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THE MARTHA'S VINEYARD COMMISSION

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DATE: June 9, 1981

TO: Planning Board of the Town of West Tisbury

FROM: Martha's Vineyard Commission

SUBJECT: DEVELOPMENT OF REGIONAL IMPACT DECISION
RE: RESIDENTIAL SUBDIVISION

APPLICANT: Oyster-Watcha Midlands Association
c/o Nicholas Freydberg

SUMMARY

The Planning Board of the Town of West Tisbury is granted approval by the Martha's Vineyard Commission to grant the necessary development permits for the Applicant's residential subdivision. This approval was by vote of the Commission on May 21, 1981. The Town Planning Board may approve the development proposal and may, if authorized by local development ordinances and by-laws, place conditions upon or disapprove the development application.

DECISION OF THE MARTHA'S VINEYARD COMMISSION

A Public Hearing was held on May 21, 1981 by the Martha's Vineyard Commission (the "Commission") at 8:00 p.m., at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts, upon public notice to consider the application of Oyster-Watcha Midlands Association, c/o Nicholas Freydborg (the "Applicant") for a residential subdivision approval in the Town of West Tisbury (the "Application"). The proposed development is for the division of 452.5₊ acres into 15 (fifteen) lots, common land (68.7₊ A.), and conservation land (154.7₊ A.) as shown on a plan entitled: "Oyster-Watcha Midlands Association, Plan of Land in Edgartown, Mass. & West Tisbury, Mass., April 2, 1981, scale: 1" = 400', Surveyed by Dean R. Swift, Registered Land Surveyor, Vineyard Haven, Mass." The Applicant proposes to divide a contiguous ownership of more than 30 acres, and the resulting number of parcels will be four (4) or more and thus is a Development of Regional Impact under the Criteria and Standards, Development of

Regional Impact, Section 3.201. The Application was referred to the Commission for action pursuant to Chapter 831, Acts of 1977, as amended (the "Act"). Said application and notice of public hearing are incorporated herein.

On May 21, 1981 the Hearing was held pursuant to the Act and the Massachusetts General Laws, Chapter 30A, Section 2, and was chaired by Jules Worthington, Chairman of the Commission's Land Use Planning Committee. Mr. Worthington read the legal notice and opened the Public Hearing for testimony. Michael Wild, Executive Director of the Commission, noted that the subdivision location is in West Tisbury and Edgartown. He pointed out that following the Hearing, if the Commission wished to impose any conditions, these conditions would only be appropriate for the West Tisbury side of the proposal since the Commission has no jurisdiction over land in Edgartown. Jim Muth, Commission staff member, discussed the overall proposal including the location of lots, common areas, parking area and boat launching sites, roads, a burial ground, and the caretaker's site. Following, he gave a slide presentation of the area. There was a call for proponents. Nicholas Freyberg,

member of the Association, discussed the concept of the proposal and desire to minimize development and maximize conservation without government money. He also discussed the organization of the Association and characteristics of the proposal. The Association will provide its own wells, allow only one site per lot with the allowance for a guest house, maintain its roads, restrict boating on Joseph's Cove and Ripley's Cove, provide its own security with a caretaker, and provide provisions for the location of boat landings in certain areas to protect wildlife. Objectives of the Association are to protect and promote propagation of wildlife, support seeding of shellfish, and support experimental projects such as introduction of rainbow trout as efforts to maintain or improve the quality of the area. There was a call for opponents. Mr. & Mrs. Francis Davis, abutters, raised the question of legal provisions for shellfishermen to have access to Oyster Pond since currently they have access across undeveloped land as provided by existing law. Mr. Davis questioned the conservation objectives of the Association since he felt house lots 9, 10, 11, 12, 13, and 14 are located in Great Blue Herron and American Egret breeding

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grounds. He also expressed dissatisfaction with the cutting of the new roads. John Early, Commissioner, raised questions concerning the conservation restriction and the boating regulations. There was no further testimony, and the Hearing was closed.

At a Special Meeting of the Commission on June 4, 1981, there was further discussion with the Applicant regarding the question of public access, specifically those rights of access protected in the Commonwealth under the Colonial Ordinances of 1641-1647. The Applicant stated that he recognized this traditional right of access to great ponds. He also stated that other constitutional rights could apply and that there was a lack of definition in modern times relative to "improved land" necessary for a proper interpretation of these ordinances. There was further discussion regarding the need on the Island to address the question of public access considering the gradual diminishment of these traditional rights as a result of residential development.

Under the Act, the Commission is required to make findings after its review of the development proposal. It must consider the probable benefits and detriments of the proposal. In this

matter the Commission has considered each factor enumerated in these sections of the Act and has considered its Information for Evaluation of Large Scale Residential Developments together with the information presented at the Public Hearing.

The Commission finds that the probable benefits of the Application will exceed the probable detriments and will not interfere substantially with the achievement of any general plan of the Town of West Tisbury or of Dukes County, or violate any local development ordinances or by-laws.

The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or development occurring in alternative locations.

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the Application being before it at this time. The Applicant must, consistent with the Decision, apply to appropriate Town of West Tisbury officers or boards for any other development per-

mits which may be required together with any other development permits required by law. The approval of this proposal is not intended to disturb or modify in any way the exercise of rights of access protected under the Colonial Ordinances of 1641-1647 to Watcha Pond.

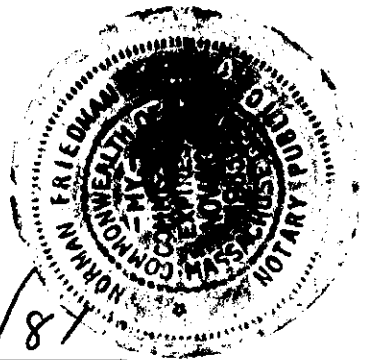
The Commission approves the Town of West Tisbury officials granting applicable development permits.

This decision is written consistent with the VOTE OF THE COMMISSION:

May 21, 1981.

Benjamin C. Moore
Benjamin C. Moore, Chairman

Norman Friedman
Notary Public



6/19/81
date

my commission expires: 11/10/83

Edgartown, Mass. June 19 1981
at 11 o'clock and 00 minutes A.M
Received and entered with Dukes County Deeds
book 383 Page 613