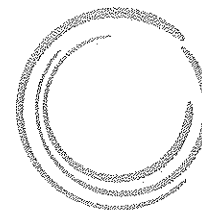


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

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

Minutes
Meeting of
Cape Cod Commission

July 19, 2012

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

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Michael Blanton	✓
Brewster	Elizabeth Taylor	✓
Chatham	Vacant	Vacant
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Brian Currie	✓
Harwich	Robert Bradley	Absent
Mashpee	Ernest Virgilio	✓
Orleans	Leonard Short	✓
Provincetown	Austin Knight	✓
Sandwich	Joanne O'Keefe	✓
Truro	Peter Graham	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	✓
Minority Representative	John Harris	✓
Native American Rep.	Vacant	Vacant
Governor's Appointee	Herb Olsen	✓

The meeting of the Cape Cod Commission was called to order on Thursday, July 19, 2012 at 3:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

■ EXECUTIVE DIRECTOR'S REPORT

Patty Daley, Deputy Director, introduced Commission interns Jesse Beane and Andrew Fullam. She said they are working on green infrastructure and community design at the Commission. She also noted that Ned Hurwich, not present today, is also an intern working with the economic development officer at the Commission.

■ MINUTES

The minutes of the May 10, 2012 Commission meeting were reviewed. Jack McCormack moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with six abstentions.

The minutes of the June 7, 2012 Commission meeting were reviewed. Jack McCormack moved to approve the minutes. Richard Roy seconded the motion. The motion passed with four abstentions.

The minutes of the June 21, 2012 Commission meeting were reviewed. Michael Blanton moved to approve the minutes. Royden Richardson seconded the motion. The motion passed with three abstentions.

■ SOUTH SANDWICH VILLAGE NOTICE OF INTENT TO FILE A DEVELOPMENT AGREEMENT

Richard Roy read the hearing notice and opened the hearing at 3:10 p.m.

Jessica Rempel, regulatory officer at the Commission, said the purpose of a development agreement is to provide a tool for the Commission, municipalities, state agencies, and developers to use to define the scope and substance of proposed developments; assures a developer applicable review regulations will not change over the construction period; encourages a developer to plan a comprehensive project and provide infrastructure benefits earlier in the project; and development, as specifically described within an approved development agreement, shall not be required to be subject to further DRI review. She said for the South Sandwich Village project Tsakalos Realty Trust is the qualified applicant and pursuant to development agreement regulations, the applicant is seeking a three-party agreement between the applicant, the Commission and the Town of Sandwich. Ms. Rempel said in written correspondence from George Dunham, Sandwich Town Manager, he states that Sandwich has a Local Comprehensive Plan (LCP) consistent with the Regional Policy Plan (RPP) and has adopted a bylaw to allow development agreements with the Commission as required by these regulations. She said the applicant submitted a Notice of Intent (NOI) to file a Development Agreement application to the Commission on May 29, 2012. She said the proposed project consists of the development of South Sandwich Village, described by the applicant as a smart growth, mixed-use, pedestrian-oriented village center. She said the proposed project is located on approximately 50 acres of land between Cotuit Road and Route 130 in Sandwich. She said the project proposes redevelopment of three existing shopping plazas and development of a new village center. She said it proposes to include civic, institutional, residential, and commercial uses. She said the village site is situated in the Economic Center as designated on Sandwich's Land Use Vision (LUV) Map, an area identified for economic development in Sandwich's LCP. She said the project also proposes to include a wastewater treatment facility to be located approximately one mile north of the development area off Jan Sebastian Drive. She said according to the applicant, the facility will be designed to service the proposed development and several other projects in the neighborhood including an adjacent Housing Assistance Corporation project. She said the area where the facility and disposal sites are proposed are designated as "Other" and "Resource Protection Area" on the LUV Map. Ms. Rempel said the Regulatory Committee when making its determination found that no development permit is pending; the project would benefit from a comprehensive review as a significant amount of infrastructure will be needed to support the proposed redevelopment and development, in particular transportation and wastewater infrastructure; the project involves a large area; includes multiple uses and structures; and involves multiple properties

under common ownership. She said project construction phasing is anticipated to be about 10 years and the project has future expansions that are not fully defined as project designs are in the conceptual phase. She said regarding the Environmental Impact Report (EIR) and the Massachusetts Environmental Policy Act (MEPA) process, the applicant has submitted a Draft EIR to MEPA and a subcommittee of the Commission has reviewed it and submitted comments to MEPA. She said the development agreement regulations require that the development agreement application include the Final EIR, certified as adequate by the Secretary of Energy and Environmental Affairs. She said right now the Commission is looking at a NOI to file a Development Agreement application and the Commission review of the development agreement application will not begin until the Final EIR has been signed off on just like a DRI going through the MEPA process. She said the Regulatory Committee received written testimony from the Sandwich Town Manager in support of the proposed project's participation in the development agreement process. Ms. Rempel said based on those considerations, at the July 2, 2012 Regulatory Committee meeting, the committee voted unanimously that the proposed development is suitable and qualifies for the development agreement process and to make its recommendation to the full Commission. She said if the full Commission votes that it is suitable and qualifies, the applicant will have one year from the date of the full Commission's determination to file a development agreement application with the Commission.

Attorney Kevin Kirrane, counsel to Tsakalos Trust, said they believe the proposed project meets the criteria of the Cape Cod Commission Act and the proposed development is appropriate for this site. He said he is asking for approval by the full Commission to proceed with the development agreement process.

Joanne O'Keefe inquired about a one-year extension.

Jessica Rempel said the applicant has one year from the date of the vote by the full Commission to file a development agreement. She said the applicant can seek an extension for an additional one year if needed.

Peter Graham referred to a development project in Plymouth and said their funding collapsed. He asked what the applicant has in place should their funding collapse.

Attorney Kirrane said the project includes redevelopment of three commercial malls which have mortgages with the capacity for increased mortgage amounts. He said there are also cash funds to finance with income from properties.

Joy Brookshire asked if they were committed to a community center and a library.

Bud Dunham, Sandwich Town Manager, said the library got on the list for state funding but it involves a long process before funding would become available and said it could be on the list for five years. He said they may be able to work with private agencies or funds from the Town may become available but its five years away. He said the Town has a long list of municipal projects yet to address and said, in time, it's a municipal need that can be addressed. He said the Town needs to figure out how to fund the municipal projects.

Attorney Kirrane said the applicant is a respected member of the business community. He said the applicant has been very involved in the community and has made available space for a youth center and a food pantry. He said part of the applicant's plan is to construct a building for civic purposes. He said he is not sure what it would be but it is an integral part of the applicant's project.

Bud Dunham thanked the Commission for hearing this today. He said Sandwich has been trying to lay ground work for economic development in town for many years. He said the proposed project mirrors the town's LUV Map that the Commission approved. He said the town strongly supports the project.

He thanked Commission staff for their efforts and said the project can be successful if the town, the Commission and the developer work together. He said the project is consistent with what the town wants to do. He said whatever they work out can be a unique example for other towns on the Cape. He thanked the Commission for its time and work on this.

Jack McCormack moved to close the hearing and the record. Michael Blanton seconded the motion. The motion passed with a unanimous vote.

Jack McCormack moved that the proposed South Sandwich Village development is suitable for consideration as a Development Agreement with the Commission, provided the development receives a Final Environmental Impact Report certified as adequate by the Secretary of the Executive Office of Energy and Environmental Affairs and submits the same prior to application. Richard Roy seconded the motion. A vote called on the motion passed with a unanimous vote.

■ TELEDYNE INSTRUMENTS, INC. EXPANSION

Chair John Harris noted that this is a continued hearing from June 26, 2012.

Brian Currie recused himself and said he would be participating on the town level.

Kristy Senatori, chief regulatory officer, said she is acting as hearing officer on the Teledyne Instruments DRI Hardship Exemption application. She said currently Teledyne has employees at three locations in Falmouth. She said Teledyne owns Lot 2A, Lot 5, Lot 6, and Lot 10 in the Raymond Park Industrial Subdivision. She said Teledyne acquired Lot 10 from the Falmouth Economic Development and Industrial Corporation (EDIC) in 2011 in order to maintain its business in Falmouth and to consolidate its operations. She said there are existing buildings on Lot 2A and Lot 6 and Lot 2A and Lot 10 are the subject of the current proposal. She said in 2008, the Commission issued two DRI decisions for the subject site—a DRI Exemption decision for Teledyne and a DRI Hardship Exemption decision for the EDIC. She said the applicant has applied for a Hardship Exemption to combine the two previous decisions to allow for the proposed expansion. She said on April 17, 2008 the Commission issued the DRI Exemption decision for Teledyne and the project was reviewed under the 2002 Regional Policy Plan (RPP). She said at that time the Commission approved a 14,850 square foot addition to an existing 27,750 square foot building on Lot 2A and an additional open storage area and loading ramp. She said the Commission approved the project and found that the location, character and environmental effects of the project prevented its having any significant impact on the resources, values and purposes protected by the Commission Act outside of the Town of Falmouth. She said the addition approved as part of that decision has not been constructed and is included as part of the current proposal. She said the August 21, 2008 DRI Hardship Exemption decision for the Falmouth EDIC granted hardship relief to “qualifying entities” for mitigation associated with water resources, open space and transportation. She said the decision allowed for three 10,000 square foot buildings on three separate lots and a 2010 Modification to that decision combined the three lots into Lot 10 and allowed for the alternative construction of one 30,000 square foot building by “qualifying entities.” She said none of the buildings have been constructed. She said on February 28, 2011 Teledyne was granted a Waiver Certificate for Lot 10, which is the site of the current proposal, as a “qualifying entity.” Ms. Senatori said as a qualifying entity, Teledyne was found to have a high average weekly wage; to be a small business with less than 150 employees; and to have a majority of year-round full-time positions. She said, in addition, the proposed use was not categorically excluded from consideration. She said Teledyne met the applicable criteria and was granted a Waiver Certificate for the proposed use at Lot 10 waiving the mitigation. She said the current proposal seeks to combine the total allowed square footage of the two previous decisions so that Teledyne can construct an approximately 30,000 square foot addition to the east side of the existing building and either an additional 14,600 square foot building to the north, or two further additions to the west and east of the existing building of approximately 5,400 square feet and 9,100 square feet. She said in total the expansion would accommodate up to 324 employees on the proposed combined approximately 14-acre parcel. She explained the Commission’s

jurisdiction and said the project has been reviewed under the 2009 RPP as amended. She said based on their qualifications, the mitigation outlined in the 2008 EDIC Hardship Exemption decision for water resources, open space and transportation was waived and no mitigation was required as part of the 2008 Teledyne DRI Exemption. She said the two previous reviews were conducted in accordance with the 2002 RPP where there were no affordable housing or energy requirements. She said based on that staff suggests that the Commission find that under the current proposal, hardship relief in these areas may be granted. Ms. Senatori outlined some of the key findings and conditions in the draft decision regarding land use, economic development, transportation, community character, open space, and water resources. She explained Commission criteria of approval and said in order to approve the development, the Commission must find that the probable benefit from the proposed development is greater than the probable detriment. She said that is something that the Commission will need to deliberate on. She said the proposed development is consistent with the RPP and the Town's LCP. She said with appropriate conditions and relief granted, staff suggests the project is consistent with the RPP and on June 11, 2012 the Falmouth Board of Selectmen found that the proposed project is consistent with the Town's LCP. She said the proposed development is consistent with municipal development bylaws and on June 25, 2012 the Commission received written correspondence from Falmouth Town Planner, Brian Currie, noting that the proposed project is consistent with local zoning. Ms. Senatori said so long as the Commission finds that the probable benefits of the proposed project are greater than the probable detriments, staff recommends that the hardship exemption application of Teledyne Instruments, Inc. can be approved with conditions. She noted minor clarifications to water resources findings that were included in Commission member packets today.

Tom Altshuler, Vice President/General Manager of the three businesses that are to be co-located at the site on Edgerton Drive, said they are very pleased that the Commission is considering this hardship exemption for the three businesses. He said they have been a part of Falmouth for a very long time and as members of the community they have been involved in the growth of the Woods Hole Oceanographic Institution and businesses within Falmouth. He said they have done some exciting things including involvement with the dives for the Titanic and currently involved in some of the most advanced research that is being done looking at climate change worldwide. He thanked the Commission for considering Teledyne's application and said they feel that by bringing Benthos and Teledyne together into one facility they will continue to grow in the way that they have and continue to be a vital part of the community in Falmouth.

Attorney Robert Ament, representing Teledyne, thanked Commission staff for their assistance. He said Teledyne purchased the property from the EDIC last year after confirming that the exemption benefits that the EDIC had were transferable to Teledyne and instead of having three separate 10,000 square foot buildings, one 30,000 square foot building would be allowed without further Commission review. He said the three lots would be merged into one larger lot next to the existing facility which is Lot2A on the plan that Ms. Senatori presented. He said Teledyne also received the Executive Director's designation that the company is a qualifying entity and the result would be that mitigation payments for nitrogen loading and any traffic impacts would be waived. He said Teledyne received the Commission's written assurance that both the 30,000 square foot building on the former EDIC property and the 14,850 square foot addition to the existing Teledyne building that both of those could proceed independently with a total of 44,850 square feet. He said the EDIC exemption for a 30,000 square foot building actually referenced no specific plans, no landscaping, septic design or site plan and said none were required to be reviewed by the Commission and no further plans for that construction were required to be submitted to Commission staff prior to construction. He said it was with that permit situation that Teledyne acquired the property contemplating utilizing the EDIC exemption to construct a free-standing building. He said in the course of the design process over the last year it became apparent that a like-size addition to the present facility would be a better use of the land, more compact and having fewer impacts. He said an addition would be more economical to build and be more efficient for operations going forward for Teledyne. He said the proposal became to combine what was the EDIC property of about 8 acres, and in excess of 6 acres that Teledyne already owned where its

existing building is, into a single approximately 14.3 acre parcel in the industrial park. He said Teledyne's project is significantly constrained by budgeting and timing and the cost of construction and operations for Teledyne are compared to opportunities in other states. He said the company's permitted budget has no room for unanticipated design, permitting, construction and operating expenses. He said the design and permitting process has been delayed by these budgetary issues and proceeding with the project is still not assured but they get closer and closer to breaking ground as they pursue the permitting process. He said based on the transferred benefits of the 2008 exemptions and the qualifying entity designation there were no funds in the project budget for nitrogen and traffic impact mitigation or funds to meet various additional requirements of the current Regional Policy Plan (RPP) that were not in effect when the prior exemptions were granted. He said nonetheless as evidenced by Teledyne's submissions by the staff report that recommends approval and the town's unqualified support for the Commission approving the hardship exemption, the project will be substantially in compliance with the RPP. He said clearly this development is desirable, it's properly located on a cul-de-sac in a well-buffered industrial subdivision. He said it will create good permanent jobs in an emerging industry cluster, it involves the protection of 5.16 acres of priority habitat—more open space than would occur with the already approved construction. He said all of those are benefits to the project that justify the hardship waiver being granted by the Commission and those benefits far exceed any potential detriment. Waiver of mitigation expenses for Teledyne as a designated qualifying entity is consistent with the previous decisions of the Commission. He said it would be counterproductive to require compliance with new minimum performance standards that do not apply if Teledyne simply built the less desirable detached building that is presently permitted by the Commission to do. He said it would be a hardship for the applicant to incur substantial cost combined with new conditions that would not be applicable to the alternate construction that could presently proceed. He said on behalf of Teledyne he thanked Commission staff for their assistance, thanked the Commission for the opportunity to address the Commission today, and asked for a favorable vote for the Teledyne project.

Brian Currie, Falmouth Town Planner, read a letter in support of the project from Julian Suso, Falmouth Town Manager.

Elizabeth Taylor moved to close the hearing and the record. Royden Richardson seconded the motion. The motion passed with a unanimous vote.

Paul Niedzwiecki said this is a unique situation as we have a DRI Exemption merged into a Hardship Exemption. He said it makes sense to combine both businesses into one building. He said Commission staff endorses the project.

Mary Pat Flynn moved that the probable project benefits including existing and new high paying year-round jobs in an emerging marine sciences industry, proposed new jobs, local town support for the proposed project, no detriment to water resources, transportation and natural resources, positive economic impact and the better overall land use are greater than the probable project detriments. Michael Blanton seconded the motion. The motion passed with 14 voting members.

Jack McCormack moved to approve the Hardship Exemption application of Teledyne Instruments, Inc. with conditions and to approve the draft written decision, as amended. Elizabeth Taylor seconded the motion. The motion passed with 14 voting members.

■ STRATEGIC INFORMATION OFFICE

Paul Niedzwiecki said today's presentation on the Strategic Information Office is being postponed to the next Commission meeting.

■ CCC MEMBER COMMENTS

Roger Putnam asked that materials given to Commission members be provided on a disk.

Paul Niedzwiecki said he would revisit that and report back at the next Commission meeting.

Michael Blanton complimented the new Commission officers.

Chair John Harris said he was unable to attend the previous Commission meeting but did read the accolades given to Peter Graham at that meeting. Mr. Harris said he, too, would like to congratulate Mr. Graham for a job well done as the Chair of the Commission. Mr. Harris said he is honored to serve as Commission chair again.

Joy Brookshire said there has been a lot of media coverage and misconceptions on the regional wastewater management plan and asked Mr. Niedzwiecki if he would comment on that.

Paul Niedzwiecki said between he and Andrew Gottlieb they have visited towns on the Cape 47 times. He said they are trying to get a lot of the misconceptions right. He said after three and a half months of talking to people it's disheartening to see misprinted information. He said he and Mr. Gottlieb remain positive and continue to move forward. He said he remains confident that the Cape would rise as one community in the situation of a threat.

Joy Brookshire asked about the status of the Ocean Management Plan and it being an influence as to what is coming.

Paul Niedzwiecki said the plan itself and the federal plan should reflect a lot of the effort by the Commission. He also notified members that the Marine Resources Minimum Performance Standards of the Regional Policy Plan were adopted yesterday by the Assembly of Delegates.

Leonard Short said the word "regionalism" should be removed.

Paul Niedzwiecki said if he could substitute a word or words for regionalism he would say "less expensive"—"less expensive to taxpayers."

John Harris said the whole point is to get the cost down and the effects up.

Royden Richardson said in terms of marketing a campaign for Commission purposes, he asked if Commission staff were using the website.

Paul Niedzwiecki said, yes, with face book and a twitter account. He said the Commission will continue to use that but the County is constrained in the type of marketing that can be done.

Royden Richardson said people make outlandish statements that are not true and perhaps the Commission could make an outlandish statement because it is true. He said it might be effective.

Joy Brookshire said the misconception is that it's going to be one plan for everybody.

A motion was made to adjourn at 4:15 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Richard Roy, Secretary

LIST OF DOCUMENTS PRESENTED AT THE JULY 19, 2012 COMMISSION MEETING

- Handout material: July 19, 2012 meeting agenda.
- Handout material: Draft written decision of South Sandwich Village Notice of Intent to file a Development Agreement.
- Handout material: Draft written decision for Teledyne Instruments, Inc. Expansion.
- Materials presented: PowerPoint slide presentation on South Sandwich Village Notice of Intent to file a Development Agreement prepared by the Cape Cod Commission.
- Materials presented: PowerPoint slide presentation on Teledyne Instruments, Inc. Expansion prepared by the Cape Cod Commission.