

January 7, 2019

Harold Mitchell, Chair  
Cape Cod Commission  
PO Box 226  
Barnstable, MA 02630-0226

Dear Harold,

Last October, I wrote to Kristy Senatori expressing my profound concern with the elimination of minimum performance standards from the RPP. The newly drafted RPP indicates that the Technical Bulletins contain performance measures required of an applicant in order to conform to the RPP. I have read about half of the drafted technical bulletins, and the staff gets an "A+" in consistency and layout with the RPP. Overall, they receive an "A++" in planning for both the RPP and the Technical Bulletins. But they fail miserably in fulfilling the Cape Cod Commission's mission to regulate. Yes, they get an F in regulations. Last I checked it's the legislated mission of the Cape Cod Commission to both plan AND regulate. To do one without the other is to fail in your duty to the municipalities and citizens of Barnstable County.

The reason the creation of minimum performance standards is so important is so that when a DRI application is filed, the review process is predictable, consistent and fair for the applicant, and so that the committee members doing the review have clear, objective guidance to help them make a fair and reasonable decision regardless of who is on staff at the time; regardless of who the Commissioners are, and regardless of CCC executive leadership. I attended the December meeting where the draft RPP was approved and it was stunning to me that not one single member had any question for the staff after they presented a cursory review. I realize that the working committee has been to numerous meetings during the draft process and so they, personally, have a detailed working knowledge of what is meant by the planning language of the RPP, and they also, presumably, have the same working knowledge of the Technical Bulletins. My point is: what happens after there is a change of membership on the Commission? What happens when the staff turns over? Will the written language have the same meaning then? Right now, as is, the language in numerous areas is too ambiguous and open to interpretation.

For example, in Housing 1: *"Infill development and redevelopment for housing that improves building and development form to a more traditional form is particularly encouraged."* Is there a concrete set of rules or definition of this or will a committee member just know it when they see it? This is very subjective as written.

Another example: Housing 2: Methods: "Create Year Round rental and ownership housing units". Read the following objectives: how do these support the method? Is there a definition of year round housing units? How is a developer supposed to submit information proving the existence of year round housing units? How is a committee member supposed to identify whether the project consists of an adequate mix? Why the interest in 1200 sq ft as the desired square footage for rental units? Why not 1500 sq ft? Is the theory that second homeowners are not interested in housing units 1200 sq ft or smaller?

The overall language in these technical bulletins is too passive. In numerous places staff writes: “The Commission may require”... consider changing to “The Commission requires....” In addition, the document is full of the word “should” instead of “must”. For example, in the Housing TB, under timing and mix on page 11 “must” needs to replace “should”, so it reads ...”a similar proportion of affordable and market rate units in DRI’s MUST exist (not should exist).

In the Wildlife and Plant Habitat Technical Bulletin can we please state that clear-cutting is not allowed? The current draft language: “new clearing is strongly discouraged” is too passive! Objective WPH3: Please change language to “Comments from NHESP shall be used, (not MAY BE used, as it reads now).

In the Economic Development Bulletin: Is there a definition of what a “balanced economy “ is? Do any of the written objectives address “seasonal fluctuations”? How will committee members identify if an applicant has addressed year-round versus seasonal employment? The CEDS and Stats Cape Cod both indicate that there is a measurable wage gap between Barnstable County, the Nation and the Commonwealth. Why doesn’t the ED Technical Bulletin indicate that applicants must “create employment opportunities that close Cape Cod’s wage gap? Why doesn’t the technical bulletin indicate that an applicant must hire the local work force?

In the ED Application Requirements: second bullet: employment positions, full time/part/time, titles, wages, salaries (please add the following) MUST BE BASED ON EMPIRICAL COMPANY DATA: GENERAL INDUSTRY NORMS NOT ACCEPTABLE. I am sensitive to past projects that provided only industry norms and not empirical data...this should not be allowed.

Are monopolies and telecommunications towers still subject to mandatory DRI review? The CCC currently has a technical bulletin dedicated solely to monopolies and telecommunications towers. The Community Design TB mentions avoiding visual impacts, but only on scenic resources. Why? I don't think our villages, our shorelines, or our neighborhoods should be subjected to the visual blight these bring. The Capital Facilities TB ignores them completely. With the advent of 5G in a few years, it appears that we will be woefully unprepared for the visual blight and impact these will have on our villages. The Commission cannot drop the ball on reviewing these infrastructure components.

I would hope that before you move to approve the entire library of Technical Bulletins, that the Commission staff explains exactly how a project will proceed through the review process—and they explain exactly how a DRI review committee member will be able to read the application, and objectively make a decision on whether or not a project complies with the RPP based on concrete facts and data, rather than subjective feelings of compliance.

Thank you for this opportunity to comment.

Sincerely,

