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CAPE COD
COMMISSION

Date:	September 13, 2012
To:	Nichole Dunphy Highpoint Engineering, Inc. 63 Main St, Suite 6 Bridgewater, MA 02324
From:	Cape Cod Commission
Re:	Development of Regional Impact Cape Cod Commission Act, Sections 12 and 13
Applicant:	F.W. Webb Company c/o JM Coull 20 Powder Mill Road Maynard, MA 01754
Property Owner:	Scott D. Clement, Trustee
Project:	F.W. Webb 171 Worcester Court East Falmouth, MA 02540
Project #:	TR12020
Lot/Plan: Map/Parcel:	002A 39/048B
Book/Page:	25321/237

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of F.W. Webb Company c/o JM Coull ("the Applicant"), for a Development of Regional Impact ("DRI") pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed demolition of an existing 10,472 square foot (s.f.) building and 760 s.f. garage and the construction of a new, two-story 24,652 s.f. gross floor area wholesale, retail and warehouse plumbing facility. The decision is rendered pursuant to a unanimous vote of the Commission on September 13, 2012.

PROJECT DESCRIPTION

EXISTING CONDITIONS

According to the application materials, the proposed project is located on a 59,154 s.f. (approximately 1.36 acres) property at 171 Worcester Court East in Falmouth, Massachusetts. The site is the former location of an auto dealership/service repair shop and the current location of Clement's Auto Service. The site includes an existing single story 10,472 s.f. masonry, glass and steel building with a concrete slab floor and a 760 s.f. detached garage located in the southeast corner of the property. Approximately 0.96 acres or 70.6% of the site is currently paved, with parking located on either side of the southern curb cut. The property is surrounded by existing developed parcels and a partially disturbed naturally vegetated area along the eastern property line which serves as a buffer to a coastal bank. The site is bordered by an existing auto body repair shop to the north, NAPA Auto Parts to the south, undeveloped property owned by the Town of Falmouth to the east, and Worcester Court East to the west.

The previous and current facility uses included an auto showroom, offices, and a parts and services department. The existing building has four overhead at-grade doors for vehicle access. Existing utilities on site include municipal water, septic system, overhead electrical service and natural gas. The existing on-site drainage consists of a series of catch basins, leaching catch basins and leaching drain manholes. The site is accessed by two existing paved curb cuts on Worcester Court East, one on either side of the building.

PROPOSED PROJECT

F.W. Webb or "the Applicant" is proposing to demolish the existing building and detached garage and construct a new two-story, F.W. Webb Wholesale & Warehouse facility. The footprint of the proposed building is 18,282 s.f. The proposed project includes reconfiguration of the existing landscaped island along the western property line, new paved parking, an outdoor storage area, updated drainage infrastructure, a new septic system, new landscape islands throughout the property and updated site lighting. The existing water and gas utility services will be reconfigured to accommodate the new building. The Applicant is proposing to pave approximately 209 s.f. of pervious area within the Zone A buffer to align the edge of pavement with the property line, and remove approximately 224 s.f. of the existing impervious area within the Zone A and replace it with open space. Landscaped screening will be provided to buffer the future development from Worcester Court East and the town property to the east.

PROCEDURAL HISTORY

The Commission received the DRI referral for the project on May 31, 2012 from the Town of Falmouth Planning Department through Town Planner, Brian Currie. In a letter dated June 5, 2012, the Applicant was informed that the Commission had received the DRI referral. The application for a DRI was received by the Commission on June 21, 2012. Commission staff requested additional materials in a letter dated July 6, 2012. Upon receiving additional materials from the Applicant, the application was deemed substantively complete to proceed to a public hearing on July 31, 2012.

In accordance with the Cape Cod Commission Act, the DRI hearing period was opened by Hearing Officer on July 27, 2012. A site visit was conducted on July 31, 2012 and a duly noticed public hearing was held at 6:00 pm on that date by an authorized Subcommittee of the Commission at the Falmouth Public Library in Falmouth, MA.

A Subcommittee meeting was held on August 16, 2012 at the Cape Cod Commission office at 3225 Main Street in Barnstable, MA. At that meeting, the Subcommittee voted unanimously to recommend approval of the DRI, with conditions, for the proposed project and to direct Staff to draft a DRI approval decision, with conditions, for Subcommittee review and approval. At a Subcommittee meeting held on August 27, 2012 at the Cape Cod Commission office, the Subcommittee voted to forward the decision to the full Commission for consideration at its meeting on September 13, 2012. At the September 13, 2012 full Commission meeting, the Commission voted to approve the DRI application of F.W. Webb, with conditions and approve the draft written decision.

MATERIALS SUBMITTED FOR THE RECORD

TABLE 1: Materials Submitted for the Record

Materials from Cape Cod Commission	***Date Sent***
DRI notification letter from Gail Hanley (GH) with attached referral	6/5/12
Email from Elizabeth Enos (EE) to Nichole Dunphy (ND) of Highpoint Engineering re: application completeness	7/6/12
Email from EE to ND with attached sample Waste Management Plan	7/10/12
Email from EE to ND with attached comments re: water resources	7/10/12
Email from EE to Brian Currie (BC) re: public hearing and requesting comments re: consistency with local zoning, DCPCs and LCP	7/12/12
Email from EE to subcommittee and ND re: public hearing	7/24/12
Subcommittee mailing cover memo	7/25/12
Email from EE to BC and ND with attached Staff Report	7/27/12
Letter from EE to ND deeming the application complete	7/31/12
PowerPoint presentation, hearing outline and sign-in sheet from public hearing	7/31/12
Email correspondence between EE and ND re: Water Resources	8/1/12
Email from GH to Michael Palmer, Falmouth Town Clerk, with attached hearing notice	8/6/12
Email from EE to ND re: revised Water Resources comments	8/6/12
Email from EE to ND re: thank you	8/6/12
Email from EE to subcommittee and ND re: subcommittee meeting	8/7/12
Email from GH to Michael Palmer with attached public meeting notice	8/7/12
Email from EE to nancy3141@aol.com with attached Staff Report	8/7/12
Emails from EE to ND re: date change on plans	8/9/12
Memo to subcommittee and draft minutes	8/10/12
Email from Scott Michaud, Commission Hydrologist to ND re: thank	8/14/12

you	
Memo from EE to subcommittee re: Water Resources	8/16/12
Memo from EE to subcommittee re: MPSs	8/16/12
Email from EE to subcommittee and ND re: confirming meeting that next meeting is on August 27th at 1:00 pm at the Commission	8/16/12
Email from EE to ND with attached draft decision for review	8/16/12
Email from GH to MP with attached meeting notice	8/20/12
Memo to subcommittee with attached draft decision and draft minutes from August 16, 2012	8/22/12
Revised pages 7 and 18 of draft written decision and email from 8/22 email from ND	8/27/12
Cover memos to CCC members, draft decision with revisions, draft minutes from 8/27/12	9/6/12
Email to Brian Currie with attached draft decision	9/11/12
Materials from Applicant	***Date Received***
Application materials	6/21/12
Email from Nichole Dunphy (ND) of Highpoint Engineering re: electronic version of app materials	6/22/12
Email from ND re: electronic version ready	6/26/12
Email from ND re: uploaded electronic version of traffic study	7/2/12
Traffic Study	7/5/12
Email from ND to EE re: will review letter and respond	7/6/12
Email from ND to EE re: supplemental app materials uploaded to website	7/12/12
Email from ND to EE with attached MHC response	7/13/12
Supplemental application materials	7/13/12
Supplemental app materials	7/16/12
Email from Douglas Hartnett (DH) to Jessica Rempel (JR) re: coastal resources calculations	7/20/12
Email from DH to EE with supplemental materials including traffic study and water resources calculations	7/20/12
Email from ND to JR with attached revised Coastal Resources section	7/23/12
Email from ND to EE re: discussion with Falmouth Water Dept re: potable wells	7/24/12
Email from ND to EE with attached revised Exterior Lighting narrative	7/27/12
Email from ND to EE re: landscape plan	7/27/12
Email from ND to EE re: revised signage narrative	7/27/12
Email from ND to EE with revised landscape plan	7/31/12
Email from ND to EE with revised waste management plan	7/31/12
Email correspondence between ND and EE re: Water Resources	8/1/12
Email from Andy McBeth to Andrea Adams (AA) re: notification to DEP not required	8/2/12

Email from ND to EE re: thank you	8/6/12
Email from ND to EE with attached list of plans	8/6/12
Email from ND to EE with attached revised site plans	8/9/12
Email from ND to EE re: date change on plans	8/9/12
Email from ND to Scott Michaud re: answers to questions asked during telephone conversation	8/14/12
Email from ND with attached suggested edits to draft decision	8/21/12
Email from ND to EE with attached revised Sheet A-2	8/22/12
Materials from Public Agencies/Towns/State/Federal	***Date Received***
DRI Referral from Town of Falmouth	5/31/12
Email from Brian Currie, Falmouth Town Planner to EE re: consistency with local bylaws, DCPCs and LCP	7/12/12
Email and memo from Deborah Converse, Community Preservation Planner for Town of Falmouth re: visual impact/stormwater	7/31/12
Email correspondence from Brian Currie re: draft decision	9/11/12

TESTIMONY

July 31, 2012 Public Hearing

A subcommittee of the Cape Cod Commission held a duly noticed public hearing on the proposed DRI located at 171 Worcester Court East in Falmouth, MA for the purposes of receiving public testimony. Cape Cod Commission Regulatory Officer, Elizabeth Enos presented the Staff Report. Nichole Dunphy and Douglas Hartnett of Highpoint Engineering and Andy McBeth of JM Coull presented on behalf of the Applicant and reviewed the project proposal and urged the subcommittee to approve the proposed project. No members of the public provided testimony. The hearing was continued to the September 13, 2012 full Commission meeting at 3 pm in the Assembly of Delegates Chamber in the 1st District Courthouse in Barnstable, Massachusetts.

August 16, 2012 Subcommittee Meeting

A subcommittee of the Cape Cod Commission held a duly noticed public meeting for the purpose of deliberating on the proposed DRI located at 171 Worcester Court East in Falmouth, MA. Commission Staff reviewed the standards for approval and the applicable Minimum Performance Standards of the Regional Policy Plan with the subcommittee. After deliberating on the project, the subcommittee voted unanimously to recommend approval of the proposed DRI, with conditions, and to direct Commission Staff to draft a written decision for review and approval by the subcommittee.

August 27, 2012 Subcommittee Meeting

A subcommittee of the Cape Cod Commission held a duly noticed public meeting for the purpose of reviewing a draft written decision for the proposed DRI located at 171 Worcester Court East in Falmouth, MA. Commission Staff reviewed the decision page by page with the subcommittee. The subcommittee voted unanimously to approve the minutes of the August 16, 2012 subcommittee meeting and to recommend approval of the draft decision, as amended, to the full Commission at the September 13, 2012 Cape Cod Commission meeting.

JURISDICTION

The project qualifies as a DRI pursuant to Section 3(f)(i) of the Commission's *Enabling Regulations* (Revised July 2012) "Where the Gross Floor Area of the building(s), or that portion of a building, subject to the change of Use, is greater than 10,000 square feet."

FINDINGS

The Commission has considered the DRI application of F.W. Webb Company c/o JM Coull for the proposed demolition of an existing 10,472 square foot (s.f.) building and 760 s.f. garage and the construction of a new, two-story 24,652 s.f. gross floor area wholesale, retail and warehouse plumbing facility, 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 and 13 of the Act:

General Findings

GF1. As the date of the first substantive public hearing on the application was July 31, 2012, the proposed project was reviewed subject to the 2009 Regional Policy Plan (RPP), as amended in May 2011.

GF2. The project location is 171 Worcester Court East in Falmouth, Massachusetts. The site is zoned B-2 Business District.

GF3. The project site, as described in the application materials, is located on a 59,154 s.f. (approximately 1.36 acres) property. The site is the former location of an auto dealership/service repair shop and the current location of Clement's Auto Service. The site includes an existing single story 10,472 s.f. masonry, glass and steel building with a concrete slab floor and a 760 s.f. detached garage located in the southeast corner of the property. Approximately 0.96 acres or 70.6% of the site is currently paved, with parking located on either side of the southern curb cut. The property is surrounded by existing developed parcels and a partially disturbed naturally vegetated area along the eastern property line which serves as a buffer to a coastal bank. The site is bordered by an existing auto body repair shop to the north, NAPA Auto Parts to the south, undeveloped property owned by the Town of Falmouth to the east, and Worcester Court East to the west.

GF4. According to the application materials, the Applicant is proposing to demolish the existing building and detached garage and construct a new two-story, F.W. Webb Wholesale & Warehouse facility. The footprint of the proposed building is 18,282 s.f. The proposed project includes reconfiguration of the existing landscaped island along the western property line, new paved parking, an outdoor storage area, updated drainage infrastructure, a new septic system, new landscape islands throughout the property and updated site lighting. The existing water and gas utility services will be reconfigured to accommodate the new building. The Applicant is proposing to pave approximately 209 s.f. of pervious area within the Zone A buffer to align the edge of pavement with the property line, and remove approximately 224 s.f. of the existing impervious area within the Zone A and replace it with open space.

Landscaped screening will be provided to buffer the future development from Worcester Court East and the town property to the east.

GF5. The project qualifies as a DRI pursuant to Section 3(f)(i) of the Commission's *Enabling Regulations* (Revised July 2012) "Where the Gross Floor Area of the building(s), or that portion of a building, subject to the change of Use, is greater than 10,000 square feet."

GF6. The Commission adopts the written testimony dated July 12, 2012, Brian Currie, Town Planner for the Town of Falmouth states that "The proposal is consistent with local zoning but for a Special Permit that may issue from the Board of Appeals and a Site Plan Review by the Planning Board." As such, the Commission adopts the written testimony of Brian Currie and finds that the proposed development is consistent with municipal development bylaws, provided that a Special Permit is obtained from the Zoning Board of Appeals and a Site Plan Review is completed by the Planning Board.

GF7. In written testimony dated July 12, 2012, Brian Currie, Town Planner for the Town of Falmouth states that the proposed project is consistent with the Town of Falmouth's Local Comprehensive Plan. As such, the Commission adopts the written testimony of Brian Currie and finds that the proposed project is consistent with this criterion.

GF8. The Commission finds the proposed development is not located in a District of Critical Planning Concern (DCPC) and as such, this criterion does not apply to the proposed development.

GF9. The Commission finds that the project will be constructed in accordance with the following plans:

- FW Webb – Falmouth Site Development Plans, dated May 25, 2012 and revised through August 8, 2012, prepared by Highpoint Engineering, Inc. (TS001 and C001 – C010).
- Architectural Floor Plan and Elevations, dated June 20, 2012 (Sheet A2 updated August 17, 2012), prepared by Design Science. (A1-A3).
- Architectural Roof Plan, dated July 10, 2012, prepared by Design Science.
- SL-1 Site Lighting Photometric Plan, dated July 10, 2012 with DXF file created by LitePro 2.030 on July 24, 2012, prepared by Engineered Building Systems, Inc.
- SL-2 Site Lighting Photometric Details, dated July 10, 2012, prepared by Engineered Building Systems, Inc.

GF10. The Commission finds that the probable benefit of the proposed development includes meeting Best Development Practices WR1.7 and 5.6, TR2.16 and HPCC2.19 and removing the existing facility and replacing it with a new updated building and eliminating blight in the area.

GF11. The Commission finds that the narrow width of the passage way on the south side of the building is a probable detriment of the proposed development.

GF12. The Commission finds that the probable benefit from the proposed development is greater than the probable detriment.

Land Use

LUF1. The Commission finds that as Falmouth has not adopted a Land Use Vision Map (LUVM), MPS LU1.1 (Development Location) does not apply to the proposed development.

LUF2. Given the type of development proposed, the Commission finds the applicant has met the requirements of MPS LU1.2 (Compact Development), and LU 2.1 (Connections to Existing Infrastructure) to the maximum extent feasible for the proposed project.

LUF3. The Commission finds the Applicant is not proposing a wireless telecommunications facility, nor is the project proposed located adjacent to rural or agricultural landscapes. As such, the Commission finds that MPS LU 2.2 (Col-location of Telecommunication Facilities), LU3.1 (Buffers to Agricultural Uses), and LU3.2 (Impacts to Agricultural Lands) do not apply to the proposed development.

Economic Development

EDF1. The Commission finds that as a redevelopment project proposed in a town without a LUVM, the project must meet two waiver criteria under MPS ED1.3 pursuant to MPS ED1.1. The Commission finds that as the Applicant is proposing to generate 25% of their on-site electrical energy demand through a roof-mounted photovoltaic system, the proposed project meets the Distributed Energy Generation waiver criteria. The Commission further finds that the proposed project meets the Shared Infrastructure waiver criteria by tying into the existing utilities at the site with the exception of the drainage and septic systems. The application materials state that "The demand on the municipal utilities will be very similar to the demand from the previous use. It has been determined that the municipal utilities have adequate capacity to handle the proposed FW Webb facility." As such, the Commission finds that the proposed project meets MPS ED1.1 and 1.3.

EDF2. The Commission finds that all other MPSs under Economic Development do not apply to the proposed project.

Water Resources

WRF1. The Commission finds that the entire site is presently developed and approximately 90% of the site is covered by building structures and impervious surfaces. The Commission further finds that the proposed redevelopment will reduce the amount of impervious surfaces to approximately 85% and include a new stormwater management system that provides some pre-treatment using vegetation. The applicant proposes to replace the existing septic systems with a standard Title 5 septic system to manage project Title 5 wastewater design flows of 811 gallons per day (gpd) based on office, wholesale and showroom uses within 15,000 s.f. of floor area.

WRF2. The Commission finds that a water supply well is not being proposed as part of the project, and as such, MPS WR1.3 does not apply.

WRF3. The Commission finds that the proposed project is not a residential subdivision, and as such, MPS WR1.4 does not apply.

WRF4. The Commission finds that the Landscape Plan submitted by the Applicant dated May 25, 2012 and revised through August 8, 2012, prepared by Highpoint Engineering, Inc. complies with MPS WR1.5 which requires a turf and landscape management plan that incorporates water conservation measures.

WRF5. The Commission finds that the proposed project is not located in a Wellhead Protection Area or Potential Public Water Supply Area and as such, RPP Section WR2 does not apply to the proposed development.

WRF6. According to written testimony submitted by Nichole Dunphy of Highpoint Engineering on July 24, 2012, the Falmouth Water Department indicated that the project site and abutting properties within 400 feet are serviced by municipal water and that such properties are not permitted to rely on wells for potable water supply. As such, the Commission finds that the proposed project complies with MPS WR1.2 which requires the identification of drinking water wells.

WRF7. The Commission finds that the proposed project is located in a watershed that is classified as a Marine Water Recharge Area (MWRA) that contributes to Little Pond. The Commission further finds that the Massachusetts Department of Environmental Protection (Mass DEP) has published an EPA-approved Total Maximum Daily Load (TMDL) for the Little Pond system. As a critical nitrogen load has been established for Little Pond, the Commission finds MPS WR3.2 and 3.5 do not apply to the proposed project.

WRF8. As the Town of Falmouth does not currently have a Commission approved nutrient management plan or comprehensive wastewater management plan, the Commission finds that MPS WR3.3 does not apply.

WRF9. The Commission finds that a wastewater treatment facility is not being proposed as part of the proposed project, and as such, MPS WR3.6, 5.2 and all MPSs under RPP Section WR6 do not apply.

WRF10. The Commission finds that the proposed project is not located in a watershed that recharges a fresh water pond or lake, and as such, all MPSs under RPP Section WR4 do not apply to the proposed project.

WRF11. The Commission finds that MPS WR5.3 and 5.5 do not apply to the proposed project.

WRF12. The Commission finds that according to RPP Water Resources Classification Map I, the proposed project is located in an Impaired Water Quality Area (IWQA) and a Water Quality Improvement Area (WQIA) as the site location is in both an IWQA

and a MWRA. As the proposed project is not located outside of other mapped water resource areas, the Commission finds MPS WR5.4 does not apply.

WRF13. The Commission finds that DRIs are required to meet MPS WR1.1 which limits the project's site-wide nitrogen loading concentration to 5 milligrams per liter (ppm-N). However, as the proposed project is located in a WQIA, pursuant to MPS WR5.1 the proposed project is required to maintain or improve nitrogen loading if the nitrogen loading from the prior use exceeds the 5 ppm-N limit. The Commission finds that based on an evaluation completed by the Applicant of actual water use for the five year period ending in 2012 and actual use of a similar F.W. Webb facility in Plymouth, MA, adjusted for size, the project's use of a standard Title 5 septic system would result in a reduced nitrogen load relative to prior uses at the site. As such, the Commission finds that the proposed project meets MPS WR1.1, 3.1 and 5.1, and that MPS WR3.4 does not apply.

WRF14. The commission finds that the project shall be conditioned to limit project Title 5 wastewater design flows to 811 gpd to ensure compliance with MPS WR 3.1 and 5.1.

WRF15. The Commission finds that the DRI application describes stormwater management elements required and allowed by RPP Sec WR7, including use of biofiltration where feasible pursuant to MPS WR7.4 and structured infiltration designs allowed in Water Quality Impaired Areas pursuant to MPS WR7.7. The Commission finds that the proposed project shall be conditioned to require certification by a Professional Engineer licensed by the State of Massachusetts that MPSs under RPP Section WR7 are met, including RPP system performance and sizing requirements as specified by MPS WR7.2 and 7.5.

WRF16. The Commission finds that the Stormwater Operations and Maintenance Plan submitted with the DRI application complies with MPS WR 7.10. The Commission finds that in order to ensure compliance with MPS WR7.10, "[o]*ne year from completion of the system, a Professional Engineer shall inspect the system and submit a letter* [for Commission staff review and approval] *certifying that the system was installed and functions as designed.*"

WRF17. The Commission finds that the Applicant proposed water conservation measures consistent with Best Development Practice (BDP) WR1.7, including low-flow plumbing fixtures and drip irrigation. The Commission further finds that the Limited Subsurface Investigation (LSI) report provided by the Applicant is consistent with BDP WR5.6, as the report indicates that concentrations of regulated compounds do not exceed levels that require notifying Mass DEP. The Commission finds that these BDPs are benefits of the proposed project.

Coastal Resources

CRF1. The Commission finds that the eastern portion of the project site lies within the 100 foot buffer to a coastal bank, and as such, MPS CR2.6 (Coastal Banks and Their Buffers) applies to the proposed project. The Commission finds that the majority of the project site located within the 100 foot buffer to this coastal bank is currently

developed with impervious surfaces, an existing garage, and a small portion of the primary structure, and that according to the application materials, the proposed project has been designed to improve the existing site conditions and to have minimal impact on the existing coastal bank buffer by locating the majority of development within the existing development footprint and providing an overall increase in pervious and landscaped area within the 100 foot buffer, thereby providing additional buffering along the coastal bank. As such, the Commission finds that the proposed project complies with MPS CR2.6.

CRF2. The Commission finds that all other MPSs under Coastal Resources do not apply to the proposed project.

Natural Resources/Open Space

NRF1. The Commission finds that the proposed project site is completely developed within the property boundaries and is not mapped as a Significant Natural Resource Area or located adjacent to wetlands regulated under MPS WET1.1, 1.2 or 1.4. As such, the Commission finds that the MPSs under goals WET1, WPH1, and OS1 do not apply to the proposed project.

Transportation

TRF1. The Commission finds that the project specific trip generation analysis provided by the Applicant is consistent with MPS TR0.1 (Sources of Trip Generation Data).

TRF2. The Commission finds that traffic credits for past use of the 10,440± s.f. building that was operated as an automobile dealership until January 2010, which is within the 3-year look-back period shall be allowed. The proposed trip-generation credit is based on data for New Car Sales (Land Use Code 841) in the *ITE Trip Generation Manual 8th Edition*. The Commission further finds that the trip generation credits presented in the Supplemental Memorandum provided by the Applicant on July 20, 2012 comply with MPS TR0.2 (Traffic Credit for Past Uses).

TRF3. The Commission finds that the project shall be conditioned to comply with MPS TR0.3 (Permits for Roadwork prior to Construction) to ensure that all necessary approvals and permits from the Town of Falmouth are obtained and copies submitted to the Commission prior to issuance of a preliminary Certificate of Compliance.

TRF4. The Commission finds that the proposed project is not located inside an Economic Center, and as such, MPS TR0.4 (Alternative Method for Compliance within Economic Centers) and MPS TR0.5 (Incentive for Mixed Use in Economic Centers) do not apply.

TRF5. Based on the materials submitted by the Applicant, the Commission finds that the project complies with MPS TR1.1 (No Degradation of Safety).

TRF6. The Commission finds that according to materials submitted by the Applicant, none of the applicable intersections will experience an increase of 25 or more peak-hour trips as a result of the proposed project, and as such, the Commission finds that the project complies with MPS TR1.2 (Crash Frequency at Key Locations) and MPS TR1.3 (Identification of Safety Impact).

TRF7. The Commission finds that the proposed project site is served by two (2) driveways onto Worcester Court with curb cuts of 35 ft and 46.2 ft. According to the "Traffic Impact and Access Study" (TIAS) provided by the Applicant, the widths and corner radii of the driveways are necessary "to accommodate the turning and maneuvering requirements of delivery trucks and the largest responding fire truck as defined by the Town of Falmouth Fire Department." As such, the Commission finds that the proposed project complies with MPS TR1.4 (Standards for Driveway Construction).

TRF8. As the proposed project site is not located within the limited-access portion of Route 6, the Commission finds that MPS TR1.5 (Route 6 Access/Egress) does not apply.

TRF9. The Commission finds the project shall be conditioned to ensure compliance with MPS TR1.6 (Sight-distance Obstructions) with the provision that, prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drive.

TRF10. The Commission finds that bicycles are accommodated along Worcester Court in a shared travelled-way condition and pedestrians are accommodated with a sidewalk on the west side of the street. As such, the Commission finds the project has provided bicycle and pedestrian accommodations consistent with the adjacent roadway and complies with MPS TR1.7 (Bicyclists and Pedestrians Safety and Access/Egress Requirements).

TRF11. Based on the results of the sight distance measurements at the two (2) proposed driveway locations onto Worcester Court presented in the Applicant's "Traffic Impact and Access Study" (TIAS), the Commission finds the available sight distance exceeds the required minimum safe stopping distance at both driveways, and as such, the proposed project complies with MPS TR1.8 (Sight-distance Requirements). The Commission further finds that as safety mitigation is not required for the proposed project, MPS TR1.9 (Mitigation Timing) does not apply.

TRF12. The Commission finds that as presented in the Supplemental Memorandum, daily site traffic is expected to decrease as compared to the previous use, and as such, MPS TR2.1 (Trip Reduction outside Growth Incentive Zones or Economic Centers) does not apply to the proposed project.

TRF13. The Commission finds that the Applicant has proposed to implement a Travel Demand Management Plan (TDM) program in order to reduce 25 percent of site traffic anticipated to be generated by the proposed project and the required congestion mitigation. The Commission finds the project shall be conditioned to require Commission staff to conduct a site visit prior to issuance of a Final Certificate of Compliance to ensure that the TDM program has been established and is in place, and in order to demonstrate that trip reduction is being achieved per MPS TR2.5 (Estimating Trip Reduction), the project shall be conditioned to provide results of the annual survey of employee participation in the TDM program.

TRF14. The Commission finds the proposed project is not located inside a Growth Incentive Zone or Economic Center, and as such MPS TR2.2 (Trip Reduction Inside of Growth Incentive Zones or Economic Centers) does not apply.

TRF15. The Commission finds that the project shall be conditioned to require the Applicant to allow for future connections to adjacent parcels to ensure compliance with MPS TR2.3 (Interconnections). As a vehicular interconnection is not currently being proposed as part of the project, the Commission further finds that MPS TR2.4 (Incentives for Connection between Adjacent Properties) does not apply.

TRF16. The Commission finds that the proposed project site is not located on a public transit route, and as such MPS TR 2.6 (Bus Stops, Turn-outs, and Shelters) does not apply.

TRF17. The Commission finds that the project has provided accommodations for non-automobile users consistent with the location and intended use of the site and that the proposed project complies with MPS TR2.7 (Bicycle and Pedestrian Accommodations).

TRF18. The Commission finds there is a sufficient right-of-way existing within the town-owned roadway layout to accommodate expected needs for bicycle and pedestrian accommodations and/or relocation of utilities, and as such, MPS TR2.8 (Preservation of Frontage) does not apply to the proposed project.

TRF19. The Commission finds that the applicant is proposing no more than the minimum number of spaces required by the Town of Falmouth, and as such, the project complies with MPS TR2.9 (Parking Spaces).

TRF20. The Commission finds that implementation of the TDM program proposed by the Applicant constitutes an acceptable trip reduction strategy consistent with MPS TR2.10 (Acceptable Trip-reduction Strategies). The Commission further finds that as no other trip reduction strategies are being proposed by the Applicant, MPS TR2.11 (Other Trip-reduction Strategies) does not apply to the proposed project and that the TDM program satisfies the requirements of Goal TR2 of the RPP. As the applicant has reduced the net increase in peak hour vehicle trips from four (4) to

three (3), the Commission finds the proposed project complies with MPS TR2.12 (Trip-generation Credits) and MPS TR3.2 (Credit for Trip-reduction Mitigation) and is only required to mitigate three (3) peak hour trips per MPS TR3.4 (Mitigation of Congestion Impacts Required).

TRF21. The Commission finds that no trip reduction payments are being proposed by the Applicant, and as such, MPS TR2.13 (Inflation Factor) and MPS TR2.14 (Use of Trip-reduction Funds) do not apply to the proposed project.

TRF22. The Commission finds that implementation of the TDM program, as detailed in the Supplemental Memorandum, meets BDP TR2.16 (Alternative Modes of Travel).

TRF23. The Commission finds that according to the application materials, "all movements at the Project site driveway with Worcester Court were shown to operate at level-of-service of "B" or better during the peak periods under both average and peak-month traffic conditions." As such, the Commission finds the proposed project complies with MPS TR3.1 (Operation Requirements).

TRF24. The Commission finds the TIAS and Supplemental Memorandum provided by the Applicant were prepared in accordance with Technical Bulletin 96-003, and as such the project complies with MPS TR3.3 (Traffic Study).

TRF25. The Commission finds the project shall be conditioned to provide a fair-share congestion mitigation payment of $4,268 to Barnstable County prior to the issuance of a Final Certificate of Compliance in order to meet MPS TR3.4 (Mitigation of Congestion Impacts Required) and MPS TR 3.6 ("Fair-share" Payments), taking into consideration factors such as safety, congestion, area land uses and environmental impacts. The congestion mitigation payment shall be used in accordance with MPS TR3.16 (Use of Congestion Mitigation Funds). The Commission further finds that TR3.5 (Mitigation Fee) and MPS TR3.15 (Inflation Factor) do not apply to the proposed project.

TRF26. The Commission finds that no structural mitigation is being proposed, and as such MPS TR3.7 (Restriction on Widening or New Signals), MPS TR3.8 (Year-round Structural Mitigation), MPS TR 3.9 (Bicycle and Pedestrian Accommodation), MPS TR3.10 (Preserve Existing Right-of-Way), MPS TR3.11 (No Capacity Increase on Controlled-access Highways), MPS TR3.12 (Consistency with Other Plans), MPS TR3.13 (Operation and Maintenance Costs), and MPS TR3.14 (Traffic Monitoring Devices) do not apply to the proposed project.

Waste Management

WMF1. The Commission finds that based on written correspondence from Mass DEP to the Applicant on July 31, 2012, registration or notification to Mass DEP is not required

for the proposed project. As such, the Commission finds that the proposed project complies with MPS WM1.5.

WMF2. The Commission finds that the Applicant shall revise the Construction and Demolition Waste Plan included in the application materials and provide an outline of the anticipated General Contractor Waste Management Plan/guidelines for F.W. Webb prior to issuance of a Preliminary Certificate of Compliance in order to demonstrate compliance with MPS WM2.1 and 2.2.

WMF3. The Commission finds that the Applicant has provided sufficient information to demonstrate that the remaining MPSs under Waste Management do not apply to the proposed project.

Energy

EF1. The Commission finds that the Applicant proposes to generate 25% or more of the projected annual electrical demand through a rooftop solar array, and as such, the proposed project meets the requirements of MPS E1.6. As the proposed project meets MPS E1.6, the Commission waives the requirements of MPS E1.1 through E1.5.

EF2. The Commission finds that the Applicant is not proposing to install a Wind Energy Conversion Facility (WECF), and as such, the remaining MPSs under Energy do not apply to the proposed project.

Affordable Housing

AHF1. The Commission finds that in accordance with MPS AH3.1, as adjusted annually per MPS AH3.3, the mitigation for a 24,652 square foot warehouse and distribution facility is $60,397.

AHF2. The Commission finds that according to materials submitted by the Applicant, the project will generate 10 fewer below average wage jobs than projected, and as such, will result in a 76.9% (10/13) reduction in the affordable housing mitigation pursuant to MPS AH3.2. The affordable housing mitigation for the new warehouse and distribution building calculated on the basis of $0.57 per square foot ($2.45 x .231) is $14,052.

AHF3. The Commission finds that the proposed project is redevelopment, and as such, in accordance with MPS AH3.5, the Applicant receives a credit for the amount of mitigation based upon the existing use and the existing square footage. The Commission finds the existing use is an automobile service shop classified as "Other" under MPS AH3.1 and the mitigation credit in accordance with Technical Bulletin #10-001 is $44,816.

AHF4. As the Applicant has a credit of $44,816 from the existing use, the Commission finds that no affordable housing mitigation is required.

AHF5. The Commission finds the remaining MPSs under Affordable Housing do not apply to the proposed project.

Heritage Preservation and Community Character

HPCCF1. The Commission finds that based on a June 29, 2012 determination from the Massachusetts Historical Commission (MHC) the proposed project is unlikely to affect significant historic or archaeological resources. The Commission further finds that as the proposed project is located outside of any historic districts and there are no historic structures or cultural landscapes on the site, the proposed project is consistent with MPS HPCC1.1, 1.2 and 1.3.

HPCCF2. The Commission finds that the proposed development does not meet the RPP definition of strip development; nor does the development result in any changes to the adjacent regional roadway. The Commission further finds that the proposed project is not located in a scenic or visually sensitive area. As such, the Commission finds that the proposed project is consistent with MPS HPCC2.1, 2.2 and 2.3.

HPCCF3. The Commission finds that the proposed project is not located in an area of distinctive character such as an historic district or village center, and the proposed building mass, height and roof shape are consistent with the region's development patterns, incorporating a pitched roof and a building mass consistent with surrounding structures. The Commission further finds that traditional materials are used on the proposed structure's front facade, and the front portions of the side facades, which ensure that the part of the building visible to the public will have a traditional appearance. The roof uses non-traditional materials (standing seam metal) as is typical for a building of this type, however, the Commission finds the orientation of the building means that the roof materials will not be prominently viewed from the street, and will be partly obscured from view by solar panels attached to the roof. As such, the Commission finds that the proposed project is consistent MPS HPCC2.4.

HPCCF4. The Commission finds that MPS HPCC2.5 allows redevelopment projects to be constructed as a single mass of up to 50,000 square feet without the need for screening. The Commission finds that the structure has a footprint of 18,282 square feet and will be constructed on an already developed and paved area of the site, and as such the proposed project is consistent MPS HPCC2.5.

HPCCF5. The Commission finds that three of the four proposed building façades meet the dimensional requirements of MPS HPCC2.6. The Commission finds that the fourth side of the building will be mostly obscured from view by adjacent development, landscaping and the mature trees to remain along the front property line, any variation in this façade is unlikely to have a significant effect on the overall building massing as viewed from the street. As such the Commission finds that the proposed project design is consistent with MPS HPCC2.6 which requires variation in the building façade to reduce the apparent mass of the structure.

HPCCF6. The Commission finds that MPS HPCC2.7 does not apply to the proposed project as the site is not located in an industrial area and will be visible from the adjacent regional road (Worcester Court).

HPCCF7. The Commission finds that the proposed structure includes a mezzanine area to limit the extent of the building coverage, and as such, the proposed project is consistent with BDP HPCC2.19 which encourages multiple stories to reduce building footprints.

HPCCF8. The Commission finds the proposed site design includes the majority of parking to the side of the building, with a total of twelve (12) parking spaces in front of the building. As a redevelopment project, this area was previously paved and used for parking. The Commission finds the Applicant has minimized paved area in front of the site by incorporating a one-way circulation and angled parking spaces which allows for the retention of existing mature trees that help to define the street edge and soften the building, consistent with good design practices. The Commission finds the Applicant has also proposed to seek a waiver from the minimum number of parking spaces required by local zoning. As such, the Commission finds the proposed project is consistent with MPS HPCC2.8.

HPCCF9. The Commission finds that the Landscape Plan submitted by the Applicant dated May 25, 2012 and revised through August 8, 2012, prepared by Highpoint Engineering, Inc. complies with MPS HPCC2.9 and 2.10. The Commission finds that the Applicant shall submit a Landscape Maintenance Agreement prior to issuance of a Final Certificate of Compliance for a minimum of three growing seasons to insure vegetation is properly established.

HPCCF10. The Commission finds that the proposed exterior lighting design submitted by the Applicant is consistent with MPS HPCC2.11 and the Commission's Exterior Lighting Technical Bulletin, 95-001, as amended.

HPCCF11. The Commission finds that according to revised information provided by the Applicant on 7/27/12, the proposed pediment site sign *"will be externally lit by a separate light source."* The Commission further finds that no lights are proposed for the on-building mounted signage/graphics. As such, the Commission finds the proposed site signage illumination is consistent with MPS HPCC2.12.

HPCCF12. The Commission finds that HPCC2.13 and 2.14 do not apply to the proposed project.

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 upon satisfaction of the conditions identified in this decision, the proposed development is consistent with the 2009 (as amended) Regional Policy Plan, and is

consistent with the Local Comprehensive Plan of the Municipality in which the proposed development is located;

3. The proposed development is consistent with municipal development bylaws upon issuance of a Special Permit by the Zoning Board of Appeals and completion of Site Plan Review by the Planning Board; and

4. The proposed project is not located within a District of Critical Planning Concern.

CONDITIONS

The Commission hereby approves, with conditions, the DRI application of F.W. Webb c/o JM Coull for the proposed demolition of an existing 10,472 square foot (s.f.) building and 760 s.f. garage and the construction of a new, two-story 24,652 s.f. gross floor area wholesale, retail and warehouse plumbing facility located in Falmouth, MA, 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. All development shall be constructed in a manner consistent with the following plans and other information:

- FW Webb – Falmouth Site Development Plans, dated May 25, 2012 and revised through August 8, 2012, prepared by Highpoint Engineering, Inc. (TS001 and C001 – C010).
- Architectural Floor Plan and Elevations, dated June 20, 2012 (Sheet A2 updated August 17, 2012), prepared by Design Science. (A1-A3).
- Architectural Roof Plan, dated July 10, 2012, prepared by Design Science.
- SL-1 Site Lighting Photometric Plan, dated July 10, 2012 with DXF file created by LitePro 2.030 on July 24, 2012, prepared by Engineered Building Systems, Inc.
- SL-2 Site Lighting Photometric Details, dated July 10, 2012, prepared by Engineered Building Systems, Inc.

Any deviation to the proposed project from the approved plans, including but not limited to changes to the design, location, 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.

GC6. Prior to the issuance of a Building Permit for development, the Applicant shall seek and obtain a Preliminary Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Preliminary Certificate of Compliance/Building Permit have been met. Such Certificate of Compliance shall not be issued unless all conditions connected to the Preliminary Certificate of Compliance have been complied with.

GC7. Prior to the issuance of a Building Permit for development, the Applicant shall seek and obtain a Special Permit from the Falmouth Zoning Board of Appeals and complete Site Plan Review by the Town of Falmouth Planning Board.

GC8. Prior to the issuance of a Certificate of Use/Occupancy, the Applicant shall seek and obtain a Final Certificate of Compliance from the Commission that states that all conditions in this decision pertaining to issuance of a Final Certificate of Compliance/Certificate of Use/Occupancy have been met. Such Certificate of Compliance shall not be issued unless all conditions connected to the Final Certificate of Compliance have been complied with.

GC9. 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, mailing addresses, 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.

GC10. 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 required prior to issuance of the Preliminary and Final Certificates of Compliance have been met.

Water Resources

WRC1. The project shall be limited to Title 5 wastewater design flows of 811 gpd to ensure compliance with MPS WR3.1 and 5.1.

WRC2. The Applicant shall provide certification by a Professional Engineer licensed by the State of Massachusetts that MPSs under RPP Section WR7 are met, including RPP

system performance and sizing requirements prior to issuance of a Preliminary Certificate of Compliance.

WRC3. In order to ensure compliance with MPS WR7.10, "[o]ne year from completion of the system, a Professional Engineer shall inspect the system and submit a letter [for Commission staff review and approval] certifying that the system was installed and functions as designed."

Transportation

TC1. The Applicant shall obtain all necessary approvals and permits from the Town of Falmouth and submit copies to Commission staff prior to issuance of a preliminary Certificate of Compliance in order to demonstrate compliance with MPS TR0.3.

TC2. Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drive to ensure compliance with MPS TR1.6.

TC3. Commission staff shall conduct a site visit prior to issuance of a Final Certificate of Compliance to ensure that the TDM program proposed by the Applicant has been established and is in place, and in order to demonstrate that trip reduction is being achieved per MPS TR2.5. The Applicant shall provide the results of the annual survey of employee participation in the TDM program to Commission staff.

TC4. The Applicant shall allow for future connections to adjacent parcels to ensure compliance with MPS TR2.3.

TC5. The Applicant shall provide a fair-share congestion mitigation payment of $4,268 to Barnstable County prior to the issuance of a Final Certificate of Compliance in order to meet MPS TR3.4 and 3.6. The congestion mitigation payment shall be used in accordance with MPS TR3.16.

Waste Management

WMC1. The Applicant shall revise the Construction and Demolition Waste Plan included in the application materials by providing an outline of the anticipated General Contractor Waste Management Plan/guidelines for F.W. Webb prior to issuance of a Preliminary Certificate of Compliance in order to demonstrate compliance with MPS WM2.1 and 2.2.

Heritage Preservation and Community Character

HPCCC1. The Applicant shall submit a Landscape Maintenance Agreement prior to issuance of a Final Certificate of Compliance for a minimum of three growing seasons to insure vegetation is properly established.

SUMMARY

The Cape Cod Commission hereby approves with conditions the application of F.W. Webb c/o JM Coull for the proposed demolition of an existing 10,472 square foot (s.f.) building and 760 s.f. garage and the construction of a new, two-story 24,652 s.f. gross floor area wholesale, retail and warehouse plumbing facility located in Falmouth, MA, as a DRI as outlined in this decision pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended.

John D. Harris, Commission Chairman

13 Sep 2012
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Sept 13, 2012

Before me, the undersigned notary public personally appeared John D. Harris 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