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CAPE COD  
COMMISSION

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## Minutes

### Meeting

#### Cape Cod Commission

First District Courthouse • Assembly of Delegates Chambers  
3195 Main Street, Barnstable, MA 02630

July 6, 2017

The meeting was convened at 3:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Richard Conron	✓
Brewster	Elizabeth Taylor	✓
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Charles McCaffrey	Absent
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	✓
Orleans	Len Short	✓
Provincetown	Vacant	Vacant
Sandwich	Harold Mitchell	✓ ( <i>left at 3:47 p.m.</i> )
Truro	Kevin Grunwald	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	Absent
Native American Rep.	David Weeden	✓
Governor's Appointee	Michael Maxim	✓

The meeting of the Cape Cod Commission was called to order on Thursday, July 6, 2017 at 3:05 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA. Roll was called and a quorum established.

### **SUMMARY OF ACTIONS TAKEN/VOTES:**

**Approval of Minutes:** The minutes of the June 8, 2017 Commission Meeting were approved with 11 votes in favor and two abstentions (Joy Brookshire and Richard Roy).

#### **Public Hearing: Cape Cod Potato Chip Factory Renovation & Expansion #LR17008**

Following presentations, public testimony and discussion on the Development of Regional Impact Scoping application submitted by S-L Snacks MA, LLC for the redevelopment of its existing Cape Cod Potato Chip manufacturing facility and site at 60 Breed's Hill Road in Hyannis, MA, the Commission voted unanimously to close the public hearing, adopt the Development of Regional Impact Scoping decision, and approve the project subject to the conditions in said decision.

#### **Public Hearing: Greenside Office Park #LR16021**

Following presentations, public testimony and discussion on the Limited Development of Regional Impact application submitted by J. Bruce MacGregor, Trustee, Island Sun Nominee Trust, for the Greenside Office Park redevelopment project that proposes demolition of the existing buildings and structures and construction of two office buildings and site improvements at 10 Attucks Lane in Hyannis, MA, the Commission voted unanimously to close the public hearing, adopt the Limited Development of Regional Impact decision, and approve the project subject to the conditions in said decision.

#### **Public Meeting: Dollar General Eastham #DRI7013**

Following presentations, public testimony and discussion, the full Commission deliberated on the Discretionary Referral submitted by the Town of Eastham Board of Selectmen for review as a Development of Regional Impact under the Regional Policy Plan issue areas of land use, economic development, water resources, transportation and heritage preservation/community character for the proposal by Lisciotti Development/ Eastham, LLC to develop an approximately 9,100 square foot Dollar General retail store at 4615 State Highway in Eastham, MA. Following deliberation, with 12 members voting, the Commission voted to accept the Discretionary Referral from the Town of Eastham for Development of Regional Impact review in said Regional Policy Plan issue areas by a roll call vote with 9 votes in favor and 3 votes opposed: Royden Richardson-yes; Richard Conron-yes; Elizabeth Taylor-yes; Michael Skelley-no; Richard Roy-yes; Joy Brookshire-yes; Jackie Etsten-yes; Ernest Virgilio-no; Len Short-yes; Roger Putnam-no; Jack McCormack-yes; and David Weeden-yes.

### **■ MINUTES**

The minutes of the June 8, 2017 Commission Meeting were reviewed. Len Short moved to approve the minutes and Roger Putnam seconded the motion. A vote called on the motion to approve the minutes passed with 11 votes in favor and two abstentions (Joy Brookshire and Richard Roy).

### **■ EXECUTIVE DIRECTOR'S REPORT**

Executive Director Paul Niedzwiecki said due to the lengthy meeting agenda, he would not be providing a report.

### **■ CAPE COD POTATO CHIP FACTORY RENOVATION & EXPANSION #LR17008**

Chair Harold Mitchell opened the public hearing at 3:07 p.m. He said the Commission will hear presentations and take public testimony on the Development of Regional Impact (DRI) Scoping application submitted by S-L Snacks, LLC that proposes redevelopment of its existing Cape Cod Potato Chip manufacturing facility and site at 60 Breed's Hill Road in Hyannis. He said the Commission will consider whether to adopt the draft written DRI Scoping Decision and approve the project subject to the DRI Scoping Decision.

Attorney Eliza Cox, with the law firm of Nutter McClennen & Fish representing the applicant, introduced the project team, thanked Commission staff and the Commission's Committee on Planning and Regulation for their support and recommendation.

Beth Rueschhoff, Plant Manager, with the use of PowerPoint slides provided a history on the Cape Cod Potato Chip Factory and an overview of the existing site, its current building, parking to tour, back lot, the tour/retail area, kitchen, and warehouse. She said their goal is to update the site and the current warehouse will be significantly expanded. She referred to plans showing the proposed two-phased renovation and expansion project consisting of three parts: Part 1—two-story addition to upgrade tour and retail, office space and employee welfare areas, approximately 10,930 square feet; Part 2—



expand existing warehouse with an approximately 10,050 square foot-addition; and Part 3—internal renovations to upgrade the kitchen equipment, restore walls, ceilings, and floors. Ms. Rueschhoff said the Plant has been recognized for implementing sustainable production measures and said S-L Snacks received a Sustainability Excellence in Manufacturing Award in 2015 for its Recycling Programs and in 2016 for wastewater treatment. She described project benefits as enhancement to visitor experience, site design, public and employee safety, utilities will be more efficient with natural gas, the improved layout will reduce the amount of water required to complete sanitation and new equipment is expected to reduce food waste.

Jeff Ribeiro, Regulatory Officer at the Commission, said the Town of Barnstable sent a letter to the Commission saying that the proposed project is consistent with its local bylaws. He provided a procedural history and gave an overview of the project and said the applicant is proposing redevelopment of the existing 5.63-acre manufacturing facility site with the demolition of the existing 3,300 square foot visitor tour area and office space, reconstruction of the visitor tour area and office space with a 10,930 square foot addition, the relocation and expansion of the existing loading and warehouse spaces including a 10,050 square foot addition and associated site improvements including pedestrian connections from the existing parking areas and revised landscaping. He explained the findings in the draft decision in Regional Policy Plan (RPP) issue areas for land use, economic development, water resources, natural resources, transportation, waste management, affordable housing, and heritage preservation/community character. He said based on the findings the Commission finds that the project as described in the draft written decision does not involve substantial deviation from the minimum performance standards of the RPP, does not have significant impact upon the purposes and values in Section One of the Cape Cod Commission Act, and does not require further DRI review and that the applicant may proceed with local permitting for the project without further DRI review subject to the conditions in the draft decision. Mr. Ribeiro provided an overview of the conditions set out in the draft written decision.

Elizabeth Jenkins, Planner with the Town of Barnstable Growth Management, said the town has made a finding that the proposed project is consistent with its Local Comprehensive Plan and local bylaws. She said the Town of Barnstable supports the project.

Elizabeth Taylor moved to close the public hearing and Jackie Etsten seconded the motion. A vote called on the motion passed with a unanimous vote.

Len Short moved to adopt the draft DRI Scoping decision and approve the project subject to the conditions in said decision. Richard Roy seconded the motion. A vote called on the motion passed with a unanimous vote.

#### ■ GREENSIDE OFFICE PARK #LR16021

Chair Harold Mitchell opened the public hearing at 3:30 p.m. He said the Commission will hear presentations and take public testimony on the Limited Development of Regional Impact (DRI) application for the Greenside Office Park redevelopment project submitted by J. Bruce MacGregor, Trustee, Island Sun Nominee Trust, that proposes demolition of the existing building and structures at 10 Attucks Lane in Hyannis and construction of two office buildings together with associated site improvements. He said the project was previously limited in scope to the Regional Policy Plan area of Transportation Goal TR1 by a DRI Scoping decision on February 7, 2017. He said the Commission will consider whether to adopt the draft written Limited DRI Decision and approve the project subject to conditions set out in the draft decision.

Attorney Eliza Cox, with the law firm Nutter McClennen & Fish representing the applicant, introduced the project team. With the use of PowerPoint slides, she described the existing site and conditions and said there are two curb-cuts—a full access curb-cut onto Attucks Lane and a right in/right out curb-cut located on Route 132; there is an on-site well and septic system; it is zoned Highway Business; the site is occupied by two businesses Cape Cod Trailer Storage and Sun Transportation/Island Sun Delivery; and the site has five storage tanks and two underground diesel fuel storage tanks. She said there are fuel pumping stations on-site and all tanks will be removed. She said the applicant has a 99-year lease and the land is now owned by the Town of Barnstable. Attorney Cox said the proposed redevelopment project consists of removing the existing building, outdoor uses, storage tanks and septic system and constructing two professional office buildings including associated site improvements and a landscape plan. She said the project has been previously limited in scope to the Regional Policy Plan issue area of Transportation Safety by a DRI Scoping Decision dated February 7, 2017 and approved by the Commission's Committee on Planning and Regulation. She said project benefits include relocation of Route 132 right-in/right-out curb-cut as an improvement, mitigation measures proposed at six intersections, sidewalk connection proposed to future sidewalk along Attucks Lane, elimination of large truck/trailer traffic and the applicant has agreed to a Transportation Demand Management (TDM) program. She said the project meets the minimum performance standards under Goal TR1 for



Safety; there is tremendous benefits across all resource areas—community character/aesthetics into Hyannis Gateway, environmental, transportation/safety, economic; and it's consistent with Barnstable's vision and zoning.

Jon Idman, Chief Regulatory Officer at the Commission, said with the substantial improvements on-site, the Commission's Committee on Planning and Regulation voted to limit the scope of review to Transportation Safety Goal TR1. He said the number of trips did not warrant keeping all transportation goals in the review. He said after review of the safety analysis, the Commission's transportation staff suggest signage was appropriate for mitigation measures for this project. He said the Limited DRI project contains all the findings for approval of a DRI and the Town of Barnstable sent a letter saying the project is consistent with its Local Comprehensive Plan and local bylaws.

Elizabeth Jenkins, Planner with the Town of Barnstable Growth Management, said the proposed project is consistent with the town's Local Comprehensive Plan and local bylaws. She said the Town of Barnstable supports the project.

Jack McCormack said it's a great project and it's removing all the storage tanks.

Len Short moved to close the public hearing and Roger Putnam seconded the motion. A vote called on the motion passed with a unanimous vote.

Jack McCormack moved to adopt the draft Limited DRI Decision and approve the project subject to the conditions in said decision. Royden Richardson seconded the motion. A vote called on the motion passed with a unanimous vote.

#### ■ **DOLLAR GENERAL, EASTHAM #DR17013**

Chair Harold Mitchell opened the public meeting at 3:45 p.m. He said the Commission will hear presentations and consider whether to accept the Discretionary Referral submitted by the Eastham Board of Selectmen for review as a Development of Regional Impact (DRI) under the Regional Policy Plan issues areas of land use, economic development, water resources, transportation and heritage preservation/community character. He said the Discretionary Referral involves the proposal by Lisciotti Development/Eastham DG, LLC to develop an approximately 9,100 square foot Dollar General retail store at 4615 State Highway, Eastham.

Jon Idman, Chief Regulatory Officer at the Commission, said the matter before the Commission is a Discretionary Referral from the Eastham Board of Selectmen and today the Commission will consider whether to accept the Discretionary Referral for DRI review. He said the Commission received 15 letters opposing the project. He said Route 6 is the main roadway for the project. He said if the Commission accepts the project for DRI review for heritage preservation/community character there would be opportunities for community design and if accepted for transportation there would be an opportunity for a full transportation study. He said the Town of Eastham has asked for DRI review in the Regional Policy Plan issue areas of land use, economic development, water resources, transportation and heritage preservation/community character. He said Commission staff feels it would be appropriate for the Commission to accept the project for DRI review in the issue areas that the town has requested.

Chair Harold Mitchell left the meeting at 3:47 p.m. and Vice-chair Jack McCormack said he would be Chairing the meeting.

Paul Lagg, Eastham Town Planner, said he is here to support the Town of Eastham's Discretionary Referral for DRI review of the Dollar General project. He said in the past year there has been a lot of activity in new development in Eastham and the town feels that this activity has been coming on at a rapid rate. He referred to criteria in Section One of the Cape Cod Commission Act and said the project is located in a public water supply system, there are two Chapter 40B housing projects in close proximity to this area, and the town feels the project will have regional impacts. He said the physical size of the project is 9,100 square feet (sf) of retail which is under 10,000 sf but the town feels it's a large project that warrants a close look through DRI review. He said the town has concerns about pedestrian and vehicle traffic, this area serves as the town's main street, the town feels the project would involve major curb-cuts and with cars moving in and out, this would warrant the Commission looking at this further. He said none of the other new projects warrant changes in the roadway. He said having this project reviewed as a DRI would help the town to look at this more closely and be an opportunity to look at traffic safety. He said in terms of economic development, the town feels it will have impacts on local businesses/retail and this also needs to be looked at closely. Mr. Lagg said land use challenges have come on fast with all the new activity in Eastham and the Commission could help with this. He said the town feels the proposal warrants DRI review and hopes the Commission will consider accepting the Discretionary Referral for DRI review.



Martin McDonald, Selectman Town of Eastham, said he is here today to ask for help from the Commission. He said the Board of Selectmen were unanimous in sending the Discretionary Referral to the Commission. He said Eastham is the gateway to the outer Cape, Eastham is very proud to get a water system but the consequences are more development and they are concerned about what will happen with other lots being developed. He said their objective was to keep development off Route 6. He said in 20 years they have had perhaps only two or three new buildings and then suddenly there has been a lot of potential development and they have concerns about additional development. He said traffic is already bad, there are a lot of accidents on Route 6 and where Dollar General is being proposed, there will be a left-hand turn. He said the Eastham Board of Selectmen looked at their objectives to come up with a strategic plan for the town, Dollar General is their first application and they want to look at this closely. He said the town is considering a moratorium on development so that the town can begin reviewing Eastham's zoning. He said there is a lot going on and the town wants to handle this before it gets out of control; he said the town does not want strip development.

Attorney Sarah Turano-Flores, with the law firm Nutter McClennen & Fish representing the applicant, said she would ask the Commission to decline taking jurisdiction at this time. She said there hasn't been an opportunity for a dialogue with the town, the applicant was not given notice of the meeting in Eastham, and they did not have an opportunity to meet with the planning board. She said only when there is the opportunity for a dialogue with the town will they know if there will be impacts from the project and said they believe this is premature. She said the project is consistent with Eastham's zoning in that area. She said issues can be reviewed at the local level and the Commission has agreed to provide technical assistance at the local level. She said until they speak with the town and hear from the public, they feel this request is premature. She said it should go through a local hearing process first and then come to the Commission if it needs to. She asked that the Commission decline Eastham's Discretionary Referral.

Royden Richardson said he commends the Town of Eastham for asking the Commission to proceed this way. He said conversation with the Commission needs to be at the beginning not at the end. He said Commission staff will still be available and it will give organization to the discussion. He said he supports the town's Discretionary Referral.

Michael Skelley inquired about the state's transportation commission. Steve Tupper, Transportation Planner at the Commission, said Route 6 is owned by the Massachusetts Department of Transportation so the applicant would need to get a permit. Michael Skelley said there are also concerns in Chatham with development because of sewers but Chatham takes care of Chatham. He said Eastham needs to handle this at the local level. He said Eastham can ask the Commission for consultation but they need to make their own decisions, Eastham needs to find its own way to govern themselves, and they are coming to the Commission because they can't make their own decision.

Dick Conron asked for clarification regarding technical assistance by the Commission versus a DRI review and asked if technical assistance would be less comprehensive. Jon Idman said the character of advice might be different and DRI review would be more than mere advice. Dick Conron asked from a consulting point of view would technical assistance be less than with DRI review. Jon Idman said a DRI review would be more in depth.

Elizabeth Taylor said towns do have the ability to send Discretionary Referrals to the Commission and since they have that ability, the Commission should help when asked. She said it's incumbent upon the Commission to accept the Discretionary Referral.

Joy Brookshire said the project is very controversial and no one in Eastham is neutral on this. She said the Commission has always been neutral and if the Commission accepts the Discretionary Referral, it will look closely at the project. She said the Commission should help towns when it's requested.

Jackie Etsten said Eastham is a very small town with limited resources. She said there could be impacts to a major roadway and the town needs the help.

Ernest Virgilio said he agrees with the comments by the applicant's attorney. He said it's the town's responsibility to handle this locally as the first step.

Roger Putnam said he feels strongly that the town needs to be fully involved, this should go through the local process with the town first and only come to the Commission after it goes through the town.

Jack McCormack said the Commission is a regional agency and perhaps the project should be looked at by the Commission.



Royden Richardson said this is the first step for the town putting it before the Commission from the beginning. He said he supports the town and the Commission should accept the town's request.

Paul Niedzwiecki said the Commission's responsibility is described in the Commission Act and the Commission is here to help when a town needs assistance. He said the standards in the Commission's Regional Policy Plan are different from a town's standards. He said sometimes the Commission is asked to consider a Discretionary Referral when it's too late.

Paul Lagg said locally the project would require a special permit and site plan review. He said the regulatory process has started and the applicant is scheduled to appear before the planning board on July 19. He said the applicant was invited to the town's June 21<sup>st</sup> session, they were told about a pending Discretionary Referral, and the applicant chose not to attend. He said he hopes the Commission will accept the Discretionary Referral.

Jack McCormack said he has seen a lot of projects come in under 10,000 sf and believes this type of project could have regional impacts. He said the Commission should accept the Discretionary Referral.

Vice-chair Jack McCormack asked for a motion to find that the project is likely to create regional impacts and presents concerns listed in Section 12(b) of the Cape Cod Commission Act including impact on existing capital facilities, the amount of traffic it would produce and other factors as testified today by the Town of Eastham public officials, and accept the Discretionary Referral from the Town of Eastham for Development of Regional Impact (DRI) review in the Regional Policy Plan (RPP) issue areas of land use, economic development, water resources, transportation and heritage preservation/community character.

The motion was moved by Jackie Etsten and seconded by Joy Brookshire. With 12 members voting, the Commission voted to accept the Discretionary Referral from the Town of Eastham for DRI review in said RPP issue areas by a roll call vote with 9 votes in favor and 3 votes opposed: Royden Richardson-yes; Richard Conron-yes; Elizabeth Taylor-yes; Michael Skelley-no; Richard Roy-yes; Joy Brookshire-yes; Jackie Etsten-yes; Ernest Virgilio-no; Len Short-yes; Roger Putnam-no; Jack McCormack-yes; and David Weeden-yes.

■ **NOTICE OF DRI WITHDRAWAL: Eco-Site, LLC Wireless Communication Tower #TR17003**

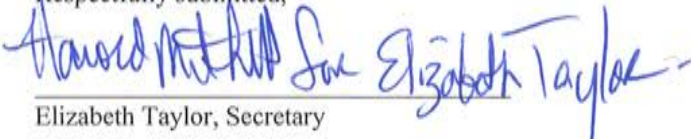
Michele White, Regulatory Officer at the Commission, said the Eco-Site, LLC's proposed construction of a 135-foot wireless communications monopole at 145 Route 130 in Sandwich was referred to the Cape Cod Commission as a mandatory Development of Regional Impact (DRI) by the Town of Sandwich on February 28, 2017. She said the applicant has now withdrawn its local permit applications without prejudice, such withdrawal has been confirmed by Town of Sandwich officials, and the project has, accordingly, been withdrawn from DRI review.

■ **NEW BUSINESS**

*Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.*

A motion was made to adjourn at 4:40 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

  
Elizabeth Taylor, Secretary

**List of Documents Used/Presented at the July 6, 2017 Commission Meeting**

- Minutes of the June 8, 2017 Commission Meeting.
- Handout material: July 6, 2017 Commission meeting agenda.
- Handout material: Cape Cod Potato Chip Factory Draft DRI Scoping Decision.
- Handout material: Greenside Office Park Draft Limited DRI Decision.
- Material Presented: Cape Cod Potato Chip Factory PowerPoint prepared and presented by the Applicant.
- Material Presented: Greenside Office Park PowerPoint prepared and presented by Eliza Cox.