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THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557
617-693-3453

DATE: July 18, 1985

TO: Planning Board of West Tisbury

FROM: The Martha's Vineyard Commission

SUBJECT: Development of Regional Impact
Re: Residential Subdivision

APPLICANT Vine Realty Trust
Robert L. Keim, Trustee
P.O. Box 609
Vineyard Haven, MA 02568

DECISIONS OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves with certain conditions the Application of the Vine Realty Trust, Robert L. Keim, Trustee, P.O. Box 609, Vineyard Haven,MA 02568 for the subdivision of land in the Town of West Tisbury, Massachusetts as shown on the plans entitled: "Plan of land in West Tisbury, Massachusetts, Surveyed for Vine Realty Trust, April 30, 1985. Dean Swift, Registered Land Surveyor, Vineyard Haven. MA" consisting of two (2) sheets plus plan entitled: Vine Revisions #2, July 18, 1985, (same surveyor) consisting of one (1) sheet, (the Plan).

The decision, with conditions contained herein, is rendered pursuant to the vote of the Commission on July 18, 1985. The Planning Board of the Town of West Tisbury may 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 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 Commissioner's Criteria and Standards, Developments of Regional Impact, Section 3.201. The Application was referred to the Commission by the Planning Board of the Town of West Tisbury for action pursuant to MGL chapter 831, Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated herein.

A duly noticed public hearing on the Application was conducted by the Commission pursuant of the Act and Massachusetts General Laws, Chapter 30A, Section 2. on June 20, 1985 at 8:00P.M. at the Commissions offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the division of 37.36+ acres into 20 lots.

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 at 8:01 P.M.

Mr. Rosbeck, standing for Mr. Kiem, discussed the proposal. He noted that there was an old subdivision of some 32 lots already recorded for the property. He explained the thinking of Vine Realty with respect to the large 10 acre parcel. He explained the changes that were made to the original plan, noting the access points and the lot lay-out.

A discussion of lot sizes, road design, status of previous subdivision plan followed.

James Muth , MVC staff, discussed various aspects of the proposal such as relationship to DCPC's, location of prime agricultural soils, the vegetation of the area and the general lay-of-the land. He discussed the relationship to the existing by-laws and regulations of West Tisbury.

A discussion of the general area, road design and other matters followed.

A discussion of the area proposed for use as the grape vineyard followed. David Thompson, applicant's surveyor explained where the cleared areas were.

A discussion on the groundwater flow and any potential impact on on-site wells followed.

A further discussion of the previous subdivision and its status legally followed. A discussion of the road location followed.

Mr. Widdiss called for proponents--there were none.

Mr. Widdiss then called for opponents. Allen Look spoke of a concern for the Tiah's Cove area and wondered if some form of buffer could be maintained along the Tiah's Cove Road. A discussion of the Road District and buffer zone followed. Allen Finer raised a question as to the number of lots, the previous subdivision and whether there would be open land. A discussion of the fact that the submittal was not a open space plan. He expressed concern over the long-term future of the site. Janice Hall expressed a similar concern regarding future subdivision potential. Mr. Look asked for a clarification of the set-back areas in the Road District.

Mr. Rosbeck noted that one of the major changes from the old plan was the fact that the connection between Tiah's Cove Road and West Tisbury Road was eliminated.

A discussion of whether there would be no building on the large lot (lot 21) followed. A discussion of the West Tisbury Open Space Plan followed.

Mr. Widdiss read a letter from Rev. D. Christianson which expressed concerns for Tiah's Cove Road, youth lots and water quality in the area.

A discussion of Tiah's Cove Road adequacy followed. A discussion of whether a resubdivision would return to the Commission followed.

The hearing continued until July 11.

Marc Widdiss, Chairman of the Land Use Planning Committee read the public notice and opened the continued hearing at 8:05P.M..

Mr. Rosbeck, representing the applicant showed a revised plan that was in response to points raised during the land use planning committee's meeting. He discussed the various changes and how the former and new related.

He discussed the 10 acre parcel and concerns expressed previously. He noted that he addressed this issue by indicating three lots, one of four and two of three and would agree to deed restrict those lots to no further subdivision. He indicated that there would be no through way between Tiah's Cove and the State Road but the vineyard area would be exited to the subdivision by an easement for walking only.

Mr. Rosbeck responded to various questions from the Commissioners regarding lot size, connection to Tiah's Cove and related matters.

A discussion of the easement from State Road followed. The issue of a bottling plant was raised by the Commission. Mr. Rosbeck indicated no thoughts in the matter at this time.

A discussion of house sitings followed. A discussion of the 1000 foot rule in the Island Road District Followed.

A discussion of the pedestrian easement followed. A discussion of access to one of the lots and frontage requirements in West Tisbury followed.

A discussion of requirements of the West Tisbury Zoning By-Law regarding the Agricultural Residence District followed.

Mr. Thomas of the West Tisbury Planning Board discussed the requirements of the By-law.

A discussion of protection of agricultural lands under State Laws followed.

A discussion of procedures of DRI's followed. A discussion on traffic patterns followed. A discussion of the adequacy of water followed. A discussion of the adequacy of frontage followed. Mr. Rosbeck discussed how a driveway and a walking path could jointly use a 30 foot easement.

A discussion of preliminary plans versus definitive plans followed. A discussion of the need for local Planning Board input followed. A question of youth lots was raised regarding the proposal and discussed. A question of water supply for fire followed.

Mr. Widdiss called for proponents - there was none.
Mr. Widdiss asked the Planning Board for comments.

James Young of the Planning Board discussed the status of the old plan versus the most recent submittal, the form A history and the other background matters. He discussed concerns of the Board: the status of the ancient ways; a fund for housing; a hydrant lot for fire protection; restrictions on further subdivision. He noted apparent conflicts between what the Commission had asked for and what the Planning Board was thinking.

Mr. Widdiss called for opponents--there was none.

A discussion of procedures followed.

Mr. Widdiss read a letter regarding the subdivision from a Rev. Fischer.

Mr. Widdis felt that the hearing should be continued so that the West Tisbury Planning Board and the Applicant and the LUPC could get together to discuss the matter fully. The time to be set prior to the Commission Meeting on July 18, 1985.

A discussion of procedure again followed. A discussion of the workings of the Land Use Planning Committee followed.

It was moved and seconded to continue the hearing until the local planning and applicant and the LUPC meet to discuss the matter. Duly seconded. So passed.

Marc Widdiss read the hearing notice and opened the continued hearing at 8:43 P.M. on July 18, 1985. Mr. Widdiss noted that there were copies of the minutes of the meeting between the applicant, the West Tisbury Planning Board and the LUPC.

Mr. Widdiss also noted that he had received correspondence related to the matter from the West Tisbury Board of Selectmen. He read the letter seeking a youth lot for the Island Children's School.

Julia Wells, President of the Island Children's School spoke and noted that she thought the matter really should be discussed with the Board of Selectment and the Applicant. She discussed the school and its programs and the problems faced regarding space.

Mr. Widdiss asked if such a concept had been discussed with the applicant.

Don Sibley, Chairman of the West Tisbury Planning Board noted that the Board did not have a policy on the matter but that they (the board) were not enchanted by them and were open to alternatives. He believed that the Board would be very flexible.

A discussion of the avenues pursued by the School followed with respect to alternatives.

Mr. Rosbeck was asked to comment. He noted that he had only recently been contacted and wondered how such an idea would fit into the concerns expressed regarding traffic.

John Early, Selectmen of West Tisbury discussed the letter and the matter. He noted that the Commission does not grant youth lots to anyone candidate but left those matters up to the Town.

A discussion of the matter followed.

Mr. Clifford was asked to give a brief explanation of what the plan now looked like based on the meeting. He explained what had been agreed on by all parties.

A discussion of the hydrant lot and its purpose followed.

A discussion of the youth lot concept and the alternatives thereto followed. No real discussions had been held with Mr. Rosbeck by the Town. Mr. Sibley indicated that the Planning Board did not wish to argue strongly for a youth lot in this case.

A discussion of access, the Island Road District, guest houses and related matters followed.

There being no further testimony, the hearing was closed at 9:20 P.M.

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 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 on 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 of Dukes County.

C. The Commission finds that the proposed development as set forth in the Application and the plan(s), as revised, will be consistent with local development ordinances and by-laws.

D. 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 has considered the question of 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 or moderate income housing for Island residents, the Commission sets the following condition:

IF REQUIRED BY THE TOWN, THE APPLICANT SHALL PARTICIPATE IN ONE OR THE OTHER OF THE FOLLOWING ALTERNATIVES,BUT NOT BOTH. THE BOARD OF SELECTMEN AND THE APPLICANT JOINTLY, AND OR IN CONJUNCTION WITH ANY OTHER APPROPRIATE TOWN BOARDS, SHALL DETERMINE, FROM THE ALTERNATIVES LISTED BELOW. EITHER "ALTERNATIVE A" OR "ALTERNATIVE B," WHICHEVER IS DEEMED MORE APPROPRIATE AND SUITABLE FOR THE TOWN IN THE GIVEN SITUATION:

"ALTERNATIVE A"

LOT 17 SHALL BE DESIGNATED A"RESIDENTIAL HOMESITE LOT." SAID 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 WILL BE ESTABLISHED BY THE BOARD OF SELECTMEN IN CONSULTATION WITH ANY OTHER APPROPRIATE BOARD OF THE TOWN OF WEST TISBURY. PUBLIC NOTICE SHALL BE GIVEN BY THE SELECTMEN TO RECEIVE APPLICATIONS FOR THOSE

PERSONS MEETING THE ESTABLISHED STANDARDS. IF NO APPLICANTS ARE APPROVED BY THE BOARD OF SELECTMEN FOR PURCHASE OF SAID LOT, THIS CONDITION SHALL LAPSE AND BE OF NO FURTHER FORCE OR EFFORT AFTER ONE YEAR.

OR:

"ALTERNATIVE B"

IN LIEU OF SAID LOT AS SPECIFIED IN THE PREVIOUS PARAGRAPH, A SUM OF MONEY EQUAL TO AN AMOUNT TO BE DETERMINED BY THE BOARD OF SELECTMEN OF THE TOWN OF WEST TISBURY AND THE APPLICANT JOINTLY TO BE USED TO ESTABLISH A FUND FOR THE PURPOSE OF DISTRIBUTION TO A PERSON OR PERSONS OF LOW OR MODERATE INCOME TO ASSIST SAID PERSON(S) WITH THE PROVISION OF HOUSING. STANDARDS DETERMINING APPROPRIATE QUALIFICATIONS FOR A PERSON OR PERSONS WILL BE ESTABLISHED BY THE BOARD OF SELECTMEN TO RECEIVE APPLICATIONS FOR THOSE PERSONS MEETING THE ESTABLISHED STANDARDS. IF NO APPLICANTS ARE APPROVED BY THE BOARD OF SELECTMEN FOR RECEIPT OF SUCH MONEY WITHIN ONE YEAR AFTER THE ESTABLISHMENT OF SUCH FUND, THIS CONDITION SHALL LAPSE AFTER ONE YEAR AND BE OF NO FURTHER FORCE OR EFFORT.

The Commission has considered the question of the potential impact of this proposal on the environment and on other persons property pursuant to Section 15 of the Act and has set the following condition:

THERE SHALL BE MAINTAINED ALONG TIAH'S COVE ROAD A NO BUILD BUFFER AND SAID BUFFER SHALL BE MAINTAINED TO THE DEPTH OF ONE HUNDRED (100) FEET; AND

FURTHER

THE SO CALLED "WOODS ROAD" SHALL BE RELOCATED TO THE EASTERLY SIDE OF HTE SUBDIVISION, RUNNING FROM TIAH'S COVE ROAD TO RECONNECT WITH THE EXISTING "WOODS ROAD" ON THE NORTHEASTERLY SIDE OF THE SUBDIVISION AND SHALL BE MADE ACCESSIBLE TO THOSE WHOSE RIGHT TO LEGALLY USE THE SO-CALLED FORMER "WOODS ROAD" NOW EXITS; AND

FURTHER

THERE SHALL BE NO VEHICULAR CONNECTION BETWEEN THE EXISTING 40 FOOT EASEMENT OFF THE STATE ROAD AND THE CUL-DE-SAC AT THE END OF THE PROPOSED SUBDIVISION ROAD; AND

FURTHER

IF REQUIRED BY THE TOWN, FOR APPROVAL OF THE SUBDIVISION, AN AREA EQUAL TO 4,000 SQUARE FEET FOR WATER STORAGE AND HYDRANT, KNOWN AS A HYDRANT LOT, SHALL BE SET ASIDE TO PROVIDE A SOURCE OF WATER FOR FIRE PROTECTION.

The Commission has considered the potential impact of further development or greater density in the area and pursuant to Section 15 of the Acts sets the following additional conditions:

THAT LOTS 1 THRU 17 SHALL BE DEED RESTRICTED OR COVENENTED SO THAT SINGLE FAMILY DWELLINGS ONLY MAY BE CONSTRUCTED ON THE LOTS SO PROPOSED, ONE PER LOT; AND

FURTHER:

THAT LOTS 18, 19, 20 SHALL BE DEED RESTRICTED OR COVENENTED SO THAT NO FURTHER SUBDIVISION OF SAID LOTS SHALL BE ALLOWED EVER; AND

FURTHER:

THAT THE SO CALLED YOUTH HOMESITE LOT, IF "ALTERNATIVE A" PREVIOUSLY OUTLINED IS CHOSEN, SHALL BE ACCESSED VIA THE RELOCATED "WOODS ROAD" AND SAID SHALL BE LIMITED TO THAT LOT ONLY.

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 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 permits which may be required together with any other development permits required by law.

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

This decision is written consistent with the vote of the Commission: July 18, 1985.

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 purposed development is located.

John G. Early - VICE CHAIRMAN
Leonard Jason Jr., Chairman

8/15/85
Date

Norman Friedman
Notary

8/15/85
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS
MY COMMISSION EXPIRES NOV. 2, 1990
U.S.A.

Edgartown, Mass. Aug 20 1985
at 8 o'clock and 55 minutes A M
Received and entered with Dukes County Deeds
book 433 Page 312

Attest: Beverly W. King
Register