



# CAPE COD COMMISSION

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DATE: November 10, 2004

TO: Attorney Patrick Butler  
Nutter, McClennen and Fish, LLP  
1513 Iyannough Road  
Hyannis, MA 02601

FROM: Cape Cod Commission

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

APPLICANT: Morris Tarkinow  
The Tarkinow Group, Ltd.

PROJECT #: TR20031

PROJECT: BJ's Wholesale Club  
Hadaway Road  
Hyannis, MA

LOT/PLAN: Lots 7 & 8 on Plan recorded with Barnstable County Registry of Deeds in Plan Book 547, Page 1. See also Deed in Book 5041/Page 284.

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## MODIFICATION OF DEVELOPMENT OF REGIONAL IMPACT DECISION

Pursuant to Section 12 of the Cape Cod Commission Act, the April 10, 2003 DRI Decision issued for the BJ's Wholesale Club project is hereby amended as a Minor Modification #2. All findings and conditions attached to the original decision dated April 10, 2003 continue to apply except as modified herein.

The Commission's Regulatory Committee voted on October 18, 2004 to add Finding T13 and modify Conditions T3 and T5 as follows:

**Finding T13. The Route 132 mitigation required under Transportation Condition T3 is included in the Route 132 project currently under design by the Town of Barnstable and programmed in the current Cape Cod Transportation Improvement Program. The Willow Street mitigation required under Transportation Condition T3 is included in the Town of Yarmouth's mitigation project that has been fully designed, advertised for construction, and partially implemented. The remaining locations where the applicant has requested making a cash payment in lieu of in-kind mitigation have been or are expected to be completed by others. For these reasons, modification to Transportation Condition T3 is appropriate. This modification is supported by the Town of Barnstable's Town Engineer and the Town of Yarmouth's Director of the Department of Public Works.**



Condition T3. Before a final Certificate of Compliance is issued for the proposed BJ's Wholesale Club, the applicant shall implement and complete the following transportation safety mitigation:

*Safety improvements within the Town of Barnstable:*

Route 28 and Route 149 – Prepare a functional design report and design plans, including 25%, 75% and 100% plans, specifications, and estimates for the installation of a traffic signal.

Route 28 at Old Stage Road - ~~Optimize the traffic signal timing and prepare a safety report at this signalized intersection. The safety report shall include a detailed crash analysis and recommendations to address safety concerns.~~ **The applicant shall pay \$5,000 (five thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Barnstable. These funds shall be paid by December 10, 2004.**

Route 28 at Phinney's Lane – Optimize the traffic signal timing and prepare a safety report at this signalized intersection. The safety report shall include a detailed crash analysis and recommendations to address safety concerns.

Route 28 at Yarmouth Road - Provide and implement an optimal traffic signal timing and phasing plan for this intersection and make a contribution of \$10,000 to Barnstable County/Cape Cod Commission for the Yarmouth Road By-pass Road design or roadway improvements in the Town of Yarmouth.

Route 132 at the Route 6 Westbound Ramps (Interchange 6) - ~~Provide and implement an optimal traffic signal timing and phasing plan.~~ **The applicant shall pay \$5,000 (five thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Barnstable. These funds shall be paid by December 10, 2004.**

Route 132 at Shoot Flying Hill Road - ~~Design and construct a raised median to restrict left turns. The construction improvements are shown on the Conceptual Improvement Plan Route 132 at Shoot Flying Hill Road dated 8/01/02 by Vanasse Associates, Inc.~~ **The applicant shall pay \$25,000 (twenty-five thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Barnstable. These funds shall be paid by December 10, 2004.**

Route 132 at Phinney's Lane – ~~Design and construct left turn lanes on Route 132 and modify traffic signal as necessary. The construction improvements are shown on the Conceptual Improvement Plan Route 132 at Phinney's Lane dated 8/01/02 by Vanasse Associates, Inc. The conceptual plan shall be revised to show ornamental mast arms or ornamental posts and signal heads on all approaches.~~ **The applicant shall pay \$200,000 (two hundred thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Barnstable. These funds shall be paid by December 10, 2004.**

Route 132 at Independence Drive - Design and construct left-turn lanes with a raised median on Route 132 and modify traffic signal as necessary, as shown on the Conceptual Improvement Plan Route 132 at Independence Drive dated 7/03/01 and revised 7/26/01, 9/13/01 by Vanasse Associates, Inc. If traffic signal mast arm replacement is necessary, ornamental mast arms shall be required.

Route 132 at Route 28 Rotary -

- Complete a concept plan depicting the planned improvements to the rotary including a uniform design for the approach islands to the rotary.

- ~~Prepare and implement a detailed traffic management plan for the rotary, including the installation of pavement markings, signs and the redesigned approach islands.~~
- As a safety offset to the Route 132/Route 28 Rotary, the project applicant has agreed to provide design plans for a raised median on Route 132 from the Airport Rotary to the Cape Cod Mall driveway.
- The improvements listed above are subject to approval by the CCC, the Town of Barnstable, and (if applicable) MassHighway.
- **The applicant shall pay \$19,000 (nineteen thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Barnstable. These funds shall be paid by December 10, 2004.**

*Safety improvements within the Town of Yarmouth:*

Route 28 at East Main Street – Provide a functional design report and design plans, including 25%, 75% and 100% plans, specifications, and estimates for the construction of a roundabout.

Route 28 at West Yarmouth Road – Provide and implement access management plan for the intersection.

~~Route 6 Eastbound Ramps at Union Street – Conduct an evaluation of the existing signs and pavement marking and implement improvements to sign and pavement marking.~~ **The applicant shall pay \$10,000 (ten thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Yarmouth. These funds shall be paid by December 10, 2004.**

~~Willow Street at Higgins Crowell Road – The project applicant has proposed to pave the Willow Street southbound shoulder, improve sight lines and signage at this intersection.~~ **The applicant shall pay \$15,000 (fifteen thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Yarmouth. These funds shall be paid by December 10, 2004.**

~~Route 6 at the Willow Street Ramps (Interchange 7) - Design and install a traffic signal at the Route 6 /Willow Street westbound ramp. The construction improvements are shown on the Conceptual Improvement Plan Willow Street at Route 6 Westbound Ramp dated 8/01/02 by Vanasse Associates, Inc. The concept plan shall be revised to show ornamental mast arms or ornamental posts and signal heads on all approaches.~~ **The applicant shall pay \$175,000 (one hundred seventy-five thousand dollars) to Barnstable County to be used for transportation improvements within the Town of Yarmouth. These funds shall be paid by December 10, 2004.**

Route 6A at Old Church Road/Union Street – The project applicant has proposed to evaluate and implement signage, sight line and driveway reconstruction at this intersection.

*Safety improvements within the Town of Mashpee:*

Pine Tree Corner Rotary – ~~Conduct a feasibility/alternatives study at this intersection.~~ **The applicant shall pay \$7,500 (seven thousand five hundred dollars) to Barnstable County to be used for transportation improvements within the Town of Mashpee. These funds shall be paid by December 10, 2004.**

Route 28 at Quinaquisett Avenue – As a safety offset at the Route 28/Quinaquisett Avenue intersection, the project applicant has agreed to conduct a Functional Design Report and 25 % design plans for the signalization of Route 28 and Asher's Path in Mashpee.

**If any other parties (public or private), prior to BJ's constructing in-kind mitigation at the remaining locations requiring in-kind mitigation, construct traffic improvements or traffic mitigation at any of**

these locations that makes BJ's proposed mitigation unnecessary or impractical, BJ's shall pay an amount equivalent to that proposed mitigation cost at those locations to the County of Barnstable/Cape Cod Commission. Such payments in lieu of in-kind traffic mitigation are necessary to comply with MPS 4.1.1.1 and shall be used to support transportation improvements in the respective towns.

The funds paid to comply with this condition shall be held by the County of Barnstable for use in the respective towns. The funds may be used to improve transportation safety, reduce congestion or advance strategies that reduce future expected traffic generation or reduce dependency on automobile travel. Uses of the funds may include, but are not limited to: (i) planning, engineering and/or construction of transportation improvements, (ii) purchase of vacant developable land for conservation, (iii) purchase of easements and/or transportation rights-of-way, (iv) initiation, operation or marketing of transit services, (v) planning, design and/or construction of bicycle paths or sidewalks, (vi) performance of transportation studies or installation or operation of traffic monitoring devices.

Condition T5. Prior to the issuance of a final Certificate of Compliance for the proposed BJ's Wholesale Club, the applicant shall commit pay \$140,200 for roadway mitigation by December 10, 2004. This mitigation will be held by Barnstable County/Cape Cod Commission and shall be applied to transportation improvements in the Towns of Barnstable, Yarmouth, Mashpee, and Dennis (study area towns impacted by this project), as follows:

Barnstable	\$45,300
Yarmouth	\$73,800
Dennis	\$18,600
Mashpee	\$2,500
<b>Total:</b>	<b>\$140,200</b>

Frank H. Hogan  
Frank H. Hogan, Chair

11/18/04  
Date

Commonwealth of Massachusetts

County of Barnstable

On this 18<sup>th</sup> day of November, 2004, before me, the undersigned notary public, personally appeared Frank Hogan proved to me through satisfactory evidence of identification, which were personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

Dorr Steven Fox  
Notary Public  
Commonwealth of Massachusetts

My Commission Expires: \_\_\_\_\_

