



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

DATE: January 21, 2010

TO: Douglas S. Storrs, Vice President,
Mashpee Commons Limited Partnership
PO Box 1530
Mashpee, MA 02649

FROM: Cape Cod Commission

RE: Development of Regional Impact
Cape Cod Commission Act, Sections 12 & 13

APPLICANT: Douglas S. Storrs, Vice President,
Mashpee Commons Limited Partnership
PO Box 1530
Mashpee, MA 02649

PROJECT #: TR98049

PROJECT: Mashpee Commons Master Plan

RECORDING INFORMATION:

Land Court East Steeple Street:
Certificate #119725 (Plan 32122-C, Lot 2) Owner: Mashpee Commons LP
Certificate #111501 (Plan 26950-H, Lots 13,14,15,16,17) Owner: Mashpee Commons LP

Trout Pond:
Certificate #111302 (Plan 31659-B, Lot 1) Owner: Mashpee Commons LP

North Market Street – Phase II
Certificate #111520 (Lot 11 Plan 26950G) Owner: Mashpee Commons LP
Certificate # 172447 (Lot 12 Plan 2695G) Owner: Mashpee Commons LLC

Reg. of Deeds Trout Pond:
Book 2969, Page 20 Owner: Arnold B. Chace, Jr.
Book 3204, Page 279 Owner: Arnold B. Chace, Jr.
Book 5489, Page 138 Owner: Arnold B. Chace, Jr.

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission), hereby procedurally denies without prejudice the application of Mashpee Commons Limited Partnership (the Applicant) as a Development of



Regional Impact (DRI) in accordance with Section 12 of the Cape Cod Commission Act (Act) and Section 15 of the *DRI Enabling Regulations*. This decision applies only to the Mashpee Commons neighborhoods known as East Steeple Street, Trout Pond, and North Market Street Phase II and identified on the Mashpee Commons Master Plan prepared by Imai Keller Moore Architects dated January 2, 2007 (attached to this decision as Exhibit A and incorporated by reference). This decision is rendered pursuant to a unanimous vote (13 members voting) of the Commission on January 21, 2010.

PROJECT DESCRIPTION

The Mashpee Commons Master Plan is currently subject to review by the Commission as a Development of Regional Impact (DRI). The Commission has previously rendered decisions on two of the neighborhoods in the Mashpee Commons Master Plan identified as North Market Street Phase I and the Jobs-Whiting Neighborhood. The remaining neighborhoods of the Mashpee Commons Master Plan (East Steeple Street, Trout Pond, and North Market Street – Phase II) are yet to be developed and are the subject of this decision.

PROCEDURAL HISTORY

An Environmental Impact Report (EIR) was prepared for the Mashpee Commons Master Plan and was reviewed jointly by the Executive Office of Energy and Environmental Affairs and the Cape Cod Commission under a Memorandum of Understanding between the two agencies. The EIR for the project was completed and the Secretary of Energy and Environmental Affairs certified that the Final EIR adequately and properly complied with the requirements of MEPA on March 2, 2001.

The North Market Street Phase I project (known as 151 North Market Street) was reviewed as a DRI and approved by the Commission on March 4, 1993. The commercial portion of the Jobs-Whiting Neighborhoods was reviewed as a DRI and approved by the Commission on December 14, 2006.

In December 2007, Mr. Douglas Storrs approached the Mashpee Board of Selectmen, Mashpee Planning Board, and the Cape Cod Commission to begin conceptual discussions of the framework for a Development Agreement for the remaining Mashpee Commons neighborhoods.

On June 24, 2009, Mr. Douglas Storrs, Vice President of Mashpee Commons LP, submitted a letter requesting a determination from the Commission that the remaining undeveloped neighborhoods of Mashpee Commons are suitable and qualify for a Development Agreement pursuant to Section 5 of the Commission's Development Agreement Regulations. The Commission considered and approved this request at a public hearing on Thursday, August 20, 2009.

The subcommittee met on December 7, 2009 to discuss the three remaining neighborhoods, North Market Street Phase 2, East Steeple Street, and Trout Pond. The subcommittee unanimously approved the procedural denial without prejudice of the three remaining neighborhoods and directed staff to draft a decision accordingly. On December 17, 2009, the subcommittee met and reviewed the draft decision. The subcommittee voted unanimously to

approve the draft decision and forward it to the full Commission for consideration.

JURISDICTION

The Mashpee Commons Master Plan qualifies as a Development of Regional Impact under Section 2(d) of the Cape Cod Commission Enabling Regulations, Chapter A, Barnstable County Ordinance 90-12, amended, and under section 12(i) and 13(b) of the Cape Cod Commission Act as a project for which the Secretary of Energy and Environmental Affairs has required the preparation of an Environmental Impact Report (EIR).

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant

- Email from D. Storrs to K. Senatori, re: Pending DRIs, December 1, 2009
- Email from D. Storrs to K. Senatori re: DRI withdrawals, November 23, 2009

From State, Local, and Public

- Email from T. Fudala to K. Senatori re: agenda, December 11, 2009
- Email from T. Fudala to P. Dascombe, re: procedural denials, November 30, 2009
- Email from T. Fudala to K. Senatori re: Planning Board meeting, November 24, 2009

From the Cape Cod Commission

- Email from K. Senatori to T. Fudala re: subcommittee meetings, December 10, 2009
- Letter from K. Senatori to T. Fudala, Planning Board, D. Storrs re: responses to questions, December 2, 2009
- Email from K. Senatori to T. Fudala re: subcommittee meeting, November 24, 2009
- Email from K. Senatori to T. Fudala, J. Mason re: subcommittee meeting, November 24, 2009
- Email from P. Dascombe to D. Storrs, Tom Fudala, Planning Board re: meeting, November 18, 2009

TESTIMONY

Public Meeting, December 7, 2009

Ms. Senatori gave a brief presentation for the subcommittee. She stated that the Mashpee Commons Master Plan is currently subject to review by the Commission as a DRI. She said that the Commission has rendered decisions on the North Market Street and Jobs-Whiting Neighborhoods. She said that the remaining neighborhoods are East Steeple Street, Trout Pond, and North Market Street Phase 2. Ms. Senatori stated that the Notice of Intent to file a Development Agreement was approved by the full Commission on August 20, 2009. Ms. Senatori displayed a map of the Mashpee Commons area and pointed out the already permitted neighborhoods and the three remaining neighborhoods on the map. Ms. Senatori said that the DRI extension expires on February 1, 2010. She said that there is a statutory inability to extend it any further and that the project cannot be withdrawn. Ms. Senatori stated that, pursuant to Section 15(c) of the CCC Enabling Regulations, this public meeting is the opportunity for the applicant to address the subcommittee regarding the pending procedural denial without prejudice.

Mr. Storrs then stated that there is a lot of benefit to proceeding with a three-party Development Agreement. He said that the Notice of Intent to file the Development Agreement was approved in August. He said that after the subcommittee agrees to the procedural denial, the recommendation will be forwarded on to the full Commission, which will then have to vote on whether to grant the procedural denial. Mr. Storrs said that he has been working closely with the planning board. He mentioned that the planning board has not approved Mashpee's Land Use Vision Map.

Mr. Dascombe stated that the procedural denial being discussed at this meeting is a routine procedure and that it is aside from any discussions of the development agreement process.

Mr. Virgilio moved that the subcommittee recommend that the remaining three neighborhoods of Mashpee Commons, North Market Street Phase II, East Steeple Street, and Trout Pond, be procedurally denied without prejudice. Mr. Olsen seconded the motion and it was approved unanimously.

Mr. Virgilio then moved that the subcommittee direct staff to draft a decision to procedurally deny the remaining three neighborhoods of Mashpee Commons, North Market Street Phase II, East Steeple Street, and Trout Pond. Mr. Olsen seconded the motion and it was approved unanimously.

Public Meeting, December 17, 2009

Ms. Senatori reviewed the draft decision with the subcommittee. She described the summary section, the project description, the procedural history, the Commission's jurisdiction, the materials submitted for the record, and the testimony section, and reviewed the findings and conclusion of the draft decision. The subcommittee unanimously approved the draft decision to procedurally deny without prejudice the three remaining neighborhoods of Mashpee Commons and to forward the decision to the full Commission for consideration.

FINDINGS

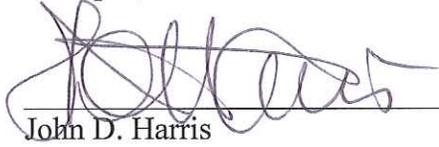
The Commission has considered the proposed Mashpee Commons Master Plan and makes the following findings for the North Market Street Phase 2, East Steeple Street, and Trout Pond areas, pursuant to Sections 12 and 13 of the Act:

1. The project consists of three neighborhoods within the Mashpee Commons Master Plan: North Market Street Phase II, East Steeple Street, and Trout Pond. These areas are identified on the Mashpee Commons Master Plan prepared by Imai Keller Moore Architects dated January 2, 2007 (attached to this decision as Exhibit A and incorporated by reference).
2. The project is subject to Cape Cod Commission jurisdiction under Section 2(d) of the Cape Cod Commission Enabling Regulations, Chapter A, Barnstable County Ordinance 90-12, amended, and under section 12(i) and 13(b) of the Cape Cod Commission Act as a project for which the Secretary of Energy and Environmental Affairs has required the preparation of an Environmental Impact Report (EIR).

3. Six extensions to the DRI timeframe have been granted; the extended timeframe for the Commission's decision on the project ends on February 1, 2010.
4. The Applicant has not submitted a complete DRI application for the North Market Street Phase II, East Steeple Street, or Trout Pond areas.
5. On August 20, 2009, the Commission approved the Applicant's Notice of Intent to file a Development Agreement with the Commission for proposed development in the North Market Street Phase II, East Steeple Street, and Trout Pond areas.
6. The Commission notified the Applicant of a pending procedural denial and the Applicant was given the opportunity to address the DRI subcommittee regarding the status of the project on December 7, 2009.

CONCLUSION

The Cape Cod Commission hereby procedurally denies without prejudice the proposal of Mashpee Commons Limited Partnership 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 North Market Street Phase II, East Steeple Street, and Trout Pond areas in Mashpee, MA.



John D. Harris
Cape Cod Commission Chair

21-Jan 2010
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

1/21, 2010

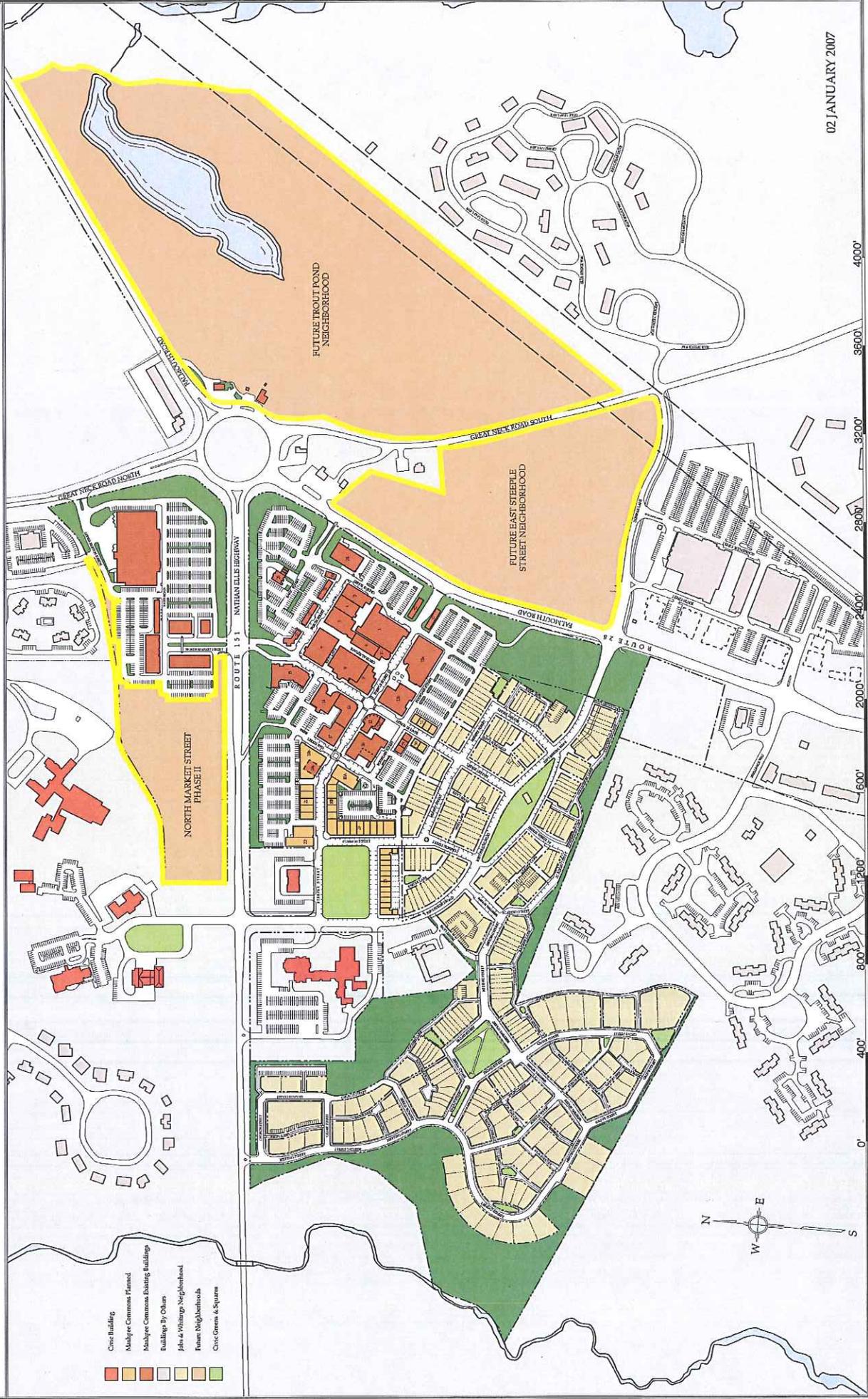
Before me, the undersigned notary public, personally appeared John D. Harris, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of 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:
10.13.11

MASHPEE COMMONS MASTERPLAN

Exhibit A



- Civic Building
- Mashpee Commons Planned
- Mashpee Commons Existing Buildings
- Buildings by Others
- Jobs & Wharves Neighborhood
- Future Neighborhoods
- Civic Greens & Squares

