



# CAPE COD COMMISSION

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Date: May 7, 1998

To: P.M. Realty Trust, Monument River Realty Trust

From: Cape Cod Commission

Re: Development of Regional Impact, Section 12 (e),  
Cape Cod Commission Act

Project #: TR97028

Project: Megansett Ridge Subdivision on Bournedale Road, Bournedale

Applicant: P.M. Realty Trust, Rayhnam, MA  
Owner: Monument River Realty Trust, Plymouth, MA

Book/Page: Barnstable County Registry of Deeds, Book 1850, Page 136

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of P.M. Realty Trust, applicant, and Monument River Realty Trust, owner (hereinafter the proponents) for a Development of Regional Impact (DRI) permit, under Section 12 (c) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended. This decision is rendered pursuant to a vote of the Commission on May 7, 1998.

### PROJECT DESCRIPTION

This DRI proposes subdivision of 36.08 acres off Bournedale Road in Bournedale into nine lots for residential development, and one unbuildable lot for the provision of open space, as shown on the plan titled "Sketch Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 8/14/97, and revised 12/15/97. The site is located within a Significant Natural Resource Area, and within the Herring Pond ACEC. The proposal sites nine 1-acre lots at the front of the parcel, retaining open space to the rear of the parcel.

## PROCEDURAL HISTORY

The project was referred to the Cape Cod Commission as a mandatory referral by the Bourne Planning Board on November 7, 1997. The proponents were notified that the project would be reviewed as a Development of Regional Impact on November 13, 1997. A duly noticed public hearing was opened by a hearing officer on December 18, 1997 in the offices of the Cape Cod Commission. A subcommittee of the Commission held a continued public hearing at the Bourne Community Center on January 12, 1998 to consider the proposed project. A hearing officer continued the public hearing on February 19, 1998 at the Bourne Community Center. The subcommittee held a hearing and then closed the public hearing period on March 16, 1998 at the Bourne High School Library. The subcommittee held a meeting on the project on April 15, 1998. The full Commission held a final hearing on May 7, 1998.

## MATERIAL SUBMITTED FOR THE RECORD

### Town Submittals:

- Map and parcel information submitted 3/16/98 from Bourne Historical Commission to the Cape Cod Commission.
- Letter and maps from Donald Jacobs, Bourne Historical Commission to the Cape Cod Commission dated 1/9/98.
- Letter from Cornelius Andres, Superintendent of Public Works, Bourne, to Cape Cod Commission dated 1/7/98.
- DRI referral form from the Town of Bourne Planning Board dated 11/6/97.

### Staff Reports and Correspondence:

- Staff report dated 3/9/97.
- DRI notice from Heather McElroy to subcommittee dated 3/9/98.
- Letter from Heather McElroy, Cape Cod Commission to Meredith Pickering, Town of Bourne dated 3/3/98.
- DRI notice from Heather McElroy to subcommittee dated 2/17/98.
- Letter from Heather McElroy to Donald Quinn dated 2/3/98.
- Letter from Heather McElroy to Mario DiGregorio, Sabatia, Inc. dated 1/22/98.
- Letter from Heather McElroy to Robert Betters, attorney to the applicant, dated 1/20/97.
- Staff report dated 1/5/98.
- DRI notice from Heather McElroy to the subcommittee dated 1/7/97.
- Letter from Heather McElroy to Donald Quinn dated 1/12/98.
- Memo from Heather McElroy to the subcommittee dated 1/12/98.
- Letter from Heather McElroy to Donald Quinn dated 12/29/97.
- Letter from Heather McElroy to Robert Betters dated 12/23/97.
- DRI notice from Heather McElroy to the subcommittee dated 11/28/97.
- Letter from Heather McElroy to Donald Quinn dated 11/26/97.
- Letter from Heather McElroy to Donald Quinn dated 11/13/97.

Submittals from the Proponents:

- Culvert analysis from Michele Tudor, Structural Engineer to Peter Fantoni, applicant, dated 2/27/98.
- Natural Resources Inventory from Sabatia, Inc. to Peter and Mark Fantoni, applicants, dated 2/18/98.
- Letter from Donald Quinn to the Cape Cod Commission dated 2/11/98.
- Memorandum from Robert Betters, attorney to the applicants, to the Cape Cod Commission dated 2/10/98.
- Plan titled "Open Space Subdivision Plan of Land prepared for P.M. Realty Trust" dated 1/23/98.
- Plan titled "Easement Plan in Bourne, MA prepared for P.M. Realty Trust" dated 1/22/98.
- Plan titled "Plan Showing Proposed Well/Septic Master Plan prepared for P.M. Realty Trust" dated 1/12/98.
- Plan titled "Drainage Areas, Road Layout and Topographical Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 1/12/98.
- Plan titled "Road Layout and Topographical Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 1/12/98.
- Plan titled "Definitive Subdivision Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 1/9/98.
- Plan titled "Profile & Details Glacier Way, Bourne, MA" dated 1/2/98.
- Plan titled "Sketch Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 8/14/97, and revised 12/15/97.
- Plan titled "Megansett Ridge Landscape Plan" dated 2/10/98.
- Bourne Assessors Maps, Sheet 10, revised 1995.
- Plan titled "Concept Plan Megansett Ridge, Barnstable County, Bourne, MA" dated 11/23/94.
- Plan titled "Plan of Land Bournedale Road, Barnstable County, Bourne, MA" dated 3/31/87.
- Plan titled "Definitive Subdivision Megansett Ridge, Barnstable County, Bourne, MA" dated 8/11/87.
- Plan titled "Conveyancing Plan for Lots 20 & 20A, Megansett Ridge Barnstable County, Bourne, MA" dated 12/31/87.
- Plan titled "Subdivision Plan of Land in Bournedale, Bourne, MA" dated 3/31/73.
- Memorandum from Donald Quinn to the Cape Cod Commission dated 1/12/98.
- Fax from Andrea Arnold, Natural Heritage and Endangered Species Program, to Robert Betters dated 1/12/98.
- Memorandum from Robert Betters to the Cape Cod Commission dated 1/12/98.
- Letter from Robert Betters to the Massachusetts Historical Commission dated 1/9/98.
- Development of Regional Impact Application Form and attachments received from P.M. Realty Trust 12/9/97.
- Letter from Donald Quinn to the Cape Cod Commission dated 11/29/97.

### Submittals from Government Agencies:

- Letter from Andrea Arnold, Natural Heritage and Endangered Species Program to Robert Betters dated 2/13/98
- Letter from Brona Simon, Massachusetts Historical Commission to Robert Betters dated 3/5/98

The application and notice of the public hearing relative thereto, the Commission's staff reports, correspondence, notes and exhibits, minutes of the hearings and all written submissions received in the course of the proceedings, including materials submitted on file TR#97028, are incorporated into the record by reference.

### TESTIMONY

#### January 12, 1998 Public Hearing

Lothrop Withington, representing the proponents, made a brief presentation of the project, and submitted some of the additional required application materials. Heather McElroy, Commission staff, presented the staff report. Several people indicated concern with the project, including: Bob Deane, Conservation Commissioner in the town of Bourne; Donald Ellis, member of the Bourne Historical Commission; Sally Holmes; and Melvin Holmes. Ginny Anderson expressed her preference for this subdivision proposal over the current approved plan. Several town officials, including Peter Meier, John Harris, and Coreen Moore reserved comment until they had more information on the project. Donald Quinn, trustee of Monument River Realty Trust which owns the subject parcel, made some comments about the parcel and a brief history of it.

#### March 16, 1998 Public Hearing

Heather McElroy presented a new staff report based on new information submitted by the proponents. Lothrop Withington responded to the staff report. Several Bourne town officials expressed some concerns with the project, including: Neil Andres, Superintendent of Public Works; Meredith Pickering, Planner; Peter Meier, Bourne Planning Board; Donald Ellis, Bourne Historical Commission; and Donald Jacob, Bourne Historical Commission. Virginia Anderson expressed her support for this subdivision proposal. Donald Quinn made some comments regarding his plans for open space conservation on the site.

#### April 15, 1998 Public Meeting

The subcommittee discussed changes to the draft decision, and heard comments from the proponents. The subcommittee approved a motion to send the draft decision on to the May 7th Commission meeting, with a recommendation to approve the decision with conditions.

## **JURISDICTION**

The proposed Megansett Ridge Subdivision qualifies as a DRI under Section 3 (c) of the DRI Enabling Regulations. This project was referred by the Bourne Planning Board on November 7, 1997.

## **FINDINGS**

The Commission has considered the application of the P.M. Realty Trust and the Monument River Realty Trust for a ten lot subdivision with nine houses off of Bournedale Road in Bournedale, MA, and based on consideration of such application and upon the information presented at the public hearings makes the following findings pursuant to Section 12 of the Act:

### **General**

G1. The project site is a 36.08 acre parcel just off of Bournedale Road in Bournedale. The project proposes nine single family, three or four bedroom homes on nine 1-acre lots located at the front, or southern portion of the parcel accessed by a subdivision road, and one unbuildable lot on the northern portion of the parcel, as shown on the plan titled "Sketch Plan of Land in Bourne, MA prepared for P.M. Realty Trust" dated 8/14/97, and revised 12/15/97.

G2. At the time of this DRI review the subject parcel, known as Megansett Ridge and owned by Monument River Realty Trust, is in common ownership with the adjacent 80± acre parcel to the northwest owned by Water Pipe Trust (hereinafter the Water Pipe Trust parcel), as shown on the Bourne Assessors Map Sheet 10, as revised 1995. Therefore, all future subdivision or development of the Water Pipe Trust Parcel shall be reviewed as a DRI.

### **Land Use**

L1. Consistent with Minimum Performance Standard (MPS) 1.1.2, the proponents have provided an open space or cluster plan for Commission review. Based on the topographical characteristics of the site, the cluster plan does not provide any greater protection of the existing natural vegetation than the proposed plan does.

### **Water**

W1. The amount of open space provided in conjunction with the proposed site development will ensure ample dilution to maintain a nitrate-nitrogen concentration well below the 5 ppm required by MPS 2.1.1.1 to protect ground water.

W2. The proponents propose to site private water supply wells on each house lot. The USGS model for groundwater flow in the Plymouth Carver Aquifer estimates that groundwater flow across this property travels in a southeasterly direction. The

proponents have agreed to relocate the well proposed for lot 14 to the north of the lot, and relocate the well proposed for lot 12 to the east in order to place these wells further from the predicted flow path of septic system effluent.

### Natural Resources

NR1. The site is located within: a Significant Natural Resource Area as defined by the 1996 Cape Cod Regional Policy Plan Maps; the Herring River ACEC; and rare wetland habitat for the eastern box turtle (*Terrapene carolina*). Portions of the site are located within rare wetland habitat for the spotted turtle (*Clemmys guttata*).

NR2. While the entire site is located within rare wetland species habitat, siting the development to the front of the parcel as proposed will provide adequate corridors for species movement and protection of rare species habitat on the site, adequately addressing MPS 2.4.1.4. Location of development on the site as proposed is also consistent with MPS 2.4.1.3, which requires minimizing fragmentation of wildlife and plant habitat.

NR3. Specimen trees, as defined in the RPP, are located on the site. Specimen trees are protected by MPS 2.4.1.2 because of their significance to natural communities. MPS 2.4.1.2 also prohibits excessive clearing of native vegetation or grading of the natural topography. As proposed and conditioned, the project will not result in adverse impacts to specimen trees, and excessive clearing and grading will be limited.

NR4. The proposed lot boundaries are 115± feet from the wetlands, consistent with MPS 2.3.1.2. Based on information provided by the proponents' consultant, the Commission finds that a 200 foot buffer would more adequately protect the rare wetland species on the site. The proponents have agreed to set construction on lots 10 and 11 toward the front of the lot to provide this 200 foot buffer to the wetlands located on the western portion of the parcel.

NR5. The proponents have proposed management of stormwater runoff to a naturally vegetated swale as identified on the plan titled "Proposed Well/Septic Master Plan prepared for P.M. Realty Trust" and dated January 12, 1998, adequately addressing MPS 2.3.1.4 which requires a 100 foot buffer between wetlands and stormwater management systems.

### Open Space

O1. This project is required to provide 17.6 acres of upland as permanent open space, consistent with MPS 2.5.1.3. The proponents have proposed permanently protected open space of 23.2 acres. The Commission finds that because the contiguous Water Pipe Trust property is in common ownership and control with the subject parcel, the 5.6 acres of open space provided in excess of RPP requirements will be credited against open space requirements applied to the Water Pipe Trust property when it is reviewed as a DRI. The open space is proposed contiguous with

existing town conservation lands and includes the 100 foot buffer to wetlands, consistent with MPS 2.5.1.2 and MPS 2.5.1.6.

### **Transportation**

T1. The proposed development is expected to generate approximately 86 daily vehicle trips, including seven AM peak hour trips and nine PM peak hour trips, which will not have a significant impact on the regional roadway system.

T2. The proposed new site drive, Glacier Way, is expected to operate at Level of Service (LOS) A, consistent with MPS 4.1.1.6.

T3. The proponents have proposed clearing and minor grading along Bournedale Road which will adequately improve the safe stopping sight distance on Bournedale Road adjacent to the site drive, consistent with MPS 4.1.1.5.

T4. The project is required to reduce 17 daily vehicle trips. The proponents will provide pedestrian paths as indicated on the plan titled "Sketch Plan of Land in Bourne prepared for P.M. Realty Trust" dated August 14, 1997 and revised December 15, 1997. The proponents have volunteered to provide a bicycle easement along Bournedale Road as indicated on the plan titled "Easement Plan in Bourne, MA prepared for P.M. Realty Trust" and dated January 22, 1998. The proponents have also agreed to provide a footpath easement to access the pedestrian paths within the open space. These trip reduction provisions adequately meet the requirements of MPS 4.1.2.1.

### **Affordable Housing**

AH1. The proposal subdivides the parcel into 10 lots, only nine of which are buildable. There is no affordable housing requirement with this subdivision proposal, as the project proposes fewer than 10 units. However, the Commission finds that because the contiguous Water Pipe Trust property is in common ownership and control with the subject parcel, the nine buildable lots will be included in the Commission's affordable housing assessment when the Commission reviews the proposed development of the Water Pipe Trust property as a DRI.

### **Community Character**

CC1. The Massachusetts Historical Commission indicated in their letter dated March 5, 1998 that this site is unlikely to possess significant archaeological resources. The Bourne Historical Commission has submitted information indicating that an Indian trail may have crossed this site.

CC2. The landscaping plans propose to retain the large boulder at the entrance to Glacier Way, which will be a positive amenity on the site. MPS 2.4.1.2 requires that landscaping should retain existing vegetation as much as possible.

CC3. Street lighting is out of character with the rural nature of the Bournedale area, and unnecessary for the proposed project. Individual outdoor lighting may be appropriate, but should be consistent with the Commission's Technical Bulletin, 95-001.

## **CONDITIONS**

The Commission hereby approves with conditions the proposed subdivision of land and construction of nine single family houses and subdivision road off of Bournedale Road in Bournedale, MA, subject to the following conditions.

### **General**

G1. The approval of this project is conditioned in two phases. Prior to receipt of a Phase 1 Certificate of Compliance from the Commission, the applicant shall construct the proposed subdivision road and complete all proposed landscaping at the entrance to the subdivision road and within the right-of-way. The applicant shall obtain a Phase 2 Certificate of Compliance prior to the conveyance of, or construction on, any lots.

G2. All future subdivision or proposed development of the Water Pipe Trust parcel shall be reviewed as a DRI by the Cape Cod Commission. Such review of said parcel shall consider the cumulative impacts of proposed development on the Water Pipe Trust parcel and proposed development on the Megansett Ridge parcel, to include but not be limited to cumulative transportation impacts, water resources impacts, affordable housing requirements, and open space requirements. The mitigation required for development on the Water Pipe Trust parcel shall include consideration of the cumulative impacts of both parcels. The proponents for the Water Pipe Trust parcel shall receive credit toward the open space requirement for the additional 5.6 upland acres permanently restricted in conjunction with the 17.6 upland acres required for the Megansett Ridge subdivision.

### **Water**

W1. Prior to a Phase 2 Certificate of Compliance, wells on all lots shall be located on a plan such that they are out of the flow path of septic system effluent, and the Commission staff shall approve the well siting plan. The well on lot 12 shall be located further to the east of its location on the plan titled "Proposed Well/Septic Master Plan Prepared for P.M. Realty Trust" and dated January 12, 1998, and the well on lot 14 shall be located further to the north of its location on said plan.

### **Natural Resources**

NR1. Development on the lots shall be limited to only those areas included within a development envelope of not more than 20,000 sq ft per lot. Prior to a Phase 2 Certificate of Compliance, development envelopes shall be delineated on a final plan and submitted to the Commission for approval. Deviation from such



delineations shall be submitted to Commission staff for approval prior to any clearing. The Commission or it's designee shall approve the final plan prior to its endorsement by the Bourne Planning Board.

NR2. Prior to receipt of a Phase 2 Certificate of Compliance, the proponents and the Commission Staff shall identify and mark on a plan native specimen trees on each house lot. The proponents shall identify a limit of work around the specimen trees on the site to ensure that the specimen trees are not damaged during construction. This limit of work shall encompass an area on the ground which extends 10 feet beyond the canopy of each specimen tree, while still allowing for well and septic construction and grubbing and shall be reviewed and approved by Commission Staff. Prior to any construction, the limit of work line shall be delineated on the ground and approved by Commission Staff.

NR3. Delineation of development envelopes and all development on lots 10 and 11 shall be located 200 feet from the wetlands located on the western portion of the parcel.

NR4. The proponents shall construct a stormwater management system as proposed and sited on the plan titled "Proposed Well/Septic Master Plan prepared for P.M. Realty Trust" and dated January 12, 1998.

### **Open Space**

O1. Prior to receipt of a Phase 2 Certificate of Compliance or release or conveyance of any lots, the proponents shall provide the Cape Cod Commission with a conservation restriction consistent with Massachusetts General Laws Chapter 184, and accompanying plan to be approved by Commission counsel and recorded at the Registry of Deeds or Registry District of the Land Court which provides that 23.2 acres shall be preserved as permanent open space. The restriction and site plan shall be executed and recorded and proof of recording shall be provided to the Commission prior to the receipt of a Phase 2 Certificate of Compliance.

O2. Prior to receipt of a Phase 2 Certificate of Compliance the proponents shall clearly mark the boundaries of the permanent open space on the parcel with concrete bounds. No disturbance of any area within 100 feet of the wetland boundary shall occur, consistent with MPS 2.3.1.2.

### **Transportation**

T1. Prior to receipt of a Phase 1 Certificate of Compliance the proponents shall implement the proposed clearing and minor grading along Bournedale Road, as proposed on the plan titled "Proposed Well/Septic Master Plan Prepared for P.M. Realty Trust" and dated January 12, 1998, to improve the safe stopping sight distance from Glacier Way from 155 feet to 350 feet in the westerly direction along Bournedale Road.

T2. Prior to receipt of a Phase 2 Certificate of Compliance, the proponents shall identify on a plan and construct a dedicated 10 foot wide access strip between lots 11 and 12 to provide residents of the subdivision with access to the pedestrian paths within the open space. The proponents shall also provide a bicycle easement across the Form A lots #4, 5, 6A, and 7A, as indicated on the plan titled "Easement Plan in Bourne, MA prepared for P.M. Realty Trust" and dated January 22, 1998.

### **Community Character**

CC1. Prior to any clearing, grading, or construction of the subdivision road, the proponents and the Commission Staff shall identify and mark on a plan native specimen trees adjacent to the right-of-way. The proponents shall identify a limit of work around the specimen trees on the site to ensure that the specimen trees are not damaged during construction on the site. This limit of work shall encompass as much of the canopy of the specimen trees as possible and shall be approved by Commission staff.

CC2. Prior to receipt of a Phase 1 Certificate of Compliance, the proponents shall provide a landscaping plan for the entrance to Glacier Way and all cleared and graded areas within the right-of-way for review and approval by the Cape Cod Commission or its designee. Such a plan shall retain existing vegetation as much as possible, delineating construction areas with a development envelope outside of which no disturbance shall occur. Such a plan shall utilize native species, or where native species are not practical, non-native, non-invasive species may be used consistent with the Species list prepared for the Route 6A Vegetation Management Plan. Prior to any construction, a limit of work line shall be delineated on the ground and approved by Commission Staff.

The landscape plan for the entry and subdivision road plantings shall identify specific proposed planting locations for plants and/or groundcovers. Specific proposed sizes shall be noted. The location of any proposed fencing shall be identified, and an elevation provided. The existing forest/woodlands treeline shall be delineated on the plan. The plan shall include planting notes covering issues such as mulching, planting specifications, proposals for irrigation, and grass species/mix.

Deciduous trees shall have a caliper of at least three inches (3") at the time of planting and evergreen trees shall be at least six feet (6') in height measured from the treetop to the ground at the time of planting. Shrubs shall be at least a two gallon size or 24" in height at the time of planting. Along street frontages, small-growing trees shall be spaced no more than every 20' on center; medium-growing trees no more than 25' on center; large-growing trees no more than 30' on center. All landscaped areas shall be covered with three inches (3") of mulch to minimize evaporation.

The revegetation plan for the disturbed and graded areas adjacent to the road shall include species that are consistent with species making up the surrounding forest

type. Native shrubs, groundcovers and topsoil shall be restored to encourage the re-establishment of understory shrubs and groundcovers in addition to trees.

CC3. The proponents shall not install street lighting within the right of way for Glacier Way. Individual outdoor lighting on each house lot may be permitted so long as such lighting is consistent with the Commission's Technical Bulletin 95-001.

**CONCLUSION**

Based on the findings and conditions in this decision, the Cape Cod Commission finds that the project as proposed is consistent with the Minimum Performance Standards in the Regional Policy Plan, is consistent with the Bourne Zoning Bylaw, and that the benefits of the project outweigh the detriments. The Commission hereby grants the Megansett Ridge Subdivision a DRI approval with conditions.

*Madeleine Bebout*

Madeleine Bebout, Chair

*May 7, 1998*

Date

Commonwealth of Massachusetts  
Barnstable, ss.

Subscribed and sworn to before me this 7<sup>th</sup> day of May 1998

*Katharine L. Peters*

Name, Notary Public

My commission expires:

