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Martha's Vineyard Commission

DRI 753 Cohen Family Trust Subdivision

Staff Report – 2024-4-1

1. DESCRIPTION

- 1.1 **Owner:** The Jean G. Cohen Family Trust
- 1.2 **Applicant:** The Jean G. Cohen Family Trust
- 1.3 **Applicant's Agent:** Attorney Robert McCarron, Trustee for the Jean G. Cohen Family Trust
- 1.4 **Project Location:** 15 & 33 Jernegan Pond Road, Edgartown
- 1.5 **Proposal:** Cluster subdivision of approximately 17 acres into 15 vacant lots, two lots with pre-existing structures, and three open space lots totaling more than 10 acres.
- 1.6 **Zoning:** R-20
- 1.7 **Local Permits/Reviews:** Edgartown Fire Department, Edgartown Board of Health, Edgartown Planning Board, Edgartown Wastewater Department.
- 1.8 **State Permits/Reviews:** Natural Heritage and Endangered Species Program
- 1.9 **Surrounding Land Uses:** To the North, the subdivision site abuts Sheriff's Meadow Foundation acreage (Dark Woods Preserve) and private property. To the East the subdivision site abuts Sheriff's Meadow Foundation acreage (Dark Woods Preserve) and private property and fronts Jernegan Pond. To the South, the subdivision site abuts private residences and fronts Edgartown-West Tisbury Road, a state highway. To the West, the subdivision site abuts private property and fronts Jernegan Pond Road.

- 1.10 **Project History:** The property has remained under family/trust/estate ownership for a number of years largely as undeveloped land.

- 1.11 **Project Summary:**
 - Per the Applicant, the project is as follows: "Create 10 restricted 'Community' lots and 7 'Market' lots which include the two existing dwellings. Total new developable land, including roads, will not exceed five acres. Approximately 10 acres will be donated to Sheriff's Meadow Foundation, which owns the abutting Dark Woods Preserve.
 - The Applicant has stated many of the dimensions and numbers given are suggestions and open to discussion.
 - In the Applicant's words, "Community Lots" are as follows: "The purpose of the Community Lots is to create affordable, year-round housing for the Vineyard community. The target demographic is persons or households who struggle to afford market rate housing but earn too much to qualify under existing Affordable housing programs. Community Lots will be permanently restricted in a manner that will temper market forces to prevent future resale of these lots from becoming unaffordable to this demographic. Restrictions will be in the form of development restrictions and re-sale price limit protections."
 - Average lot size is 7,964 square feet; front yard setback will be 10 feet; side and rear will be 5 feet.

- 5 lots will be limited to homes with not more than 2 bedrooms; 5 lots will be limited to homes with not more than 3 bedrooms.
- 2 bedroom Community lots are limited to 1,500 square feet of livable space, inclusive of finished basements.
- 3 bedroom Community lots are limited to 1,800 square feet of livable space, inclusive of finished basements.
- Each Community lot will be limited to one outbuilding, without heat or plumbing, and be not larger than 320 square feet (16 x 20) and single story.
- Decks, porches, screened areas, patios and covered car ports are limited to 400 square feet in the aggregate.
- Swimming pools, spas, sports courts and the like are prohibited.
- A 2 bedroom Community lot will be offered for sale at \$190,000.00; and a 3 bedroom Community lot for \$225,000.00. This represents a discount of between \$350,000 and \$400,000 per lot, or roughly 60% below fair market value.
- The discount and other permit conditions will be secured by a mortgage to the Homeowner's Association.
- Each Community lot will include access to municipal water, power, telephone, internet and connection to either the municipal sewer system (if allowed) or a shared Santoe Septic System.
- Community lots may not be rented more than 3 times totaling 31 days per calendar year (not less than weekly), although an owner in residence may rent a bedroom to unrelated third parties, such rental to be for a term not less than three months.
- In the Applicants words, "Market Lots" are as follows:
- Market lots will be available for sale at current market rates.
- Vacant market rate lots average 13,598 square feet, limited to 5 bedrooms, restricted to residential use, and may contain a guest house and other customary accessory structures.
- Front yard setback will be 10 feet; side and rear will be 5 feet. But for lot area, setbacks and frontage, all other regulations will be as per Article 2.3 (R-5 Zoning District) of the Edgartown zoning by-law and other applicable regulations.
- Market lots may not be rented for less than a weekly basis (7 continuous days), nor more than four weeks during the months of June, July and August.
- In addition, a guest house may be rented on a year-round basis.
- Per the Applicant General and Miscellaneous Aspects of the project are as follows:
- At time of subsequent sales (after sales by the applicant), a fee payable in the amount of 1.0% of the sale price shall be paid to the Edgartown Affordable Housing Committee to be used in its discretion. This transfer fee will terminate if and when a transfer fee is implemented in Edgartown to support housing programs.
- 35 Jernegan Pond Road (Hayden's home), M 21, P124.210, also was devised by Jean G. Cohen, but is not part of this proposal.
- Utilities will be installed underground.
- Municipal water service will be supplied to each lot.
- If applicable, connections to a Santoe Septic System will be available to each lot... each lot will be responsible for installation its own collection tank.
- Siding for all buildings will be either cedar shingles or wood clapboards.

- Association Covenants will provide for regular road maintenance, regular clearing of vegetation to maintain improved sight lines at West Tisbury Road, and a capital reserve fund. Affordable unit owners shall not be required to pay dues to the Association.
- All landscape maintenance equipment at each residential lot shall be electrically powered and not powered by fossil fuels.
- The Trust's interest in the narrow lot between the Mass State Highway and Jernegan Pond will be offered for no consideration to the Town of Edgartown to be combined with its abutting land.
- Lots shown as Open Space A, B and C will be conveyed to Sheriff's Meadow Foundation.
- Lots shown as Parcels D, E and F are reserved for components of the shared septic systems. If connection to the municipal wastewater system is approved, then areas not required for wastewater infrastructure will be conveyed to Sheriff's Meadow Foundation. Otherwise, Sheriff's Meadow Foundation will have easements over Parcels D, E and F to install and maintain walking trails.

2. ADMINISTRATIVE SUMMARY

- 2.1 **DRI Referral:** Edgartown Planning Board
- 2.2 **DRI Trigger:** Division of 16 to 22 acres, creation of five or more dwelling units
- 2.3 **LUPC:** Slated April 1, 2024
- 2.4 **Full Commission:** Not yet slated

3. PLANNING CONCERNS

3.1 Wastewater

- According to the Applicant, the subdivision site has received an offer from the Edgartown Wastewater Department to connect to municipal sewer.
- The Commission has yet to see a formal letter memorializing this offer.
- The Applicant's alternative to a municipal sewer connection is as follows:
- "All lots will be served by shared Santoe Septic Systems. There will be four Systems, with flow allowing for between 13 and 18 bedrooms. The Santoe Septic System is a system approved by Mass DEP as a pilot program. There have been several Santoe installations on the Vineyard and Cape Cod. Instead of a standard tank and leaching field, a Santoe Septic System contains a tank with baffles; intermediary digestion tanks; and a leaching field. Testing demonstrates that resulting total nitrogen levels are below safe drinking water criteria."

3.2 Stormwater

- A stormwater plan or proposal has not yet been provided.

3.3 Environment / Habitat:

- The subdivision site is largely priority habitat.
- It is unclear what species are believed to inhabit the subdivision site.
- The subdivision site contains wetlands, including a pond.

3.4 Open Space:

- The Open Space policy would translate to roughly a 78% target of secondary open space (after set asides for lands already regulated such as wetlands).
- The proposal falls short of that – approximately in the vicinity of 60-65% deed restricted Open Space.

- The Commission might consider some Open Space relief for this project because it is near the town-center (under a mile), and because of the housing benefits (and density in an area where you don't necessarily need a car to get in and out of town, along a bus route, etc.).
- Alternatively, the Applicant could potentially go a step further, make the homes semi-attached, and reach the Open Space target.
- An Open Space target may not be of primary concern given the full context of this project.

3.5 Traffic and Transportation

- Per the Applicant:
- Subdivision road will be paved to a width of approximately 16 feet.
- Jernegan Pond Road, between West Tisbury Road and the entry to the subdivision road will be widened as per the subdivision plans. Site lines will be cleared at the intersection of Jernegan Pond Road with West Tisbury Road to improve visibility.

3.6 Energy

- Per the Applicant:
- Heating, cooling and cooking appliances and fixtures shall be electric and not run by fossil fuels.
- No fossil fuel powered generators will be allowed to operate within the subdivision.

3.7 Economic Development

- The housing proposals would provide an affordable avenue to ownership for people who exceed typical income parameters for affordable housing.

3.8 Social Development

- The housing proposals have the potential to help the Vineyard retain middle income persons, including municipal workers.
- Land donated to Sheriff's Meadow Foundation would augment an established public recreation area.

3.9 Housing

- Per the Applicant:
- The entity may elect to construct a 2-bedroom dwelling or seek a special permit to construct a 2-family building. If the special permit is allowed and sufficient septic capacity is permitted and the Cluster Development Permit authorizes the reduced lot size, then the number of bedrooms permitted at the Affordable Lot will increase to 4. The Affordable dwelling unit(s) will not be obligated to pay dues to the Homeowner's Association.
- Ownership shall be limited to persons occupying the property as their primary residence.
- At the time of purchase, a Purchaser may not own other real property nor have assets in excess of 150% of the value of the improved lot to be purchased. A lottery selection may be used, depending on the numbers in the applicant pool.
- Future sales of Community Lots will be subject to a maximum resale price equal to the price that a hypothetical household earning 220% of area medium income could afford for the number of bedrooms authorized at the Community lot to be sold.

3.10 Impact on Abutters

- The project would increase the Dark Woods Preserve.
- The project would create a number of dwellings where none had existed previously. This would be adjacent to some existing homes.