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THE CAPE COD COMMISSION

CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION

1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630

TELEPHONE: 508-362-2511

DATE: October 31, 1990 #CCC TR 90039

TO: Daniel Striar, Trustee
Verbon Trust
Sandwich, MA.

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Section 12

Applicant: Daniel Striar, Trustee
Verbon Trust

Project: Popple Bottom Subdivision
68 Lot Subdivision on 100+ Acre Site
Off Popple Bottom Road, Sandwich, MA.

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby denies, without prejudice, the application of Verbon Trust, Daniel Striar, Trustee for a Development of Regional Impact (DRI) under Sections 12 and 13 of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a 68 lot subdivision on 100+ acre site off of Popple Bottom Road in Sandwich. The decision is rendered pursuant to the vote of the Commission on October 25, 1990.

PROJECT DESCRIPTION

The 100+ acre site is proposed to be divided into 68 single-family house lots of 60,000 sq. ft. The property is located at the end of Popple Bottom Road and runs northeast to adjoining land owned by Verbon Trust, comprising the Round Hill Golf Course.

PROCEDURAL HISTORY

This project was referred to the Commission as a Development of Regional Impact (DRI) on May 1, 1990. The Commission Staff sent a letter to the applicant, dated June 6, 1990, giving notice that the public hearing would be opened on June 21, 1990 and requesting information, including the certified abutters list, by June 15, 1990. On June 8, 1990 Dorr Fox had a telephone conversation with Mr. Daniel Striar again outlining the information required including a certified abutters list. Staff sent additional written communication on July 12, 1990 which included notice that the hearing would be continued to Monday, September 17, 1990 and once again requesting information. It was noted in the July 12, 1990 letter that the plans and supporting information had not been received by the Commission staff from Mr. Striar as claimed in his letter of June 18, 1990. Several times during the weeks of August 13th and the 20th, the lack of information, plans, fees, application form and abutters list were discussed between the applicant and staff over the phone and during meetings held at the Sandwich Town Hall and on-site.

On August 21, 1990 an outline of proposed compromise development objectives for both properties (Popple Bottom and Round Hill) from Verbon Trust was received by staff. This outline discussed the future of the existing country club, a wildlife corridor, a subdivision, a 400,000 sq. ft. mall, a separate hotel/theater/convention center and a community center. While these items are not part of the official subdivision submittal, they are what the applicant would eventually like to construct on the property.

An incomplete DRI application was received on August 28, 1990. In discussion with the applicant's attorney, Mr. Fitch, on that date, a list of missing application information was outlined as follows:

1. certified abutter's List;
2. soils information ;
3. fees;
4. traffic information;
5. wildlife/vegetation information;
6. design information;
7. historic information;
8. wetlands information;
9. copies of deeds; and
10. hydrogeologic data.

At that time Mr. Fitch was reminded that the mailing deadline for the public hearing was rapidly approaching (August 31, 1990) and the lack of the certified abutter's list would jeopardize the public hearing process. On September 5, 1990 some additional DRI information was given to the staff. The abutter's list in correct format was submitted on September 10, 1990, after the time necessary to adequately notify abutter's of the public hearing.

MATERIALS SUBMITTED BY THE APPLICANT

1. Letter from Verbon Trust to Mr. Dorr Fox received June 21, 1990;
2. Outline of Proposed Compromise Development Objectives from Verbon Trust received August 21, 1990;
3. An incomplete Development of Regional Impact Application, prepared by Jonathan D. Fitch, Esq., received August 28, 1990;
4. Supplemental DRI information, prepared by Jonathan D. Fitch, Esq., received August 30, 1990;
5. Improperly formatted certified list of abutters, prepared by the Town of Sandwich Office of the Board of Assessors for Jonathan D. Fitch, Esq., received September 5, 1990;
6. Supplemental DRI information, Prepared by Jonathan D. Fitch, Esq., received September 5, 1990;
7. Certified list of abutters, in proper form, prepared by Jonathan D. Fitch, Esq. received September 10, 1990;
8. Supplemental DRI information, prepared by Jonathan D. Fitch, Esq. received September 14, 1990.

TESTIMONY

The public hearing was held on September 17, 1990 at the Sandwich Human Services Building in Sandwich, MA. No testimony was heard on the project due to the inability of the Commission to properly notice the hearing.

JURISDICTION

The proposed subdivision of land entitled Popple Bottom Subdivision qualifies as a Development of Regional Impact under Sections 12 and 13 of the Act, which requires review of "any development which proposes to divide land of fifty acres or more which was in common ownership as of January first, nineteen hundred and eighty- eight."

FINDINGS

The Commission makes the following findings subject to Sections 12 and 13 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 Popple Bottom Subdivision as a Development of Regional Impact, without prejudice. 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.

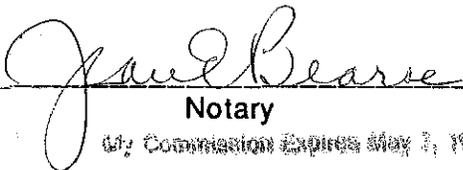
The Commission hereby denies the application of Verbon Trust for the Popple Bottom Subdivision as a Development of Regional Impact pursuant to Section 12 and 13 of the Act for a proposed subdivision of land.



Richard S. Armstrong, Chairman

11/8/90

Date



Notary
My Commission Expires May 7, 1993

11/8/90

Date