



# CAPE COD COMMISSION

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Date: September 6, 2001  
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  
Falmouth Golf LLC  
218 Speen Street  
Natick, MA 01760  
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

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby **approves with conditions** the application of Falmouth Golf 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 Ballymeade Estates (The Golf Club at Cape Cod) project. The decision is rendered pursuant to a vote of the Commission on September 6, 2001.



## **PROJECT DESCRIPTION**

The proposed project consists of the development of an 18-hole championship golf course on an approximately 183.41 acre site of wooded upland located off Falmouth Woods Road in the town of Falmouth. Structures include a daylodge (12,090 sf), three cottages (10,699 sf), halfway house (601 sf), pump house (819 sf), three maintenance buildings (8,636 sf), restroom (290 sf), and shelter (225 sf).

The project site is zoned agricultural (AGAA) where a golf course is an allowed use by Special Permit. According to the Cape Cod Commission, the site is designated as a Significant Natural Resource Area because of unfragmented forest habitat. A portion of the site lies within the Wild Harbor Watershed Recharge area.

The Falmouth Local Comprehensive Plan does not certify this area as a growth or activity center. The project is not located within a historic district and is not adjacent to individual historic structures. Massachusetts Historical Commission has determined that the project is unlikely to affect significant historic or archaeological resources.

## **JURISDICTION**

The proposed Ballymeade Estates (The Golf Club at Cape Cod) project was referred to the Commission by the applicant on July 30, 1999 because the project required the filing of an Environmental Impact Report under Section 61-62h of Chapter 30 of the general laws. The referral is required by Section 12(i) of the Act and by Commission regulations.

The proposed project also qualifies as a Development of Regional Impact (DRI) under the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, Chapter A, Section 3 (e), Barnstable County Ordinance 90-12, as amended, which requires review of new commercial construction with a gross floor area greater than 10,000 square feet, and Section 3 (j) which requires review of site alteration or disturbance greater than 2 acres including but not limited to clear cutting, grading and clearing land.

## **PROCEDURAL HISTORY**

CLSV Associates Limited Partnership originally proposed to develop three land parcels located along Route 151 in Falmouth, MA. The three parcels, called Ballymeade Estates, were identified in an Environmental Notification Form (ENF) filed with the Massachusetts Environmental Policy Act (MEPA) in August 1999 as a single project. The project consisted of three phases: a planned single family residential development to be called Wyldewood Phase I, an 18-hole golf course to be called Ballymeade GII as Phase II, and a resort hotel with a conference center as Phase III. The three phases were filed as a joint DRI/MEPA review.

A site visit and a joint scoping session/public hearing with a representative of the MEPA unit and the Commission were held on August 23, 1999 to discuss the scope of the Draft EIR for the three phases. The public hearing was closed and the record was left open. A subcommittee meeting was held immediately afterward. On August 26, 1999 the Subcommittee met to discuss the draft scoping letter to MEPA.

In April 2000, MEPA approved a Notice of Project Change allowing the proponent to eliminate Phase III (the resort hotel) and pursue Phases I and II. MEPA determined that the Wyldewood subdivision was no longer subject to MEPA review. However, MEPA retained jurisdiction over the golf course, and it remained in joint MEPA/DRI review. The Commission began reviewing Wyldewood Phase I proposed by CLSV Associates Limited Partnership and the 18-hole golf course (Phase GII) proposed by Falmouth Golf LLC concurrently as separate projects with separate proponents.

A duly noticed public hearing was held on February 13, 2001 to take testimony on the Ballymeade Estates (The Golf Club at Cape Cod) Draft Environmental Impact Report for consideration in the Commission's comment letter to MEPA. The public hearing was closed and the record was left open. On February 20, 2001, the Subcommittee met to discuss and approve the letter to MEPA.

On June 14, 2001, the Subcommittee convened a duly noticed public hearing to discuss the Final Environmental Impact Report. The public hearing was closed and the record was left open. The public hearing was followed immediately by a Subcommittee meeting to discuss the scope of the Commission's comment letter to MEPA.

On August 6, 2001, a duly noticed public hearing was held to discuss the remaining project issues, and the public hearing was continued to the Commission meeting on September 6, 2001. The public hearing was followed immediately by a subcommittee meeting at which the Subcommittee unanimously voted to recommend to the full Commission that the project be approved as a DRI subject to conditions, and to direct staff to prepare a decision to approve the project for recommendation to the full Cape Cod Commission. The Subcommittee also voted to allow the Subcommittee Chair to approve the draft decision.

On September 4, 2001, a Subcommittee Meeting was held to discuss changes to the draft decision. The Subcommittee voted to revise several conditions and allow the Subcommittee Chair to approve the revised decision.

A final public hearing was held before the full Commission on September 6, 2001. The public hearing and record were closed. At this hearing, the Cape Cod Commission voted unanimously to approve the project as a DRI, subject to conditions.

### **MATERIALS SUBMITTED FOR THE RECORD**

#### **From the Proponent:**

1. Letter to Tom Broidrick from Diane C. Thompson, dated 6/1/99.

2. Letter to Tana Watt from Diane C. Thompson, dated 6/1/99.
3. MEPA Unit/Cape Cod Commission Joint Review Process Application Form, dated 7/30/99.
4. Draft Environmental Notification Form and Draft Massachusetts Historical Commission Project Notification Form.
5. Copy of Massachusetts Historical Commission Project Notification Form, dated 7/30/99.
6. Environmental Notification Form, dated 7/30/99.
7. Memorandum to Glenn Cannon from Bill Carlson, Carlson Consulting, dated 11/8/00.
8. Draft Environmental Impact/Development of Regional Impact Report, January 2001.
9. Letter to Tana Watt from Kelly Durfee Cardoza, Avalon Consulting, dated 2/5/01.
10. Copy of letter to Brian Dudley, DEP, from Michael B. McGrath, Holmes and McGath., dated 4/18/01.
11. Letter to Tana Watt from Kelly Durfee Cardoza, Avalon Consulting, dated 4/20/01.
12. Letter to Tana Watt from Kelly Durfee Cardoza, Avalon Consulting, dated 4/20/01.
13. Draft Routing Plan, 3 unnumbered sheets, dated 4/20/01, received 4/23/01.
14. Lighting fixture cut sheets, received 4/23/01.
15. Lighting fixture cut sheets, received 4/25/01.
16. Plant lists for the Roadway and around the structures, received 4/25/01.
17. Draft Conservation Restriction, received 4/25/01.
18. Final Environmental Impact/Development of Regional Impact Report, May 2001.
19. Memorandum to Andrea Adams from Mike James, Lyman Perry Architects, LTD, dated 5/23/01.
20. Memo to Tana Watt from Kelly Durfee Cardoza, dated 6/4/01.
21. Draft Response to Staff Report Comments, dated 6/20/01
22. Response to Cape Cod Commission Comments, July 2001.
23. Fax dated 7/03/01 from Dave Williams, Environmental Public Health Center, to Scott Michaud with copy of the letter from Martha Steele, Mass. Dept. of Public Health to Robert Gill, AFCEE dated 11/21/00.
24. Letter to Tana Watt from Kelly Durfee Cardoza, dated 7/24/01.
25. Letter to Tana Watt from Kelly Durfee Cardoza, dated 8/2/01.
26. Fax with Compliance Phasing, to Tana Watt from Kelly Durfee Cardoza, dated 8/2/01.
27. Fax with letter to Tana Watt from Kelly Durfee Cardoza, dated 8/21/01.
28. Fax To Tana Watt from Kelly Durfee Cardoza, dated 8/23/01.
29. Fax to Tana Watt from Kelly Durfee Cardoza, dated 7/24/01 and received 8/30/01.
30. Fax to Tana Watt from Kelly Durfee Cardoza, dated 9/5/01.

**From Cape Cod Commission and Staff:**

1. Letter to Diane C. Thompson from Tana Watt, dated 5/24/99.
2. Proposed Overall Development at Ballymeade Estates plan, dated 6/99.
3. Staff Comments on the ENF, 8/99.
4. Memorandum to Tana Watt from Glenn Cannon, dated August 6, 1999.
5. Letter to Secretary Robert Durand from Madeleine Bebout, dated 8/26/99.
6. Fax with plan from Holmes and McGrath, Inc., dated 11/9/99.
7. Letter to Madeleine Bebout from Kelly Durfee Cardoza, plus attachments, dated 2/7/00.
8. Letter to Secretary Robert Durand from Margo Fenn, dated 2/29/00.
9. Copy of letter to Richard Foster, MEPA, from Michael B. McGrath, Holmes and McGrath, Inc., dated 3/2/00.
10. Letter with attachments to Madeleine Bebout from Diane C. Thompson, dated 3/15/00.
11. Millennium Proposal from Ballymeade and Falmouth Golf LLC for Town Meeting, April 2000.
12. Draft Natural Resources Inventory by LEC Environmental Consultants, Inc., dated 9/2/00.
13. Draft Traffic Impact Assessment, dated 9/29/00.
14. Proposed Structure Footprints, dated 9/29/00.
15. Open Space Calculations – Method A, dated 9/29/00.
16. Golf Course Routing Plan, 9/29/00.
17. Letter to Secretary Robert Durand from David Ansel, dated 2/20/01.
18. Memo to Tana Watt from Andrea Adams, dated 5/10/01.
19. Fax to Tana Watt from Kelly Durfee Cardoza, dated 5/22/01.
20. Memo to Tana Watt from Gay Wells, dated 6/1/01.
21. Memo to Tana Watt from Scott Michaud, dated 6/4/01.
22. E-mail to Tana Watt from Scott Michaud, dated 6/12/01.
23. Letter to Secretary Robert Durand from David Ansel, dated 6/18/01.
24. Letter to Charles Passios, Director of Development and Operations, from Andrea Adams, dated 6/25/01.
25. Memo to Tana Watt from Gay Wells, dated 7/16/01.
26. Memo to Tana Watt from Scott Michaud, dated 7/23/01.
27. Memo to Tana Watt from Heather McElroy, dated 8/6/01.

**From state/local officials:**

1. Cc of letter to Jude Wilber, Chair Falmouth Planning Board, from Lawrence Krajieski, Falmouth Housing Trust, dated 3/29/99.
2. Letter to Cape Cod Commission from Division of Fisheries & Wildlife, dated 8/18/99.

3. Cc of letter to Secretary Robert Durand from Brian A. Currie, Town Planner, dated 8/20/99.
4. Cc of memorandum to Secretary Bob Durand from Tom Skinner, MCZM, dated 8/27/99.
5. Certificate of the Secretary of Environmental Affairs on the Environmental Notification Form, dated 9/9/99.
6. Project Notification Form from Massachusetts Historical Commission, signed 9/28/99.
7. Copy of letter to Bruce Wickersham, Esq., Hill & Barlow, from Frank K. Duffy, Jr., Town Counsel, dated 6/16/00.
8. Cc of letter to Secretary Robert Durand from Susan Goodman Hallstein, The 300 Committee, dated 2/8/01.
9. Fax of Route 151/Falmouth Woods Road Intersection Improvement plan, dated 2/9/01.
10. Cc of letter to Secretary Robert Durand, from Luisa Paiewonsky, MassHighway, dated 2/23/01.
11. Certificate of the Secretary of Environmental Affairs on the Draft Environmental Impact Report, dated 3/2/01.
12. Letter to Secretary Robert Durand from Richard Bourre, MassHighway, dated 4/7/00.
13. Certificate of the Secretary of Environmental Affairs on the Notice of Project Change, dated 4/21/00.
14. E-mail to Tom Camberari from Alan P. Fleer, Planning Board Representative, dated 5/2/01.
15. Cc of letter to Secretary Robert Durand from Orville Henry, MassHighway, dated 5/23/01.
16. Letter to Margo Fenn from Robert A. O'Leary, State Senator, dated 5/24/01.
17. Letter to Frank Shephard from Mary Pat Flynn, Board of Selectmen, , dated 6/4/01.
18. Cc of letter from Matthew C. Patrick, State Representative, to Mr. Robert Durand, Secretary, dated 6/12/01.
19. Certificate of the Secretary of Environmental Affairs on the Final Environmental Impact Report, dated 6/29/01.
20. Letter from Peter F. Boyer, The 300 Committee, to Cape Cod Commission, dated 6/14/01.

**From the public:**

1. E-mail to Cape Cod Commission Subcommittee from Alan Fleer, dated 8/27/99.
2. Cc of letter to Falmouth Board of Selectmen from Kirsten Kennette, dated 9/22/99.
3. E-mail to Tana Watt from Carl G. Rideout, dated 9/23/99.
4. Questions and Answers Falmouth Town Meeting Article 55 submitted by Kirsten Kennette on 11/2/99.
5. E-mail from Carl G. Rideout to Tana Watt, dated 7/7/00.

The application and 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

Note: see minutes in file for complete public hearing and subcommittee meeting proceedings.

The Subcommittee heard oral testimony at the August 23, 1999 Public Hearing from:

1. Mr. Brian Currie, Falmouth Town Planner, expressed concern about water and natural resources related issues. He gave the subcommittee and MEPA a comment letter.
2. Kirsten Kinnette asked if the affordable housing site is located over an area with contaminated ground water. Mr. McGrath stated that the plume flows under the golf course and is not a problem for the affordable housing. Mr. Michaud concurred.
3. Austin Heath, a Ballymeade Estates resident, said that he has no objection to the 67 housing lots, but that he is concerned about the proposed hotel and golf course.
4. Ed McCabe, a Ballymeade Estates resident, said that he preferred the golf course and water supply rather than the 40 lot subdivision.
5. Jack Bartlett noted that he was concerned about increased traffic at the Route 151 intersection with Rt. 28A and County Road in West Falmouth, where there is also a fire station.
6. Kelley Pratt, Chamber of Commerce president, discussed the number of hotel rooms in Falmouth. She said that golf is important to the economy and that the conference center is also welcome as a positive addition to the community.
7. Julie Pettit, a Davis Road resident, said that traffic is a major concern. She said that existing traffic is very bad, and that she is concerned about increased traffic impact of new development, especially from the hotel/commercial center. She also noted that she was concerned about water resources and the large amount of water that would be used by the project.
8. Elizabeth Dickinson stated that she is concerned about traffic impacts, especially as they would increase the congestion on Sam Turner Road. She said that she was concerned about the Town trading land for affordable housing, which will also feed onto Sam Turner Road. She said that she was concerned about another golf course, and asked if there was a need for one.
9. Martin O'Levy suggested that the Commission check out who owns the pumping station and water supply.
10. Jayne Lafrate, Hatchville resident, said she was concerned about the construction of additional housing and the buffer zone to Hatchville, local zoning, and the plume under the project and it's impacts on the well.
11. Ms. Bebout read a letter from Joan Pierce, Mass. Div. of Fisheries & Wildlife, into the record.

The Subcommittee heard oral testimony at the February 13, 2001 Public Hearing from:

1. Ms. Carolyn Belmore, abutter, is concerned about traffic safety at the Route 151 intersection, the width of the golf course buffer, and wildlife and the mosquito population.
2. Mr. Ralph Herbst, asked about water restrictions, tree cutting, golf course construction and wildlife dens.

The Subcommittee discussed modifications to the draft MEPA comment letter at the February 20, 2001 Subcommittee Meeting.

The Subcommittee heard oral testimony and discussed the project at the June 16, 2001 Public Hearing and Subcommittee Meeting as follows:

1. Thomas Kahrl, Chair of the Community Association at Balleymeade, expressed concern over safety issues at the intersection of Falmouth Woods Road and Route 151. The Association is in favor of the blinking light at the intersection.
2. Carolyn Belmore, an abutter expressed concern over the safety of the Falmouth Woods Road/Route 151 intersection and stated that she favored a traffic-activated signal. She is also concerned that the nightly spray irrigation would be disruptive of wildlife, specifically if poison is used.
3. Austin Heath expressed concern over increased traffic at the intersection of Route 151 and Falmouth Woods Road and. He also expressed concern over a previously proposed hotel. He inquired about the location of the proposed town well site, which was pointed out by Ms. Cardoza.
4. Steve Haddad stated that the applicant should explore mitigating traffic by making greater use of the entrance off of Sam Turner Road. He had suggestions for use of gray water. He advocated for the project by stating that there is a need for a first class resort such as this.
5. Carolyn Belmore stated that Sam Turner Road is not a traffic mitigation alternative because most traffic using that route will also eventually go onto Route 28.

The Subcommittee heard oral testimony and discussed the project at the August 6, 2001 Public Hearing and Subcommittee Meeting as follows:

1. Jane Perry, Hatchville resident, said she is in support of the project, but she believes that a traffic light and signage should be place at Route 151/Falmouth Woods Road. She also noted that Spectacle Pond should be protected, and that using the back gate would be a detriment to the neighborhood. Ms. Cardoza responded that the Golf Club does not have access through the back gate, only from Falmouth Woods Road onto Route 151.
2. Carolyn Belmore, abutter, said she was very concerned that no traffic signal will be placed at the intersection of Route 151/Falmouth Woods Road. She said she was also concerned about an increase in the mosquito population as a result of the created wetlands. She also asked about the letter to the abutters that was mentioned. Ms. Cardoza said the letter would be sent after some clearing had been done to allow residents time to assess how much additional screening they wanted. Ms. Cardoza also noted that the open water areas would be kept moving, so it should not be a place where mosquitos breed.
3. Mr. Peter Boyer, Administrator of the 300 Committee, said they support the project as a golf course versus what it might have been as a residential development. He said the 300 Committee supports protecting the land and is prepared to be the recipient of the conservation restriction on the land.

The Subcommittee discussed modifications to the draft decision at the September 4, 2001 Subcommittee Meeting.



## **FINDINGS**

The Commission has considered the application of Falmouth Golf LLC for the proposed Ballymeade Estates (The Golf Club at Cape Cod) project, and 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:**

G1. The proposed project consists of the development of an 18-hole championship golf course on an approximately 183.41 acre site of wooded upland located off Falmouth Woods Road in the town of Falmouth. Structures include a daylodge (12,090 sf), three cottages (10,699 sf), halfway house (601 sf), pump house (819 sf), three maintenance buildings (8,636 sf), restroom (290 sf), and shelter (225 sf).

G2. The project is not located within an historic district and is not adjacent to individual historic structures.

G3. The Ballymeade Estates (The Golf Club at Cape Cod) project is not located in a Certified Growth Center according to the Falmouth Local Comprehensive Plan, which was certified by the Cape Cod Commission in 1998.

G4. The project site does not lie within a District of Critical Planning Concern.

G5. Initially, the Ballymeade Estates (The Golf Club at Cape Cod) project was one of three phases called Ballymeade Estates that was categorically included for the preparation of an Environmental Impact Report (EIR) under the Massachusetts Environmental Policy Act (MEPA). Pursuant to a Memorandum of Understanding (MOU) between the Cape Cod Commission and the Executive Office of Environmental Affairs, the applicant elected to participate in a joint Cape Cod Commission/MEPA review process designed to address the concerns of both agencies.

G6. In April 2000, MEPA approved a Notice of Project Change allowing the proponent to eliminate Phase III (the resort hotel) and pursue Phases I (Wyldeewood) and II (golf course). MEPA determined that Wyldeewood was no longer subject to MEPA review. However, MEPA retained jurisdiction over the golf course, and the golf course remained in joint MEPA/DRI review. The Commission began reviewing Wyldeewood Phase I and the Ballymeade Estates 18-hole golf course (Phase GII) concurrently as separate projects.

G7. The applicant has requested that 4 partial Certificates of Compliance and a final Certificate of Compliance be required for the opening of the project, and submitted a draft phasing plan.

G8. In a letter dated August 22, 2001, the Falmouth Town Planner stated that he believes The Golf Club at Cape Cod project is consistent with the goals of the Falmouth Comprehensive Plan and the Falmouth Zoning By-law, provided that a special permit for the project issues from the Zoning Board of Appeals for the project.

### **Water Resources Findings:**

WR1. The project meets the Cape-wide standard requiring that DRIs not result in ground-water nitrogen concentrations over 5 ppm-N (MPS 2.1.1.1).

WR2. The applicant inquired with MADEP regarding the need for a groundwater discharge permit. Commission staff confirmed with MADEP that a groundwater discharge permit will not be required for this project.

WR3. The Town of Falmouth will supply potable water for the day lodge, residential cottages, maintenance facility and restrooms. Title 5 flow resulting from this supply is 7,060 gallons per day.

WR4. The project is partially located in a Marine Water Recharge Area (MWRA; MPS 2.1.1.2.C).

WR5. Title 5 septic and wastewater-infiltration systems are planned for locations outside the Wild Harbor Marine Water Recharge Area (MWRA).

WR6. A critical nitrogen load for Wild Harbor has not been determined. For watersheds where the critical nitrogen load has not been determined, *MPS 2.1.1.2.C.1 requires the applicant to make a monetary contribution to determine the flushing rate of the embayment in order to calculate the critical nitrogen loading rate.* Because the project is located partially within the Wild Harbor embayment, the proponent has committed to a monetary contribution of \$25,000 toward a tidal flushing study of Wild Harbor.

WR7. The applicant has indicated a willingness to maintain dialogue with interested parties regarding potential reuse of treated wastewater generated at the Falmouth wastewater treatment facility for golf-course irrigation.

WR8. The project is not located in a Wellhead Protection Area (WHPA; MPS 2.1.1.2.A).

WR9. The project is partially located in the contributing area (*provisional Zone II*) estimated for a potential public water-supply well located off site, on a parcel previously identified by the Commission as a Potential Public Water Supply Area (PPWSA; MPS 2.1.1.2.F) and a portion of which Falmouth Town Meeting recently voted to acquire.

WR10. The applicant has detailed provisions of the Integrated Golf Course Management (IGCMP) plan for the golf course. The plan provides adequate guidelines for management of golf turf consistent with reducing the potential for impacts to ground-water quality, including protocol for pesticide and fertilizer applications. The applicant committed to providing turf seed-lot certification and the results of additional seed testing when available.

WR11. The applicant maintains that pesticides, fertilizer and other hazardous-materials used within the *provisional Zone II* will be below 'household quantities', and

has agreed not to use Department of Food and Agriculture Ground Water Protection List (GWPL) pesticides on turf coincident with the designated *provisional* Zone II.

WR12. The applicant has detailed provisions of a 15-year ground-water monitoring program intended to identify impacts to water quality. The program is adequate for assessing impacts of the project on ground-water quality. The program's principal provisions consist of:

Five (5) ground-water quality monitoring well clusters positioned to assess water-quality impacts from turf management and consisting of two wells each, one screened at the water table (10-foot screen) - the other screened immediately below (5-foot screen);

Lysimeter located at a depth of 8 feet within the tee area for hole #10;

Quarterly lysimeter-sample analyses for identified nitrogen and pesticide compounds;

Annual monitoring- and irrigation-well sample analyses for identified nitrogen compounds;

Annual monitoring- and irrigation-well sample analyses for identified pesticide compounds, and tri-annual nitrogen analyses, each triggered by 1 mg/L increase in average baseline nitrogen concentration in ground water *or* 3-yr decline in lysimeter water-quality; and

The program identifies response actions that will be taken in the event that specified water-quality thresholds are exceeded.

WR13. The proposed irrigation well for the golf course is located in proximity to Fuel Spill 29, ground water principally contaminated with ethylene dibromide (EDB) and chlorinated solvents. The applicant plans to request a recommendation from MADPH toward ensuring protection of public health with regard to spray irrigation. The applicant has committed to conducting water-quality analyses from the proposed irrigation well, and has received written assurances from the Air Force for Environmental Excellence (AFCEE) that public health will be protected in the event that contamination is identified in samples collected from the irrigation well.

WR14. *MPS 2.1.1.5 requires that DRIs that withdraw over 30,000 gallons of water per day shall be required to evaluate impacts on the water table and surface water bodies.* Further, ground-water withdrawals in excess of 0.10 million gallons per day require a Water Management Act permit issued by the state.

WR15. Turf maintenance is estimated by the applicant to result in an average daily ground-water demand of approximately 0.15 million gallons per day (gpd), or 27 million gallons annually. The golf course utilizes a lined irrigation pond that may be recharged during wet seasons toward reducing water demand during drier periods.

WR16. The applicant has reasonably demonstrated that drawdown associated with intermittent ground-water pumping of the irrigation well will not impact wetlands in the Spectacle Pond area during limited pumping duration.

WR17. AFCEE has committed to providing potable water to private residences in the vicinity of the golf course where private wells are most susceptible to water-table drawdown resulting from pumping of the irrigation well.

WR18. The applicant has adequately provided for stormwater disposal. According to the Drainage and Grading Plan, Sheet C-4, stormwater drainage off impervious surfaces will largely be infiltrated following biofiltration at vegetated swales and basins.

#### **Natural Resources Findings:**

NR1. The site is located almost entirely within a Significant Natural Resource Area as defined by the RPP due to the presence of unfragmented forest. A small portion of the site, a 6.26 acre former gravel pit, is not designated SNRA. The site is not mapped for estimated habitat of rare or endangered species, according to the Natural Heritage Atlas, 2000 – 2001 Edition. Biologists with LEC Environmental Consultants conducted a natural resources inventory (NRI) on the site, consistent with RPP requirements. The NRI indicates that there are no wetlands or vernal pools present on the site.

NR2. According to the NRI, the site is “generally composed of pine-oak woodlands situated on well-drained sandy and rocky soils typical of glaciated terrain.” The shrub layer includes black huckleberry, dangleberry and lowbush blueberry, with wintergreen, tree clubmoss and ground cedar groundcovers. While the site was not mapped for rare species habitat, LEC conducted a survey for eastern box turtle at the Natural Heritage and Endangered Species Program’s (NHESP) request. According to the survey, no box turtle individuals were found. Based on a phone contact with NHESP, Natural Heritage finds the survey adequate and does not believe that the project poses significant adverse impacts to rare turtle habitat.

NR3. *MPS 2.4.1.2 requires minimizing the clearing of vegetation and alteration of natural topography, and MPS 2.4.1.3 requires minimizing the fragmentation of existing plant and wildlife habitat.* The project involves the fragmentation of a 183 acre forested upland site for the construction of a golf course. The significant alteration of the site to tees, greens and fairways will change the viability of the site for interior woodland species.

NR4. As mitigation for the clearing of the existing unfragmented woodland habitat and to enhance the habitat value of the resulting golf course, Falmouth Golf LLC has proposed several wildlife habitat enhancements, as discussed in Section 4 of the DEIR. In addition to the various nesting boxes proposed (including those designed for Great Crested Flycatcher, Tree Swallow, Northern Flicker and other woodpeckers, Eastern Screech Owl, various bat species, and gray and red squirrels), the Commission makes the following specific findings:

- Falmouth Golf LLC proposes establishing nest boxes for purple martins. Attracting and maintaining purple martin populations at a given site requires a commitment throughout the nesting season to monitoring the nest sites, the location of the boxes, providing dietary supplements, and many other factors. The proponent is aware of these management needs, and is prepared to designate the Assistant Golf Course Superintendent as the employee position responsible for purple martin "support."

- The recently delisted Cooper's hawk (previously a special concern species) has been sighted in the Town of Falmouth. Cooper's Hawks are known to prefer stands of white pine adjacent to open meadow or field habitat. Falmouth Golf LLC has indicated interest in including white pines in proposed revegetated areas as potential future Cooper's hawk habitat. As the revegetation plans for the fairway areas are developed, consideration should be given to the use of white pines and/or other species that may eventually create habitat for the Cooper's hawk.

- The proposed creation of wetlands around the two lined ponds, as discussed in Section 4 of the DEIR, is not a requirement of the RPP. Development Review Policy 2.3.1.6 permits the creation of artificial wetlands so long as there are no adverse impacts to natural wetlands or ground water. To the extent that the wetland creation is successful, the water source and associated vegetation will likely diversify habitat for existing wildlife in the area, and potentially attract other wildlife not presently found on the site. Falmouth Golf LLC has provided a plan identifying goals for the success of the created wetlands, and has proposed a monitoring and reporting program detailing the success of the wetland creation to be implemented over the next five years (DEIR and 8/2/01 letter from Avalon Consulting).

- The proposed course design incorporates the creation of an acre of open field habitat and landscaping treatments to the outer roughs that may improve habitat value for several species, potentially including, the Cooper's Hawk (Section 4 of DEIR, and plan entitled "Planting Plan" and dated 5/14/01). Falmouth Golf LLC proposes revegetating the roughs with low shrubs and grasses which may provide some habitat value to wildlife. A total of .05 to 1.5 lbs/1000 square feet of fertilizer per year will be used to establish the outer rough and will then be discontinued after three years, as described in the DEIR on page 9-33.

#### **Open Space Findings:**

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. 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 for

open space purposes. 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 Falmouth Golf LLC, the total open space being provided to meet the requirements of this DRI application is approximately 143.61 acres, 48.61 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 27 acres. It should be noted that this excess open space is provided in the form of golf course fairways and roughs.

OS2. While the RPP does not provide incentives for meeting the open space requirement through the provision of golf course tees, greens, and fairways, the RPP does allow golf courses to be counted toward meeting the open space requirement, as appropriate to the site. Several aspects of this project proposal support acceptance of the golf course areas toward meeting the open space requirement. As presented in the natural resources inventory, the site does not contain unusual or sensitive habitat, there are no wetlands, and the site likely does not support rare species. As mentioned in the Natural Resources findings, the addition of nesting boxes for a variety of wildlife may also mitigate some of the impacts of the loss of interior woodland habitat. The creation of two ponds and associated wetlands, if successful, may also improve habitat for a variety of species. The sum of these mitigation proposals, together with the fact that the site does not contain unusual or sensitive characteristics, and that the open space proposal exceeds the area requirement, supports a finding that the open space proposal is adequate.

OS3. Falmouth Golf LLC has proposed the construction of a publicly accessible footpath along the west and north boundaries of the site. Parking for the trail will be available by agreement with the Ballymeade Country Club in the paved lot across from the trailhead.

OS4. The 300 Committee (the Falmouth Land Trust) has indicated in a 6/14/01 letter the Committee's willingness to pursue the development of a conservation restriction mutually acceptable to the 300 Committee and Falmouth Golf LLC, consistent with the Committee's Policy on Conservation Restrictions. The 300 Committee's Policy on Conservation Restrictions is consistent with Commission requirements for the permanent protection of open space.

#### **Transportation Findings:**

T1. Falmouth Golf LLC proposes to develop an eighteen-hole golf course, a day lodge and three cottages off Route 151 (known as The Golf Club at Cape Cod) in Falmouth. The day lodge will be designed to seat 72 people for lunches and possibly dinner and

will provide locker facilities for the 300-person membership. The day lodge will have office space and 4 sleeping rooms on the second floor. The cottages will provide a total of 12 rooms for overnight lodging and will be for the use of the membership only.

T2. The proponent's traffic engineer estimates the new vehicle trips generated by this development to be:

- Morning peak hour - 43 trips (33 In/10 Out)
- Afternoon peak hour - 53 trips (24 In/29 Out)
- Average daily traffic - 672 trips (336 In/336 Out)

T3. According to MPS 4.1.1.1, the Regional Policy Plan (RPP) threshold for traffic impacts is 25 vehicles per hour (vph) on each regional roadway or regional intersection generated by the development (50 vph for locations in a growth center). The proponent's traffic engineer has determined that the vehicle trip distribution will be 70% to/from the west (the Route 28/Route 151 interchange) and 30% to/from the east (Mashpee). The proponent's traffic engineer has distributed the fifty-three vehicle trips onto Route 151 and identified the following regional roadway links and regional roadway intersection will be impacted by this project.

- Regional Roadway Links:

- |           |   |
|-----------|---|
| Route 151 | - between Falmouth Woods Road entrance and Route 28 northbound ramp |
|           | - between Route 28 northbound ramp and Route 28 southbound ramp     |

- Regional Intersections:

- Route 151 at Route 28 northbound ramp
- Route 151 at Route 28 southbound ramp

T4. Other Developmental Review Policies (ODRP) 4.1.1.20 states that at locations where the thresholds of Minimum Performance Standard 4.1.1.1 are reached or exceeded but the increase is less than 50 peak hour trips, Developments Of Regional Impact may make a payment of \$100 per peak hour trip per intersection and per road link to comply with Minimum Performance Standard 4.1.1.1. The proponent's traffic engineer has calculated the amount to comply with 4.1.1.1 at \$17,500.

T5. Site access for this project will be via Falmouth Woods Road, an existing private way off Route 151. Route 151 is a regional road as defined in the Regional Policy Plan.

MPS 4.1.1.5 requires that all Developments of Regional Impact (DRIs) access/egress locations with public ways meet Massachusetts Highway Department (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. Based on stopping sight distances

measured by the proponent's traffic engineer, the stopping sight distances are adequate.

*T6. MPS 4.1.1.7 states that regardless of project size or traffic generation, there shall be no degradation in public safety as a result of a Development of Regional Impact.*

During the public hearing process, local residents voiced their concerns relative to safety at the existing Route 151/Falmouth Woods Road intersection. Crash data provided by the applicant indicates the crash rate is below the state average for unsignalized intersections and Town Officials have stated that the Town of Falmouth is willing to take responsibility for necessary improvements at this intersection.

To address the safety concerns at the Route 151/Falmouth Woods Road intersection the proponent has agreed to install pavement markings (through arrows) and advanced warning sign as recommended by the Falmouth Town Engineer.

*T7. Developments of Regional Impact (DRIs) are required to reduce site-generated traffic by 20 percent (MPS 4.1.2.1).* The estimated average daily traffic for the development is 672 vehicle trips. The proponent must reduce the average daily automobile trips by 20% or 134 trips.

The proponent has offered to donate 27.26 acres of developable land in excess of RPP open space requirements to comply with MPS 4.1.2.1. The proponent has determined that an eleven (11)-lot subdivision could be constructed on the land and that the eleven-lot subdivision would offset the 20% trip reduction requirements of the RPP. This theoretical subdivision is shown as Figure 9 of the FEIR. Vacant land, in excess of RPP open space requirements, can be used to offset the 20% trip reduction requirements of the RPP.

#### **Solid and Hazardous Waste Management Findings:**

*WM1. MPS 4.2.2.3 requires that commercial and industrial development and redevelopment that involves the use, treatment, generation, storage or disposal of hazardous waste, or hazardous materials, with the exception of household quantities, shall not be allowed in Wellhead Protection Districts.* The site is not located in a DEP-designated Wellhead Protection Area/Zone II. However, a "provisional" Zone II delineated through the DRI process does intersect the site, and includes golf holes #11, 12, 13 and 14. The course management center, equipment shop, day lodge, cottages, parking lots and halfway house are outside this area. The FEIR indicated that equipment fueling activities, construction equipment maintenance and equipment storage would be done in areas outside of the "provisional" Zone II.

*WM2. MPS 4.2.2.1 requires that development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling.*

The applicant provided information in the Response to Cape Cod Commission Comments document dated July 2001 for the construction phase of the project showing that the applicant has procedures to insure that construction contractors will make efforts to minimize their hazardous waste generation and to properly



manage any hazardous waste that may be generated. These procedures included on-site orientations and work meetings, marking of any hazardous materials or waste storage areas, use of containment measures, and daily inspections of storage areas. The applicant will also utilize work/bid specifications that include contractor responsibilities for proper hazardous waste management. The applicant also provided an outline of a workplace hazard communications plan and a sample emergency response plan.

The applicant addressed MPS 4.2.2.1 for the post-construction phase of the project through the use of electric golf carts, natural gas for building heating and emergency power, and limiting on-site storage of diesel and gasoline. Information gathered during the project review also indicates that the equipment shop utilizes motor oil, auto parts cleaner and other general equipment cleaners for on-site servicing of Club equipment and vehicles. Source reduction and recycling measures committed to by the applicant included use of recycled motor oil when possible, a commitment to investigate the use of vegetable-based hydraulic oil, and use of a parts cleaner recycling company. The on-site turf lab does not use hazardous materials. The applicant also committed to incorporating the concepts of source reduction and material substitution into turf management programs.

*WM3. MPS 4.2.2.2 requires that development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.*

The FEIR stated that for the construction phase, there would be no fuel storage on the property, and that any hazardous waste generated by construction would be transported off site by a licensed transporter. Information submitted by the applicant during the DRI review also indicated that procedures would be implemented to insure contractors complied with 310 CMR 30.000.

In the post-construction phase, the project will continue to be a Very Small Quantity Generator (VSQG) of hazardous waste under 310 CMR 30.00. Hazardous wastes generated by the project will include used motor oil and used parts cleaners and may include any unusable gasoline, diesel fuel and turf management chemicals. The turf diagnostic lab does not generate hazardous waste. The project will also include an on-site vehicle washing facility using tight tanks and a continuous water recirculation system. The applicant will also use licensed hazardous waste transporter to dispose of used filtration media from the equipment washing facility because it is likely to be a hazardous waste.

*WM4. Other Development Review Policy 4.2.2.4 states that development and redevelopment using or storing hazardous materials or wastes should prepare and maintain an emergency response plan which identifies potential environmental and health risks and recommends ways to reduce those risks. Such plans should be provided to local officials responsible for hazardous waste coordination.* Information submitted as part of the review process indicates that the applicant has such plans in place for both construction and post-construction activities. This constitutes a benefit of the project.

WM5. *MPS 4.2.1.2 requires Developments of Regional Impact to address how development and redevelopment shall allocate adequate storage space for interim storage of materials to be recycled.* The location of the Golf Club Golf Course Management Facility closet that will store all used fluorescent light tubes prior to their collection for recycling is located outside of a Wellhead Protection District. The responses submitted to staff report comments (submitted by Avalon Consulting on July 24<sup>th</sup>, 2001) outlined the management procedure for the collection and safe storage of recyclable fluorescent light tubes.

### **Economic Development Findings:**

ED1. The Economic Development goals of the Regional Policy Plan are:

*3.1 to promote businesses that are compatible with Cape Cod's environmental, cultural, and economic strengths in order to ensure balanced economic development; 3.2 to locate development so as to preserve the Cape's environment and cultural heritage, minimize adverse impacts, and enhance the quality of life; and 3.3 to encourage the creation and diversification of year-round employment opportunities.*

ED2. *Development Review Policy 3.3.1 states that Developments of Regional Impact should be evaluated for net new jobs created, salary and benefit levels, occupational advancement opportunities for local workers, and the impact on existing business, traffic, natural resources, and decent affordable housing for employees;*

*Development Review Policy 3.3.2 states that the Commission should encourage project which provide permanent, well-paying, year-round jobs and employment training opportunities for Cape Cod residents;*

*Development Review Policy 3.3.3 states that the Commission should encourage project reviewed as Developments of Regional Impact to employ Cape Cod contractors and use local suppliers and workers; and*

*Development Review Policy 3.3.4 encourages the employment of minority and women contractors and encourages the employment of minorities.*

ED3. The applicant states that it is anticipated that The Golf Club will employ between six and fifteen year-round employees, distributed between departments of golf course management, club operations, and office management.

ED4. Seasonally, the entire facility will hire over 100 people and approximately 60 young people will be part of the caddy program.

ED5. The proponent expects that the majority of people employed or participating as caddies will be from the Falmouth area. The Golf Club stated it will commit to make every effort to hire local Falmouth and Cape Cod residents for the year round and seasonal positions to the maximum extent possible.

ED6. According to the applicant, the salary ranges for the golfing industry are generally the following:

Management	\$50,000 to \$90,000 per year
Middle Management	\$30,000 to \$50,000 per year
Specialized Hourly	\$10/hour to \$20/hour
Labor Hourly	\$7/hour to \$10/hour
Seasonal w/tip positions	Minimum Wage

ED7. The Golf Club anticipates that many of its employees will come from the existing Falmouth area and will not require seasonal housing. The project proponent indicated that The Golf Club would provide seasonal housing for some workers in the event that they cannot maintain an adequate staff due to housing needs.

ED8. Based upon the applicant's information and the Commission's analysis, the Town of Falmouth would benefit from increased property taxes, hotel room taxes and high elevation water rate charges. In addition the applicant stated there would be additional indirect economic benefits to the community and the region showing that Cape Cod and Islands golf facilities account for 10% of the golf facilities in the state, thereby showing \$729 million in economic influence within the region.

ED9. It is anticipated that the impact to Town Services will be minimal, in large part due to the fact that the schools will not be impacted by The Golf Club.

ED10. Based on the economic development analysis, Ballymeade Estates (The Golf Club at Cape Cod) project is generally consistent with the Regional Policy Plan and Cape Cod Commission economic development goals and policies. The project would provide direct economic benefits to the Town of Falmouth and additional indirect economic benefits to the community and the region.

#### **Heritage Preservation/Community Character Findings:**

HPCC1. The proposed project is not located within an historic district and is not adjacent to individual historic structures. The applicant filed a Project Notification Form with the Massachusetts Historical Commission (MHC) on August 2, 1999. On September 28, 1999 MHC responded that the project is unlikely to affect significant historic or archaeological resources.

HPCC2. *MPS 6.2.1 requires that the height and scale of a new building or structure and any addition to an existing building shall be compatible and harmonious with its site and existing surrounding buildings; and*

*MPS 6.2.2 requires that in all cases, where new buildings and additions are proposed, the mass and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows shall be harmonious among themselves and consistent with traditional Cape Cod architectural styles.*

According to architectural plans included in the FEIR, the design of the buildings incorporate traditional Cape forms and effectively break down the massing and scale of the larger buildings. The proportions of windows, doors, dormers, and roof pitches are harmonious and consistent with traditional Cape Cod architectural styles.

The FEIR includes plans showing that building materials include red cedar and asphalt shingles on the roofs, white cedar shingle siding, cedar clapboards, stone foundation facing, and natural brick chimneys.

*HPCC3. MPS 6.2.3 requires that all new development shall provide adequate landscaped buffers in order to limit visual impacts on the surrounding community. Preservation of existing natural vegetation in these buffer areas is preferred; and*

*The Design Manual (Technical Bulletin 96-001, Designing the Future to Honor the Past) recommends that substantial buffers be provided where commercial development abuts residential properties.*

HPCC4. Route 151 is located along the northern boundary of the project and Falmouth Woods Road is located along the western boundary. The FEIR states that when the centerlines for the fairways are cleared it will then be possible to determine the extent of supplemental buffer plantings that will be required. Given the topography of the site, the width of the buffers and the applicant's commitment to provide adequate supplemental buffering subsequent to site clearing, the visual impacts of the project are expected to meet the requirements of the Regional Policy Plan.

HPCC5. Residential properties abut the project to the east and south. The FEIR states that meetings have been held with abutters to discuss the amount of screening that they want, and the applicant has agreed to provide supplemental planting to the degree desired by the abutters after clearing has occurred. In the July 2001 Response to Cape Cod Commission Comments, the applicant submitted a draft contract committing to work with each abutter to provide adequate landscape buffering for each abutting property.

HPCC6. According to project plans, the areas between the fairways/tees/greens will remain undisturbed woodlands.

HPCC7. The FEIR addresses the safety aspects of the buffers by describing the golf course design and direction of play in relation to the topography and buffer width. It is unlikely that wayward shots will strike vehicles or pedestrians on Route 151 or Falmouth Woods Road due to buffer width, a difference in elevation and/or the direction of play. Based on the description in the FEIR, the applicant has adequately considered vehicular and pedestrian safety in designing the golf course.

*HPCC8. MPS 6.2.5 and 6.2.6 require the submission of a landscape plan, which addresses both the functional and aesthetic aspects of landscaping and that amenities for pedestrians shall be provided on site by all new development.* The applicant has submitted a landscape plan proposing substantial landscaping with plant materials that are suitable to the climate and location of the site. Shade trees of at least 2.5"

caliper and larger are proposed along roadways and within parking lots to improve the visual quality of the area. Based on the landscape plans, the species and size of plant material that is proposed around the buildings, entrance drive and parking lots is adequate. The FEIR states that native plant material consistent with the naturally occurring vegetation on the site will be used to supplement project buffers.

HPCC9. *ODRP 6.2.17 states that distinguishing natural features of a site such as topography should be preserved wherever possible.* Detailed grading plans were submitted as part of the FEIR. The golf course is designed to follow the natural topography. Graded areas related to the golf course return to natural undisturbed grade between the fairways, tees and greens, allowing the open space between to remain as undisturbed woodland. This is considered to be a project benefit.

HPCC10. The FEIR states that no project signs are proposed. If in the future the proponents wish to install signage, the plans should be submitted to the Commission for a determination about their consistency with the Regional Policy Plan and local by-laws in accordance with the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time.

HPCC11. *MPS 6.2.7 requires that exterior lighting conform to the requirements of Technical Bulletin 95-001.* Based on the information submitted, the project lighting is in conformance with Technical Bulletin Standards 2.3, 2.5, 2.6 and 2.7.

HPCC12. *Technical Bulletin Standard 2.4 stipulates luminaires should be the shoe box type or decorative in nature (with interior directional shields), consistent with the architectural theme of the development."* It also requires that "all luminaires shall have a total cutoff of all light at less than ninety (90) degrees from vertical [and that] the lighting fixture should only be visible from below. The proposed exterior lighting for this project included some wall-mounted uplights that staff believed would violate Standard 2.4. However, based on a drawing received on July 10, 2001, the Commission found that these uplights would be acceptable because they would illuminate an enclosed space.

HPCC13. *Technical Bulletin Standard 2.8 specifies a maximum (initial) illumination level of 8.0 foot-candles.* Based on information received as part of the DRI review, it appears that the proposed lighting will conform to this Standard.

## CONCLUSION

Based on the findings above, the Cape Cod Commission hereby finds:

1. The benefits of the proposed project outweigh the detriments resulting from development. As proposed, the project will result in economic benefits (Findings ED8, ED9, ED10), will preserve existing topography (Finding HPCC9) and has prepared an emergency response plan (Finding WM4). Detriments of the project include the conversion of unfragmented forest habitat into forest edge habitat (Finding NR3), however, the applicant is providing a variety of habitat improvements (Finding NR4) and excess open space (Finding OS1).

2. The project, as proposed, complies with the Regional Policy Plan, as noted in the findings.

3. According to a letter written by the Falmouth Town Planner dated August 22, 2001, the project is consistent with local development bylaws and the Falmouth Comprehensive Plan.

**The Commission hereby approves with conditions the application of Falmouth Golf LLC for the proposed Ballymeade Estates (The Golf Club at Cape Cod) project as a Development of Regional Impact, provided the following conditions are met:**

### **CONDITIONS**

#### **General Conditions:**

G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.

G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.

G3. The applicant shall obtain all state and local permits for the proposed project.

G4. No development work, as the term "development" is defined in the 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.

G5. Any changes in the development plan shall require a modification from the Cape Cod Commission in accordance with the Cape Cod Commission Administrative Regulations Chapter 7, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time. The applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Town of Falmouth Planning Board shall be submitted to the Commission upon receipt of local approvals for review by Commission staff to determine their consistency with Section 7 of the Cape Cod Commission Administrative Regulations. Modifications made during the Town permitting process that are consistent with this approved decision shall be considered as Minor Modifications #1 and approved by Commission staff.

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)	
• Site Plan, Sheet C-1	5/11/01	
• 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	

G7. The applicant shall provide the Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision. The annual progress report shall describe the status of local development permitting and project

construction, including the expected date of commencement of site preparation work. The applicant shall report changes to the annual progress report.

G8. Prior to issuance of a building permit for any phase of construction, the applicant shall obtain a preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a building permit for such phase have been met.

Prior to receiving a permanent or temporary Certificate of Occupancy for any phase of the proposed project, the applicant shall obtain a partial Certificate of Compliance from the Cape Cod Commission for such phase. All conditions of this decision relating to a particular phase shall be met prior to issuance of a Certificate of Compliance for such phase of the proposed project.

The project shall be constructed in accordance with final plans listed elsewhere in this decision and all conditions of this decision shall be met prior to issuance of a Preliminary, Partial or Final Certificate of Compliance for the project, unless otherwise stated in this decision.

G9. The applicant shall notify Commission staff of the intent to seek a preliminary, partial or final Certificate of Compliance at least thirty (30) days prior to the anticipated date of building permit or occupancy permit issuance. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within seven (7) business days of such notification and inform the applicant in writing of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. Upon prior notice, the applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met, and at any time in the future to determine continuing compliance with the conditions of this and/or subsequent modification decisions.

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:**

- Conservation Restriction for OS2 and OS3 - transactions to be approved and recorded
- Revised plans showing provisions for the safe storage and use of fluorescent light tubes
- Request to MADPH regarding the need for public health protection measures



**Items to be Completed before issuance of the Partial Certificate of Compliance I to obtain Certificate of Occupancy for the Golf Course Management Center:**

- Golf Course Management Center structures - complete
- Deed Conveyance - recorded and proof of recording submitted
- Utilities - complete to site stubs
- Irrigation well - complete
- DPH Consult - complete
- Plan for ensuring public health protection consistent with MADPH recommendations
- Pump-house - complete
- Wastewater - partial for GCMC
- Entrance road - to dense grade
- Site lighting - complete for structures in this phase
- Mercury spill kit - in place
- Mercury recycling company contract- signed
- Location of habitat improvements for Coopers Hawk

**Items to be Completed before issuance of the Partial Certificate of Compliance II to obtain Certificate of Occupancy for the Golf Course:**

- Golf Course - complete with buffer plantings and habitat improvements
- Abutter landscaping - complete
- Golf Course Management Center landscaping - complete
- Ancillary golf course structures - complete
- Monetary contribution toward a tidal flushing study - complete
- Ground-water monitoring plan - revised and completed
- Map detailing well locations, drilling logs and well construction plans - complete
- 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:**

- 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:**

WR1. Prior to a partial Certificate of Compliance II, the applicant shall contribute \$25,000, to be placed in an escrow account held by the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Director, after consultation with the Town of Falmouth toward execution of a tidal flushing study of Wild Harbor and Wild Harbor River in accordance with Finding WR6.

WR2. The applicant shall continue to engage in dialog with interested parties toward possible reuse of treated wastewater generated at the Falmouth wastewater treatment facility for golf-course irrigation. Wastewater reuse at the golf course shall be limited to areas outside the Wild Harbor watershed delineated by the Commission.

WR3. Prior to issuance of the partial Certificate of Compliance II, the applicant shall submit seed-lot certification and the results of additional seed testing to the Commission in accordance with Finding WR10.

WR4. Prior to issuance of the partial Certificate of Compliance II, the applicant shall submit a final *comprehensive* ground-water monitoring plan incorporating changes and clarifications made following issuance of the FEIR.

WR5. Prior to issuance of the partial Certificate of Compliance II, the applicant shall also submit to the Commission a final map *detailling* well locations, drilling logs and well construction plans.

WR6. Results of water-quality analyses outlined in the ground-water monitoring plan shall be forwarded to the Commission annually.

WR7. Following 15 years of monitoring-program implementation, Commission staff, the town of Falmouth and The Golf Club at Cape Cod staff will review the program. Cape Cod Commission staff will then make a determination regarding whether the program shall continue to be implemented or modified.

WR8. Hazardous materials including but not limited to pesticides and fertilizers shall not be used in excess of household quantities (25 liquid gallons or its dry weight equivalent) within the area designated in FEIR figures 4 and 5 as "*Preliminary Limit of Zone II (Transmissivity - 60,000 gpd/ft).*" Department of Food and Agriculture Ground Water Protection List (GWPL) pesticides shall not be used within the designated *provisional* Zone II. This condition shall remain until such time as a DEP-approved Zone II has been delineated or the well-site has been abandoned as a potential future water supply area.

WR9. On an annual basis, the applicant shall submit to the Cape Cod Commission the pesticide and fertilizer application logs for each 12-month period coincident with water-quality analytical results. This information shall be submitted on the Department of Food and Agriculture Annual Pesticide Use report and a fertilizer use addendum. This report shall be appended to include the types and quantities of materials used, the periods and the locations over which these materials were applied.

WR10. The Commission shall be advised of all hazardous-material releases to the environment in quantities that exceed state or federal limits, together with steps taken to mitigate such a release.

WR11. Prior to issuance of the preliminary Certificate of Compliance, 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 I, 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.

WR13. The applicant shall limit pumping duration to 36 hours at the recommended maximum pumping rate of 470 gallons per minute, followed by a recovery period of no less than 10 hours to permit water-table recovery. The applicant shall submit copies of water-use logs to the Commission annually, including pumping records, detailing quantities used for direct irrigation and irrigation-pond recharge.

**Natural Resources Conditions:**

NR1. Prior to the issuance of the partial Certificate of Compliance II, Falmouth Golf LLC shall construct the proposed golf course consistent with plans approved in

Condition G6, including the revegetation of the rough areas, construction of the open field habitat and constructed wetlands, and construction of the walking trail.

NR2. Prior to the issuance of the partial Certificate of Compliance I, 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).

NR3. Prior to the issuance of the partial Certificate of Compliance II, Falmouth Golf LLC shall install the various proposed habitat enhancements as referenced in Finding NR4 beginning on page 12.

NR4. Following the installation of the wetlands, and biannually thereafter for the subsequent five years, Falmouth Golf LLC shall monitor the vegetation in both lined ponds and replicated wetlands and provide a written report to the Commission annually detailing the health and vigor of the replicated wetlands (consistent with the monitoring plan submitted 8/2/01 by Avalon Consulting).

**Open Space Conditions:**

OS1. A total of 177.64 acres shall be permanently protected as open space. 161.84 acres (the area of Parcel 1 and Parcel 3 as shown on the "Property Line Plan C-2", minus the area of utility easements, parking areas, and buildings) shall be protected through a conservation restriction, and 15.8 acres (the area of Parcel 2 as shown on the "Property Line Plan C-2", minus the area of utility easements) shall be protected through deed transfer of the entire 27.26 acre Parcel 2 to the Town of Falmouth.

OS2. Prior to issuance of the preliminary Certificate of Compliance, 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 161.84 acres, identified as Parcels 1 and 3 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 preliminary Certificate of Compliance. In order to preserve the habitat values of the undisturbed open space areas, these areas shall remain undisturbed, including fallen dead wood and snags.

OS3. To comply with Condition T3, prior to a Preliminary Certificate of Compliance, 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 15.8 acres of the 27.26 acre parcel identified as Parcel 2 on the plan titled "Property Line Plan C-2", and dated 5/11/01 shall be preserved as permanent open space (the remaining 11.4 acres subject to utility easements on Parcel 2 need not be so

restricted). 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 Preliminary Certificate of Compliance.

Prior to a Partial Certificate of Compliance I, Falmouth Golf LLC shall provide the Cape Cod Commission with proof of recording of a deed transferring the 27.26 acre open space Parcel 2 to the Town of Falmouth Board of Selectmen.

OS4. Prior to issuance of the preliminary Certificate of Compliance, the proponent shall provide a plan clearly delineating the areas to be protected through conservation restriction, and shall mark the perimeter of the golf course property that is subject to the conservation restriction with concrete bounds.

**Transportation Conditions:**

T1. Prior to receiving a partial Certificate of Compliance II, the applicant shall make a monetary commitment of \$17,500 to comply with MPS 4.1.1.1 in accordance with Finding T4. These funds shall be placed in an escrow account in a form approved by Commission counsel, held by the County of Barnstable, and will be expended upon the recommendation of the Cape Cod Commission Executive Director, after consultation with the town of Falmouth, to support the planning, design or implementation of transportation improvements in the Town of Falmouth. Any funds remaining after 10 years shall be turned over to the Cape Cod Regional Transit Authority or other agency for public transportation.

T2. Prior to receiving a partial Certificate of Compliance II, pavement markings (through arrows) and advanced warning signs at the Route 151/Falmouth Woods Road intersection shall be in place, as recommended by the Falmouth Town Engineer.

T3. Prior to receiving a Preliminary Certificate of Compliance, the applicant shall permanently protect by conservation restriction approximately 27.26 acres of vacant developable land shown as the Preliminary Plan prepared for Falmouth Golf LLC, dated March 21, 2001 received April 23, 2001 and provide the Commission with proof of recording of such conservation restriction as outlined in Condition OS3. The land permanently protected shall be in excess of the open space requirements of the RPP and shall be held by the town of Falmouth for permanent open space protection.

**Solid and Hazardous Waste Management Conditions:**

WM1. Any on-site vehicle fueling, maintenance, and staging activities shall be done at locations outside of the area designated in FEIR figures 4 and 5 as "*Preliminary Limit of Zone II (Transmissivity - 60,000 gpd/ft)*", and shall be done in accordance with the regimen outlined on page 8 of the July 10, 2001 letter from Avalon Consulting Group to the Cape Cod Commission. Vehicle maintenance within the land clearing envelope for these holes shall be limited to greasing of fittings and joints.

WM2. Prior to issuance of the partial Certificate of Compliance 1, the applicant shall submit for Commission review copies of work and bid specifications detailing contractor responsibilities for hazardous materials and waste management.

WM3. Two years from the date of issuance of a final Certificate of Compliance, the course Superintendent shall submit a report concerning hazardous materials and wastes generated by the facility, as well as source reduction and recycling measures implemented at the equipment shop and as part of the turf management program.

WM4. Prior to issuance of a preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall submit for Commission review documentation that the golf course management facility's closet has been designed to accommodate the size of tubes used on the project site.

WM5. Prior to issuance of a preliminary Certificate of Compliance by the Cape Cod Commission, the applicant shall submit for Commission review documentation that the closet will be properly labeled that it contains mercury-bearing products, and that access to the closet will be controlled.

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 I, a mercury spill kit shall be stored adjacent to the closet.

WM7. Prior to issuance of a partial Certificate of Compliance I 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.

**Economic Development Conditions:**

ED1. Prior to the issuance of a final Certificate of Compliance, the applicant shall provide a report to the Commission regarding the number of Cape Cod construction companies and workers, women, and minorities employed in the construction of the project. This information should also be provided with regard to regular employees. This report shall also include the number of jobs by type, the salary ranges for the positions, and the benefits provided with these positions.

**Heritage Preservation/Community Character Conditions:**

HPCC1. The applicant shall construct Ballymeade Estates (The Golf Club at Cape Cod), in accordance with the approved elevation drawings (see Condition G6).

HPCC2. The applicant shall landscape the project in accordance with the approved landscape plans (see Condition G6).

HPCC3. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.

HPCC4. Landscaping shall be completed according to the Phasing Schedule (Condition G10). All site landscaping and buffering shall be completed prior to the issuance of a Final Certificate of Compliance and shall be subject to staff approval.

This shall apply to landscape buffering provided around the perimeter of the site as well as within the project.

HPCC4. If all required site work and/or landscape improvements for each phase are not complete at the time the partial Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow agreement shall be payable to the Cape Cod Commission with the work approved by Commission staff prior to release of the escrow agreement. Unexpended escrow funds shall be returned to the applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed prior to issuance of a final Certificate of Compliance from the Commission.

HPCC5. Any future project signage plans shall be submitted to Cape Cod Commission staff for a determination about their consistency with the Regional Policy Plan and local by-laws in accordance with the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time. The installation of Billboards, offsite advertising (except approved directional signs) and internally lit or flashing signs shall not be permitted. In addition, any signs shall be down-lit in conformance with Technical Bulletin 95-001.

HPCC6. The applicant shall install exterior lighting for the project in conformance with fixture types submitted in Appendix I of the Final Environmental Impact/Development of Regional Impact Report and approved lighting plans as listed in Condition G6. The applicant shall also install lights at the entry pavilion in conformance with Appendix H (drawing L-1) in the Response to Cape Cod Commission Comments dated July 2001.

In all cases, exterior lighting shall conform to MPS 6.2.7 and the standards of Technical Bulletin 95-001.

HPCC7. Prior to issuance of partial Certificates of Compliance I, 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.

The Cape Cod Commission hereby approves with conditions the application of Falmouth Golf LLC as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Ballymeade Estates (The Golf Club at Cape Cod) project located in Falmouth, MA.

Elizabeth Taylor  
Elizabeth Taylor, Chairman

9-6-01  
Date

Commonwealth of Massachusetts

Barnstable, ss.

On this 6th day of Sept, 2001, before me personally appeared Elizabeth Taylor, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

Katharine L. Peters  
Notary Public  
Commonwealth of Massachusetts

My Commission expires:

