



**CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION**

1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630

TELEPHONE: 508-362-2511

DATE: October 11, 1990 CCC # TR90028

TO: Mr. Bud Ente  
P.O. Box N-1  
Osterville, MA 02655

FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Section 12(c)(6)

APPLICANT: Mr. Bud Ente

PROJECT: East Bay Lodge Addition  
East Bay Road  
Osterville, Massachusetts

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**DECISION OF THE CAPE COD COMMISSION**

SUMMARY

The Cape Cod Commission (The Commission) hereby denies the application of Mr. Bud Ente for a Development of Regional Impact (DRI) under Section 12(c)(6) of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a proposed addition to an existing lodge on East Bay Road in Osterville, MA. The decision is rendered pursuant to the vote of the Commission on October 11, 1990.

PROJECT DESCRIPTION

The proposal calls for construction of an addition to an existing lodge on East Bay Road in Osterville, MA. The addition totals approximately 23,500 square feet and contains thirty-two(32) lodging units, a multi-purpose function room, an office and an enclosed swimming pool. The project is located in a predominantly residential area between East Bay Road and Wianno Avenue in Osterville, MA. The site is zoned Residence C. The present use of the site as a lodge is non-conforming to those permitted within the district. Therefore, expansion of this lodge will require a Special Permit from the Barnstable Zoning Board of Appeals.

PROCEDURAL HISTORY

The project proponent filed for Site Plan Review approval with the town of Barnstable on February 21, 1990. The project was referred to the Commission by the Site Plan Review Committee on April 24, 1990. An application for DRI approval was received by the Applicant but not completed and filed with the Cape Cod Commission.

A hearing notice appeared in the Cape Cod Times on August 13, 1990 and August 20, 1990 pursuant to Section 5 of the Act. A sub-committee hearing was scheduled for August

28, 1990 at 3:00 p.m. in Barnstable Town Hall, however, a certified abuttor's list was not received by the Commission as required. Therefore, the hearing could not be properly noticed and was opened and closed on the same date without receiving testimony. Vicki Lowell read the hearing notice. At this hearing the motion was made to recommend denial to the full Commission of East Bay Lodge as a Development of Regional Impact. This denial would be due to the proponent failing to comply with procedures of the Cape Cod Commission Act. This motion was approved unanimously.

#### Materials Submitted for the Record

Materials submitted by the Proponent:

- Site and Septic Plans (5 sheets) by Levy, Eldredge, and Wagner Associates, Inc. dated February 9, 1990
- Architectural Plans (5 sheets) by Northside Architectural Associates, Inc. dated May 9, 1988
- Site Plan Review application dated February 21, 1990

Additional Materials:

- Cape Cod Commission Staff Report
- Comments from town of Barnstable Planning Department

#### Testimony

No testimony was heard on the project due to the inability of the Commission to properly notice the hearing. A statement was made by Mr. Edward McLaughlin, attorney representing the abuttors to the project, requesting that the Commission deny the project with prejudice. Dorr Fox, Chief Regulatory Officer of the Commission staff, stated that time remained within the 90-day hearing period should the sub-committee wish to continue the hearing until a later date.

#### JURISDICTION

The proposed addition to East Bay Lodge qualifies as a Development of Regional Impact under Section 12(c)(6) of the Act, which requires review of "any proposed retail or wholesale business, office or industrial development, as well as any private, health, recreational or educational development which ...is an addition greater than five thousand square feet."

The notice of public hearing, the Commission staff notes and exhibits and all written submissions received in the course of the proceedings are incorporated into the record by reference.

#### FINDINGS

The Commission makes the following findings subject to Section 12(c)(6) of the Act:

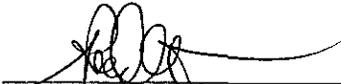
- 1). Due to the failure of the proponent to comply with procedures of the Act requiring submission of a certified abuttor's list to the Commission, the hearing could not be properly noticed and no testimony was received.

2). The Applicant failed to provide to the Cape Cod Commission a fully completed application for DRI approval.

CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby denies the addition of 23,500 square feet to the East Bay Lodge as a Development of Regional Impact. This conclusion is supported by the finding that the proponent failed to comply with procedures of the Act regarding submission of a certified abuttor's list and fully completed application to the Commission.

The Commission hereby denies Mr. Bud Ente of East Bay Lodge as a Development of Regional Impact pursuant to Section 12(c)(6) of the Act for a proposed 23,500 square foot addition to East Bay Lodge.

  
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Richard S. Armstrong, Chairman

10/11/90  
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Date

  
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Notary  
My Commission Expires May 7, 1993

10/11/90  
\_\_\_\_\_  
Date