



# CAPE COD COMMISSION

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DATE: December 16, 1996 MOD-TR95016(3)  
(Modification)

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

FROM: Cape Cod Commission

RE: Modification of Approved Development  
of Regional Impact Decision  
Section 9(n) of DRI Enabling Regulations

APPLICANT: Mr. Tudor G. Ingersoll

PROJECT: Grazing Fields Farms (Modification - 3)  
Bourne, MA

BOOK/PAGE: Book 606, Page 404  
Book 8376, Page 137  
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 the application of Mr. Tudor G. Ingersoll for a Minor Modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations modifying Condition #15 of the original DRI Decision rendered on October 19, 1995 and allowing for the construction of structures under 500 square feet in certain areas on the project site. This decision is rendered pursuant to the vote of the Commission's Regulatory Committee on December 16, 1996.

### PROJECT DESCRIPTION

On October 19, 1995, the Cape Cod Commission approved, with conditions, the application of Mr. Tudor G. Ingersoll for a DRI for the Grazing Fields Farm project.

The Grazing Fields Farm project consists of the subdivision of a 120+ acre parcel located off Head of the Bay and Bournedale Roads in Bourne into four additional lots. The DRI decision placed

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several Conditions on the project, including ones related to open space, preservation of on-site historic structures and creation of a bicycle/pedestrian path easement.

Condition #15 of the Decision states:

“[t]he open space designated in [this Decision] shall remain permanently protected open space. No future development may occur within any area of the open space 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.” (page 10)

Condition #16 allows for construction of a bicycle/pedestrian path or underground utility lines in the open space areas. Condition #17 specifies the recording of an easement for the purpose of a bicycle/pedestrian path.

There are two areas of open space relating to Condition #15: one is a 9.09-acre piece of Lot 45-A abutting Route 25 and one is a 0.25-acre strip fronting on Bournedale Road.

In late November, Mr. Ingersoll sent for Commission review a draft Conservation Restriction relating to the two parcels. Section 4 of the Restriction allowed the Grantee of the Restriction to construct buildings “incidental to woodland, farming and animal husbandry operations carried on in accordance with sound agriculture and forest management practices.” (Restriction, page iv, Sect. 4(b)).

On December 10, 1996, staff contacted Mr. Ingersoll and noted that Condition #15 of the Decision prohibits any development in the areas subject to the Conservation Restriction, including farm or agricultural buildings. Staff also indicated Mr. Ingersoll could request a modification to Condition #15 of the Decision, and that the Regulatory Committee would make a determination about his request. On December 11, 1996, staff received a letter from Mr. Ingersoll requesting a modification to Condition #15.

#### **PROCEDURAL HISTORY**

On December 10, 1996, staff contacted Mr. Ingersoll and noted that Condition #15 of the Decision prohibits any development in the areas subject to the Conservation Restriction, including farm or agricultural buildings. Staff also indicated Mr. Ingersoll could request a modification to Condition #15 of the Decision, and that the Regulatory Committee would make a determination about his request. On December 11, 1996, staff received a letter from Mr. Ingersoll requesting a modification to Condition #15.

On December 16, 1996, the Commission’s Regulatory Committee considered Mr. Ingersoll’s request for a modification to Condition #15 of the Grazing Fields Farm Decision. At this meeting, the Regulatory Committee voted unanimously to approve the modification to Condition #15 of the Grazing Fields Farms Decision. The Regulatory Committee also voted to consider the request a Minor Modification #2 under the Commission’s 10/17/96 policy Revisions to Approved DRIs.

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DRI Exemptions and Hardship Exemptions, without public hearing, a project review fee, or further action by the Commission.

Based on this decision, Condition #15 was modified as described below.

**MATERIALS SUBMITTED FOR THE RECORD**

A. Materials submitted by the Applicant:

Letter, requesting modification 10/16/96

B. Materials submitted by the State:

None

C. Materials submitted by the Town:

None

D. Materials submitted by the Public:

None

E. Materials submitted by Cape Cod Commission:

Memorandum to Regulatory Committee 10/11/96

All submissions received in the course of proceedings on this Modification, including materials submitted on file TR-95016, MOD-TR95016 and MOD-TR95016(2) are incorporated into the record by reference.

**REGULATORY COMMITTEE DISCUSSION**

No testimony was received at the December 16, 1996 Regulatory Committee meeting on this project.

**JURISDICTION**

The proposed project qualifies as a modification to an approved DRI Decision under Section 9(n) of the DRI Enabling Regulations.

**FINDINGS**

The Commission's Regulatory Committee has considered the application of Mr. Tudor Ingersoll to again modify Condition #15 of the Grazing Fields Farm Decision. The purpose of Condition #15 as written in the original Decision was to provide for the creation of a Conservation Restriction on parts of Lot 45-A and Lot 22. The two pieces of land to be placed under the Restriction would be utilized to meet the original project's open space requirements.

The modification of Condition #15 sought now would provide the Grantee of the Restriction with the ability to construct only small structures (500 square feet or smaller) on the open space so long as these structures are also customarily incident to the operation of the equestrian center or woodland, farming or animal husbandry operations carried on in accordance with sound agricultural and forest management practices.

The Regulatory Committee also noted that Mr. Ingersoll agrees with this language and that

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Conditions #4 and #5 of the original DRI Decision (rendered on 10/19/95) require that any development, redevelopment, new construction or any addition to any existing building on the project site which has a gross floor area over 10,000 square feet occurring anywhere on the project site must be referred to the Commission as a DRI.

The Regulatory Committee also voted on December 16, 1996 to consider the request a Minor Modification #2 under the Commission's 10/17/96 policy Revisions to Approved DRIs, DRI Exemptions and Hardship Exemptions, without public hearing, a project review fee, or further action by the Commission.

**CONDITIONS**

The Cape Cod Commission hereby modifies Condition #15 of the Grazing Fields Farm Decision (TR-95016) to:

"[t]he open space designated in Condition #11 shall remain permanently protected open space. No future development may occur within any area of the open space except as provided by Conditions #16 and #17 below and **except for structures less than 500 square feet in size which are customarily incident to the operation of the equestrian center or woodland, farming or animal husbandry operations carried on in accordance with sound agricultural and forest management practices.** 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."

  
Greg Silverman, Chairman  
Cape Cod Commission

12/19/96  
Date

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss.

Subscribed and sworn to before me this 19<sup>th</sup> day of December 1996.

Katharine L. Peters  
NAME, Notary

My Commission expires:

*[Faint, illegible text]*

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