

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Date: February 8, 2011

To: John W. Kenney
Attorney at Law
12 Center Place
1550 Falmouth Road
Centerville, MA 02632

From: Cape Cod Commission

Re: Limited DRI Review Scoping Decision
Cape Cod Commission Act, Section 13(a)
Cape Cod Commission *Enabling Regulations*, Sections 3, 5, & 7

Applicant: The Tarkinow Group, Limited

Property Owner: First Hyannis Realty, LLC

Project: BJs Wholesale Club Addition

Project #: LR 09015

Project Location: 420 Attucks Lane, Hyannis, MA 02601

Map and Parcel: 274/040/001

Barnstable Registry of Deeds: Book 18448 Page 018
Lot One: Plan Book 625 Page 34

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), through an authorized Subcommittee, hereby determines that the proposed 19, 438 square foot addition to the existing BJs store located at 420 Attucks Lane, Hyannis, MA qualifies and shall be reviewed as a Development of Regional Impact (DRI) pursuant to Section 13(a) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, and Sections 3, 5, and 7 of the Commission's *Enabling Regulations* (revised May 2010, corrected June 2, 2010) to limit the scope of DRI review. The Tarkinow Group, Limited (Applicant) may proceed with Limited Development of Regional Impact review

BJs Limited DRI Review Scoping Decision
February 8, 2011
Page 1 of 15



in the Regional Policy Plan (RPP) issue areas of Affordable Housing, Economic Development, Energy and Transportation. This decision is rendered pursuant to a vote of a duly authorized Subcommittee of the Commission on February 8, 2011.

PROJECT DESCRIPTION

The proposed project is located at 420 Attucks Lane, Hyannis, MA. According to the Limited Development of Regional Impact (Limited DRI) Scoping application the site is 11.66 acres, and is occupied by an existing 68,831-square foot BJ's Wholesale Club store. The site is zoned *B-Business*. An existing sand/gravel operation abuts to the rear. There is an undeveloped lot to the northwest of the project site, with the proposed Cape Cod Healthcare Wilkens Ambulatory Care Center to the northeast.

Tarkinow Group, Limited, the Applicant, proposes to construct a new, 19,438 square foot addition to the existing BJ's store. The new addition would be built on existing paved and unvegetated areas of the site, extending out the rear of the current building, and towards the sand/gravel operation. According to the Limited DRI application, it would increase building coverage but simultaneously reduce pavement coverage by 22,666 square feet and reduce total impervious site coverage by 3,228 square feet.

PROCEDURAL HISTORY

The Commission received a Limited DRI application from Attorney John W. Kenney, representing the Applicant, on March 13, 2010. The Applicant submitted additional application materials between July 2010 and January 18, 2011. The Limited DRI application was deemed substantively complete to proceed to a public hearing on January 25, 2011.

The Limited DRI scoping hearing was opened by a duly noticed public hearing held on January 25, 2011 at the Assembly of Delegates Chamber, First District Courthouse, Barnstable, MA. At this hearing, the Subcommittee voted to continue the public hearing to 1:00 PM on February 8, 2011 at the Commission's office in Barnstable, MA. At this hearing, the Subcommittee also voted unanimously that the proposed BJ's 19,438 square foot addition shall be scoped for Limited DRI review in the Regional Policy Plan issue areas of Affordable Housing, Economic Development, Energy and Transportation, and voted unanimously to direct Commission staff to draft a written Limited DRI scoping decision.

At the continued public hearing on February 8, 2011, the Subcommittee reviewed a draft written Limited DRI scoping decision page by page, noting spelling corrections. The Subcommittee voted to approve the draft written Limited DRI review scoping decision, as amended. The Subcommittee voted that the proposed BJ's 19,438 square foot addition shall be scoped for Limited DRI review in the Regional Policy Plan issue areas of Affordable Housing, Economic Development, Energy and Transportation.

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 hearings relative thereto, Commission staff's notes and correspondence, 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
Letter from Kristy Senatori (KS) to Attorney John Kenney (JK), Limited DRI Review application is incomplete	10/27/09
Email, Page Czepiga (PC) to Attorney JK's office, Massachusetts Historical Commission Project Notification Form	11/16/09
Email, KS to Attorney Jeffrey Ford (JF), Limited DRI Review	11/23/09
Email, PC to JF, Draft BJs plans	11/23/09
Email, PC to Anna Brigham (AB), Nutter, McClennen & Fish, Application incomplete and materials to be submitted	12/10/09
Email, PC to AB, Transportation information	12/10/09
Email, PC to AB, Land use vision map category	12/10/09
Copy of 2/11/10 Memo from Andrea Adams (AA) to William E. Peters (WP), BJs Wholesale Club, on compliance with conditions from 2003 DRI decision	2/11/10
Email, AA to PC and KS, Limited DRI Review application	2/25/10
Letter, AA to JK, Application incomplete and compliance with 2003 DRI decision	3/17/10
Email, AA to WP, Compliance with 2003 DRI decision	3/22/10
Email, AA to JK, Changes to Regional Policy Plan Land Use MPS	5/10/10
Letter, AA to JK, Abutters List, Copy of Application for Town	6/24/10
Email, KS to JK, Modification of 2003 DRI decision	7/7/10
Email, KS to JK, Modification of 2003 DRI decision, Fee payment	7/8/10
Email, AA to JK and JoAnne Miller Buntich (JMB), Director, Barnstable Growth Management, Copy of Memo to Regulatory Committee on proposed modification to 2003 DRI decision	7/13/10
Email, AA to JF, Status of project review	7/20/10
Copy of August 16, 2010 Minor Modification decision	8/16/10
Email, AA to JK, Staff comments on Limited DRI Review Application	9/15/10
Email, AA to JF, Copies of materials submitted for the record	9/15/10
Email, AA to JK, Scheduling of public hearing	9/27/10
Email, Ryan Christenberry (RC) to AA, Energy issues	11/15/10
Letter, AA to JK, Energy issues and Transportation information	11/19/10
Email, RC to Richard Loeschke (RL), Energy issues	12/1/10
Email, AA to JF, Status of application and hearing	12/1/10
Email, RC to AA, Energy issues	12/14/10
Email, Sarah Korjeff (SK) to AA, Height of rooftop solar panels	12/21/10
Email, RC to AA, KS, SK, Energy issues and size of solar panels	12/21/10
Email, RC to RL, Energy issues and height of rooftop solar panels	12/22/10
Letter from Gail Hanley (GH) to JK, Cost to notice hearing on Limited DRI Review scope	1/5/11
Email, AA to Subcommittee members, scheduling site visit and hearing	1/13/11
Email, AA to JK, Copies of materials for mailing to Subcommittee	1/13/11
Email, AA to RC and Leslie Richardson, Energy and Economic Development waiver	1/18/11
Email, RC to AA, Energy: 25% on site generation	1/19/11

Email, AA to JF, Receipt of letter on project	1/20/11
Email, AA to JF, Copy of Staff Report	1/20/11
Email, AA to Attorney Eliza Cox, Nutter, McClennen & Fish, Copy of Staff Report	1/20/11
Email, AA to JMB, Copy of Staff Report	1/20/11
Email, AA to JK, Copy of Staff Report	1/20/11
Cover Memo, AA to Subcommittee, Staff Report and information from the Applicant and record	1/20/11
Copy of Staff Report	1/20/11
Email, AA to JF, Copy of Abutters List	1/21/11
Email, AA to JF, Copy of Staff Report Update	1/21/11
Email, AA to JMB, Copy of Staff Report Update	1/21/11
Email, AA to JK, Copy of Staff Report Update	1/21/11
Email, AA to Commission Staff, Copy of Staff Report & Staff Report Update	1/21/11
Email, AA to Subcommittee, Copy of Staff Report Update	1/21/11
Copy of Staff Report Update	1/21/11
Email, AA to Chief Crosby, Barnstable Fire Department, Hearing location and copies of Staff Report & Staff Report Update	1/24/11
Email, AA to Chief Crosby, Copies of Site Plans	1/25/11
Letter, AA to JK, Limited DRI Review Application complete (hand delivery at hearing)	1/25/11
Agenda for Hearing for Subcommittee Chair	1/25/11
Email, AA to GH, Add Fire Department staff to receive hearing notices	1/25/11
Minutes of Public Hearing	1/25/11
Hearing Notice	1/25/11
Email, GH to Linda Hutchenrider, Town Clerk, Hearing Notice for Continued Hearing on Limited DRI Review	1/26/11
Email, AA to JK, Recording information	2/1/11
Email, AA to JK, Copy of Draft Decision	2/2/11
Email, AA to JMB and Chief Crosby, Copy of Draft Decision	2/2/11
Memo, AA to Subcommittee, Copy of Draft Decision and Minutes	2/2/11
Email, to Subcommittee, Copy of Draft Decision and Minutes	2/2/11
Email, AA to Chief Crosby, Add to Abutters List	2/3/11
Hearing Outline for Subcommittee Chair for Continued Hearing	2/8/11
Hearing Notice for Continued Hearing on Limited DRI Review	2/8/11
Minutes of Continued Public Hearing	2/8/11
Materials from Applicant	Date Received
Memo on Transportation issues, Matthew Kealey (MK), Vanasse Hangen Brustlin, to Glenn Cannon (GC), dated 7/9/09	7/10/09
Memo on Transportation issues, MK, Vanasse Hangen Brustlin, Inc (VHB), to GC, dated 9/24/09	9/24/09
Letter, from JK to AA with attachments, Limited DRI Review application, Abutters List, USGS Quad Map, Large size plan set, and Fee Calculation, dated 10/22/09	10/23/09
Email from AB to PC, Limited DRI Review application	10/10/09

Letter, from JK, to AA, dated 3/3/10, Fee Check, Description of Why Project Meets Limited Review Criteria, Scoping Checklist, Letter on Water Resources, Need for Expansion, Letter from Architects, Spiral bound Traffic Study,	3/3/10
Letter from JK to AA, Request to deem Limited DRI Review application complete and requesting a Minor Modification of 2003 DRI decision, dated 7/2/10	7/6/10
Letter from JK to AA, Fee for Minor Modification request, dated 7/12/10	7/12/10
Email from MK to AA, Supplemental Traffic information	10/7/10
MK to AA, Copy of Supplemental Traffic information, dated 10/6/10	10/8/10
Letter with attachments, JK to AA, Limited DRI Review Application, includes color renderings of addition, elevations, roof plan, architectural floor plan, site lighting plan, landscape plan, 10/15/10 letter from Peter Hopley on Hazardous Materials/Wastes and store's Environmental Compliance Manual, 10/15/10 letter from Peter Hopley on proposed inventory, 10/15/10 letter from Bignell Watkins Hasser on Energy issues, letter from Clive Samules on CFCs, 10/15/10 letter from Peter Hopley on additional hiring, and an Email from Anna Brigham, Nutter, on Massachusetts Historical Commission	11/2/10
Email with attachments, from Richard Loeschke to Ryan Christenberry, Energy issues	12/14/10
Letter from JK to AA, Copies for Applicant's materials for Subcommittee	1/18/11
Letter from William Pitz, Schlenger/Pitz & Associates, Inc. Bignell Watkins Hasser, Energy issues, dated 1/6/11	1/18/11
Email from JK to AA on Exterior lighting design for addition	1/18/11
Email with attachment, from JK to AA, 1/15/11 letter from Peter Hopley on materials in proposed inventory – Hazardous Materials/Wastes	1/25/11
Materials from Public Agencies/Towns/State/Federal	Date Received
Massachusetts Historical Commission, Copy of determination that project site is not listed on National Register	11/19/09
Email, JMB to Thomas McKean, Board of Health, Compliance with 2003 DRI decision – Mitigation funds	6/21/10
Abutters List	10/19/09
Abutters List	7/6/10
Materials from General Public	Date Received
Email, JF to KS, Status of review	11/23/09
Email, JF to KS, File review and copies of site plans	11/23/09
Email, JF to PC, File review	11/23/09
Email, JF to AA, Status of review	12/1/10
Email, JF to AA, Status of review	1/14/11
Email, JF to AA, Copy of Staff Report	1/14/11
Email, JF to KS, Copy of Comment letter on project	1/20/11
Email, JF to AA, Copy of Abutters List	1/21/11
Letter, from Attorney Michael Ford, to Commission, Comment letter on project (same as received by Email on 1/20/11)	1/21/11

TESTIMONY

January 25 Public Hearing

A public hearing was held at 6:00 PM on January 25, 2011 at the Assembly of Delegates Chambers, First District Courthouse, Barnstable, MA.

Attorney John W. Kenney, representing the Applicant, gave a presentation about the proposed project.

Ms. Andrea Adams presented the staff report and staff report updates.

Mr. Richardson asked if any members of the Subcommittee had questions at this time.

Mr. Graham asked what the benefit would be of reviewing Economic Development if it meets the Minimum Performance Standards (MPS) in that area.

Ms. Richardson, the Commission's Economic Development Officer, stated that the project does not meet the MPS in this area because it does not comply with the Land Use Vision Map which reserves the area for industrial uses. She said that staff and the Subcommittee should then look at the MPS and possible waiver requirements for the project. She said staff must ensure that the project meets the on-site renewable energy and shared infrastructure waivers that have been proposed by the Applicant to comply in this area.

Ms. Brookshire then asked Glenn Cannon, Technical Services Director/PE for the Commission, if the 794 new weekly daily trips would be generated from the addition alone.

Mr. Cannon confirmed Ms. Brookshire's statement and stated that through the Institute of Traffic Engineers (ITE) Manual, there is a certain amount of traffic assumed to be associated with that size retail development because as you add new square footage you have new capacity. Mr. Cannon noted that the information is being reviewed with ITE data rather than site-specific data, and because of that they take in to account whatever that addition may be used for and will not have to modify their decision based on a change of use for that addition.

Ms. Brookshire asked if the information was based on the standard for a building of that size and the numbers could be in excess of what will actually be generated.

Mr. Cannon said that number is based on an average of hundreds of facilities that ITE has looked at and half of the facilities generate more and half generate less traffic, and it also does not take into account different seasons, but those are the numbers that were used here.

Attorney Kenney followed up by stating that although the Applicant is relying on the ITE data, the reality of it is that the numbers will be grossly overstated because of market penetration. He stated that they were given the opportunity to come forward with other documentation but they were unable to come up with empirical studies to provide to staff for review.

Mr. Blanton stated that with regards to Hazardous Materials/Waste issues, looking at the letter provided to the Subcommittee clarifying the additional items to be provided in the addition, the letter states that BJs will be providing "holiday items," "seasonal items," and uses language like "such as" and "the like" when describing the additional items. Mr. Blanton asked for further

clarification because some other seasonal items people may want to purchase are suntan lotions, citronella candles, lighter fluid, fertilizer chemicals and such.

Ms. Adams stated that the store is still subject to a limit on Hazardous Materials/Wastes from conditions in the 2003 DRI decision, and lighter fluid and chemical fertilizers are included in that limit. She said many of those other items are categorized by the RPP as Articles (citronella candles) or Cosmetics (suntan lotions).

Ms. Taylor asked how there would be a reduction in stormwater if the roof is increased and pavement is decreased.

Ms. Adams responded that although she is not a hydrologist, Commission Water Resources staff considers roof water runoff to be of a cleaner nature than pavement runoff.

Attorney Kenney added that the proposed addition is 19,438 square feet and the reduction in pavement is 22,666 square feet. So the reduction in the impervious site coverage is 3,228 square feet and this creates a reduction in actual nitrates based on how they calculate roof coverage versus pavement coverage.

Ms. Taylor asked if the 3,228 square foot reduction area would be grass.

Attorney Kenney responded that it is proposed as a mulched planting area.

Ms. Pat Flynn stated that in looking at Transportation issues, her understanding is that the Applicant will be working with the Town to determine what the number of parking spaces will be. She asked how that would relate to the trip generation numbers, and making sure there is enough parking to handle the number of trips.

Attorney Kenney stated that the Town parking requirement is based on square footage of the facility and the use. If everyone was visiting the store at once there might be an issue but since it is spread out over time there haven't been any problems. At the current facility the lot is never full, and that comment has been made by the Growth Management Department in Barnstable, that they would be supportive of a reduction in the amount of parking. Further down the road there will be development across the way so there will be additional parking at the new site. He stated that Barnstable's bylaw has a tendency to require development to overbuild parking areas.

Mr. Cannon stated that you do have to look at the Barnstable's parking requirements. He stated that he would provide further clarification as they get into the DRI review.

Ms. Brookshire asked what happens to the temporary road after the other road is built. She asked if that should be discussed now or in the future.

Mr. Cannon responded that it would be discussed as part of the upcoming DRI review and as part of the Wilkens project. He stated that generally they want the connections to stay open, regardless of the new road for emergency vehicles.

Mr. Richardson asked if there were any questions or comments from Federal, State, or Regional officials. There were none. He then asked for comments from the general public.

Mr. Kinsella, from the *Barnstable Enterprise*, asked Attorney Kenney to comment on how BJs was proposing a 19,000 square foot addition but with no additional staff.

Attorney Kenney stated that the inventory is delivered and placed out on pallets, so according to his contacts at BJs they feel that they are properly staffed and will not require any additional staff. Inventory is delivered on pallets so it is a much simpler process and much less labor intensive.

Mr. Kinsella then addressed Ms. Adams and asked why staff recommended that Affordable Housing be included in the DRI review if there are no additional jobs being created.

Mr. Ruchinskas, Affordable Housing Specialist, stated that the purpose of including Affordable Housing is to look at the issue further because staff needs more information on the subject of possible new employees.

Mr. Kinsella asked whether the Applicant would be asked to provide Affordable Housing mitigation.

Mr. Ruchinskas stated that it is one possible outcome of the review but the Subcommittee could also determine that there are affordable housing impacts and that mitigation will need to be provided. He noted Commission staff needs additional information before making that determination or any recommendation to the Subcommittee that would be reviewing the DRI.

The Subcommittee voted to continue the hearing to February 8, 2011 at 1:00 PM at the Commission's office for the purpose of reviewing a draft written Limited DRI scoping decision. The Subcommittee also voted that the proposed BJs 19,438 square foot addition shall be scoped for Limited DRI review in the Regional Policy Plan issue areas of Affordable Housing, Economic Development, Energy and Transportation, and to direct Commission staff to draft a written Limited DRI scoping decision.

February 8, 2011 Public Hearing

The Subcommittee voted to approve the draft Minutes of the 1/25/11 public hearing. Ms. Adams, with the Subcommittee, reviewed a draft written Limited DRI scoping decision page by page, noting spelling corrections. The Subcommittee voted to approve the draft written Limited DRI review scoping decision, as amended. The Subcommittee voted that the proposed BJs 19,438 square foot addition shall be scoped for Limited DRI review in the Regional Policy Plan issue areas of Affordable Housing, Economic Development, Energy and Transportation.

JURISDICTION

The project qualifies as a Development of Regional Impact (DRI) pursuant to Section 3(e)(i) of the Commission's *Enabling Regulations* (Revised May 2010, Corrected June 2010) as new construction of a commercial building with a Gross Floor Area greater than 10,000 square feet.

The Applicant has applied for a Limited DRI Review. In accordance with Section 5(a) of the *Enabling Regulations*, "[f]or any project that is a DRI...the proponent may apply to the Commission to limit the scope of the DRI review."

FINDINGS

The Commission, through a Subcommittee, has considered the Limited DRI Scoping application of the Tarkinow Group, Limited for the proposed 19,438 square foot addition to the existing 68,831 square foot store, 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 Section 13(a) of the Act and Sections 3, 5 and 7 of the *Enabling Regulations*:

General Findings

GF1. As the date of the first substantive public hearing on the proposed project was January 25, 2011, this project was reviewed subject to the 2009 RPP, as amended in May 2010 and effective June 2010.

GF2. The existing BJs store is the subject of a 2003 Cape Cod Commission DRI approval decision with conditions.

GF3. The proposed project is the redevelopment of an existing developed site. As such, the Commission considered the Redevelopment/Change of Use Scoping Checklist in its deliberations on the Limited DRI review scope.

GF4. The proposed project that is the subject of this Scoping decision is an 11.66 acre site occupied by an existing 68,831-square foot BJs Wholesale Club store. The site is zoned *B-Business*. The Applicant proposes to construct a new, 19,438 square foot addition to the existing store. The new addition would be built on existing paved and unvegetated areas of the site, extending out the rear of the current building, and towards the sand/gravel operation. According to the Limited DRI application, it would increase building coverage but simultaneously reduce pavement coverage by 22,666 square feet and reduce total impervious site coverage by 3,228 square feet.

GF6. The proposed project is proposed to be constructed in accordance with the following plans and other documents, and is subject to further DRI review:

- Color renderings of the proposed addition, elevation drawings, roof plan, architectural floor plan, site lighting plan, and landscape plan received from Attorney John Kenney on 11/2/10
- 10/15/10 letter from Peter Hopley on proposed inventory and Hazardous Materials/Waste management
- 1/15/11 letter from Peter Hopley on proposed inventory

Land Use

LUF1. The Scoping Checklist for Redevelopment/Change of Use refers to the Land Use Vision Map (LUVN) and a project's consistency with the land use categories and their characteristics per the RPP and adopted Land Use Vision Map. The site on which the store sits has been designated as *Industrial & Service Trade Area (ISTA)* on Barnstable's part of the Regional Land Use Vision Map. The RPP defines ISTA as "*areas designated...for industrial trades, construction trades, and/or public works facilities. Areas are intended for uses that are incompatible with residential and village settings, with a high square-footage-to-employee ratio.*"

LUF2. The existing store a wholesale club is retail in nature, and is not consistent with the definition of ISTA. MPS LU1.1 (*Development Location*) which requires that development and redevelopment shall be consistent with the category of desired land use where the project is located as well as the characteristics of that category, also states in part that:

"Notwithstanding this requirement, the Commission may find that development and redevelopment has met this requirement, if, in its discretion, it finds each of the following:

- 1) The proposed project is a redevelopment, or the expansion of a previously approved DRI; and,*
- 2) The Commission finds that the proposed development does not present a threat to the resources and/or characteristics intended to be protected and maintained by its land use category."*

LUF3. The Commission finds through the Subcommittee that the proposed addition is a redevelopment project as well as an expansion of a previously approved DRI. Further, the Commission finds through the Subcommittee the proposed development does not present a threat to the resources or characteristics of the Industrial Service & Trade Area. The Commission finds through the Subcommittee the proposed expansion is consistent with MPS LU1.1, and that the RPP Land Use issue area is not included in the DRI review scope.

Wetlands, Wildlife & Plant Habitat & Open Space

WET/WLPH/OSF1. The project site is mapped as a Significant Natural Resources Area (SNRA) due to its location within a Public Wellhead Protection Area. The site is not mapped for rare species habitat and does not contain wetlands. The proposed expansion entails construction of additional building area and reconfiguration of the parking area in the rear of the site. Both these areas of the site have been previously disturbed.

WET/WLPH/OSF2. According to the Limited DRI Review Scoping Checklist for Redevelopment/Change of Use, the project's location within SNRA could require that it be reviewed for wildlife/habitat and open space impacts. However, given the existing conditions and character of the site, the Commission finds through the Subcommittee the proposed expansion will not involve substantial deviation from the MPS of the RPP or have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to open space or wildlife/wildlife habitat. As such, the Commission finds through the Subcommittee that the RPP issue areas of Wetlands, Plant/Wildlife Habitat and Open Space areas do not need to be included in the DRI review scope.

Water Resources

WRF1. The proposed project is located in a Wellhead Protection Area. The Redevelopment/Change of Use Scoping Checklist included with the Limited DRI Scoping application indicates Water Resources should be included in the scope of DRI review because of the project's location in a Wellhead Protection Area.

WRF2. In determining whether the RPP Water Resources issue area should be included in the Limited DRI review scope, the Commission, through the Subcommittee, considered additional information provided with the application that includes:

1) Plans from Coastal Engineering, Inc (received 10/23/09), showing that there will be a reduction in pavement. The resulting reduction in stormwater runoff from pavement will be offset by roof runoff, which is generally lower in nitrogen.

2) A February 5, 2010 letter from Coastal Engineering, Inc (received 3/3/10), which notes that existing pavement is being removed and replaced with roof area, decreasing the project's nitrogen loading to groundwater. This results in reduced nitrogen loading impacts from stormwater runoff.

3) The February 5, 2010 letter from Coastal Engineering, Inc which notes the store's *"existing stormwater management system was designed in conformance with the Massachusetts Stormwater Policy and incorporates Low Impact Design elements."* This stormwater management system was approved by the Commission as part of a 2003 DRI review.

4) An undated letter by Peter Hopley BJs Vice President and Manager of New Club Development, received by the Commission on March 3, 2010, indicating that *"the added square footage will allow [BJs] to 'spread out' giving us space to appropriately display [BJs] current holdings and allow [BJs] to expand [BJs] offerings of certain categories in electronics, grocery, fresh and frozen foods, beverages, health and beauty aids, and summer and holiday seasonal."*

5) A January 15, 2011 letter from Peter Hopley clarifying materials in the proposed inventory in the *"summer and holiday seasonal"* categories will consist of products such as wrapping paper, decorations, tape cards, patio furniture, sporting goods, and tools.

WRF3. The Commission, through the Subcommittee also considered that the project is subject to a 2003 DRI decision, with conditions, as amended, that limits the onsite storage of Hazardous Materials/Wastes. The Commission's Regulatory Committee approved a August 2010 modification of the 2003 DRI decision which eliminated the reporting of Hazardous Materials in inventory in part because the store was consistently at or below the inventory limit. In addition, the 2003 DRI decision resulted in the installation of emergency shut-off valves in the stormwater system to help isolate a release of Hazardous Materials/Wastes. Also, the RPPs definition of Hazardous Materials does not include electronics, grocery, fresh and frozen foods, beverages, and health and beauty aids. These products are separately defined by the RPP as Articles, Consumer Products, and Cosmetics, and are excluded from the RPP definition of Hazardous Materials.

WRF4. The Commission finds, through the Subcommittee, that the proposed expansion will not involve substantial deviation from the MPS of the RPP or have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to Water Resources. As such, the Commission finds that the Water Resources section of the Regional Policy Plan not be included in the DRI review scope.

Solid and Hazardous Waste Management

WMF1. The Scoping Checklist for Redevelopment/Change of Use includes a question about whether a project involves greater than 25,000 square feet of development. The proposed project is a 19,438 square foot addition to an existing 68,831 square foot store. According to the application materials, the store also has an existing recycling program. Based on this, the

Commission finds through the Subcommittee the proposed expansion will not involve substantial deviation from the MPS of the RPP or have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to solid waste and recycling management. As such, the Commission finds that through the Subcommittee the Solid Waste/Recycling Management section of the RPP does not need to be included in the DRI review scope.

WMF2. The Scoping Checklist for Redevelopment/Change of Use includes questions concerning a project's potential to use, handle, generate, treat, or store Hazardous Wastes. 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 and specifies three items be provided to show compliance with this requirement for purposes of Commission review. The store is subject to a limit on Hazardous Materials/Wastes from a 2003 DRI decision that remains in place. This inventory limit will influence the types of products that can be added to the store's inventory as a result of the proposed addition.

WMF3. Based on an October 15, 2010 letter and January 15, 2011 letter received from Peter Hopley, BJs Vice President, and Manager of New Club Development, the Commission finds through the Subcommittee that the proposed addition will allow the store to expand merchandise in some product categories that would not be classified as Hazardous Wastes per the RPP definition and would not pose a direct threat to groundwater. Based on the application materials, the Commission also finds through the Subcommittee that other wastes attributable to the proposed expansion, such as unsaleable electronics, can be classified in certain limited cases as Hazardous Wastes by the state's Hazardous Waste regulations and the RPP, but would still not pose a direct threat to groundwater.

WMF4. The Commission finds through the Subcommittee that the proposed expansion will not involve substantial deviation from the MPS of the RPP or have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to hazardous waste management. As such, the Commission finds through the Subcommittee that the Hazardous Waste section of the Regional Policy Plan does not need be included in the DRI review scope.

Heritage Preservation and Community Character

HPCCF1. The Redevelopment/Change of Use Scoping Checklist includes six questions related to Heritage Preservation and Community Character. They deal with historic structures, archeological sites, and site and building design. Given that site of the proposed addition is currently developed, and because the existing BJs store was constructed in 2003-2004, the Scoping Checklist questions most relevant to the proposed project are those related to site/building design. The project is not within a distinctive neighborhood, and the addition is proposed on the rear façade of the existing building. Construction of the proposed addition adds to that façade's variation, and that the materials proposed are consistent with the existing structure. As such, the Commission finds through the Subcommittee that the proposed expansion will not involve substantial deviation from MPS HPCC2.4, HPCC2.5, HPCC2.6, and HPCC2.7. The Commission also finds through the Subcommittee that the proposed addition will not have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to building design, and that RPP MPS related to Building Design do not need to be included in the DRI review scope.

HPCCF2. The Redevelopment/Change of Use Scoping Checklist includes the question “[d]oes the project incorporate site and building design features consistent with the Commission’s design manual and design manual addendum guidelines.” Landscaping and use of vegetated buffers are design elements covered in the design manual. The Applicant also submitted a landscape plan (*Bignell, Watkins, Hassler, Architects PC*, dated 10/15/10, received 11/2/10) for the proposed addition. This plan is consistent with the design manual’s guidance, MPS HPCC2.9 and MPS HPCC2.10. As such, the Commission finds through the Subcommittee that the proposed project, if it follows the landscape plan noted above, would not involve a substantial deviation from the RPP landscape design MPS, and would not have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to landscape design. As such, the Commission finds through the Subcommittee that RPP MPS related to Landscape Design do not need to be included in the DRI review scope.

HPCCF3. The Redevelopment/Change of Use Scoping Checklist includes the question “[d]oes the project incorporate site and building design features consistent with the Commission’s design manual and design manual addendum guidelines.” Exterior and sign lighting are design elements covered in the design manual. According to the Applicant’s 10/8/10 Lighting Plan, exterior lighting will consist of single and double-head parking lot pole-mounted lights (20 foot poles with fixture height 22.5 feet above average grade) and on building mounted wall packs (at 20 feet) by *Halophane*. The orientation of the proposed addition and current suite of exterior fixtures at the site influence the Applicant’s choice of fixture type, lamp type, fixture location, amount and height. The project will also not result in any changes to the existing site signage. The foot-candle plan provided by the Applicant and technical cuts for proposed fixtures downloaded by Commission staff from the manufacturer’s website indicate the new exterior lights will conform to the MPS HPCC2.11 and Technical Bulletin 95-001 (as amended) with the possible exception of lens type (pole mounts) and shielding (wall packs). An Email received by the Commission staff on January 18, 2011 confirms that the pole-mounts will be at the same height as the existing fixtures, and will use a flat lens (flush with the exterior housing) and that the wall packs will be fully shielded/full cutoff. Based on the information submitted, the Commission finds through the Subcommittee that the proposed expansion will not involve substantial deviation from MPS HPCC2.11 or have significant impacts on the purposes and values identified by Section One of the Commission Act with respect to exterior lighting, including any sign lighting. As such, the Commission finds through the Subcommittee that RPP MPS for Exterior Lighting does not need to be included in the DRI review scope.

Affordable Housing

AHF1. According to the application materials, the proposed project “is a redevelopment that involves additional commercial development” and triggers Commission review of Affordable Housing issues based on the Redevelopment/Change of Use Scoping Checklist. The Commission also finds through the Subcommittee that the proposed expansion may involve substantial deviation from the RPP Affordable Housing MPS and may have potential significant impacts both quantitative and qualitative on the purposes and values identified by Section One of the Commission Act with respect Affordable Housing issues. As such, the Commission finds through the Subcommittee that the RPP Affordable Housing section shall be included in the DRI review scope.

Economic Development

EDF1. The proposed project does not meet MPS ED1.2 as a retail use located in an Industrial Service & Trade Area. This standard reserves these areas for “light industrial, warehousing, business to business, wholesale, research and development facilities and other used related to

the development production and/or distribution of goods.” The project also “*accommodates non-industrial uses as defined on the Regional Land Use Vision Map*” according to the Redevelopment/Change of Use Scoping checklist. As such, the Commission also finds through the Subcommittee that the proposed addition may involve a substantial deviation from RPP Economic Development MPS, and may have significant impacts both quantitative and qualitative on the purposes and values identified by Section One of the Commission Act with respect to Economic Development issues. As such, the Commission finds, through the Subcommittee that the RPP Economic Development section shall be included in the DRI review scope.

Energy

EF1. The proposed project is a commercial/retail redevelopment in excess of 10,000 square feet that is not located in an Economic Center on the Regional Land Use Vision Map, and triggers Commission Energy review based on the Redevelopment/Change of Use Scoping Checklist.

EF2. Based on the information submitted, the Commission finds through the Subcommittee that the proposed expansion may involve a substantial deviation from RPP Energy MPS or may have significant impacts both quantitative and qualitative on the purposes and values identified by Section One of the Commission Act with respect to energy issues. As such, the Commission finds through the Subcommittee that the RPP Energy section shall be included in the DRI review scope.

Transportation

TF1. The Scoping Checklist for Redevelopment/Change of Use asks two questions related to traffic congestion which include a criterion value of 250 new daily trips. According to a November 2009 Traffic Impact and Access Study produced by VHB for the Applicant, the proposed addition will generate 794 weekday daily trips and 130 Saturday peak hour trips. Both of these values exceed the Redevelopment/Change of Use Scoping Checklist criteria values for daily (250) or peak hour (25) trips. Based on the information submitted, the Commission finds through the Subcommittee that the proposed expansion may involve substantial deviation from RPP MPS or may have significant impacts both quantitative and qualitative on the purposes and values identified by Section One of the Commission Act with respect to transportation issues. As such, the Commission finds through the Subcommittee that the RPP Transportation section shall be included in the DRI review scope.

SEE NEXT PAGE FOR CONCLUSION AND SIGNATURES

CONCLUSION

Based on the above findings, the Commission, through an authorized Subcommittee, hereby determines that the proposed 19,438 square foot addition single-story addition to the existing 68,831 square foot BJs store located at 420 Attucks Lane, Hyannis, MA as outlined in this decision shall be reviewed as a Development of Regional Impact in the RPP issue areas of Affordable Housing, Economic Development, Energy, and Transportation resources in accordance with Sections 5 and 7 of the DRI *Enabling Regulations*.

The Commission, if it finds that the proposed project may be approved through a Limited DRI review, shall require as part of that Limited DRI review issuance of a Certificate of Compliance either prior to issuance of a Building Permit or prior to issuance of a Certificate of Use/Occupancy to ensure that development in those RPP issue areas not included in the Limited DRI review scope will be built in accordance with the plans and information presented to the Subcommittee to make this determination.

Royden Richardson
Royden Richardson, Subcommittee Chair

02.7.2011
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

2/7, 2011

Before me, the undersigned notary public personally appeared

Royden Richardson in his capacity as Chairman of the Commission Subcommittee, 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.

Kristy Senatori
Notary Public

My Commission Expires:

