



# CAPE COD COMMISSION

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DATE: March 4, 1994

APPLICANT: Hope Ingersoll  
Head of the Bay Road and Bournedale Road  
Buzzards Bay, MA

PROJECT #: TR93023

PROJECT: Ingersoll Farm (Ingersoll Family Homestead)  
Bourne, MA

RE: Development of Regional Impact  
Cape Cod Commission Act, Section 12(c)

BOOK/PAGE: Book 606, Page 405  
Book 08376, Page 137

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY:

The Cape Cod Commission (Commission) hereby approves with conditions the Development of Regional Impact (DRI) application of Hope Ingersoll under Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for a proposed subdivision of land in Bourne, MA off of Head of the Bay Road and Bournedale Road. The decision is rendered pursuant to a vote of the Commission on March 4, 1994.

### PROJECT DESCRIPTION:

The project consists of an Approval Not Required subdivision of approximately 108 acres of land into six lots ranging from approximately 14 acres to over 25 acres in size. The site is zoned R-80 for residential

use. Lot No. 75 and the Ellis Pond lot were previously subdivided in October, 1990, with the Ellis Pond lot subsequently donated to the Plymouth County Wildlands Trust. The property consists of pasture, farmland and wooded areas with ponds and wetlands scattered throughout the property.

The "South Homestead", or Lot No. 1.1C, contains the Ingersoll Homestead, built circa 1720, and several outbuildings, including an ice house, log cabin, guest cottage, and the "kennel house" which contains two apartments. The "North Homestead", or Lot No. 1.1, also contains a cottage and garage. The property is surrounded to the north and west by a 145-acre "Old Field Pond Preserve" donated to the Plymouth County Wildlands Trust by Mrs. Ingersoll in 1983. To the east and south lies an equestrian center currently owned by the Ingersoll family, surrounded by 63.39 acres of pasture and woodland upon which the family has placed a permanent agricultural restriction, with the Plymouth County Wildlands Trust as holder and monitor of the restriction.

The proposed subdivision is for estate planning purposes with no development of the land proposed at this time. In addition, Lot No. 1.1B, totaling 14.05 acres is proposed to be donated to the Plymouth County Wildlands Trust, which currently holds over 1400 acres of permanently protected land, primarily in Plymouth County.

#### JURISDICTION:

The subdivision qualifies as a DRI under Section 12(c)(3) of the Cape Cod Commission Act (Act) as "any development which proposes to divide land of fifty acres or more which was in common ownership as of January 1, 1988."

#### PROCEDURAL HISTORY:

The project was referred to the Commission by the Bourne Planning Board on December 6, 1993. A public hearing was conducted by an authorized subcommittee of the Commission on January 3, 1994 at the Bourne Community Center, Buzzards Bay, MA. On January 3, 1994 the subcommittee voted to close the public hearing, leaving the record open until the close of business on February 3, 1994. Public meetings were held on January 20, 1994, February 3, 1994, February 14, 1994 and February 28, 1994.

As a result of this hearing and four subcommittee meetings, the

subcommittee voted on February 28, 1994 to recommend to the full Commission that the proposed subdivision be approved as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD:

- Application form, submitted in December 1993;
- Application to Subdivide Land in Bourne, submitted by T.G. Ingersoll on January 3, 1994;
- Letter from T. G. Ingersoll to Sharon Rooney and Dorr Fox, dated January 19, 1994;
- Letter from T. G. Ingersoll to Sharon Rooney, received January 26, 1994;
- The Homestead Trust, signed April 25, 1993 by Hope and Tudor Ingersoll;
- Plan of Land prepared for the Ingersoll Homestead, dated November 23, 1993;
- Plan of Land to be Conveyed by Hope Garland Ingersoll to Plymouth County Wildlands Trust, dated December 8, 1981;
- Letter from Plymouth County Wildlands Trust, dated December 20, 1993;
- Letter from the Massachusetts Historical Commission dated December 27, 1993;
- Letter from the Massachusetts Historical Commission dated January 27, 1994;

TESTIMONY:

Testimony was received at the January 4, 1994 hearing from Jerry Ingersoll, representative of the applicant. He explained that the purpose of the subdivision of land was for estate planning purposes and there was no intention to develop the land in the immediate future. Mr. Ingersoll discussed previous donations of land by the applicant for the purposes of preserving open space as well as future donations resulting from the proposed subdivision.

Comments from the public included Virginia Anderson, a butter to the project, and John Sanna who both supported the project. Bill Norman of the Bourne Planning Board spoke on procedural issues pertaining to the project.

FINDINGS:

The Commission has considered the application of Hope Ingersoll for the proposed residential subdivision in Bourne, MA, and based on consideration of such application, the information presented at the public hearing and

submitted for the record, the Commission makes the following findings subject to Sections 12 and 13 of the Act:

- 1). The applicant does not intend to develop the site at this time or in the foreseeable future. The purpose of the development is for estate planning purposes.
- 2). The site is zoned R-80, which allows for a density of one dwelling per two acres of land. These zoning restrictions were recently adopted to protect the watershed of Buttermilk Bay.
- 3). The Massachusetts Historical Commission (MHC) has determined that the project area, including the Ingersoll Homestead, built circa 1720, and several outbuildings, has a strong likelihood of containing historic and prehistoric archaeological sites.
- 4). The proposed subdivision is not expected to have regional traffic impacts.
- 5). The site is located within two Zones of Contribution to public supply wells. The proposed project will not have a detrimental impact on these zones of contribution.
- 6). The applicant began development of a master plan for the property prior to the establishment of the Cape Cod Commission Act (Act). This plan included preservation of the majority of the entire site as permanent open space.
- 7). The North and South Homesteads, or lots #1.1C and 1.1, respectively, have been placed in an irrevocable trust, titled the Homestead Trust, for the expressed purpose of maintaining these lots in their open, natural state for the benefit and enjoyment of the applicant's children and descendants. The Homestead Trust is intended to terminate upon the expiration of the period of twenty (20) years after the death of the survivor of the applicant's issue living on the date of the trust instrument, or approximately 60-75 years from the date of this decision, unless terminated earlier at the discretion of the disinterested trustees.
- 8). The applicant donated approximately 115.37 acres of land adjacent to the project site to the Plymouth County Wildlands Trust prior to the establishment of the Act. With respect to the pending development permit application, the applicant donated to the Plymouth County Wildlands Trust approximately 11.52 acres of upland on-site at the Ellis Pond parcel, and

will donate approximately 14.05 acres on-site at the Kennel Field parcel (Lot #1.1B), consistent with the terms of the trust discussed above and with the conditions of this decision. In addition, subsequent to filing a DRI application, the applicant placed a permanent agricultural restriction on 63.39 acres of pasture and woodland off-site, with the Plymouth County Wildlands Trust as holder and monitor of the restriction.

9). Section 6.1.3 of the RPP requires residential developments to retain 60% of the site as permanently protected open space. The proposed subdivision consists of approximately 98 acres of upland, requiring approximately 59 acres to be set aside as open space. The development proposal will set aside approximately 89 acres of open space, including an off-site contribution of 63.39 acres for agricultural preservation and the on-site donations of 11.52 upland acres on the Ellis Pond parcel and the future donation of the 14.05 acres at the Kennel Field parcel. Therefore, the development proposal provides greater than the 60% open space required by the RPP, providing a tangible benefit to the county and the Town of Bourne.

10). Section 5.1.3 of the RPP requires the applicant to set aside at least 10% of the proposed development for affordable housing. Based on local zoning bylaws, the potential maximum build-out for the proposed subdivision is thirty (30) residential units. In order to comply with Section 5.1.3 of the RPP, the applicant is required to create an escrow fund as described in the conditions to ensure a 10% contribution to affordable housing.

11). The Town of Bourne has a "cluster development" provision in its zoning bylaw which does not permit such development in the R-80 zone. The RPP requires that developments of five (5) or more lots submit a cluster development plan. The Town of Bourne is in the process of developing a Local Comprehensive Plan consistent with the RPP which may lead to revisions in the Town's cluster bylaw by the time actual development of the property is proposed.

#### CONCLUSION:

Based upon the findings above, the Cape Cod Commission Hereby concludes:

The benefits of the proposed project outweigh the detriments. This conclusion is supported by extensive permanently protected open space provided by the applicant through this project in cooperation with the Plymouth County Wildlands Trust, which exceeds the requirement of the

## Regional Policy Plan.

The project is consistent with the minimum performance standards of the Regional Policy Plan as referred to in the findings above.

The proposed project is consistent with the development bylaws and regulations of the Town of Bourne.

The Commission hereby approves with conditions the proposed Ingersoll Farm subdivision in Bourne, MA as a Development of Regional Impact, pursuant to Section 13 of the Act, provided that the following conditions are met:

- 1). Prior to issuance of one or more building permits for any portion of the property, the applicant, his successors or assigns shall submit a site plan and elevation drawings to the Commission and the Massachusetts Historical Commission (MHC) indicating location(s) and design of the proposed structure(s). This information will be used to determine the extent of an intensive archaeological survey for any proposed building location and to determine what effect, if any, the proposed new construction may have on significant historic resources.
- 2). Upon completion of the archaeological survey and review of the new construction to the satisfaction of the Massachusetts Historical Commission, one new single-family home, including residential accessory structures, shall be allowed on each lot (north, south, east and west homestead), as shown on the subdivision plan of land prepared by Charles L. Rowley and Associates, dated November 23, 1993. Building permits shall not be issued until completion of the archaeological survey(s) to the satisfaction of the MHC and receipt by the Cape Cod Commission of a written determination from the MHC that said survey(s) is completed to its satisfaction.
- 3). Development, as defined by Section 2(e) of the Cape Cod Commission Act, which exceeds that necessary for construction of one new single-family home and/or residential accessory structures per lot allowed by this decision shall be subject to DRI review by the Cape Cod Commission. The aforementioned requirement shall be waived in the event the Town of Bourne has a certified Local Comprehensive Plan and has brought its development bylaws into consistency with said Local Comprehensive Plan at the time development is proposed, and provided the proposed development complies with the density and use requirements of the current R-80 zone (2 acres/unit maximum).

4). No development shall occur on lot #1.1B, identified as Kennel Fields on the subdivision plan of land prepared by Charles L. Rowley and Associates, dated November 23, 1993. This lot shall be permanently restricted as open space through a future donation to the Plymouth County Wildlands Trust or other equivalent private or public conservation entity. Said donation shall be made within twenty (20) years from the date of this decision and proof of the donation shall be provided to the Commission.

5). To meet the Commission's 10% affordable housing requirement the applicant shall create, and the applicant and her successors and assigns shall contribute to an escrow fund as required below:

The applicant shall create an escrow fund to be administered by the appropriate board, agency, or entity empowered to provide affordable housing, designated by the Bourne Board of Selectmen, after consultation with Commission staff. This fund shall be used for the limited purpose of promoting affordable housing, consistent with the RPP, within the Town of Bourne. Each owner of a lot created subsequent to and within the boundaries of the subdivision approved by this decision shall contribute \$3000.00 to the escrow fund per lot. The contribution shall be made prior to the release of the subsequent lot(s) by the Bourne Planning Board, or, if no covenant or security is required, then prior to issuance of a building permit for development of the subsequent lot(s). Monies collected in the escrow fund shall be expended upon the direction of the Bourne Board of Selectmen or their designee, within fifteen (15) years of the date of their deposit in the escrow fund, solely for the purpose of meeting the 10% affordable housing contribution as required by the RPP. Interest shall follow principal to offset inflation. Monies not expended or obligated for the promotion of affordable housing within fifteen years of the date of deposit shall revert to the Treasurer of Barnstable County for the promotion of affordable housing, consistent with the RPP. The escrow fund shall be of a form and content satisfactory to the Commission's counsel.

6). Access to town ways shall be restricted to a maximum of two curb cuts for each of the lots approved in this decision.

The Cape Cod Commission hereby grants Hope Ingersoll a Development of Regional Impact approval with conditions, pursuant to Section 13, of the Act, for the proposed subdivision of land off of Head of the Bay Road and Bournedale Road in Bourne, MA.

David H. Ernst  
David H. Ernst, Chairman  
Cape Cod Commission

March 4 1994  
Date

Commonwealth of Massachusetts

Barnstable, ss

Subscribed and sworn to before me this 4<sup>th</sup> day of March 1994

Katharine L. Peters  
Name, Notary Public

My Commission Expires December 3, 1997

