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THE CAPE COD COMMISSION

CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION  
1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630  
TELEPHONE: 617-362-2511

DATE: September 19, 1990

TO: Board of Selectmen, Town of Yarmouth  
Mr. Robert Love  
Yarmouth, MA

RE: Development of Regional Impact Request  
Cape Cod Commission Act, Section 12(k)

APPLICANT: Mr. Robert Love

PROJECT: Pirates Cove Miniature Golf Expansion  
Route 28, Yarmouth, MA

MAP/PARCEL: Map #27, Parcels W1 and W7

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby denies the application of Mr. Robert Love for an exemption under Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Pirates Cove Miniature Golf expansion. The decision is rendered pursuant to the vote of the Commission on September 13, 1990.

PROJECT DESCRIPTION

The project involves the expansion of an existing 18 hole golf course on Route 28 in Yarmouth. The expansion consists of an additional 18 hole golf course and additional parking area.

## PROCEDURAL HISTORY

This application for a DRI exemption under Section 12(k) of the Act was filed with the Commission on July 12, 1990 . The public hearing for this exemption request was scheduled in conjunction with the public hearing on the DRI review at the request of the applicant. A duly noticed public hearing was conducted by the Commission pursuant to Section 5 of the Act by an authorized subcommittee of the Commission on Wednesday, August 29, 1990 at the Yarmouth Town Hall.

Materials submitted for the record include:

- Correspondence from Mr. Sweeney dated May 10, 1990;
- Correspondence from Mr. Sweeney dated June 6, 1990;
- Correspondence from Mr. Sweeney dated July 3, 1990;
- Application memorandum dated June 1, 1990;
- Development of Regional Impact exemption application filed July 12, 1990
- Development of Regional Impact Application filed July 12, 1990;
- Decision of The Massachusetts Historical Commission dated August 10, 1990
- Plans drawn by Down Cape Engineering, and Merrell Consulting Inc. dated January 9, 1990 as follows;
  - A. Sheet 1, site plan with additional curb cut
  - B. Sheet 2, site plan with existing curb cut
  - C. Sheet 3, construction details
  - D. Sheet 4, golf course details
  - E. Sheet 5, golf course elevations
  - F. Sheet 6, site plan with existing and proposed areas;
- U.S.G.S. 7.5 minutes series scale topographic map (portion);
- Assessors map (portion);
- Yarmouth Zoning Map (portion);
- Soil Conservation Service Soils Map;
- Deed of existing course property;
- Yarmouth Board of Appeals Petition No. 2156, Decision;
- Yarmouth Board of Appeals Petition No. 2043, Decision;
- Yarmouth Board of Appeals Petition No. 2151, Decision;
- Yarmouth Site Plan Review Report;
- Notice of Intent filed with the Yarmouth Conservation Commission;
- Development of Regional Impact referral;

- Yarmouth Board of Appeals Petition No. 2711, Decision;
- Traffic study;
- Commonwealth of Massachusetts curb cut plan;
- Plan recorded in Plan Book 343, Page 31;
- Deed recorded in Book 6794, Page 018;
- Yarmouth Conservation Commission Order of Conditions;
- Six Proposed Decisions, written by the petitioner's attorney;
- Twenty letters in support of the project;
- Two letters in opposition to the project;
- A petition containing 1166 signatures in favor of the project;
- Cape Cod Commission Staff report dated August 23, 1990;
- Cape Cod Commission Staff report dated September 6, 1990;
- Letter from Down Cape Engineering dated September 12, 1990;
- Letter from Bruce Campbell and Associates dated September 11, 1990.

The Commission heard oral testimony from the applicant's attorney, Mr. Edward Sweeney, Esq.. Also present were: Mr. Robert Love, applicant; representatives of Bruce Campbell Associates, traffic consultant; Tom McClellan, Downcape Engineering.

The representatives of the petitioner described the project as a family-oriented entertainment facility which would be beneficial to the community without presenting any detriments. While traffic problems on Route 28 were acknowledged, the petitioner's engineers did not believe that the proposed project would have a substantial impact.

The staff of the Cape Cod Commission presented a report which stated concerns about water quality impacts on Parker's River and traffic impacts on Route 28. Traffic impacts primarily involves turning movements and traffic generation on a stretch of Route 28 operating at a level of Service F and impacts on nearby intersections.

The Commission also received oral testimony from public officials and members of the public.

#### JURISDICTION

The proposed Pirates Cove Miniature Golf expansion qualifies as a Development of Regional Impact (DRI) under section 12(c)(6) of the Act. Section 12(c)(6) requires review of "any proposed retail or wholesale business, office or industrial development which has a floor area as follows:...outdoor commercial space greater than 40,000 square feet...". The application was referred to the Commission by the Town of Yarmouth

Conservation Commission. The application and notices of public hearings relative thereto, the Commission staff's notes and exhibits and all written submissions received in the course of our proceedings are incorporated into the record by reference.

## FINDINGS

The Commission has considered the exemption application of Mr. Robert Love for the proposed Pirates Cove Miniature Golf expansion, and based on consideration of such application and upon the information presented at the public hearing, makes the following findings pursuant to Section 12(k) of the Act:

1. The expansion of this site is expected to result in a trip generation of 1,000 vehicle trips/day (vpd) on a section of Route 28 with summer traffic volumes of 26,000 vpd. An increase in any amount of site traffic would only exacerbate the already unacceptable traffic congestion and contribute to the degradation of local facilities.
2. Rather than wait to exit the drive on the expansion site, it is more likely that drivers will accept shorter gaps (i.e. force their way into traffic), thereby increasing the frequency of traffic conflicts and the probability of accidents.
3. The petitioner failed to submit sufficient mitigation alternatives addressing impacts at critical area intersections serving the site, including West Yarmouth Rd./Route 28, South Sea Avenue/Route 28, and Winslow Grey Road/Route 28. These locations are of critical concern to the project's site drive operations, since traffic queuing for these intersections has been observed to be backed up beyond the site drive.
4. The septic leaching fields are located approximately 360 feet from the Parker's River which is an active area for shellfishing and which feeds into Nantucket Sound. The river will be incrementally impacted from the nutrient contribution from this project.

## CONCLUSION

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

The location, character and environmental effects of the proposed Pirates Cove Miniature Golf expansion, if allowed to proceed as proposed, would result in a lack of adequate capital facilities necessary to support such

development and may result in significant impacts on groundwater, surfacewater and ocean water quality. This conclusion is supported by the findings that an unacceptable level of traffic would be generated by the development as proposed and that such an increase in traffic is likely to result in a higher incidence of accidents and that further study of the impacts of wastewater generated from the project need to be studied in relation to the impact on Parkers River.

The Commission hereby denies Mr. Robert Love a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12 (K) of the Act.

Richard S. Armstrong *Richard S. Armstrong*

Richard S. Armstrong, Chairman

19 Sept. 1990  
Date