



Minutes
Cape Cod Commission (CCC)
Barnstable County Complex- East Wing Conference Room
3195 Main Street, Barnstable, MA 02630
February 6, 2020

ROLL CALL

The Chair, Harold Mitchell, called the Cape Cod Commission meeting to order on Thursday, February 6, 2020, at 3:00 p.m., in the East Wing Conference Room, 3195 Main Street, Barnstable, MA 02630. He announced that because Tom Wilson, Chatham Representative, was participating remotely for the meeting, all votes and the quorum count for the meeting would be taken and recorded by Roll Call vote. The electronic voting system was not available therefore staff would tally the votes and declare the results of each vote. The Secretary took the quorum count and a quorum of members was established as follows:

Town	Member	Attendance
Barnstable	Fred Chirigotis	Absent
Bourne	Stephen Mealy	Present
Brewster	Elizabeth Taylor	Present
Chatham	Tom Wilson	Present (remote participant)
Dennis	Richard Roy	Present
Eastham	Joy Brookshire	Present
Falmouth	Charles McCaffrey	Present
Harwich	Jacqueline Etsten	Present
Mashpee	Ernest Virgilio	Absent
Orleans	Len Short	Absent
Provincetown	Cheryl Andrews	Present
Sandwich	Harold Mitchell	Present
Truro	Kevin Grunwald	Present
Wellfleet	Richard Elkin	Present
Yarmouth	John McCormack, Jr.	Present
County Commissioner	Ronald Bergstrom	Absent
Minority Representative	John Harris	Present
Native American Rep.	David Weeden	Present
Governor's Appointee	Michael Maxim	Present

Summary of Actions Taken/Votes at Meeting:

- **Approval of Minutes:** The minutes of the January 23, 2020 CCC Meeting were approved.
- **Vote to add condition to the Tractor Supply Hyannis DRI decision** to require a Reconnaissance level archeological survey prior to site disturbance was approved with 8 in favor and 6 opposed.
- **Vote to add a condition to the Tractor Supply DRI decision** to require an 8-foot cedar fence to the east side of the site failed by a vote of 2 in favor and 12 opposed.



- **Tractor Supply Hyannis – DRI Public Hearing:** The Commission voted to adopt the draft written DRI decision (with revisions adopted at the meeting) and approved the Tractor Supply project, with Conditions.

Public Comment:

The Chairman offered an opportunity for public comment on matters not otherwise on the agenda.

There were no public comments.

Approval of minutes:

The minutes of the January 23, 2020, Cape Cod Commission meeting were reviewed.

Upon a motion by Jack McCormack to approve the draft minutes of 1/23/20, seconded by Stephen Mealy, the motion carried with 15 ‘yes’ votes.

The Roll Call vote was recorded as follows:

Stephen Mealy, yes; Elizabeth Taylor, yes; Tom Wilson, yes; Richard Roy, yes; Joy Brookshire, yes; Charles McCaffrey, yes; Jacqueline Etsten, yes; Cheryl Andrews, yes; Harold Mitchell, yes; Kevin Grunwald, yes; Richard Elkin, yes; John McCormack, Jr., yes; John Harris, yes; David Weeden, yes; and Michael Maxim, yes.

Tractor Supply Hyannis

The Chair announced the meeting agenda item for Development of Regional Impact (DRI) review of the proposed Tractor Supply development, 1174 Pitchers Way in Hyannis proposed by Windmill Square LLC. The Chair asked that staff report on updates since the last meeting on the project.

Jon Idman reported on updates since the last proceeding which are represented in the revised decision presented. He stated that there were four distinct issues discussed at the last proceeding. They included discussion of whether there should be a rapid flashing beacon system on the mid-block crosswalk at Pitchers Way; whether there should be prohibition on the use of glyphosate as part of invasive species management plan; whether there should be an Archaeological Survey undertaken before any construction activity or site disturbance; and finally, whether there should be an additional cedar fence that runs along the east side of the outdoor storage area where there is currently proposed a chain link fence. The decision had been revised to reflect the two things that the applicant agreed to in advance of the meeting; incorporation of rapid flashing beacon system on Pitcher's Way, and a limitation on the use of glyphosate as part of their lawn maintenance and invasive species management activities. The two things the applicant wasn't willing to offer prior to further discussion by and with the Commission were the additional cedar fence along the outdoor storage area, and the Archaeological Survey. The revised decision also elaborates on a previously recognized project detriment, identifying the site as a transitional area between commercial and residential areas which currently serves as a visual vegetative buffer between these areas. These revisions discussed are indicated in the decision by red-line. Exhibit A was also completed and appended to the decision which lists all the approved project plans, including the updated architectural elevation plan for the southwest building corner siding treatment, according to which the project would have to be constructed and implemented.



Mr. Idman reminded the Commission that though the hearing was closed the record was left open for the applicant to respond to some of questions and concerns, noting the applicant was in attendance. He added that since the last proceeding on the project, the applicant had discussed with him concern that the fence would interfere with the landscaping approach that had been reviewed and endorsed by the subcommittee such as by space conflicts; maintenance concerns; and the visibility of another structure. He also added that the applicant expressed that it may have more information about the Archaeological conditions in the area from other projects it had undertaken, and had reiterated its concern that it felt that it was unfair and too late in the review to ask for an Archaeological Survey and felt that it was highly unlikely given all the development around the site that there would be important archaeological resources present on the site.

Mr. Idman suggested that if the Commission were to consider further revisions including additional conditions to the decision, it would be best to do it by individual motion before the ultimate vote on the project.

Mr. Idman finished his update by noting that Steve Tupper would follow and provide staff comments on the proposed rapid flashing beacon systems and a question from a member who asked about limiting turning movements in or out of the site to improve traffic congestion or safety. Mr. Idman also noted that Sarah Korjeff would discuss a phone conversation she had with Mass. Historical Commission (MHC) staff and more generally archaeological surveys under MHC regulations.

Mr. Idman thanked the committee for their time and introduced Steven Tupper, Transportation Program Manager at the Cape Cod Commission.

Mr. Tupper explained rectangular rapid flashing beacon systems sometimes referred to as an RRFB. He explained that the installation of the RRFB would be pedestrian activated and located at the mid-block crosswalk proposed on Pitcher's Way, with flashing beacons facing each way on Pitchers Way to better alert drivers of the crosswalk and pedestrians crossing in it. He stated that research supports their effectiveness. Commission staff reviewed felt that it was an RRFB was appropriate in the context of the project and town staff has documented support for this installation as well. Mr. Tupper also pointed out it's important in a regional context, understanding that a multi-use path is planned along Bearses Way, to provide a safe connection from the residences to the west of Pitcher's Way, all the way to that path.

Mr. Tupper stated that the second topic is site circulation and access. He said the site is unique in terms of circulation and access, given that it is surrounded by roadways. He said that the staff and the subcommittee have discussed these issues at length throughout the entire project review, and staff is comfortable with the site access as proposed and endorsed by the subcommittee. This has been reviewed by commission staff from discussed at the subcommittee meetings and staff feels this is consistent with the Regional Policy Plan (RPP) and the Technical Bulletin. He highlighted a few of the reasons for staff's position.

The Transportation Technical Bulletin contains access management principles and leave some discretion for the Commission and staff to determine how to apply these principles in the context of project review. In terms of the proposed development, it's a relatively low traffic generator. That factors in when considering what sort of access management is appropriate for a project. One of the general principles of good access management is to minimize the number of curb cuts. Mr. Tupper explained the unique characterizes of the site and curb cuts, and staff feels that the number of curb cuts proposed is appropriate under the circumstances. Another of the concerns the subcommittee heard is about cutting through the site as a shortcut between Pitcher's and Bearses Ways. The applicant addressed those concerns in its site design through proposed offsetting driveways and gating the delivery driveway. Staff feels that the site allows emergency access as needed and the proposed turning movements allowed into and from the site



allows for a balance in trip distribution between Pitcher's and Bearses Ways, and that limiting turn movements through signage or design would disrupt this balance.

The Chair announced Sarah Korjeff, Historic Preservation Specialist, Cape Cod Commission would speak.

Ms. Korjeff is following up on the issue of a potential Archaeological Survey on the site. She indicated that she had a conversation with the staff at the Historical Commission as they are consulted regarding archaeological resource sensitivity as part of DRI review. MHC maintains a database of known archaeological sites on the Cape; MHC has also developed criteria for where resources are most likely to be found based on environmental features like proximity to waterbodies. MHC advised Ms. Korjeff that staff did not comment on the project as it was not a priority. MHC indicated that the applicant could resubmit the project notification form to MHC. MHC did indicate that there are no known archaeological sites on this specific property and that there have been archaeological surveys done on properties in the vicinity of this and there were not archaeological resources found in those cases. However, a little bit further away closer to an area pond there have been archaeological resources found. Ms. Korjeff advised that it is not possible to rule out the existence of archaeological resources on this site. She added that based on review of about 100 years' worth of aerial photographs that include the site, the site does not appear to have been disturbed or developed, which makes it possible in Commission staff's opinion that there could be archaeological resources on-site. She concluded that Commission staff feels that there is some validity to requiring an Archaeological Survey.

The Chair thanked Ms. Korjeff. He then opened the floor to members for questions.

David Weeden stated that he maintains his position that an archaeological survey should be conducted for the site. He mentioned the variety of different types of investigations available involving greater or lesser degrees of test pits and other physical site investigations.

Ms. Taylor stated that she appreciates that the applicant has agreed to limit glyphosate use. She also realizes that this is a commercial area and different development scenarios could proceed without DRI review; she believes that there is a value in the comprehensive type of review the Commission undertakes, and the Conditions it can impose in decision-making.

Ms. Etsten questioned the weekly deliveries to the site. It was indicated that 2 – 3 tractor trailer deliveries a week with frequent smaller deliveries.

Mr. Elkin asked about road markings in Bearses Way and what turning movements are allowed by these markings. Mr. Tupper stated that access from Bearses Way is something that can be discussed through the local process and is largely up to the town. As the Commission reviewed the project, the Bearses Way driveway is considered a full access driveway.

There was further discussion from Mr. Mills (counsel for the applicant) and Mr. Weeden to gain clarification of what the Archaeological Survey would entail. Mr. Weeden explained the process of soil sampling. The applicant mentioned the late date of the survey request in the review process and other projects that have been developed in the area as reasons not to require a survey.

Mr. Mealy asked for clarification of what the Commission might be asking of the applicant in terms of an archaeological investigation. Ms. Korjeff explained that as has been done with other DRI's we could require a reconnaissance level Archaeological Survey which is specifically defined by MHC regulations. It involves soil sample and an archaeologist walking over the property assessing the topographical features and other environmental features to determine what parts of the site are worth sampling. There



have not been any archaeological findings in the immediate area, but only within 1 – 2 miles. Mr. Grunwald raised a question of fairness to the applicant that it's far into the process to make this requirement. Mr. Idman stated that if we make this request to the applicant, it would be a condition of the decision, i.e. the survey would be done after the decision. The survey would then be given to Commission staff for review before a building permit would be issued.

Upon a motion by David Weeden to adopt and incorporate a Condition into the draft DRI decision requiring the applicant to perform a reconnaissance-level survey per MHC regulations prior to any project site work or disturbance, seconded by John Harris, the Roll Call vote was recorded as follows:

Stephen Mealy, no; Elizabeth Taylor, yes; Tom Wilson, no; Richard Roy, yes; Joy Brookshire, yes; Charles McCaffrey, yes; Jacqueline Etsten, yes; Cheryl Andrews, yes; Harold Mitchell, no; Kevin Grunwald, no; Richard Elkin, no; John McCormack, Jr., no; John Harris, yes; David Weeden, yes. There were 8 yes votes, 6 no votes, the motion carried.

Ms. Etsten raised her concerns about the need for additional fencing on Bearses Way. She also discussed average salaries, the impact on traffic and the possibility of needing a variance from the town's groundwater protection overlay district requirements. She feels that the project is more detrimental than beneficial.

The Chair and Mr. Wilson spoke on behalf of the subcommittee and the review process. They feel that a cedar fence would require special permitting at the height and location proposed, require greater maintenance and would be a new structure and more visible than a chain link fence (where the landscaping proposed would render the green chain link fence nearly invisible). Mr. Roy also agreed with comments from the Chair and Mr. Wilson citing the meetings and discussions that were had and added that the vegetation will be higher than the link fence.

Upon a motion to require a condition that a requirement of an 8 foot cedar fence to run along the east side along the storage area along Bearses Way by Jacqueline Etsten, seconded by Elizabeth Taylor, there were 2 yes votes and 12 no votes, the motion failed.

The Roll Call vote was recorded as follows:

Stephen Mealy, no; Elizabeth Taylor, no; Tom Wilson, no; Richard Roy, no; Joy Brookshire, no; Charles McCaffrey, no; Jacqueline Etsten, yes; Cheryl Andrews, no; Harold Mitchell, no; Kevin Grunwald, no; Richard Elkin, no; John McCormack, Jr., no; John Harris, no; David Weeden, yes.

Upon a motion to adopt the draft DRI decision dated February 6, 2020 (with the further revision regarding the requirement for an Archaeological Reconnaissance Level Survey on site) and to approve the Tractor Supply Hyannis project subject to the Conditions in said decision by Dick Roy, seconded by Stephen Mealy, there were 10 yes votes and 4 no votes, the motion carried.

The Roll Call vote was recorded as follows:

Stephen Mealy, yes; Elizabeth Taylor, yes; Tom Wilson, yes; Richard Roy, yes; Joy Brookshire, yes; Charles McCaffrey, yes; Jacqueline Etsten, no; Cheryl Andrews, no; Harold Mitchell, yes; Kevin Grunwald, yes; Richard Elkin, yes; John McCormack, Jr., yes; John Harris, no; David Weeden, no.

Executive Directors Report – Kristy Senatori

- Staff has started planning for the 2020 One Cape Summit being held some time during the summer



- Staff was invited to participate on the Advisory Committee for the Southeast New England Program Technical Assistance Network – the committee met for the first time on 1/27/20
- Staff attended the Cape Cod 5 HQ Grand Opening on 1/28/20
- Staff presented the Resilient Cape Cod project at a meeting hosted at the Wellfleet Library by CREW (Communities Responding to Extreme Weather) on 1/28/20
- Staff attended Harwich MVP with staff on 1/31/20
- Staff presented at the Heritage Museum & Gardens on work that is done at the Commission
- Staff attended Select Board Meeting in Brewster on 2/3/20 to give a CCC update
- Two DRIs formerly pending before the Commission (Cape Cod Hospital New Tower and Marchant House Demolition Hyannisport Club) have now been withdrawn from local permitting, effectively withdrawing the projects from DRI review. The withdrawal correspondence for the two matters have been uploaded to the member’s site and website:
- There will be no CCC, CPR or Exec Comm meetings on February 20, 2020
- Staff is reviewing 2020 DLTA project proposals that were submitted by the Communities
- Staff is completing procurement/contracting project for spring 2020 aerial flyover/orthoimage acquisition done 5 years ago and is time for an update
- The Barnstable County Economic Development Council issued grant proposals using License Plate grant funds and grant proposals were received this week. Staff will review responses with the Council subcommittee later this month.

The Chair thanked Ms. Senatori for her updates.

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

There was no new business raised.

ADJOURN

Upon a motion to adjourn the meeting at 4:10 pm by Stephen Mealy, seconded by Joyce Brookshire the vote was passed unanimously.

Roll call vote was taken and was recorded as follows:

Stephen Mealy, yes; Elizabeth Taylor, yes; Tom Wilson, yes; Richard Roy, yes; Joy Brookshire, yes; Charles McCaffrey, yes; Jacqueline Etsten, yes; Cheryl Andrews, yes; Harold Mitchell, yes; Kevin Grunwald, yes; Richard Elkin, yes; Jack McCormack, yes; John Harris, yes; David Weeden, yes, Michael Maxim, yes. There were 15 yes votes, the motion carried.

List of Documents Used/Presented/Submitted at the February 6, 2020 Cape Cod Commission Meeting

February 6, 2020 Cape Cod Commission Meeting Agenda
Draft Minutes, January 23, 2020 Cape Cod Commission Meeting
Draft redlined DRI Decision for Tractor Supply dated 2/6/2020


Elizabeth Taylor, Secretary


Date