

CAPE COD COMMISSION

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DATE: July 28, 2006

TO: John McWeeney
Tedeschi Realty Corp.

FROM: Cape Cod Commission

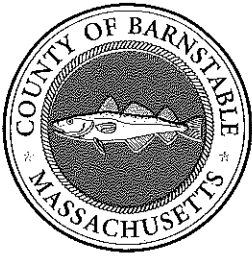
RE: Modification of Development of Regional Impact Decision
dated August 8th, 2002, Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Tedeschi Realty, Inc.
Shaw's Supermarket
18 Sisson Road
Harwich, MA 02370

PROJECT: Tedeschi Realty Corporation/Shaw's

PROJECT #: TR20061

BOOK/PAGE: Book 1389, Page 682



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MINOR MODIFICATION #1

Project: Tedeschi Realty Corporation/Shaw's Supermarket
14 Howard Street
Rockland, MA 02370

The above project involved the removal of an outdated shopping center with a grocery store and replacement with a larger modern supermarket. The DRI decision included a new northern driveway to facilitate access to and from the supermarket and improve traffic operations at the main driveway. The original CCC decision included Condition T8 which required the installation and monitoring of access gates at the northern driveway. The gates were required to mitigate concerns of the Harwich Fire and Police departments regarding safety. Control of the gates was given exclusively to the Harwich Police Chief through the DRI decision.

The gates were initially closed when the supermarket opened in June of 2003. Within a few months, the Harwich Chief of Police ordered the gates open at the request of citizens and the Board of Selectmen. A year later, traffic counts and level of service analyses were performed as required by the DRI decision. The results showed traffic operations at the northern driveway were operating at Level of Service C, which is considered acceptable by RPP standards.

The gates have remained open since they were initially opened in 2003. The Police department reports no crashes have happened at the location during the period the gates have been open. Maintenance of the gates has become an issue and the applicant desires to have the gates removed completely. The Police Chief has stated he has no intention of closing the gates in the future and supports the gate removal request.

Determination

The Executive Director of the Cape Cod Commission has determined that a revision to the gate requirement is a *de minimus* changes and removal of the gates is approved as a Minor Modification #1. This action will be reported to the Regulatory Committee at the committee's next meeting. The following changes shall be made to the decision to reflect the revisions described above:

Page 5: Condition T8 Prior to the issuance of a Final Certificate of Compliance, the applicant shall install two controlled access gates at the following locations:

- Where the northern site drive intersects Sisson Road, and
- Where the northern site drive connects to the main parking lot.

Both gates shall remain closed and shall only be opened at the discretion of the Town of Harwich Chief of Police or his/her designee. The applicant shall be responsible for

opening the gates when directed as such. In addition, the applicant shall provide the Harwich Fire Department copies of the keys to open the gates for use in case of emergency. Both gates shall contain directional signs directing traffic toward the main site drive when the gates are closed. The applicant may make recommendations to the Chief of Police as to when the gates should be open and when they should be closed.

The applicant shall contract with a traffic counting firm to conduct manual turning movement counts at the main site driveway/Sisson Road/go-cart driveway intersection for two hours on three summer Saturdays the first summer the supermarket is open. The firm shall also supply a peak hour Highway Capacity Software (HCS 2000) analysis of the intersection for each of the three Saturdays. A brief report of the results including raw data sheets shall be forwarded to the Harwich Chief of Police and to the CCC within six weeks of the conclusion of the counting programs.

After a period of at least one year of the gates being open perpetually, the applicant may request the gates be removed entirely. The Commission staff shall make a determination as to whether the gates can be removed based on the crash history at the location as reported by the Harwich Police Department. The Harwich Police Chief must also concur that the gates can be permanently removed. If approved by the Commission staff, the applicant shall receive written permission from the Executive Director or his or her designee to remove the gates.

Dorr Fox for Margo Fenn
Margaret L. Fenn, Executive Director

7/28/06
Date

Commonwealth of Massachusetts
County of Barnstable

On this (28) day of (July), (2006), before me, the undersigned notary public,
personally appeared (DORR FOX), proved to me through satisfactory evidence of
identification, which was personal knowledge to be the person whose name is signed on
the preceding or attached document, and acknowledged to me that (he) signed it
voluntarily for its stated purpose.

Gail P. Hanley
Notary Public
Commonwealth of Massachusetts

My Commission Expires: 10/13/11

cc: Sue Leven, Harwich DRI Liason
Anita Doucette, Harwich Town Clerk
Geoff Larsen, Harwich Building Inspector