

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



CAPE COD
COMMISSION

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MINOR MODIFICATION TYPE #1

Date: November 8, 2013

To: Eliza Cox, Esq.
Nutter McClennen & Fish LLP
PO Box 1630
Hyannis, MA 02601

Applicant: OCW Retail Hyannis LLC

Project & Location: Whole Foods, Southwind Plaza, 990 Iyannough Road, Hyannis
formerly Victory Fish/ Borders Books

Project #: TR960010

Town Map/Parcel: 295/15-x02
Registry Plan Book/Page: 617/35
Registry Deed Book/Page: 22007/277

MODIFICATION OF DEVELOPMENT OF REGIONAL IMPACT DECISION

Pursuant to Section 13 of the Cape Cod Commission's *Enabling Regulations* (Revised March 2013/New Fee Schedule Effective 7/1/13), the Development of Regional Impact (DRI) decision dated December 5, 1996, amended by Minor Modification decision dated November 2, 2011 (collectively, "Decision") for the above referenced project is hereby further modified as a Minor Modification Type #1 decision to allow for Whole Foods Market's occupancy of the property for continued retail use.

PROPOSED MODIFICATION DESCRIPTION

The following are the proposed changes to the previously approved site and building layout as described in a letter dated October 4, 2013 from Attorney Eliza Cox of Nutter, McClennen & Fish which constitute the modification request:

- Relocation of the main entrance to the northeast corner of the building;
- Addition of a new gable to the new main entrance;
- New windows and additional outdoor seating areas;
- Updating the exterior building colors;
- New back-lit wall signage;

- Construction of a new 1,290 sq ft, 2 bay enclosed loading dock;
- Minor changes to parking lot striping, including relocation of the handicap accessible parking spaces;
- Relocation of the existing cross walk across the main driveway to a landscaped island in order to provide a connection to the new main entrance (per Barnstable site plan review comments);
- New crosswalks to aid in safe pedestrian navigation through the parking areas;
- Space for three (3) seasonal food trucks in the northeast corner of the parking area, and a pedestrian connection from this area to the rest of Southwind Plaza.

MODIFICATION TYPES

Section 13(c) of the Commission's *Enabling Regulations*, as amended March 2013, sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "revisions that are the result of more restrictive conditions imposed by a local board or technical corrections or changes that the Executive Director or his/her designee determine are de minimus changes to the project." The *Enabling Regulations* also state that Minor Modifications Type #1 "shall be approved by that the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission."

DETERMINATION

The Commission's Executive Director has determined that the requested modification constitutes a *de minimus* change to the Decision, and is approved as Minor Modification Type #1.

CHANGES TO FINDINGS AND/OR CONDITIONS

All Findings and Conditions attached to the original Decision, as amended, continue to apply except as modified herein. New text is shown in **bold**. Any deleted text is shown in ~~strikeout~~.

Condition 2. The project shall be constructed in accordance with all approved plans which shall be attached to this decision. The plans are the following:

(Note that these plans all show a site with a proposed traffic signal, which was not approved for this project. Revised plans must be submitted to the Commission and the Town of Barnstable showing a right turn in/right turn out.)

- Revised Lighting Plan -September 16, 1996
- Revised Layout and Utilities Plan -October 15, 1996
- Revised Grading and Drainage Plan -October 15, 1996
- Revised Building Elevation -November 25, 1996
- Revised Landscape Plan -November 25, 1996 (as amended)*
- *(as amended to reflect 2011 open space proposal)
- Site Plan set prepared by Baxter Nye Engineering and Surveying for OCW Retail Hyannis LLC Entitled "WHOLE FOODS, SOUTHWIND PLAZA, 990 IYANNOUGH ROAD & 65 INDEPENDENCE DRIVE, HYANNIS, MA 02601," consisting of sheets C2.0, C3.0, C3.1, C4.0, C5.0, C6.0. -revised dated 9/6/13
- Architectural elevation set prepared by StudioGee Architecture entitled "Whole Foods Market, Southwind Plaza, Hyannis," consisting of sheets/ views 1-8 - Dated 8/29/13

SIGNATURES

Executed this 8th day of November 2013.

Patricia Daley
Signature

Patricia Daley, Deputy Director
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss November 8, 2013

Before me, the undersigned notary public, personally appeared Patricia Daley,

in his/her capacity as Patricia Daley of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [] photographic identification with signature issued by a federal or state governmental agency, [] oath or affirmation of a credible witness, or [] personal knowledge of the undersigned.

Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18

