



October 15, 2013

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Cape Cod Commission
PO Box 226
Barnstable, MA 02630

Attention: Andrea Adams

RE: Lowe's Updated Traffic Mitigation Proposal

Dear Members of the Cape Cod Commission:

The Association to Preserve Cape Cod (APCC) submits the following comments concerning the October 11, 2013 memorandum from Lowe's regarding updates to the traffic mitigation proposals from the applicant.

According to the memorandum, Lowe's proposes to relocate the intersection of Airline Road and Route 134 by moving Airline Road north of its existing location and onto property that is under the control and protection of the Dennis Water District, stating:

As outlined in the correspondence forwarded to the CCC from Mr. Rodricks and at the request of the town, Lowe's would fund the cost of the intersection relocation at Route 134 and Airline Road (see Figure 4 attached). Given the fact that this relocation requires approval at a Water District Meeting, a Town Meeting, and requires a Special Act of Legislation under Article 97, obtaining these approvals, the subsequent permitting and construction of the intersection would be the obligation of the Town. Lowe's has agreed as a condition of its DRI to provide the funding for the intersection if the Town obtained the necessary approvals. Lowe's and the property owner would support the efforts of the Town to obtain the proposed approvals at the District and Town level. If the Town is unable to obtain the necessary approvals, Lowe's would proceed with the currently proposed safety improvements (which the Town has already indicated it supports) to the existing Route 134 and Airline Road intersection.

APCC finds this proposal extremely problematic for the following reasons:

- Because this change to the intersection is being proposed as a means to

3010 Main Street | P.O. Box 398 | Barnstable, MA 02630-0398
Tel: 508-362-4226 | info@apcc.org | www.apcc.org

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address project-related safety concerns, any physical safety mitigation must be completed and in place before the Lowe's would be permitted to open and conduct business. Given the uncertainty of success in achieving future approval from town meeting, Dennis Water District meeting, and adoption of a special act of legislation from the state legislature, plus the length of time that would be required to obtain all of those approvals, it is unacceptable to approve the project and allow construction to proceed without the guarantee that all of the necessary approvals outlined above have first been secured and that the town has also received the required permits.

- Under the Massachusetts Constitution, Article 97 lands are a basic right of the people of the Commonwealth that should be closely protected. The lifting of protections placed on Article 97 lands should never be taken lightly, which is why a two-thirds vote by the state legislature is required. It is unconscionable to even consider that Article 97 protections would be extinguished as a means to accommodate a private commercial retail development.
- The changes to the intersection proposed by the applicant would only alter the angle where Airline Road meets Route 134. It does not address the primary safety issue at this intersection as identified by the Cape Cod Commission transportation staff: that there are often insufficient gaps in oncoming Route 134 traffic to allow safe left turns from Airline Road onto Route 134, and that the increase in project-generated traffic would further degrade public safety at this location. Based on this point alone it appears that the proposed mitigation still fails to meet the Minimum Performance Standard for safety (MPS TR1.1).
- In its proposal, the applicant is imposing an unacceptable condition, namely that if the proposed intersection relocation fails to receive approval from town meeting, Dennis Water District meeting, or through a special act of the state legislature, "*Lowe's would proceed with the currently proposed safety improvements.*" These "*currently proposed safety improvements*" are the very same proposals that the Cape Cod Commission staff have repeatedly stated do not comply with MPS TR1.1 (no degradation of public safety).

Neither the previous mitigation proposal for Route 134 and Airline Road nor the new one proposed in the October 11 memorandum satisfactorily address outstanding safety issues at this intersection. Therefore, the project still fails to meet MPS TR1.1 and project impacts at this location continue to add to the long list of project detriments.

In addition, the applicant states in the October 11 memorandum that the latest proposed changes to the intersections at Route 134 and Airline Road, Route 134 and Bob Crowell Road, and Route 134 and Market Place/Patriot Square will be paid for with the transportation mitigation payment the applicant has proposed in lieu of actual physical mitigation that addresses Regional Policy Plan congestion and trip reduction requirements.

Although use of the transportation mitigation payment for the purpose described in the October 11 memorandum is permissible according to MPS TR1.3, APCC points out that the funds used for these intersection changes, even if the changes are accepted by the Cape Cod Commission, will still do nothing to reduce the number of project trips or ease project-related traffic congestion. APCC suggests that the tremendous volume of traffic generated by this project remains a significant project detriment.

APCC thanks the Cape Cod Commission for this opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ed DeWitt', with a stylized flourish at the end.

Ed DeWitt
Executive Director

A handwritten signature in blue ink, appearing to read 'Don Keeran', with a long horizontal flourish extending to the right.

Don Keeran
Assistant Director

cc: Senator Daniel Wolf
Representative Cleon Turner