



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: August 8, 2002
TO: Tedeschi Realty Corporation/Shaw's Supermarket
FROM: Cape Cod Commission
RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13
APPLICANT: Tedeschi Realty Corporation/Shaw's Supermarket
14 Howard Street
Rockland, MA 02370
PROJECT #: TR20061
PROJECT: Shaw's Supermarket
18 Sisson Road
Harwich, MA 02645
BOOK/PAGE: Book 1389 Page 682

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of the Tedeschi Realty Corporation/Shaw's Supermarket 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 Shaw's Supermarket in Harwich, MA. The decision is rendered pursuant to a vote of the Commission on August 8, 2002



PROJECT DESCRIPTION

The proposed project consists of the redevelopment of a parcel currently hosting a 43,916 square foot building located on 9.53 acres, 4.3 acres of which is impervious parking area, and 4.21 acres which is existing pervious area. The existing development, which is located in a C-H-1 zoning district, is being replaced by a 59,054 square-foot supermarket building, which includes an 800 square foot dry cleaning shop and 2,750 square feet of non-sales mezzanine space. Adjacent land uses consist of a bank, a seasonal restaurant, a Go-Cart recreational facility and a community farm.

A one-acre wetland is located in the northwest corner of the site, and the parking lot will be approximately 3.8-acres of impervious surface. Portions of the project site are located in a Significant Natural Resource Area (SNRA) due to the presence of estimated rare species habitat (also mapped in the Natural Heritage Atlas, 2000-2001 Edition). According to the DRI application, 55.8 percent of the 9.53-acre site is presently developed.

Proposed site improvements include an improved front yard vegetated buffer, significant landscaping and roadway improvements, use of an innovative denitrifying septic system and stormwater-management improvements. The applicant will also provide additional sidewalks along Route 28 and Sisson Road, remove a curb cut along Sisson Road and escrow funds to install a traffic signal at Sisson Road and Route 28.

PROCEDURAL HISTORY

The project was referred to the Commission on June 20, 2001 by Harwich Town Planner Sue Leven. The applicant submitted the DRI application to the Commission on June 21, 2001. A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on August 2, 2001 at the Harwich Town Hall. The hearing was continued and the record was left open. A hearing officer closed the public hearing on October 29, 2001.

A duly noticed public hearing was held on November 7, 2001 at the Harwich Town Hall. The hearing was continued and the record left open. An extension agreement was signed by the applicant on December 18, 2001, extending the decision period until March 22, 2002. Two subsequent extension agreements were signed, extending the decision period until April 22 and July 26, 2002. Four subcommittee meetings were held on August 2, 2001, November 7, 2001, February 7, 2002 and July 16, 2002.

At the February 7, 2002 subcommittee meeting, the subcommittee voted unanimously to recommend to the full Commission that the DRI application be approved with conditions. At the July 16, 2002 meeting, the subcommittee reviewed the draft decision. A final public hearing was held before the full Commission on August 8, 2002. At that time both the public

hearing and record was closed. At this hearing, the Commission voted unanimously to approve the project as a DRI, with conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the Proponent:

- Letter from MS Transportation Systems regarding proposed trip forecasting dated March 28, 2001
- Fax from MS Transportation Systems regarding proposed Shaw's in Harwich dated April 18, 2001
- Letter from MS Transportation Systems regarding forecasts for the proposed redevelopment at 18 Sisson Road in Harwich dated April 12, 2001
- Letter from Attorney Patrick Butler regarding DRI application for proposed site redevelopment at 18 Sisson Road in Harwich dated June 12, 2001
- Shaw's elevations submitted by Edward Cormier Associates dated June 13, 2001
- Shaw's site plans submitted by Coastal Engineering dated June 14, 2001
- Referral letter from Harwich Planning Department dated June 20, 2001
- DRI Referral form dated June 20, 2001
- Planning Board Application for Special Permit dated June 20, 2001
- DRI application form dated June 21, 2001
- Certified abutters list dated June 21, 2001
- 8 1/2 x 11" section USGS quadrangle map of project area dated June 21, 2001
- Parcel map of proposed Shaw's Supermarket dated June 21, 2001
- 24 x 36" copies of proposed site plan dated June 21, 2001
- 11 x 17" copy of proposed site plan dated June 21, 2001
- Letter from Massachusetts Historical Commission (MHC) regarding impacts to significant historic or archaeological resources dated July 6, 2001.
- Nitrogen Loading Calculations submitted by Coastal Engineering dated July 20, 2001
- Letter from Coastal Engineering submitting supplemental information on nitrogen loading and stormwater drainage dated July 23, 2001
- Revised Nitrogen Loading Calculations submitted by Coastal Engineering dated July 26, 2001
- Summary letter of outstanding issues from Attorney Butler dated August 14, 2001
- Letter and photos of landscaping at Stop and Shop dated September 14, 2001
- Letter from Tedeschi Realty Corporation confirming that the lease to the Dry Cleaner will contain restriction against a dry cleaning plant being located on site dated September 17, 2001
- Letter from Tedeschi Realty Corporation regarding retaining LFR of Braintree, MA to complete a hazardous waste materials survey of proposed Shaw's supermarket dated September 25, 2001.
- Architectural rendering of pylon sign for Shaw's dated September 26, 2001
- Letter from Shaw's Supermarket to Gay Wells regarding Economic and Environmental Corporate Policies dated September 28, 2001
- Asbestos and Regulated Materials Survey appendix - LFR dated September 28, 2001
- Revised site plan submitted by Coastal Engineering dated September 28, 2001
- Schematic revised landscape plan by Mary Smith Associates dated September 30, 2001
- Asbestos and Regulated Materials Survey submitted by LFR dated October 1, 2001

- Letter from Attorney Butler regarding submission of sketch of pylon sign, confirmation that dry cleaning facility on site would be used solely for pickup, and correspondence from the chairman of the Harwich Traffic Safety Commission dated October 4, 2001
- Email letter from John McWeeney of Tedeschi Realty Corporation dated October 11, 2001
- Environmental Impact letter from Shaw's Supermarket dated October 15, 2001
- Email letter from John McWeeney of Tedeschi Realty Corporation dated October 17, 2001
- Materials and Color board submitted by Edward Cormier Associates dated October 19, 2001
- Revised elevations submitted by Edward Cormier Associates dated October 19, 2001
- Pylon sign schematic submitted by Edward Cormier Associates dated October 19, 2001
- Roof Survey- Star Market Plaza- LFR dated October 23, 2001
- Planting Plan from Mary Smith for proposed Shaw's dated October 23, 2001
- Memorandum for proposed Draft Conditions dated October 29, 2001
- Letter from Rockland Trust in support of proposed Shaw's dated October 30, 2001
- Route 28/Sisson Road Improvements from MS Transportation Systems dated November 6, 2001
- Memorandum for Draft Condition for monitoring effluent dated November 7, 2001
- Color snapshots of existing Star Market plaza submitted to staff November 7, 2001
- Landscaping Guidelines for Shaw's Supermarkets dated November 7, 2001
- Pylon sign revised schematic from Edward Cormier Associates dated November 7, 2001
- Planting Plan and Landscape profile plan submitted by Mary Smith Associates dated November 19, 2001
- Email from John McWeeney of Tedeschi Realty regarding outstanding issues to be resolved dated December 27, 2001
- Open Space calculation, site light and site lighting photometric plan from Coastal Engineering dated December 27, 2001
- Letter regarding costs for proposed Shaw's supermarket from MS Transportation Systems, Inc. dated January 2, 2002.
- Letter from Tedeschi Realty detailing compliance with zoning issues dated January 7, 2002.
- Letter from Tedeschi Realty and landscape plans from Mary Smith dated January 14, 2002.
- Open Space proposal received from Attorney Pat Butler's office dated January 16, 2002.
- Letter from Tedeschi Realty regarding parking requirements dated March 6, 2002.
- Letter from Nutter, McClennen and Fish regarding July 26, 2002 extension agreement dated March 18, 2002.
- Email from John McWeeney regarding responses to staff letter of March 18, 2002 dated March 26, 2002.
- Preliminary Site Development Plan for TDM submitted by Coastal Engineering, April 1, 2002.
- Amended site plan submitted April 1, 2002.
- Three-year draft maintenance agreement submitted by Mary Smith Landscape Architects on April 18, 2002
- Email from John McWeeney regarding signage requirements dated April 18, 2002.
- Email from John McWeeney regarding demolition specifications dated April 23, 2002.
- Scope of Work for the Asbestos and Regulated Materials Abatement Project at Star Market Plaza, submitted by John McWeeney on April 24, 2002.
- Three-year final maintenance agreement submitted by Mary Smith Landscape Architects dated April 25, 2002.

- Proposed updated pylon sign treatment from Ed Cormier Associates dated April 26, 2002.
- Email from John McWeeney regarding additional demolition specifications dated April 29, 2002.
- Transportation mitigation elements submitted to staff on April 29, 2002.
- Site plans detailing layout of recycling collection locations dated May 3, 2002.
- Letter from Rick Olson, Shaw's Director of Real Estate, stating methods of recycling for fluorescent light tubes, cardboard and plastic bags dated May 3, 2002.
- Preliminary Route 28/Sisson Road plans submitted to staff dated May 7, 2002.
- Revised landscape agreement including traffic island on Sisson Road dated May 8, 2002.
- Preliminary Site Development Plan for TDM submitted May 14, 2002.
- Alternative landscape plans for both one and two lanes on Sisson Road submitted on May 14, 2002.
- Alternative site plans for both one and two lanes on Sisson Road submitted on May 14, 2002.
- Revised nitrogen loading calculations dated May 15, 2002.
- Revised Operations, Maintenance and Compliance (OMC) Plan dated May 15, 2002.
- Dated pylon sign and elevation plans submitted on May 23, 2002.
- Estimated costs for proposed traffic signal at Route 28 and Sisson Road dated May 23, 2002.
- Revised landscape plans from Mary Smith detailing median island plantings dated May 24, 2002.
- Revised landscape maintenance specifications from Mary Smith Architects dated May 24, 2002.
- Progress prints for Sisson Road/Route 28 improvements submitted by MS Transportation dated May 30, 2002.
- Escrow amount letter from MS Transportation for traffic signal on Sisson Road dated May 31, 2002.
- Revised landscape and site plans dated June 7, 2002.
- Letter from MS Technology describing colored textured asphalt dated June 13, 2002.
- Letter from Shaw's stating that the store will not collect, store or handle waste oil and batteries.
- Sign plan for Shaw's building showing conformance to local zoning dated July 23, 2002

From the Cape Cod Commission and Staff:

- Letter from Harwich Board of Health dated November 2, 2001
- A 45-day letter sent to Attorney Patrick Butler dated November 5, 2001
- Extension agreement letter to Attorney Patrick Butler dated November 19, 2001
- Technical memorandum sent to Dave Michniewicz, Coastal Engineering regarding changes to stormwater operation and maintenance plan dated November 20, 2001
- Letter from Robert Mumford to Robert Gregory, MA Highway Department regarding traffic signalization dated December 18, 2001
- Email from Greg Smith to subcommittee members regarding status of subcommittee meeting dated January 20, 2002.
- Email from Greg Smith to subcommittee members regarding status of outstanding issues yet to be resolved prior to substantive subcommittee meeting being held.
- Letter to Liza Cox (Nutter, McClennen and Fish) from Heather McElroy regarding open space proposal dated January 29, 2002.
- Letter from staff regarding outstanding traffic, landscaping and buffer area concerns to Tedeschi Realty dated March 18, 2002.

- Email from Bob Mumford to Greg Smith regarding project's conformance with MPS 4.1.1.15 dated March 21, 2002.
- Trip reduction through land preservation memorandum sent to John McWeeney dated April 2, 2002.
- Email sent to John McWeeney regarding additional information required solid waste and recycling practices for proposed demolition of existing supermarket dated April 23, 2002.
- Email from Tana Watt outlining remaining community character issues to be resolved dated May 9, 2002.
- Email from Tana Watt outlining crosswalk specifications and materials to be use dated May 9, 2002.
- Email from Bob Mumford to Tana Watt regarding street print specifications dated May 9, 2002.
- Memorandum from Tim Boesch regarding proposed trip reduction land donation dated May 20, 2002.
- Faxed letter sent to MS Transportation regarding estimates for completion of signal at Route 28 and Sisson Road dated May 22, 2002.
- Extension agreement faxed to Nutter, McClennan and Fish dated May 23, 2002.
- Fax sent to MS Technology regarding color board for crosswalks dated June 13, 2002.

Letters from state/local officials:

- Letter from Eric Johnson, Archeologist/Preservation Planner dated July 6, 2001
- Letter from Harwich Safety Commission to Harwich Board of Selectmen regarding proposed Shaw's supermarket dated September 4, 2001
- Letter from Jay Wickersham of MEPA Unit dated September 7, 2001
- Letter from Harwich Health Director to Coastal Engineering regarding conceptual approval of the proposed project dated December 3, 2001
- Letter from Harwich Police Department regarding traffic signal dated December 6, 2001
- Letter from Sue Leven, Harwich Town Planner regarding zoning issues dated December 14, 2001
- Letter from Board of Selectmen supporting inclusion of affordable housing units as component of Shaw's supermarket dated January 3, 2002
- Email from Sue Leven, Harwich Town Planner regarding zoning conformance dated January 7, 2002
- Email from Sue Leven, Harwich Town Planner regarding letter from Harwich Housing Authority dated January 9, 2002
- Letter from Harwich Housing Authority regarding affordable housing component of proposed project dated January 11, 2002
- Letter from MassHighway to Robert Mumford regarding traffic improvements to Sisson Road/Route 28 dated February 5, 2002.

Letters from the Public:

- E-mail to Cape Cod Commission subcommittee from Donna Reed Benevides dated November 1, 2001

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 the proceedings are incorporated into the record by reference.

TESTIMONY

Note: see minutes in project file for complete public hearing and subcommittee meeting proceedings.

At the August 2, 2001 Public Hearing the applicant provided an overview of the proposed supermarket. Staff provided an overview of issues associated with traffic, natural resources, groundwater, landscaping, community character, economic development, affordable housing, and solid and hazardous waste management. The Subcommittee heard oral testimony at the Public Hearing from:

- Representative Shirley Gomes commented as a Harwich resident and felt the building as proposed would be a great improvement over what is currently located on site.
- Sylvia Laffin was encouraged by the redevelopment, but wanted to see attention paid to both Revegetation of buffers and night lighting.
- Bob Widgreen stated he would like to see apartments provided above the store.
- Barbara Anne Foley stated to have seniors concerns addressed in the review process.
- Mrs. Yamamoto of Harwich Safety Committee stated that applicant should meet with committee to address safety concerns.
- Richard Moriarity asked about number of new trips generated, as well as impact of new development on local businesses.
- Richard Moriarity asked about number of trucks entering and leaving site during construction and post-construction.
- Jim Newman wanted to see Shaw's come to Town and compete with Stop and Shop.
- Janet Regan stated that Shaw's would better traffic situation.
- Carl Clapp wants to be able to shop in same neighborhood that he resides in.
- Jim Powers asked if Commission has technical expertise to review proposed development, and if access from Route 28 could be provided to the site.
- Bud Hall wanted to see the project review expedited. Also felt left-hand turn onto Sisson Road is necessary.
- Marsha Monblow stated that anything done on the site would be an improvement and suspects that traffic won't be so bad.
- George Dinsmore stated that he finds the sign across the front of the proposed building is offensive.

At the November 7, 2001 Public Hearing the applicant provided the subcommittee with an update on issues that were identified during the first hearing, including open space, septic issues, traffic mitigation, affordable housing and landscaping. The staff report was presented to the subcommittee. Scott Michaud, staff hydrologist stated that the project exceeded the 5ppm nitrogen standard and that the applicant was relying on monitoring through the local permit with no DEP oversight. Staff felt that the monitoring should be done through a state

Groundwater Discharge Permit or through off-site mitigation. Tim Boesch, staff transportation engineer stated that there was concern that the main site drive, as the applicant's study noted that the level of service (LOS) would function at level F under build conditions. During that hearing the Subcommittee heard oral testimony from the following person:

- Sylvia Laffin, Harwich Selectman, commended the applicant for the progress that had occurred to date and stated that Allen's Harbor was a sensitive ecosystem and should be protected.

JURISDICTION

The proposed Shaw's Supermarket qualifies as a Development of Regional Impact (DRI) under the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, Chapter A, Section 3(e), Barnstable County Ordinance 90-12, as amended, which requires review of new commercial construction with a gross floor area greater than 10,000 square feet.

FINDINGS

The Commission has considered the application of Tedeschi Realty Corporation ("Tedeschi") for the proposed Shaw's Supermarket, and based on consideration of such application and upon the information presented in the public hearings and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General Findings:

- G1** The proposed project consists of the redevelopment of a parcel currently hosting a 43,916 square foot building located on 9.53 acres, 4.3 acres of which is impervious parking area, and 4.21 acres which is existing pervious area. The existing development is being replaced by a 59,054 square-foot supermarket building, which includes an 800 square foot dry cleaning shop and 2,750 square feet of non-sales mezzanine space. A one-acre wetland is located in the northwest corner of the site, and the parking lot will be approximately 3.8-acres of impervious surface. Portions of the project site are located in a Significant Natural Resource Area (SNRA) due to the presence of estimated rare species habitat (also mapped in the Natural Heritage Atlas, 2000-2001 Edition). According to the DRI application, 55.8 percent of the 9.53-acre site is presently developed.
- G2** The proposed project is not located within a Certified Growth Area according to the Harwich Local Comprehensive Plan, which was certified by the Cape Cod Commission in April 2000.
- G3** The project does not lie within a District of Critical Planning Concern (DCPC).

- G4** According to a letter submitted by the Harwich Town Planner on December 13, 2001, the project is consistent with the Town of Harwich's Local Comprehensive Plan.
- G5** The applicant will require a variance from the Harwich Zoning Board of Appeals for the size of the proposed building sign.

Water Resource Findings:

- WR1** The project is located in a Water Quality Impaired Area (MPS 2.1.1.2.D). The project is also located in the Herring River watershed, a Marine Water Recharge Area, or MWRA (MPS 2.1.1.2.C). These classifications of the project site result in further classification of the site as a Water Quality Improvement Area, or WQIA (MPS 2.1.1.2.E). Improvement of water quality in a WQIA is a major goal of the RPP.
- WR2** As shown on Plans SD-3 and SD-4 (dated 9-28-01) the applicant proposes to construct a mounded leachfield for onsite disposal of treated wastewater (5,700 gallon-per-day design flow) just outside the margin of the 100-foot buffer to wetlands at the head of the Herring River system.
- WR3** A critical nitrogen load has not been determined for the Herring River system. Therefore, the project is subject to MPS 2.1.1.2.C.1, which requires projects to make a *monetary contribution for development of a critical nitrogen load* for the applicable embayment. MPS 2.1.1.2.C.1 also provides for a monetary contribution for development of nitrogen management strategies.
- WR4** MPS 2.1.1.2.C.3 requires that projects located in a MWRA use a DEP-approved alternative septic system with enhanced nitrogen-removal capability. The applicant has not committed to a specific type of on-site system. However, the applicant has indicated that septic systems currently being considered for use at the site consist of an Amphidrome sequencing batch reactor and a Bioclere fitted with a denitrifying filter.

The Amphidrome system is approved for piloting use in Massachusetts. Pilot systems are limited to 15 systems statewide because they are considered experimental. The Bioclere system is approved for general use. However, modifications to a Bioclere system, as proposed, qualify it as an experimental system, subject to piloting approval by MADEP. Therefore, the applicant will need to obtain piloting approval for the project's on-site wastewater treatment system.

WR5 MADEP typically assigns a higher Title-5 wastewater-flow rate to supermarkets, i.e. 97 gpd/1,000 square feet. The applicant submitted nitrogen-loading calculations using 97-gpd/1000 square feet and 50-gpd/1,000 square feet flow factors at various effluent-nitrogen concentrations. The Commission recognizes the former wastewater-flow rate for supermarket development. The latter flow rate is recognized for the additional retail space associated with the project.

WR6 Pursuant to methodology prescribed by Cape Cod Commission Technical Bulletin (TB) 91-001, the project is unable to meet MPS 2.1.1.2.E.1, which states that *where existing development exceeds the 5-ppm nitrogen loading standard, redevelopment shall improve existing levels of nitrogen loading.*

Using an effluent-nitrogen strength of 35 ppm, as prescribed by TB-91-001 for Title-5 on-site wastewater systems, existing development results in a nitrogen-loading concentration of 6.1 ppm. Using an effluent concentration of 25 ppm, as prescribed by TB-91-001 for commercial development with a denitrifying on-site septic system, the proposed project results in a 6.4-ppm nitrogen-loading concentration.

MADEP assigns a 25-ppm nitrogen strength to effluent generated by commercial projects using denitrifying on-site septic systems approved through DEP's Innovative/Alternative Technology Program. Therefore, monitoring of the project's onsite wastewater-treatment system's effluent quality is necessary, because the project can not meet MPS 2.1.1.2.E.1 at the 25-ppm treatment level.

The project requires use of the flexibility clause due to the project's inability to meet MPS 2.1.1.2.E.1 as described in Finding WR6. To invoke the flexibility clause, the applicant shall meet all provisions of the approved Operations, Management and Compliance (OMC) Policy. The Commission hereby finds that, because compliance with the OMC Policy would meet the intent of MPS 2.1.1.2.E.1, it is appropriate to apply the flexibility clause for this MPS. Also, this approach will not be more detrimental to the protected resource than would be allowable under the MPS.

Based on information provided by the applicant, the Commission has determined that the project will need to achieve an onsite wastewater-effluent nitrogen strength of 23.5 ppm in order to maintain the existing nitrogen load. The applicant has asserted that an effluent-nitrogen strength of 15 ppm can be achieved at the site. Treatment of onsite wastewater to a nitrogen strength of 15 ppm would result in an improvement in nitrogen loading at the site, thereby satisfying MPS 2.1.1.2.E.1

WR7 The Harwich Board of Health (HBOH) has agreed to monitor the project's septic-system influent and effluent quality in accordance with the Operations, Management and Compliance (OMC) Policy approved for the project (see addendum to this decision). Compliance with provisions of the OMC Policy will ensure compliance with MPS 2.1.1.2.E.1.

WR8 The project is subject to MPS 2.1.1.6, which requires:

- stormwater infrastructure adequate for handling projected 25-year, 24 hour storms,
- development of a maintenance schedule for stormwater infrastructure, and
- use of best management practices (BMPs) for disposal of stormwater.

The project provides for reduced potential for stormwater discharge into nearby wetlands and a redirection of stormwater runoff to groundwater via subsurface infiltration chambers located beneath the parking lot. The outfall to the wetlands will be maintained to handle system overflow from high intensity storms, and the system will be equipped with a shut-off valve to manage potential contaminant spills.

The applicant has provided an Operation and Maintenance Plan (dated May 7, 2002) for the site's stormwater infrastructure detailing:

- a description of the system,
- the party responsible for operation and maintenance of the system,
- inspection and maintenance schedules,
- a description of best-management practices, and
- emergency spill-cleanup plans.

Natural Resource Findings:

NR1 The proposed project consists of the redevelopment of a parcel currently hosting a 43,916 square foot building located on 9.53 acres. A one-acre wetland is located in the northwest corner of the site, and the parking lot will be approximately 3.8-acres of impervious surface. Portions of the project site are located in a Significant Natural Resource Area (SNRA) due to the presence of estimated rare species habitat (also mapped in the Natural Heritage Atlas, 2000–2001 Edition). According to the proponent, 55.8 percent of the 9.53-acre site is presently developed.

NR2 Significant portions of the 100-foot wetland buffer were previously altered in conjunction with the construction of the existing commercial buildings. Consistent with the requirements of MPS 2.3.1.2. *allowing work within previously disturbed wetland buffers*, the proposed redevelopment and revegetation of the site will result in a reduction in altered buffer area. Based on a technical memorandum dated

December 26, 2001 from Coastal Engineering and concurrence by Commission staff, the location of the building is the best location from a site design standpoint.

NR3 The revised landscaping plan (L-1 dated May 14, 2002 and received May 24, 2002) proposes to revegetate portions of the 100-foot wetland buffer with native shrubs and a conservation seed mix that may provide food and habitat for wildlife.

NR4 Prior to revegetation of the site, Tedeschi Realty has agreed to remove invasive species from the wetland buffer areas, including autumn olive, asiatic bittersweet, japanese knotweed, and *Phragmites australis*. Details of the proposed removal of these species and maintenance of the site is provided in the maintenance contract prepared by Mary Smith Associates on May 20, 2002 and received on May 24, 2002.

NR5 Areas adjacent to and including the wetlands have been identified by the Natural Heritage and Endangered Species Program as estimated habitat for rare wetland wildlife. The redevelopment proposal appears to propose new development within the area of present development, and as such likely does not pose new threats to rare species.

NR6 The project proposes to improve the existing stormwater management system (which presently drains all site stormwater directly into the wetlands on the north of the site) by infiltrating stormwater through leaching fields located within the parking lot.

OS1 As a redevelopment project, Tedeschi is required to meet the open space requirement based on existing open space onsite, up to an amount that would otherwise be required (MPS 2.5.1.4.). According to the table in Layout and Materials Plan (SD-2) dated 6/07/02, the existing pervious area is 44.2 percent of the site or 4.21 acres. Tedeschi has opted to meet the open space requirement through a cash contribution in the amount of \$100,000 to the Harwich Land Bank fund.

Community Character Findings:

CC1 The proposed project is not located within an historic district and is not adjacent to individual historic homes. The Massachusetts Historical Commission (MHC) reviewed the proposed project in a letter dated July 6, 2001 and determined that the project is unlikely to affect significant historic or archaeological resources.

CC2 *Goal 6.2 of the RPP encourages redevelopment and seeks to ensure that future development respects the traditions and character of Cape Cod consistent with the Commission's design manual, Technical Bulletin #96-001.* The project involves redevelopment of an existing commercial plaza constructed in 1969. The existing

site includes two partially attached strip commercial buildings and a parking lot located prominently in front of the buildings. The current site consists of large open areas with little site landscaping or buffering. The parking lot does not include landscaped islands or interior landscaping. A total of 55.7 percent of the existing site is covered by impervious surface. Upon completion of the proposed redevelopment, site coverage will be reduced to 54.8 percent.

The project's location on Route 28 and Sisson Road (both regional roadways under the RPP) requires that the design of the facility be compatible and harmonious with surrounding development and traditional Cape Cod architecture. As proposed and supported by the following findings, the project will improve the visual character of the area consistent with the Commission's design manual.

- CC3** *MPS 6.2.1 requires that the height and scale of a new building or structure... be compatible and harmonious with its site and existing surrounding buildings. In addition, no new structure shall have a footprint greater than 50,000 square feet unless it can be demonstrated that the project will not have adverse visual impacts on the surrounding community.* The proposed building has a footprint of 59,054 square feet. Potential visual impacts on the surrounding community from the large scale of the building are addressed partly through variation in the building façade as described in Finding CC4, and partly through site design and landscaping as described in Findings CC5 and CC6.
- CC4** The height of the proposed building is consistent with surrounding structures. The scale of the building is large in comparison with surrounding buildings, but its apparent size is reduced by changes in setback totaling approximately 25 feet, as well as changes in roof form, roof height, and building materials on the front façade. These variations serve to break up the building mass into smaller elements and give the impression of a series of later additions.
- CC5** *MPS 6.2.2 requires in all cases, where new buildings and additions are proposed, that the mass and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows shall be harmonious among themselves and consistent with traditional Cape Cod architectural styles.* The architectural design of the Shaw's Supermarket incorporates traditional Cape forms and materials into a much larger structure. The apparent large massing of the building is reduced by varying the façade with several small setbacks and different roof forms, echoing the Cape's tradition of gradually expanding buildings through a series of additions. Wood siding and wood trim are the primary building materials used on the visible façades.
- CC6** *Development Review Policy 6.2.18 states that traditional building materials should be used for new construction.* The primary building façades incorporate traditional

building materials of wood clapboard and shingles, wood trim, and a brick base. The use of Exterior Insulating Finishing System (EIFS) is limited to signage areas. Architectural concrete block is used on the side and rear facades, but the brick base and wooden cornice are included on all visible areas.

- CC7** Views of the project from Route 28 and Sisson Road are a primary concern. The applicant explored several site configurations in an effort to identify the one with the least visual impact and the most functional site design.

The proposed site plan will provide partial screening of the building and parking lot through berms and landscaping. The landscape plan (L-1, dated May 14, 2002) shows that the applicant will revegetate the closed site drive to the adjacent bank.

The project includes a northern site drive that has been designed with a slight curve which will reduce direct sightlines into the parking lot, and which terminates with a view of a landscaped island. Views to the building are limited such that the size of the building will not be apparent from the surrounding community.

- CC8** Two landscaped berms ranging from 3 to 4 feet high and 35 to 120 feet wide are proposed to screen the development from the roadways. In addition, several landscaped islands 13 feet in width within the interior of the parking lot will contain landscaping that is expected to assist in screening the building and the parking lot.

- CC9** *MPS 6.2.4 requires that redevelopment of existing strip development provide adequate buffers between parking areas and the street, and significant improvement to interior parking lot landscaping, as well as facade improvements and frontage buildings, as necessary, to improve the visual character of the site.*

As shown on the Planting Plan, Sheet L-1, dated May 14, 2002, the applicant has improved interior parking lot landscaping on the site through the provision of a variety of landscaped islands. In addition, the project will include buffers between Sisson Road and the parking lot that range from approximately 35 to 120 feet in width; there is currently little existing landscaping in this area. Within this buffer area, the applicant proposes to create a landscaped 3 to 4-foot high berm that will provide an adequate visual buffer to Route 28 and Sisson Road. The quantity and variety of plantings of various heights in the buffer and parking lot islands will improve the visual character of the site and ensure consistency with MPS 6.2.4. The proposed building includes facade improvements in that it provides greater variation in setback and roof height, and incorporates more traditional building forms and materials than the existing commercial buildings on the site.

- CC10** *MPS 6.2.5 requires that amenities for pedestrians shall be provided on site by all new development.* The applicant has met MPS 6.2.5 by providing a sidewalk network within the project site that connects the building to Route 28, Sisson Road and the adjacent bank. In addition, the plan provides a continuous offsite pedestrian

connection from the project site to the intersection of Route 28/Sisson Road, as well as along Sisson Road and Route 28. The site plan also includes three benches, a bike rack and a bus shelter.

Crosswalks through all vehicular areas are proposed to consist of textured bituminous asphalt that will be visually and texturally distinct from the dark asphalt paving. Interior sidewalks are proposed to consist of brick approximately 15-20 feet in length that will serve as a visual transition between the white concrete sidewalk material. Off-site sidewalks south of the main street drive will be constructed of white concrete.

- CC 11** *MPS 6.2.6 requires the submission of a landscape plan that addresses both the functional and aesthetic aspects of landscaping.* The landscape proposal for this project includes a significant number of sustainable, non-invasive and/or native plantings that are suitable to the climate and location of the site. Proposed vegetation includes trees and shrubs of significant size at the time of planting (deciduous trees of 3 1/2 to 4 inch caliper, evergreen trees of 8 to 12 feet in height and shrubs ranging from 2 to 5 feet in height). The applicant proposes to revegetate within the wetland buffers with native species. The size, quantity and variety of landscape material will improve the character of the site in conformance with MPS 6.2.6.
- CC12** The applicant has proposed an irrigation system to maintain the on-site landscaped areas, as well as the median islands. The applicant has provided a draft three-year maintenance contract that includes watering, pruning, mulching, and replacement of dead plant materials, fertilization, and pest control for all landscaped areas within the limit of work as well as the five median islands on Sisson Road.
- CC13** MPS 6.2.7 of the 1996 RPP requires that "exterior lighting in new development or redevelopment shall comply with standards including design, light source, total light cutoff and foot-candle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001." The Commission received information on exterior lighting on December 27, 2001 consisting of a site lighting plan (SE-1A) and a point-to-point foot-candle plan (SE-1B), both dated December 4, 2001. Staff supplemented this information by downloading technical specifications for the applicant's proposed fixtures from the lighting manufacturer's website. The selected fixtures include 25 pole and 11 wall mount fixtures in 5 different configurations.
- CC14** The selected fixtures are high-pressure sodium which conforms to Technical Bulletin Standard 2.3. The pole-mount lights conform to Standards 2.4 and 2.6 regarding style and pole height. The wall-mount lights also conform to the maximum mounting height established by Standard 2.7. It appears the wall mount lights conform to the maximum light cutoff angle of Standard 2.7.

CC15 *MPS 6.2.8 requires that the installation of billboards, offsite advertising (excepting approved directional signs) and internally lit or flashing signs shall not be permitted.* The applicant has submitted design plans for a pylon sign at the entrance to the development, and for signage on the front of the proposed building. All of the signs are proposed to be halo-lit or illuminated with gooseneck light fixtures, consistent with the RPP and with Town of Harwich regulations. However, the applicant may seek a variance to allow a larger sign to be constructed on the building than is currently proposed.

CC16 Development Review Policy 6.2.19 states that the size and color of all signs should be in scale and compatible with the surrounding buildings and street.

CC17 *MPS 6.2.9 requires all utilities including cable to be placed underground except where the presence of natural features such as wetlands or archaeological resources prevent such placement.* A utility plan was submitted showing the placement of electrical lines underground (Utility Plan SD-4 dated 9/28/01).

CC18 *MPS 6.2.10 requires that parking be located to the side or rear of the building or commercial complex in order to promote traditional village style design unless such location would have an adverse or detrimental impact on environmental or visual features on the site or is completely infeasible.* In addition to the preferred site plan, the applicant provided two alternative site plans showing the building rotated 90 degrees and close to Sisson Road, and with the parking located to the side and rear of the site.

MPS 6.2.10 allows parking to be located in front if its location to the side or rear of the building would result in adverse visual impacts. The alternative site plans would bring the building's service areas into view from Route 28 and Sisson Road, as well as increase the perceived mass of the building since it would be closer to the viewer. As described in Findings CC5, CC6, CC9 and CC11, the proposed landscape plan is expected to be an adequate buffer between the parking lot and the regional roadways once it has matured. It is anticipated that the proposed landscape buffer would be more effective in shielding the preferred site plan than it would be in shielding the alternative site plans. Therefore, the applicant's preferred site design and landscape plan together are expected to have less visual impact on the community than either of the alternative plans.

CC19 *MPS 4.1.1.8 states that transportation mitigation measures shall be consistent with community character and shall not degrade historic, scenic or natural resources.* Roadway widening, signalization and intersection reconstruction will have adverse visual community character impacts. As described below the applicant proposes to mitigate these impacts with vegetated and cobblestone-paved median islands, traditionally textured and colored crosswalks, and decorative traffic signals.

The proposal includes widening Sisson Road from 2 lanes to 3 lanes from the project entrance to the Route 28/Sisson Road intersection. It also includes reconstruction of the median islands in the intersection. The applicant is proposing 4 raised center medians to separate travel lanes in the intersection, in one case extending an existing island and in another case shortening an existing island, and a raised median island near the site entrance on Sisson Road. As shown on the landscape plan, the applicant proposes to landscape and maintain the five median islands located on Route 28 and Sisson Road. The applicant proposes to utilize cobblestones on the median islands on those areas that will not be landscaped.

In the future a traffic signal at the Route 28/Sisson Road intersection may be constructed (see T15). The proponent has provided specifications and details showing decorative black pole shaft, mast arms and fixtures that are designed in a traditional historic style for this traffic signal.

The applicant has agreed to provide several crosswalks both on-site and off-site. The applicant proposes to construct the crosswalks with brick-imprinted asphalt colored in a brick red. The color and texture of the crosswalks shall be consistent with the textured brick walkway at the Dennis Police Station.

Transportation Findings:

- T1** The project is located on Sisson Road at the intersection with Route 28. Both Route 28 and Sisson Road are regional roadways.
- T2** The proposed project consists of the redevelopment of a parcel currently hosting a 43,916 square foot building located on 9.53 acres, to be replaced by a 59,054 square foot supermarket as described in Finding G1. Regional Roadways in the study area include Sisson Road, Route 28, South Street, Main Street/Route 39, Pleasant Lake Avenue/Route 124, Brooks Road, Lothrop Avenue, Earle Road, and Chase Street per MPS 4.1.1.2.
- T3** The proposed expansion is expected to generate new vehicle trips (without adjustments) as follows:
- | | | | |
|------------------|-------------|----------------------------|-----------|
| Average weekday | 2,308 trips | Average evening peak hour | 205 trips |
| Average Saturday | 2,428 trips | Average Saturday peak hour | 227 trips |
- T4** The project as proposed will close a driveway to Sisson Road from the adjoining bank and allow cross access to the bank through the new supermarket parking lot. A peak hour and daily trip reduction of 5 percent is credited for this closure/interconnect under MPS 4.1.1.16.

T5 MPS 4.1.2.1 requires all DRIs to reduce the expected increase in daily trips by 20 percent, or 438 trips for this project. The applicant has committed to a trip reduction program (outlined in Condition T9) including on-site coordination; transit, pedestrian, and bicycle facilities; financial incentives to use alternative modes; on-site services to discourage mid-shift trips; and a guaranteed ride home program. The program is expected to reduce 110 daily trips, leaving 328 trips to be mitigated through other measures (See Finding T6.)

T6 The applicant has committed to donating vacant, commercially developable land to offset remaining trips per MPS 4.1.3.2. The specific parcel is shown in plan SK-4 "Preliminary Site Development Plan" dated May 14, 2002 as "Proposed Lot 2". Commission transportation staff has calculated the trip potential of the mitigation land to meet the 328 daily trip reduction requirement.

T7 MPS 4.1.1.1 requires peak hour trip analysis and mitigation for all regional roadway links and intersections that will carry 25 or more new peak hour trips for the development. After accounting for the interconnect trip credit, the trip reduction program, and 25 percent pass-by trips, the expansion will impact several regional intersections with additional peak hour trips at or beyond the 25 trip peak hour threshold as follows:

Sisson Road and Main Site Driveway	93 new trips
Sisson Road and Northern Site Driveway	65 new trips
Sisson Road and South Street*	42 new trips
Sisson Road and Main Street*	29 new trips
Sisson Road and Route 28	72 new trips
Route 28 and Brooks Road*	39 new trips
Route 28 and Lothrop Avenue*	26 new trips

The 25 or more peak hour trip impact on regional roadway links also includes regional roadway links between the affected intersections:

Sisson Road, North of South Street*	29 new trips
Sisson Road, North of Harold Street	52 new trips
Sisson Road, South of Main Site Drive	72 new trips
Route 28, East of Sisson Road*	33 new trips
Route 28, West of Sisson Road*	39 new trips
Route 28, West of Brooks Road*	26 new trips

In certified growth/activity centers, no mitigation is required for less than 50 new peak hour trips. The development is expected to have impacts on two such locations in the Harwich Village Center:

Main Street (Rt. 39) and Pleasant Lake Ave. (Rt. 124)	27 new trips
Main Street (Rt. 39) east of Sisson Road	27 new trips

- T8** The applicant has proposed to mitigate regional roadway intersections and links which will carry 25 or more peak hour trips but less than 50 peak hour trips by utilizing the payment option permitted under Other Development Review Policy (ODRP) 4.1.1.20. These locations are noted with an asterisk (*) in T7. The total number of new trips to be mitigated under this provision is 263 trips, or \$26,300. This payment to Barnstable County/CCC, will be used for any transportation improvements in the project study area, or in the Town of Harwich, including but not limited to promotion, planning, designing, implementation, construction, and operation. Funds will be disbursed to the Town of Harwich upon approval of the CCC Executive Director.
- T9** The applicant has proposed to mitigate the 52 new trips on Sisson Road north of Harold Street through a fair share payment under MPS 4.1.1.12. The additional new trips to the regional roadway link (without any improvements) has been shown not to degrade the LOS of the link beyond "C", and thus is considered acceptable. The total amount of the fair share payment is \$4,000. This payment to Barnstable County/CCC, will be used for transportation studies and improvements in the project study area, or in the Town of Harwich. Funds will be disbursed to the Town of Harwich upon approval of the CCC Executive Director.
- T10** Access and egress to the redevelopment is proposed on Sisson Road through two unsignalized driveways, one of which may be gated during certain times according to Finding T11. Additional access is available through the cross-access to the abutting bank parcel. The applicant's engineer's review of the site driveways on Sisson Road show sufficient sight distances are available for the speed limits along Sisson Road, fulfilling the requirements of MPS 4.1.1.5.
- T11** The Harwich Police and Fire Departments have raised safety concerns about the northern site driveway both in communications with Commission staff and at the July 16, 2002 subcommittee meeting. To address these concerns, the applicant has agreed to install decorative gates at the Sisson Road and parking lot ends of the northern driveway. These gates shall be open and closed based on the discretion of the Harwich Chief of Police or his/her designee. The applicant has agreed to perform two hours of turning movements counts of the main site driveway/Sisson Road/Go-Cart driveway intersection (when the gates are closed) for three summer Saturday peak periods the first summer the new supermarket is open, and provide Level-of-

Service analysis of the driveway/intersection to the Harwich Chief of Police and the CCC.

- T12** MPS 4.1.1.6 requires that *...All new driveways on the regional road system for DRIs shall operate at LOS C or better (or LOS D in certified growth/activity center) as defined in the Highway Capacity Manual.* The applicant has shown that the northern site drive will operate at LOS C when it is open (see Finding T10 for more details). The applicant has shown that the main site driveway left turns and the go-cart driveway left turns will operate at a LOS D and E respectively, with the northern site driveway open. The applicant has proposed to improve the intersection by aligning the main site driveway, Sisson Road, and the go-cart driveway into a 4-way intersection. Continuous curb cuts along the easterly side of Sisson Road will be rebuilt and re-defined. Also, the applicant has agreed to pay for monitoring, design, and construction of a traffic signal at the main site driveway should one become necessary in the future. The applicant will also provide a conduit during reconstruction which may be used to coordinate the main site drive signal with the Route 28 and Sisson Road intersection signal should both signals eventually be built.
- T13** To partially address project impacts outlined in Finding T7, the applicant has proposed to reconstruct Sisson Road between the northern site driveway and Route 28, provide a northbound left turn lane into the main site driveway, and to define curb cuts along the roadway. Mitigation also includes adding a full southbound right turn lane from the main site driveway to Route 28.
- T14** To further address project impacts outlined in Finding T7, roadway improvements at the intersection of Route 28 and Sisson Road will include redefinition of curbing and islands; extension of the eastbound left turn lane including island extension to reinforce the right-turn-in, right-turn-out pattern at the bank driveway; and addition of crosswalks. As noted in finding T12, addition of a second full southbound lane to accommodate southbound right turning vehicles without waiting for the southbound left turning queues is also included.
- T15** At the intersection of Sisson Road and Route 28, the applicant has proposed to design and construct a fully signalized intersection to meet the requirements of MPS 4.1.1.1, 4.1.1.7, 4.1.1.11, and 4.1.1.12. However, the Massachusetts Highway Department (MHD), in a letter of February 5, 2002 to the CCC stated "...it may be prudent to limit immediate improvements to geometric and pavement marking changes." Also, the Harwich Board of Selectmen in its letter of November 27, 2001 to the CCC stated the Board had voted to "...reject the concept of full signalization at this time" but also to "...recommend to the Commission that funds be held in escrow for the

purpose of installing signalization at a later date.” Consequently, the applicant has agreed to fully design the signal and construct all necessary roadway improvements. These improvements include installing conduits for the signal and providing funds to be held by Barnstable County/CCC for installation of the signal when deemed appropriate by the Town, MHD, and CCC through standard warrant analysis. The applicant’s engineer has provided a cost estimate breakdown for signal installation and completion. The estimate includes a 50 percent contingency for inflation and other possible cost increases. The design will include conduit to connect and coordinate a signal at the main site driveway on Sisson Road should that signal become necessary in the future.

If installation of the signal at Route 28 and Sisson Road is deemed appropriate as noted above, the applicant will be instructed to install the signal, including re-design, permitting, construction, and any related work. If the applicant fails to install the signal, the escrow funds will be directed to the town, CCC, or MHD, whichever party takes responsibility for completing the project.

If, after seven years, installation of the signal at Route 28 and Sisson Road is deemed unnecessary, 93% of the escrow funds will be returned to the applicant while 7% of the funds will remain in the escrow to cover the applicant’s fair share payment for impact on the intersection. These funds can then be expended for transportation improvements in Harwich upon mutual agreement of the CCC and the Town of Harwich. Any funds remaining after 10 years will be released to the CCRTA to be used to provide transit services in Harwich.

- T16** MPS 4.1.1.9 allows signalization and roadway widening only if it will have substantial benefit on a year round basis. The improvements proposed have been shown to have substantial year round benefit.
- T17** MPS 4.1.1.8 states that *transportation mitigation measures shall be consistent with community character and shall not degrade historic, scenic or natural resources*. As described below the applicant proposes to mitigate potential adverse visual impacts with vegetated and/or cobblestone-paved median islands, traditionally textured and colored crosswalks, and decorative traffic signals.

The applicant is proposing four raised center medians to separate travel lanes in the intersection, in one case extending an existing island and in another case shortening an existing island, and a raised median island near the site entrance on Sisson Road. As shown on the landscape plan (L-1, dated May 14, 2002), the applicant proposes to landscape and maintain the five median islands located on Route 28 and Sisson Road.

The applicant proposes to utilize cobblestones on the median islands on those areas that will not be landscaped.

In the design of the possible future signal at Route 28 and Sisson Road, the proponent has provided specifications and details showing decorative black mast arms and fixtures that are designed in a traditional historic style.

The applicant proposes to construct all crosswalks (including those on Route 28, those on Sisson Road, and those internal to the site) with brick-imprinted asphalt colored in a brick red.

- T18** MPS 4.1.1.7 requires that no degradation in public safety occur as a result of the development. Review of crash records in the study area for 1997 through 1999 shows no high crash locations. Four crashes at the intersection of Route 28 and Sisson Road occurred during this time period. The significant reconstruction of Sisson Road, enforcement of turn restrictions at the bank driveway onto Route 28, closing of the bank driveway on Sisson Road, definition of curb cuts on Sisson Road, and the addition of several crosswalks in the area have the potential to increase safety in the area.

However, the poor LOS for left turns at the main site drive/go-cart drive and at the Route 28/Sisson Road intersection, which are forecasted to be impacted by 93 and 72 new peak hour trips respectively, may decrease safety. To mitigate these impacts, the applicant has committed to fully designing (including obtaining MHD approval) Route 28 and Sisson Road signalization, to provide an escrow for the Route 28 and Sisson Road signal completion, and to also signalize the main site driveway at a later date if deemed necessary. The commitment includes coordination of the two signals if installed.

- T19** MPS 4.1.1.15 requires parking spaces be limited to the number of spaces required by the town in which the project is located. This provision is to help facilitate successful travel demand strategies, and reduce environmental and aesthetic impacts of large parking fields. The proposed number of spaces is 247 spaces, which complies with MPS 4.1.1.5.

- T20** MPS 4.1.2.3, 4.1.2.4, and 4.1.2.5 requires developments to have pedestrian, bicycle, and transit facilities, inter-linkages (such as bus stops and bicycle racks) which connect transportation modes, and safety measures. The applicant's plans include a bus stop near the main entrance for the CCRTA's year round H2O line service to the plaza. The plans also include a bicycle rack. Pedestrian pathways along two

landscaped islands with connections to the bank, Sisson Road sidewalks, and along the northern site driveway will help promote pedestrian use of the facility. The sidewalk along Sisson Road will be replaced and several new crosswalks will be constructed.

Solid Waste and Hazardous Waste Management Findings:

SW1 MPS 4.2.1.2 states that *“development and redevelopment shall allocate adequate storage space for interim storage of materials to be recycled.”* According to information obtained from Shaw’s entitled “Examples of Shaw’s Commitment to our Environment,” the company will recycle 44,768 tons of cardboard per year through its stores and distribution centers. Also, the stores and warehouses will recycle 1,218 tons of plastic grocery bags/sacks and shrink-wrap during this fiscal year. White office paper is not included in the recycling plan, as the store does not generate significant quantities of paper to necessitate including it in the recycling program.

According to Shaw’s Environmental Policy sheet, one environmental goal is to reduce the waste Shaw’s produces from its operations, recover as much as is practical ensuring the remainder is disposed of responsibly, and to encourage its customers to recycle where appropriate.

SW2 To conform to MPS 4.2.1.2, the applicant has provided a Final Fixture Floor Plan (588-FF, dated 4/12/02) that identifies the specific locations for the recycling of cardboard, tin cans and fluorescent light tubes. The tubes will be collected and taken off site by a licensed operator at the time that the lights are changed, thereby not requiring a specific storage area be constructed or recycling plan be submitted for the collection, storage and recycling of fluorescent light tubes.

SW3 MPS 4.2.1.3 requires that *“construction and demolition debris from development and redevelopment shall be removed from construction sites and disposed of in accordance with the integrated solid waste management system in Section 4.2.1.1.”* The applicant has provided detailed building materials survey, as well as a demolition and recycling plan for the construction demolition materials to be generated during the demolition of the existing supermarket and construction of the proposed supermarket.

HW1 MPS 4.2.2.3 states that *“Commercial and industrial 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 Districts.”*

Information from the Commission's Water Resources Office indicates that the project site is not located in either a Wellhead Protection District/Zone II or a Potential Public Water Supply Area. As such, Minimum Performance Standard (MPS) 4.2.2.3 of the 1996 RPP does not apply to this project.

- HW2** MPS 4.2.2.1 stipulates that *"development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling."* Shaw's policies include a commitment to use hydrochlorofluorocarbons and hydrofluorocarbons refrigerants. These chemicals have less of an impact on ozone depletion. As such, they are considered an acceptable alternative to chlorofluorocarbons (CFC's).

Existing buildings on the site date from 1969. A pre-demolition survey was conducted by LFR, Inc., indicating the presence on-site of various asbestos-containing materials, suspect PCB-containing light ballasts, and suspect lead-based paints and fluorescent tubes (containing mercury). The survey also noted the buildings are on slab, and did not note the presence on-site of above or in-ground tanks.

The project reserves 800 square feet of retail space for a dry cleaner. The applicant has committed to a restriction against a dry cleaning plant on the site and will provide that the premises shall be used as a pick-up, drop-off only.

- HW3** MPS 4.2.2.2 requires that *development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.* The applicant has agreed that outdated refrigerants, compressor oils or other hazardous materials removed as part of upgrades to the supermarket's refrigeration, heating, air-cooling and ventilation equipment will be properly disposed of. The applicant has agreed that no used motor oil or consumer batteries would be handled, collected or stored on site.

Economic Development Findings:

- ED1** The Economic Development goals of the Regional Policy Plan are: 3.1 *"to promote businesses that are compatible with Cape Cod's environmental, cultural, and economic strengths in order to ensure balanced economic development;"* 3.2 *"to locate development so as to preserve the Cape's environment and cultural heritage, minimize adverse impacts, and enhance the quality of life;"* and 3.3 *"to encourage the creation and diversification of year-round employment opportunities."*

The Shaw's supermarket is redevelopment of an existing site with an existing business, consistent with the Regional Policy Plan. Reuse and renovation of this site

will provide a benefit to the Town of Harwich and its residents by providing improved shopping opportunities and services at a convenient location without creating additional strip development at another location. The reuse and redevelopment of the existing site would help to preserve the Cape's environment by not developing at a new location.

- ED2** Development Review Policy 3.3.1 states that, "*Developments of Regional Impact should be evaluated for net new jobs created, salary and benefit levels, occupational advancement opportunities for local workers, and the impact on existing business, traffic, natural resources, and decent affordable housing for employees.*" Development Review Policy 3.3.2 states that, "*The Commission should encourage projects which provide permanent, well-paying, year-round jobs and employment training opportunities for Cape Cod residents.*"

Shaw's is expected to initially add twenty-five (25) full-time positions and seventy-five (75) part-time positions. It is expected that fifty-two (52) full-time employees will eventually be hired with an average annual salary range between \$34,370 to \$66,885. The number of part-time employees is expected to total 180 with an average hourly range of \$6 to \$12 per hour.

Shaw's full-time employees are eligible for benefits after thirty days. Part-time employees are eligible for benefits after three years, although they can purchase group insurance during the three-year waiting period. Benefits include medical and dental, life insurance, disability insurance, a 401(k) plan, a Dependent Care Spending Account, as well as educational reimbursement, a scholarship program, use of the credit union, direct deposit, an Employee Assistance Program, and service awards.

- ED3** ODRP 3.3.3 states that, "*The Commission should encourage projects reviewed as Developments of Regional Impact to employ Cape Cod Contractors and use local suppliers and workers.*" ODRP 3.3.4 further states that, "*The Commission should encourage projects...to use minority and women contractors listed with the State Office of Minority and Women's Business Assistance (SOMWBA), and encourage the employment of minorities, disabled, elderly, unemployed and underemployed persons in permanent positions.*"

The applicant has stated that construction costs for the project would be \$6,000,000 and that local subcontractors would be allowed to participate in the bidding process and would be utilized to the greatest extent feasible.

- ED4** A benefit to the Town will be increased property taxes due to an increase in the total assessed valuation of the property from \$1,026,900 to approximately \$6,000,000.
- ED5** The overall impact to town services will be minimal, in large part due to the fact that school costs will not be adversely impacted by the project.

Energy Findings:

- E1** The Shaw's Corporation has incorporated voluntary initiatives that address energy and water use and monitoring not only to conserve these resources, but because resource conservation is at the foundation of their corporate philosophy.
- E2** The landscape plans provide for tree-lined walkways, leading from both sides of the site and from within the parking area, which will provide shade and wind buffers for shoppers entering and leaving the store.
- E3** ODRP 4.4.1.2 recommends energy efficient construction techniques and the incorporation of energy efficiency measures that exceed state standards. Shaw's has specified energy efficiency and conservation measures in the construction and operation of its grocery stores including computer monitoring of all energy and water use with zones to sense any unusual activity, high efficiency lighting and coolers, and recycling waste heat. Other measures include "just-in-time" inventorying to reduce warehouse space and idling trucks, using recycled pallets and delivery containers, an in-house recycling program, lowered ceilings to reduce heating and cooling needs, and preventative maintenance and energy conservation training programs. These measures are considered benefits of the project.
- E4** Shaw's will reduce noise by building a soundproof room to house compressors.
- E5** MPS 4.4.1.3 states that utility lines should be laid underground for aesthetic and security purposes. The applicant has agreed to install all utility lines underground.
- E6** Shaw's meets ODRP 4.4.1.4 recommendations to both reduce fuel consumption and emission levels through carpool/vanpool opportunities, in-house sponsorship of matching services, and ridesharing promotions. Other initiatives include financial and preferential parking incentives, employee recognition programs, accommodation of schedules for car-poolers, coordination of a mass transit program and scheduling with local bus services, and a guaranteed ride home program for employees. They will assign the responsibility for program implementation to an on-site transportation coordinator.

CONCLUSION

Based upon the findings listed above, the Cape Cod Commission hereby concludes:

- The benefits of the proposed project outweigh the detriments resulting from development. As proposed, the project will result in natural resource benefits (Findings NR3, NR4 and NR6), economic benefits (Findings ED2, ED3 and ED4), and energy efficiency benefits (Findings E3 and E6). Transportation benefits include closing one curb cut on Sisson Road (Finding T-4), the reconstruction of Route 28/Sisson Road (T-13), and extension of eastbound left turn lane at Route 28/Sisson Road (T-13). Detriments of the project include additional levels of traffic throughout the study area (T-3).
- The project is consistent with the Harwich Local Comprehensive Plan,
- The project does not lie within a District of Critical Planning Concern (DCPC),
- The project, as proposed, is consistent with the Regional Policy Plan, as supported by the Findings above,
- The project is in compliance with the local zoning requirements provided that the project obtains all permits required by the Town. The applicant may seek a variance to allow a larger sign to be constructed than is currently proposed. This DRI approval is in no way intended to support or oppose the granting of this variance by the Town of Harwich.

The Cape Cod Commission hereby approves the application of Tedeschi Realty Corporation for the Shaw's Supermarket providing the following conditions are met:

CONDITIONS

GENERAL

- G1** This DRI decision is valid for 7 (seven) years and local development permits may be issued pursuant hereto for 7 (seven) years from the date of this written decision.
- G2** Failure to comply with all conditions stated herein, and with the Cape Cod Commission Act, its Enabling Regulations, the Regional Policy Plan and the Local Comprehensive Plan shall be deemed cause to revoke or modify this decision.
- G3** The applicant shall obtain all state and local permits necessary or applicable 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 relating to such appeal have been completed.
- G5** The proposed Tedeschi Realty/Shaw's Supermarket shall be constructed in accordance with the following plans:

	Date	Last Revised
• Data & Accumulation Plan (SD-1)	---	4/12/02
• Layout and Materials Plan (SD-2 and SD-2A)	9/28/01 and 5/10/02	6/07/02
• Grading & Drainage Plan (SD-3)	5/08/01	9/28/01
• Utility Plan (SD-4)	5/08/01	9/28/01
• Site Details (SD-5 and SD-6)	5/08/01	9/28/01
• Exterior Elevations	5/30/01, 6/13/01, 5/20/02	5/30/02
• Pylon Sign Details	10/19/01, 10/26/01, 11/07/01	12/04/01
• Bus Shelter Details	---	12/19/01
• Building Signage & Lettering Details	12/04/01	12/11/01
• Roof Plan	---	10/19/01
• Planting Plans (L-1)	9/27/01, 10/23/01, 11/19/01, 5/14/02	6/04/02
• Planting Details (L-2)	---	11/07/01
• Site Lighting Plans (SE-1A)	---	12/04/01
• Site Lighting Photometric Plan (SE-1B)	---	12/04/01
• Final Fixture Floor Plan (588-FFD)	---	4/12/02
• Trip Mitigation/Preliminary Site Development Plan (SK-4)		5/14/02
• Building sign plan conforming to local zoning		7/23/02

G6 Any changes in the final plans shall require a modification from the Cape Cod Commission in accordance with the Cape Cod Commission Administrative Regulations Chapter 7, Modifications to Approved DRIs dated 5/12/97 and as amended from time to time. 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 Harwich Planning Board shall be submitted to the Commission upon receipt of local approvals for review by Commission staff to determine their consistency with Section 7 of the Cape Cod Commission Administrative Regulations. Modifications made during the Town permitting process that are consistent with this approved decision shall be considered as Minor Modifications #1 and approved by Commission staff.

G7 Prior to the 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 building permit have been met. Prior to receiving a permanent or temporary Certificate of Occupancy for the proposed project, the applicant shall obtain a final Certificate of Compliance from the Cape Cod Commission. Unless otherwise stated in this decision, the project shall be constructed in accordance with final plans listed elsewhere in this decision and all conditions of this decision shall be met prior to issuance of a Final Certificate of Compliance of the proposed project. The project shall not be open for business to the public until a final Certificate of Compliance is received from the Cape Cod Commission.

- G8** The applicant shall notify Commission staff of the intent to seek a Preliminary, Partial or Final Certificate of Compliance at least thirty (30) days prior to the anticipated date of building permit or occupancy permit issuance. 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 such notification and inform the applicant in writing of any deficiencies and corrections needed. 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. Upon prior notice, 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, and at any time in the future to determine continuing compliance with the conditions of this and/or subsequent modification decisions.
- G9** The applicant shall be responsible for providing proof of recording of the decision prior to issuance of a Certificate of Compliance.
- G10** The applicant shall demonstrate that a copy of this decision has been provided to the general contractor and all tenants (if applicable) prior to the start of construction.

WATER RESOURCES

- WR1** Prior to issuance of a Preliminary Certificate of Compliance, the applicant shall submit to Cape Cod Commission staff written confirmation of the innovative septic system to be installed and a copy of the application and supporting materials submitted to the Massachusetts Department of Environmental Protection for piloting approval. Prior to the issuance of a Final Certificate of Compliance, the applicant shall obtain piloting approval from the State, as required under the Innovative/Alternative Technology Program for the types of on-site septic systems proposed for this project and identified in Finding WR4. Use of a septic-system design other than those specified in Finding WR4 shall be subject to approval by the Cape Cod Commission. Should the applicant not receive piloting approval from MADEP for the innovative on-site wastewater treatment system, the applicant will seek an appropriate modification from the Cape Cod Commission for a system that meets the Regional Policy Plan's Minimum Performance Standards.
- WR2** Prior to the issuance of a Final Certificate of Compliance, the applicant shall meet all provisions of the approved Operations, Management and Compliance Policy for onsite-wastewater management at the site (see addendum to this decision).

- WR3** Based on MPS 2.1.1.2.C.1, prior to the issuance of a Preliminary Certificate of Compliance the applicant shall pay a \$1,000 administrative fee to Barnstable County/CCC. The \$1,000 fee will cover costs associated with implementing the Harwich Board of Health's oversight of the OMC Policy referenced in Finding W7. The Board of Health is the local authority responsible for administrative and regulatory oversight of the project's onsite-wastewater management. Funds will be expended to the Town of Harwich upon approval of the CCC Executive Director.
- WR4** Prior to the issuance of a Preliminary Certificate of Compliance, the applicant shall contribute \$3,000 to Barnstable County/CCC for development of a critical nitrogen load and/or nitrogen management strategies for the Herring River watershed. Funds will be expended to the Town of Harwich upon approval of the CCC Executive Director.
- WR5** Stormwater infrastructure shall be adequate to infiltrate runoff commensurate with a projected 25-year 24 hour storm event. The applicant shall submit plans to Commission staff for review to determine adequacy of stormwater infrastructure prior to the issuance of the Final Certificate of Compliance.

OPEN SPACE AND NATURAL RESOURCES

- NR1** Revegetation of the 100-foot wetland buffer areas shall include a conservation seed mix of native grasses and native shrubs as shown on the landscaping plan L-1, dated May 14, 2002 and received May 24, 2002. Maintenance of these areas shall include mowing once or twice a season and reasonable efforts to remove invasive species that recur within the revegetated areas.
- OS1** Prior to a Preliminary Certificate of Compliance, Tedeschi Realty shall make a monetary contribution of \$100,000 to the Harwich Land Bank Trust Account #8027 for the purchase of upland open space.

COMMUNITY CHARACTER/HERITAGE PRESERVATION

- CC1** The applicant shall construct the Shaw's Supermarket in accordance with the approved elevation drawings, dated May 30, 2001 and revised May 30, 2002. Should unexpected conditions arise during demolition and construction that require redesign of the building, the applicant shall obtain approval from Cape Cod Commission staff prior to the start of construction consistent with the Commission's policy on Revisions to Approved DRIs. Modifications made during construction that are in accordance with the approved elevation drawings shall be considered as Minor Modifications #1 and approved by Commission staff.

- CC2** The applicant shall landscape the project in accordance with the 2-Lane Planting Plan prepared by Mary Smith Associates, Sheet L-1, dated May 14, 2002. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.
- CC3** All required exterior lighting, site work, irrigation, and/or other landscape improvements shall be completed at the time a final Certificate of Compliance is requested. If all site and landscape work is not completed at the time a final Certificate of Compliance is sought from the Commission, any work that 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 percent 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 landscaping shall be completed within six months of a Final Certificate of Compliance.
- CC4** The applicant shall install an irrigation system for all on-site landscaped areas (excluding the wetland buffers). The applicant has provided a revised draft maintenance contract (dated May 20, 2002) for all planted areas associated with the project (onsite as well as offsite). The applicant shall also provide a fully executed landscape maintenance contract at the time of planting and prior to the issuance of a final Certificate of Compliance. The length of the maintenance contract shall be for three full growing seasons and shall include irrigation, pruning, guying, mulching, pest management, fertilization, erosion repair, lawn maintenance, and replacement of dead vegetation, including grass, trees and shrubs. The applicant shall be responsible for maintaining the median islands and site landscaping throughout the life of the project.
- CC5** All traffic islands shall be landscaped according to submitted landscaping plans. Areas of traffic islands not landscaped shall be cobblestone paved.
- CC6** The applicant shall construct the project in accordance with the exterior lighting information submitted on December 27, 2001, including plans SE-1A and SE-1B, dated December 4, 2001. However, should unexpected conditions arise during renovation that require adjustments to site exterior lighting fixtures, including substitutions of fixture heads, the applicant shall obtain approval from Cape Cod Commission staff prior to the construction consistent with the Commission's policy

on *Revisions to Approved DRIs*. Modifications made during renovation that are in accordance with the approved exterior lighting plans noted in this decision shall be considered as Minor Modifications #1 and approved by Commission staff.

- CC7** Prior to issuance of a Final Certificate of Compliance by the Commission, the applicant shall submit an "as built" exterior lighting plan if modifications were made to the design according to the restrictions of Condition CC6, above. This plan shall be used in connection with Condition CC8, below, and shall conform to the standards and information submission guidelines of Technical Bulletin 95-001, including, if necessary, submission of a revised point-to-point foot-candle plan. If no modifications are made to the exterior lighting design following the restrictions in Condition CC5, the December 27, 2001 information shall be used in connection with condition CC8, below.
- CC8** Prior to issuance of a Final Certificate of Compliance from the Commission, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of MPS 6.2.7 and Technical Bulletin 95-001.
- CC9** Detailed signage plans for pylon sign and building signage shall be submitted for Commission staff approval prior to the issuance of a preliminary Certificate of Compliance. 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.
- CC10** All on-site utility lines shall be placed underground.

TRANSPORTATION

- T1** Prior to the issuance of a Final Certificate of Compliance, the applicant shall make all roadway improvements proposed, as shown in the preliminary site layout plan of May 10, 2002 (Plan SD-2) including:
- Reconstruction/repaving of Route 28 from approximately 360 feet west of Sisson Road to 120 feet east of Sisson Road, including extending the eastbound left turn lane at Sisson Road and extension of the center island along this left turn bay to the west approximately 80 feet;
 - Reconstruction/widening/repaving of Sisson Road from Route 28 to approximately 60 feet north of Harold Street including the addition of a northbound left turn lane at the main site driveway, addition of a full right turn lane from the main driveway southbound to the Route 28/Sisson Road

intersection, definition of curb cuts along the eastern side of the road, and closing of the bank driveway north of the Route 28 intersection;

- Addition of a northern site driveway which will access Sisson Road at the intersection of Sisson Road and Harold Street; and,
- Road construction shall include all necessary roadway signs, markings, etc. to meet both Town and MHD requirements.

T2 Prior to the issuance of a Final Certificate of Compliance, the applicant shall provide safe and convenient accesses for pedestrian, bicycles, and transit through a variety of measures including:

- Add crosswalks at the Route 28 and Sisson Road intersection;
- Add a crosswalk on Sisson Road north of Harold Street;
- Add sidewalks along the southern side of Route 28 from the Sisson Road crosswalks west to 333 Main Street;
- Reconstruct sidewalks adjacent to the west side of Sisson Road from Route 28 to approximately 30 feet north of Harold Street connecting to the existing sidewalk;
- Add sidewalks/walkways connecting to the bank, supermarket, and sidewalk on Sisson Road;
- Sidewalks and crosswalks interior to the project (in the parking lot) as shown on the preliminary site layout plan of May 10 (Plan SD-2); and,
- Add a crosswalk on Sisson Road near the main site driveway connecting to the go-cart facility on the east side of Sisson Road and to the Sisson Road sidewalk on the west side (The exact location of this crosswalk will be determined by the Town of Harwich during site plan review).

T3 In order to meet MPSs listed in Condition T6 and prior to the issuance of a Final Certificate of Compliance, the applicant shall pay for and be responsible for full (100 percent) design of signalization of the Route 28 and Sisson Road intersection, including all MassHighway reviews and approvals. Design reviews sent to MassHighway (25 percent, 75 percent, and 100 percent) shall also be sent to the Commission transportation staff for review and approval. Roadway construction completed before the Final Certificate of Compliance is issued shall include any necessary underground work, such as conduits, to avoid opening up the road to complete signal installation.

T4 Prior to the issuance of a Final Certificate of Compliance, the applicant shall, at the time of roadway reconstruction, add conduit along Sisson Road from Route 28 to the main site driveway designed to be used by cabling necessary to coordinate a signal at the main site driveway should signalization become necessary.

T5 The signalization of the Route 28 and Sisson Road intersection shall be completed by the applicant when standard signalization warrants are met and when mutual agreement that the signal is needed is reached by the Town of Harwich, and the Cape Cod Commission. Should the applicant fail to install the signal within six (6) months of warrants having been met and the Town of Harwich and the Cape Cod Commission mutually agreeing to the need for the signal, then the Town of Harwich and/or Barnstable County/Cape Cod Commission may use the funds held in escrow as described in Condition T6 for that purpose.

T6 Prior to the issuance of a Preliminary Certificate of Compliance and in order to meet MPSs 4.1.1.1, 4.1.1.7, 4.1.1.11, and 4.1.1.12, the applicant shall deposit a total of \$186,000 with the County of Barnstable to partially or fully fund the installation of traffic control signals at the intersection of Route 28 and Sisson Road in Harwich. The check shall be payable to Barnstable County. These funds shall be subject to an escrow agreement of form and content satisfactorily to Commission counsel. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. All use of the funds shall be approved by Commission staff prior to release of the escrow funds. The escrow agreement, plus any accrued interest, shall be used to reimburse the applicant, the Town of Harwich, the Massachusetts Highway Department and/or the County of Barnstable/Cape Cod Commission for expenses associated with signal implementation, including design, engineering, equipment purchase, installation and/or construction. Any funds remaining after being used to pay for the installation of the signal shall be returned to the applicant.

If within seven (7) years of the issuance of a final certificate of compliance a permit has not been issued by the Massachusetts Highway Department for the construction of the signal, 93 percent (\$172,980) of the deposit balance (including any proportionally accrued interest) shall be returned to the applicant. The remaining 7 percent of funds (\$13,020), plus any proportionally accrued interest, based on previous analysis provided by the applicant, shall be considered a required fair share payment under MPS 4.1.1.1 and 4.1.1.12, and shall be used to support any transportation related use within the Town of Harwich as agreed to by the Town of Harwich and the County of Barnstable/Cape Cod Commission. Any funds remaining ten (10) years after the final certificate of compliance shall be disbursed to the Cape Cod Regional Transit Authority or similar transportation agency then in existence to support transportation services in the Town of Harwich.

T7 When standard signal warrants are met and/or agreement is reached by the Town of Harwich and Commission transportation staff that signalization is necessary at the main site driveway and Sisson Road, the applicant shall be responsible for completing signalization including any necessary design/re-design, permitting, construction, and

coordination. Coordination with the signal at Route 28 and Sisson Road will also be required if that signal exists.

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.

T9 Prior to the issuance of a Preliminary Certificate of Compliance, the applicant shall provide Commission staff with plans to be approved by staff showing the proposed decorative northern driveway access gates. The plans shall include renderings of the proposed directional signage to be installed on the gates.

T10 To partially address the project's trip reduction requirements (MPS 4.1.2.1) and prior to receiving a Final Certificate of Compliance, the applicant shall implement and maintain a trip reduction program, as specified in "Transportation Demand Management (TDM)/ Trip Reduction Program" by MS Transportation Systems, Inc. dated September 2001. These measures with additional modifications include:

For employees:

- Designate an on-site TDM coordinator, who will oversee and coordinate all TDM programs;
- Promote carpooling/ridesharing among its employees including:
 - Initiate in-house support of matching services, and assemble/provide information regarding available carpooling/ridership opportunities;

- Periodically run carpooling/ridesharing promotions;
- Post carpooling/ridesharing opportunities and incentive prominently in the employee area;
- Designate three preferential parking spaces for employees that carpool;
- Institute employee recognition programs for alternative commuters;
- Accommodate flexible work schedules for car-poolers; and
- Post conditions of trip reduction program for employees and reference on-line sources or websites such as www.gocapecod.org for further information.
- Provide a secure bicycle storage facility adjacent to the proposed building;
- Provide a free lunch for each employee each day they choose to commute by alternative modes, other than Single Occupant Vehicle;
- To promote use of transit services, the applicant shall:
 - Purchase multi-ride transit passes (already discounted by the CCRTA) and will offer them to interested employees at a further discount;
 - Distribute up-to-date schedule and route information for the local CCRTA H2O line and other connecting transit lines to all employees periodically;
 - Post transit schedule, route information, and transit incentives prominently in the employee area; and,
 - Provide a bus shelter on-site adjacent to the proposed building with updated transit schedules.
- Provide a guaranteed ride home program in case of an emergency for those employees who use alternative transportation modes; and,
- Implement on-site services to discourage midday trips including providing a separate employee lunch/rest area with a refrigerator and microwave and provide onsite mail/postage.

For Patrons:

- Provide secure bicycle storage open to the public as well as patrons (to encourage biking to the transit stop);
- Provide and maintain on-site signage oriented to pedestrians, bicyclists, and transit users;
- Provide a taxi pick-up area for patrons who walk to the site but wish to take a taxi home. Information on local taxi services, including phone numbers will be made available to the patrons at the store, including a free call for the taxi if necessary;
- Provide information on available transit services to patrons; and,
- Provide transit passes / tokens at the store.

T11 To reduce the remaining number of trips under MPS 4.1.2.1, the applicant shall deed the 1.68 acre parcel "Proposed Lot 2" as shown on the preliminary subdivision plan of May 14, 2002 (Plan SK-4, Assessors Map 86, Parcels MS & M6-2) to the Town of

Harwich under the care, custody and control of the Harwich Conservation Commission for permanent conservation purposes. The deed shall provide for permanent extinguishment of the development potential on this lot, and shall not allow for a roadway easement. The form and content of the donation shall be approved by Commission Counsel, and proof of recording shall be provided prior to a Preliminary Certificate of Compliance. The permanent protection of this property shall be in addition to other open space requirements of this decision.

T12 Prior to the issuance of a Preliminary Certificate of Compliance and in order to comply with MPSs 4.1.1.12 and 4.1.1.20, the applicant shall make a one-time payment of \$30,300 to Barnstable County/CCC for the purpose of studying, designing, operating, promoting, and/or building transportation improvements in the project's study area, or in the Town of Harwich in general. Funds will be disbursed to the Town of Harwich upon approval of the CCC Executive Director.

T13 Design plans and construction for future signalization shall include decorative black, mast arms and fixtures that are designed in a traditional historic style. These shall be in conformance with approved specification sheets and approved plans as described in Finding CC19.

T14 All crosswalks on-site, on Route 28, and on Sisson Road shall be constructed according to the following specifications:

- Dyed bituminous concrete (red colorant applied) to match the color of red bricks. The applicant shall provide a sample of the red brick colorant to be installed as well as the aggregate size for staff approval prior to obtaining a preliminary Certificate of Compliance.
- Bituminous concrete mix and application must meet all Massachusetts Highway Department requirements for use on state highways.
- The bituminous concrete shall be applied over a prepared sub-base.
- There shall be a binder course with a minimum depth of one and one-half inches (1-1/2").
- There shall be a top red dyed course with a minimum depth of one and one-half inches (1-1/2").
- Crosswalk patterns shall be either a herringbone or offset brick design.

SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT

SW1 Prior to issuance of a Preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall submit to the Commission evidence that the recommendations of the pre-demolition survey have been implemented. Acceptable

evidence shall include but not be limited to disposal receipts from licensed, permitted facilities, manifests, bills of lading or shipping papers.

- SW2** Prior to the issuance of a Preliminary Certificate of Compliance by the Commission, the proponent shall submit a draft contract for Cape Cod Commission staff approval specifying the disposal method that contractors shall use to dispose of all asphalt, brick, concrete (ABC), untreated wood, metals and other solid waste generated by demolition and construction activities. These materials shall be managed according to an integrated waste management system, and disposed of at a facility permitted to dispose of construction demolition materials.
- SW3** Prior to the issuance of a Preliminary Certificate of Compliance, the applicant shall submit floor plans for the new building area indicating the locations of recycling facilities and solid waste disposal containers.
- SW4** Adequate equipment and storage space shall be provided to accommodate a recycling program. Prior to the issuance of a final Certificate of Compliance, Commission staff shall complete an inspection of the project to ensure that adequate recycling receptacles are installed.
- HW1** Prior to issuance of a Final Certificate of Compliance by the Cape Cod Commission, the applicant shall submit to Commission staff evidence, in the form of disposal receipts (from licensed, permitted facilities) manifests, bills of lading or shipping papers proving that outdated refrigerants, compressor oils and other hazardous materials removed as part of upgrades to the supermarket's refrigeration, heating, air cooling and ventilation systems have been properly disposed of.
- HW2** Prior to issuance of a Preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall submit to Commission staff a copy of the draft lease for tenancy of the space proposed to be a dry cleaner which will restrict this use to pick-up and drop-off only.
- HW3** Based on MPS 4.2.2.2, Shaw's supermarket shall not collect, handle, or store on site used automotive oil or consumer batteries (automotive or other) from members of the public or businesses.

ECONOMIC DEVELOPMENT

- ED1** Prior to the issuance of a Final Certificate of Compliance, the project proponent shall provide a report to the Commission regarding the number of Cape Cod construction companies and workers, including women and minorities, employed in the

construction of the project. This information should also be provided with regard to regular employees. This report shall include the number of jobs by type, year-round or seasonal, the salary ranges for the positions, and the benefits provided with these positions.

CONCLUSION

Based on the findings above, The Cape Cod Commission hereby approves with conditions the Development of Regional Impact application of Tedeschi Realty Corporation for the construction of a 59,054 square-foot Shaw's supermarket project in Harwich, MA.

Robert D. Deane

8/22/02

Robert D. Deane, Chairperson

Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 22 day of August, 2002, before me personally appeared Robert Deane to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Katharine L. Peters

Notary Public

Commonwealth of Massachusetts

My Commission expires:



Operations, Management and Compliance Policy
Requirements for onsite-wastewater management
at Tedeschi Realty/Shaws redevelopment site
on Sisson Road, Harwich

1. To ensure compliance with MPS 2.1.1.2.E.1, onsite wastewater shall be managed in accordance with the following specifications, under the joint regulatory authority of the Town of Harwich Board of Health (HBOH) and the Cape Cod Commission:
 - a) Treated onsite-wastewater effluent discharged to groundwater shall not exceed the following quality parameters, at any time after startup period (90 days):
 - 5,690 gpd;
 - 15 mg/L, Oil and grease;
 - 30 mg/L, Total suspended solids (TSS);
 - 30 mg/L, Biochemical oxygen demand (BOD₅)¹;
 - 15 mg-N/L, Total nitrogen²; and
 - 15 mg-N/L, Nitrate (NO₃-N).
 - b) Effluent pH shall not be less than 6.5, nor exceed 8.5, at any time;
 - c) Monthly average BOD and TSS shall not exceed 15% of average monthly influent BOD and TSS concentrations; and
 - d) If actual onsite-wastewater flow exceeds 5,121 gpd (90% of 5,690) during any 90 consecutive-day period, the applicant shall file a report with the HBOH and the Commission detailing onsite wastewater-loading projections and a program for maintaining satisfactory treatment levels.
2. The applicant shall monitor and report performance of onsite wastewater treatment-system in accordance with the following schedules:
 - a) Influent
 - pH – monitor and record daily
 - BOD₅ - monthly, 8-hour composite;
 - TSS - monthly, 8-hour composite;
 - Total solids - monthly, 8-hour composite;
 - Oil and grease - monthly, grab;
 - Total nitrogen - monthly, 8-hour composite;
 - Nitrate - Nitrogen monthly, 8-hour composite;
 - Ammonia-N – monthly, 8-hour composite; and
 - Volatile organic compounds³ - annually, grab.
 - b) Effluent, at or after the effluent pump chamber to leaching area
 - Flow – record total daily;

¹ 5-day, @ 20° C (BOD₅)

² NO₂, NO₃ and TKN

³ USEPA Method 624, or 524.

- pH - monitor and record daily,
 - BOD₅ - monthly, 8-hour composite;
 - TSS - monthly, 8-hour composite;
 - Total solids - monthly, 8-hour composite;
 - Oil and grease - monthly, grab;
 - Total nitrogen - monthly, 8-hour composite;
 - Nitrate - Nitrogen - monthly, 8-hour composite; and
 - Ammonia-N - monthly, 8-hour composite; and
 - Volatile organic compounds³ - annually, grab.
- c) The applicant shall install two groundwater-quality monitoring wells, one upgradient and one downgradient of the discharge area. The specific locations shall be subject to approval of the HBOH and Commission staff. The wells shall be installed in accordance with MADEP guidelines for monitoring wells (Standard References for Monitoring Wells, WSC-310-91).

The applicant shall monitor and report groundwater quality from these wells to the HBOH and the Commission, in accordance with the following schedule:

- Static water level - quarterly, grab;
 - Specific conductance - quarterly, grab;
 - pH - quarterly, grab;
 - Chlorides - quarterly, grab;
 - Total nitrogen - quarterly, grab;
 - Nitrate - Nitrogen - quarterly, grab; and
 - Volatile organic compounds³ - annually, grab.
- d) Grab samples required to be taken less frequently than daily shall be collected during operating hours, Monday to Friday. Composite samples shall be collected across the range of operating hours.
- e) All water-quality reports shall be submitted monthly to the HBOH and the Commission beginning 30 days from activation of the onsite wastewater-treatment system, and in a form approved by staff from both agencies.
3. In the event that the aforementioned requirements of this policy are not met after the startup period (90 days), the applicant shall repeat sampling within fifteen (15) days. Repeat samples shall not take the place of the following month's samples.

If there are three consecutive samples not in compliance with the requirements set forth in the preceding requirements, the applicant shall meet with representatives of the HBOH to discuss the non-compliance. Within 30 days of said meeting, the applicant shall submit a Return-to-Compliance (RTC) plan to the HBOH and the Commission outlining the proposed corrective actions and timeline for implementation.

4. The applicant shall notify the HBOH and the Commission at least thirty (30) days prior to proposed transfer of ownership of the onsite wastewater-treatment system. Notification shall include a written agreement between the existing and new owner that contains the date of transfer, and details regarding responsibility, coverage and liability between the parties.
5. Prior to commencement of onsite-wastewater treatment, the applicant shall submit an initial staffing plan to the HBOH and the Commission, identifying the contracted party responsible for maintenance and operation of the onsite wastewater-treatment system. The plan shall be resubmitted upon changes to the operation and maintenance contract.
6. Prior to commencement of onsite wastewater-treatment, the applicant shall contract with a properly licensed wastehauler for removal of all solids and sludge generated by the onsite wastewater-treatment system to an offsite location for disposal at a USEPA/MADEP-approved facility. Characterization of the waste and the hauler's name and license number shall be reported by the applicant to the HBOH and the Commission.
7. Prior to commencement of onsite wastewater-treatment, the applicant shall provide to the HBOH and the Commission a onsite wastewater-treatment system warranty from the manufacturer stating that the equipment will meet the conditions and discharge limits set forth in this policy for a minimum of two (2) years.
8. The applicant shall provide an alternative power supply to the onsite wastewater treatment system to ensure compliance with provisions of this policy.

In the event that the power supply to the onsite wastewater-treatment system is interrupted, or the system fails or does not perform to the specifications of this policy, the applicant shall control onsite wastewater production and effluent discharge until performance of the system is restored or an alternative method of treatment is provided.

9. The applicant shall provide the HBOH and the Commission with copies of records requested by either agency and deemed necessary to determine whether cause exists for modification of the onsite wastewater-treatment system.
10. At reasonable times, the applicant shall allow authorized representatives of the HBOH to enter the project site where a regulated activity takes place or where records required by this policy are kept for purposes of inspecting equipment, practices or operations. The applicant shall allow said representatives access to, and the opportunity to copy, any records required under this policy. The applicant shall further allow said representatives to collect samples or monitor for purposes of determining compliance with the terms of this policy.
11. Samples and measurements collected for purposes of monitoring the performance of the onsite wastewater-treatment system shall be representative of regulated

activity. Monitoring shall be conducted in accordance with test procedures described in 40 CFR Part 136, unless otherwise specified in this policy.

12. The applicant shall retain records of all monitoring information, including all calibration and maintenance records, and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by this policy for a period of at least three (3) years from the date of the sample, measurement or report. The HBOH or the Commission may extend this required period for record retention.

Records of monitoring information shall include:

- The date, time, and location from which samples are collected;
 - The personnel collecting samples or monitoring system compliance;
 - Dates, techniques and methods of sample analyses;
 - Personnel conducting analyses; and
 - Analytical results.
13. Except as provided below, the onsite wastewater-treatment system shall not be bypassed at any time. In the event a bypass is necessary, the applicant shall notify the HBOH and the Commission at least ten (10) days in advance, if possible, otherwise no later than twenty-four (24) hours after the bypass. The applicant may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.
 14. Authorization to operate the onsite wastewater-treatment system under this policy may be modified, suspended, or revoked for cause. The filing of a request by the applicant for a modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any requirements of this policy.
 15. Approval of the project under the requirements of this policy shall not be construed to preclude the institution of any legal action or relieve the applicant from any responsibilities, liabilities, or penalties to which the applicant is or may be subject to under M.G.L. c.21E.
 16. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of onsite wastewaters shall be disposed of in a manner consistent with applicable Federal and state laws.
 17. The applicant shall provide notice to the HBOH and Commission as soon as possible of any planned physical alterations or additions to the permitted onsite wastewater-treatment system or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until this

policy is modified, any new or increased discharge in excess of limits set forth in this policy or not specifically authorized by this policy constitutes a violation.

The applicant shall further provide notice to the HBOH and Commission of any planned changes to the onsite wastewater-treatment system or activity which may result in non-compliance with this policy.

18. The applicant shall report any non-compliance which may endanger health or the environment. Any information shall be provided orally to the HBOH within twenty-four (24) hours from the time the applicant becomes aware of the circumstances. A written submission shall also be provided to the HBOH and the Commission within five (5) days of the time the applicant becomes aware of the circumstances. The written submission shall contain a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time anticipated to eliminate, and prevent reoccurrence of the non-compliance.

Written and oral compliance with this policy shall include the following:

- Anticipated bypass exceeding any effluent-quality limit cited in this policy; and
 - Violation of maximum daily discharge limitation for any pollutants listed in this policy.
19. In the event that the applicant becomes aware that they failed to submit any relevant facts to the HBOH or Commission, or submitted incorrect information in any report to the HBOH or Commission, they shall promptly submit such facts or information.