

Squibnocket Farms Chronology

- June 1988: The Cape Cod Company (“CCC”), a partnership owned by members of the Hornblower family, files a preliminary sixteen-lot subdivision plan with the Chilmark Planning Board for “Squibnocket Ridge.” CCC identifies the Vineyard Open Land Foundation (“VOLF”) as its development advisor. CCC asserts that access to the subdivision “would not be over the barrier beach,” and that the accessway “could, if necessary, be rebuilt in case of storm.” Chris Murphy (current Chilmark Conservation Commission chairman) was a member of the Planning Board at that time. (Tab 1).
- July 1988: Planning Board decides to devote its next meeting to CCC subdivision; “The access road is key. Barrier beach information is needed.” (Tab 2)
- June 1990: Planning Board review of the subdivision resumes in 1990, following a building moratorium in the Squibnocket area and enactment of Squibnocket DCPC. Minutes for the June 18, 1990 meeting state: “If CCC/Roush [then the owner of Great Island] get any permission, the access needs to be not fixed but ‘floating,’ so that when the beach moves back the road can also. There was some discussion of the possibility of the complete washout of the road and beach, reactions to disaster.” (Tab 3)
- July 1990: Planning Board denies approval of preliminary subdivision plan, citing among other things concerns about access. (Tab 4). CCC immediately files a request for approval of a 20-lot definitive subdivision plan. (Tab 5).
- August 1990: Speaking for CCC, Marc Racicot tells the Planning Board that “the developers had already presented a hold harmless clause in [the] subdivision agreement stating that the Town would not be held responsible if inhabitants were flooded, isolated.” (Tab 6)
- February 1991: Board discusses how to write a road “management plan and covenants using a ‘worse-case” scenario.” (Tab 7)
- April 1991: Planning Board refers proposed subdivision to the Martha’s Vineyard Commission.
- July 1991: MVC approves subdivision (DRI #338). Decision notes Rusty Walton’s testimony on behalf of the Planning Board and Conservation Commission that “some Planning Board members were disturbed by the long barrier beach access, he stated that it may be inaccessible during major storms.” Project returns to the Planning Board. (Tab 8)

September 1991: “The Board discussed the concern regarding safety in storm events and future of access. Questioned the loss of access in some years, cost of bridge. It was suggested that it be noted in the covenants the potential danger of loss of access. It was suggested to ask the Woods Hole Oceanographic Institution for specific information regarding the sea level rise, etc. The Board is also concerned about the obligation placed on the Town Boards to allow reconstruction of access. Mr. Walton will contact...the...Institution...for the life expectancy of the access.” (Tab 9)

October 1991: “The Board thought the possible loss of the main subdivision access road to the property should be included in the covenants. The Board discussed its concerns about emergency access and having an evacuation plan.” (Tab 9)

November 1991: Minutes from November 14, 1991 meeting: “The owners having responsibility for road maintenance would relieve the Town of liability. Mr. Meisner [attorney for CCC] read wording to release Town from liability for the main access road that he will include with the plan.” (Tab 10)

Minutes from November 25, 1991 meeting: “The Board discussed the ‘gray’ areas of approval for variances [of access requirements] which begin to exceed the Board’s control. They indicated the need to provide safe and convenient access as mandated by the Planning Board Rules and Regulations. Mr. Racicot discussed other areas where the Planning Board approved roads which are inaccessible for long periods of time. The Board asked that Mr. Racicot look further into the future where there might not be any beach left to place a road onto. Mr. Racicot thought that the road could be approved for this subdivision only and Mr. Meisner thought the indemnification wording would hold in court.” (Tab 10)

December 1991: Board Counsel states that “it would not be in the interest of the Board to approve this subdivision with the main access road in its present condition. ... Mr. Racicot indicated that he will have a file in place with an acceptable maintenance program. The Board discussed DEP’s suggestions of dune and beach nourishment as a means to maintain the road.” (Tab 10)

January 1992: Board approves subdivision contingent on covenants to include “legal wording for liability on every deed regarding the main access road; sign at entrance to road indicating ‘use at own risk’; ... the Board is waiving adequate access ... as it is a unique location, only access, has been used for hundreds of years and can be reconstructed (only barrier beach lot which has a main access road)....” (Tab 11)

Original Subdivision Covenants (Tab 12) omitted the warnings and waivers that the Planning Board imposed. CCC adopts additional covenants (Tab 13) that state as follows:

3. Incorporated in every deed conveying any lot within the Squibnocket Ridge community shall be the following additional covenants:

a. **“Recognizing that the land depicted on the Squibnocket Ridge subdivision plan is situated in a unique and remote location, the access to which is subject to periodic disruption and destruction by natural forces, every owner of a lot in the above-described subdivision shall be deemed to have covenanted with the Town of Chilmark that such owner releases and holds harmless said town, its agents and servants from any liability resulting from the inaccessibility of said lot due to impassibility of the roadway servicing Squibnocket Ridge.”**

(Emphasis added)

Directly or indirectly, all of the Squibnocket Ridge deeds contain the Planning Board’s warning and the development’s release of any Town liability. (See, for example, deed attached at Tab 14.)

TAB 1

Cape Cod Co. Squibnocket Ridge

Cape Cod Company Form B Submission - Mark Racicot introduced the first Board review of this submission by reading a letter stating that VOLF as agent for the partners of the CCC was filing an estate plan, subdividing 286 acres of the total 400± property on Squibnocket Ridge. The feeling of agent and Company is that the plan is in keeping with the spirit and goals of the proposed moratorium. It is a preliminary plan subject to further resource investigation, review process, needs of partners.

M. Racicot presented three maps: 1) "A Preliminary Plan for Land in Chilmark, Ma Owned by the Cape Cod Company, Prepared by Vineyard Open Land Foundation, 6-20-88, scale 1"=100'" showing exterior subdivision and water boundaries, interior subdivision boundaries, locus, lot numbers and acreage; 2) plan overlaid on contour map and 3) DCPC map for area.

He had brought a 4th map, a two foot contour map showing the wetlands and direction of water flow with black arrows. He introduced both Ivo Meisner, attorney for the Cape Cod Company and John Hornblower. J. Hornblower explained that he is Ralph Hornblower's oldest son, a partner in CCC, understood the Board's concerns, was making a long-term family plan. They have chosen VOLF to plan for them as the organization they consider the best qualified.

M. Racicot shows the base map with the boundaries highlighted. 286± of the total 400± is proposed for subdivision. Point and islands have been omitted. C. Murphy asked why the entire parcel was not shown. The two land-courted lots containing Squibnocket Ridge were established in 1928 or so; there are three houses presently. The black arrows indicate direction of drainage. C. Murphy questioned whether the pond drained in the direction shown. CCC will do perc tests, the varieties of soil range from good to bad. M. Racicot feels that the major objections to the 1980 submission have been answered by his larger sites, proposed roadways along contours, so that they remain hidden and not steep, do not cross wetlands. The proposed road layout gives three main groupings of houses. Siting of houses will be down from ridges, unlike the previous submission. Carl Lynch Associates had recommended a 500 foot setback from the pond edge for septic systems. There will be a surface watershed map that will show only four houses within the watershed.

M. Racicot went on to assert that access would not be over the barrier beach. That it could, if necessary, be rebuilt in case of storm. Benoit of DEQE has said, M. Racicot reports, that it could be done within two days. Sixteen sites are on the plan; on lot 16 and 11, house sites have not yet been decided upon.

TAB 2

6/26/84

Cape Cod

C. Murphy asked if the lots would not be further subdivided. Ivo Meisner replied that this has not been decided yet. Board members expressed the need for future intent to be expressed. I. Meisner stated that there were other agencies still to be talked to. C. Murphy pointed out that this is not the only property around Squibnocket; that there was nothing to fear in the proposed moratorium. How the Board will treat the submission, he went on to say, will be determined by consultation with town counsel. I. Meisner stated that they do not expect a final plan overnight, there is no pressure; he hopes the review of this plan will be a model for Squibnocket. J. Hornblower stated that the PB should be relieved by the submission; he intends to work with the Board and the Town. E. Farrow pointed out that the area's being a last great unspoiled place put a burden on any development. He asked J. Hornblower how old he was; he is 26, his brothers 24. He doubts that most lots will be build on by 2,000. E. Farrow said the Board would look further ahead than that. A. Marvel questioned whether there would be public access; J. Hornblower stated that his family had already shared beaches; A Dietz stated that the area is too fragile. M. Racicot stated that there would be public access to the Pond itself. houses would be kept back from it, a lease to the Beach exists. C. Murphy advised the CCC to deal with all of the questions, not to leave a lot or lots that might be further subdivided. He also expressed concern that the most fragile pieces of property are not shown on the plan. They probably would not be built on, but they should be incorporated in the deed, as they are key to the question of Squibnocket area. The question of further

subdivision, whether lot 16 is buildable or not, the inclusion of all the property were, the Board summarized, necessary. J. Hornblower stated that there were partners in CCC with different percentages of interest; the PB replied it could not address that problem. R. Walton suggested covenanting all remaining parcels, including barrier beaches, against development. E. Farrow suggested using the Keith subdivision, also done by VOLF, as a model. Burton Engley asked if there were any other lots suitable for agricultural uses in addition to lot 11. M. Racicot replied that there were some; generally grazing soils.

7/18/84

Next week's meeting will be devoted to only Cape Cod Company Form B submission. Melissa Waterman and Conrad Newman should be asked to come. The access road is a key. Barrier beach information is needed.

CAPE COD

TAB 3

4/24/90

Cape Cod

* E. Farrow pointed out to Cape Cod Company representatives that their information would be relevant to the scheduled hearing but that the ridge was only one part of the proposed District, although an important part. R. Walton and J. Lander stated that this was just how Arthur Gaines had seen their proposal.

6/11/90

7. Mark Racicot, Vineyard Open Land Foundation and agent for Cape Cod Company Form B, having scheduled the time to further discuss the CCC submission, explained Thomas Roush's new plan after his withdrawal of the subdivision application for Great Island. T. Roush plans to build no second house on the island, and to be included in the definitive plan submitted by the Cape Cod Company, apparently there is no intention to include the plan for the island in the Form B currently before the Board. T. Roush proposes to move the house, or construct another house, bermed into the hill with a septic system on site meeting Title V requirements. M. Racicot explained that the system would be submitted as an upgrade of the current one at a 6 foot elevation when the pond is at 3'. The current house is within the 100 year floodplain. The new site would permit the house to lie outside the 100 foot buffer; the septic system would have to be constructed in fill. The Board asked why the discussion was centered on Great Island, if it were not included in the current submission. C. Murphy pointed out that the current "caretaker's house" had grown by the installation of a septic system for the caretaker's children, now that there was neither caretaker nor children it was apparently to be moved and considered "preexisting." J. Lander stated that approval of that kind had not been granted by the Board of Health since she had been here; the Board pointed out that something similar had been considered preexisting by the BH a several years ago.

Mark Racicot stating that there was a good deal of material to digest and that he wanted to give time for that to happen and that he and Ivo Meisner had decided not to insist that a decision be made by 18 June, their last extension. He requested another extension until 16 July. The Board voted unanimously to grant the extension.

Mark reminded the Board that on 20 June Arthur Gaines will talk about work on ponds on the island at the Wakeman Center.

He stated that modeling of nitrate loading on drinking water had been criticised and might the Board suggest another model. R. Walton cited the Falmouth Nutrient Loading Bylaw, J. Lander Craig Saunders.

17. Discussion of Roush/Squibnocket; Roush proposal is apparently to replace a small existing house with a larger one at a different site, as if he were enlarging the existing house, and to build a "constructed" septic system which might be allowed if he were upgrading an existing system for an existing house. Various philosophical and practical considerations arose - is it reasonable to retain the existing house (and septic) for a "gatekeeper" or for a Chilmark youth; -if we allow this argument here, can we deny a similar proposal elsewhere in Town on marginal lands; - how much more do we need to know to decide on either Roush or CCC Form B?
- If CCC/Roush get any permission, the access needs to be not fixed but "floating, so that when the beach moves back the road can also. There was some discussion of the possibility of the complete washout of the road and beach, reactions to disaster.

TAB 4

Cape Cod

7/2/90

In reply to M. Racicot's request for any reservation the Board might have, members responded: the size of the four possible subdividable lots, the presence of both houses and guest houses there, youth lots and the actual siting of houses.

① The Board noted that 18 months' of that time was a moratorium on building and development and that the applicant had requested repeated extensions.

7/19/90

13. Cape Cod Company Review - the Board discussed the vote next week on this submission. E. Farrow raised the possibility that it might simply be refused since the regulations had not yet been voted on, there was general agreement that these were not solid grounds for denial. S. Sinnett stated that he found the submission inadequate because resident homesites have been omitted, the access across a barrier beach has not been dealt with, the density is not in keeping with the needs of fragile land, the whole submission is too indefinite: what about Roush and the large parcels. E. Farrow made the point that the final disposition of house sites may be affected by the proposed regulations. Questions were asked about the adequacy of the EIS, the presence of non-conforming pre-existing uses, e.g. the Roush house on Great Island. Youth lots/resident homesites were again brought up.

7/16/90

11. Cape Cod Company Form B - there was discussion of the status of the submission and concerns with it: access, density, resident homesites, uncertainty of Great Island and four large lots. J. Lander asked the Board to specify whether it would vote to approve with strong conditions, or to disapprove with reasons. After R. Walton pointed out the vulnerability of an argument about density, although agreeing with the fragile nature of the land and special conditions, it was moved seconded to disapprove the submission. There was review of the reasons, J. Lander will write a letter. Rather than further discussion at this point, the Board determined that the letter should be drafted and wait until Thursday morning. Anyone who wanted to review it could do so; if there were strong objections, the letter should be returned to the Board next Monday night, if not, sent. Voted: all present in favor; K. Warner abstained

TAB 5

7/23/90

Cape Cod.

c) Glenn Provost, Vineyard Land Surveying, filed a Form C for the Cape Cod Company last Friday afternoon. R. Walton and J. Lander have looked at it briefly. The Board noted that the filing had to have been planned considerably ahead of the planned date of the vote on the Form B, agreed to in the extension request of Mark Racicot, agent for the CCC on the Form B and that there was no possibility that the applicant could have responded to the objections contained in the disapproval unless they had been anticipated. The Board determined to look over the submission later in the meeting.

7. The Board had got copies of the Certificate of Disapproval of a Form B sent to the Cape Cod Company. A. Dietz pointed out that it had included the important details and was well written. JL thanked her for saying so, since it had taken time. The certificate had been reviewed by A. Dietz, W. Rossi, R. Walton and Board Counsel Bracken had approved it altering a few phrases.

12. The Board briefly reviewed the Cape Cod Company Form C filing. They noted the changed lot lines, the lack of any explicit explanation of ways of meeting the objections in their Disapproval, the facing sheet that explains the five following sheets of plans. C. Murphy asked that J. Lander get a referral for review of the EIS, perhaps from Arthur Gaines. She asked that the Board read it first, so that what they might need from an outside consultant could be clear and agreed to get A. Gaines' advice.

8/13/90

c) M. Racicot has clarified his well statement: all 20 lots shown on CCC plan have septic areas that conform to proposed Board of Health setbacks; there are 4 new wells, a total of 8, all pumping 8 to 10 gpm. There are also 4 wells with existing houses; these 12 give the developer, MR states, a clear idea that water will be available and where to drill.

J. Lander told the Board that subdivision law does not seem to support demanding the degree of information on wells and designed septics that had been discussed.

4. Mark Racicot and Ivo Meisner, attorney, had come to present answers to some of the questions the PB had asked of the Cape Cod Company Form C submission to them. They brought a plan entitled "Guest House Alternative Sketch" showing what the result of house/second house would be. MR stated that it showed the density of structures, plan for sites and septics. With some changes, MR asserted, this is similar to the earlier plan. The Board asked if there would be building envelopes and whether the size of the second house on the lots would be limited. I. Meisner said that could be done, applicants would prefer something larger than 800 square feet. M. Racicot reviewed the range of uses envisioned for these second houses: guest houses, rentals, geriatric care for the inhabitants of main house. The Board pointed out that some of these would not fit uses of guest houses in zbl and that something less than 800 square feet might be palatable. R. Walton spotted a note that stated an orchid would be removed, discussion revealed that it had only been seen once. E. Farrow suggested that J. Bruno be checked with about relocating it as M. Racicot now plans.

TAB 6

8/13/90

Cape Cod

The access road is moveable within its lot on this plan. Kent Healy recommends a crowned road with infiltration on both sides and an occasional cut for drainage. The Board explained that a covenant against further subdivision on the large lots was to them "a given," K. Warner asked the developers to decide what arrangement of houses and lots they wanted and to present it, rather than present alternatives. E. Farrow repeated that the plan before the Board could be considered in its entirety, if it were the final submission, but it did not seem to be.

I. Meiser asked if the question of density concerning the Board in both submissions could be addressed through number of bedrooms rather than square footage of structures; E. Farrow stated that visual, environmental and usage concerns all entered into the Board's view Meisner then asked if the Board could present a threshold number, "X" stating that development beyond this number would be too much development so that the applicants could adjust final lines and concepts.

C. Murphy volunteered a number speaking for himself as one member and not for the Board as a while: 14 lots with Great Island a dedicated nature preserve; the submission after a long discussion of needs, had grown he said from 14 lots to 20. Mark Racicot countered that the addition of Great Island and the caretaker's lot made it 16 (already yet.) A concern in the disapproval of the Form B was the ability of the land to accept number of houses, kinds of use. MR stated that the developers had already presented a hold harmless clause in subdivision agreement stating that the Town would not be held

possible if inhabitants were flooded, isolated. The Board reiterated that there was really no magic number, because there were so many concerns.

K. Warner asked again that the applicant choose one approach.

R. Walton that the perimeter road not be used as access to the beach, perhaps the Squibocket Associates access could be used instead. The Board asked what would happen to the plan if Great Island proved to be unbuildable. The inability of the applicants to locate the expressed fall back position within one of the lots led to a discussion of having Thomas Roush come to a meeting.

C. Murphy summarized that the applicants had agreement to the idea of subdivision, something previous applications failed to get. The original 14 lots seemed to have got some agreement within the Board now there were, he said, things the applicants might do like increasing the deeded beach at Squibocket, deeding or leasing to the town the small parcel owned by Cape Cod Company at Menemsha between two town sections of beach, protecting the tiger beetle in area between the forward dune and the water, covenant for limited access (EF) use of old road for a few houses by many would be destructive to environment. C. Murphy pointed out that Quenames and Quansoo beaches previously crowded with vehicles now seldom had them; groups involved regulated themselves.

A. Dietz pointed out that there should be septic considerations for the paired houses. The Board corrected the view that systems could be shared.

TAB 7

1/28/51

Cape Cod

remain in the future. Mr. Racicot stated that the owners of lots 12 and 15 do not want to relinquish the use of the inner road as access. Great Island will have only the one residence. Guest houses or secondary dwellings are included in the building envelopes of lots 12 through 15. The Board is still concerned about the size of the second structure, Partners still want larger than 800 square feet. Discussed whether or not to send it to the Martha's Vineyard Commission as is. The Board decided it would be better to send it in completed form. The Board will need the EIR and the agreement of the Partners to the requests of the Planning Board. It was asked that a detailed drawing be made of the area for the beach access, not necessary for a survey map, for discussion. A motion was made and seconded to approve the verbal request for a 60 day extension. The Board voted all in favor. The request is expected in writing next week.

2/4/51

Cape Cod Co. - Form C, discussion

Mr. Racicot presented the Board with the Draft Environmental Impact Report. Mr. Meisner discussed the issues still at question with the Board. The access to the beach will be primarily through the spruce gate and use of the road on Squibnocket Pond will not be encouraged. Lots 12 and 15 will continue to use the Round Pond road as access. The road improvements will be on the road to the Squibnocket Association road, not on the road along Squibnocket Pond. Partners will park further away from the dunes. Mr. Murphy spoke of the role of the Planning Board ending when the plans are finalized. Mr. P. Hornblower indicated his feelings were that enforcement could be accomplished through the covenants. Impact on the wildlife in the area was mentioned, and the fact that impacts have been minimal in the past. Amount of usage of the Squibnocket Pond road is still a concern with the Board. Mr. Sinnett suggested the Cape Cod Co. have in writing an agreement with the Squibnocket Association regarding the beach access road. The question of youth lots came up. It was indicated that included in the covenant will be a provision to provide the Town, before the release of lots, with two youth lots, one Town and one Regional Housing Authority. A comment was made by the Board regarding giving the Town more beach. A question was asked by the Cape Cod Co. concerning the Town's willingness to assist in erosion control in exchange for more beach access, perhaps? The Board indicated that was a good question to ask the Board of Selectmen and the Conservation Commission. The Partners were concerned about the parking lot being abused and the easement for emergency vehicles to the Squibnocket Association beach. It was suggested giving the Town more land in exchange for designating parking spots and policing same. The Board would like the Cape Cod Co. to consider a fixed area for parking and a 'boardwalk' to their beach. The Partners would consider the suggestion of a Menemsha beach exchange or inclusion to the Town beach. Discussed how to write a management plan and covenants using a 'worse-case' scenario. The Board requires at least a final draft form of everything before it will consider sending it on to the Martha's Vineyard Commission.

3/11/51

Cape Cod Co. - Form C Subdivision Plan, continued

Mr. Racicot presented the Board with the updated draft Environmental Impact Report with indicator maps. The following items have been agreed upon by the applicants: a road agreement, for maintenance; mowing in the rare species areas; building envelopes of 1 acre; no pesticide use; lots 1 - 11 & 16 will have one house, lots 12 - 15 will have two houses; an architectural review committee will be formed; youth lots (affordable housing) off-site, one for Chilmark and one for Housing Authority or other; the archeological sites will be preserved. No agreement yet concerning the eastern beach,

TAB 8

566493

*Replace plan.
9/12/91 amended Dec.*

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS 02557
(508) 693-3453
FAX (508) 693-7894

DATE July 25, 1991
Amended: September 12, 1991

TO: Planning Board, Town of Chilmark

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact
RE: Subdivision of land

APPLICANT: Cape Cod Company, Squibnocket Ridge
c/o Vineyard Land Foundation - Mark Racicot
Box 319X RFD
Vineyard Haven, MA 02568

DECISION OF THE MARTHA'S VINEYARD COMMISSION
AS AMENDED - SEPTEMBER 12, 1991

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application of Cape Cod Company, Squibnocket Ridge, c/o Vineyard Land Foundation - Mark Racicot, Box 319X, RFD, Vineyard Haven, MA for subdivision of land as shown on the plans entitled: "Squibnocket Ridge", "Plan of Land in Chilmark, MA, surveyed for the Cape Cod Company, c/o Vineyard Open Land Foundation, by the Vineyard Land Surveying, Box 1548, Vineyard Haven, MA", dated January 22, 1991, consisting of six (6) sheets; Vegetation Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated February 1, 1990, consisting of one (1) sheet; Soils Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated March 4, 1991, consisting of one (1) sheet; Base Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated March 4, 1991, consisting of one (1) sheet; Drainage and Watershed Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated February

owners; discussion of abutting properties and their uses; and hopes to allow continued access for Christmas Bird Count.

When there were no further questions, Mr. Schweikert called for Town Board testimony.

Russell Walton, Chilmark Planning Board and Conservation Officer, testified that he had confirmed the wetlands locations and that the Town has worked with the applicants on this proposal. He stated that some think it is a reasonable density for the area and some would just rather see nothing there at all. I am pleased to see that Great Island has no new house sites proposed. He discussed the fact that some Planning Board members were disturbed by the long barrier beach access, he stated that it may be inaccessible during major storms. In closing he stated that he thinks they have done a very good job working within the limits that were available.

Ms. Bryant asked Mr. Walton how the Planning Board feels about the affordable housing proposals? Mr. Walton replied that they want at least 1 Chilmark Youth Lot. The proposal for the Menemsha land was discussed but not as a complete replacement for affordable housing lots.

There was some discussion of possible waterfowl management plans.

Edmund Knapp, Chilmark Conservation Commission, testified that it is their opinion that they have done an excellent job with this plan, it is a nice plan that minimizes the impact of the division of this property.

Mr. Walton testified again as a member of the Soil Conservation District by saying that he is glad to see more agricultural use planned for this area.

James Hornblower, one of the owners of the property, testified that it is comforting to hear all the good comments. This was a very in-depth study and I'd like to recognize the work of VOLF and the Planning Board. I look forward to approval at your level.

Carol Knapp, testified as a member of the Garden Club, by

stating that if everyone did as in-depth a study as this it would be wonderful for the Vineyard. She discussed the inventory work done by the Garden Club and stated that the plan deserves the Commission's consideration.

John Hornblower, partial owner, testified that the depth and thoughtfulness of the application exemplifies the way the feel about this land.

When there was no further testimony in favor of the proposal, Mr. Schweikert called for testimony opposed. There was none. Mr. Schweikert called for any further questions.

Commissioners questioned including discussion of a hydrant lot, the applicant stated that the Fire Chief didn't request one feeling he had adequate access to water on-site; swan control; traffic, including trips per day, no further subdivision, Squibnocket Beach Club generations, and access roads; agricultural use and potential for increase; allowance of farm buildings and applicant's intent to restore existing barn; intent of applicants to continue agricultural use including bee keeping.

When there was no further testimony or questions, the hearing was closed at 9:35 p.m. with the record remaining open for one week for written testimony.

Therefore, in light of the evidence presented in the course of the public hearing and the materials received into the record, the Commission finds that the probable benefits from this proposed development will exceed its probable detriments, in light of the conditions and limitations specified below.

FINDINGS AND CONDITIONS

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

- A. The Commission finds that the probable benefits of the proposed development, subject to the conditions set forth herein, will exceed the probable detriments of

the proposal in light of the considerations set forth in Section 15 of the Act.

- B. The Commission finds that the proposed development will not interfere substantially or unreasonably with the achievement of the objectives of any general plan of the Town of Tisbury or any general plan of the County of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plans, and subject to the conditions set forth herein, will be consistent with local development ordinances and by-laws.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or development occurring in alternative locations.

Pursuant to Section 15b of the Act, the Commission has considered whether the development in the manner proposed will have a more favorable or adverse impact appropriate on the environment in comparison to alternative manners of development and in light of the considerations discussed in the record and within the Decision, the Commission sets the following conditions:

Alternate A. THE APPLICANT SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND AN APPROVED SEPTIC SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE TOWN OF CHILMARK TO BE USED AS A PART OF THE TOWN RESIDENT HOMESITE PROGRAM AND IN ADDITION, SHALL PROVIDE THE SUM OF TWO HUNDRED THOUSAND DOLLARS (\$200,000) PAYABLE OVER A TEN (10) YEAR PERIOD TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR THE PURPOSES OF PROVIDING AFFORDABLE HOUSING IN THE COUNTY OF DUKES COUNTY.

338^{SEC AM}

Alternate B. THE APPLICANT SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND AN APPROVED SEPTIC

SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE TOWN OF CHILMARK TO BE USED AS A PART OF THE TOWN RESIDENT HOMESITE PROGRAM AND IN ADDITION, SHALL OFFER TO THE TOWN OF CHILMARK THE LOT IN MENEMSHA KNOWN AS THE "BEACH LOT" FOR THE PURPOSES OF PUBLIC BEACH ACCESS AND USES AND IN ADDITION SHALL PROVIDE THE SUM OF ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) PAYABLE OVER A TEN (10) YEAR PERIOD TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR THE PURPOSES OF PROVIDING AFFORDABLE HOUSING IN THE COUNTY OF DUKES COUNTY.

See 338 AM

ALTERNATE C. THE APPLICANT SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND A SEPTIC SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE TOWN OF CHILMARK TO BE USED AS PART OF THE TOWN RESIDENT HOMESITE PROGRAM AND, IN ADDITION, SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND SEPTIC SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR PURPOSES OF PROVIDING AFFORDABLE HOUSING IN THE COUNTY OF DUKES COUNTY, AND IN ADDITION, SHALL OFFER TO THE TOWN OF CHILMARK THE LOT IN MENEMSHA KNOWN AS THE "BEACH LOT" FOR THE PURPOSES OF PUBLIC BEACH ACCESS AND USES

and Further,

SHOULD THE TOWN OF CHILMARK NOT ACCEPT THE LOT IN MENEMSHA KNOWN AS THE "BEACH LOT" WITHIN A PERIOD OF TWO (2) YEARS FROM THE DATE OF THIS DECISION, THEN THE PROVISIONS OF ALTERNATIVE A SHALL APPLY.

and Further,

THE APPLICANT SHALL COMPLY IN FULL WITH THE

TERMS OF A PROGRAM TO BE DESIGNED AND ADMINISTERED BY THE MASSACHUSETTS HISTORICAL COMMISSION FOR THE PURPOSE OF PRESERVATION AND PROTECTION OF AREAS WHICH THE MASSACHUSETTS HISTORICAL COMMISSION DEEMS TO BE OF ARCHEOLOGICAL CONCERN WITHIN THE PROPOSED DEVELOPMENT AND FURTHER, THE APPLICANT SHALL HAVE A QUALIFIED PERSON, DESIGNATED BY THE MASSACHUSETTS HISTORICAL COMMISSION, ON-SITE AT THE TIME OF THE START-UP OF ANY EXCAVATIONS.

and Further,

THE COMMISSION ACCEPTS THE APPLICANT'S PROPOSAL TO PROVIDE, VIA COVENANT, PROTECTION FOR ALL KNOWN ARCHEOLOGICAL SITES AS WELL AS FOR ANY NEWLY DISCOVERED ARCHEOLOGICAL SITES.

and Further,

THE APPLICANT SHALL COVENANT THAT THE SEPTIC TANKS SHALL BE CLEANED AND PUMPED OUT AT THREE (3) YEAR INTERVALS TO ENSURE PROPER FUNCTIONING OF THOSE SYSTEMS.

and Further,

THAT SHOULD A PROGRAM OF FARM FIELD REHABILITATION BE UNDERTAKEN, THEN SAID REHABILITATION SHALL BE BASED ON SOIL CONSERVATION SERVICE AND/OR COUNTY EXTENSION SERVICE PLANS AND ADVISE AND THAT ALL GROUND DISTURBANCE OF GREATER THAN ONE (1) ACRE SHALL HAVE AN EROSION CONTROL PLAN DEVELOPED AND SUBMITTED TO THE CHILMARK PLANNING BOARD.

and Further,

THE APPLICANT SHALL PROVIDE INFORMATION REGARDING THE SEASONAL GROUNDWATER LEVEL IN THE AREAS OF THE PROPOSED BACKING FIELDS IN A FORM SATISFACTORY TO THE CHILMARK BOARD OF

HEALTH TO INDICATE THAT WATER LEVELS MEET THE REQUIREMENTS OF THE SQUIBNOCKET DISTRICT REGULATIONS.

and Further,

THE APPLICANT SHALL WORK COOPERATIVELY WITH THE TOWN OF CHILMARK ON ANY SHORELINE EROSION CONTROL MEASURES IN THE VICINITY OF THE TOWN BEACH IN ORDER TO MINIMIZE OFF-SITE SEDIMENTATION, EROSION OR ANY CHANGES IN WAVE OR CURRENT PATTERNS.

and Further,

THE APPLICANT SHALL DEVELOP A MAINTENANCE PLAN OR SCHEDULE IN CONJUNCTION WITH THE MASSACHUSETTS NATURAL HERITAGE PROGRAM FOR THE PROPOSED RARE PLANT ZONES AND INDIGENOUS ANIMAL HABITATS AND SAID MAINTENANCE SCHEDULE SHALL BE FILED WITH THE CHILMARK CONSERVATION COMMISSION.

and Further,

THE APPLICANT SHALL LIMIT THE USE OF THE BEACH IN THE AREA OF THE PROPOSAL BY 4-WHEEL DRIVE VEHICLES TO PROTECT THE ENDANGERED SPECIES IN THE AREA.

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the application being before it at this time.

The Applicant must, consistent with this Decision, apply to appropriate Town of Chilmark Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: July 25, 1991, as amended September 12, 1991.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

5661504

The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited therein.

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

Jane A. Greene
Jane A. Greene, Chairman

7/29/91
Date

Norman Friedman
Notary

7/29/91
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 10, 1997

Oct 16 91
33 P
544 493

TAB 9

9/30/91

Cape Cod

Cape Cod Co. - the Board discussed the concern regarding safety in storm events and future of access. Questioned the loss of access in some years, cost of bridge. It was suggested that it be noted in the covenants the potential danger of loss of access. It was suggested to ask the Woods Hole Oceanographic Institution for specific information regarding the sea level rise, etc. The Board is also concerned about the obligation placed on the Town Boards to allow reconstruction of access. It was also questioned if the Town would maintain the beach/parking lot area. Mr. Walton will contact Arthur Gaines, of the Woods Hole Oceanographic Institution, for the life expectancy of the access.

10/7/91

Cape Cod Co. - discussion of road approval

Mr. Racicot explained to the Board the problems arising with the signing of the covenants. He apologized for not having copies for the Board to review as originally planned. He also indicated he has not received a copy of the amended decision by the Martha's Vineyard Commission. When called, the MVC indicated it would be sent out shortly. Mr. Racicot was hoping for the same approval with the Board regarding the choice of options (regarding affordable housing) left to the applicants. The Board indicated they would prefer a single request from the applicant, or to narrow it down to two choices, either Alternate B or C. The Board also stated that it will need a final package to vote on with all details worked out. Mr. Racicot indicated that they would be willing to give another 30 day extension. Mr. Murphy asked about the resolution of the Great Island question of exchanging building lots (from Island to inner lot). Mr. Racicot indicated that an internal conflict will prohibit working out an agreement now. He feels the scenario will be for the owner of the inner lots and the Island to come back to the Board at a later time and ask to remove the house from the Island and place it on one of the inner lots they own. The Board indicated they would encourage that action. Mr. Murphy also asked about the conservation lots. Mr. Racicot indicated they had been combined with other lots and presented with the total plan in the non-buildable lots. It was suggested that the covenants should include a clear statement as to where the access points to the pond are. The Board asked if there was any protection for the owners when there may be a major expense for the access road. The Board is concerned about extensive damage to the road causing major repairs. If hit at one time, and unplanned for, some owners may not be able to afford a large loan to pay their share. The covenants do have a provision to cap the amount of annual assessment except in case of emergency repairs. It was suggested that a fund be created for emergencies. The Board suggested using the small cove past Great Island for boat access and storage. The Board would like the covenants to address the beach access questions. It was suggested that the Board may need to take a vote on the use of the perimeter access road. The Board stated they needed to have the covenants to review before further comment can be made. Discussed details of the road construction and it was suggested to review the curves for the correct tilt. The plan is to use the top soil removed to fill in the old road as specified on the plan. The plan calls for a hammerhead at end of the new road because of wetlands on either side. A site inspection was set up for Thursday, October 10th at 10 am. Mr. Racicot reviewed the requests for waivers, i.e. crowning roads and using rap material. The Board had no problem with the requests, but would like to reserve voting until all material is submitted. Mr. Farrow commented on the perimeter road. It is acceptable for the Planning Board to have a basis for determining limitation of use: a standard by which the Town, following advice from the Squibnocket Pond District Advisory Committee, can require further limitation or discontinuance of its use by vehicular traffic, if the Town determines there are deteriorating effects to the Pond or the riparian ecology as a result of vehicular use. He is not making a motion at this time, but a recommendation for the Board to review before final action on this subdivision. The Squibnocket Pond District Advisory Committee will act as monitoring agency for road use, condition of and adverse effects on the ecology of the area. The Board thought the possible loss of the main subdivision access road to the property should be included in the covenants. The Board discussed its concerns about emergency access and having an evacuation plan.

TAB 10

10/7/91

Cape Cod

Cape Cod Co. - road approval and covenant review

Mr. Racicot submitted a revised set of maps, a new Road Specifications application and a request for an extension of time to December 28, 1991. A motion was made and seconded to approve the request for an extension of time. The Board voted all in favor. Mr. Racicot discussed the road construction schedule and the need to follow it closely. Discussed what was resolved on the site visit for the road. Mr. Sinnett would prefer to leave the vegetation and not remove an already established base. The Board discussed the amended decision by the Martha's Vineyard Commission. The Board stated they would prefer to have a decision from the Partners on one of the options, and the Board would prefer option B or C. Mr. Meisner indicated that the Partners would like to have all options open as the final deposition has not been established. Discussed the need to protect the Town for the use of the Menemsha Beach lot by asking for options B or C. Mr. Racicot indicated that Grass Island is included in the covenant. The boat house might be renovated with the access point below Paul's barn. The Board discussed other areas for boat access. A committee was developed to review the covenants: Mr. Walton, Mr. Farrow and Mr. Smith. The committee requested at least two weeks for review. The next meeting will be November 4th at 5:00 pm.

11/14/91

Cape Cod Co. - covenant review and road approval application

The Board discussed with Mr. Racicot and Mr. Meisner the latest washout of the main access road. The Board agreed they need to formulate criteria to give to Cape Cod Co. to create an access road. The Board also needs to work with the Conservation Commission and the Board of Selectmen on what should happen. It was questioned who controls the state and health of the Pond. Mr. Racicot discussed going to the Conservation Commission to meet with the Board of Selectmen and the Planning Board to have the Town decide what to do with the Pond. The owners having responsibility for road maintenance would relieve the Town of liability. Mr. Meisner read wording to release Town from liability for the main access road that he will include with the plan. Covenants will be reviewed further by the subcommittee and the Board and then presented to Mr. Meisner. Mr. Racicot presented the Board with an alternative to option "A" of the Martha's Vineyard Commission decision. It adds permission for the Town to use the Menemsha Beach in exchange for access across Town property to build a boat house on their lot. The next meeting is scheduled for November 25, 1991 at 5:00 pm.

11/18/91

Cape Cod Co. - covenant review

The Board reviewed the changes suggested by the covenant review committee. Discussed the main access road and the problems the Board has approving the subdivision without road information. The Board discussed questions for Mark Racicot, representative, and agreed that a letter should be sent requesting the information.

11/25/91

Cape Cod Co. - discussion, covenant review

Mr. Racicot indicated he received the memo requesting a comprehensive road map for review of the road system and other questions. The Board discussed the use of the road around Round Pond. They indicated that the report from the Trustees of Reservations discouraged use of this road. The Board thought it would be preferable for lots 12 & 15 to use the paved road leading to the Squibnocket Associates beach lot. The road around Round Pond now goes through wildlife habitat which can be protected by closing the road. The Board is concerned about this area and hopes the Partners will choose to close the road. Discussed proposals for main access road restoration. Discussed the length of time that covenants could run. Mr. Meisner will include the wording "to endure in perpetuity" to make the covenants forever binding. Review of the suggested covenant changes began when the Board clarified for Mr. Racicot and Mr. Meisner that approval of the covenants did not mean approval of the subdivision. The Board discussed the 'gray' areas of approval for variances which begin to exceed the Board's control. They indicated the need to provide safe and convenient access as mandated by the Planning Board Rules and Regulations. Mr. Racicot discussed other areas where the Planning Board approved roads which are inaccessible for long periods of time.

11/25/91

Cape Cod

The Board asked that Mr. Racicot look further into the future where there might not be any beach left to place a road onto. Mr. Racicot thought that the road could be approved for this subdivision only and Mr. Meisner thought the indemnification wording would hold in court. The Board continued to discuss the suggested changes in the covenants. The Board's participation in the amendment procedure can be either a separate document or part of the covenants. The Board indicated they want amendment participation only; need statement 'no further subdivision of buildable lots'; Form A lot line changes are acceptable. Mr. Sinnett requested Mr. Racicot to review road plans with Stanley Mercer, Assistant Fire Chief, to provide the appropriate access to water for fire department vehicles. Mention was made of a contribution to the Department for a fire truck. Mr. Meisner will rewrite the covenants and present them to the Partners.

12/2/91

Cape Cod Co. - Form C discussion, covenant review

The Board reviewed the response from Thomas Bracken, Board Counsel, regarding the main access road. Mr. Bracken indicates in his letter to the Board that it would not be in the interest of the Board to approve this subdivision with the main access road in its present condition. Mr. Meisner indicated he had spoken with Mr. Bracken, who thought it could be worked out to everyone's satisfaction. Mr. Meisner will talk further with Mr. Bracken and he will ask that a letter be forwarded to the Board reflecting such changes as between the letter received and the report from Mr. Meisner. Mr. Racicot indicated that he will have a file in place with an acceptable maintenance program. The Board discussed DEP's suggestion of dune and beach nourishment as a means to maintain the road. The Board suggested tabling the discussion until a reply from Mr. Bracken is received, and they asked that the proposed road plan be added to the road application. Board member asked if the Board could approve the road as is since it has been there for many years? The Board replied that it was reluctant to approve the road without some work done on it, either through the local Conservation Commission or DEP. Discussed how each member felt regarding the approval of the subdivision - general - if legal, acceptable (meaning Town not liable); would like to see the least amount of environmental damage; as long as the owners are quite aware of the loss of access; should start the DEP file process immediately; should create a plan for when the road is washed out or gone - what will the owners do? The Board asked to incorporate into the civil defense plan an evacuation plan for the Squibnocket subdivision. Mr. Racicot will need information from the Town to proceed on that suggestion. The Board discussed the Round Pond Road. Mr. Racicot thought as the road has always been there, it should remain and it is considered of value to the property. It also serves as a quick route for emergency vehicles. The intent of the owners is to maintain as a way only, not a road. The Partners indicated that they would agree to a locked gate between lots 12 & 15, located at culvert, to prohibit or limit its use. It was suggested to word covenant such that a review can be made in the future to determine if the road has been detrimental to the environment, then can notify the owners and inform them to correct the problem. Discussed the roads to the beach and to limit uses of them. It was suggested to review each year the build out and functioning of the covenants and conditions of the roads. It was also suggested to have a covenant on the deeds for lots 12 & 15 to maintain locked gates. It was asked if the roads are allowed by the Squibnocket regulations, reply was that existing roads can have maintenance and be used as access. Board member stated that the automobile was too accommodated by allowing the roads to be used. Mr. Racicot indicated that the covenants do have wording to discourage use of perimeter road, only lots 12 & 15 to use Round Pond Road, the improvement of the road to the South for the Squibnocket Association road and the shorter walk from this road to the beach will encourage use of this road, the closure of the perimeter road at the grassy parking area and the long walk to the beach should discourage use of this road.

12/9/91

Cape Cod Co., Form C review - the Board discussed the main road access. The Board discussed questions regarding this filing to be sent to Thomas Bracken. A motion was made and seconded to send Mr. Bracken the questions discussed. The Board voted all in favor.

TAB 11

1/13/92

Cape Cod

Cape Cod Co. - Discussed concerns: need documentation for the warrant article; the applicant needs to decide on Alternative B or C; the Board would like a clear description of the beach lot for the Town Meeting; need in writing that they will give the lots to the Town, when it is approved; legal wording for main access road in writing. Suggested to ask if the Board can review use of the road if it becomes a problem. Conditions for approval suggested: plan as approved and presented; covenants as agreed to; perimeter road may only be maintained as a grassed way; legal wording for liability on every deed regarding the main access road; sign at entrance to road indicating 'use at own risk'; use of natural and native seed on sides of roads; conveyance of land to Town in writing; the Board is waiving adequate access (as per Section 81-R) as it is a unique location, only access, has been used for hundreds of years and can be reconstructed (only barrier beach lot which has the main access road); change covenant section 3(m)1 to or including Town Bylaw Section 12.7(H). Discussed continued testing of the area and what is needed, who should do it. Suggested contacting Arthur Gaines, Woods Hole Oceanographic Institution, for information and including the Blacksmith Valley Association.

1/22/92

Cape Cod Co. - The Board discussed further conditions to the approval of the subdivision. It was suggested to send a letter to Mr. Racicot indicating that any arrangement addressing Alternate B or C as specified by the Martha's Vineyard Commission must be decided and completed and all conditions are met before any lots will be released. Other conditions are: copies of all notations for the linen (i.e. no guest houses, road shown is for the lots on plan only); erect and maintain locked gates on the perimeter road; bring the road up to Town specs; no lots will be released until all roads are complete and any arrangement addressing Alt B or C must be decided upon and completed and all conditions are met. Both Mr. Murphy and Mr. Smith indicated that they would not be at the next meeting when the vote was to take place. The Board decided it would be better to vote today, if it were ready. A motion was made and seconded to approve the Cape Cod Co. subdivision plan with the conditions as discussed. The Board voted 4 in favor and 1 opposed (Sinnett).

1/27/92

Cape Cod Co. - Form C application approval

The Board discussed the conditions for approval. They are concerned about upgrading the road after each construction process. Mr. Meisner indicated that it is covered in the covenants. It was suggested that a copy of the plan for submittal be reviewed by the Board prior to signing. The Board asked for 2 signed copies of the covenants, one copy for the Board, and a copy of the final plan for the Board to sign. The Board reviewed the conditions for approval and signed the Certificate of Approval.

3/2/92

Cape Cod Co. - review of documents

The Board reviewed final versions of the documentation submitted by the applicant. The Board would like to discuss having Beach Grass Island and the parking (easement) area on lot 14 shown on the plan. A Form F filing is not necessary as the covenants submitted are adequate.

3/19/92

Cape Cod Co. - review of subdivision documentation

The Board reviewed the final versions of the subdivision documents and linens and signed both the covenant dated January 15, 1992 and the linens dated January 22, 1991, revised February 7, 1992.

3/20/92

The Board discussed the plans before them and Mr. Provost explained the Land Court procedure for filing subdivision plans. The Board signed the plans and requested a copy of the registered plans. Mr. Provost agreed to send them.

TAB 12

LAND COURT, BOSTON, The land herein described will be shown on our approved plan to follow as

091 14

REGISTERED LAND
DOCUMENT NO. 31293

January 15, 1992

AUG 26 1992

Plan 12189 B Lot S 1-27

(EXAMINED AS TO DESCRIPTION ONLY)

Louis A. Moore, Engineer

LM

CAPE COD COMPANY

SQUIBNOCKET RIDGE

DECLARATION OF PROTECTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS that the CAPE COD COMPANY, a Massachusetts Limited Partnership, owner of a certain parcel of land in Chilmark, County of Dukes County, Massachusetts, shown on a plan entitled "Squibnocket Ridge, Plan of Land in Chilmark, Mass., surveyed for the Cape Cod Company, January 22, 1991, Scale 1"=100', by Vineyard Land Surveying, Inc., Reg'd Land Surveyors, West Tisbury, MA," to be filed herewith in the Dukes Registry District, in consideration of the premises and the covenants hereinafter set forth, declare as follows:

I. STATEMENT OF PURPOSES

It is the intent of the Cape Cod Company to ensure that the structures and activities of man shall enhance the dominant open, natural, scenic and water resource features of the above-described land; to maintain open spaces; to preserve and improve views; to preserve the rural character of the landscape; and to provide for the proper use, management and maintenance of the roads, beaches and common lands on the above-described property.

II. CERTAIN DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

- a. "Architectural Review Committee" (ARC) shall mean a duly designated advisory committee of the Squibnocket Farm Association, hereinafter provided for.
- b. "Declaration" shall mean this declaration of protective covenants.
- c. "Association" shall mean Squibnocket Farm Association.
- d. "Lot or Parcel" shall mean and refer to any lot of land shown on said Plan. "Residential lot" shall mean any lot numbered 1 through 15, and Lot 28 on said plan. "Non-residential lot" shall mean any lot numbered 16 through 27, and 29-30 on said plan; included herein shall be the area designated "Beach Grass Island" (see Parcel 42 on Chilmark Assessors' Map 35).
- e. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot situated on the property, but shall not refer to a mortgagee having a mortgage secured by any lot unless such mortgagee has acquired title pursuant to foreclosure or a

proceeding in lieu of foreclosure.

f. "Plan" shall mean the plan of land entitled "Squibnocket Ridge, Plan of Land in Chilmark, Mass., Surveyed for the Cape Cod Company, January 22, 1991, Scale 1" = 100' by Vineyard Land Surveying, Inc. Reg'd Land Surveyors, West Tisbury, Mass."

g. "Building Envelope" shall mean the area designated on each residential lot shown on the Plan. All residential and appurtenant structures, as well as improved vehicular parking areas and lawns, shall be contained within the approximate boundaries of the building envelope, provided, however, that the area encompassed therein shall not be increased in size, and that no more than 10% of a building envelope may be relocated to change the shape of the envelope to accommodate a particular building and landscape design, and further provided that the building envelope shall not encroach upon higher contour elevations.

III. PROTECTIVE COVENANTS

a. Applicability. This Declaration and these covenants shall be binding on the Declarant, its successors in interest, and assigns, including all Owners. The covenants imposed herein shall run in perpetuity with the land shown on said plan and

shall operate as restrictions upon said land and shall be for the mutual benefit of the owners of the lots shown on said plan. A duly executed copy hereof shall be recorded with said plan. Amendment of this provision shall require Chilmark Planning Board approval.

b. The Association. Upon the distribution of lots in liquidation of the Cape Cod Company, there shall be created the "Squibnocket Farm Association", the members of which shall be all owners of residential lots. Within said Association Lots 1-11 and 28 shall have one vote each and Lots 12-15 shall have two votes each. No other lots shall have a vote. The Association thereafter may be organized as a Massachusetts corporation, in which event it shall govern its affairs as provided in its Articles of Organization and Bylaws. Unless otherwise herein provided, the Association shall act on a majority vote of its members.

c. Assessments and Lien for Non-payment. The Declarant hereby covenants for each Lot owned by it, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant, to pay to the Association after the liquidation of the Cape Cod Company: (1) annual assessments or charges not to exceed \$1,000 per vote per annum (adjusted for inflation in future years by application of the Consumer Price

Index, so called) unless by 2/3 affirmative vote of the Association and (2) special assessments for capital improvements, which shall require a 2/3 affirmative vote of the Association (except in the case of such critical improvements as may be necessary to ensure access to the land shown on said plan), such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof (including attorneys' fees) as hereinafter provided, shall be a charge on the Property and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

d. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners and visitors to the Property and, in particular, for the improvement and maintenance related to the use and enjoyment of the roads and those portions of the subdivision used for common purposes, including, but not limited to, the payment of taxes and liability insurance thereon, maintenance of the roads, paths, and equipment, and for the cost of labor, equipment, materials, and the management and supervision thereof. Taxes and other costs

related to any parcel of non-residential land not held in common by all partners shall be the responsibility only of those lot owners having an interest in the said non-residential lot.

e. Amount and Time of Payment of Annual Assessments. The amount of each annual assessment and the time at which the same shall be payable shall be determined by the Association.

f. Certificate of No Lien. The Association shall, upon demand, at any time furnish to any owner a certificate in form recordable in the registry of deeds, setting forth the amount and due date of said assessment and whether the same has been paid. Such certificate may be signed by an officer designated by the Association, and the signature of such shall be conclusive of their authority, and shall be conclusive evidence of payment of any assessment therein stated to have been paid and, except to the extent disputed by such Owner, of the amount of any assessment therein stated to be unpaid.

g. Effect of Non-payment of Assessment: The Personal Obligation; The Lien; Remedies of Association. If any assessment is not paid on the date when due, determined as aforesaid and in accordance with any Articles of Organization or Bylaws of the Association, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing



lien on the Lot with respect to which the assessment was levied which shall bind such Lot in the hands of the then Owner, his or her heirs, devisees, and personal representatives and assigns. Said assessment shall also be the personal obligation of the Owner.

If the assessment is not paid within ninety (90) days after the date upon which the same shall be payable, the assessment shall bear interest from such date at the rate of eight (8%) per cent per annum, and the Association may bring an action at law against the Owner liable therefor, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action.

h. Review by Architectural Review Committee. No building, fence, wall or other structure or improvement of any kind or nature shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until thirty days after the plans and specifications showing the nature, kind, shape, height, materials, and location of the same, as well as plans for landscaping, the cutting and clearing of vegetation to establish fields, the location of driveways, the height and location of antenna(e) for radio or television, and the location of water and

sewerage facilities shall have been submitted for review by the Architectural Review Committee (ARC) and by the town's Squibnocket Pond District Advisory Committee, for any action requiring review by said Committee. Maintenance of established improvements, fields and the like shall not require further review, nor shall minor changes to existing landscaping require review.

i. Review Guidelines. In making its recommendations, the ARC shall consider the purposes of these covenants, particularly the preservation of land in its natural state to the maximum extent possible, and to the extent land is developed, that such development be done unobtrusively, and in a manner which accents, and the colors and materials of which blend into, the desired rural environment.

j. Owner's Duty to Maintain. Every Lot and any structure thereon shall be maintained in a neat and sightly condition with respect to adjacent lots and ways.

k. Use of Residential Lots.

(1) Except as hereinafter provided, the Residential Lots in this subdivision shall be used for single family residential purposes only (including accessory uses allowed by zoning), unless the Association specifically approves some other

use which may be permissible under law. Lots 1-11 and Lot 28 shall not be allowed more than one residential structure for such purpose. Lots 12-15 which shall not be re-subdivided shall not be allowed more than two residential structures each for such purpose. It is the intent of this provision that no additional buildable lots will be created. Provided however, that the foregoing provisions shall not be deemed to prohibit any re-subdivision of the land shown on said plan which (a) adjusts lot lines between any lots, or (b) provides for the relocation of a residential lot, without increasing the number of residential lots shown on said plan, or (c) is for the purpose of adding land to a non-residential lot by decreasing the acreage of a residential lot. Amendment of this provision shall require Chilmark Planning Board approval.

(2) No building shall be constructed upon any Lot except in the building envelope designated on the Plan. Agricultural, garage and other accessory buildings may be physically separate from the residential building on a Lot but shall be constructed or maintained only within the building envelope. A building envelope may be changed only with the approval of the Association and the Chilmark Planning Board and subject to requirements of law.

These building envelopes to contain the house, accessory buildings, lawn, parking area and the like are intended to decrease the area permanently disturbed by development. Areas

outside of building envelopes may be restored in character with the surrounding land or maintained as tall grassland or meadows (maintained by occasional mowing) to establish or maintain views as well as to replace lost open field habitat. These areas of meadow may include septic systems, wells, water pipelines and similar subsurface improvements that are appurtenant to the development. Agricultural and recreational uses will also be allowed outside of the designated building envelope, subject to requirements of law and these covenants.

(3) Height of structures on all lots shall be subject to the Squibnocket Pond Bylaw Section 12.7(B). In no event shall a structure on a Lot, except chimneys and antennae servicing living units, exceed 24 feet in height measured from the mean of the contiguous (adjacent) ground level.

(4) No more than five motor vehicle parking spaces per residential unit shall be allowed on each Lot unless the same shall be screened from any point outside the boundaries of the Lot. This provision shall not be construed to prohibit occasional visitors from parking on Lots for brief periods of time (e.g. during social events). Parking areas shall not be paved.

(5) No unregistered vehicles, equipment or material shall be placed or stored on any Lot except:

(a) Equipment or material for use in connection with the construction or maintenance of a living unit or amenities appurtenant thereto and permitted hereunder upon a Lot, except that construction materials and/or vehicles shall not be stored on a lot for longer than eighteen (18) months at a time;

(b) Unregistered vehicles, equipment and materials not visible from any point outside the boundaries of the Lot;

(c) Equipment and machinery which is part of ongoing farming activities; and

(6) No mobile home, either with or without wheels, shall be permitted upon any Lot except for the temporary installation by the owner of a Lot or his contractors, of trailers for use as field offices or tool sheds and the said trailers shall not be kept on the lot for longer than eighteen (18) months at a time.

No commercial vehicle larger than 3/4 ton shall be placed or stored on any Lot for a period of more than forty-eight (48) consecutive hours, unless it is stored in a garage. (This exclusion shall not apply to trucks, trailers, and equipment which are part of ongoing farming activities; or ongoing construction projects).

(7) Any exterior lighting installed on any Lot shall be installed and operated in such manner as to prevent offensive glare or illumination beyond the boundary lines of the Lot.

(8) Except as authorized by the Association, no signs shall be permitted on any Lot except for one sign not over 1-1/2 square feet in area, indicating, at the Owner's option, the Owner's name, occupation and/or the name and street address of the Lot.

(9) All garbage, trash and rubbish placed outdoors shall be kept in covered containers protected from animals and screened from view outside the boundaries of the Lot.

(10) The Rare Plant Zones designated by the easement zones on Lots 12, 13, and 10 shall be mowed annually by the Association to maintain and expand the populations of rare plants living in these areas. Any rare plants which are found on the subdivision outside of these two rare plant management zones may be transplanted to these rare plant management zones or other suitable habitat. The implementation of the foregoing shall be in consultation with the Massachusetts Natural Heritage and Endangered Species Program and the Chilmark Conservation Commission. Amendment of this provision shall require Chilmark Planning Board approval and the approval of the Chilmark Conservation Commission.

1. Use of Non-Residential Lots.

(1) Any lands shown on the said plan designated as non-residential lots, or hereafter designated as common lands, or hereafter added to these areas, shall be managed by the owner or owners of such area. Certain of these areas shall be managed for agricultural purposes, wildlife and/or rare plant management, scenic view preservation, and other similar uses allowed by the Association and the Squibnocket Pond District Regulations. It is specifically intended that Lots 17 and 25 will be managed for agricultural purposes, and that non-residential Lots 23 and 20 shall be managed as wildlife habitat areas. Any structures to be built appurtenant to said uses shall require a 2/3 affirmative vote of the Association and shall comply with requirements of law. Any significant changes to vegetation patterns on the non-residential lots shall require a 2/3 affirmative vote of the Association and shall comply with all other requirements of law. If said lots are proposed for use other than those set forth herein, Chilmark Planning Board approval shall be required.

(2) The boathouse on Lot 18 and the sheep barn on Lot 27 may both be rebuilt, subject to any legal requirements and the approval of the Association.

(3) The area shown on the subdivision plan as Lot 29 and known as the "Ocean Beach Lot" shall be maintained and used

by the residents of the subdivision and their tenants and accompanied guests for beach purposes. This lot shall not be further subdivided, nor shall undivided interests or leaseholds be distributed to any persons other than the lot owners in the subdivision, nor shall this lot be used for commercial beach purposes, or the like. The owners shall cooperate in the management of this beach for rare and endangered species, on the condition that this management does not preclude use of the lot as a beach for residents of the subdivision as described in these covenants. Vehicular access to the Ocean Beach Lot will be restricted to emergency and patrol vehicles, and for those handicapped individuals for whom access otherwise would be impractical. Recreational beach users will park in designated areas behind the primary dunes. A small seasonal shed containing emergency lifesaving equipment may be built on the Ocean Beach Lot, subject to requirements of law and these covenants. Any change in designated areas for parking shall require approval of the Chilmark Planning Board.

(4) The area in the subdivision shown as Lot 30 and known as the "entrance roadway/beach area" shall be maintained and used for access roadway and beach purposes. This lot shall be maintained by the Association. No residential structures shall be constructed on this lot. The existing access roadway on this lot shall be maintained for the benefit of the lots serviced by this road. The roadway may be relocated as needed in response

to the changing shape of this access causeway caused by erosion and accretion, subject to any legal requirements.

m. Specific Prohibitions.

(1) Use of pesticides, herbicides and fertilizers shall be prohibited by Section 12.7 of the Chilmark Squibnocket Pond District By-law and shall be prohibited hereunder except as part of ongoing agricultural activities, or to control noxious vegetation such as poison ivy, subject to municipal regulations and any other legal requirements.

(2) No activity will be undertaken which will disturb any known archaeological site on the property without the prior written approval of the Massachusetts Historic Commission. Any newly discovered site shall be protected. Amendment of this provision shall require Chilmark Planning Board approval.

IV. EASEMENTS

a. Access Easements.

1) Each Lot shown on said Plan shall have the benefit of an appurtenant easement to use the way shown on said Plan for passage by any means to and from the Squibnocket Road, a public way, subject to such restrictions as the Association may from time to time impose to reasonably regulate speed and travel for

the common good. Each lot shown on said plan shall have the benefit of an appurtenant easement to use the existing pond-side grassed road (which shall be maintained as such) as shown on said Plan as 30 ft. Right of Way #1, for access by any means to other lands owned in common by the Lot owners. Except as hereinafter provided, all roadways and paths noted in this section shall be maintained by the Squibnocket Farm Association in accordance with the roadway design approved by the Chilmark Planning Board for this subdivision. At their own expense, the owners of Lots 12 and 15 may maintain as a grassed road "30 ft. Right of Way" #2 to "30 ft. Right of Way" #1 from their lots. The grassed parking area at the western end of 30 ft. Right of Way #1 shall be maintained for use by the Association. Amendment of this provision shall require Chilmark Planning Board approval.

2) Residential lots in the subdivision shall have the benefit of appurtenant easements to use non-residential Lots 18, 19, 21, 22, 24, 26, 29, and 30 for such purposes as walking, horseback riding, bird-watching and other similar passive recreational activities, under regulations established by vote of the Association, and in those areas designated by vote of the Association. Access easements on Lots 18 and 21 shall also require the consent of the underlying landowner.

3) An area on the southernmost point of Lot 14, as approximately shown on Exhibit "B", shall be reserved for the

purpose of establishing and maintaining a parking area for use by the lot owners, their tenants and guests. This easement area may be relocated with Planning Board approval to avoid the migrating dunes. Care will be taken to screen the parking area from view from the houses on Lot 14.

4) Access to Lot 9. It is contemplated that applications for the necessary permit (or permits) will be filed to provide for roadway access to Lot 9 from the abutting 40-foot right of way. Until such permits have been obtained, said Lot 9 shall have the benefit of an appurtenant easement for all purposes for which ways may be used in the Town of Chilmark, including access and installation of utility and communications lines, over and in the areas of Lots 25 and 8 delineated on Exhibit "A" appended hereto; from and after the construction of the substitute easements in accordance with said permit (or permits) the herein provided for easement shall terminate.

5) Access to Ocean Beach. In order to limit vehicular use of the Squibnocket Pond side road (30 ft. Right of Way #1) as access to Lot 29 (the Ocean Beach Lot), the road to Squibnocket Associates shall be used as primary access to the ocean beach. In addition to the existing gate on the "30 ft. Right of Way" #1 on Lot 3, a locked gate shall be installed at the rock wall at the eastern end of Lot 15 and a chain barrier shall be installed immediately beyond the designated grassed parking area on Lot 24.

The Association shall discourage vehicular use of the Squibnocket Pond side road and shall encourage use of the Squibnocket Associates road as primary access. A gate shall also be installed on this Spruce Gate/Squibnocket Associates access road. The existing gate shall also be maintained at the entrance to the property at the Squibnocket Town Beach parking area. Only owners of residences within the subdivision shall be issued keys to these barriers. The Owners of Lots 12 and 15 shall maintain a locked gate immediately west of the road causeway at the north end of Round Pond. Amendment of this provision shall require Chilmark Planning Board approval.

V. GENERAL

a. Counterparts. This agreement may be executed in any number of counterparts, each of which when executed and delivered, including the copy to be recorded in the Dukes County Registry of Deeds, shall be an original instrument, but all counterparts shall constitute one and the same instrument.

b. Enforcement. The provisions hereof may be enforced by Declarant, by its successors in interest and assigns, and by the Owners from time to time of any Lot shown on said Plan and by the Town of Chilmark, through civil action in any court of competent jurisdiction, or by administrative proceeding before any appropriate authority. Amendment of this provision shall require

Chilmark Planning Board approval.

c. Severability. Invalidation of any one or more provisions hereof by judgment or court order shall not affect the remaining provisions which shall remain in full force and effect.

d. Amendment. Except as herein provided, the provisions hereof may be amended by a 2/3 affirmative vote of the Association.

e. Recording. This document, including subsequent amendments, may be re-recorded by the Association or the Chilmark Planning Board at such intervals as may be necessary to ensure these covenants shall continue in full force and effect.

EXECUTED AS A SEALED INSTRUMENT, this 22nd day of January, 1992.

CAPE COD COMPANY

By Parker G. Montgomery
Parker G. Montgomery,
General Partner, Cape Cod Company

By Phoebe R. Hornblower
Phoebe Hornblower, for the
Hornblower Limited Partners

STATE OF NEW YORK

County of New York, ss. *New York* February 27, 1992

Then personally appeared the above-named PARKER G. MONTGOMERY, as General Partner of the CAPE COD COMPANY, and acknowledged the foregoing instrument to be his free act and deed, before me,

Nancy Aviles
Notary Public
My Commission Expires:

NANCY AVILES
NOTARY PUBLIC, State of New York
No. 31-4852388
Qualified in New York County
Commission Expires *6-17-93*

STATE OF CONNECTICUT

Fairfield County, ss. *Greenwich* Feb. 22, 1992

Then personally appeared the above named PHOEBE HORNBLOWER, for the Hornblower Limited Partners, and acknowledged the foregoing instrument to be her free act and deed and the free act and deed of the Hornblower Limited Partners, before me

Robert J. Rubino
Notary Public
My Commission Expires:

My Commission Expires
March 31, 1995

CHILMARK PLANNING BOARD

[Handwritten signature]

Mitchell Pomi

Russell K. Walter

Christopher W. Mungley

March 9, 1992

Date

A True Copy

Attest: *6-26-92* *2:40 P.M.*

Date

Time

Mary S. Larsen

Assistant Town Clerk

TAB 13

CAPE COD COMPANYSQUIBNOCKET RIDGESUPPLEMENTAL DECLARATION

to

DECLARATION OF PROTECTIVE COVENANTS

(Dated January 22, 1992)

KNOW ALL MEN BY THESE PRESENTS that the CAPE COD COMPANY, a Massachusetts Limited Partnership, under agreement dated January 8, 1979 in consideration of the premises and the covenants herein contained declares as follows:

1. This declaration is intended to add to and supplement the previously executed Declaration of Protective Covenants dated January 22, 1992, as hereinafter set forth:

COVENANTS

2. The notes set forth on the plan entitled "Squibnocket Ridge" by Vineyard Land Surveying and dated January 22, 1991 shall be deemed to be incorporated herein as covenants governing the subdivision depicted thereon.

3. Incorporated in every deed conveying any lot within the Squibnocket Ridge community shall be the following additional covenants:

a. "Recognizing that the land depicted on the Squibnocket Ridge subdivision plan is situated in a unique and remote location, the access to which is subject to periodic disruption and destruction by natural forces, every owner of a lot in the above-described subdivision shall be deemed to have covenanted

with the Town of Chilmark that such owner releases and holds harmless said town, its agents and servants from any liability resulting from the inaccessibility of said lot due to impassibility of the roadway servicing Squibnocket Ridge."

b. Each owner shall be deemed to have covenanted with the Town of Chilmark that any septic tanks installed in any lot shall be cleaned and pumped out at intervals of not more than three (3) years to insure the proper functioning of the septic system.

c. In the event a program of farm field rehabilitation shall be undertaken at Squibnocket Ridge, then said rehabilitation shall be based on Soil Conservation Service and/or County Extension Service plans and advice; all ground disturbance of greater than one (1) acre shall have an erosion control plan developed and submitted to the Chilmark Planning Board.

EASEMENTS

4. Lot 15 shown on said plan (consisting of ±27.06 acres of land) shall be subject to the perpetual right and easement for the benefit of Lot 6 (consisting of ±3.75 acres of land) allowing the owner of said Lot 6 to enter said Lot 15 within the area designated "view easement area" on Exhibit "A" appended hereto to mow said area so as to preserve the scenic view from Lot 6 across Lot 15, subject to the following conditions:

a. At least sixty (60) days prior to making such entry and performing the mowing, the owner of Lot 6 shall consult with the owner of Lot 15 regarding the scheduling of mowing so as to coordinate same with any other activities on Lot 15 and minimize the impact and inconvenience thereof;

TAB 14



2012 00074850

Bk: 71 Pg: 315 Cert: 13223
Doc: DEED 02/17/2012 03:05 PM

Prepared by and Return to:
Todd H. Whilton, Esq.
Eckert Seamans Cherin & Mellott, LLC
2 International Place, Floor 16
Boston, MA 02110

MARTHA'S VINEYARD LAND BANK FEE

PAID \$ 49,200

EXEMPT \$ _____

49379 2/10/12 MT
NO. DATE CERTIFICATION

Space Above Line Used For Recording

QUITCLAIM DEED

New England Heritage Property Corp., a Massachusetts corporation with an address of 359 Main Street, Stoneham, MA, for consideration paid and in full consideration of TWO MILLION FOUR HUNDRED SIXTY THOUSAND AND 00/100 (\$2,460,000.00) DOLLARS, grants to **3SDS, LLC**, a Delaware limited liability company, with an address of 330 Madison Avenue, 25th Floor, New York, NY 10017, with Quitclaim Covenants:

The land with any buildings thereon situated in Chilmark, Dukes County, Commonwealth of Massachusetts, bounded and described as follows:

BEING shown as Lot #4 on Land Court Plan No. 12189-B drawn by Vineyard Land Surveying, Surveyors, March 9, 1992, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which is filed with Certificate of Title No. 9370, Book 49, Page 211, to which plan reference is hereby made for a more particular description.

Said premises are conveyed subject to, and with the benefit of, the following covenants, restrictions, reserved rights and easements:

1. "Cape Cod Company Squibnocket Ridge Declaration of Protective Covenants" dated January 22, 1992 filed in said registry district as Document No. 31293;
2. "Cape Cod Company Squibnocket Ridge Supplemental Declaration to Declaration of Protective Covenants (dated January 11, 1992)" which said supplemental declaration is dated September 5, 1995 and filed in said registry district as Document No. 36981;
3. Recognizing that the land depicted on the Squibnocket Ridge subdivision plan is situated in a unique and remote location, the access to which is subject to periodic disruption and destruction by natural forces, every owner of a lot in the above-described subdivision shall be deemed to have covenanted with the Town of Chilmark that such owner releases and holds harmless said town, its agents and servants from any liability resulting from the inaccessibility of said lot due to impassibility of the roadway servicing Squibnocket Ridge.

MASSACHUSETTS EXCISE TAX
Dukes County ROD #8 001
Date: 02/17/2012 03:05 PM
Ctrl# 038719 29379 Doc# 00074850
Fee: \$11,217.60 Cons: \$2,460,000.00

{K0464424.1}

Lot 4 - 11 Round Pond Road, Chilmark, MA

4. Each owner shall be deemed to have covenanted with the Town of Chilmark that any septic tanks installed in any lot shall be cleaned and pumped out at intervals of not more than three (3) years to insure proper functioning of the septic system.
5. In the event a program of farm field rehabilitation shall be undertaken at Squibnocket Ridge, then said rehabilitation shall be based on Soil Conservation Service and/or County Extension Service plans and advice; all ground disturbance of greater than one (1) acre shall have an erosion control plan developed and submitted to the Chilmark Planning Board.
6. Including the rights and easements set forth in a certain grant from Squibnocket Associates, Inc. to The Cape Cod Company dated April 28, 1960 filed as Document No. 4379 in the Dukes County Registry District.

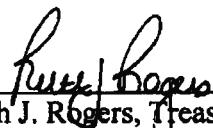
This conveyance is in the ordinary course of business and does not constitute the conveyance of all or substantially all of the assets of the grantor located in the Commonwealth of Massachusetts.

For title, see Certificate of Title No. 12578. See also Massachusetts Foreclosure Deed from Stoneham Savings Bank to New England Heritage Property Corp., dated September 23, 2008, registered in the Dukes County Registry District Office of the Land Court as Document No. 68920.

EXECUTED as a sealed instrument this 15th day of February, 2012.

NEW ENGLAND HERITAGE PROPERTY
CORP.

By 
Donat Fournier, President

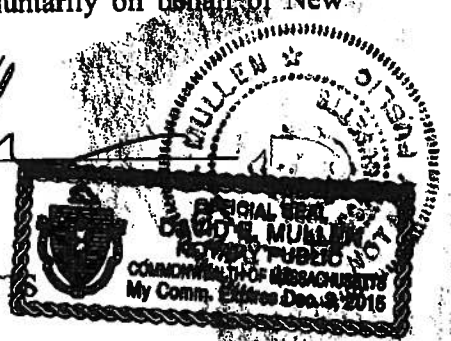
By 
Ruth J. Rogers, Treasurer

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 15th day of February, 2012, before me, the undersigned notary public, personally appeared Donat Fournier, President as aforesaid, proved to me through satisfactory evidence of identification, which were driver's license, personally known to me or personally known to a 3rd party personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily on behalf of New England Heritage Property Corp. for its stated purpose.

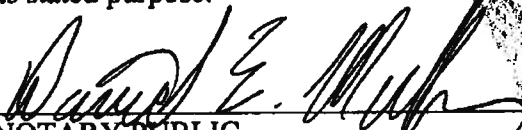

NOTARY PUBLIC



COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

On this 15th day of February, 2012, before me, the undersigned notary public, personally appeared Ruth J. Rogers, Treasurer as aforesaid, proved to me through satisfactory evidence of identification, which were driver's license, personally known to me or personally known to a 3rd party personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily on behalf of New England Heritage Property Corp. for its stated purpose.


NOTARY PUBLIC

