CAPE COD COMMISSION

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Date: January 22, 2009

To: Eliza Cox, Esq.
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P.O. Box 1630
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From: Cape Cod Commission

RE: District of Critical Planning Concern (DCPC)
Hardship Exemption
Cape Cod Commission Act, Section 23

Applicant: Centerville Public Library Association, Inc.
585 Main Street
Centerville, Massachusetts

Project: Centerville Public Library – Parking Improvements

Project #: HDEX # 08024

Book/Page: Book 227 Page 215
Book 536 Page 365
Book 638 Page 494

Plan Reference: Portion of "Parcel A" on Plan Book 343, Page 99

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the "Commission") hereby approves with conditions the Hardship Exemption application of the Centerville Public Library Association, Inc. (the "Applicant") for the Centerville Public Library Parking Improvements at 585 Main Street in Centerville, MA pursuant to Section 23 of the Cape Cod Commission Act (the "Act"), c. 716 of the Acts of 1989,

as amended. The decision is rendered pursuant to a vote of the Commission on January 22, 2009.

PROJECT DESCRIPTION

The property consists of 1.14 acres at 585 Main Street in Centerville identified by the Town of Barnstable as Assessor's Map 207 Parcel 54 (the "Site"). The Centerville Public Library, which was constructed in 1956, occupies the Site. The Centerville Public Library Association, Inc. (hereinafter the "Applicant") is the current owner of the Site and is proposing to permit and construct fourteen (14) angled, paved parking spaces west of the Site building. The Applicant is seeking an exemption to the limited moratorium on building permits, which was established by the creation of the Craigville Beach District of Critical Planning Concern (DCPC).

PROCEDURAL HISTORY

The Applicant submitted a Development of Regional Impact (DRI) Hardship Exemption application on October 24, 2008. A duly noticed public hearing was held on December 10, 2008 in Rooms 11 and 12 of the Barnstable Superior Courthouse, Route 6A, Barnstable, MA by a subcommittee of the Commission pursuant to Section 5 of the Act. Immediately following the public hearing on December 10, 2008 and again on January 8, 2009, the subcommittee held public meetings to deliberate on the project. On January 8, 2009, the subcommittee voted unanimously to recommend to the full Commission that the project be granted a Hardship Exemption.

A final public hearing was held before the full Commission on January 22, 2009, during which the Commission voted unanimously to approve the Hardship Exemption application.

MATERIALS SUBMITTED FOR THE RECORD

In addition to the list of materials submitted for the record as listed below, the application and notices of public hearings relative thereto, correspondence, the minutes of public meetings and hearings, and all other writings contained in the DRI file are hereby incorporated into the record by reference.

By Applicant:

- Hardship Application dated October 24, 2008, and associated application materials
- A letter from Ms. E. Cox dated November 24, 2008, with an attached Massachusetts Historical Commission (MHC) letter, dated November 18, 2008, Re: MHC approval
- A PowerPoint slide from Ms. E. Cox, submitted on December 10, 2008 during a public hearing, Re: Project chronology

By Commission Staff:

- Staff Report dated December 3, 2008
- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 4, 2008, Re: Forwarding email to Commission by Mr. D. Gautrau
- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 4, 2008, Re: Forwarding email to Commission by Mr. H. S. Irlen

- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 5, 2008, Re: Forwarding email to Commission from Mr. J. Caney
- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 7, 2008, Re: Forwarding email to Commission from Mr. W. Skinner
- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 7, 2008, Re: Forwarding email to Commission from Mr. H. Ornstein
- An email from Ms. K. Senatori to Ms. E. Cox and Ms. J. Buntich, dated December 7, 2008, Re: Forwarding email to Commission from Ms. J. McLaughlin

By Others:

- Email from Mr. H. Irlen to Ms. K. Senatori, dated December 3, 2008, Re: Comments in support of expansion
- Letter from Ms. C. Radford to the Commission, dated December 3, 2008, Re: Comments in support of expansion
- Letter from Mr. D. Gautrau to the Commission, dated December 3, 2008, Re: Comments in support of expansion
- Letter from Mrs. L. Banner & Mr. D. Banner to the Commission, dated December 4, 2008, Re: Comments in support of expansion
- Email and attached letter from Mr. D. Gautrau to Ms. K. Senatori, dated December 4, 2008, Re: Comments in support of expansion
- Letter from Mr. J. Caney and Mrs. D. Caney, dated December 4, 2008, Re: Comments in support of expansion
- Email from Ms. J. Buntich to Ms. K. Senatori, dated December 4, 2008, Re: Public Hearing
- Letter from Mr. A. Dooley to the Commission, dated December 6, 2008, Re: Comments in support of expansion
- Email from Mr. H. Ornstein to Ms. K. Senatori, dated December 6, 2008, Re: Comments in support of expansion
- Email from Mr. W. Skinner to Ms. K. Senatori, dated December 6, 2008, Re: Comments in support of expansion
- Letter from Ms. K. McDonald to the Commission, dated December 7, 2008, Re: Comments in support of expansion
- Email from Ms. J. McLaughlin to K. Senatori, dated December 7, 2008, Re: Comments in support of expansion
- Email from Mr. M. Brown & Mrs. H. Brown to the Commission, dated December 8, 2008, Re: Comments in support of expansion
- Letter from Mr. D. Moynihan to the Commission, dated December 8, 2008, Re: Comments in support of expansion
- Letter to from J. Jeammasi to the Commission, dated October 10, 2008, Re: Comments in support of expansion
- Letter from Mr. F. Green to Ms. K. Senatori, dated December 10, 2008, Re: Comments in support of expansion
- Letter from Ms. M. Gerome to the Commission, dated December 10, 2008, Re: Comments in support of expansion
- Email from Mr. S. Duger to Ms. K. Senatori, dated December 12, 2008, Re: Comments in support of expansion

TESTIMONY

A public hearing was held at 6:00 pm on December 10, 2008 in Rooms 11&12 of the Barnstable Superior Courthouse.

Ms. K. Senatori, Chief Regulatory Officer, presented the staff report and explained that the application was for a Hardship Exemption for the permitting and construction of fourteen (14), angled, paved parking spaces on an existing disturbed area of the Site to proceed during the Centerville District of Critical Planning Concern (DCPC) moratorium. She gave an overview of the property, and noted the applicable Commission standards for granting Hardship Exemptions. Ms. Senatori discussed the staff's analysis in the applicable resource issue areas concluded that Staff felt the development would not represent a substantial detriment to public good, nor would it derogate from the standards of the DCPC or the Act.

Ms. E. Cox, representing the Applicant, presented the chronology of the project. She explained that the Applicant expended money on the project prior to the Town of Barnstable's referral of the surrounding area as a DCPC, and that thereafter, it was felt by the Applicant that it would be exempt from the DCPC. In further support of her argument that the Applicant be granted hardship relief, Ms. Cox noted that the Applicant's plans included preserving a large European Beech tree located on the Site. She also noted that that the calculations from the "People Counter" set up at the Library demonstrated an average of 5,000 visitors per week during the summer, with the numbers dropping to 3,500 per week during off-season, numbers which she felt demonstrated a significant need for additional parking. She concluded by stating that requiring the Applicant to wait until after June 12, 2009, would result in a significant hardship for the Applicant.

Ms. S. O'Keefe, the Applicant's landscape architect, spoke in support of the Applicant's project. She described benefits of several of the features of the proposed landscape design that would accompany the parking lot expansion. Specifically, she pointed out that the new shrubbery, which required irrigation only in the first few years of being planted, would result in a more sustainable landscape. She also commented on the hedge that would be planted on the eastern side of the property, explaining that it would protect the Applicant's neighbor from the traffic in the lot.

Ms. B. Butler, the Library's Director spoke in her support of the Project, stating among other things that she felt that the increased traffic in the Library was a safety concern. Several of patrons and staff members of the Library present at the hearing likewise stated their support for the project. The public hearing was adjourned at 6:41 pm.

A subcommittee meeting was held at 6:42 pm on December 10, 2008 immediately following the public hearing.

The subcommittee discussed the Hardship Exemption standards and unanimously voted to approve the Hardship Exemption application with conditions. The meeting was adjourned at 6:48 pm.

JURISDICTION

The Site is located within "area B" known as the "Centerville Village District" of the Craigville Beach DCPC, which is an area that is currently subject to a building permit moratorium. The purpose of the moratorium is to allow the town to develop implementing regulations that will be applicable to the area and protect the resources identified in the nomination process. When the DCPC was created, the Commission issued a DCPC Acceptance Decision, dated February 21, 2008, that describes the resources and provides guidelines for the future implementing regulations. In accordance with the decision, an applicant may apply for a hardship exemption for *"any development that can demonstrate that suspension of action on a local development permit application during the limited moratorium constitutes a substantial hardship."*

FINDINGS

The Commission has considered the application of the Centerville Public Library Association, Inc. for the Centerville Public Library – Parking Improvements, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Section 23 of the Act:

General Findings:

GF1. As the first substantive hearing was held on December 10, 2008, the RPP in effect at this time is the 2002 RPP.

GF2. The Site consists of 1.14 acres at 585 Main Street in Centerville identified by the Town of Barnstable as Assessor's Map 207 Parcel 54. The Centerville Public Library, which was constructed in 1956 and added onto in 1969, 1984 and 2002, occupies the Site. The Centerville Public Library Association, Inc., a not-for-profit, 501(c)(3) charitable, educational organization, is the current owner of the Site.

GF3. On February 12, 2008, the Commission received the Craigville Beach and Centerville Village DCPC nomination. On February 15, 2008, the Notice of Nomination Consideration started the full moratorium. On February 21, 2008, the DCPC nomination was accepted by the Commission, which ended the full moratorium and began the limited moratorium. On April 3, 2008, the Commission voted to forward to the Assembly of Delegates for designation of the area as a DCPC. On May 21, 2008 the Assembly of Delegates approved the DCPC ordinance. On June 4, 2008, the County Commissioners approved the DCPC ordinance, which was recorded in the registry of Deeds on June 13, 2008.

GF4. The Applicant proposes to reconfigure the parking located on the west side of the library and construct, in place thereof, 14 angled parking spaces. The construction of these 14 parking spaces does not exceed any of the DRI thresholds set forth in Section 3 of the Enabling Regulations. Hardship relief is sought to allow for the issuance of local permits for these parking spaces during the Craigville Beach DCPC moratorium.

GF5. The development is consistent with the Barnstable Local Comprehensive Plan and municipal development bylaws.

GF6. The probable benefits of the development outweigh the probable detriments.

GF7. The Commission finds that a Hardship Exemption is appropriate and that the Applicant has fulfilled its burden to demonstrate that the DCPC moratorium on the issuance of local permits creates a hardship. The Commission finds that the Applicant expended funds and prepared project plans prior to the implementation of the DCPC moratorium. The Applicant testified that there is a significant need for these additional parking spaces. The Commission further finds that the delineation of the parking spaces and the construction of internal pedestrian walkways will improve safe vehicular and pedestrian circulation within the subject property. Accordingly, relief from these requirements may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship.

Natural Resources Findings:

NRF1. The project is located in a Significant Natural Resource Area due to the presence of estimated rare species habitat. The site, including the area of proposed pavement for the 14 parking spaces, is previously disturbed. The applicant is aware that they will have to file with the Natural Heritage and Endangered Species Program (NHESP) to confirm that the project will not result in a "take" of rare species. Given the very small area of paving proposed, over a largely existing disturbed area, within a village setting with other development nearby, the Commission does not anticipate impacts to rare species from the project.

Community Character Findings:

CCF1. The proposed project is located along Main Street in Centerville, adjacent to the Centerville National Register Historic District, which was established in 1987. The project does not impact any historic structures in the district, but is immediately adjacent and will be visible within the historic district.

CCF2. The applicant has considered alternative locations for expanding the parking on site, but no feasible alternatives have been identified. The applicant will maintain the character of the historic district by preserving an existing large beech tree adjacent to the parking area, and by proposing a landscape plan that effectively defines the edge of the streetscape and separates it from the parking area. While the amount of pavement will be increased, and the grass buffer between the parking area and the street will be narrowed, the proposal will not have a significant adverse impact on the cultural and historic resources protected by the Regional Policy Plan or the DCPC.

CCF3. The Massachusetts Historical Commission has reviewed the project plans and in a letter dated November 18, 2008 stated that the proposed project will not affect the character of the nearby historic district.

Transportation Findings:

TF1. The project consists of construction of fourteen (14) parking spaces. The Commission considers the parking spaces a necessary function of the Centerville Library and finds that the additional parking spaces alone will not generate any new traffic (versus a park and ride parking lot, which would generate traffic). Therefore, the Commission finds that the project will not substantially derogate from the purpose of the Act.

TF2. MPS 4.1.1.7 requires all DRIs access/egress locations with public ways to meet Massachusetts Highway Departments (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. The Site currently has a circular driveway on Main Street in Centerville and driveway access is not proposed to change as a result of this project. Therefore, the Commission finds that the existing Main Street driveways will comply with MPS 4.1.1.7.

TF3. Main Street, Centerville currently has a sidewalk in front of the existing Centerville Public Library. The proposed site plan will retain this sidewalk. Sidewalks are instrumental in providing safe pedestrian access and important in building a sustainable walk-able region. The Commission supports the Centerville Public Library decision to retain the existing sidewalk on Main Street.

TF4. The RPP standard of review for transportation safety impacts for DRIs is 25 or more new peak hour trips through a high crash location. A high crash location is defined as a location where three (3) or more crashes have occurred for three (3) consecutive years. Commission staff does not expect that this project would generate more than 25 new peak hour trips through any intersection.

TF5. Trip reduction requirements are not required of this project. However, in an effort to assist employees and patrons to access the library without using a single occupancy automobile, the Applicant may want to consider implementing some or all of the following trip reduction measures:

- Assemble information regarding carpooling and its benefits to be distributed to employees and patrons.
- Designate an area where carpool information will be posted for all employees of the project.
- Implement a guaranteed ride home program (taxi service) for use in the case of an emergency for program participants.
- Designate preferential parking spaces for employees that carpool.
- Provide secure bicycle storage areas to accommodate bicycles for both employees and patrons.
- Work to provide on-site services to decrease employee midday trip making. The on-site services may include a lunchroom, microwave, refrigerator, and prepared foods.
- Provide an on-site transportation coordinator. The transportation coordinator should be responsible for ensuring that the complete rideshare program, including car/vanpools; accommodating work shifts; promotions; incentives; preferential parking; and guaranteed ride home program, is consistently promoted and provided.
- Provide flexible work hours for employees that car/vanpool.

- Distribute to all employees a new employee information packet that will include information about the various TDM programs that are available and the ways in which employees can participate.
- Provide a quarterly bulletin or newsletter reminding employees about the TDM programs and making the employees aware of any new or modified services.
- Provide bicycle maps indicating the location of bicycle facilities in the area will be posted in central locations within the development to encourage bicycle commuting.
- Provide a reference in all promotional materials or link, in the case of a website, to the Cape Cod Commission transportation information center Travel Demand Management services at www.gocapecod.org/tdm. In addition, website based materials and advertising developed for the project will include listing and links to available public transportation services serving the project site.

Based on the findings above, the Commission hereby concludes:

1) That the probable benefits of the development outweigh the probable detriments.

2) The Commission finds that a Hardship Exemption is appropriate and that the Applicant has fulfilled its burden to show that the DCPC moratorium creates a hardship. A literal enforcement of the provisions of the Act would involve waiting until after the DCPC regulations are drafted in June 2009 to permit and construct the parking spaces. Relief from this requirement may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Act. The relief granted relates directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship.

3) The project and complies with the local development bylaws and the Barnstable Local Comprehensive Plan.

The Cape Cod Commission hereby approves with conditions the Hardship Exemption application of the Centerville Public Library Association, Inc. for the Centerville Public Library – Parking Improvements, provided the following conditions are met:

CONDITIONS

General Conditions:

GC1. The parking spaces shall be constructed in accordance with the following plan:

- Proposed Parking Expansion, prepared by Baxter Nye Engineering & Surveying, dated August 19, 2008

Any deviation from the above parking plan as it relates to the new 14 angled parking spaces shall require approval by the Commission through a modification of this decision, pursuant to Section 12 of the Commission's Enabling Regulations. The Applicant shall submit to the Commission any additional information deemed necessary to evaluate any modifications to the approved plan.

GC2. This DRI Hardship Exemption decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.

GC3. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.

GC4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

GC5. The Applicant agrees to allow Commission staff to enter onto the property, which is the subject of this decision at reasonable times and after reasonable notice for the purpose of determining whether the conditions contained in the decision are met.

Community Character Condition:

CCC1. The Applicant shall expand the parking area in accordance with approved site plan entitled Proposed Parking Expansion dated August 19, 2008 prepared by Baxter Nye Engineering & Surveying that shows the preservation of the existing large beech tree, and provide additional landscaping on the Site. Should unexpected conditions arise which require redesign of the new 14 angled parking spaces, the Applicant shall return to the Commission for a modification of this decision in accordance with Section 12 of the Commission's Enabling Regulations.

The Cape Cod Commission hereby approves the application of the Centerville Public Library Association, Inc. as a Hardship Exemption from the Craigville Beach DCPC pursuant to Section 23 of the Act, c. 716 of the Acts of 1989, as amended, for the proposed construction of fourteen (14) angled, paved parking spaces on the west side of Site building.

22 Jan 2009

John D. Harris, Chair — Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss Jan 22, 2009

Before me, the undersigned notary public, personally appeared John O. Harris, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, or [X] personal knowledge of the undersigned.

Notary Public
My Commission Expires: 10/13/11