

## THE MARTHA'S VINEYARD COMMISSION

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DATE: February 16, 1984

TO: Planning Board of the Town of West Tisbury

FROM: Martha's Vineyard Commission

SUBJECT: DEVELOPMENT OF REGIONAL IMPACT  
RE: RESIDENTIAL SUBDIVISION

APPLICANT: Boldt Family Trust  
c/o Smith and Dowling  
Box 1087 Vineyard Haven, MA

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DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the "Commission") hereby approves with certain conditions the Application of the Boldt Family Trust, c/o Smith and Dowling, Box 1087, Vineyard Haven, MA. for the subdivision of land in the Town of West Tisbury as shown on the plans entitled: "Coffin's Field, A Plan of Land in Edgartown and West Tisbury prepared for the Boldt Family Trust"; Smith and Dowling, April 1982, as revised, consisting of three sheets, (the Plan).

The decision, with conditions contained herein, is rendered pursuant to the vote of the Commission on February 16, 1984. The Planning Board and the Board of Appeals of the Town of West Tisbury may now grant the necessary development permits for the Applicant's residential subdivision in accordance with the conditions contained herein, or may approve in accordance with the conditions contained herein and place further conditions thereon, or may disapprove the development application.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Criteria and Standards, Development of Regional Impact, Section 3.203. The application was referred to the Commission by the Planning Board of the Town of West Tisbury for action pursuant to M.G.L. Chapter 831, Acts of 1977, as amended (the Act.)

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, on January 19, 1984 at 8:30 p.m. at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the division of 36.17 acres of land into 21 lots plus 18.94 acres of open space.

The hearing was chaired by Marc Widdiss, Chairman of the Land Use Planning Committee. Mr. Widdiss read the legal notice and opened the public hearing for testimony.

James Muth, Commission staff member described the proposal using a map of the proposed subdivision, showing elevations and other natural features of the site. He presented a series of slides to orient those present to the characteristics of the site and some of the surrounding area.

Douglas Dowling of Smith and Dowling, agents for the Applicant, further discussed the proposal and explained much of the past history of the subdivision proposal. He discussed the possible uses of the open space areas and indicated the location of the ancient way with respect to the proposal.

Mr. Widdiss read the correspondence that had been received regarding the proposed subdivision. The correspondence came from the West Tisbury Board of Health and the West Tisbury Planning Board.

Mr. Widdiss called for proponents; there were none. He then called for opponents; there were none.

A discussion regarding the correspondence from the West Tisbury Planning Board followed. Mr. Muth explained the term "frost pocket", which appeared in the correspondence. A discussion of the proposal's compliance with the West Tisbury by-law versus the spirit of the by-law ensued as well as a discussion of the provision of low and moderate income lots, as required by the West Tisbury by-law.

Charles Clifford, Executive Director of the Commission noted that, in accordance with a Memorandum of Understanding with the Massachusetts Natural Heritage Program (MNHP) of the Massachusetts Division of Fisheries and Wildlife,

the proposal had been forwarded to the MNHP for their review and comment and that such comments would be forthcoming.

Leonard Jason Jr., Chairman of the Commission indicated to those present, and for the record that the Commission would not make any formal decision until correspondence from MNHP had been received. A discussion of possible design changes and of the "frost pocket" followed.

There being no additional information nor testimony, Mr. Widdiss closed the public hearing.

#### FINDINGS and CONDITIONS

The Commission has considered the Application and the information, presented at the public hearing, and based upon such consideration, makes the following findings pursuant to Section 14 of the Act:

- A. The Commission finds, in light of its review and correspondence from MNHP dated January 24, 1984, that the probable benefits of the proposed development, subject to the conditions set forth herein, will exceed the probable detriments of the proposal in light of the considerations set forth in Section 15 of the Act.
- B. The Commission finds that the proposed development will not interfere substantially or unreasonably with the achievement of the objectives of any general plan of the Town or of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the Plans, as amended, will be consistent with local development ordinances and by-laws if a special permit is received from the Town's Board of Appeals.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

The Commission has considered the question of potential burden on existing public facilities resulting from this proposal pursuant to Section 15 of

the Act. In order to secure a reasonable rate of development, the Commission sets the following condition:

BUILDING PERMITS FOR RESIDENTIAL CONSTRUCTION ON LOTS SHOWN ON ANY PLAN APPROVED BY THE TOWN PLANNING BOARD SHALL NOT EXCEED THE RATE OF DEVELOPMENT AS PRESCRIBED IN SECTION III.D-RATE OF DEVELOPMENT OF THE WEST TISBURY ZONING BY-LAW, AND AS SPECIFIED AND AGREED TO IN THE ENVIRONMENTAL IMPACT STATEMENT AS SUBMITTED TO THE TOWN BY THE APPLICANT.

In addition to the rate of development, the Commission has considered the potential adverse effect of this proposal on the supply of needed low and moderate income housing for Island residents pursuant to Section 15 of the Act. In order to secure opportunities for low and moderate income housing for Island residents, the Commission sets the following condition:

ONE RESIDENT HOMESITE LOT SHALL BE PROVIDED, EXACT LOT, PRICE AND METHOD SELECTION OF SAID LOT TO BE DETERMINED BY THE APPLICANT AND THE TOWN AT A LATER DATE. SAID RESIDENT HOMESITE LOT SHALL BE WHOLLY WITHIN THE TOWN OF WEST TISBURY. SUCH LOT SHALL BE SOLD IN A BONA FIDE SALE TO A PERSON OR PERSONS OF LOW OR MODERATE INCOME AT BELOW-MARKET VALUE. STANDARDS DETERMINING APPROPRIATE QUALIFICATIONS FOR A PERSON OR PERSONS PURCHASING SUCH LOT WILL BE ESTABLISHED BY THE BOARD OF SELECTMEN IN CONSULTATION WITH ANY OTHER APPROPRIATE BOARD OF THE TOWN OF WEST TISBURY OR BY A BOARD OR BOARDS DESIGNATED TO ESTABLISH AND ADMINISTER SUCH STANDARDS BY THE BOARD OF SELECTMEN. PUBLIC NOTICE SHALL BE GIVEN BY THE BOARD OF SELECTMEN OR BY SAID BOARD AS DESIGNATED BY THE SELECTMEN TO RECEIVE APPLICATIONS FOR THOSE PERSONS MEETING THE ESTABLISHED STANDARDS. IF NO APPLICANTS ARE APPROVED BY THE APPROPRIATE BOARD OR BOARDS CHARGED WITH THE ADMINISTRATION OF SAID ESTABLISHED STANDARDS FOR PURCHASE OF SUCH LOT WITHIN ONE YEAR AFTER THE DATE OF THIS DECISION, THIS CONDITION SHALL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT.

The Commission has further considered the placement of on-site water and septic systems on the proposed lots thus created by this development and with respect thereto, sets the following condition:



THAT THE PLANNING BOARD OF WEST TISBURY BE DIRECTED TO REQUIRE THAT THE LOCATION OF INDIVIDUAL WELL AND SEPTIC SYSTEMS ON EACH INDIVIDUAL LOT THUS CREATED BE CLEARLY INDICATED ON THE LINEN SUBMITTED FOR APPROVAL AND SIGNATURE AND THAT SAID LOCATIONS RECEIVE THE WRITTEN APPROVAL OF THE BOARD OF HEALTH OF WEST TISBURY PRIOR TO THE PLANNING BOARD'S FINAL APPROVAL AND SIGNATURE OF SAID AFOREMENTIONED LINEN.

Further, the Commission sets the following condition:

TO ENSURE THAT THE DEVELOPMENT WILL COMPLY WITH THE LOCAL BY-LAWS OF THE TOWN OF WEST TISBURY, THE APPLICANT SHALL COMPLY WITH ALL THE CONDITIONS THAT MAY BE IMPOSED BY THE WEST TISBURY BOARD OF APPEALS.

The Applicant must, consistent with the decision, apply to appropriate Town of West Tisbury boards or offices for any other development permits which may be required together with any other development permits required by law.

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

This Decision is written consistent with the vote of the Commission: February 16, 1984.

Any party aggrieved by a determination of the Commission may appeal to the Superior Court within twenty days after the Commission has sent the development Applicant written notice, by certified mail, of its decision and has filed a copy of its decision with the Town Clerk of the town in which the proposed development is located.

Leonard Jason Jr.  
Leonard Jason Jr., Chairman

3/15/84  
Date

Norman Friedman  
Notary

3/15/84  
Date

**NORMAN FRIEDMAN**  
**NOTARY PUBLIC**  
My commission expires Nov 2, 1990



Edgartown, Mass. March 20 1984  
at 9 o'clock and 30 minutes A M  
Received and entered with Dukes County Deeds  
book 412 Page 542

Attest:

Suzerly W. King