



CAPE COD COMMISSION

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DATE: February 14, 2005

TO: John Kenney
Attorney At Law
12 Center Place
1650 Falmouth Road
Centerville, MA 02632

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.

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 follows below. All findings and conditions attached to the original decision dated April 10, 2003 as further modified continue to apply except as modified herein.

The Commission's Regulatory Committee on February 14, 2005 approved as Minor Modifications #2 to add Condition T6 and Condition HM11, as follows:

T6. In lieu of performing the remaining in-kind work as required in Condition T3 as modified November 10, 2004, the applicant shall, prior to receiving a final Certificate of Compliance:

- a) **Make a payment of \$154,000 to the County of Barnstable as required to comply with the November 10, 2004 modification to the April 10, 2003 DRI decision. These funds may be used for any transportation improvements, including but not limited to planning, monitoring, analysis, design, construction, operation, right-of-way acquisition and marketing for any mode or modes of transportation and shall be apportioned between Barnstable, Yarmouth, Dennis and Mashpee in a manner consistent with that decision.**

BJ's Wholesale Club
Minor Modification #2
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- b) **Make an additional payment of \$96,000 to the County of Barnstable to be used for transportation improvements in the Towns of Yarmouth (\$68,000) and Barnstable (\$28,000). These funds may be used for any transportation improvements, including but not limited to planning, monitoring, analysis, design, construction, operation, right-of-way acquisition and marketing for any mode or modes of transportation.**
- c) **Place \$400,000 in escrow to ensure completion of the Route 132/Independence Drive intersection improvements. The terms of the escrow shall include and be subject to the following:**
 - i) **Shall reference final (100%) design plans ("Route 132 at Independence Drive Final Design Submission") satisfactory to the CCC transportation staff.**
 - ii) **Shall allow for partial escrow releases to the applicant to reimburse for payments to contractors for partial completion of work.**
 - iii) **Shall require that the applicant allow and pay for police officer control or other traffic control such as signage or barriers at the BJ's site drive or other location, at the discretion of the Barnstable Police Chief or other Barnstable traffic safety official, until satisfactory completion of the Route 132/Independence Drive improvements.**
 - iv) **Shall require that the intersection improvements be satisfactorily completed by December 31, 2005. After that date, the escrow funds may be disbursed to the Town of Barnstable to advance any remaining work unless an additional modification to this decision has been approved by the Cape Cod Commission Regulatory Committee.**
 - v) **Shall allow for any remainder in the escrow to be returned to the applicant, upon the completion of the work by the applicant according to the approved plans.**

HM 11. Prior to the issuance of a final Certificate of Compliance, and in accordance with Finding HM13, the Applicant shall provide \$300,000 to the Town of Barnstable for the purchase of the Cash's Autobody property, with the understanding that the town intends to eliminate from this site any use, handling, storage, generation, and disposal of hazardous materials and/or hazardous wastes. In the event that the Town is unable to complete the purchase, the \$300,000 may, by approval of the Regulatory Committee, be applied towards the purchase and removal of an alternative parcel that uses, handles, stores, generates, and/or disposes of hazardous materials and/or hazardous wastes.

The Commission's Regulatory Committee on February 14, 2005 approved a Minor Modification #2 to modify Condition HM4, as follows:

HM4. The project site shall be limited to not more than 3,323 gallons or its dry weight equivalent of hazardous materials on site at any given time, including all items in the store, inclusive of items on the display/sales floor and in stock. The store shall adhere to the inventory identified in "BJ's Club/ Small Box Store Inventory" submitted on February 26, 2003. ~~The proposed~~ **not have a tire center shall be limited to changing tires.** The site shall not generate or dispose of any hazardous wastes as defined by 310 CMR 30.000. **The Commission recognizes that the actual types or nature of the hazardous materials in the store, inclusive of items on the display/sales floor and in stock, will change as BJs changes suppliers. However, as the types or nature of hazardous materials in the store change,**

inclusive of items on the display/sales floor and in stock, BJs shall provide the Commission with a written report describing these changes to facilitate on-going compliance with conditions HM7 and WR4. Commission staff may require that the groundwater monitoring plan required by condition WR4 be modified to account for changes in the types or nature of hazardous materials in the store. If the groundwater monitoring plan required by condition WR4 is modified, BJs shall implement these changes before the next round of groundwater sampling.

Lawrence P. Cole

03/17/05

~~Frank L. Hogan, Chair~~

Date

Lawrence P. Cole, Vice Chair

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

March

February 17, 2005

Lawrence P. Cole

Before me, the undersigned notary public, personally appeared _____, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, or personal knowledge of the undersigned.

Gail P. Hanley
Notary Public

My Commission Expires

October 13, 2011

