June 18, 1993

Mr. Daniel Bungert, Chairman
Mattapoisett Conservation Commission,
16 Main Street
Mattapoisett, MA 02739

Dear Mr. Bungert:

I wish to call your attention to an apparent wetlands violation on Lots 107, 110, 114, and 115 on Plot #2, off Hollywoods Road in Mattapoisett.

This proposed development came before the Conservation Commission early in 1988 when the developer filed two Notices of Intent.

! SE 44-194 Filling and grading associated with the construction of a driveway through a bordering vegetated wetlands.
       " SE 44-195 Placement of a culvert in an existing private graveled way to allow for a brook crossing.

The Conservation Commission granted two Orders of Conditions for these two activities on March 15, 1988. These permits accepted the proponent's wetlands line as shown on the plans. These orders of conditions and the wetlands line associated with them would have expired three years later in March of 1991.

It appears that in the past few months mounded septic systems have been constructed on the 9 lot subdivision. We are unaware of any Requests for Determinations of Applicability or Notices of Intent for this recent work.

In 1992 new information became available regarding the location of wetlands on the site with the availability of the Commonwealth's Wetlands Conservancy Maps. Based on these maps (see attached) and other information, we believe that the original wetlands delineation proposed by the developer and accepted by the Conservation Commission in 1988 was grossly in error. We also believe that the construction of at least some of the mounded septic systems occurred directly in wetlands and constitutes a violation of the Wetlands Protection Act and its regulations, 310 CMR 10. We encourage the Mattapoisett Conservation Commission to take action to address these violations.

We would like to note that the wetland boundaries on the Wetlands Conservancy maps should not be accepted as the actual wetlands line under the state wetlands regulations because they were based on *conservative* estimates made with aerial photography. The Conservancy Maps are intended to show only "core" wetlands and the extent of the actual wetlands line as defined under 310 CMR 10 are likely to be far more extensive. However, even though the extent of wetlands delineated on the Conservancy Maps is an underestimate of the actual wetlands present, note on the attached map that ***all*** of lot nine is contained within wetlands identified on the Conservancy Maps.

Based on this information, the Commission may wish to issue an enforcement order requiring the removal of the mounded septic system on lot nine and revegetation of the lot since construction of a septic within a wetland is not permissible under the Wetlands Protection Act. With respect to the other lots, the commission may wish to have the wetlands line redelineated, since roughly 40% of the approximate 90 acre subdivision are mapped as core wetlands and the other systems may also be sited within wetlands, since many of the perc tests were performed in the mapped core wetlands. We do not recommend that the old wetland delineation be accepted on a new Request for Determination because of apparent errors and because better methodologies have been developed to quantify the extent of wetland vegetation since 1988.

The Buzzards Bay Project would like to offer the Mattapoisett Conservation Commission technical assistance on issues surrounding this case including aiding the Commission in delineating the wetlands line. If you would like such assistance, please do not hesitate to call me.

Incidentally, installation of the septic systems and related land clearing may have required a federal 404 permit, and state 401 permit. We have notified both the Army Corps and DEP respectively about a potential violation by the developer.

Sincerely,

Joseph E. Costa, PhD
Project Manager

cc: Board of Selectmen
        Board of Health
        Dorothy M. Boardman
        GAF Engineering, Inc., Marion
        Peter J. Hawes Realtors
        Elizabeth Kouloheras, DEP-SERO
        Matthew Walsh, U.S. Army Corps of Engineers

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