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CAPE COD
COMMISSION

Date: December 15, 2011

To: Christopher von Alt, President
Hydroid, Inc.
6 Benjamin Nye Circle
Pocasset, MA 02559

From: Cape Cod Commission

Re: Development of Regional Impact (DRI) Project of Community Benefit
Hardship Exemption
Cape Cod Commission Act, Sections 12, 13 and 23

Applicant: Hydroid, Inc.

Project: Hydroid, Inc.

Location: Henry Drive, Pocasset, MA

Project #: HDEX/EX11018

Book/Page: 9430/214

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions, the application of Hydroid, Inc., (the Applicant) as a Development of Regional Impact (DRI) Project of Community Benefit (POCB) Hardship Exemption pursuant to Sections 12, 13 and 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed combination of lots and a proposed 30,000 square foot commercial development with future expansion to 40,000 square feet, located at Henry Drive in Bourne, MA. This decision is rendered pursuant to a unanimous vote of the Commission on December 15, 2011.

PROJECT DESCRIPTION

The project property is located at Henry Drive in Bourne, MA. The Applicant is proposing to combine three existing parcels (Lots 3, 4 and 5) off Henry Drive and shorten Henry Drive in such a way as to create a single 5.24-acre parcel of land. The Applicant proposes construction of a 30,000 square foot commercial building with possible expansion to 40,000 square feet, on-

site sewage disposal system, driveway, 120 parking spaces with expansion to 150, loading zone, wash pad, and all associated clearing, grading, drainage, utilities and landscaping on the new parcel.

PROCEDURAL HISTORY

The Commission received a DRI Exemption application and a DRI Hardship Exemption application on October 31, 2011. The DRI Exemption application was withdrawn by the Applicant on November 22, 2011. The Hardship Exemption application was deemed substantively complete to proceed to a public hearing on November 22, 2011.

In accordance with the Cape Cod Commission Act, the hearing period was opened with a duly noticed public hearing held on November 22, 2011 at the Jonathan Bourne Public Library in Bourne, MA. At this hearing the subcommittee voted to continue the public hearing to a meeting of the Cape Cod Commission on December 15, 2011.

A subcommittee meeting was held immediately following the public hearing on November 22, 2011 where the subcommittee deliberated on the project and voted unanimously to direct staff to draft an approval, with conditions, Project of Community Benefit Hardship Exemption decision. A second subcommittee meeting was held on December 6, 2011 where the subcommittee reviewed the draft decision and voted unanimously to forward the draft decision to the full Commission for consideration at the December 15, 2011 meeting.

A final public hearing was held before the full Cape Cod Commission on December 15, 2011. At the close of this hearing, the Commission voted unanimously to approve the project as a Project of Community Benefit Hardship Exemption, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

In addition to the list of materials submitted for the record (see Table 1 below), the application and notices of public hearing relative thereto, the minutes of public meetings and hearings, and all other written submissions received in the course of the proceedings are hereby incorporated into the record by reference.

TABLE 1: Materials Submitted for the Record

Materials from Cape Cod Commission	***Date Sent***
Email from Tabitha Harkin to Joseph Novakowski re: Commission staff contacts	10/26/2011
Email from Kristy Senatori to JN and Mike McGrath re: hearing dates	10/31/2011
Email from KS to MM re: application materials and hearing date	10/31/2011
Email from KS to MM re: application materials	11/1/2011
Email from KS to MM re: application materials	11/2/2011
Email from KS to JN re: wage information	11/2/2011
Hearing Notice for November 22, 2011 public hearing	11/3/2011
Meeting Notice for November 22, 2011 Subcommittee meeting	11/3/2011
Letter from Gail Hanley to Applicant re: hearing notice billings	11/3/2011
Email from KS to Coreen Moore re: development's consistency with Town's LCP, municipal development bylaws and DCPC.	11/3/2011
Email from KS to Christopher von Alt and MM re: lawns, local vendors and trip reduction plan	11/18/2011
Email from KS to CM re: Town compliance letter	11/20/2011

Letter from KS to CVA deeming application complete	11/22/2011
Email from KS to MM re: exhibits used at public hearing	11/28/2011
Email from Jessica Rempel to subcommittee re: meeting	11/28/2011
Email from GH to	11/30/2011
Meeting Notice for December 6, 2011 Subcommittee meeting	11/30/2011
Hearing Notice for December 15, 2011 public hearing	11/30/2011
Email from JR to MM re: site plan	12/1/2011
Email from JR to subcommittee with draft minutes, PWHA letter, BFDC letter, and exhibit scans attached	12/1/2011
Email from KS to subcommittee with draft decision, previous use letter and landscape plans attached	12/5/2011
Email from KS to CM with draft decision attached	12/5/2011
Email from KS to CVA re: Commission meeting presentation and preliminary certificate of compliance	12/7/2011
Materials from Applicant	***Date Received***
Full-size site plans (dated Oct. 13, 2011 and Oct. 20, 2011) handed to Commission staff at site visit	10/20/2011
Copy of materials submitted by Holmes and Mcgrath, Inc. to the Applicant re: proposed building for Hydroid, Inc., in Bourne, MA	10/26/2011
DRI application materials including cover sheet, abutters list, plans, attachments, and CD of application materials	10/31/2011
Email from JN to KS re: hearing date	10/31/2011
Email from MM to KS re: hearing date	10/31/2011
Email from MM to KS re: application materials	10/31/2011
Email from JN to KS re: application fee	11/1/2011
Email from MM to KS with project narrative attached	11/2/2011
Email from JN to KS re: wage information	11/2/2011
Check for filing fee	11/2/2011
Email from Jeffrey Johnson to KS with MHC response attached	11/3/2011
Email from Greg Siroonian to KS with attached exterior building elevations, SEDI, Leed Checklist	11/3/2011
Email from MM to KS re: private wells with attached map	11/9/2011
Email from MM to KS re: recycling	11/9/2011
Email from CVA to KS re: trip reduction plan and lawns, with attachments re: Hazardous materials, Town Resolution	11/18/2011
Email from MM to KS re: exhibits used at public hearing	11/23/2011
Email from Joel Kubik to KS with exhibits attached	11/28/2011
Email from GS to KS with landscape plans attached	12/1/2011
Email from CVA to KS with previous use letter attached	12/2/2011
Email from JK to JR with reduced size plan attached	12/5/2011
Email from CVA to KS re: Commission meeting presentation and preliminary certificate of compliance	12/7/2011
Email from CVA to KS with Cape Cod Community College letter attached	12/14/2011
Materials from Public Agencies/Towns/State/Federal	***Date Received***
MHC determination letter	11/3/2011
Email from CM to KS with Board of Selectman resolution attached	11/15/2011
Letter from Andrew Campbell, Superintendent Bourne Water District to	11/18/2011

KS re: potential well sites	
Letter from CM to KS re: project compliance with zoning bylaws, LCP and DCPC	11/22/2011
Materials from Members of the Public	***Date Received***
Petition from Pocasset Woods Homeowners' Association, Inc. (PWHA)	11/17/2011
Letter from the Bourne Financial Development Corporation	11/22/2011
Letter from the President of the PWHA	11/22/2011
Letter from the President of the PWHA with petitioners signatures and email attached	11/22/2011

TESTIMONY

November 22, 2011 Public Hearing

Richard Roy opened the public hearing on November 22, 2011 at 5:40 PM. He read the hearing notice and noted that the purpose of the hearing was to consider the DRI Hardship Exemption application of Hydroid, Inc., and to take public testimony on the project. Mr. Roy noted that there was a sign-in sheet for anyone wishing to testify and asked that anyone speaking on the project to state their name for the record. He proceeded to collectively swear in everyone who wished to testify.

Mr. Roy asked town officials present who wished to speak on the project but had another appointment to attend to give their testimony.

Donald Pickard, Chair of the Bourne Board of Selectmen, referred to a resolution the Board had signed and was on the record. He said that it was important to the town for Hydroid to be allowed to expand at the proposed location. He noted that Hydroid employs over 70 people and with the expansion expects to double the number employed. He noted that Hydroid provides high-tech jobs that are well-paid and that subcontractors to Hydroid are located in the Bourne area. He said that if Hydroid was forced to move out of the area there would be a negative impact on the community. He said he hoped the Committee would vote favorably on the project and thanked the Subcommittee for their time.

Mr. Roy asked if there were other town officials who wished to speak but needed to leave. Hearing none, he asked Commission staff to present the staff report.

Attorney Kristy Senatori presented the staff report. She gave a description of the proposed project, noting that the project site is undeveloped land with cleared portions, the project proposes to combine three existing parcels to create a single 5.24-acre parcel and that the project proposes to construct up to a 40,000 s.f. building with an on-site sewage disposal system, up to 150 parking spaces, loading zone, wash pad, associated clearing, grading, drainage, utilities and landscaping. She noted that the project site is a Significant Natural Resources Area (SNRA), Potential Public Water Supply Area (PPWSA) and Wellhead Protection Area (WPA).

Attorney Senatori stated that the project was subject to Commission jurisdiction pursuant to the Commission's Enabling Regulations, Section 3(e)(i): "New construction of any building...with a Gross Floor Area greater than 10,000 square feet." She noted that Hydroid applied for DRI Exemption and Hardship Exemption, the applications were received on October 31, 2011 and the DRI Exemption application was withdrawn on November 22, 2011. She stated that the Commission may grant a Hardship Exemption where it specifically finds that a literal enforcement of the provisions of the Act would involve substantial hardship, financial or

otherwise, and desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. She further stated that the Commission can also consider whether the proposed development is a Project of Community Benefit (POCB) defined as "a project determined by the Commission to confer upon or result in distinct benefits to the community and citizens of Barnstable County" and the extent to which compliance with the Minimum Performance Standards (MPS) would constitute a hardship by diminishing the community benefits to be conferred. She stated that when deciding whether to approve the project, the Commission shall consider whether the probable benefit from proposed development is greater than the probable detriment and whether it is consistent with the Regional Policy Plan (RPP), Local Comprehensive Plan (LCP), municipal development bylaws and applicable Districts of Critical Planning Concern (DCPC).

Attorney Senatori proceeded to present staff analysis in the key applicable RPP issue areas and noted that additional details can be found in the Commission staff report. She said that in the issue area of Economic Development, MPS ED1.3, the project is required to meet waiver criteria and that staff suggests the project meets the 4 criteria of green design, emerging industry cluster, distributed energy generation and municipal endorsement. She noted that the Applicant submitted a Leadership in Energy and Environmental Design (LEED) checklist that indicates the project will obtain LEED new construction certification, Hydroid is a marine sciences enterprise manufacturing autonomous underwater vehicles with an average salary of $80,100 and expected to increase to $92,900, Hydroid is proposing roof mounted solar panels "with the goal of providing 25% of the electrical energy required on site," and that the total amount of photovoltaic (PV) needed to provide 25% on-site energy generation is 65 KW and the Commission received a Town of Bourne Board of Selectmen Resolution dated November 1, 2011 that states, "The Board of Selectmen hereby support and approve the location of Hydroid Corporation to construct a facility outside of the designated Economic Center, Industrial and Service Trade area or Village, as outlined in the Regional Land Use Vision Map, is strongly endorsed by the Board of Selectmen for the Town of Bourne. The Selectmen find the Hydroid expansion meets the requirements and intent of the Local Comprehensive plan...and is of great necessity to the economic well-being of the Bourne Community." Attorney Senatori went on to note that staff suggests Hydroid meets two of the Best Development Practices (BDP) within the Economic Development section of the RPP and that staff recommends the Commission consider probable benefits of the proposed development including Quality Employment Opportunities (ED2.2) as the application states that the average wage of the 79 employees currently working for Hydroid is $80,100 and with employment expected to grow to 150 employees, the expected average wage by 2016 is $92,900 and Regional Export Growth (ED3.4) as Hydroid manufactures autonomous underwater vehicles used around the world and is therefore an export company.

Attorney Senatori stated that the project site is in a Zone II/WPA and a PPWSA but that the Bourne Water District Superintendent stated in a letter that the "Bourne Water District has no intention at this time or in the near future of exploring for potential well sites...down gradient of the proposed building" and therefore staff suggests MPS' for PPWSA are not applicable.

Attorney Senatori noted that MPS WR2.2 and WM1.1 restricts development to a Household Quantity of Hazardous Material/Wastes. She read the RPP definition of "Household Quantity". She noted that the Commission received an inventory list of materials used and generated at the Hydroid facility and that the list contains approximately 150 gallons of materials ranging from ordinary household cleaners in small containers to solvents and oils in larger unit volumes (e.g., hydraulic fluid up to 50 gallons). She said that staff estimates that approximately 130 gallons of the materials would be of primary concern to drinking water if released to the environment. She

said that the Applicant seeks to use and/or store up to 300 gallons of Hazardous Materials. She noted that the RPP allows up to 275 gallons of oil for heating of a structure or to supply an emergency generator, and 25 gallons of other hazardous materials on site at any time. She also noted that the proposed project will use natural gas to heat the proposed structure. Attorney Senatori noted that the Bourne Water District in its letter releasing the potential public water supply designation, stated that the "Bourne Water District monitors all commercial properties within its zone 2's by conducting regular inspections both internal and external for possible hazardous conditions that may threaten [District] wells." She further noted that the state's drinking water regulations require water suppliers to submit an annual report to MA Department of Environmental Protection (MADEP) "that identifies the presence of new land uses...that could adversely impact water quality" and that the supplier is also required to "notify the local board of health...of any violation...that may adversely affect its water supply." Attorney Senatori stated that staff suggests that the Commission should consider the project's cooperation with and participation in the District inspections when considering the Hardship Exemption request and that staff suggests that any potential project approval be conditioned to ensure that concerns identified by the Bourne Water District are addressed by the Applicant, that the requirements of MPS WR2.2 and WM1.1 are met to the maximum extent feasible, and that a Spill Prevention, Control and Countermeasures Plan (SPCCP) is implemented. She noted that Hydroid states it is a Very Small Quantity Generator (VSQG) of Hazardous Waste now and will remain a VSQG once the new facility is in operation and that staff suggests any approval require that the Applicant register with DEP as a VSQG, provide a plan to manage the waste, and have a signed contract with a licensed company to dispose of the waste.

Attorney Senatori noted that the application proposes Title 5 sanitary wastewater flows of 2,250 gallons per day based on the maximum proposed 150 employees and that the nitrogen loading calculation provided by the Applicant suggests that the project could meet the 5 ppm-N nitrogen loading standard (MPS WR2.1) if the amount of lawn does not exceed 20,000 square feet. She went on to note that the application indicates that the project will need to develop a Stormwater Pollution Prevention Plan (SWPPP) and that staff suggests this could be included as a condition of project approval. She further noted that the project includes an equipment wash pad with a mechanical diversion for runoff designed to treat and recycle washwater and that staff suggests that as a condition of any potential project approval, the Applicant should provide controls to arrest any potential spill of hazardous material/waste at the project's loading area.

Attorney Senatori noted that the project site is a SNRA due to WPA designation, it is not mapped as rare species habitat, that due to extent of disturbance on site a Natural Resource Inventory (NRI) was not warranted and that staff suggests any approval require an invasive species management plan and revegetation plan. She noted that the area of new development is 1.8 acres and that the open space requirement is twice the new development area or 3.6 acres. She went on to note that the Applicant proposes a 0.63 acre undisturbed buffer on the westerly boundary providing a 50 foot buffer to existing development and the town forest located to the northwest consistent with OS1.2 and OS1.6. She said that staff suggests that the Commission could consider granting hardship relief by reducing the open space requirement to 0.63 acres and not require permanent protection of this buffer.

Attorney Senatori noted that the Applicant offered an employee trip reduction plan to limit new vehicle trips in and out of site over what is expected for the land use. She stated that MPS TR3.6 requires the calculation of a "fair-share" mitigation amount to offset the amount of new peak hour traffic generated by the project and that staff calculated the "fair-share" mitigation to offset the project in the amount of $99,786. She stated that Commission staff reviewed the project for all aspects of safety and suggests it complies with MPS TR1.1 as there will be no degradation in

public safety, MPS TR1.4 as the proposed site driveway will be built in conformance with Commission access management guidelines, MPS TR1.6 as there will be no sight distance obstructions and MPS TR1.8 as there will be safe stopping sight distance. She said that based on the limited number of new vehicle trips estimated for this project, staff suggests that the Commission can grant hardship relief from the requirements of the traffic study and level of service analysis and that relief from the congestion mitigation requirement can be granted without nullifying or substantially derogating from the intent or purpose of the Act.

Attorney Senatori noted that the Applicant wishes to pursue the 25% on-site renewable energy waiver (MPS E1.6) and has submitted a Statement of Energy Design Intent (SEDI) that details the overall project goal of designing a building that is 28% more energy efficient than an average facility of its size and use. She went on to note that based on the SEDI, staff has projected that the Applicant could meet MPS E1.6 with a 65 KW PV system and that staff commends the Applicant for considering this waiver to meet the Energy goals of the RPP. She further noted that the Applicant proposes to design the building to become LEED certified. She said that if the Applicant chooses not to pursue the 25% on-site renewable energy waiver, evidence provided through the project narrative, the SEDI, and the LEED checklist demonstrating 42 credits (out of a minimum 40) has been provided to date to indicate the proposed project is consistent with MPS E1.2 (ENERGY STAR), MPS E1.3 (ANSI/LEED for Building Envelope) and MPS E1.5 (On-site Renewable Energy, LEED compliance option) and that staff recommends that approval of the proposed project be conditioned to ensure compliance with the applicable MPS' for Energy.

Attorney Senatori stated that as a non-residential project, only the MPS' under AH Goal 3 apply. She noted that Hydroid provides an average annual salary for its 76 employees of $80,100, which is more than double the 2010 Cape average wage of $39,156, that the most current (May 2010) wage data for NAICS code 3345 has an average wage nationally for this set of businesses of $68,280 and that Hydroid's average salary is about 17% higher than the national average for its NAICS code. She reiterated that the expected average wage by 2016 is $92,900. She said that staff suggests the proposed development is consistent with affordable housing goals.

Attorney Senatori stated that the proposed project is located outside of any historic districts and there are no historic structures or cultural landscapes on the site. She noted that the Massachusetts Historical Commission determined that the proposed project was unlikely to affect significant historic or archaeological resources and therefore, the project is consistent with the Heritage Preservation section of the RPP. She noted that the location of the development in an industrial park accessed via McArthur Boulevard in Bourne is not a designated scenic area or visually sensitive and therefore, the project is consistent with MPS HPCC2.3 and is unlikely to have any significant impact on the region's community character. She said that the project is also consistent with the Commission's design guidelines for this type of use as it uses existing topography to screen development and the industrial building is designed in context with its surroundings. She said that staff recommends that the project is consistent with Commission standards as adequate buffers to the development will be maintained to Route 28, a regional roadway, and is unlikely to have any significant impact on the region's community character. She said that staff suggests that the proposed site is adequately buffered from Route 28 by existing development. She also said that given that the site is located in an industrial area and is not visible from regional roadways, staff suggests that the project also complies with applicable landscaping standards. She also noted that the two-story mass of the structure is also consistent with BDP HPCC2.19 recommending multi-story buildings reduce the development footprint and that staff suggests the Commission can consider this a probable benefit of the proposed development.

Attorney Senatori stated that the Applicant is seeking relief in the RPP issue areas of open space, transportation, water resources/waste management and that the Commission shall consider whether the proposed development is a POCB, the extent to which full compliance with the MPS' would constitute a hardship by diminishing the community benefits to be conferred, the minimum extent of relief needed to address the hardship, and whether any relief granted would nullify or substantially derogate from the intent and purposes of the Act or result in a substantial detriment to the public good. She noted that the Town of Bourne Board of Selectmen stated that the expansion of Hydroid is consistent with the LCP. She also stated that the proposed development is not located within a designated DCPC. She also noted that staff received a letter from Coreen Moore, Bourne Town Planner, stating that upon approval of a special permit, the proposed development is consistent with municipal development bylaws. She said that staff suggests that with appropriate relief granted, the proposed development can be found to be consistent with the RPP and that staff suggests the Commission can consider the BDPs outlined earlier as probable project benefits in its determination of whether the probable benefit from the proposed development is greater than the probable detriment. She concluded stating that staff recommends that the Commission can consider the proposed Hydroid development as a POCB, grant the requested hardship relief, and approve the project with conditions.

Mr. Roy asked the Applicant for a presentation.

Mike McGrath, project engineer, introduced Chris von Alt and asked him to first present first on what Hydroid does.

Mr. von Alt thanked everyone and described Hydroid's business. He stated that the company makes underwater autonomous vehicles that go to the depths of the ocean and map the ocean floor. He referred to different vehicles the company makes and said that the one that is developed here, the Remus 100, does near shore mapping. He said it is shipped and used all over the world and estimated there are 200 of these systems in use in 13 different countries. He noted their vehicles were used in the hunt for flight 447. He said that the vehicles are manufactured and improved upon here and that other companies in and around the Cape benefit from their business as subcontractors. He gave a breakdown of the 82 employees and noted they cover a broad segment of the population. He said that the company takes pride in being good stewards and being conscious of the environment. He noted that the company has grown from using one building to now using three which is still not enough to meet its growth. He went on to note that the current three buildings the company is using were designed as warehouses and that the proposal is to move the people in the three buildings to one big building and that by consolidating what could be put on those three lots into one building, there will be a 67% reduction in hazardous materials and impacts. He also noted that the company is considering installing solar panels on the roof and installing a green roof.

Mr. McGrath gave a project description. He referred to an aerial photo and oriented the audience to the project site using local landmarks. He noted that the current owner had been developing the site for an approved road and it is therefore an altered site. He referred to the site plan and described the proposed parking area, future expansion of parking, and building. He noted that the site plan includes drainage facilities using bio-retention where water will be collected and diverted into a series of swales lined with vegetation or sand and that the soils provide treatment of run-off from parking areas. He noted that the design will be submitted to the Town of Bourne for site plan review and approval. He described the proposed septic treatment unit and stated that it will discharge effluent of less than 25 mg/L total nitrogen. He also noted that there will be a vehicle washing area for washing dust off of the autonomous vehicles and that the water used will be collected, filtered, held in a holding tank, and reused. He

noted it requires a DEP permit and it is self-contained. He referred to the landscaping plans and said that there will be about 20,000 square feet of lawn with the remainder of the site vegetated with specific plants. He noted that the existing buffer will be maintained between the cluster subdivision and the open space and the proposed development. Mr. McGrath noted that there could be 3 different building built on the 3 different lots resulting in 3 VSQGs but that by merging these, the project will reduce the amount of hazardous waste generated by 67%. He stated that the project will be registered with DEP and that Hydroid has to conform to ISO standard 14001. He concluded by stating that Hydroid is committed to protecting the environment.

Greg Siroonian, project architect, referred to a schematic for the proposed project and noted that as it is located in an industrial park the proposed design was done in that vernacular. He noted it will have a lot of glass and metal panels on the entrance side as part of the design and to increase energy efficiency through lighting, heating and cooling. He said that the front part will be what is seen off of Henry Drive and that it will have different roof elevations. He said that the back part, where the manufacturing will be done, will be more like a traditional warehouse, but noted that those plans might change to pick up more of the design of the front part. He said the south side of the building will have loading docks and doors. He showed a 3D schematic and noted that the color schemes had not set as the designs were still schematic.

Mr. Roy asked where the solar panels will be located.

Mr. Siroonian said that the solar will be placed on the south facing roof but that the project team is still investigating the use different roof designs and possible use of vegetation for a green roof in combination with the solar panels.

Mr. McGrath noted that the project team had been working at the site for some time and that there had been some discussion that the square foot threshold would be raised to 40,000 square feet but that had not yet happened. He noted that the Applicant had to get going on a new building to meet commitments to its parent company and said that it is a hardship for the Applicant to have to wait a significant amount of time. He said that he thinks the proposed design minimizes impacts and that its community benefits far outweigh its impacts.

Ernie Virgilio asked if the project can be conditioned to maintain the buffer zone.

Attorney Senatori said that the Commission can condition the project to maintain the 50 foot buffer.

Mr. McGrath referred to the site plans and showed the work limit line that was set to maintain a 50 foot buffer that will remain undisturbed. He referred to cross sections to show the existing residences in relation to the 50 foot buffer, the open space and the proposed building. He noted that the Applicant agrees not to alter the buffer.

Mr. Virgilio asked if there was a generator used if needed.

Mr. von Alt said no.

Mr. Roy invited federal officials to comment. Hearing none, he asked for state officials to comment. Hearing none, he asked for local officials to comment.

Kathleen Peterson, Chairman of the Bourne Board of Health, stated her support for the project and noted it would be a detriment to the town to lose the business. She noted that Bourne does not have a lot of businesses like it. She said that from a board of health standpoint, there had been no problems with the business. She stated she would like to see the project approved.

Chris Farrell, Chairman of the Bourne Planning Board, asked for the committee to support the project. He said it would be a benefit to the town and would outweigh the detriments. He noted a petition from the neighbors abutting the site had been received and he felt the issues raised in it could be addressed through the local permitting. He said he has worked before with the local developers in the area on other projects to address similar concerns. He noted that there will be issues whenever industrial areas abut residential areas and that those have to be weighed and balanced. He said that Hydroid is an exemplary company that is known worldwide. He noted they want to stay in Bourne and Bourne wants them to stay and that they create other spin-off companies that further benefit the town. He said he hopes the Commission supports the project and he feels the benefits outweigh the detriments.

Tom Guerino, Bourne Town Administrator, said he is in full support of the project and said that when asked what type of company a community wants to see he uses Hydroid as an example. He said that Hydroid is environmentally sound, pays good wages, helps create spin-offs and gives work to other companies helping to grow the economic base of the town. He said that the developer and owner of the industrial park is a great partner with the town. He said that the project is proposing all the types of things a town wants to see. He said there is a distinct community benefit in that other companies looking at it as an example and seeing Bourne as a place that promotes this sort of business will attract others to locate in Bourne. He said he hoped the Subcommittee would vote to send the project to the full Commission for approval to allow the Applicant to move forward.

Coreen Moore, Bourne Town Planner, said she reviewed the project for compliance with local bylaws and said it is compliant as an allowed use by special permit. She noted the project would have to go before the local planning board for the special permit as well as for combining the lots and reducing the road. She said it is not in a DCPC. She stated it is compliant with the LCP. She said that Hydroid is a desirable business for the town. She pointed out that the town received a million dollar grant from the state to attract business and that is exactly what is happening here.

Steve Anderson provided the neighborhood association petition to the Subcommittee. He agreed that Hydroid is an exemplary company but noted that the concerns of the neighbors abutting the project site include the buffer zone, lighting and noise. He said they would like to see the buffer zone expanded and noted that neighbors had complained about noise associated with dump trucks in the area of the industrial park at odd hours.

Mr. von Alt said it is an 8-5 business.

Mr. Anderson said he has picked up turtles in the area so he thinks there are endangered species in the area even though the site is not mapped. He also asked about the generators.

Mr. von Alt said there will be a back-up generator but it will be below the required decibel levels.

Mr. Siroonian added that the generator will be designed to be in an enclosure to reduce the sound and will meet the required decibel levels. He noted it will be on the north side of the site and he might look into bunkering as well.

Mr. Anderson said one of the residents asked if the fixtures on the outside of the building will be compliant with international dark sky association standards. He noted that the trees in the buffer are a mix of pine and oaks and that for 7 months of the year the oaks have no leaves and that other industrial buildings in the area have lights that shine right through the trees. He asked if the Applicant could plant some evergreens to minimize the impacts from the lights.

Andrew Campbell, Superintendent Bourne Water District, said he finds the project will not impact water resources as stated in his letter submitted to the Commission. He said that Hydroid has been a fine neighbor and he sees no reason to deny them their request.

Tom Donovan, one of the owners of the commercial subdivision, provided some background on the subdivision stating that it was purchased in 1986. He noted that he is a resident of the town and that his office is in the subdivision and therefore he wants to be a good neighbor. He noted that the roads were built in the late 80s and early 90s prior to the Cape Cod Commission and that they tried to create an industrial park that the town and the developers would be proud of and he thinks that was accomplished. He noted that there are 3 buildings in the subdivision that are over 40,000 square feet that were exempt from the Commission that he thinks were done well in cooperation with the town. He noted that as a landlord, it has been difficult in the current economy to keep tenants and that he just lost a tenant last month to Lakeville. He said that the town loses companies to other towns and that Bourne is not a destination for companies. He said that we have a high quality company in town that wants to stay in town and that is something the Commission should be proud of as a part of the town and the county of Barnstable. He asked for the Commission to support the project. He noted that as Hydroid's present landlord he would rather have them continue to rent from him, but he sees the limitations and inefficiencies in their current situation and sees the need for them to move to a bigger, more efficient building. He noted that if the project is not approved, Hydroid will leave town as others have done. He noted that the road is exempt from the Commission, but by combining the three lots the project is subject to Commission review. He said if the project is not approved, he will complete the road, put three 10,000 square foot buildings in, and look for tenants. He said that Hydroid is an excellent company and it would be a shame to see them go.

Lori Ann Gilbert referred to the location of her house on the aerial photo and said she would love to have Hydroid as neighbors. She noted that the subdivision Mr. Donovan referred to is beautiful, well-kept and well-managed. She said she does see some lights and hear some noises such as dumpsters. She asked if those dumpsters would be used at the proposed site.

Mr. von Alt said yes, but the timing could be arranged, but those trucks are coming regardless.

Ms. Gilbert asked what the buffer will look like. She said she loves living and working in Bourne, she feels comfortable with the development, but she is concerned about the lights, noise and the buffer. She said that she is complimented on her beautiful backyard and asked if the trees will still be as large and will remain intact.

Mr. McGrath referred to the site and cross section plans again and explained the grades. He noted that the building will stick up but it is below the existing grade. He reiterated that the existing trees will remain but said that one might see some of the building mass filtered through the trees.

Pat Anderson noted she is the wife of Steve Anderson who spoke earlier. She asked how much of the building will be seen from Spinnaker Lane. She asked if there were plans to put additional trees in that area to block it.

Mr. von Alt said it is a natural buffer and no additional trees were proposed.

Mr. Donovan noted that the building will be at about 30 foot lower elevation than other existing buildings in the area and that even though the building will be closer to the residences, it will be lower and therefore he is not sure anyone will even see the second floor of this building.

Ms. Anderson asked if the buffer will be greater than 50 feet.

Mr. McGrath said that the buffer on the project site is 50 feet but that there are areas where the project abuts open space and there will be a wider buffer there. He referred again to the transect plans and said there will be 120' of undisturbed woods in relation to one of the residences and that at the corner there will be at least 50' of undisturbed woods and that there will always be at least 50 feet.

Ms. Anderson asked where water will drain off to.

Mr. McGrath described the drainage referring to the site plans.

Ms. Anderson asked if any of it will come on to Spinnaker Lane.

Mr. McGrath said no, it will all be contained on-site.

Ms. Anderson asked if they will be quiet neighbors.

Mr. von Alt said that the company employs engineers, it is an industrial zone where they run their business of manufacturing things and that they will be respectful and quiet and that they are there now. He asked if the residents hear them now.

Ms. Anderson pointed out the location of her house on the aerial photo.

Mr. McGrath noted that she will have one of the biggest buffers because of the location of her house relative to the proposed development.

George Smith said that he lives in the house at the point which is open to the development where Hydroid is now and he has no concern over noises during the day. He said his main concern is loud noises early in the morning as there have been noises one would not expect in a residential area that caused alarm. He said that the buffer is mostly small scrub oaks and he hopes that it is augmented or the buffer be substantial.

Mr. Siroonian, project architect, noted he is a resident of Bourne and said that as he works with clients he usually finds that they are trying to get out of things, but he found that Hydroid was always trying to be compliant and always wanted to be energy efficient and a good neighbor. He said he credits them for that especially given the current economy as they are not trying to get out of anything. In regard to lighting, he said the project is aiming to be compliant with the Commission's technical bulletin and that he is proposing the project use LED lighting.

Dan Lenin said he is also a resident of Spinnaker Lane and that he is not anti-business or anti-growth. He asked for a responsible consideration for those who need to protect the value of their properties for sale and resale as they are also part of the economy.

Paul Niedzwiecki noted he has been working with Hydroid for over two years. He referred to another site in Falmouth where the project had proposed to go in the past but which is now where Benthos is located providing much needed economic growth in that town. He said that the people in the Hydroid company do things right. He noted that in relation to Chapter H and raising thresholds this is the type of company that we want to entice. He said that the transition to Chapter H was found to be more difficult as it interfaces with the RPP but he did not want to see that delay to negatively impact a company like Hydroid. He said that it is his hope the project can move forward and he said that the building and the company can then be showcased to other people across the Cape as those types of companies that we want to come to our industrial and service trade areas that we worked with the towns to identify. He said this is an example of how Chapter H makes sense as Hydroid can build a better building as it relates to land use, water protection, energy and potential impacts on neighbors. He said that to set an artificial 10,000 square foot threshold hurts in these economic times and prevents the kind of good growth we want in those locations where it is adequate from moving forward. He said he thinks this is a tremendous POCB and that he has tremendous faith in Hydroid and its parent company. He said that in one of the first conversations he and Mr. von Alt had about the project, Mr. von Alt voiced his concerns about the impacts of lighting on the local residents. He said that he knows the town through their special permit process can work through a lot of those issues. He said he thinks this is a great project and noted that staff has worked diligently with Hydroid to come up with a recommendation that the Subcommittee move forward as quickly as possible with this hardship exemption and with the waivers necessary. He thanked the Subcommittee for their consideration.

Ms. Gilbert asked about a path through the woods and whether it would be used for access of construction or other vehicles.

Mr. von Alt said no, access would be off MacArthur Boulevard.

Dan Sturmer said that he is charged with taking companies out of the Woods Hole Oceanographic Institution and setting them set up as spin-off companies. He said he is also president of a company that rents space from the developer in the industrial park and Hydroid is and will be a neighbor. He said that one of the reasons they are there is because Mr. von Alt was a scout and set up a company there and said it was a great place to do business and the landlord was a great person to do business with. He noted that he is working on other subleases and businesses moving into the area. He said he was giving credence to the fact that Hydroid being there will result in spin-off businesses in the area, that it has been happening and that it will continue to happen and he thinks that is an important thing for the Commission to know.

Attorney Senatori noted that the Subcommittee was scheduled to have a meeting following the hearing and suggested that the Subcommittee could move to continue the public hearing to the full Commission meeting on December 15, 2011.

Roy Richardson moved to continue the public hearing to 3:00 PM on Thursday, December 15, 2011 at the Assembly of Delegates Chamber, First District Court, Barnstable, MA. Mr. Virgilio seconded and it came to a unanimous vote.

<u>November 22, 2011 Subcommittee Meeting</u>
Richard Roy opened the meeting on November 22, 2011 at 7:15 PM. He noted that the purpose of the subcommittee meeting was to discuss the project and was not for taking public testimony.

Ernie Virgilio said that the reason he brought up the buffer zone issue in the hearing was because of the location of the site close to a residential neighborhood and that if there were some damage to the buffer zone due to a storm or some other event, he thought there should be some language included in the decision to ensure the buffer zone is maintained if it is damaged. He noted that he thinks the project is in a good location but he is aware of the concerns raised over the buffer zone. He asked staff to look at drafting some language that might address the maintenance of the buffer zone and said that otherwise he thinks it is a fantastic project.

Attorney Senatori said that staff would work out language that would also be reasonable to the Applicant as part of a potential draft decision in regards to keeping the buffer intact and could bring this back to the subcommittee for their consideration.

Mr. Virgilio moved that the proposed Hydroid development confers upon and results in distinct benefits to the community and citizens of Barnstable County, consistent with the Cape Cod Commission Act and is a Project of Community Benefit. Roy Richardson seconded and it came to a unanimous vote.

Mr. Richardson moved that a literal enforcement of the provisions of the Act and full compliance with the open space, transportation and water resources/hazardous materials standards of the Regional Policy Plan (RPP) would constitute a hardship, financial or otherwise, and diminish the community benefits to be conferred. Mr. Roy seconded and it came to a unanimous vote.

Mr. Virgilio moved that the relief requested is the minimum relief needed to address the Applicant's hardship and that the relief requested does not nullify or substantially derogate from the intent or purpose of the Act or result in a substantial detriment to the public good. Mr. Richardson seconded and it came to a unanimous vote.

Attorney Senatori suggested the Subcommittee discuss the project's probable benefits and probable detriments.

Mr. Richardson said that a probable benefit is the economic one having to do with the high salaries paid to the employees and opportunities for residents. He also said that the nature of the work provides a benefit to the community and region and also provides a much needed device worldwide.

Mr. Virgilio noted he spends a lot of time at sea and that the mapping of the oceans is an enormous benefit.

Mr. Richardson said that whenever an industrial project abuts a residential area there are concerns and that after hearing the testimonies and responses tonight it could be considered a detriment but that it could also be considered a benefit owing to the spirit of cooperation heard.

Mr. Virgilio agreed.

Attorney Senatori noted that the project meets at least three of the RPP Best Development Practices (BDP) including ED2.2 (Quality Employment Opportunities), ED3.4 (Regional Export Growth) and HPCC2.19 (Multiple Stories to Reduce Building Footprint) and that those could be adopted as probable benefits if the Commission so chose.

The Subcommittee agreed that those BDPs should be adopted as probable benefits.

Mr. Richardson said that, based on all the testimony he heard, he moved that the probable benefit from the proposed development is greater than the probable detriment. Mr. Virgilio seconded and it came to a unanimous vote.

Mr. Virgilio moved to recommend approval with conditions of the proposed Hydroid development as a Project of Community Benefit Hardship Exemption to the full Cape Cod Commission. Mr. Richardson seconded and it came to a unanimous vote.

Mr. Virgilio moved to direct staff to draft a written decision. Mr. Richardson seconded and it came to a unanimous vote.

December 6, 2011 Subcommittee Meeting

Attorney Senatori reviewed the draft written decision with the subcommittee. The subcommittee voted unanimously to approve the draft written decision, as amended, and to forward it to the Cape Cod Commission for consideration at the December 15, 2011 meeting.

JURISDICTION

The development, as described by the application materials, qualifies as a DRI pursuant to Section 3(e)(i) of the Commission's *Enabling Regulations* (revised March 2011) as new construction of a building with a Gross Floor Area greater than 10,000 square feet.

FINDINGS

The Commission has considered the Hardship Exemption application of Hydroid, Inc. for the proposed combination of existing parcels to create a single 5.24-acre parcel of land and the proposed construction of a 30,000 square foot commercial building with possible expansion to 40,000 square feet, on-site sewage disposal system, driveway, 120 parking spaces with expansion to 150, loading zone, wash pad, and all associated clearing, grading, drainage, utilities and landscaping on the new parcel and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings, pursuant to Sections 12, 13 and 23 of the Act:

General Findings

GF1. As the date of the first substantive public hearing was November 22, 2011, this project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in May 2011 (ordinance 11-05).

GF2. As of the date of this decision, the Town of Bourne has a Commission-certified Local Comprehensive Plan (LCP). Written testimony provided by Coreen Moore, Bourne Town Planner, dated November 21, 2011 states *"Hydroid Inc. is the type of business that is described within the Local Comprehensive Plan as one that is desirable for the Town of Bourne."* The Commission adopts the written testimony of Ms. Moore and finds that the project is consistent with Bourne's LCP.

GF3. Written testimony dated November 21, 2011 from Coreen Moore, Bourne's Town Planner, states *"The project (manufacturing) will be located in a B4 Business zoning district, which is an allowed use subject to site plan review and special permit approval from the Planning Board."* The Commission adopts the written testimony of Ms. Moore and finds that upon issuance of a special permit by the Bourne Planning Board the project can be found consistent with municipal development bylaws.

GF4. As the project is not located in a District of Critical Planning Concern, the Commission finds that the project can be considered to be consistent with this criterion.

GF5. The Commission finds that the probable benefits from the proposed development include that the project has an economic benefit as it provides high salaries to its employees and opportunities for residents; the nature of the work provides a benefit to the community and region and also provides a much needed device worldwide; the Applicant's spirit of cooperation with officials and residents; and the project meets at least three of the RPP Best Development Practices (BDP) including BDP ED2.2 (Quality Employment Opportunities), BDP ED3.4 (Regional Export Growth) and BDP HPCC2.19 (Multiple Stories to Reduce Building Footprint). Based on this, the Commission finds the probable benefit from the proposed development is greater than the probable detriment.

GF6. The project property is located at Henry Drive in Bourne, MA. The Applicant is proposing to combine three existing parcels (Lots 3, 4 and 5) off Henry Drive and shorten Henry Drive in such a way as to create a single 5.24-acre parcel of land. The Applicant proposes construction of a 30,000 square foot commercial building with possible expansion to 40,000 square feet, on-site sewage disposal system, driveway, 120 parking spaces with expansion to 150, loading zone, wash pad, and all associated clearing, grading, drainage, utilities and landscaping on the new parcel.

GF7. The project will be constructed in accordance with the following plan set (dated 10/31/11) from Holmes and McGrath, Inc., received by the Commission on October 31, 2011 as follows:

- Sheet 1, Proposed Industrial Building (dated 10/31/11; attached to this decision as Exhibit A and incorporated by reference)
- Sheet 2, Existing Conditions Plan (dated 10/31/11)
- Sheet 3, Grading, Drainage, Septic System & Utilities Plan (dated 10/31/11)
- Sheet 4, Stormwater System Site Details (dated 10/31/11)
- Sheet 5, Stormwater System Site Details (dated 10/31/11)
- Sheet 6, General Details (dated 10/31/11)
- Sheet 7, Proposed Washpad (dated 10/31/11)
- Sheet 8, Proposed Sewage Disposal System (dated 10/31/11)
- Sheet 9, Proposed Sewage Disposal System (dated 10/31/11)
- Landscape Plan, prepared by Rescom Architectural, Inc. (dated 12/1/11)

GF8. The Commission finds the proposed project confers upon or results in distinct benefits to the community and citizens of Barnstable County, consistent with Sections 1(a) and 1(c) of the Cape Cod Commission Act and as such the Commission finds the proposed project is a Project of Community Benefit (POCB).

Land Use

LUF1. Minimum Performance Standard (MPS) LU1.2 requires development to be clustered on site. Application materials and plans demonstrate that the project has been designed to cluster development and parking to the extent possible by utilizing a multi-story building and locating parking to the back of the site and to the minimum amount allowable under local parking requirements. As such, the Commission finds the project complies with MPS LU1.2.

LUF2. The Town of Bourne does not have a Land Use Vision Map (LUVM) for the portion of town where the proposed project is located. However, the project is proposed with a compact building footprint on a partially cleared site within an existing industrial subdivision and adjacent to a major transportation corridor. As such, the Commission finds the project is consistent with the intent of MPS LU2.1 requiring Connections to Existing Infrastructure.

Economic Development

EDF1. MPS ED1.1 requires projects in towns that do not have a Land Use Vision Map to meet the waiver requirements of MPS ED1.3. The Commission finds that the project must meet at least two of the nine waiver criteria of MPS ED1.3.

EDF2. The Emerging Industry Clusters criterion of MPS ED1.3 requires that projects be designed to and also accommodate a business or businesses within the region's Emerging Industry Clusters, which include marine sciences and technology; arts and culture; information and related technology; renewable and clean energy, and education and knowledge-based industries or other high-skill, high-wage, knowledge-based business activity. The Commission finds that Hydroid, Inc., is a marine sciences enterprise manufacturing autonomous underwater vehicles and that the average salary of the current 76 full-time employees is $80,100. As such, the Commission finds that the project complies with this criterion.

The Municipal Endorsement criterion of ED1.3 requires that a project is endorsed through a resolution from the selectmen or town council of the town(s) in which the project is located. On November 15, 2011, the Commission received a Town of Bourne Board of Selectmen Resolution dated November 1, 2011. The resolution states, "The Board of Selectmen hereby support and approve the location of Hydroid Corporation to construct a facility outside of the designated Economic Center, Industrial and Service Trade area or Village, as outlined in the Regional Land Use Vision Map, is strongly endorsed by the Board of Selectmen for the Town of Bourne. The Selectmen find the Hydroid expansion meets the requirements and intent of the Local Comprehensive plan...and is of great necessity to the economic well-being of the Bourne Community." As such, the Commission finds the project complies with this criterion.

Based on this, the Commission finds the project complies with MPS ED1.1 and MPS ED1.3.

EDF3. Best Development Practice ED2.2 calls for the provision of competitive wage jobs with benefits. The application states that the average wage of the 79 employees currently working for Hydroid, Inc., is $80,100 and that with employment expected to grow to 150 employees the expected average wage by 2016 is $92,900. As such, the Commission finds that the project complies with BDP ED2.2.

EDF4. BDP ED3.4 encourages commercial DRIs to export goods and services not previously exported. Hydroid, Inc. manufactures autonomous underwater vehicles used around the world and is therefore an export company. As such, the Commission finds the project complies with BDP ED3.4.

Water Resources

WRF1. The Commission finds that the project was reviewed for potential impacts to drinking water and consistency with MPS in RPP Section WR2, MPS WR1.2, WR1.5, WR7.9, WR7.10 & WR7.11, WM1.1, and WM1.4.

WRF2. The project is required to meet MPS WM1.2 which states "*Development and redevelopment shall identify their proposed drinking water wells and existing private drinking water wells on abutting properties within 400 feet and assess the impact of the development on the water quality of these wells and all other existing wells that may potentially be affected by the proposed development. Septic systems and other sources of contamination shall be sited to avoid adversely affecting downgradient existing or proposed wells.*" The Commission finds that the Applicant provided information indicating that all properties within 400 feet of the project site are connected to the public water supply and that further requirements of MPS WR1.2 does not apply to the project.

WRF3. The project site is located in a Potential Public Water Supply Area (PPWSA; RPP Section 2, Water Resources Classification Map I). The Commission finds that the letter submitted to the Commission on November 18, 2011 by the superintendent of the Bourne Water District, Andrew Campbell, indicating that the "*District has no intention at this time or in the near future of exploring for potential well sites or plans to develop a production well or wells downgradient of the proposed building site ...*" demonstrates that the area will not be considered as potential water supply areas, and as provided by the RPP the Commission further finds that MPS WR2.5 & WR2.6 shall not apply to the project.

WRF4. The project site is located in an existing Wellhead Protection Area (WHPA or Zone II; RPP Section 2, Water Resources Classification Map I).

WRF5. Projects located in WHPA are restricted to Household Quantities of Hazardous Materials/Wastes pursuant to MPS WR2.2 and WM1.1. An inventory of materials stored or used at the existing facility submitted by the Applicant includes approximately 130 gallons of materials that are of primary concern to drinking water if released to the environment and therefore meet the RPP definition of Hazardous Material. The Applicant anticipates the need to store or use up to 300 gallons of Hazardous Materials at the new facility.

WRF7. The RPP allows as Household Quantities up to 25 gallons of Hazardous Materials and up to 275 gallons of oil for heating of a structure, or to supply an emergency generator. The project will use natural gas to heat the proposed structure.

WRF8. The letter from the Bourne Water District submitted to the Commission on November 18, 2011 states that the District conducts "*regular inspections of commercial properties to identify hazardous conditions that may threaten [District] wells.*" Pursuant to 310 CMR 22, the Commonwealth's drinking water regulations, water suppliers are required to submit an annual report to MADEP "*that identifies the presence of new land uses ... that could adversely impact water quality.*" The supplier is also required to "*notify the local board of health ... of any violation ... that may adversely affect its water supply ...*" and "*shall notify ... the person in charge of enforcement of local zoning ... of any violation of applicable land use restrictions that may adversely affect its water supply.*"

WRF9. The Commission finds that a literal enforcement of the provisions of the Act and compliance with MPS WR2.2 and WM1.1 would involve substantial hardship, financial or otherwise by diminishing the community benefits to be conferred; and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission further finds that the relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address it. The Commission finds that the storage and use of Hazardous Materials at the project site shall be limited as a condition of project approval to 300 gallons (or dry weight equivalent).

WRF10. The project is required to meet MPS WM1.4 which states "*Development and redevelopment in Wellhead Protection Areas and Potential Public Water Supply Areas shall prepare a Pollution Prevention and Emergency Response plan for both the construction phase and normal operations that identifies potential contamination sources, threats of Hazardous Material and Hazardous Waste releases to the environment, describes material storage and handling details, containment and contingency plans for spill response, and documents regular inspection and employee education opportunities.*" The Commission finds that staff review and approval of a Spill Prevention, Control and Countermeasures Plan (SPCCP) for the project site shall be required as a condition of project approval prior to construction.

WRF11. The project is required to meet MPS WM2.1 which states "*[t]he maximum nitrogen loading standard for impact on groundwater shall be 5 ppm for development and redevelopment unless a cumulative impact analysis indicates a more stringent loading standard is necessary.*" The Commission finds that the project is able to meet the 5 ppm-N nitrogen loading limit through use of a denitrifying septic system (recirculating sand filter), with Title-5 wastewater design flows limited to 2,250 gallons per day (based on 150 employees) and the amount of managed turf limited to 20,000 square feet as depicted on the Landscape Plan L1 submitted on December 1, 2011.

WRF12. The project is required to meet MPS WR1.5 which states "*Development and redevelopment shall adopt Best Management Practices such as a turf and landscape management plan that incorporates water conservation measures including the use of native and drought resistant plantings and the use of drip irrigation, and minimizes the amount of pesticides and chemical fertilizers.*" The Commission finds that the project complies with MPS WR1.5 by minimizing the amount of managed turf and use of seed mix of wild grass, wild flower and clover (Landscape Plan, submitted on December 1, 2011). Section 8 of the DRI Hardship Exemption application describes an initial application of fertilizer at a rate of 40 lbs per 1,000 sf and follow-up applications of fertilizer. The referenced landscape plan indicates that 3 lbs of fertilizer per 1,000 sf will be applied annually to managed lawn. The Commission finds that staff review and approval of an Integrated Pest Management (IPM) plan for the site demonstrating compliance with MPS WR1.5 shall be required as a condition of project approval prior to construction, and further finds that the initial fertilizer application rate of 40 lbs per 1,000 sf shall be adjusted to the annual fertilizer application rate of 3 lbs of fertilizer per 1,000 sf specified on the referenced landscape plan.

WRF13. The project is required to meet MPS WR7.9 which states "*Construction best management practices for erosion and sedimentation controls shall be specified on project plans to prevent erosion, control sediment movement and stabilize exposed soils.*" The Commission finds that erosion and sedimentation controls described in the Stormwater Management Operation and Maintenance Plan submitted by the Applicant comply with MPS WR7.9. The Commission finds that staff review and approval of engineered grading and drainage plans depicting construction sequencing and demonstrating compliance with MPS WR7.9 shall be required as a condition of project approval prior to construction.

WRF14. The project is required to meet MPS WR7.10 which states "*Development and redevelopment shall submit a Professional Engineer-certified stormwater maintenance and operation plan demonstrating compliance with the Massachusetts Stormwater Guidelines including a schedule for inspection, monitoring, and maintenance. The plan shall identify the parties responsible for plan implementation, operation and maintenance. The identified responsible party shall keep documentation of the maintenance and inspection records and make these available to the Commission or local board of health upon request. One year from completion of the system, a Professional Engineer shall inspect the system and submit a letter certifying that the system was installed and functions as designed.*" The Commission finds that the Stormwater Management Operation and Maintenance Plan complies with MPS WR7.10 and that a submittal of the final Stormwater Pollution Prevention Plan (SWPP) to the Commission shall be required as a condition of project approval prior to construction to ensure compliance with MPS WR7.9 and WR7.10.

WRF15. The project is required to meet MPS WR7.11 which states "*In Wellhead Protection Areas, stormwater systems for land uses that have a high risk of contaminating groundwater, such as vehicle maintenance areas and loading docks, shall install a mechanical shut-off valve or other flow-arresting device between the catch basin or other stormwater-capture structure draining this area and the leaching structures.*" The Commission finds that staff review and approval of detailed engineered grading and drainage plans demonstrating compliance with MPS WR7.11 shall be required as a condition of project approval prior to construction.

Hazardous Waste

HWF1. MPS WM1.1 limits the amount of Hazardous Waste that can be used, generated, handled, stored, treated or disposed of in WHPAs to a Household Quantity of Hazardous Waste and MPS WM1.5 requires that "[a]ny development or redevelopment that uses, handles, generates, treats, or stores Hazardous Waste..." be in compliance with the state's Hazardous Waste regulations. According to the DRI application materials, Hydroid Inc., states it is a Very Small Quantity Generator (VSQG) of Hazardous Waste now and will remain a VSQG once the new facility is in operation. The Commission finds that project approval should be conditioned upon the Applicant providing proof of notification or registration with the Massachusetts Department of Environmental Protection (DEP) as a generator of Hazardous Waste, Commission staff review and approval of a written plan to manage the Hazardous Waste prior to disposal, and Commission staff review and approval of a signed contract with a registered, licensed company to dispose of Hazardous Waste to ensure compliance with MPS WM1.1 and MPS WM1.5.

Natural Resources/Open Space

NR/OSF1. Based on the extent of disturbance on the property, the Commission finds that preparation of a Natural Resources Inventory (NRI) is not required pursuant to MPS WPH1.1.

NR/OSF2. The project is located in a Significant Natural Resources Area (SNRA) due to the public Wellhead Protection Area (WHPA). The Applicant intends to leave 0.63 acres undisturbed on the westerly boundary of the parcel, providing a 50 foot buffer to existing development and the town forest located to the northwest. As such, the Commission finds that the project is consistent with MPS OS1.2 and MPS OS1.6.

NR/OSF3. The Open Space requirement is twice the area of new development, or 3.6 acres. The Commission finds that a literal enforcement of the provisions of the Act and compliance with MPS OS1.3 would constitute a hardship, financial or otherwise, by diminishing the community benefits to be conferred and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission further finds that the relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address it.

NR/OSF3. The development is located adjacent to existing industrial uses on Jonathan Bourne Drive and off MacArthur Boulevard to the north. Total site development is 4.16 acres and the project will result in the clearing of approximately 1.8 acres around the perimeter of the existing cleared and disturbed area in the center of the property. Approximately 0.63 acres of existing vegetation will be retained as a buffer at the westerly property boundary. The proposed development has consolidated development to the extent feasible. As such, the Commission finds that the project is consistent with MPS WPH1.3, MPS OS1.1 and MPS OS1.2.

NR/OSF4. The Commission finds that as a condition of approval, the Applicant is required to submit an invasive species management plan to ensure compliance with WPH1.6.

Transportation

TRF1. Commission staff calculated the estimated trip generation for the proposed 40,000 square foot commercial building based on data for similar facilities, as outlined in the Institute of Transportation Engineers (ITE) *Trip Generation,* Eighth Edition, 2008, as summarized in the table below. Commission staff used ITE Land Use Code 110 – General Light Industrial to determine the estimated traffic increases for this project and the trip reduction credit as outlined in MPS TR3.2. Commission staff suggests that the trip generation source of data (ITE) and calculations were conducted in conformance with MPS TR 0.1 (Sources of Trip-generation Data).

Proposed Development	Morning Peak Hour	Afternoon Peak Hour	Daily
40,000 square feet	28	29	209

TRF2. The Applicant requested waiving the traffic study requirements of the RPP. Based on the limited number of new vehicle trips estimated for this project, with an employee trip reduction plan, the Commission finds that a literal enforcement of the provisions of the Act and compliance with the traffic study requirement would constitute a hardship, financial or otherwise, by diminishing the community benefits to be

conferred and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission further finds that the relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address it.

TRF3. All DRIs are required to reduce new vehicle trips in and out of the site by 25% over what is typically expected for the land use. Based on the increase in average daily traffic of 279 trips per day, the trip reduction requirement for this project is 70 [279 x .25] daily vehicle trips. The Applicant has indicated that an employee trip reduction plan will be implemented. As such, the Commission finds that implementation of an employee trip reduction plan will result in compliance with MPS TR2.1 (Trip Reduction Outside Growth Incentive Zones or Economic Centers).

TRF4. MPS TR3.1 requires Level of Service analysis at all site driveways. The Commission finds that a literal enforcement of the provisions of the Act and compliance with MPS TR3.1 would constitute a hardship, financial or otherwise, by diminishing the community benefits to be conferred and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission further finds that the relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address it.

TRF5. MPS TR3.6 requires the calculation of "fair-share" mitigation amount to offset the amount of new peak hour traffic generated by the project. Commission staff calculated the "fair-share" mitigation to offset the project in the amount of $99,786. MPS TR3.4 requires applicants to offset or mitigate all peak hour traffic impacts of the project. The Commission finds that a literal enforcement of the provisions of the Act and compliance with MPS TR3.4 would constitute a hardship, financial or otherwise, by diminishing the community benefits to be conferred and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The Commission further finds that the relief granted relates directly to the nature of the identified hardship.

TRF6. MPS TR1.1 requires that projects shall not result in a degradation in public safety. Based on a review of the project, the Commission finds that the project will not result in a degradation in public safety and therefore complies with MPS TR1.1.

TRF7. MPS TR1.4 requires all site driveways to be built in conformance with access management guidelines. Based on a review of the site plans, the Commission finds that the proposed site driveway will be built in conformance with Commission access management guidelines and therefore that this project complies with TR1.4.

TRF8. MPS TR1.6 requires that the applicant does not place signs or vegetation that would obstruct the drivers view for exiting traffic. Based on a review of the site plans, the Commission finds that the project will not place any obstruction that has the potential to block the sight of any exiting driver and therefore complies with MPS TR1.6.

TRF9. MPS TR1.8 requires that safe stopping sight distance is available at all driveway locations. Based on a field check of the site driveway, the Commission finds that this project complies with MPS TR1.6.

Solid Waste

SWF1. MPS WM2.1 requires that "[d]evelopment and redevelopment projects shall address the disposal of construction waste..." and that "a plan shall be provided to demonstrate how the applicant proposes to handle solid wastes, construction and demolition waste and recyclable materials currently categorized by the [DEP] as a waste ban material" and MPS WM2.2 describes the requirements of a construction and demolition (C&D) waste management plan. The Applicant provided an outline of a C&D management plan which the Applicant states will be in place prior to commencement of construction. The Commission finds that project approval should be conditioned upon Commission staff review and approval of a C&D management plan to ensure compliance with MPS WM2.1 and MPS WM2.2.

SWF2. MPS WM2.3 requires a post-construction waste and recyclables management plan. According to the DRI application materials, Hydroid, Inc. maintains a Green Initiative program which includes recycling of "office paper, telephone directories, junk mail, cardboard, cans, [and] plastic..." The recycling information also includes a 2010 report that provides the estimated number of pounds of plastic, cans, cardboard and paper. As such, the Commission finds that the project complies with MPS WM2.3.

Energy

EF1. The project is subject to MPS E1.2 (Designed to Earn ENERGY STAR Certification), MPS E1.3 (ANSI/LEED) and MPS E1.5 (On-Site Renewable Energy Generation). The Applicant has indicated they wish to pursue the 25% on-site renewable energy waiver (MPS E1.6), which would waive other applicable Energy standards if compliance with this waiver is determined. The Applicant submitted a Statement of Energy Design Intent (SEDI) that details the overall project goal of designing a building that is 28% more energy efficient than an average facility of its size and use and has indicated that the building will be designed to become LEED certified. If the Applicant chooses not to pursue the renewable energy waiver, evidence provided through the DRI application, the SEDI, and the LEED checklist indicate the proposed project is consistent with MPS E1.2, MPS E1.3 and MPS E1.5. As such, the Commission finds that project approval should be conditioned to ensure compliance with the applicable MPS for Energy.

Affordable Housing

AHF1. As a non-residential project, only the standards under AH Goal 3 apply. As a Marine Science business, Hydroid is classified as an "Other" use under MPS AH3.1 for the purpose of calculating affordable housing mitigation. The existing and projected number of employees were used for the calculation of employment density and the North American Industry Classification System (NAICS) code 3345 (Navigational, Measuring, Electro-medical, and Control Instruments Manufacturing) was used to calculate the percentage of above and below average wage jobs in accordance with Technical Bulletin #10-001 (Guidelines for Calculation of Mitigation for DRIs in "Other" Category for Minimum Performance Standard AH3.1).

AHF2. According to the DRI application, Hydroid, Inc. provides an average annual salary for its 76 employees of $80,100, which is more than double the 2010 Cape average wage of $39,156 (Massachusetts Executive Office of Labor and Workforce Development). The most current (May 2010) wage data for NAICS code 3345 has an average wage nationally for this set of businesses of $68,280 with 67% of jobs paying more than the average wage and 33% paying less than the average wage. Thus, while the region's average wage is about 10% less than the national average wage, Hydroid's average salary is about 17% higher than the national average for its NAICS code. As such, the Commission finds that the project is consistent with affordable housing standards.

Heritage Preservation & Community Character

HPCCF1. The Historic standards of the RPP require the preservation of historic resources, cultural landscapes and archaeological resources (MPS HPCC1.1, MPS HPCC1.2 and MPS HPCC1.3). The proposed project is located outside of any historic districts and there are no historic structures or cultural landscapes on the site. On November 1, 2011, the Massachusetts Historical Commission (MHC) determined that the proposed project was unlikely to affect significant historic or archaeological resources. Therefore, the Commission finds that the project is consistent with the Heritage Preservation section of the RPP.

HPCCF2. MPS HPCC2.3 requires that adverse visual impacts be avoided in visually sensitive areas. The location of the development in an industrial park accessed via McArthur Boulevard in Bourne is not a designated scenic area or visually sensitive. Therefore, the Commission finds that the project is consistent with HPCC2.3 and is unlikely to have any significant impact on the region's community character.

HPCCF3. MPS HPCC2.7 allows the use of non-traditional materials, forms and site designs in industrial parks without the need to meet the massing, variation and other design requirements of MPS HPCC2.4, MPS HPCC2.5 and MPS HPCC2.6, provided adequate buffers are maintained to screen views from scenic views or regional roadways. The site is located in an industrial area to the west of MacArthur Boulevard, which is a major regional road. The character of the roadway is predominantly industrial/warehouse with some retail uses in this location, and therefore the proposed materials and forms are consistent with the character of the surrounding uses. As MacArthur Boulevard is the only regional road in the vicinity, adequate buffers need to be maintained in order to be consistent with HPCC2.7. A significant amount of the building will be screened from view by the surrounding topography, because the development site is nearly 20 feet below the level of MacArthur Boulevard with only the upper portions of the structure likely to be visible from the regional roadway. Vegetation on the surrounding undeveloped sites, and existing structures located on properties adjacent to MacArthur Boulevard are also likely to screen the structure from view. Northbound travelers on the roadway are unlikely to be able to see the building at all due to a heavily vegetated and wide median. Southbound travelers may get brief views of the structure, but these views will likely be obscured by the vegetation and surrounding existing development. The project is also consistent with the Commission's design guidelines for this type of use, specifically: using existing topography to screen development and by designing industrial buildings in context with their surroundings. Therefore, the Commission finds that the project is consistent with MPS HPCC2.7 as adequate buffers to the

development will be maintained to regional roadways and is unlikely to have any significant impact on the region's community character.

HPCCF4. The Commission finds that the proposed site is adequately buffered from Route 28, a regional roadway, by existing development.

HPCCF5. The Commission finds that the Landscape Plan submitted (dated 12/1/11) complies with parking and landscaping standards MPS HPCC2.8 and MPS HPCC2.10 by placing parking to the side and rear with the added benefit of planted medians to break up masses of parking and through its provision for pedestrian circulation, choice of landscaping which highlights the use of indigenous and drought tolerant plantings, provisions for shade through increased tree canopy and several stormwater treatment areas planted with appropriate plantings.

HPCCF6. The Commission finds that the two-story mass of the structure is consistent with BDP HPCC2.19 that recommends multi-story building to reduce the development footprint.

HPCCF7. MPS HPCC2.11 requires site lighting and exterior building lights in all developments to employ "shoe-box" type or decorative fixtures which are fully shielded; create a total cutoff of all light at less than ninety (90) degrees from vertical; provide a total cutoff of all light at the property lines of the parcel to be developed; and that all lights used shall meet a maximum initial horizontal foot-candle level of not more than 8.0 foot-candles, as measured directly below the luminaire(s) at grade. The Commission finds that project approval be conditioned to require compliance with MPS HPCC2.11.

CONCLUSION

Based on the above findings, the Commission hereby concludes:

1. That the probable benefit from the proposed development is greater than the probable detriment.

2. That with relief granted and upon satisfaction of the conditions identified in this decision, the proposed project is consistent with the 2009 (as amended) Regional Policy Plan.

3. Upon issuance of a Special Permit from the Town of Bourne, the proposed development can be found consistent with Bourne's local development bylaws.

4. The proposed development is consistent with Bourne's Local Comprehensive Plan.

5. The project is not located in a District of Critical Planning Concern and therefore this criterion is not applicable.

CONDITIONS

The Commission hereby approves, with conditions, the application of Hydroid, Inc. as a Project of Community Benefit Hardship Exemption provided the following conditions are met:

General Conditions

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

GC2. The Applicant shall obtain all necessary federal, state, and local permits for the proposed project.

GC3. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, and remain in compliance herewith, shall be deemed cause to revoke or modify this decision.

GC4. No development work, as the term "development" is defined in the Cape Cod Commission Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

GC5. Prior to issuance of a Building Permit for any proposed "development" as defined by the Cape Cod Commission Act and as approved herein, the applicant shall submit final plans as approved by state, federal, and local boards for review by Commission staff to determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those plans approved as part of this decision, the Commission shall require that the Applicant seek a modification to this decision in accordance with the Modification Section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC6. All development shall be constructed in a manner consistent with the following plan set (dated 10/31/11) prepared by Holmes and McGrath, Inc.:

- Sheet 1, Proposed Industrial Building (dated 10/31/11; attached to this decision as Exhibit A and incorporated by reference)
- Sheet 2, Existing Conditions Plan (dated 10/31/11)
- Sheet 3, Grading, Drainage, Septic System & Utilities Plan (dated 10/31/11)
- Sheet 4, Stormwater System Site Details (dated 10/31/11)
- Sheet 5, Stormwater System Site Details (dated 10/31/11)
- Sheet 6, General Details (dated 10/31/11)
- Sheet 7, Proposed Washpad (dated 10/31/11)
- Sheet 8, Proposed Sewage Disposal System (dated 10/31/11)
- Sheet 9, Proposed Sewage Disposal System (dated 10/31/11)
- Landscape Plan, prepared by Rescom Architectural, Inc. (dated 12/1/11)

GC7. Any deviation to the proposed project from the approved plans, including but not limited to changes to the design, location, lighting, landscaping, or other site work, shall require approval by the Cape Cod Commission through its modification process, pursuant to the Commission's *Enabling Regulations*. The Applicant shall submit to the Commission any additional information deemed necessary to evaluate any modifications to the approved plans.

GC8. Prior to the issuance of a Building Permit for the project, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Building Permit have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.

GC9. Prior to the issuance of a Certificate of Use/Occupancy for the project, the Applicant shall obtain a Final Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Certificate of Use/Occupancy have been met. Such Certificate of Compliance shall not be issued unless all applicable conditions have been complied with.

GC10. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall provide written proof to the Commission that a copy of this decision has been provided to the general contractor(s) at least thirty (30) calendar days prior to commencement of construction.

GC11. Prior to the issuance of a Preliminary Certificate of Compliance, the Applicant shall seek and obtain a Special Permit from the Town of Bourne in order to comply with local development bylaws.

GC12. The Applicant shall notify Commission staff in writing at least thirty (30) calendar days prior to its intent to seek each Preliminary and each Final Certificate of Compliance. Such notification shall include a list of key contact(s), along with their telephone numbers and email addresses, for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition, if needed, and inform the Applicant in writing of any deficiencies and corrections needed. The Commission has no obligation to issue any Certificate of Compliance unless and until all conditions are complied with.

GC13. The Applicant agrees to allow Commission staff to enter onto the property, which is the subject of this decision, after reasonable notice to the Applicant, for the purpose of determining whether the conditions contained in this decision including those linked to the Preliminary and Final Certificates of Compliance have been met.

GC14. If all required building and/or site work is not complete at the time the Final Certificate of Compliance is sought from the Commission, any work which is incomplete may be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. Funds to secure the escrow agreement shall be payable to the Barnstable County Treasurer. Prior to the release of the escrow funds, the work must be reviewed and approved by Commission staff as completed as required by either this decision, or the terms of the escrow agreement. Unexpended escrow funds shall be returned to the Applicant, with interest, upon completion of the required work.

GC15. Pursuant to any DRI threshold modification by the Commission pursuant to Chapter H of the Commission's Regulations of General Application which would result in the proposed development not exceeding a mandatory DRI review threshold, the Applicant may seek a modification of this decision for purposes of amending the decision consistent with the threshold modification. Such modification approval will not be unreasonably withheld.

Water Resources

WRC1. The storage and use of Hazardous Materials at the project site shall be limited to 300 gallons (or dry weight equivalent) to ensure that MPS WR2.2 and WM1.1 are met to the maximum extent feasible.

WRC2. Prior to issuance of a Preliminary Certificate of Compliance by the Commission and prior to issuance of any Building Permit by the Town of Bourne, a Spill Prevention, Control and Countermeasures Plan (SPCCP) for the project site shall be submitted to the Commission for staff review and approval to ensure compliance with MPS WM1.4.

WRC3. The project shall be constructed and maintained in accordance with approved plans. Title-5 wastewater design flows shall be limited to 2,250 gallons per day. The project shall submit copies of septic system monitoring reports to the Commission when the reports are filed with the Bourne Board of Health to ensure compliance with MPS WR2.1.

WRC4. Prior to issuance of a Preliminary Certificate of Compliance by the Commission and prior to issuance of any Building Permit by the Town of Bourne, an Integrated Pest Management (IPM) plan for the site demonstrating compliance with MPS WR1.5 shall be submitted to the Commission for staff review and approval. In further support of compliance with MPS WR1.5 and WR2.1, the initial fertilizer application rate of 40 lbs per 1,000 sf referenced in Finding WRF12 shall be adjusted to the annual fertilizer application rate of 3 lbs of fertilizer per 1,000 sf specified on the referenced landscape plan.

WRC5. Prior to issuance of a Preliminary Certificate of Compliance by the Commission and prior to issuance of any Building Permit by the Town of Bourne, engineered grading and drainage plans depicting construction sequencing and demonstrating compliance with MPS WR7.9 shall be submitted to the Commission for staff review and approval.

WRC6. Prior to issuance of a Preliminary Certificate of Compliance by the Commission and prior to issuance of any Building Permit by the Town of Bourne, the final Stormwater Pollution Prevention (SWPP) Plan shall be submitted to the Commission for staff review and approval to ensure compliance with MPS WR7.9 and WR7.10. In accordance with MPS WR7.10 one year following construction of the stormwater system, the system shall be inspected and certified by a Professional Engineer licensed in the State of Massachusetts that the system was installed and is functioning as designed.

WRC7. Prior to issuance of a Preliminary Certificate of Compliance by the Commission and prior to issuance of any Building Permit by the Town of Bourne, detailed engineered grading and drainage plans demonstrating compliance with MPS WR7.11 shall be submitted to the Commission for staff review and approval.

Hazardous Waste

HWC1. Prior to the issuance of a Final Certificate of Compliance, in order to ensure compliance with MPS WM1.1 and MPS WM1.5, the Applicant shall provide for Commission staff review and approval:

1) Registration or notification to the Massachusetts Department of Environmental Protection as a Hazardous Waste Generator,

2) A written plan to manage the Hazardous Waste prior to disposal, and

3) A signed contract with a registered, licensed company to dispose of the Hazardous Waste.

Natural Resources/Open Space

NR/OSC1. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval a draft landscape maintenance agreement which includes provisions for the removal of invasive species within the landscaped areas on the site for the three year life of the agreement.

NR/OSC2. Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to verify the revegetation plan has been implemented. The Final Certificate of Compliance shall not be issued until Commission staff issues a written approval of the revegetation plantings.

Transportation

TRC1. Prior to issuance of a Final Certificate of Compliance, the Applicant shall implement an Employee Trip Reduction program that includes the following in-kind strategies:

- Assemble information regarding carpooling and its benefits to be distributed to their employees.
- Designate an area where carpool information will be posted for all employees of the project.
- Implement a guaranteed ride home program (taxi service) for use in the case of an emergency for program participants.
- Designate preferential parking spaces for employees that carpool.
- Provide secure bicycle storage areas to accommodate bicycles for both employees and patrons.
- Provide on-site services to decrease employee midday trip making. The on-site services shall include a lunchroom, microwave, refrigerator, and prepared foods.
- Provide an on-site transportation coordinator. The transportation coordinator shall be responsible for insuring that the complete rideshare program, including car/vanpools; accommodating work shifts; promotions; incentives; preferential parking; and guaranteed ride home program, is consistently promoted and provided.
- Provide flexible work hours for employees that car/vanpool.
- Develop employee work hours to match transit schedules for transit riders.
- Distribute to all employees a new employee information packet that will include information about the various TDM programs that are available and the ways in which employees can participate.
- Provide a quarterly bulletin or newsletter reminding employees about the TDM programs and making the employees aware of any new or modified services.
- Provide bicycle maps indicating the location of bicycle facilities in the area will be posted in central locations within the development to encourage bicycle commuting, as appropriate.

Solid Waste

SWRC1. Prior to the issuance of the Preliminary Certificate of Compliance, the Applicant shall submit for Commission staff review and approval a C&D Management Plan consistent with MPS WM2.1 and MPS WM2.2 which states, *"A plan shall be provided that specifies: a listing of C&D wastes that will be generated during the development or redevelopment; the method for separating, storing, transporting, and disposing of gypsum (wall board and sheetrock) from the remainder of the waste stream; and the methods that will be used to recycle or dispose of those remaining materials in the C&D waste stream."*

SWRC2. Prior to the issuance of the Final Certificate of Compliance, the Applicant shall submit to the Commission written evidence that the C&D Management Plan was implemented. Such evidence could include but not be limited to receipts from facilities that accepted the various C&D and other waste streams.

Energy

EC1. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval proof that the project generates, using roof mounted solar panels, at least 25 percent of the electrical demand required by the development on site to ensure compliance with MPS E1.6. Any proposed changes to the Energy components of the proposed development shall be reviewed by the Commission as a Minor Modification of this decision.

Heritage Preservation & Community Character

HPCCC1. Prior to issuance of a Preliminary Certificate of Compliance the Applicant shall submit to Commission staff for review and approval a draft landscape maintenance agreement which includes provisions for the removal of invasive species within the landscaped areas on the site for the three year life of the agreement.

HPCCC2. Prior to the issuance of a Final Certificate of Compliance, the Applicant shall submit to Commission staff for review and approval an executed landscape maintenance agreement for a minimum of three growing seasons to insure vegetation is properly established.

HPCCC3. Prior to the issuance of a Preliminary Certificate of Compliance the Applicant shall submit to Commission staff for review and approval an exterior lighting plan that shows all site lighting including on-building mounted lights and all lights on the site to ensure compliance with MPS HPCC2.11.

HPCCC4. Prior to the issuance of the Final Certificate of Compliance from the Commission an in-the-field verification of the exterior lighting design, light levels, and illumination used for site signage will be conducted by Commission staff.

SUMMARY

The Cape Cod Commission hereby approves with conditions the application of Hydroid, Inc. for a proposed combination of lots and a proposed 30,000 square foot commercial development with future expansion to 40,000 square feet, located at Henry Drive in Bourne, MA as a DRI Project of Community Benefit Hardship Exemption as outlined in this decision pursuant to Sections 12, 13 and 23 of the Act, c. 716 of the Acts of 1989, as amended.

12/15/11

Peter Graham, Commission Chair — Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss Dec 15, 2011

Before me, the undersigned notary public personally appeared Peter Graham, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he 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:
9-28-18

GAIL P. HANLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
September 28, 2018