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CAPE COD
COMMISSION

Minutes

Meeting of
Cape Cod Commission

July 7, 2011

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	Absent
Dennis	Richard Roy	√
Eastham	Joy Brookshire	√
Falmouth	Mario DiGregorio	√
Harwich	Robert Bradley	√
Mashpee	Ernest Virgilio	Absent
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	Absent
Minority Representative	John Harris	√
Native American Rep.	Mark Harding	Absent
Governor's Appointee	Herb Olsen	√

COUNTY OF BARNSTABLE MASSACHUSETTS

The meeting of the Cape Cod Commission was called to order on Thursday, July 7, 2011 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 said yesterday the Governor signed a budget that gives the Commission $150,000 to further wastewater efforts on Cape Cod.

■ MINUTES

The minutes of the May 23, 2011 Commission member training session were reviewed. Michael Blanton moved to approve the minutes of May 23, 2011. Roy Richardson seconded the motion. The motion passed with five abstentions.

The minutes of the June 9, 2011 Commission meeting were reviewed. Austin Knight moved to approve the minutes of June 9, 2011. Jack McCormack seconded the motion. The motion passed with three abstentions.

■ GLADSTONE, LLC—31 AARON'S WAY, WEST YARMOUTH

Elizabeth Taylor read the hearing notice and opened the hearing at 3:05 p.m.

The subcommittee reviewed the minutes of the June 23, 2011 subcommittee meeting. Len Short moved to approve the minutes of June 23, 2011. Jack McCormack seconded the motion.

Jack McCormack noted a misspelling of his name in the minutes.

A vote called on the motion to approve the minutes of June 23, 2011, with the noted correction by Mr. McCormack, passed with a unanimous vote.

Elizabeth Enos, regulatory officer at the Commission, using PowerPoint slides said the applicant, Gladstone LLC as represented by Stuart Bornstein, is proposing to move 17,150 square feet of a 23,000 square foot metal frame building currently located at 77 High School Road Extension in Hyannis to a vacant site located at 31 Aaron's Way in West Yarmouth. She said the lot where the building currently sits was sold to the Hyannis Fire Department, and the existing 23,000 square foot building must be moved or demolished to allow for the expansion of the Fire Department. She said the subject property at 31 Aaron's Way in West Yarmouth is comprised of one lot that encompasses approximately 1.15 acres or 50,000 square feet zoned B3. She said the proposed use would be predominantly warehouse (93%) with the remainder to include a support office and a showroom. She said the proposed project would also create new paved areas, parking, and site drainage. She provided a procedural history for the project and said the subcommittee determined the scope of Development of Regional Impact (DRI) review through a public hearing on February 24, 2011. She said the applicant was granted Limited DRI review and on March 17, 2011 a Limited DRI scoping decision was rendered with a scope of DRI review limited to energy, hazardous waste management, land use, open space and wetlands. Ms. Enos said the applicant requested Hardship Exemption relief from open space and wetlands sections of the Regional Policy Plan (RPP) and the subcommittee granted relief from MPS WET1.2, WET1.4, and OS1.3. She said the subcommittee found that relief granted relates directly to the nature of the identified hardship and is the minimum necessary to address the hardship. Ms. Enos explained the Findings and Conditions in the Draft Decision regarding land use, open space, wetlands, hazardous materials/waste management and energy. She said the subcommittee found that the project is consistent with the Cape Cod Commission Act and the Regional Policy Plan, as conditioned; the project is not located in a District of Critical Planning Concern; it's consistent with local zoning bylaws and Local Comprehensive Plan; and the

subcommittee found that the probable benefits of the proposed development are greater than the probable detriments. She said the Town of Yarmouth is in support of the project and the project benefits include reuse of an existing building, the project will create approximately 15 jobs and it will provide tax revenue for the Town. She said the subcommittee recommends approval of the project as a Hardship Exemption and recommends approval of the Draft Limited DRI Hardship Exemption decision.

Deirdre Kyle, on behalf of Holly Management, said she is not prepared to make a presentation today but she is available to answer questions on behalf of the applicant.

Elizabeth Taylor said she commends the applicant for reusing an existing building. She asked what is being proposed for the building in regard to energy.

Ryan Christenberry, Commission planner, said a 15 KW rooftop PV array.

Elizabeth Taylor questioned the use of Kentucky Blue Grass seed as opposed to using a standard seeding mix for Cape Cod. She said Kentucky Blue Grass would require more water use.

Sharon Rooney, chief planner at the Commission, said she did not review the landscape plan so she cannot comment on that. She said she believes there are less water use alternatives that could be used instead of Kentucky Blue Grass.

Elizabeth Taylor questioned whether Heritage River Birch was an appropriate species to use.

Sharon Rooney said the Heritage River Birch is a very sustainable tree.

Mario DiGregorio questioned whether the area mapped was an area for rare species.

Elizabeth Enos said yes it is, but Natural Heritage issued a "no take" letter.

Deirdre Kyle referred to Ms. Taylor's inquiry regarding the use of Kentucky Blue Grass seed and said Dan Ojala is the engineer for the project and he usually complies with Commission standards. She said the applicant would be willing to make a change in the type of seed that would be used.

Elizabeth Taylor said a standard conservation mix would be recommended.

John Harris moved to close the hearing and the record. Austin Knight seconded the motion. The motion passed with a unanimous vote.

Michael Blanton moved to approve the Limited DRI Hardship Exemption Decision, as amended, for 31 Aaron's Way in West Yarmouth. Roy Richardson seconded the motion. The motion passed with a unanimous vote.

■ NOTIFICATION OF WITHDRAWAL OF DUPONT RESIDENCE/3 MAIN STREET, CHATHAM

Elizabeth Enos, regulatory officer at the Commission, said the project was referred to the Commission as a DRI for the proposed substantial alteration of a single family dwelling, located at 3 Main Street in Chatham, that is listed as a contributing structure in a National Historic Register District. She said since the application and sufficient information is still incomplete, a substantive public hearing on the project could not be conducted and the statutory 60-day noticing requirement to open a public hearing was done by a hearing officer on April 22, 2011 and the 90-day hearing period is due to expire on July 20, 2011. She said due to the statutory

requirement to close the 90-day DRI hearing period, Attorney William Litchfield was advised that if an application and sufficient information needed to conduct substantive hearings on the project could not be made available to the Commission, the applicant could either withdraw the project on the local level and from Commission review or that the project would be procedurally denied without prejudice. The applicant, through Attorney Litchfield, contacted Commission staff by email on June 21, 2011 requesting the project be withdrawn from Commission review and indicated that the project was also withdrawn at the local level. She said staff recommends that the Commission vote to accept the applicants' withdrawal of their project from Commission DRI review.

Austin Knight moved to accept the withdrawal of Attorney Litchfield on behalf of the applicants for the DuPont Residence/3 Main Street, Chatham project. Roy Richardson seconded the motion. The motion passed with a unanimous vote.

■ COMMISSION MEMBER COMMENTS

Chair Peter Graham said since the Commission's Planning and Regulatory Committees have been meeting to discuss the draft implementing regulations for the Ocean Management Planning DCPC, it might be an appropriate time for Commission members to offer comments.

Elizabeth Taylor said it has been quite a process and she has learned a lot. She said the Commission has received excellent comments from different groups and she thanked the stakeholders and the Policy Committee for their efforts. She also thanked Commission staff Heather McElroy and Ryan Christenberry for all their work. She said she would urge people and towns to go online and comment on this and said she would hope to see more comments from towns. She thanked everyone involved for their work.

Roy Richardson said it's a privilege to work on a project of this type. He said the results would reach generations to come. He said so much is taken for granted and when things are uncovered, we all begin to realize the importance of where we live. He said if we don't do anything then anything can happen. He said this process gives people on Cape Cod an opportunity to have something to say.

Joanne O'Keefe said it has been a lengthy and thorough process. She said it shows that the Commission doesn't just "rubber stamp" things. She said almost every word in the implementing regulations is being scrutinized. She said she agrees that towns should participate before and not after the process ends. She said everyone needs to be part of the process. She said Commission staff has been very patient with committee members and they want to do what's best for all communities.

Joy Brookshire said this is an indication of how the Commission is growing. She said in the past the Commission only reviewed land-based projects and now the Commission will be reviewing water-based projects as well. She said this is an historic project and they all want to look at it with pride. She said they are achieving the mission of the Cape Cod Commission.

John Harris congratulated the new Commission officers. He said the new team would be taking on the new tasks of the JTC and MPO. He said Roy Richardson did an outstanding job as the previous Chair of the Commission. Mr. Harris said he represented the Commission for the previous chair on the JTC and MPO but now the new officers will be taking over. He said he learned a lot from both the JTC and the MPO.

Joanne O'Keefe said she has been working to get bikeways and bike paths in the Town of Sandwich and said Commission staff Clay Schofield, Glenn Cannon and Tabitha Harkin have been involved in that process as well.

A motion was made to adjourn at 3:45 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Elizabeth Taylor, Secretary

LIST OF DOCUMENTS PRESENTED AT THE JULY 7, 2011 COMMISSION MEETING

- Handout material: July 7, 2011 meeting agenda.
- Handout material: Draft Limited Hardship Exemption Decision for Gladstone, LLC 31 Aaron's Way, West Yarmouth project.
- PowerPoint slide presentation on Gladstone, LLC—31 Aaron's Way, West Yarmouth project prepared by the Cape Cod Commission.