



# CAPE COD COMMISSION

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DATE: October 19, 1995 #TR95016

TO: Mr. Tudor G. Ingersoll  
for Hope Ingersoll, Trustee  
120 Lakeview Avenue  
Cambridge, MA 02138

FROM: Cape Cod Commission

RE: Development of Regional Impact Application  
Barnstable County Ordinance 94-10, Chapter A, Section 3(c)

APPLICANT: Mr. Tudor G. Ingersoll

PROJECT: Grazing Fields Farm  
Subdivision of Land  
Bourne, MA

BOOK/PAGE: Book 8376, Page 137  
Book 606, Page 404  
Book 505, Page 315  
Book 275, Page 249

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## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (the Commission) hereby approves with conditions the application of Mr. Tudor G. Ingersoll, for a Development of Regional Impact under Barnstable County Ordinance 94-10, Chapter A, Section 3(c), for the subdivision of a 120+ acre parcel located off Head of the Bay and Bournedale Roads in Bourne into additional four lots. The decision is rendered pursuant to the vote of the Commission on October 19, 1995.

### PROJECT DESCRIPTION

The project consists of a proposal by Mr. Tudor G. Ingersoll for Mrs. Hope Ingersoll to subdivide a 120+ acre parcel located off Head of the Bay and Bournedale Roads into four additional lots. The purpose of the subdivision is to secure a buyer for an existing equestrian center located on a 17.05-acre lot within the larger 120+ acre site. The area which surrounds the equestrian center is currently under an agricultural preservation restriction. It is proposed to be

#TR 95016 Grazing Fields Farm - Bourne  
DRI Decision October 19, 1995

subdivided into two lots and offered for sale with the equestrian center. The remaining two lots created by this project will be 23.77 and 33.23 acres in size. The site is zoned R-80 according to the amended Bourne Zoning By-law. The site is located within a Zone of Contribution and the watershed to Buttermilk Bay. The site contains several pre-1945 structures. No further development of the site is proposed at this time.

### PROCEDURAL HISTORY

The project was referred by the Bourne Planning Board on July 18, 1995. The referral was received by the Cape Cod Commission on July 19, 1995. A Scoping Session was conducted on August 3, 1995 pursuant to a Memorandum of Understanding entered into by the Cape Cod Commission and the Town of Bourne on May 18, 1995. A Subcommittee conducted a site visit on August 31, 1995. Pursuant to Section 5 of the Act, duly noticed public hearings were held on the project on September 7, 1995 and September 18, 1995. On September 18, 1995, the record and public hearing were continued to October 19, 1995. A public meeting was held on the project on October 2, 1995. On October 2, 1995, the Subcommittee voted to recommend to the full Commission that the proposed subdivision be approved as a DRI, with conditions. A draft decision was presented to the full Commission on October 19, 1995. At this meeting the Commission voted unanimously to approve the project as a DRI subject to conditions. The public record was closed on October 19, 1995.

### MATERIALS SUBMITTED FOR THE RECORD

#### A. Materials submitted by the Applicant:

Letter-DRI Application	7/12/95
Letter-Mass Historical Commission notice	7/12/95
Letter-Abutters List	7/21/95
Plan of Land of Subdivision (2 copies)	7/19/95
Letter-Deeds for various parcels in the subdivision	8/8/95
Language of Agricultural Preservation Restriction	9/13/95
Draft site assessment done by Sabatia	9/26/95
Final site assessment done by Sabatia	9/26/95
Map of Lands (hand drawn)	10/82
Town of Bourne Property Maps (2 copies)	4/18/72
Deed (Book 606, page 404) - Bay End Trust	Undated
Deed (Book 505, page 315) - Henshaw	Undated
Deed (Book 275, page 249) - Swift	Undated
Department of Fish and Wildlife - Agreement - Lot 22	Undated
Map of Ingersoll Farms (TR 93023) Lands	Undated
Draft Map of Bicycle/Pedestrian Path Easement	Undated

#### B. Materials submitted by the State:

A letter from Massachusetts Historical Commission was submitted by the Applicant. No other materials were submitted by the State.

C. Materials submitted by the Town:

DRI Referral Form and cover letter	7/18/95
Letter-Comments on Scoping Session	9/7/95
Fax-Information on parcels	8/31/95
Information on current zoning for the parcels	Undated

D. Materials submitted by the Public:

Fax/Letter-Commonwealth Electric Company	9/7/95
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E. Materials submitted by Cape Cod Commission:

Letter-Intent to review as a DRI	7/25/95
Notes-Draft open space calculations	8/2/95
Fax-Application submittals to G. Friss	8/2/95
Notes-Scoping Session	8/3/95
Memo-Notify Subcommittee of hearing date	8/3/95
Memo-Notify Subcommittee of change in hearing date	8/7/95
Letter-To Applicant regarding fee and application completeness	8/7/95
Notes-Site Visit	8/31/95
Photos-six-Site Visit	8/31/95
Staff Report	8/31/95
Minutes	9/7/95
Staff Report	9/15/95
Minutes	9/18/95
Fax-To John Davis, Esq.-sample conservation easement	9/21/95
Staff Report	9/22/95
Memo-To Regulatory Committee-Possible Modification to Ingersoll Farms Decision (TR-93023)	9/26/95
Notes-Conversation with James Weaver of Commonwealth Electric	Undated
DRI Decision for Ingersoll Farms (TR-93023)	3/4/94

The Application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file #TR-95016 are incorporated into the record by reference.

**TESTIMONY**

The Commission's Subcommittee received testimony at the September 7, 1995 public hearing on this project at the High School in Bourne, MA.

Mr. Ingersoll, the applicant, described the proposed project as a subdivision of 120+ acres of land off of Bournedale

and Head of the Bay Roads. He indicated the Ingersolls are in the process of seeking a buyer for the existing equestrian center and two lots adjacent to it. Mr. Ingersoll said the purpose of the subdivision was to accommodate the potential buyer who did not want to purchase the entire 120+ acre parcel. He also said the lots were shaped to conform with the Bourne subdivision regulations for area-to-perimeter of a lot. He said no new development is anticipated at this time.

Ms. Andrea Adams, a planner with the Cape Cod Commission, presented the Staff Report. Ms. Adams indicated the applicant, Commission staff, the Subcommittee chair and the Bourne Town Planner had met on August 3, 1995 in a scoping session to discuss the project. She indicated that as a result of the scoping session, contacts with the Massachusetts Historical Commission and a staff review of the proposed project, that the only issues remaining at this time were provision of open space, plant and wildlife habitat assessment and preservation of historic structures on the property. Ms. Adams said the RPP requires a 60% open space set-aside for residential subdivisions. She reviewed how staff had calculated that the applicant still needed to provide 14.4 acres of open space. Ms. Adams said staff also recommend conditioning the project to require Commission review as a DRI of any demolition of historic structures and any future development activity on the 120+ acre site. Ms. Adams said this would allow other issues such as affordable housing, water resource protection and transportation to be addressed when development was actually proposed. Ms. Adams indicated the Applicant had not submitted any detailed studies or information with the DRI application.

Ms. Adams read letters from the Massachusetts Historical Commission and Commonwealth Electric into the record.

Ms. Karen Sherman, the Bourne Town Planner, indicated she had submitted a letter with comments for the record. She said comments concern future impacts to Bournedale Road. Mr. Neil Andres, Bourne Superintendent of Public Works, expressed concern about impacts to Bournedale Road from future development because it is only 18 feet in width. He said the total road layout was about 33 feet. Mr. Andres requested the Subcommittee consider conditioning the project to allow for a widening of the 33-foot layout to 50 feet so as to accommodate a walking/bike path along Bournedale Road. He said this would allow for a potential sidewalk to be positioned so that it was not immediately adjacent to the road.

Mr. Catarino of East Sandwich, MA asked about the ownership of one of the lots within the proposed subdivision.

Mr. Ingersoll stated he felt all issues could be addressed at a later date when development was proposed.

Mr. Riley moved to continue the public hearing and to leave the record open until 11:00 am on September 18, 1995. Ms. Ritchie seconded the motion. The Subcommittee voted all in favor of the motion.

The Subcommittee received testimony at the September 18, 1995 public hearing on this project at the Cape Cod Commission offices. Ms. Andrea Adams, the project planner, reviewed the Staff Report. She said staff has determined that 12.8 acres of land on Ingersoll Farms (TR-93023) was primarily wetland and was therefore excluded from consideration as open space under Section 6.1 of the RPP. Ms. Adams also said that open space previously

donated or restricted through development permits will not generally count toward RPP requirements according to Technical Bulletin 94-001. Ms. Adams said that Commission counsel has determined that the Applicant would need to petition the Plymouth County Wildlands Trust for permission to construct a bicycle/pedestrian path on APR-restricted land on Lots 45-B and 45-C. She also noted that in order to be counted as open space under the RPP, the bicycle/pedestrian path would have to be constructed of a pervious surface such as stone dust.

The Subcommittee discussed options for the bicycle/pedestrian path. Mr. Broidrick suggested a special type of pervious asphalt surface could be used. Mr. Neil Andres, DPW Superintendent of Bourne, indicated an impervious asphalt surface would be easier to maintain, but that stone dust would be acceptable. Ms. Ritchie suggested the path could be constructed of crushed stone. Mr. Riley questioned the need for the Applicant to provide an easement at this time. Mr. Andres noted an easement for a bicycle/pedestrian path should be considered now when the parcels along Bournedale Road were under one ownership. Mr. Tilton noted providing an easement for a bicycle/pedestrian path at this time would in part address the need for trip reduction from future development of the project site. The Subcommittee directed staff to investigate the possibility of locating the bicycle/pedestrian path easement on the west side of Bournedale Road on Ingersoll Farms (TR-93023) land.

The Subcommittee discussed the need for a plant and wildlife habitat survey of the site. Mr. Ingersoll said there was a rare plant community present on the site and agreed to have a consulting firm complete a rare plant survey of Lots 45-A and 45-D. He noted it was unlikely Lots 45-B and 45-C contained rare plant species or significant wildlife habitat because they had been maintained as horse paddocks. Ms. Ritchie said the Decision should note the site would not be surveyed for rare animal habitats. Mr. Riley moved the Subcommittee require a rare plant survey of Lots 45-A and 45-D. Ms. Ritchie seconded the motion. The Subcommittee voted all in favor of the motion.

Ms. Adams reviewed the draft findings and conditions in the September 15, 1995 Staff Report. Mr. Ingersoll questioned whether the area under the current electric line easement could be counted as open space. The Subcommittee indicated that on-site open space should be configured based on the results of the rare plant survey.

The Subcommittee agreed to hold a public meeting on the project on Monday, October 2, 1995 at 11:00 am at the Cape Cod Commission offices.

Ms. Ritchie moved the hearing and the open public record be continued to Thursday, October 19, 1995 at 3:00 pm at the Assembly of Delegates chambers. Mr. Riley seconded the motion. The Subcommittee voted all in favor of the motion.

The full Cape Cod Commission received no testimony on this project at the October 19, 1995 Cape Cod Commission meeting held at 3:00 pm at the Assembly of Delegates chambers. The Commission voted to approve with Conditions the application of Mr. Tudor G. Ingersoll, for a Development of Regional Impact under Barnstable County Ordinance 94-10, Chapter A, Section 3(c), for the subdivision of a 120+ acre parcel located off Head of the Bay and Bournedale Roads into four additional lots.

### JURISDICTION

The proposed project qualifies as a DRI under Chapter A, Section 3(c), Barnstable County Ordinance 94-10: any development which proposes to divide land of thirty acres or more.

### FINDINGS

The Commission has considered the application of Mr. Tudor Ingersoll to subdivide a 120+ acre parcel located off Head of the Bay and Bournedale Roads into four new lots. The purpose of the subdivision is to secure a buyer for three lots within the 120+ acre site: an existing equestrian center located on a 17.05-acre lot and two adjacent lots 25.05 and 38.34 acres in size. Based on consideration of such application, the information presented at the public hearing and submitted for the record, the Commission makes the following findings:

1. The Grazing Fields Farm proposal includes Lot 1, which is the existing equestrian center. The deed for Lot 1 is dated 1992 (Book 9876, pg. 128). The ANR plan which created Lot 1 is also dated 1992. Therefore, Lot 1 is not exempt from the Cape Cod Commission Act and is subject to DRI review.
2. Lot 22 is not part of the current project because it is a separate parcel, first described as a 35-acre woodlot according to a deed of Levi Swift recorded at the Registry of Deeds on April 20, 1934 (Book 505, pg. 315).
3. The current zoning for the site is R-80 which permits one dwelling on a 2-acre lot. This project does not involve the development of housing units at this time; it subdivides land for estate planning purposes.
4. A fax from Mr. James Weaver, Senior Right of Way Engineer of the Commonwealth Electric Company, received by the Cape Cod Commission on September 7, 1995, indicates the Company has no objection to the Grazing Fields Farm project. The Fax further states a desire by the Commonwealth Electric Company to be advised of any development plans that might be submitted in the future so that they may develop long range plans for the electric transmission line crossing the property.
5. It is unlikely that Lots 45-B or 45-C contain rare plant or wildlife habitat because they have been maintained as grassy horse paddock. A full plant and wildlife habitat assessment has not been required for the site at this time as no development is proposed and because these parcels are already subject to an agricultural preservation restriction as noted below. The Applicant has also provided a rare plant survey of Lots 45-A and 45-D.
6. Section 6.1.3 of the RPP requires a set-aside of 60% open space for residential subdivisions. The project encompasses 120+ acres, but for the purposes of open space calculation, the proposal consists of 74 acres of land. This includes Lot 1, which is the existing equestrian center. Lots 45-B and 45-C of the Grazing Fields Farm project have not been included in the calculation of open space for the project because they are currently under an agricultural preservation restriction and were used by the Applicant to fulfill the open space requirement for the Ingersoll Farms project (TR-#93023). This means that the 60% open space requirement for the project is 44.4 acres.
7. Approximately 30 acres of land remain in Lots 45-B and 45-C, which were in excess of the open space required in

conjunction with TR-#93023. This 30 acres of on-site land will be counted toward the open space requirement for the current project. This reduces the open space requirement for Grazing Fields Farm from 44.4 acres to 14.4 acres.

8. The Applicant has proposed the donation of Lot 22 (5.03 acres) to the Massachusetts Department of Fish and Wildlife. This land will be counted as off-site open space towards the overall open space requirement for the current project.

9. The Applicant has proposed to permanently restrict 9.09 acres of land located on Lot 45-A as on-site open space and an additional 0.29 acres of land along the frontage of Lot 22 as off-site open space to fulfill the open space requirement for Grazing Fields Farm project.

10. The provision by the Applicant of an easement for the construction of a bicycle/pedestrian path as provided by this Decision satisfies partial compliance with Minimum Performance Standard 4.1.2.2 of the RPP for any future DRIs as defined by this Decision on any part of the project site. A determination will be made as to credit accrued towards compliance with Standard 4.1.2.2 as part of the review of further development of the project site by the Cape Cod Commission.

11. A fax received from Constance A. Crosby, an archeologist with the Massachusetts Historical Commission (MHC), states that the proposed subdivision of land is unlikely to affect significant historic and archeological resources and recommends that the subdivision proceed as planned without further MHC review.

12. There are several structures on the Grazing Fields Farm project site which the Applicant has indicated date to the early 1900s, some of which may be eligible for listing on the State or National Register of Historic Places.

13. The Grazing Fields Farm site is located within a Zone of Contribution. Section 2.1.1.2.A.1 of the RPP requires that development or redevelopment in Zones of Contribution to existing public supply wells not exceed a nitrate-nitrogen loading standard of 5 ppm.

14. The Grazing Fields Farm site is also located within a Marine Water Recharge Area to Buttermilk Bay. Section 2.1.1.C of the RPP requires that developments and redevelopments address nitrate-nitrogen impact to Marine Water Recharge Areas. A land use and nitrogen loading analysis completed for the Buttermilk Bay Marine Water Recharge Area has determined a critical nitrogen loading rate for the Bay. The analysis showed that up to 26,077 pounds per year of nitrate-nitrogen may be added to the Bay at build-out conditions. This averages out to 34 pounds per year per acre of nitrate-nitrogen.

15. Because no development is proposed at this time for the Grazing Fields Farm site, there are no water resources impacts from the proposed project. However, Findings 13 and 14 above indicate that future development on the site is likely to have water resources impacts.

16. A 1975 Town Meeting designated Bournedale Road as a scenic road pursuant to MGL Chapter 40, Section

15(c). This means that any significant alterations to the roadway would require a public hearing by the Planning Board. Bourne Road has a layout of 33 feet from its intersection of Head of the Bay Road.

17. The Town is not currently undertaking any improvements to the roadway but the narrow road right-of-way for Bourne Road cannot accommodate the needs of pedestrians and bicyclists who may use that roadway. A letter submitted for the record by the Bourne Planning Board encourages the development of a pedestrian/bike path along Bourne Road.

18. Because no development is proposed for the Grazing Fields Farm site at this time, the project does not have any transportation impacts. However, Section 4.1 of the RPP requires Developments of Regional Impact to mitigate traffic impacts created by actual development of the site.

19. The provision by the Applicant of a bicycle/pedestrian path is consistent with Minimum Performance Standard 4.1.2.2 of the RPP which requires Developments of Regional Impact shall incorporate provisions for bicyclists and pedestrians so as to minimize automobile trips.

20. The Applicant has agreed to provide an easement for the eventual development of a bicycle/pedestrian path along Bourne Road to be located along the frontage of the project site.

21. The letter received from the Bourne Town Planner dated September 7, 1995 indicates support for dedication of approximately 9 acres of permanently protected on-site open space.

22. Because no development is proposed for the Grazing Fields Farm site at this time, the project does not have housing impacts. However, Sections 5.1.2 and 5.1.3 of the RPP require applicants to set aside at least 10% of housing units created by proposed developments for affordable housing.

### CONCLUSION

Based on the above findings, the Cape Cod Commission hereby concludes:

1. The benefits of the project outweigh the detriments. This conclusion is supported by the Findings 3, 5, 6, 7, 8, 9, 10, 11, 15, 18, 19, 20 and 22.
2. The proposed project is consistent with the relevant Minimum Performance Standards of the Regional Policy Plan, subject to the attached conditions.
3. The proposed project is consistent with the Town of Bourne development bylaws.

The Cape Cod Commission hereby approves with conditions the proposed subdivision of land as a Development of Regional Impact, pursuant to Chapter A, Section 3(c), Barnstable County Ordinance 94-10, provided the following

conditions are met:

### CONDITIONS

#### General

1. Plans submitted and listed in this Decision shall become part of the written Decision and any changes to these plans shall be approved by the Cape Cod Commission.
2. The Applicant shall obtain a Certificate of Compliance from the Commission within six (6) months of the filing of the final Decision on this project with the Clerk of the Commission, except as otherwise provided in this Decision.
3. The Applicant shall obtain all necessary state and local permits for the proposed project.
4. Any proposed development, redevelopment or new construction on any of the parcels of the Grazing Fields Farm site as shown on the plan of land prepared by Charles L. Rowley dated May 26, 1995 as revised and attached to this Decision which is not an accessory use, shall be referred to the Cape Cod Commission as a Development of Regional Impact and reviewed for compliance with the RPP except as otherwise provided below. An accessory use shall be defined as any proposed use which is customarily incident to the operation of the equestrian center and occurring on Lots 1, 45-B and/or Lot 45-C as shown on the plan of land prepared by Charles L. Rowley dated May 26, 1995 attached to this Decision.
5. Any accessory use as defined above, or any addition to any building which is located on the project site as shown on the plan of land prepared by Charles L. Rowley dated May 26, 1995 as revised and attached to this Decision, with a gross floor area greater than 10,000 square feet shall be referred to the Cape Cod Commission as a Development of Regional Impact and reviewed for compliance with the RPP.
6. Any proposed demolition of the following pre-1945 structures on the Grazing Fields Farm site which are specifically identified below and on the plan of land prepared by Charles L. Rowley dated May 26, 1995 as revised and attached to this Decision shall be referred to the Cape Cod Commission as a Development of Regional Impact. The structures of concern under this Condition are: (1) stallion yard/office, (2) barn with office/stable, (3) dairy building/office, (4) main barn and attached water tower/2-story barn and stable and (5) the dwelling.
7. If the agricultural preservation restriction on either or both Lots 45-B or 45-C is removed, the Applicant shall:
  - a.) seek a modification to the Grazing Fields Farm and Ingersoll Farm Decisions,
  - b.) provide to the Cape Cod Commission documentation of the donation of open space to the Plymouth County Wildlands Trust or equivalent public or private conservation entity for the purpose of replacing equivalent open space acreage for Grazing Fields Farm and Ingersoll Farm projects lost by the removal of the agricultural preservation restriction.
8. If the agricultural preservation restriction on either or both Lots 45-B or 45-C is removed, any subdivision, development, redevelopment or new construction which occurs on Lots 45-B and/or 45-C shall be reviewed by the

Cape Cod Commission as a Development of Regional Impact.

9. The application for review of any future DRI as defined by Conditions 4 and 5 above shall include notification to the Commonwealth Electric Company of the proposed development plans.

10. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide documentation to the Cape Cod Commission of the donation of Lot 22 (5.03 acres) to the Massachusetts Department of Fish and Wildlife.

11. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide documentation to the Cape Cod Commission that 9.09 acres of land on Lot 45-A (on-site) and 0.29 acres of land along the frontage of Lot 22 (off-site) have been permanently restricted as open space.

12. The provision of land as open space as described in Conditions #10 and #11 fulfills the open space requirement for any future subdivision, new construction, development or redevelopment on the Grazing Fields Farm site under the requirements of the RPP. This Condition is not intended to replace any present or future requirements for clustering or other provision of open space by the Town of Bourne or other agencies.

13. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide a site plan showing the land to be permanently restricted as open space as described in Condition #11 for approval by the Cape Cod Commission staff.

14. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide the language creating the open space restrictions and bicycle/pedestrian path easement for review and approval by the Cape Cod Commission counsel.

15. The open space designated in Condition #11 shall remain permanently protected open space. No future development may occur within any of the open space areas except as provided by Conditions #16 and #17 below. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide proof to the Cape Cod Commission of recording the open space restriction at the Barnstable County Registry of Deeds.

16. Prior to issuance of a Certificate of Compliance, any further subdivision, new construction, development or redevelopment on the project site, the Applicant shall provide confirmation to the Cape Cod Commission staff that the Plymouth County Wildlands Trust approves of the construction of a bicycle/pedestrian path, underground utility lines and roadway drainage structures as described in Condition #17 below on land in Lots 45-B and 45-C which is under an existing agricultural preservation restriction.

17. Prior to issuance of a Certificate of Compliance, the Applicant shall record an easement for the purpose of creating a bicycle/pedestrian path at the Barnstable County Registry of Deeds. The easement shall be at least twenty (20) feet in width as measured starting from the edge of the current Town right-of-way on Bournedale Road and shall be located along the entire frontage of Grazing Fields Farm site. The easement shall be worded to allow for construction of underground utility lines and/or roadway drainage structures within the easement area in a manner which preserves the vegetated nature of the buffer areas and path.

18. The bicycle/pedestrian path described in Conditions #16 and #17 above shall be constructed of stone dust or similar material and in a manner so as not to be impervious (i.e. without asphalt).

Sumner Kaufman

Sumner Kaufman, Chairman  
Cape Cod Commission

10/30/95  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this 30<sup>th</sup> day of Oct 1995

Katharine L Peters

NAME, Notary

My Commission expires: 10/31/96

