



March 18, 2022

Andrew Gottlieb  
*Executive Director*

Cape Cod Commission

**BOARD OF DIRECTORS**

Attention: Jordan Velozo, Chief Regulatory Officer

Eliza McClennen  
*President*

3225 Main Street

Barnstable, MA 02630

Steven Koppel  
*Vice President*

**RE: 35 Scudder Avenue Development Agreement Comments**

Bob Ciolek  
*Treasurer*

Dear Commissioners and Staff Members:

Jack Looney  
*Clerk*

The Association to Preserve Cape Cod (APCC) has reviewed the Development Agreement application for the proposed 35 Scudder Avenue Residential Community Development project and submits the following comments.

John Cumbler

Margo Fenn

In reviewing this proposed project, APCC's paramount concern is to ensure that the project does not adversely impact the fragile wetlands and other natural resources that exist on the property site, that border the property, and that are present downstream from the property boundaries. To that end, APCC's comments focus primarily on the protection of natural resources from potential project impacts.

Joshua Goldberg

DeeDee Holt

Thomas Huettner

Pat Hughes

Project Site Plan

Elysse Magnotto-Cleary

According to the project's Development Agreement application, the project's cluster development footprint will be smaller compared to the managed turf area in use by the existing golf course, will be located outside the floodplain, and will avoid impacts from projected sea level rise.

Blue Magruder

Stephen Mealy

Wendy Northcross

Kris Ramsay

The project site plan appears to show development activity on the site to be outside of the Regional Policy Plan's Natural Area Placetype designation, which on this property consists of several types of wetlands, wetland buffers, and mapped FEMA flood zones. The exception to this is what appears on the site plan as some development activity occurring within the 100-foot buffer to wetlands, a resource type identified in the RPP's Natural Area Placetype definition. In this instance, the wetlands in question are the ponds located on the property. If the plan as currently proposed does result in an incursion into the 100-foot wetland buffer, APCC recommends that the Cape Cod Commission require the project applicant to revise

Robert Summersgill

Charles Sumner

Taryn Wilson



100% Recycled Paper

482 Main Street | Dennis, MA 02638  
Tel: 508-619-3185 | [info@apcc.org](mailto:info@apcc.org) | [www.apcc.org](http://www.apcc.org)

the plan to remove the incursion.

### Landscape Restoration

The project applicant has indicated that portions of the property outside of the development footprint will be restored and maintained in a natural state, which includes plans to replant and naturalize the area of existing golf course turf. APCC supports the proposed plan to naturalize and restore the existing golf course landscape, which will increase the protective vegetated buffer to Stewart's Creek and Joshua's Brook. APCC strongly recommends that the new plantings proposed by the project applicant should be native vegetation that is specifically appropriate for the site and compatible with the mix of upland and wetland conditions that are present. Vegetated buffers of appropriate width, and consisting of native vegetation, should also be maintained around the ponds located on the property. APCC recommends that the project applicant be required to provide a list of all the proposed plantings on the property to both the Cape Cod Commission and the Barnstable Conservation Commission for approval.

We also note that the project site plan appears to show considerable turf lawn area (329,977 sf) within the development envelope. APCC strongly recommends that the project applicant significantly reduce areas of turf lawn with natural landscaping and native plantings that do not require fertilization or pesticide treatments, which will further reduce potential impacts to the surrounding wetland resources.

### Nitrogen Loading

According to the project applicant, the project will result in a net reduction in nitrogen loading to 2.21 ppm compared to the approximately 5.43 ppm nitrogen loading rate from the current use of the property. This is attributable to the plan to connect all new buildings to municipal sewer and the proposed reduction in managed turf area compared to the current use. However, the use of fertilizer on the proposed turf lawn areas associated with the development will still be a significant contributor to the project's total nitrogen load. Although the project applicant proposes to use organic fertilizers instead of chemical fertilizers, organic fertilizers still contribute nutrients to the environment and adversely impact wetland resources.

APCC again strongly recommends that the applicant adopt a landscaping design that eliminates fertilizer use. Utilization of native plantings instead of maintaining conventional turf lawns reduces the need for fertilizers as well as the need for irrigation, thus also conserving water resources. As a large, highly visible project proposed for the Cape Cod region, the project applicant has the opportunity to demonstrate responsible land use practices and environmental stewardship that can serve as a model for future development and redevelopment on the Cape.



### Stormwater Management

The project applicant proposes a stormwater management system that is described in the project application as exceeding the Massachusetts Department of Environmental Protection's required standards for stormwater treatment. However, the project calls for an additional 8.7 acres of impervious surface in proximity to wetland resources, which increases the chance of stormwater runoff contaminants impacting those wetland resources. APCC calls on the project applicant to explore methods to reduce impervious surface area. A robust stormwater management system, combined with site design that minimizes impervious surfaces, is critically important in helping to ensure that contaminant runoff does not reach fragile wetlands. APCC supports the use of green infrastructure, including porous pavement, vegetated islands, bio-swales and rain gardens, to capture and treat stormwater runoff.

### Open Space

APCC supports the project applicant's proposal to designate 19.95 acres of the 39.6-acre project site as permanently protected open space through a conservation restriction. This proposed open space set aside would constitute approximately 50 percent of the property. There has been much public concern expressed about the project's potential impacts to water quality, freshwater and marine wetlands, and associated wetland buffer habitat. APCC views the execution of an onsite permanent CR as critical for protection of the wetland resources present on, and adjacent to, the property, as well as for the protection of the upland area the project applicant has indicated will be naturally restored.

### Riverfront Area Setback

Despite the above-mentioned proposed open space set aside, there is a significant portion of the 200 ft. riverfront area setback that is currently outside the area of the proposed CR. More of the 200 ft. riverfront setback area should be protected and included in the CR, particularly in the eastern portion of the property associated with Stewart's Creek.

In reviewing the project files, APCC notes that Cape Cod Commission staff requested that the project applicant propose an alternative site plan that would remove three apartment buildings from the 200 ft. riverfront area setback. The project applicant submitted a revised plan that shifted the buildings out of the setback area, but in doing so, the revised plan called for filling in an existing pond to accommodate relocation of a building. According to the most recent document files submitted by the applicant, it appears the applicant has reverted to the original design that preserves the pond but continues to show the incursion of three buildings within the 200 ft. riverfront area setback.

APCC strongly opposes filling in the existing pond, and equally so, strongly opposes construction of the three apartment buildings—numbered 4, 7, and 10 on the site plan—within the



riverfront setback to the two streams bordering the project site. Increasing the potential for adverse environmental impacts by compromising the integrity of sensitive natural resources that exist on this, or any, development site is unacceptable. APCC suggests that it may be necessary to reduce the size of the project accordingly to ensure that impacts to these wetland resources are avoided. Protecting Cape Cod's environmental resources should always be the bottom line.

#### Climate Mitigation

According to the project files, the applicant has stated an intent to "minimize energy consumption and increase energy generation and delivery resiliency." APCC highly recommends that, in addition to the applicant committing to energy efficiency through building materials and insulation, the Cape Cod Commission should require the apartment buildings to be designed to accommodate rooftop solar, with the goal of solar panels being installed in order to significantly reduce reliance on conventional fossil fuel energy sources. APCC also recommends that, as part of the Development Agreement, the Commission should require the applicant to install solar canopies over the project parking areas.

APCC thanks the Cape Cod Commission for the opportunity to provide comments.

Sincerely,

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

Andrew Gottlieb  
Executive Director