



CAPE COD COMMISSION

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

Date: February 2, 1995
To: Francis E. Daddario
From: Cape Cod Commission
Re: Development of Regional Impact, Section 12, Cape Cod Commission Act
Project : TR# 94006
Project: Daddario Gravel Mining Operation
Applicant: Ferdinand L. Hellweger/Cochrane Associates, Inc.
Lot/Parcel: Plan # 40176-B
Book/Page # Book 102/ page 51
Book 392/ page 66
Book 162/ page 141

Decision of the Cape Cod Commission

Summary

The Cape Cod Commission (Commission) hereby denies the application of Mr. Frances E. Daddario for a Development of Regional Impact (DRI) permit under Section 12 and 13 of the Commission Act (Act), c. 716 of the Acts of 1989, as amended. This decision is rendered pursuant to a vote of the Commission on February 2, 1995.

Project Description

The Project, on approximately 70 acres of land, will extract gravel to a depth of 10 feet above the water table from 31.8 acres of land in seven phases of approximately five acres each. The entire Project is proposed with buffer strips around the edges in accordance with the requirements of the Falmouth extraction bylaw. Each phase will be reclaimed in accordance with the bylaw (grading, loaming and seeding) prior to commencement of work on the following phase.

Site visits, an analysis of the submitted information and an examination of the Regional Policy Plan Atlas shows that the Project site is:

- completely undeveloped, forested land with significant wetlands and a vernal pool present;

- adjacent to other undeveloped, forested land and an existing gravel pit;
- adjacent to a residential subdivision;
- located in proximity to a locally-significant historic site;
- bordered by town-owned conservation land;
- situated adjacent to and takes its access from a Class C, Local Roadway of Regional Significance
- fronting directly onto Shallow Pond;
- entirely within the zone of contribution to water supply wells;
- entirely within the RPP Proposed Open Space Greenbelt;
- partially within the Freshwater Recharge Area of Jenkins and Round Ponds to the south;
- adjacent to a Rare Plant and Animal Habitat (across Thomas Landers Road),
- significant south-westerly portions of the site are within a locally-designated deer migration area

Procedural History

The proposed Daddario Gravel Mining Operation 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 (ACT), as "outdoor commercial space greater than forty thousand square feet." The referral was made by the Falmouth Zoning Board of Appeals on March 11, 1994, and was received by the Commission on March 14, 1994.

The public hearing was opened by a hearing officer on May 11, 1994, and continued to allow the Applicant to submit a completed application. The 90-day period in which the Commission must conduct its public hearing for the Project would have ended on August 9, 1994. Consequently, the applicant chose to enter into an extension agreement to a decision due date of February 9, 1995.

A public hearing was continued to August 2, 1994 at the Gus Canty Recreation Center in Falmouth for the purposes of proceeding with the subcommittee's review and taking public testimony. A continued public hearing was held at the Morse Pond School on December 1, 1994, where the subcommittee closed the hearing leaving the record open until the close of business on December 16, 1994.

Materials Submitted for the record

The application and notices of public hearings relative thereto, the Commission staff notes, exhibits and correspondence, the minutes of meetings and hearings and all written submissions received in the course of the proceedings for this project are incorporated into the record by reference.

From the Applicant and Representatives:

1. Letter from Douglas Errico re: open space, December 14, 1994
2. Fax from Vanase & Assoc. re: traffic supplement, December 16, 1994
3. Letter from Frances Daddario, December 1, 1994
4. Comments from Cochrane Assoc. in response to CCC staff report, December 1, 1994
5. Fax from Cochrane Assoc. requesting staff report, November 18, 1994
6. Letter from Cochrane Assoc. November 3, 1994
7. Traffic Analysis from Vanase & Assoc., November 1, 1994
8. Letter from Cochrane Assoc. re: Wildlife Assessment, October 6, 1994
9. Letter from Douglas Errico, re: requesting clarification on Open Space, September 2, 1994
10. Letter from Cochrane Assoc. re: buffer issues, September 26, 1994
11. Letter from Douglas Errico, August 2, 1994
12. Plant and Wildlife Habitat Assessment, from Fugro East, August 2, 1994
13. Letter from Cochrane Assoc. re: DRI application and attachments, July 5, 1994

14. Letter from Douglas Errico, re: background information, July 5, 1994
15. Letter from Cochrane Assoc. Re: partial fee waiver, April 28, 1994

Commission Staff

1. Staff Report, November 25, 1994
2. Letter to Douglas Errico re: Open space issues, September 30, 1994
3. Letter to Cochrane Assoc. re: alternative site plan, September 20, 1994
4. Letter to Cochrane Assoc. re: public hearing schedule, September 19, 1994
5. Letter to Cochrane Assoc. re: Falmouth Natural Resource Dept. request, September 6, 1994
6. Letter to Donald Nicholas, re: traffic information request, August 25, 1994
7. Memo to Subcommittee, August 16, 1994
8. Staff Report, August 2, 1994
9. Extension Agreement, August 2, 1994
10. Letter to Cochrane Assoc., July 11, 1994
11. Letter to Cochrane Assoc., re: Benefits/Detriments Worksheet, June 27, 1994
12. Letter to Cochrane Assoc., re: application fee, June 7, 1994
13. Memo to Executive Committee, re: fee waiver request, June 2, 1994
14. Letter to Cochrane Assoc., re: revised layout for site plan, May 24, 1994
15. Letter to Cochrane Assoc., re: canceled public hearing, April 27, 1994
16. Memo to Subcommittee, April 27, 1994
17. Memo to Town of Falmouth, re: canceled public hearing, April 27, 1994
18. Letter to Cochrane Assoc., re: DRI issues, April 13, 1994
19. Memo to Town of Falmouth, re: scheduled public hearing, April 13, 1994
20. Memo to Subcommittee, April 13, 1994
21. Letter to Cochrane Assoc., re: DRI procedure, April 7, 1994
22. Letter to Cochrane Assoc., re: natural resource value of the proposed site, March 28, 1994
23. Letter to Cochrane Assoc., re: town referral of project, March 16, 1994
24. Memo to Town of Falmouth, re: referral acceptance, March 16, 1994
25. Memo to Subcommittee, March 16, 1994

From State Officials

1. Letter from MA Historical Commission, re: impact to archeological resources, July 28, 1994

From Municipal Officials

1. Letter from Bourne DPW Director, January 5, 1995
2. Request for use of the Morse Pond School as a hearing site, November 18, 1994
3. Wildlife assessment request from the Falmouth Dept. of Natural Resources, September 1, 1994
4. Letter from the Falmouth Historical Commission, June 30, 1994
5. Building use permit from the Gus Canty Community Center, April 6, 1994
6. DRI referral from the Falmouth Zoning Board of Appeals, March 14, 1994

From the Public

1. Letter from George W. and Barbara L. Lumsden, opposed to project, December 16, 1994
2. Letter from Thraston Hughes, opposed to the project, December 15, 1994
3. Letter from Edward F. Dow, opposed to project, December 15, 1994
4. Letter from Alan Fleer, opposed to project, December 15, 1994
5. Letter from Malora A Hackett and Barbara E. Grisham, opposed to project, December 14, 1994
6. Letter from Lucinda MacDonald, opposed to project, December 14, 1994
7. Letter from Carole L. Roncetti, opposed to project, December 14, 1994
8. Letter from Mr. and Mrs. E.J. Machin, opposed to project, December 14, 1994
9. Letter from Robert and Serena Jalbert, opposed to project, December 14, 1994

10. Letter from Theodore Williams, opposed to project, December 13, 1994
11. Letter from Christie Paige, opposed to project, December 13, 1994
12. Letter from Mr. and Mrs. James E. O'Malley, opposed to project, December 13, 1994
13. Letter from Jean Garrity, opposed to project, December 13, 1994
14. Letter from Mr. and Mrs. Leo O'Donnell, opposed to project, December 13, 1994
15. Letter from Patricia A. Grace, opposed to project, December 13, 1994
16. Letter from Michael and Kathleen Arth, opposed to project, December 12, 1994
17. Letter from Catherine Andersen, opposed to project, December 12, 1994
18. Letter from J.F. MacDonald, opposed to project, December 12, 1994
19. Letter from Anne and James Coughlin, opposed to project, December 12, 1994
20. Letter from Mr. and Mrs. Russell Cramer, opposed to project, December 12, 1994
21. Letter from Louis and Selma Souza, opposed to project, December 12, 1994
22. Letter from Rosemarie and Christopher Sage, opposed to project, December 9, 1994
23. Letter from Gerald M. Jenkins, opposed to project, December 9, 1994
24. Letter from Eben and Claire Sage, opposed to project, December 9, 1994
25. Letter from Irene and Frank LaScala, opposed to project, December 8, 1994
26. Letter from Richard Yarosh, opposed to project, December 7, 1994
27. Letter from Laurie Sosville, opposed to project, December 7, 1994
28. Letter from Helen Dudley, opposed to project, December 7, 1994
29. Letter from John D. Buskey Jr., opposed to project, December 7, 1994
29. Letter from Eugene K. Zewatski, opposed to project, December 6, 1994
30. Letter from Mrs. Beverly L. Simone and Joseph Simone, opposed to project, December 6, 1994
31. Letter from Christine A. Lefy, opposed to project, December 6, 1994
32. Letter from Lesly M. Radcliffe, opposed to project, December 6, 1994
33. Letter from George E. Watts, requesting notice of hearings, September 12, 1994
34. Letter from 300 Committee of Falmouth, re: conservation trust, August 1, 1994
35. Letter from Leo Lermond, opposed to project, July 28, 1994

Testimony

A public hearing was held on August 2, 1994 in Falmouth for the purposes of taking testimony. Mr. Douglas Errico, the applicant's attorney stated that the site was approximately 70 acres in size and the project proposal is to mine the sand and gravel from 32 acres in phases. There would be no more than 5 acres mined at a time with residential development ultimately occupying the site once the mining is complete. The town has by laws that provide a number of safeguards for the project to protect the abutters and the surrounding property from the operation, he said.

Mr. Errico further stated that the site is not near traditional village centers and the project would be located in an area that already has existing sand and gravel operations. There is a concrete batching plant next door and the project would not be out of character with the neighborhood. The benefits of the operation would be the increase in jobs, increased tax revenues and there is a needed commodity in terms of the sand and gravel. By minings very nature, it is not permanent and does not lend itself to permanently designated open space he said.

Mr. Jack Cochrane, the applicant's consultant discussed the site and referred to a variety of overhead slides. We want to be careful Mr. Cochrane said, because we want to have a residential subdivision after the mining operation. Mr. Daddario has spent a lifetime developing land in Falmouth Mr. Cochrane said.

Mr. Olsen expressed concern over the failure of adjacent sand and gravel operations with respect to reclamation to which Mr. Errico responded that he doesn't know why the areas were not

reclaimed. Mr. Daddario is responsible and he knows the by-laws.

Mr. Jeff Lacy of the Commission staff presented the staff report. He cited the correspondence that has transpired and he said the staff report was preliminary. There was no traffic analysis, plant and wildlife habitat analysis, open space plan or fee. Mr. Lacey said that the staff report points out concerns and the site's attributes as identified in the Regional Policy Plan (RPP) Atlas.

Mr. Near said that he didn't see the problem with open space. Essentially, a gravel pit is open space. Mr. Lacey said that the open space requirement is part of the RPP's minimum performance standards.

Mr. Dennis Finn of the Commission staff said that the goal of the open space section of the RPP is to preserve and enhance the open space on Cape Cod for the purposes of maintaining natural resources, wildlife habitat and the character of the Cape.

Testimony was taken from 13 citizens at this hearing, with all of the testimony representing opposition to the project. The main issues that were cited were potential impacts to groundwater, the loss of open space, particularly wildlife habitat, community character and truck traffic related to safety.

A public hearing was held on December 1, 1994 in Falmouth.

Mr. Cochrane described the proposed project site using a map and slides. The parcel is on Thomas Landers Road in Falmouth and it abuts Shallow Pond, existing gravel operations and some houses. The proposal includes buffer zones around the wetland and along the residential properties. The concept is to operate in 5 acre "cells" with the disturbed area to be limited to the active cell and no where else. He estimated the minimum distance to groundwater from the bottom of the gravel bed to be 10 feet. He indicated that the gravel operation was located about 20 feet above the existing neighboring homes and this difference in elevation would provide a natural screening and buffering affect. Mr. Cochrane indicated that 42% of the neighboring uses involved gravel mining operations and that this site was logical for the next operation. Mined cells would be restored to grade with loam and then seeded. The applicant hopes that the future use of the site will be a residential development, he said.

There are no rare and endangered species on the site and the principal species are edge related. Vegetative cover is primarily pitch and white pine. There is also 1 vernal pool on the property, he said.

Donald Schall, wildlife biologist representing the applicant, described important features on the site. He said there was 1 or perhaps more than 1 vernal pool as well. He described the method by which the plant and wildlife assessment was performed. He said the Natural Heritage Atlas was used to determine the presence of rare and endangered species and that Critical Habitat was located on property across Thomas Landers Road, but none was observed on the Daddario site. Visual and auditory observations were also performed he said.

Mr. Cochrane addressed traffic issues for the project. He indicated traffic impacts would remain unchanged because the Daddario gravel operation would replace traffic generated by existing older pits. The operation would be customer driven. Gravel trucks are expected to range in size from 8 to 20 cubic yards in capacity with a maximum of 45 vehicle trips per day. He indicated that projected volumes to Sandwich Road and Blacksmith Road would be low. Conclusions reached from the project's traffic study indicated that the site access and egress and stopping distance were

adequate for safe operation. The Level of Service was D or better, he said.

Todd Salvagin, traffic engineer for the applicant, described the traffic study. Traffic counts have been done and these numbers have been adjusted upward for the peak month traffic. Intersections are currently unsignalized and the figures have also been adjusted for typical work weeks and truck sizes. He estimated that the project will add about 1% more truck traffic to the road network.

Mr. Cochrane stated concerns that he had about additional plant and wildlife habitat assessment work. He said that additional studies would not be beneficial to the project. Mr. Cochrane also addressed hazardous materials and waste concerns. There will be no storage of hazardous materials, fuels, oils or greases on the site. There will be no building except for an attendant's shack associated with the operation. There will be a front end loader and similar equipment working on the site when gravel is being extracted. The 10 feet between the land surface and the groundwater will provide enough of a buffer in the event of a spill. Solid waste will be limited to tree waste. This material will be chipped and recycled or burned on site.

Mr. Cochrane also addressed the open space issue. He said gravel extraction will proceed in 5 acre cells. Once extraction is completed, the cell will be graded, loamed and reseeded. Open space will be addressed when future development on the site is proposed. It is impossible to know, at this time, where the best open space should be located for residential purposes. There is too much uncertainty at this time.

Mr. Rosinoff pointed out the value of the existing wetland habitat, and questioned to what would be left once the mining operation was completed.

Mr. Schall said that the area that remains after mining would serve some habitat functions, but that it was being altered from existing conditions. He indicated some animals present on the site may migrate. Rapid restoration of the area was important and maintenance of vegetative cover was also crucial, he said. He has seen salamanders breeding in similar situations, he said.

Mr. Olsen asked how many jobs will be created.

Mr. Cochrane said that the gravel mining operation would be driven by customer demand. A high demand could result in about five jobs created. Work may include Saturday and Sunday as well.

Mr. Olsen asked about the anticipated gravel demand. He said that this demand and employment data was part of the weighing of the benefits of this kind of project.

Mr. Cochrane was unsure of the gravel demand. He felt that the benefits included locally available, low cost gravel; increased tax revenue from both the gravel operation and the future residential project and the logical use of the parcel for mining considering the area's mining history.

Mr. Finn, staff planner, presented the staff report stating that there were several unresolved issues including traffic, water quality, hazardous materials, plant and wildlife habitat and open space.

Mr. Malakhoff, staff traffic engineer, spoke about the traffic issues. The road is a roadway of regional significance and site access, pavement degradation and compliance with the Regional Policy Plan (RPP) were key issues. An access plan was just submitted tonight, Mr. Malakhoff stated, and the staff has asked for accident data. Pavement degradation is also a concern because the local roadways have not been constructed to deal with the anticipated heavily-loaded trucks.

This type of use will shorten the lifespan of local roads. Discussions with the applicant's traffic consultant indicates that the operation will generate 12,000 trucks over the life of the project. The RPP requires that LOS stay at C or better unless the area is a designated growth center. This area has not been designated for this and therefore, dropping to LOS D is not acceptable.

Mr. Finn highlighted the remaining issues stressing the project's location in a Zone of Contribution to the Mares Pond public supply well. He indicated that it was also in the recharge area to Jenkins and Round Pond. This is a sand and gravel area with very transmissive soils. Falmouth has already lost one public supply well to contamination and others are threatened. Gravel mining would remove a significant volume of material lessening the soil buffer for groundwater. Management of hazardous materials and wastes was also unresolved. Potential contamination from heavy equipment was possible and this has not been addressed by the applicant.

Mr. Finn said that open space was also an extremely important issue. The RPP discusses open space as being identified with rural character on Cape Cod. Open space helps to define a community's rural character and this project as proposed typifies the loss of rural character that the RPP is designed to protect against. A variety of sensitive resources are on or near the site. It is entirely within the Open Space Greenbelt, it is partially within the recharge area to 2 ponds, it fronts on Shallow Pond, it is adjacent to town-owned conservation land and is adjacent to Rare Plant and Animal Habitat. Each one of these resources is worth protecting unto itself, Mr. Finn said and this site brings all of the resources together.

The applicant's presentation describes the open space as re-loamed and reseeded with grass. This will produce very different habitat than what exists now. The RPP is designed to preserve and enhance habitat, Mr. Finn said.

Testimony was taken from 12 citizens with all of the testimony opposed to the project.

The Subcommittee held a public meeting on January 9, 1994 for the purpose of discussion the project. The meeting was attended by Herb Olsen, Bruce Rosinoff, George Jackson and Don Near.

Mr. Finn showed a site plan with a GIS determination that the amount of open space offered exceeds the amount required in the RPP. The staff's question wasn't a question of amount of open space offered, but a question of quality. Was the open space offered protecting the sensitive resources on site, Mr. Finn said. Discussions with the applicant concluded that they were unwilling to commit to a permanent open space designation on site now, because it would limit their ability to develop the property in the future. The applicant believed that there was too much uncertainty in the designation of open space at the present time, and that a permanent designation of open space may limit the future development potential of the site, Mr. Finn said. Staff maintain that the valuable open space now would be equally valuable to any other type of development on the site. Staff drew up several open space plans that were rejected by the applicant because they felt that they couldn't determine which areas were most valuable for some future plan.

Mr. Rosinoff stated that it isn't appropriate to look at a hypothetical project in the future, but that the subcommittee must look at the project before them. The other issue of open space is whether or not its fair to apply this standard of open space to a gravel operation.

Ms. Daley said that the open space requirement is not duly burdensome even though this is a gravel operation. There are justification for the open space requirement based on the sensitive resources on the site.

Mr. Olsen said that under the town's by-law requires a 200 foot buffer around the boundary which is in direct contrast to what the staff believe to be the most appropriate open space.

Ms. Daley said that if the applicant agreed to set aside the 200' buffer as permanently protected open space then he would be meeting the 40% open space, but the subcommittee would have to determine whether the qualitative intent of the open space goals and standards would be met.

Mr. Olsen said that if this is the case, we would be requiring the applicant to set aside more than 40% open space.

Ms. Daley said that we can't do that. She offered that the subcommittee could approve the project with conditions regarding the open space issues and the town's requirements. It is our understanding that under the Falmouth by-law, the buffer along boundaries can be reduced or eliminated by mutual consent with a neighboring property owner. The applicant had been unwilling to discuss any alternatives with an open space plan.

Mr. Olsen stated that there were two issues here. First, the open space recommendations by the staff would not have met the town's requirements and the second is the question of the amount of gravel to be mined.

Mr. Finn said that the quality of the gravel was discussed, but that a justification supporting the value of the material and the locations of the highest value gravel were not made. Mr. Finn said that the RPP seeks to protect water quality as well, and the applicant has not made an argument that demonstrated that the project as proposed would not present a water quality or hazardous materials impact.

Mr. Olsen said that he did not believe that the water quality and hazardous materials issues were major ones. He felt that these issues could be handled with conditions.

Mr. Near said that he believed that the pollution potential was greater under residential use than under this use.

Mr. Olsen said that the staff could look at the town's requirements to see if the open space could actually be re-shaped.

Mr. Rosinoff said that the applicant felt that the development was an entitlement and that any additional information we required was burdensome. The applicant has been reluctant to cooperate Mr. Rosinoff said.

Mr. Near asked about the taking issue.

Ms. Daley said the subcommittee can approve with conditions, or deny the project. Neither of these decisions preclude the use of this site for other purposes, or for alternative mining proposal, Ms. Daley said.

Mr. Near asked if alternatives have been forwarded to the applicant.

Mr. Finn responded that alternative site plans were drawn up by Mr. Lacey, the planner that formerly worked on the project. The applicant has had an opportunity to view these and rejected them, Mr. Finn said. In addition, he had a lengthy discussion with Mr. Errico at the conclusion of the last public hearing on the staff's view of the value of open space and on the flexibility provision

if the applicant felt that the flexibility clause would apply.

Mr. Olsen said that the subcommittee felt that it was important to provide meaningful 40% open space for the project.

Mr. Rosinoff said that the issue of the open space notwithstanding, I have looked at the benefit - detriment test. I am hard pressed to find a single benefit, even in the economic development section and even here, I don't find benefits. Mr. Rosinoff then discussed the types of benefits that the subcommittee should be looking for. Does the project enhance the overall state of the Capes natural resources. Certainly not, in fact it does just the opposite with respect to water quality, wildlife habitat, wetlands, plant species, Mr. Rosinoff said. Does the project contribute to balanced economic development and diversity, I don't think so, Mr. Rosinoff said. Does the project enhance open space for its habitat, recreational or aesthetic quality, I think not, Mr. Rosinoff said. Based on the detriments of this project, I would recommend denial he said.

Mr. Rosinoff said that the benefits and detriments goes right to the Cape Cod Commission Act, and this project can be viewed using this criteria.

Mr. Rosinoff said that based on the benefits/detriment test, with the detriments far outweighing the benefits, and with the lack of meaningful open space, the subcommittee should recommend denial of the project.

The Subcommittee held a second public meeting on January 17, 1994 to review the written decision. The subcommittee attending the meeting was Herb Olsen, Bruce Rosinoff and Don Near. Staff in attendance were Dennis Finn, Patty Daley and Armando Carbonell.

The Subcommittee discussed the executive summary to the decision with particular emphasis on the open space issue. The general sense was that the summary needed to briefly identify why open space was important and why the RPP sought to protect it. Open space has inherent values such as natural plant and wildlife habitat, aesthetics, water resource protection and this should be explained.

Mr. Rosinoff said that the applicant did not make the case justifying the benefits of the project, particularly the economic benefits. The general sense was that a finding should be added about the weakness of the economic argument and the lack of information supporting the benefits of the project.

Ms. Daley said that the town requires consent from abutting property owners to reduce the buffer in any given area of the site.

Mr. Carbonell asked if the open space for the proposed project would be put in a conservation restriction. Protecting the sensitive resources on the site through a conservation restriction on open space would be a benefit if the amount of land protected exceeded the amount in the RPP standards. Mr. Carbonell said.

Mr. Finn responded that the applicant is unwilling to commit to the open space designation now because they have other plans for the property in the future. The applicant believes that committing to open space now limits the value of the property in the future, Mr. Finn said.

Jurisdiction

The proposed project has been referred to the Commission as a Development of Regional Impact under the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, as "outdoor commercial space greater than forty thousand square feet".

Findings

1. The proposed project is located off of Thomas Landers Road in Falmouth and consists of approximately 70 acres.
2. The proposal calls for sand and gravel extraction in 7 phases of 5 acres or less with each cell reclaimed through grading, loaming and seeding.
3. Gravel extraction would bring the land surface to within 10 feet of the groundwater table.
4. The site is completely undeveloped forest land with wetlands, and at least 1 vernal pool located on the property. Further, the site has a deer migration corridor as identified by the town's Department of Natural Resources, and the proposed mining operation did not offer protection of this wildlife corridor as required by the town's by-laws.
5. The project site is bordered by Shallow Pond, town owned conservation land and a Class C Local Roadway of Regional Significance. The site is also adjacent to a locally significant historic site, a residential subdivision, and an existing gravel operation.
6. The site is entirely within the Zone of Contribution to the Mares Pond public supply well and numerous private wells. The project is located in the recharge area to Jenkins and Round Pond. This area typically has very transmissive soils, which are characteristic of the extensive sand and gravel deposits found here. Groundwater flow may be as high as 5 to 10 feet per day. As mining continued and the active area got closer to the water table, the potential for contamination would also increase. The effects to groundwater from the operation of mining equipment and from any future development would be more pronounced given the reduction in the separation between the groundwater table and the land surface after mining.
7. Mining the site would remove approximately 32 acres of mature, natural plant and wildlife habitat that could not be replaced through the proposed reclamation of the site.
8. The site is located entirely within the Regional Policy Plan's designated Greenbelt.
9. Many of the resources on the proposed site are afforded protection through the RPP's Goal 6.1 which seeks to preserve and enhance the availability of open space on Cape Cod in order to provide wildlife habitat, and to protect the natural resources such as Shallow Pond, vernal pools wetlands, and the character of Cape Cod. As proposed, this project does not comply with this goal.
10. The project would not contribute to a balanced economy consistent with Cape Cod's environmental strengths and constraints and is therefore not consistent with RPP Goal 3.1.
11. The project would not be beneficial and may be detrimental to area residents with respect to transportation due to increased truck traffic and potential pollution with regard to water supply issues.

12. The project does not present a benefit in that it would have reduced the availability of open space for its natural resource, plant and wildlife habitat and aesthetic values. In addition, the applicant refused to agree to any permanent restriction of open space in violation of M.P.S. 6.1.5.

13. The Town of Falmouth Historic Commission identified a locally significant historic property known as the former Lilly Pond Farmstead and requested that the Commission ensure that the visual integrity of the property and of Shallow Pond be protected. As proposed, this project would potentially have adverse visual impacts on the Farmstead.

14. The project does not present a benefit and would not help protect or enhance locally important historic, visual or community character features.

15. Gravel mining is a consumptive activity that does little to preserve the natural carrying capacity of a region. Specifically, the proposed project would remove mature plant and wildlife habitat and associated natural landforms that make up the site.

16. The applicant refused to consider alternative designations of open space that would have offered protection to the resources on the site as identified in findings 4,5 and 6 above.

17. The applicant's argument for economic development benefit was based on the project's ability to provide gravel locally at a reduced cost. Goals in the Economic Development issue area of the RPP seek to balance economic development on Cape Cod by promoting businesses that are compatible with and preserve the Cape's environmental, cultural and economic strengths and that minimize adverse impacts. As noted above, the project is not compatible with the Cape's environmental resources and does not minimize adverse impacts. Given the widespread availability of sand and gravel on Cape Cod, other sites which do not involve threats to public water supply wells are preferable to meet market demand.

18. This project is located entirely within the RPP designated Greenbelt. Consequently, the project as proposed does not comply with Minimum Performance Standard 6.1.1 which seeks to maintain the integrity of the greenbelt and sensitive resources through the preservation of a continuous corridor that preserves both edge and interior wildlife habitat. The standard also seeks to protect ground water recharge and the Cape's natural character.

19. The project as proposed is not in compliance with Minimum Performance Standard 6.1.5 which requires that " In the design of developments, significant natural and fragile areas including...water resources such as lakes,...aquifers, shorelands and wetlands, ...and significant landforms shall be protected.

20. The proposed project is not in a designated growth center and is therefore not exempt from the RPP's Open Space requirement.

21. The proposed project's probable benefit does not outweigh the project's probable detriment.

Conclusion

After a thorough review of the information as presented, the Commission recognizes the project's potential impacts and concludes that the project's probable benefit does not outweigh the project's probable detriment. Further, the Commission finds that the proposed project would not enhance or protect open space on the site in a way that respects the importance of sensitive natural resources of

Cape Cod and it therefore does not meet the Goals and Minimum Performance Standards of the RPP. In addition, the project as proposed is not consistent with local development by-laws as indicated in finding #4 above. For these reasons, based on the submittals received and reviewed, public testimony and information in the record, the Commission hereby denies Mr. Frances Daddario a Development of Regional Impact Permit.

Ken Brock
Ken Brock, Chair

2/3/95
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 2nd day of Feb 1995

Katharine H Peters
NAME, Notary

My Commission expires: 02/28/96