



# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. Box 226  
BARNSTABLE, MA 02630  
508-362-3828  
FAX: 508-362-3136

Date: February 17, 1995

Applicant: Ballymeade Development Corporation  
P.O. Box 1049  
Falmouth Woods Road - Ballymeade Estates  
North Falmouth MA 02556

Project: JD 95004  
Fairway Pointe and Bayview Ridge  
Falmouth Woods Road  
North Falmouth MA 02556

RE: Jurisdictional Determination Request  
Cape Cod Commission Act, Cape Cod Commission  
Regulations of General Application

Bayview Ridge  
Lot/Plan: Lot 10, Plan Book 414 Page 72

Bayview Ridge  
Owners: Bayview Ridge Limited Partnership

Fairway Pointe  
Lot/Plan: Lot 2 and Lot 3, Plan Book 414 Page 72

Fairway Pointe  
Owners: Ballymeade Associates Limited Partnership I

---

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby finds that under the Cape Cod Commission Regulations of General Application, Chapter A, Sections 3(c) and 3(f), the proposed developments known as Fairway Pointe and Bayview Ridge qualify as Developments of Regional Impact (DRI), and that pursuant to Section 22(b) of the Cape Cod Commission Act the proposed subdivisions called Fairway Pointe and Bayview Ridge are exempt from DRI review. The decision is rendered pursuant to the vote of the Cape Cod Commission Subcommittee on February 17, 1995.

## PROJECT DESCRIPTION

The proposed projects are located in Ballymeade Estates, Route 151, Falmouth. Ballymeade Estates is an existing residential subdivision that includes a country club and golf course. The proposal for Fairway Pointe consists of 32 multifamily units located on 86.9 acres to the west of Falmouth Woods Road. The proposal for Bayview Ridge consists of 31 multifamily units located on 65.84 acres to the east of Falmouth Woods Road.

## JURISDICTION

The purpose of the Jurisdictional Determination request is to determine if the proposed developments propose to divide, combine, or develop any parcel(s) of land totaling 30 acres or more and whether the proposed developments propose to create or add thirty or more residential dwelling units under Cape Cod Commission Regulations of General Application, Chapter A, Section 3(c) and 3(f), Barnstable County Ordinance 94-10, and whether the proposed developments are exempt from Commission review under Section 22(b) of the Act.

## PROCEDURAL HISTORY

### Project Chronology:

- June 3, 1987 - The Final Environmental Impact Report was approved for the Falmouth Woods project based on plans including a 246 lot residential subdivision, Falmouth Woods Club, Corporate Conference Center, Corporate Campus, and equestrian center.
- October 9, 1987 - The Falmouth Zoning Board of Appeals voted to approve the Falmouth Woods Club on Lot 9.
- February 8, 1989 - The Planning Board voted to approve The Ridge (now known as Bayview Ridge) for 32 units of multifamily dwellings on Lot 10.
- April 27, 1989 - MEPA determined no further review was necessary for modifications to the plans including the elimination of the Corporate Campus, Conference Center and Wastewater Treatment Facility in exchange for approval for The Villas (32 multifamily units on 65.18 acres) and a 14 unit guest lodge on 6.85 acres.
- June 24, 1989 - The Falmouth Zoning Board of Appeals voted to approve a modification to the plans to divide Lot 9 into Lots 1, 2, and 3.
- October 7, 1994 - The current plans under review by the Town of Falmouth and the Cape Cod Commission include:
  - Lot 2 containing the 14 unit Guest Lodge on 6.85 acres has been eliminated with the land becoming attached to Lot 3 as open space.
  - Lot 3 to contain 32 multifamily units known as Fairway Pointe (formerly known as The Villas) on 86.9 acres, and which includes the property contained in Lot 2.
  - Lot 10 to contain 31 units of multifamily housing known as Bayview Ridge on 65.84 acres.

Commission Review Chronology:

The Commission received a request for a Jurisdictional Determination from the Ballymeade Development Corporation on January 26, 1995. The application was deemed complete on February 7, 1995. A duly noticed public hearing pursuant to Section 5 of the Act was held by an authorized Subcommittee of the Commission on the Jurisdictional Determination request on February 17, 1995 at the Falmouth Public Library, Falmouth MA. At the close of the public hearing the Subcommittee voted unanimously that the proposed projects qualify as mandatory referrals under the DRI thresholds contained in Sections 3(c) and 3(f) and that the proposed developments qualify for an exemption from Commission review under Section 22(b) of the Act.

Materials Submitted for the Record:

- Jurisdictional Determination Application
- Memorandum to Accompany Application to the Cape Cod Commission from Diane C. Thompson dated January 25, 1995
- Letter to Dorr Fox from Diane C. Thompson dated January 25, 1995
- Copy of Certificate of the Secretary of Environmental Affairs on the Final Environmental Impact Report dated June 3, 1987
- Copy of Notice in the Environmental Monitor of action taken by MEPA on Project Changes dated April 27, 1989
- Copy of Memorandum to Support Application to the Falmouth Board of Appeals for a Special Permit Modification for Ballymeade Country Club and adjoining parcels dated December 7, 1994
- Copy of Subdivision Regulations Form C Application for Approval of a Definitive Plan for Fairway Pointe dated October 12, 1994
- Copy of Memorandum to Support Application to the Falmouth Planning Board for a Special Permit and Definitive Plan Approval for Fairway Pointe and Devon Court dated December 6, 1994
- Copy of Special Permit Application for Open Space Residential Development for Bayview Ridge dated October 4, 1994
- Copy of Memorandum to Support Application to the Falmouth Planning Board for a Special Permit and Definitive Plan Approval for Bayview Ridge from Diane C. Thompson dated December 6, 1994
- Addendum to Memorandum to Accompany Application to the Cape Cod Commission from Diane C. Thompson dated February 5, 1995
- Copy of letter regarding Notice of Project Change to the Secretary of Environmental Affairs from Ingeborg E. Hegemann dated August 11, 1988
- Copy of letter to Ingeborg E. Hegemann from Steven C. Davis, Executive Office of Environmental Affairs dated September 26, 1988
- Copy of letter to Steven C. Davis, Executive Office of Environmental Affairs, from Carol A. Paone dated December 15, 1988
- Copy of Falmouth Planning Board Decision to approve The Ridge dated February 8, 1989
- Copy of Falmouth Zoning Board of Appeals decision to divide Lot 9 into lots 1, 2, and 3 dated June 24, 1989
- Copy of Falmouth Planning Board Decision to approve Devon Court dated March 28, 1989

- Copy of Zoning Board of Appeals Decision to approve the Falmouth Woods Club dated October 9, 1989
- Copy of letter to Falmouth Planning Board from Holmes & McGrath, Inc. regarding Nitrate Loading for Fairway Pointe dated October 7, 1994
- Copy of letter to Falmouth Planning Board from Holmes & McGrath, Inc. regarding Nitrate Loading for Bayview Ridge dated October 7, 1994
- Copy of letter to John Taylor, Falmouth Zoning Board of Appeals, from Diane C. Thompson dated January 25, 1995
- Copy of Notice of Project Change under MEPA submitted by Diane C. Thompson dated February 16, 1995
- Copy of Falmouth Planning Board Decision to approve the Special Permit for The Ridge dated February 8, 1989
- Copy of Special Permit Application for Planned Residential Development for the Ridge Dated November 16, 1988
- Copy of Falmouth Planning Board Decision to approve the Preliminary Plan for The Villas dated August 16, 1989
- Copy of Application for Approval of Preliminary Plan for The Villas dated July 1, 1989
- Copy of Memorandum re: Falmouth Woods Permit History from Brian Currie, Falmouth Town Planner dated June 1, 1993
- Supplemental Draft Environmental Impact Report for Falmouth Woods dated November 14, 1986
- Final Environmental Impact Report for Falmouth Woods dated April 15, 1987
- Site Plan for Whitney Cape Cod and Falmouth Woods Club dated June 23, 1987
- Plan of Land (2 sheets) for Bayview Ridge Limited Partnership dated October 4, 1994
- Development Plan (1 sheet) for Bayview Ridge Limited Partnership dated October 7, 1994
- Subdivision Plan of Land (4 sheets) for Fairway Pointe dated October 7, 1994
- Development Site Plans (6 sheets) for Fairway Pointe dated October 7, 1994
- Preliminary Plan of Land for The Villas (2 sheets) dated May 2, 1989
- Definitive Plan of Land for The Ridge (11 sheets) dated November 16, 1988
- Definitive Plan of Land for Devon Court (8 sheets) dated January 9, 1989
- Plan for Septic System Design for Lot G The Ridge (one sheet) dated December 15, 1988
- Site Plan for Lot G The Ridge (2 sheets) dated February 23, 1989
- Approval Not Required Plan for Lot 9 (1 sheet) dated May 2, 1989
- Preliminary Site Plan for Lot 2 (1 sheet) dated May 2, 1989
- Site Plan for Whitney at Cape Cod Corporate Campus and Country Club (11 sheets) dated January 27, 1986
- Architectural Plans for The Ridge (42 sheets) dated December 30, 1988 and January 26, 1989

Additional Materials:

- Written comments from Alan Fler to Margo Fenn dated December 30, 1994

The application and notice of the public hearing relative thereto, the Commission's staff report, and exhibits, minutes of all hearings and all written

submissions received in the course of the proceedings, including materials submitted on file #JD95004 are incorporated into the record by reference.

#### TESTIMONY

Diane C. Thompson, representing Ballymeade Development Corporation, explained the overall Falmouth Woods project and reviewed its history. She stated that an Environmental Impact Report was approved by MEPA in 1987 and that the current project is substantially the same. She noted that the Fairway Pointe and Bayview Ridge projects are currently under review by the Falmouth Zoning Board of Appeals and the Planning Board. She stated that there would not be an increase in impacts for the new projects and that she thought it would be unlikely that there would be a requirement for further MEPA review.

Michael McGrath reviewed the Fairway Pointe and Bayview Ridge projects as they are currently proposed. He explained that the number of units and their size have decreased. He noted that a portion of the original parcel of land had been donated for an affordable housing project. The current proposal requires a new special permit from the town.

Testimony from the public was taken from Janet Hand, Falmouth Planning Board Member, Alan Flear, Falmouth Planning Board Member, Don LeBlanc, and Peter Neilson.

#### FINDINGS

The Subcommittee has considered the applicant's request for a Jurisdictional Determination regarding the proposed Fairway Pointe and Bayview Ridge developments. Based upon consideration of such request, upon information presented at the public hearing and submitted for the record, the Subcommittee makes the following findings:

- 1) Fairway Pointe (86.9 acres) and Bayview Ridge (65.84 acres) are proposed as residential multifamily subdivisions. Both projects exceed the 30 acre threshold under the Cape Cod Commission Regulations of General Application, Chapter A, Section 3(c), and therefore qualify for DRI review.
- 2) Fairway Pointe (32 multifamily units) and Bayview Ridge (31 multifamily units), as proposed, are residential multifamily developments that exceed the 30 residential dwelling unit threshold under the Cape Cod Commission Regulations of General Application, Chapter A, Section 3(f), and therefore qualify for DRI review.
- 3) The Environmental Impact Report of 1987 and the Notice of Project Change dated April 1989 were approved by the Secretary of Environmental Affairs prior to July 1, 1989. As originally approved by MEPA, the Fairway Pointe project consisted of 32 multifamily units and a 14 unit guest lodge. The Bayview Ridge project originally consisted of 42 single family residences, for which no plan was submitted. The number of units approved for Bayview Ridge was derived from the Falmouth zoning by-laws requirement of 1.87 acres per unit.

4) Bayview Ridge as currently proposed shows a reduction of 11 units from the proposal approved by MEPA. The applicant has also donated 20 acres of land from the original parcel of land for the Longshank Affordable Housing development. The number of proposed units remains consistent with Falmouth zoning by-laws of 1.87 acres per unit. Fairway Pointe as currently proposed shows a reduction of 14 guest units from the proposal approved by MEPA.

5) The Fairway Pointe and Bayview Ridge developments, as currently proposed, are in substantial compliance with the EIR and the Notice of Project Change approved by the Secretary of Environmental Affairs prior to July 1, 1989. Changes to the originally approved proposals for Bayview Ridge and Fairway Pointe will result in no increased impacts due to siting, traffic, or nitrogen loading. In addition, the modified proposals continue to reflect the nature and purpose of the project and use in the original Environmental Impact Report and 1989 Notice of Project Change, and they comply with the Cape Cod Commission Definition of Substantial Compliance dated April 1, 1992.

6) Should the proposed changes to the plans for Bayview Ridge and Fairway Pointe result in the requirement for additional review by MEPA, the projects shall be referred to the Cape Cod Commission as Developments of Regional Impact.

CONCLUSION

Based on the findings above, the Commission concludes that the proposed projects known as Bayview Ridge and Fairway Pointe meet or exceed thresholds for DRI review as projects that propose to divide, combine, or develop any parcel(s) of land totaling 30 acres or more, and as projects that are planned to create or add thirty or more residential dwelling units. The Commission also concludes that the proposed projects are exempt from review by the Cape Cod Commission under Section 22(b) of the Act based on substantial compliance with MEPA approval of the Environmental Impact Report dated April 15, 1987 and the modifications approved by MEPA dated April 1989.

George L. Jackson  
George Jackson, Chairman

2/27/95  
Date

**Commonwealth of Massachusetts**

Barnstable, ss.

Subscribed and sworn to before me this 27<sup>th</sup> day of February, 1995.

Katharine L. Peters  
Name, Notary Public

My commission expires: