Decision of the Martha's Vineyard Commission

DRI 429-M2 - Edgartown Stop & Shop Expansion

1. SUMMARY

Referring Board: Edgartown Planning Board, Town of Edgartown, MA

Subject: Development of Regional Impact #429-M2

Project: Expansion of the Edgartown Stop and Shop Supermarket site.

Owner: WJG Realty Trust

Applicant: WJG Realty Trust; Stop & Shop is a subsidiary of Ahold USA; Geoghan Coogan, Esq. (Local Attorney); David Taglianetti (VHB - Managing Director of Land Development); Randy Hart (VHB – Principal); Lisa Davis (Project Manager).

Applicant Address: C/O Geoghan Coogan, 4A Causeway Rd., P.O. Box 1639, Vineyard Haven, MA

Project Location: 245 Upper Main Street, Edgartown Map 20A Lots 15.11, 15.12, 57.1, 57.2, 57.3, 58, 59, 87.1, and 87.2 (162,017 sf/ 3.72 acres).

Description: The construction of approximately 17,432 sf of additions to the existing 25,259 sf main Stop & Shop Supermarket building, the demolition and reconstruction of a slightly larger Rockland Trust Bank building shifted to a new location on site, and significant site work.

Decision: The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on December 7, 2017.

Written Decision: This written decision was approved by a vote of the Commission on January 11, 2018.

The permit-granting authorities of the Town of Edgartown may now grant the request for approval of the Applicant’s proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.
2. **FACTS**

The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha’s Vineyard Commission.

2.1 **Referral**

The project was referred to the Commission on January 26, 2017 by the Planning Board of the Town of Edgartown, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission’s Standards and Criteria Administrative Checklist for Developments of Regional Impact, Section 1.2 (Modification); 3.1a (Development of greater than 3,500 sf); 3.1d (Auxiliary Building greater than 1,000 sf); 3.1L (High traffic generator). Section 3.1a requires a mandatory review as a Development of Regional Impact and the project was reviewed as such by the Martha’s Vineyard Commission.

2.2 **Hearings**

Notice: Public notice of a public hearing on the Application was published in the Martha’s Vineyard Times, August 31, 2017.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on September 14, 2017; which was continued to October 19, 2017 and the written record was left open until October 27, 2017 at 5:00 pm and closed on that date.

2.3 **The Plan**

The following plans and documents submitted by the Applicant and contained in the Commission’s project file constitute “the Plan.”

P1  “Stop & Shop Referral Package to MVC 2017” consisting of 17 pages including DRI Referral Letter and Form from Edgartown Planning Board with preliminary plans, elevations and overview. Received at MVC January 26, 2017.

P2  “Layout Plan: C-2” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

P3  “Grading, Drainage, and Erosion Control Plan: C-3” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

P4  “Utility Plan: C-4” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.
"Site Details 1: C-5" for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

"Site Details 2: C-6” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

"Site Details 2: C-7” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

"Planting Plan: L-1” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

"Planting Details: L-2” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated October 11, 2017. Scale 1” – 60’-0”.

"Pedestrian Connectivity Plan: PC-1” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated June 30, 2017. Scale 1” – 60’-0”.

"Sight Lighting Plan: PC-1” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of one 24” by 36” sheet prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated June 30, 2017. Scale 1” – 60’-0”.

"Long Term Storm Water Operation and Maintenance Plan and Spill Prevention Manual” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of nineteen (19) pages prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated June 2017.

"Traffic Impact and Access Study: Stop & Shop Edgartown Redevelopment” consisting of four hundred and fifty seven (457) pages prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 dated February 2017.

"Acoustical Study: Stop & Shop Edgartown Redevelopment Rooftop Mechanical Equipment and Loading Activities” consisting of nineteen (19) pages prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903 for Ahold USA, Quincy, Massachusetts dated June 2017.

"DRI 429-M2 Edgartown Stop & Shop Offers – October 13, 2017” consisting of three 8.5” by 11” sheets listing specific aspects of the plan that will be carried out in order to improve the project and mitigate negative impacts dated October 13, 2017.

"Applicant Slide Show presented at Public Hearing on August 14, 2017” for Edgartown Stop & Shop Expansion, 235-257 Upper Main Street, Edgartown, MA. Consisting of 54 pages with project overview, team, Site Layout Plan; Pedestrian/Bicyclist Connectivity Plan; Landscape
Plan; Lighting Plan; Grading Plan; Storm water Plan; Utilities Plan; Noise Study/Mitigation Plan; elevations; exterior materials samples; LEED and Energy Analysis; Traffic Overview; prepared by VHB, 1 Cedar Street, Suite 400, Providence, RI 01903. Note: Plans cited earlier in this section were revised as reflected in the slides in the Applicant slide show dated August 14, 2017 and as will be revised through conditions.

2.4 Other Exhibits

E1. Referral to the MVC from the Edgartown Planning Board; January 26, 2017.
E2. Staff Reports August 9, 2017; revised September 14, 2017; revised October 24, 2017 and December 7, 2017.
E3. Photographs of the site, taken on September 7, 2017 and September 13, 2017 by MVC staff member Paul Foley.
E5. Letters from the following citizens: Doug Ruskin; Constance Messmer; Gail Croteau; Margie Sweeney; Nancy Angus; Don Angus; Caroline Taylor; Ken Goldberg; Ron Domurat
E6. Letters from the following Town Boards: Edgartown Affordable Housing Committee
E7. Minutes of the Commission’s Land Use Planning Committee meeting, March 6, 2017.
E15. Minutes of the Commission Meeting of January 11, 2017 – Approval of the Written Decision.

2.5 Summary of Testimony

The following is a summary of the principal testimony given during the public hearing.

- Presentation of the project by Geoghan Coogan (attorney); Lisa Davis (consultant); Dave Taglianetti (VHB); Randy Hart, (VHB); Greg O’Brien, Samira Ahmadi
- Staff reports by MVC staff Paul Foley and Adam Turner.
- Oral testimony from Public on September 14, 2017: Angie Grant (MV VTA); James Abdu; Jacqueline Scott; Laurence Thomas.
- Oral testimony from Public on October 19, 2017: Jim Carter; Sheila Bresnehan; James Abdu; Nancy Angus; Vincent Mandarano; Renee Clermont.
3. FINDINGS

3.1 Project Description

- The proposal is for the construction of an approximately 17,432 sf addition to the existing 25,259 sf Stop & Shop Supermarket building. The proposed development, one completed will result in a total building footprint of the main grocery store of 42,691 gsf. The application also includes the demolition and reconstruction of a slightly larger Rockland Trust Bank building shifted to a new location on site, and significant site work.
- In terms of the 17,432 sf expansion; there is a 15,592 sf addition to the north side of the existing store that would include a loading dock on the opposite side of the store from the existing loading dock. There would also be an 800 sf addition on the back of the existing loading dock and a 1,040 sf canopy extension.
- The 607 sf Rockland Trust Bank building also on the site will be demolished and reconstructed at a different location onsite at 1,010 sf – an increase of 403 sf from the existing bank building.
- Total existing square footage of the footprints of both buildings is 25,896 gsf. The total proposed square footage of the footprints of both buildings would be 43,701 sf. An increase of 17,805 sf or 69%.
- The existing Rockland Trust Bank exit on to Main Street would be closed, the existing Stop & Shop Driveway (westerly) would be relocated approximately 65' to the west to align directly with Pinehurst Road, and the existing Stop & Shop Driveway (easterly) driveway would remain.
- The existing parking in front with brick pavers will remain with an additional pedestrian cut through and trees replaced. The new parking areas will be constructed of stamped concrete.
- The proposal expands the number of parking spaces from 161 to 164 (the final number to be determined on the final site plan).
- The impervious surface of the site would increase from approximately 60-65% now to approximately 82%.
- The existing uses on site account for 31% of the vehicles on Upper Main Street during peak hours. The proposed project is estimated to potentially generate an additional 207 vehicles during the summer peak hour, which would represent 44% of the total street traffic.

3.2 Statutory Authority

The purpose of the Commission, as set forth in Section 1 of the Act, is to “protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha’s Vineyard which contribute to public enjoyment, inspiration and scientific study by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies.”

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluating the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all the testimony presented and reviewing all documents and correspondence submitted during the hearing and review period.
3.4 Benefits and Detriments

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

A1 The Commission finds that the proposed development at this location is appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the proposed expansion of the existing store in the developed business district of the town is appropriate. Many economic development planning standards and practices encourage locating a grocery store within an in-town commercial district. Grocery stores are anchor businesses that help support a downtown commercial area. This project’s location allows for pedestrian and bicycle access and is well served by the public bus system.

As a grocery store generates a high volume of customer and delivery activity, there are limits to when the vehicular traffic associated with a grocery store exceeds the surrounding transportation infrastructure of existing commercial districts. For much of the summer, the traffic congestion at the Triangle and extending to the Stop & Shop site and the Pinehurst Road intersection exceeds the capacity of the road infrastructure. The proposed changes to the site’s access points are expected to improve conditions, but if July and August traffic volumes were experienced year round, this location would not be suitable for the expansion proposed. The Commission finds that the benefits of the expanded grocery store at this location, as modified by this decision, outweigh the significant seasonal detrimental impact on traffic circulation.

A2 The Commission finds that the proposed development would have a minimal impact upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to Wastewater and Groundwater, the Commission finds that the site is currently not well drained and floods regularly, especially in the front of the store. The site plan contains several measures to control site storm water, including two rain gardens and a maintenance plan. The site is connected to municipal sewer and the expanded flows have been authorized by the Town.

With respect to Open Space, Natural Community and Habitat, the Commission finds that many of the existing healthy trees that screen or break up the mass of the parking lots to the east side and in the front of the existing S&S building will not be changed and new plantings will replace most of those to be removed. A substantial vegetated island with mature locust trees between the site’s two existing buildings will be retained. Expansion of the building and parking to the west will clear nearly a half-acre of woodland at the back half of the property and will mostly become impermeable surface. Nevertheless, as conditioned herein, sufficient green space will be conserved or created for a commercial area and improvements are proposed for maintaining existing and planned landscaping plants.
With respect to **Night Lighting and Noise**, the Commission finds that the proposal has the potential to have some significant impacts related to noise from the new loading dock. The Commission notes that with the conditions herein, those impacts will be sufficiently mitigated. Additional illumination needed for the new parking areas will be down-shielded.

With respect to **Energy and Sustainability**, the Commission finds that the project will be a benefit but the applicant needs to move farther. The Commission notes that the building and mechanicals will be improved modern, and more efficient. When considering the other conditions herein requiring renewable on-site solar energy – consistent with the Commission’s DRI policy – the property will be more sustainable. The proposed S&S building will be LEED certifiable and will use less energy that the existing, smaller facility.

**A3 The Commission finds that the proposed development would have a moderate overall affect upon other persons and property (Section 15(c) of the Act).**

With respect to **Traffic and Transportation**, the Commission finds that the site expansion will generate significant amounts of additional traffic but given the corridor’s traffic during the peak season and its lack of traffic after the peak season, the site expansion should have a somewhat limited impact. Use of peer review indicated that the project would have a moderate impact on trip generation and that the number of parking spaces is adequate. The Commission notes that the site is on a bus route and close to the Town Park and Ride and that the proposed realignment of one of the driveways with Pinehurst Road should mitigate some existing traffic problems.

With respect to **Scenic Values, Character, and Identity**, the Commission finds that more could be done with the architectural detail of the long, single-story building to make it more compatible with the Island design character, and has so conditioned. The Commission’s condition to work around the large green space with mature trees towards the front of the site will retain some of the existing scenic roadside character while also softening the large structure.

With respect to the **Impact on Abutters**, the Commission finds that there will be some negative impact to at least some abutters, even with the screening and fencing mitigation measures conditioned herein. The Commission notes that on the currently undeveloped portions of the site the expansions will introduce more noise and light to the abutting residential properties. The fencing is twelve feet high, virtually on the property line, and not screened from the abutters with any landscaping vegetation. The applicant has entered into an agreement with one direct abutter on the western side to allow parking for the abutter and shares parking with another abutter on the eastern side.

**A4 The Commission finds that the proposed development would have a beneficial impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).**

The Commission finds that the applicant has made a significant effort to provide housing for its employees, spending in excess of $900,000 in 2017 for housing employees. The applicant has offered to continue to provide this level of funding for housing employees for the life of the project. The applicant has offered to provide approximately a $26,000 mitigation fee, $50,000
annually to fund housing generally on the island and will make housing available to their new employees in the same manner as they provide their existing employees.

A5 The Commission finds that the proposed development would have minor impacts on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).
The Commission notes that the site is already serviced by Town water and sewer and the Town has approved increased use of these utilities for the project. This proposal adds to the tax base of the Town, provides more jobs to islanders, and offers consumers more choice.

A6 The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years. (Section 15(f) of the Act).
A supermarket has existed on the site for many years and traffic congestion on Upper Main Street—a State road—is extreme for part of the summer season. Mitigation measures may not be sufficient to totally address peak season traffic, but they should have a positive effect on traffic circulation at the site for most of the year.

A7 The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act).
The Commission finds that the project is consistent with the Edgartown B-2 Upper Main Street Master Plan.

A8 The Commission finds that the proposed development would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions such as those relating to wastewater and future traffic mitigation, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) of the Act.

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.
The requested project, as a whole, advances the Commission’s land development objectives, as outlined in the Martha’s Vineyard Commission Regional Policy Plan adopted by the Commission in June 1991, and the Island Plan adopted by the Commission in December 2010, and as noted previously in section A8 of this decision.
C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.

The Commission finds that the project is subject to Special Permit review by the Planning Board.

D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.

The Commission notes that this site in not in any DCPC.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on December 7, 2017 and made its decision at the same meeting.

The following Commissioners, all of who participated in all hearings and deliberations on this project, participated in the decision on December 7, 2017.

- Voting in favor: Gail Barmakian; Trip Barnes; Robert Doyle; Josh Goldstein; Fred Hancock; Leonard Jason; Joan Malkin; Kathy Newman; Linda Sibley; Ernest Thomas; and James Vercruyse.
- Voting against: Ben Robinson.
- Abstentions: Doug Sederholm and Richard Toole.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with the conditions listed in section 5 below.

This written Decision is consistent with the vote of the Commission December 7, 2017 and was approved by vote of the Commission on January 11, 2018.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions in order to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission’s and/or Towns attorney’s fees and costs incurred in obtaining judicial relief.
1 Wastewater, Groundwater, Flooding, and Risk from Other Natural Hazards:

1.1 Storm water Management Plan: As offered by the Applicant, the applicant shall submit a final storm water management plan for review and approval by the MVC Land Use Planning Committee (LUFC) prior to the issuance of a building permit. The storm water plan shall include the following: narrative and calculations for impermeable areas; volumes and rates of runoff; proposed containment of rainwater runoff from the roof of the building; clarification of how overflow will be handled in relation to the fact that the Town’s Wastewater Treatment Plant is only authorized by EPA to take domestic wastewater.

1.2 As offered by the Applicant, all storm water shall be managed on-site. A plan will be submitted for approval by all local permitting authorities and shall be a condition for approval of a building permit.

1.3 As offered by the Applicant, the applicant shall implement the measures described in further detail in the Long-Term Storm Water Operation and Maintenance Plan and Spill Prevention Manual prepared by VHB dated June 2017 including:

1.3.1 A comprehensive source control program shall be implemented at the site to include regular pavement sweeping, catch basin and water quality unit cleaning, clearing litter from the parking area, islands, and perimeter landscape areas, regular maintenance of all dumpsters and enclosures, and Spill Prevention training.

1.3.2 Snow storage areas will be managed to prevent blockage of storm drain catch basins;

1.3.3 Catch basins at the site are to be constructed with sumps (minimum 4-feet) and oil/debris traps to prevent the discharge of sediments and floating contaminants.

1.3.4 The trench drains are to be constructed with a sump at the end of the drain.

1.3.5 There shall be two Contech® CDS Water Quality Units (or equivalent) installed. These units shall efficiently remove total suspended solids (TSS) and free oil from the storm water run-off to prevent the re-suspension of settled material and allow for removal of collected material.

1.3.6 There shall be a long-term operation and maintenance plan implemented to ensure that storm water management systems function as designed to include the following:

1.3.6.1 Asphalt Pavement: Sweep or vacuum standard asphalt pavement areas at least twice per year with a commercial cleaning unit and properly dispose of removed material.

1.3.6.2 Deep Sump Hooded Catch Basins, Yard Drains, and Trench Drains:

1.3.6.2.1 Inspect the unit post construction, prior to being placed into service and ensure unit is clean and free of any structural damage.

1.3.6.2.2 Inspect quarterly for the first year to determine the oil and sediment accumulation rate.

1.3.6.2.3 Inspect and clean the catch basins at least four (4) times per year or whenever the depth of sediment is greater than or equal to half the sump
depth. Cleaning and inspection times must include at the end of fall foliage season and at the end of snow removal season.

1.3.6.2.4 Inspect the units immediately after an oil, fuel or chemical spill.
1.3.6.2.5 A licensed waste management company shall remove oil and sediment and dispose per state and local regulations.

1.3.6.3 **Roof Drain Leaders**
1.3.6.3.1 Perform routine roof inspections twice per year.
1.3.6.3.2 Keep roofs clean and free of debris.
1.3.6.3.3 Keep roof drainage systems clear.
1.3.6.3.4 Keep roof access limited to authorized personnel.
1.3.6.3.5 Clean inlets twice per year as necessary.

1.3.6.4 **Water Quality Devices:** The storm water drainage system has two Contech CDS water quality devices to remove sediment and hydrocarbons from storm water runoff. In order to ensure their continued effectiveness the Applicant shall:

1.3.6.4.1 Inspect devices monthly for the first three months after construction.
1.3.6.4.2 After initial three-month period, all water quality units are to be inspected at least four times per year and cleaned a minimum of at least once per year (when sediment reaches 8” in depth) and disposed of at an approved offsite facility in accordance with all applicable regulations.
1.3.6.4.3 Remove oil through 6” inspection/oil port.
1.3.6.4.4 Remove sediment through 24” outlet riser pipe.
1.3.6.4.5 Follow manufacturer instructions and contact manufacturer if system is malfunctioning.

1.3.6.5 **Subsurface Infiltration Basin:**

1.3.6.5.1 The subsurface infiltration system shall be inspected at least once each year by removing the manhole/access port covers and determining the thickness of sediment that has accumulated.

1.3.6.5.2 If sediment is more than six inches deep, it must be suspended via flushing with clean water and removed using a vactor truck.

1.3.6.5.3 System will be observed after rainfalls to see if it is properly draining.

1.3.6.6 **Vegetated Areas Maintenance**

1.3.6.6.1 Planted areas shall be inspected on a semi-annual basis and any litter shall be removed.

1.3.6.6.2 Planted areas adjacent to pavement shall be maintained to prevent soil washout and bare areas shall be re-seeded;

1.3.6.6.3 Appropriate erosion control measures shall be installed and any soil deposited on pavement shall be cleaned immediately if soil is exposed or erosion channels are forming.

1.3.6.6.4 Plant alternative mixture of grass species in the event of unsuccessful establishment.
1.3.6.6.5 The grass vegetation should be cut to a height between three and four inches.

1.3.6.6.6 Pesticide/Herbicide Usage — No pesticides are to be used unless a single spot treatment is required for a specific control application.

1.3.6.6.7 Fertilizer usage should be avoided. If deemed necessary, slow release fertilizer should be used. Fertilizer may be used to begin the establishment of vegetation in bare or damaged areas, but should not be applied on a regular basis unless necessary.

1.3.6.6.8 Rain Gardens Long Term Maintenance: The applicant shall develop a plan to develop several rain garden sites on the property. The plan shall include a description of the plants proposed to be used, a description of the rain garden itself identifying depths, materials used and other features and a long-term maintenance procedure. This plan will be included in the final landscaping plan as described in condition 2.1.

1.4 Risk from Natural Hazards: The building shall be designed to meet the 9th Edition of the Massachusetts State Building Code and its amendments, which references the 2009 IBC, and any local codes or ordinances that are applicable.

2 Open Space and Landscaping:

2.1 Landscaping Plan: A final landscaping plan including an implementation timetable, showing plant species and locations is to be submitted for the approval of LUPC before the Certificate of Occupancy is issued. The details of the rain garden shall also be included in this condition.

2.2 Maintenance of Landscape: All fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of landscaping. All landscaping plans and maintenance shall conform to UMass Amherst Extension Center’s Best Management Practices. All landscape shall be maintained as shown on the plan, in perpetuity.

3 Night Lighting and Noise:

3.1 Lighting: As offered by the Applicant, exterior lighting shall be limited to external sign illumination, security lighting, and emergency lights required by code, which are downward-shielded to prevent light spilling off the property. There shall be no flood lighting.

3.2 As offered by the Applicant, all exterior lighting, except for security lighting which shall be on motion detectors, shall be on timers and shall be turned off during the day as well as during the night from one hour after the store closes at night to one hour before it opens in the morning.

3.3 As offered by the Applicant, a final exterior lighting plan shall be submitted to and is subject to the approval of the LUPC prior to the issuance of a CO. It may be incorporated into the final landscaping plan.
3.4 **Noise**: As offered by the Applicant, there shall be no on-site formal or informal activities that exceed the Commonwealth of Massachusetts Department of Environmental Protection’s Noise Control Regulation 310 CMR 7.10 at all boundaries of the property or that exceed any applicable Town of Edgartown noise regulations.

3.5 As offered by the Applicant, noise that emanates from the mechanical cooling or ventilation systems shall be controlled by sound baffling panels, similar to a Kinetics Noise Control tongue and groove sound barrier wall panels. Noise emanating from trucks backing up early in the morning shall be controlled by Stop & Shop staff under the supervision of the Store Manager with measures such as requiring that any trucks parked overnight back in so they can leave in the morning without backing up.

3.6 The sound attenuating wall nearest to the new loading dock area (north side) shall be connected to the building in order to minimize sound escaping through the gap.

3.7 The sound attenuating wall nearest to the new loading dock area (north side) shall be extended along the northern property line and along the western property line from the northwest corner southwards for a distance to be determined before the C.O. is issued.

3.8 The Applicant shall develop a fencing plan to maintain a 40dbl or less condition for residential abutters using a combination of fencing and landscaping. The Applicant shall develop a plan to accomplish this with fencing on the western and northern boundary. Such fencing shall be at a minimum of 12 feet in height.

3.9 The Commission defers to the Edgartown Planning Board issues related to the design, height and setbacks of the sound attenuating walls/fencing as long as all sound reduction requirements are met as required in Conditions 3.8.

3.10 When completed, the applicant shall conduct a sound test at the same locations that were evaluated in the Sound reports submitted in support of this application. The testing shall be conducted under the supervision of a professional INCE Board Certified Noise Control Engineer approved by the MVC, to indicate whether the loading activities and mechanicals meet the Massachusetts DEP Noise Regulations of less than 10 decibels above the existing ambient levels established in the Applicant’s acoustical study at least at the locations identified in the study to provide a basis for comparison. If the test results indicate that the loading or other activities do not meet the standard set, the applicant shall return to the MVC to indicate what additional noise reduction measures shall be put into place to meet the standard. Such measures might include additions to the sound attenuating walls, enclosing the loading areas, or other measures to ensure that the loading activities and mechanicals shall be operated at a level that does not exceed the Massachusetts DEP Noise Regulations.

4 **Energy, Green Building:**

4.1 **LEED**: As offered by the Applicant, the proposal shall be designed and built according to the plan design submitted to accomplish certification in accordance with LEED certified level of compliance with the USGBC 2009 LEED-NC for Retail v3.0, which equates to a minimum of 40 LEED scorecard points.

4.2 **Waste Management**: As offered by the Applicant, the applicant shall install recycling bins
at convenient locations inside and outside the building and maintain them regularly. All kitchen oils shall be recycled and given to a supplier of bio-diesel when feasible and as necessary. Dumpsters shall be located inside the truck docks as shown on the Plans. The trash compactor shall be operational during store hours only. The Applicant shall continue their organic composting program and donation of food stuffs as offered.

4.3 Within three years of receiving a Certificate of Occupancy for the expanded structure, the Applicant shall install solar panels on the roof on the new building to be reviewed and approved by the LUPC before installation.

5 Traffic and Transportation:

5.1 Deliveries: As offered by the Applicant, the applicant shall schedule truck deliveries and waste removal to the best of their ability, between 7 a.m. and noon daily and shall normally keep the truck dock doors closed after noon. However, there may be occasional deliveries between noon and 9 p.m. There shall be no deliveries between 9pm and 7am. Stop & Shop employees shall manage and be present for all deliveries. Refrigerated trucks will run as required during unloading and shall be turned off upon completion of unloading.

5.2 Delivery Service: The Commission recommends that the applicant publicize the use of Pea Pod or an equivalent service through store advertisement and inclusion in the newspaper as a part of the regular circular in order to mitigate traffic generation.

5.3 Bicycling: As offered by the Applicant, the Applicant shall provide and maintain bike racks within the parking areas, and shall provide information about alternative means of transportation to customers and employees such as by posting signs indicating alternative means of transportation for customers and employees at several public and employee areas around the site.

5.4 Redesign of entrance: The Applicant shall redesign the western entrance on Upper Main Street (opposite Pinehurst Road) to prevent westbound parking traffic from entering the main entry/exit point as identified as a possible conflict point during the public hearing. The Applicant shall further protect and incorporate the three-existing specimen Locust trees in their design. The applicant shall design this improvement and have that design approved by the Commission prior to the issuance of the Building Permit.

5.5 Bus Shelter: The Applicant shall develop a covered bus shelter at the western side of the development. The site location and design of the shelter should be approved by the VTA. The applicant shall report on the location and shelter design to the LUPC.

5.6 Bus Passes: The Applicant shall purchase V.T.A. bus passes for all year-round employees to mitigate the need for them to drive to work.

5.7 TDM: As proposed by the applicant. a Transportation Demand Management Program (TDM) will be designed and implemented. The following initiatives were proposed by the applicant:

5.7.1 Provide a TDM coordinator on site. The TDM coordinator will educate the public and encourage employees to participate with TDM initiatives. As part of the onsite TDM Plan, the TDM coordinator shall implement the following measures at a minimum:

5.7.1.1 Provide comprehensive commuter information on the site;
5.7.1.2 Promote carpool/rideshare programs and provide incentives for employees to participate;
5.7.1.3 Promote guaranteed ride home programs
5.7.1.4 Promote alternate transportation modes
5.7.1.5 Facilitate bicycle and pedestrian travel
5.7.1.6 Provide flexible hours so that employees have the option of commuting outside the peak traffic periods (when possible). Similar benefits can also be realized through staggered work hours so that employee trips occur over a broader period and thereby reduce peak hour demands;
5.7.1.7 Provide financial incentives for employees who choose to use MVTA, or who walk or bike to and from work.

6 Scenic Values and Island Character:

6.1 **Buy Local Products:** The applicant shall provide opportunities for local producers of produce and other materials to places their products in the store accomplished through a product fair where local growers and other providers can meet with store administration and develop product producing arrangements. Stop and Shop shall prepare a process for participating entities.

6.2 **Architectural Design:** The design of the exterior roof, façade and other features shall be revised to be more consistent with the Town and Island character with respect to the roofline, trim, façade and sides facing the parking areas. The revised architectural plans shall be submitted for the review and approval of the full Commission prior to application for a building permit. Staff shall work with the applicant to achieve the satisfaction of this condition.

7 Economy and Employment:

7.1 **Uses:** As offered by the Applicant, Stop & Shop shall be used as a grocery supermarket and pharmacy. Items being sold shall be similar to those offered in the Vineyard Haven Stop and Shop location, the existing Edgartown Stop and Shop location, and similar to Cronig’s Supermarket as of the date of this approval.

7.2 **Public Restrooms:** As offered by the Applicant, the applicant shall install and maintain restrooms inside the store which shall be open to the public when the store is open.

8 Housing:

8.1 Monetary mitigation shall be utilized for the purposes of creating new affordable housing opportunities throughout the Island.

8.2 The applicant has offered to continue to provide $900,000 towards current existing employee housing. This is used for both Edgartown and Tisbury employees

8.3 As offered by the Applicant, the applicant shall provide a one-time monetary mitigation of $26,670 to the Dukes County Regional Housing Authority (DCRHA).

8.4 The $26,670 mitigation shall be paid in full to the DCRHA prior to the Building Inspector’s issuance of a Certificate of Occupancy.
8.5 As offered by the Applicant, the applicant shall also make a $50,000 annual payment to the DCRHA. This annual payment shall be made until such time as Stop & Shop can either purchase land and build its own housing or purchase units that will be used for Stop and Shop employee housing. For each housing unit containing multiple (an average of 3 to 4) bedrooms that Stop and Shop builds or purchases, the annual mitigation to the DCRHA shall decrease by $10,000 per year. If and when Stop and Shop purchases or builds five such homes on Martha’s Vineyard, the annual monetary mitigation to DCRHA shall cease.

8.6 The first annual payment shall be paid in full to the DCRHA prior to the Building Inspector’s issuance of a Certificate of Occupancy. Annual payments shall continue on the same date of the first payment each year to DCRHA. Copies are such payments shall be submitted to the MVC each January.

8.7 Each January, the Applicant shall submit its Annual Workforce Housing Budget to the MVC. The MVC shall select 5 of the 27 house leases as well as the leases for the individual employees within those homes to be verified by MVC Staff or MVC’s Land Use Planning Committee.

8.8 In anticipation of the 25 – 35 new employees, the applicant shall provide housing for these new workers in proportion to the existing workforce housing.

8.9 Note: These Offers and Conditions apply to Edgartown Stop and Shop only.

9 Construction Process:

9.1 Construction Management Plan: As offered by the Applicant, a complete Construction Management Plan shall be submitted for the review and approval of the Martha’s Vineyard Commission Land Use Planning Committee before issuance of a building permit.

9.2 The bank building shall be developed in accordance with the plans reviewed as part of the Stop & Shop DRI4239-M2 review.

10 Modifications to this Decision:

10.1 As offered by the Applicant, there shall be no substantive change to the design or use of the approved project without the approval of the Martha’s Vineyard Commission.

10.2 The Applicant shall submit an as-built site plan in both hardcopy and digital format before a Certificate of Occupancy is issued.

11 AS-Built Plan

11.1 The Applicant shall submit an as-built plan in both hardcopy and digital format stamped ny an engineer before a Certificate of Occupancy is issued. The as-built plan shall be at a scale of no larger of 1”= 40’ and will show all developed features and structures as well as finished topography, environmental features and other significant attributes of the site.

6. CONCLUSION

6.1 Permitting from the Town
The Applicant must, consistent with this Decision, apply to the appropriate Town of Edgartown Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Edgartown may now grant the request for approval of the Applicant’s proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

The Town shall not issue a Building Permit for this project until it has received a Certificate of Compliance issued by the Executive Director or DRI Coordinator of the Martha’s Vineyard Commission confirming that the conditions in this Decision have been satisfied:

Nor shall the Town issue a Certificate of Occupancy for this project until it has received similar confirmation from the MVC that the conditions in this decision have been satisfied:

6.2 Notice of Appellate Rights

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Edgartown Town Clerk.

6.3 Length of Validity of Decision

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha’s Vineyard Commission contained in this document to begin substantial construction. Should substantial construction not occur during said two (2) year period, this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.
6.3 Signature Block

James Vercruysse, Chairman

1/25/18

Date

6.4 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 25th day of January, 2018, before me, Lisa C. Morrison, the undersigned Notary Public, personally appeared James Vercruysse, proved to me through satisfactory evidence of identity, which was/were personal knowledge of identity to be the person(s) whose name(s) was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

Signature of Notary Public

Lisa C. Morrison

Printed Name of Notary
My Commission Expires 18 April 2019

6.5 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: February 1, 2018

Deed – Book 459, page 824
Document Number: 670