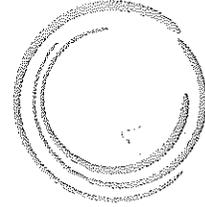


3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



**CAPE COD  
COMMISSION**

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

**DATE:** March 27, 2012

**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**

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' Way, Hyannis. This DRI decision has been modified three times, in decisions dated November 1, 2010, November 10, 2011 and December 13, 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. The December 13, 2011 modification changed condition HPCC2 to reflect revised building elevations with a different exterior building material on the side and rear facades.

### Modification Request

On March 7, 2012, Attorney Michael Ford, representing Atlantis/Stop & Shop, the Applicant, submitted a request to make three site plan changes: 1) change the approved internal access to Liberty Square Plaza (width and alignment), 2) revise approved grading adjacent to a proposed detention basin along the Attucks Lane side of the property, by creating an earthen berm from additional material generated from construction, and 3) change the approved sidewalk location to allow an existing utility pole to remain in place. Attorney Ford supplemented his request on 3/14/12 by providing the Commission with additional 8.5x11-inch plans showing the existing conditions and proposed changes.

### 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 conditions G6 and G12 of the 2008 DRI decision, as amended, the Commission's Executive Director has determined the requested changes to the site and conditions G6 and G12 constitute *de minimus* changes, and are 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.

### General Conditions

G6. The proposed Atlantis Development/Stop & Shop shall be constructed in accordance with either of the following final plan sets:

#### OPTION A

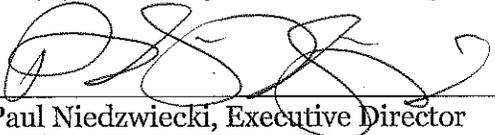
- Proposed Retail Development Site Plans C2-C10, by Vanasse Hangen Brustlin, issued 11/30/06 revised as follows:

- Layout & Materials Plan C-3, dated 4/6/08, as amended by Condition TC10
- Grading and Drainage Plan C-4 and Utilities Plan C-5, dated 3/18/08
- Landscape Plan C-6, dated 4/6/08
- Site Lighting Plan SL-1 and Photometric Plan SL-1A, dated 12/27/07
- Access and Parking Easement Plan by Vanasse Hangen Brustlin dated 6/12/08

OPTION B

- Proposed Retail Development Site Plans C2-C10, by Vanasse Hangen Brustlin, issued 11/30/06 revised as follows:
  - Layout & Materials Plan C-3, dated 4/6/08, as amended by Condition TC10
  - Grading and Drainage Plan C-4 and Utilities Plan C-5, dated 3/18/08
  - Landscape Plan C-6, dated 4/6/08
  - Site Lighting Plan SL-1 and Photometric Plan SL-1A, dated 12/27/07
  - Access and Parking Easement Plan by Vanasse Hangen Brustlin dated 6/12/08
  - And as amended by Site Plan set "Proposed Retail Development," Atlantis Development LLC, drawn by Vanasse Hangen Brustlin, date issued June 29, 2010
  - And as amended by a revised landscape plan, drawn by Vanasse Hangen Brustlin, dated August 24, 2010 provided by Attorney Ford as part of his September 28, 2010 Modification request to be used in connection with the site drive configuration that aligns with the existing BJs entrance
  - And as amended by *Liberty Square Revision*, Plans CSK-3A, 3B, 3C, 3D drawn by Vanasse Hangen Brustlin, dated February 17, 2012
  - And as amended by *Grading Plan: Proposed Stop & Shop*, SKC-4, drawn by Vanasse Hangen Brustlin, dated March 2, 2012
  - And as amended by *Barnstable Road and Attucks Lane Traffic Plans*, Sheet 13 of 42, drawn by Vanasse Hangen Brustlin (no date)

G12. The Applicant may have the option of constructing the site drive on the Attucks Lane/Hadaway Road side of the site in the driveway configuration approved as part of the June 28, 2008 DRI decision (Option A) or in a configuration of this site drive which aligns it with the entrance drive of the existing BJs Wholesale Club store (Option B), as Option B is amended to include *Liberty Square Revision*, Plans CSK-3A, 3B, 3C, 3D drawn by Vanasse Hangen Brustlin, dated February 17, 2012, by a *Grading Plan: Proposed Stop & Shop*, SKC-4, drawn by Vanasse Hangen Brustlin, dated March 2, 2012, and by *Barnstable Road and Attucks Lane Traffic Plans*, Sheet 13 of 42, drawn by Vanasse Hangen Brustlin (no date).

  
 Paul Niedzwiecki, Executive Director

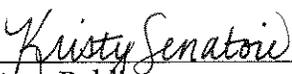
3/27/12  
 Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

3/27, 2012

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.

  
 Notary Public  
 My Commission Expires:

Atlantis Development/Stop & Shop  
 Minor Modification Type #1 - Three site plan change  
3/27/12  
 Page 3 of 3

