



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

DATE: June 12, 2008

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

FROM: Cape Cod Commission

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

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
Map 274	Parcel 004-H00	Cert. of Title No. 180241
Map 274	Parcel 008-B00	Book 21067, Page 206
Map 274	Parcel 008-H00	Cert. of Title No. 180240
Map 274	Parcel 026-B00	Cert. of Title No. 180240
Map 274	Parcel 026-H00	Cert. of Title No. 180240
Map 274	Parcel 027	Cert. of Title No. 180240
Map 274	Parcel 040-005	Cert. of Title No. 180240
Map 274	Parcel 040-006	Cert. of Title No. 180240
Map 274	Parcel 040-007	Cert. of Title No. 180240
ATLANTIS IYANOUGH REALTY LLC, JAMES NORTON, TRUSTEE		
Map 274	Parcel 009-B00	Cert. of Title No. 152182
Map 274	Parcel 009-h00	Cert. of Title No. 152182
VICTORY CHAPEL CHRISTIAN FELLOWSHIP 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

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Atlantis Development LLC (Applicant) 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 Stop & Shop supermarket. This decision is rendered pursuant to a vote of the Commission on June 12, 2008.

PROJECT DESCRIPTION

The Applicant proposes to construct a 69,770 square foot (s.f.) Stop & Shop supermarket (55,120 s.f. building footprint) on a 12-acre site located on the north side of Route 132, near the intersection of Bearer's Way, in Hyannis, MA. The site was comprised of a total of five structures (of approximately 105,000 gross s.f.) including a marine retail and engine repair facility, the Victory Chapel (comprised of two buildings), a former candle manufacturer and outlet store, and a former Sheridan's Country Kitchen restaurant. The proposal includes the demolition of the existing structures and redevelopment of the site with the supermarket, associated parking and landscaping, a connector road, an upgraded stormwater management system, and transportation improvements. The site is bounded by Attucks Lane to the north and Route 132 to the south and is located primarily within Barnstable's Business and Highway Business zoning districts. The northwest corner of the property is located within a residential district. The site is located in a Regional Commercial Center as defined in the Barnstable Local Comprehensive Plan.

PROCEDURAL HISTORY

The Applicant filed an Environmental Notification Form (ENF) on October 15, 2001. Pursuant to a Memorandum of Understanding between the Commission and the Executive Office of Environmental Affairs, the Applicant elected to participate in a joint Cape Cod Commission/Massachusetts Environmental Policy Act (MEPA) review process designed to address the concerns of both agencies and to expedite project review. A joint MEPA/Commission public hearing on the ENF was held in Barnstable on October 19, 2001. The Secretary of Environmental Affairs issued a certificate on the ENF on November 23, 2001. The Applicant filed a draft Environmental Impact Report (DEIR) with a Notice of Project Change (NPC) with MEPA on July 17, 2006. A joint MEPA/Commission public hearing was held in Barnstable on August 29, 2006. The Secretary of Environmental Affairs issued a certificate on the DEIR on September 14, 2006. The Applicant filed the Final EIR (FEIR) on December 5, 2006. A joint MEPA/Commission public hearing was held in Barnstable on January 24, 2007. The Secretary of Environmental Affairs certified that the FEIR was adequate on February 15, 2007, which started the DRI timeframe for review. The DRI hearing was opened by Hearing Officer on March 28, 2007 and closed by hearing officer on June 25, 2007. An extension to the 60 day decision period was granted until June 20, 2008. A public hearing was held March 25, 2008 in Barnstable and continued to the Commission offices on April 14, 2008. On April 14, 2008 a hearing officer continued the hearing to April 28, 2008. At a duly noticed public hearing on April 28, 2008, the hearing was continued to the Cape Cod Commission meeting on June 12, 2008. The subcommittee held a public meeting on May 29, 2008 and on June 9, 2008 where it recommended approval of the DRI application. A final public hearing was held on June 12, 2008 where the Commission voted 12 in favor, 1 opposed to approve the DRI application.

Materials submitted for the record

<i>From the Applicant</i>	<i>Date received</i>
DRI Application, ENF	October 15, 2001
Letter to EOEIA re: extension	October 15, 2001
Application fee balance	January 28, 2002
Memo from R. Hart re: trip generation	February 8, 2002
Conceptual plan	December 9, 2002
Memo from M. Kealey re: analysis of traffic study components	February 14, 2006
Supplemental study area to 2/14/06 memo	March 29, 2006
NPC/DEIR	July 17, 2006
Consent to extension for NPC/DEIR comment period	July 26, 2006
FEIR	December 5, 2006
Memo of notification to withdraw and resubmit FEIR	December 14, 2006
FEIR Figure 1.5 public transit, pedestrian, and bicycle facilities plan replacement/correction	January 27, 2007
Site Photometrics Plan	October 25, 2007
M. Ford email response to 11/5/07 email from G.Smith	November 19, 2007
Preliminary LEED checklist	February 11, 2008
Revised building elevation rendering, roof plan, landscape plan, layout plan;	February 11, 2008
Cover letter and Stormwater Management Systems and Operational Manual; Utility Plan C-5; Landscape Plan C-6; Site Lighting Plan SE-1; Site Photometrics Plan SE-1A	March 4, 2008
Landscape maintenance contract draft	March 4, 2008
Revised building elevations rendering, roof plan	March 11, 2008
Memo from M. Ford re: request for additional information	March 17, 2008
Memo from M. Kealey re: trip reduction	March 17, 2008
Cover memo, revised Layout and Materials Plan, Landscaping Plan	March 20, 2008
Photo of bus shelter example	March 20, 2008
Email from M. Kealey to D.Robertson re: Synchro analysis	March 25, 2008
Cover letter dated and memo from Matt Kealey re: response to Robertson memo	March 31, 2008
Open space plan	April 20, 2008
Revised elevation renderings	April 24, 2008
Revised landscape plan C-6 dated 4/6/08	May 8, 2008
Email from S. Chinoud re: signal cost	May 30, 2008
Email from M.Kealey re: traffic counts	June 2, 2008
Concept plan Iyannough Road parcel	June 4, 2008
Revision to Plan C-3, "Access & Parking Easement" dated 6/12/08	June 12, 2008

<i>From Cape Cod Commission</i>	<i>Date</i>
Memo to subcommittee re: hearing date	October 16, 2001
Staff report	October 23, 2001
Cover memo to subcommittee	October 23, 2001
Subcommittee comment letter to MEPA re: scope of review	November 9, 2001
Memo to R. Hart re: traffic memorandum	April 5, 2006
Memo to R. Hart re: traffic study area	April 28, 2006
Memo to R. Hart re: traffic study area	June 9, 2006
Staff report/DEIR	August 29, 2006
Subcommittee comment letter DEIR	September 7, 2006

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Staff report/FEIR	January 24, 2007
Email to M. Ford re: additional information	November 5, 2007
Email to L.Dzialo re: hazardous material definition	March 18, 2008
Email from G. Cannon to R. Hart re: traffic questions	March 18, 2008
Email string between D.Robertson, G. Cannon, G. Smith re: trip credits	March 19, 2008
Staff report	March 25, 2008
Email string between D.Robertson, G. Cannon, G. Smith re: traffic	April 7, 2008

From State and Local Officials

Date received:

ENF comment letter from MassHighway Department	October 31, 2001
MEPA Certificate on the ENF	November 23, 2001
Cover letter with resolution in opposition to proposal from Barnstable Town Council	October 8, 2002
Cover sheet and enclosure from T. Perry re: candle factory	January 27, 2003
Minutes from state DPW Right of Way Bureau dated April 1990, Letter to E. Lambert from state DPW about right of way, and copy of March 1991 Liberty Square ENF comment letter from CCC staff	
Letter from Barnstable Fire Chief Crosby re: traffic/safety issues	August 29, 2006
Staff Report DEIR	August 29, 2006
DEIR/NPC comment letter from state Office of Transportation Planning	September 18, 2006
EOEA Certificate on the NPC/DEIR	September 14, 2006
Comment letter from Massachusetts Executive Office of Transportation re: FEIR	February 8, 2007
Memo from Deputy Chief Olsen to Chief Crosby re: concerns	March 25, 2008

From the Public

Letter from T. Reilly in opposition	October 30, 2001
Letter from M. Wirtanen in opposition	October 30, 2001
Letter from P. Daigle re: access concerns	November 2, 2002
Memo from D. Robertson re: traffic analysis	March 25, 2008
DEIR Comment letter from D. Keeran & M. Geist of APCC	August 31, 2006
Letter from R. Gordon of Hyannis Honda in support	August 15, 2006
Emails (string) from D. Robertson re: trip credits	March 18, 2008
Email from D. Robertson re: Rte 132/connector intersection	March 19, 2008
Email from D. Roberston re: Rte 132/connector intersection	March 27, 2008
Letter from D. Robertson re: traffic concerns	April 24, 2008
Letter from D. Robertson re: records request	April 29, 2008
Letter from D. Robertson re: Mitigation Parcel	June 5, 2008

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 our proceedings are incorporated into the record by reference.

TESTIMONY

The Commission heard oral testimony at the public hearings held on 10/29/01; 8/29/06; 1/26/07, 3/26/08, and 4/28/08.

October 29, 2001 Public Hearing:

William Gage, MEPA representative, discussed the MEPA process, noting that MEPA's jurisdiction extends only to traffic issues.

Martha Hevenor explained that the project is under joint MEPA/Commission review and that the purpose of the hearing is to determine the scope of the EIR.

Ed Lambert, representing Atlantis Development, gave a brief overview of the project.

Randy Hart of VHB discussed the traffic issues and explained that Atlantis is pursuing an agreement with BJ's to line up the BJ's access road/curb cut with the proposed connector road. Steve Chinourd of VHB briefly described some of the stormwater issues, saying that the plans would evolve.

The subcommittee members asked questions about the proposed Route 132 improvements, traffic issues, and open space.

Tim Boesch presented the transportation issues as discussed in the staff report. Gabrielle Belfit presented the water resources issues as discussed in the staff report. Ms. Hevenor presented the remaining issues as discussed in the staff report: hazardous materials/waste, open space, community character, and economic development.

Robert Deane, subcommittee chair, discussed concerns about year-round congestion on Route 132, development pressure on Hadaway Road which was constructed to relieve the Route 132 traffic, and the close proximity of two supermarkets to the proposed project.

John Powers of Hyannis said that Hyannis already has many parking lots and many grocery stores and that there is already too much traffic in the area.

Winfield Rowell of Huckins Neck Road said that he is concerned about traffic in the area, noting that it already is heavily congested.

David Ansel said that he felt that the issues addressed in the hearing were appropriate to include in the MEPA comment letter.

August 29, 2006 Public Hearing

Attorney Michael Ford, representing Atlantis Development, explained the plan for the proposed supermarket had been downsized since the filing of the ENF and that the parking had been significantly reduced and relocated so that it was not all in the front of the store. He noted that new landscaping was added on the sides of the site to act as buffers.

He stated that the Town of Barnstable wanted a roadway between Route 132 and Attucks Lane and explained how the road would line up with BJ's. He said that the Applicant has "greened" up some of the

site by removing the dilapidated buildings. He also stated that the Applicant is working with the Festival Mall to secure an easement that will allow people and safety vehicles to access the two plazas without having to use either Route 132 or Attucks Lane.

Greg Smith went through the staff report and discussed issues associated with transportation, water resources and community character.

Leo Cakounes asked about the access drive behind the adjacent Dunkin' Donuts plaza and how would this change if the Stop and Shop were built. Mr. Ford described how the site plan showed an easement that the plaza had around the rear of the plaza, but the driveway off of the connector drive would allow for patrons of Dunkin' Donuts to access the plaza.

Deputy Chief Chris Olsen of the Barnstable Fire Department spoke about his department's concerns for better access to the rear of the proposed supermarket.

Randy Hart of VHB, Inc. gave a traffic SIM presentation of the Route 132 corridor improvement study and showed how the proposed transportation improvements being offered for the Atlantis Stop and Shop project would work with the state's proposed transportation improvements on Route 132.

Deputy Chief Olsen commented on the presentation, asking that the proposed improvements consider emergency vehicles and also provide bump outs.

The subcommittee asked questions about traffic and Route 132 improvements.

Don Keeran of APCC spoke in favor of the proposed interconnection between Route 132 and Attucks Lane and the consolidation of curb cuts on Route 132. He expressed concern about the level of traffic on Route 132 and expressed support for the re-use of an existing developed site.

Attorney James Connors stated that he was representing Mark Thompson who owned the Dunkin' Donuts plaza adjacent to the proposed site. He expressed his client's concerns about the raised median that would restrict traffic from entering his plaza from the traffic signal at Bearses Way and Route 132, and also expressed concerns about an easement his client had across the proposed site.

Tom Dolby, former postmaster in Marstons Mills spoke in favor of the project.

Joyce Reeves, homeowner in Barnstable spoke in favor of the project.

Linda Esten spoke in favor of the project.

In response to a question from Elizabeth Taylor, Mr. Ford said that a 21-e survey would likely be required after the marine building is demolished.

Subcommittee members asked about economic development in Hyannis and wondered if this supermarket was necessary given that there are others in the immediate area. Mr. Ford said that it was Stop & Shop's belief that this proposed site was better suited for the company's operations than the existing store on Route 132.

Leslie Richardson noted that that the supermarket is a single-use structure and that in her opinion creating more single-use space is not a benefit. She said that there were many perspectives, but she felt professionally that Stop and Shop would not add to the economy.

January 24, 2007 Public Hearing

Michael Ford gave an overview of the proposed project and existing conditions. He explained the future review process for the proposed project, stating that many of the outstanding issues that are identified in the staff report will be dealt with in the DRI review phase.

Greg Smith provided both an overview of the staff report and discussed the issues identified in the MEPA certificate on the DEIR.

Christopher Olsen, Barnstable Deputy Fire Chief, reiterated that the access between the Home Goods/Shaw's plaza and the project plaza needed to be finalized, as this presents a safety issue to the development if the easement is not provided.

Peter Kenny of Yarmouth asked if the staff had adequately reviewed the FEIR. Mr. Smith said he took responsibility for any oversight that may have occurred with regard to comments about the MEPA certificate.

Linda Esten stated Stop & Shop did a great job in Marstons Mills and she supports the project.

Ray Lang, Barnstable Planning Board, stated that stub roads A and B had been changed without the knowledge of the Planning Board and he wished to find out more about the stubs. Mr. Ford replied that the Applicant could not go to local boards until the project is out of Cape Cod Commission review to discuss the issue of the stub roads.

Joyce Reeves said that Stop & Shop is a supermarket of choice. She stated the store is involved in many charities.

Michael Moynihan said he supports the project.

Chuck Lockhart asked if the arrangement to relocate the BJ's curb cut on Attucks Lane was agreed upon with the property owner. Mr. Ford said he was comfortable with the agreement.

Jay Zavala asked if the existing Stop & Shop on Route 132 would be closed. Mr. Ford said it would be upon completion of both the regional and local review of the proposed project.

March 25, 2008 Public Hearing

Attorney Michael Ford provided a project overview and explained what had occurred with the project since the last public hearing in January 2007.

Greg Smith addressed some of the key outstanding issues that the staff had addressed in the staff report, including concerns about community character and traffic concerns that were recently raised by an abutter.

Scott Pollack, the design architect for the proposed supermarket, briefly described the proposed building design and said that the Applicant had made some modifications to the building design and would be willing to continue working with the staff to address concerns raised.

Steve Chinaurd of VHB described the planting plan and noted that the Applicant made changes to the landscape plan and planted larger caliper shade trees (from 2.5 inch caliper to 3 inch caliper) in the buffer adjacent to Route 132 in an attempt to better screen the building from public view.

The subcommittee members discussed building design.

Jo Anne Miller Buntich of the Barnstable Growth Management noted that the town would be happy to continue to work with the Applicant on the sign and building design issues and was pleased with the interconnect between Atlantis and the Festival Mall.

Attorney Doug Robertson, representing the Murphy family, abutters and owners of Murphy Real Estate, discussed his concerns about the proposed right turn lane and the taper. He also discussed his issues with the traffic counts, the seasonal adjustment factor used by staff and the Applicant, and the proposal to use the Nelson Coal and Oil parcel for trip reduction credits.

Subcommittee members asked about the seasonal adjustment factor. Glenn Cannon, Commission transportation engineer explained the use of the 12 percent seasonal adjustment factor, VHB's traffic study, and the proposed trip off-set parcel.

Glenn Wilson, representing the Festival Mall, noted his concerns about the proposed interconnect between Atlantis and Festival Mall and that it could be problematic with regard to the lease of his tenants.

Jacques Morin stated that he represents nearby subdivisions and the residents of those subdivisions are excited about the prospect of a supermarket they can walk to. As such, he supports the project.

Linda Edson noted that Marstons Mills residents were very worried about the traffic impacts of the Cotuit Stop and Shop, but the traffic on Route 28 is much better and she felt if any store could solve traffic issues, Stop and Shop could.

Scott Pollack noted on a site rendering that the physical elevations between Attucks Lane and the project site were such that the building would not be seen from the road. Steve Chinourd noted the landscaping would further serve to limit the store's visibility from Attucks Lane.

Jim Murphy noted his family's concern about having safe access into and out of the site when the supermarket opened.

David Lawler said that the family wanted the correct information from the Applicant to make a logical answer as to whether the supermarket's traffic flow would have a detrimental impact on the access and egress from their property.

Subcommittee members discussed the traffic counts.

Regarding the outstanding issues, all subcommittee members agreed the landscaping for shade trees along Route 132 should be the larger caliper, but the remaining landscaping on the site was fine as presented.

April 28, 2008 Public Hearing

Sarah Korjeff discussed the revised building elevations, adding that while they were closer to what the subcommittee and staff had requested, they still needed some additional changes.

Attorney Michael Ford noted that the Applicant's representatives had met with Commission staff and town staff in March and at that time decided to advance the "Cotuit model." He said they would provide revised elevations prior to the decision. In response to a question about the interconnect to the adjacent Festival Mall plaza, Mr. Ford said that they would be comfortable with a condition requiring them to provide the connection if the Festival Mall allows for that.

Glenn Cannon noted that the two traffic issues for discussion were the right-turn lane and the seasonal adjustment factor for the trip generation. He explained VHB's methodology for designing the right-turn lane. He said VHB's looked at the design and demonstrated that traffic wouldn't back up to the abutter's driveway. He noted that at this stage of review concept plans are what's required and that as the design plans move forward there will be additional opportunity for comments. He said the length of the lane is appropriate. Mr. Cakounes asked if the 125' taper lane length meets the standard. Mr. Cannon said it that does, (noting the standard length is actually 110') and said the length is appropriate.

Mr. Ford added that VHB presented the plans to Mass Highway for informal comment and received a favorable response. In response to a question from Mr. Cakounes, Matt Kealy of VHB noted that Mass Highway did not provide input on the storage lane, but nothing problematic jumped out at them.

Attorney Doug Robertson, representing an abutter (Mr. Murphy), and Bob Vanasse of Vanasse Associates discussed their concerns about the right-turn lane. Mr. Vanasse questioned whether it would work, noting adverse impacts to Mr. Murphy if it does not work. Patty Daley of the Barnstable Growth Management Department noted that the town engineer will need to weigh in on the design as well.

The subcommittee and the Applicant discussed the state highway layout. It was noted that the state has control over that area. Mr. Cakounes asked whether Mr. Murphy could locate his parking within the layout and was informed that he could not.

Mr. Ford said that the lane's design was consistent with what the staff asked for and that all indications show that Mass Highway is likely to approve the concept plan. He said they went beyond what is required for the concept plan to address the concern about the configuration of the lane, and they feel comfortable with its length. If it is not approved, he said they will need to come back for a modification. Mr. Cannon said that he was comfortable with including a condition that if the length of the lane changes it would need approval from the Regulatory Committee.

Mr. Vanasse explained that he would like to see the "right" traffic volumes accounted for in the analysis.

To address a concern from Mr. Murphy that cars waiting in the storage lane might cut through to the back of the store area through his property, Mr. Ford noted that they would provide landscaping or curbing to discourage that although they have an agreement with the liquor store to provide a connection between it and the supermarket.

Mr. Cannon discussed the seasonal adjustment factor, noting that the Commission wouldn't allow anyone to design an intersection based on summer traffic counts. Randy Hart of VHB explained that their traffic numbers and analysis were provided in the FEIR and approved during the MEPA review process. He added that the seasonal adjustment factor used isn't theoretical but is based on actual counts taken in December and January and in July. Mr. Vanasse said that the numbers are not adequate because they are not based on summer volumes. Mr. Roberson said that they are requesting that VHB do the analysis

based on normal seasonal adjustment factors. In response to a question from Mr. Cakounes, he said they don't need new counts, but are requesting the "normal" multiplier be run on the traffic counts.

Mr. Hart presented a map showing the locations where they conducted traffic counts. He said that Route 132 doesn't see the same seasonal fluctuations as other roadways because of all the businesses and retail establishments along the corridor. He said the counts were approved by both MEPA and Commission staff. Mr. Robertson said there is no source for the idea that traffic doesn't fluctuate on Route 132.

Mr. Cannon explained that the Commission provides the seasonal adjustment factors to all applicants, but they are not required to use it. They may, as VHB did, choose to combine their own data with Commission counts.

Mr. Harris asked Mr. Ford to clarify the Applicant's agreement to come to the Regulatory Committee for approval if the configuration of the right hand lane needs to change. After Mr. Ford confirmed he would agree to such a condition, Mr. Harris said he felt comfortable in accepting the current plan, knowing that the Applicant will need to come back for approval of any changes and that he is unsure as to what the abutter wants to get from the Commission's review.

Jessica Wielgus explained the subcommittee needs to adopt an approach for the seasonal adjustment factor, noting that the technical bulletin allows for an alternate approach but it needs subcommittee approval and that decision needs to document this approach.

Mr. Ford commented on the letter submitted to the subcommittee by Mr. Robertson, noting that he believed the cases referred to weren't relevant to this matter.

Mr. Hogan said he was comfortable with staff's analysis and that he's also comfortable with a condition for Regulatory Committee review if a modification is needed.

On a motion from Mr. Richardson, seconded by Mr. Harris, the subcommittee voted all in favor to accept the methodology used by VHB as outlined in the their February 14, 2006 memo on the seasonal adjustment factor and to accept the March – December traffic counts.

The subcommittee reviewed remaining outstanding issues. Regarding landscaping, Mr. Ford said they had agreed to provide larger caliper trees along the regional roadways. Regarding the request from Commission staff to not install fence around the retention basin, Mr. Ford said they would include the fence only if it's required by other regulations such as state building code. Gabrielle Belfit discussed her concerns about the fence. Steve Chinourd of VHB noted the slope and potential regulations. Mr. Richardson noted that public safety is important.

Mr. Cannon suggested that the subcommittee consider approval of the December through March traffic counts as well. Mr. Richardson moved to amend his previous motion by adding to it acceptance of the December through March traffic counts. Mr. Harris seconded and all voted in favor.

JURISDICTION

The proposed Atlantis Development/Stop & Shop qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which

requires review of any proposed commercial development with “new construction with a gross floor area greater than 10,000 square feet.” It also qualifies as a DRI under Section (2)(d)(i) of the Enabling Regulations as a project for which the Secretary of Environmental Affairs has required the preparation of an EIR, because it will generate 3,000 or more new vehicle trips per day.

FINDINGS

The Commission has considered the application of Atlantis Development for the proposed Stop & Shop, and based on consideration of such application and upon the information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General Findings

- G1. The proposed project was reviewed under the 2002 Regional Policy Plan, as the date of the first substantive public hearing on the DRI application was March 25, 2008.
- G2. The Applicant proposes to construct a 69,770 s.f. Stop & Shop Supermarket (55,120 s.f. building footprint on a 12-acre site located on the north side of Route 132, near the intersection of Bearses Way, in Hyannis, MA. The site was comprised of a total of five structures (of approximately 105,000 gross s.f.) including a marine retail and engine repair facility, the Victory Chapel (comprised of two buildings), a former candle manufacturer and outlet store, and a former Sheridan’s Country Kitchen restaurant. The proposal includes the demolition of the existing structures and redevelopment of the site with the supermarket, associated parking and landscaping, a connector road, an upgraded stormwater management system, and transportation improvements.
- The site is bounded by Attucks Lane to the north and Route 132 to the south and is located primarily within Barnstable’s Business and Highway Business zoning districts. The northwest corner of the property is located within a residential district. The site is located in a Regional Commercial Center and Growth Activity Center as defined in the Barnstable Local Comprehensive Plan.
- G3. The proposed project is consistent with the minimum performance standards of the RPP.
- G4. In an email dated May 20, 2008 the assistant director of the Barnstable Growth Management Department stated that the proposed development is allowed by right in the zoning district and that it is consistent with the 1997 Barnstable Local Comprehensive Plan.
- G5. The site is not located within a District of Critical Planning Concern.
- G6. The Commission finds that the probable benefits of the project outweigh the probable detriments.

Transportation Findings

- TF1. The Applicant conducted traffic counts at various locations on Route 132 in Barnstable in the months December through March. The Applicant’s traffic counts are included in the Draft Environmental Impact report, Technical Appendix, Volume 1 (Observed Traffic Volume Data) dated July 2006 by Vanasse Hangen Brustlin, Inc. The Cape Cod Commission conducted summer traffic counts on Route 132 in Barnstable in 2005. The Cape Cod Commission accepts the traffic counts performed by the Applicant in the months of December through March as allowed in the Cape Cod Commission Guidelines for Transportation Impact Assessment Technical Bulletin 96-003 (revised January 9, 2003). These traffic counts were reviewed and agreed upon by Cape Cod Commission transportation staff prior to submission of the traffic study.
- TF2. The Applicant utilized seasonal adjustment factors for the traffic counts within the proposed project’s study area. The Cape Cod Commission finds that the data, including the traffic counts conducted by the Applicant in December 2005 and in January 2006 as well as the summer traffic counts performed by the Commission itself in 2005 (as shown below in Table 1), are preferred and are adopted for the analysis for this project because they are more specific data for the project location than the general regional MassHighway data available, as the closest permanent traffic counting station is located at Route 6 in Barnstable. The seasonal adjustment factors of 12 percent for December and 35 percent for January are consistent with the utilization of this more specific data for this project and are fully justified in this instance. The Applicant submitted a memorandum for the seasonal adjustment factors in its Technical Memorandum dated February 14, 2006 by Vanasse Hangen Brustlin, Inc. which further justifies the use of these factors. The Commission finds that the seasonal adjustment factors comply with the requirements of the Cape Cod Commission Guidelines for Transportation Impact Assessment Technical Bulletin 96-003 (revised January 9, 2003).

Table 1

Winter traffic counts performed by Vanasse Hangen Brustlin, Inc.

Location	Date
Route 132 at Route 6 WB Ramps	December 8, 2005
Route 132 at Attucks Lane	December 8, 2005
Route 132 at Phinney’s Lane	December 8, 2005
Attucks Lane at Phinney’s Lane	December 8, 2005
Route 132 at Bearses Way	December 8, 2005
Airport Rotary	December 8, 2005
Route 6A at Mary Dunn Road	December 7, 2005
Route 132 at Phinney’s Lane	January 17, 2006
Attucks Lane at Phinney’s Lane	January 17, 2006

Route 132 at Route 6 WB Ramps	December 10, 2005
Route 132 at Route 6 EB Ramps	December 10, 2005
Route 132 at Shoot Flying Hill Road	December 10, 2005
Route 132 at Attucks Lane	December 10, 2005
Route 132 at Phinney's Lane	December 10, 2005
Attucks Lane at Phinney's Lane	December 10, 2005
Route 132 at Bearses Way	December 10, 2005
Route 132 at Phinney's Lane	January 14, 2006
Attucks Lane at Phinney's Lane	January 14, 2006

Summer (Peak Season) traffic counts performed by Cape Cod Commission staff:

Location	Date
Route 132 north of CCCC north exit	August 18, 2005
Route 132 north of Phinneys Lane	August 19, 2005
Route 132 south of Phinneys Lane	July 26, 2005
Route 28 west of Route 132	August 19, 2005
Attucks Lane west of Phinneys Lane	July 6, 2005
Mary Dunn Road south of Route 6A	August 23, 2005
Phinneys Lane south of Route 132	August 17, 2005

- TF3. In accordance with MPS 4.1.2.7 (a) and MPS 4.1.2.8, the Applicant has offered to donate one two (1) parcel of land ("Mitigation Parcel") to offset the transportation impacts of the project. "The Mitigation Parcel is a 2.14 acre parcel, (commonly referred to as the Nelson Coal and Oil property) located on Route 28 in Hyannis. The Applicant has proposed the use of this property as a mitigation parcel because it will be made vacant in accordance with Transportation Finding TF9. The Commission finds it appropriate to allow for the use of the Mitigation Parcel as a mitigation parcel because it will be made vacant in accordance with Transportation Finding TF9. Allowing the use of this parcel will not be more detrimental to the protected resource than is allowable under MPS 4.1.2.7(a) because said parcel will be available to the town as a bicycle path, a use that advances RPP's trip reduction goal (4.1.2.), and will remove the parcel from significant trip generation. The Applicant submitted a concept plan showing a potential 9,000 square foot retail building on the Mitigation Parcel. Based on the development potential (allowed by zoning) of this parcel of land, a traffic credit of 60 daily trips has been allowed to partially offset the impacts of the proposed supermarket.
- TF4. MPS 4.1.3.3 allows an applicant to reduce a project's estimated trip generation by 10 percent for any development proposed within a Growth Center, and standard engineering practice allows for a "pass-by" rate (those vehicles accessing a retail site as part of a multi-purpose trip) of up to 25 percent. An additional traffic credit is allowed for the trip generation from the site's previous uses. MPS 4.1.2.1 requires that all DRIs reduce the site-generated traffic by 25 percent.

TF5. The following factors and corresponding findings identify the traffic credits accepted for this project:

- The Mitigation Parcels (Finding TF3)
- Growth Center (Finding TF4)
- Retail “pass-by” (Finding TF4)
- Site’s previous use (Finding TF4)
- RPP trip reduction requirements (Finding TF7)

The expected net increase in daily traffic from the proposed project, allowing for these traffic credits is as follows:

Average weekday	3,418 trips
Average evening peak hour	336 trips
Average Saturday	3,785 trips
Average Saturday peak hour	366 trips

TF6. MPS 4.1.3.4 requires Level of Service analysis at all impacted locations. The Cape Cod Commission and the Applicant agreed to the trip generation, trip distribution and a study area based on a 70,887 square foot supermarket (the proposed store size is smaller). As allowed under MPS 4.1.2.7(a) and 4.1.2.8, the Applicant requested traffic credits, based on the development potential of the Mitigation Parcels to offset the transportation impacts of this project (as outlined in TF3). Reducing the impacts of the project results in a reduction in the study area for the traffic study. Based on the potential development of the Mitigation Parcel and the trip generation agreed upon based on a slightly larger store, the Cape Cod Commission finds that the Applicant’s traffic study complies with the RPP requirements.

TF7. MPS 4.1.2.1 requires all DRIs to reduce new vehicle trips in and out of the site by 25 percent over what is typically expected for the land use. According to the DEIR, the proposed project is expected to generate 7,270 vehicle trips on an average weekday (3,635 in/3,635 out) and 7,926 vehicle trips on an average Saturday. (MPS 4.1.2.1). The trip reduction requirements for the proposed project are 1,519 daily vehicle trips and are calculated as follows:

- 7,270 trips per day - 518 previous uses credit = 6,752 trips
- 6,752 trips x 10 percent growth center credit = 675 trip credit
- 6,752 trips per day – 675 trip credit = 6,077 total trips
- 6,077 total trips x 25 percent reduction = 1,519 daily trips

The Applicant has offered an employee-based trip reduction plan combined with the donation of the Mitigation Parcels to comply with the trip reduction requirements. The DEIR states that 210 employees will be employed at the proposed supermarket (refer to page 10-1 of the DEIR). Based on the employee-based trip reduction plan, a 25 percent employee trip reduction credit can be applied to this project in accordance with the *ITE*

Trip Generation Handbook. Based on the aforementioned factors, the trip reduction calculation is as follows:

- 210 employees x 25 percent participation = 53 employee participants
- 53 employee participants x 3 daily trips each = 159 daily trips reduced
- The Mitigation Parcel traffic credit = 1,420 trips
- 159 employee trip reduction + 1,420 Mitigation Parcel trips= 1,579 daily trip reduction
- 1,519 trip reduction requirement – 1,579 trip credit = -60 trip credit

Based on the trip reduction potential of the employee trip reduction plan and the Mitigation Parcels, the Applicant has a credit of 889 trips. This trip credit has been applied to offset the congestion impacts of this project as outlined in TF8 in accordance with MPS 4.1.2.1 and MPS 4.1.3.4. Therefore this project is in compliance with the trip reduction standards of the RPP.

- TF8. MPS 4.1.3.4 requires DRIs to mitigate all traffic-related impacts associated with the proposed project. Appropriate mitigation can be achieved through in-kind strategies (roadway widening, signalization, etc.), non-structural means (transit, preservation of developable land) or a combination of these measures.

The Applicant has proposed the following infrastructure improvements to offset the congestion impacts of this project:

- Upgrading the existing signalized Route 132/Bearse's Way intersection, including a new right turn lane on the Route 132 northbound approach to the intersection.
- Constructing a new connector road between Route 132 and Attucks Lane. The connector road will have a four lane cross section and provide access to the proposed supermarket. It will terminate at a four way intersection with Attucks Lane, which the Applicant will signalize. The connector road/Attucks Lane intersection may require the re-alignment of the existing access on Attucks Lane (known as Stub Road "A" and Stub Road "B"), which would require an agreement with the existing BJ's Wholesale Club to re-align their driveway (known as Stub Road "A"). These roadway improvements are shown in the FEIR in Figure 2.1, Conceptual Site Access Plan.

Town of Barnstable officials have requested that all traffic signal equipment at both the Route 132/Bearse's Way and the connector road/Attucks Lane intersections be painted black in conformance with Mass Highway standards.

As outlined in TF3 and TF7, the Mitigation Parcels have a remaining traffic credit of 60 trips, as allowed under MPS 4.1.2.7(a) and MPS 4.1.2.8. These traffic credits have been applied to offset the traffic impacts of this project.

In addition to the infrastructure improvements and the donation of developable land (the Mitigation Parcels), the Applicant has proposed \$292,000 in congestion mitigation as

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calculated using the Fair Share Overview and Methodology outlined in the Cape Cod Commission Guidelines for Transportation Impact Assessment Technical Bulletin 96-003, Revised January 9, 2003.

As such, the Applicant has demonstrated compliance with the MPS 4.1.3.4 (congestion requirements).

TF9. In lieu of placing the Mitigation Parcel (the Nelson Coal and Oil parcel) under a permanent conservation restriction and held by the town's conservation commission or an appropriate conservation trust, as required, the Town of Barnstable has requested that the parcel be protected by a deed restriction held by the town and would allow for a future bike path (plus associated parking) that would start at Nelson Coal and Oil parcel and connect to the Town of Yarmouth. The Applicant is responsible for removal of the existing building on the Mitigation Parcel.

The Cape Cod Commission supports this planning effort and finds that the Applicant has met its burden to establish that it is appropriate to utilize the RPP flexibility clause to meet the requirements of MPS 4.1.2.7(a). Based on the location, the development potential and proposed use (a bike path with associated parking) of the Mitigation Parcel, the Commission finds that the interests protected by 4.1.2.7 (a) may be protected by the alternate approach of allowing the parcel to be deeded to the Town of Barnstable.

The deeding of the Mitigation Parcel to the Town of Barnstable with the aforesaid restriction meets the spirit and intent of MPS 4.1.2.7 and will not be more detrimental to the protected resources than is allowed under MPS 4.1.2.7.

TF10. 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. The Applicant has identified 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 results in a degradation in public safety and requires that safety mitigation be identified by the Applicant.

Based on the current trip generation estimates, the following known high crash locations are impacted by twenty-five (25) or more peak hour trips: Route 132/Phinney's Lane, Route 132/Independence Drive and the Airport Rotary. The Route 132/Phinney's Lane intersection is currently under construction by MassHighway (as part of the Route 132 reconstruction). These intersection improvements will address the safety concerns at this intersection.

The Route 132/Independence Park intersection was recently reconstructed by a private developer and the reconstruction is not reflected in the MassHighway crash data

submitted by the Applicant. The Route 132/Independence Drive traffic signal upgrade will address the safety concerns previously reported in the MassHighway crash data.

The Airport Rotary is currently being evaluated for reconstruction/upgrade as part of the Hyannis Access Study by the Executive Office of Transportation (EOT). The upgrade of the Route 132/Bearse's Way traffic signal, the construction of a new connector road (between Route 132 and Attucks Lane) and installation of a new traffic signal at the Attucks Lane/Connector Road intersection will offset the degradation in public safety caused by this project at the Airport Rotary.

- TF11. The Applicant has proposed constructing a sidewalk along Attucks Lane from Phinney's Lane to the easterly property line. The increase in development along Attucks Lane dictates that providing safe pedestrian access is important in trying to develop walkable communities. The Cape Cod Commission supports this effort.
- TF12. As outlined in Finding TF8, the proposed layout of the connector road requires the relocation of the existing western Attucks Lane curb cuts (known as Stub Road "A" and Stub Road "B"). Stub Road "A" currently provides access to the existing BJ's Wholesale Club. The proponent would have to relocate Stub Road "A" (the existing BJ's Wholesale Club driveway) to provide proper alignment for future signalization at this location. The Applicant must secure an agreement with the owner of the BJ's parcel and all necessary Town of Barnstable permits including road layout plan approval and any Town of Barnstable approvals necessary to ensure the relocation of these driveways.
- TF13. The Cape Cod Commission finds that it is necessary to include traffic counting stations in the design of the new traffic signal because that data is currently unavailable. The 30th highest peak hour is the industry standard for analysis when designing highway systems. The Applicant has stated that the 30th highest peak hour cannot be determined for the Route 132 corridor because permanent count stations do not exist along Route 132. Permanent count stations would provide the necessary data to determine the 30th highest peak hour and other important traffic count information. Therefore, the Cape Cod Commission is requiring the Applicant to include permanent count stations in the design of the Route 132/Bearse's Way traffic signal and at the new Attucks Lane/connector road traffic signal. These traffic signals should provide the traffic counting data to the Cape Cod Commission counting program and the Town of Barnstable through an internet connection.
- TF14. As shown in the FEIR, Figure 2.1, Conceptual Site Access Plan, the Applicant will connect the project site to the Festival Mall Plaza if a future interconnect can be established.
- TF15. The Applicant agreed to install loop detection on Phinney's Lane that will trip the traffic signal if traffic back ups near Route 132, to address concerns from Town of Barnstable officials. It is estimated that the loop detector will cost \$16,000 and the Cape Cod

Commission has agreed to reduce the fair-share mitigation amount (as outline in TF8) to \$276,000.

TF16. The property owner of Murphy Real Estate, an abutter to the proposed Atlantis Development site, expressed concern about potential impacts of the proposed right-turn lane (as shown in the plan titled *Layout and Materials Plan* dated 11/19/07, revised 3/18/08 by Vanasse Hangen Brustlin, Inc) at the Route 132/Bearse's Way signalized intersection. Specifically, the abutter questioned if this right-turn lane could be built in conformance with MassHighway standards and NOT result in the altering of the Murphy Real Estate driveway (located on MassHighway land), or the taking of any land from the Murphy Real Estate parcel.

VHB has demonstrated (as shown in the plan titled *Layout and Materials Plan* dated 11/19/07, revised 3/18/08 by Vanasse Hangen Brustlin, Inc) that the proposed right-turn lane at the Route 132/Bearse's Way can be constructed in conformance with MassHighway standards and that this right-turn lane will not impact the Murphy Real Estate property. The Applicant has agreed to a condition stating if MassHighway requires the construction of the right-turn lane that impacts the Murphy Real Estate driveway or parcel, the Applicant will return to the Cape Cod Commission to seek a modification to revise this decision.

TF17. The property owner of Murphy Real Estate, an abutter to the proposed Atlantis Development site, expressed concern about potential impacts from the vehicle queuing at the Route 132/Bearse's Way intersection and the impact of the queuing on the ability of the Murphy Real Estate patrons to enter and exit the Murphy Real Estate property. VHB has demonstrated that the vehicle queuing (as described in an e-mail from VHB dated March 25, 2008) will not impact the Murphy Real Estate property. VHB has submitted a Synchro 6 queue analysis demonstrating that the 95th percentile vehicle queue (the length of queue that has a probability of 5 percent or less of being exceeded during the peak hour) at the Route 132/Bearse's Way intersection will back up 257 feet. The Murphy Real Estate driveway is approximately 300 feet from the driveway.

TF18. The Applicant has agreed to provide an access and parking easement to the adjacent abutter, Murphy Real Estate ("Murphy"), which will allow Murphy seven (7) additional parking spaces as shown on the attached Access and Parking Easement Plan by VHB, Inc. dated June 12, 2008, which is incorporated by reference. The Applicant shall incorporate this easement into its final plans as outlined in Transportation Condition TC10. This plan maybe revised to include a speed hump and stop sign (at the intersection of the liquor store interconnect), if necessary.

Water Resources Findings

WR1. The site is located in several sensitive water resource areas as mapped by the Cape Cod Commission including public supply wells (MPS 2.1.1.2.A) and marine resources (MPS Atlantis Development/Stop & Shop JR20035

2.1.1.2.C). Because of the site's location in a previously developed commercial area, the site is classified as being in a water quality improvement area, where the ultimate goal is to improve water quality conditions.

- WR2. The project addresses the water quality minimum performance standards identified in the RPP. The plans include municipal sewer service, a native/low maintenance planting scheme (MPS 2.1.1.2.A.5), hazardous materials mitigation through the removal of several high risk land uses, a comprehensive stormwater management system with several Low Impact Development Techniques (MPS 2.1.3.3) including rooftop disconnection, bioinfiltration and permeable pavers, and installation of a shutoff valve between stormwater-capture and the leaching structures (MPS 2.1.3.7).
- WR3. MPS 2.1.1. states "*all development and redevelopment shall not exceed a 5- ppm nitrogen loading standard*". While remaining below the 5 ppm nitrogen loading standard, this development will result in an increase in nitrogen loading to Barnstable Zone II/Wellhead Protection Areas and the Lewis Bay Marine Water Recharge Area. Lewis Bay is on the Massachusetts Estuaries Project priority list, and is the subject of ongoing study under this nutrient-loading program. Preliminary water-quality data are inconclusive at this time, with additional data scheduled for acquisition. Therefore, further nitrogen additions to the system are not prohibited by MPS 2.1.1.2.C.2 (i.e. the zero net-nitrogen load provision) at this time.
- WR4. MPS 2.1.1.A.5 states, "*development and redevelopment shall adopt a turf and landscape management plan that incorporates water conservation and minimizes the use of pesticides and chemical fertilizer through best management practices*". A draft landscaping contract was included that specifies watering, weed control, fertilizing, mulching and other landscape maintenance issues to assure the landscaping will thrive while minimizing use of water, fertilizers and pesticides. Restrictions on pesticide application and fertilizer for the bioinfiltration areas are separately established in the Stormwater Operation and Management Plan, Section C.3.1 Bioinfiltration Swales.
- WR5. MPS 2.1.3.3 states, "*development and redevelopment shall use best management practices such as vegetated swales and other bioretention areas for treatment prior to infiltration.*" The Applicant is proposing to utilize a variety of stormwater Best Management Practices (BMPs) to handle stormwater onsite and meet MPS 2.1.3.3, Town of Barnstable regulations, and the Massachusetts Stormwater Policy Guidelines. Structural BMPs include hooded catch basins, a Stormceptor sediment trap, bioretention cells within the parking area, vegetated swales along the roadways, and rain gardens. Permeable pavers are utilized in the proposed walkways and the emergency fire lane. Rooftop runoff, which is clean, will be directly infiltrated into a subsurface infiltration basin. Overflow catch basins with subsurface infiltration are provided to accommodate larger storms and frozen soil conditions. Non-structural BMPs proposed include regular pavement sweeping, catch basin cleaning, and enclosure and maintenance of the dumpster area.

- WR6. A drainage study was provided and adequately demonstrates that the project meets MPS 2.1.3.2. The proposed drainage design will provide water quality treatment for storms up to one inch, and infiltrate up to a 100 year storm event. General construction specifications for all aspects of the stormwater system, including cross section details for bioinfiltration areas were included on the site plans. Special requirements are specified for the bioretention areas in the Stormwater Operation and Management Plan to ensure they are properly established and continue to perform as designed.
- WR7. MPS 2.1.3.6 requires a stormwater maintenance and operation plan for approval by the Commission. A stormwater operation and maintenance plan has been prepared for post-construction that includes the maintenance practices for all stormwater BMPs; schedule and reporting checklists; repair protocol; and emergency spill procedures. Specific maintenance was included for the shut-off valve to comply with MPS 2.1.3.7 and for the innovative infiltration features including bioinfiltration and permeable pavers.

Hazardous Materials/Hazardous Waste Findings

- HAZF1. The site is located in several existing Wellhead Protection Districts as mapped by the Cape Cod Commission. MPS 4.3.1.3 of the 2002 (revised) RPP states *“development and redevelopment that involves the use, treatment, generation, storage, or disposal of hazardous wastes or hazardous materials, with the exception of household quantities, shall not be allowed within Wellhead Protection Areas.”* A February 2002 inventory/survey by LFR Levine-Fricke (LFR) includes an inventory of the EB Marine, Victory Chapel, Country Kitchen and Colonial Candle buildings (the previous uses on the site). The Colonial Candle business was discontinued or abandoned more than five years prior to the beginning of the MEPA process for Atlantis Development. The Commission finds that based on precedent, it does not include in its calculation of total baseline quantity the materials and wastes previously on the Colonial Candle site. Also removed from the LFR inventory were items that would not be deemed hazardous materials by the 2002 (revised) RPP, including ink, compressed gasses (butane, propane) glues, resins, adhesives, epoxies, sealants, hardeners, pastes, waxes, greases and Teflon-containing items. Items where no container size was listed in the inventory were also discounted. Based on these limitations, approximately 1,500 gallons and 21 pounds of hazardous materials are attributable to the project site. Stop & Shop is therefore allowed to maintain but not exceed this baseline quantity.
- HAZF2. MPS 4.3.1.1 requires that *“development and redevelopment shall make reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.”* To demonstrate compliance with this standard, Stop & Shop must describe ways to limit the use, treatment, generation, storage, or disposal of hazardous materials and/or hazardous wastes at or on the site at any time. This includes the site preparation and building construction phases, and once the project is in operation. A March 14, 2008 memo from Attorney Ford states that the site contractor has not yet been selected,

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and as such, this will be addressed at the time a Certificate of Compliance is issued. The memo confirms that compressed or natural gas will be used for building heating and emergency power (if any).

HAZF3. MPS 4.3.1.2 states *“development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.”* The LFR inventory includes items, which are hazardous wastes by the RPP definition. These include fluorescent bulbs, mercury-containing items, used batteries, marine flares, and CO₂ cartridges. The LFR inventory noted in HAZF1 makes a general recommendation that these items should be properly disposed of. In order to show compliance with this MPS, Stop & Shop should either submit a plan for their proper disposal or evidence that these hazardous wastes were properly disposed of.

HAZF4. MPS 4.3.1.4 requires that *“development and redevelopment shall prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases and describes ways to reduce those threats.”* To demonstrate compliance with this standard, Stop & Shop should provide a sample plan for the site preparation and building construction phases, and for when the project is in operation.

Natural Resources/Open Space Findings

- NR1. The project site is located in a Significant Natural Resource Area due to the presence of public water supply wellhead protection area. The site has been extensively disturbed from prior development activities. Due to these factors, the open space requirement for this project is based on the minimum open space allowed under MPS 2.5.1.4, or 4 acres for this 12 acre site. The Applicant has offered to protect 4 acres of open space on the project site through a permanent deed restriction. As a project redeveloping a site in close proximity to existing heavily developed sites to the east, west and north, the provision of open space within landscaped and revegetated areas on the project site is an acceptable form for meeting the RPP open space requirements.
- NR2. Consistent with MPS 2.4.1.6, the Applicant has provided a “Landscape Plan, C-6 of 10” prepared by VHB, Inc. dated 11/30/06, revised 4/6/08, which provides details for Invasive Species Removal.

Economic Development Findings

- ED1. The Economic Development section of the 2002 RPP directs the Commission to encourage the development of businesses that add to regional economic and employment diversity while locating in a manner that is compatible with Cape Cod’s environment and cultural heritage. As required under MPS 3.1.1 the Applicant provided economic

information to assist the commission in determining the positive and negative impacts of the project in this issue area.

- ED2. The proposed project will vacate an existing retail space to build another in close proximity along Route 132, thus increasing by 75,000 square feet the amount of retail space most suitable for a national chain retail store. Neither the business activity proposed, nor the vacant space left behind will add to the diversity of the existing Cape Cod economy, which is already concentrated in the retail and consumer supplies/grocery industry.
- ED3. There will be no net increase in direct employment or payroll as a result of this project. Benefits and training opportunities, as well as opportunities for local residents are expected to remain the same as in store's current location. The store will continue to have 40 full-time employees and 170 Part-time employees with limited benefits. At the time of application these positions were all filled by local residents. Wages will range from minimum wage to \$20 per hour. The proposed project will maintain its current level of employment from the relocation.
- ED4. The projected fiscal impact of the project is negative over the long term, recognizing that in the short term the Applicant will be mitigating impacts with improvements to traffic flows and water treatment. Using the 2002 Fiscal Impact Analysis of Residential and Nonresidential Land Use Prototypes for the Town of Barnstable by Tischler and Associates, Inc, Shopping Center and Big Box Retail activities generally result in a net annual loss to the town in fiscal terms (revenues minus service costs). The Applicant identified its project as falling under the Big Box Retail prototype which indicates the project would cost the town between \$17,270 and \$25,740 in services annually above the property tax revenues collected from the project.

Land Use Prototype Classification	Annual Net Fiscal Impact per 1,000 square feet	Total Square Feet of Proposed Building	Estimated Annual Net Fiscal Impact of the Proposed Project
Shopping Center	- \$314	55,000	- \$17,270
Big Box Retail	- \$468	55,000	- \$25,740

- ED5. The proposed project will not significantly contribute to the regional economy as envisioned in the Other Development Review Policies under Goal 3.1. The project will leave a large limited-use space vacant and will not add diversity - in terms of business type, employment, ownership, or wages - to the regional economy (ODRP 3.1.8). The project will result in less land available within the growth center for the office and technology businesses that provide a higher economic return to the regional economy (ODRP 3.1.4). The project will not benefit the regional economy by offering high quality jobs in industries identified in the RPP as desirable (ODRP 3.1.5; 3.1.6 and 3.1.9). One potential benefit of the project is the continued employment of residents in the existing jobs housed by the project (ODRP 3.1.3 and ODRP 3.1.7).

- ED6. Goal 3.2 is to locate development so as to preserve the Cape's environment and cultural heritage, minimize adverse impacts, and enhance the quality of life. This section includes MPS 3.2.1 and 3.2.2 that pertain to the location of projects relative to a certified Growth/Activity Center or Growth Incentive Zone. This project is located in a designated growth center established by the Town of Barnstable's certified LCP and is therefore consistent with these standards.
- ED7. This project is consistent with ODRP 3.2.5, which states that large-scale commercial activities should be concentrated where adequate infrastructure is available. However, the project is only partially consistent with ODRP 3.2.3; it is located within a certified growth center but it does little to actually concentrate development in a village style, pedestrian friendly pattern. Similarly, the project does not help to maintain and restore village centers as mixed-use areas as encouraged by ODRP 3.2.4. The project will re-develop an existing commercial site but not in the manner envisioned ODRP 3.2.7 and ODRP 3.2.5.
- ED8. This project will not create or diversify year-round employment opportunities (Goal 3.3). This project will involve a construction phase and as such has the potential to provide regional benefit by meeting ODRP 3.3.3, which states that development and redevelopment should employ Cape Cod contractors. According to the Applicant, construction will involve 250 construction jobs of varying lengths with 31 percent to be filled by Cape Cod residents.

Heritage Preservation/Community Character Findings

- HPCC1. The project is not located within a designated historic district, and the existing structures on the site are not believed to be historically significant. The Applicant submitted a Project Notification Form to Massachusetts Historical Commission (MHC) to determine whether the site is archaeologically sensitive. MHC reviewed the project in 2006 and 2007 and found no significant historical or archeological resources within the project area. No formal comment letter was issued by MHC.
- HPCC2. The proposed supermarket building has a footprint of approximately 55,000 s.f., with additional square footage for storage located in a basement area. Because the building footprint exceeds 50,000 square feet, MPS 6.2.5 requires full screening of the project, either through traditionally scaled frontage buildings or through a vegetated buffer. The Applicant has proposed adequate landscaping to screen the building from both Route 132 and Attucks Lane as shown on the landscape plan entitled Landscape Plan, C-6 of 10" prepared by VHB, Inc. and dated 4/6/08.
- HPCC3. The proposed supermarket building incorporates traditional Cape Cod forms and materials in a large structure, consistent with the town of Barnstable's goals for development along the Route 132 corridor and the Cape Cod Commission's Design Manual. The large massing of the building is reduced by incorporating projections and

setbacks in the façade, varying the roof form and roof height, and by using different building materials to highlight these changes. As required by MPS 6.2.5, there must be at least 10 feet of set-back or projection in the façade footprint for every 50 feet of façade length. Since the front façade of the proposed Stop & Shop is 320 feet long, approximately 65 feet of footprint variation is required. The Applicant will meet this requirement through a combination of wall setbacks and roof setbacks, and also incorporates changes in roof form and building materials to increase variation in the front façade. These changes are shown on the perspectives, elevation drawings and proposed roof plan for Super Stop & Shop, Barnstable, Massachusetts, dated 5/23/08 by Arrowstreet and Peterson/Griffin Architects, Ltd. Staff believes that the proposed setbacks and projections, along with the proposed variation in roof configuration and exterior building materials, meet the intent of this standard.

The building's side facades meet the required footprint variation because of their projecting loading docks. The loading docks and right and left elevations are also sided with different building materials to highlight these changes in the building mass, as shown on the elevation drawings dated 5/23/08 and cited above. The building's rear façade does not meet the footprint variation requirements. Given its lack of visibility backing up to the rear of the Festival Mall buildings, the Commission finds it appropriate to use the flexibility clause to meet the standard in this location. Specifically, the Commission allows that the alternate approach of allowing for such rear façade, which is not visible because it is completely shielded by the buildings at the Festival Mall, to proceed will not be more detrimental to the given resource than is allowed under MPS 6.2.5.

HPCC4. MPS 6.2.10 requires that "[e]xterior lighting in new development or redevelopment shall comply with...*Technical Bulletin 95-001.*" Information provided to the Commission to April 30, 2008 on proposed site lighting includes a point-to-point foot-candle plan from *LSI Industries* dated 12/28/07. The pole and wall-mounted fixtures shown on this plan are consistent with MPS 6.2.10 and *Technical Bulletin 95-001.* According to a telephone conversation with Steve Chouinard of VHB (3/4/08), the building design is still under discussion and the number and type of some of the on-building mounted light fixtures may change.

CONCLUSION

Based on the findings above, the Commission hereby concludes:

The proposed project complies with the minimum performance standards of the RPP and the probable benefits of the project outweigh the probable detriments, as supported by the findings above. The proposed development is consistent with the town of Barnstable zoning code and the Barnstable LCP, as supported by General Finding G4.

The Commission hereby approves with conditions the application of Atlantis Development LLC for the proposed Stop & Shop as a Development of Regional Impact, provided the following conditions are met:

General Conditions

- G1. 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.
- G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G3. The Applicant shall obtain all state and local permits for the proposed project.
- G4. 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. The Applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Town of Barnstable shall be submitted to the Commission upon receipt of local approvals.
- G6. The proposed Atlantis Development/Stop & Shop shall be constructed in accordance with the following final plans:
 - 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.
- G7. Prior to issuance of a building permit, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a Preliminary Certificate of Compliance have been met.
- G8. Prior to receiving either a temporary or final Certificate of Occupancy from the Town of Barnstable, the Applicant shall obtain a Final Certificate of Compliance from the Commission.
- G9. The project shall not be open for business to the public until a Final Certificate of Compliance is received from the Cape Cod Commission.

- G10. The Applicant shall notify Commission staff of the intent to seek a Preliminary Certificate of Compliance at least thirty (30) days prior to the submittal of a building permit application and of its intent to seek a Final Certificate of Compliance 30 days prior to the anticipated date of occupancy. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. 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 prior to the certificate's issuance. 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.
- G11. The Applicant shall be responsible for providing proof of recording of the decision prior to issuance of a Preliminary Certificate of Compliance.

Transportation Conditions

- TC1. Prior to receiving a Final Certificate of Compliance, the Applicant shall implement and maintain an employee/patron trip reduction program that includes the following in-kind strategies:
- Assemble information regarding carpooling and its benefits to be distributed to tenants and their employees.
 - Designate an area where carpool information will be posted for all employees of the project.
 - Implement a guaranteed ride home program (taxi service) for use in the case of an emergency for program participants.
 - Designate preferential parking spaces for employees that carpool.
 - Provide secure bicycle storage areas to accommodate bicycles for both employees and patrons.
 - Provide on-site services to decrease employee midday trip making. The on-site services shall include a lunchroom, microwave, refrigerator, and prepared foods.
 - Provide an on-site transportation coordinator. The transportation coordinator shall be responsible for insuring that the complete rideshare program, including car/vanpools; accommodating work shifts; promotions; incentives; preferential parking; and guaranteed ride home program, is consistently promoted and provided.
 - Provide flexible work hours for employees that car/vanpool.
 - Work with tenants to develop employee work hours to match transit schedules for transit riders.
 - Distribute to all employees a new employee information packet that will include information about the various TDM programs that are available and the ways in which employees can participate.
 - Provide a quarterly bulletin or newsletter reminding employees about the TDM programs and making the employees aware of any new or modified services.

- Provide bicycle maps indicating the location of bicycle facilities in the area will be posted in central locations within the development to encourage bicycle commuting.
- Provide a reference in all promotional materials or link, in the case of a website, to the Cape Cod Commission transportation information center Travel Demand Management services at www.gocapecod.org/tdm. In addition, website based materials and advertising developed for the project will include listing and links to available public transportation services serving the project site.
- Provide incentives each day for employees who commute to work using alternative methods that reduce automotive trips such as bicycling, walking, carpooling or transit. These incentives may include free meals through coupons/discount cards for use toward the purchase of goods and services within the development or at adjacent retailers and entries into weekly raffles for prizes such as movie tickets, free meals and/or goods and services.

TC2. In accordance with Findings TF3, prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval a draft deed restriction for the Mitigation Parcel (the Nelson Coal and Oil Parcel) and a copy of the written agreement between the Applicant and the Town of Barnstable identifying the date and terms of the removal of all buildings on the Mitigation Parcel.

TC3. Prior to the issuance of the Final Certificate of Compliance, the Applicant shall submit proof that the Mitigation Parcel (the Nelson Coal and Oil parcel) has been deeded to the Town of Barnstable. The deed restriction 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 issuance of a Final Certificate of Compliance. Such restriction may reserve the right to use a portion of the Mitigation Parcel for future bike path improvements including associated parking. All buildings on the Mitigation Parcel shall be removed prior to the issuance of a Final Certificate of Compliance.

TC4. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide to the Commission staff for review and approval (including 25%, 75% and 100% submissions) all necessary plans and permits (including all MassHighway and town of Barnstable permits) to implement the upgrade of the Route 132/Bearse's Way traffic signal, the construction of a new connector road (between Route 132 and Attucks Lane) and installation of a new traffic signal at the Attucks Lane/Connector Road intersection, as shown in the FEIR, Figure 2.1 titled "Conceptual Site Access Plan" Vanasse Hangen Brustlin, Inc in accordance with Transportation Finding TF8. Both traffic signals shall be equipped with the Opticom (or equivalent) emergency access equipment, traffic monitoring devices with remote internet based access connecting to the Town of Barnstable and the Cape Cod Commission office. The connector road shall connect at Attucks Lane at a four-way intersection with Stub Road A. The connector road shall require relocating the existing access onto Attucks Lane. No new access point shall be allowed or created on Attucks Lane for this connector road. All traffic signals equipment at both the Route 132/Bearse's Way and the connector road/Attucks Lane intersections be painted black in conformance with Mass Highway standards

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- TC5. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall implement the required transportation mitigation outlined in Transportation Condition TC6 (i.e. the upgrade of the Route 132/Bearse's Way traffic signal, the construction of a new connector road between Route 132 and Attucks Lane, and installation of a new traffic signal at the Attucks Lane/Connector Road intersection, as shown in the FEIR, Figure 2.1 titled "Conceptual Site Access Plan" by Vanasse Hangen Brustlin, Inc.). Implementation of these projects is the sole responsibility of the Applicant. If any other parties (public or private), prior to the Applicant's constructing mitigation at these locations, construct traffic improvements at any of these locations that make the Applicant's proposed mitigation unnecessary or impractical, the Applicant shall come before the Regulatory Committee for a hearing to determine the amount equivalent to the proposed mitigation cost at such locations and make a payment to the County of Barnstable/Cape Cod Commission in lieu of implementing the projects. Such payments in lieu of in-kind traffic mitigation are necessary to comply with MPS 4.1.3.4 and shall be used to support transportation improvements in the town of Barnstable.
- TC6. Prior to issuance of a Final Certificate of Compliance, the Applicant shall pay a total of \$276,000 for roadway mitigation. This mitigation will be held in a mitigation account at Barnstable County/Cape Cod Commission and shall be applied to transportation improvements in the Town Barnstable.
- TC7. Prior to issuance of a Final Certificate of Compliance, the Applicant shall design and construct a sidewalk along Attucks Lane from the proposed site driveway to the Attucks Lane/Phinney's Lane intersection.
- TC8. Prior to issuance of a Final Certificate of Compliance, the Applicant shall design and implement a queuing loop at the Phinney's Lane/Attucks Lane intersection. The queuing loop shall be located on the Phinney's Lane northbound approach and shall trip the Phinney's Lane/Attucks Lane traffic signal if the Phinney's Lane northbound lane backs up close to Route 132.
- TC9. As outlined in Finding TF18, if the proposed right-turn lane at the Route 132/Bearse's Way intersection is designed or constructed such that the Murphy Real Estate driveway or property is altered, the Applicant shall submit a request to the Cape Cod Commission to modify this decision.
- TC10. The Applicant shall incorporate the Access and Parking Easement Plan by VHB dated June 12, 2008 allowing for seven (7) parking spaces into the Proposed Retail Development Site Plans C2-C10, by Vanasse Hangen Brustlin issued 11/30/06, as amended. A copy of this revised plan shall be provided to Commission staff prior to issuing a Preliminary Certificate of Compliance.

Water Resources Conditions

- WR1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide to Commission staff a copy of the written agreement to control the drainage easement adjacent to Attucks Lane and shall assume responsibility for operation and maintenance of the new drainage area and all drainage features located on the property.
- WR2. The Applicant shall construct the stormwater system as specified in the site plans dated December 28, 2007 to meet the requirements of MPS 2.1.3.2. Prior to the issuance of a Final Certificate of Compliance, an engineer of record shall inspect and certify in writing to Commission staff that the entire stormwater system is operating as designed. Any deficiencies shall be reported to Cape Cod Commission staff and corrected. The Applicant shall provide written evidence of such certification to Commission staff.
- WR3. To assure that the requirements of the Stormwater Operation and Maintenance Plan (SOMP), as established in MPS 2.1.3.6, are met in all seasons and for the life of the project, the Applicant shall submit a draft Management Agreement which implements the SOMP to Commission staff for approval prior to the issuance of a Preliminary Certificate of Compliance. Prior to issuance of a Final Certificate of Compliance, the Applicant shall provide a Final Management Agreement that establishes: 1) the party responsible for implementation of the SOMP 2) the party who authorizes funds for maintenance and emergency repairs as needed and 3) the requirement for records retention and release. The Management Agreement shall contain the provision that the applicant shall provide funding for any and all repairs of stormwater systems identified in the SOMP within 30 days of an inspection that reveals any defect. Stormwater maintenance and repair records shall kept on file and a summary submitted annually to Cape Cod Commission. The stormwater management agreement and SOMP plan apply to all successors and assigns as long as the proposed project is in operation.

Hazardous Materials/Hazardous Waste Conditions

- HazC1. In accordance with Finding HazF1, no more than 1,500 gallons and 21 pounds of hazardous materials and hazardous wastes as defined by the 2002 (revised) RPP may be on site at any time. Compressed or natural gas shall be used for building heating and emergency power (if any).
- HazC2. Prior to issuance of a Final Certificate of Compliance, the Applicant shall provide evidence to the Commission that the limit on the quantity of hazardous materials and hazardous wastes described in HazC1 will not be exceeded. Until Commission staff issues a written approval of such evidence, the Preliminary Certificate shall not be issued.
- HazC3. In accordance with Finding HazF2, prior to issuance of the Preliminary Certificate of Compliance the Applicant shall submit to Commission staff for their review and

approval a written narrative or plan which describes ways to limit the use, treatment, generation, storage, or disposal of hazardous materials and/or hazardous wastes at or on the site at any time during site preparation and building construction.

- HazC4. In accordance with Finding HazF4, prior to issuance of the Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for their review and approval a written emergency response plan for site preparation and building construction.
- HazC5. To demonstrate compliance with MPS 4.3.1.1 and in accordance with Finding HazF2, prior to issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for their review and approval a written narrative or plan which describes ways to limit the use, treatment, generation, storage, or disposal of hazardous materials and/or hazardous wastes at or on the site at any time once the site is in operation. Until Commission staff issues a written approval of such narrative or plan, the Final Certificate of Compliance shall not be issued.
- HazC6. To demonstrate compliance with MPS 4.3.1.2 and in accordance with Finding HazF3, prior to issuance of Final Certificate of Compliance by the Commission, the Applicant shall provide evidence to the Commission that the hazardous wastes identified in the LFR inventory, including fluorescent bulbs, mercury-containing items, used batteries, marine flares, and CO₂ cartridges were properly disposed of.
- HazC7. In accordance with Finding HazF4 and to demonstrate compliance with MPS 4.3.1.4, prior to issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for their review and approval a written emergency response plan for site operations.

Natural Resources/Open Space Conditions

- NR1. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall provide the Cape Cod Commission with a deed restriction approved by Commission counsel and recorded at the Registry of Deeds or Land Court showing that the open space areas shown on the "Open Space Deed Restriction Exhibit" prepared by VHB, Inc. and dated 4/2/08 shall remain as permanent open space.
- NR2. The Applicant shall remove and manage invasive species on the project site consistent with the plan, "Landscape Plan, C-6 of 10" prepared by VHB, Inc. dated 11/30/06.

Economic Development Conditions

- ED1. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall provide a report to the Commission and the Town of Barnstable Growth Management Department detailing the number of Cape Cod contractors, local suppliers, and workers employed

during the construction phase of the project. The Applicant shall note those businesses that are women or minority owned.

- ED2. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall provide a report to the Commission and the Town of Barnstable Growth Management Department detailing the number and type of the positions filled by Cape Cod residents, minorities, disabled, elderly, unemployed and/or underemployed persons.
- ED3. Beginning one year from the date of occupancy for a period of five (5) years, the Applicant shall provide to Commission staff and the Town of Barnstable Growth Management Department with annual reports addressing the following:
- The number of employees receiving job training through the Cape Cod Community College or other local training entities, including the types of training, number of part-time and fulltime employees trained, the number of Cape Cod residents trained, and the annual dollar value paid by the Applicant for said training and/or tuition reimbursements to employees.
 - Local vendor purchasing, including the number and types of vendors being used and the approximate annual financial benefits to the community, to the extent such information is not subject to proprietary restrictions or confidentiality agreements.

Heritage Preservation/Community Character Conditions

- HPCC1. The Applicant shall landscape the project in accordance with the site and Landscape Plan entitled Proposed Retail Development, Landscape Plan C-6, dated 4/6/08 by Vanasse Hangen Brustlin, Inc.
- HPCC2. The Applicant shall construct the Stop & Shop building in accordance with the approved perspectives, elevation drawings and proposed roof plan for Super Stop & Shop, Barnstable, Massachusetts, dated 5/23/08 by Arrowstreet and Peterson/Griffin Architects, Ltd. 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. Any proposed modifications to the approved plans shall follow the Commission's procedures for modification to approved DRIs.
- HPCC3. If all required exterior lighting, irrigation, finish site work and/or other landscape improvements are not complete at the time a final Certificate of Compliance is sought from the Commission, any work which 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. Unexpended escrow funds shall be returned to the Applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed prior to issuance of a final Certificate of Compliance from the Commission.

- HPCC4. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.
- HPCC5. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval a draft landscape maintenance agreement for three (3) full growing seasons which follows guidelines established by Commission staff. Prior to issuance of a Final Certificate of Compliance, the Applicant shall submit documentation of a signed and executed final maintenance agreement contract.
- HPCC6. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval an “as to be built” exterior lighting plan which shows all site lighting. The Applicant shall also submit with this plan for Commission staff review and approval copies of technical fixture cuts for all proposed site exterior light fixtures. Until the Commission staff issues a written approval of the exterior lighting plan and information, the Preliminary Certificate of Compliance shall not be issued.
- HPCC7. The Applicant shall notify Commission staff of any adjustments to the site’s exterior lighting design, including addition or subtraction of fixtures, substitution of fixture heads or other changes, prior to the ordering or installation of such changed fixtures. Changes to exterior lights that are consistent with Technical Bulletin 95-001 may be approved by Commission staff.
- HPCC8. Prior to issuance of a Final Certificate of Compliance, in-the-field verification of the exterior lighting design, light levels, and illumination used for site signage will be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.10.
- HPCC9. The installation of billboards, off-site advertising (excepting approved directional signs) and internally lit or flashing signs shall be prohibited. In addition, any pylon or freestanding signs shall be down-lit in conformance with Technical Bulletin 95-001.

The Cape Cod Commission hereby approves with conditions the application of Atlantis Development as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Stop & Shop located in Hyannis, MA.

Elizabeth Taylor, Chair, Cape Cod Commission

Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

_____, 2008

Before me, the undersigned notary public, personally appeared _____, in her capacity as 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: