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November 5, 2015  
0116179-00001

**By Hand Delivery**

Jon Idman, Esq., Chief Regulatory Officer  
Cape Cod Commission  
3225 Main Street  
Barnstable, MA 02630

Re: Waterhouse Properties, LLC - Atlantic Subaru Dealership  
122 and 124 Waterhouse Road, Bourne

Dear Jon:

This office represents Waterhouse Properties, LLC (hereafter "WP"), owner of the car dealership property located at 124 Waterhouse Road, Bourne (hereafter, the "Property").<sup>1</sup> It is the purpose of this correspondence to request a Minor Modification of the April 13, 2000 development of regional impact decision (TR99025) in connection with WP's proposed expansion of the dealership on the subject Property, as described in detail below.

**Background / Subject Property**

The Property is located in the Town of Bourne at the southern end of Waterhouse Road where it merges onto MacArthur Boulevard (Route 28). The Property contains approximately 3.39 acres of land and is located in a business zoning district. The Property is developed with an approximately 11,100 square foot car dealership, including 8 existing service bays, and showroom and office space. There are 148 outdoor car display spaces and 20 customer/employee parking spaces on the site. The Property is attractively landscaped with interior landscape islands and a wide vegetated buffer along its Waterhouse Road frontage consisting of lawn, shrubs and low groundcover.

By way of background, in April of 2000, the Cape Cod Commission (hereafter, the "CCC") issued development of regional impact approval authorizing construction of the existing 2-story car dealership, together with associated display areas and parking on the Property

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<sup>1</sup> See deed recorded with the Barnstable County Registry of Deeds (the "Registry") in Book 18540, Page 341. The Property is shown as Lot 1 on the plan recorded with the Registry in Plan Book 454, Page 48.



(hereafter, the “CCC Decision”).<sup>2</sup> The CCC issued a Certificate of Compliance on July 9, 2001, confirming compliance with the conditions of the CCC Decision. At the time of the CCC permitting, the Property was owned by the EJB Realty Trust. WP acquired the Property from EJB Realty Trust in April of 2004.

### **Proposed Expansion / Addition**

To meet demand and to provide the necessary branding, service and amenities that Subaru of America requires of its dealerships, in June of 2014, WP proposed to expand the existing dealership with an additional 6 service bays and additional parking spaces. The expansion was approved by the Town of Bourne Planning Board as Site Plan Review / Special Permit No. 05-2014, and the decision was recorded with the Registry in Book 28442, Page 246 (hereafter, the “2014 Approval”). A copy of this decision is attached as **Exhibit A**.

At approximately the same time that the 2014 Approval was granted, five lots<sup>3</sup> adjoining the Property were made available for purchase, which WP purchased on September 24, 2014.<sup>4</sup> Having acquired the additional land, WP re-evaluated its proposed expansion project, and revised its project plans to better address its needs and Subaru of America’s certification requirements.

In July of this year, WP filed its revised plans with the Town of Bourne Planning Board, now proposing two additions, together totaling approximately 8,500 square foot. A copy of the proposed plan set is attached as **Exhibit B** (hereafter, the “Project Plans”). One addition consists of 8 additional service bays (3,360 square feet) and is proposed to the rear of the existing structure. The second addition, consisting of approximately 5,133 square feet, is proposed on the north side of the existing dealership and includes a service drive through area, a new customer lounge, and additional showroom space. The revised Project Plans also propose parking and vehicle display spaces on 122 Waterhouse Road, one of the five parcels acquired by WP in 2014. A more detailed narrative of the proposed project (hereafter, the “Project”) is attached as **Exhibit C** (hereafter, the “Project Narrative”).

On August 13, 2015, the Town of Bourne Planning Board issued Site Plan Review / Special Permit relief, decision no. 05-2014B, approving the revised Project Plans and the Project, a copy of which is attached as **Exhibit D** (hereafter, the “Planning Board Approval”).

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<sup>2</sup> The CCC Decision is indexed as Project Number TR99025, dated April 13, 2000, and recorded with the Barnstable County Registry of Deeds in Book 13156, Page 123. The CCC Decision was subsequently modified on April 2, 2001 and on May 21, 2001.

<sup>3</sup> The five recently acquired parcels are addressed: 120 and 122 Waterhouse Road and 3, 4 and 6 Dornick Road, Bourne.

<sup>4</sup> See deed recorded with the Registry in Book 28401, Page 169.



Almost two weeks after the Planning Board Approval, the Bourne Town Planner was contacted by CCC Staff indicating, for the first time, that any changes to the plans originally approved by the CCC in 2000 as part of the CCC Decision, would require CCC review and a modification of the CCC Decision. WP had been working closely with the Town on the Project and necessary filing requirements since the spring of 2014, with the understanding that provided the new addition(s) did not exceed 10,000 square feet of floor area or 40,000 square feet of outdoor use, that no Cape Cod Commission review was necessary. Neither the Town nor WP contemplated that any changes to the site would require a modification from the CCC. Moreover, and consistent with that understanding, CCC staff did not contact the Town or WP after the 2014 Approval issued.

### **Minor Modification Request**

The Project, as shown on the Project Plans, involves a substantially similar proposal to the original project, namely an auto dealership with service bays, with only minor changes to the site plans and only small changes to the findings/conditions of the CCC Decision. Each issue area reviewed as part of the CCC Decision is evaluated below as it relates to the proposed Project:

1. Transportation. As detailed in the correspondence from Ron Muller & Associates dated October 6, 2015, attached as **Exhibit E**, the Project is not expected to increase trip generation. Rather, it is intended to better accommodate existing demand and to provide the necessary amenities required by Subaru of America to improve the comfort, convenience and experience of customers and prospective purchasers. In addition, it should be noted that although the Project introduces an additional parcel (122 Waterhouse Road) into the development area, no new curb-cuts are proposed onto Waterhouse Road.
2. Hazardous Materials. The Project will continue to comply with the Massachusetts Hazardous Waste Regulations.
3. Open Space / Natural Resources. The Project Narrative (Exhibit C) and the Project Plans (Exhibit B) delineate the total site disturbance associated with the Project. Within the subject Property, the additions are sited on already disturbed areas of the site. The new parking/display area on 122 Waterhouse Road is minimal, consisting of only 14,000 square feet in area, and WP has received a “no take” determination from the Division of Marine Fisheries and Wildlife under the Natural Heritage and Endangered Species Program for this minor increase in impervious coverage and associated site work. A copy of the determination dated July 22, 2015, is attached as **Exhibit F**.
4. Water Resources. The Project includes relocating the I/A septic system to the new parking area north of the proposed building additions. As described in the Project



Narrative (Exhibit C), a new 2,000 gallon septic tank with FAST 1.5 advanced treatment system, distribution box and leaching field are proposed. The Project's calculated design flow is 672 gallons per day, and therefore there is no increase in permitted design flow from the flow approved by the CCC Decision. As detailed in the Project Narrative (Exhibit B) and the Stormwater Analysis and Drainage Report dated July 2015, attached as **Exhibit G**, the stormwater management system is designed to meet the Town's requirements. Low impact design elements have been incorporated to minimize site disturbance.

5. **Community Character.** The subject Property is adjacent to MacArthur Boulevard which is heavily dominated by commercial and retail uses, including other automobile dealerships. As detailed in the Site Context document, attached as **Exhibit H**, the Property and the Project are compatible and harmonious with the site and the existing surrounding buildings. Indeed, when compared to the dealerships within the corridor, Atlantic Subaru has the least visual impact. The entire dealership is largely screened from view along MacArthur Boulevard and it has an aesthetically pleasing appearance on Waterhouse Road. Further, as detailed in the Design Narrative prepared by Allevato Architects dated October 30, 2015, attached as **Exhibit I**, the proposed design of the Project remains compatible with the CCC requirements.

As it relates to 122 Waterhouse Road, the new parking/display areas will be screened from Waterhouse Road. The edge of proposed pavement is approximately 55.5 feet from Waterhouse Road, and the Project Plans include retaining 31.8 to 45 feet of natural vegetation between the road and clearing limit to buffer and minimize its visibility.

In a recent discussion with CCC staff, it was indicated that the existing front landscape buffer on the Property along Waterhouse Road, which is not proposed to be modified, differed from the landscaping approved in the CCC Decision and that a further modification is required for this alteration. This is curious as this very issue first arose in 2012 and it was determined, at that time, that there was no final approved landscape plan associated with the CCC Decision in 2000, and so the design of the landscape buffer would be at the discretion of the Town. Indeed, I enclose as **Exhibit J** minutes from the January 12, 2012 Town of Bourne Planning Board meeting dealing with this very issue. As indicated therein, Coreen Moore, the Town Planner, reported: "*Spoke to Andrea Adams at the CCC. There was no final approved landscaping plan so we contacted the Cape Cod Commission and received the plans. **The CCC is leaving it up to the Town to handle. Suggest submitting a new plan that meets our bylaw plus some to meet CCC needs. Put a plan together and we'll sit down...***" (Emphasis supplied). The minutes from this meeting also indicate the Town's preference for a more minimal landscaping as being "better for the Town" and that businesses along this stretch of MacArthur Boulevard should be seen and visible.

This issue was again discussed at the April 12, 2012 Planning Board meeting. A copy of the minutes is attached as **Exhibit K**. As indicated therein, and consistent with the directive from the Planning Board at the January 2012 meeting, Levon Semerjian, the President and CEO of Atlantic Subaru, submitted a new landscape plan to the Planning Board after receiving guidance from the Town. The minutes further reflect that the Town had some discussion with the Cape Cod Commission as to the landscaping. And, the minutes confirm that the Planning Board approved the proposed landscape plan and conditioned the plantings shown thereon.

Finally, it should be noted that when WP was before the Planning Board in 2014 with the previously proposed expansion (prior to acquiring the additional land), the Planning Board again complimented WP on the aesthetic of the Property. As indicated in the minutes of the Planning Board from the September 11, 2014, the Chairman of the Board stated: *“You’ve done a great job since taking over the site. Have made the Waterhouse Road area aesthetically pleasing. It’s been a pleasure working with you.”* See minutes attached hereto as **Exhibit L**.

As reflected in the Planning Board minutes, almost four (4) years have passed since the CCC advised the Town that the CCC would defer to the Town on the design of the front yard landscape buffer. In reliance, and as reflected in the April 2012 Planning Board minutes, WP worked cooperatively with the Town to design a plan for the buffer which the Town subsequently approved. WP then planted the buffer in accordance with the Town-approved plan and as recently as a year ago, the Town praised WP for the visual appearance of the Property along Waterhouse Road. For the CCC to now, almost four years later, change its position and suggest that additional approval(s) or landscaping is necessary after WP has expended significant time and money in the design and planting of the buffer, is not fair and represents a tremendous hardship. This is particularly true when the minutes of the Town reflect that the CCC could not find the approved landscape plan from the original permitting in 2000 for this front buffer area. To the extent that any modification is necessary, the landscape buffer should be approved by as a Minor Modification No. 1, since the currently existing plantings and landscape design were approved as a more restrictive condition of the Bourne Planning Board in April 2012.

On behalf of WP, we request that the Commission approve the Project and Project Plans as a Minor Modification of the CCC Decision. As described above and in the attached materials, the Project remains substantially similar to the originally approved development and the proposed modifications require only small changes to the findings and conditions of the CCC Decision. Further, the Project has been approved by the Town of Bourne Planning Board as consistent with the Town’s requirements.

Jon Idman, Esq., Chief Regulatory Officer  
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Please do not hesitate to contact me with any questions or comments or should you require any additional information. I look forward to working with you on this matter.

With best regards, I remain,

Very truly yours,

A handwritten signature in black ink that reads "Eliza". The signature is written in a cursive, flowing style.

Eliza Cox

EZC:  
Attachments

cc: Levon Semerjian, President and CEO, Atlantic Subaru  
Brian Kuchar, Horsley Witten Group

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