



## CAPE COD COMMISSION

3225 MAIN STREET  
P.O. BOX 226  
BARNSTABLE, MA 02630  
(508) 362-3828  
FAX (508) 362-3136

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

Date: August 15, 2005  
To: Kelly Durfee Cardoza  
Avalon Consulting Group LLC  
41 Cal's Court  
Taunton, MA 02780  
From: Cape Cod Commission  
Re: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13  
Applicant: Rosario Lattuca  
New Falmouth Golf LLC  
P.O. Box 2020  
North Falmouth, MA 02556  
Project #: JR99028  
Project: Ballymeade Estates (The Golf Club at Cape Cod)  
Off Route 151, Hatchville (Falmouth), Massachusetts  
Book/Page: Book 9449 Page 188  
Book 13857 Page 260  
Book 11493 Page 228  
Book 11781 Page 29  
Book 8944 Page 0170  
Book 3790 Page 139

---

### DECISION OF THE CAPE COD COMMISSION

#### SUMMARY

The September 6, 2001 DRI Decision issued to New Falmouth Golf LLC for Ballymeade Estates (The Golf Club at Cape Cod) is hereby amended as a Minor Modification #2 by a vote of the Regulatory Committee on August 15, 2005. All conditions attached to the September 6, 2001 decision and the January 6, 2003 and January 18, 2005 modification decisions continue to apply except as modified herein.



## FINDINGS

### ***General Finding G7 shall be revised as follows:***

G7. The applicant has requested that 3 partial Certificates of Compliance and a final Certificate of Compliance be required for the opening of the project, and submitted a draft phasing plan.

### ***Natural Resources Findings shall be added as follows:***

NR5. New Falmouth Golf cleared an approximately 2500 sq ft area within the undisturbed buffer at the southern portion of the property. As the decision required the area to remain undisturbed, New Falmouth Golf should restore the area to its former condition, including the installation of 2" caliper black or scarlet oaks and 7 – 8 ft white or pitch pines for a total of 15 trees throughout the cleared area, and understory should be replaced as proposed by the applicants through lifts of understory from areas yet to be cleared onsite or from offsite locations.

NR6. Existing cartpaths, some proposed cartpaths, and other previously cleared areas will be revegetated, and new cartpaths and some additional cleared areas are proposed, all as shown on the plan "Proposed DRI Modifications plan" dated 7/11/05. Areas to be restored should be revegetated with native shrubs and trees, and with understory lifts to the extent such lifts are available from new clearing proposed onsite. The net change in disturbed areas resulting from this modification (with the exception of the clearing described in Finding NR5 above) is insignificant.

NR7. The NStar easement on the northwest corner of the site will be relocated as shown on the plan "Proposed DRI Modifications plan" dated 7/11/05. The new location will result in alteration of areas previously designated undisturbed natural open space, totaling approximately 27,500 sq ft. While the easement will have to remain free of trees and large woody growth, New Falmouth Golf has proposed to restore the area with native low growing shrubs and herbs following construction of the easement, and periodically thereafter following disturbance by NStar for maintenance or repair purposes. It should be noted that the easement area will continue to include the previously approved walking trail through this area. With New Falmouth Golf's commitment to maintain native low vegetation in this area, the easement will continue to provide some habitat value.

NR8. Approximately 0.9 acres of cartpaths will be converted from hardened pervious surfaces as previously proposed to pavement in order to control erosion.

NR9. The Air Force Center for Environmental Excellence (AFCEE) requires access to an existing monitoring well on the golf course. The proposed road route appears to minimize new disturbance to vegetated areas, and will be allowed to grass over following hardening. There is little alternative to allowing this new disturbance for the Otis Air Base clean-up project.

**Open Space Findings shall be revised as follows:**

OS1. Since the majority of the project site is located within a SNRA, the project is required to provide approximately 65% of the total area as permanently protected open space consistent with MPS 2.5.1.3. The total acreage upon which the open space requirement is calculated is 192.88 acres; the open space requirement, prorated for areas in and out of SNRA, is 116.35 acres. New Falmouth Golf LLC proposes to provide 82.64 acres of undisturbed areas, and 95 acres of golf course areas as open space (a total of 177.64 acres). Some of this open space area is required to meet previous requirements, as detailed below:

- Consistent with a land swap approved by Falmouth Town Meeting, 27.26 acres (shown as Parcel 2 on "Property Line Plan C-2") will be deeded to the town. Approximately 15.8 of these acres (27.26 acres minus 11.41 acres of utility easement) should not be counted toward land being provided as open space, since they were previously committed.

- Consistent with the permit for the Falmouth Woods/Ballymeade Estates subdivision (permitted in 1986 with a variance from the Falmouth Board of Appeals granted in 1993), 19.03 acres was designated as open space, but was not permanently protected.

Subtracting these two previously required acreages from that proposed to be permanently protected by New Falmouth Golf LLC, the total open space being provided to meet the requirements of this DRI application is approximately **142.7** acres, **47.8** acres of which is undisturbed woodland, 95 acres of which is golf course turf and restored areas. This exceeds the open space requirement for this project by approximately **26** acres. It should be noted that this excess open space is provided in the form of golf course fairways and roughs.

**CONDITIONS**

**General Conditions shall be revised as follows:**

G6. The proposed Ballymeade Estates (The Golf Club at Cape Cod) project shall be constructed in accordance with the following final plans:

	Date	Last Revised
• Routing Plan, prepared by Rees Jones, Inc. Golf Course Design	5/01 (received 8/24/01)	
• <b>Proposed DRI Modifications Plan</b>	<b>7/11/05</b>	
• Property Line Plan, Sheet C-2	5/11/01	
• Layout Plan, Sheet C-3	5/11/01	
• Grading and Drainage Plan, Sheet C-4	5/11/01	7/6/01
• Utility Plan, Sheet C-5	5/11/01	

- Main Septic System, Sheet C-6 5/11/01
- Main Septic System Details, Sheet C-7 5/11/01
- Septic System Plan for the Restrooms, Sheet C-8 5/11/01
- Septic System Details Restroom Building, Sheet C-9 5/11/01
- Septic Plan for the Halfway House, Sheet C-10 5/11/01
- Septic Details Halfway House, Sheet C-11 5/11/01
- Typical Site Details, Sheet C-12 5/11/01
- Erosion Control Plans, Sheets C-13 through C-18 5/11/01 7/6/01  
and C-19 5/11/01
- The Golf Club at Cape Cod (Architectural Plans), prepared by  
Lyman Perry Architects Ltd., Sheets M-2.1, M-2.2, D-2.4,  
D-2.5, C-2.1, A-2.1 4/20/01
- Planting Plans, Sheets 12-1 through 12-5 and 12-11 5/14/01
- The Golf Club At Cape Cod, (Lighting Plans), prepared by Lyman  
Perry Architects, Ltd., Sheets LA-2.1i, LA-2.1m, LC-2.1i,  
LC-2.1m, LD-2.1i, LD-2.1m, LD-2.2i, LD-2.2m, LD-2.3i,  
LD-2.3m, LM-2.1i, LM-2.1m 5/23/01
- The Golf Club At Cape Cod, (Lighting Plans), prepared by Lyman  
Perry Architects, Ltd., Sheets LA-2.1ma, LA-2.1ia, LM-2.1ia,  
LM-2.1ia, LM-2.1ma, 6/11/01
- Lighting Plans, Sheets 12-6 through 12-10 5/14/01
- The Cape Club at Cape Cod, Section at Entry Pavilion, prepared  
by Lyman Perry Architects, Ltd., Drawing L-1 in Appendix H  
of the Response to Cape Cod Commission comments (7/01) 6/22/01

G10. The project shall be phased as follows unless otherwise specified:

Items to be completed before issuance of the Preliminary Certificate of Compliance to obtain a Building Permit are hereby modified as follows:

- Request to MADPH regarding the need for public health protection measures
- **Submittal of work and bid specifications regarding hazardous materials and waste management.**

The partial Certificate of Compliance I required to obtain a Certificate of Occupancy for the Golf Course Management Center is hereby eliminated.

Items to be completed before issuance of the Partial Certificate of Compliance II to obtain Certificate of Occupancy for the Golf Course are hereby modified as follows:

- **Conservation Restriction for OS2 - transaction to be approved and recorded, and proof of recording submitted**
- **Deed Conveyance - recorded and proof of recording submitted**
- **Utilities - complete to site stubs**
- **Irrigation well - complete**
- **DPH Consult - complete**
- **Plan submitted for ensuring public health protection consistent with MADPH recommendations**
- **Revised plans submitted showing provisions for the safe storage and use of fluorescent light tubes, labeling and access, mercury spill kit, and mercury-handling training.**
- **Pump-house – complete, Certificate of Occupancy issued**
- **Entrance road - to dense grade**
- **Location of habitat improvements for Coopers Hawk submitted**
- **Revegetation of areas described on site plan entitled Proposed DRI Modifications - completed**
- **Golf Course - complete with buffer plantings and habitat improvements**
- **Abutter landscaping - complete**
- **Ancillary golf course structures (pump house, halfway house, restroom, rain & lightening structure) – complete, including Certificate of Occupancy issued**
- **Mercury spill kit, if located in a building completed in this phase – in place**
- **Monetary contribution toward a tidal flushing study - complete**
- **Ground-water monitoring plan – revised, submitted and completed**
- **Submittal of map detailing well locations, drilling logs and well construction plans**
- **Monitoring Baseline - completed and submitted for lab analysis**
- **Lysimeter and monitoring well clusters - installed**
- **Parking lot - set to dense grade and binder**

- Seed specifications - submitted to Cape Cod Commission
- Transportation mitigation funds - released to Cape Cod Commission
- Traffic safety improvements - complete
- Site lighting - complete for structures in this phase
- Habitat Improvements - complete

Items to be completed before issuance of the *Partial Certificate of Compliance III* to obtain *Certificate of Occupancy for the Clubhouse* are hereby modified as follows:

- **Golf Course Management Center structures - complete**
- **Wastewater - partial for GCMC**
- **Mercury spill kit, if located in a building completed in this phase - in place**
- **Mercury recycling company contract- signed**
- **Golf Course Management Center landscaping - complete**
- Clubhouse - complete with landscaping
- Wastewater - complete
- Entrance road - complete to top coat
- Site lighting – complete for structures in this phase

Items to be completed before issuance of the *Final Certificate of Compliance* to obtain *Certificate of Occupancy for the Cottages*:

- Cottages - complete with landscaping and associated lighting
- Economic Development Report - completed

**Water Resources Conditions shall be revised as follows:**

WR11. Prior to issuance of the preliminary Certificate of Compliance **II**, the applicant shall submit a request to MADPH for a recommendation regarding the need for public-health protection measures with regard to spray irrigation using ground-water withdrawn in the vicinity of Fuel Spill 29.

WR12. Prior to issuance of the partial Certificate of Compliance **II**, the applicant shall submit to the Commission a plan consistent with MADPH recommendations for ensuring public-health protection. Results of water-quality analyses performed in accordance with the plan shall be submitted to the Commission annually.

**Natural Resources Conditions shall be revised as follows:**

NR2. Prior to the issuance of the partial Certificate of Compliance **II**, New Falmouth Golf LLC shall provide a plan detailing the location of habitat enhancements for the Cooper's Hawk (i.e. location of white pines in revegetated areas that may, with time, create a stand of pines attractive for Cooper's Hawk).

**NR5. All areas proposed for revegetation as described on a site plan by Avalon Consulting Group dated July 11, 2005, and including revegetation of the relocated NStar utility easement, shall be completed consistent with Findings NR5 through NR7 prior to issuance of a partial Certificate of Compliance II, or shall be subject to the establishment of an escrow agreement consistent with Condition HPCC4.**

**After each NStar maintenance or repair event, the applicant shall fully revegetate the disturbed areas and maintain such vegetation.**

**Open Space Conditions shall be revised as follows:**

OS2. Prior to issuance of the **partial** Certificate of Compliance **II** or **January 31<sup>st</sup>, 2006, whichever occurs first**, New Falmouth Golf LLC shall provide the Cape Cod Commission with a conservation restriction consistent with Massachusetts General Laws Chapter 184, § 31 – 33 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 **156 ±** acres, identified as Parcel 1 on the plan titled "Property Line Plan C-2", dated 5/11/01, shall be preserved as permanent open space. The restriction shall provide for public access to the one mile walking trail running along the west and north periphery of the site. 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 **partial** Certificate of Compliance **II**. In order to preserve the habitat values of the undisturbed open space areas, these areas shall remain undisturbed, including fallen dead wood and snags.

**Solid and Hazardous Waste Management Conditions shall be revised as follows:**

WM6. Prior to issuance of a preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall submit for Commission review documentation that a mercury spill kit will be stored adjacent to the closet, and that a member of the club will receive mercury-handling training. Prior to the issuance of a partial Certificate of Compliance **II** or **III, as appropriate**, a mercury spill kit shall be stored adjacent to the closet.

WM7. Prior to issuance of a partial Certificate of Compliance **III** by the Cape Cod Commission, the applicant shall submit for Commission review a signed contract between the Golf Club and a licensed mercury-recycling company for the proper transport and recycling of mercury containing phosphor powder, as well as for the recycling of all remaining aluminum and glass components.

**Heritage Preservation/Community Character Conditions shall be revised as follows:**

HPCC7. Prior to issuance of partial Certificates of Compliance **II and III** and the final Certificate of Compliance from the Commission, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.7 for each completed project phase. This shall also include verification that any installed signage is in conformance with Condition HPCC5, above.

Frank Hogan  
Frank Hogan, Chairman

9/12/05  
Date

Commonwealth of Massachusetts  
County of Barnstable

On this 12<sup>th</sup> day of September, 2005, before me personally appeared Frank H. Hogan, 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.

Dorr Steven Fox  
Notary Public  
Commonwealth of Massachusetts

My Commission expires:

