



CAPE COD COMMISSION

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Type #2 Modification Decision

Date: April 28, 2008

To: Michael D. Ford, Esq.
72 Main Street
P.O. Box 665
West Harwich, MA 02671

From: Cape Cod Commission

Re: Change of Use/Limited DRI
Enabling Regulations, Sections 3 and 4

Applicant: Berkshire-Hyannis, LLC
41 Taylor Street
4th Floor
Springfield, MA 01103

Property Owners: M.D.M/Hyannis Property LLC and Star Nominee Trust

Project: Circuit City Redevelopment Project
624 and 640 Hyannough Road (Route 132)
Hyannis, MA 02601

Project #: TR-07020

Book and Page: 5490 97
Map and Parcel: 311/12 and 311/13
Lot and Plan: Lot 10, LCP 25266D Certificate of Title: 185653

Decision of Cape Cod Commission

The Cape Cod Commission (Commission), through its Regulatory Committee, hereby approves the application of Berkshire – Hyannis, LLC, for modifications to an approved Limited Development of Regional Impact (DRI) decision.

The Limited decision dated February 7, 2008 for the Circuit City Redevelopment project is hereby amended by a vote of the Regulatory Committee on April 24, 2008. All findings and conditions attached to the original decision dated February 7, 2008 continue to apply except as modified herein.

Modified Findings

T3. As stated in transportation finding T2, the Town of Barnstable would acquire the Traffic Mitigation Properties and prevent any future development, including town sanctioned parking,




with the exception of a license agreement by the Town for overflow parking for seven spaces on the 0 Iyannough Road parcel provided such license is revocable and does not interfere with future roadway improvements at that site, from occurring on these parcels and the parcels that shall be secured such that no motor vehicles can park on the site **except as specified by this finding and condition T3 of this decision.** The 2002 RPP allows the donation of vacant developable land (MPS 4.1.2.7) and MPS 4.1.2.8) to offset the trip reduction requirements and to offset the mitigation required for congestion. The applicant is requesting that this parcel of land (545 Iyannough Road) offset both RPP requirements. The RPP requires that these parcels of land either be held by the Town Conservation Commission or have a permanent conservation restriction placed on the parcel.

The parcels of land (identified as 0 Iyannough Road and 545 Iyannough Road) are shown on an undated plan titled "Existing Conditions, Barnstable, Massachusetts" prepared by Vanasse Hangen Brustlin, Inc.

Modified Conditions

T3. As stated in transportation finding T3, the Town of Barnstable shall use best efforts to secure the Traffic Mitigation Properties located at 0 Iyannough Road and 545 Iyannough Road such that no unauthorized motor vehicles can park on the site. **Notwithstanding the provisions of this condition, of any Findings in this Decision that may be construed to the contrary, the Town shall have the right, in its sole discretion, to enter into a license agreement on such terms and conditions as it deems appropriate, which license agreement permits parking on the 0 Iyannough Road parcel by the abutting property owner for up to seven (7) spaces, substantially as shown on the attached sketch, provided a copy of such license agreement is filed with the Cape Cod Commission, and provided such license does not interfere with the Town's ability to implement the necessary roadway improvements at the site.**


Frank Hogan, Chair, Regulatory Committee

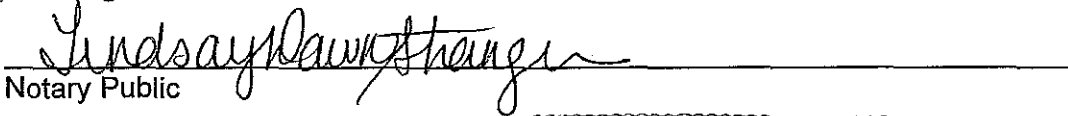
4/28/08
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

April 28, 2008

Before me, the undersigned notary public, personally appeared Frank H. Hogan in his capacity as Chair of the Cape Cod Commission's Regulatory Committee, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned.


Notary Public

My Commission Expires:

