DRI No. 556

THE MARTHA'S VINEYARD COMMISSION

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Date: November 7, 2002

To: Planning Board, Town of Oak Bluffs
All other permit granting boards having jurisdiction

From: Martha's Vineyard Commission

Subject: Development of Regional Impact
re: recreational development – golf course

Applicant: Down Island Golf Club
c/o James G. Ward, Esq.
Nutter, McClennen & Fish
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

Decision of the Martha's Vineyard Commission

Summary

The Martha's Vineyard Commission (the Commission) hereby denies the granting of permits for the development, as submitted, contained in the Application of CKA, LLC, d/b/a/ CK Associates, Down Island Golf Course, Inc. (the Applicant), c/o Nutter, McClennen & Fish, LLP, Attn: James G. Ward, World Trade Center West, 155 Seaport Boulevard, Boston MA 02210-2604, for the property at 448 Barnes Road (Oak Bluffs), as shown on the plan entitled: "The Down Island Golf Club, Settlement Agreement/DRI Plan (Exhibit A1)," Revised September 3, 2002, Pressley Associates,

Inc., Landscape architects, 432 Columbia Street, Cambridge, MA 02141, consisting of one (1) sheet; as accompanied by the "Down Island Golf Club, Inc. Remand Plan - Technical Report (Annotated for Settlement DRI August 22, 2002, modified on September 2, 2002 in response to staff questions, prepared for Martha's Vineyard Commission (MVC) May 30, 2001" and the "Confidential Settlement Agreement," plus a resubmittal of all previously submitted information that accompanied the earlier plans which were submitted in the year 2000 and 2001, including but not limited to, all of the materials contained in Attachment 1 of this Decision; the aforementioned sheets shall be referred to as "the Plan".

This Decision is rendered pursuant to a vote of the Commission on October 16, 2002.

The Commission disapproves the Application and denies permission to the permit granting authorities of the Town of Oak Bluffs to grant the necessary development permits.

Facts

The proposed development is a Development of Regional Impact (DRI) as defined by the Commission's Standards and Criteria, Developments of Regional Impact, Sections 3.102a, 3.103 and 3.105c. The Application was referred to the Commission by the Building Inspector of the Town of Oak Bluffs for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated into the record herein. Martha's

Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Wednesday, September 4, 2002, at 6:30 p.m. at the Martha's Vineyard Regional High School, Edgartown-Vineyard Haven Road, Oak Bluffs, Massachusetts. The hearing was continued to allow further presentation of information from the Applicant.

A duly noticed public hearing was continued on Thursday, September 5, 2002, at 6:30 p.m. at the Martha's Vineyard Regional High School, Edgartown-Vineyard Haven Road, Oak Bluffs, Massachusetts. The hearing was continued to allow further presentation of information from the Applicant and the public. A duly noticed public hearing was continued on Thursday, October 10, 2002 at 6:30 p.m. at the Martha's Vineyard Regional High School, Edgartown-Vineyard Haven Road, Oak Bluffs, Massachusetts. Having finalized the presentation, the hearing was closed the same night.

The proposal is for the construction of an eighteen- (18-) hole golf course, a fifty- (50-) bed employee dormitory, ten (10) to fourteen (14) single-family market-rate homes and sixteen (16) units of affordable housing.

Findings and Conclusions

The Commission has considered the Application and the information presented at the public hearing and, based upon such consideration, makes the following findings pursuant to Section 14 of the Act:

A. THE COMMISSION FINDS THAT THE PROBABLE DETRIMENTS OF THE PROPOSED DEVELOPMENT WILL EXCEED THE PROBABLE BENEFITS OF THE PROPOSAL AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study, by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

Consistent with this statutory mandate, the Commission has maintained a long-standing concern for the protection of the ecologically fragile areas of the Island, particularly where those areas are unique habitats for plant and animal species. Similarly, the Commission has a longstanding concern for the maintaining of water quality of surface waters of the Island. In addition, the Commission has been and

remains concerned about the preservation of and development impacts upon archaeological resources, local character and visual appearance of the Island.

The proposed development – both in its location and its magnitude – continues to implicate a number of longstanding regional concerns of the Commission. In the past, the Commission has determined that the areas surrounding Lagoon Pond are of regional importance and that special care must be taken because of the diverse nature of the habitats of that area and the fragility of the water body. In fact, the proposed development is situated in no less than four of the Districts of Critical Planning Concern (DCPCs) that the Commission has, pursuant to its statutory authority, designated for various areas of the Island through the years. Impacts on Lagoon Pond and Sengekontacket Pond would affect three of the Island's six towns (Oak Bluffs, Edgartown and Tisbury).

The Commission has listened to all the testimony presented and has reviewed all documents and correspondence submitted during the hearing and review period and

1. **Based upon the record of this proceeding and the testimony presented therein, the Commission finds that the proposed development at this location is neither essential nor especially appropriate in view of the available alternatives (Section 15(a) of the Act).**

Throughout the review proceedings, the Commission has carefully listened to the testimony presented as part of and accompanying the Plan and has not been persuaded that there is anything essential nor especially appropriate about the Plan that merits the alteration and conversion of a healthy, large-scale, significant natural

[redacted]

ecosystem and habitat into a golf course – a seasonal recreational facility. The Commission has not been persuaded that there is a clear, demonstrable need for additional golfing facilities of the type proposed, particularly in light of the existing alternatives.

The Commission reiterates statements that were made previously regarding the specific location and the unique natural, ecological, historical, scientific, cultural and other values that are recognized by Chapter 831 of the Acts of 1977, as amended, as that require protection. The site in question is the largest remaining unbroken block of upland woodland in the Town of Oak Bluffs. It possesses many of the above-cited values in significant quantities when compared to other properties, and the Commission has not been persuaded that these values have been fully considered and protected to the fullest extent possible by the proposed Plan. The majority of the property in question is a virtually undisturbed natural ecosystem and habitat, and the Commission has not been persuaded that the massive changes that would be required of the landscape to accommodate the proposed uses are essential or appropriate. A highly manicured, man-made and intensively maintained golf course is antithetical to a functioning natural habitat. This proposal contradicts the underlying intent of the Southern Woodlands District of Critical Planning Concern of preserving large tracts of unbroken forested land.

The Commission notes that this proposal for the development of the site is substantially the same as the previously denied Plan and, although several concerns

expressed in the previous Decision have been addressed, the addition of twenty-six (26) to thirty (30) houses in addition to the previously proposed golf course further intensifies the development on the property and further aggravates the most significant detriments of the proposal, particularly the degree to which this significant and diverse ecosystem is transformed into a highly-developed artificial environment.

The Commission believes that the development's likely destructive impact on the natural environment of this property, as well as the negative impact on the traditional natural and historic character and landscape of Martha's Vineyard as a whole are, in themselves, major detriments. These could only be outweighed by very significant benefits to the Island. Notwithstanding the Applicant's several offers to Island entities and the various proposed mitigation measures, many of them off-site, the present proposal does not afford sufficient benefits to the Island to justify the development's potential negative effects on the region.

The Commission believes that an alternative use for the site that might have greater public benefit while significantly reducing the environmental damage might be a sensitively designed mix of clustered market and affordable homes, sited and maintained to minimize encroachment on, or fragmentation of, the woodlands, and to limit nutrient loading. This alternative use should include the conservation of a large part of the most ecologically valuable land as well as the campground and low-impact recreational uses such as the existing trails designated Special Ways. This approach could preserve a much greater portion of the forested area and cause less disruption to

the significant habitat. In addition, such an alternative use could include a compactly designed and carefully sited 9-hole golf course, particularly if significant public play and all of the undeveloped lands of the Southern Woodlands were part of the proposal.

The Commission notes that the option of designing a more compact golf course on the property and leaving a greater part of the Southern Woodlands in its current natural state was never presented to the Commission. Nevertheless, given the special environmental sensitivity of this particular property, the radical transformation of the ecosystem that the construction of a golf course would imply and the fact that it is a seasonal, active-recreational installation that is not traditional to the character of Martha's Vineyard, the Commission expresses reservations about the feasibility of successfully incorporating such a high-impact recreational facility in this location. While the Commission is not categorically ruling out an 18-hole golf course, it should be apparent from the Decision in this case and the two prior cases proposing an 18-hole golf course on this site, that it seems difficult to design an 18-hole golf course which does not do significant damage to the existing woodlands and ecosystem and nearby water bodies. Approximately 100 acres of forest will be cut down to accommodate a single recreational facility and its associated buildings, roads, parking lots, house lots, et cetera.

2. Based upon the record in the proceedings and the testimony presented therein, the Commission finds that the proposed development will have an adverse impact upon the environment relative to other alternatives (Section 15(b) of the Act).

The Commission has carefully considered all of the materials and evidence submitted as a part of the Plan submittal and has not been persuaded that the proposal will not have an adverse impact upon the environment and, in particular, the environment of the site in question.

a) With respect to the issue of the natural community and habitat, the Commission notes that the Commonwealth in its BioMap of Massachusetts identifies this site as core habitat. The Commission notes that there are more natural communities of significance on the Island than there are in nearly all of the rest of the Commonwealth taken together, and it takes very seriously its reviews of proposals with respect to this issue. The Commission is of the opinion that the site under consideration is an exceptional piece of property and believes that the proposed wholesale changes and clear cutting that will result from this proposed golf development will destroy a significant part of the natural core habitat of the Island to a greater degree than would potential development alternatives. The Commission believes that the fragmentation of the forest area and the substantial loss of or disruption of existing flora and fauna, including the adverse impact upon wildlife and particularly upon some of the resident bird population, portend an adverse impact upon the environment. The Commission is very much concerned with the impact of forest fragmentation upon the resident fauna. The Commission believes that the site under consideration is a very significant

habitat for a variety of species that includes a pristine habitat for the Imperial Moth, a species not found elsewhere in the Commonwealth. Through fragmentation of forest habitat, relatively common edge-dwelling and open-area-dwelling species will be introduced and thrive at the expense of a habitat that can accommodate rarer interior and local forest-dwelling resident species that will be greatly reduced or eliminated entirely as a result of the proposed development on this site.

b) With respect to the use of chemicals, the Commission has listened carefully to the presentations with respect to the use of chemicals and the proposed mitigation thereof and has not been persuaded that the quantities of chemicals needed to maintain a quality private golf course will be as benign as presented nor as easily mitigated as suggested. The impacts on small fauna as well as on groundwater and nearby water bodies are of particular concern. While the Commission acknowledges the efforts of the Applicant to minimize the use of inorganic pesticides, it appears that more intensive use of the golf course will require more intensive chemical applications, whether for fertilizer, herbicides, pesticides, fungicides, et cetera. With respect to the issue of water resources, the Commission acknowledges that the current Plan more fully addresses the issues of nutrient loading than did the Remand Plan. The proposed monitoring and mitigation measures are more complete, and the Commission notes the advantage offered by having the entire site remain within the control of a single

entity. This mitigates the previously stated nitrogen-based water-quality concerns to a great extent. Nevertheless, the Commission is concerned with the ability to adequately monitor the environmental impacts of the use of pesticides, fungicides, herbicides and fertilizers, to accurately interpret the data acquired from the monitoring program and to appropriately respond in a manner sufficient to limit the risk to the health and productivity of the coastal waters of the two ponds most affected, namely, Lagoon Pond and Sengekontacket Pond, both of which are major shellfish-producing ponds and breeding grounds but are already suffering significantly from the effects of nearby development. There is a risk that the proposed management system might not work and, were it to fail, the impact on the life of the ponds could be disastrous. The Commission also expresses concern about the withdrawal of large quantities of fresh water from the sole source uifer to irrigate and maintain a golf course.

3. Based upon the record in the proceedings and the testimony presented therein, the Commission finds that the proposed development will have an adverse effect upon other persons and property (Section 15(c) of the Act).

The Commission has listened carefully and has considered all of the materials and evidence submitted as a part of the Plan submittal and has not been persuaded that the proposal, as currently constituted, will have little or no effect or impact upon other persons or property; a relevant factor under Section 15(c) of the Act.

a) With respect to the impact on surrounding communities, the Commission believes that the proposed development poses an unacceptable risk to two ponds (Lagoon Pond and Sengekontacket Pond) and upon three communities (Oak Bluffs, Edgartown and Tisbury) due to a questionable ability to monitor the environmental effects and respond in a timely, appropriate and effective manner to prevent the onset of adverse water quality conditions.

b) With respect to character and identity, the Commission acknowledges Applicant's efforts to screen its developed area from view of public streets. However, the Commission is also concerned about the impact that the further addition of golf courses would have on the character and identity of Martha's Vineyard in general. The proposed development alters and changes the neighborhood to something more akin to suburbia than the natural habitat and environment that exist today. Adding a high-end private golf club with a complement of expensive vacation homes will tend to alter the character and image of the Island toward a purpose-built, golfing-centered vacation destination. Additionally, the existing forested tract provides a buffer zone between the existing developed areas adjacent thereto, and the introduction of a fragmented, suburbanized development will clearly destroy this buffering capability.

c) With respect to the specific offers to various Island entities, the Commission does recognize the potential benefits offered by the Applicant; however, with

the exception of the efforts to curtail nutrient loading, the offers are in most cases marginal to the central concerns associated with this project and offer little or no mitigation of the essential features of the proposal. For example, the Applicant's proposal to purchase and remove the Windfarm driving range and offer it for conservation land could have removed structures from beside a high-visibility roadway, eliminated poles and netting visible from long distances, and allowed the field and pond remaining to be aggregated with adjacent conservation land. Nevertheless, none of these potential benefits directly mitigate the destruction of extensive portions of densely forested habitat of the Southern Woodlands.

d) With respect to the impact on the attractiveness of Martha's Vineyard to visitors and residents as well as the general economic impact of the project, the Commission has taken note of the Applicant's assertion that the proposed recreational facility will be available primarily to a very limited number of members, which is not in itself suggested as a public benefit, although it is hoped that their presence would generate secondary economic spin-offs. The Commission appreciates the offer to allow Island memberships as well as limited public play on the golf course, which it believes would provide some public benefit. The Commission also notes that the proposal includes some conservation land as well as maintenance of public trails and the preservation of certain Ancient Ways and archeological sites. However, the Commission

1 believes that visitors choose to come to, and residents choose to live on,
2 Martha's Vineyard primarily because of its traditional natural and rural
3 character and activities; this is what distinguishes this island from Cape Cod and
4 other highly developed resort areas that include a wide range and notable
5 aggregation of active recreational facilities. The construction of this proposal
6 would undermine this distinctiveness and thereby could make it less attractive to
7 visitors seeking a more natural and less "engineered" vacation setting; this could
8 ultimately have negative economic consequences for Martha's Vineyard.

9 e) With respect to the campground, the Commission recognizes the attempt by the
10 Applicant to mitigate the loss of the former campground by allowing the
11 possibility for a portion of the former campground to be returned to use as a
12 campground. However, the Commission has not been persuaded that a facility
13 of such a reduced size will be large enough to support the demand of moderate-
14 income visitors who seek to enjoy the Island or will be financially viable in the
15 long term.

16 f) With respect to traffic, the Commission acknowledges the Applicant's proposed
17 mitigation of vehicular-traffic impacts upon the blinker intersection by
18 eliminating traffic at the Windfarm driving range. The Commission also notes
19 the likelihood of an increase in air traffic as a result of golf course members
20 flying in to play and is concerned about the noise that this would create for
21 people living near the flight paths.

4. Based upon the record in the proceedings and the testimony presented therein, the Commission finds that the proposed development will have a beneficial immediate impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act), but will likely adversely affect housing affordability in the long term by adding impetus to gentrification.

The Commission has carefully analyzed the proposals with respect to low and moderate-income housing and finds both near-term benefits and probable long-term detriments.

a) With respect to the provision of low and moderate income housing on the site, the Commission acknowledges the proposal to construct a number of affordable homes and dormitory-style worker housing on-site, as well as sewering for the adjacent elderly housing complex, thereby enabling the addition of several units, and finds that these offers go a long way to address this issue.

b) With respect to the overall impact on the "affordability of housing" on the Island in the long term, the Commission believes that further escalation of real estate values resulting from the marketing of a high-end private golf club will exacerbate the Island's affordable housing dilemma by hastening the process of gentrification.

5. Based upon the record in the proceedings and the testimony presented therein, the Commission finds that the proposed development would likely have mixed effects on the provision of municipal services and the burden on taxpayers in making provision thereof (Section 15(e) of the Act).

The Commission has carefully considered this matter and believes that the proposed golf and housing project will have mixed impacts.

a) With respect to the provision of municipal services, the Commission notes that the proposal would add children to the school system, recognizing that the number has been limited to those who might occupy the sixteen (16) affordable housing units; this might be less than the potential number with alternative developments. The offer by the Applicant to connect the Woodside Village elderly-housing facility and to provide the regional high school with the potential to connect to the project's waste treatment facility could reduce the future potential need for, or connections to, public wastewater treatment facilities.

b) With respect to the burden on taxpayers, limiting the number of school children and potentially connecting the high school to the project's waste treatment facility could result in future tax savings. On the other hand, the tax revenues might be less than an alternative development of the site, for example, clustered high-end, seasonal homes, which would likely add to Oak Bluffs' tax base without adding to its school-age population.

6. Based upon the record in the proceedings and the testimony presented therein, the Commission finds that the proposed development would contravene the land development objectives of the Commission, as outlined in the Regional Island Plan, including the Martha's Vineyard Commission Regional Policy Plan, adopted by the vote of the Martha's Vineyard Commission, June 1991 (Section 15(h) of the Act).

The Commission has carefully reviewed the proposed development in light of the values and policies articulated by the Commission in the Regional Island Plan – Section A. Policy Plan and believes that the proposal contravenes the plan in many significant ways. Note that this proposal has been analyzed in light of Section I, Goal C of the Regional Island Plan, which states: "Conserve and use resources on an Island-wide basis for regional purposes rather than solely within Town boundaries for local purposes."

The Regional Island Plan – Section A. Policy Plan states as follows:

> "2e.A-1-1-2
>
> Promote sound local economies by conserving the Island's unique values and protecting them from developments that may cause irreversible damage. The Island's natural attributes and its heritage are its most valuable economic resource. Promote development that enhances the environmental, historic and scenic qualities of the Island . . ."

The Commission believes that the proposed development contravenes this policy by taking an area of forested habitat and substantially converting it to a primarily seasonal, private recreational facility that neither emphasizes nor complements the Vineyard's natural assets, as discussed above.

And further:

> "I. A-1. I-9.
>
> Martha's Vineyard is a natural resort whose attraction is based upon its environmental quality and its natural beauty.

> Investment in these resources is essential to a healthy economy."

The Commission believes that the proposed development contravenes this policy by taking a large, mostly undisturbed tract of land with natural qualities and beauty and dramatically altering it through the creation of an artificially landscaped and maintained facility, as discussed above.

And further:

> "I. A-2. I-19.
>
> Manage fertilizers and pesticides to prevent impacts on shellfish ponds. . . ."

The Commission believes that the proposed development could contravene this policy in that it has not been persuaded that the proposed mitigative measures, though extensive, will, in fact, produce the safeguards for the Lagoon and Sengekontacket Ponds that would be necessary to ensure their continued health and productivity, as discussed above.

And further:

> "A.1-B.IV-8
>
> Land uses affecting the Island's sole source aquifer should be managed to preserve the purest possible groundwater and surface water."

The Commission believes that the proposed development could contravene this policy in view of its concern that, notwithstanding the proposed monitoring and

mitigative measures, the measures to maintain the large areas of turf required by a golf course could put this water supply at risk, as discussed above.

And further:

> "A.1-C.IV-9
>
> Habitats for species that are threatened, rare, or of special concern on Martha's Vineyard have regional significance in New England and nationally. Plans for development affecting these critical habitats or species should acknowledge that they are extremely vulnerable and require strictest protection."

The Commission believes that the proposed development contravenes this policy in that it severely alters the significant core habitat located on the property, as discussed above.

And further:

> "A.1-C.IV-11
>
> Where private development of critical lands is unavoidable, preserve the capacity of the land for agriculture, water supply, habitat or community needs to the greatest extent possible through cluster development and by limiting the intensity of use . . . ."

The Commission believes that the proposed development contravenes this policy in that it is spread out over, and thereby fragments, the greater part of the site, as discussed above.

And further:

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> "A.1-C.IV-12
>
> Preserve and enhance the rural quality of life on Martha's Vineyard and the unique character of each Town.
>
> Reject qualities that are 'suburban' and 'urban.'"

The Commission believes that the proposed development contravenes this policy in that it changes an existing forested landscape into one of a clearly suburbanized nature, as discussed above.

And further:

> "A.1-C.IV-13
>
> Test development proposals against this rural standard. Development proposals must contribute to the rural quality of life on Martha's Vineyard. This policy allows unlimited opportunities for the social and economic advancement of the people of Martha's Vineyard."

The Commission believes that the proposed development contravenes this policy in that its proposed conversion of forested landscape into a maintained, active recreational facility alters, rather than contributes to, the rural character of the site.

And further:

> "A-1-C.IV-17
>
> The preservation of Island character demands careful consideration of visual factors.
>
> Preserve diversity as a principal visual characteristic of Martha's Vineyard.

> The Commission, the Towns and private landowners should continue to match the use of land to the land's natural and visual qualities."

The Commission believes that the proposed development contravenes this policy in that the introduction of a large-scale recreational facility with its attendant fragmentation of a large forested tract does much to destroy the existing natural and visual qualities of the property, as discussed above.

And further:

> "A-1-C-IV-18
>
> The appearance of openness and great space is appreciated by Islanders and visitors, and it must be preserved.
>
> Manage change and growth to enhance the traditional and natural landscapes of Martha's Vineyard. . . . "

The Commission believes that the proposed development contravenes this policy in that it takes a traditional and natural landscape and completely changes it to an artificially created landscape of very different scale and quality, as discussed above.

And further:

> "1-A-E-IV-30
>
> The most important lands needing protection are pond and ocean frontages, natural habitats, farmlands, aquifer lands and buffer zones between developed zones."

The Commission believes that the proposed development does not protect the natural habitat, as discussed above.

And further:

> "1-A-G-IV-42
>
> Preserve the quality of Island ponds, harbors, marshes and streams to encourage the expansion of fisheries, fresh and salt, shell and fin, commercial and sport. Developments which would contribute to increased productivity in Island waters will be encouraged."

The Commission believes that the proposed development could contravene this policy, despite the monitoring and mitigation measures proposed, as there remains a risk of contaminating the ponds, as discussed above.

In sum, after careful review of the plan and its attendant submittals and of the testimony presented by the Applicant and others, the Commission has concluded that the probable benefits of this proposed development in this location do not exceed its probable detriments. Although the Commission reaches this conclusion on the basis of its evaluation of the factors set forth in subsections 15(a), (b), (c), (d), (e) and (h) of the Act, the Commission notes that its findings with respect to any combination of the factors discussed in this section of the Decision would be sufficient to support the conclusion that the probable detriments of the proposed development exceed the probable benefits.

The Commission considered the factors set forth in subsections 15(f) and (g) of the Act and found that either such factors were not pertinent to the issues raised by the proposed project or such factors were relatively minor in their effects in comparison to other factors.

B. AS SET FORTH ABOVE WITH RESPECT TO SECTIONS 15(A) AND 15(B) OF THE ACT, THE COMMISSION FINDS THAT THE PROPOSAL WILL SUBSTANTIALLY AND UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF THE COMMISSION – THE REGIONAL ISLAND PLAN (SECTION 14(B) OF THE ACT).

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT APPEARS TO BE CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, SUBJECT TO THE NEED FOR DISCRETIONARY ZONING RELIEF FROM THE TOWN OF OAK BLUFFS FOR THE PROPOSED USE.

D. THE COMMISSION FINDS THE PROPOSED DEVELOPMENT, WHICH IS WITHIN FOUR SEPARATE DISTRICTS OF CRITICAL PLANNING CONCERN, TO BE, WITHOUT BENEFIT OF A SPECIAL PERMIT AS REQUIRED BY THE SOUTHERN WOODLANDS DCPC REGULATIONS, INCONSISTENT WITH SAID REGULATIONS OF THE AFOREMENTIONED DCPC, BUT, TO THE BEST OF THE COMMISSION'S KNOWLEDGE, CONSISTENT WITH OTHER REGULATIONS OF THE DCPCS IN QUESTION.

The Commission disapproves the Application and denies permission to the Building Inspector and all other permit granting boards and officials of the Town of Oak Bluffs to grant the necessary development permits.

The Applicant may substantially modify the development proposal and/or submit a new proposal to the Building Inspector and/or other permit granting boards and officials of the Town of Oak Bluffs.

This Decision is written consistent with the vote of the Commission: October 16 2002.

Any party aggrieved by a determination of the Commission may appeal to the Superior Court within twenty (20) days after the Commission has sent the Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk of the Town in which the proposed development is located.

Chairman — 11-8-02 Date

Notary — November 8, 2002 Date

Pia Webster
Notary Public
My Commission Expires
July 3, 2009

Edgartown, Mass. November 8, 2002
at 3 o'clock and 25 minutes P M
received and entered with Dukes County Deeds
book 908 page 483

Attest:
Deanne E. Powers Register

50/ Mr. Commish 483

RECEIVED-ENTERED
325 M 11-8-02
County Of Dallas County
REGISTRY OF DEEDS
DIANNE E. POWERS