

## THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS  
 MASSACHUSETTS 02557  
 (508) 693-3453  
 FAX (508) 693-7894

DATE: December 19, 1991

TO: Building Inspector, Town of Tisbury  
 Zoning Board of Appeals, Town of Tisbury

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact  
 RE: Commercial development

APPLICANT: Richard T. Wright  
 P.O. Box 2690  
 Vineyard Haven, MA 02568

-----  
 DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application of Richard T. Wright, P.O. Box 2690, Vineyard Haven, MA 02568, for the construction of a commercial building as shown on the plans entitled: "Proposed Sewage Disposal System; Applicant: Richard T. Wright; November 22, 1991, revised 12/5/91; Schofield, Barbini & Hoehn, Inc., P.O. Box 339, Vineyard Haven, MA"; consisting of one (1) sheet, plus "Site Plan, Map 22A Lot 4.6, drawn by R.T. Wright, November 8, 1991" consisting of one (1) sheet, plus four (4) untitled sheets depicting "second floor plan, foundation section, Section C"; and "Section B, Section C, north and south facade elevations"; and "east and west facade elevations"; and "first floor plan", making a total of six (6) sheets, (The Plan).

This Decision is rendered pursuant to the vote of the Commission on December 19, 1991.

The Building Inspector and the Zoning Board of Appeals of the Town of 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 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 3.301. The Application was referred to the Commission by the Building Inspector and the Zoning Board of Appeals of the Town of Tisbury for action pursuant to Chapter 831 Acts of 1977 as Amended (the Act). The Application and Notice of Public Hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record 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 December 5, 1991 at 7:30 P.M. at the Martha's Vineyard Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

The proposal is for the construction of a commercial development qualifying as a DRI since the proposal will have a floor area greater than 1,000 square feet.

The hearing was chaired by Alan Schweikert, Chairman of the Land Use Planning Committee who read the Public Hearing notice and opened the hearing for testimony at 7:45 P.M.

Alan Schweikert, Chairman of the Land Use Planning Committee read the public notice and opened the hearing for testimony at 7:45 P.M. John Early noted that he had a potential conflict of interest and left the room.

Doug Hoehn, agent for the applicant, distributed a series of maps and documents to all present. He discussed the meeting the applicant had with the Land Use Planning Committee. He discussed the plans that were hung on the wall, the floor plans and the pertinent section of the Tisbury Zoning Ordinance. He further discussed the location of the proposal, the surrounding land use, the natural features of the site and the relationship to the Tisbury municipal wells.

He then discussed the internal lay-out of the proposed building.

He discussed the drainage and parking proposal for the site, the lighting being proposed. He noted that there was no plan for any underground fuel tanks and no hazardous materials being proposed. He discussed the impact of the proposal on the economy, the environment and the surrounding area.

He addressed the issue of affordable housing and the fact that an apartment unit was being provided on the second floor which would hopefully serve an employee, if possible.

Mr. Hoehn then discussed the impact on traffic and the uses that Mr. Wright had listed for special consideration. He noted that the uses listed for special consideration would be returned to the MVC as future DRIs.

Mr. Hoehn then discussed the relationship of the proposal to the town Master Plan, zoning and the process of the Zoning Board of Appeals.

Mr. Schweikert called upon staff for comments.

Tom Simmons, MVC, staff discussed the comments submitted by Bill Wilcox regarding water quality issues. He then discussed issues related to traffic. He explained how he determined which uses would cause problems with either parking or the function of Holmes Hole Road. He discussed the maintenance of Holmes Hole Road and the condition thereof.

Mr. Schweikert called for questions.

Mr. Sullivan discussed the affordable housing unit and asked if it were year-round. Mr. Hoehn indicated yes to year-round and further discussed the housing issue.

Mr. Colaneri discussed the issue of accessibility to the second floor. Mr. Wright knew of no problem on the part of the Building Inspector.

A discussion of this matter followed. Mr. Colaneri felt an assurance of accessibility was needed. A discussion followed. Mr. Colaneri further discussed a need for assurance of protection of the town wells from hazardous materials and discussed some examples.

Mr. Best questioned the proposed septage flow. Mr. Hoehn

indicated the size to be 7.5 gal./100 square feet or 500 gal. per day usage.

The design was for 810 gal. A discussion of what a 4 bedroom house would require followed. (440 gal. per day)

Mr. Schweikert called for town boards - there were none.

Mr. Schweikert called for those in favor - there were none.

He then called for those opposed - there were none.

He called for any comments - there were none.

Mr. Donaroma asked about the letter from an abutter. Mr. Schweikert read a letter in support of the proposal from one Mark Guilford.

Mr. Hoehn briefly discussed the scheduling problem with the Board of Appeals.

There being no further testimony, the hearing was closed at 8:18 P.M.

#### FINDINGS AND CONDITIONS

The Commission has considered the application and the information presented at the public hearing and based upon such considerations, 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 of Tisbury or any general plan of the County of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plans, and subject to the conditions set forth herein, 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.

Pursuant to Section 15(b) of the Act, the Commission has considered whether the development in the manner proposed will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and in light of said consideration has set the following condition:

THAT ANY HAZARDOUS OR TOXIC MATERIALS WHICH MAY BE STORED ON-SITE SHALL BE DONE IN ACCORDANCE WITH ALL APPLICABLE STATE, MUNICIPAL AND FEDERAL LAWS AND THAT THERE SHALL BE NO TOXIC OR HAZARDOUS MATERIALS THAT SHALL BE PERMITTED TO ENTER THE SEPTIC SYSTEM DUE TO THE POTENTIAL THREAT TO THE ZONES OF CONTRIBUTION FOR THE MUNICIPAL WELLS IN THE AREA.

Pursuant to Section 15(c) of the Act, the Commission has considered whether the proposed development will favorably or adversely affect other persons and property, and if so, whether, because of circumstances peculiar to the location, the effect is likely to be greater than is ordinarily associated with the development of the types proposed and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER TO SHARE THE COST OF CONSTRUCTING A SCREENING FENCE ALONG THE PROPERTY LINE; SAID SCREENING FENCE TO BE INSTALLED PRIOR TO THE START OF CONSTRUCTION.

Pursuant to Section 15(d) of the Act, the Commission has considered whether the proposed development will favorably or adversely affect the supply of needed low and moderate income housing for Island residents and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER TO PROVIDE A RESIDENTIAL APARTMENT UNIT ON THE SECOND FLOOR IN ORDER TO ADDRESS THE AFFORDABLE HOUSING NEEDS OF THE ISLAND AND SHOULD ANY CHANGE OF USE AFFECTING THE AVAILABILITY OF THIS RESIDENTIAL APARTMENT UNIT OCCUR, THEN SAID CHANGE OF USE SHALL BE SUBMITTED TO THE COMMISSION FOR REVIEW AS A CHANGE TO A PREVIOUSLY APPROVED DRI.

Pursuant to Section 15(e) of the Act, the Commission has considered whether the proposed development will favorably or adversely affect the provision of municipal services and the burden on taxpayers in making provisions there for and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER TO RESTRICT THE POTENTIAL USES OF THE COMMERCIAL RENTAL SPACES AS PER THE LIST HEREWITH ATTACHED AND THAT SHOULD ANY OF THESE RESTRICTED USES BE PROPOSED FOR THE RENTAL SPACES BEING PROVIDED, THEN THAT PROPOSAL MUST BE REFERRED TO THE MVC FOR REVIEW.

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 this Decision, apply to appropriate Town of Tisbury Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: December 19, 1991.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

The Executive Director may issue Certificates of Compliance



which shall be conclusive evidence of the satisfaction of the conditions recited therein.

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

Jane A. Greene  
Jane A. Greene, Chairman

12/19/91  
Date

Norman Friedman  
Notary

12/19/91  
Date

NORMAN FRIEDMAN  
NOTARY PUBLIC  
MY COMMISSION EXPIRES OCT. 10, 1997

570PG083

ATTACHMENT

- 1.) Bakery or any retail food establishment
- 2.) Laundromat
- 3.) Package store or General store
- 4.) Video store
- 5.) Discount outlet (like Trader Fred's)
- 6.) Bank

They would like also to recommend that in order for the above mentioned exceptions to be conducted in the building, approval of the Martha's Vineyard Commission be required.

In the event that the condition of the Holmes Hole Road is greatly improved in the future, they would like to be able to come before the Commission and have the above restrictions removed.

Sogartown, Mass. Dec 26 1991  
at 8 o'clock and 35 minutes A M  
Received and entered with Dukes County Deeds  
book 570 page 076

Test: Beverly W. King  
Register