



# CAPE COD COMMISSION

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DATE: July 12, 2001

TO: International Fund for Animal Welfare  
Frederick O'Regan, President  
411 Main Street  
Yarmouthport, MA

FROM: Cape Cod Commission

RE: Development of Regional Impact  
Cape Cod Commission Act, Sections 12 and 13

APPLICANT: Frederick O'Regan  
International Fund for Animal Welfare  
411 Main Street  
Yarmouthport, MA

PROJECT #: TR20050

PROJECT: International Fund for Animal Welfare  
Summer Street  
Yarmouthport, MA

PLAN/LOT: 39085B/4-9; 39085C/10-18

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of the International Fund for Animal Welfare (IFAW) as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed 39,000 square foot IFAW office headquarters on a 7.25 acre parcel located on Summer Street in Yarmouthport. The decision is rendered pursuant to a vote of the Commission on July 12, 2001.

## PROJECT DESCRIPTION

The proposed project consists of the construction of a three story, approximately 39,000 square foot building for the IFAW office headquarters on a 7.25 acre parcel on Summer Street in Yarmouth. The site is located within the Old King's Highway Regional Historic District (OKHRHD), the Aquifer Protection Overlay Zoning District (APD), and the B3 Zoning District. Professional office use is allowed in the B3 district but may require a special permit from the Board of Appeals within the APD. In addition, the project requires approval from the Yarmouth Old Kings Highway Historic District Committee.

The site is heavily wooded, with varying topography, including two dry kettle holes. Dennis Pond and the Dennis Pond Conservation Area are located across Summer Street from the site. Industrial/commercial development on Enterprise Road abuts the southern portion of the site, and residentially zoned lots abut the project site to the east. A Commonwealth Electric utility easement is located off of Summer Street across from the project. No wetlands are located on the site.

IFAW owns the 7.25 acre parcel as well as approximately 9 adjacent acres (residentially zoned). The proposed project is located entirely within the 7.25 acre parcel, with the exception of a drainage easement (.55 acres) which extends beyond this parcel onto a portion of an adjacent lot. This DRI review includes the proposed development of the 7.25 acre parcel plus the area of the drainage easement. Any future project related development that extends onto the adjacent lots will be subject to Commission DRI review.

## PROCEDURAL HISTORY

The project was referred to the Commission by the Yarmouth Building Inspector on 2/22/01. The Commission received the referral on 2/23/01. A hearing officer opened the hearing for procedural purposes only on April 11, 2001, and no testimony was taken. 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 April 25, 2001 at the Yarmouth Council on Aging. The public hearing was continued to May 24, 2001 and continued by a hearing officer to a date uncertain. A hearing officer closed the public hearing on July 9, 2001. The hearing was reopened on July 12, 2001.

The subcommittee held a public meeting to deliberate on this project on May 22, 2001.

At the May 22, 2001 subcommittee meeting, the subcommittee voted unanimously to recommend to the full Commission that the project be approved as a DRI, subject to conditions. A final public hearing was held before the full Commission on July 12, 2001. At this hearing, the Commission voted (unanimously to approve the project as a DRI, subject to conditions.

### Materials submitted for the record

*From the applicant:*

*Date received:*

- Copy of letter from Ray Bourcier to James Brandolini re: parking waiver February 26, 2001
- DRI application form, project narrative, full size and reduced site plans (existing conditions, layout, grading, utility, planting, and building elevations), open space calculation, Site Plan Review and application form, hazardous materials inventory (prepared for Yarmouth Board of Health) Mass Historical Commission project notification and response, USGS quadrangle map, soils survey map, natural resources inventory, DRI application fee February 28, 2001
- 11"x 17" planting plan and 11"x 17" planting details March 5, 2001
- Copy of filing with Yarmouth Town Clerk April 3, 2001
- Certified abutters list April 3, 2001
- Copy of deed April 3, 2001
- Memo from Raymond Bourcier re: abutters list and deed April 3, 2001
- Drainage calculations and nitrogen loading information April 6, 2001
- Catalogue sheet for proposed light fixtures April 6, 2001
- Supplemental data re: employment opportunities April 6, 2001
- Clivus multrum system description April 9, 2001
- Trip generation analysis April 9, 2001
- LEED summary April 9, 2001
- Supplemental information re: geothermal heat transfer, Clivus system, solid and hazardous waste management, energy, and fiscal impacts April 9, 2001
- Draft Emergency Response Plan April 23, 2001
- Revised open space calculation May 1, 2001
- Revised landscaping plan May 1, 2001
- Roof plan May 2, 2001
- Reduced color building elevations May 2, 2001
- Memo from Ray Bourcier re: elevation plans May 2, 2001
- Memo from Ray Bourcier re: supplemental information May 2, 2001
- Site Plan showing brush clearing limit for sight distance May 2, 2001
- Letter from Attorney Michael Ford re: front parking area May 16, 2001
- Memo from Ray Bourcier re: greywater separation system with copy of memo from Clivus May 16, 2001
- Revised open space proposal (8.5"x 11") May 16, 2001
- Revised open space proposal (11"x 17") May 17, 2001
- Memo from Ray Bourcier re: burial of utility cables June 5, 2001
- Revised landscaping plans (draft final) June 13, 2001
- Memo from Ray Bourcier re: labor figures June 20, 2001
- Memo from Ray Bourcier re: clarification of labor figures June 21, 2001
- Revised draft landscape plan June 21, 2001
- Subcontractor safety program June 29, 2001
- Memo from Attorney Ford re: comments on draft decision June 29, 2001
- Open Space calculation July 3, 2001
- Comments on draft decision from Attorney Ford July 3, 2001
- Full set of final plans July 6, 2001

*From Cape Cod Commission staff:*

- |  |                   |
|--|-------------------|
| • Letter to Raymond Bourcier re: DRI notification        | February 27, 2001 |
| • Subcommittee notification                              | March 5, 2001     |
| • Subcommittee memo re: hearing date                     | March 16, 2001    |
| • Letter to Raymond Bourcier re: hearing date            | March 26, 2001    |
| • Letter to Raymond Bourcier re: open space calculation  | March 29, 2001    |
| • Letter to Samuel Offei-Addo re: materials not received | April 4, 2001     |
| • Staff report   | April 19, 2001    |
| • Subcommittee memo re: hearing and site visit           | April 19, 2001    |
| • Subcommittee memo re: meeting cancellation             | May 4, 2001       |
| • Subcommittee update                                    | May 17, 2001      |
| • Subcommittee memo re: draft decision                   | June 25, 2001     |

*From state/local officials:*

- |  |  |
|--|--|
| • DRI referral from Yarmouth Building Department                                       | <i>Date received:</i><br>February 22, 2001 |
| • Minutes from Old Kings Highway Historic Committee meetings of 11/1/00 and 2/28/01    | April 6, 2001                              |
| • Letter from Brad Goodwin, Planning Board Chair, re: support for project and concerns | April 24, 2001                             |

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

### TESTIMONY

Note: see minutes in project file for complete public hearing testimony.

At the April 25, 2001 public hearing, project representatives presented an overview of the project, and Commission staff provided a summary of the staff report. The subcommittee's comments and questions were related primarily to the issue of the open space fragmentation and the location of the front parking area. In addition, the Commission heard oral testimony from the following:

- Charlotte Streibel, Yarmouth Board of Selectmen Chair, who spoke in support of the project and said she hopes the building will be a model of energy efficiency for Cape Cod.
- Jim Saben of the Yarmouth Planning Board, who expressed the Planning Board's overall support of the project but also discussed concerns about protecting the scenic nature of Summer Street and restricting turns onto Summer Street.
- John Shannon, resident of Summer Street, who stated that he does not want Summer Street to become a through-way and that he wants the roadway character and width to remain unchanged.

### JURISDICTION

The proposed IFAW headquarters office qualifies as a Development of Regional Impact (DRI) under Section 3(e) of the DRI Enabling Regulations governing review of Developments of Regional Impact, which requires review of any new office development proposing "new construction with a gross floor area greater than 10,000 square feet."

## FINDINGS

The Commission has considered the application of the International Fund for Animal Welfare (IFAW) for the proposed IFAW headquarters office building, and based on consideration of such application and upon the information presented at the public hearing and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

### General

G1. On February 22, 2001, the Cape Cod Commission received a mandatory referral for the proposed IFAW office headquarters from the Yarmouth Building Inspector under Section 3(e) of the Cape Cod Commission Act DRI Enabling Regulations as "new construction with a gross floor area greater than 10,000 square feet."

G2. IFAW proposes to construct an approximately 39,000 square foot building for its office headquarters on a 7.25 acre parcel on Summer Street in Yarmouthport. A .55 acre drainage easement on an adjacent lot is also part of the project site. The project is located within the Old King's Highway Regional Historic District (OKHRHD), the Aquifer Protection Overlay Zoning District (APD), and the B3 Zoning District. Professional office use is allowed in the B3 district but may require a special permit from the Board of Appeals within the APD. In addition, the project must be approved by the Yarmouth Old Kings Highway Historic Committee. Granting the DRI approval is in no way intended to support or oppose the granting of permits at the local level.

G3. IFAW owns approximately 9 acres of residentially zoned land adjacent to the project site. Professional office use is not permitted in a residential zone.

G4. Yarmouth does not have a certified Local Comprehensive Plan. The site is not located within a District of Critical Planning Concern.

G5. The benefits of the project outweigh the detriments of the development, as described in the findings below.

### Transportation

T1. The proponent has submitted a trip generation analysis and a trip reduction program. The project is estimated to generate 313 weekday trips or 250 daily trips after the 20% trip reduction required by MPS 4.1.2.1 of the RPP. The impacts, as defined by

MPS 4.1.1.1, occur on the segment of Willow Street between Summer Street and Exit 7 of Route 6 and at the interchange. At these locations, the peak hour volume of traffic expected from the project exceeds 25 trips but is below 50 trips. The applicant proposes to mitigate the impacts in accordance with Other Development Review Policy (ODRP) 4.1.1.20, which allows a \$100/peak hour trip payment for mitigation at locations where the increase in peak hour from a Development of Regional Impact exceeds 25 trips but is less than 50 trips.

T2. The proposed site includes two driveways located on an unpaved section of Summer Street. Summer Street is defined as a local road under the Regional Policy Plan. The main driveway has sufficient sight distance; however the secondary driveway, as shown on the site plan dated June 27, 2001, requires brush clearing to create and maintain adequate sight distances. The location and operation of these driveways, with adequate clearing and maintenance of sight distances, comply with MPS 4.1.1.6.

T3. The mitigation for 38 peak hour trips on the Willow Street link as well as 38 peak hour trips at the Exit 6 interchange amounts to \$7,600 in accordance with ODRP 4.1.1.20 which provides for payments to comply with MPS 4.1.1.1 at locations between 25 and 50 peak hour trips.

T4. MPS 4.1.2.1 requires that average daily trips to and from Developments of Regional Impact be reduced by 20% from average traffic generation for that land use. To comply with MPS 4.1.2.1, 63 expected daily project trips must be eliminated or offset.

T5. As indicated by the site plan dated June 27, 2001, removal of the brush to provide a 250 foot sight distance is required to comply with MPS 4.1.1.5.

T6. Under MPS 4.1.1.7, there shall be no degradation in public safety as a result of development. Based on plans submitted, the project does not violate any safety standards and complies with MPS 4.1.1.7.

## **Water Resources**

WR1. All development and redevelopment shall comply with the minimum performance standards outlined in the water resources classification system under MPS 2.1.1.2. The project is located in four primary water resource areas identified under this classification system including: a Wellhead Protection Area to the Yarmouth Public Water Supply wells # 1, 2, and 3; a Marine Recharge Area to Barnstable Harbor; (upgradient of and in) a likely Fresh Water Recharge Area to Dennis Pond; and within a Potential Water Supply Area.

WR2. MPS 2.1.1.2.A.1 requires a nitrogen load of less than 5 milligrams per liter (5 parts per million) for development in wellhead protection areas. The Title 5 wastewater flow from the project is 2,925 gallons per day. Given the amount of roof, paved, lawn and natural areas, the nitrogen load using a conventional Title 5 septic system is calculated at 6.99 parts per million (ppm).

WR3. Nitrogen loading calculations using an alternative denitrifying septic system result in 5.14 ppm, removing approximately 46% of the nitrogen.

WR4. MPS 2.1.1.2.A.4 requires all DRIs within wellhead protection areas to use DEP approved alternative systems with enhanced nitrogen removal, unless a cumulative nitrogen loading assessment of the recharge area indicates that nitrogen loading from Title 5 systems is acceptable. The project design includes a Clivus Multrum wastewater treatment system with a zero discharge greywater system. The proposed Clivus system is innovative particularly for the volume of flow associated with this office project. The system will include two composters, two 1000 gallon greywater storage tanks, one 1000 gallon greywater recycling tank, a filtering tank and dosing tank; all are to be located in the basement. The greywater is to be used to irrigate an indoor planted area where the plants would evapotranspire the water into vapor. Nitrogen loading calculations that include the zero discharge Clivus System indicate a nitrogen load of only 0.6 ppm, mainly from road and roof runoff. The Clivus Multrum is allowed for use under a general Title 5 permit but requires the applicant to have an engineered septic system design, including the soil tests and the area set aside for the leaching system. The designated Title 5 set-aside area is beneath the front parking area.

WR5. The interior zero discharge greywater system will require special permitting through DEP as an innovative and alternative system. A major issue is the efficiency and dependability of the greywater system design to consistently achieve zero discharge. The applicant will provide a design for a fail-safe outside evaporator bed should the internal system prove to be over-taxed by the flow.

WR6. The project is located in the likely recharge area to Dennis Pond, an important resource for recreational swimming, boating, fishing and village aesthetics. The project is located outside of the 300 foot buffer, approximately 650 feet from the pond shoreline and across Summer Street and the power line easement. To address MPS 2.1.1.2.B.2 IFAW has committed \$1,000 towards a baseline water quality study and establishment of a monitoring program for Dennis Pond.

WR7. The project is located in the Marine Recharge Area to Barnstable Harbor. This embossment system is presently under assessment by the Commission staff. A flushing study has been completed and a nitrogen loading study is underway. At this time staff is not aware of any reported water quality problems associated with nitrogen in Barnstable Harbor. Under MPS 2.1.1.2.C.3, DRIs located in marine recharge areas are required to install an innovative nitrogen reducing system, which the project is providing.

WR8. The project design includes capture of stormwater and primary treatment through a constructed wetland and artificial pond system. The design includes an overflow discharge basin in the event of 25 and 100 year storm events. The stormwater design meets MPS 2.1.1.6 which requires that stormwater be managed and disposed of on site and that best management practices are used to minimize road runoff and maximize water quality treatment. In addition, the stormwater design includes design components encouraged by the RPP.

WR9. The project includes a typical heating ventilation/air conditioning system to heat and cool the building and an optional conceptual plan for a geothermal heat pump. The conceptual plan includes two 150 foot groundwater wells that will provide water at a constant temperature (approximately 55 degrees Fahrenheit). The heat is transferred to heating or cooling elements to either heat or cool the building. The water is discharged through two 150 foot injection wells. According to the conceptual plan, the heat pumps will require 420 gallons per minute (gpm).

Several hydrogeological factors could make implementation of the geothermal system difficult, and the applicant will need to demonstrate the feasibility of the design prior to installation.

### Hazardous Materials

HM1. IFAW's current building as well as the new project site are located within a Wellhead Protection District/Zone II. As such, Minimum Performance Standard (MPS) 4.2.2.3 which states that "*commercial and industrial development and redevelopment that involves the use, treatment, generation, storage or disposal of hazardous waste, or hazardous materials, with the exception of household quantities, shall not be allowed in Wellhead Protection Districts*" applies to the project. The April 9, 2001 supplemental DRI application information indicates that an estimated 6.50 gallons and 100 pounds (equivalent to about 13 gallons) of hazardous materials are attributable to both the existing and proposed IFAW operations. The 100 pounds of material consists snow/ ice melt. DRI application materials also indicate that natural gas will be used for building heating and emergency power generation. Finally, regarding the groundwater heat pumps, the applicant's consultants stated at the February 28, 2001 pre-application meeting that the design would consist of a non-contact system that did not involve glycol.

HM2. MPS 4.2.2.2 requires "*development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.*" According to the April 9, 2001 supplemental DRI information, the current facility generates used motor oil, antifreeze, car batteries, nickel-cadmium batteries, used mineral spirits, used oil-based paints, used polyurethane and fluorescent tubes. (Hazardous materials generation at the new facility is expected to remain the same as the existing facility.) The organization currently uses and will continue to use recycling/disposal options available from vendors, at local stores, and at the Yarmouth transfer station.

HM3. MPS 4.2.2.1 requires that development and redevelopment make "*reasonable efforts to minimize their hazardous waste generation through source reduction, reuse, material substitution, employee education and recycling.*" The April 9, 2001 supplemental information indicates that the Facilities Supervisor takes steps to minimize hazardous materials use and waste generation through employee education and by practicing source reduction. The supplemental information also describes existing programs to recycle hazardous wastes. The DRI application also states the project will incorporate recycled or renewable materials and non-toxic adhesives and paints. Other information also indicates that 5% of building materials will be salvaged or refurbished and that at least 25% of building products will be at least 20% post-consumer waste.



HM4. Other Development Review Policy (ODRP) 4.2.2.4 states that *“development and redevelopment using or storing hazardous materials or wastes should prepare and maintain an emergency response plan which identifies potential environmental and health risks and recommends ways to reduce those risks. Such plans should be provided to local officials responsible for hazardous waste coordination.”* As noted in Finding HM1, above, IFAW does not use, store or generate more than a household quantity of hazardous materials or wastes. At the same time, on April 23, 2001 the applicant submitted a draft emergency response consistent with ODRP 4.2.2.4. This constitutes a benefit of the project.

### **Economic Development**

ED1. Development Review Policy (DRP) 3.3.1 states in part that DRIs should be evaluated for net new jobs created, salary and benefit levels, and occupational advancement opportunities for local workers. IFAW currently employs 97 people on Cape Cod. The organization’s main office is located on Route 6A in Yarmouthport; smaller field offices are located in Hyannis and Dennis. These offices are to be consolidated and will operate out of the proposed new office headquarters on Summer Street. IFAW anticipates that it will employ 130 people by 2003.

The salaries for current IFAW staff range from \$21,855 to \$241,476. IFAW’s employee benefits package includes a 401k plan, PPO medical insurance plan, dental insurance, life insurance, and tuition reimbursement.

ED2. DRP 3.3.3 states that the Commission should encourage projects reviewed as DRIs to employ Cape Cod contractors and use local suppliers and workers. Project representatives anticipate that 30-40% of the project’s construction workforce will be from the Cape Cod region, with regional business material expenditures expected to be in the 30% range. According to a memo submitted by the project manager on June 20, 2001, project representatives expect 45 to 60 construction workers will be from Cape Cod.

ED3. IFAW is a non-profit, tax-exempt organization. According to supplemental information submitted by the applicant, IFAW has been paying real estate taxes voluntarily to the Town of Yarmouth and anticipates that the proposed project will generate an additional \$75,000 in annual tax revenue. While the information submitted states that no additional town expenditures would be required for the project, it is customary to expect that a share of those services (police, fire, etc.) would be required. However, this probably would not amount to more than several thousand dollars, making the town a net beneficiary in terms of voluntary tax benefits.

### **Energy**

E1. Development Review Policy 4.4.1.1 encourages designing project sites to promote energy efficiency including orienting structures to take advantage of solar gain, and designing the site to protect and optimize the potential for the use of solar energy. The proposed building will be located on the northern side slope of an existing kettle hole

and will have a south facing glass curtain wall to optimize the potential for passive solar capture. The design of the project site was driven by the applicant's desire to orient the building to take advantage of the potential for passive solar gain.

E2. Development Review Policy 4.4.1.2 states that the Commission should consider it a benefit when reviewing DRIs if projects incorporate energy efficiency measures that exceed state standards including above minimum R-values for building insulation and thermal pane windows, among others. The proposed building's energy efficiency measures include R-30 insulation, a south facing glass curtain wall for passive solar capture, and natural ventilation.

E3. According to the project's energy cost analysis (completed by project representatives), the building's energy efficiency measures will reduce both its electricity and natural gas usage, for an estimated 20-25% reduction in energy costs over a conventional system (\$37,000 annual savings).

### **Natural Resources/Open Space**

NR1. The project is located within a Significant Natural Resources Area (SNRA) due to its location within unfragmented forest and within a public water supply wellhead protection area as identified on the Cape Cod Regional Policy Plan maps. It is also located within estimated rare and endangered species habitat as identified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). Dennis Pond and the Dennis Pond Conservation Area are located across Summer Street from the project site.

NR2. A natural resources inventory, consistent with MPS 2.4.1.1, was conducted on the site by ENSR. According to the natural resources inventory, no wetlands are located on the project site. The inventory further states that the project site does not support suitable habitat for the rare plant species and rare moth identified by NHESP, which are wetland species associated with the Dennis Pond wetlands. No rare species were identified on the project site during the inventory site visits.

NR3. MPS 2.4.1.2 requires that projects minimize the clearing of vegetation and alteration of natural topography and plant native vegetation as needed to enhance or restore wildlife habitat. The site's design is driven by the presence of two existing kettle holes and the applicant's intention to work with the site's varied topography and incorporate it into the project's design. A wetland and shallow pond will be constructed within the larger kettle hole (near the central portion of the site) and will provide ecological as well as aesthetic and drainage functions. The smaller kettle hole will also perform drainage functions. Indigenous plant species will be planted to restore habitat in cleared areas.

OS1. Under MPS 2.5.1.3, the project is required to provide 5.07 acres as permanently protected open space (65% of 7.80 acres). According to the final open space plan dated June 27, 2001, the applicant proposes to meet the open space requirement by providing 5.34 acres of open space, consisting of 3.52 acres of undisturbed land and 1.82 acres of revegetated land. 1.25 acres of the open space will be provided off-site on an adjacent

residentially zoned parcel. A portion of the proposed open space is contiguous to Town of Yarmouth Conservation land.

OS2. According to the project narrative submitted with the DRI application, the applicant will provide walking trails on the property that will connect with the Dennis Pond Conservation area network of trails.

### **Heritage Preservation/Community Character**

CC1. The project is located on Summer Street, designated by the Town of Yarmouth as a scenic roadway.

CC2. The project site is heavily wooded, with varying topography. The site layout is driven by the presence of two existing kettle holes. The building is proposed to be located on the northern side slope of the larger kettle hole. In addition, the applicant will construct a wetland in the central portion of this kettle hole. The smaller kettle hole will provide stormwater management functions.

CC3. The applicant filed a Project Notification form with the Massachusetts Historical Commission (MHC) on March 14, 2000. MHC responded that the proposed project is unlikely to affect significant historic or archaeological resources.

CC4. MPS 6.2.1 requires that new buildings be compatible with their site and existing surrounding buildings. The proposed building consists of approximately 39,000 s.f. on three floors. The following aspects of the building and site design address the project's compliance with this standard: the placement of the building along the slope of the kettle hole partially conceals its lowest floor such that only two floors will be visible from street level, and the building exterior will consist primarily of cedar shiplap siding (with a glass southern façade to maximize passive solar energy capture). The roof plan indicates that while the building will have a flat roof, the rooftop mechanical equipment will be screened from view by wood panels.

CC5. MPS 6.2.2 requires that new buildings be consistent with traditional Cape Cod architectural styles. While the proposed building represents a modern design, its use of traditional building materials (cedar exterior) is consistent with traditional Cape Cod architecture.

CC6. MPS 6.2.3 and 6.2.4 require that landscaping address both the functional and aesthetic aspects of landscaping. The project's planting plan meets these standards through the provision of indigenous plant species on site that will restore habitat value in the revegetated areas and provide screening of the development.

CC7. DRP 6.2.15 states in part that parking lots should be designed to accommodate average usage rather than peak day usage. The site plans indicate that a total of 129 parking spaces will be provided on site. The Town of Yarmouth's parking regulations require the provision of 156 spaces. The applicant is seeking from the town a waiver of the requirement so that only the amount of parking needed will be provided. The required number of parking spaces may be reduced at the discretion of Yarmouth's Site

Plan Review Committee. If the waiver is not granted, a special permit will be necessary to achieve the reduction in parking proposed.

CC8. The project's visitor and handicap spaces (4 visitor, 5 handicap) are located to the front (north) of the proposed building. MPS 6.2.10 requires parking to be located to the side and rear of the building, unless it is infeasible. The applicant has stated that locating this handicap/visitor parking area to the rear or side of the building is infeasible and provided the following reasons for locating this parking in the front:

- First, in order to meet the town's fire code provisions (which require access to at least one side of the building) an access road needs to be built in the front location. As a result of this requirement, the applicant chose to locate the handicap spaces off this road adjacent to the building.
- Second, if these 9 spaces were relocated to the rear of the building (in the south parking area), the overall distance from the handicap parking to the building entrance would significantly increase.

For these reasons, relocating these handicap/visitor spaces to the rear or side of the building is infeasible.

CC8. MPS 6.2.9 requires all utilities for development to be placed underground unless the presence of natural features prevents such placement. IFAW will bury its utility cables along Summer Street, as shown in the final utility plans and confirmed in a memo from Ray Bourcier, Project Manager, dated June 5, 2001.

CC9. MPS 6.2.7 requires that development or redevelopment comply with the standards in Technical Bulletin 95-001. The supplemental information received on April 9, 2001 includes information describing the various types of exterior lighting which includes pole-mount, wall-pack, bollards (post lights), and three kinds of landscaping or walkway accent lights. Technical Bulletin Standard 2.3 specifies high pressure sodium or metal halide lamping. According to the information submitted, it appears that the pole and wall-mounted fixtures as well as the bollards will use metal halide bulbs. The accent lighting selected includes two types of incandescent lights and a solar-powered fixture.

CC10. Technical Bulletin Standard 2.4 applies to pole-mounted lights, and states that "luminaires should be the shoe box type or decorative in nature (with interior directional shields), consistent with the architectural theme of the development. Flood and Area lighting is unacceptable. All luminaires shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting fixture should only be visible from below." Standard 2.7 applies to wall-pack lights and requires in part that such "lighting should be designed to a maximum cutoff of seventy (70) degrees from vertical." Based on information from the lighting suppliers' web-sites, it appears that the pole-mount, wall mount and one type of landscape accent lights (ground-mounted) selected as of April 9, 2001 have fully-rotatable fixture heads such that the light can be aimed upward, above 70 or 90 degrees from vertical. These lights are not in conformance with Standards 2.4 or 2.7 of the Technical Bulletin.

CC11. Three types of accent lighting are proposed as of April 9, 2001: a 27" high fixture

with a cap (in 8 locations), a ground-mounted up-light (in 6 locations) and a solar-powered fixture (for eight walkway pavers in the south terrace). The ground-mount fixtures and solar are up-lights and are not in conformance with the overall intent of the Technical Bulletin and Standard 2.4. However, the Technical Bulletin also states that the Commission may consider project-specific fixtures for low-level landscape lighting. Staff has recommended that the six ground-mounted up-lights (intended to accent trees) be reconfigured to be pendant down-lights. For the solar pavers, based on the limited number of fixtures (8 in total), each fixture's relatively small size (8 inches square), and their use solely as accent lighting, they are acceptable under the Technical Bulletin.

CC12. Based on the information submitted to date, it is not possible to determine whether the proposed design meets Standards 2.5, 2.6 or 2.8 relating to shielding, off-site light impacts, pole height and foot-candle levels.

### CONCLUSION

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

The benefits of the proposed project outweigh the detriments resulting from the development. This conclusion is based primarily on the project's innovative wastewater treatment which includes a zero discharge greywater system and the building's energy efficiency measures. See findings WR4 and WR5 and E1 through E4.

In addition to the benefits derived from the project's innovative wastewater treatment, the project will provide \$1000 contribution towards a baseline water quality study and establishment of a monitoring program for Dennis Pond, as documented in Finding WR6.

Energy benefits are provided through Development Review Policies 4.4.1.1 and 4.4.1.2. The project addresses DRP 4.4.1.1 and 4.4.1.2 through the building's energy efficiency measures and its orientation which optimizes the opportunity for passive solar gain, as discussed in Findings E1 and E2.

Open Space benefits are provided through Finding OS2 which provides public access within the project's open space. A project detriment is its location within undisturbed, unfragmented woodland.

Economic development benefits are provided by the creation of additional jobs that provide basic health and retirement benefits and pay beyond minimum levels, as documented in Findings ED1 and ED2. In addition, the project will provide a benefit to the town of Yarmouth in terms of tax revenues. (See Finding E3.)

The proposed project may require a special permit from the Yarmouth Zoning Board of Appeals for office use within the APD and for a reduction in the parking requirement. Granting the DRI approval is in no way intended to support or oppose the granting of permits at the local level.

The Town of Yarmouth does not have a Certified Local Comprehensive Plan. The project is consistent with the Minimum Performance Standards of the Regional Policy Plan. This conclusion is supported by the findings listed above.

The proposed project is not within a District of Critical Planning Concern.

The Commission hereby approves with conditions the application of IFAW for the proposed IFAW office headquarters as a Development of Regional Impact, provided the following conditions are met.

### CONDITIONS

#### General

G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.

G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.

G3. The applicant shall obtain all state and local permits for the proposed project.

G4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

G5. Prior to the issuance of a building permit, the applicant shall submit final plans as approved by local boards for review by Commission staff to determine their consistency with final plans as approved by the Commission and with Section 7 of the Cape Cod Commission Administrative Regulations Modifications to Approved DRIs, dated 6/3/99 and as amended from time to time.

G6. Prior to issuance of a building permit, the applicant shall obtain a preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a preliminary Certificate of Compliance have been met.

G7. The proposed IFAW headquarters office building shall be constructed in accordance with the following final plans:

- Site, Utility, Layout, and Grading Plans dated June 27, 2001
- Landscaping Plans dated June 27, 2001
- Building Elevations and Roof Plans dated April 25, 2001

G8. Prior to receiving a Certificate of Occupancy from the Town of Yarmouth, the applicant shall obtain a final Certificate of Compliance from the Commission.

G9. The project shall not be occupied until a final Certificate of Compliance is received from the Cape Cod Commission.

G10. The applicant shall notify Commission staff of the intent to seek a preliminary Certificate of Compliance at least thirty (30) days prior to the submittal of a building permit application and 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 in writing of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met.

G11. The applicant shall demonstrate that a copy of this decision has been provided to the general contractor prior to the start of construction.

G12. Any future development which is related to the office building or use thereof on the adjacent residentially zoned lots now owned by IFAW will be subject to Commission DRI review.

### **Transportation**

T1. Prior to receiving a final Certificate of Compliance the applicant shall make a monetary commitment of \$7,600 to comply with MPS 4.1.1.1. These funds shall be paid to the County of Barnstable and will be expended upon the recommendation of the Cape Cod Commission Executive Director to support the planning, design, or implementation of transportation improvements in the Town of Yarmouth. Any funds remaining after 10 years shall be given to the Cape Cod Regional Transit Authority or similar transportation agency for public transportation.

T2. The applicant shall implement the multi-faceted trip reduction program as described in the April 5, 2001 memorandum from Sam Offei-Addo, BSC Group Transportation Engineer to Clay Schofield. The elements of this program include the following:

- provision of bicycle facilities including showers,
- a ride sharing program with incentives and penalties for non-participants,
- alternate work schedules,
- pet care facilities,
- telecommuting options,
- on-site meal facilities,
- on-site media facilities.

The structural components of the trip reduction program (bicycle facilities, showers, pet care facilities, meal and media facilities) must be completed prior to issuance of a final Certificate of Compliance. All elements of the trip reduction program shall be ongoing

conditions of approval and continue for the lifetime of the project and be subject to periodic review by Commission staff for compliance.

T3. The brush clearing to provide 250 feet of sight distance for the secondary driveway (as shown on the final site plan dated June 27, 2001) must be completed prior to issuance of a final Certificate of Compliance and continue for the lifetime of the project as an ongoing condition of approval and shall be subject to periodic review by the Commission staff for compliance.

### **Water Resources**

WR1. Prior to the issuance of a final Certificate of Compliance, the applicant shall submit copies of all wastewater engineering designs for the Clivus Multrum and the internal greywater zero discharge system, as described in Finding WR4. This includes applications to the DEP pilot program for the innovative greywater system. An overflow evaporator bed design shall be included in the permitting process.

WR2. To comply with MPS 2.1.1.A.4, the backup Title 5 design shall include an alternative denitrifying treatment component.

WR3. Prior to the installation of the groundwater heat pump, the applicant shall submit for staff review and approval plans for the proposed system. These shall include the on-site exploratory program for test wells, pump tests, injection tests, and design of the groundwater heat pump.

WR4. Prior to issuance of a final Certificate of Compliance, the applicant shall make a contribution of \$1000 towards a baseline water quality study and establishment of a monitoring program for Dennis Pond.

### **Hazardous Materials**

HM1. IFAW (as well as any future tenant of the site) shall be limited to any or all of the following: no more than 275 gallons of oil on site at any time to be used for heating of a structure or to supply an emergency generator; no more than 25 gallons (or the dry weight equivalent) of other hazardous materials on site at any time, including oil not used for either heating or for supplying an emergency generator; and a quantity of hazardous waste at the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations.

### **Natural Resources/Open Space**

OS1. Consistent with Section 2.5.1.3 of the RPP, the applicant shall provide permanently restricted open space in accordance with Finding OS1. Said open space shall be restricted through a conservation restriction consistent with M.G.L. c. 184, §31-33. Prior to the issuance of a preliminary Certificate of Compliance, the conservation restriction shall be approved by Commission Counsel and the holding entity as to form and



content, and the applicant shall provide proof that the approved conservation restriction has been submitted to the Massachusetts Executive Office of Environmental Affairs (EOEA), Division of Conservation Services, for review and approval. The applicant shall record the conservation restriction as approved by Commission Counsel, the holding entity and the Secretary of EOEA, prior to issuance of a final Certificate of Compliance from the Commission.

OS2. The conservation restriction required by OS1 shall include a provision for public access to the trails within the project's designated open space.

OS3. Prior to the issuance of a final Certificate of Compliance, the applicant shall clearly mark the boundaries of the permanent open space with concrete bounds.

### **Heritage Preservation/Community Character**

CC1. Prior to the issuance of a preliminary Certificate of Compliance, the applicant will provide a materials board with samples of exterior building materials for Commission staff approval.

CC2. Prior to issuance of a final Certificate of Compliance, all landscaping shall be completed in accordance with the final landscaping plans dated June 27, 2001.

CC3. If all required site work and/or landscape improvements are not complete at the time a 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 agreement shall equal 150% of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow agreement shall be payable to Barnstable County with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the applicant, with interest, upon completion of the required work. All site work and/or landscape improvements shall be completed prior to issuance of a final Certificate of Compliance from the Commission.

CC4. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.

CC5. MPS 6.2.7 requires that development or redevelopment comply with the Standards in Technical Bulletin 95-001. All site lighting, including pole-mount, wall-mount and landscape accent lights (except for the solar pavers), shall conform to MPS 6.2.7. Should unexpected conditions arise during construction that require redesign or adjustments to site exterior lighting, the applicant shall obtain approval from Cape Cod Commission staff prior to construction/placement of such lighting or fixtures on the building or grounds consistent with the Commission's policy on *Revisions to Approved DRIs*.

CC6. Prior to issuance of a building permit and a preliminary Certificate of Compliance, the applicant shall submit sufficient information to the Commission such

that staff can determine that the lighting complies with the standards of Technical Bulletin 95-001. This information shall include a final "as to be installed" exterior lighting plan and all information as described in Section 3.0 of Technical Bulletin 95-001, including, but not limited to, submission of one or more point-to-point foot-candle plans. This information and plan shall be used in connection with Condition CC7 below.

CC7. Prior to issuance of a final Certificate of Compliance from the Commission, in-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.7. This verification shall be based on the information submitted in connection with Conditions CC5 and CC6, above. It shall also include verification that installed signage is in conformance with Condition CC8, below.

CC8. The installation of billboards, off-site advertising (excepting approved directional signs) and internally lit or flashing signs shall be prohibited. In addition, any site signage (roof-mounted, pylon or free-standing) shall be down-lit in conformance with Technical Bulletin 95-001.

The Cape Cod Commission hereby approves with conditions the application of the IFAW as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed IFAW office headquarters located in Yarmouth, MA.

Elizabeth G. Taylor  
Elizabeth Taylor, Chair

7-12-01  
Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 12<sup>th</sup> day of July 2001

Katharine L. Peters  
Name, Notary Public

My commission expires:

