



# CAPE COD COMMISSION

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E-mail: [frontdesk@capecodcommission.org](mailto:frontdesk@capecodcommission.org)

DATE: June 19, 2003  
TO: Bayswater Development LLC  
FROM: Cape Cod Commission  
RE: Flat Pond Subdivision in New Seabury LLC Development, Mashpee MA  
Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Bayswater Development LLC  
100 South Bedford Road  
Mount Kisco, NY 10549

PROJECT #: TR-02036

PROJECT: Flat Pond Subdivision

ASSESORS MAPS: Land Court Certificate of Title 149477, 149458 (Map 131, Block 1; Map 126, Blocks 53, 155, 157, 158, 153; Map 127, Blocks 122, 123; Map 132, Blocks 30, 32)

## DECISION OF THE CAPE COD COMMISSION

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### SUMMARY

The Cape Cod Commission (Commission) hereby procedurally denies without prejudice the application of Bayswater Development 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 Flat Pond Subdivision in the New Seabury Properties, LLC development. The decision is rendered pursuant to a vote of the Commission on June 19, 2003.

### PROJECT DESCRIPTION

The Flat Pond Subdivision is a portion of the New Seabury Properties, LLC development proposal contained in MEPA filing # 12074. The proposal consists of a 26-lot definitive plan modifying a previous subdivision plan. The proposed subdivision is located off Seawest Drive and Fairway Ave. in the New Seabury LLC development in Mashpee, MA.

Procedural Denial Decision – Flat Pond Subdivision # TR 02036, New Seabury

June 19, 2003



## PROCEDURAL HISTORY

The Flat Pond subdivision was referred to the Cape Cod Commission by the Mashpee Planning Board on December 18, 2002. The referral was received by the Commission on December 19, 2002. A duly noticed public hearing was opened by a hearing officer on February 13, 2003 pursuant to Section 5 of the Cape Cod Commission Act, and continued. The public hearing was closed by a hearing officer on May 13, 2003.

In a letter dated May 5, 2003, 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 2, 2003. DRI application materials have not been received by the Commission. On June 2, 2003, 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 June 19, 2003. 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 – December 24, 2002
- Letter from M. Twombly to William Burke – May 5, 2003

#### From local officials:

- DRI Referral from Mashpee Planning Board – December 19, 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 is part of the larger New Seabury LLC Development described in MEPA SFEIR # 12074 and JD # 20045, which qualifies as a Development of Regional Impact (DRI) under Sections 12 (i) and 13 (b) of the Act, c. 716 of the Acts of 1989, as amended.

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FINDINGS

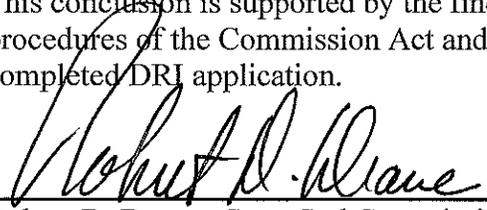
The Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. A Hearing Officer opened a pro-forma hearing for review as a DRI at the Cape Cod Commission office in Barnstable, MA on February 13, 2003. 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 13, 2003. No testimony or substantive action was taken at this hearing.
3. On June 2, 2003, 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 Bayswater Development LLC, for the Flat Pond subdivision, in the New Seabury LLC development (MEPA SFEIR # 12074), in Mashpee, MA, as a Development of Regional Impact 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.

  
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Robert D. Deane, Cape Cod Commission Chair

7/10/03  
Date

Commonwealth of Massachusetts  
County of Barnstable

On this 10th day of ~~June~~ <sup>July</sup>, 2003, 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 he executed the same as his free act and deed.

*Katharine L. Peters*

Notary

Commonwealth of Massachusetts

My Commission Expires:

