

3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD  
COMMISSION

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## Minutes

### Meeting

### Cape Cod Commission

First District Courthouse • Assembly of Delegates Chambers  
3195 Main Street, Barnstable, MA 02630

October 12, 2017

The meeting was convened at 3:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	✓
Bourne	Richard Conron	Absent
Brewster	Elizabeth Taylor	✓
Chatham	Michael Skelley	✓
Dennis	Richard Roy	✓
Eastham	Joy Brookshire	Absent
Falmouth	Charles McCaffrey	✓
Harwich	Jacqueline Etsten	✓
Mashpee	Ernest Virgilio	Absent
Orleans	Len Short	✓
Provincetown	Vacant	Vacant
Sandwich	Harold Mitchell	✓
Truro	Kevin Grunwald	Absent
Wellfleet	Roger Putnam	✓
Yarmouth	John McCormack, Jr.	✓
County Commissioner	Mary Pat Flynn	Absent
Minority Representative	John Harris	✓
Native American Rep.	David Weeden	✓ (arrived at 3:10 p.m.)
Governor's Appointee	Michael Maxim	✓ (arrived at 3:25 p.m.)

The meeting of the Cape Cod Commission was called to order on Thursday, October 12, 2017 at 3:00 p.m. in the First District Courthouse, Assembly of Delegates Chambers, 3195 Main Street, Barnstable, MA. Roll was called and a quorum was established.

### **SUMMARY OF ACTIONS TAKEN/VOTES:**

**Approval of Minutes:** The minutes of the August 3, 2017 Commission meeting were approved with 10 votes in favor and one abstention (Jacqueline Etsten). The minutes of the August 31, 2017 Commission meeting were unanimously approved.

**Public Hearing: Hyannis Courtyard Marriott Expansion Project** — Following presentations, public testimony and discussion, the Commission deliberated on the Development of Regional Impact (DRI) Scoping application submitted by Julia Hotel LLC for proposed construction of an approximately 31,470 square foot, two-story addition to the existing hotel located at 707 Iyannough Road (Route 132) in Hyannis, MA. Following deliberation, the Commission voted unanimously to close the public hearing and voted unanimously to approve and adopt the draft written DRI Scoping Decision for the project allowing the project to proceed with local permitting without further DRI review, subject to the findings and conditions in the DRI Scoping Decision.

**Public Hearing: Proposed Town of Eastham District of Critical Planning Concern Designation** — Following presentations, public testimony and discussion, the Commission deliberated on the Proposed Eastham District of Critical Planning Concern (DCPC) nomination submitted by the Town of Eastham for designation and submission to the Assembly of Delegates for adoption by County Ordinance. Following deliberation, the Commission voted unanimously to close the public hearing and voted unanimously to adopt the draft written decision approving the Eastham Board of Selectmen's request to designate the Eastham DCPC and forward the designation to the Assembly of Delegates for enactment as a County Ordinance.

### **■ MINUTES**

The minutes of the August 3, 2017 Commission meeting were reviewed. Len Short moved to approve the minutes, Richard Roy seconded the motion and a vote called on the motion passed with 10 votes in favor and one abstention (Jacqueline Etsten).

The minutes of the August 31, 2017 Commission meeting were reviewed. Jack McCormack moved to approve the minutes, Len Short seconded the motion and a vote called on the motion passed with a unanimous vote.

### **■ EXECUTIVE DIRECTOR'S REPORT**

Executive Director Paul Niedzwiecki said the comment period for the Section 208 Area-wide Water Quality Management Plan Implementation Report ended on September 18 and it's now at the Department of Environmental Protection for approval. He said the Cape Cod Water Protection Collaborative (CCWPC) has been meeting to discuss standing issues, they are working on a white paper, they have been looking at Chapter 6 of the Section 208 Plan and legislation at the State House and the CCWPC voted to send a letter to the Cape Delegation saying if the tax from second homeowners utilizing homes as rental properties should pass, it should be devoted to wastewater on Cape Cod. He said Commission staff continue to work on the National Oceanic and Atmospheric Administration (NOAA) Grant and he hopes to have a final draft report soon. He said Barnstable's Downtown Hyannis Growth Incentive Zone (GIZ) continues to move forward and the County continues to go forward with the Early Retirement Incentive Program, eligible employees have been notified and have until November 3, 2017 to respond if they are interested in participating. Mr. Niedzwiecki said he attended a meeting at the Association to Preserve Cape Cod.

### **■ HYANNIS COURTYARD MARRIOTT EXPANSION**

Chair Harold Mitchell read the hearing notice and opened the public hearing at 3:10 p.m. He said the Commission will hear presentations and take public testimony on the Development of Regional Impact (DRI) Scoping application submitted by Julia Hotel LLC for the proposed expansion of the existing Hyannis Courtyard Marriott located at 707 Iyannough Road (Route 132) in Hyannis, MA. He said the applicant is proposing an approximately 31,470 square foot, two-story addition to the existing hotel on the site to accommodate 50 new hotel rooms and related site improvements.

Eliza Cox, Attorney with Nutter McClennen & Fish representing Julia Hotel LLC, referred to PowerPoint Slides showing an aerial view of the 6.45 acre-project site and said the project before the Commission today is a redevelopment project involving construction of a proposed expansion to the existing Hyannis Courtyard Marriott hotel. She said the proposed expansion consists of a two-story, approximately 31,000 square foot new addition with 50 new hotel guest rooms—an increase of 49 guest rooms as one room will connect the proposed addition to the existing building. She said views are largely obstructed and set back from Route 132; with the new addition the front parking lot will be reconfigured, there will be new landscaped islands, construction of new rows of parking at the rear of the site, and stormwater improvements. She said significant site improvements include eliminating two existing curb-cuts and consolidating one right in/right out curb-cut, extending the median, increased driveway separation to abutting properties and the sidewalk is proposed to be extended along the entire front of the property. She said the pedestrian connection to the Cape Cod Mall, the easement to Route 28 and vehicle interconnection will be maintained. Attorney Cox said project benefits include redevelopment/reinvestment in an economic center, significantly improved traffic safety, pedestrian improvements with a sidewalk, improved stormwater drainage, it will be LEED certifiable, streetscape/landscape improvements, additional revenue for the Town of Barnstable and an affordable housing contribution of \$31,000. Attorney Cox thanked Commission staff and the Commission's Committee on Planning and Regulation for their recommendation for approval of the project.

Jeffrey Ribeiro, Regulatory Officer at the Commission, provided a procedural history on the project and said the project qualifies as a Development of Regional Impact (DRI) pursuant to Section 3(e) of the Commission's *Enabling Regulations Governing Review of Developments of Regional Impact* as new construction of any building or buildings with a gross floor area greater than 10,000 square feet. He explained consistency with the Commission's Regional Policy Plan (RPP) issue areas for economic development, water resources, natural resources, transportation, affordable housing, community character, waste management, energy and heritage preservation. Mr. Ribeiro explained conditions in the draft written decision regarding issue areas for transportation, affordable housing and community character.

Chair Harold Mitchell called for testimony from federal, state, local officials and the public. Seeing none Chair Mitchell called for a motion to close the public hearing. The motion to close the public hearing was moved by Jack McCormack and seconded by Roger Putnam. A vote called on the motion passed with a unanimous vote.

Royden Richardson said this is a good project and he would recommend approval.

Jack McCormack moved that the Commission approve and adopt the draft written DRI Scoping Decision for the project, allowing the project to proceed with local permitting without further DRI review, subject to the findings and conditions in the DRI Scoping decision. Richard Roy seconded the motion and a vote called on the motion passed with a unanimous vote.

## ■ PROPOSED EASTHAM DISTRICT OF CRITICAL PLANNING CONCERN DESIGNATION

Chair Harold Mitchell noted that this is a continued public hearing from October 3, 2017, he read the hearing notice and opened the public hearing at 3:30 p.m.

Jonathon Idman, Chief Regulatory Officer at the Commission, said he served as hearing officer at the hearing on October 3, 2017 in the Eastham Town Hall. Mr. Idman provided a staff report from the October 3<sup>rd</sup> hearing; he said presentations were made by Sharon Rooney, Chief Planner at the Commission, Paul Lagg, Eastham Town Planner and public comment was heard. He said there was unanimous sentiment at the hearing for a need for this request. He said the issues discussed were in the areas of traffic/transportation, community character, and housing. He said before the Commission today is a draft written decision on the proposed Eastham District of Critical Planning Concern Designation along with the public hearing minutes from October 3, 2017.

Sharon Rooney, Chief Planner at the Commission, with the use of PowerPoint slides referred to a map showing the proposed District boundary as the Route 6 corridor from Old Orchard Road to the Wellfleet town line. She said the boundary consists of approximately 280 acres of land area and 2.9 acres of open water, it encompasses the town's primary commercial area including District C Industrial, District D Retail Sales and Service, and District E Residential/Limited Commercial and all land within the North Eastham Overlay District. Ms. Rooney provided an overview of the DCPC process and said at its meeting on August 31, 2017 the Commission voted to accept the Town of

Eastham's DCPC nomination for consideration and a limited moratorium on development began; on October 3, 2017 a hearing officer of the Cape Cod Commission held a public hearing in the Town of Eastham on the proposed nomination; at its meeting on October 12, 2017 the Commission makes a decision whether to recommend designation of the DCPC to the Assembly of Delegates; and November 1, 2017 is set as a tentative date for a hearing and decision by the Assembly of Delegates. Ms. Rooney said public input to date has been a unanimous vote of the Eastham Board of Selectmen to nominate the DCPC, strong public support evidenced by the Commission's hearing officer report, five letters of support have been received, and there has been no testimony or letters in opposition.

Ms. Rooney described the District proposed as an Economic or Development Resource District, Affordable Housing Resource District, and a Transportation Management District and the reasons for the District's designation is due to the potential for uncontrolled or inappropriate development; the district is bisected by a four-lane undivided highway with multiple curb-cuts and high traffic volumes; permissive commercial zoning and the recent provision of town water. She said the values and resources protected by the District's designation are improved coastal water quality, balanced economic growth, provision of adequate capital facilities, development of an adequate supply of fair affordable housing, and preservation of architectural values. Ms. Rooney said the goals and interests of the District would enhance and protect the character of Eastham's commercial areas, it would encourage mixed-use development, support and enhance the local economy, improve bicyclist and pedestrian safety and access along Route 6, minimize traffic conflicts and improve access management, expand opportunities for the creation of affordable housing, adopt Best Management Practices (BMPs) to manage nutrients from stormwater and support appropriate-scale businesses and other compatible uses.

Ms. Rooney said the proposed Guidelines for the Implementing Regulations in the draft decision shall serve as the basis for the future establishment of implementing regulations to be adopted by the Town of Eastham pursuant to Section 11 of the Cape Cod Commission Act. She said for the implementing regulations to be approved, they must be found by the Commission to be consistent with the proposed Guidelines in the draft decision. Ms. Rooney said today the Commission is being asked to vote whether to adopt the proposed draft written decision approving the Eastham Board of Selectmen's request to designate the Eastham DCPC and forward the designation to the Assembly of Delegates for enactment as a County ordinance.

Paul Lagg, Eastham Town Planner, said the DCPC nomination was spurred by increased development activity in Eastham, the town's new water system, and traffic impacts along Route 6 and residents and local businesses have brought forward their concerns. He said Eastham needs time to review its zoning bylaws to adequately address the issues concerning development, traffic safety improvements and affordable housing that they have not been able to establish in the area. He said people in the community understand and support the Town of Eastham and said he is asking for the Commission's support of the Eastham DCPC designation.

Royden Richardson said last Saturday he drove to the end of the Cape and said he could see how the community is ready for this. He said he supports the Eastham DCPC.

Jacqueline Etsten referred to the Implementing Regulations and said it doesn't mention design guidelines and asked if that should be spelled out. Sharon Rooney said it's in Guideline 1 on page 6 of the DCPC designation decision.

Chair Harold Mitchell called for testimony from federal, state, local officials and the public.

William O'Shea, Chair of the Eastham Board of Selectmen, asked for approval by the Commission. He said the Commission did a great job conducting the public hearing on October 3 and Paul Lagg has done a good job explaining why the DCPC is needed.

Jack McCormack moved to close the public hearing and Roger Putnam seconded the motion. A vote called on the motion passed with a unanimous vote.

Elizabeth Taylor moved that the Commission adopt the draft decision approving the Eastham Board of Selectmen's request to designate the Eastham DCPC and forward the designation to the Assembly of Delegates for enactment as a County ordinance. Jack McCormack seconded the motion and vote called on the motion passed with a unanimous vote.

Jack McCormack said he supports the Eastham DCPC. He said it shows that there could be unintended consequences when implementing infrastructure. He said every town should think about DCPCs when implementing infrastructure especially for wastewater when towns begin implementing the Section 208 Plan.

■ **NEW BUSINESS:** *Topics not reasonably anticipated by the Chair more than 48 hours before the meeting.*

Mike Skelley said he read that Orleans is having problems with the Tri-Town Sewage Plant and asked if pre-audits could be done by the Commission. He questioned whether the Commission could do pre-audits to look at how sewage plants are built and the cost to build them and said it would alleviate duplicity and make them more cost effective. He said the Commission has done great work with the Section 208 Plan and asked if this is something the Commission can do to help towns.

Paul Niedzwiecki said the Section 208 Implementation Report is at the Department of Environmental Protection and said guidance will be provided to towns. He said he is hoping that pre-audits can be done by scenario, by cost and by town. He said the Commission is in the process of doing that and perhaps the Commission can do a more in-depth presentation at a workshop to see if a pre-audit is satisfactory.

Jack McCormack said he heard that community preservation funds created through the Community Preservation Act (CPA) can be used. He said perhaps that could be discussed at a workshop as well.

Mr. Niedzwiecki said both could be discussed at a future workshop.

A motion was made to adjourn at 3:55 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

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Elizabeth Taylor, Secretary

### **List of Documents Used/Presented at the October 12, 2017 Commission Meeting**

- Handout material: October 12, 2017 Commission meeting agenda.
- Handout material: August 3, 2017 Draft Commission meeting minutes
- Handout material: August 31, 2017 Draft Commission meeting minutes
- Handout material: Hyannis Courtyard Marriott Expansion Draft DRI Scoping Decision
- Handout material: Proposed Town of Eastham District of Critical Concern Draft Designation Decision.
- Material Presented: PowerPoint presentation on the Hyannis Courtyard Marriott Expansion project prepared and presented by Cape Cod Commission Staff.
- Material Presented: PowerPoint presentation on the Hyannis Courtyard Marriott Expansion project prepared and presented by Attorney Eliza Cox.
- Material Presented: PowerPoint presentation on the Town of Eastham District of Critical Planning Concern.