



# CAPE COD COMMISSION

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DATE: May 22, 2002

TO: New Seabury Properties LLP

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-20045

PROJECT: Proposed developments in MEPA SFEIR filing # 12074  
Great Neck, Mashpee, MA

LAND COURT CERTIFICATE NUMBERS: 149477; Condo Certificate # 271, Units 7001-7043; 149457, 149470, 144060 (Map 123, parcel 192), 149458, Registry Book 11588, page 106 (Map 127-17 only); Book 7703, page 72; all remaining properties included in MEPA filing SFEIR # 12074.

## DECISION OF THE CAPE COD COMMISSION

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### 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) 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 New Seabury Development in MEPA SFEIR filing # 12074. The decision is rendered pursuant to a vote of the Commission on May 30, 2002.



## PROJECT DESCRIPTION

According to MEPA filing # 12074, the New Seabury Properties proposed Project includes development on seven parcels of land throughout the New Seabury golf and resort complex on Great Neck in Mashpee, MA, as described in the SFEIR dated October 2001. The Project includes:

- Completion of SeaQuarters Condominium – 50 units;
- Completion of the Promontory Point Condominium – 24 units;
- Development of Flat Pond Subdivision – 30 single family homes;
- Development of Spinnaker Cove – 8 single-family homes;
- Redevelopment of Popponesset Inn and associated recreation facilities – refurbishment of the Popponesset Inn (restaurant), new swimming pool, new cabana club, 9-unit townhouse village on the waterfront, 12 townhouses, 30 condominium units and parking;
- Completion of Bluff Lots – 5 single family homes;
- Condominium around the Popponesset Inn – 52 units;
- Poppy Place – 14 single family lots;
- Condominiums around the golf course clubhouse – 87 units;
- New golf course maintenance facility; upgrading golf course (this has been completed)
- Mixed-use development in Section 5 including 37 single family detached homes, 38 single family attached units, hotel up to 150 rooms, 80,000 sf of commercial and retail space, 200 garden apartments, new reception center, new recreation complex including a golf practice range, a fitness center and 50-seat café, pool and tennis courts, all with associated parking and roads;
- Construction of a 300,000 gallon per day (gpd) wastewater treatment facility (WWTF) to service new development, the new clubhouse and the reconstruction of Popponesset Inn. The WWTF has been completed and permitted for 100,000 gpd.

## PROCEDURAL HISTORY

The Cape Cod Commission voted that the project was subject to Development of Regional Impact review and was not exempt under Section 22 of the Act, on Jan. 10, 2002. A duly noticed public hearing was opened by a hearing officer on Jan. 11, 2002 pursuant to Sections 12(i) and 13(b) of the Cape Cod Commission Act, and continued. The public hearing was closed by a hearing officer on April 8, 2002.

In a letter dated April 16, 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 April 29, 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 April 29, 2002, the Commission's Regulatory Committee voted to recommend to the full Commission that the project be procedurally denied.

A final public hearing was held before the full Commission on May 30, 2002. At this hearing, the Commission voted unanimously to procedurally deny the project without prejudice.

### **Materials submitted for the record**

#### **From the applicant:**

- Letter from R.J. Lyman, Goodwin Procter - Feb. 6, 2002.
- Letter and payment for copies, from Ani E. Ajemian, Goodwin Procter - Feb. 11, 2002.
- Letter via fax from R.J. Lyman to Margaret Callanan concerning monitoring wells - Jan. 25, 2002.
- Email from Larry Carr, EarthTech to Linda Forbrush, SEA Consultants - Jan. 24, 2002.
- Letter from R.J. Lyman to M. Callanan - Jan. 22, 2002

#### **From Cape Cod Commission staff:**

- Letter from M. Twombly to R.J. Lyman - April 16, 2002.
- Fax from M. Twombly to Cynthis Bartos, Mashpee Zoning Board of Appeals - March 11, 2002.
- Letter from M. Callanan to Diane Boretos via fax - March 15, 2002
- Letter from M. Callanan to R.J. Lyman - Feb. 4, 2002
- Fax to Tom Caston, Peninsula Council from M. Twombly - Jan. 29, 2002
- Letter and copy of the Cape Cod Commission decision to R.J. Lyman - Jan. 25, 2002
- Letter via fax from M. Callanan to R.J. Lyman - Jan. 22, 2002
- Letter and DRI application from M. Twombly to R.J. Lyman - Jan. 17, 2002
- Letter from M. Twombly to Tom Fudala, Mashpee Town Planner - Jan. 14, 2002

#### **From state/local officials:**

- Letter from Robert Durand, EOE, to Russell Babcock, Chair of Mashpee Water District - April 8, 2002
- Letter from Mashpee Water Commissioners to Margo Fenn - April 8, 2002.
- Letter from Diane Boretos, Mashpee Conservation Agent, to Martha Twombly - Feb. 4, 2002.
- Fax from Andrew Watt, Mashpee Water Dept. containing a fax from Earth Tech re: water monitoring wells - Jan. 18, 2002.
- Letter from John Fitzsimmons, Chair of the Mashpee Conservation Commission, to Elizabeth Taylor - Jan. 14, 2002

#### **From the public:**

- Email from Tom Moccia to Margo Fenn - Jan. 14, 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 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 Jan.11, 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 April 8, 2002. No testimony or substantive action was taken at this hearing.
3. On April 29, 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 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 DRI application.

Elizabeth Taylor  
Elizabeth Taylor, Cape Cod Commission Chair

June 10, 2002  
Date

Commonwealth of Massachusetts  
County of Barnstable

On this 10th day of June, 2002, before me personally appeared Elizabeth Taylor, 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.

Katharine L. Peters  
Notary  
Commonwealth of Massachusetts

My Commission Expires:

