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CAPE COD
COMMISSION

Minutes

Meeting of Cape Cod Commission First District Courthouse • Assembly of Delegates Chambers 3195 Main Street, Barnstable, MA

September 3, 2015

The meeting was convened at 3:03 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Richard Conron	✓
Brewster	Elizabeth Taylor	✓
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	✓
Falmouth	Charles McCaffrey	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	✓
Orleans	Len Short	✓
Provincetown	Mark Weinress	✓
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.	Danielle Hill	✓ (arrived at 3:10 p.m.)
Governor's Appointee	Vacant	Vacant

The meeting of the Cape Cod Commission was called to order on Thursday, September 3, 2015 at 3:03 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA. Roll was called and a quorum established.

■ SUMMARY OF ACTIONS TAKEN/VOTES:

Public Meeting: Springhill Suites by Marriott—556 Main Street, Falmouth, MA—TR-LR14017

During and following discussion and deliberation, the full Commission voted on the Limited Development of Regional Impact (DRI) draft decision recommended by the Commission subcommittee for the Springhill Suites by Marriott project for the proposed 110-unit hotel located at 556 Main Street, Falmouth, MA. The following votes were taken:

- A vote on the motion to remove benefits #1, 2, 3, 5, and 9 from the draft decision failed by a majority vote determined by the Chair.
- A vote on the motion to adopt the draft Limited DRI decision as written and approve the project as a Limited DRI subject to the conditions set out in the draft written decision failed with 7 votes in favor and 11 votes opposed.
- A vote on the motion that the probable benefit of the proposed development is not greater than the probable detriment and that the draft written decision be amended to reflect that passed with 16 votes in favor and 2 votes opposed.
- A vote on the motion to deny the Springhill Suites project based on the finding that the probable benefit is not greater than the probable detriment passed by a majority vote of the Commission.
- A vote on the motion to direct staff to modify and amend the draft decision pursuant to the findings made by the Commission today and that the amended decision come back to the full Commission at its meeting on September 17, 2015 at 3:00 pm in the Assembly of Delegates Chambers passed by a majority vote of the Commission.

■ EXECUTIVE DIRECTOR'S REPORT

Executive Director Paul Niedzwiecki said he would pass on giving his report today.

Roger Putnam said he saw Mr. Niedzwiecki's presentation to the County Commissioners on September 2 and asked that Mr. Niedzwiecki give that same report to the Commission on the FY15 activities of the Cape Cod Commission. Chair Richard Roy said there would be an opportunity for Mr. Niedzwiecki to do that at a future Commission meeting.

■ MINUTES

The minutes of the August 20, 2015 Commission Meeting were reviewed. Len Short moved to approve the minutes. Jack McCormack seconded the motion. The motion passed with a unanimous vote.

■ PUBLIC MEETING: SPRINGHILL SUITES BY MARRIOTT—TR-LR14017

Jeffrey Ribeiro, regulatory officer at the Commission, noted that Mark Weinress, the Commission's Provincetown Representative, and Harold Mitchell, the Commission's Sandwich Representative, have examined all the evidence presented on the project and the video taping of the August 20, 2015 Commission meeting and certified their review with the Commission clerk for their participation at today's Commission meeting.

Chair Richard Roy said the purpose of today's public meeting is for discussion, deliberation and a potential vote on the Limited Development of Regional Impact (DRI) by the full Commission on the application submitted by Falmouth Hospitality LLC for a proposed hotel containing 110 units located at 556 Main Street in Falmouth, MA, including potential adoption of the draft Limited DRI decision for the project recommended by the Commission subcommittee.

Kevin Grunwald asked why the Commission is not looking at the project on the other side of Main Street.

Jon Idman, chief regulatory officer at the Commission, said it's not directly abutting the property being reviewed and it was approved months ago before this came to the Commission. He said it's a different project; it's not the hotel project. He said with any DRI the Commission would be looking at shared parking. Shared parking is allowed in the Regional Policy Plan (RPP) and Falmouth zoning.

Kevin Grunwald asked who reviewed that. Jon Idman said it was reviewed by the Falmouth Planning Board and it didn't require DRI review.

Jackie Etsten said parking across the street is necessary to the hotel project and it should have come to the Commission for review. She said it's an integral part of the project. She questioned how and where trucks going into the hotel property would turn around. She said the application is incomplete in the area being considered.

Charles McCaffrey said in the draft decision the definition of the area that is being looked at should be Falmouth Historic Village. He said the area of the development was part of the Falmouth Historic Main Street/Village Center. He said it doesn't mean a building has to be a historic building but it's meant as a historic village center; it's the locus of historic Falmouth center and it should be compared against historic buildings that are.

Sarah Korjeff, preservation specialist at the Commission, said staff looks at a project and makes a determination of context which is the general character of the area and it's not a historic district.

Charles McCaffrey said there is a traditional historic village center and asked if he could make a motion to ask for a determination of an historic area on Main Street.

Sarah Korjeff said that would be specific to a condition in the Commission's decision.

Charles McCaffrey referred to Falmouth's Local Comprehensive Plan (LCP) where it talks about historic village district/center. He said the LCP identifies the area as such and that would influence the condition.

Jon Idman said Mr. McCaffrey's point is taken and he would suggest more discussion at this point on the decision that is before the Commission now.

Paul Niedzwiecki said the report is in front of the Commission from the subcommittee for approval. He said when the Commission looks at areas that are historic districts they are easier to look at and define. He said where it's difficult is in areas where a town is trying to redevelop. He said zoning that has been put in place for redevelopment sometimes has design guidelines. He said that is not the case here. He said Mr. McCaffrey's issue can be contemplated. He said the Commission has to follow the process.

Jack McCormack said what he has read of the bylaw is that anything can be built. He said Falmouth has no architectural and site design review and towns should think about that.

Mike Skelley said if this project is voted down then there is no project here. He said the Commission should be voting on the proposal in front of the Commission.

Ernest Virgilio said the project is in the Business Redevelopment District (BRD) and it complies with the BRD. He said the town has further responsibility beyond the Commission. He said the Commission received a letter from the Falmouth Town Planner but they did not hear from the building inspector; no other town officials responded other than the Board of Selectmen. He said the town will have the opportunity to do what is their responsibility.

Jon Idman said it would require a special permit, further review can be done through the planning board and permitting would need to be done through town boards.

Charles McCaffrey said the letter from the town planner says it requires a special permit and said the question is whether the project is eligible for a special permit in regard to lot coverage. He said the letter from the town planner is not adequate for the finding in the decision and questioned whether it is consistent with the town plan.

Paul Niedzwiecki said he hears Mr. McCaffrey's issue with this finding. He said when the Commission looks at consistency they have to look at zoning. He said when lot coverage was looked at the Commission called the town planner for consistency and the Commission was told that it is consistent by special permit.

Joy Brookshire said she is in favor of Limited DRIs but in this case she is disappointed that it was limited to heritage preservation and community character. She said she believes the location is inappropriate for this project. She said the Commission shouldn't be discussing other issues other than what is in this Limited DRI.

Jackie Etsten said the size of the hotel on this lot limits buffer on the lot line. She said the size of the development and lot are part of community character that the Commission should consider.

Kevin Grunwald said he is struck by the amount of opposition and the applicant has said that the project is not dictated by popular vote. He said Commission staff has reviewed the project and the subcommittee has recommended the project for approval. He said that is part of the process and he supports that.

Elizabeth Taylor said they do have to pay attention to what residents have said and what the Board of Selectmen have said. She said it's too large and it doesn't belong there. She said she does not support the project.

Royden Richardson said he was very taken with the location and he has heard what people have said regarding historic districts. He said there have been concerns but he has found it quite consistent with other businesses on Main Street and there is nothing in the building that conflicts with other historic buildings. He said it's very appropriate where it is. He said the town planner has been here for many years and he did not agree with the comments made about him. He said he believes the project will help to revitalize the area. He said the developer has done a great job and is very professional. He said he supports the project.

Roger Putnam said the Commission needs to be careful here and said the town has their responsibilities. He said the Commission has its own responsibilities and the Commission needs to make a decision on Commission regulations. He said the town will take care of their responsibilities.

Ernest Virgilio said he supports the project.

Richard Conron said he looked at the section in the Regional Policy Plan that talks about development and redevelopment. He said it says it should be consistent with existing development and should be modest in size. He said the project is too overwhelming and he does not support it.

Jack McCormack said the question is why we consider context. He said if it complies with setback and lot coverage they can do anything by right. He said context could be very different with any other new buildings that could be taller and larger. He said we don't know the character of the area because it's evolving.

Charles McCaffrey said he agrees it's not dictated by public opinion. He said character is perception and this building is not it. He said it doesn't meet the test.

Joy Brookshire referred to the glass bridge connector and said it doesn't look like Falmouth. She said it's okay if you can't see it.

Danielle Hill said she is familiar with Falmouth and the character is homegrown with local businesses and this project is modern and doesn't fit into the area. She said she questions whether it is needed and said she doesn't believe it will add to the economy. She said she appreciates the time and effort that has gone into this but she is not in favor of the project.

Mark Weinress said he believes it would be economically beneficial and said he doesn't believe Marriott would pursue this if it wasn't viable. He said he does have some concern with the size on the lot. He said in this case height limitation and the 110 rooms are making it difficult to come up with a building that looks like Falmouth. He said perhaps it's overfilling the lot and that is why a special permit is needed. He said the project concerns him.

Mary Pat Flynn said she supported the project when she first learned Springhill was being proposed for Main Street but when she saw the attempt to fit a 110-room hotel on a site that cannot accommodate it and the size of the hotel she was then disappointed with the project. She has concerns about public safety as the project doesn't provide sufficient parking on site so they have to share parking across the street. She said the project is too big for a small area.

John Harris asked if the project is not approved does the town still have a venue to continue.

Jon Idman said first if it's not approved the Commission needs to determine why the decision is not approved. He said if the project is denied it cannot go through local review.

Charles McCaffrey questioned if the Commission approves the decision when would be the appropriate time to talk about the conditions that won't affect denial.

Jon Idman said amendments to conditions can be made to a decision after a motion and second is made.

Jack McCormack said if the project is approved by the Commission and Falmouth doesn't want it they can turn it down. He said Lantern Lane has been rescinded by the planning board and there is no way of knowing what will happen with that appeal. He said the subcommittee put a lot of time in the review.

Chair Richard Roy said he would entertain a motion to adopt the draft Limited DRI decision as written and approve the project as a Limited DRI subject to the conditions set out in the said decision. Jack McCormack moved the motion and Ernest Virgilio seconded the motion.

Chair Richard Roy asked for discussion on the motion.

Charles McCaffrey questioned the use of the man-made materials and said the Regional Policy Plan calls for traditional materials and said he would hope the decision allows for some use of natural materials and that the standard of man-made materials mimic traditional materials under close inspection. He said the shutters should be operational.

Jessica Wielgus, Commission Counsel, said as the Commission looks at the decision they should look at whether it complies with Minimum Performance Standards (MPSS) in the Regional Policy Plan. She said the Commission should determine whether it meets the standard.

Jon Idman said the project does meet the standard.

Charles McCaffrey asked if an amendment to the decision regarding man-made materials versus natural materials could be discussed by staff.

Jon Idman said he does not believe it can be as the developer would not have any predictability with that decision. He said Mr. McCaffrey could make a specific motion and if it's seconded a condition could be crafted.

Mike Skelley made a motion to move the question. Ernest Virgilio seconded.

Chair Richard Roy called for a vote on the motion to move the question.

A roll call vote on the motion to move the question failed with 7 votes in favor and 11 votes opposed. The votes were as follows: Royden Richardson, yes; Richard Conron, no; Elizabeth Taylor, no; Michael Skelley, yes; Richard Roy, no; Joy Brookshire, no; Charles McCafferty, no; Jacqueline Esten, no; Ernest Virgilio, yes; Len Short, no; Mark Weinress, no; Harold Mitchell, no; Kevin Grunwald, yes; Roger Putnam, yes; John McCormack, Jr., yes; Mary Pat Flynn, no; John Harris, yes; Danielle Hill, no.

Chair Richard Roy asked Mr. McCaffrey to proceed with his motion. Mr. McCaffrey moved to amend accepting the draft decision and require the use of natural cedar shakes on the sides of the building other than the façade and that the proposed shutters on the front of the building be removed. Jackie Etsten seconded the motion.

Jackie Etsten said the metal screening in the parking area should be replaced all around with teak or mahogany wood or perhaps white cedar. She said the metal screening is not acceptable.

Elizabeth Taylor said she applauds the motion but it won't correct the problem; it would make it look prettier but it does not look like Falmouth. It's too big.

Charles McCaffrey said his motivation in making the motion is that his concern is that the Commission establishes a precedent that universal use of man-made materials is acceptable. He said it's not a good path for the Commission to go down in terms of community character. He said if the project is approved there should be some additional restrictions to improve the design and avoids the Commission setting a precedent for universal use of man-made materials.

Joy Brookshire said she applauds the effort but it's too little too late. She said this should have been done during the subcommittee review. She said that should not be brought up now and the Commission should stick to the Limited DRI decision for heritage preservation and community character that is before the Commission.

Harold Mitchell said if they are speaking to HPCC2.4 he builds homes for a living and said he would have to disagree with the proposal. He said that he builds million dollar homes and natural materials are nice but man-made materials are primarily what people currently prefer. He said he cannot vote for that proposal.

Jack McCormack said it has the appearance of natural materials for the general public driving by or walking down the street. He said he doesn't think it's appropriate to insist that they use natural materials; this is a business district. He said it's not Old Sturbridge and it's not Colonial Williamsburg. He said he would vote against this amendment.

Mark Weinress said he likes the idea of coming up with good design standards or materials standards but he believes it's too late to do it. He said it's not the time to be figuring out whether man-made materials should be used universally. He said he cannot support this mainly because of the timing.

Charles McCaffrey withdrew his motion to put conditions on the man-made materials and have natural cedar on the side of the building. Jackie Etsten withdrew her second.

Chair Richard Roy said now they are back to the original motion and asked if there was any discussion.

Charles McCaffrey said they have not discussed the benefits and detriments.

Jon Idman said the benefits and detriments that the Commission would be adopting are in the Limited DRI decision. He said again further or additional benefits or detriments would require a motion to amend the draft Limited DRI decision.

Charles McCaffrey moved to revise the list of draft benefits and detriments. He said he has made modifications to the benefits and detriments.

Jon Idman said a motion would have to be more specific.

Charles McCaffrey moved that the list of benefits be modified to remove benefit #1 from GF14. Elizabeth Taylor seconded the motion.

Jon Idman said this is a very comprehensive undertaking and suggested that Mr. McCaffrey not take each one as a separate finding. He said again you look at benefits and detriments and weigh them in a comparative way. He said he would suggest a more comprehensive motion on what he proposes to take out or put in and then that can be considered by the full Commission.

Charles McCaffrey withdrew his motion and Elizabeth Taylor withdrew her second. Charles McCaffrey then moved to delete benefits #1, 2, 3, 5, and 9 from the draft decision. Elizabeth Taylor seconded the motion.

Chair Richard Roy asked for discussion on the motion.

Jack McCormack said the subcommittee went through these, they were approved and he doesn't see any point in removing some of the benefits that are obvious. He said it does meet the town's goals and it would improve the character of the blighted site. He said building sidewalks and infrastructure is a benefit. He said he stands by the benefits that were approved by the subcommittee.

Ernest Virgilio said he doesn't understand the extent of confusion here. He said the subcommittee spent a lot of time putting together a decision and asked why the Commission right now is starting from the beginning. He said he is opposed to what is happening right now.

Paul Niedzwiecki said the motion on the floor is to accept the subcommittee report/recommendation and there is discussion about that now and part of that is a discussion about the benefits and detriments so that Commission members can determine whether they agree with the subcommittee's decision that the probable benefit outweigh the probable detriment. He said as part of that process amendments would be allowed and have been allowed in the past. He said generally we see amendments that would add to one side or another and not necessarily subtract. He said if additions are allowed then subtractions are also allowed. He said his recommendation would be that everyone understands the motion in that context and that the Commission act on that motion going forward.

Chair Richard Roy said he understands as he was also on the subcommittee putting this together but everyone is entitled to have an opportunity to express their opinion and he is going to give everyone the right to do that.

Elizabeth Taylor said she agrees with Mr. McCaffrey that the benefits do not reflect the feeling of the town. She said she agrees with Mr. McCaffrey on benefit #5.

Joy Brookshire said this is a limited DRI and they should only be discussing heritage preservation and community character and the benefits and detriments as they apply to that limited DRI.

Jon Idman said specifically the benefits and detriments analysis goes beyond the discussion about consistency with the Regional Policy Plan (RPP) and the scoping decision. He said things can certainly be considered outside the RPP and outside the issues that have been scoped for DRI review.

Joy Brookshire said if that is the case, then they should have been discussing what lead them to become benefits and detriments and that hasn't been discussed. She said she asked a question about unemployment, the height of buildings relative to the hotel, and lighting at a public hearing and no information was given on that. She said traffic wasn't discussed except for the parking lot across the road. She said for her it has been a very limited DRI process. She said she votes from the information she has received and the information hasn't been there.

Chair Richard Roy asked that comments be made to the motion.

Chair Richard Roy called for a vote on the motion whether to delete benefits #1, 2, 3, 5, and 9 from the draft decision. Following the voice vote of Commission members, the motion failed.

Chair Richard Roy said there was a motion and a second to adopt the draft Limited DRI decision as written and approve the project as a Limited DRI subject to the conditions set out in the decision. He asked if there was any further discussion on that.

A roll call vote was taken on the motion to adopt the draft Limited DRI decision as written and approve the project as a Limited DRI subject to the conditions set out in said decision. The motion did not carry with 7 votes in favor and 11 votes opposed. The votes were as follows: Royden Richardson, yes; Richard Conron, no; Elizabeth Taylor, no; Michael Skelley, yes; Richard Roy, yes; Joy Brookshire, no; Charles McCafferty, no; Jacqueline Esten, no; Ernest Virgilio, yes; Len Short, no; Mark Weiness, no; Harold Mitchell, no; Kevin Grunwald, yes; Roger Putnam, yes; John McCormack, Jr., yes; Mary Pat Flynn, no; John Harris, no; Danielle Hill, no.

Jon Idman said as he previously noted a lack of approval does not indicate a denial either. He said the Commission Act requires an affirmative denial of the project. He said what the Commission can do at this point is move to reconsider or come up with a basis of why those who voted in opposition would support a denial and specific findings would need to be made by the Commission. He also suggested if the Commission's decision was based on the weighing of benefits and detriments it would be a simple amendment to the decision and the Commission could find that the probable project detriment is greater than the probable project benefit. He said that motion could be made to deny the project, to amend the decision, to indicate that the probable project detriment was greater than the probable project benefit and direct staff to amend the decision accordingly.

Charles McCaffrey said he thinks the decision should be amended to indicate that the Regional Policy Plan was not fully met as the issue was character and the detriments that they are basing it on are community character. He said the decision should be modified to say that the scale and design is not consistent with community character.

Paul Niedzwiecki said he would caution the Commission to carefully consider how they direct staff to amend the decision. He said there was a lot of careful thought that went into the analysis of the MPS's and there was an extensive public hearing for a project of this size. He said the applicant has rights going forward even in the face of a denial. He said it appears to him that the concern of the bulk massing and size of the building in that particular place was the nature of the contention and said that is contained in the first detriment in the benefits and detriments analysis that is contained in the decision. He said if the Commission considered that to be the reason that the detriments outweigh the benefits they could direct staff to write a decision for the Commission's consideration based on that fact.

Jon Idman said it's not a complicated change to the decision. He said staff could prepare this for the Commission's review on September 17 and said the Commission could take this vote as well and direct staff to make that minor change since it's so specific and the decision could issue without further review.

Chair Richard Roy said he would entertain a motion that the Commission based upon the public hearings and all the evidence before the Commission that the probable benefit of the proposed development is not greater than the probable detriment. Harold Mitchell moved the motion. Elizabeth Taylor seconded the motion.

Chair Richard Roy asked for discussion on the motion.

Jackie Etsten said she believes the decision needs to be crafted very carefully and to include all the major points that were brought up. She said not only should the benefits/detriments be revised all the RPP issues should be revised and how they apply and then bring the decision back to the Commission.

Jon Idman reminded the Commission about the process and said the decision period for this project ends on October 2, 2015 and it took several months to get to the point of the decision and he is not sure how easy it would be to draft something in the next few weeks and have the Commission approve it. He said that the decision period can be extended but only at the mutual agreement of the applicant and at this point he doesn't think the applicant will agree to extend that decision period. He said if a decision isn't rendered within that decision period it would lead to a constructive approval of the project regardless of what the Commission has to say.

Elizabeth Taylor had a question about the motion and asked if the Commission was being asked to provide benefit and detriment information now.

Chair Richard Roy said the Commission did not have to do that. He said what is being said now is that the Commission is taking the probable benefit and the probable detriment identified in the decision, weighing them and voting whether the probable benefit of the proposed development is not greater than the probable detriment. He said he believes the testimony that the Commission has heard over many meetings and including the last public hearing would support that change in the Commission's original decision.

Jon Idman said the motion on the floor would be based on the existing decision and the benefits and detriments the Commission discussed. He said the motion would be made on those benefits and detriments identified in the draft decision. He said if the Commission felt strongly about adopting new benefits and detriments and deleting benefits and detriments then that should be done prior to this motion.

Harold Mitchell said in light of what fellow Commissioners have said he will withdraw his motion at this time to allow the Commission to go over the benefits and detriments and add or delete benefits and detriments if they need to. Elizabeth Taylor withdrew her second.

Jon Idman said it is a well written decision and believes the Commission could reach the same point with the Regional Policy Plan analysis and still base a denial on the benefits and detriments and base it on what the principle detriment has been which Mr. Niedzwiecki articulated and what has been articulated from a number of people too much on too small a lot. He said it's not a numerical calculation. He said it's a matter of balance and weighing those.

Harold Mitchell moved that the Commission find that the probable benefit of the proposed development is not greater than the project detriment. Elizabeth Taylor seconded Mr. Mitchell's motion.

Chair Richard Roy said the motion that the Commission is discussing is the Commission finds that from the public meetings and hearings and in consideration of all the evidence before the Commission that the probable benefit of the proposed development is not greater than the probable detriment.

Chair Richard Roy asked if there was any more discussion on the motion.

Charles McCaffrey asked Mr. Idman if it was appropriate to give some rationale as to why the benefits are weak and the detriments strong.

Jon Idman said it can be looked at in the alternate way as well. He said if this decision carried, the benefits would have carried and the finding about the benefit being greater than the detriment would have carried. He said he does not believe there is a need for a greater rationale.

Richard Conron asked for clarification about this approach versus writing a denial and asked why this is a better approach.

Paul Niedzwiecki said this vote will direct staff to write a denial decision for the Commission's consideration.

Jessica Wielgus said the Commission is considering making a finding in two pieces; the Commission is first deciding whether the probable benefit of the proposed development is not greater than the probable detriment and if that prevails a second vote will be taken on whether or not the Commission denies the project.

Chair Richard Roy called for a roll call vote on the motion which is the Commission finds that based upon the public hearings and meetings and consideration of all the evidence before the board that the probable benefit of the proposed development is not greater than the probable detriment. The motion carried with 16 votes in favor and 2 votes opposed. The votes were as follows: Royden Richardson, yes; Richard Conron, yes; Elizabeth Taylor, yes; Michael Skelley, yes; Richard Roy, yes; Joy Brookshire, yes; Charles McCafferty, yes; Jacqueline Esten, yes; Ernest Virgilio, yes; Len Short, yes; Mark Weinress, yes; Harold Mitchell, yes; Kevin Grunwald, yes; Roger Putnam, no; John McCormack, Jr., no; Mary Pat Flynn, yes; John Harris, yes; Danielle Hill, yes.

Jon Idman referred to pages 8 and 11 of the draft Limited DRI decision and said these are areas where findings are made on the benefit outweighing the detriment. He said to work off that decision on page 18 you would want to incorporate that finding and amend Finding GF 16 and similarly on page 11 of the draft written decision you would want to provide that the probable detriment of the project was greater than the probable benefit. Jon said the finding was made so the Commission would need to modify the decision.

Chair Richard Roy said he would entertain a motion to deny the project based on the finding that the probable benefit of the proposed development is not greater than the probable detriment. Harold Mitchell moved the motion and Elizabeth Taylor seconded the motion.

A vote was called on the motion and it carried with by a majority vote of the Commission.

Chair Richard Roy said he would entertain a motion to direct staff to modify and amend the draft decision pursuant to the findings made by the Commission today and that the amended decision be brought back to the full Commission for its consideration on September 17, 2015 at 3:00 pm in the Assembly of Delegates Chambers. Harold Mitchell moved the motion and Elizabeth Taylor seconded the motion.

Richard Conron said some of the detriments he observed speak to the Regional Policy Plan and not the detriments in the draft decision and asked if he should forward that to staff. Chair Richard Roy said the Commission has taken a position on that.

Paul Niedzwiecki said some of the discussion about design guidelines and the Regional Policy Plan and how they should apply to regulatory review will most appropriately be dealt with through the Regional Policy Plan update that the Commission is going through right now and that is where those comments should be directed through that process which is underway.

Richard Conron said his comments are directly related to this project.

Paul Niedzwiecki said it has already been stated that if the Commission wants to write a new decision you will be taking the subcommittee's work, putting it aside and writing a new decision and that will involve a number of meetings. He said the Commission is running up against a hard stop. He said the decision in front of the Commission is one that the full Commission did not adopt from the subcommittee. He said the subcommittee spent a lot of time considering the Regional Policy Plan, he thinks as a body the Commission would be well advised to not reconstruct a decision in this format.

Jackie Etsten asked if the Regional Policy Plan standards would be left out.

Paul Niedzwiecki said Cape Cod Commission review considers both consistency with Minimum Performance Standards and the benefits and detriments analysis which is a much more holistic consideration of the project than the standards of the

Regional Policy Plan. He said that can be discussed in the context of a RPP plan update. He said he would invite that discussion on perceptions of inconsistencies as part of the larger discussion of the Commission's RPP update.

Chair Richard Roy said this is not the first decision where a project has met the RPP and the probable benefit did not outweigh the probable detriment.

A vote called on the motion to direct staff to modify and amend the draft decision pursuant to the findings made by the Commission today and that the amended decision be brought back to the full Commission for its consideration on September 17, 2015 at 3:00 pm in the Assembly of Delegates Chambers carried by a majority vote of the Commission.

Mike Skelley referred to Commission meeting procedures and asked the Chair to form a subcommittee to deal with rules for consistency of Commission meetings. He said the Commission needs to establish a consistent way of doing business and he would ask the Chair to form a subcommittee that can make a recommendation to the full Commission.

Chair Richard Roy said he would take that to the Executive Committee.

Kevin Grunwald said he was going to ask that an item be added to a Commission meeting agenda to discuss adoption of rules of procedures for the Commission.

A motion was made to adjourn at 5:50 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

Jack McCormack, Secretary

List of Documents Used/Presented at the September 3, 2015 Commission Meeting

- Minutes of the August 20, 2015 Commission meeting.
- Handout material: September 3, 2015 Commission meeting agenda.
- Handout material: Draft Limited Development of Regional Impact Decision recommended by the subcommittee for the Springhill Suites by Marriott project.