



Martha's Vineyard Commission

DRI # 671 – Rivera ANR

MVC Staff Report – 2017-01-19

1. DESCRIPTION

- 1.1 **Applicant:** George and Robin Rivera
- 1.2 **Project Location:** Quenames Road, Chilmark Map 17 Lot 21 (20.7acres)
- 1.3 **Proposal:** Proposed fourth ANR division of land (creating a fifth lot) on a piece of property that was 20.7 acres in 1981.
- 1.4 **Zoning:** Residential (3-acre minimum lot size unless homesite).
- 1.5 **Local Permits:** Planning Board for Approval Not Required (ANR) Form A Division.
- 1.6 **Surrounding Land Uses:** Rural Residential.
- 1.7 **Project History:** The property was 20.7 acres in 1981. A 5.1acre lot was carved off (Lot 21.2) in 1982 and gifted to the Congregational Church of West Tisbury and later sold and developed as a single family residence in 1985. The current Applicant purchased the remaining 15.6 acres in January 2004. A third lot, accessed on Quansoo Road, was carved off in 2005 with 3.1 acres (Lot 21.3) which already had an existing house (his house and lot were sold it in 2007). Later in 2005 the remaining 12.6 acre property was back in front of the Chilmark Planning Board for a Comprehensive Plan proposing three dwellings, a barn and a pool. The Planning Board denied the application and said that the road (all the way to South Road) would have to be improved for additional density. In 2006 a “homesite” lot was floated and again the board expressed concern with the adequacy of Quenames Road and no further action was taken. In 2013 an ANR was done on the remaining 12.6 acres creating a 7.6 acre lot (with the existing house) and a 5.0 acre lot, both accessed on Quenames Road. The road agent deemed Quenames Road adequate for the ANR of the new lot. The 2013 ANR does not appear in the current tax maps. In 2016 the Applicant expanded and renovated the existing house on the remaining 12.6 acres.
- 1.8 **Project Summary:** To create a fifth lot through ANR on a piece of property that was 20.7 acres in 1981. This would be the fourth lot created by the current owner who purchased 15.6 acres in 2004. The current owner created a 3.1 acre lot on Quansoo Road which already had a house on it in 2005. The current owner still owns 12.6 acres that has one house on it with three bedrooms.

2. ADMINISTRATIVE SUMMARY

- 2.1 **DRI Referral:** Chilmark Planning Board (received October 28, 2016.)
- 2.2 **DRI Trigger:** 2.3 (Division of more than 10 acres); 2.4C Division of Farm Land – Prime Ag. Soils); 2.5 (Division of Habitat). 2.3 and 2.4C are mandatory DRI Reviews requiring a public hearing.
- 2.3 **LUPC:** November 28, 2016
- 2.4 **Site visits:** December 20, 2016
- 2.5 **Public Hearing:** January 19, 2017

3. PLANNING CONCERNS

3.1 Some Key Issues

- Incremental Development: The subdivision of the property has occurred over the years in a series of Form A (Approval Not Required) divisions rather than in a comprehensive Form C Definitive Plan which would have had more details and possibly conditions.

- The Chilmark Planning Board has written with a chronology of proposals on the property since 2003. In their letter they note that, unlike with a Form C Definitive Plan, they do not have the power to place conditions on a Form A (Approval Not Required) endorsement. They request that if the MVC approves the proposal that the MVC consider the following conditions:
 - Specify no cut zones around the perimeter of the property;
 - Limit Landscaping areas;
 - Limit the number of dwelling units to 1 per resulting lot (and therefore excluding any guest houses);
 - Limit curb cuts on Quenames Road to one (1);
 - Specify limited building envelopes;
 - Specify vegetative screening and/or no cut zones;
 - Increase setback requirements to minimize visibility;
 - Require de-nitrification on all septic systems.
- Nitrogen Loading: Ordinarily the MVC does not review small residential developments. When it does so in an impaired watershed the allowable nitrogen loads can seem restrictive compared to similar development nearby that does not go through DRI review.
- Magee's Path: The neighbors claim that Magee's Path is not part of this property. This does not directly impact the proposed division of land. However, the Land Bank has asked that if the MVC approve the application they incorporate a trail easement on Magee's Path.

3.2 Environment

- **Vegetation**: The property is primarily an oak forest with some pine. A large area of 1-2 acres around the main house was cleared between 2010 and 2012.
- **Habitat**: The property is mapped by NHESP as estimated priority habitat.
- **Wastewater / Stormwater**:
 - The site is located in the western moraine at elevations of 15-20 feet.
 - The soil type is divided between Haven Very Fine sand, East Chop loamy sand and Riverhead Sandy Loam on 0-3% slopes.
 - Haven Very Fine sand is listed as a Prime Agricultural Soil and covers more than 50% of the property.
 - Groundwater flow on the site is toward Black Point Pond.
- **Nitrogen Loading**:
 - The site is in the Black Point Pond Sub-Watershed of the Tisbury Great Pond Watershed. The status of the watershed is. The property is in the Tisbury Great Pond Watershed. The status of the Tisbury Great Pond Watershed is compromised – exhibits some signs of water quality problems.
 - The Tisbury Great Pond Watershed Budget is 0.8 kg/acre/yr
 - For the 20.7 acre original lot the maximum allowable load under the MVC Water Resource Policy for nitrogen is 16.56 kg/yr. This equates to a wastewater flow of 230,272 gallons per year or 14 bedrooms if de-nitrification is used. (Map 21-2 has 3 bedrooms).
 - For the 15.6 acre lot purchased by the current owner the maximum allowable load under the MVC Water Resource Policy for nitrogen is 12.48 kg/yr. This equates to a wastewater

flow of 173,538 gallons per year or 10.5 bedrooms if de-nitrification is used for the four lots created or proposed by the current owner. (Map 21-3 has 3 bedrooms).

- For the 12.5 acre lot with the existing house and two additional lots without houses on them the maximum allowable load under the MVC Water Resource Policy for nitrogen is 10 kg/yr. This equates to a wastewater flow of 139,053 gallons per year or 8.5 bedrooms if de-nitrification is used for the 12.5 acres owned by the current owner.
- Current Chilmark Tax Assessors Records show the existing building with 2 Bedrooms and 1 bathroom (the house is in the middle of a renovation). The Board of Health permit for the existing house renovation allows a total of 3 bedrooms without de-nitrification.
- If the Applicant de-nitrifies the existing house that would leave 5.5 bedrooms remaining for the other two lots with de-nitrification.
- If the Applicant does not de-nitrify the existing house that would leave approximately 2 to 2.5 bedrooms remaining for the other two lots with de-nitrification.
- Above nitrogen estimates assume lawns are limited to 10% of the property and only slow release water soluble nitrogen is used in accordance with fertilizer DCPC regulations.
- All storm water is to be mitigated on site through BMP's such as vegetated swales.

3.3 Transportation

- **Traffic Summary:** An independent traffic study by an engineer was deemed by LUPC to not be necessary for this project.
- **Access:**
 - The 20-acre original property is accessed off of Quansoo Road and Quenames Road. Both are rural private dirt/sand roads.
 - Technically Quenames Road runs from South Road to the fork at the beginning of this property and then becomes the right fork or western side of this property. Quansoo Road is technically the left fork from the beginning of this property to Quansoo Beach.
 - However, most people think of Quansoo Road as running from South Road to Quansoo Beach. The Quansoo Blackpoint Road Association is responsible for maintaining the road from State Road to the Quansoo beach and the Blackpoint beach.
 - The Road Association does not include Quenames Road.
 - During review of several proposals between 2005 and 2013 the Chilmark Planning Board repeatedly expressed concern with the adequacy of Quenames Road for further development and said they would not approve any further division or development unless the road was improved through the auspices of a road association.
 - Mr. Rivera attempted to organize a road association but was rebuffed by neighbors.
 - Neighbors contend that the road has been improved without their required consent.
 - On March 11, 2013 the Planning Boards "road agent" reported that Quenames Road was adequate for the 2013 Form A which was endorsed by the Planning Board.
- **Sight Lines:**
 - The sight lines at potential driveways on the dirt road are adequate at low speed.
- **Trip Generation:**
 - The estimated total daily trip generation for the existing one house is estimated at 10 trips.
 - The estimated total daily trip generation for the proposed three houses (two additional) is estimated at 30 daily trips based on the Institute of Transportation Engineers single family housing unit trip generation rate.

3.4 Affordable Housing

- The proposal does not trigger the MVC Affordable Housing Policy.

3.5 Economic Impact

- The potential impact on schools is likely to be negligible.

3.6 Scenic Values

- **Streetscape:** A large area of 1-2 acres around the main house was cleared between 2010 and 2012 making the main house and a large field very visible from the sparsely traveled Quenames Road.
- **Architectural Detailing:** No plans for houses on the existing and proposed lot have been submitted.

3.7 Local Impact/Abutters

- Neighbors contend that work was done to improve Quenames Road without the requisite permissions and that the Planning Board never should have allowed the 2013 Form A.

4. CORRESPONDENCE

- 4.1 Town Officials:** The **Chilmark Planning Board** has written with a chronology of proposals on the property since 2003. In their letter they note that, unlike with a Form C Definitive Plan, they do not have the power to place conditions on a Form A (Approval Not Required) endorsement. They request that if the MVC approves the proposal that the MVC consider specific conditions. **Clarissa Allen of the Chilmark Land Bank Board** has written asking that if the MVC should approve the application they consider conditioning a dormant easement for protection and a trail along Magee's Path which could be a critical link between Freeman Hancock Woodlot (SMF) and the Quansoo Road.
- 4.2 Island Organizations:** **James Lengyel of the Martha's Vineyard Land Bank** has written with no opinion on the application but asking that if the MVC should approve they consider conditioning a dormant easement for protection and a trail along Magee's Path.
- 4.3 Public:** **Michael Spangler**, a neighbor, submitted a letter in opposition to this further development of a what he feels is a non-subdividable 15-acre lot through the use of successive Form A lots and raises concerns about the habitat, the alteration of the character of the area and the ancient Quenames Road; **David Handlin**, a neighbor, submitted a letter in opposition providing a chronology of events and stating that the Applicant has illegally performed work on Quenames Road without permission and that allowing a successive series of Form A's sets a bad precedent. **Flip Harrington**, a neighbor, submitted a letter in opposition to the proposal providing some history with his concerns. He asserts that Magee's Path is not part of the Applicant property. He adds that between 1995 and 2000 he received a letter from the Chilmark Road Surveyor stating that no further development would be allowed on Quansoo or Quenames Road and that this was used to refuse a Form C subdivision plan submitted by the Whiting family. He adds that repetitive Form A plans should not be allowed because of the impact on the town if everyone did this. **John Fodor** has written in support of the Applicants and attesting to the good character of the Applicants. **Peter Kramer and Rachel Schwartz** has written in support of the Applicants and attesting to the good character of the Applicants and questions the regional impact; **Dick Johnson** has written in support of the Applicants and attesting to their good character.