



# CAPE COD COMMISSION

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**DATE:** May 20, 1999 #TR99002

**APPLICANT:** J. Richard Fennell, Trustee  
Snow Inn Realty Trust

**PROJECT:** Wychmere Shores  
Snow Inn Road  
Harwichport, MA

**RE:** Development of Regional Impact (DRI) Decision  
#TR99002 DRI Review Cape Cod Commission, Section 3(i)

**BOOK/PAGE:** Book 6634, Page 13

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY:

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) proposal of Snow Inn Realty Trust under Sections 12 and 13 of the Cape Cod Commission Act (Act), c.716 of the Acts of 1989, as amended.

### PROJECT BACKGROUND AND DESCRIPTION:

The Snow Inn DRI approved by the Cape Cod Commission on June 25, 1992 and modified in 1996 and 1998 will expire on June 25, 1999. The applicant is Dr. J. Richard Fennell who is represented by Arlene Wilson of A.M. Wilson Associates Inc. The applicant has applied for a new DRI approval of the project.

The Snow Inn complex is located on Snow Inn Road in Harwichport, MA. Snow Inn Road intersects with Route 28 approximately 1/2 mile east of the Harwichport village center. Wychmere Channel is directly east of the site with Nantucket Sound

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to the south. The site is bordered by town-owned conservation land and residential properties to the west.

Proposed development and uses at the Snow Inn site requested as part of this DRI application are as follows:

- construction of 34 condominium units with 108 bedrooms in 9 buildings of 2 to 3 stories not exceeding 37' above grade;
- provision of a total of 231 parking spaces; 68 basement level parking spaces for the condominium buildings, and 163 surface spaces;
- maintenance of recreational amenities including the existing pools, patios, and decks approved by the 1996 interim modification, manicured beach and children's play area;
- connection of the proposed 34 condominium units to the existing wastewater treatment plant;
- continued operation of the existing 525 seat restaurant with no modification to the building exterior, to be approved as 477 seats with no modification to the building exterior;
- continued operation of the Snow Inn as authorized by the 1992 DRI permit; including 20 guest rooms, 1,000 s.f. of retail space;
- the operation of 7 commercial washing machines (of 9 requested);
- continued operation of the Beach Club for a maximum of approximately 600 memberships and 100 lockers, with a portion of the 100 Snow Inn food service seats authorized for remote service.

**PROCEDURAL HISTORY:**

The applicant submitted the application for a Development of Regional Impact on January 27, 1999. The following chronology describes the history of the project to date:

January 27, 1999 -

Dr. Fennell submitted an application for a Development of Regional Impact.

March 2, 1999 -

Arlene Wilson, the applicant's representative met with Commission staff at the Cape Cod Commission offices.

March 10, 1999 -

A Commission subcommittee opened and held a public hearing in the Town of Harwich. The hearing was continued to April 7, 1999.

April 7, 1999 -

The Commission subcommittee opened and held a public hearing in the Town of Harwich. The hearing was continued to the Full Commission Meeting on May 20, 1999.

April 22, 1999 -

The Commission subcommittee held a meeting at the Cape Cod Commission offices to review the Draft Decision report prepared by the Commission staff.

**TESTIMONY:**

March 10, 1999 Public Hearing

The March 10, 1999 public hearing was opened by Subcommittee Chair, Madeline Bebout at 7:05 PM. Subcommittee Member Sumner Kaufman read the hearing notice. Arlene Wilson, representative of the applicant J. Richard Fennell presented the Snow Inn project. She described the project as encompassing 20 hotel units, 1,000 sf of commercial space associated with the hotel, the Beach Club facility (w. 100 lockers, including 2 existing pools), 34 condominium units in 9 buildings, 163 parking spaces.

Ms. Wilson described the open space prior to building demolition on the site as being 1.63 acres. The 1.63 acre figure would serve as the project's open space requirement. Regarding traffic issues, Arlene Wilson stated that because the applicant had reduced trips through various methods including the provision of on site employee housing and the retention of restaurant seats exclusively for residents the applicant had adequately addressed trip reduction requirements for the project.

In her overview of Water Resource issues related to the project, Ms. Wilson stated that the impacts are lower than in the past. Commenting on staff recommendations for a relocation of the project's wastewater disposal beds from the Wychmere Harbor recharge basin to the Nantucket Sound recharge basin, she stated that this could not be accomplished on site. Ms. Wilson indicated that such a change off site would require variances, town meeting action, and special permits. She estimated that the time frame for completing such a project would be two to three years with and the cost would be over \$1ml. dollars. She also indicated that she believed that stormwater should not be an issue for the project.

Ken Kirkey, Project Planner provided an overview of the Staff Report. Mr. Kirkey explained that the project under review, although substantially similar to the DRI modification approved by the Commission in 1998, was considered a new DRI and that staff recommendations incorporate relevant changes in the Regional Policy Plan since the time of previous DRI approvals and modifications.

Describing the open space requirement for the project, Mr. Kirkey indicated that the original Snow Inn project was approved prior to the adoption of the Regional Policy Plan and that the Commission did not have an open space requirement at that time. He indicated that figures used by applicant to arrive at the 1.6 acre figure for the open space requirement had been reviewed by staff and were accurate.

He stated that the applicant's proposal to meet the open space requirement through the application of a Conservation Restriction to a 2.8 acre parcel in a proposed subdivision known as Little Shavers Lane was considered appropriate by staff.

Mr. Kirkey discussed affordable housing issues related to the project. He indicated that the 1992 Snow Inn decision required contribution toward affordable housing units, based on the overall number of residential units being proposed. Under the current plan for 34 condominium units, the applicant is required to provide three affordable housing units. Mr. Kirkey stated that the applicant had incorporated the six lots incorporated in the DRI modification approved in 1998.

Commission Staff Member, Glenn Cannon presented Traffic issues. He indicated that staff did not believe that the applicant had adequately addressed the trip reduction requirements for the project. Ed Eichner provided an overview of Water Resource-related issues including the need and benefits of removing wastewater from Wychmere Harbor.

Subcommittee Member, Sylvia Laffin stated that she felt there should be no compromising on water quality and that staff should look carefully at this issue. Bob Widegren of the Harwich Planning Board stated that the largest polluter in the area was the State of Massachusetts given the impacts from Rt. 28. Resident, Matt Suffolk asked the Commission to take into consideration that Dr. Fennel may not always be the owner of Snow Inn Complex.

Resident Jay Moynta stated that the grade on-site had been raised by 10 feet making the buildings proposed on site higher. Dr. Fennell the applicant responded that the buildings would not be higher than the original, but instead lower.

Committee Chair, Madeline Bebout noted that there were no further comments. Herb Olsen moved that the Hearing be Continued to April 7, 1999 at 2pm at the Harwich Town Hall if available or if not at the offices of the Cape Cod Commission. Sumner Kaufmann seconded the motion. The motion was approved by the subcommittee unanimously. The hearing adjourned at 8:30PM.

#### April 7, 1999 Public Hearing

The April 7, 1999 Public Hearing was opened by Subcommittee Chair, Madeline Bebout at 2:05 PM. Subcommittee Member, Sumner Kaufman read the hearing notice. Arlene Wilson, representative of the applicant, J. Richard Fennell presented the Snow Inn project. She described the overall project proposal. Related to water

resource issues Ms. Wilson indicated that the drainage design was being worked on. She also described issues related to nitrogen loading and related staff recommendations. Ms. Wilson disagreed with staff regarding both the need and the recommended methodology for reducing nitrogen loading. Staff recommendations for nitrogen loading included a reduction in the number of washing machines on site from nine machines to five. Arlene Wilson indicated that there would be no reduction in impacts related to nitrogen loading from reducing the number of machines, as the volume of laundry would be the same.

Ms. Wilson stated that the open space requirement was being met through the application of a Conservation Restriction to a 2.8 acre parcel, exceeding the acreage required for open space mitigation for the project. In terms of affordable housing Ms. Wilson indicated that the applicant still sought to contribute six units, three more than required if the Commission would use the flexibility clause regarding the trip reduction measures.

The applicant agreed to eliminate 25 seats in the restaurant, amend the restaurant license to allow only 500 seats, have 116 seats in the restaurant reserved for residents of Wychmere Shores according to Ms. Wilson. As well, she described the project as being seasonal in nature and that very few of the future residents would be at the complex outside the summer season.

Ken Kirkey, Project Planner presented the Open Space and Affordable Housing sections of the Staff Report. Mr. Kirkey confirmed Ms. Wilson's characterization of the applicant's open space contribution as being greater than required for the project. Describing affordable housing issues, Mr. Kirkey indicated that Arlene Wilson's description of the affordable housing contribution being greater than required for the project was accurate. He stated that staff would consider three additional lots for affordable housing or toward additional open space to be a project benefit.

Commission staff member, Glen Cannon provided an overview of traffic issues. He described the trip reduction measures proposed by the applicant and said that these measures fell short of the trip reduction requirements for the project. He also stated that the applicant's proposal to apply a conservation restriction to three of the lots previously proposed for affordable housing was unworkable due to the distance of the lots from the project site and related the related traffic service area.

Commission staff member, Ed Eichner described the Water Resources section of the Staff Report including the recommendation for a reduction in the number of washing machines. The Commissioners subsequently asked questions related to traffic and water resources issues. Sylvia Laffin asked Glenn Cannon if there were other potential trip reduction alternatives. Mr. Cannon replied that there were, however the applicant had not submitted them for consideration. Herb Olsen, Sumner Kaufman, and Sylvia Laffin all questioned the potential benefit of reducing washing machines if there was no net reduction in nitrogen loading because the applicant was going to use the remaining machines more.

Mike Pessolano, Harwich Town Planner stated that the town had reviewed and approved the DRI modification approved by the Commission in 1998. He said that the town was pleased with the reduction in the scale and size of the project in comparison to projects that previously existed or were approved for the site.

Matt Sexton and Nancy Hellstrom residents from the Snow Inn Road area urged the Commission to look at the project from the perspective that it could in the future become a year round project and that full time residents and commercial uses would significantly impact nitrogen loading and other factors. Arlene Wilson stated that she believed that the applicant would be willing to condition seasonality of project to 120 days per year.

Commissioner, Herb Olsen motioned that the project be continued to the May 20, 1999, CCC Meeting. The motion was seconded by Jay Schlaikjer and approved by the Subcommittee. The hearing adjourned at 3:40 PM. A subcommittee meeting was scheduled for April 22, 1999 at 1PM at the offices of the Cape Cod Commission.

#### April 22, 1999 Subcommittee Meeting

Subcommittee Chair, Madeline Bebout opened the Subcommittee Meeting at 1:15 PM. The Subcommittee reviewed the Draft Decision. No staff presentation was made. Jay Schlaikjer, Madeline Bebout, and Sylvia Laffin all inquired about the applicant's reduction in the number of affordable units from six units to three. Arlene Wilson stated that the applicant eliminated the three units that were to be provided beyond the requirement for the project due to the costs associated with trip reduction measures and other mitigation measures. The meeting was adjourned at 1:50 PM.

#### **DOCUMENTS SUBMITTED FOR THE RECORD:**

##### From the Applicant:

January 27, 1999

Cover letter to DRI application submittal, including the following:

1. DRI Application dated December 30, 1998.
2. Two 24" x 36" copies of the Development Plans.
3. One 11"x17' copy of the Subdivision Plan.
4. Applicant's Deed to the property.
5. Copy of applicant's notification to the Massachusetts Historical Commission.
6. Certified Abutter's List
7. Check in the amount of \$1,950 for the filing fee.
8. USDS Quadrangle map showing the location of the project.

March 10, 1999

Letter from Arlene Wilson in response to 3/4/99 Staff Report.

March 17, 1999

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Letter from Arlene Wilson regarding open space mitigation.

March 18, 1999

Letter from Arlene Wilson regarding water resource issues.

March 29, 1999

Letter from Arlene Wilson regarding transportation issues.

April 7, 1999

Letter from Arlene Wilson in response to 4/4/99 Staff Report.

April 16, 1999

Letter from Arlene Wilson related to trip reduction, open space, and affordable housing issues.

May 17, 1999

Comments from Arlene Wilson related to Draft Decision.

From the Commission:

March 4, 1999	Staff Report faxed to Arlene Wilson
March 4, 1999	Staff Report mailed to Arlene Wilson
April 5, 1999	Staff Report faxed to Arlene Wilson
April 5, 1999	Staff Report mailed to Arlene Wilson
April 21, 1999	Draft Decision hand delivered to Arlene Wilson

Other: Hearing Notices for Public Hearings on March 10, 1999, and April 7, 1999.

The application and notice of the public hearing relative thereto, the Commission's staff report, and exhibits, minutes of all hearings and all written submissions received in the course of the proceedings, are incorporated into the record by reference.

**JURISDICTION:**

The Snow Inn complex qualifies as a DRI under Section 3(g) of the DRI Enabling Regulations of the Cape Cod Commission Act (Act) as "any proposed development, including the expansion of existing developments, that is planned to create or accommodate more than thirty dwelling units."

**FINDINGS:**

The Commission has considered the application of Snow Inn Realty Trust for approval of the Snow Inn Development of Regional Impact (DRI) #TR99002, and based on consideration of such application and upon the information presented, makes the following findings pursuant to Sections 12 and 13 of the Act:

### General Findings

G1. Snow Inn Realty Trust proposes to construct 34 condominium units in nine buildings off Snow Inn Road in Harwichport, MA. The 34 condominium units would be located in a multi-use, seasonal resort consisting of a hotel, beach club and restaurant.

G2. The proposed project meets the zoning requirements of the Town of Harwich.

G3. The Town of Harwich does not have a certified Local Comprehensive Plan.

### Community Character Findings

CC1. The primary issues during the original Snow Inn DRI review process related to Community Character. Due to the site's prominent location on Nantucket Sound and the smaller size and scale of existing structures in the surrounding area (predominantly 2-story residential structures) there has been considerable concern regarding the height and massing of proposed structures at the Snow Inn site.

CC2. The buildings and overall building massing proposed as part of this DRI application are more in keeping with the character of the surrounding residential area than the four major structures approved as part of the 1992 Snow Inn DRI Decision. Relocation of most of the project's building mass away from the property's westerly boundary and abutting town conservation land is a significant improvement over the original proposal.

### Affordable Housing Findings

AH1. Section 5.1.3 of the Regional Policy Plan requires any residential Development of Regional Impact to set aside at least 10% of the lots or units of a given development as affordable housing. This requirement can be met through the contribution of on site units or lots, off site units or lots or through a cash contribution.

AH2. Based on the size of the project now under review (34 condominium units), the applicant is required to contribute three lots (or units) toward affordable housing. The proponent has indicated they will provide three off site lots to meet the affordable housing requirement with the location of the lots as yet undetermined, or a cash contribution. The amount of the contribution will be determined by the Commission.

### Natural Resource Findings

NR1. The Snow Inn Site is not located in a Significant Natural Resource Area as designated in the Regional Policy Plan of the Cape Cod Commission. The site has been intensely developed for many years.

NR2. The original Snow Inn project was approved prior to the adoption of the Regional Policy Plan. At that time, the Commission did not have an open space set aside requirement. The proposed project site is 11.89 acres in size. Because the



proposed Wychmere Shores is a redevelopment project, the RPP requires the applicant to maintain the existing percentage of open space on the site, up to what would have been required for a new development project.

NR3. Based on calculations submitted by the applicant and reviewed by staff, the area of open space required for this project is approximately 1.6 acres. This figure is based upon the amount of open space that existed at the Snow Inn site in 1989 prior to significant changes on the site including the demolition of buildings and other alterations related to the Cape Cod Commission's permitting process.

NR4. Parcel #7 on Little Shavers Lane, located off of Route 39 in Harwich, is the property proposed to satisfy the open space requirement for this project. Parcel #7 comprises approximately 2.8 acres and is the designated open space area for the Little Shavers Lane subdivision (a cluster subdivision comprising lots 1-6). The applicant has proposed a Conservation Restriction that would permanently protect this lot as a means of satisfying the open space requirement for this project (permanent protection of the parcel does not presently exist). The acreage of the parcel (2.8 acres) exceeds that required for the open space set aside requirement for this project.

#### Transportation Findings

T1. Vehicle access for the condominiums will be provided through an existing driveway at the end of Snow Inn Road. Snow Inn Road is a dead end street that intersects with Route 28 across from Freeman Street. The Federal-Aid Highway Systems Functional Classification Map lists Snow Inn Road as a local road, Route 28 as a Urban Extension of a Rural Minor Arterial and Freeman Street as a Urban Collector. Therefore, Route 28/Freeman Street/Snow Inn Road is a Regional Intersection.

T2. The trip generation for this project is based on 34 condominium units. The 34 condominium units are expected to generate 234 daily vehicle trips and 25 vehicle trips during the afternoon peak hour, after adjusting for the expected interaction with the adjacent restaurant and beach club.

T3. Minimum Performance Standard 4.1.1.3 requires a 20% reduction in project traffic when MPS 4.1.2.1 is met. Decreasing the 20% trip reduction from the project peak hour impacts, the project would generate 20 ( $25 \times .8$ ) afternoon peak hour trips. The 20 vehicle trips is below the threshold of 25 or more vehicle trips requiring analysis and mitigation under Minimum Performance Standards (MPS) 4.1.1.1 of the RPP (transportation).

T4. Regardless of project size, all Developments of Regional Impact (DRIs) are required to meet MPS 4.1.2.1 (trip reduction). The total vehicle trips for the development is 234 daily vehicle trips. The proponent must reduce the average daily automobile trips by 20%, (47 trips) based on the Institute of Traffic Engineers average traffic generation for residential condominium/townhouse use.

T5. The Regional Policy Plan allows for trip reduction measures including in-kind strategies that partially reduce automobile traffic to and from the site. To offset the traffic of the condominiums, the applicant has chosen to promote a trip reduction plan for the residential units and the existing uses (the restaurant and the beach club) at the multi-use facility.

T6. The applicant has proposed a trip reduction plan that includes the following:

- providing employee housing for 10 employees at the Channel House (adjacent to the site) .
- eliminating 48 seats from the existing restaurant, reducing the total number of restaurant seats from 525 to 477.
- enhancing bicycle activities to the site by providing bicycle storage racks at the beach club and at the restaurant.
- providing local bus schedules with each beach club membership application.

T7. MPS 4.1.1.5 requires all Developments of Regional Impact (DRIs) to have access/egress locations with public ways to meet Massachusetts Highway Departments (MHD) and American Association of State Highway Transportation Officials (AASHTO) standards for safe stopping sight distance. Based on field observations, the driveway access with Snow Inn Road meets or exceeds safe stopping distances based on AASHTO standards.

T8. MPS 4.1.1.7 states that there shall be no degradation in public safety because of a DRI. Based on the available stopping sight distance, no known existing safety deficiencies within the study area, and the relative low traffic generation during the project's peak hour it is estimated that this project will not cause a degradation in public safety.

T9. As stated in Minimum Performance Standard (MPS) 4.1.1.15, "To support successful travel demand strategies and to reduce the environmental and aesthetic impacts of large paved areas, parking facilities created for Developments of Regional Impact shall be limited to the needs identified in a Commission approved traffic study or the requirements of local communities, whichever is greater." The proponent has provided 68 parking spaces for the proposed condominium units. Local zoning requires 51 spaces for the 34 condominium units.

#### Water Resource Findings

WR1. The Snow Inn site is partially located within the watershed to Wychmere Harbor, as delineated on Regional Policy Plan Water Resources Classification Map II.

WR2. Wychmere Harbor, which was studied under the Commission's Coastal Embayment Project, has an identified annual BBP SA critical load of 9,443 kg or 21.3 kg/ac of watershed.

WR3. Based on the impervious surfaces, seasonal usage, wastewater flows, and treatment in the on-site wastewater treatment facility, the proposed nitrogen load is 21.7 kg/acre of parcel. This load exceeds the identified BBP SA critical load.

WR4. In order to address coastal water quality minimum standards in the RPP, the proposed development must reduce the nitrogen load to 21.3 kg/ac.

WR5. In watersheds where an identified critical nitrogen load has been determined, a monetary contribution toward management strategies is allowed.

WR6. In the 1992 project approval, the applicant was required to develop winter and summer water table maps for two years, determine chloride concentrations in the site's monitoring wells and provide \$800 toward the completion of a tidal flushing study. To date, these conditions have not been completed.

WR7. The 1992 \$800 contribution toward a tidal flushing study (see WR6) was not provided and a tidal flushing study was subsequently completed by the Town of Harwich using grant funds from the Commission.

WR8. The 1998 project approval also required the applicant to provide \$800 to be directed toward a water-quality monitoring project within the Town of Harwich. Funds were not provided to the Town.

WR9. State stormwater management standards have been adopted for best management practices, especially in areas of shellfish beds and swimming beach such as those near the Snow Inn site. The RPP requires the use of stormwater best management practices (MPS 2.1.1.6).

WR10. Treatment of the wastewater on-site by the Snow Inn wastewater treatment facility is a key to maintaining an acceptable nitrogen load from the site. Ownership issues among proposed condominium owners and between the condominium organization and the Snow Inn Corporation need to ensure that long-term ownership, operation, maintenance and replacement of the facility are secure (MPS 2.1.2.6.).

#### **CONDITIONS:**

##### General Conditions

G1. All conditions must be completed prior to the issuance of a Certificate of Compliance. A temporary or permanent Certificate of Occupancy shall not be issued by the Town of Harwich prior to the issuance of a Certificate of Compliance. No Residential Condominium building authorized by this decision shall be open to the public until the applicant receives a Certificate of Compliance from the Cape Cod Commission. As stated below, the applicant shall complete condition(s) NR2. & WR2. prior to applying for a building permit.

G2. General impacts from the Snow Inn site related to the surrounding community are presently limited to the primary summer tourism season. The proponent or any future owners or operators of non-residential uses at the Snow Inn site (the 477 seat restaurant, Snow Inn, the Beach Club and all related facilities) shall not operate non-residential facilities at the site for greater than 120-days per year. The proponent or any future owners or operators of non-residential facilities within the Snow Inn complex will be required to obtain approval of the Commission for any extension of the 120 day annual operating period.

Affordable Housing Conditions

AH1. Prior to issuance of a Certificate of Compliance for any of the proposed 34 condominium units within the development, the applicant shall convey three off-site lots or provide an equivalent cash contribution for the purpose of the creation of at least three affordable housing units in the town of Harwich, and shall comply with the following conditions.

AH2. The 3 off-site lots shall be donated or conveyed subject to a deed restriction to be approved in advance by CCC Counsel.

AH3. The applicant shall be required to demonstrate that the lots comply with local codes and zoning regulations, as well as any other condition(s) deemed appropriate by the Commission.

AH4. The lots provided for affordable housing shall be approved and subject to review by the Commission. The applicant shall be required to demonstrate that each lot can support the development of at least one affordable housing unit.

AH5. The Commission will seek the input of the Town of Harwich regarding the entity to be provided the three affordable housing lots or an equivalent cash contribution. If the Town decides not to choose the entity for whatever reason the Commission will choose the appropriate entity for such allocation.

AH6. If the applicant chooses the cash contribution option, the contribution will be placed in an escrow account subject to an escrow agreement to be reviewed and approved in form and content by Commission Counsel and to be administered by the Commission. The cash contribution would be used for the exclusive purpose of producing at least three affordable units within the town of Harwich. Release of any escrow funds will be contingent upon Commission review and approval of projects submitted by the designated entity(s).

AH7. If the affordable housing lots conveyed to an entity to be selected by the Town of Harwich or the Commission are not developed for affordable housing within five years of the conveyance, or the equivalent cash contribution is not utilized for the intended purpose of providing at least three units of affordable housing, the Town or the Commission will choose another entity or agency to be provided the

affordable housing lots or contribution. Pertaining to affordable housing lots, this requirement will be enforced through a deed restriction.

AH8. The affordable housing units created on the lots shall remain affordable year-round through the use of the Cape Cod Commission 40-year Affordable Housing Deed Restriction. These restrictions shall be made known to the prospective household prior to the conveyance of the affordable housing lot.

AH9. Preference shall be given to Barnstable County residents with regard to purchase of the affordable housing lots as a condition of this decision.

AH10. The affordable housing lots created as a condition of this decision shall be purchased (or units rented) by an eligible household through a lottery process to be conducted by the Commission.

AH11. Sale of the affordable lots created shall be restricted to income eligible first-time homebuyers.

AH12. The affordable housing units are to be occupied by income eligible households as determined by the Commission.

AH13. The affordable lots or units shall be subject to the purchase price and rent limits established by the Commission.

#### Natural Resource Conditions

NR1. The proponent shall provide a plan depicting the 2.8 acres of permanent open space to be protected in conjunction with the Snow Inn project. Said 2.8 acres shall be located on Little Shavers Lane in Harwich. This includes 1.6 acres of open space to meet the Regional Policy Plan's Open Space requirement.

NR2. The open space on the Little Shavers Lane parcel shall be subject to a Chapter 184, Section 31-33 Conservation Restriction. The proponent shall provide a draft conservation restriction for review and approval by the Cape Cod Commission and the restriction shall provide that the areas be maintained as permanent open space shall be used solely for conservation purposes. The restriction and plan shall be of a form and content acceptable to the Commission and shall be approved by Commission Counsel or its designee prior to applying for building permits.

NR3. The Commission-approved restriction and plan shall be recorded at the Barnstable County Registry of Deeds and proof of recording shall be provided to the Cape Cod Commission prior to issuance of a Certificate of Compliance. As an alternative, the applicant may donate the parcel to the town of Harwich or the Harwich Conservation Trust to be held solely for conservation purposes and provide proof of said donation prior to obtaining a Certificate of Compliance from the Cape Cod Commission.

### Transportation Conditions

- T1. Prior to applying for a Final Certificate of Compliance the applicant shall
- eliminate 48 seats from the existing restaurant, reducing the total number of restaurant seats from 525 to 477.
  - provide bicycle storage racks at the beach club and at the restaurant.
- T2. The proponent shall provide employee housing for 10 employees at the Channel House (adjacent to the site).
- T3. The proponent shall provide local bus schedules with each beach club membership application and mail updated schedules each year to beach club members.

### Water Resources Conditions

- WR1. Due to water quality concerns within Wychmere Harbor and the two previous project approvals, the proponent shall provide \$1,600 to the Town of Harwich toward the monitoring of water quality/nutrient loading impacts within Wychmere Harbor.
- WR2. The proponent shall provide details on a stormwater system to effectively treat the first inch of runoff and remove 80% of total suspended solids (TSS) in order to address the RPP minimum standards. The overall design will be reviewed by Commission staff and approved by the Commission prior to the issuance of a building permit.
- WR3. In order to address the required nitrogen loading reductions, the proponent shall remove 48 seats from the restaurant, reducing the seating capacity from 525 to 477, and shall limit the number of shared washing machines on the site to no more than seven.
- WR4. The proponent shall prepare summer and winter water table maps for two consecutive years (the summer water table maps shall be completed in the first summer after the condominium units are occupied). The proponent shall also collect chloride concentrations in the site's monitoring wells on a biannual basis for five years. This information shall be annually submitted to the Commission Water Resource Office Staff.
- WR5. The proponent shall submit the wastewater treatment agreement between the probable condominium association and the Snow Inn Corporation for Commission Water Resource Office Staff for review and approval in order to ensure that all wastewater on the site is treated appropriately.

(Decision continues on page 15.)

**CONCLUSION**

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

The benefits of the proposed development as conditioned outweigh the detriments. This conclusion is supported by the findings and conditions above. The proposed development, as conditioned, is consistent with the Minimum Performance Standards of the Regional Policy Plan. The proposed development is consistent with the Harwich Zoning Bylaw and Regulations.

The Commission hereby approves with conditions the Development of Regional Impact Application of Snow Inn Realty Trust, for the construction of 34 condominium units known as Wychmere Shores in Harwich, Massachusetts, pursuant to Chapter A, Sections 3(g) of the Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 94-10 and Sections 12 and 13 of the Cape Cod Commission Act, as amended, provided the conditions noted above are met.

*Herbert Olsen*

Herbert Olsen, Chair

*6/3/99*

Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this *3rd* day of *June* 1999

*Katharine L. Peters*

Name, Notary Public



My Commission Expires