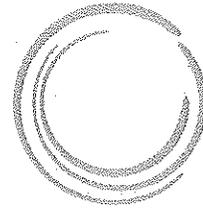


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**CAPE COD
COMMISSION**

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

DATE: December 13, 2011

TO: Michael D. Ford, Esq.
P.O. Box 485
West Harwich, MA 02671

FROM: Cape Cod Commission

RE: Modification of a Development of Regional Impact

APPLICANT: Atlantis Development
C/o Michael D. Ford, Esq.

PROJECT #: JR20035

PROJECT: Atlantis Development/Stop & Shop
Iyannough Road
Hyannis, MA

BOOK/PAGE: *ATLANTIS IYANOUGH REALTY LLC*

Map 274 Parcel 004-B00 Cert. of Title No. 180241 Lot 5 LCP 30063D

Map 274 Parcel 004-H00 Cert. of Title No. 180241 Lot 5 LCP 30063D

Map 274 Parcel 008-B00 Book 21067, Page 206

Map 274 Parcel 008-H00 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 026-B00 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 026-H00 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 027 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24924E Lot 14 & 15 LCP 24921F

Map 274 Parcel 040-005 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 040-006 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 040-007 Cert. of Title No. 180240 Lot 11 LCP 24921D; Lot 12 LCP 24921E Lot 14 & 15 LCP 24921F

Map 274 Parcel 009-B00 Cert. of Title No. 184941 Lot 21 LCP 24921 I

Map 274 Parcel 009-H00 Cert. of Title No. 184941 Lot 21 LCP 24921 I

VICTORY CHAPEL CHRISTIAN FELLOWSHIP CHURCH OF CAPE COD, INC.

Map 274 Parcel 028 Cert. of Title No. 141766 Lots 6 & 7 L.C.P. 30063-E

DECISION OF THE CAPE COD COMMISSION

Background

On June 12, 2008 the Cape Cod Commission (Commission) issued a Development of Regional Impact (DRI) decision, with conditions, for which approved, with conditions, the construction and operation of a 69,770 square foot supermarket on a 12-acre site located on the north side of Route 132, near the intersection of Bears's Way, Hyannis. This DRI decision has been modified two times, in decisions dated November 1, 2010 and November 10, 2011. The 2010 modification related to the position of the site driveway. The November 10, 2011 modifications related to the color of required traffic signal equipment and adjusted the timing of the required open space.

Modification Request

On December 5, 2011, Attorney Michael Ford, representing Atlantis/Stop & Shop, the Applicant, submitted a request to modify condition HPCC2 to update the list of plans and other documents submitted for the record. The proposed change to condition HPCC2 would reflect revised building elevations with a different exterior building material on the side and rear facades. Attorney Ford also requests to remove the language requiring Commission staff review and approval of final elevation drawings and floor plans prior to the Applicant requesting the Preliminary Certificate of Compliance. On November 10, 2011, the Commission issued the project a Preliminary Certificate of Compliance, allowing the Applicant to apply for a Building Permit.

Commission Jurisdiction and Modification Types

Section 13(c) of the Commission's *Enabling Regulations*, as amended May 2011, sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "*revisions that are the result of more restrictive conditions imposed by a local board or technical corrections or changes that the Executive Director or his/her designee determine are de minimus changes to the project.*" The *Enabling Regulations* also state that Minor Modifications Type #1 "*shall be approved by that the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission.*"

Determination on Modification Request

After consideration of a request by the Applicant's representatives to modify condition HPCC2 of the 2008 DRI decision, as amended, the Commission's Executive Director has determined the requested change constitutes a *de minimus* change, and is approved as Minor Modifications Type #1.

The following changes are thereby made to the 2008 Atlantis Development/Stop & Shop decision, as amended, as shown. **Bold** indicates new text and text to be deleted is shown by strike-out.

Conditions

HPCC2. The Applicant shall construct the Stop & Shop building in accordance with the approved perspectives, elevation drawings and proposed roof plan **and materials specifications** for Super Stop & Shop, Barnstable, Massachusetts, dated 5/23/08 by Arrowstreet and Peterson/Griffin Architects, Ltd **as revised 11/28/11. The Applicant shall also construct the Stop & Shop building in accordance with an 11/30/11 letter from Attorney Michael Ford, received by the Commission on 12/5/11 including a narrative description of the proposed changes.** The Applicant shall submit final elevations, construction drawings and floor plans for approval by Commission staff prior to requesting a Preliminary Certificate of Compliance. Commission staff shall review the final elevations, construction drawings and floor plans for consistency with the approved elevations drawings cited above. **Prior to issuance of a Final Certificate of Compliance by the Commission, and prior to issuance by the Town of Barnstable of a Certificate of Use/Occupancy, Commission staff will conduct a site visit to verify the exterior design is**

consistent with the submitted materials noted above, and to determine whether painting of the exterior facades is necessary. Any proposed modifications to the approved plans shall follow the Commission's procedures for modification to approved DRIs.


Paul Niedzwiecki, Executive Director

12/14/11
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

12/14, 2011

Before me, the undersigned notary public, personally appeared

Paul Niedzwiecki, in his/her capacity as the Cape Cod Commission's Executive Director, 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.

Kristy Senatori
Notary Public

My Commission Expires:

