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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

CCC TR90072

DATE: November 15, 1990

TO: Marguerite Building Corporation
Franklin Office Park West
38 Pond Street, Suite 305
Bourne, MA

FROM: Cape Cod Commission

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

APPLICANT: Marguerite Building Corporation

PROJECT: Cliffside
77 detached unit residential project on 9 lots on 41+
Acre site
Off of Peaked Cliff Road, Bourne, MA

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby denies, without prejudice, the application of Marguerite Building Corporation for a Development of Regional Impact (DRI) under Sections 12 & 13 of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a detached 77 unit residential project on 9 lots on 41+ acre site off of Peaked Cliff Road in Bourne. The decision is rendered pursuant to the vote of the Commission on November 29, 1990.

PROJECT DESCRIPTION

The proposal involves the construction of 77 detached residential units on a 41+ acre site in Bourne on the Plymouth town line. The proposed development previously obtained special permit approval as an attached housing project. The site was partially cleared and one foundation was constructed, however, the original proposal was never built.

PROCEDURAL HISTORY

This project was referred to the commission by the Bourne Planning Board as a Development of Regional Impact (DRI) on July 16, 1990. The project involved an amendment to a previously approved special permit. The original special permit was for an attached housing complex. The revised plan consisted of detached residential units. On July 17, 1990 the Commission staff notified the petitioner of the referral and sent out an application form. Notice of public hearing was faxed to the petitioner's attorney on August 20, 1990. A letter from staff was sent to the petitioner on September 5, 1990 that an application was not received. The public hearing was opened September 6, 1990 and continued to September 26, 1990. Notice for the hearing of September 26, 1990 went out on September 11, 1990. An incomplete application was received on September 11, 1990. A site inspection with the petitioner took place on September 17, 1990. On September 20, 1990 the staff sent out another letter stating that the the abutters list was not certified nor complete. At the September 26, 1990 hearing, the Commission sub-committee continued the hearing until November 9, 1990. Prior to the November 9, 1990 hearing, the applicant's attorney spoke to the Commission staff regarding the lack of an abutter's list. The petitioner understood that the Commission could not approve the project due to the procedural problem. At the November 9, 1990 hearing, the sub-committee voted to recommend denial of the project on procedural grounds. The full Commission reviewed the project on November 29, 1990 and concurred with the findings of the sub-committee.

MATERIALS SUBMITTED BY THE APPLICANT

1. An incomplete DRI application, prepared by J. Ford O'Connor Esq., received September 11, 1990;
2. Supplemental DRI information (sanitary sewage flows and deed information, received September 27, 1990.

TESTIMONY

A public hearing was opened on September 6, 1990 at the Barnstable County Courthouse in Barnstable, MA. A public hearing was held on September 26, 1990 and November 9, 1990 at the Bourne Town Hall in Bourne, MA. No testimony was heard on the project due to the inability of the Commission to properly notice the hearing.

JURISDICTION

The proposed residential development qualified as a Development of Regional Impact under Section 12 (c) (7) of the Act which requires review of "Any proposed development, including the expansion of existing developments, that is planned to create or accommodate more than thirty dwelling units."

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 abutter'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 finds above, the Cape Cod Commission hereby denies the Cliffside proposal 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 abutter's list and fully completed application to the Commission.

The Commission hereby denies the application of Marguerite Building Corporation for the Cliffside proposal as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, for a proposed residential development.



Richard S. Armstrong, Chair

11/29/90

Date



Notary
Commission Expires May 7, 1992

11/29/90

Date