



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: July 11, 2002
TO: New Seabury Properties LLC
FROM: Cape Cod Commission
RE: New Seabury LLC Development, Mashpee MA
Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: New Seabury Properties, LLC
c/o R.J. Lyman
Goodwin Procter LLP
Exchange Place
Boston, MA 02109

PROJECT #: TR-02003

PROJECT: Flat Pond Subdivision

ASSESORS MAPS: Map 131, parcel 1, Plan 0 11408-178, Lots 1486-1490, 1495, 1496, 1498-1525, 1527, Certificate 149477; Map 126, parcel 153, Plan 0 11408-132, Lot 1326, Certificate 148458; Map 126, parcel 53, Plan 0 11408-132, Lot 1325, Certificate 148458; Map 126, Parcel 158, Plan 0 11408-163, Lot 1402, Certificate 149477; Map 126, parcel 157, Plan 0 11408-163, Lot 1401, Certificate 149477, Map 132, Parcel 37, Plan 0 11408-163, Lot 1400, Certificate 149477; Map 132, Parcel 36, Plan 0 11408-163, Lot 1399, Certificate 149477; Map 127, Parcel 122, Plan 0 11408-163, Lot 1398; Certificate 149477; Map 127, Parcel 123, Plan 0 11408-163, Lot 1397, Certificate 149477; Map 126, Parcel 155, Plan o 11408-163, Lot 1395, Certificate 149477; Map 126, Parcel 156, Plan 0 11408-163, Lot 1396, Certificate 149477.

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby procedurally denies without prejudice the application of New Seabury Properties LLC as a Development of Regional Impact (DRI)

Procedural Denial Decision – Flat Pond Subdivision, New Seabury

July 11, 2002 - 1



pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Flat Pond Subdivision in the New Seabury Properties, LLC development. The decision is rendered pursuant to a vote of the Commission on July 11, 2002.

PROJECT DESCRIPTION

The Flat Pond Subdivision is a portion of the New Seabury Properties, LLC development proposal contained in MEPA filing # 12074. It includes a 24-lot residential subdivision, modifying a previously approved and recorded definitive plan. A preliminary plan was approved March 21, 2001 by the Mashpee Planning Board. The subdivision is located on Seawest Drive in the New Seabury development in Mashpee, MA.

PROCEDURAL HISTORY

The Flat Pond Subdivision project was referred to the Cape Cod Commission by the Mashpee Planning Board on January 16, 2002. The referral was received by the Commission on Jan. 18, 2002. A Development of Regional Impact (DRI) notification letter was sent to the applicant on January 30, 2002 along with a DRI application and A guide to the DRI Review Process. A duly noticed public hearing was opened by a hearing officer on March 5, 2002 pursuant to Section 5 of the Cape Cod Commission Act, and continued. The public hearing was closed by a hearing officer on May 31, 2002.

In a letter dated May 21, 2002, the applicant was notified that the Commission's Regulatory Committee would be discussing a recommendation to procedurally deny the project at its next meeting on June 10, 2002. The letter invited the applicant to attend this meeting, and suggested discussing an extension for the DRI review.

DRI application materials have not been received by the Commission.

On June 10, 2002, the Commission's Regulatory Committee voted to recommend to the full Commission that the project be procedurally denied without prejudice.

A final public hearing was held before the full Commission on July 11, 2002. At this hearing, the Commission voted unanimously to procedurally deny the project without prejudice.

Materials submitted for the record

From the applicant:

(none)

From Cape Cod Commission staff:

- Letter from M. Twombly to William Burke – May 21, 2002.
- Letter from M. Twombly to William Burke – February 4, 2002
- Letter from M. Twombly to William Burke – January 30, 2002
- Fax from M. Twombly to Tom Caston – January 29, 2002

From local officials:

- DRI Referral from Mashpee Planning Board – January 16, 2002
- Fax from Mashpee Conservation Commission – March 4, 2002

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

TESTIMONY

No testimony was provided on this project. Hearing Officers opened and closed hearings.

JURISDICTION

The proposed New Seabury Properties LLC Flat Pond development qualifies as a Development of Regional Impact (DRI) under Section 3 of the DRI *Enabling Regulations* and under Sections 12 (i) and 13 (b) of the Act, c. 716 of the Acts of 1989, as amended.

FINDINGS

The Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. A Hearing Officer opened a pro-forma hearing for review as a DRI at the Cape Cod Commission office in Barnstable, MA on March 5, 2002. No testimony or substantive action was taken at this hearing.
2. Due to the required 90-day time limit for DRI hearings and the lack of a complete DRI application, a Hearing Officer closed a pro-forma hearing on the project at the Cape Cod Commission office in Barnstable, MA on May 31, 2002. No testimony or substantive action was taken at this hearing.
3. On June 10, 2002, the Regulatory Committee voted to recommend to the full Commission that the project be procedurally denied without prejudice. As of the date of this Decision, the applicant has failed to submit a completed DRI application.
4. The applicant failed to progress continuously and expeditiously through required regulatory processes, thereby providing no information on which to conduct a substantive hearing, or on which to base a decision by the Commission.
5. As of the date of this decision, the applicant has not submitted a letter of withdrawal to the Town of Mashpee or the Commission.

CONCLUSION

The Commission hereby procedurally denies without prejudice the application of New Seabury Properties LLC, for the Flat Pond subdivision, as part of the mixed development described in MEPA SFEIR # 12074, in Mashpee, MA, as a Development of Regional Impact. This denial is rendered pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended.

This conclusion is supported by the finding that the applicant failed to comply with the procedures of the Commission Act and Commission regulations requiring submission of a completed DBI application.

Robert D. Deane

7/11/02

Robert D. Deane, Cape Cod Commission Chair

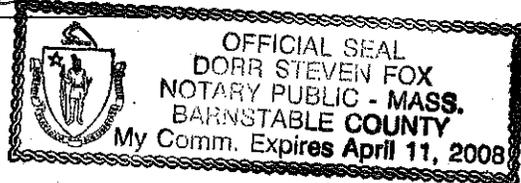
Date

Commonwealth of Massachusetts
County of Barnstable

On this *11th* day of *July* 2002, before me personally appeared Robert D. Deane, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Dorr Steven Fox

Notary
Commonwealth of Massachusetts



My Commission Expires: _____