

# TISBURY PLANNING BOARD

TOWN OF TISBURY  
P.O. BOX 602  
TOWN HALL ANNEX  
VINEYARD HAVEN, MASSACHUSETTS 02568  
(508) 696-4270

## SPECIAL PERMIT AS AMENDED

DATE: September 27, 1995

APPLICANT/  
PROPERTY OWNER: Tashmoo Cove Realty, Inc.  
c/o Mr. Ross Hamlin, President  
120 Evergreen Lane  
Carlisle, MA 01741

AGENT: Douglas Hoehn,  
Schofield, Barbini & Hoehn, Inc.  
P.O. Box 339  
Vineyard Haven, MA 02568

ATTORNEY: Edmund Coogan  
4 Causeway Road  
Vineyard Haven, MA 02568

LOCUS: Property lying between Franklin Street  
and Lake Tashmoo, south and west of  
Mink Meadows Golf Course and a parcel  
north of the Mink Meadows area, and  
on the shores of Vineyard Sound. The  
property is currently listed in the  
Tisbury Assessor's Office as lots  
include Assessor Parcels 27A01,  
27A34, 27A35, 31B13.1, 33A07.1, 33A08,  
34A01, and 34B01.2.

PLANS: A plan of land in Tisbury,  
Massachusetts entitled,  
"Chappaquonsett, SM. Investors  
(Delaware), Inc., 1345 Avenue of the  
Americas, New York, New York, (by) HAW.  
More Associates, 112 Shout Avenue,  
Boston, May 31, 1983, (8 sheets)

Sheet 1

"Key Plan", scale: 1" = 200'

Sheets 2, 3 & 4  
"Subdivision Plan", scale 1" =100'

Sheets 5, 6 & 7  
"Profiles" (roads)

Sheet 8  
"Typical Sections" (roadways)

Tisbury Case Files 220 and 220A

Plan of Land in Tisbury, Mass. prepared for Tashmoo Cove Realty Inc. by Schofield, Barbini & Hoehn, Inc. dated 16 August 1994, and revised September 27, 1995; scale 1" = 100' (Plan No. MV-4046)

Site Plan for Tashmoo Cove, Tisbury, Mass., prepared by Schofield, Barbini & Hoehn, Inc. Proposed Phases IV & V, scale 1"=100', dated 16 August 1994 and revised 27 September 1995 (Plan No. MV-4046)

APPLICATION:

The Planning Board received an application on October 19, 1994 to consider amending a Special Permit issued 28 September 1983 to SMI Investors (Delaware), Inc. (a/k/a SMI), and to consider amending a previously approved subdivision of land, dated 31 May 1983.

NOTICE & HEARING:

In accordance with statutory requirements, including notices, a public hearing was held by the Tisbury Planning Board on 8 February 1995, and continued on 15 March 1995, April 1995, 3 May 1995, 10 May 1995, Peter Cronig, Carl George, Leo and John Lolley. The hearing subsequently re-opened on 27 November 1995 to review an amendment original proposal.

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SPECIAL PERMIT

ASSESSOR PARCELS 27A01+

PROPOSAL: The applicant as per the letter of application, dated 17 August 1994, and a subsequent amendment to the initial proposal requested the Board's authorization on the following:

To amend the above described Special Permit, dated 28 September 1983.

To revise the previously approved property lines of Phases IV & V as illustrated on the hereinabove identified subdivision plan of land.

To amend the number of, and configuration of units in Phases IV & V shown on the revised Site Plan, so as to create a total of 20 single family units consisting of 20 structures on 20 lots (as opposed to the previously approved 35 units in 12 structures on 12 lots).

To retain the Rate of Development Schedule specified in the original special permit to allow the applicant/owner a 20% rate of growth.

REQUIREMENT: The Special Permit Requirement is set forth in Tisbury Zoning By-Law Sections 08.01 (Cluster Development), and 04.07.01.

AUTHORITY: Planning Board Special Permit granting Authority derives from Chapter 40, s.1A and s.9 and Chapter 41 of the Massachusetts General Laws and Tisbury Zoning By-Law Sections 02.29, 06.04 and 10.03.

SCOPE & ADDRESS: The general orientation of address is:

A. Determination as to what is allowable in the proposed building lots under the Zoning By-law cluster development and multi-family dwelling provisions.

- B. Determination as to how the site conditions and ways relate to A.
- C. Address to Zoning By-laws.
- D. Address to subdivision requirements.
- E. Determining the conditions, restrictions and requirements to

maintain the intent of the development's original concept.

BACKGROUND:

1. The project in question is part of a 107 acre development, formerly known as Tashmoo Woods.
2. In the original plan of development, the Board approved a 30 lot subdivision of land, that allowed the developer to build a total of 89 units on these lots, at a 20% Rate of Development Schedule.
3. Since the proposal's original endorsement in 1983, a total of 18 units were constructed in 1986. An additional 18 units were constructed 1987, with no further activity to date.

FINDINGS:

1. The Applicant is the sole owner of Phases III, IV, and V, and has the controlling vote in the development's Overseeing Board. By this decision Phases IV and V will become Phases IV, V, and VI.
2. The total land area under consideration (excluding Phase III, which is not part of the proposal) for Phases IV & V approximate 21.01 acres. All at present are vacant properties.
3. In the September 28, 1983 Special Permit and May 31, 1983 Definitive Plan of Land, Phases IV & V were approved

for a combined total of 12 lots and 35 units.

4. In the proposed revision of Phases IV & V, the Planning Board finds that the property line adjustments will necessitate an additional construction phase (i.e. Phase VI) to maintain the existing rate of development.

5. The applicant proposed to revise the configuration of the 12 lots within Phases IV & V to create a total of 20 lots for 20 single family dwellings. The

open spaces and roads, as originally proposed were to remain unaltered.

6. The proposed re-division of Phases IV & V reduced the scope of the development, as follows:

<u>Currently</u>	<u>Proposed</u>	<u>Reduction</u>
<u>35 Units</u> units	<u>20 Units</u>	15 less
87.5 Bedrooms	70 Bedrooms	17.5 less Bedrooms**
35,875 sf bldg. area coverage	34,000 sf bldg. area coverage	1875 sf less bldg. area coverage
45,800 sf	30,800 sf	15,000 sf less parking & drive area
23 septic septic systems	20 septic systems	3 less systems

\*\* Also translates into a 20% reduction in the overall sewage flow (1925 g/p/d), projected for Phases IV and V.

7. The applicant increased the number of lots and dwelling structures from 12 to 20.

8. The applicant proposed to retain the existing 20% rate of development schedule.

9. The applicant submitted a sketch of a three bedroom New England Contemporary dwelling, which was to be utilized in the design of the development's residences. He submitted a second Building Plan & Elevation for a single family residence designed by J.W. French Associates, Inc. of Charlestown, MA (Plan No. AP-3)

We find that the proposed plans for the single family dwellings are consistent with the overall architectural design

approved by the original 1983 special permit, as reflected by the existing triplex structure specifications and building permit approvals.

10. The total square footage of the types of buildings proposed for the development were described not to exceed 3400 sq. ft. (including decks); and in keeping with the existing triplex building design.

The Planning Board finds the revised proposal acceptable with appropriate conditions and restrictions.

11. The total area of the footprints of the units were described not to exceed 1700 sq. ft.

12. The location of the new structures were consistent with the setbacks of the existing building envelopes, and were found to meet the minimum linear setback requirements as defined in Tisbury Zoning Bylaw Section 13.01 (Schedule A - Residential Districts).

13. The Planning Board finds that the applicant intends to utilize the existing ways and underground utilities within the development. The introduction of an additional eight (8) single family dwellings will not overburden the existing ways or utility connections.

14. To date, the applicant has modified two of the existing disposal works construction designs (on Lots 9 & 10 in proposed Phase III) to meet the recent revisions to CMR 15.000 (Title V Regulations). The modifications were endorsed by the Board of Health on January 2, 1996.

15. The Planning Board in their discussions of the various elements of the applicant's proposal referred the application to the Martha's Vineyard

Commission as a potential Development of Regional Impact. Said application was remanded to the Planning Board with a negative determination.

16. The applicant submitted an amendment to the 1983 Covenant, entitled Tashmoo Cove IV & V Homeowners' Association Declaration of Restrictive Covenants (date received 9/27/95).

DETERMINATION:

The applicant is subject, but not limited to Tisbury Zoning By-Law Sections 08.01 and 04.07.01. The proposal is consistent with Zoning Intent and Purposes, Master Plan Policies and with Massachusetts Coastal Zone policies (as formally adopted by the Town of Tisbury). A Special Permit may be granted to amend the 28 September 1983 SMI Investors (Delaware) Inc.'s Special Permit,

subject to the conditions and  
restriction hereinafter set forth.

M/S/C 4/0/0

CONDITIONS &  
RESTRICTIONS:

1. Except as modified by this decision,  
all of the conditions of the previous  
special permit and covenant remain in  
full force and effect.

2. The applicant will be responsible to  
maintain an amended rate of  
development schedule, which reads as  
follows:

Phase III consists of six (6) lots, six  
structures, one structure per lot, each  
structure containing 3 dwelling units,  
and to be identical to the existing  
triplex building designs and locations  
within the development.

Phase IV, seven (7) lots with seven (7)  
structures, one structure per lot, one  
single family dwelling unit per lot.

Phase V, seven (7) lots with seven (7)  
structures, one structure per lot, one  
single family dwelling unit per lot.

Phase VI, six (6) lots with six (6)  
structures, one structure per lot, one  
single family dwelling unit per lot.

Phases I & II (existing) reflect 12  
structures on 12 lots for a total of 36  
units.

Phases III, IV, V & VI reflect 26  
structures on 26 lots for a total of 38  
units.

Together the entire development will  
not exceed 38 structures on 38 lots,



and a total of 74 dwelling units regardless of arrangement.

3. The triplexes in Phase III will be sited, constructed and occupied consistent with the terms and conditions of the September 28, 1983 Special Permit and to the terms of the April 30, 1986 Covenant.

4. All single family dwelling structures to be constructed within the development will not exceed a floor area (including decks) of 3400 sq. ft. or a building footprint of 1700 sq. ft. Each single family dwelling structure will also not exceed the maximum allowable number of bedrooms, herein prescribed as a total of 4 bedrooms.

5. The location of the new structures will be consistent with the setbacks of the existing building envelopes depicted on the Site Plan for Tashmoo Cove, Tisbury, Mass., prepared by Schofield, Barbini & Hoehn, Inc. Proposed Phases IV & V, scale 1"=100', dated 16 August 1994 and revised 27 September 1995 (Plan No. MV-4046.

6. As part of the building plan, the applicant will provide the Building Inspector with a certificate of approval from the appropriate review board in that association.

7. The applicant will also be responsible for creating and submitting to the Building Department, for each building application, a copy of the current rate of development schedule, identifying the lot to be constructed for any given calendar year.

8. All structures and dwellings shall be built according to plans substantially in conformance with those approved by Finding No. 9, or in substantial conformity with the existing triplex building design. As recently modified to be usable for the single family dwelling and structures approved by this amendment.

9. Compliance with the Declaration of Restrictive Covenants shall be a condition of this special permit.

RECONSIDERATION:

For sufficient cause, the Planning Board may revoke, suspend, amend, reconsider this decision in the way, manner and to the extent required and/or allowed by law.

ENFORCEMENT:

The Planning Board may secure enforcement of procedural, class or category requirements in the manner set forth under "Reconsideration" or through court action and may initiate show - cause hearings as it shall find necessary. The enforcement of particulars and specification shall be made by the Building Inspector.

VALIDITY:

This decision is not severable as to its parts. Should a court of appropriate jurisdiction invalidate a part, or parts, the rest and remainder shall be void.

APPROVAL:

Filing, certification and recording is on the following page.

DECISION:

To grant a Special Permit, subject to the conditions and restrictions hereinafter set forth to amend a Special Permit issued 28 September 1983 to SMI Investors (Delaware), Inc.

(a/k/a SMI), and to consider amending a previously approved subdivision of land, dated 31 May 1983.

(1) CERTIFICATION OF APPROVAL:

Certified for, and by the direction of, the Tisbury Planning Board (4/0/0):

February 7, 1996

Date

Kenneth A. Barwick  
Chairman

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(2) TOWN CLERK RECORDING:

Planning Board Notation:

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(3) TOWN CLERK CERTIFICATION:

Date: \_\_\_\_\_

I, \_\_\_\_\_ Clerk of the Town of Tisbury, hereby certify that the notice of approval of this decision by the Planning Board has been received and recorded at this office and no notice of appeal was received during twenty days next after such receipt and recording said notice.

\_\_\_\_\_  
Town Clerk

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(4) OTHER AGENCY REVIEW COMPLETION:

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date Received

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(5) NOTIFICATION:

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(6) ENDORSEMENT OF DECISION: The Planning Board Decision  
is hereby endorsed for recording  
with the Dukes County  
Registry of Deeds:

\_\_\_\_\_  
Registrar Date

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(7) REGISTRY OF DEED: