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CAPE COD
COMMISSION

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Minutes

Meeting

Cape Cod Commission

Harborview Conference Room • Barnstable County Complex
3195 Main Street, Barnstable, MA 02630

January 10, 2019

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

Town	Member	Present
Barnstable	Fred Chirigotis	✓
Bourne	Richard Conron	✓
Brewster	Elizabeth Taylor	✓
Chatham	Vacant	Vacant
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Charles McCaffrey	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	✓
Orleans	Len Short	✓
Provincetown	Cheryl Andrews	✓
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	Absent
County Commissioner	Ronald Bergstrom	Absent
Minority Representative	John Harris	✓
Native American Rep.	David Weeden	✓
Governor's Appointee	Michael Maxim	✓

The Cape Cod Commission Meeting was called to order on Thursday, January 10, 2019 at 3:00 p.m. in the Harborview Conference Room, Barnstable County Complex, 3195 Main Street, Barnstable, MA. Roll was called, and a quorum was established.

Kevin Grunwald said he filed a disclosure of an appearance of a conflict of interest as required by M.G.L. c.268A Section 23(b) regarding the applicant for the Tradesmen's Park South project and taking into account the fact that he disclosed that he can perform his Commission duties objectively and he will be participating today.

SUMMARY OF ACTIONS TAKEN/VOTES:

- **Approval of Minutes:** The minutes of the November 29, 2018 Cape Cod Commission meeting were approved with 12 votes in favor and one abstention (John Harris).
- **Public Hearing: Tradesmen's Park South #LR18007.** Following presentations, public testimony and discussion, the Commission deliberated on the Development of Regional Impact (DRI) Scoping application for proposed development of the site at 298 Route 6, Truro, MA with two (2) buildings totaling approximately 25,000 square feet gross floor area for climate-controlled storage and industrial bay uses and associated site improvements. Following deliberation, the Commission voted unanimously to close the public hearing and voted unanimously in favor to approve and adopt the draft written DRI Scoping Decision, with modifications made today, for the Truro Tradesmen's Park South project, allowing the applicants to proceed with local permitting for the project, subject to the DRI Scoping Decision as amended, without further DRI review.
- **Public Hearing: Technical Bulletins to the 2018 Draft Regional Policy Plan.** Following an overview presentation by Commission staff, public testimony and discussion by Commission members and staff, the Commission voted unanimously in favor to close the public hearing and to leave the record open until January 13, 2019 which is the last day of the public comment period on the Technical Bulletins.

■ MINUTES

The minutes of the November 29, 2018 Cape Cod Commission meeting were reviewed. Roger Putnam moved to approve the minutes, Len Short seconded the motion and a vote called on the motion passed with 12 votes in favor and one abstention (John Harris).

■ EXECUTIVE DIRECTOR'S REPORT

Executive Director Kristy Senatori provided the following report:

- Tom Cambareri, Water Resources Program Manager at the Commission, retired on January 4 after 32 years with the Cape Cod Commission.
- Governor Baker signed the Barnstable County Early Retirement Incentive Program in December. Letters were sent to qualified employees by Barnstable County Human Resources including a handful of Commission staff. The Barnstable County Commissioners will need to assess the program and vote its adoption within the next month or two.
- It is anticipated that Commission meetings will be held in the newly renovated East Wing Conference Room in early March.
- The Barnstable County Economic Development Council (BCEDC) will be hosting a workshop as the first step in updating the Comprehensive Economic Development Strategy (CEDS). The workshop is scheduled for the morning of January 31 at the Cultural Center of Cape Cod in South Yarmouth.
- The BCEDC voted to recommend a draft framework for the new Cape and Islands License Plate Grant Program to the Barnstable County Commissioners for their adoption.

■ TRADESMEN'S PARK SOUTH #LR18007

Chair Harold Mitchell opened the public hearing at 3:05 p.m. He said the Commission will consider whether to approve and adopt the draft written Development of Regional Impact (DRI) Scoping Decision for the project as recommended by the Executive Director and Committee on Planning and Regulation for the proposed development of the project site located at 298 Route 6 in Truro with two buildings totaling approximately 25,000 square feet gross floor area for climate-controlled storage and industrial bay uses and associated site improvements. He said if approved and adopted by the Commission, the Decision would allow the applicants to proceed with local permitting for project without the requirement of any further DRI review.

Attorney Andrew Singer said he is here today with Daniel Silva one of the project co-applicants. Attorney Singer said this is an exciting project for the Outer Cape and said the proposal is to develop one of the last undeveloped parcels left for commercial use along Route 6 in Truro. He said the proposed Tradesmen's Park South project is for a climate-controlled storage facility with industrial bays for use by local tradesmen in Truro and surrounding communities. He said the applicants

currently own and operate Tradesmen's Park North on Route 6 in Truro and there is a waiting list for commercial bays at that property and a high demand for additional climate-controlled storage space. He said the proposed development includes two two-story buildings; the first building will have seven industrial bays on the main level and 50 climate-controlled storage units on the lower level and the second building will have five industrial bays and 40 climate-controlled storage units. He said local artisans and tradesmen will occupy the space. He discussed stormwater management provisions and access from Route 6 and said the proposal is one of the least trip-generated proposals and the site lines and designs will provide safe access. He discussed the natural wooded vegetated buffer and said the building will be at a lower topography from residential properties to the rear to provide better screening. Attorney Singer said the Truro Board of Selectmen have submitted a letter of support, the applicants look forward to proceeding with local review and he asked the Commission for their support.

Michele White, Regulatory Officer at the Commission, said the applicants submitted a DRI Scoping Application to the Commission last April and from April to December submitted additional information and worked closely with staff particularly in the areas of water resources and community character. She said the project was presented to the Committee on Planning and Regulation (CPR) on December 13 where they discussed the need for this type of facility on the Outer Cape, the potential positive impacts for local businesses, water resources and buffering of the buildings. She said at that meeting the CPR voted to recommend to the full Commission that it adopt the draft DRI Scoping decision for the project and as such no further DRI review for the project is required allowing the applicants to proceed with local permitting. Ms. White said the applicants own and operate a facility similar to what they are proposing called Tradesmen's Park North less than a mile north of the site of the proposed project. She said that facility has industrial bays that serve local tradesmen and businesses who use the industrial bays as part of their business operations. She said the Commission reviewed and approved that development as a Limited DRI for a Change of Use in 2006, the applicants have owned and operated that facility for 11 years, it's fully occupied and there is a waiting list of users for those spaces. She said the Commission received several public comment letters from Outer Cape residents and business-owners supporting the project and attesting to the need for this type of facility. She said the property is approximately 1.1 acres, undeveloped and vegetated and adjacent to commercial uses to the north and south along Route 6 and residential properties to the west. She discussed the findings in Regional Policy Plan (RPP) issue areas for land use, economic development, water resources, natural resources, transportation, waste management, energy, affordable housing, heritage preservation, and community character. Ms. White said Commission staff suggest that the project does not involve substantial deviation from the goals and Minimum Performance Standards (MPSs) of the RPP, does not have significant impact upon the purposes and values identified by Section One of the Commission Act and based on the findings in the draft decision, staff recommends this project be scoped out of further DRI review allowing the applicants to proceed to local permitting subject to the conditions in the DRI Scoping decision. Ms. White noted one condition specific to the project as any exterior signage shall be of a similar size, construction and design to the current sign at the applicant's existing Tradesmen's Park location.

Cheryl Andrews inquired about public/private water supply wells and where they were on the site plan and asked if a new well is proposed. Attorney Singer noted that there was an existing private supply well noted in the upper left-hand corner of the site plan. He said private water supply wells are located on parcels adjacent to the property and the property itself will have a private water supply well. Tim Brady, East Cape Engineering, said on the site plan public water supply wells have a larger radius than others.

Kevin Grunwald asked if the project is multi-phased and asked about an anticipated timeline. Dan Silva, the project co-applicant, said the project will have two phases and they are hoping to have the first building finished in six months from the start of construction.

Jackie Etsten said she would like to see a label on the site plan that the natural vegetation be retained. Attorney Singer said it is on the site plan. Ms. Etsten asked about the setback on the property line in the rear and inquired about vegetation in the parking area. Attorney Singer said there is a 10-foot natural strip and a retaining wall that is compliant with zoning. He referred to the landscape plan and said existing pitch pines will remain and if anything is lost it will be replaced. Ms. Etsten asked that a condition be added to the decision that says natural vegetation will be replaced and asked that a note to that effect be added to the site plan as well. Attorney Singer agreed to doing that.

David Weeden said he would ask that contractors be mindful of archaeological interests that may be discovered during construction.

Chair Harold Mitchell called for comments from public officials and the general public and none was given.

Kevin Grunwald said this is the first DRI in Truro since he has been the Truro Representative to the Commission and said it's very exciting. He said the project is in a good location, it meets an existing need and it's positive for the town.

Chair Harold Mitchell said he sits on the Commission's Committee on Planning and Regulation and understands the need and said it's an excellent project.

Ernest Virgilio thanked the applicants and the engineer for their work on the project.

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

Chair Mitchell called for a motion to approve and adopt the draft written DRI Scoping Decision, with the modifications made today, for the Truro Tradesmen's Park South project allowing the applicant to proceed with local permitting subject to the DRI Scoping Decision, as amended, without further DRI review. The motion was moved by Cheryl Andrews, seconded by Roger Putnam and passed by a unanimous vote.

■ DRAFT TECHNICAL BULLETINS TO THE 2018 DRAFT REGIONAL POLICY PLAN PUBLIC HEARING

Chair Harold Mitchell opened the public hearing at 3:42 p.m.

Heather McElroy, Natural Resources Specialist at the Commission, said the Commission received a detailed overview presentation by Commission staff at its December 13 meeting. She said the Regional Policy Plan (RPP) was presented to the Assembly of Delegates (AOD) and said the RPP is organized around three systems—Natural Systems, Built Systems and Community Systems. She said the purpose of the Technical Bulletins is to clarify how the Goals and Objectives of the RPP are to be applied and interpreted in Commission Development of Regional Impact (DRI) project review, it presents specific methods by which a project can meet the Goals and Objectives and the RPP adopts 14 goals that derive from the purposes in the Commission Act. She said the guidance in Technical Bulletins provide methods by which a project will meet those goals and said it is dependent on location, Placetype and any resources in the project site. Ms. McElroy explained the role of the Cape Cod Placetypes, the resource areas that the Commission is charged to protect and the RPP Data Viewer which is an online tool for Commission staff and the public to use during regulatory project review. She explained the role of Technical Bulletins in regulatory project review and said the methods are adapted from existing minimum performance standards (MPSs), the methods maintain resource protection, the methods provide needed flexibility and said the Commission must find that a project is consistent with all Goals and Objectives.

Ms. McElroy said November 29 started the public comment period, today the Commission is taking public comment, Commission staff has been compiling comments received, staff will provide a spreadsheet with the comments received as well as responses similar to what was done with the RPP and will bring the comments back to the Commission on January 24 for discussion and a possible vote. Ms. McElroy said the comment period ends on January 13, 2019 and comments can be submitted to the Commission at: 2018techbulletins@capecodcommission.org.

Kevin Grunwald said he has seen comments about exempting multi-family housing units of less than 400 feet from the affordability requirement and in the technical bulletin it looks like the threshold for that is for 10 units or less.

Heather Harper, Chief of Staff and Affordable Housing Planner at the Commission, said the threshold would remain the same. She said multi-family housing developments that provide 1,200 square feet in size or smaller that are in a Placetype for housing is recommended. Mr. Grunwald said does that mean it's not exempt. Ms. Harper said the affordable housing component could be exempt in those locations. Mr. Grunwald asked what would be the basis for exempting. Ms. Harper said that it's 100% rental housing. Mr. Grunwald asked about the rationale. Ms. Harper said the rationale comes from the standpoint that the current housing market on Cape Cod is a non-functioning housing market. She said one of the components of that is the shortage of rental housing across the Cape. She said in many ways rental housing is a gateway for getting jobs and for the affordable housing market so addressing rental housing is an important part of the affordability across the Cape and across the spectrum of affordable housing on Cape Cod. She said part of the Regional Policy Plan (RPP) is to support more housing supply in those areas of our region that can support it. She said in very small instances by right a developer can propose and finance rental housing in those Placetypes that staff recommends where housing can be developed, and that 100% rental housing need not also provide those minimal standards.

Elizabeth Taylor asked just because it's all rental we are not requiring affordability. Heather Harper said that is one of the recommendations. Ms. Taylor said she cannot understand that given the housing crisis on Cape Cod to not require 10% affordability for rental units is hard to understand. Ms. Harper said it comes from the regional regulatory environment and it's not intended to be a policy statement on inclusionary zoning. She said in most cases in many communities there is inclusionary zoning that allows density thresholds that allow affordable housing to be developed. She said they see very little by right and it's an opportunity to meet the overall goal for housing in the RPP to help diversify the housing market creating

a gateway for housing opportunities. She said they heard that quite clearly in the focus group conversations that they had as they did the Regional Market Analysis and the lack of rental housing is one of the greatest barriers in affordability.

Cheryl Andrews said she agrees with Commission staff on this and said Provincetown provided year-round apartment opportunities and they have the highest rate of affordable units. She said staff is right on with this and agrees that the point is to encourage year-round rental opportunities.

Heather Harper noted that this would have to be agreed with by the community.

Joy Brookshire said a letter was received saying that the Technical Bulletins are too flexible.

Kristy Senatori said the Goals and Objectives in the Technical Bulletins are derived from the Commission Act. She said it's a balance, they looked at past DRI projects and are putting options in place. She said she is confident that the Technical Bulletins do provide a full complement of Goals and Objectives and provides enough information.

Fred Chirigotis said perhaps the Technical Bulletins look like suggestions. He said there needs to be a balance of both planning and regulatory and said he would look for more regulations instead of suggestions. Elizabeth Taylor agreed and said there are too many shoulds instead of shalls and she would like more shalls instead of suggestions. She asked if the Technical Bulletins can be changed if they don't work. Heather McElroy said the Technical Bulletins can be changed and said the Commission has a very committed staff. She said it's important for the Commission to look at the Summary of Methods, flexibility is needed to get to a specific goal, and you can't always get there without flexibility. She said it will be up to Commission members to decide whether a project meets the Goals and Objectives and it will give the Commission more power to deny projects that do not.

Jackie Etsten said she has concerns about the map of Placetypes and said they need to see where on the maps that show greater density. She said an impact analysis should be done within a six-month period in these areas and whether there is infrastructure there to support it. Heather McElroy said it's a voluntary process for a community to adopt a Local Comprehensive Plan (LCP) and that plan could indicate that. She said there is no requirement for communities to incorporate activity centers in their LCPs.

Charles McCaffrey said it does give the Commission more power. He said he sees this as significant progress, it was more difficult with minimum performance standards (MPSs) and he believes this is a sound approach.

Jon Idman, Chief Regulatory Officer at the Commission, said this process is the process for an outcome with a project such as the Tradesmen's Park South. It's difficult having universal mandates for all projects that are not the same. Fred Chirigotis said he realizes every project is different, but it seems there should be another way to have flexibility rather than suggestions. He said there is a real danger here and he sees it as a yellow light. Roger Putnam said if you use shall everywhere you don't need the Commission. Cheryl Andrews said she agrees with her colleagues on this.

Laura Schufelt, resident of West Barnstable, said she has concerns about housing regarding exemptions and said rental housing is not being built because of Chapter 40Bs. She said changes to zoning is the incentive needed to address affordable rental housing. She said the exemption would most likely be applied to senior housing and assisted living developments since these are the most common residential developments over 30 units. She said if you look at DRIs since the beginning the majority of the residential DRIs are senior housing and assisted living units. She said senior housing and assisted living are identified in the technical bulletin as one of the greatest needs and said why would those projects be excluded as affordable housing after identifying them as the greatest need. She said she would leave the inclusionary policy as is.

Felicia Penn, resident of Hyannis, referred to Mr. Idman's comments about Tradesmen's Park South project being reviewed with the new versus the old policy and said she wonders how the staff report would differ. She said she heard in the staff report that the project is consistent with MPSs and recommends acceptance and questioned how the staff report would differ. She questioned the use of should versus shall and said it's important that the review process be predictable, consistent and fair to the applicant and that the Commission has clear and consistent guidance in making decisions. She said if an applicant doesn't get what he wants, then the Commission and the applicant need to negotiate. She referred to the Technical Bulletin for Wildlife and Plant Habitat where it says new clearing is strongly discouraged and said just say no clear cutting; the language is very passive which is not to be recommended. She inquired about the Technical Bulletin for monopolies/wireless towers and asked if the current Technical Bulletin will be used. Jessica Wielgus, Commission Counsel, said the existing technical bulletin remains. Ms. Penn referred to empirical data on economic development and said when reviewing projects, the Commission should ask specific companies for their empirical data regarding wages, salaries, seasonal information etc.

Gordon Starr, member of the climate change group 350 Cape Cod, said the technical bulletins do incorporate some planning concerns that were made during public comment. He said the technical bulletins and the Regional Policy Plan (RPP) do not address the needs as a society today to quickly reduce our emissions. He said all sections need to be more specific in the goals and objectives and said the language is not specific enough. He said we need more coordination and regulation. He said the RPP does not specify the plans, goals, objectives and actions consistent with the Massachusetts Global Warming Solutions Act. He said at a minimum they would like the RPP and Technical Bulletins to address that. He said they would suggest that the RPP and Technical Bulletins be put on hold until they align with the goals set out in the Massachusetts Law.

Chair Harold Mitchell called for a motion to close the public hearing and leave the record open until January 13, 2019 which is the last day the Commission will be accepting public comment on the Technical Bulletins. The motion was moved by Roger Putnam, seconded by Elizabeth Taylor, and passed by a unanimous vote of the Commission.

■ **NEW BUSINESS:** *Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.*
No new business was taken up.

A motion was made to adjourn at 4:38 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,



Elizabeth Taylor, Secretary

List of Documents Used/Presented at the January 10, 2019 Commission Meeting

- January 10, 2019 Cape Cod Commission Meeting Agenda.
- Draft minutes of the November 29, 2018 Cape Cod Commission meeting.
- PowerPoint slide presentation on the Technical Bulletins Review prepared by the Cape Cod Commission.