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CAPE COD
COMMISSION

Minutes

Meeting of Cape Cod Commission

January 9, 2014

The meeting was convened at 1:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Michael Blanton	Absent
Brewster	Elizabeth Taylor	✓
Chatham	Vacant	Vacant
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Andrew Putnam	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Leonard Short	✓
Provincetown	Austin Knight	✓
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	✓
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	✓
Minority Representative	John Harris	✓
Native American Rep.	Vacant	Vacant
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, January 9, 2014 at 1:00 p.m. in the Assembly of Delegates Chambers in Barnstable, MA. Roll was called and a quorum established.

■ **SUMMARY OF ACTIONS TAKEN/VOTES:**

Lowe's of Dennis — 9, 10, 20 Commerce Street and 55 Theophilus F. Smith Road, Dennis, MA

The Cape Cod Commission conducted a public hearing on the Lowe's of Dennis project. After presentations by the Applicant, Commission staff, and public testimony, the Commission voted to deny the Lowe's of Dennis application as a Development of Regional Impact with 8 votes in favor and 6 votes opposed.

■ **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Paul Niedzwiecki said the Commission would be holding a 208 Area Wide Water Quality Stakeholder Summit on February 6 at the Resort and Conference Center at Hyannis. He said they would be providing an update on the 208 planning process to date and discussing the next steps in the process. Mr. Niedzwiecki announced that Cape Cod has received designation as an economic district from the Economic Development Administration. He said this designation should open up money for economic development opportunities on Cape Cod and noted that a press release has been sent out on this. He thanked Leslie Richardson, economic development officer at the Commission, for her work on this effort.

■ **MINUTES**

The minutes of the October 17, 2013 Commission meeting were reviewed. Royden Richardson moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with two abstentions.

The minutes of the November 14, 2013 Commission meeting were reviewed. John Harris moved to approve the minutes. Roger Putnam seconded the motion. The motion passed with one abstention.

■ **LOWE'S OF DENNIS**

Andrew Putnam read the hearing notice and opened the hearing at 1:10 p.m.

Chair Jack McCormack noted that the public hearing is being recorded and Kristy Senatori, deputy director at the Commission, would be explaining the order of the hearing.

The subcommittee reviewed the minutes of the November 21, 2013 subcommittee meeting. Len Short moved to approve the minutes. Elizabeth Taylor seconded the motion. The motion passed with a unanimous vote of the subcommittee.

The subcommittee reviewed the minutes of the November 25, 2013 subcommittee meeting. Elizabeth Taylor moved to approve the minutes. Len Short seconded the motion. The motion passed with a unanimous vote of the subcommittee.

Executive Director Paul Niedzwiecki thanked the subcommittee for their time and work on the project. He said the subcommittee's vote was not unanimous and was a result of facts presented. He thanked the public for their testimony during the process. He said the Commission has difficult decisions to make and regardless of any decision there are those who will not be happy with the outcome. He said those individuals should look at the Commission's Regional Policy Plan (RPP). He said the RPP will be updated next year and said it's an opportunity for the public to provide comment during that process. He thanked the subcommittee and public, again, for their testimony to date.

Attorney Michael Ford, representing the applicant, said Lowe's spent a great deal of time reaching out to the community and listening to them. He referred to PowerPoint slides showing an aerial view of the proposed project on Theophilus F. Smith Road. He said the project is located in the heart of the Dennis Commercial District. He said the site is cleared and was previously the site of the Dennis Flea Market. He said the area is zoned industrial

and is allowed by use by the zoning bylaws. He said Dennis has a Land Use Vision Map (LUVVM) that was approved by the Commission and Assembly of Delegates by County ordinance, and said this site is classified as an Economic Center on the LUVVM. He said the project is viewed by Lowe's as a redevelopment site. Attorney Ford described the original site plan—the initial proposal at the commencement of the public hearing. He thanked the subcommittee and said they did their job well. He then described the final site plan with the reduction in the floor plan, reduction in parking spaces, two driveways instead of three and said it now has a buffer zone. He said it's an improved site plan and he believes the process worked. He highlighted mitigation for open space, affordable housing, wastewater planning and infrastructure, and nitrogen offset contribution. Attorney Ford said Randy Hart would discuss transportation.

Randy Hart, Director of Transportation Planning and Engineering—Vanasse Hangen Brustlin, provided background information and said project traffic had been thoroughly reviewed. He said the project meets all 44 Regional Policy Plan (RPP) minimum performance standards (MPSs). He said the goal of transportation work was to improve the roadway system in the process, mitigate all project traffic impacts and area safety concerns, address town concerns, and said they believe that they have satisfied all of these objectives. He said the mitigation is the result of many meetings and discussions between the Commission, Department of Transportation (DOT), the town and the proponent. He said all parties are in agreement that the proposed plan adequately mitigates the project. He provided a summary of the mitigation for congestion/trip reduction, safety/operations, site access, Transportation Demand Management (TDM), sites interconnection, and future town transportation planning.

Attorney Ford discussed the recommendations of the subcommittee.

David Koerner, Design/Engineering Director for Lowe's, said they met with the town and came up with a plan that is good for the community. He said they listened to the Commission and residents and made changes to the plan. He discussed the proposed plan and said it will be the smallest store in New England, it will bring year-round economic development and create between 130 jobs—70% will be full time and part time jobs will be taken by retirees, students and people who want flexible hours. He discussed Lowe's wages, training and advancement in the company, and an employees' relief fund. He said Lowe's has over 1800 stores throughout the country, Lowe's adds a level of competition, it brings extended hours to the community, and Lowe's hires local residents with competitive wages and increased benefits to supplement salaries.

Randy Hart said traffic has been a major focus of the DRI review. He discussed transportation MPSs and said the project meets all of the RPP MPSs and all new project traffic has been fully mitigated. He said the subcommittee's deliberation of benefits/detriments was not open for staff and applicant input nor was reference to the record documents made. He said as a result some detriments have no technical basis and are factually incorrect yet they were voted on and passed as detriments of the project. He reviewed detriments regarding MPS TR3.4, TF6, GF11, Route 6A, and Route 6.

Robert Chamberlain, resident and landowner in Dennis, said he was present when the Commission went to the town of Dennis with a LUVVM. He said Lowe's has met every objective standard that the Commission has. He said Lowe's has offered to do everything that has been asked of them, the landowners have played by the rules and the town has played by the rules. He talked about economic development and said the subcommittee thought these types of jobs are not right for Cape Cod. He said local residents who want these jobs will be hurt and attacking the job is the wrong approach. He said this is an opportunity for the Commission to step up and help the economic development in this area. He said there are other businesses in the area making it a commercial area. He asked that the Commission support the project.

Attorney Michael Ford said there are inconsistencies in the decision regarding the Local Comprehensive Plan (LCP) in Dennis. He asked that the Commission not adopt the recommendation of the subcommittee and direct staff to draft a new decision approving the project with conditions.

Jessica Wielgus, Commission Counsel, noted minor technical corrections in the draft written decision. She noted that on page 17 GF2 the word “office” had been stricken and replaced with the word “retail,” that on page 24 Marine Resources Findings have been added that reflect the subcommittee’s motion that this section does not apply, and on page 40 AH8 two typos have been corrected. With the use of PowerPoint slides, she provided an overview of the volume of the materials submitted to the record and the dates and total length of subcommittee public hearings and meetings that were held. She explained the criteria for a Development of Regional Impact review. She stated that as required by the Cape Cod Commission Act, a DRI must be consistent with the minimum performance standards of the Regional Policy Plan; it must be consistent with the town’s Local Comprehensive plan if the plan has been certified as consistent with the Regional Policy Plan; it must be consistent with municipal development by laws; it must be consistent with any implementing regulations of any Districts of Critical Planning Concern if it is within any DCPC’s; and finally, it must be found that the probable benefit from the proposed development is greater than the probable detriment. She then reviewed each of the criteria as they related to the proposed DRI.

Using PowerPoint slides, she gave an overview of the project’s applicability and consistency with the Minimum Performance Standards (MPSs) in the Regional Policy Plan (RPP) issue areas of land use, economic development, water resources, coastal resources, marine resources, wetlands, wildlife and plant habitat, open space and recreation, transportation, waste management, energy, affordable housing, and heritage preservation and community character, noting in each issue area first the MPS that exist in that section of the RPP and then in the slides following which MPS applied and were complied with by the proposed project. She stated that for the test of whether the project is consistent with a Commission certified Local Comprehensive Plan (LCP), that the town of Dennis did not have a certified LCP consistent with the RPP and for this reason, this section of the test from the CCC Act did not apply. She did note however that it was appropriate for the Commission to consider testimony regarding the project’s consistency with the LCP in its deliberation on the proposed development’s probable benefits and detriments. She noted that testimony from Daniel Fortier, Dennis Town Planner, indicated that the project was consistent with municipal development bylaws.

She stated that in terms of consistency with Districts of Critical Planning Concern (DCPC) implementing regulations, while there is no DCPC in Dennis, there is a County-wide Fertilizer Management DCPC. She stated to date, there are no implementing regulations in place for this DCPC, so this part of the test does not apply to the project.

She said the final test is whether the probable benefit of the proposed development is greater than the probable detriment. She stated it was a weighing test and it is qualitative not quantitative, explaining that the number of items on each side of the test did not require a specific result. Ms. Wielgus reviewed the subcommittee’s list of probable benefits and probable detriments. She indicated the Commission was required to look at the whole of the probable benefit and weigh it against the whole of the probable detriment. She said the subcommittee found that probable benefit from the proposed development is not greater than the probable detriment. She said the subcommittee recommends that the Commission adopt the draft decision denying the project.

Steven Tupper, Technical Services Planner at the Commission, said he would provide a brief response in the issue area of transportation. He thanked the applicant for presenting the proposed transportation mitigation for this project. He said, as was presented, there is a great deal of transportation mitigation all aimed at meeting the MPSs and as is reflected in the draft decision with these proposed mitigations all the MPSs for transportation would be met. He said where some of these proposals were in excess of the MPSs, the subcommittee weighed these considerations and listed them as probable benefits. He pointed out a few of those and said one is in the area of transportation safety. He said the applicant proposed to put in an emergency preemption system at many signal locations that would allow emergency vehicles to get through more safely. He said that is reflected as a probable benefit. He said another proposal is a Travel Demand Management Plan that is reflected in Best Development Practice TR2.16. He said there are a number of probable detriments. He reviewed the three that the applicant highlighted.

He said one is increased traffic on Route 134 and the surrounding roadways. He said even with all of the credits considered on this project there will be an addition of 1,794 weekday trips added by the Lowe's project. He said this would be increased traffic on the roadway of Route 134 and the surrounding roadways as the trips extend out. He said during peak hours on Saturday there will be an additional 256 peak hour trips and this is increased traffic on the roadway.

He said the next probable detriment discussed in the applicant's presentation was delay in travel time. He said that although the applicant pointed out some locations where there may be a reduction in delay of travel time, he does not believe that the record supports that delay would be overall reduced. He said there will be impacts both within the study area, beyond the study area, and both at locations where physical mitigation is proposed and at locations where physical mitigation is not proposed. He would suggest that based on facts in the record there will be delays in travel time as a result of this project.

He said one final point that was raised by the applicant is the probable detriment of increased traffic on Route 6 and Route 6A and the related tie-ups that would be caused. He does not agree with the applicant's contention that there is no concern with traffic at Route 6 and Route 6A. He said throughout the deliberations there were comments brought forth by subcommittee members as well as the public about concerns of increased traffic on Route 6 as well as Route 6A. He said the project detriment as presented is supported by the record.

Leslie Richardson, Chief Economic Development Officer at the Commission, said her presentation today was presented to the subcommittee. She addressed the issue of market saturation. She said market saturation is whether or not demand for products of a given kind is already met by the businesses in the community to date. She said if it's saturated then the demand is met and if it's not saturated then there is unmet demand and new jobs can be created. She said as long as a market is saturated jobs are not created; jobs are displaced or traded essentially to meet the existing demand. She described how market saturation is calculated; you look at the income and the population of a region to determine how much of those specific goods would normally be purchased. She referred to PowerPoint slides and said the table shows that we are actually buying more products within the building supply industry that Lowe's is going to be functioning in than expected given our population and income. She said, however, this is partially because we are a second-homeowner and tourist community and said that is not surprising. She said only 35% of our homes are second-homeowners but our sales are 87% higher than we would expect. She said this market is fully saturated. She said this is supported by the applicant's economist, Dr. Barrows where he states in his report, that in order to meet the \$35 million in expected sales that Lowe's needs to make profit at this store, that they will need to take 11.7% sales from the existing market. She said that is an existing share of the market. She said Lowe's will provide full time employment jobs of 97.5 FTEs and said about 30% of all jobs will be part time jobs.

She said part time jobs are part of our seasonal economy and said there are always people who benefit from part time jobs but we don't want to be in a position where we are displacing full time jobs with part time jobs. She said that the positions that Lowe's has presented for this store, only one position requires a bachelor's degree, three require an associate's degree and the rest require a high school degree. She said these are not high skilled jobs. She said six positions exceed the 2011 average wage for Barnstable County. She said the average wage for Barnstable County is going to be lower than Massachusetts. She said the benchmark for the Commission's RPP is Massachusetts because we are looking to see an increase in our wages on Cape Cod. She said the Lowe's average wage is lower by over \$7,000. She referred to a slide showing data on the actual industry and how it compares to the business supply industry wages and said it shows that they are lower as well. She said the 14% that is cited by the applicant is compared to retail wages only. She said the Commission's benchmark is to the industry average or to the occupations provided by the business. She said that a comparison of occupational wages for the jobs offered by Lowe's with both County and state averages show that Lowe's is offering lower wages in many cases. She said only five of the positions exceed the County median household income. She said 36.5% of those positions that are being offered by Lowe's are going to be lower than what is being paid for those occupations in Barnstable County today. She said one position pays higher than the state average wage, again the Commission's benchmark, the state average wage per job is over \$59,000 and the average wage offered by the project is less

than \$26,000. She said that average wage is before bonuses. She referred to another table in her PowerPoint and said they have taken the higher of their averages which includes bonuses and said it is still significantly lower than the benchmark. She said 109 positions fall below the median income wage of Massachusetts, 38 positions pay lower than the occupational median for the state. She said the question really is what is the net impact. She said because the market is saturated we would be choosing between positions. To determine the net impact for \$35 million in sales you compare what that would mean for Lowe's and what that would be mean for existing businesses. She said based on information in the reports that were provided by the applicant they know that the sales per employee for Lowe's is \$304,348 and the sales per employee for existing businesses is lower because they tend to employ more people per square foot. She said total employees is going to be higher for the industry that exists on the ground today and we will see 48 less jobs if you shift from one to the other. She said you will see an average wage going down by over \$9,000 and you will see a loss in payroll of over \$3 million. She said that is the net impact given the market is saturated on Cape Cod.

James Sherrard, Hydrologist at the Commission, said he wanted to clarify a statement made by Attorney Ford in the applicant's presentation to there being a net benefit to the Bass River in respect to nitrogen loading. He said while the project is in compliance with nitrogen related MPSs compared with existing conditions the proposed Lowe's will create a net increase in nitrogen loading to the Bass River and not a net decrease. He said if the Commission so desires staff will provide further clarification during the deliberation.

A five-minute break was called at 3:00 p.m. and the meeting reconvened at 3:05 p.m.

Federal, State, Regional, Municipal Testimony was called.

John Ohman, Dennis Assembly Representative, said the most important factor is the traffic and the Patriot Square area is a very difficult area to drive through in the spring, summer and fall. He said the traffic plans are not going to work. He asked that the Commission deny the project.

Alan Tuttle, Dennis Selectman, read a letter from the Board of Selectmen. He said the Board has not taken a position and said he is speaking as an individual and not on behalf of the board. He said most of the comments he has heard are in favor of the project. He said safety is his concern and the project will improve roads. He asked that the Commission approve the project.

Brian Carey, Vice Chair of the Dennis-Yarmouth School Committee, thanked the Commission for their efforts and the long hours devoted to the project. He said the proposed traffic mitigation will help and he asked that the Commission approve the project.

Paul Covell, Chair Dennis Board of Health, said he is speaking today on behalf of the Board. He said the Board supports the project. He said nitrogen loading is a high priority in Dennis and Lowe's septic plan would reduce nitrogen loading and the project will provide a wastewater benefit. He asked that the Commission vote to approve the project.

Paul McCormick, Chair Dennis Board of Selectmen, said he believes Lowe's would be beneficial for the town. He said existing traffic problems will not go away if Lowe's is denied. He said it would upgrade the wastewater facility and improve wastewater issues. He asked that the Commission approve the project.

Peter Nyberg, member of Cape Cod Technology Regional School, said it would be a great educational experience to have the technology in the area and it would afford students the accessibility to see new things displayed. He said Dennis is a good town and Lowe's would be best for Dennis in that area.

Public Testimony was called.

Stephen Boyson, member of the building committee but speaking as an individual, said the school is constantly in need of money and this would help. He supports the project.

Beverly LeBlanc, resident of South Dennis and member of the Dennis Conservation Trust, read and submitted a letter as testimony from the Dennis Conservation Trust opposing the project.

Frank Mahady, FXM Associates, there will be a net loss of jobs because of the economy.

Linda Edson, Marstons Mills, said she does not understand market saturation. Lowe's will create jobs that people want. She supports the project.

Greg O'Brien, resident of Brewster, spoke in support of the project and said supporters outweigh those opposed.

Jessica Wild, family owns Agway of Cape Cod, said Lowe's would put a damper on growth. She is not in favor.

Ray Borthwick, manager Dennis Location, traffic issues will always be there. He asked that the project be denied.

Don Keeran, Assistant Director of the Association to Protect Cape Cod (APCC), submitted a letter as testimony identifying 33 detriments. He spoke in support of the subcommittee's recommendation to deny the project.

Lauren Baskin, owner of True Value Hardware, thanked the subcommittee and said she supports their recommendation to deny.

David Otis said competition helps business and jobs are needed. He supports the project.

Attorney Mike Scott, with the law firm Nutter McClennen & Fish, submitted a letter as testimony from both he and Attorney Eliza Cox and said they support the subcommittee's recommendation to deny.

Lynn Fox read a letter from Andy Fingado in support of the subcommittee's recommendation to deny the project.

Joshua Wile, Vice President of Agway of Cape Cod, said the project is inconsistent with goal ED2 of the RPP. He said any profit to Lowe's will come at the expense of other existing businesses.

Jeff Plank, President Mid-Cape Home Centers, said the project is inconsistent with goal ED3 of the RPP. He said profits will be shipped out of the region and the project will harm existing local businesses.

Chuck Robinson, President of Rogers & Gray Insurance Agency, said the project is inconsistent with TR2. It's the wrong location for Lowe's and asked that the project be denied.

Deena Tolley, Yarmouth resident, said the project is inconsistent with goal TR3 in the RPP, it will add increased trips in roadways and poorly functioning roadways will worsen.

Michael Sarli, South Dennis resident and member of the South Dennis Historical Commission, said the project is inconsistent with goal HPCC1 in the RPP.

Robert Harrison, South Dennis resident, said the project is inconsistent with HPCC2 and the size and scale of the development is out of character with the Dennis LCP. He asked that the project be denied.

Linda Harding, speaking for Jeff Rogers who had to leave, said he supports the subcommittee's recommendation.

Donald Baker said the town of Dennis is doing a good job protecting the town and Lowe's meets all the criteria. He asked that the project be approved.

Felicia Penn, Hyannis resident, said it is important to keep the youth from leaving Cape Cod and said the key is education. She asked that the project be denied.

Evelyn Coughlin said we need jobs and the traffic mitigation. She asked that the project be approved.

Richard O'Hern said he supports the Lowe's project and asked that it be approved.

Rick Hamblin said Lowe's will add competition and will bring revenue to the town. He said it's in the best location and asked that the project be approved.

David DeCenzo, Marstons Mills, said what's important is the character of Cape Cod and the Commission is here to protect the Cape.

Marcus Farias recently bought a home in Sandwich. He moved back to Cape Cod because people are genuine and simple and for its beautiful coastlines. He said Lowe's target is to make money.

Jim Norton, Brewster resident, read a letter from Jon Lipman, as a citizen of Orleans, saying that this is not the right project for Dennis and asked that the resources of Cape Cod be protected.

Nancy Norton, Brewster resident, said Cape Cod is special and we should not try to change it. She said say no to Lowe's.

David Harrington, Yarmouthport resident, said he is a senior manager of Lowe's in Wareham. He said he couldn't find employment on the Cape. He said there are no minimum wage workers at his store. He asked that the project be approved.

Louis Rivera, resident of southeastern Massachusetts and Lowe's HR Director of the New England Market, said there is so much opportunity for growth in Lowe's. He said it's a people company and he asked that the project be approved.

Camilla Dings, Harwich citizen, said she supports the project.

Amanda Harrison, Chatham resident, said she wants the job opportunities that come with Lowe's. She said she supports the project.

Mary O'Brien for Paul Knell, Dennis resident, said he supports the project.

Mike Andrews, employee at Mid-Cape Home Center, said he was a former employee of Lowe's and no local companies were hired to build the store. He said the full time ratio was 51% and the other 49% will be part time. He said there is no economic benefit.

Brad Ingraham, South Dennis resident, said Lowe's would change the quality and character of the town and no amount of money could mitigate the harm to the town. He said he supports the subcommittee's recommendation.

Shawn Delude, owner of Nauset Disposal, said he is against Lowe's coming to Dennis. He said small businesses will suffer and asked that the project be denied.

Craig Gonsalves, Dennis resident, said he supports Lowe's because of the jobs it will bring.

Paul Fox, Harwich Paint and Decorating, said the subcommittee believes the project meets LU1.2 and said he disagrees. He said it's not compact development and it's not a pedestrian-friendly design. He said it does not meet LU1.2.

Doug Dineen, Brewster resident, thanked the Commission staff and the comments by the subcommittee for wisely denying the project. He said we need to keep a special place special.

Alex Morash, Yarmouth resident, thanked the subcommittee for rejecting the Lowe's proposal. He said Lowe's is a low-wage employer and Cape Cod's growth is not about attracting more low-wage businesses.

Ray Ducharme, Cape Electric Supply on Theophilus Smith Road, said we have a lot of competition on Cape Cod. He said he is opposed to the project.

Peter Fossel said he goes to the local businesses and said it feels like family. He said big box stores would harm small businesses.

Attorney David Reid, representing Old South Dennis Village Association, said concerns are with community character and traffic and the impacts beyond the location of Lowe's should be considered. It's not the right location for Lowe's and asked that the project be denied.

John Terrio, South Dennis resident, said people who don't want Lowe's are only concerned about the money. He said he supports the project, it will provide jobs, and asked that the project be approved.

Paul McCormack, Dennis resident, said Lowe's would be vital to the economy of Dennis and asked that the project be approved.

Doria Marsh said, yes, it's about money and competition; we need a competitive market but a big box store is not competition. She asked for a no vote.

Lynn Colangione, Yarmouth resident, said the subcommittee came to the right conclusion and asked that the project be denied.

Don Cossack, owner of Hart Farm and Nursery, said Dennis is a special place. He said he is opposed to the project because of the traffic and congestion. He asked that the project be denied.

Bob Prall, Dennis resident and vice of president of the Finance Committee, said his comments today are his and not of the committee. He said he does not agree with the subcommittee's recommendation and asked for a yes vote.

Herve Desroches said small businesses close early in the day, the location is designed for that use, and asked that the project be approved.

Larry Garbacik, Dennis resident, said the same size stores are in that same location and it hasn't hurt business. He said there will always be a need for small and large stores. He asked for a yes vote.

Bonnie Hempel said the project will bring over development to the area and it will harm the community. She asked that the project be denied.

William Gallerizzo, South Dennis resident, said the real impact will be on individual people, noise pollution, etc. He said no one will want to buy a house in that area.

Bob Kroeger, South Dennis resident, thanked the subcommittee for its recommendation and said he supports the recommendation. He said the Hyannis industrial area would be the best location.

Greg Milne thanked the Commission members for all their efforts. He said these corporations are not philanthropists/altruistic they are only thinking about the profit. He asked for a no vote.

Margaret McCormick for Zelda MacGregor said the project has the support of the Dennis town planner. She asked for a yes vote.

Dave Berry, East Dennis resident, thanked the subcommittee for making the right decision. He supports the subcommittee's recommendation.

Ken Foster, landlord for a gas station on Theophilus Smith Road, said he sees the right hand turn only lane as a detriment. He said the road change would damage revenue of the Mobil station.

Michele Kyrimis, Dennis resident, said she is opposed to Lowe's. She said Theophilus Smith Road is the road to the transfer station.

William Crowell, Dennis resident, said he supports the Chamberlain family. He said Lowe's is a good upfront company taking responsibility in the town and asked for a yes vote.

James Plath, member of the Finance Committee but speaking as an individual, said people in Dennis voted to set this area aside for commercial development. He asked that the project be approved.

Laura Brown, South Dennis resident, said she supports the project.

A 30 minute recess was called at 5:35 p.m. and the meeting re-convened at 6:05 p.m.

Austin Knight inquired about nitrogen loading regarding Bass River.

James Sherrad said to say there is a net benefit to Bass River with the total nitrogen load rate of 18.5 Kg-N/Yr, while not exceeding the critical nitrogen load rate, is still a nitrogen load of 18.5 per year.

Joy Brookshire said since the subcommittee's decision was split, she asked why two members voted in favor.

Len Short said he felt that the project had a positive ring and would benefit the area. He said he doesn't believe small businesses would be hurt.

John Harris said he reviewed the project based on the record and the standard of review.

Harold Mitchell inquired about the total dollar amount of mitigation.

Attorney Michael Ford said about \$2,800,000 and additional money would be made for the road system.

Royden Richardson said we've heard taxes would benefit the town with about \$100,000 a year and inquired about municipal expenses that would be covered by that amount.

Attorney Michael Ford said a calculation has not been done on what services would be demanded by the town. He said we heard from the town today that they were comfortable with that figure.

Chair Jack McCormack inquired about the basis for evaluation.

Attorney Michael Ford said it's determined by the value of the building and land. He said the formula is through the assessor's office.

Paul Niedzwiecki referred to Mr. Richardson's question and said that testimony would come from the town but there is nothing in the record at this point.

Jackie Etsten referred to a Tischler Study in Barnstable and the impacts on level of service. She said regarding Lowe's in the letter from Nutter McClennen and Fish they felt that goal TR3 had not been met.

Leslie Richardson, Economic Development Officer at the Commission, said a Tischler Study was done in Barnstable for big box stores that showed a negative impact on the town.

Glenn Cannon, Director of Technical Services at the Commission, said that is a difficult goal to reach because of the mitigation required to do that. He said parts of Route 134 have been improved, other areas not improved and they would have to mitigate through a cash payment in the future.

Royden Richardson said sometimes traffic mitigation starts off good then improvements seem to give energy to the need for more improvements.

Mary Pat Flynn inquired about the traffic signal and how it would control traffic at Patriot Square and going into Lowe's. She said Mr. Hart said traffic would fluctuate. She inquired about traffic backing up and questioned whether it would have a significant impact. She asked if there would be a right on red.

Randy Hart explained how it would be signalized. He said with a second signal the town has had some concerns about that pocket creating a queue and they came up with a plan to minimize the queue. He said they looked at peak period worse-case scenario so it would work. Mr. Hart said it could remain as a right on red.

Joy Brookshire said she recently tried to make a left on Theophilus Smith Road and had difficulty and asked how that would be improved.

Randy Hart said they looked at that and Cumberland Farms has allowed them to make an interconnection.

Glenn Cannon suggested that perhaps a left hand turn is not relevant to this project.

Randy Hart said this is an opportunity to improve that.

Joy Brookshire inquired about the interconnection with Cumberland Farms and asked if it could be used by anyone.

Randy Hart said yes.

Chair Jack McCormack inquired about a multi-story building and the small mezzanine.

Sarah Korjeff, Historic Preservation Planner at the Commission, said they do not have a definition of multi-story in the RPP. She said it's tied in with compact development. She said they went through the standard and Commission staff's opinion is that the project didn't apply because of the small area.

Attorney Michael Ford said in the land use standard multi-story is not required.

Jessica Wielgus, Commission Counsel, read the language in LU1.2.

Dr. Clyde Barrows referred to Mr. Richardson's question regarding municipal expenses and said his report was prepared based on the Commission's Technical Bulletin. He said they did not receive a response from the Town of Dennis. He said that is not required in the Technical Bulletin.

Leslie Richardson said they did not receive anything from the town saying what the net fiscal cost would be.

Jackie Etsten questioned an increase on roads with truck traffic and repairs.

Roger Putnam asked if pay scales for the same types of jobs were considered.

Leslie Richardson said they used federal occupation data that would be for occupations that Lowe's would be providing; specifically Barnstable County employers on the ground today.

Roger Putnam asked how does traffic increase on Route 6.

Glenn Cannon said they anticipate there will be trips throughout Cape Cod. He said there would be significant trips in the towns of Barnstable, Dennis and Yarmouth. He said there is a \$1.5 million mitigation on the table and said the applicant recognizes that.

Jessica Wielgus said that is on the probable benefits and probable detriments list. She said this is where the Commission decides how much weight to give to this listed item.

Glenn Cannon said the applicant needs to prove a credit and they cannot prove a credit based on science.

Randy Hart said the key phrase is "tie-up" on Route 6 or Route 6A. He said nothing in the records show there will be tie-ups. He said they would not be creating them they would be eliminating them.

Dr. Clyde Barrows, Professor of Public Policy at UMass Dartmouth, said he used the Economic Development Technical Bulletin and he did include great detail on occupations in Barnstable County. He said Lowe's would be paying above the average in Barnstable County.

Leslie Richardson said the Commission did compare to Massachusetts occupational averages as well as Barnstable County and it showed below average. She said they used the same data.

Mary Pat Flynn inquired about a potential increase in policy response for shoplifting and bad checks and asked if they received any response regarding this from the police chief that would require more police detail.

Attorney Michael Ford said they received no response from the police department on that.

Mary Pat Flynn asked if Lowe's has found more shoplifting and fraud when opening a new store.

David Koerner said Lowe's has seen minimal shoplifting due to their shoplifting security networking in the stores.

Joy Brookshire referred to page 37 of the draft written decision and asked if the applicant would be responsible for repairing traffic signals/lights.

Randy Hart said, yes, it's a Commission requirement.

Glenn Cannon said the town would be responsible. He said Lowe's is giving money to the town for repairs. He said it goes through the town but the money comes from Lowe's.

Royden Richardson moved to close the hearing. Harold Mitchell seconded the motion. The motion passed with a unanimous vote.

Richard Roy moved that the Commission adopt the amended Draft Development of Regional Impact decision of the Lowe's Home Centers denying the project. Elizabeth Taylor seconded the motion.

Paul Niedzwiecki said Dennis is a special and unique community. He thanked Robert and Diane Chamberlain for what they've done for the community.

Chair Jack McCormack thanked Commission staff and the subcommittee and everyone who participated in the process.

Austin Knight said he is well aware of a seaside village and the importance of keeping it as it is but he doesn't see Route 134 as a seaside village. He said to hold a project like this at bay because of the size of the building he finds problematic and also problematic because it's a corporation. He said it's not a seaside area and it's an opportunity for Dennis. He said Lowe's has come up with a good plan to mitigate and the quaintness of Dennis is still there.

Royden Richardson said the project is in a section of a seaside village town and we would be contributing to urbanization. He said that lot isn't going away and the Commission is committed to keeping a special place special. He said Route 6 is already packed most of the time and Route 6A is still a good way to get around. Traffic will be going to Route 6A. The Commission has an opportunity to protect this special place.

Roger Putnam said one of the Commission's obligations is to foster economic development. He said this place was set aside for industry years ago and this is a proper use of the property. He said competition is what makes the country great. He said he is in favor of the project.

Andrew Putnam said there are a lot of benefits to this project. The proposed road improvements are a benefit. He said as a young person he is still trying to survive in an area where the cost of living is high and the salaries are low. He said he loves Cape Cod and chooses to stay on the Cape. He said \$30,000 a year is not a great paying job and said Cape Cod needs careers. He said his problem is when the jobs that are being offered continue to support the job problem on Cape Cod. He said this just continues to further the problem and it will cause more economic harm to Cape Cod. He said it's not a livable wage.

Harold Mitchell said he agrees with Austin Knight and said he knows the area well. He said the flea market is not a historical area. He said he believes it's something good and said he is in favor of the project.

Joy Brookshire said anything could go there and the Commission would have control over the Lowe's project and could guarantee things through conditions. She said the money going to Dennis is a lot of money and the town believes it will benefit the town of Dennis. She said she doesn't believe small businesses will go out of business. She said she has faith the project will benefit the town of Dennis.

Len Short said as a member of the subcommittee he commends the subcommittee, Lowe's and Commission staff for providing the information to review the project. He said times have changed and we need to keep up with what is going on in business. He said he believes it's a positive thing for Cape Cod.

Jackie Etsten said traffic is going to increase on the roads and despite mitigation there will be backups. She said economic development will be far reaching and Cape Cod small businesses can't compete with the size of Lowe's. She said job loss is very disturbing.

Mary Pat Flynn said the services that Lowe's would provide already exist on the Cape with other small and large retailers; they are not bringing anything new to the Cape.

Elizabeth Taylor agreed with statements by Ms. Flynn and Ms. Etsten. She said when we hear about market saturation Dennis doesn't need these types of jobs and wages. She said most of the jobs could become part time. She is concerned if the project is approved and then if the store were to close, it would be bad for Dennis. She said traffic is tremendous in the area and it will greatly increase. She said she does not support the project.

Kevin Grunwald said he was impressed with the presentations by Lowe's and the applicant. He said he appreciates a town to look for tax revenues but questions if it would be a net wash. He said keeping a special place special is what the Commission should focus on.

Chair Jack McCormack said originally the town designated this area as a commercial area.

Austin Knight said there are opportunities for homeowners to do more on their properties, they would hire local contractors and that type of labor would increase. He said this will be a plus in the long run and makes for a more level playing field.

A roll call vote was taken on the motion to adopt the amended Draft DRI decision of the Lowe's Home Centers, denying the project and was recorded as follows:

Barnstable/Royden Richardson—Yes	Brewster/Elizabeth Taylor—Yes
Dennis/Richard Roy—Yes	Eastham/Joy Brookshire—No
Falmouth/Andrew Putnam—Yes	Harwich/Jacqueline Etsten—Yes
Orleans/Leonard Short—No	Provincetown/Austin Knight—No
Sandwich/Harold Mitchell—No	Truro/Kevin Grunwald—Yes
Wellfleet/Roger Putnam—No	Yarmouth/John McCormack—Yes
County Commissioner/Mary Pat Flynn—Yes	Minority Representative/John Harris—No

The motion passed with 8 votes in favor and 6 votes opposed.

A motion was made and seconded to adjourn the meeting at 6:50 p.m. The motion was unanimously approved.

Respectfully submitted,

Andrew Putnam, Secretary

List of Documents Presented at the January 9, 2014 Commission Meeting

- Handout material: January 9, 2014 Commission meeting agenda.
- Materials Presented: PowerPoint slide presentation on the Lowe's of Dennis project prepared by the Applicant.
- Materials Presented: PowerPoint slide presentation on the Lowe's of Dennis project prepared by the Cape Cod Commission staff.
- Letter from the Dennis Conservation Trust.
- Letter from Don Keeran and Ed DeWitt, Association to Preserve Cape Cod.
- Letter and accompanying materials from Attorney Eliza Cox and Attorney Michael Scott, Nutter McClennen & Fish, LLP.