



# CAPE COD COMMISSION

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DATE: December 16, 1993

TO: Chatal Associates

FROM: Cape Cod Commission

RE: DRI Exemption Application,  
Cape Cod Commission Act, Section 12(k)

APPLICANT: Charles M. Talanian, General Partner  
Chatal Associates  
176 Newbury Street  
Boston, MA 02116-2885

PROJECT NO: EX93022

PROJECT: **MASHPEE MINI-GOLF**  
694 Falmouth road (Route 28), Mashpee, MA

LOT/PARCEL: Lot 3, Assessors Map 31, Parcel 25  
Book 4106, Page 071

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby finds that the requested DRI Exemption for the proposed Mashpee Mini-Golf (Project) is not warranted, and is therefore denied.

Mashpee Mini-Golf, EX93022  
Decision - 12/16/93

## **PROJECT DESCRIPTION**

As a result of a partial eminent domain taking by the Town of Mashpee of the Applicant's land now in mini-golf use, the Applicant proposes to relocate and expand an existing miniature golf course to a wooded parcel of land (6.03 acres) also owned by the Applicant, approximately 900+/- feet south and on the same side of Route 28 as the former site. Relocation will include an 18-hole miniature golf course with water and landscape features, parking for 62 cars, and a clubhouse/snack bar/deck building consisting of 2,600+/- square feet. The proposed relocation will utilize a newly-constructed, but existing curb-cut along Route 28, and will operate seasonally for approximately four months out of the year.

The Project will result in an expansion of the previous facility in that the area devoted to mini-golf will be increased from approximately 18,360 square feet to 41,755 square feet (127%) and a 2,600 square feet clubhouse/snack bar/deck will be constructed where previously there existed only a few small "out" buildings. Parking and landscaped buffer areas commensurate with the larger-scale operation are provided for in the site plan.

## **PROCEDURAL HISTORY**

The proposed Mashpee Project was referred to the Cape Cod Commission as a Development of Regional Impact (DRI) under the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, (Section 12 (c) (6)), as new outdoor commercial development of greater than 40,000 square feet). The referral was made by the Mashpee Zoning Board of Appeals on October 13, 1993, and was received by the Commission on October 15, 1993.

A combined application was received on November 17, 1993 for a DRI Exemption (EX93022), a DRI Hardship Exemption (HDEX93022), and a DRI (TR93022). The three sets of application materials were determined to be complete on November 29, 1993. A site visit by the Subcommittee took place on December 2, 1993, and on December 7, 1993 a public hearing was conducted to hear testimony on all

three applications. The Subcommittee voted to recommend denial of the DRI Exemption. At its conclusion, the public hearing was closed with respect to all three applications, however, the record was left open with respect to the DRI Hardship Exemption until the completion of the Subcommittee's next meeting, scheduled for 1:30 PM on January 6, 1993.

The application and notices of public hearings relative thereto, the Commission's staff notes and reports, the Subcommittee Report, exhibits and correspondence, the transcript and minutes of the hearing and all written submissions received and sent in the course of the proceedings are incorporated into the record by reference.

Materials submitted for the record include:

1. DRI Referral Form - 10/15/93
2. DRI Exemption Application/DRI Application - 11/17/92
3. Ltr. from Kevin Kirrane dated 12/3/93
4. Ltr. from Massachusetts Historic Commission dated 12/2/93
5. Ltr. from R. Gregory Taylor, Town of Mashpee Engineer, dated 10/29/93
6. Ltr. from R. Gregory Taylor, Town of Mashpee Engineer, dated 11/15/93
7. Fax. from Tom Fudala, Town of Mashpee Planner - 12/1/93
8. Ltr. from Curtis W. Frye dated 12/6/93
9. Ltr. from Robert L. Whritenour, Jr. dated 12/7/93
10. Fax. from Rod Emery - 12/7/93

**TESTIMONY**

The Subcommittee received oral testimony at the December 7, 1993 public hearing from the Applicant's representatives who presented the Project and answered questions. Testimony was also received from Gregory Taylor, Town of Mashpee Engineer, in support of the DRI Exemption request, and from William F. Hauck, Town of Mashpee Zoning Enforcement Officer/Building Inspector, to explain matters relating to zoning.

## **DRI EXEMPTION**

Section 3(a) of the Administrative Regulations of the Cape Cod Commission (Adopted 10/10/93), states that *"Any Applicant may apply to the Commission for an exemption from Commission review of a proposed project which literally qualifies as a development of regional impact, but where the location, character and environmental effects of the development will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is located."*

The Applicant has represented that the Project, as a relocation of a previously-existing business onto a nearby parcel, will result in an overall improvement of the traffic conditions in the area by relocation of the existing Mini-Golf operation and its associated ingress/egress from/onto Route 28. However, since the Project is not only a relocation, but an expansion as well, the potential for increased usage of the facility (with a possible increase in trip generation and different turning movements onto/off Route 28) must be evaluated. In addition, only a portion of the former mini-golf site will be affected by the action of the Town's taking. Most of that site, on the corner of Donna's Lane and Route 28, will remain available as commercially-zoned land for future development. Finally, the proposed Project site is undeveloped woodland, whereas the existing site is a part of a larger, already cleared and developed parcel.

## **FINDINGS**

The Commission has considered the Applicant's request for a DRI Exemption for the proposed Mashpee Mini-Golf project and, based upon such request and information presented at the public hearing and submitted for the record, hereby accepts the following findings contained in the Subcommittee's Report, dated December 10, 1993:

1. The Project meets the threshold of a Development of Regional

Impact specified in Section 12 (c) (6) of the Cape Cod Commission Act as an outdoor commercial space greater than forty thousand square feet;

2. The Project will result in the expansion of an existing business at a new and different location, while leaving the majority of the former site available for future redevelopment;

3. The Project obtains its vehicular ingress/egress, fronts upon and will be visible from Route 28, a Class A Major Regional Roadway, as identified in the RPP. The proposed relocation and expansion of the Project will have significant impacts on Route 28, and therefore on the values and purposes protected by the Cape Cod Commission Act outside of the municipality in which it is located;

4. The Project site is located within the watershed of Popponesset Bay, and is therefore located in a Marine Water Recharge Area, as defined by the RPP. Popponesset Bay itself is a potential shellfish area with bordering fresh and saltwater wetlands. Its headwaters are categorized as an anadromous fish run and, along with its barrier beaches, serve as habitat for rare plants and animals;

5. Popponesset Bay is a regional resource as it opens to the Vineyard Sound and borders on both the towns of Mashpee and neighboring Barnstable. The proposed relocation and expansion of the Project may have significant impacts on Popponesset Bay, and therefore on the values and purposes protected by the Cape Cod Commission Act outside of the municipality in which it is located.

## **CONCLUSION**

After reviewing the application for a DRI Exemption in relation to Section 12 (k) of the Act and Section 3 (a) of the Administrative Regulations, the Commission concludes that the Project will result in impacts outside of the municipality in which it is located and is, therefore, a Development of Regional Impact that does not warrant

an exemption from the permitting process. This conclusion is supported by the findings above.

**DECISION**

Based upon the findings and conclusions above, the Commission hereby denies Mr. Charles Talanian, General Partner of Chatal Associates, a DRI Exemption for the Mashpee Mini-Golf Project, pursuant to section 12 (k) of the Cape Cod Commission Act and Section 3 (a) of the Administrative Regulations. This denial is without prejudice.

*David Ernst*

~~David Ernst, Chair~~

12/16/93

Date

*Kenneth Brock Vice Chair*

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 16<sup>th</sup> day of Dec 1993

*Katharine L Peters*

Name, Notary Public

My commission expires: My Commission Expires December 5, 1997