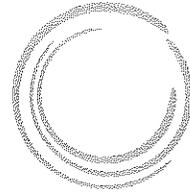


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Minutes of
Cape Cod Commission
CCC Member Training Session

May 13, 2010

A CCC member training session of the Cape Cod Commission was held on Thursday, May 13, 2010 at 1:30 pm at the Cape Cod Commission, Conference Room, 3225 Main Street, Barnstable, MA.

Commission Members in attendance: Chair John Harris, Austin Knight, Joanne O'Keefe, Mario DiGregorio, Jack McCormack, Peter Graham, Peter Monger, and Robert Bradley

■ Change of Use

Kristy Senatori, chief regulatory officer at the Commission, said the definition of a Change of Use is a change in the nature or purpose of the use of a developed parcel of land pursuant to Sections 3(f) and 4 of Chapter A, Enabling Regulations Governing Review of Developments of Regional Impact. She said the Commission reviews any Change of Use, or demolition and replacement resulting in a Change of Use involving commercial, service, retail, wholesale, industrial, private office, private health, private recreational or private educational when a project exceeds thresholds in Section 3(f). She said use in excess of thresholds are when the gross floor area of a building or portion of the building subject to the Change of Use is greater than 10,000 square feet, any demolition or replacement that results in a Change of Use where the gross floor area is greater than 10,000 square feet, and for outdoor uses, where the total project area is greater than 40,000 square feet. She said if a project exceeds thresholds of Section 3(f), the applicant or municipal agency may consult with the chief regulatory officer to determine whether a project constitutes a Change of Use. She said the chief regulatory officer makes a determination that the project does not constitute a Change of Use and may continue as the same use and proceed through local permitting without Commission review or that it does constitute a Change of Use at which point the applicant must submit an application for DRI review or a Limited DRI review. Ms. Senatori said the chief regulatory officer must make a determination in writing and mail it to the applicant, municipal agency and Chair of the Commission's Regulatory Committee. She said if the applicant or municipal agency disagrees with the chief regulatory officer's determination, they may submit an application for a Jurisdictional Determination. Ms. Senatori provided examples of projects that were determined to constitute a Change of Use. Ms. Senatori entertained questions from Commission members.

■ Limited Review

Page Czepiga, regulatory officer at the Commission, said any project that is a DRI or Change of Use can apply for a Limited Review. She said a subcommittee determines the scope of review based on the "Limited Review Scoping Checklist" and may result in the subcommittee recommending no DRI review,

a review limited to certain issue areas, or a full DRI review. She explained the Limited Review process and said after a pre-application meeting with the applicant, a public hearing is held within 45 days of deeming the application complete, a subcommittee determines the scope of review and issues a written decision within 21 days of the close of the public hearing. She said when determining the scope of DRI review, a subcommittee considers whether the project's impacts involve substantial deviation from the Minimum Performance Standards of the Regional Policy Plan or whether the project's impacts may have significant impact on purposes and values identified in the Cape Cod Commission Act. She said the subcommittee makes a recommendation to the full Commission and if the subcommittee decides no additional DRI review is required, it makes a recommendation to the full Commission, the full Commission renders a final decision allowing the development to proceed, and at that point the applicant proceeds through the permitting process. She said if limited DRI review or full DRI review is required, the project is referred to the Commission by a municipal agency and the applicant submits an application for DRI review. She said at that point the typical DRI review process then ensues. Ms. Czepiga entertained questions from Commission members.

■ Joint Review/MEPA

Andrea Adams, senior regulatory planner at the Commission, said the Massachusetts Environmental Policy Act (MEPA) is a public process involving state permitting agencies. She gave an overview of the MEPA review process and said state agencies must use all practicable means and measures to minimize environmental damage and develop enforceable mitigation for projects above a certain size, projects that require state agency permits, projects that receive state financial assistance, and land transfers from state agencies. She said MEPA review is not a permit granting process, it happens before other permitting agencies act, it does not decide whether a project should receive a permit, it does not involve projects that require only local approval, and it does not decide whether a project is environmentally beneficial. She said the MEPA office is located in Boston and is overseen by the Secretary of the Executive Office of Energy and Environmental Affairs. She said MEPA staff solicits comments on projects, represents the Secretary at meetings and hearings, coordinates the review process and makes recommendations to the Secretary regarding the need for and adequacy of documentation submitted on a project. She said MEPA's "Environmental Monitor" is an electronic publication that provides public notice and documents summaries, comment deadlines, notice of site visits and the Secretary's decisions. The publication also lists Environmental Notification Forms (ENFs), Environmental Impact Reports (EIRs), and Notices of Project Change (NPCs). She said an ENF is submitted by a project proponent to MEPA and starts the MEPA review process. She said it gives a detailed project description, lists all required state agency permits and approvals, lists MEPA thresholds that a project meets or exceeds which trigger and guide MEPA review, and is reviewed by Cape Cod Commission staff. Ms. Adams said an EIR can be required by the Secretary if an ENF does not address all environmental impacts or if a project meets or exceeds certain MEPA thresholds. She said an EIR addresses a project's environmental impacts and proposes mitigation and is usually a two-step process—draft EIR and the final EIR. She explained the process for a MEPA/Commission Joint Review and said in 1991 a Memorandum of Understanding (MOU) between the Cape Cod Commission and the Secretary of the Executive Office of Environmental Affairs was established for projects that require a DRI review. She said it was established due to an overlap of statutory responsibility of the two agencies in regard to development in Barnstable County. She explained the MEPA/Commission Joint Review process and said any project that requires an EIR is automatically a DRI and any project that files an ENF may be a DRI. She said it's a voluntary Joint Review process and an application to the Commission is made for a Joint Review when an ENF or EIR is filed with MEPA. She said a joint MEPA scoping session and Commission public hearing is held and noted that a Joint Review does not guarantee DRI approval as a DRI review may address issues outside of the MEPA scope. Ms. Adams gave examples of projects that had undergone a Joint MEPA/Commission review and entertained questions from Commission members.

■ Growth Incentive Zones and Local Comprehensive Plans

Sharon Rooney, chief planner at the Commission, said a Growth Incentive Zone (GIZ) is a specific area identified by a town as targeted for economic development and comprised of mixed uses, including residential, commercial, and civic. She said the purpose of the GIZ is to steer growth into downtowns and other areas with existing development and infrastructure. She said a GIZ allows for reduced regulatory involvement by the Commission and said DRIs qualify for reduced Minimum Performance Standards in some issue areas and DRI thresholds may be lifted. Ms. Rooney explained how a GIZ is established and said a town must insure all growth is properly served by adequate infrastructure and have appropriate regulations in place. She said additional development potential within the GIZ must be offset with reduced development potential elsewhere. She said there are currently two established GIZs—Downtown Hyannis and Route 28 Motels in Yarmouth.

Ms. Rooney said a Local Comprehensive Plan (LCP) is a town's vision for how to achieve goals of the Cape Cod Commission Act and articulates the town's growth policy. She said an LCP provides local vision for future growth and resource protection. She said an LCP provides benefits to towns in that a town may be party to a Development Agreement, it provides a legal basis for zoning changes, and is a guide to allocate capital funding and provide access to state/county planning funds. She said the contents of an LCP should include a history of a town's development and process to ensure citizen participation, a basic inventory and analysis of existing conditions and future needs in all RPP issue areas, a build-out study to justify proposed actions and an Action Plan containing action items guided by the Minimum Performance Standards and recommended town actions outlined in the Regional Policy Plan. Ms. Rooney explained the LCP certification process and said a town holds public hearings during the creation process and once a draft has been completed. She said a Draft LCP is submitted to the Commission's Planning Committee, a public hearing is held and a preliminary consistency review is done. She said after the preliminary consistency review the town makes revisions and holds additional public hearings if necessary, town meeting/council votes to approve the final LCP, and a final certification review is done by the Commission. She said an LCP must include RPP goals, an Action Plan in all issue areas, internal consistency and consistency with neighboring towns' LCPs. Ms. Rooney said once the Commission certifies an LCP, the Action Plan is updated every five years and full LCP update is done every 10 years. She said all DRIs must be found to be consistent with the RPP and the town's LCP and said that is one of the findings for DRI approval. Ms. Rooney said 11 towns have Commission Certified LCPs; Yarmouth's LCP is underway; Chatham and Dennis have preliminary certification; and Dennis is beginning its LCP update. Ms. Rooney entertained questions from Commission members.

The training session adjourned at 2:45 p.m.

Respectfully submitted,

Elizabeth Taylor, Secretary