

# THE MARTHA'S VINEYARD COMMISSION

BOX 1447  
OAK BLUFFS  
MASSACHUSETTS  
02557

DATE: May 14, 1987

TO: Planning Board, Town of West Tisbury

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact  
RE: Residential Subdivision

APPLICANT: William R. Morris III  
Patrick M. Mahady  
c/o Douglas Hoehn  
Schofield Brothers  
P.O. Box 339  
Vineyard Haven, MA 02568

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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 William R. Morris, III and Patrick M. Mahady, c/o Douglas Hoehn, Schofield Brothers, P.O. Box 339, Vineyard Haven, MA 02568 for the subdivision of land in the Town of West Tisbury as shown on the plans entitled: "Red Farm, Plan of Land in West Tisbury, Mass., Prepared for William R. Morris, III & Patrick M. Mahady, dated February 23, 1987 by Schofield Brothers, Inc., State Road, P.O. Box 339, Vineyard Haven, MA 02568" consisting of two (2) sheets; "Planimetric Map Depicting Fields, Trails, Wetlands, Building Envelopes, Proposed Well and Septic Locations, Prepared by Schofield Brothers, Inc., State Road, P.O. Box 339, Vineyard Haven, MA 02568, Dated February 25, 1987" consisting of one (1) sheet; "Declaration of Protective Covenants and Agreement for Red Farm, Prepared by Montgomery, Meisner and Peters, Box 1117, Edgartown MA" consisting of fifteen (15) sheets; making a total of eighteen (18) sheets, (the plan).

The Decision is rendered pursuant to the vote of the Commission on May 14, 1987. The Planning Board of the Town of West Tisbury, may now grant the necessary development permits for the Applicant's proposal in

accordance with the conditions contained herein, or may approve in accordance with the conditions contained herein and place further conditions thereon in accordance with applicable law, or may disapprove the development application.

#### FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.201 and 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). The Application and Notice of public hearing relative thereto are incorporated herein. Martha's Vineyard Commission staff document exhibits are incorporated by reference.

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 as modified by Chapter 831 on April 16, 1987 at 8:30 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

The proposal is for the subdivision of 44+ acres of land, into 12 lots in the Town of West Tisbury.

Sanford Evans, Chairman of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony at 9:15 P.M.

Douglas Hoehn, Agent for the Applicants, presented the proposal, discussing the location of the parcel, being off the Lambert's Cove Road. He discussed the access to the parcel, the acreage of 44.33, located within AR3 zoning for West Tisbury with a 3 acre minimum lot size. He stated this proposal is for the subdivision of land into 12 lots and stated that the proposal will have a central farm lot and that the focus of the lots will be kept around the farm lot. He stated that the farm lot is an existing meadow, and that there are 4 existing buildings on this lot. Mr. Hoehn stated that the lot size will be approximately 3.6 acres each with the farm lot being 9.2 acres. He discussed the access road and easements which have been granted to cross over the Brush Family subdivision through existing roads both dirt and paved and stated that the applicant proposes to pave the dirt road and further that there will be natural runoff drainage. He then stated there would be a center hydrant lot which will include a hydrant well and a 10,000 holding tank further it has met with the fire chiefs satisfaction and within one year this lot will be deeded to the

Town. He stated some lots fall within 500' of the Fire Tower which is designated a special place district and in order to build within the 500' the owner will go before the Zoning Board of Appeals for a Special Permit. Mr. Hoehn, stated the history of this proposal stating informal meetings in the beginning of October 86 with the Planning Board; filing of Form B at the end of October 86 with the Planning Board; the Board of Health requested that the applicant stay away from wetlands with regard to the septic systems, he stated no formal decision was made as the night the hearing was scheduled the weather was bad then time ran out. Mr. Hoehn stated that the Planning Board has walked the site. Further definitive plans were filed with the Planning Board, and stated concerns the Board had regarding paths which run through the property and keeping this open for a walking path. Mr. Hoehn stated that the paths would be kept open in their present shape however, will probably reroute behind the barn. Also the Board and Fire Chief had concerns for access to Christiantown Road in case of emergency, the applicants will provide access. Further he stated that the newest building on the parcel will be removed.

Mr. Hoehn then discussed the siting of houses and building envelopes, topography of the parcel, areas with steep slope to have shared driveways and road system. He further stated that covenants will include that prior to architectural review each lot owner will have an engineering firm design a driveway, this to alleviate problems. Other covenants include: no guest houses, no further subdivision of farm lot, no roof tops break canopy line of trees and no clear cutting the side of hills; further, he stated that revised covenants were submitted to the MVC on 4/16/87.

Mr. Hoehn discussed the resident homesite lot and stated that the applicants are proposing to offer a lot in the Town of West Tisbury, off-site. He said he has spoken the Town of West Tisbury Planning Board and further that the Board has no problem, with one suggestion: that the applicants make sure the lot that is offered is a clear lot. Further, Mr. Hoehn said he spoke to Doug Ewing of the Dukes County Regional Housing Authority and he made the same suggestion as the Planning Board regarding the clear/suitable lot in addition with approval of the Dukes County Regional Housing Authority and the West Tisbury Planning Board.

Mr. West, Commissioner, questioned the width of the right of way. Mr. Hoehn stated that there is a recorded right-of-way at the Registry, the right of way being 40 feet. Mr. Hoehn stated the applicants have the right to use and also improve as necessary. Present roadway is 10-12 feet wide and will widen to Town requirements.

Commissioners questioned the size of the site that will be given for the resident homesite lot. Applicant stated approximately 1.5 acres.

Mr. Hoehn then discussed soils, slopes, and stated perk and soil tests have been done in abutting properties and some throughout the proposed subdivision. He discussed the topography which rises even after property line and stated that the visual impact will be within the subdivision.

Commissioners discussed in length the management of the farm lot. Mr. Hoehn stated that there is no plan or covenants other than no further subdivision for the lot and further that this lot is not being farmed at this time. Further the Applicants feel that activating a farm would not be appropriate to this lot.

Mr. Evans asked for the staff presentation.

Barry Didato, MVC Staff, referenced a handout and showed an aerial of the area, he discussed access, natural site features regarding slopes, and proposed building envelopes. He stated that 16% of the proposed subdivision is open field, there is no open space proposal as proposed, fields and trails will stay open. He discussed soils rated as having a State and Local significance for farming, and soils are rated as having severe limitations. He discussed population impacts, impacts on schools, tax revenue, buildout being 2 years, solid waste generation, traffic generation and the hydrant lot. He stated development concerns at this point are: adequate resident homesite provision; stump dump and an open space management plan for lot #9. Mr. Didato then showed a film of the proposed subdivision including the access off the Lambert's Cove Road.

Mr. Widdiss asked how the soils in this area rate for agricultural purposes. Mr. Didato stated it rates high enough for State and Local recognition in terms of agricultural land.

Mr. Geller, Commissioner, discussed the capability of the field regarding farming. Mr. Evans asked if any traffic counts have been done on the Lambert's Cove Road. Mr. Didato answered in the negative.

Mr. Evans called for testimony from Town Boards. There was none. He then called for testimony in favor, opposing and any other. There was none.

He further stated that correspondence was received from Doug Hoehn of Schofield Brothers regarding the resident homesite policy; Edward & Barbara Child, Abutters, objecting to the proposal for reasons of added lots and traffic.

Mr. Evans then asked if the applicants or agent for the applicants had any additional comments.

Doug Hoehn answering the staff's development concerns stated regarding stump and brush disposal that arrangements have been made with Olsen Brothers for disposal. Further that there is no specific open space plan as the field is within one lot.

There being no further testimony the hearing was closed at 10:00 P.M. and the record was kept open for one week. Following the close of the public hearing, no correspondence was received for the record.

#### FINDINGS AND CONDITIONS

1. The Commission has considered the application and the information presented at the Land Use Planning Committee meeting, the public hearing, and discussions during its decision deliberations 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 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 plan will be consistent with local

development ordinances and By-laws in place at the time of the submittal.

d. The Commission finds, subject to the conditions set forth herein, that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

2. Pursuant to the statutory requirement of Section 14c of the Act and pursuant to Section 15 of the Act, the Commission has considered the potential impacts of this development regarding the supply of needed low and moderate income housing for Island residents and has weighed the proposal's density, reviewed the Declaration of Protective Covenants and Agreement for Red Farm, and reviewed consistency with the Commission's adopted Affordable Housing Policy.

2a. IN LIGHT OF THE CONSIDERATIONS OF #2 ABOVE, THE COMMISSION FINDS THAT THE APPLICANT SHALL CONVEY TWO (2) LOTS OF NOT LESS THAN 1.4 ACRES IN SIZE OFF-SITE, IN THE TOWN OF WEST TISBURY, TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY OR THE TOWN OF WEST TISBURY FOR THE PURPOSE OF AFFORDABLE RESIDENTIAL HOMESITE LOTS. NOTIFICATION BY THE APPLICANT OF THE DESIGNATION OF SUCH LOTS SHALL BE GIVEN TO THE BOARD OF SELECTMEN AND THE PLANNING BOARD OF THE TOWN OF WEST TISBURY, THE MARTHA'S VINEYARD COMMISSION AND THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR THEIR APPROVAL. THE MEANS OF TRANSFER OR CONVEYANCE AND STANDARDS DETERMINING APPROPRIATE QUALIFICATIONS FOR PERSONS OF LOW OR MODERATE INCOME SHALL BE WITH THE TOWN OF WEST TISBURY AND THE DUKES COUNTY REGIONAL HOUSING AUTHORITY. NO LOTS IN THE APPLICANT'S PLAN SHALL BE CERTIFIED FOR SALE UNTIL THE RESIDENT HOMESITE LOTS HAVE BEEN CONVEYED TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY OR THE TOWN OF WEST TISBURY.

FOR CONDITION NUMBER 2a, THE COMMISSION REQUIRES THE APPLICANT TO ENTER INTO AN AGREEMENT WITH THE DUKES COUNTY REGIONAL HOUSING AUTHORITY, IN A FORM SATISFACTORY TO THE MARTHA'S VINEYARD COMMISSION, TO GOVERN THE DISPOSITION OF THE TWO (2) RESIDENTIAL HOMESITE LOTS.

UPON SATISFACTION OF CONDITION NUMBER 2a, THE APPLICANT SHALL CERTIFY COMPLIANCE THEREWITH TO THE MARTHA'S VINEYARD COMMISSION. UPON SATISFYING ITSELF, AS TO COMPLIANCE, THE COMMISSION SHALL ISSUE

A CERTIFICATE OF COMPLIANCE WHICH SHALL BE CONCLUSIVE EVIDENCE THAT THIS CONDITION HAS BEEN SATISFIED AS TO THE LOTS SPECIFIED THEREIN.

- 3. The Commission has considered the question of the potential impact of this proposal on the environment and on other persons or property pursuant to Section 15 of the Act. Further, the Commission has considered the potential density and possible burden on the Town that could be created and therefore sets the following conditions:
  - a. THERE SHALL BE NO FURTHER SUBDIVISION OF LOT NUMBER 9, AS SHOWN ON SAID PLAN, AND THIS LOT SHALL BE RESTRICTED TO ONE (1) SINGLE FAMILY DWELLING.
  - b. NO GUEST HOUSES OR SUBORDINATE DWELLINGS SHALL BE ALLOWED ON ANY LOT WITHIN THE PROPOSED SUBDIVISION.
  
- 4. The Commission has considered the question of the potential affect of this proposal on the municipal services of the Town pursuant to Section 15 of the Act and sets the following conditions:
  - a. ONE HYDRANT FACILITY SHALL BE INSTALLED BY THE APPLICANT, AT HIS EXPENSE, AT A LOCATION AND WITH SPECIFICATIONS TO BE DETERMINED BY THE WEST TISBURY FIRE CHIEF. THE APPLICANT SHALL SUBMIT TO THE MARTHA'S VINEYARD COMMISSION EVIDENCE, IN A FORM SATISFACTORY TO THE COMMISSION, OF COMPLIANCE HEREWITH.

FURTHER,

  - THE APPLICANT SHALL ALLOW COLLECTION OF SAMPLES TO BE TAKEN FROM THIS FACILITY, AT REASONABLE TIMES, BY THE TOWN OR ITS APPOINTED DESIGNEE AND OR THE STAFF OF THE MARTHA'S VINEYARD COMMISSION FOR THE PURPOSE OF ESTABLISHING AN INFORMATIONAL DATA BASE AND MONITORING THE ISLAND'S AQUIFER.
  - b. AS REQUESTED BY THE FIRE CHIEF AND PLANNING BOARD OF THE TOWN OF WEST TISBURY, THE COMMON DRIVE, BETWEEN LOTS 6 & 7 ON SAID PLAN SHALL BE USED BY THE TOWNS' FIRE DEPARTMENT FOR EMERGENCY PURPOSES WHEN NECESSARY.
  
- 5. THE EXISTING TRAIL SYSTEM CROSSING LOT 9 ON SAID PLAN SHALL REMAIN OPEN.
  
- 6. The Commission finds that the existing dwelling on Lot 9 possesses historical and cultural value to the Town of West Tisbury and in light of this sets the following condition:

- a. ANY ALTERATION, ADDITION, RENOVATION OR DEMOLITION OF SAID DWELLING SHALL BE REVIEWED AND APPROVED BY THE WEST TISBURY HISTORICAL COMMISSION.

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 permits which may be required by law.

This Decision is written consistent with the vote of the Commission. May 14, 1987.

Any party aggrieved by a determination of the Commission may appeal the Superior Court within twenty (20) 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 in the Town in which the proposed development is located.

*John G. Early*  
John G. Early, Chairman

5/22/87  
Date

*Norman Friedman*  
Notary

5/22/87  
Date

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

Edgartown, Mass. May 22 19 87  
at 9 o'clock and 25 minutes A M  
Received and entered with Dukes County Deeds  
book 474 page 219

Attest: *Suzerly W. King*  
Register