



CAPE COD
COMMISSION

**Minutes
Cape Cod Commission Meeting
Barnstable County Complex, East Wing Conference Room
3125 Main Street, Barnstable, MA 02630
July 25, 2019**

Chair Harold Mitchell called the Cape Cod Commission meeting to order on Thursday, July 25, 2019, at 3:00 p.m., in the East Wing Conference Room, 3195 Main Street, Barnstable, MA 02630. Roll was called, and a quorum was established:

Members Present

Barnstable: Fred Chirigotis
Bourne: Stephen Mealy
Brewster: Elizabeth Taylor, Secretary
Chatham: Tom Wilson
Eastham: Joy Brookshire
Falmouth: Charles McCaffrey
Harwich: Jacqueline Etsten
Mashpee: Ernest Virgilio
Orleans: Len Short
Provincetown: Dr. Cheryl Andrews
Sandwich: Harold Mitchell, Chair
Truro: Kevin Grunwald
Yarmouth: John McCormack, Jr., Vice Chair
County Commissioner's Representative: Ronald Bergstrom
Minority Representative: John Harris

Members Absent

Dennis: Richard Roy Absent
Wellfleet: VACANT
Native American Representative: David Weeden
Governor's Appointee: Michael Maxim

Summary of Actions Taken/Votes at Meeting:

- **Approval of minutes:** The minutes of the July 17, 2019 DRI Subcommittee for True Storage Redevelopment were approved by the project subcommittee.
- **True Storage Redevelopment Project:** The Commission granted DRI approval, with conditions, for the True Storage Redevelopment project in Bourne, and adopted a written DRI decision for the project.
- **Cape Cod Commission Local Comprehensive Plan Regulations:** The Commission rescinded its prior Local Comprehensive Plan Regulations and approved and adopted new Local Comprehensive Plan Regulations.

Public Comments

Chair Harold Mitchell asked for comments from the public on any matters not on the meeting agenda. No one offered comment.

Executive Director's Report – *Kristy Senatori*

- The OneCape Summit will be held Monday, July 29th and Tuesday July 30th, 2019 at the Wequassett Resort and Golf Club. Registration is full and closed
- Commission Staff participated on a panel with the Massachusetts Department of Environment Protection (DEP), Association to Preserve Cape Cod (APCC) and local officials in Wellfleet to discuss Wellfleet Harbor water quality/watershed planning.
- Deputy Director Erin Perry is on Martha's Vineyard today July 25th to talk about the OneCape Summit as the Martha's Vineyard Commission is interested in holding a similar event in the future on the Island.
- Kristy and Erin were on WCAI's "The Point" radio news program Tuesday morning July 23rd with Greg Berman, Barnstable County, and Mark Borelli, Center for Coastal Studies (CCS), to talk about Coastal Resilience and the Cape Cod Coastal Planner tool.

Staff Updates:

- Kristy introduced Sarah Colvin, who was hired as the Commission's Communications Manager.
- Heather Harper has taken the Assistant Town Manager position in Sandwich and Kristy wished her well in her new endeavors.
- There were two staff promotions: Gail Coyne has been promoted to Operations Director; and Maria McCauley promoted to Finance and Administration Manager.
- The Commission is currently interviewing to hire two Administrative Assistants: one to fill Lisa Dillon's position; and one to fill Taree McIntyre's position, who will be retiring in mid-September 2019.
- The Commission will likely cancel one of its meetings in August and hold a workshop on the other of its regularly scheduled meeting dates in August (8th or 22nd). The Commission will invite the family of the late Roger Putnam to the August meeting so that he can be honored by the Cape Cod Commission.

True Storage Redevelopment Project DRI Hearing

The Chair Harold Mitchell opened the Development of Regional Impact ("DRI") public hearing for the True Storage Redevelopment project by reading the hearing notice from the meeting agenda. He noted that the hearing is one continued by the project subcommittee from July 17, 2019.

Subcommittee Chair Harold Mitchell asked for a motion from the Subcommittee (Harold Mitchell, Jack McCormack, Tom Wilson, Charles McCaffrey [*NOTE: subcommittee member Dick Roy was not in attendance*]) to approve the subcommittee hearing minutes for the project from July 17, 2019. Charles McCaffrey moved the motion, seconded by Jack McCormack, and the motion carried unanimously.

The Chairman requested that the applicant present the project.

Eliza Cox, Esq. from Nutter, McClennen and Fish presented on behalf of the owner/applicant Clay Pond Road Acquisitions, LLC. Chris Lewis was also in attendance as a representative of the owner/ applicant.

Ms. Cox presented an overview of the project using PowerPoint slides (copy attached). She stated that there were two public hearings on the project held by the DRI subcommittee, and the applicant has met informally with the Town of Bourne Planning Board which will have local permitting review of the project. The presentation included an aerial view of the project site located at 170 Clay Pond Rd in Bourne. The entire site is an approximately 16-acre developed shopping center located in a business

zoning district. The shopping center was originally reviewed by the Cape Cod Commission in the 1990's and received DRI approval in 1991. The DRI decision approved an approx. 74, 500 square foot shopping center, not all of which was constructed. The building footprint of the current project is located in an area permitted for building development in the original DRI decision. The DRI decision was modified several times, one of which allowed for a vehicular and wastewater interconnection to the neighboring housing development to the south. Other slides gave the visual perspective of the site relative to the surrounding area. She stated that some existing business units in the shopping center would remain as-is and are not part of the current project and review. Attorney Cox reviewed the proposed site plan, which includes redevelopment and an expansion to the largest unit in the development, formerly occupied by a supermarket, as well as freestanding self-storage units located in a portion of an existing paved parking field. She stated that the building was designed to be consistent with the existing, approved architecture of the current building. In closing Attorney Cox reviewed suggested project benefits which included the following:

- Adaptively reuse and redevelop existing underutilized shopping center
- Redevelopment proposed entirely within existing development footprint
- Reduction in impervious cover
- Reduction in nitrogen loading/wastewater flows
- Enhanced wastewater treatment
- Storm-water management improvements
- Pedestrian enhancements
- Streetscape improvements along access drive
- Shared infrastructure with housing development
- Reduced traffic
- Reduced energy consumption
- Low-impact use that is responsive to market study demand

Attorney Cox thanked the subcommittee and the staff for their thorough review as well as the Officials from the Town of Bourne.

The Chair thanked Attorney Cox for her presentation and requested a presentation by Cape Cod Commission Staff.

Kristen Clothier began her presentation by listing the members of the DRI Subcommittee for the True Storage Redevelopment project: Woody Mitchell (Subcommittee Chair), Charles McCaffrey, Jack McCormack, Dick Roy, and Tom Wilson.

Ms. Clothier briefly reviewed the DRI Subcommittee process and recommended draft DRI decision. She stated that there were a limited number of public comments received at the June Subcommittee hearing in Bourne and no written comments were received. She said that at the June Subcommittee hearing, the Subcommittee directed Commission staff to prepare a draft favorable Decision on the project, with Conditions, for its further review at the continued Subcommittee hearing in July in Barnstable. Commission staff prepared a draft DRI Decision which contains all Findings and Conditions necessary for the Commission to approve the project in light of the standards of DRI review. At the July continued Subcommittee hearing, the Subcommittee voted to recommend to the full Commission that it adopt the draft written DRI Decision and approve the project subject to the Conditions in said Decision.

Ms. Clothier briefly reviewed the elements of the proposed project and existing site conditions, including stating that the property the applicant proposes to redevelop, in part, for a self-storage facility is currently developed as a shopping center which the Commission permitted following DRI review in 1991.

She said that this DRI review was approached through the lens of redevelopment and adaptive reuse of an existing commercial site. The proposed redevelopment is all within existing disturbed and developed portions of the property and will not impact any natural communities or rare species habitat; as such, there is no required open space mitigation. She said that under the 2018 Cape Cod Regional Policy Plan

("RPP"), the Property is within the Suburban Development Area Placetype and is consistent with the RPP's vision for this Placetype.

Ms. Clothier then provided an overview of key elements of the draft DRI Decision. She reviewed the probable project benefits identified. She said that since the property has undergone Commission DRI review and subsequent modifications in the past, which included mitigation, and since the applicant is proposing a redevelopment project where impacts will be reduced, no particular detriments were identified. She stated that the project is consistent with municipal development bylaws, provided that all required local permits, licenses, and approvals are obtained. The Commission received a letter from the Bourne Planning Department sharing this opinion. She said that the letter from the Bourne Planning Department also noted several project benefits, including reduced wastewater flow, traffic generation, and energy consumption, and improved pedestrian safety, stormwater management, and wastewater treatment.

Ms. Clothier said that the project was reviewed for consistency with the 2018 RPP, noting the limited applicability and materiality of RPP goals and objectives relative to this project, largely due to it being a redevelopment of a previously commercially developed site. Based on the specifics of the redevelopment project, the review focused on the RPP issue areas of: Water Resources, Community Design, Transportation, Energy, and Economy.

In the RPP issue area of water resources, she noted the reduction in wastewater flow, improved wastewater treatment, improved stormwater management, and prohibitions/limitations on hazardous material storage. She specifically referenced Conditions 1 & 12 in the decision regarding water resources, including the requirement to connect to the neighboring wastewater treatment facility.

In the RPP issue area of Community Design, she reviewed the following topics relative to the project: compatibility with site and surrounding context, well-screened from regional roadways, streetscape improvements, and energy efficient and dark sky-compliant lighting.

In the RPP issue area of Transportation, she noted the reduction in traffic volumes over permitted conditions, safety improvements with the shared site driveway, and improved pedestrian amenities. She noted that the applicant was not required to construct any major off-site traffic infrastructure to mitigate the effects of new vehicle trip generation because of the reduced traffic volumes.

In the RPP issue area of Energy, she noted proposed efficiency, conservation, and resiliency measures; reduction in energy demand; and proposed on-site renewable energy generation/ rooftop solar arrays (which is memorialized in Condition 10 of the decision).

In the RPP issue area of Economy, she noted that the project is redevelopment and reuse of existing structures and features; and involves improvements to/reinvestment of an underutilized, developed site. She said that the project is neutral in terms of regional employment as there are not many full-time jobs associated with project operation. She added that the applicant had conducted an area market demand showing a need for self-storage use on the Upper Cape.

Ms. Clothier concluded that the draft Decision includes all of the Commission's standard Conditions, including those related to the issuance of Certificates of Compliance. She said that adoption of the Decision by the Commission would approve the project subject to the Conditions of the Decision.

Chair Harold Mitchell thanked Ms. Clothier for her presentation then opened the floor for questions from Commission Members.

Ernest Virgilio expressed concerns, generally, about hazardous items being stored in self-storage facilities. He said that there is new technology available to detect such items and suggested that the applicant investigate that.

Jacqueline Etsten had questions about the landscape plan. She would like to see more plantings and the type, amounts and sizes of trees and shrubs be specified.

The Chair asked for additional questions from the members and there were none. He asked for any comments from public officials, State, Federal or Town, who would like to speak.

Jennifer Copeland, the Assistant Town Planner in Bourne stated that the proposed uses are allowed for storage and retail in the B4 zoning district.

The Chair asked for any further comments or questions from the Commission Members.

Tom Wilson stated that he worked on the DRI Subcommittee for this project. He was interested to see how the developer came up with a plan to reuse the site and address issues, and how the project aligned with the Regional Policy Plan (RPP). He recognized the value of the RPP and Cape Cod Commission staff in working with developers to come up with such plans. He added that during the public hearings, citizens came forth about a fence that had deteriorated at which time the developer stepped up and said they were willing to fix. Lighting was also mentioned as streetlights would shine in resident windows in the evening and the developer designed a lighting plan to eliminate that.

Hearing no further comment, Chair Harold Mitchell asked for a motion to close the DRI public hearing period. Ernest Virgilio moved, seconded by Elizabeth Taylor, and the motion unanimously.

Chair Harold Mitchell asked for a motion to adopt the draft written DRI Decision and approve the project subject to the conditions in the Decision, with the provision that staff ensure that the landscape plan was sufficiently specific as to plant sizes, species and amounts. Jack McCormack moved, seconded by Elizabeth Taylor, the motion carried. Len Short abstained from the vote.

Cape Cod Commission Local Comprehensive Plan Hearing

The Chair Harold Mitchell opened the hearing by reading the hearing notice from the meeting agenda.

The Chairman asked Cape Cod Commission Staff for a presentation on the proposed Local Comprehensive Plan Regulations.

Jessica Wielgus, Commission Counsel, presented a Local Comprehensive Plan (LCP) Update Power Point (copy attached). She stated some of the purposes of amending the LCP regulations: to align the regulations with the Cape Cod Commission Act; and to simplify and streamline the process for towns to obtain Commission certification of a Local Comprehensive Plan. Ms. Wielgus reviewed the Cape Cod Commission Act requirements for LCPs, including what is required content for an LCP. The proposed LCP regulations require that, for Commission certification, an LCP include: a Vision Statement; Existing Conditions discussion; discussion about consistency with the Goals of the Regional Policy Plan(RPP); a Capital Facilities Plan; a Housing Plan; and a Targeted Action Plan for the Towns to follow and work in coordination with Cape Cod Commission staff. Ms. Wielgus noted that the LCP process has been streamlined making it easier for the towns to develop and implement Commission-certified LCPs adding that a town can update/amend its LCP at any time. The town develops its own action plan for review by the Commission and Commission certification will continue unless revoked by the Commission. There are revocation provisions in the proposed regulations; under certain circumstances, revocation proceedings could be initiated by the Commission. Ms. Wielgus stated that some of the towns have met with staff to discuss the proposed regulations and a Frequently Asked Questions document has been developed by staff for guidance, based on those discussions with towns.

Chair Harold Mitchell asked for questions or comments from Commission Members.

Ms. Taylor asked if a town's open space/recreation plan could be incorporated into a town's LCP, as it is a state required plan and required for grant funding applications. Ms. Wielgus stated that the town can and should incorporate or reference other town plans in its LCP.

Mr. McCaffrey stated concerns about town adherence to its LCP throughout the variety of permitting reviews town boards and commissions undertake. The town meeting adopts the LCP, he believes, with

no consequences and no requirements to adhere to the LCP. He feels that the selectmen, town manager and town agency need the primary role in implementing the LCP. He believes that an LCP should have the same force and significance on the local level that the RPP has on the regional level.

Ms. Wielgus stated the LCP is a planning document not a regulatory document. Towns can create local comprehensive plans outside of the Cape Cod Commission; the LCP regulations deal with Commission-certification of LCP's. She added that the revised LCP regulations better allow towns to partner with the Cape Cod Commission for technical and planning assistance in implementing an LCP.

Ms. Etsten feels that the ability of the local planning committee to update and amend the plan without Commission review could create problems. She also feels that the document places too much emphasis on promoting growth and development and future Capital Facilities and Infrastructure planning, and not enough on resource protection and addressing deficits with existing capital facilities and infrastructure. Ms. Wielgus stated that the RPP's growth policy, which must be addressed in preparing a town's LCP, directs growth to areas with adequate infrastructure and away from areas that should be protected or preserved because of their sensitive resources.

Joy Brookshire asked how many towns have a Commission-certified LCP, and what difficulties towns have faced in developing Commission-certified LCPs. Ms. Wielgus stated that there are currently only two towns that are certified. Ms. Wielgus stated that the onerous nature of the existing LCP regulations deterred other towns from certification, which is why staff proposes to streamline the process in the revised LCP regulations. Ms. Wielgus added that towns were consulted during the process of drafting the revised regulations and meetings were held across the Cape with Town Planners and Town Staff to get their thoughts. Drafts were shared and feedback was given by the towns and implemented into the draft regulations.

Ron Bergstrom stated that Boards of Selectmen change over time and that officials involved in implementing LCPs will change. The Cape Cod Commission and staff are valuable tools available to the towns and it's important that the towns are aware of this resource. He added that forward-thinking towns have projected the useful life of their capital facilities and have a capital plan to replace them when needed and assume that the Cape Cod Commission would cover that in the review of LCPs.

Tom Wilson asked about the comment letter from Kathy Williams, Yarmouth Town Planner (copy attached). Her letter asked if the town would be in a better position to receive grants with a certified LCP. Ms. Wielgus stated that there could be technical assistance priority consideration from the Cape Cod Commission if the Commission controlled the funding and if not, a letter of support for the grant application.

Ernest Virgilio said that he supports the revised LCP regulations and suggested emphasizing types of native plants in the natural resource areas.

Dr. Cheryl Andrews asked about the towns that have existing LCP's. Ms. Wielgus stated that several towns have LCP's however only two towns have current, Commission-certified LCP's. She added that under the existing LCP regulations LCP's need to be recertified every 10 years. Dr. Andrews asked whether there is anything that the Cape Cod Commission can do to improve public input on developing LCPs such as a good survey document. Ms. Wielgus stated that the hope is to engage more in the community. Martha Hevenor, Cape Cod Commission Staff, added that there is an emphasis in the revised LCP regulations on Technical Assistance from Commission staff in the development of LCPs as well as in their implementation. She feels that the proposed targeted action plan concept is a desirable, key element and is different from past approaches. The targeted action plan concept allows a town to come up with their own action steps it is committed to and a reasonable plan for implementation making it easier on the town.

Ms. Brookshire agreed with Martha that the Commission needs to highlight technical assistance to the towns as most towns do not have this staff planning expertise or resources. She also feels that someone on staff at the Commission should work closely with the particular towns to offer assistance.

Ms. Taylor also worked with Martha on LCP's in the past and it was ponderous process. She said that the proposed LCP regulations provide hope that more towns will work on LCPs with the Commission. She says that the LCP process has been streamlined under the revised LCP regulations and she thanks the Commission staff for their work.

Chair Harold Mitchell asked for any comments from local, state or federal officials.

Jeffrey Ribeiro, Town Planner, Provincetown, stated that the revised LCP regulations should make it easier for towns moving forward with LCPs. Mr. Ribeiro asked for clarification about the meaning of the term "housing needs assessment" in the revised regulations, because the phrase has a relatively specific meaning under relevant state DHCD guidance.

Coreen Moore, Town Planner, Bourne, was in great support of the regulation changes. The first round of LCP's she had been involved in was extremely difficult and was never completed. She feels that the Commission has made a greater effort to connect with towns about what was important to towns, but at the same time create guidelines for consistency with regional plans. For instance, an education element was important to the Town of Bourne and was added to their plan although not required. She feels that these revisions to the regulations are particularly useful to town in developing LCPs.

Chair Harold Mitchell asked for other public comments.

Christopher Clark, Chairman of the local Truro Local Comprehensive Planning Board agrees with the previous comments from Ms. Moore. The Commission reached out to the Town of Truro, had a meeting, gave a presentation on the new draft regulations which were met with great enthusiasm. The town struggled with previous LCPs. He stated that the town will be relying on the Commission staff for technical assistance as the town doesn't have the staff or the expertise. He noted that an LCP is not a regulation, and thus allows the town to proceed with the broad general vision in an LCP. He thanked the Commission.

Felicia Penn, Hyannis, referred to the letter she submitted on July 22, 2019 (copy attached). Ms. Penn stated that she was on the planning board in the Town of Barnstable for years and the Town had a Certified Local Comprehensive Plan which was a useful tool. She said that the revised regulations were much easier to understand and pursue, and she is in support of them. She suggested strongly that there be a requirement that the planning board be involved in LCPs locally, to avoid politicizing LCPs. She also has concerns that, as she understands it, there is no requirement for public hearings and input on updates and amendments to LCPs.

Hearing no further public comment, Chair Harold Mitchell asked for further comment from the Commission Members.

Mr. McCaffrey stated that he feels the processes for LCP adoption and the appointment of the local planning committee needs to be looked at more thoroughly before adoption the revised regulations.

Mr. Mitchell asked for a motion to repeal in their entirety the current version of the Local Comprehensive Plan Regulations and adopt in their place the revised Cape Cod Commission Local Comprehensive Plan Regulations as reviewed at the hearing. Mr. Bergstrom moved, seconded by Mr. Virgilio.

Stephen Mealy stated that he feels the Commission should discuss further how appointments to the local planning committee are made and how updates to LCPs are made under the revised regulations.

Jon Idman, Commission staff, stated that there are certain LCP updates that don't require Commission approval under the revised regulations, such as to the housing plan or capital facilities plan. He said that those elements of the plan would still require public meetings in the town. If there are changes to

the plan outside particular elements such as the housing plan, it requires Legislative approval. Changes to maintain consistency with the current version of the RPP require going to the Legislative body and the Cape Cod Commission. Mr. Idman added that the revised LCP Regulations better support the town's unique local vision expressed in an LCP but also allow the Cape Cod Commission to extend its regional jurisdiction. If every town develops a certified LCP, then you have extended the RPP into every town and when certain local regulations change, those regulations will have to be consistent with the certified LCP's and thus the RPP. Essentially, the Commission has an opportunity to build a bridge from the RPP to local regulations and bylaws by encouraging the development of Commission-certified LCPs.

Kevin Grunwald asked to move the question.

On the motion, there were 12 votes in favor, three opposed. The motion carried.


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

There was no new business

Adjourn

Upon a motion by Jack McCormack to adjourn the meeting, seconded by Ernest Virgilio, the motion passed unanimously. The meeting ended at 5:00 PM.

Respectfully submitted,


Elizabeth Taylor, Secretary

8-22-19
Date

List of Documents Used/Presented at the July 25, 2019 Commission Meeting

July 25, 2019, Cape Cod Commission Meeting Agenda

True Storage Redevelopment, Applicant Power Point presented by Eliza Cox, Esq.

True Storage Redevelopment, Commission Staff PowerPoint

True Storage Redevelopment, Draft DRI Decision as recommended by subcommittee

True Storage Redevelopment, Draft DRI subcommittee minutes from July 17, 2019

LCP Update, Local Comprehensive Plan Regulations, Commission staff PowerPoint

LCP Frequently Asked Questions document

LCP comment letter from Kathy Williams, dated July 22, 2019

LCP comment letter from Felicia Penn, dated July 22, 2019