



CAPE COD COMMISSION

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508-362-3828
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DATE: March 18, 1993 #CCC TR 92089

TO: Brian E. McDermott, Esq.
Augusta Realty Company of Falmouth Inc.
182 Palmer Ave.
Falmouth, MA.

FROM: Cape Cod Commission

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

Applicant: Augusta Realty Company of Falmouth Inc.

Project: Augusta Way Subdivision
632- 760 Teaticket Highway (Route 28), East Falmouth, MA.
Assessors Map 34, Section 4, Parcels 36, 36B, 37, 37B, 37C, 37E.

Book/Page: BK01286 PG0900/ BK02398 PG0049/ BK07618 PG0135

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (the Commission) hereby denies without prejudice the application of Augusta Realty Company of Falmouth, Inc. for a Development of Regional Impact (DRI) permit under Sections 12 & 13 of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a proposed subdivision of land to change property lines and create a new building lot on an approximately 36 acre site off of Route 28 in East Falmouth, MA. The decision is rendered pursuant to the vote of the Commission on March 18, 1993.

PROJECT DESCRIPTION

The 36-acre subdivision includes a proposed cul-de-sac to provide frontage for a new lot on the site. In addition, property lines are proposed to be altered on four existing lots to create the primary access to this new lot. In information submitted to the record the applicant proposed construction of a 156,600 square feet retail building on the new lot within the subdivision.

The subdivision is located on the north side of Route 28 in Falmouth, MA, and includes the Falmouth Lumber Company and existing warehouse buildings. Directly south of the site is the Talyor Rental building. Single-family residential development lies directly to the north and west of the proposed subdivision.

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The 36-acre subdivision is zoned Light Industrial A with lots ranging in size from 1-1/2 acres to 24.6 acres for the proposed building lot. Of the 24.6 acres in the large building lot, a total of 6.38 acres have structures or parking from the former drive-in operation and 5.32 acres are lawn area. The remaining 12.94 acres is primarily wooded.

PROCEDURAL HISTORY

The Applicant received preliminary subdivision approval from the Falmouth Planning Board on April 3, 1992, and filed a definitive subdivision plan with the Planning Board on November 4, 1992. The Falmouth Planning Board referred the definitive plan under Section 12(e) of the Act to the Commission on December 9, 1992. The Commission voted on December 17, 1992 to accept the discretionary referral and review the proposal as a Development of Regional Impact (DRI). A hearing notice appeared in the Cape Cod Times on January 12, 1993 and January 19, 1993 pursuant to Section 5 of the Act. A public hearing was opened and closed without testimony by an authorized hearing officer of the Commission on January 26, 1993 due to the failure of the applicant to submit an application.

MATERIALS SUBMITTED FOR THE RECORD:

<u>NAME</u>	<u>CONTENTS</u>	<u>DATE RECEIVED</u>
From the applicant:		
1. Vanasse Hangen Brustlin	Certified abutters list	Jan. 6, 1993
2. To Greg Guimond from Bryan Bakis on meetings		Jan. 19, 1993
From the Town:		
1. DRI Referral Form and supporting documentation including Environmental, Economic, Traffic impact studies and Definitive Subdivision Plans (dated Oct. 28, 1992) submitted to the Planning Board from the Applicant.		Dec. 10, 1992
From the Public:		
1. A. Jackson	In opposition	Sept. 9, 1992
2. M. DiMatteo	In opposition	Sept. 9, 1992
3. S. Spooner	In opposition	Sept. 14, 1992
4. A. Jackson	In opposition	Sept. 17, 1992
5. F. O'Neil	In opposition	Oct. 16, 1992
6. W. Banks	In opposition	Oct. 29, 1992
7. A. Bagg	In opposition	Nov. 9, 1992
8. M. Costello	In opposition	Nov. 23, 1992
9. Davisville Civic Ass.	In opposition	Dec. 8, 1992
10. FACES	In opposition	Dec. 9, 1992
11. M. Ballard	In opposition	Dec. 10, 1992
12. C. & W. Shultz	In opposition	Dec. 10, 1992
13. L. Howard	In opposition	Dec. 14, 1992
14. Teaticket Civic Ass.	Concerns with the proposal	Dec. 15, 1992
15. J & T Stetson	Concerns with the proposal	Dec. 15, 1992
16. C. Barlow	Thanking the Planning Board	Dec. 15, 1992
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17. M & E Sholkovitz	In opposition	Dec. 15, 1992
18. M & I Cornman	In opposition	Dec. 15, 1992
19. LH Lees	In opposition	Dec. 17, 1992
20. A& M Alves	In support	Dec. 17, 1992
21. W. Woods	In opposition	Dec. 17, 1992
22. T. Sweeny	In opposition	Dec. 18, 1992
23. A. Robb	Thanking the Planning Board	Dec. 18, 1992
24. F. Shephard	Thanking the Planning Board	Dec. 18, 1992
25. C. Dahmen	In opposition	Dec. 21, 1992
26. A. Finch	In opposition	Dec. 22, 1992
27. R. Giles	Concerns with the development	Dec. 22, 1992
28. J. Fredericks	Concerns with the development	Dec. 24, 1992
29. S. Prince	In opposition	Dec. 30, 1992
30. A. Dodge	In opposition	Jan. 7, 1993
31. E. & N. Kaufman	In opposition	Jan. 8, 1993
32. R. & S. Markell	In opposition	Jan. 8, 1993
33. R. Feastien	In opposition	Jan. 8, 1993
34. L. Kane	In opposition	Jan. 11, 1993
35. G. Salerno	In opposition	Jan. 11, 1993
36. R. Canning	In opposition	Jan. 11, 1993
37. W. Bell	In opposition	Jan. 11, 1993
38. P.& P. Bosinoff	In opposition	Jan. 11, 1993
39. N.& W. Eddy	In opposition	Jan. 11, 1993
40. Mr. & Mrs. Eagon	In opposition	Jan. 11, 1993
41. D. & D Tweedie	In opposition	Jan. 12, 1993
42. R. Levin	In opposition	Jan. 12, 1993
43. M. H. Pedell	Concerns with the development	Jan. 12, 1993
44. A. Rudel	In opposition	Jan. 12, 1993
45. M. & H. Berman	In opposition	Jan. 13, 1993
46. J. Powell	In opposition	Jan. 13, 1993
47. C. Warner	In opposition	Jan. 13, 1993
48. A. Kauff	In opposition	Jan. 13, 1993
49. J. Fialkow	In opposition	Jan. 13, 1993
50. V. Hemphill	In opposition	Jan. 14, 1993
51. J. DeCico	Concerns with the development	Jan. 14, 1993
52. J. Schlalwon	Concerns with the development	Jan. 14, 1993
53. F. Little	In opposition	Jan. 15, 1993
54. Bell & Marino	In opposition	Jan. 15, 1993
55. M. Ellis	In opposition	Jan. 15, 1993
56. A. Woodcock	In opposition	Jan. 11, 1993
57. J. Abbott	In opposition	Jan. 18, 1993
58. P. Doyle	In opposition	Jan. 18, 1993
59. W. Godfrey	In opposition	Jan. 18, 1993
60. N. Grocer	In opposition	Jan. 18, 1993
61. E. Gordon	In opposition	Jan. 18, 1993
62. S. Grosser	In opposition	Jan. 20, 1993

63. M. Glass	In opposition	Jan. 20, 1993
64. J. Christopher	In opposition	Jan. 20, 1993
65. E. Prince	In opposition	Jan. 22, 1993
66. B. Meisser	In opposition	Jan. 22, 1993
67. E. Izen	In opposition	Jan. 25, 1993
68. R. Glassman	In opposition	Jan. 25, 1993
69. P.& D. Adler	In opposition	Jan. 25, 1993
70. E.& S. Crompton	In opposition	Jan. 25, 1993
71. S. Ross	In opposition	Jan. 25, 1993
72. V. Dunn	In opposition	Jan. 26, 1993
73. E. Aluck	In opposition	Jan. 26, 1993
74. D. Haler	In opposition	Jan. 28, 1993
75. Petition of 4, 000 residents	In opposition	Feb. 8, 1993
76. D. Moitose	Concerns with the development	Feb. 12, 1993
77. E. Tantum	Concerns with the development	Feb. 16, 1993
78. L. Levin	In opposition	Feb. 18, 1993
79. C. King	In opposition	Feb. 19, 1993
80. D. Feisten	In opposition	Feb. 19, 1993
81. L. Haley	In opposition	Feb. 19, 1993
82. R. Markell	In opposition	Feb. 22, 1993
83. S. McLean	In opposition	Feb. 22, 1993
84. P. Kavanaugh	In opposition	Feb. 22, 1993
85. H. Rayner	In opposition	Feb. 22, 1993
86. A. Sweet	In opposition	Feb. 22, 1993
87. W. Bauknecht	In opposition	Feb. 22, 1993
88. G. Baker	In opposition	Feb. 23, 1993
89. D. Fata	Concerns with the development	Feb. 23, 1993
90. S. Pedell	In opposition	Feb. 24, 1993
91. K. Gluck	In opposition	Feb. 24, 1993
92. A. Robb	In opposition	Feb. 25, 1993
93. D. David	In opposition	Feb. 25, 1993
94. R. Levin	In opposition	Feb. 26, 1993
95. F. Meiddods	In opposition	Feb. 26, 1993
96. G. Godfrey	In opposition	Feb. 26, 1993
97. W. Harris	In opposition	March 1, 1993
98. J. Frankel	In opposition	March 1, 1993
99. D. Hahn	In opposition	March 1, 1993
100. J. Gilbrook	In opposition	March 1, 1993
101. D. Zinn	In opposition	March 1, 1993
102. P. Giroux	In opposition	March 1, 1993
103. D. Owen	In opposition	March 2, 1993
104. C. Worth	In opposition	March 2, 1993
105. R. Dorr	In opposition	March 4, 1993
106. W. Brewer	In opposition	March 5, 1993
107. S. Gallerani	In opposition	March 5, 1993
108. R. Vernet	In opposition	March 8, 1993
109. J. Kline	In opposition	March 8, 1993

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110. S. Ross	In opposition	March 8, 1993
111. L. Kane	Concerns with the location	March 9, 1993
112. R. Alliegro	Concerns with the proposal	March 15, 1993
113. B. Braford	In opposition	March 16, 1993
114. R. Weitner	In opposition	March 16, 1993
115. L. Hermanson	In opposition	March 16, 1993
116. A. Tolor	In opposition	March 17, 1993

Additional materials:

1. All notices of public hearings, newspaper clippings and minutes		
2. Information prepared by VHB given to Falmouth Enterprise on site plans		Oct. 29, 1992
3. Letter to Brian McDermott, Esq.	Notice of Referral	Dec. 10, 1992
4. Staff Report	Recommend DRI Review	Dec. 11, 1992
5. Site photos taken staff	Existing conditions & curb cuts	Dec. 16, 1992
6. Letter to Brian McDermott, Esq.	DRI application information	Dec. 22, 1992
7. Notice to Town Clerk/Building Inspector/Planning Board referring the project		Dec. 23, 1992
8. Letter to Augusta Realty Company	Notice billing	Jan. 6, 1993
9. Letter to Bryan Bakis, VHB	Review scope	Feb. 18, 1993

TESTIMONY:

A public hearing was opened and closed by a hearing officer on January 26, 1993 in the Cape Cod Commission office 3225 Main Street, Barnstable, MA. No substantive testimony was heard on the project due to the failure of the applicant to file a complete application.

JURISDICTION:

The Augusta Realty Company proposal was referred to the Cape Cod Commission under Section 12(e) of the Act, by the Falmouth Planning Board on December 9, 1992. The Commission voted 15 to 1 with 1 abstention to review the proposal as a Development of Regional Impact (DRI).

FINDINGS

The Commission makes the following finding subject to Sections 12 and 13 of the Act:

1). The Applicant failed to submit to the Cape Cod Commission a fully completed application for DRI review. Specifically, the Applicant failed to provide the DRI review fee and complete application required by the Cape Cod Commission regulations. The applicant provided no information on which to base a favorable decision.

CONCLUSION

Based upon the finding above, the Cape Cod Commission hereby denies the Augusta Way Subdivision as a Development of Regional Impact, without prejudice. This conclusion is supported by the finding that the Applicant failed to comply with procedures of the Act and Commission regulations requiring submission of a fully completed application, including the review fee, to the Commission.

The Commission hereby denies without prejudice the application of Augusta Realty Company of Falmouth Inc. for the Augusta Way proposal as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act.

Alix Ritchie
Alix Ritchie, Chair

3/22/93
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn before me this 22 day of March, 1993

Katharine L. Peters
Name, Notary Public

My Commission expires: _____

My Commission Expires December 5, 1997