



Minutes
Cape Cod Commission (CCC)
Barnstable County Complex- East Wing Conference Room
3195 Main Street, Barnstable, MA 02630
March 5, 2020

ROLL CALL

The Chair, Harold Mitchell, called the Cape Cod Commission meeting to order on Thursday, March 5, 2020, at 3:00 p.m., in the East Wing Conference Room, 3195 Main Street, Barnstable, MA 02630. The Secretary took the quorum count and a quorum of members was established as follows:

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

Summary of Actions Taken/Votes at Meeting:

- **Approval of Minutes:** The minutes of the February 6, 2020 meeting were approved.
- **Mashpee Commons – Notice of Intent to Enter into a Development Agreement-** Project was voted to be eligible and suitable for a Development Agreement application
- **Proposed Amendments to Chapter A: Enabling Regulations-** Voted to forward to the Assembly of Delegates for adoption as a County Ordinance.

Executive Directors Report – Kristy Senatori

- CCC hosted a Form-Based Code Training with Housing Assistance Corporation (HAC) on February 10, 2020



- She provided Select Board Updates about CCC and staff actions in Truro on February 20, 2020; Orleans on February 19, 2020, Provincetown is scheduled for March 9, 2020 and Harwich on March 16, 2020
- She gave an informational Interview re: the Areawide 208 Plan on radio station WCAI – Woods Hole with Erin Perry on February 11, 2020
- Barnstable County Economic Development Council License Plate Grant Subcommittee met on February 14, 2020: Barnstable County Economic Development Council (BCEDC) Meeting on February 27, 2020 voted to award Association to Preserve Cape Cod (APCC) and HAC \$150,000 Major Grants through the License Plate Grant Program to support identification of locations appropriate for housing that do not impact natural resources.
- She attended the Project Advisory Group at Barnstable Airport on February 18, 2020
- She attended Cape Cod Chamber of Commerce Wastewater Task Force Meeting on February 20, 2020
- Staff attended and presented at the Geo Design Summit in Redlands, CA from February 24-26, 2020
- Staff attended the Community Development Partnership (CDP) Board of Director's Meeting in Eastham on February 27, 2020
- She attended the Selectmen & Councilor's Legislative Breakfast at the Seacrest hotel in Falmouth on February 28, 2020
- Staff attended the Community Health Committee at Cape Cod Hospital on March 3, 2020
- CCC hosted the Southeast New England Program (SNEP) Steering Committee on March 4, 2020
- CCC was invited to speak at the New England Coastal Resilience Workshop at University of New Hampshire (UNH) on March 18, 2020
- CCC is continuing to support the Cape and Islands Water Protection Fund Management Board working with the Department of Environmental Protection (DEP) and the Clean Water Trust, as they develop regulations for the Fund

Staff Updates: Tara Lewis joined the staff as a Water Resources Analyst on February 24, 2020; CCC is currently advertising for Regulatory Planner II, Community Development Planner, Community Design Planner, and Special Projects Coordinator positions.

The Chair thanked Ms. Senatori for her updates.

The Chair read the hearing notice and opened the hearing on the agenda item for Mashpee Commons - Notice of Intent to Enter into a Development Agreement.

The Chair asked the Applicant to present the request.

Eliza Cox, Attorney for the applicant introduced the Mashpee Commons' team of Buff Chace, Principal of Mashpee Commons, his daughter Sarah Chace and Tom Feronti. She described the purpose of and process surrounding a Notice of Intent (NOI) to file a development agreement under the Cape Cod Commission's development agreement regulations. She said that the existing development has largely been based on a special permit issued in 1986 by the town's zoning board, though there have been a few Development of Regional Impact (DRI) permits issued as well. The Committee on Planning and Regulation (CPR) voted at its meeting on February 6, 2020 to support the Applicant's NOI and request to enter into a development agreement with the Commission. She described the process for reviewing a development agreement if the Commission were to approve the NOI but noted that under the NOI the threshold determination before the Commission is merely whether the



Applicant's proposed development meets the criteria for a development agreement with the Commission. She then introduced Buff Chace to speak.

Mr. Chace described his family's history with Mashpee Commons and the development and permitting history behind Mashpee Commons. He stated that his family was also the original developer of the New Seabury. He said Mashpee Commons is modeled after the traditional Cape Cod village, dense, walkable with a mixture of uses. He said about 18 months ago Mashpee Commons began to have a conversation with Town of Mashpee officials and community trying to get feedback as to what they want to see in the Mashpee and the future development at Mashpee Commons. Responses were consistent with a Community Activity Center vision, with passive recreation and different housing types as there is Cape-wide demand is for 80% is apartments or attached housing. Mashpee Commons' future build would encompass affordable housing and workforce housing including for the older population who want to move out of their single-family houses.

Ms. Cox walked through the Notice of Intent that was filed and touched on the criteria contained in the Commission's regulations, displaying a map/plan contained in the NOI application. She said a development agreement is more efficient for the Commission and applicant as a master permit rather than having to permit ad hoc and anew every time new development is proposed on a parcel over time. Mashpee Commons has been recognized nationally and locally for its achievements. More than 1000 jobs have been created there and about 100 people currently reside there and is the town's largest taxpayer. Even with these achievements the combination of having a substantial amount of land under common control guided by a developer who is focused on smart growth principles, developing this in an environmentally thoughtful manner presents an opportunity to continue in this manner. She said the Commission recognized this in the 2018 Regional Policy Plan by designating the area in and around Mashpee Commons as a Community Activity Center. A Community Activity Center place type is defined as mixed use multifamily housing, providing diverse services, shopping, recreation, civic spaces, housing and job opportunities with adequate infrastructure and pedestrian amenities which is our vision for the future. This designation provides a great opportunity for responsible pedestrian oriented smart development that can make significant strides to achieve and address issues facing our region. These include the housing crisis by having an increased supply and diversity, helping to restore water quality with proper infrastructure, sparking economic development and responsibly continuing to grow the town's tax base while having conservation and park areas within the property. Regulations and permitting processes, as well as the marketplace, are subject to change over time which is another reason why a development agreement makes sense. It is the best tool to create a cooperative process where parties can plan for a create a smart strategic framework that allows for the right types of development in a manner that achieves the desired environmental, social and economic benefits while providing for flexibility and certainty with vesting regulations for the developer as they plan for the future. From the perspective of the Commission a development agreement makes sense by allowing the agency to review development more broadly and comprehensively, aligning its planning and regulatory roles. It also allows for more efficiency as a development agreement serves as a master plan and overall vision for future development.

She reviewed the six NOI criteria in the development agreement regulations. Mashpee Commons proposal would benefit from a comprehensive review to allow for planning and efficient infrastructure; the proposal is located on a large configuration of land commonly owned by the applicant; construction is anticipated to be built in phases and in a horizon longer than 7 years; and the phases have not yet been fully defined that that is case. The Agreement would ultimately create a framework for future development. The applicant has met with MEPA officials recently and will continue to have discussion with them to



determine what state level review will be required. There are past MEPA certificates and filings for Mashpee Commons. Finally, the Commission has received testimony from the Mashpee planning board and the board of selectmen in support of allowing a development agreement process. She concluded by stating the a development agreement is the right regulatory tool to review future Mashpee Commons development, that the Mashpee Commons vision is consistent with the Regional Policy Plan and Community Activity Center concepts, that the proposed development meets the NOI criteria, and asked for the Commission's vote to approve.

The Chair asked for comments from staff.

Mr. Idman stated that Staff and the CPR recommends to the Commission that it approve the NOI and determine proposed future development at Mashpee Commons is both eligible and suitable to be treated as a development agreement with the Commission. He said for certain projects development agreements provide the most effective route to appropriately review a project and staff feels that this is one of those situations. After the CPR made its recommendation to the Commission, staff put together a draft decision which contains all the necessary findings to approve the NOI under the criteria laid out in Section 5 of the development agreement regulations. He said a development agreement for a suitable project allows for the Commission's planning and regulatory functions to meld. It also allows the applicant to express more comprehensively the project even if some of the aspects of the project have yet to be detailed. It encourages private planning and encourages the Commission's administrative and planning efficiencies. Infrastructure can be appropriately sized, planned and constructed to handle the impacts of that development.

Mr. McCaffrey asked for the schedule of the process and in the initial phases of development. Mr. Chace responded that at this time, Mashpee Commons is not sure how long the process would take but local zoning changes would also be required and affect timing. A development agreement application could be as early as October 2020 or next October. He said that Mashpee Commons had a marketing study done which indicated a demand for 400 units housing per year. Mashpee Commons built 32 in the past 3 years so development is not keeping up with the demand. He would like to move as quickly as he can while interest rates are low and hoping to not run into a recession. He is open to moving along as quickly as possible.

Ms. Etsten asked if the Commission would see a layout of the site, location of roads, park areas, data on housing units and so on in the development agreement. Ms. Cox stated that these are things to think about as we get into the application development stage but need to get through this NOI step first. Such detail could be presented as form code/ design guidelines such as the Commission allowed in the development agreement with Cape Cod Healthcare in Independence Park, Hyannis.

Mr. Virgilio commented that he has had the opportunity to work closely with Mashpee Commons and they have always been cooperative. As Mashpee's representative he takes great pride in what Mashpee Commons has done over the year with the town and the opportunity for this development agreement makes sense.

Ms. Brookshire asked about adequate parking. Mr. Chace commented that current planning thinking is trying to get people less dependent on motor vehicles and use other forms of transportation. He said there is transit in Mashpee Commons and North Market Street, and it's a walkable area. He said that there will be adequate parking.



Mr. Chirogotis stated that this is exactly the type of mixed-use project local communities have been talking about for the last 10 – 12 years, creating places where people can live and work. He said this is an exciting project and thanked the applicant for coming forward. He added the need for the proposed type of housing and the wastewater infrastructure Mashpee Commons has developed.

Ms. Andrews asked whether, if the Commission ultimately approves a development agreement with Mashpee Commons, would any new development or change in development at Mashpee Commons over time have to be re-reviewed and approved by the Commission. Mr. Idman explained the development agreement review process. He stated that though there are similarities in process between development agreement review and DRI review, the development agreement is more of a negotiative process, and allows the Commission to approve future anticipated development generally according to standards set out in the agreement without the level of specificity normally required in the DRI process, and without having to review specific development at the juncture actually proposed (which would be contrary to some of the purposes of a development agreement).

The Chair opened the floor to public comments from state and local officials. There were no comments. The Chair then opened the floor to further member comments, and there were none.

Upon a motion that the Commission determine the proposed development discussed in the Mashpee Commons' Notice of Intent is eligible and suitable to be the subject of a development agreement with the Commission, made by Joyce Brookshire, seconded by Ernest Virgilio, the motion carried unanimously.

The Chair read the following hearing notice and opened the hearing on the meeting agenda item for Potential Amendments to Chapter A: Enabling Regulations Governing Developments of Regional Impact.

The Chair asked for staff comments on the proposal.

Jessica Wielgus, Cape Cod Commission Counsel, using a power point presentation, stated that the proposed amendments are to align the enabling regulations with the recently approved 2018 Regional Policy Plan (RPP). The RPP contemplated these amendments to both the enabling and other regulations; they are technical (vs. substantive) in nature. One of the action items in the RPP is to review and update of CCC regulations and regulatory process. Substantive changes to the regulations are proposed in the near future in a separate, more deliberate public process which will include discussion of DRI threshold changes. There are essentially four things being done with the current proposed amendments: the removal of repetitive or unnecessary processes; the removal of outdated or obsolete definitions or references; the removal of the individual growth incentive zone decisions' details; and editing for cohesion and internal consistency throughout the document. The RPP now contains flexibility in the DRI process which eliminates the need for a separate and distinct process for DRI scoping/ limited review and hardship exemptions, respectively. Additionally, removal of the adjudicatory hearing process for energy-related DRIs streamlines process made unnecessary by the regulatory changes in RPP Section 9. The proposed amendments also track revisions to growth incentive zone regulations approved in the last few years. The proposed amendments were reviewed by the Committee on Planning and Regulation who unanimously recommended that the Commission forward them on to the Assembly for enactment. Staff requests that the Commission support these technical corrections and edits. Staff's recommendation is that the Commission vote to



submit these proposed amendments to the Assembly of Delegates for adoption by ordinance.

Ms. Brookshire asked about the proposed deletion of the definition for wind energy conversion facilities and Ms. Wielgus stated that it is not necessary as there is no reference in the RPP or otherwise in Chapter A to wind energy conversion facilities.

The chair opened the floor to public comments, and there were none.

Upon a motion that the Commission submit the proposed amendments to Chapter A/ Enabling Regulations Governing DRI Review under consideration to the Assembly of Delegates for adoption by ordinance, made by Jack McCormack, seconded by Elizabeth Taylor, the motion carried unanimously. Cheryl Andrews abstained from the vote.

Public Comment:

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

Mr. Mealy asked, as raised by members during the Commission’s review of the recent Tractor Supply project, whether staff had a plan to pursue development of a guidance document to assist applicants and the Commission about when and how archaeological studies should be prepared for DRI review.

Mr. Idman stated that generally speaking it is a staff resource issue, but he agreed with Mr. Mealy that it is important to have prepared a guidance document sooner than later so that an applicant would know of any due diligence requirement early in the process or prior to making a DRI application .

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 3:55 pm by Jack McCormack, seconded by Elizabeth Taylor the motion carried unanimously.

List of Documents Used/Presented/Submitted at the March 5, 2020 Cape Cod Commission Meeting

- March 5, 2020 Cape Cod Commission Meeting Agenda
- Draft Minutes, February 6, 2020 Cape Cod Commission Meeting
- Draft Decision, Mashpee Commons Notice of Intent
- Mashpee Commons’ Map/ Plan, Notice of Intent application
- Proposed Amendments to Chapter A Enabling Regulations – Staff Power Point
- Chapter A Enabling Regulations Proposed Amendments- redlined document

Elizabeth Taylor, Secretary

Date