



# CAPE COD COMMISSION

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**DATE:** October 7, 1999 #TR99024

**APPLICANT:** H.H. Snow & Sons, Inc.

**PROJECT:** H.H. Snow & Sons, Inc.  
22 Main Street  
Orleans, MA

**RE:** Development of Regional Impact (DRI) Decision  
#TR99024 DRI Review Cape Cod Commission, Section 12 and 13

**BOOK/PAGE:** Book 9300, Page 269

## DECISION OF THE CAPE COD COMMISSION

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### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) proposal of H.H. Snow & Sons, Inc. under Sections 12 and 13 of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended.

### PROJECT BACKGROUND AND DESCRIPTION

The applicant for this proposed DRI is H.H. Snow & Sons, Incorporated. Attorney Meyer Singer represents the applicant. Proposed development and uses at the H.H. Snow site requested as part of this DRI application include the construction of an approximately 12,000 sq. ft. addition to the existing 20,898 sq.ft. H.H. Snow & Sons Home & Garden Center at 18 & 22 Main Street in Orleans Center. The addition comprises an approximately 9,280 sq.ft. addition and a 3,780 sq.ft. greenhouse, as well as the relocation and removal of accessory structures, the expansion and/or relocation of the landscape display area and outdoor storage area, and the relocation of the nursery stock

H.H. Snow & Sons Inc.  
TR 99024 - DRI Decision  
October 7, 1999



area to the rear of the parcel. This project also encompasses the relocation of the site's existing pump house, the closing of two of the four existing access drives connecting to Main Street, 53 new parking spaces, and additional storm drainage facilities.

### **PROCEDURAL HISTORY**

Prior to review by the Cape Cod Commission the project was reviewed by the Conservation Commission, Planning Board and Board of Selectman in the Town of Orleans. The Orleans Conservation Commission granted an Order of Conditions and several variances related to the relocation of the project's Outdoor Nursery Stock and Bark Mulch Storage Areas (and related paved access drives) within the 50' buffer to wetlands. The Cape Cod Commission received a mandatory referral for this project from the Town of Orleans on July 7, 1999. A Public Hearing was held on September 1, 1999.

### **TESTIMONY**

Public Hearing September 1, 1999

A public hearing was held on September 1, 1999. Subcommittee Chair, Jay Schlaikjer opened the Hearing at 6:10PM. Gwen Bloomingdale read the Hearing Notice. Attorney Meyer Singer representing the applicant presented the project. Mr. Singer described the project size and proposed amenities as well as the extensive history of the H.H. Snow & Sons, Inc. operation as a local and regional business. He noted that the applicant had utilized the Commission's Design Technical Bulletin for the design of the proposed project.

Mr. Singer described the economic benefits of the proposal and stated that the applicant planned to utilize the labor force of Cape Cod as much as possible to meet increased employment needs when the proposed expansion is completed as well as during the construction phase of the project. Mr. Singer described the significant contributions made to the local community and Cape Cod by H.H. Snow & Sons Incorporated. He also read several letters of support for the project including a letter from the Town of Orleans Board of Selectman.

Ken Kirkey, of the Commission Staff provided an overview of the Staff Report, including issues related to Community Character, Economic Development and Water Resources. Mr. Kirkey described the project as generally being in keeping with the goals and policies of the Regional Policy Plan related to Community Character Issues. He noted that staff considered the expansion of a locally owned business at its existing location adjacent to Orleans Center to be a positive economic development project for Cape Cod. Mr.

Kirkey stated that the project appeared to require the need for a Denitrifying Septic System and that Water Resources staff required further information to complete their review of the project.

Heather McElroy, of the Commission Staff presented Natural Resource and Hazardous Materials-related issues as outlined in the Staff Report. Ms. McElroy stated that the proposed project was not located within a Significant Natural Resource Area although a substantial portion of the project site is undisturbed woodland. She noted that some work proposed as part of the project including the establishment of a culvert over a drainage ditch, and clearing of a 20,000 square foot area for a relocated Outdoor Nursery Stock Storage Area was completed prior to review by the Cape Cod Commission. With regard to hazardous materials, Ms. McElroy stated that the applicant should provide additional information related to hazardous materials storage procedures at the project site. Bob Mumford, Chief Transportation Planner of the Commission staff described transportation-related issues encompassed in the Staff Report including those issues pertaining to trip reduction, site access, and the Rail Trail easement that traverses the southerly side of the property.

Gwen Bloomingdale questioned Mr. Mumford regarding access to the site from Main Street. Mr. Mumford and Mr. Singer answered questions related to the rail trail easement.

Tom Broidrick, Subcommittee Member moved to continue the hearing to October 7, 1999. Gwen Bloomingdale seconded the motion. The vote on the motion was unanimous. Tom Broidrick moved for the Subcommittee to hold a hearing on September 23, 1999, at 1PM. Gwen Bloomingdale seconded the motion. The vote on the motion was unanimous. The meeting adjourned at 7:15pm.

Subcommittee Meeting September 23, 1999

The Applicant, Subcommittee, and Staff met to discuss the Draft Decision. A number of issues were discussed and the subcommittee requested that staff make several relevant changes to the Decision.

## **DOCUMENTS SUBMITTED FOR THE RECORD**

*From the Applicant:*

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|--|---------|
| 1. DRI application form, abutters list | 7/14/99 |
| 2. DRI materials and Traffic Study     | 8/13/99 |

H.H. Snow & Sons Inc.  
TR 99024 - DRI Decision  
October 7, 1999

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|--|---------|
| 3. Letter from Massachusetts Hist. Commission      | 8/27/99 |
| 4. Order of Conditions – Orleans Cons. Commission  | 8/27/99 |
| 5. Wastewater Flow, Nitrogen Loading Calculations, | 9/1/99  |
| 6. Hazardous Materials Information                 | 9/1/99  |
| 7. Open Space Proposal                             | 9/14/99 |
| 8. Existing Conditions Plan (dated 8/12/98)        | 9/14/99 |
| 9. Revised Landscape Plan                          | 9/14/99 |
| 10. Revised Site Plan                              | 9/14/99 |
| 11. Lighting Plan Information                      | 9/14/99 |
| 12. Water Resources-related data                   | 9/16/99 |
| 13. Language for Rail Trail Easement               | 9/16/99 |
| 14. Wetland Buffer Development Memo                | 9/21/99 |
| 15. Letter re: Wetland Buffer Mitigation           | 9/22/99 |

*From the Municipality:*

- |   |         |
|---|---------|
| 1. Board of Selectman – letter of support                   | 8/17/99 |
| 2. Copy of applicant's request for variance (dated 2/11/99) | 8/24/99 |

*From the Commission:*

- |                        |         |
|------------------------|---------|
| 1. Letter to applicant | 8/20/99 |
| 2. Staff Report        | 8/26/99 |

Other: Hearing Notice for Public Hearing on 9/1/99

The application and notice of the public hearing relative thereto, the Commission's staff report, and exhibits, minutes of all hearings and all written submissions received in the course of the proceedings, are incorporated into the record by reference.

**JURISDICTION**

The H.H. Snow & Sons Inc. Home & Garden Showplace Expansion qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations of the Cape Cod Commission Act (Act) as a proposed commercial or service building business with new construction having a gross floor area greater than 10,000 sq.ft.

**FINDINGS**

The Commission has considered the application of H.H. Snow & Sons, Inc. for approval of the H.H. Snow & Sons, Inc. Development of Regional Impact (DRI) #TR99024, and

based on consideration of such application and upon the information presented, makes the following findings pursuant to Sections 12 and 13 of the Act:

General Findings:

G1. H.H. Snow & Sons, Incorporated proposes to construct an approximately 12,000 sq. ft. addition to the existing 20, 898 sq.ft. H.H. Snow & Sons, Inc. Home & Garden Center at 18 & 22 Main Street in Orleans Center. The addition comprises an approximately 9,280 sq.ft. addition and a 3,780 sq.ft. greenhouse, as well as the relocation, removal and expansion of other on-site facilities and uses.

G2. The proposed project meets the zoning requirements and development regulations of the Town of Orleans with the exception of a Conservation Commission regulation that prohibits development within the 50' buffer to wetlands. Variances were granted by the Conservation Commission to allow development within the wetland buffer.

G3. The Town of Orleans does not have a certified Local Comprehensive Plan.

Community Character Findings:

CC1. The proposed project is unlikely to impact significant historical or archeological resources as determined by the Massachusetts Historical Commission.

CC2. The design of the buildings proposed as part of this DRI appear to be generally consistent with the Regional Policy Plan and the Commission's Design Manual in that building materials utilized and the overall massing of the buildings is consistent with traditional Cape Cod architectural styles. The height and scale of the buildings and facades proposed as part of this DRI appear to be compatible with the mix of residential and commercial uses, including commercial uses located in former residences that is characteristic of Orleans Center.

CC3. M.P.S. 6.2.10 requires that parking shall be located to the rear or the side of a building or commercial complex in order to promote traditional village design in commercial areas unless such location would have an adverse or detrimental impact on environmental or visual features on the site, or is completely infeasible. Redeveloping the project site with parking located to the rear of the structure is not feasible due to site constraints.

CC4. M.P.S. 6.2.4 requires that expansion or creation of strip development not be permitted. Redevelopment of existing strip development shall 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. Site design for the project is generally a significant improvement over the existing H.H. Snow & Sons site layout.

CC5. The Proposed Landscape Plan provided by the applicant incorporates plantings between Main Street and the front of the property that in some sections provides a limited buffer of the project's parking lot from Main Street. Additional shade trees, flowering trees, and understory shrubs would provide an adequate buffer between the parking area and the street throughout the year.

CC6. M.P.S. 6.2.7 states that exterior lighting in new development or redevelopment shall comply with the standards defined in the Exterior Lighting Design Standards, Technical bulletin 95-001, including design, light source, total cutoff and foot candlelevels. According to notes on the site plan submitted as part of this DRI application, the proposed light poles in the parking area along Main Street are to be 20 feet high, which conforms to Standard 2.6 of Technical Bulletin 95-001.

On September 16, 1999, the Commission received a photocopy of a shoebox-style light fixture that will be used to illuminate the employee parking lot. Site plans indicate the fixture will be a metal halide light on a 20-foot pole. This conforms to Technical Bulletin Standards 2.3 and 2.6. This pole is approximately 30 feet from the property line. The DRI application also states it is 400 feet from the nearest light fixture to the abutting residential condominiums.

Hazardous Materials Findings:

HM1. The site is not located within a Potential Public Water Supply Area or an existing Wellhead Protection District based on maps produced by the Commission's Water Resources office for the 1996 Regional Policy Plan.

HM2. MPS 4.2.2.2 requires that "development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00." A copy of the company's 1997 Department of Environmental Protection Hazardous Waste Generator Registration form indicates the company is both a Very Small and a Small Quantity Generator of waste oil. This "dual status" is required for companies which

generate their own used oil and used oil from residential home heating oil tank removals. Manifests provided for 1999 and 1998 show three shipments via a hazardous waste hauler of off-specification used oil fuel. The amount of waste shipped and the time between the shipments documented on the manifests is well within the quantity and time limits set for hazardous waste accumulation by Small Quantity Generators.

HM3. MPS 4.2.2.1 requires that "development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling." On August 24, 1999 during a site visit, Commission staff observed material being pumped from the containment area around the fuel tanks to the drainage culvert. A copy of the company's Spill Prevention, Control and Countermeasures (SPCC) Plan (last amended 1983) was provided on September 16, 1999. The SPCC Plan sets a discharge limit of 15 ppm of oil to the drainage culvert. A copy of H. H. Snow & Son's "Guidelines for Securing Oil/Tank Leaks" was provided (August, 1996) submitted together with the SPCC Plan that appears to contradict parts of the SPCC Plan.

It appears the 1983 SPCC Plan is out of date with newer state and federal regulations. The Massachusetts Contingency Plan regulations (310 CMR 40.00) sets 10 gallons of petroleum product as the limit for notifying the Department of Environmental Protection (DEP) about the release and beginning cleanup activities. The federal Oil Pollution Act of 1990 (OPA '90) contains updated requirements for SPCC Plans. It includes provisions for plan certification, plan amendments, personnel training and testing of above-ground tanks.

At the September 23, 1999 Subcommittee Meeting, the applicant agreed to update the company's SPCC Plan to conform with current regulations.

HM4. Additional DRI information submitted to the Commission on September 16, 1999 indicates that H.H. Snows, as part of its fuel oil business, stores some 60,000 gallons of oil in above ground tanks. This includes five fuel oil tanks and one diesel tank located on a concrete pad with a containment berm.

HM5. Heating for the new building will be provided by a 250-gallon tank that is to be relocated inside to the basement. It will be equipped with a concrete curb as a containment berm.

Natural Resource Findings:

NR1. This project is not located within a Significant Natural Resource Area, nor is it located within a certified growth center.

NR2. This is a redevelopment project, and as such is required to maintain existing, pre-development open space on the site, but not more than 50% of the total upland area on the lot. The project is required to provide 4.46 acres of permanently protected open space. The applicant has indicated willingness to place a conservation restriction on Areas A, B, & D (4± acres) on the plan titled "Area Plan, HH Snow & Sons Home and Garden Showplace," sheet 4 of 5, and to place an agricultural restriction on Area C (0.46 acres) on said plan.

NR3. Area C is to be used for the purposes of nursery stock storage. The area may be occasionally brushed out for the purpose of maintaining the storage area use, but there will not be any removal of mature trees, with the exception of diseased or seriously damaged trees.

NR4. The project maintains existing wetland buffers. Project-related construction is not encroaching further into previously disturbed wetland buffers.

NR5. The project may have been segmented. Portions of existing development were permitted and constructed within a year of the date of this decision. Work, including the construction of a culvert within a wetland, and construction of a bark mulch storage area within the 100-foot wetland buffer likely would not have been permitted had this work been proposed as part of this DRI review. The applicant is proposing mitigation to offset this work in the buffer in the form of a cash contribution to the Orleans Conservation Trust for the purposes of open space conservation in the amount of \$7,350.

Transportation Findings:

T1. The H.H. Snow & Son's expansion is expected to generate an additional 710 vehicle trips per day, an additional 104 midday peak hour trips and an additional 125 trips on a Saturday peak hour. These traffic volumes represent an increase over existing site traffic and are prior to adjustments for the required 20% trip reduction and pass-by trips.

T2. Existing access to the site is via four driveways onto Main Street, a regional roadway as defined in the Regional Policy Plan. Proposed access is via two site driveways onto Main Street. The applicant has coordinated the location of these two

driveways with the Orleans Town Engineer to ensure consistency with the Town's planned Main Street improvements. The closure of two site drives is expected to improve traffic flow and safety on Main Street.

T3. The applicant has committed to a trip reduction plan that complies with MPS 4.1.2.1. The plan includes encouraging employee carpooling, bicycle parking areas, a transit incentive program, advertising of public transportation, and a bus stop and increased internet shopping with mail order or delivery service. In addition, the applicant has agreed to provide an easement for the construction of the Cape Cod Rail Trail (bicycle path) link adjacent to Main Street.

T4. A 25% "pass-by" rate (vehicles travelling past the site as part of a multi-purpose trip) is a reasonable assumption, based upon the type of use (retail) and its location within an existing business district.

T5. After adjustments for pass-by traffic and the 20% trip reduction plan, the project is expected to generate a net increase in traffic of 75 trips during the Saturday midday peak hour. Based on MPS 4.1.1.1, this amount of traffic requires mitigation at the Main Street/Route 6A intersection, the Main Street/Old Colony Way intersection and the road link between Old Colony Way and Route 6A.

T6. The applicant has opted to pay \$100 per peak hour trip at two of these locations as allowed by MPS 4.1.1.20. This amount of \$9,000 shall be held by the County of Barnstable/Cape Cod Commission and be used for the planning, design or implementation of transportation improvements in the Town of Orleans.

T7. To mitigate impacts at the Main Street/Old Colony Way intersection, the applicant has agreed to relocate their easternmost site drive further away from the intersection. The proposed location is consistent with the town's planned Main Street improvements and has been coordinated with the Orleans Town Engineer. This relocation is expected to improve operations and traffic flow in the vicinity of the intersection.

T8. To mitigate traffic impacts, the applicant has agreed to encourage flexible work hours for some employees and restrict some truck deliveries to off-peak times.

### Water Resource Findings

WR1. The project is located within the watershed for the Rock Harbor marine embayment, as delineated by Regional Policy Plan Water Resources Classification Map II. A tidal flushing study for the embayment and a nitrogen loading assessment of its watershed have not been conducted. Therefore, the Minimum Performance Standard 2.1.1.2.C.1 of the Regional Policy Plan requires a monetary contribution for the development of a nitrogen management strategy. A septic system with denitrifying capability is also required by Minimum Performance Standard 2.1.1.2.C.3.

WR2. A retrofit of the existing septic system with a denitrification capability would be expected to reduce nitrogen load to groundwater from 2.63 mg/L to 2.18 mg/L nitrogen. These values may be compared to the 5 mg/L regional (Cape-wide) limit for nitrogen loading to groundwater required by Minimum Performance Standard 2.1.1.1. and assumes that irrigation discharge to groundwater is limited to lawn and landscaped areas. A denitrifying septic system would remove an additional 11.7 kg/yr of nitrogen compared to a standard Title V septic system.

WR3. On September 16, 1999, Coastal Engineering Co., Inc. submitted to the Cape Cod Commission on behalf of H.H. Snow & Sons, Inc. the following scope for a nitrogen management strategy:

- An irrigation well to pump 630,000 gallons of groundwater downgradient of the septic leachfield over a period of 150 days per year; and
- Sample collection for nitrate analyses every 100 feet over 1.6 miles from Cedar Pond, along Rock Creek to Rock Harbor at an estimated cost of \$6,740. The applicant is prepared to contribute a \$1,500 share of the cost.

Staff recognizes the potential effectiveness of the proposed alternative to the denitrification provision of Regional Policy Plan Section 2.1.1.2.C.3. A comparable amount of nitrogen removal may be accomplished by the operation of an irrigation well located downgradient from the leachfield. Nitrogen removed from the groundwater system via an irrigation well may be used as nutrient for the garden center's nursery plant stock, lawn grass and in landscaped areas.

Pumping at a rate of 630,000 gallons per year, groundwater removed downgradient of the septic leachfield via an irrigation wells would need to have a concentration of at least

4.90 mg/L nitrogen to remove the equivalent amount of nitrogen as a denitrifying system (i.e. 11.7 kg/yr). It is anticipated that this concentration will be exceeded. An estimated 1.3% of the nitrogen removed from the groundwater system via the irrigation well will be returned to groundwater in the lawn and landscaped areas as part of the leaching process, with the remainder being taken up by nursery plants, lawn grass and landscape shrub.

WR4. Title V (310 CMR 15, State of Massachusetts environmental regulations) requires a minimum septic leachfield setback of 25 feet from irrigation wells.

WR5. Stormwater best management practices have been adopted for the project. Minimum Performance Standard 2.1.1.6. requires stormwater best management practices.

## **CONDITIONS**

The Cape Cod Commission has reviewed the project against the Minimum Performance Standards in the Regional Policy Plan and has determined that the project with the following conditions will comply with all Regional Policy Plan Minimum Performance Standards.

### General Conditions

G1. Prior to the issuance of a building permit from the town of Orleans for the project, or any development on the site, the applicant shall obtain a preliminary Certificate of Compliance from the Cape Cod Commission. This shall apply to Conditions that are so noted. The applicant shall notify the Commission staff of the intent to seek a preliminary Certificate of Compliance at least 30 days prior to applying for a building permit. Unless otherwise stated, all conditions of this decision shall be met prior to the issuance of a final Certificate of Compliance.

G2. Prior to receiving a permanent or temporary Certificate of Occupancy for the H.H. Snow & Sons 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. The applicant shall notify Commission staff of the intent to seek a final Certificate of Compliance at least 30 days prior to its issuance. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless conditions are complied with or secured consistent with this decision.

G3. Any change or addition to the project as approved shall be subject to review and approval by the Commission and consistent with the Commission's policy on Revisions to approved DRI's.

Community Character Conditions:

CC1. The applicant shall submit a final Landscape Plan for approval by the Cape Cod Commission staff prior to the issuance of a preliminary Certificate of Compliance. The revised landscape plan shall include a planting schedule and include plantings that adequately screen the parking area from Main Street throughout the year.

CC2. The project's exterior lighting design shall be coordinated with the proposed landscaping and shall be in conformance with MPS 6.2.7, MPS 6.2.8 and Technical Bulletin 95-001, in particular Section 2.0.

CC3. Prior to issuance of a final Certificate of Compliance by the Commission, Commission staff shall verify in the field the types, mounting heights and light levels of exterior fixtures. If, based on in-the-field verification, the light levels, fixture types and/or mounting heights are found not to be in compliance with MPS 6.2.7 and/or Technical Bulletin 95-001, the applicant shall modify the exterior lighting to conform to Technical Bulletin 95-001. Such modification shall take place prior to issuance of a final Certificate of Compliance. The applicant shall also submit plans and/or other technical information relative to the modification requirements as needed to bring the exterior lighting design into conformance with MPS 6.2.7, MPS 6.2.8 and Technical Bulletin 95-001 prior to issuance of a final Certificate of Compliance.

CC4. Billboards, off-site signage (except approved directional signage) and internally-illuminated or flashing signs are prohibited.

Hazardous Materials Conditions:

HM1. Prior to any future discharge to the environment of material collected in the containment area around the above-ground tanks, the applicant shall test the material to provide evidence that it meets the discharge criteria in the company's revised Spill Prevention, Control and Countermeasures Plan (SPCC Plan) and/or applicable state or federal regulations, whichever is stricter. A copy of the test results shall be included in the SPCC Plan.

HM2. Prior to issuance of a final Certificate of Compliance by the Commission, the applicant shall revise the company's SPCC Plan to conform to the requirements of the current Massachusetts Contingency Plan (310 CMR 40.00) and Oil Pollution Act of 1990 (OPA '90) and shall also submit to the Cape Cod Commission and Orleans Fire Department a copy of the revised SPCC Plan.

HM3. The applicant shall insure that the company's SPCC Plan remains current according to the requirements of OPA '90 and Massachusetts Contingency Plan.

Natural Resource Conditions:

NR1. Prior to issuance of a final Certificate of Compliance, the applicant shall provide mitigation to offset work in the wetland buffer in the form of a cash contribution to the Orleans Conservation Trust in the amount of \$7,350. This contribution shall be earmarked for the acquisition of land containing buffers to wetlands.

NR2. Prior to the granting of a preliminary Certificate of Compliance the applicant shall provide the Cape Cod Commission with a draft conservation restriction consistent with Massachusetts General Laws Chapter 184, §31-33 and accompanying plan. Prior to the issuance of a final Certificate of Compliance, the Conservation Restriction and related Site Plan shall be executed, approved by Commission counsel and recorded at the Registry of Deeds or Registry District of the Land Court which provides that Areas A, B, & D as shown on the plan titled "Area Plan, H.H. Snow & Sons Home and Garden Showplace," sheet 4 of 5, including 4± acres shall be preserved as permanent open space.

NR3. Prior to the granting of a preliminary Certificate of Compliance the applicant shall provide the Cape Cod Commission with a draft agricultural restriction consistent with Massachusetts General Laws Chapter 184. Prior to the issuance of final Certificate of Compliance, the agricultural restriction and accompanying plan shall be approved by Commission counsel and recorded at the Registry of Deeds or Registry District of the Land Court which provides that Area C as shown on the plan titled "Area Plan, HH Snow & Sons Home and Garden Showplace," sheet 4 of 5, including 0.46± acres shall be preserved as permanent open space.

NR4. Area C is to be used for the purposes of nursery stock storage. The area may be occasionally brushed out for the purpose of maintaining the storage area, but the removal of mature trees, with the exception of diseased or seriously damaged trees, shall not occur.

NR5. Prior to the issuance of a final Certificate of Compliance, the boundaries of the permanent open space, including Areas A, B, C, & D shall be clearly marked with concrete bounds.

Transportation Conditions:

T1. The applicant shall reduce the number of Main Street site drives from four to two, as proposed in the DRI application materials and as shown on the proposed site plan.

T2. The applicant shall dedicate an easement for the benefit of the Massachusetts Department of Environmental Management for the purpose of constructing a link in the Cape Cod Rail Trail from Main Street to Rock Harbor Road. The easement area shall be as shown on the proposed site plan dated 6/23/99. Upon completion of the Cape Cod Rail Trail link, if the easement is not necessary for the bicycle path, the easement area shall be used by H.H. Snow & Sons, or their successors, for bicycle related purposes such as bicycle racks or a bicycle stopping area.

T3. The applicant shall institute a trip reduction plan that includes encouraging employee carpooling, bicycle parking areas, incentives and information for patrons to use transit to get to and from the site and internet shopping and delivery services.

T4. The applicant shall encourage off-peak truck deliveries and flexible employee work hours, when possible.

T5. Prior to the issuance of a final Certificate of Compliance the applicant shall contribute \$9,000 to the County of Barnstable/Cape Cod Commission for the purpose of planning, design or implementation of transportation improvements in the Town of Orleans.

Water Resources Conditions:

WR1. An irrigation well shall be installed downgradient from the septic leachfield and shall be metered to establish the rate of groundwater pumping. Well discharge shall be sampled twice a month for a period of 2 years and analyzed for nitrate-N, ammonia, TKN and total coliform bacteria. If, after two years of monitoring, the average removal rate over the two years is less than 11.7 kg/yr, the applicant shall install a denitrifying septic system that meets DEP approval at the time of installations .

WR2. The applicant shall report water use, irrigation well discharge rates and irrigation well nitrogen concentrations to the Commission and the Orleans Board of Health every 3 months for a period of two years.

WR3. The applicant shall provide \$1,500 to the Orleans Water Quality Task Force as its share toward the water quality sampling component of the nitrogen management strategy for the Rock Harbor system.

WR4. The applicant shall provide details of the site's stormwater system to the Commission. The overall design will be reviewed by Commission staff and approved by the commission staff prior to the issuance of a preliminary Certificate of Compliance.

WR5. The applicant shall adopt best management practices promulgated in Massachusetts Department of Environmental Protection Reclaimed Water Use Guidelines. These practices include:

- Locking outdoor plumbing fixtures and clearly exhibited color-coded (purple) signs indicating that non-potable water is being used and drinking is prohibited.
- A fact sheet shall be made available describing the use of non-potable water and the environmental benefits gained.
- Accumulation of surface water (ponding) shall be prevented.

## **CONCLUSION**

Based on the findings and conditions above, the Cape Cod Commission hereby concludes:

The benefits of the proposed development as conditioned outweigh the detriments. The findings and conditions above support this conclusion. The proposed development, as conditioned, is consistent with the Minimum Performance Standards of the Regional Policy Plan. The project design is in keeping with the character and scale of Cape Cod and Orleans and is a positive addition to Orleans Center. The proposed development is consistent with Town of Orleans Zoning Bylaws and Regulations and related variances granted by the Orleans Conservation Commission.

The Commission hereby approves with conditions this Development of Regional Impact Application of H.H. Snow & Sons Inc. Realty Trust, for the expansion of a Home and Garden Center and related site improvements in Orleans, Massachusetts, pursuant to Chapter A, Sections 3(e) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 94-10 and Sections 12 and 13 of the Cape Cod Commission Act, as amended, provided the conditions noted above are met.

Thomas Broidrick      10/7/99  
Thomas Broidrick, Chair      Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 7<sup>th</sup> day of October 1999

Katharine L. Peters  
Name, Notary Public

