



CAPE COD COMMISSION

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DATE: August 22, 2002

TO: Brian Wall, Esquire
Sextant Hill Office Park
90 Old King's Highway
Sandwich, MA 02563

FROM: Cape Cod Commission

RE: Development of Regional Impact Exemption
Cape Cod Commission Act, Section 12(k)

APPLICANT: Orleans Toyota
Jack and Bob Carter

PROJECT #: DRI EX # 02020/ DRI TR # 02020

PROJECT: Orleans Toyota Redevelopment Project

BOOK/PAGE: Book #10672, pages 128, 130

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby denies the Exemption of the application of the Orleans Toyota (Applicant) as a Development of Regional Impact (DRI) pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Orleans Toyota redevelopment project (Project). The decision is rendered pursuant to a vote of the Commission on August 22, 2002.

PROJECT DESCRIPTION

The project site is situated at 148-152 Route 6A in Orleans, and includes two abutting parcels of land totaling 3.6 acres. The property is zoned for General Business.

Denial Decision - Orleans Toyota DRI Exemption # 02020
August 22, 2002



The proposed development includes the redevelopment of a site currently containing a farm stand, flower shop, storage barn, two-story residential dwelling, paved parking area, greenhouses, foundations for greenhouses, and cultivated agricultural land. The applicant proposes to build a 14,238 square foot (sf) full-service Toyota dealership including indoor and outdoor sales areas, and a service center. Total impervious area will be 61,320 sf.

Building plans include the use of traditional architectural design and materials for front and side portions of the building visible from Route 6A. The remaining service area of the building will be a light gray non-reflective metal.

Curb cuts onto Route 6A will be reduced from three to two.

The proposal indicates that the outdoor display area will extend approximately 6000 sf into the 100' buffer to the wetland, and the applicant will restore over 16,000 sf of wetland and protect it permanently with a conservation restriction. Previous uses on the site included cultivated areas for nursery stock totaling 23,000 sf of the wetland and buffer areas.

The site is located on Route 6A just outside of a Village Center designated in the Orleans LCP.

PROCEDURAL HISTORY

The Orleans Planning Department referred this project to the Cape Cod Commission as a Development of Regional Impact (DRI) on May 29, 2002.

The application was deemed complete on June 18, 2002. Duly noticed public hearings were held on July 18, 2002 at 7:00 pm at the Orleans Town Hall in Orleans, MA, and on July 25, 2002, at 3:00 pm, at the Assembly of Delegates in Barnstable, MA. The public hearing was continued to Aug. 1, 2002 at the Cape Cod Commission office where it was closed by a hearing officer of the Cape Cod Commission with the record kept open. A sub-committee meeting was held following the July 25 hearing, and the sub-committee voted two to one to recommend an approval of the DRI Exemption.

The subcommittee met August 8, 2002 in Rooms 11 & 12 at the Superior Court building to review a draft Exemption decision, and voted three to one to reconsider its prior vote. A subsequent motion was made to recommend denial of the Exemption and there was no second. Consequently, there was a motion to recommend that the Exemption be approved, this was seconded, and there was a vote two in favor and two against, resulting in a tie vote. Therefore, the project was forwarded without recommendation for review and vote by the full Commission on August 22, 2002. On August 22, 2002 a hearing was opened and closed, and the Commission voted eleven to three to deny the Exemption request.

Materials submitted by the applicant:

Letter from Brian Wall – Aug. 21, 2002

Revised site plans and letter – July 30, 2002
Hyannis Toyota employee manual – July 18, 2002
Revised site plan – July 18, 2002
Letter from Brian Wall – July 18, 2002
Letter from Brian Wall – July 16, 2002
Letter from Mass. Historical Commission – June 28, 2002
Fax from Letendre Consultants re: exterior lighting – June 18
Waste Handling Program and inspection schedule – June 17, 2002
Land use calculations – June 13, 2002
Letter concerning hazardous material storage – July 13, 2002
Fax letter listing building materials – June 11, 2002
Nitrogen loading calculations – June 7, 2002
DRI and DRI Exemption applications with supporting site, elevation, lighting and landscaping plans and studies – June 5, 2002
Letter from Ryder & Wilcox, Engineering to Tim Boesch – Feb. 20, 2002

Materials from the town:

Letter from the Selectboard – July 31, 2002
Letter from the Selectboard – July 18, 2002
Letter from George Meservey, Town Planner – May 9, 2002
Letter from George Meservey – dated May 24, 2002
DRI Referral – dated May 29, 2002

Materials from the State:

Letter from Mass. Historical Commission – July 17, 2002

Materials from Sub-committee:

Email from Susan Kadar to Catherine Frazer – August 4, 2002

Materials from Staff:

Fax from M. Twombly to Orleans Conservation Trust – Aug. 21, 2002
Fax from M. Twombly to B. Wall – Aug. 21, 2002
Fax from M. Twombly to William Henchy – Aug. 19, 2002
Fax from M. Twombly to B. Wall – Aug. 2, 2002
Fax from S. Rooney to J. Carter – Aug. 1, 2002
Email from A. Adams to M. Twombly – July 31, 2002
Fax staff report to Suzanna Graham-Pye – July 22, 2002
Memo from H. McElroy to sub-committee – July 19, 2002
Memo to subcommittee w/enclosures from M. Twombly – July 19, 2002
Fax to Jack Carter w/enclosures from M. Twombly – July 19, 2002
Staff Report – July 9, 2002
Memo of notification to sub-committee – June 19, 2002

Materials from Interested Parties:

Letter from Orleans Conservation Trust via fax – Aug. 21, 2002

Letter with enclosures from James Hadley dated Aug. 14, 2002 – Aug. 16, 2002

Letter from James Hadley – July 29, 2002

Letter from Kenneth McKusick – July 18, 2002

Letter from Constance Calderwood – July 17, 2002

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

PUBLIC TESTIMONY

Hearing # 1 – Orleans Town Hall – July 18, 2002

Attorney Brian Wall, Jack Carter, owner of Hyannis Toyota and Orleans Motors, and Stephanie Sequin, engineer for the applicant, presented the Orleans Toyota proposal and compared impacts between the existing use and the proposal. They answered questions from the subcommittee.

The commission staff gave its report and answered questions from the subcommittee

Comments from local officials and the public:

John Hinckley, Selectboard Chair, read a letter from the Selectboard expressing concern about impacts to the scenic nature of the current site, protection of the wetlands, the asphalt/sand material impacts over the long term, building height, and lighting. In four instances, he believed the project did not comply with the Orleans LCP. He requested that the subcommittee review the proposal as a DRI.

Paul O'Connor opposes the exemption because the regional impacts are due to the sum of all development and this proposal is to be a regional facility.

Kenneth McKusick, former chair of the LCP committee, said he believes a dealership would create an "auto mile", and asked the subcommittee to deny the exemption.

Dick Philbrick expressed concern about the wetlands, runoff, and the pervious material.

Paul Berston, highway manager, was concerned about traffic generated with this type of use.

Roger Gill, prior owner of Orleans Motors, supports the project, and said this is a perfect place for servicing autos considering the buildings currently on the site need to be replaced.

Jay Putnam, part-owner of the property, said he believes the capacity of route 6A is already at its maximum, and stated that one couldn't blame the site for the traffic on Route 6A. He said if the project doesn't work, he will go back to actively farming the property.

Neil Ahearn expressed his opposition to the project because it would contribute to strip development and affect the small town character of the area.

George Meservey, Orleans Town Planner, questioned the ratio of sales and service staff to car sales and believed the number was low. He also stated the LCP called for less intensity of use along Route 6A.

Ralph Riconis questioned how daily trips were calculated for the existing businesses, taking into consideration the seasonal nature of the farm stand.

Lucia Marshall said that as an employee, she sees five to ten retail customers in the flower shop per day.

Hearing # 2 – Assembly of Delegates room, Barnstable Village, MA - July 25, 2002

The applicant submitted additional information concerning lighting, a change to asphalt paving for the display area to capture all stormwater runoff, and supplied nitrogen loading information for the Hyannis facility, indicating the Title V calculations in the staff report are likely much higher than actual waste water generation for the proposed facility.

Commission staff provided additional information clarifying the questions regarding wetland protection and the calculations of disturbed area, trip calculations and left turn limitations, the reduction in curb cuts and supporting the suggestion that paving the display area would provide long term protection for the wetlands.

Public Testimony:

Mr. Hinckley, Orleans Selectboard, stated he had met with Mr. Carter and felt many issues were resolved. He expressed frustration that the Orleans town officials were not more involved in meetings with the applicants and staff. Speaking for the Selectboard, he expressed concern for the size of the project, the wetlands and asked the subcommittee to deny the Exemption.

Mr. Philbrick expressed a belief that the site is within a "green necklace" in Orleans and should be maintained as green space.

Mr. Putnam, owner of the property, responded that the property is not taxed as green space.

Patricia Crowell expressed concerns about placing a business that generated or used hazardous materials near wetlands, traffic safety and water impacts.

Mr. Hadley believes the proposal is a regional use, and that it puts Orleans in the position of becoming a regional center like Hyannis.

Veronica Lucia questioned trip generation numbers, expressed concern about lighting, landscaping and the business use.

Mr. Wall described the hazardous materials management plan, and pointed out that the town planner and the Selectboard were notified and invited to all meetings. He explained that the applicant could pull approximately 800' of display area out of the 100' buffer.

An unidentified person believes the project is too big for the site, and that a small dealership would be OK.

For staff, in answer to subcommittee questions, Ms. Twombly displayed the landscape plan and the lighting plan, and mentioned that in discussions with Mr. Meservery, the town open space committee did not view this site as a priority for town purchase.

Ms. Frazer asked for a clarification of the definition of the term "developed". Ms. Rooney explained that because the area was farmed it could be considered developed, but the RPP definition does not include vegetated areas as "developed".

JURISDICTION

The proposed Orleans Toyota redevelopment qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the Code of Cape Cod Commission Regulations of General Application, Chapter A of the Cape Cod Commission Act, which requires review of "any use changes which have a gross floor area of more than 10,000 square feet ...", and "... new construction of outdoor commercial space greater than 40,000 sf."

FINDINGS

The Commission has considered the application of Orleans Toyota for the proposed Project, and based on consideration of such application and upon the information presented at public hearings and submitted for the record, makes the following findings pursuant to Sections 12 (k) of the Act:

General Findings:

- G1.** The project site is currently zoned for General Business.
- G2.** The proposed Toyota dealership is a redevelopment project of a property currently containing a farm stand, flower shop, storage barn, two-story residential dwelling, paved parking area, greenhouses, foundations for greenhouses, and cultivated agricultural land.
- G3.** The new use will require a special permit from the Orleans ZBA.
- G4.** The proposed site design provides for 35 parking spaces per Orleans bylaws.

G5. Testimony from Orleans town officials and other interested parties indicate that this location and proposal is of significant concern to the town for reasons of land use, community character, wetlands protection, transportation and enforcement of the project proposal.

G6. This decision is based on revised site plans prepared by Ryder & Wilcox and dated July 29, 2002; landscape plans by Philip L. Cheney dated May 17, 2002; and elevation plans by Morton Buildings, Inc. dated June 14, 2002.

Water Resource Findings:

WR 1. The project is located in a Water Quality Improvement Area, created by the union of an Impaired Area within a Marine Water Quality Area (Rock Harbor). The redevelopment of this site, from a seasonal gardening center, to a year round car dealership addresses the relevant MPS for water resources, including MPS 2.1.1.1, 2.1.1.2.C through E and MPS 2.1.1.6. As proposed, the project will meet a 5.00 ppm maximum nitrogen-loading rate by installing a denitrifying septic system. The project would utilize best management practices for stormwater to minimize runoff, to maximize water quality and to provide for groundwater recharge.

WR 2. The project will increase wastewater flow from 340 to 1,150 gallons per day, according to Title V flow calculations. The applicant has provided actual water use data from a larger but similar facility in Hyannis. The actual water use from the Hyannis Toyota facility is approximately 730 gallons per day, and the proposed Orleans facility is approximately one quarter of the size of the Hyannis facility. Planned improvements in the wastewater treatment system and a reduction in fertilized area would lower the nitrogen loading compared to the existing use. The applicant's consultant has provided nitrogen-loading calculations for existing use and proposed use. The figures show current nitrogen loading at 4.74 ppm and proposed use nitrogen loading at 4.73 ppm. However, using the actual water use figures provided by the applicant, nitrogen loading could be less than 3.52 ppm.

WR 3. The project has been redesigned to provide impervious surfaces in all areas where vehicles are parked or stored. A curb has been designed to direct runoff from all impervious surfaces into one of several catch basins, with ultimate discharge to a leaching trench field. Oil water separators are to be installed in each catch basin. The design is adequate for the proposed use and protective of the adjacent wetland areas. A maintenance schedule has been provided to assure the system will operate effectively.

Natural Resources / Open Space Findings:

NROS 1. The site is not located in a Significant Natural Resource Area. According to the Orleans Conservation Agent, approximately 20,120 sq ft of flagged wetlands onsite have not yet received an approved resource delineation by the Orleans Conservation Commission.

NROS 2. The existing conditions of the site reflect significant alteration associated with greenhouse and cultivation activities, including significant cultivation within the 100 ft wetland buffer and within a small area of bordering vegetated wetland, as well as application of fertilizers

and pesticides. This historical use of the wetland buffers likely had considerable impact on water quality and wildlife habitat in this area.

NROS 3. MPS 2.3.1.2 permits alteration of wetland buffers where a buffer has been previously altered if the Commission finds that 1) the proposed alteration will not increase adverse impacts to the buffer, and 2) there is no technically demonstrated feasible construction alternative. Existing alteration within wetland buffers at the project site include 23,486 sq ft of cultivated fields and 5,896 sq ft of impervious surfaces (slab greenhouse foundations). The total existing impacted area within wetland buffers is 29,382 sq ft. Within this 29,382 sq ft area, the proponent proposes eliminating the cultivation activities, removing the slab foundations, revegetating 16,316 sq ft, paving 9,066 sq ft, and applying bark mulch to an additional 4,000 sq ft. The project would eliminate a small area of impact from cultivation to bordering vegetated wetlands and the installation of a stormwater management system would reduce existing stormwater impacts to this wetland.

NROS 4. Orleans Toyota proposed permanent protection of 46,835 sq ft of open space through a conservation restriction.

Transportation Findings:

T1. The applicant proposes to demolish two businesses and one residence on Route 6A in Orleans and construct a new Toyota dealership with car sales and repair at the same location. Regional Roadways in the area include Route 6A (Cranberry Highway), Old Colony Way, West Road, Eldredge Park Way, and Main Street per MPS 4.1.3.1.

T2. A trip generation credit would be allowed under the RPP for the facilities operating on-site within the past five years which are to be demolished. Based on information provided by the applicant, the site currently has the following uses upon which the trip generation credit is based:

Existing Use	ITE Code	ITE description	Size	Notes
Single Family Home	210	Single Family Dwelling	1 unit	On nursery parcel
Farm Stand	820	Retail	2,011 SF	1,256 SF enclosed + 755 SF covered area
Nursery	817	Nursery (Garden Center)	2.792 acres	3.276 acre lot - .462 acre wetlands - .022 acre house

The applicant proposes to build a new car dealership with the following uses and sizes:

Proposed Use	ITE Code	ITE description	Size	Notes
Car Sales	841	New Car Sales	1,944 SF	showroom / offices
Car Repair	840	Automobile Care Center	12,384 SF	9,648 SF Main Level + 2,736 SF Mezzanine

The following trip generation based on the Institute of Transportation Engineers (ITE) *Trip Generation* manual is estimated for the existing and proposed use:

Time Period	Existing Uses*	Proposed Car Dealership and Repair	Net Trip Increase / Decrease
Weekday Daily Trips	274	269	-5
AM Peak Hour of Generator	20	44	22
PM Peak Hour of Generator	28	55	27
Saturday Peak Hour of Generator	54	56	2

* Includes 25% pass-by trip reduction: Flower shops, farm stands, and nursery uses typically involve drawing some customers from existing traffic passing by the facility. Thus, the existing use trips are reduced by 25%, while the remaining existing use trips are considered "primary" trips. For car dealership and repair facilities, the use typically does not involve drawing customers from the roadway and virtually all trips are "primary". Thus no pass-by trip adjustment is included for the proposed car dealership / repair facility.

These estimates show weekday daily and Saturday peak hour trips would be about the same with the new development, while AM and PM weekday peak hour trips would increase.

T3. Review of crashes in the area for 1998-2000 shows three intersections with three crashes per year or higher. These are:

- Route 6A at Eldredge Park Way / West Road,
- Route 6A at Route 6 – Exit 12, and
- Route 6A at Main Street.

MPS 4.1.1.1 requires DRIs to not degrade safety for pedestrians, bicyclists, or motor vehicle operators or passengers. However, MPS 4.1.1.2 requires safety review of intersections only where the development is expected to generate 25 or more new peak hour trips. Since the increase in peak hour trips for the proposed development is estimated to be 27 new peak hour trips, and assuming a 50% eastbound and 50% westbound split on Route 6A, the total trip impact on the safety deficient locations would be approximately 14 new peak hour trips.

T4. The current site arrangement includes three driveways and the proposed development would eliminate one driveway. The proposed development would have one main driveway and one secondary driveway. The secondary driveway would only serve to move vehicles in and out of the car show room and for maintenance of the "tight traps". The 12-foot wide driveway would be made from grid pavers which allow vegetative growth and would have an "Authorized Vehicles Only" sign to discourage the public from entering. The closing of one driveway and limiting use of a second driveway would be consistent with MPS 4.1.1.3 which requires DRIs to meet all applicable access management standards. It would also be consistent with ODRP 4.1.1.13 which encourages the elimination of existing curb cuts.

T5. MPSs 4.1.1.6 and 4.1.2.5 require DRIs to provide adequate and safe bicycle and pedestrian access as well as pedestrian and bicycle connections between adjoining parcels. The proposed re-development would maintain pedestrian and bicycle access across the front of the site as well as provide sidewalk connections from the street sidewalk to the facility.

T6. MPS 4.1.1.7 requires DRIs to have acceptable sight distances based on the American Association of State Highway Transportation Officials (AASHTO) standards. The applicant's

site plan from Ryder and Wilcox engineers shows sufficient site driveway sight distances for the main driveway at speeds up to 45 mph and for the secondary driveway at speeds up to 40 mph. Based on this information and the existing 35 mile-per-hour speed limit of Route 6A in this area, the sight distances would appear to be sufficient.

T7. MPS 4.1.1.9 requires driveway widths to not exceed MassHighway Standards. The proposed 24 foot main driveway and 12 foot secondary driveway would meet and not exceed the MassHighway Standard.

T8. MPS 4.1.2.1 requires DRIs to reduce the expected increase in summer daily traffic by 25%. As noted in T2, the proposed project is estimated to reduce summer daily traffic by 5 trips. Bruce Campbell & Associates (BCA) was hired by the Town of Orleans to provide additional trip generation analysis. In a memorandum to the Town of Orleans dated July 29, BCA disputes the weekday trip generation.

T9. MPS 4.1.2.6 requires DRIs to limit parking to the number of spaces required under local zoning. The applicant has stated that the 35 spaces proposed for customer and employee parking meets but does not exceed the minimum Town of Orleans requirements.

T10. MPS 4.1.3.4 requires DRIs to provide for full mitigation of project impacts on all Regional Roadways including site driveway intersections with Regional Roadways. Mitigation must return the operation to "no-build" conditions. Analysis of the proposed driveway and estimated trip generation shows the left turns from the driveway currently have a 48.3 second average delay (Level of Service E) and are expected to operate with a 52.2 second average delay (Level of Service F) with the project in place, an increase of 8%. Also, the project is estimated to generate 27 new PM peak hour trips. DRI review would require the applicant to analyze the impact of these new trips at and beyond the site driveways and provide appropriate mitigation.

Economic Development Findings:

ED1. The Economic Development goals of the Regional Policy Plan are:

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

ED 2. Development Review Policy 3.3.1 states that, *"Development and redevelopment projects should provide permanent, well-paying, year-round jobs, health, retirement and other benefits, employment training opportunities, and enhance career-path opportunities for Cape Cod residents."*

The project would provide 6 sales positions (4 of those new positions), 3 service management positions (1 new), 2 parts management positions (1 new), 6 technician positions (1 new), and 2 office positions (1 new), for a total of 19 employment positions with 8 of those new positions. The salary ranges for these positions would be from \$28,000 for one office position and two

technician positions, five positions from \$35,000 to \$49,000, with the majority of salaries from \$50,000 to \$65,000, and two managerial positions at \$70,000 per year.

ED3. The project would create construction jobs during development of the project. The applicant has indicated an intent to "make every effort to give preference to local contractors and local residents." The applicant has indicated in testimony that he will be hiring a Cape Cod contractor for the construction of the facility.

Land Use Findings:

LU 1. The site is located outside, but adjacent to, the Town of Orleans designated Village Center and is within a General Business Zone that permits an automotive dealership use by Special Permit.

LU 2. The site is located within a variety of commercial, business and residential uses including condominiums, a shopping center, a motel, a muffler shop, professional offices, and a gas station /used car shop. The applicant proposed to change the use from an agricultural use containing a farm stand, greenhouse and greenhouse foundations, a flower shop, parking, a residential structure, a storage shed and cultivated land to an automobile sales and service center.

LU 3. MPS 1.1.2 prohibits the creation or extension of strip development. Reuse, redevelopment, or infill within existing strip development in a way that does not extend the linear nature of the development or increase traffic conflicts may be permitted. The applicant proposes to redevelop the site. The town officials have expressed concern about additional auto-related or intensification of commercial uses in this location.

LU 5. The existing use containing flower shop and farm stand and agricultural structures and space is a cluster of smaller buildings generally concentrated on about half of the property closest to Route 6A . The scale of the existing buildings is similar to residential structures characteristic of rural Cape Cod towns. The proposed redevelopment project is a much larger structure, greater in scale than surrounding buildings, and utilizing metal siding for half of the structure even though the project was revised to comply with traditional Cape Cod architecture and traditional materials. In addition due to the nature of the business proposed, there will be extensive paved areas to the side and rear of the property.

Community Character Findings:

CC 1. (Heritage Preservation) The proposed project is not located within an historic district. The applicant provided a letter dated July 11, 2002, from the Massachusetts Historical Commission, stating that they had reviewed the proposed project and found that it was unlikely to have negative impacts on historic properties or archaeological sites. No concerns were raised by local individuals or organizations regarding impacts to historic buildings or archaeological resources.

CC 2. MPS 6.2.1 requires new development to preserve the distinctive boundary between village centers and less densely developed areas by focusing on redevelopment/reuse of existing

structures or developed sites and on infill construction in designated Growth/Activity Centers and Growth Incentive Zones. The project site is located outside of, but immediately adjacent to, the Town of Orleans designated Village Center in the Orleans LCP.

CC 3. The project proposes to build a metal building with traditional cedar shingles on the front and side portions of the building closest to Route 6A. The building roof and façade is varied in a manner to reduce the apparent mass of the building.

CC 4. The rear of the building is not proposed to be finished with traditional materials, however, its design and location have been selected to minimize its visual impact from the regional roadway. The rear portion of the structure is set back ten feet behind the front portion and is to be painted with muted non-reflective colors.

CC 5. In accordance with the requirements of Technical Bulletin 95-001, the applicant submitted an initial condition foot-candle plan for pole-mounted and recessed fixtures and an "estimated" initial reading for wall-mount fixtures. The initial condition for the wall-mounted fixtures was "estimated" by the applicant's consultant because the fixture manufacturer of the wall-mounts submitted only maintained foot-candle levels to him. Using this data, the applicant's lighting then adjusted the mounting height of the wall-mount lights to produce estimated "initial" foot-candle levels.

CC 6. A June 17, 2002 letter from the applicant's lighting consultant committed the project to using 70 watt wall mounted fixtures, placed high on the building to reduce foot-candle levels. Recessed fluorescent down lights, configured in conformance with Technical Bulletin standards 2.2 to 2.5, were also proposed under the eaves of the front of the building along Route 6A. Estimated foot-candle levels on the point-to-point plan submitted showed initial levels at 7.2, below the maximum set by the Technical Bulletin.

CC 7. The parking lot pole lights were proposed to be 250-watt metal halide fixtures configured in conformance with Technical Bulletin standards 2.1 to 2.5. Foot-candle levels shown for these fixtures were below 8.0.

CC 8. Lighting plans indicate that lights would be turned off at night except for safety lighting.

CC 9. MPS 6.2.11 prohibits the installation of internally illuminated signs. The letter dated July 16, 2002 and attached "exhibit F" proposes a 12' high pylon sign totaling 45 sf illuminated with gooseneck fixtures, and is consistent with this MPS.

Hazardous Materials/Wastes

HW 1. The site is not located in a Wellhead Protection District/Zone II area and therefore MPS 4.3.1.3 of the 2001 Regional Policy Plan did not apply during the DRI Exemption review.

HW 2. Based on information submitted, the applicant submitted the outline of a plan to make reasonable efforts to minimize hazardous material use and/or waste generation as stipulated by MPS 4.3.1.1. The applicant also showed evidence that other dealerships under his control were in substantial compliance with the Massachusetts Hazardous Waste Regulations and MPS

4.3.1.2, indicating an understanding of hazardous waste management requirements for the new project.

CONCLUSION

The Cape Cod Commission hereby denies Jack Carter, owner of Hyannis Toyota and Orleans Motors, a Development of Regional Impact Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act, c. 716 of the Acts of 1989, as amended for the proposed Orleans Toyota redevelopment project located in Orleans, MA, based on remaining concerns in the issue areas of transportation, wetlands, land use, and community character.

Robert D. Deane
Robert D. Deane, Chair

8/22/02
Date

Commonwealth of Massachusetts

Barnstable, ss.

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

Katharine L. Peters
Notary Public
Commonwealth of Massachusetts

My Commission expires:

