

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557

DATE: April 23, 1987
TO: Planning Board, Town of West Tisbury
SUBJECT: Development of Regional Impact
RE: Residential Subdivision
APPLICANT: Mill Brook Associates
c/o Robert Kendall
P.O. Box 1528
Vineyard Haven, MA 02568

DECISION OF THE MARTHA'S VINEYARD COMMISSIONSUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves the application of Mill Brook Associates, c/o Robert Kendall, P.O. Box 1528, Vineyard Haven, MA 02568 for the Development of Land in the Town of West Tisbury as shown on the plans entitled: "Plan of Land in West Tisbury, Mass., Surveyed for Mill Brook Associates, Dated March 21, 1987 by Vineyard Land Surveying, Box 1548, Norton Ave., Vineyard Haven, MA 02568" consisting of one (1) sheet; making a total of one (1) sheet, (the Plan).

The Decision is rendered pursuant to the vote of the Commission on April 23, 1987. The Planning Board of the Town of West Tisbury may now grant the necessary development permits for the Applicant's residential subdivision in accordance with the Decision, or may approve in accordance with this Decision 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. 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 9:00 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the subdivision of 47.5 \pm acres into 3 parcels.

Sanford Evans, Chairman of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony at 10:15 P.M. He stated that this is the first application under the new checklist that does not specify the number of lots but only the size of the parcel. He then asked the applicant to give a presentation of the proposal.

Rob Kendall, Agent for the Applicant, discussed the location of property abutting the Mill Creek in West Tisbury. He discussed the original estate and the remaining property of 47.5 acres of which the applicant has purchased. He stated that there is an existing cape style house on the parcel built in 1714 which is being restored to its original condition and that the applicant proposes to bring a house built in 1795 to the Island from the Berkshires to place on an adjacent lot.. He further discussed the proposed location of this house. Mr. Kendall then discussed the history of the proposal stating he went to the Town with a Form A to put in the two sites for the houses. He discussed present access and in the future moving the access further southwest. He further stated that brush will be cut out to have a better view at the entrance, the fields are to be kept open. He showed an old photograph of the pond behind the existing house. Mr. Kendall stated that the applicants want to start work on a preliminary plan for the additional land. He stated that what is before the Commission now is a three lot subdivision. He discussed the visual impact of this subdivision being the facades of 2 old houses through trees.

Mr. Jason asked if the house is in the Historical Register. Mr. Kendall, stated this is a possibility, but he did not think so.

Mrs. Eber asked if the dwelling would be lived in. Mr. Kendall

answered in the affirmative.

Mr. Evans asked for the staff presentation.

Barry Didato, MVC Staff, referenced a handout, and stated the total acres equal 47, lot #1, with existing building, will be 3.03 acres; #2 will be 3.27 acres, leaving the remaining lot 41.2 acres be divided at a later time. Mr. Didato stated that the proposal is within zoning regulations. He discussed existing vegetation being cedars, oaks and locust. Further, the Department of Environmental Management has a record of some sort of rare or endangered species, possibly vascular plants, in this area. He discussed the building envelopes stating that the site plan shows exactly where the proposed house will be placed on lot #2. Mr. Didato discussed the soils stating they vary from not being agricultural soils to soils that are classified as being agricultural soils. He then discussed development concerns which were: future development of the remaining 41 acres; existing access/egress regarding safety and possible detriments to rare/endangered species. Mr. Didato then showed a film of the parcel showing the entrance, existing house and fields.

Following the film, Mr. Evans asked Mr. Kendall what the proposed changes for the access were. Mr. Kendall showed the existing entrance and explained that the proposed entrance would be further up the State Road and further discussed how this entrance will link up to the existing house lots.

Mr. Evans asked for testimony from Town Boards, persons in favor of opposing and other. There was none.

Commissioners discussed the endangered species and protection. Carol Borer, Executive Director, stated that the Natural Heritage Program will send a letter, if DEM deemed it appropriate, which will include suggestions for maintenance of these endangered species.

Mr. Evans asked if there was any additional comments? There were none.

Mr. Evans stated there was no correspondence regarding this proposal.

There being no further testimony, Mr. Evans closed the public hearing at 10:35 P.M. and stated the record will be kept open for one week.

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 project 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 the development set forth in the Application and the plan will be consistent with local development ordinances and by-laws in place at the time of the submittal.
- 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 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.

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

This Decision is written consistent with the vote of the Commission April 23, 1987.

Any party aggrieved by a determination of the Commission may appeal to 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

4/30/87
Date

Norman Friedman
Notary

4/30/87
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990

Edgartown, Mass. May 1 19 87
at 9 o'clock and 36 minutes A M
Received and entered with Dukes County Deeds
book 472 page 528

Attest: Beverly W. King
Register