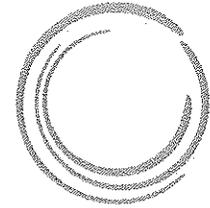


3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Date: November 29, 2012

To: Chequessett Yacht & Country Club Trust
David Deppen, Calvin Anderson, John A. Ketchum, Trustees
680 Chequessett Neck Road
Wellfleet, MA 02667

From: Cape Cod Commission

Re: Limited Development of Regional Impact and
Development of Regional Impact Decision
Cape Cod Commission Act, Sections 12 and 13

Applicant and
Owner: Chequessett Yacht & Country Club Trust
David Deppen, Calvin Anderson, John A. Ketchum, Trustees

Project: Chequessett Yacht & Country Club
680 Chequessett Neck Road
Wellfleet, MA 02667

Project #: TR12037

Map/Parcel: 19/81
Cert. of Title: 78460
Plan reference#: Lot 57, LCP 10669-10, Sheet 1; Lot 5F, LCP 10669-I

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission ("Commission") hereby approves with conditions, the application of Chequessett Yacht & Country Club Trust (hereinafter "Chequessett" or the "Applicant") as a Limited Development of Regional Impact ("DRI") and 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 division of land at 680 Chequessett Neck Road in Wellfleet, MA. This decision is rendered pursuant to a unanimous vote of the Commission on November 29, 2012.

PROJECT DESCRIPTION

The applicant and property owner, the Chequessett Yacht & Country Club Trust, proposes to divide its existing 106 acre parcel located at 680 Chequessett Neck Road, Wellfleet, which is the site of the Chequessett Neck Yacht and Country Club. The division would result in the creation of an additional 1.149 acre building lot (herein, "Lot 76"), taking its street frontage from, and its access over, Chequessett Neck Road. Lot 76 is proposed to be offered for sale to a bona fide third party purchaser, most likely for single family dwelling use, in order to raise needed funds for club operation. Additionally, the applicant proposes to create two additional parcels totaling approximately 100,000 s.f., which would be conveyed in fee to the Wellfleet Conservation Trust.

The portion of the site proposed to contain Lot 76 is presently undeveloped. Pursuant to the Town of Wellfleet Zoning By-law, the only use permitted by right in the underlying zoning district is single family residential dwelling use, and attendant, permitted accessory uses thereto including detached garages and affordable accessory dwelling units. Commercial boathouses, nursing homes, nursery schools, cottage colonies, private guesthouses and private stables are uses allowed by special permit. Five (5) bedrooms would be allowed as a matter of right on the newly created, additional lot, based on its proposed size, pursuant to other applicable town land use regulations.

PROCEDURAL HISTORY

The Commission received the DRI referral from the Town of Wellfleet through the Assistant Town Administrator, Timothy King, on October 19, 2012. The project qualifies as a Development of Regional Impact (DRI) pursuant to Section 3(c) of the Commission's Enabling Regulations (Revised July 2012) as "Any development that proposes to divide parcel(s) of land totaling 30 acres or more in common ownership or control on or after September 30, 1994, including assembly and recombination of lots. This threshold shall include any development activity in conjunction with any land division of 30 acres or more not otherwise exempted from review under Section 22(e) of the Act."

In accordance with the Cape Cod Commission Act, a duly noticed public hearing on the Limited DRI and DRI was held on November 15, 2012 at 5:00 PM in the Wellfleet Public Library in Wellfleet, MA. This hearing was continued to November 29, 2012 at 3:00 PM at the Assembly of Delegates Chamber of the First District Courthouse in Barnstable. A public meeting was held on November 20, 2012 to review the draft written Limited DRI/DRI decision. A final public hearing was held before the full Cape Cod Commission on November 29, 2012. At the close of this hearing, the Commission voted to approve the project, with conditions.

MATERIALS SUBMITTED FOR THE RECORD

TABLE 1: Materials Submitted for the Record	
<i>Materials from Cape Cod Commission</i>	<i>Date Sent</i>
Email from Elizabeth Enos (EE) to Barbara Boone (BB) re: electronic materials	3/2/12
Email from EE to BB re: application completeness	3/15/12
Email from Sarah Korjeff to BB re: cost of archaeological survey	3/22/12
Email from EE to BB re: archaeological survey and project update	4/5/12
Email from EE with comments from Heather McElroy re: question	10/19/12

about the application	
Email from EE to Timothy King, Assistant Town Administrator for the Town of Wellfleet notifying him of receipt of referral and asking for comments re: the project's local consistency	10/23/12
Email with attached letter from EE to BB deeming the application complete and re: scheduled public hearing	10/30/12
Email from EE to BB re: staff report	10/31/12
Email from EE to BB re: copies of application materials	11/1/12
Email from EE to Patrice Carson (PC), consulting Planner for the Town of Wellfleet re: comments on project	11/9/12
Email from EE to PC requesting clarification	11/9/12
Email from EE to PC with attached staff report	11/9/12
Email from EE to PC re: thank you	11/15/12
PowerPoint presentation presented at 11/15 public hearing	11/15/12
Email from Gail Hanley (GH) to Wellfleet Town Clerk with attached hearing and meeting notices	11/16/12
Email from EE to BB and PC with attached draft written decision	11/19/12
Memo to CCC members with attached draft decision, minutes from 11/15 public hearing and 11/20 public meeting and copy of all materials submitted to the record	11/20/12
Materials from Applicant	Date Received
Application materials and cover sheet	3/1/12
Electronic application materials submitted by email (2) from BB to EE	3/2/12
Email from BB to EE re: conservation restriction	3/16/12
Email from BB to EE re: open space transfer to Wellfleet Conservation Trust	10/19/12
Email from BB to EE re: easement	10/30/12
Email from BB to EE re: copies for CCC members	11/1/12
Email from BB to EE re: thank you	11/5/12
Materials from Public Agencies/Towns/State/Federal	Date Received
"No take" letter from Natural Heritage to BB	3/1/12
Letter from Tim King, Assistant Town Administrator for the Town of Wellfleet, re: April 4, 2012 meeting in which the Planning Board voted to refer the project to the CCC as a DRI	4/6/12
Letter from Mass Historical Commission (via fax and mail) to BB stating that no historic or archaeological resources are at the project site	7/13/12
Email from Patrice Carson (PC) re: comments on project	11/7/12
Email from PC re: comments on project	11/9/12
Email from PC to EE with comments regarding consistency with local requirements	11/9/12
Email from PC to EE clarifying previous comments	11/15/12
Materials to/from Members of the Public	Date Received

TESTIMONY

November 15, 2012 Public Hearing

Jonathon Idman, Chief Regulatory Officer for the Commission acted as a Hearing Officer on the project and opened the hearing at 5:00 PM and read the hearing notice aloud and reviewed the order of the hearing.

Elizabeth Enos, Regulatory Officer for the Commission then provided a PowerPoint presentation on the project which outlined the existing setting, a project description, a procedural overview, the standards of review and approval, Commission staff analysis, and conclusions and recommendations. She noted that Commission staff recommends limiting the scope of DRI review to the Regional Policy Plan (RPP) issue area of Open Space Protection and Recreation and approving the project as a Limited DRI/DRI, subject to conditions.

Barbara Boone, representing the Applicant gave a brief description of the project and was available for questions.

Mr. Idman took comments from members of the public on the project and continued the hearing to the November 29, 2012 full Commission meeting.

November 20, 2012 Public Meeting

Elizabeth Enos, Regulatory Officer with the Commission, and Jonathon Idman, Chief Regulatory Officer with the Commission, reviewed the draft Limited DRI/DRI decision page by page in a public meeting.

FINDINGS

The Commission has considered the Limited DRI / DRI application of Chequessett Yacht and Country Club Trust for the division of land at 680 Chequessett Neck Road in Wellfleet, MA. Based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings, pursuant to Sections 12 and 13 of the Act:

General Findings

- GF1. The Commission finds that the scope of the project's DRI review is limited to the issue area of Open Space Protection and Recreation.
- GF2. As the date of the first substantive public hearing was November 15, 2012, this project was reviewed subject to the 2009 RPP, as amended in August 2012.
- GF3. The Commission finds that the project location is 680 Chequessett Neck Road in Wellfleet, MA. Pursuant to the Town of Wellfleet Zoning By-law, the only use permitted by right in the underlying zoning district is single family residential dwelling use, and attendant, permitted accessory uses thereto including detached garages and affordable accessory dwelling units. Commercial boathouses, nursing homes, nursery schools, cottage colonies, private guesthouses and private stables are uses allowed by special permit. Five (5) bedrooms would be allowed as a matter of right on the newly created, additional lot, based on its proposed size, pursuant to other applicable town land use regulations.

- GF4. The Commission finds that the Applicant proposes to divide its existing 106 acre parcel located at 680 Chequessett Neck Road, Wellfleet, which is the site of the Chequessett Neck Yacht and Country Club. The division would result in the creation of an additional 1.149 acre building lot (herein, "Lot 76"), taking its street frontage from, and its access over, Chequessett Neck Road. Lot 76 is proposed to be offered for sale to a bona fide third party purchaser, most likely for single family dwelling use, in order to raise needed funds for club operation. Additionally, the applicant proposes to create two additional parcels totaling approximately 100,000 s.f., which would be conveyed in fee to the Wellfleet Conservation Trust.
- GF5. The Commission adopts the November 9, 2012 and November 15, 2012 written testimony of Patrice Carson, Wellfleet Town Planning Consultant, and finds that the proposed project is in conformance with the Town of Wellfleet's zoning and subdivision by-laws and the Town's Commission-certified local comprehensive plan.
- GF6. As the project is not located in a District of Critical Planning Concern, the Commission finds that the project is consistent with this criterion.
- GF7. The Commission finds that the probable benefits of the proposed project include providing 100,000 s.f. of permanently protected open space, compliance with the Local Comprehensive Plan and lack of opposition to the project.
- GF8. The Commission finds that there is no probable detriment from the proposed project.
- GF9. The Commission finds that the probable benefit of the proposed project is greater than the probable detriment of the proposed project.
- GF10. The Commission finds that the proposed land division shall be in accordance with the following plans:
- With respect to Lot 76, as shown on a plan entitled "Chequessett Yacht & Country Club, Plan of Land in Wellfleet being a division of Lot 57 by Slade Associates, Inc., dated September 28, 2012;"
 - With respect to Lots 78 & 79, as shown on a plan entitled "Chequessett Yacht & Country Club, Plan of Land in Wellfleet being a division of Lot 57 by Slade Associates, Inc., dated December 30, 2011 and revised September 27, 2012."

Land Use

- LUF1. The Commission finds the Town of Wellfleet does not have an endorsed Land Use Vision Map, and the proposed division neither creates five or more residential lots, nor is located adjacent to rural landscapes or land under active agricultural production. Further, other than the division itself, no actual development is proposed at this time. As such, the Commission finds that the RPP issue area of Land Use does not apply to the proposed division and is not included in the scope of DRI review.

Economic Development

- EDF1. The Commission finds that the proposed project will not have a significant impact upon the purposes and values identified in Section One of the Act as it relates to Economic Development, as the proposed project consists only of the division of land.

As such, the Commission finds that the RPP issue area of Economic Development is not included in the scope of DRI review.

Water Resources

WRF1. According to maps produced for the 2009 Regional Policy Plan (as amended), the proposed project site is not located within an existing Wellhead Protection Area, nor is it located within an area designated as a Potential Public Water Supply Area. Further, no development, other than the division itself, is proposed at this time. As such, the Commission finds that the proposed division of land will not have a significant impact upon the purposes and values identified in Section One of the Act as it relates to Water Resources, and that the RPP issue area of Water Resources is not included in the scope of DRI review.

Coastal Resources

CRF1. The Commission finds that the project, as proposed, will not impact Coastal Resources, as those impacts are described in the Limited Review Scoping Checklist. As such, the Commission finds the issue area of Coastal Resources does not apply to the proposed project and is not included in the scope of DRI review.

Wetlands, Wildlife & Plant Habitat

WWPHF1. The Commission finds that the project site is located in a Significant Natural Resource Area due to the presence of rare species habitat for Eastern Box Turtle, a state listed species of special concern. The project site is also part of a larger study area evaluated in the Herring River Restoration project. Lot 76 consists entirely of upland, is located with frontage on Chequessett Neck Road, and is adjacent to two existing, off-locus residential lots, one of which is developed with an existing house. The Commission finds that the project site will not impact wetlands or their buffers, and as such, the Minimum Performance Standards associated with the Wetlands sub-issue area of the RPP do not apply. No development other than the division of land is proposed at this time, and as such, the Commission finds that Minimum Performance Standards (MPS) WPH1.2 and 1.3 also do not apply. The Commission finds that if and when Lot 76 is developed, impacts to wildlife and plant habitat will be minimized by virtue of its placement adjacent to existing house lots and the road. The applicant has submitted correspondence from the Natural Heritage and Endangered Species Program indicating that the proposed division of land will not result in a take of state listed species, consistent with MPS WPH1.4. As such, the Commission finds that the proposed division of land does not involve substantial deviation from the MPS of the RPP issue area of Wetlands/Wildlife & Plant Habitat, and that this issue area is not included in the scope of DRI review.

Open Space Protection & Recreation

OSF1. As the Town of Wellfleet has not adopted a Land Use Vision Map and the proposed division of land is located within a Significant Natural Resource Area, the Commission finds that the RPP issue area of Open Space Protection and Recreation applies to the proposed project and should be included in the scope of DRI review. The applicant proposes to address this applicable issue area by conveying to the Wellfleet Conservation Trust, in fee simple, two new parcels to be created and divided from the subject property (Lots 78 and 79), totaling just over 100,000 s.f. The Wellfleet Conservation Trust has agreed to accept and hold these parcels in perpetuity for permanent conservation and open space purposes. The Commission

finds that these lots provide naturally vegetated upland habitat in an amount appropriate to meet the RPP open space requirements for the creation of Lot 76.

Transportation

TF1. The Commission finds that, as no new development is proposed other than the proposed division, the project will not generate any new daily or peak hour trips. Further, the project has direct access to Chequessett Neck Road. The Commission finds that the section of Chequessett Neck Road adjacent to the project site is classified under the Federal Highway Classification System as a local roadway and therefore is not considered a regional roadway. As such, the Commission finds that the RPP issue area of Transportation does not apply to the proposed division of land and is not included in the scope of DRI review.

Hazardous Materials and Waste

HMWF1. The Scoping Checklist for New Development asks if the proposed project would involve greater than a Household Quantity of Hazardous Wastes in a Wellhead Protection Area/Potential Public Water Supply Area and whether the project will generate Hazardous Wastes. The Commission finds that the proposed project site is not located within an existing Wellhead Protection Area or an area designated as a Potential Public Water Supply Area. Further, no development other than the division itself is being proposed at this time. As such, the Commission finds that the RPP issue area of Hazardous Materials and Waste Management does not apply and is not included in the scope of DRI review.

HMWF2. The Scoping Checklist for New Development asks whether the project involves greater than 25,000 square feet of new development and whether the project involves a significant amount of land-clearing wastes or construction and demolition (C&D) debris. As no new development is proposed at this time other than the division itself, the Commission finds that the issue area of Solid Waste does not apply to the proposed division and is not included in the scope of DRI review.

Energy

EF1. As this project deals with the division of land, and no other development is proposed at this time, the Commission finds that the RPP issue area of Energy does not apply based on the Scoping Checklist and as such, is not included in the scope of DRI review.

Affordable Housing

AHF1. As the proposed division does not involve the creation of ten or more residential lots and as there are no plans for development other than the division itself at this time, the Commission finds that the issue area of Affordable Housing does not apply and is not included in the scope of DRI review.

Heritage Preservation and Community Character

HPCCF1. The Commission received a February 14, 2012 comment letter from Massachusetts Historical Commission (MHC) that identified the undisturbed portions of the proposed 1.149 acre residential lot as archaeologically sensitive. The applicant subsequently hired a consultant to conduct an intensive archaeological survey of the site. MHC reviewed the survey report prepared by Plymouth Archaeological Rediscovery Project and, in a letter dated July 13, 2012, determined that no significant historic or archaeological resources were identified within the project

area. As such, the Commission finds that the proposed project will not impact archaeological resources. Further, as no development is proposed at this time, the Commission finds that the RPP issue area of Heritage Preservation and Community Character does not apply to the proposed division of land and is not included in the scope of DRI review.

CONCLUSION

Based on the above findings, the Commission hereby concludes:

1. That the probable benefit of the proposed project is greater than the probable detriment.
2. That upon satisfaction of the conditions identified in this decision, the proposed project is consistent with the current Regional Policy Plan (as amended).
3. The project is consistent with Wellfleet's Local Comprehensive Plan and its local development by-laws.
4. The project is not located in a District of Critical Planning Concern.

CONDITIONS

The Commission hereby approves, with conditions, the Limited DRI / DRI application of Chequessett Yacht and Country Club Trust for the division of land at 680 Chequessett Neck Road in Wellfleet, MA, provided the following conditions are met:

General Conditions

- GC1. This decision is valid for a period of seven (7) years and local development permits may be issued pursuant hereto for a period of seven (7) years from the date of this written decision.
- GC2. The applicant shall obtain all necessary federal, state, and local permits for the proposed project.
- GC3. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, and remain in compliance herewith, shall be deemed cause to revoke or modify this decision.
- GC4. No development work, as the term "development" is defined in the Cape Cod Commission Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- GC5. The proposed land division shall be as shown on the following plans:
- With respect to Lot 76, on the plan entitled "Chequessett Yacht & Country Club, Plan of Land in Wellfleet being a division of Lot 57 by Slade Associates, Inc., dated September 28, 2012;"
 - With respect to Lots 78 & 79, on the plan entitled "Chequessett Yacht & Country Club, Plan of Land in Wellfleet being a division of Lot 57 by Slade Associates, Inc., dated December 30, 2011 and revised September 27, 2012."

Any deviation from the division of land as shown on the above referenced plans shall require approval by the Cape Cod Commission through its modification process, pursuant to the Commission's *Enabling Regulations*. The Applicant shall submit to Commission staff any additional information deemed necessary to evaluate any such requested modifications to said plans.

- GC6. The approval granted herein is subject to the issuance of a Final Certificate of Compliance from the Commission. Prior to the sale and conveyance of Lot 76 to a bona fide third party purchaser, the Applicant shall obtain a Final Certificate of Compliance. Prior to, and as a requirement of, the issuance of a Final Certificate of Compliance, the Applicant shall provide Commission staff with copies of the plans referenced in Condition GC5, above, as filed with the Barnstable Registry District of the Land Court, as well as a copy of the deed to the Wellfleet Conservation Trust for Lots 78 & 79, referenced in Condition NRC1 below, as filed with the Barnstable Registry District of the Land Court.

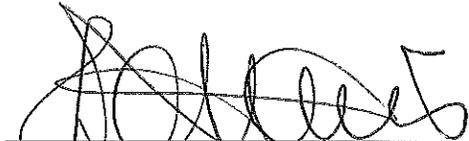
Open Space Protection and Recreation

- OSC1. Prior to or simultaneous with the filing of the plans, referenced in Condition GC5, with the Barnstable Registry District of the Land Court, the Applicant shall convey Lots 78 and 79 to the Wellfleet Conservation Trust in fee simple for nominal consideration, by the filing of a deed for the same with the Barnstable Registry District of the Land Court. Such deed shall provide that Lots 78 and 79 be held for and restricted to conservation and open space purposes in perpetuity. A draft deed shall be provided to Commission counsel for review and approval prior to its execution and filing with the Barnstable Registry District of the Land Court.

SUMMARY

The Cape Cod Commission hereby approves with conditions the application of the Limited DRI / DRI application of Chequessett Yacht and Country Club Trust for the division of land at 680 Chequessett Neck Road in Wellfleet, MA as outlined in this decision pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended.

(Signature on next page)


John Harris, Commission Chair

29 Nov 2012
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

Nov 29, 2012

Before me, the undersigned notary public personally appeared John Harris, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, or personal knowledge of the undersigned.

Gail P. Hanley
Notary Public
My Commission Expires:
9-28-18

