



# 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](mailto:frontdesk@capecodcommission.org)

Date: January 29, 2007  
From: Cape Cod Commission  
Re: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13  
Applicant: Bourne Clay, LLC  
c/o James Lamp, Eastern Development  
120 Presidential Way  
Suite 300  
Woburn, MA 01801  
Project #: TR90057  
Project: Bourne Shopping Center  
Route 28 (MacArthur Blvd.) and Clay Pond Road  
Bourne, MA  
Book/Page: Book 18704, Page 13

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## Decision of the Cape Cod Commission

The February 28, 1991 DRI Decision issued to Thorndike Development Corporation is hereby amended as a Minor Modification #2 by a vote of the Regulatory Committee on December 11, 2006. All findings and conditions attached to the February 28, 1991 decision continue to apply except as modified herein.

### General Findings:

Finding G1: In 1991, the Cape Cod Commission issued a DRI approval to Thorndike Development Corporation for the construction of the Bourne Shopping Center. An A&P grocery store was primary tenant of the project, succeeded by a Grand Union that is currently in operation. Since more than 7 years have elapsed since the original DRI permit was issued and such permit was never extended, no local development permit may be issued subject to the expired DRI permit unless the project returns to the CCC for modification review and approval. The current owner of the Bourne Shopping Center is Bourne Clay, LLC.

Finding G2: In 2006, Housing Assistance Corporation and Housing Investments (HAC LLC) received a Town of Bourne ZBA comprehensive permit to construct 117 residential units (known as Canal Bluffs) on the parcel adjacent to the Bourne Shopping Center. Cape Cod Commission staff recommended that HAC LLC work with Bourne Clay LLC to provide a



second access drive to the residential development through the shopping center site, and continue to make this recommendation.

Finding G3: Bourne Clay LLC was approached by HAC LLC to explore the granting of an easement across the Bourne Grand Union site for the construction of a road to provide secondary access to residents of the affordable housing development known as Canal Bluffs. As consideration for this easement, HAC LLC agreed to record a conservation easement on a portion of its land and ask the Cape Cod Commission to grant the transportation credits from the donation of vacant developable land to the Bourne Grand Union project.

Finding G4: Cape Cod Commission staff worked with HAC and Bourne Clay, LLC to develop a second access drive plan that would meet the needs of both entities. In addition, transferring open space and transportation credits from HAC to the Bourne Shopping Center project to be credited toward future development and sharing a wastewater treatment plant were also discussed.

Finding G5: On December 4, 2006, Bourne Clay LLC submitted a request to modify the original permit to memorialize their agreement in the event Bourne Clay LLC seeks to redevelop the Bourne Shopping Center property in the future, including a site plan entitled "Figure 1 – Conceptual Access Road with Existing Grand Union Site", prepared by Horsley Witten Group, Inc, dated 11/29/06. The modification request includes provisions for open space credits, a secondary access road and transportation credits, and possible collaboration in consolidating water mains/pumps and sharing of HAC's wastewater treatment facility.

On December 12, 2006, the Commission received a letter from Coreen V. Moore, Bourne Town Planner, expressing the Town's support for a secondary access road through the Bourne Shopping Center site.

Finding G6: Increased open space, secondary access for the residential project and possible sharing of water supply infrastructure would be advantageous.

Condition G1: The applicant shall obtain a Preliminary Certificate of Compliance from the Cape Cod Commission certifying compliance with the conditions so required by this decision prior to the construction of the new access road.

Condition G2: The applicant, Bourne Clay LLC, shall construct the new access road within 5 years of the date of this decision. Bourne Clay LLC shall have 10 years from the date of this decision in which to exercise the credits allowed by this decision.

### **Water Resources Findings**

Finding WR 1: Utilizing existing infrastructure to improve water quality is a major goal of the Water Resource section of the Regional Policy Plan. Bourne Clay LLC and HAC LLC have discussed the possibility of utilizing additional capacity at the Canal Bluffs project wastewater treatment facility for Grand Union flow if the Grand Union project were to expand or be redeveloped. Additional modifications to the treatment plant needed to accommodate flow from the supermarket (or redevelopment) should take into account the increased wastewater strength and other toxins present in the commercial effluent. The Canal Bluffs wastewater

facility is being permitted through DEP for a groundwater discharge permit. This concern would be addressed by DEP in the modification for the groundwater discharge permit.

Finding WR2: Bourne Clay LLC and HAC LLC have discussed the sharing of water main and booster pump infrastructure, which, if it were to occur, would provide increased redundancy in water circulation for area residents and would be a public benefit.

Finding WR3: The drainage from the proposed road should incorporate bioretention in order to minimize the input of nutrients from stormwater. Drainage techniques might include vegetated swales alongside the road or vegetated bioretention units where additional capacity may be required.

### **Open Space Findings and Conditions**

Finding OS1: 0.5 acres of the open space reserved on the Bourne Shopping Center site as part of the 1991 DRI approval of the Thorndike Development project will be utilized for a new access road between the Canal Bluffs site and the shopping center. Bourne Clay LLC and HAC LLC have agreed that the 0.5 acres of open space removed for the road will be replaced on the Canal Bluffs site next door. In addition, another 2.5 acres on the Canal Bluffs site will be reserved to be used as open space in the future in the event that the Bourne Shopping Center site is redeveloped and additional open space may be required as part of that DRI review process. This finding acknowledges that up to 2.5 acres of remaining land on the Canal Bluffs site may be used as open space for future development on the Bourne Shopping Center site. Any open space provided on the Canal Bluffs site as part of this modification will be permanently protected through a non-statutory restriction, or other mechanism that the Cape Cod Commission may approve.

Condition OS1: In order to offset the loss of open space on the Bourne Shopping Center site to accommodate an access road, HAC LLC shall permanently protect 0.5 acres on the Canal Bluffs site (map 35/parcel 51). Prior to issuance of a Preliminary Certificate of Compliance, Bourne Clay LLC/Eastern Development shall provide the Cape Cod Commission with a non-statutory 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 0.5 acres located on the Canal Bluffs 40B site and identified as open space on the plan entitled "Figure 1 – Conceptual Access Road with Existing Grand Union Site" as prepared by Horsley Witten Group and dated 11/29/06, shall be preserved as permanent open space. The restriction and site plan shall be approved by Commission counsel, executed and recorded at the Registry of Deeds or Registry District of the Land Court, and proof of recording shall be provided to the Commission prior to the receipt of the Preliminary Certificate of Compliance.

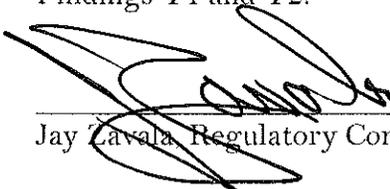
### **Transportation Findings and Conditions:**

Finding T1: HAC LLC (Canal Bluffs) proposes to permanently protect approximately 40,263 square feet of vacant developable land off MacArthur Boulevard in Bourne. The parcel of land is identified on a plan entitled "Figure 2 – Conceptual Convenience Store Site Plan" as prepared by Horsley Witten Group and dated 11/29/06. This vacant developable land has the ability to support a 2,000 s.f. convenience store. A convenience store on MacArthur Boulevard has the potential to generate 1,476 daily trips, 134 weekday PM peak hour trips, and 154 Saturday

peak hour trips. The permanent protection 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). In order to receive these credits, the parcel must remain undeveloped and have no Route 28 access in perpetuity.

Finding T2: The vehicle interconnection between the Bourne Grand Union and the Canal Bluffs residential development will also remove vehicle trips from the regional roadway system. HAC LLC has requested that the vehicle interconnect credits also be awarded to the Bourne Grand Union site for compensation for the secondary access. The Cape Cod Commission allows a traffic credit for this interconnection as stated in Technical Bulletin 96-003 Part 5. As calculated by the applicant, the traffic credit allowed is 11 afternoon peak hour trips.

Condition T1: HAC LLC shall permanently protect approximately 40,263 s.f. of vacant developable land on the Canal Bluffs site off MacArthur Boulevard in Bourne as described in Condition OS1. The parcel of land is identified on a plan entitled "Figure 2 - Conceptual Convenience Store Site Plan" as prepared by Horsley Witten Group and dated 11/29/06. This parcel shall remain undeveloped and without Route 28 access in perpetuity. Bourne Clay LLC shall grant to the Housing Assistance Corporation and Housing Investments, Inc. an easement across the Bourne Grand Union site for the construction of a road to provide secondary access and egress for the affordable housing development known as Canal Bluffs. The Bourne Grand Union parcel shall be granted a traffic credit of 1,476 daily trips (including 134 weekday PM peak hour trips, and 154 Saturday peak hour trips) and 11 afternoon peak hour trips as stated in Findings T1 and T2.



Jay Zavala, Regulatory Committee Vice-Chairman

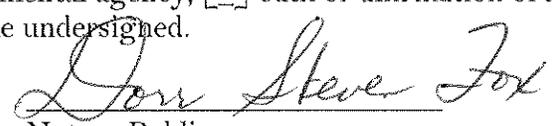
2/20/2007  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

2/20, 2007

Before me, the undersigned notary public, personally appeared JAY ZAVALA in his/her capacity as Regulatory Committee Vice-Chair of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  oath or affirmation of a credible witness, or  personal knowledge of the undersigned.



Notary Public

My Commission Expires:

