



CAPE COD COMMISSION

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DATE: April 13, 2000

TO: Attorney Patrick M. Butler

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Subaru of New England, Inc.
c/o Attorney Patrick M. Butler
Nutter, McClennen & Fish, LLP
1513 Iyannough Rd., PO Box 1630
Hyannis, MA 02601

PROJECT #: TR99025

PROJECT: Subaru of New England
124 Waterhouse Rd.
Bourne, MA

BOOK/PAGE: *Book 6888, Page 164 and 165*

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) application of New England Subaru, 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 Subaru of New England in Bourne, MA. The decision is rendered pursuant to a vote of the Commission on April 13, 2000.



PROJECT DESCRIPTION

The applicant for this DRI is Subaru of New England, Incorporated. Attorney Patrick M. Butler represents the applicant. The project, a new auto dealership, consists of a 2 story 12,600 square foot building and associated display and parking areas, with 50% impervious site coverage on a 3.39 acre lot. The building, parking areas, and site entrance drive are substantially complete. The Bay View Campground abuts the site to the east and the Brookside residential/golf course development to the west.

PROCEDURAL HISTORY

The Commission reviewed the Subaru of New England project as a Jurisdictional Determination (JD) in April 1997. The central issue of the JD was whether the proposed project exceeded the outdoor area DRI threshold of 40,000 square feet. In May of 1997, the Subcommittee voted that the project as proposed was subject to the Commission's jurisdiction. The Subcommittee also voted to accept the proponent's withdrawal request of the JD after the proponent redesigned the project and reduced the amount of paving, landscaping, and grading on the site to 39,605 square feet.

The Town of Bourne issued a building permit for the project in December of 1997. In April of 1999, Bourne municipal officials discovered upon their inspection of the completed building that it exceeded the DRI threshold of 10,000 square feet. The Cape Cod Commission received a mandatory referral for the project from the Bourne Planning Board on July 22, 1999 under Section 3(e) of the Cape Cod Commission Act DRI Enabling Regulations as "new construction with a gross floor area greater than 10,000 square feet." 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 October 18, 1999 at the Peebles Elementary School in Bourne, MA. The public hearing was closed on December 2, 1999 by a hearing officer and the record was left open for the submission of written materials until April 13, 2000 .

The 60 day decision period was extended by mutual agreement until March 31, 2000. A second extension agreement extended the 60 day decision period to April 28, 2000.

The subcommittee held public meetings after the close of the public hearing to deliberate on this project on February 3, 2000; February 14, 2000; February 28, 2000; and March 9, 2000.

At the February 28, 2000 subcommittee meeting, the subcommittee voted unanimously to recommend to the full Commission that the project be approved as a DRI, subject to conditions. A final public hearing was held before the full Commission on April 13, 2000. At this hearing, the Commission voted unanimously to approve the project as a DRI, subject to conditions.

Materials submitted for the record

From the Applicant:

Date Received by Commission

- DRI application form, abutters list, lighting plan, and site plan 7/22/99

- Letter re: DRI application 8/20/99
- Copy of deed 9/8/99
- Letter from Hutchins/Trowbridge re: wetlands 9/8/99
- Nitrate loading calculations 9/8/99
- Copies of site plans (reduced) 9/8/99
- Traffic impact assessment report 9/15/99
- Letter re: trip reduction measures 10/15/99
- Catalog/description of lighting materials 11/8/99
- Copies of waste invoicing and manifests from Norwell dealership. 11/8/99
- Signed extension agreement 12/22/99
- Fire prevention plan 12/22/99
- Emergency Action Evacuation and Contingency Plan and drawings 12/22/99
- Revised Site Plan 12/22/99
- Lighting Specification Sheets 12/22/99
- Copies of invoices with reference to collection and transportation of oil products for similar dealerships 12/22/99
- Hazardous materials manifest for Subaru dealership in Norwell, MA 12/22/99
- Sketches showing revised building profile and plantings 12/22/99
- Statistical information and copies of articles regarding internet marketing and product sales 12/22/99
- Copy of letter from Hutchins/Trowbridge to Bourne Board of Health 1/6/00
- Lighting specifications 1/6/00
- Revised Site Plan depicting incorporation of the fast nitrate removal system. 1/6/00
- Letter from Atlantic Design Engineers re: trip generation 2/2/00
- Copy of very small generator certificate for dealership in Norwell 2/11/00
- Specifications sheet showing examples of various Subaru signs 2/14/00
- Revised landscaping plan 2/14/00
- Specifications sheet showing examples of various Subaru signs 2/18/00
- Copy of letter to applicant from Gleason Architects regarding building square footage 2/28/00
- Revised landscaping plan 2/28/00
- Drawing of preliminary building redesign 2/28/00
- Drawings of preliminary building design 3/6/00
- Drawings of preliminary building redesign 3/7/00
- Color renderings of proposed building redesign 3/8/00
- Color renderings of proposed building redesign 3/9/00
- Copy of letter to applicant from Livermore, Edwards and Associates regarding building square footage. 3/23/00
- Copy of letter to applicant from Gleason Architects regarding building square footage 3/23/00
- Copy of letter to Planning Board regarding site plan review 3/24/00
- Reduced copies of plans 4/4/00
- Letter from Mary M. Barcus of Fleet National Bank regarding the provision of a letter of credit 4/10/00

From the town of Bourne:

- DRI referral

Date Received

7/23/99

- Bourne Planning Department comments 10/15/99

From the Commission:

| | <i>Date sent</i> |
|--|------------------|
| • DRI notification | 7/28/99 |
| • Memo to subcommittee regarding hearing date | 8/4/99 |
| • Memo to subcommittee regarding hearing cancellation | 8/26/99 |
| • Letter to Patrick Butler regarding incomplete DRI application | 9/16/99 |
| • Memo to subcommittee regarding public hearing date | 9/16/99 |
| • Memo to subcommittee regarding new location for hearing | 9/24/99 |
| • Letter to Patrick Butler regarding DRI completion and open space requirement | 9/24/99 |
| • Staff report | 10/12/99 |
| • Trip reduction analysis | 10/23/99 |
| • Memo to subcommittee regarding meeting cancellation | 11/12/99 |
| • Memo to subcommittee regarding the internet trip reduction strategy | 11/24/99 |
| • Letter and extension agreement to applicant | 12/2/99 |
| • Letter to applicant re: extension agreement | 12/17/99 |
| • Signed and notarized copy of extension agreement | 12/29/00 |
| • Memo to subcommittee re: February 3 meeting | 1/7/00 |
| • Letter to applicant re: February 3 meeting | 1/14/00 |
| • Staff report/Subcommittee update | 1/28/00 |
| • Sketch overlay of site plan providing alternative landscaping design | 2/3/00 |
| • Letter to Michael Clemmey re: building design and landscaping | 2/16/00 |
| • Subcommittee update | 2/22/00 |
| • Signed and notarized extension agreement | 2/28/00 |
| • Memo to Michael Clemmey re: building design | 2/29/00 |
| • Draft findings and conditions | 3/6/00 |
| • Letter to Patrick Butler re: draft decision | 3/6/00 |
| • Memo to subcommittee re: open space | 3/6/00 |
| • Revised draft findings and conditions | 3/7/00 |
| • Memo to subcommittee re: draft decision | 3/8/00 |
| • Letter to Patrick Butler re: revised draft findings and conditions | 3/20/00 |
| • Revised draft decision | 3/31/00 |
| • Revised draft decision | 4/7/00 |
| • Copy of Commission policy on acceptable forms of security | 4/7/00 |

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

TESTIMONY

Public hearing: October 18, 2000

A public hearing was held on October 18, 1999. Attorney Patrick Butler, representing the applicant, presented the project and responded to the October 12, 1999 staff report. Mr. Butler indicated the applicant was considering increasing the site's landscaping to meet the open space requirement. He proposed retaining some natural vegetation and

berming and adding more landscaping. He explained that if there was insufficient on-site open space available, they would look into making a donation to a conservation trust. He indicated that the applicant would propose ideas for the building design. Regarding water resource issues, Mr. Butler stated that the applicant agreed to contribute to a flushing study. He said they would also make a cash contribution for traffic mitigation and develop a traffic demand management plan.

Commission staff presented the October 12, 1999 staff report. Martha Hevenor, staff planner, introduced the staff and discussed the community character and natural resources/open space issues. Regarding community character, she stressed that staff was concerned about the location of the parking/display areas and the need for additional vegetative buffer areas to screen views from Waterhouse Road and Route 28. She also discussed the building's design being inconsistent with traditional Cape Cod architectural style, as discussed in the staff report.

Glenn Cannon, transportation engineer, presented the transportation issues. Mr. Cannon discussed 2 primary areas of concern regarding traffic: peak hour traffic impacts and the 20% trip reduction requirement. He requested additional information from the applicant's traffic engineer regarding web site statistics and trip reduction data.

Gabrielle Belfit, staff hydrologist, presented water resource issues. She stated that because the project is located in a nitrogen sensitive embayment a denitrifying system must be added to the project. She added that the applicant would need to contribute \$111 towards a flushing study of the embayment and the critical nitrogen loading rate.

Rich Tabaczynski of Atlantic Design spoke on traffic issues and the trip reduction proposals. He presented additional information on the web site proposed to meet trip reduction requirements and handed out web site figures from the Norwell dealership.

The Subcommittee focused its comments on the uncertainty of the internet as a trip reduction tool. Robert Deane requested internet data of a similar Subaru dealership. David Ansel also asked the applicant about the number of display/parking spaces on site and how the open space requirement would be met.

Coreen Moore, of the Bourne Planning Department, presented the town's response to the staff report.

The applicant agreed to submit additional information for review. The hearing was continued to November 18, 1999.

JURISDICTION

The proposed Subaru of New England new automobile dealership construction qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of any development which proposes "commercial, service, retail or wholesale business... [having] new construction with a gross floor area greater than 10,000 square feet."

FINDINGS

The Commission has considered the application of Subaru of New England for the proposed Subaru of New England project, and based on consideration of such application and upon information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General

G1. In April 1999, Bourne municipal officials discovered upon their inspection of the completed Subaru of New England building that it exceeded the DRI threshold of 10,000 square feet set forth in Section 3(e) of the Cape Cod Commission Act. On July 22, 1999 the Cape Cod Commission received a mandatory referral for the project from the Bourne Planning Board under Section 3(e) of the Cape Cod Commission Act DRI Enabling Regulations as "new construction with a gross floor area greater than 10,000 square feet."

G2. Prior to its referral to the Commission as a DRI, Subaru of New England substantially completed construction of a 12,600 square foot automobile dealership on 3.39 acres at 124 Waterhouse Rd. in Bourne. The 2 story building contains office space, sales, and service areas.

G3. The project is consistent with Town of Bourne B-4 Business District zoning regulations, with the exception of the 2 proposed freestanding signs. The Town of Bourne Zoning Bylaw permits one freestanding sign (of not more than 16 square feet) in the B-4 Business District. A variance or other form of relief must be granted by the Bourne Zoning Board of Appeals to construct the second sign. Granting the DRI approval is in no way intended to support or oppose the grant of such waiver at the local level.

G4. The Town of Bourne does not have a certified Local Comprehensive Plan. The site is not located within a District of Critical Planning Concern. Therefore, the project was reviewed for conformance with the Regional Policy Plan and local zoning.

Transportation

T1. Subaru of New England has constructed a 12,600 square foot building off Waterhouse Road in Bourne, MA. The building was constructed to provide a new automobile dealership, with parts and service at this location. Waterhouse Road is a Regional Road as defined by the Regional Policy Plan.

T2. The trip generation for this project is based on 12,600 square feet of new car sales. A single driveway located on the east side of Waterhouse Road will provide access for the building. Based on the Institute of Traffic Engineers (ITE) Trip Generation manual, the 12,600 square foot building will generate 37 vehicle trips during the highest peak hour (the Saturday midday peak hour) and 472 daily vehicle trips. The 37 vehicle trips are above the threshold of 25 vehicle trips requiring analysis and mitigation under Minimum Performance Standard (MPS) 4.1.1.1 of the RPP (transportation).

T3. At locations where the thresholds of MPS 4.1.1.1 are reached or exceeded but the increase is less than 50 peak hour trips, other Development Review Policy (ODRP 4.1.1.20) of the RPP allows the proponent to make to a payment of \$100/peak hour trip per regional intersection and per regional roadway link to comply with MPS 4.1.1.1. Based on the trip generation outlined above and the trip distribution outlined in the proponent's Traffic Impact Assessment report, the following regional roadways and regional intersection would be impacted by the project:

| <u>Regional Roadways</u> | <u>New Trips</u> |
|-------------------------------|------------------|
| Waterhouse Road | 36 |
| | |
| <u>Regional Intersections</u> | |
| Waterhouse Road/Route 28 | 36 |

Therefore, the contribution required under 4.1.1.1 is \$7200.

T4. MPS 4.1.1.5 requires all DRIs access/egress locations with public ways to meet Massachusetts Highway Department (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. Staff conducted a field inspection at the existing location of the building driveway and Waterhouse Road. Based on field observations, the driveway access with Waterhouse Road meets or exceeds safe stopping distances based on AASHTO standards.

T5. MPS 4.1.1.6 requires all new driveways on regional roads to operate at Level of Service (LOS) C or better as defined in the Highway Capacity Manual. Staff concludes that the proposed new Driveway/Waterhouse Road/Brookside Road intersection will operate at better than LOS C based on the Highway Capacity intersection analysis submitted by the proponent.

T6. Regardless of project size, all DRIs are required to meet MPS 4.1.2.1 (trip reduction). Based on the ITE Trip Generation Manual, the average daily traffic for the development is 472 vehicle trips. To comply with MPS 4.1.2.1, the proponent must reduce the average daily automobile trips for that land use by 20%. Based on the ITE average traffic generation for New Car Sales, the proponent must reduce the average daily traffic by 94 vehicle trips. The applicant has proposed a trip reduction plan that includes the following:

- preferential parking for ridesharing employees;
- flexible work hours for ridesharers;
- a dedicated lunch room with appliances to reduce employee lunch time trips;
- a bike rack on site;
- transportation upon request to and from the Bourne Rotary bus stop for employees traveling by public transit;

- creation and/or maintenance of a web page to encourage customers to view vehicles online and the inclusion of the web address in advertising efforts.

T7. The applicant has submitted a trip reduction plan that will be assessed in two parts. Part one will consist of an assessment of the trip reduction plan focused on reducing employee based trips and part two will consist of an assessment of the trip reduction plan that focuses on reducing customer trips through an internet web page.

T8. Transportation staff concluded that the trip reduction plan outlined above would be utilized primarily by employees of the facility and not by patrons of the facility. Therefore, the trip reduction assessment of the plan focused on employee trips. The proponent's traffic engineer has stated that the proposed facility would employ approximately 20 people. Transportation staff assessed the trip reduction value of the employee trip reduction plan at 7 vehicle trips a day. This value was based on the following calculation:

$(20 \text{ employees} \times 3 \text{ daily trips/employee}) \times 12\% \text{ trip reduction value of plan} = 7 \text{ vehicle trips.}$

T9. MPS 4.1.2.1 states that DRIs must reduce traffic by 20% from the average traffic generation for that land use. To meet this test, trip reduction measures must go beyond what is typically available for a facility in such a manner as to reduce the number of expected vehicle trips from that facility. If similar facilities typically offer the same services as the proposed project, then the proposed project is merely conforming to the average trip generation for that type of facility.

To test the effectiveness of the internet web page as a trip reduction measure, transportation staff contacted ten automobile dealers (new cars) on Cape Cod and inquired if internet web pages were available for the dealerships. All ten automobile dealerships on Cape Cod had web pages varying from a general web page maintained by the manufacturer to individual web pages for the dealerships. Commission staff reviewed these web sites. Information on new cars, used cars, service, finance and other options are available to internet users on these web sites. Of the automobile dealerships contacted that did not have an individual web page, all indicated that future individual web pages would be available soon. In addition, the web commerce information submitted by the proponent strengthens the argument that new car dealerships and automobile parts suppliers as an industry are committed to internet commerce. Based on staff review, the web page for New England Subaru is not significantly different from a typical web page on the internet for new car dealerships. Therefore, a new car dealership internet web page does not have any trip reduction value under MPS 4.1.2.1.

T10. The proponent has raised the concern that the data contained in the Institute of Transportation Engineers (ITE) Trip Generation manual does not include "new car dealership with internet web sites." The proponent claims that the internet web sites have the ability to lower the average daily traffic of all new car dealerships by reducing the number of trips made to a dealership in the process of purchasing a new automobile. Internet web sites may reduce the trips to auto dealerships. Therefore,

site-specific trip generation data may be lower than average daily traffic estimates provided by ITE.

T11. As outlined in T6 through T9, the proposed trip reduction plan outlined by the proponent does not meet the trip reduction requirements (MPS 4.1.2.1) of the RPP because the trip reduction measures do not reduce site-specific traffic from the regional roadway system. To comply with MPS 4.1.2.1, the proponent has chosen to provide a monetary contribution to support and/or promote alternative modes of transportation. The monetary commitment required to offset the remaining 87 trips (94 trips - 7 trips) of site-generated traffic is \$89,300.

T12. Recognizing the potential reduction in customer vehicle trips because of internet web sites for all new car dealerships and the value of site-specific trip generation data, Commission staff has agreed to perform a site specific traffic count at the facility in October 2000. Depending on the outcome of that site-specific trip generation investigation, 5% (\$23,600) of the monetary contribution to support and/or promote alternative modes of transportation may be refunded to the applicant. Therefore, the \$89,300 will be separated into two escrow accounts. The first escrow account will be a non-refundable account in the amount of \$65,700 and the second account will be in the amount of \$23,600. The second escrow account will be held until the Cape Cod Commission conducts a daily traffic count of the facility in October 2000. Based on the October 2000 traffic count a refund of the \$23,600 amount will be calculated based on the following scale:

- If the project generates less than 95% of the estimated ITE average daily traffic (448 trips), \$23,600 will be refunded to the proponent.
- If the project generates more than the estimate ITE average daily traffic (472 trips), no refund will be granted to the proponent.
- If the project generates more than 95% of the estimated ITE average daily traffic (448 trips), but less than the estimated ITE average daily traffic (472 trips), then a percentage of the \$23,600 will be refunded to the proponent. The equation used to calculate the amount will be $[(472 - \text{actual count}) / 24] \times \$23,600$.

T13. MPS 4.1.1.17 states that access/egress shall be designed to minimize impacts on the adjacent roadway system. Town of Bourne officials requested that trucks be prohibited from making left hand turns from the site onto Waterhouse Road. To comply with MPS 4.1.1.17 and meet the town's request, the applicant has agreed to post the site driveway exit with signs prohibiting trucks from taking left turns onto Waterhouse Road.

Hazardous Materials and Wastes

HM1. According to maps produced for the 1996 RPP, the project site is not located in either an existing Wellhead Protection District/Zone II or a Potential Public Water Supply Area. Therefore, the project is not subject to MPS 4.2.2.3 of the RPP.

HM2. MPS 4.2.2.2 requires that development and redevelopment be in conformance with the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. The facility will

generate used oil, used oil filters, antifreeze, used parts cleaners and other automotive fluids. The applicant submitted information indicating that a typical Subaru dealership in Norwell, MA is a Very Small Quantity Generator of hazardous waste and a Small Quantity Generator of Used Oil.

HM3. DEP regulations require that floor drains be sealed, connected to an industrial holding tank, or otherwise managed as set forth in CMR. The applicant has indicated that the floor drains in the service area are connected to an oil/water separator, then to an industrial holding tank.

HM4. MPS 4.2.2.1 requires "development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling." Information received on November 8, 1999 from a typical Subaru dealership in Norwell indicates the Bourne facility will use significant quantities of antifreeze, brake fluid, transmission fluid and parts cleaners. According to the Bourne Subaru's Emergency Plan, the dealership will also use bottled oxygen and acetylene gas for welding.

Open Space/Natural Resources

NR1. The project site is not located within a Significant Natural Resource Area (SNRA) as identified on the Cape Cod Regional Policy Plan maps. The project area has been significantly disturbed due to site work and building construction prior to referral to the Commission as a DRI. Some original vegetation has been retained, particularly a section of woods at the rear of the site which provides an effective buffer between the project and the adjacent residential use. Elsewhere, the vegetation has been stripped and the land graded. In some areas a few trees remain, but the undergrowth has been disturbed. These areas provide little or no habitat value.

OS1. This project is required to provide 1.7 acres of permanently protected open space. The proponent proposes to provide the required open space on-site through the provision of existing vegetation and landscaped areas or through a cash contribution of \$108,141 (based on \$1.46 per sq. ft.).

Water Resources

WR1. Bourne Subaru is located in an identified nitrogen-sensitive Marine Recharge Area (MRA) for Eel Pond and the Back River. Back River has also been designated by the Executive Office of Environmental Affairs as an Area of Critical Environmental Concern.

WR2. The Report of the Buzzards Bay Citizens Water Quality Monitoring Program 1992-1995 states that the restricted inlet between the inner (Back River/Eel Pond) and outer Phinney's Harbor and the relatively small volume of the Back River /Eel Pond system make this estuary susceptible to nitrogen inputs. The four-year water quality results indicate periodic low oxygen levels and micro-algae blooms. The report states that a nitrogen management action plan will likely be required to improve the health of

the Back River and Eel Pond. The strategy is particularly important for this area because considerable growth potential remains in this watershed.

WR3. The project is anticipated to generate 740 gallons per day (gpd) of wastewater effluent on a 3.4-acre site. The design flow includes 251 gpd from office use, 99 gpd from retail use and 394 gpd from industrial use. A standard Title 5 septic system is proposed for wastewater disposal. Nitrogen loading from the project will meet the general RPP MPS 2.1.1.1. standard of 5 ppm for impact to groundwater.

WR4. The project must comply with MPS 2.1.1.2.C.3 requiring that "all DRIs in a MRA shall use DEP-approved alternative systems with enhanced nitrogen removal, unless a Commission-approved cumulative nitrogen loading assessment of the embayment and recharge area indicates that the nitrogen loading from a standard Title 5 system is acceptable." There is no cumulative assessment for the Back River/Eel Pond MRA; therefore the project must upgrade the septic system to include nitrogen removal.

WR5. The plans submitted to the Cape Cod Commission indicate that the existing septic system will be removed and replaced with a Fast system in order to comply with MPS 2.1.1.2.C.3.

WR6. Based on the findings of the Buzzards Bay water quality monitoring programs, the requirement for additional wastewater treatment is consistent with the intent of the MPS for protecting marine recharge areas.

WR7. In order to comply with MPS 2.1.1.2.C.1 the project is also required to make a monetary contribution towards the development of a study to determine the flushing rate of the embayment and the critical nitrogen-loading rate because of its location in a watershed where critical nitrogen load has not been determined. The one time monetary contribution is based on 15 cents per gallon and will be \$111.00.

WR8. The project is not within a Wellhead Protection Area. Therefore, this project is not subject to the review under MPS 2.1.1.2.A.2. However, hazardous materials and hazardous waste generation from the dealership should be addressed in relationship to the storm-water design.

Community Character

CC.1. The project is not located within a designated historic district or adjacent to historic structures.

CC.2. Building and site construction as well as site access were substantially completed prior to the town's referral of the project to the Commission as a DRI.

CC.3. The substantially completed building is not consistent with traditional Cape Cod architectural style, as required by MPS 6.2.2. An architectural plan dated 3/22/00 was submitted. The plan adds additional architectural features to the building to improve its consistency with MPS 6.2.2.

CC4. The project is visible from two regional roadways, Waterhouse Rd. and MacArthur Blvd.

CC5. MPS 6.2.3 requires that all new development provide adequate landscaped buffers to limit adverse visual impacts to the surrounding area. The applicant agreed to provide additional landscaping to improve existing buffers to the site from surrounding roadways.

CC6. MPS 6.2.10 requires that parking shall be located to the rear or the side of the building. The project's parking areas are located on the side of the building, and its display areas are located in the front and sides of the building. The applicant agreed to reduce the amount of display areas from the original proposal submitted to the Commission. The visual impact of the display areas will be further limited by existing and proposed vegetative buffers and interior landscaped islands.

CC7. Two freestanding 15-foot signs are proposed. The Town of Bourne zoning regulations permit one freestanding sign. A variance or other form of relief must be granted by the Bourne Zoning Board of Appeals prior to construction of the second sign.

CC8. MPS 6.2.7 requires that exterior lighting design in new development or redevelopment comply with standards including design, light source, total cutoff and footcandle levels as defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.

CC9. A site plan dated 6/2/99 was submitted as part of the DRI application which showed estimated maintained footcandle (fc) levels of light fixtures at levels ranging from .86 fc to in excess of 40 fcs. These levels are well in excess of Technical Bulletin Standard 2.8 which sets 8.0 footcandles as a maximum initial level. The plan also showed mounting heights of 15-25 feet which is not in conformance with Technical Bulletin Standard 2.6, as Waterhouse Road is a regional road.

CC10. The applicant then submitted a revised lighting plan dated 11/22/99 which shows a change to the heads of existing fixtures from 30-inch, 400-1000 watt metal halide bulbs to 14-inch, 100-175 metal halide bulbs, resulting in a reduction of light output. The revised plan also showed the removal of several pole lights noted as "existing" on the original 6/2/99 lighting plan. The revised site lighting plan also indicates pole-mounted lights are in conformance with the Commission's Technical Bulletin Standards 2.3, 2.4, 2.5 and 2.6. The 11/22/99 lighting plan shows footcandle levels ranging from 1.0 fc to 7.50 fcs, which are consistent with the Technical Bulletin.

CC11. Manufacturers catalog information provided in the DRI application for wallpack lighting notes that the lights selected come equipped to provide a 94-degree cutoff. Standard 2.7 of the Technical Bulletin sets a 70-degree cutoff for wallpacks.

CONDITIONS

General

G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.

G2. Failure to comply with all conditions stated herein, and with the requirements of the Act and regulations promulgated pursuant thereto, shall be deemed cause to revoke or modify this decision.

G3. The applicant shall obtain and 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 Town of Bourne Planning Board shall be submitted to the Commission upon receipt of local approvals.

G4. Site construction shall be completed in accordance with the final site plans dated 3/17/00. Any changes or additions to the project as approved on these plans shall be approved by the Cape Cod Commission consistent with the Commission's policy on Modifications to Approved DRI's.

G5. Prior to receiving a Certificate of Occupancy from the Town of Bourne, the applicant shall obtain a Certificate of Compliance from the Commission. All conditions of this decision as specified herein shall be met prior to issuance of a Certificate of Compliance.

G6. In order to allow adequate time for scheduling and Commission staff review, the applicant shall provide 30 days notice prior to request for a Certificate of Compliance from the Commission. 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. The applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purposes of determining whether the conditions contained in the decision have been met.

G7. The project shall not be open for business to the public until a Certificate of Compliance is received from the Commission.

Transportation

T1. Prior to receiving a Certificate of Compliance, the applicant shall contribute \$7200 under MPS 4.1.1.20 to address MPS 4.1.1.1. These funds shall be placed in an escrow account held by the County of Barnstable and shall be expended upon the recommendation of the Cape Cod Commission Executive Director to support the planning, design or implementation of transportation improvements in the Town of Bourne. Any funds remaining after 10 years shall be turned over to the Cape Cod

Regional Transit Authority or similar transportation agency for public transportation. The form and content of the escrow agreement shall be approved by Commission Counsel.

T2. Prior to receiving a Certificate of Compliance, the applicant shall post a sign prohibiting trucks from taking left turns exiting the site driveway.

T3. Prior to receiving a Certificate of Compliance, the applicant shall do the following to partially address a portion of the project's trip reduction requirements (MPS 4.1.2.1):

- designate preferential parking for ridesharing employees
- provide a dedicated lunch room with appliances to reduce employee lunch time trips
- provide a bike rack on site.

T4. During the life of the project (20 years) the applicant shall provide transportation upon request to and from the Bourne Rotary bus stop for employees traveling by public transit and provide flexible work hours for all ridesharers to partially address the project's trip reduction requirements (MPS 4.1.2.1).

T5. Prior to receiving a Certificate of Compliance, the applicant shall contribute \$65,700 to partially address the trip reduction requirements of the RPP (MPS 4.1.2.1). The monetary commitment shall be placed in an escrow account held by the County of Barnstable and shall be expended upon the recommendation of the Cape Cod Commission Executive Director to support and/or promote alternatives to automobile transportation in the Town of Bourne. Any funds remaining after 10 years shall be turned over to the Cape Cod Regional Transit Authority or similar transportation agency for public transportation. The form and content of the escrow agreement shall be approved by Commission Counsel.

T6. Prior to receiving a Certificate of Compliance, the applicant shall contribute \$23,600 to address the remaining trip reduction requirements of the RPP (MPS 4.1.2.1). The monetary commitment shall be placed in an escrow account held by the County of Barnstable, and shall be expended based on the calculation outlined in finding T11. The form and content of the escrow agreement or other forms of security shall be approved by Commission Counsel. Any funds remaining after 10 years shall be turned over to the Cape Cod Regional Transit Authority or similar transportation agency for public transportation.

Hazardous Materials and Wastes

HM1. Prior to issuance of a Certificate of Compliance from the Commission, any existing floor drains in the vehicle maintenance bays shall be sealed or connected to an industrial holding tank in accordance with the Massachusetts Department of Environmental Protection's 1994 closure requirements for shallow injection wells.

HM2. Within 30 days of the issuance of Certificate of Compliance from the Commission, the applicant shall supply a copy of the Hazardous Waste Generator Registration form for the Bourne facility.

HM3. Within 12 months of the issuance of a Certificate of Compliance, the applicant shall submit a report to the Cape Cod Commission documenting efforts at the Bourne facility to minimize hazardous waste generation through source reduction, reuse, and material substitution and the use of recycling technologies for solvents, parts cleaners, and used oil.

Open Space

OS1. Prior to issuance of a Certificate of Compliance, the applicant shall provide the Commission staff with documentation that identifies a holding entity for the conservation restriction of on-site open space, in accordance with finding OS1. The holder of the conservation restriction shall be approved by Commission Counsel. Prior to issuance of a Certificate of Compliance, the proponent shall provide the Cape Cod Commission with a conservation restriction consistent with Massachusetts General Laws Chapter 184, and accompanying plan to be approved by Commission Counsel and recorded at the Registry of Deeds or Registry District of the Land Court which provides that the open space identified on the plan XXX and dated XXX shall be preserved as permanent open space.

OS2. In the event that the applicant is unable to secure an on-site conservation restriction from an entity approved by the Commission prior to the issuance of a Certificate of Compliance, the applicant shall contribute \$108,141 (1.7 acres x \$1.46 sq. ft.) toward off-site open space acquisition in the town of Bourne to be permanently restricted as open space. The contribution shall be made to the Bourne Conservation Trust or to another qualified land conservation entity approved by Commission staff prior to the issuance of a Certificate of Compliance.

As an alternative, the applicant shall identify and permanently protect, through conservation restriction or donation to the Town of Bourne, the Bourne Conservation Trust, or other qualified land conservation entity approved by Commission staff for the sole purpose of land conservation, a 1.7 acre off-site open space parcel; and provide proof of the recording of said donation or conservation restriction prior to applying for a Certificate of Compliance from the Cape Cod Commission. Off-site open space to meet the requirement shall be of equal or greater natural resource value than the natural resource value of the pre-construction Bourne Subaru site, and shall be approved by Commission staff.

OS3. In the event that the applicant is unable to meet either condition OS1 or OS2 prior to the issuance of a Certificate of Compliance, the monetary equivalent of the open space requirement shall be placed in an escrow account held by the County of Barnstable. The form and content of the escrow account shall be approved by Commission Counsel. The escrow agreement shall be payable to Barnstable County with the work approved by the Cape Cod Commission. The applicant's successful

completion of OS1 and OS2 shall be determined by Cape Cod Commission staff prior to release of the escrow funds or other forms of security.

Water Resources

WR1. Prior to issuance of a Certificate of Compliance, the existing on-site septic system shall be removed and replaced with a Fast system providing advance nitrogen removal and to comply with MPS 2.1.2.C.3.

WR2. Prior to issuance of a Certificate of Compliance, the project proponent shall provide a one-time contribution of \$111 towards a flushing study of Eel Pond to address MPS 2.1.1.2.C.1.

Community Character

CC1. Prior to issuance of a Certificate of Compliance all building construction shall be completed in accordance with the final architectural plans dated 3/22/00.

CC2. Prior to issuance of a Certificate of Compliance, all landscaping shall be completed in accordance with the final landscaping plans dated 3/17/00.

CC3. If all required landscape improvements are not completed at the time a Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement and satisfactory to Commission Counsel. The amount of the escrow agreement or other forms of security as approved by the Regulatory Committee of the Commission shall equal 150% of that portion of the incomplete work, including labor and materials, with the amount approved by the Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow agreement shall be payable to Barnstable County with the completed work to be approved by the Cape Cod Commission staff prior to release of the escrow funds or other forms of security. Unexpended escrow funds shall be returned to the applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed prior to issuance of a Certificate of Compliance from the Commission.

CC4. Plant materials specified by this decision may be substituted with prior written consent of Commission staff.

CC5. Prior to issuance of a Certificate of Compliance, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.7. This review shall be based on the revised exterior lighting design plan dated 11/22/99. Prior to issuance of a final Certificate of Compliance, the applicant shall also submit information which shows wall packs conform to the requirements of Technical Bulletin standard 2.7.

CC6. Prior to issuance of a Certificate of Compliance, the applicant shall submit sign plans showing height, materials, and exterior illumination. All signs shall be constructed in accordance with these plans. The installation of billboards, off-site

advertising (excepting approved directional signs) and internally lit or flashing signs shall be prohibited. All signage shall be externally illuminated.

CONCLUSION

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

The benefits of the development as conditioned outweigh the detriments. The findings and conditions above support this conclusion. The development, as conditioned, is consistent with Minimum Performance Standards of the Regional Policy Plan.

The Commission hereby approves with conditions this Development of Regional Impact Application of Subaru of New England, for completion of the development of the building and associated display and parking areas in Bourne, 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 4/13/00
Thomas Broidrick, Chair Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Subscribed and sworn to before me this 13th day of April 2000.

Katharine L. Peters
Name, Notary Public



PROJECT INFORMATION

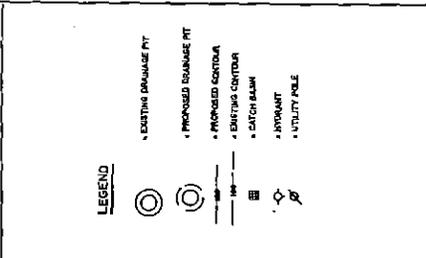
AREA: 3.39 ACRES ± -
 ZONE: B-4

COVERAGE:
 COVERAGE BUILDING: 81.4
 COVERAGE BUILD/PARK: 50%
 OPEN SPACE: 68%

ASSESSORS: MAP 87 PARCEL 103

PARKING: 100 SPACES IN THE CORNER OF 1-1/2" x 20' x 20' SPACES. 50 SPACES IN THE CORNER OF 1-1/2" x 20' x 20' SPACES. 50 SPACES IN THE CORNER OF 1-1/2" x 20' x 20' SPACES. 50 SPACES IN THE CORNER OF 1-1/2" x 20' x 20' SPACES.

UTILITIES: ON SITE SEPTIC PUBLIC WATER AND ELECTRIC.



SITE PLAN FOR
SUBARU OF NEW ENGLAND

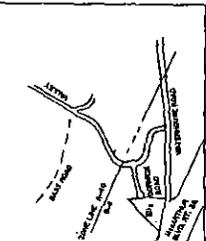
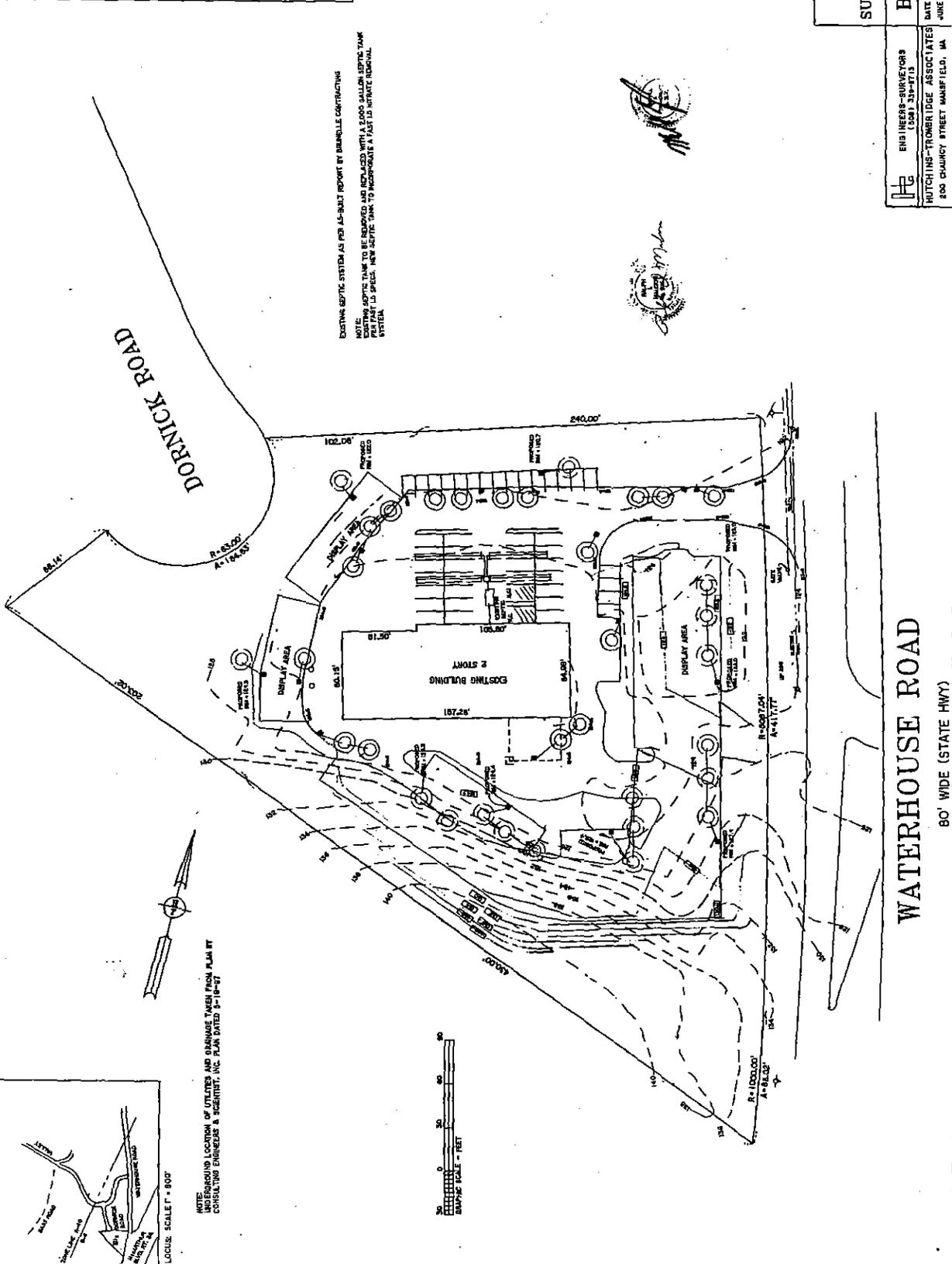
BOURNE

DATE: JUNE 8, 1988
 APPROVED BY: MAT

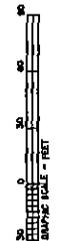
SCALE: 1" = 30'
 REV. 07/27/88
 3022800

ENGINEERS-SURVEYORS
 HUTCHINS-FROMBRIDGE ASSOCIATES
 200 CHAUNCEY STREET WANSFIELD, MA

JOB NUMBER: 88-1147



NOTE: INTERSECTING LOCATION OF UTILITIES AND DRAINAGE TAKEN FROM PLAIN PT CONSULTING ENGINEERS & SURVEYORS, INC. PLAN DATED 5-18-87



Handwritten signatures and stamps.

PROJECT INFORMATION

AREA: 1.39 ACRES ±

ZONE: R-4

COVERAGE: 100% MINIMUM

COVERAGE: 100% MINIMUM

OPEN SPACE: 100%

ASSESSORS: MAP 27 PARCEL 183

PARKING: 10 SPACES

UTILITIES: ON SITE SEPTIC PUBLIC WATER AND ELECTRIC

LIGHTING: SEE LIGHTING PLAN

CONCEPT
 ENGINEER: BOCH
 25 WATSON STREET
 HOLYOKE, MA 02034

REV. 1/17/79
 10/17/79

SITE PLAN
 FOR
SUBARU OF NEW ENGLAND

SCALE: 1" = 30'

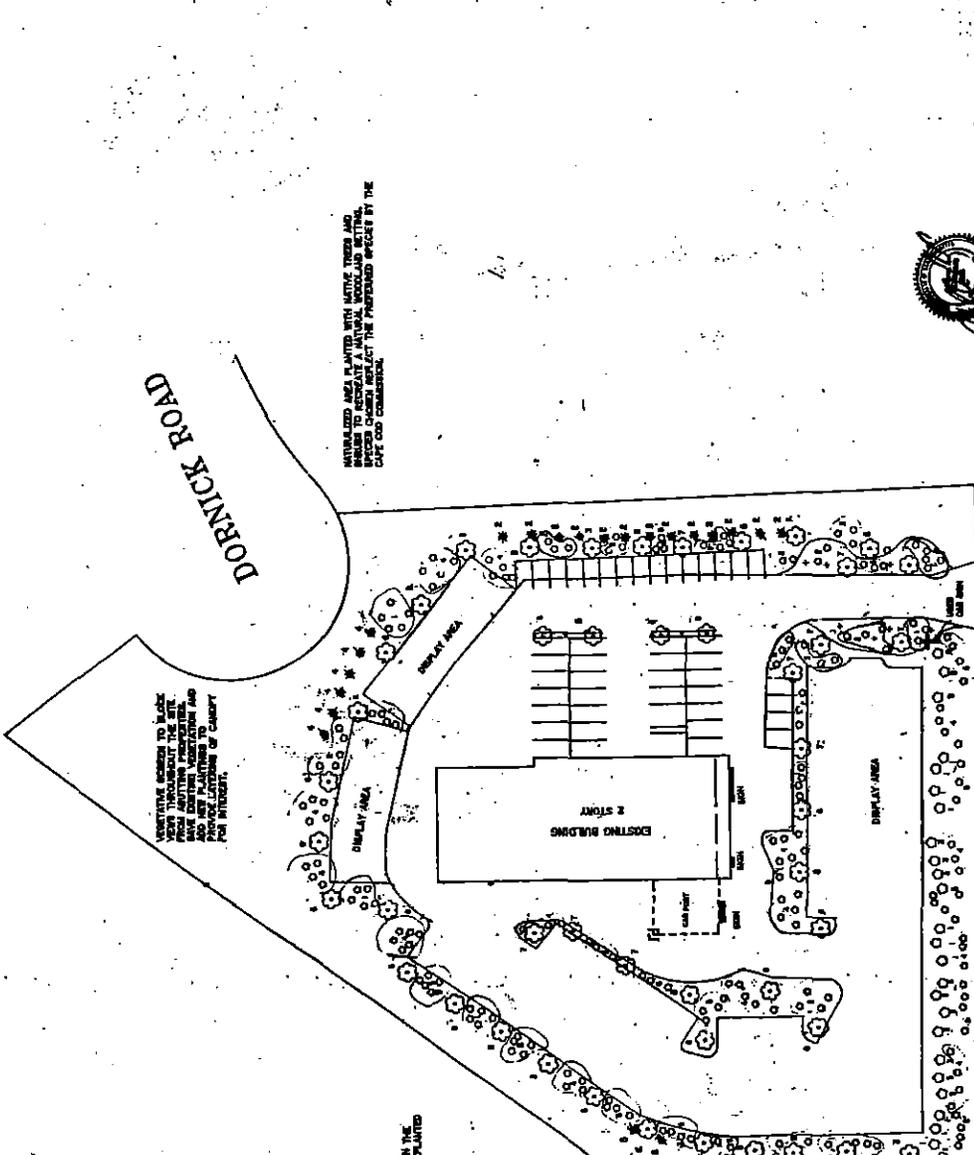
DATE: JUNE 8, 1988

APPROVED BY: [Signature]

DATE: 03-11-1981

ENGINEER-ARCHITECTS
 (L.S. 001 388-2113)

HUTCHING-TRONBERG ASSOCIATES
 200 CHAMBER STREET WAMPFIELD, MA



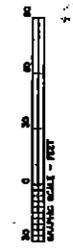
LEGEND

| BOTANICAL NAME | COMMON NAME | SIZE | SYMBOL | QUANTITY |
|-------------------------|------------------|---------|--------|----------|
| LAMPYRUS VIRGATA | RED CEDAR | 8'-10' | ⊗ | 7 |
| PRUNUS STRONGIA | WHITE PINE | 8'-10' | ⊗ | 14 |
| QUERCUS ALBA | RED OAK | 3" CAL. | ⊗ | 3 |
| PRUNUS VIRIDA | AUTUMN PINE | 8'-10' | ⊗ | 6 |
| AMER. CORNUS | CORNUS FR. | 8'-10' | ⊗ | 6 |
| CORDONVILLUM JAPONICA | SPRING TREE | 3" CAL. | ⊗ | 9 |
| ULMUS PARVIFLORA | SMALL LEAFED ELM | 3" CAL. | ⊗ | 1 |
| QUERCUS PHellos | WILLOW OAK | 3" CAL. | ⊗ | 12 |
| QUERCUS RESISTANT | CHAMPAGNE | 3" CAL. | ⊗ | 8 |
| SHRUBS | | | | |
| JUNIPERUS CHENSIDA | GREEN JUNKER | 10'-14" | ⊗ | 52 |
| AMELANCHIER CHALCOUNS | WINTERBERRY | 2'-4" | ⊗ | 48 |
| HYDRANGYEA PICHOTIUNICA | BATON ROUGE | 14'-20" | ⊗ | 30 |
| EX GLANSA | BRANDY | 14'-20" | ⊗ | 47 |
| EX MEXICANA | BLUE HELL | 14'-20" | ⊗ | 28 |

ALL UNIMPLANTED AREAS OF VEGETATION WITHIN THE SCOPE OF CONSTRUCTION ARE TO BE REPLANTED WITH NATIVE PLANT SPECIES.

LAND VARIETIES OF ORNAMENTAL GRASS

NOTES:
 1. EVERGREEN TREES TO BE PLANTED 10'-12" O.C.
 2. SHRUBS TO BE PLANTED 3'-4" O.C.
 3. DECIDUOUS AND ORNAMENTAL TREES TO BE 30' O.C.



NOTE:
 ALL VEGETATION ALONG WATERHOUSE ROAD SHALL BE PROTECTED DURING SITE CONSTRUCTION WITH BOW FENCING AND REMAIN PROMINENTLY AS NATURAL WOODED BUFFER.

WATERHOUSE ROAD
 80' WIDE (STATE HWY)