Swale draft plans (both dated November 6, 2006)) and emails dated November 9, 2006 and, at a minimum, include: 1) stormwater design calculations indicating that the system is based on a 25-yr, 24-hr storm and attains 80% total suspended solids removal (MPS 2.1.3.2); 2) a stormwater maintenance and operation plan consistent with MPS

2.1.3.6, that includes at a minimum a schedule for inspection, monitoring, maintenance and a responsible party for plan implementation; and 3) final design plans incorporating the maintenance and operation plan, based on the design calculations, and including design details related to system components and overflow contingencies. In the event the Commission staff finds that the submitted stormwater plans are inconsistent with these MPSs, the plans shall be evaluated by the Commission's Regulatory Committee in accordance with of the Commission's Enabling Regulations for modifications.

WR2. The overall annual nitrogen load from the commercial portion of the Jobs-Whiting Neighborhood project shall be limited to 47.1 kg. The Commission shall approve any changes in uses within the project area that may lead to nitrogen loading increases. Potential changes that may increase nitrogen loading would include increases in wastewater flow, impervious surfaces, or fertilized surfaces.

### **NATURAL RESOURCES**

NR1. Prior to the issuance of the Preliminary Certificate of Compliance, Mashpee Commons, LP shall provide the Cape Cod Commission with a conservation restriction of a form and substance satisfactory to the Commission or its designee and consistent with Massachusetts General Laws Chapter 184, § 31 – 33 and accompanying plan which provides that 3.83 acres (Area A) located on the plan titled "Offsite Open Space Plan" of the Jobs and Whittings Neighborhoods Commercial Space Permit Set, drawing L1.2, and dated August 21, 2006 shall be preserved as permanent open space. Prior to the issuance of the Preliminary Certificate of Compliance, the restriction and site plan shall be approved by Commission counsel, and proof of submittal of the conservation restriction to the Massachusetts Division of Conservation Services and to the Mashpee Boards from whom approval is required shall be provided. The conservation restriction shall provide for the preservation of the 200 ft buffers to the Quashnet River in their undisturbed condition for habitat protection purposes, and may provide for the establishment of community gardens in other, suitable portions of the conservation restricted area. The conservation restriction shall provide for public access and may provide for the establishment of walking trails.

NR2. Prior to the issuance of the Partial Certificate of Compliance #1, Mashpee Commons, LP shall execute and record the conservation restriction and site plan at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission.

NR3. Prior to the issuance of the Partial Certificate of Compliance #1, the Mashpee Commons, LP shall install permanent concrete bounds delineating the boundary of the conservation-restricted area or shall provide Global Positioning System (GPS) coordinates of the boundaries of the conservation-restricted area certified by an engineer.

## **COMMUNITY CHARACTER/HERITAGE PRESERVATION**

- CC1. Site lighting for the project shall conform to the requirements of MPS 6.2.10 and the Commission's Exterior Lighting Guidelines, Technical Bulletin 95-001 (as amended). Prior to issuance of each Partial and the Final Certificate of Compliance from the Commission, in-the-field verification of the exterior lighting design and light levels shall be conducted by Commission staff to verify conformance with MPS 6.2.10 and the requirements of the Technical Bulletin 95-001 (as amended).
- CC2. The Applicant shall submit plans for all future buildings containing commercial floor area to the Mashpee Design Review Committee (DRC) for review and approval of the commercial space prior to issuance of any Preliminary, Partial or Final Certificate of Compliance by the Cape Cod Commission or building permit by the Town of Mashpee for such building. The Mashpee DRC may request Commission staff review of projects including commercial square footage if the DRC believes that the design either deviates from the Architecture Code (dated October 2006 v.8) or Landscape Codes (Version 2) or if the DRC desire design comments from Commission staff. In addition, if the Mashpee DRC does not exist as a Board in the future, then plans for future buildings must be reviewed and approved by the Commission staff for consistency with the Architectural and Landscape Codes prior to issuance of any Preliminary, Partial or Final Certificate of Compliance or building permit for such building. In the event that Commission staff review plans for buildings containing commercial space in accordance with this condition; staff may approve the project if the plans are consistent with the Architectural and Landscape Codes; or, if staff determine that the design of the commercial portion of the proposed buildings deviate from the Architectural and Landscape Codes, the revisions shall be evaluated by the Commission's Regulatory Committee in accordance with the Commission's Enabling Regulations.
- CC3. Prior to the issuance of the Preliminary Certificate of Compliance, the Applicant shall submit a draft maintenance contract for all proposed landscaped areas based upon guidelines for maintenance of such areas provided by Commission staff. Prior to the issuance of any Partial or Final Certificate of Compliance from the Commission for any development required by Condition G8, the Applicant shall either provide a fully executed landscape maintenance contract for 3 full growing seasons from the date the landscaping is planted, or demonstrate that an existing maintenance contract is in place and valid to cover 3 full growing seasons from the date the landscaping is planted or submit a landscape guarantee that provides a three year warranty for installed landscaping. A growing season is defined as the period between March 15<sup>th</sup> and October 31<sup>st</sup>.
- CC4. If all required site work and/or landscape improvements associated with any phase of the proposed project are not complete at the time each Partial or Final Certificate of Compliance is sought from the Commission for that phase, any

work associated with that phase of construction that is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The check shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. All site work and/or landscape improvements shall be completed within six months of the issuance of the associated Partial or Final Certificate of Compliance.

**TRANSPORTATION**

T1. The Applicant shall provide \$63,752.00 to the Commission for roadway mitigation. This mitigation will be held in a transportation mitigation account at Barnstable County/Cape Cod Commission and shall be applied to transportation safety improvements in the Town of Falmouth and transportation improvements in the Town of Barnstable (study area towns impacted by this project), as follows.

Barnstable	\$25,746
Falmouth	\$38,006
	\$63,752

T2. The mitigation described in Condition T1 shall be provided to the Commission in four equal parts in accordance with the following schedule:

Town of Barnstable:

Prior to issuance of Partial Certificate #1:	\$6,436.50
Prior to issuance of Partial Certificate #2:	\$6,436.50
Prior to issuance of Partial Certificate #3:	\$6,436.50
Prior to issuance of Final Certificate:	\$6,436.50
Total	\$25,746.00

Town of Falmouth:

Prior to issuance of Partial Certificate #1:	\$9,501.50
Prior to issuance of Partial Certificate #2:	\$9,501.50
Prior to issuance of Partial Certificate #3:	\$9,501.50
Prior to issuance of Final Certificate:	\$9,501.50
Total	\$38,006.00

T3. The Applicant will provide \$86,359.00 in traffic mitigation for trip reduction. The Applicant will utilize a portion of the \$648,564.17 transportation credit resulting from the prior installation of a traffic signal at Route 28/Donna's Lane/Job's

Fishing Road to meet a portion of the trip reduction requirements. The traffic signal installation credit was awarded to Mashpee Commons per Condition #12 of the Route 151 North Market Street decision (#TR90009-A) dated March 4, 1993. The Applicant's transportation credits shall be reduced in four equal parts (each \$21,589.75) totaling \$86,359.00 (as outlined in Transportation Finding T2). The credit reduction shall be in accordance with the following schedule: \$21,589.75 prior to issuance of Partial Certificate #1; \$21,589.75 prior to issuance of Partial Certificate #2; \$21,589.75 prior to issuance of Partial Certificate #3; and \$21,589.75 prior to issuance of the Final Certificate.

- T4. The Applicant will utilize a portion of the \$648,564.17 transportation credit resulting from the prior installation of a traffic signal at Route 28/Donna's Lane/Job's Fishing Road for the Mashpee portion of the fair-share transportation mitigation. The traffic signal installation credit was awarded to Mashpee Commons per Condition #12 of the Route 151 North Market Street decision (#TR90009-A) dated March 4, 1993. The Applicant's transportation credits shall be reduced in four equal parts (each \$83,687) totaling \$334,748 (as outlined in Transportation Finding T4). The credit reduction shall be in accordance with the following schedule: \$83,687 prior to issuance of Partial Certificate #1; \$83,687 prior to issuance of Partial Certificate #2; \$83,687 prior to issuance of Partial Certificate #3; and \$83,687 prior to issuance of the Final Certificate.
- T5. Prior to the issuance of the Preliminary Certificate of Compliance, Mashpee Commons, LP shall provide the Cape Cod Commission with a conservation restriction of a form and substance satisfactory to the Commission or its designee and consistent with Massachusetts General Laws Chapter 184, § 31 – 33 and accompanying plan which provides that 7.03 acres (Areas B and C) located on the plan titled "Offsite Open Space Plan" of the Jobs and Whittings Neighborhoods Commercial Space Permit Set, drawing L1.2, and dated August 21, 2006 shall be preserved as permanent open space. Prior to the issuance of the Preliminary Certificate of Compliance, the restriction and site plan shall be approved by Commission counsel, and proof of submittal of the conservation restriction to the Massachusetts Division of Conservation Services and to the Mashpee Boards from whom approval is required shall be provided. The conservation restriction shall provide for the preservation of the 200 ft buffers to the Quashnet River in their undisturbed condition for habitat protection purposes, and may provide for the establishment of community gardens in other, suitable portions of the conservation restricted area. The conservation restriction shall provide for public access to Area B and may provide for the establishment of walking trails.
- T6. Prior to the issuance of the Partial Certificate of Compliance #2, Mashpee Commons, LP shall execute and record the conservation restriction and site plan at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission for the 4.08-acre (Area B) parcel of land located on the plan titled "Offsite Open Space Plan" of the Jobs and

Whitings Neighborhoods Commercial Space Permit Set, drawing L1.2, and dated August 21, 2006.

- T7. Prior to the issuance of the Partial Certificate of Compliance #2, Mashpee Commons, LP shall install permanent concrete bounds delineating the boundary of the conservation-restricted area or shall provide engineer certified Global Positioning System (GPS) coordinates of the boundaries of the 4.08-acre (Area B) conservation-restricted area described in condition T6.
- T8. Prior to the issuance of the Partial Certificate of Compliance #3, Mashpee Commons, LP shall execute and record the conservation restriction and site plan at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission for the 2.95-acre (Area C) parcel of land located on the plan titled "Offsite Open Space Plan" of the Jobs and Whitings Neighborhoods Commercial Space Permit Set, drawing L1.2, and dated August 21, 2006.
- T9. Prior to the issuance of the Partial Certificate of Compliance #3, Mashpee Commons, LP shall install permanent concrete bounds delineating the boundary of the conservation-restricted area or shall provide engineer certified Global Positioning System (GPS) coordinates of the boundaries of the 2.95-acre (Area C) conservation-restricted area described in condition T8.

#### **SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT**

- SW1. Prior to the issuance of any Partial or Final Certificate of Compliance, the Applicant shall submit to the Commission:
- a) evidence that the LEED system guidelines were followed relative to construction waste management, and in building construction.
  - b) evidence of the manner in which the Applicant will work with users of the commercial spaces that have a need for disposal of hazardous materials and wastes.
- SW2. Prior to the issuance of each Preliminary, Partial or Final Certificate of Compliance by the Commission for any phase of construction, the Applicant shall demonstrate that adequate equipment and storage space is provided or available to accommodate a recycling program for all commercial space that is owned and leased by the Applicant. The Applicant shall submit information as necessary for Commission staff to review and approve the recycling program prior to issuance of a Preliminary, Partial or Final Certificate of Compliance.

#### **CONCLUSION**

Based on the findings above, The Cape Cod Commission hereby approves with conditions the Development of Regional Impact application of Mashpee Commons, LP

for the construction of 40,900 square feet of commercial floor space in the Jobs-Whiting Neighborhood of Mashpee Commons in Mashpee, MA.

WBC 11

W. Bradford Crowell, Chair  
Cape Cod Commission

12/14/2006  
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 14<sup>th</sup> day of December, 2006, before me, the undersigned notary public, personally appeared, proved to me through satisfactory evidence of identification, which were personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Gail P. Hanley  
Notary Public, Commonwealth of Massachusetts

My Commission Expires: 10/13/11



## CAPE COD COMMISSION

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E-mail: [frontdesk@capecodcommission.org](mailto:frontdesk@capecodcommission.org)

COPY

January 9, 2006

To: Sharon Rooney, Senior Regulatory Planner

From: Bob Mumford, Transportation Program Manager

RE: Mashpee Commons Limited Partnership (MCLP)

Per Condition #12 of the Route 151 North Market Street decision (#TR90009-A) dated March 4, 1993, MCLP was required to install a new traffic signal and additional lanes at Route 28 and Donna's Lane. The decision stipulated that MCLP was responsible for performing the work regardless of cost. Any costs in excess of the fair share contribution balance of \$64,698.65 held in escrow, plus accrued interest, would be applied to a future MCLP Development of Regional Impact.

The work is now complete. MCLP submitted documentation that the total cost of the work was \$726,600. The documentation supporting the expenditures has been reviewed by the Cape Cod Commission staff and is satisfactory.

The funds released from the escrow for the signal totaled \$78,035.83 including interest. This results in an excess payment of \$648,564.17. Per the DRI decision, this amount is to be deducted from future transportation fair-share obligations required of Mashpee Commons.

Please let me know if you need additional information.

Cc: Douglas Storrs, Mashpee Commons  
Joyce Mason, Mashpee Town Manager  
Ernie Virgilio, Cape Cod Commission Rep., Town of Mashpee  
File