

CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: June 19, 2003

TO: Bayswater Development LLC

FROM: Cape Cod Commission

RE: Approval Not Required (ANR) Plan 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-02037

PROJECT: New Seabury ANR

ASSESORS MAPS: Lot 585 as shown on LC Plan 11408-42, Lot 949 as shown on LC Plan
11408-80 and Lot 1409 as shown on LC Plan 11408-167.

DECISION OF THE CAPE COD COMMISSION

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 Approval Not Required (ANR) plan in the New Seabury Properties, LLC development in Mashpee, MA. The decision is rendered pursuant to a vote of the Commission on June 19, 2003.

PROJECT DESCRIPTION

The ANR plan is a portion of the New Seabury Properties, LLC development proposal contained in MEPA filing # 12074. The project location is between Fairway Lane, Shore Drive West, Gleneagle Drive and Troon Way in the New Seabury development in Mashpee, MA. The plan

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creates three new lots (Lots 1572, 1573, and 1574) from three existing lots (Lots 1409, 949, and 585). Lot 1572 is 45.061 acres with frontage on Fairway Lane and Shore Drive West. Lot 1573 is 6.27 acres with frontage on Glenneagle Drive. Lot 15674 is 16.39 acres with frontage on Troon Way and Shore Drive.

PROCEDURAL HISTORY

The ANR plan 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 – Dec. 24, 2002
- Letter from M. Twombly to William Burke – May 5, 2003

From local officials:

- DRI Referral from Mashpee Planning Board – received 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 ANR plan is part of the larger New Seabury development described in MEPA SFEIR # 12074, and JD # 20045, which 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

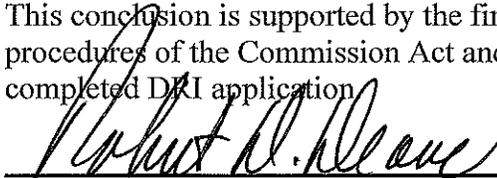
The Commission makes the following findings pursuant to Sections 12 and 13 of the Act:

1. A Hearing Officer opened a pro-forma hearing for review as a DRI at the Cape Cod Commission office in Barnstable, MA on 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 Properties LLC, for the ANR Plan, in the New Seabury Properties 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.


Robert D. Deane, Cape Cod Commission Chair


Date

Commonwealth of Massachusetts
County of Barnstable

On this 10th day of ~~June~~ July, 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: _____

