

foot addition *"to allow for a new men's locker room, fitness equipment and exercise area."*

Procedural History

On May 29, 2008, the Commission received a letter with attachments from Edward L. Pesce representing Barbara Niggel/Willy's West LLC, requesting a modification to the July 27, 1995 DRI Exemption decision issued to Susan and Chester Hughes for construction of a fitness center in Barnstable, formerly known as the Women's Body Shopp.

The Commission's standing Regulatory Committee considered the modification request at its June 23, 2008 meeting. Ms. Brookshire recused herself from this agenda item and left the room.

Commission staff described the project, and recommended that the Regulatory Committee find the proposed addition to the former Women's Body Shopp in Hyannis was a Major Modification, and that the scope of the review be limited to the area of Transportation.

Mr. Edward Pesce, representing the Applicant, used large site plans to describe the proposed addition. He noted the proposed shared parking and improved drainage structures with the adjacent Zion Union Church. He described the proposed roadway buffers and landscape plantings.

Mr. Brandon Sackett, landscape designer for the Applicant, described the specific plantings to be included landscape plan. He noted the buffers along Attucks Lane would include trees and understory plantings.

Mr. Pesce showed an architectural rendering of the front of the proposed addition. He noted the former Women's Body Shopp had a female-only membership, and that the project was designed to accommodate families and male members, in part by providing new locker and shower areas.

Ms. Buntich said the Growth Management Department staff supported the recommendations in the Commission staff report.

Mr. Hogan asked if the applicant had any comments on the relative traffic impacts of the proposed addition?

Ms. Niggel said the membership might shift slightly with the addition, and the ability to accommodate both female and male members, and family groups. She suggested the typical peak use of the gym would be approximately 50 people, or about 15 people in a class. She said this was based on experience at the Eastham and Orleans facilities.

Mr. Hogan asked if new parking areas were proposed as part of the addition?

Mr. Pesce said yes, and illustrated the proposed new parking areas on the large size site plan. He noted the parking would be shared with the Zion Union Church.

Mr. Zavala asked if there were comments on the record from abutters, particularly the Church?

Mr. Pesce noted he had been the engineer on the Church project, and as such, had been in contact with Reverend Harris of the Church about the shared parking and necessary easements for it, and shared drainage structures.

Ms. Hamman asked if the proposed addition met local zoning?

Mr. Pesce said yes, it did.

Mr. Zavala asked staff to comment on the proposed Stormwater Operations and Maintenance Plan, particularly the inspection and reporting requirements.

Ms. Belfit said the reports would be kept on file at the site. She said what was being agreed to with the Stormwater Operations and Maintenance Plan was consistent with state stormwater management requirements, and the direction of Commission staff recommendations on stormwater management. Ms. Belfit noted the requirements were similar to those incorporated into the recent Atlantis Stop & Shop Development of Regional Impact project.

Mr. Zavala asked if the project would include an employee trip reduction plan?

Mr. Cannon said yes, this would be an important part of the subsequent DRI review, if the Committee endorsed the staff's recommendations. He said the transportation issue concerned the timing of trips relative to the peak and off-peak hours.

Ms. Hamman asked if the notation concerning construction fencing had been included on project plans?

Mr. Pesce said yes. He said a note to this effect had been included on the site plan and grading plan.

Mr. Richardson moved that the Regulatory Committee find that the proposed addition to the Willy's Gym in Barnstable is a Major Modification, with the scope of the Development of Regional Impact limited to the Regional Policy Plan Transportation issue area, and that the Regulatory Committee's decision include findings describing why the scope was limited to this issue area.

Materials Submitted for the Record

Applicant

Cover letter, Ed Pesce, application materials	5/19/08
Cover sheet, Locus map, Aerial map, Letter to Massachusetts Historical Commission with notification form and maps, Abutters list with Assessor's certification, Property deed	
E-mail, Ed Pesce, to A. Adams, draft landscape plan	5/21/08
Copy, fee check	5/22/08
E-mail, Ed Pesce to G. Belfit, Stormwater O & M Plan	5/27/08
Letter, Ed Pesce, application materials, copies	5/29/08
Memo and project narrative, Hardship Exemption Application cover sheet and DRI Application form, Abutters List, Notification to Massachusetts Historical Commission, Fee waiver request and copy of a check for \$2,000.00, Cover letter stamped as received by Barnstable Growth Management Department, Large size interior layout plan: <i>First Floor Plan</i> , New Addition for: Willy's Gym West, 865 Attucks Lane, Hyannis, Designed/Drawn By: Thomas A. Moore Design Company, 158 Route 6A, Orleans, MA, Drawing No. A1, dated 5/27/08, Large size exterior elevations plan: <i>Exterior Elevations</i> , New Addition for: Willy's Gym West, 865 Attucks Lane, Hyannis, Designed/Drawn By: Thomas A. Moore Design Company, 158 Route 6A, Orleans, MA, Drawing No. A2, dated 5/27/08	
- Large size plan set, sheets 1 – 6, Title Sheet, Sheet 1 of 6, dated 1/3/08, <i>Proposed Willy's Gym Addition</i> , 865 Attucks Lane, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
- Sheet 2: <i>Existing Conditions Plan</i> , dated 1/3/08, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
- Sheet 3: <i>Layout and Parking Plan</i> , dated 1/3/08, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
- Sheet 4: <i>Grading and Drainage Plan</i> , dated 1/3/08, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
- Sheet 5: <i>Lighting Plan</i> , dated 1/3/08, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
- Sheet 6: <i>Engineering Details</i> , dated 1/3/08, latest revision 5/29/08, stamped and signed Edward L. Pesce, Civil # 32001	
E-mail, Ed Pesce to A. Adams, confirm date of Regulatory Committee meeting on June 23, 2008	6/2/08
E-mail, Ed Pesce to P. Dascombe, landscaping and architecture	6/2/08
E-mail, Ed Pesce to A. Adams, meeting on project	6/3/08
E-mail, Ed Pesce to Steve Seymour, Town of Barnstable, drainage basin	6/3/08
E-mail, Ed Pesce to Steve Seymour, Town of Barnstable, discussion of revisions to drainage basin design	6/5/08
Letter, Ed Pesce, copies of revised plans and other materials	6/12/08
- Revised site plan set, revised stormwater calculations, letter stamped as received by Barnstable Growth Management Department, revised stormwater operations and maintenance plan, copy of form to Massachusetts Historical Commission stamped by Jonathan K. Patton, Archeologist, Plan set	
- Title Sheet, Sheet 1 of 7, dated 1/3/08, <i>Proposed Willy's Gym Addition</i> , 865 Attucks Lane, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001	

- Sheet 2: *Existing Conditions Plan*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001

- Sheet 3: *Layout and Parking Plan*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001

- Sheet 4: *Grading and Drainage Plan*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001

- Sheet 5: *Lighting Plan*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001

- Sheet 6: *Engineering Details*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001

- Sheet 7: *Landscape Plan*, Seraphic Land Design, Brandon Sackett, BLA, dated 6/11/08

Letter, Ed Pesce, revised landscape plan, 11X17 inch, large size 6/16/08

- *Landscape Plan for Willy's Gym, Hyannis*, Seraphic Land Design, Brandon Sackett, BLA, dated 6/11/08, latest revision 6/15/08, drawing 7 of 7

Aerial Photos, (4), show project locus relative to Fresh Hole Pond and areas of estimated/priority habitat per Massachusetts Natural Heritage and Endangered Species Program Undated

Cape Cod Commission

Copy, Development of Regional Impact Exemption Decision	7/27/95
E-mail, G. Cannon to A. Adams, revised layout plan	3/5/08
E-mail, A. Adams to G. Belfit, project comments	5/29/08
E-mail, A. Adams to Commission staff, project comments	5/30/08
E-mail, A. Adams to Commission staff, project comments	6/3/08
E-mail, P. Dascombe to A. Adams, drainage basin	6/3/08
E-mail, A. Adams to Ed Pesce, Town's comments, drainage basin	6/3/08
E-mail, A. Adams to Ed Pesce, meeting to discuss project	6/3/08
E-mail, A. Adams to Ed Pesce, meeting to discuss project	6/4/08
E-mail, A. Adams to S. Seymour, meeting to discuss project	6/4/08
E-mail, A. Adams to S. Seymour, meeting to discuss project	6/4/08
E-mail, A. Adams to Ed Pesce, Town staff, Commission staff, meeting to discuss project	6/4/08
E-mail, S. Rooney to B. Sackett, landscape maintenance contract	6/9/08
E-mail, G. Belfit to Ed Pesce, stormwater management plan	6/10/08
Fax cover sheet and attachments, A. Adams to Ed Pesce, comments on landscape plan	6/13/08
E-mail, S. Rooney to B. Sackett, Ed Pesce, J.M. Buntich, comments on revised landscape plan	6/16/08
E-mail, S. Rooney to Ed Pesce and A. Adams, landscape maintenance agreement	6/16/08
E-mail, A. Adams to Ed Pesce, status of draft staff report	6/16/08
Staff report	6/16/08
E-mail, A. Adams to Commission staff, copy of staff report and agenda for Regulatory Committee meeting	6/17/08
E-mail, A. Adams to Ed Pesce, Town of Barnstable Growth Management Department staff, copy of staff report and agenda for Regulatory Committee	6/17/08

Copy, specification sheets, Galleria light fixtures (pole mount) Undated

Town of Barnstable or State

E-mail, Steve Seymour, Town of Barnstable, to A. Adams, P. Dascombe, and J.M. Buntich, comments on site plans and drainage basin 6/3/08

E-mail, Steve Seymour, Town of Barnstable, to A. Adams, meeting 6/4/08

Massachusetts Historical Commission Form, stamped "no significant impact," and signed by Jonathan K. Patton, Archeologist 6/5/08

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

Jurisdiction

In 1995, the Commission granted a DRI Exemption to Susan and Chester Hughes for construction of the 12,976 square foot Women's Body Shopp. Section 12(a)(i) of the Commission's *Enabling Regulations* (revised March 2005) provides that an applicant "who has obtained a favorable decision from the Commission, or a successor in interest to a favorable and transferable Commission decision, may apply for a decision modification." Barbara Niggel/Willy's West LLC now owns this building.

Section 12(c)(iii) of the *Enabling Regulations* describes a Major Modification as "a similar proposal to the original project but involves a major Change of Use or changes to the site plan, findings, or conditions of the original approval, any of which would result in different or increased impacts to the resources protected by the Act and/or RPP."

Section 12(c)(iii) also stipulates in part that if the Regulatory Committee determines that a modification request is a Major Modification, then "Major Modifications may be limited to those subject areas where different or increased impacts have been identified" and that "[t]he Regulatory Committee shall specify the scope of the DRI review in its decision.

Findings

General

GF1. As the Regulatory Committee meeting on the Major Modification request was held on June 23, 2008, the project was reviewed for consistency with the 2002 (revised) Regional Policy Plan (RPP).

Transportation

TF1. Willy's Gym currently has a single full access driveway on Attucks Lane. Attucks Lane is a regional road as defined in the 2002 RPP.

TF2. Commission transportation staff calculated the expected trip generation of this project based on information contained in the *Institute of Transportation Engineers Trip*

Generation manual 7th Edition. As shown in Table 1, the net increase in vehicle trips from the existing use is significant during the afternoon peak hour.

Table 1 – Trip Generation Estimates for the proposed 9,842 SF Addition

Time Period	Vehicle Trips
Average Daily Traffic	324
Morning Peak Hour	14
Afternoon Peak Hour	40

Based on ITE Trip generation manual, 7th Edition.

TF3. To address anticipated transportation impacts, the following issues will be relevant in the upcoming DRI review:

- An employee trip reduction plan
- Complete the DRI transportation safety requirements
- Ensure safe pedestrian and bicycle access
- Confirm that vehicle interconnects will be available between adjacent parcels
- Maintaining a single driveway on Attucks Lane

TF4. Based on these findings, the Regulatory Committee has determined that there will be increased impacts in the area of Transportation Resources.

Natural Resources

NRF1. The rear part of the project site is mapped for rare species habitat. Parts of the site proposed for the expansion include parking areas, previously disturbed areas, or areas adjacent to the road and the neighboring, developed property. The estimated habitat mapping appears to correspond with a buffer to Fresh Hole Pond at the rear of the site, and is located well outside of the proposed work area. Consequently, filing with the Natural Heritage and Endangered Species Program is not required. In addition, revegetation of the site and infiltration basin may provide some habitat improvements as well as landscaping.

NRF2. Revised plans received on June 12, 2008, including the *Layout and Parking Plan*, Sheet 3 of 7, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001, includes a note to install construction fencing outside of the estimated habitat area to prevent encroachment into the buffer to Fresh Hole Pond.

NRF3. Based on these findings, the Regulatory Committee concludes that natural resources impacts from the proposed expansion will not result in different or increased impacts to the resources protected by the Act or RPP in the area of Natural Resources, and has determined that Natural Resources issues do not need to be included in further project review.

Water Resources

WRF1. The proposed project is located within a Wellhead Protection Area, a zone of contribution to surface water ponds (Fresh Hole Pond), and the Marine Embayment to Lewis Bay.

WRF2. Wastewater flow is not be part of the review since the project will be served by the existing municipal sewage connection.

WRF3. The stormwater system will be substantially upgraded as compared to the existing conditions. The project includes new stormwater best management practices to improve stormwater management on the parcel, including vegetated swales, a gravel filter strip, and a vegetated infiltration basin. All of the stormwater will be discharged onsite, and as such is in conformance with the requirements of the Town of Barnstable.

WRF4. The revised *Stormwater Operations and Maintenance Plan* received by the Commission on June 12, 2008, includes several key endorsements by the project owner and an engineer, in order to assure that the new system functions as designed and is properly maintained. These include provisions for inspections, that the owner will authorize funds for system upkeep and repairs, and that inspection, maintenance and repairs record will be kept on file at the project site.

WRF5. Based on these findings, the Regulatory Committee has determined that stormwater impacts from the proposed expansion will not result in different or increased impacts to the resources protected by the Act or RPP in the area of Water Resources, and has determined that Water Resources issues do not need to be included in further project review.

Hazardous Materials/Wastes

HMWF1. According to maps developed as part of the 1991 RPP, the project site is located in a Wellhead Protection District (WHPD). Minimum Performance Standard (MPS) 4.2.2.3 of the 1991 RPP first established the prohibition on the use, treatment, generation, storage or disposal of hazardous materials and hazardous waste in excess of household quantities in WHPDs.

HMWF2. MPS 4.3.1.3 of the 2002 (revised) RPP contains the same prohibitions regarding hazardous materials and hazardous wastes in Wellhead Protection Areas. Also, the project site is still overlaid by several Wellhead Protection Areas according to maps for the current RPP. (*Wellhead Protection Districts and Wellhead Protection Areas are essentially the same in terms of RPP standards.*) The RPP definition of a "household quantity" of hazardous materials is now 25 gallons. Also, Commission currently allows development or redevelopment projects a credit for the amount of hazardous materials or hazardous waste that exists on a site at the time of review.

HMWF3. The site plans indicate the fitness center uses and will continue to use natural gas for building heating. In addition, the Applicant provided an inventory of hazardous materials currently used at Willy's Gym. Not all of these items are "hazardous materials" according to the 2002 RPP definition. This includes the latex paint and hand soap. More of the inventory could have been excluded if additional information, such as a Material Safety Data Sheet, had been provided.

HMWF4. Based on the information provided, and the RPP definitions, Willy's Gym currently uses approximately 17 gallons and 70 pounds of hazardous materials. The proposed addition will add new facilities for male gym members, which may require an adjustment in the amount of chemicals, including chlorine and pool shock. However, based on the size of the existing pool, and the relative size, type and number of the new facilities that may involve hazardous materials (*i.e.* whirlpool, lockers), the Regulatory Committee has determined that the adjustment in chemical use will be insignificant.

HMWF5. Based on these findings, the Regulatory Committee has determined that hazardous materials or wastes does not need to be part of further DRI review, because the proposed project will not result in different or increased impacts in the area of Hazardous Materials or Wastes.

Community Character

CCF1. The proposed addition to Willy's Gym is located in Independence Park and adjacent to the Barnstable Municipal Airport. The site is surrounded by other light industrial uses and the Zion Union Church immediately to the north.

CCF2. The Applicant proposes to construct the addition with clapboard siding and a standing seam metal roof as shown on the *Exterior Elevations* plan, New Addition for: Willy's Gym West, 865 Attucks Lane, Hyannis, Designed/Drawn By: Thomas A. Moore Design Company, 158 Route 6A, Orleans, MA, Drawing No. A2, dated 5/27/08. This *Exterior Elevations* plan indicates the building will incorporate gable roof elements, but no variation in building footprint. The location of the existing building and site constraints limit options to reduce the apparent mass of the building. MPS 6.2.6 of the 2002 (revised) RPP states that in industrial parks or areas not visible from scenic or regional roadways or other distinctive areas, use of nontraditional forms and materials may be appropriate. In such areas, maintenance of adequate buffers on the subject property is required to reduce the project's visibility.

CCF3. The Applicant has proposed a landscape plan (*Landscape Plan for Willy's Gym, Hyannis*, Seraphic Land Design, Brandon Sackett, BLA, dated 6/11/08, latest revision 6/15/08, drawing 7 of 7, received by the Commission 6/16/08) that provides maximum screening of the addition from Attucks Lane within the limited area available for landscaping.

CCF4. The Regulatory Committee finds that the proposed landscape plan referenced in Finding CCF3 will provide adequate buffering of the project from the roadway. The

Regulatory Committee has also determined that if landscaping is installed as proposed on the Landscape Plan noted in CCF3, along with landscape maintenance agreement for three (3) full growing seasons, then the project does not need to be reviewed as a DRI for community character.

Exterior Lighting

EXLF1. The existing fitness club was reviewed as a DRI Exemption according to the 1991 RPP. Exterior lighting was dealt with by MPS 7.2.5 that stated, “[u]necessarily bright lighting of a building or grounds shall not be permitted.” Other Development Review Policy 7.2.18 also noted in part “[a]ll exterior lighting should be part of the architectural and landscape design concept.” The Commission’s Exterior Lighting Technical Bulletin 95-001, which established more rigorous shielding, cutoff and foot-candle standards, was not enacted until October 1995.

EXLF2. MPS 6.2.10 of the 2002 (revised) RPP requires that “[e]xterior lighting in new development or redevelopment shall comply with...the Exterior Lighting Design Standards, Technical Bulletin 95-001.” Exterior lighting for the proposed addition consists of 2 new square pole lights and 7 new wall mounts similar to those already on the site. In addition, 7 existing pole lights will be relocated and reused.

EXLF3. Based on specifications downloaded from the fixture manufacturer’s website, and incorporated into Sheet 5: *Lighting Plan*, dated 1/3/08, latest revision 6/11/08, stamped and signed Edward L. Pesce, Civil # 32001, received by the Commission on 6/12/08, the proposed lights are consistent with standards 2.1 to 2.5 of Technical Bulletin 95-001. Based on foot-candle diagrams provided by the manufacturer, the new lights will not exceed the 8.0 foot-candle maximum set by Technical Bulletin standard 2.6.

EXLF4. Based on these findings, the Regulatory Committee has determined that it is not necessary to include exterior lighting in the DRI review because taking into account the proposed exterior lighting design, the project will not result in different or increased impacts to the resources protected by the Act or RPP in the area of exterior lighting.

Conclusion

Based on the findings above, the Regulatory Committee concludes that the 9,842 square foot addition to the former Women’s Body Shopp project, now Willy’s Gym, located at 865 Attucks Lane in Hyannis, MA is a Major Modification according to Section 12 of the *Enabling Regulations* (as amended March 2005), and that the scope of the Development of Regional Impact review is limited to transportation issues.

SEE NEXT PAGE FOR SIGNATURE

COMMONWEALTH OF MASSACHUSETTS

Frank Hogan

Frank Hogan, Chair Regulatory Committee, Cape Cod Commission
Barnstable, ss 7/7/08, 2008

Before me, the undersigned notary public, personally appeared

Frank Hogan, Chair Regulatory Committee

Frank Hogan in his/her capacity as Chairman of the
Commission's Regulatory Committee, 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 personal knowledge of the
undersigned.

Gail P. Hanley
Notary Public

My Commission Expires:
10/13/11