



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

Date: February 18, 1999

Re: Development of Regional Impact Request
Cape Cod Commission Act

Applicant: Paul de Ruyter
Gristmill Trust
224 Black Duck Cartway
Brewster, MA

Project #: TR98022

Project: Brewster Eco-Inn Resort
2421 Main Street
Route 6A
Brewster, MA

Lot/Plan: Book 9506, Page 111
Map 14, Parcel 62-5 through 62-7

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of Paul de Ruyter, Gristmill Trust, for a Development of Regional Impact approval, , pursuant to Sections 12 and 13 of the Cape Cod Commission Act, c. 716 of the acts of 1989, as amended, for the Brewster Eco-Inn Resort in Brewster, Massachusetts. The decision is rendered pursuant to a vote of the Commission on February 18, 1999.

PROJECT DESCRIPTION

Located on approximately 9.33 acres of land, the project consists of the rehabilitation of an existing historic house (the Alpheus Mayo House) and barn (a combined total of approximately 1,700 square feet); and new construction of approximately 22,000 square feet for 28 guest rooms, a new Common House containing a 75 seat restaurant and meeting rooms, and a wellness center containing function space for 85 people, and spa/exercise facilities for which no "health club type" public memberships will be sold.



The proposed project includes a public pathway connecting to the Cape Cod Rail Trail, with an elevated boardwalk in the wetland buffer and between two on-site wetlands.

PROCEDURAL HISTORY

The Commission received the project referral from the Brewster Conservation Commission on June 4, 1998 under Section 3(e) of the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact. In addition, the applicant submitted an application for a Hardship Exemption request under Section 23 of the Cape Cod Commission Act, c. 716 of the Acts of 1989, as amended (ACT).

On July 7, 1998, the Cape Cod Commission Subcommittee attended a site visit. The Commission held a duly noticed public hearing for the project on July 16, 1998, and continued it until August 18, 1998. A Subcommittee meeting was held immediately after the July 16, 1998 public hearing. A hearing officer continued the August 18, 1998 public hearing until October 8, 1998.

The applicant verbally indicated on September 29, 1998 that the project would be withdrawn from the Hardship Exemption review, and a fax confirming this was received by staff on October 1, 1998. At the Cape Cod Commission meeting on October 22, 1998, the Commission voted to accept the applicant's request that the project be withdrawn from the Hardship Exemption review, allowing it to go forward as a Development of Regional Impact.

A continued public hearing for the project was held on October 8, 1998 at 1:00 PM, and was closed. A duly noticed public hearing for the project was opened on November 16, 1998, at which time the Subcommittee voted unanimously to procedurally deny the project due to the incomplete nature of the application.

On November 19, 1999, Commission staff met with the applicant to discuss signing an extension agreement. On November 27, 1998, the applicant faxed a signed extension agreement to extend the decision period until January 25, 1999. At the December 3, 1998 public hearing, the Cape Cod Commission voted to approve and sign the extension agreement to allow the applicant time to complete the application, and continued the public hearing to January 7, 1999. On December 10, 1998, Commission staff met with the applicant to discuss the project. On December 14, 1998, the Subcommittee met to review the project and most recent submittals. On January 7, 1999, a public hearing was held to review the project status, an extension agreement was signed to extend the decision period until February 25, 1999, and the public hearing was continued to the Cape Cod Commission meeting on February 4, 1999. On January 25, 1999, Commission staff met with the applicant. The Subcommittee met to review the draft decision on February 1, 1999. On February 4, 1999 the public hearing was continued to the Cape Cod Commission meeting of February 18, 1999.

MATERIALS SUBMITTED FOR THE RECORD:

Materials Submitted by the Applicant:

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| 1) Subdivision Plan of Land prepared for 2882 Realty Nominee Trust, Paul de Ruyter, Trustee, approved by Planning Board on May 10, 1993 | July 20, 1993 |
| 2) Copy of architectural plans (6 pages), prepared by Steven C. Hayes, Architect | November 12, 1997 |
| 3) Copy of Memorandum to Brewster Board of Appeals re: Brewster Eco-Inn Resort, prepared by Paul de Ruyter | January 13, 1998 |
| 4) Cape Cod Commission Development of Regional Impact Hardship Exemption Application | March 17, 1998 |
| 5) Cape Cod Commission Development of Regional Impact Application Form | March 17, 1998 |
| 6) Memorandum to the Cape Cod Commission re: Application for a Hardship Exemption for the Brewster Eco-Inn Project, prepared by Paul de Ruyter | March 21, 1998 |
| 7) Copy of letter to Max Springer, Chairman, Brewster Board of Appeals, prepared by Paul de Ruyter | March 25, 1998 |
| 8) Copy of fax and letter from VHB to Paul de Ruyter | April 17, 1998 |
| 9) Sketch Plan Prepared for Grist Mill Trust | May 5, 1998 |
| 10) Sketch Plan Prepared for Grist Mill Trust | May 5, 1998 |
| | revised May 26, 1998 |
| 11) Brewster Eco-Inn Concept Site Plan - Preliminary, page L1, prepared by Gerard Ives Architects | June 17, 1997 |
| 12) Natural Resources Inventory, Brewster Eco-Inn Resort, Route 6A, Brewster, Massachusetts prepared by ENSR | June 19, 1998 |
| 13) Copy of letter to Massachusetts Natural Heritage and Endangered Species Program, Division of Fisheries & Wildlife, prepared by Paul de Ruyter | June 23, 1998 |
| 14) Memorandum to the Cape Cod Commission and Attachments re: Brewster Eco-Inn Resort, prepared by Paul de Ruyter | June 24, 1998 |
| 15) Copy of Memorandum to Brewster Town Boards, prepared by Paul de Ruyter | June 29, 1998 |
| 16) Copy of Grist Mill Trust Nitrogen Calculations, prepared by Coastal Engineering Co., Inc. | June 29, 1998 |
| 17) Confidential Financial Information in Support of the Hardship Request, prepared by Paul de Ruyter | July 15, 1998 |
| 18) Memorandum to Cape Cod Commission Sub-Committee Members re: Response to the Staff Report & Questions from the Sub-Committee, prepared by Paul de Ruyter | July 15, 1998 |
| 19) Proposed Boardwalk Typical Sections and Elevations A-2, prepared by Steven C. Hayes, Architect | July 22, 1998 |
| 20) Fax to Tana Watt, Cape Cod Commission, prepared by Paul de Ruyter | August 3, 1998 |
| 21) Proposed Boardwalk Site Plan A-1, prepared by Steven C. Hayes, Architect | August 5, 1998 |
| 22) Response to Water/Wastewater Issues as raised by Cape Cod Commission Staff, prepared by Coastal Engineering Company, Inc., | August 7, 1998 |
| 23) Proposed Site Plan prepared by Coastal Engineering Co., Inc., sheets SP-1 and SP-2 | August 7, 1998 |
| 24) Fax to Tana Watt, Cape Cod Commission, prepared by Paul de Ruyter | August 13, 1998 |
| 25) e-mail to Dorr Fox, Tana Watt, prepared by Paul de Ruyter | August 19, 1998 |
| 26) Memorandum to Cape Cod Commission Sub-Committee Members re: Response to Staff Report for the October 8th Sub-Committee Meeting, prepared by Paul de Ruyter | Sept. 15, 1998 |
| 27) Copy of letter from John A. Bologna, P.E., Coastal Engineering Co., Inc., to Paul de Ruyter | Sept. 15, 1998 |
| 28) Proposed Site Plan, Proposed Elevated Walkway, Proposed Site Plan, sheets SD-1, SD-2 and SU-1, prepared by Coastal Engineering Co., Inc. | August 7, 1998 |
| | revised Sept. 16, 1998 |
| 29) SD-2 and SU-1, prepared by Coastal Engineering Co., Inc. | August 7, 1998 |
| | revised Sept. 16, 1998 |
| 30) Copy of fax to Danny O'Brien & Richard Tibideau, prepared by Paul | |

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| de Ruyter | | Sept. 22, 1998 |
| 31) Proposed Site Plan, sheet SD-1, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | Sept. 30, 1998 |
| 32) Proposed Utility Site Plan, sheet SD-2, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | Sept. 30, 1998 |
| 33) Sewage Disposal System Details, sheet SD-3, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| | revised | Nov. 4, 1998 |
| 34) Sewage Disposal System & Sitework Details, sheet SD-4, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| 35) Eco-Inn/Grist Mill Trust Water/Wastewater Issues, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| 36) Copy of letter from John A. Bologna, P.E., Coastal Engineering Co, Inc., to Paul de Ruyter | | Sept. 30, 1998 |
| 37) Fax of letter to Tana Watt, prepared by Paul de Ruyter | | October 1, 1998 |
| 38) Brewster Eco-Inn Resort plans, 4 plans of site and architectural elevations, prepared by Neal Adamiak of Miller Dyer Spears, Inc. | | October 1, 1998 |
| 39) Eco-Inn Design Consideration Outline, prepared by Neal F. Adamiak of Miller Dyer Spears, Inc. | | October 1, 1998 |
| 40) Brewster Eco Inn Conceptual Architectural Design Outline and Eco-Inn General Themes, prepared by Neal F. Adamiak of Miller Dyer Spears, Inc. | | October 6, 1998 |
| 41) Response to Staff Report of 10/05/98 by Coastal Engineering Co, Inc. | | October 8, 1998 |
| 42) e-mail from Paul de Ruyter to Tana Watt, Cape Cod Commission | | October 14, 1998 |
| 43) Copy of letter by Paul de Ruyter to Susan Mullarkey, Brewster Historic District Commission | | October 14, 1998 |
| 44) Copy of letter by Paul de Ruyter to Massachusetts Historical Commission | | October 18, 1998 |
| 45) Copy of letter by Paul de Ruyter to Gary Hammer, Director of Architectural Review, Massachusetts Historical Commission | | October 18, 1998 |
| 46) Sketch of Bird Blind, Coastal Engineering Co., Inc. | | November 3, 1998 |
| 47) Stormwater Runoff Calculations, Coastal Engineering Co, Inc. | | November 3, 1998 |
| 48) Sewage Disposal System Details, sheet SD-3, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| | revised | November 4, 1998 |
| 49) Fax of letter to Paul deRuyter from Ann Lattinville, Massachusetts Historical Commission | | November 10, 1998 |
| 50) Memorandum to Cape Cod Commission Sub-Committee Members re: Response to Staff Report for the November 16th Sub-Committee Meeting, prepared by Paul de Ruyter | | November 16, 1998 |
| 51) Fax of letter to Dorr Fox from Patrick Butler | | November 23, 1998 |
| 52) Fax of signed extension agreement sent to Dorr Fox by Patrick Butler on November 27, 1998 | | November 24, 1998 |
| 53) Copy of letter and Landscape and Vegetation Management Plan prepared by Donald G. Schall of ENSR | | November 30, 1998 |
| 54) Wetland Buffer Habitat Enhancement Plan | | November 30, 1998 |
| 55) Brewster Eco-Inn Resort plans, 4 plans of site and architectural elevations, prepared by Neal Adamiak of Miller Dyer Spears, Inc. | | December 1, 1998 |
| 56) Proposed Site Plan, sheet SD-1, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | Sept. 30, 1998 |
| | revised | Dec. 2, 1998 |
| 57) Proposed Utility Site Plan, sheet SD-2, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |

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| | revised | Sept. 30, 1998 |
| | revised | Dec. 2, 1998 |
| | revised | Jan. 28, 1999 |
| 58) Fax of letter to Tana Watt prepared by Paul de Ruyter | | December 3, 1998 |
| 59) Copy of Memorandum to Paul de Ruyter from TWJ of Coastal Engineering Co., Inc. | | December 3, 1998 |
| 60) Brewster Eco-Inn • Cape Cod Commission Staff Report dated 11/10/98 Conclusion: "Staff recommends approval subject to:" prepared by applicant | received | December 3, 1998 |
| 61) Photograph of Alpheus Mayo House, noted as Map 14 Lot 63 | received | December 3, 1998 |
| 62) Brewster Eco-Inn Educational Programs, prepared by the applicant | received | December 3, 1998 |
| 63) e-mail to Tana Watt from Paul de Ruyter | | December 7, 1998 |
| 64) Proposed Site Plan, sheet SD-1, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | Sept. 30, 1998 |
| | revised | Dec. 2, 1998 |
| | revised | Dec. 9, 1998 |
| | | December 9, 1998 |
| 65) Copy of Fax to Patrick Butler from Paul de Ruyter | | December 9, 1998 |
| 66) Soil Suitability Assessment for On-site Sewage Disposal prepared by Coastal Engineering, Co., Inc. | | December 11, 1998 |
| 67) Fax to Tana Watt from Paul de Ruyter re: additional information | | December 11, 1998 |
| 68) Fax to Tana Watt from Paul de Ruyter re: traffic | | December 11, 1998 |
| 69) e-mail to Tana Watt from Paul de Ruyter | | December 14, 1998 |
| 70) Revised Nitrogen Loading Calculations, prepared by Coastal Engineering Co., Inc. | | December 14, 1998 |
| 71) Boardwalk cross-section, prepared by Coastal Engineering Co., Inc. | received | December 14, 1998 |
| 72) Boardwalk Detail, prepared by Coastal Engineering Co., Inc. | revised | December 14, 1998 |
| 73) The Greenscape Inn of Cape Cod web page | | December 21, 1998 |
| 74) The Greenscape Inn - Landscape Plan, East | | December 23, 1998 |
| 75) The Greenscape Inn - Landscape Plan, West | | December 23, 1998 |
| 76) Proposed Site Plan, sheet SD-1, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | Sept. 30, 1998 |
| | revised | Dec. 2, 1998 |
| | revised | Dec. 9, 1998 |
| | revised | Dec. 14, 1998 |
| | revised | Dec. 24, 1998 |
| | revised | January 28, 1999 |
| | | Dec. 28, 1998 |
| 77) Correspondence to Tana Watt from Paul de Ruyter | | December 28, 1998 |
| 78) Manufacturers Exterior Lighting Specifications and hand drawn point-to-point diagrams | | December 29, 1998 |
| 79) Correspondence to Tana Watt from Paul de Ruyter | | December 29, 1998 |
| 80) Manufacturers Lighting Specifications | received | December 29, 1998 |
| 81) Computer generated point-to-point diagrams | | undated |
| 82) Fax to Tana Watt and Dorr Fox from Michael Ford | | January 12, 1999 |
| 83) Correspondence to Tana Watt from Attorney Patrick Butler, including the draft Supplement to General Conditions of Owner/Contractor Agreement and the draft Conservation Restriction | | January 26, 1999 |
| 84) Proposed Elevated Walkway Plan, Sections and Details, sheet SD-3, prepared by Coastal Engineering Co., Inc. | | August 7, 1998 |
| | revised | Sept. 16, 1998 |
| | revised | January 28, 1999 |
| | received | January 29, 1999 |
| 85) Sewage Disposal System Details, sheet SD-4, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| | revised | Nov. 4, 1998 |
| | received | January 29, 1999 |

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| 86) Sewage Disposal System & Sitework Details, sheet SD-5, prepared by Coastal Engineering Co., Inc. | | Sept. 30, 1998 |
| | received | January 29, 1999 |
| 87) Fax to Tana Watt from Paul de Ruyter with Brewster Board of Appeals Special Permit decision #97-26 | | February 4, 1999 |
| 88) Revised Computer generated point-to-point diagrams | received | February 9, 1999 |
| 89) Assessors Maps showing the parcels of land to be evaluated for open space | | February 11, 1999 |
| 90) Fax from Attorney Butler with revised Hazardous Materials Statement | received | February 18, 1999 |

Materials Submitted by the Town and State:

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| 1) Copy of Letter from Gary Hammer, Massachusetts Historical Commission, to Paul de Ruyter | | April 8, 1998 |
| 2) Copy of Letter and Attachment from Gary Hammer, Massachusetts Historical Commission, to Paul de Ruyter | | May 7, 1998 |
| 3) Fax from Tina Balog, Brewster Conservation Administrator to Paul Sutton, Cape Cod Commission | | May 22/26, 1998 |
| 4) Development of Regional Impact Referral Form and Attachments from the Brewster Conservation Commission | | June 2, 1998 |
| 5) Memo and Attachment to the Cape Cod Commission, from Marjorie Pierce, Brewster Planning Board Clerk | | July 7, 1998 |
| 6) Copy of Memo from Nancy Ellis Ice, Brewster Health Director, to Paul de Ruyter | | July 24, 1998 |
| 7) Copy of Letter from Hanni Dinkeloo, Division of Fisheries & Wildlife, to Paul de Ruyter | | August 7, 1998 |
| 8) Letter by Robert L. Mumford, Cape Cod Commission, to Bernard McCourt, Massachusetts Highway Department District 5 | | August 21, 1998 |
| 9) Letter from Tina Balog, Brewster Conservation Administrator to Cape Cod Commission | | August 26, 1998 |
| 10) Letter by Bernard McCourt, Massachusetts Highway Department District 5, to Robert L. Mumford, Cape Cod Commission | | August 28, 1998 |
| 11) Fax from Town of Brewster Building Department to Heather McElroy, Cape Cod Commission | | October 5, 1998 |
| 12) Letter from Dwight and Jo Ann Ritter, Brewster, MA, to Tana Watt, Cape Cod Commission | | November 6, 1998 |
| 13) Fax of Letter from Ann M. Lattinville, Massachusetts Historical Commission to Paul de Ruyter | | November 10, 1998 |
| 14) Fax from Jillian Douglass, Town of Brewster, to Tana Watt | | December 3, 1998 |
| 15) Fax of 1998 Brewster Zoning Board of Appeals Special Permits from Jillian Douglass, Town of Brewster, to Dorr Fox | | February 1, 1999 |

Materials Submitted by Other Interested Parties:

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| 1) Copy of letter from Thomas Hughes to Mr. de Ruyter | | March 21, 1998 |
| 2) Letter from abutters to the project (Keely, Cremerosa, Mignone, Fields) to the Cape Cod Commission | | August 7, 1998 |
| 3) Letter from Dwight and Jo Ann Ritter to Tana Watt | | November 6, 1998 |

The application and notice of the public hearing relative thereto, the Commission's staff reports, memos, notes and exhibits, minutes of the hearings, extension agreements and all submissions received in the course of the proceedings, including materials submitted on file TR98022, are incorporated into the record by reference.

TESTIMONY

July 16, 1998 Public Hearing:

Mr. de Ruyter presented the project, stating that his intent is to promote ecological sensitivity in an educational context. He discussed a previously approved development for the site with respect to traffic. He responded to issues raised in the Commission's staff report, and asked for a limited hardship exemption approval for traffic and a proposed boardwalk. He asked for approval with conditions of the conceptual plan, stating that it was too early to define the project.

Mr. Will Joy of Coastal Engineering Co., Inc., discussed the proposed wastewater system, stating that the applicant intended to use an alternative septic system such as the Bioclere and Amphidrome mechanical systems.

Ms. Watt, Commission project planner, presented the staff report, discussing the applicant's Hardship Exemption request and the Commission's criteria for reviewing projects, as well as issues relating to historic preservation, buffering and landscaping, economic development and energy. Members of the Commission's technical staff, Mr. Eichner (Water Resources), Mr. Tilton (Transportation) and Ms. McElroy (Natural Resources), discussed issues relating their areas of expertise.

Abutters, residents and the public testified. Jim Tobin of the Cape Cod Center, testified in favor of the project. Jennie Mignone, abutter, testified that she was concerned about the project and asked that all information be presented before a decision is made. Ms. Hopkins testified about the prior use of the land. Pamela Wills testified in favor of the project. Mr. Sad testified in favor of the project. Ms. Mahoney asked that all necessary information be provided.

The Subcommittee questioned the applicant about the proposed project, noting that the plan was still conceptual and that the required information was needed to make any determination.

The Subcommittee continued the public hearing to August 18, 1998 at 7:00 PM.

July 16, 1998 Subcommittee Meeting:

The Subcommittee discussed what information the applicant was required to submit, and continued to question the applicant about specifics of the proposal. The Hardship Exemption request was discussed, but due to lack of information, the Subcommittee could not make a decision. Mr. de Ruyter then submitted a pro-forma for the record.

August 18, 1998 Public Hearing:

A Hearing Officer continued the public hearing to October 8, 1998.

October 8, 1998 Public Hearing:

Mr. Patrick Butler, attorney for the applicant, stated that the hardship application request had been withdrawn. Mr. de Ruyter stated that although the tea house may not be feasible due to lack of safety and emergency access, he still wanted the Subcommittee to consider the project with the tea house as it had been presented, with conditions

requiring that any change in plans would require a modification. He then discussed the proposed project, responding to the staff report. Mr. Will Joy discussed the staff recommendations regarding the wastewater system.

Ms. Watt presented the staff report, discussing outstanding issues and missing information. She noted that the hardship exemption request had been withdrawn and that the teahouse lacked adequate fire and safety access and should be eliminated from the plan or relocated to the front of the site. Mr. Eichner (Water Resources) noted that the proposed denitrifying is not currently approved by DEP, and that questions about system performance, monitoring, test pits and stormwater calculations have not been answered. Ms. McElroy (Natural Resources) made recommendations related to the boardwalk and birdblind. Mr. Malakhoff (Transportation) discussed the bikepath/pathway requirements and restricting the teahouse functions.

Tina Balog, Brewster Conservation Administrator, stated that the Brewster Conservation Commission preferred that the boardwalk have a high educational value, and noted that they preferred a 6' boardwalk width.

Jill Douglas, Brewster DRI Liaison, discussed the teahouse, parking and traffic.

Judith Cremerosa stated that she was concerned about lighting impacts, an increase in noise and clearcutting of the site.

Mr. Butler asked that the Subcommittee use the flexibility clause in reviewing the project.

November 16, 1998 Public Hearing:

Ms. Watt presented the staff report, noting that although this was an approvable project, the applicant had not provided information that the Subcommittee and staff had repeatedly requested. She noted some of the many unresolved issues surrounding the project. She discussed the Subcommittee's requirement to find that the benefits of the project exceed the detriments, as well as the requirements needed to invoke the flexibility clause for the wetland buffer and the wastewater system. She urged the Subcommittee to require that the requested information be provided, or, if the applicant was unwilling to sign an extension agreement in order to do so, that the project be procedurally denied.

Mr. de Ruyter responded to the staff report, detailing the information that he could and could not agree to provide to the Subcommittee.

Tina Balog, Brewster Conservation Agent, expressed concern over motor vehicle site access from Smith Lane. She noted the Conservation Commission's preferences for the narrowest boardwalk possible, the vegetation management plan and removal of invasive species.

Ms. Elizabeth Taylor, Brewster Commission representative, asked about the bird blind.

The Subcommittee, staff, and the applicant discussed the additional information that was needed. Ms. Bebout twice asked if the applicant would sign an extension agreement to

work out the remaining unresolved issues. Mr. de Ruyter said that he would not agree to do so.

Mr. Brock made a motion to recommend to the full Commission that the proposed project be procedurally denied. Mr. Deane seconded the motion, and the Subcommittee voted unanimously in favor.

December 3, 1998 Cape Cod Commission Meeting / Public Hearing:
Tana Watt, planner, provided a procedural update of the project.

Vicky Bebout moved to agree to an extension agreement and continue the public hearing to January 7, 1999 at 7:00 p.m. in Brewster Town Hall. Ken Brock seconded the motion. The motion passed with one opposition and one abstention.

Mr. Kaufman, Subcommittee member, stated that the public hearing in January should not be held unless all the information that the Subcommittee needed to review the project has been provided. Ms. Bebout agreed, adding that the purpose of the extension agreement was to provide the applicant with time to prepare and submit the requested information.

Attorney for the Applicant, Patrick Butler, noted his clients intention to provide all relevant requested information in a timely manner.

December 14, 1998 Subcommittee Meeting:

The Subcommittee discussed the current status of the project and reviewed the material that was submitted since the December 3, 1998 public hearing. The applicant agreed to provide information that had not yet been provided, including lighting, landscaping, and amended open space and site plans. The applicant agreed to provide \$12,800 for traffic mitigation.

January 7, 1999 Public Hearing:

Mr. Butler discussed the outstanding issues, including exterior lighting, the landscape plan, the compilation plan, the conservation restriction, and the hazardous materials statement. He stated that the parking issue was unresolved, as well as open space. He said that the applicant would prepare a revised open space plan, but did not want to reduce the number of paved parking spaces.

Ms. Watt gave the staff report, noting that staff is satisfied that the project conditions comply with the Minimum Performance Standards in the areas of Economic Development, Energy, Water Resources, Heritage Preservation, and Community Character, excluding exterior site lighting. She stated that until issues related to several other areas were resolved, she could not recommend a project approval. She noted that the applicant still needed to submit computer-generated point-to-point diagrams for the exterior lighting, a hazardous waste and materials statement, a reduction of on-site parking spaces, approvable open space plans and a proposed location for off-site open space. She noted that all boardwalk construction details should appear on one sheet.

The Subcommittee discussed possible conditions of the decision including motion sensors versus timers for the boardwalk, public memberships to the spa/exercise facilities, hazardous materials and hazardous waste, the surface of the bikepath/pathway and ADA accessibility.

Mr. Malakhoff discussed the parking issue, including a history of discussions about this issue during project review. He noted that no traffic study had been done, in part because some of the applicant's justification for not needing it was because the limited parking would be part of the restriction on the overall traffic impact. He stated that all of our discussions had been directed to keeping the project size below that which would trip our thresholds, and that by incrementally adding to parking, you would start adding to the traffic. He recommended that the applicant reduce the number of parking spaces.

Mr. Henchey, Brewster Planning Board, stated that all lighting should be directed downwards.

Mr. Neil Adamiak, project architect, spoke about how hazardous materials issues were typically dealt with in the construction drawings and contracts.

Ms. Bebout asked the applicant if he was willing to sign an extension agreement for 30 more days. Mr. de Ruyter replied that he was. Mr. Kaufman made a motion to approve an extension agreement for 30 more days, until February 25, 1999. Mr. Brock seconded the motion, and it was unanimously approved.

The Subcommittee voted to continue the public hearing to February 4, 1999 at the Cape Cod Commission Meeting in the Assembly of Delegates Chambers.

February 1, 1999 Subcommittee Meeting:

The Subcommittee discussed the recent submittal of information. After reviewing the plans, the Subcommittee concluded that open space was still unresolved, and that they preferred on-site open space. Mr. de Ruyter stated that he would work to find appropriate open space.

Reviewing the draft decision, the Subcommittee, staff and the applicant agreed upon several changes to the proposed conditions in the areas of natural resources, transportation, community character, water resources, and hazardous materials.

The number of on-site parking spaces was discussed, but left unresolved pending further staff investigation about the number of spaces that was approved by the Brewster Zoning Board of Appeals Special Permit.

Mr. Kaufman made a motion to approve the draft decision as amended, subject to final approval by the Chair of the Subcommittee. Mr. Brock seconded the motion, and it was unanimously approved.

February 4, 1999 Public Hearing:

A hearing officer continued the public hearing to February 18, 1999 at the Cape Cod Commission Meeting in the Assembly of Delegates Chambers.

JURISDICTION

The proposed Brewster Eco-Inn Resort qualifies as a mandatory referral under Section 3(e) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended, as a proposed commercial or service business with new construction having a gross floor area greater than 10,000 sq. ft.

FINDINGS

Based upon the testimony received at the public hearings, application material submitted by the project proponent, written material submitted by all interested parties and supporting technical information provided by staff, the Commission voted that the proposed Eco Inn project be granted a DRI approval with conditions based upon the following findings:

General Findings:

G1. The project consists of the rehabilitation of existing historic structures (the Alpheus Mayo house and barn) and new construction of approximately 23,400 square feet to include a 75 seat restaurant, spa and exercise facilities, function space, and 28 guest rooms. The project includes a public pathway connecting to the Cape Cod Rail Trail, with an elevated boardwalk in the wetland buffer and between two on-site wetlands. The project will have 56 designated parking spaces on-site. The project will be located on approximately 9.33 acres.

G2. The plan is consistent with local zoning regulations. The project site does not lie within a District of Critical Planning Concern. The town of Brewster does not have a Commission-certified Local Comprehensive Plan.

G3. The applicant applied for and received two interim Special Permits and a Use Variance from the town of Brewster as follows: 1) a special permit to extend the allowed use (a restaurant) from the VB zone portion of the parcel into the RM zone portion; 2) a special permit to operate a restaurant in the VB district; and 3) a variance to operate a hotel/motel in the VB district. The permits will become effective upon the submittal of final plans and final approval by the ZBA at the conclusion of the DRI review process.

G4. Final plans SD-1 (Proposed Site Plan) and SD-2 (Proposed Utility Site Plan) showing the approved number of parking spaces and the amount of on-site open space specified in this decision have not been submitted. Plan SD-3 (Proposed Elevated Walkway) has not been revised to indicate on the plan the Cape Cod Commission-approved boardwalk construction method.

Water Resources Findings:

WR1. The project's proposed uses will generate 6,500 gallons per day of Title 5 wastewater flow. This flow will result in a nitrogen loading concentration of between 11 and 13 ppm assuming the use of a conventional Title 5 septic system and given the proposed building and lawn coverage on the site.

WR2. In order to reduce the nitrogen load to the regional 5 ppm nitrogen loading standard (MPS 2.1.1.1), the applicant has proposed to install two wastewater treatment systems: one treating the inn and restaurant flows (5,705 gpd) and a smaller one treating the flows from the spa/function space (795 gpd). The smaller system will be a composting toilet with a leachfield for greywater. The inn and restaurant flows will be treated through a wastewater system that includes two Bioclere© systems and a wetland polishing unit prior to discharge. In order to meet the 5 ppm regional standard, the larger system must discharge wastewater with a total nitrogen concentration of 14 ppm or less.

WR3. The Bioclere/wetland wastewater system will require a piloting permit from the state Department of Environmental Protection under the provisions of the state's alternative wastewater permitting process. Piloting permits require monitoring to ensure adequate performance.

Natural Resources Findings:

NR1. The project is proposed on a primarily wooded 9.3 acre site, including two wetlands connected by a ditch. The wetlands may be hydrologically connected via this ditch, and the eastern wetland may be drained by a ditch exiting the southeast corner of the site. A natural resources inventory of the site found evidence of vernal pool species. The Commission finds that this wetland is likely not a vernal pool because of the presence of the drainage ditches, and the lack of other vernal pool characteristics.

NR2. The applicant has provided correspondence from the Natural Heritage and Endangered Species Program indicating that the project likely will have no impact on state or federal listed rare or endangered species.

NR3. The project proposes the construction of a boardwalk through the buffer to the wetlands onsite. The construction layout and design, employing helical piers to support all structures within the 50 ft buffer to wetlands, including boardwalk, associated bumpouts, and birdblind should have low impact on buffer vegetation, and may likely be the least environmentally disruptive design.

NR4. In keeping with the Eco Inn concept, the applicant has proposed a variety of educational programming and educational opportunities onsite, including interpretive led walks and lectures on species identification and ecology, interpretive signage along the boardwalk, and provision of an environmental resource center/reading room to provide books, tapes, videos, etc. to visitors of the Eco Inn. The DEM permit for the connection of the boardwalk to the Rail Trail may also require the Eco Inn to provide quarterly publicly advertised interpretive walks, which the Commission supports.

NR5. This project requires the use of the Flexibility Standard. The applicant must demonstrate that the interest protected by MPS 2.3.1.2 can be achieved by an alternate approach including appropriate mitigation. The Commission hereby finds that while construction of a boardwalk through the wetland buffer is not permitted by MPS 2.3.1.2, 1) the impacts to wetland vegetation, wildlife, and hydrology from the proposed boardwalk, birdblind, and bumpouts are the minimum necessary to achieve the purpose of the boardwalk and will have minimal longterm adverse impacts, 2) no feasible

construction alternative exists, and 3) the impacts are offset by the benefits from the educational opportunities afforded by these structures.

NR6. The applicant has proposed several potentially beneficial habitat enhancements onsite in addition to any revegetation that may be necessary as part of work within the wetland buffer. These habitat enhancements, shown on the Wetland Buffer Habitat Enhancement Plan dated November 30, 1998 and accompanying narrative prepared by ENSR entitled "Landscape and Vegetation Management Plan" dated November 30, 1998, include the removal of invasive exotic species and the subsequent revegetation with native plant species which may improve wildlife habitat within the wetland buffer.

The applicant has also proposed additional onsite habitat enhancements in keeping with the Eco Inn concept, including establishment and maintenance of fields, stonewalls, and hedgerows, and establishment of a management plan to control many of the invasive non-native plant species onsite, all of which may improve habitat for native bird, reptile, and small mammal species.

Open Space Findings:

OS1. The project site is 9.3 acres, a portion of which is located within a Significant Natural Resource Area (SNRA). The open space requirement is 4.48 acres, a portion of which is proposed onsite, as shown on the plan entitled "Proposed Site Plan, SD-1," dated 8/7/98, last revised 1/28/99, and to be revised per Condition G5. The applicant proposes placing a conservation restriction, as defined in MGL Chapter 184, on 3.62 acres of open space as shown on the plan entitled "Proposed Site Plan, SD-1" dated 8/7/98, last revised 1/28/99, and to be revised per Condition G5.

OS2. The applicant is proposing 3.3 acres of off-site open space as shown on the Brewster Assessor's map #47, parcel #28, and as shown on the attached map. The applicant proposes donating this parcel to a conservation organization approved by Cape Cod Commission staff for permanent conservation, or providing a conservation restriction on this parcel to be held by a conservation organization approved by Cape Cod Commission staff. This off-site open space is in excess of that required and is a benefit of the project.

Economic Development and Energy Findings:

ED1. In a December 11, 1998 submission, the developer committed to twenty demonstration components that would be included in the project subject to the approval of permit-granting agencies. The components range from natural and recycled building materials and passive solar heating to energy-efficient appliances and high efficiency lighting. These sustainable energy technologies could be considered project benefits if implemented because they would demonstrate that such project elements could work for other Cape businesses as well, as well as provide useful information for other businesses on Cape Cod that are contemplating similar sustainable technologies.

ED2. The applicant has indicated that 8-9 people will be employed at the Eco-Inn on a full-time basis, with an additional 3-4 people being added seasonally. The applicant has not indicated the pay ranges of these positions.

Transportation Findings:

T1. The project is expected to generate 79 trips during the typical peak hour, broken down as follows:

| | |
|---------------|----------|
| Restaurant | 23 trips |
| Inn | 16 trips |
| Spa | 4 trips |
| Function Hall | 36 trips |
| Total | 79 Trips |

T2. To limit the project's trip generation, the applicant has agreed that no "health club type" memberships will be sold to the general public for the use of the spa and exercise facilities.

T3. Minimum Performance Standard (MPS) 4.1.1.3 states that for the purpose of determining impacted locations and measuring traffic impacts, a 20% reduction in project traffic shall be included in such determination when MPS 4.1.2.1 is met. MPS 4.1.2.1 requires all Developments of Regional Impact to implement strategies to reduce daily automobile trips to and from the development on a year-round basis by 20% from average traffic generation for that land use.

T4. Per MPS 4.1.1.3, this traffic volume is reduced by 20% when MPS 4.1.2.1 is met. Providing the public connection via a pathway between Route 6A and the Cape Cod Rail Trail, provision of the shuttle bus, the new Route 6A crosswalk, and other measures will achieve the required trip reduction. Therefore, for traffic impact analysis purposes, the trip generation is 64 trips during the typical peak hour.

T5. Prior to the construction of any public pathway between Route 6A and the Cape Cod Rail Trail, the applicant will be required by the Massachusetts Department of Environmental Management (DEM) to obtain a Special Use Permit and to ensure that the pathway will comply with the American with Disabilities Act (ADA) requirements. A requirement of the DEM Special Use Permit may be that "Stop" and directional signage be provided at the junction with the Rail Trail.

MPS 4.1.1.22 states that transportation improvements and proposed transportation mitigation should be consistent with the ADA. In addition to meeting MPS 4.1.1.22, directional signage will help to ensure that the public knows that the pathway is intended for public use.

T6. To meet the RPP's 20% trip reduction requirement, the applicant agreed to provide a new crosswalk at the northern site frontage to provide a safely marked location to cross Route 6A to the opposite residential road, at the end of which a town beach/landing is located. In addition, the applicant agreed to provide a shuttle bus service to transport guests to and from the project on planned excursions, to the beach, to an off-site parking lot, and to local public transportation connections such as bus stations and airport.

T7. It should be noted that the typical trip generation for the Function Hall assumes the limitation on parking discussed at the December 10, 1998 meeting with the applicant. At this meeting, the applicant agreed to restrict parking to 58 designated paved parking

spaces. No parking shall be allowed on adjacent roadways (on- or off-site) or on unpaved areas within the site. In addition, the applicant agreed to provide language in function contracts regarding limited on-site parking and the availability of a shuttle bus. Without these stipulations, average trip generation for the function hall would be expected to be higher, increasing overall peak hour trip generation for the project.

According to the applicant, the town of Brewster minimum requirement for parking for this project is 53 parking spaces. The applicant was not required to prepare a traffic study. Site plans dated 8/7/98, revised 9/30/98 show 56 parking spaces. Plans dated 8/7/98 and revised on 12/2/98, 12/9/98 and 12/24/98 show 64 parking spaces. The Subcommittee approved 56 parking spaces, and the final plan must be revised to reflect this.

The applicant has agreed that all on-site parking will occur only in designated, paved parking spaces, and that no parking will occur on grass or unpaved surfaces or on adjacent streets. To provide additional parking for project functions, the applicant has agreed to provide this parking in an off-site location and a shuttle bus service to transport guests between Eco-Inn functions and the off-site parking lot.

T8. Based on 64 trips during the project's typical peak hour, the Cape Cod Commission staff's analysis indicates that the driveway will operate at Level of Service C, complying with MPS 4.1.1.6 which requires that all new driveways on the regional road system for DRIs shall operate at Level-of-Service C or better. Assuming that trip distribution is evenly split between the east and west (30 trips each way), MPS 4.1.1.20, which states that at locations where at least 25 new vehicle trips but less than 50 vehicle trips is added to regional intersections, a cash payment can be used to meet the requirements of 4.1.1.1, which states that DRIs shall mitigate all year-round and summer transportation impacts created at all regional intersections and all regional road links where the project traffic is expected to add 25 new vehicle trips or more during the project's typical peak hour. The applicant would be required to make a one-time payment of \$12,800, per the calculations shown below.

| <u>Facility</u> | <u>Impact</u> | <u>Payment</u> |
|---|-----------------|----------------|
| Rt. 6A east of the site | 32 trips | \$3,200 |
| Regional intersection east of the site | 32 trips | \$3,200 |
| Rt. 6A west of the site | 32 trips | \$3,200 |
| <u>Regional intersection west of the site</u> | <u>32 trips</u> | <u>\$3,200</u> |
| Total | | \$12,800 |

T9. After the project traffic passes through the adjacent intersections to the east and west, traffic is expected to be below the 25 trip threshold to require additional payments or mitigation.

T10. Typical traffic generation is based on a function generating approximately 36 trips during the peak hour. Larger functions may generate more traffic. Without mitigation, this may result in a degradation in driveway level of service that violates level of service (MPS 4.1.1.6) and safety (MPS 4.1.1.7) requirements. Police officer control at the project site drive may be necessary to mitigate these peak impacts and maintain safety.

T11. Residents of Smith Lane are on record as opposing any site access from Smith Lane.

Solid and Hazardous Waste Management Findings:

WM1. The project is not located in a Wellhead Protection District/Zone II according to maps developed for the 1996 RPP. As such, MPS 4.2.2.3 of the 1996 RPP would not apply to this project.

WM2. MPS 4.2.2.1 requires development and redevelopment to make reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling. Additional information was provided to staff by the applicant of October 8, 1998 which included descriptions of various kinds of building products: wood interior support members, expanded polystyrene insulation, water-based acrylic latex paint, recycled-content ceiling panels and linoleum. It also included information from sustainable building products resource guides.

WM3. MPS 4.2.2.2 requires that development and redevelopment shall be in conformance with the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. On January 26, 1999, the applicant submitted a draft Supplemental Agreement to be attached to contractor's bidding documents which describes conditions related to the storage, use and handling of hazardous materials and wastes generated during construction.

Heritage Preservation/Community Character Findings:

HPCC1. The project site includes two historic structures, the Alpheus Mayo House and Barn. Based on the construction techniques and architectural style, the house likely dates from the late 18th or early 19th century, with more recent dormers and additions to the rear. The barn likely dates from the same period. These buildings were originally located further west on the property and were moved to the current location in 1989, onto new foundations and sills, with the approval of the Old Kings Highway Historic District Committee.

HPCC2. The Alpheus Mayo House and Barn are included in the Old Kings Highway Historic District and are listed on the State Register of Historic Places. Though the buildings have been neglected for several years, both retain historic significance and should be preserved and reused on site.

HPCC3. The applicant proposes to relocate the Mayo House on the site, moving it closer to Route 6A as shown on the plan entitled "Brewster Eco-Inn Resort, Concept Site Plan," dated December 1, 1998. Because the Mayo House and barn were moved once before, the proposed relocation on site will not have detrimental impacts on the historic significance of the building. The Mayo Barn is proposed for reuse on its current site.

HPCC4. The applicant has proposed to rehabilitate and reuse the Mayo House for administrative purposes and to rehabilitate and reuse the Mayo Barn for storage of service vehicles. Rehabilitation of the Mayo House will be consistent with an historic photo provided by the Old Kings Highway Historic District Committee. In order to preserve the historic integrity of the Mayo House and Barn, the rehabilitation work should be consistent with the Secretary of the Interior's Standards for Treatment of

Historic Buildings, preserving the maximum amount of distinctive exterior materials and architectural features possible, including original window details and architectural trim.

HPCC5. A large addition is proposed to the rear of the Mayo House as a function space. To preserve the historic integrity of the house, the addition and related alterations to the rear ells should be designed to be compatible with the size, scale, design and materials of the Mayo House. Any addition should be oriented in a manner which is consistent with traditional architectural forms.

HPCC6. The design of the proposed new structures shown in the elevation drawings entitled "Brewster Eco-Inn Resort, Cape Cod, Mass," and dated December 1, 1998 are generally consistent with the Regional Policy Plan and the Design Manual in that they are composed of several massings to reduce their apparent scale, buildings of different heights with steeply pitched roofs, and have numerous windows and other architectural details to ensure that the facades have a human scale and a level of detailing which is similar to that found on traditional historic structures.

HPCC7. The proposed project site is within the Old Kings Highway Historic District and is surrounded by buildings with distinctive architectural styles. All proposed renovation work and new construction is subject to review and approval by the Brewster Old Kings Highway Historic District Committee.

HPCC8. The Massachusetts Historical Commission (MHC) requested in letters dated April 8, 1998 and May 7, 1998 that they have the opportunity to review more complete project specifications when they become available. MHC determined in a letter dated November 10, 1998, that the proposed project is unlikely to affect significant archaeological resources.

HPCC9. MPS 6.2.3 requires that all new development provide adequate landscaped buffers in order to limit adverse visual impacts on the surrounding community, including new development that is proposed adjacent to or within historic districts. The MPS also states that preservation of existing natural vegetation in these buffer areas is preferred. The applicant prepared draft landscape plans to partially address buffering, screening and parking lot plantings. The applicant agreed to provide final landscape plans to be subject to staff approval prior to the issuance of a partial Certificate of Compliance.

HPCC10. The draft landscape plans include native and sustainable plants, which is in keeping with the eco theme of the project. The applicant has agreed with staff that plants that are non-invasive, native or sustainable, and that require reduced amounts of pesticides, water and maintenance are most appropriate for the project. Regular watering and maintenance is required during the first two growing seasons in order to help ensure successful establishment of the plantings.

HPCC11. MPS 6.2.7 states that exterior lighting in new development or redevelopment shall comply with the standards including design, light source, total cutoff and footcandle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001.

HPCC12. On December 29, 1998, the Commission received two submissions on site lighting: manufacturers catalog information showing the proposed fixture types and

hand-drawn iso-footcandle diagrams on a site plan showing the proposed locations of fixtures and estimated footcandle levels. On January 6, 1999, staff discussed the December 29, 1998 lighting submissions with the applicant's lighting consultant. He indicated the following:

- a.) There were four types of lights proposed: pole-mounted parking lot lights, walkway bollards, decorative building lights and a lighted handrail for the boardwalk.
- b.) The pole lights are proposed to be a maximum of 15 feet in total height. The bollards (42 inches high) are to be used for walkway lighting. The project does not include wall-pack fixtures.
- c.) The fixture types chosen, with the exception of the boardwalk illuminated handrail, are known to be metal halide.

HPCC13. The parking lot pole-mounted lights, building-mounted lights and bollard fixtures chosen are in conformance with standards 2.3, 2.4 and 2.6 of the Technical Bulletin.

HPCC14. The Commission received an undated set of initial point-to-point lighting diagrams. However, these diagrams did not present the information in a manner which facilitated a determination of conformance with the Technical Bulletin. On February 9, 1999, the Commission received a revised point-to-point diagram showing the maintained condition of fixtures on site except for the boardwalk's lighted handrail. The diagram submitted indicates conformance with Technical Bulletin standards 2.5 (cutoff) and 2.8(b).

HPCC15. MPS 6.2.8 states that the installation of billboards, offsite advertising (excepting approved directional signs) and internally lit or flashing signs shall not be permitted. No internally-illuminated signs are proposed as part of the project.

CONDITIONS

The Cape Cod Commission has reviewed the project against the Minimum Performance Standards in the Regional Policy Plan and has determined that the project, as conditioned below, and utilizing the flexibility standard for construction of a boardwalk across the wetland buffer, will comply with all Regional Policy Plan Minimum Performance Standards.

General:

G1. The site shall be developed consistent with the plans "Proposed Site Plan" sheet SD-1, dated 8/7/98, last revised 1/28/99, "Proposed Utility Site Plan" sheet SD-2, dated 9/30/98, last revised 1/28/99, and "Proposed Elevated Walkway" sheet SD-3, dated 8/7/98, last revised 1/28/99, as those plans shall be modified by the revisions required by Condition G5 below. In addition, the site shall be developed consistent with the plans "Sewage Disposal System Details" sheet SD-4, dated 9/30/98, revised 11/4/98, and the "Sewage Disposal System & Sitework Details" sheet SD-5, dated 9/30/98.

G2. Prior to applying for a building permit from the town of Brewster for the project, the applicant shall obtain a partial Certificate of Compliance from the Cape Cod Commission. This shall apply to Conditions that are so noted. The applicant shall notify

the Commission staff of the intent to seek a partial Certificate of Compliance at least 30 days prior to applying for a building permit. Unless otherwise stated, all conditions of this decision shall be met prior to the issuance of a final Certificate of Compliance.

G3. Prior to receiving a permanent or temporary Certificate of Occupancy for the Eco Inn project, the applicant shall obtain a final Certificate of Compliance from the Cape Cod Commission. Unless otherwise stated, all conditions of this decision shall be met prior to issuance of a final Certificate of Compliance. Unless otherwise stated in this decision, the project shall be constructed in accordance with final plans listed elsewhere in this decision. The applicant shall notify Commission staff of the intent to seek a Certificate of Compliance at least 30 days prior to the anticipated date of occupancy. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within seven (7) business days of such notification and inform the applicant of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless conditions are complied with or secured consistent with this decision.

G4. Any change or addition to the project as approved on the plans noted in G1 above shall be subject to review and approval by the Commission consistent with the Commission's policy on Revisions to Approved DRI's.

G5. Prior to receiving a partial Certificate of Compliance, the applicant shall submit revised plans SD-1 (Proposed Site Plan, dated 8/7/98, last revised 1/28/99), SD-2 (Proposed Utility Site Plan, dated 9/30/98, last revised 1/28/99) and SD-3 (Proposed Elevated Walkway, dated 8/7/98, last revised 1/28/99) for approval by Cape Cod Commission staff. SD-1 shall be revised to show the Cape Cod Commission approved number of parking spaces and removal of the area of the pathway marked "F" and the area of the sections marked "C1", "C2" and "E" from the open space calculations; SD-2 shall be revised to be consistent with SD-1; and SD-3 shall be revised to indicate on the plan that Option A is the Commission-approved method of boardwalk construction.

Water Resources Conditions:

WR1. Total nitrogen upstream and downstream of the wetlands in the Bioclere/wetland wastewater system shall be monitored monthly for a period of five years. Monitoring data shall be submitted to the Commission and Brewster Board of Health every three months.

WR2. If total nitrogen concentrations downstream of the wetland are greater than 14 ppm for three consecutive months, four of six months, or eight of twelve months, the system will be replaced with a DEP-approved technology that will attain at least a 14 ppm total nitrogen concentration.

WR3. Prior to the issuance of a partial Certificate of Compliance, the DEP piloting permit shall be reviewed and approved by Commission staff to ensure that Condition WR1 and Condition WR2 are addressed and to ensure that adequate maintenance schedules and escrow amount are included.

WR4. The wastewater systems shall be constructed as detailed on plans entitled "Proposed Utility Site Plan" sheet SD-2 dated 9/30/98, revised 12/2/98, "Sewage Disposal System Details" sheet SD-4 dated 9/30/98, revised 11/4/98, and "Sewage Disposal System & Sitework Details" sheet SD-5 dated 9/30/98.

WR5. Compost materials from the smaller wastewater systems shall be removed from the site and properly disposed of by a qualified handler.

WR6. Operation and maintenance of the stormwater systems on the Eco Inn site will be the responsibility of the Eco Inn. The systems will be inspected by a qualified firm, as approved by Cape Cod Commission staff, on a monthly basis during the first 6 months of operation and annually thereafter. Each system will be desludged or pumped as appropriate following individual inspections.

Natural Resources Conditions:

NR1. The applicant shall construct the proposed boardwalk as shown on the "Proposed Site Plan" SD-1 to be submitted as required by Condition G5, where the decking of the boardwalk shall be no more than 6 ft., except where "bumpouts" occur where the width may be increased to 10 ft., and helical piers shall be used in construction. The boardwalk within the 50 foot buffer to wetlands shall be constructed of slatted wood or similar material. The boardwalk within the 50-100 foot buffer to wetlands shall be constructed of pervious material at grade, no more than 6 ft. in width. The boardwalk shall comply with ADA standards with regard to slope and surface. Staff shall approve surface material prior to issuance of a partial Certificate of Compliance. The applicant shall also submit for staff approval and review a grading plan for any grading required to comply with ADA requirements prior to issuance of a Partial Certificate of Compliance.

NR2. The siting of the boardwalk through the wetland buffer is appropriate as shown on the "Proposed Site Plan" SD-1 to be submitted as required by Condition G5, acknowledging that some alterations may occur on site during construction in order to accommodate large trees or significant features in the landscape. The two proposed "bumpouts" as shown on the plan may also be adjusted as necessary to accommodate site features, but shall not intrude into the wetland boundary.

NR3. The interpretive viewing platform or bird blind shall be located such that the single helical pier support is located outside of the flagged wetland boundary, though in such a manner that the deck may protrude over the wetland area, as shown on the "Proposed Site Plan", sheet SD-1 to be submitted as required by Condition G5. The bird blind decking shall be no greater than 13 ft. in outside diameter. The exact location of the blind shall be field checked to accommodate existing natural site features.

NR4. Lighting on the boardwalk and birdblind shall be recessed; in addition, lighting along the entire bikepath/pathway, boardwalk and birdblind shall be set on timers. This shall be consistent with plans as shown on the revised "Proposed Elevated Walkway", sheet SD-3 to be submitted as required by Condition G5 and the hand-drawn Proposed Site Lighting Plan dated December 28, 1998, received on December 29, 1998. The applicant shall propose hours of operation for staff approval prior to a final Certificate of Occupancy.

NR5. No chemical mosquito control shall be permitted within the wetland buffer areas.

NR6. Any construction within the buffer shall use best management practices to control erosion during construction and minimize clearing of vegetation. Prior to work in the wetland buffer, the applicant shall install temporary construction fencing outside of which no construction shall occur, and to be approved by Commission staff prior to construction. Haybales and silt fences shall be used to contain erosion within the buffer. Any areas disturbed during construction shall be revegetated with native plant species.

NR7. Other than the clearing necessary for construction of the boardwalk and birdblind or implementation of the Wetland Buffer Habitat Enhancement Plan dated November 30, 1998, no clearing of vegetation or deadwood shall occur within the wetland buffer.

NR8. In keeping with the Eco Inn concept, the applicant shall establish and provide on an ongoing basis educational programming regarding the function and value of wetlands. This programming shall include but not be limited to small interpretive signs on wetland species, habitats, and ecological processes, interpretive led walks, and an environmental resource/interpretive center to make available educational books, videos, maps, fieldguides, etc. to the Eco Inn guest. Evidence of establishment of such programs to the Commission shall be provided prior to the issuance of a final Certificate of Occupancy.

NR9. As mitigation specifically for the birdblind, the applicant shall establish and provide on an ongoing basis educational access and programming for local schools on the functions and value of wetlands. These programs shall be designed specifically for a younger audience, and not be combined with programs for the general (adult) public. Evidence of the establishment of such programs shall be submitted to the Commission prior to the issuance of a permanent Certificate of Occupancy.

NR10. The applicant shall implement the Wetland Buffer Habitat Enhancement Plan dated November 30, 1998 and the work detailed in the accompanying narrative prepared by ENSR entitled "Landscape and Vegetation Management Plan" dated November 30, 1998 prior to a Permanent Certificate of Occupancy. Please reference Condition HPCC4.

Open Space Conditions:

OS1. Prior to receipt of a partial Certificate of Compliance, the applicant shall provide the Commission with a Conservation Restriction consistent with MGL Chapter 184 Sections 31-33 permanently restricting 3.62 acres of open space, as shown on plan entitled "Proposed Site Plan, SD-1" to be submitted as required by Condition G5, for review and approval by Commission counsel.

OS2. The Cape Cod Commission approved Conservation Restriction for the 3.62 acres of upland open space, shown on the plan "Proposed Site Plan, SD-1" to be submitted as required by Condition G5, shall be recorded at the Registry of Deeds or Land Court and shall remain as permanent open space. The restriction and site plan shall be executed and recorded and proof of recording shall be provided to the Commission prior to issuance of a final Certificate of Compliance.

OS3. Prior to receipt of a final Certificate of Compliance the proponent shall donate the 3.3 acre parcel as shown on Brewster Assessor's map #47, parcel #28 to the Brewster

Conservation Trust or a comparable conservation organization approved by Cape Cod Commission staff to be held for permanent conservation purposes. The form and content of the donation shall be approved by Cape Cod Commission counsel.

Alternatively, the applicant shall provide the Commission with a Conservation Restriction consistent with MGL Chapter 184 Sections 31-33 for 3.3 acres of open space as shown on Brewster Assessor's map #47, parcel #28 for review and approval by Commission counsel. The approved Conservation Restriction shall be recorded at the Registry of Deeds or Land Court and the 3.3 acres shall remain as permanent open space. The restriction and site plan shall be executed and recorded and proof of recording shall be provided to the Commission prior to issuance of a final Certificate of Compliance.

OS4. Prior to receipt of a partial Certificate of Compliance the proponent shall clearly mark the boundaries of the permanent onsite open space with concrete bounds. During any construction, the boundaries of the open space adjacent to construction on the Eco Inn site shall be clearly marked with temporary construction fencing to ensure that the open space is not disturbed by construction activities.

OS5. Prior to the commencement of site work, the applicant shall install for Commission review and approval a visible temporary construction fence or its equivalent which shall delineate the limit of work for the proposed project. This fencing shall be place along the open space boundary adjacent to any area of construction activity.

Economic Developments and Energy Conditions:

ED 1. The applicant shall include the energy-related components detailed in the December 11, 1998 submittal in the project design and construction, subject to the approval of permit-granting agencies.

ED 2. To document the benefits of the project and to provide the Commission with information about the sustainable practices developed by the Eco-Inn, the applicant shall provide a report to the Commission about the construction process and the sustainable technologies used prior to the issuance of a Certificate of Compliance. This report shall include information about who the contractors were, how many jobs were created during project construction as well as anticipated permanent full-time and part-time employees of the resort, the cost of the project, and the sustainable design and operations features that the project ultimately incorporates. The report shall also document the number of jobs and how much of the contracting work has been done by Cape Cod residents and firms, as well as the pay ranges for any permanent and/or seasonal employees hired for the resort.

Transportation Conditions:

T1. A public pathway shall be constructed between Route 6A and the Cape Cod Rail Trail prior to the issuance of a final Certificate of Compliance. This shall remain open to the public so long as the use of the project does not change. If the use of the site as an Inn/Resort changes, the change shall be reviewed as a major modification consistent with the Commission's policy on Revisions to Approved DRIs. The pathway shall comply with Americans with Disabilities Act (ADA) and Architectural Access Board (AAB) requirements and shall comply with Massachusetts Department of Environmental Management (DEM) special permit requirements.

T2. The applicant shall provide documentation to the Commission that the pathway is designed to comply with ADA, AAB, and DEM regulations prior to the issuance of a partial Certificate of Compliance. Construction of the boardwalk consistent with these plans shall be completed prior to the issuance of a final Certificate of Compliance.

T3. The applicant shall install directional signage to indicate the connection to Route 6A/Ellis Landing Road to users of the Cape Cod Rail Trail subject to Cape Cod Commission staff approval prior to the issuance of a final Certificate of Compliance.

T4. The applicant shall provide a new crosswalk on Route 6A at the northern site frontage prior the issuance of a final Certificate of Compliance.

T5. The applicant shall provide a shuttle bus which shall be available to inn and function hall guests to transport guests on planned program excursions, and to and from the beach, local bus stations, the airport, off-site parking locations and the resort.

T6. There shall be no "health club" memberships sold to the general public for use of the spa and exercise facilities.

T7. The applicant shall provide four crosswalk "pavement texturing" (simulated brick texture and color) improvements at four (4) or more existing crosswalks in the town of Brewster. This is in addition to the new crosswalk that the applicant shall create as a trip reduction measure at the northern site frontage.

In order to ensure completion of the crosswalk improvements, prior to the issuance of a final Certificate of Compliance the applicant shall establish an escrow account of \$12,800 to be held by the County of Barnstable. Upon completion of the "pavement texturing" to the satisfaction of Cape Cod Commission staff, the Town of Brewster and the Massachusetts Highway Department, the funds shall be returned to the applicant.

In the event the work is not completed within one (1) year of receipt of the project's final Certificate of Compliance, the Cape Cod Commission may expend the funds to complete the work, or release them to the town of Brewster to support the planning, design, construction, operation and/or implementation of transportation improvements in the town of Brewster. The Cape Cod Commission will release any funds remaining after ten (10) years to the Cape Cod Regional Transit Authority or similar transportation agency to provide public transportation in the town of Brewster.

Upon establishment of the escrow account, the applicant shall decide whether he will cause the work to be done and seek reimbursement from the escrow account, or whether he shall place the funds in the escrow account to be expended by the town of Brewster or the Cape Cod Commission and shall notify the Cape Cod Commission, in writing.

T8. Parking on-site shall occur in designated paved spaces only, as shown on the revised "Proposed Site Plan", sheet SD-1 to be submitted as required by Condition G5, and shall be limited to 56 spaces. No parking shall be allowed on other paved or unpaved areas, or on adjacent streets.

T9. Contracts for functions shall include language informing clients that on-site parking is limited and a shuttle bus is available for transporting guests to and from the site.

T10. The applicant shall produce marketing materials to inform guests of transportation alternatives. Before finalization, a draft copy of such material shall be submitted to Commission staff for approval. Prior to the issuance of a Certificate of Compliance, a final copy of such materials shall be submitted.

T11. At the discretion of the Brewster Police Chief or his/her representative, the applicant shall be responsible for hiring a police officer to control safe access/egress onto Route 6A when functions are being held. The Brewster Police Department shall be notified of all functions at least 48 hours in advance to make a determination as to the need for police officer control. The Brewster Police Chief may choose to make a determination about what the minimum number of people per function shall be to require notification under this Condition, and may choose to revise this number periodically.

T12. The applicant shall not provide commercial access to the site, or to any current or future use on the site, from Smith Lane. Utilization of Smith Lane for any access in the future would constitute a major modification requiring a public hearing to consider the proposal.

Solid and Hazardous Waste Management Conditions:

WM1. Prior to issuance of a final Certificate of Compliance, the applicant shall submit to the Commission a report which details the informational sources used to find alternative and least-toxic building products and what such products were actually utilized in the project's construction.

Heritage Preservation/Community Character Conditions:

HPCC1. Prior to issuance of a partial Certificate of Compliance for the project, the applicant shall submit final renovation plans and exterior elevation drawings for the preservation and rehabilitation of the Mayo House and Barn for review and approval by Commission staff and Massachusetts Historical Commission. The plans and drawings shall identify any proposed alterations and additions, and shall be consistent with plans approved by the Brewster Old Kings Highway Historic District Committee. Such changes shall be reviewed and approved by Commission staff consistent with the Commission's policy on Revisions to Approved DRP's.

HPCC2. Prior to issuance of a partial Certificate of Compliance for the project, the applicant shall submit information documenting the Mayo House relocation plans and method of moving the building for review and approval by Commission staff. The information shall include the name of the contractor and shall document their experience relocating historic structures.

HPCC3. Prior to issuance of a partial Certificate of Compliance for the project, the applicant shall submit final architectural plans for all new structures proposed on the site for review and approval by Commission staff and Massachusetts Historical Commission. The plans shall depict all facades of the buildings, shall be consistent with the Commission's Design Manual, and shall be consistent with plans approved by the Brewster Old Kings Highway Historic District Committee. Such changes may be

reviewed and approved by Commission staff consistent with the Commission's policy on Revisions to Approved DRI's.

HPCC4. The applicant shall submit a final Landscape Plan for approval by Cape Cod Commission staff prior to the issuance of a partial Certificate of Compliance. The revised landscape plan shall include a limit of work line along the open space boundary adjacent to any area of construction activity. The applicant shall landscape the site in accordance with a Cape Cod Commission staff approved Landscape Plan and the Wetland Buffer Habitat Enhancement Plan, dated November 30, 1998, including buffer/screening plantings, parking lot plantings, revegetation and vegetation enhancement plantings, prior to the issuance of a final Certificate of Compliance. Plants indicated on the plans shall be native or sustainable and require reduced amounts of water, pesticides and maintenance.

HPCC5. Prior to the issuance of a final Certificate of Compliance, the applicant shall provide written documentation addressing how the plantings shall be maintained for staff approval. This shall include the person/persons responsible and their qualifications, what the maintenance will consist of, and the maintenance schedule, as well as a signed affidavit from the person(s) responsible for such maintenance verifying receipt of the document outlining the landscape maintenance plans.

HPCC6. The applicant shall provide site lighting as shown on the revised computer generated point-to-point diagrams submitted on February 9, 1999. Pole-mounted, wallpack and other exterior lighting fixtures for this project shall conform to the requirements of Technical Bulletin 95-001 and Minimum Performance Standards 6.2.7 and 6.2.8. If the Brewster Old Kings Highway Historic District Committee requires changes to the fixture design or location, such changes may be reviewed and approved by Commission staff consistent with the Commission's policy on Revisions to Approved DRI's. All pylon and/or wall signage shall be externally illuminated.

HPCC7. Pole-mounted, wallpack and other exterior lighting fixtures for this project shall conform to the requirements of Technical Bulletin 95-001 and MPS 6.2.7 and MPS 6.2.8.

HPCC8. Prior to issuance of a partial Certificate of Compliance, the applicant shall submit additional information, such as a point-to-point diagram for the initial condition of fixtures, to verify conformance Technical Bulletin standard 2.8(a).

HPCC9. Prior to issuance of a final Certificate of Compliance, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of Technical Bulletin 95-001 and Minimum Performance Standard 6.2.7. This review shall be based on the exterior lighting design information submitted as part of the DRI review as well as the lighting design plans submitted on December 29, 1998.

HPCC10. If all required sitework, including boardwalk construction, exterior lighting and/or landscape improvements, is not complete at the time a partial or final Certificate of Compliance is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow fund under the escrow agreement shall equal 110% of that portion of the incomplete work, including labor and materials, with the amount approved

by Commission staff. The escrow funds shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds to the applicant. Escrow account funds may be released by the Commission in the form of partial disbursements as proof is provided that the work has been done as approved. This provision shall not include the restriction of open space, which shall occur before the partial Certificate of Compliance is issued.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes that the benefits of the proposed project outweigh the detriments. This conclusion is supported by the findings that the project: will serve as a model for eco-tourism and other businesses on Cape Cod that might utilize sustainable and energy efficient construction and technology; rehabilitates and reuses two historic structures on site; provides public access from the Rail Trail to Route 6A; will implement a habitat enhancement plan within the wetland buffer; provides public educational components with respect to the value of wetlands and wetland habitat; and provides excess open space beyond the requirements of the RPP.

Detriments of the project include increased traffic generation; development of an undeveloped parcel of land; intrusion into the wetland buffer; and increased nitrogen loading; all of which have been mitigated in the conditions of this decision.

As conditioned above, the project is consistent with the Minimum Performance Standards in the Regional Policy Plan and with town of Brewster zoning bylaws.

The Commission hereby approves with conditions the application of Paul de Ruyter, Gristmill Trust, for the Brewster Eco-Inn Resort as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act.

Herbert Olsen

Herbert Olsen, Chairman

2/18/99

Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this

18th day of *February*, 19*99*

Katharine L. Peters

Name, Notary Public

My commission expires:

