CAPE COD
COMMISSION

Falmouth Rd Market, Mashpee (CCC File No. 21015)
Development of Regional Impact Review
Subcommittee Meeting

Minutes | December 12, 2022 at 5:00 p.m.

Virtual via Zoom

The Chair, Ernest Virgilio, opened the Subcommittee meeting. He asked Jordan Velozo, Chief Regulatory Officer, to read the meeting announcement and instructions for making public comments during the hearing. She read the announcements and said that the subcommittee members will discuss the proposed specialty grocery store development at 647 Falmouth Rd (Route 28) in Mashpee.

The Chair took attendance by roll call.

Roll Call:

- Ernest Virgilio, *Chair*, Present
- Harold Mitchell, Present
- Dennis Prebensen, Not Present
- Peter Okun, Present
- Tom Wilson, Present

Applicant Presentation:

The Chair recognized Attorney Kim Bielan, representing the Applicant, Shellback Development LLC. She introduced other members of the Project team including Mark Dibb, Jeff Bandini and Laura Young. She said the applicant has made changes to the Project since the last meeting, to eliminate the proposed second access drive to Shellback Way, using a shared driveway with the Rockland Trust Bank. She said the proposal maintains a larger vegetated buffer. She said a sidewalk will be constructed from Shellback Way to the site, porous pavement in the parking lot, and increased EV charging stations—4 total instead of 2.

Ms. Bielan said the Applicant has engaged a title examiner to determine ownership of Shellback Way and believes it is a private road. She said she has not identified any prohibition on access to the site from Rt. 28 and noted that a different proposal was permitted by the Town with a driveway on Rt. 28. She said the Applicant previously engaged a broker to secure an access easement on the north side of the side to Job's Fishing Road and was unsuccessful. She said the Applicant has been in touch again with counsel for Mashpee Commons. She said the BioMap 2 identifications changed in November and if the Project was proposed now, it would no longer be mapped as a natural area. She said the Applicant will present an updated

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open space mitigation proposal requesting the lower Community Activity Center open space ratio be applied rather than the natural area ratio.

Ms. Bielan introduced Mark Dibb, civil engineer. Mr. Dibb shared the revised Project plans, showing a reconfigured driveway layout, porous pavement, sidewalk into the development, and new bike path crosswalk signage. He said the Applicant is considering solar canopy locations, a new bike rack location, and carpool spaces.

Ms. Bielan introduced Jeff Bandini, traffic engineer. Mr. Bandini explained that the Applicant conducted a Traffic Impact Assessment (TIA) per Commission technical guidance. He said the analysis indicated 160 new vehicle trips are anticipated during peak traffic hours. He identified 12 offsite intersection locations that were studied for impacts based on the new project. He said the study accounted for weekend, weekday, and seasonal variations in traffic volume. He said the proposed mitigation includes signal timing adjustments, signage both on and offsite. He said the Applicant is looking to provide a CCRTA stop on site.

Staff Presentation:

The Chair recognized Jordan Velozo, Chief Regulatory Officer, for the Cape Cod Commission staff's presentation. She explained the standards for DRI approval, including consistency with the Cape Cod Commission Act, Regional Policy Plan (RPP), and local bylaws. She responded to a question brought up at the previous hearing about Community Activity Center (CAC) Placetypes. She said that CACs have concentrated business and community activity, and the vision for CACs is to provide dense, walkable development. She showed an overview of the BioMap and natural area mapping on the site and how it has changed since the application. She noted that although the BioMap mapping has changed, the placetype is set at the outset of regulatory review.

Ms. Velozo introduced Colleen Mederios, Transportation Program Manager, Commission staff. Ms. Medeiros provided an overview of the RPP goals related to safety, reliability, and congestion management. She said access management is a method for ensuring safety. On this Project, the Rt 28 right turn only access improves safety, and the shared driveway on Shellback Way eliminates a curb cut. She said additional analysis of driveway operations with the revised Shellback Way access is needed to assess safety benefits or detriments. She suggested that an access easement to Job's Fishing could improve safety and encouraged the Applicant to continue discussions with the landowner.

Ms. Medeiros summarized the proposed off-site mitigation at intersections within the Project TIA scope. She noted that mitigation includes signal timing adjustments, signage, lane striping, new crosswalk striping, and new turning lanes at various locations. She said that 5 intersections within the study are considered high-crash and safety mitigation at those intersections should be prioritized. She presented additional recommendations for consistency with the transportation RPP goals: explore viability of securing an easement to Job's Fishing Road, update TIA to account for revised driveway layout, coordinate with MassDOT on Mashpee Rotary improvements, and ADA compliant crossing on Shellback Way.

Subcommittee Discussion:

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The Chair asked for questions or comments from members of the subcommittee, to be addressed by the Applicant and/or Commission staff.

The Chair recognized Peter Okun. Mr. Okun said the site has received special permits from the Town of Mashpee before. He asked if there are copies available of any permits or variances related to the site. Ms. Velozo said she does not have any of these documents in the record, but will ask Applicant if they have additional materials and include them for the subcommittee to review.

Mr. Okun asked if the Applicant has considered installing warning lights at the driveway access on Rt. 28 where the bike path crosses. Mr. Dibb said the plans include signage, but will resubmit the plans to DOT and can consider the flashing yellow lights. Mr. Okun said he thinks those light systems will help protect pedestrians and cyclists. He asked how customers entering the Project from the south on Rt. 28 would enter the driveway. Mr. Dibb said that a left hand turn onto Shellback Way is the preferred option. Mr. Okun asked how customers exiting the driveway heading towards the Mashpee Rotary would exit. Mr. Dibb said those customer would take a left turn onto Rt. 28 from Shellback. Mr. Okun said this configuration anticipates a significant increase in traffic coming onto Shellback Way. Mr. Bandini said the TIA accounts for limited access directly onto Rt. 28. He said that as presented, all vehicles going north from the grocery store will use Shellback Way.

Mr. Okun said he was on the site recently and noticed that there is not much driveway space between the Rockland Trust curb cut and Rt. He asked whether there is any concern about the roadway becoming blocked with cars waiting for a signal to turn onto Rt. 28. Mr. Bandini said the initial TIA included a queuing analysis which did not show any backups, but the new driveway location may present a different result because of its proximity to the signal. Mr. Okun said he is concerned about Shellback Way becoming blocked off and preventing residents of Deer Crossing from pulling in.

The Chair said he wanted clarification on proposed improvements on Rt. 28. He said he has not seen any road improvements other than line revisions. He said there are current problems with the left turn lane entering the South Cape Village mall across from the Project site. He said there are difficulties taking a left turn in the opposite direction to enter Mashpee Commons. He noted that the signal lights are very close together. He said the Applicant should consider the width of the road. He said the Shellback Way Road is only two lanes and very narrow.

The Chair recognized Harold Mitchell. Mr. Mitchell said the ownership of Shellback Way is not known. He said he is concerned about how that road was constructed and if it will be adequate to handle anticipated traffic, including delivery trucks. He said he would like to see an access easement to Job's Fishing road with a vehicle driveway if feasible. He said he is concerned about turns in and out of Rt. 28 from the driveway. He said he has seen backups around the Project site frequently, especially during the summer, and thinks the road is not equipped to handle the traffic. He noted that members of the public have similar concerns about traffic and access to the lot. He said these concerns are the major hurdles for getting approval on this Project.

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The Chair recognized Tom Wilson. Mr. Wilson said he find the traffic situation problematic and pedestrian safety challenging. He said that all of the traffic coming from Falmouth will have to take a left onto Shellback Way, and all traffic heading north out of the site will take a left off of Shellback Way. He said the potential for accidents at this light is significant. He said the Job's Fishing driveway could improve access. He asked if there will be sidewalks on Shellback Way between the bike path along Rt. 28 and the sidewalk further up the road connecting to the grocery store parking lot. Ms. Medeiros showed the revised site plans and noted there is a sidewalk connection near the Rt. 28 driveway, and one along the Rockland Trust driveway. Mr. Wilson said he is concerned about the stretch of Shellback between Rt. 28 and the Rockland Trust driveway. Ms. Medeiros said currently there is a sidewalk on the opposite side of Shellback that pedestrians would have to cross over to.

Mr. Wilson asked whether Rt. 28/Shellback Way and Rt. 28/Job's Fishing Rd intersections are included in the TIA. Mr. Bandini said both of those intersections are considered high-crash and have proposed safety mitigation improvements. He said the Applicant could provide more pedestrian connectivity improvements.

The Chair asked at what point the state will assess the line striping and layout proposals. Ms. Medeiros said the Applicant has begun preliminary discussions with MassDOT about the layout. She said Commission staff are waiting to hear any feedback from MassDOT related to the crosswalks, lane striping, and whether the Ret. 28 driveway is attractive to illegal left turns. She said staff can ask the Applicant to provide feedback on the proposals, including the offsite intersections.

Public Comment:

Federal, Local, and State Officials

The Chair asked for comments from any federal, local, or state officials. The Chair gave Ms. Velozo permission to recognize officials by name for comment.

The Chair recognized Evan Lehrer, Mashpee Town Planner. Mr. Lehrer said he already submitted written comments related to the no driveway access line shown on some plans, and the ANR plan for the site. He said the Mashpee LCP contemplated intersection improvements near the Deer Crossing community. He said the site seems to be suffering from poor access management onto Shellback Way across from the existing Rockland Trust driveway. He urged the Commission to consider improvements along Shellback Way. He suggested that requirements for vegetative buffers along Rt. 28 are local zoning issues that should be left to the discretion of the Mashpee Planning Board during its review of the Project.

General Public

The Chair opened the hearing for comments from members of the general public. Ms. Velozo asked those wishing to speak to raise their hands and unmute when recognized by name.

The Chair recognized David Egel. Mr. Egel is a Deer Crossing condominium resident. He is primarily concerned with traffic and safety issues. He said with the consolidated driveway at Rockland Trust drivers have to pull out into Shellback Way to see oncoming traffic up the hill.

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He said if more traffic is added to the driveway conditions will get worse. He said the driveway to Rockland Trust is curved and should be straightened. He said the road is too narrow to handle the number of cars and truck traffic. He noted there is no dedicated left turn in either direction onto Shellback Way or Charles Street. He said vehicles back up in both directions trying to take a left turn while vehicles behind them will suddenly pull into the right lane ahead of moving vehicles. He said the distance from the proposed driveway to the Rt. 28 light is only a few car lengths, and the only access to the 166 units in Deer Crossing is on this road. He said the Ace Hardware on the opposite side of the road often has delivery trucks parked in the road, reducing the street to one lane. He said that the safety and wellness concerns are significant.

Further Subcommittee Discussion:

The Chair asked for additional comments, questions, and requests from members of the subcommittee.

The Chair recognized Harold Mitchell. Mr. Mitchell said he has questions about the new landscaping plan and sidewalk configuration. He said if the Applicant is seriously considering a driveway onto Job's Fishing Road, he would like to see the topography of the site, as well as the topography of the other ingress and egress points. He asked the Applicant to share how many parking spots are on the site and what percentage are EV. He also asked to see how many solar panels may be proposed and where they are located on the site.

The Chair recognized Peter Okun. Mr. Okun echoed Mr. Mitchell's comments about solar panels and EV spots. He said we need to determine whether Shellback Way is public or private. He said he is not sure why the hardware store trucks unload on Shellback Way. He said this is very important and needs to be addressed if trucks are going to regularly block the road. He said he is concerned about a constant backup of traffic with vehicles taking a left-hand turn cutting off access to the rest of the road. He said there needs to be a plan to manage the traffic volume, and that more traffic at the Shellback Way intersection could increase accidents are the Job's Fishing intersection as well.

The Chair thanked Mr. Egel for his comments. He said he understands the concern related to trucks blocking Shellback Way from the hardware store.

The Chair recognized Tom Wilson. Mr. Wilson said he heard the Applicant's proposal to make a mitigation payment consistent with the CAC designation rather than natural area. He said he supports that proposal and asked for feedback from other subcommittee members. Mr. Mitchell suggested the subcommittee get more direction from staff about how to proceed given that the placetype designation is set at the beginning of review.

The Chair invited the Applicant to respond and recognized Kim Bielan. Ms. Bielan thanked the subcommittee members for their time and feedback. She said she understands their ongoing concerns. She said there is additional information the Applicant is working on which they will provide in advance of the next meeting.

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The Chair recognized Ms. Velozo. She said staff will provide a recommendation with respect to the placetype designation ahead of the next meeting and will wait to see what specifically the Applicant is requesting for a mitigation payment. She said that the 90-day hearing period for the Project ends in mid-January and the subsequent hearings will need to be completed quickly.

The Chair asked for a motion to continue the subcommittee hearing. Mr. Mitchell made a motion to continue and asked Alex Peterson, Regulatory Planner, for a suggested date. Mr. Peterson said Wednesday January 4, 2023, might work. Mr. Mitchell made a motion to continue the hearing to Wednesday January 4, 2023, at 5:00 pm to be held virtually via Zoom. Mr. Wilson seconded the motion. Mr. Okun said he would not be available at that date.

Ms. Velozo said because of the 90-day decision deadline a hearing would need to be during the first week of January. Mr. Mitchell asked if Tuesday January 3, 2023 works. Other subcommittee members indicated they would be available at that date. Mr. Mitchell modified his motion to continue the subcommittee hearing to Tuesday January 3, 2023 at 5:00 pm to be held virtually via zoom. The Chair asked for a second. Mr. Wilson seconded the motion. The Chair took a vote by roll call.

- Ernest Virgilio, *Chair*, Yes
- Harold Mitchell, Yes
- Peter Okun, Yes
- Tom Wilson, Yes

The motion carried and the hearing was continued.

The Chair asked for a motion to adjourn. Mr. Mitchell made a motion to adjourn. Mr. Okun seconded the motion. The Chair took a vote by roll call.

- Ernest Virgilio, *Chair*, Yes
- Harold Mitchell, Yes
- Peter Okun, Yes
- Tom Wilson, Yes

The motion carried and the meeting was adjourned.

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