



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630
(508) 362-3828
FAX (508) 362-3136
E-mail: frontdesk@capecodcommission.org

Minutes

Meeting of Cape Cod Commission

January 7, 2010

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	Lynne Pleffner	✓
Dennis	Brad Crowell	Absent
Eastham	Joy Brookshire	✓
Falmouth	Mario DiGregorio	✓
Harwich	Robert Bradley	✓
Mashpee	Ernest Virgilio	✓
Orleans	Peter Monger	✓
Provincetown	Vacant	Vacant
Sandwich	Sue Pommrehn	✓
Truro	Peter Graham	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Sheila Lyons	Absent
Minority Representative	John Harris	✓
Native American Rep.	Mark Harding	Absent
Governor's Appointee	Herb Olsen	Absent



The meeting of the Cape Cod Commission was called to order on Thursday, January 7, 2010 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

Paul Niedzwiecki referred to the Barnstable County Commissioner's nomination of the Ocean Management Plan District of Critical Planning Concern (DCPC) and said a 600-piece mailing was sent out and the full Commission would be voting on whether or not to accept the nomination for consideration at its meeting on January 21, 2010. He said if the DCPC is approved on January 21, 2010, the Commission has 60 days to conduct public hearings. He said he would announce the dates of scheduled public hearings at the January 21, 2010 Commission meeting. He said after the 60-day period, if the DCPC is approved by the full Commission, the DCPC would be forwarded to the Assembly of Delegates for designation as a DCPC district. If approved by the Assembly of Delegates, the Commission would have 12 months to develop implementing regulations for the DCPC district.

Mr. Niedzwiecki said discussions have started with the County Commissioners regarding the 2011 budget.

Mr. Niedzwiecki said Nantucket Sound may potentially be on the list of historic places and said that could impact Cape Wind permitting. He said he has been invited to Washington, DC next Wednesday to attend discussions at the federal level regarding this. He said he would keep Commission members apprised.

■ ORLEANS STOP & SHOP GAS STATION DISCRETIONARY REFERRAL

Kristy Senatori, chief regulatory planner at the Commission, said on December 2, 2009 the Town of Orleans Site Plan Review submitted a limited discretionary referral for the proposed gas station on the site of the existing Cranberry Cove commercial plaza for review as a Development of Regional Impact (DRI). She said the referral requested limited review of the project in the issue areas of water resources, coastal resources, wetlands, transportation, and solid/hazardous waste management. She said on December 22, 2009 the Town of Orleans Board of Selectmen also submitted a limited discretionary referral for the proposal and said the referral requested review for the issue areas requested by Site Plan Review as well as for economic development and historic preservation/community character issue areas. She said the proposed project at the site of the existing Cranberry Cove plaza on Route 6A in Orleans consists of a gas station with 5 gasoline pumps (with 10 fueling stations) a 60-square foot kiosk, an overhead canopy with lighting/signage and landscaping. She said the Commission may accept a discretionary referral for a development that may have regional impacts and presents one or more concerns listed in Section 12(b) of the Commission Act. She said a referral can be for a full DRI or limited DRI review. She explained the concerns listed in Section 12(b) of the Act and outlined the Commission staff's analysis in the areas of natural resources, coastal resources, water resources, solid/hazardous waste management, transportation, economic development and historic preservation/community character. Ms. Senatori said on January 4, 2010 the Commission's Regulatory Committee recommended that the full Commission accept the discretionary referral and review the project as a DRI. She said the Commission is being asked to vote on whether the proposed development may have regional impacts and presents one or more concerns listed in Section 12(b) of the Act. She said the Commission is also being asked to vote on whether to accept the discretionary referral from the Orleans Site Plan Review Committee (for review of water resources, coastal resources, wetlands resources, transportation, and solid/hazardous waste management) or from the Orleans Board of

Selectmen (for review of water resources, coastal resources, wetlands resources, transportation, solid/hazardous waste management, economic development and historic preservation/community character).

Attorney Andrew Singer, representing the applicant, said the proposed is infill development in an under utilized paved parking lot. He said the project will enhance business in the area and the applicant appreciates the paramount environmental concerns with this proposal. Vanasse Hangen Brustlin, Inc. (VHB) has already done a stormwater assessment. He said if the Commission accepts the discretionary referral for review, the applicant is willing to work with staff and wants to make this a model infill development project. He said as was mentioned at the Regulatory Committee, the applicant understands there are water resources issues as in Section 12(b) of the Act, however, he doesn't agree with the community character issue. Attorney Singer said competition with other businesses is not a negative and he believes a full DRI review is not necessary. He said the site will be well screened from Route 6A and the traveling public would not be able to see the project area from Route 6A or any other roads. He said the canopy and on-site signage near the gas station will not be visible, it will be completely screened and it will not be visible from off the property. In addition, the surrounding commercial development screens it and that screening is complete. He said there is no signage or advertising proposed on Route 6A. He said the canopy and anything to do with the gas station will not be visible. Attorney Singer said he believes it is not necessary to review the project for historic preservation. He said the plaza is not a polluter and problems there in the past have been rectified. He said there would be no increase in stormwater flow. He said Stop & Shop is providing high water quality treatment over and above what was done in the past. He said further upgrades to stormwater systems will be done and state-of-the-art safety measures will be taken. He said the location and design of the gas station has been designed with an eye for improvement of onsite flow. He said the proposal would not have additional impacts on transportation. He said the applicant wants to make this a model project.

Steve Chouinard, Vanasse Hangen Brustlin, said the commercial site is approximately 22 acres and has three access areas. He said they have decreased the amount of runoff coming off the site. He said the proposal includes landscaping which will replace what is now a paved area. He said 40,000 gallons of fuel would be stored on the site in two tanks. He said the proposal also includes a small attendant's kiosk with video cameras to view the area and a small bathroom for employees only; they will not have public restrooms. He said the plaza includes Stop & Shop and a TJ Maxx and the wastewater in that area was handled by a 1992 BioClere system with a 10,000-gallon per day capacity. He said the employee's restroom would generate approximately 357 gallons per day and the existing system was handling approximately 9,000 gallons per day.

Attorney Singer said regarding the fuel storage tanks safeguards have been built into the system. He said the fuel tanks are double-walled and non-corrosive with emergency shutoffs and an alarm system.

Sims McGrath, Clerk of Orleans Board of Selectmen, referred to a letter from the Orleans Board of Selectmen and said this site is very close to the Nauset Estuary; approximately 400-500 feet away. He said hazardous materials stored on this site begs special attention. He said transportation generated from the project will exacerbate existing traffic problems in the area. He said the proposed project would have a significant detrimental impact on existing gas station businesses in both Eastham and Orleans. He said Orleans recognizes that locally-owned businesses are better for the local economy. He said the town also has concerns about community character and believes the project is large for the Orleans community. He urged the Commission to accept the discretionary referral for DRI review.

Chief Quinn, Orleans Fire Department, said every kiosk is required to install a camera and double-walled tanks are required as well. He said this is not something new being proposed by the applicant, these are already required. He said from the Orleans Inn this site would be visible. He said the applicant says the project will not have impacts but the applicant will have 10 fueling stations and the average is four. Chief Quinn said he is a resident of Town Cove and has spent many hours on Town Cove. He said today the bottom of Town Cove cannot be seen and in the past it could be clearly seen. He said there has been spill off there. He said he would like the project to be the same size as the rest of the businesses in town and he urged the Commission to review the project as a DRI.

George Meservey, Orleans Town Planner, said the site is a filled wetland. He said the town worked with Stop & Shop in the past and they haven't been able to resolve all the stormwater issues from the past. He said the town doesn't want this to happen again. He said this is a large project adjacent to a two-town water body. He said development is being proposed in an area where its identity is what makes Cape Cod what it is. He said they anticipate a lot of traffic coming from the rotary to get to that business and that will have an impact on the towns. He said there are regional impacts with this project.

Elizabeth Taylor said this is a well-traveled area with a lot of transportation issues existing there now and people will travel that area more if a gas station goes there. She said this is a filled area and we don't know what's in the fill. She said she is concerned the project will disturb what's there. She said perhaps a 21E site assessment should be done.

Joy Brookshire referred to page 6 of the staff report where it shows the chart of daily trips and peak hour trips and said Saturday and Sunday daily and peak hours are not included therefore the chart is incomplete. She said since this is a tourist area it's important to know what the summer trips and year round trips are not just winter trips. She said people who receive a Stop & Shop coupon for gas will use that gas station more causing more traffic. She said she has concerns about the narrowness of driveway "C" as well as a lot of other concerns. She said she supports acceptance of the discretionary referral as a DRI.

Ernest Virgilio inquired about a monitoring and maintenance schedule for this project. He asked how and when that measure of protection would be done and who would provide that information during installation.

Scott Michaud said typically for DRIs the Commission requires a monitoring and maintenance plan for stormwater. He said the town engineer would have standard design requirements.

Peter Monger said he has similar concerns. He said on rainy days the catch basins overflow and he has concerns about fuel tanks under water. He said a hurricane could potentially wipe out the Nauset Harbor area. He said shellfishing and water activities benefit the town. He said he believes the project does have regional impacts and there are already seven gas stations in town that provide repair services as well. He said he would not like to see existing gas stations put out of business because of this project. He said he would support acceptance of the discretionary referral for DRI review.

Elizabeth Taylor asked if salinity and corrosion could be an issue.

Scott Michaud said it's rarely a local effect. He said it would be difficult to determine what that level would be.

Peter Graham asked if there would be opportunities for stormwater runoff improvements.

Scott Michaud said this project isn't going to improve overall stormwater runoff. He said it may help clean it up a bit but the system is what it is.

Roy Richardson said all comments seem to be pointing in the direction of regional impacts. Mr. Richardson moved that the Commission finds that the proposed Stop & Shop gas station may have regional impacts. Elizabeth Taylor seconded the motion. A vote called on the motion passed with a unanimous vote.

Roy Richardson moved that the Commission finds that the proposed Stop & Shop gas station presents one or more concerns listed in Section 12(b) of the Cape Cod Commission Act. Joy Brookshire seconded the motion. A vote called on the motion passed with a unanimous vote.

Roy Richardson moved that the Commission accept the discretionary referral from the Town of Orleans Site Plan Review Committee for the Stop & Shop gas station and review the project as a DRI in the issue areas of water resources, coastal resources, wetlands, transportation, and solid and hazardous waste management. Elizabeth Taylor seconded the motion. A vote called on the motion passed with 13 votes in favor and one vote opposed.

Roy Richardson moved that the Commission accept the discretionary referral from the Town of Orleans Board of Selectmen for the Stop & Shop gas station and review the project as a DRI in the issue areas of water resources, coastal resources, wetlands, transportation, solid and hazardous waste management, economic development, and heritage preservation/community character. Joy Brookshire seconded the motion. The motion passed with 13 votes in favor and one vote opposed.

A motion was made to adjourn at 4:05 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Elizabeth Taylor, Secretary