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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 11, 1990                      CCC # TR90080

TO: Mr. Douglas Lebel  
Heritage Research  
Bell Tower Mall-Route 28  
Centerville, MA 02632

FROM: Cape Cod Commission

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

APPLICANT: Mr. Douglas Lebel

PROJECT: Mitchell's Way Office/Retail Development  
Mitchell's Way  
Hyannis, Massachusetts

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**DECISION OF THE CAPE COD COMMISSION**

SUMMARY

The Cape Cod Commission (The Commission) hereby denies the application of Mr. Douglas Lebel of Heritage Research 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 office and retail building on Mitchell's Way in Hyannis, MA. The decision is rendered pursuant to the vote of the Commission on September 27, 1990.

PROJECT DESCRIPTION

The proposal calls for construction of an office/retail building with a total floor area of 11,800 square feet on a 37,680 square foot lot. Residential use is also proposed for one-half of the total floor area. A total of 33 parking spaces is proposed for the site. The project is located on Mitchell's Way in Hyannis, MA. The site is located in a Business District.

PROCEDURAL HISTORY

The project proponent filed for Site Plan Review approval with the town of Barnstable on July 9, 1990. The project was referred to the Commission by the Site Plan Review Committee on August 3, 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 September 13, 1990 and September 20, 1990 pursuant to Section 5 of the Act. A hearing was scheduled for September 27, 1990 at 3:00 p.m. in Barnstable County Superior Courthouse, Rooms 11 & 12, 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. Commission Secretary Donald Near read the hearing notice. At this hearing the motion was made to deny the application of Mr. Douglas Lebel 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 by the full Commission.

#### Materials Submitted for the Record

Materials submitted by the Proponent:

- None

Additional Materials:

- Site Plan Review application dated July 9, 1990

- 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.

#### JURISDICTION

The proposed office/retail development on Mitchell's Way 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 new construction greater than ten 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 proposed 11,800 square foot office/retail development 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. Douglas Lebel of Heritage Research as a Development of Regional Impact pursuant to Section 12(c)(6) of the Act for a proposed 11,800 square foot office/retail development.

  
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Richard S. Armstrong, Chairman

10/11/90  
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Date

  
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Notary By Commission Expires May 7, 1992

10/11/90  
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Date