

THE MARTHA'S VINEYARD COMMISSION

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Date: October 2, 2003

To: Board of Appeals, Town of Oak Bluffs

From: Martha's Vineyard Commission

Subject: Development of Regional Impact
Aidylberg II – DRI Number 569
Re: Construction of 5 units of elderly housing under the provisions
of Chapter 40B

Applicant: Island Elderly Housing
60B Village Road
Tisbury, MA 02568

Project Location: 36 Wing Road, Map 17 Lot 105 (Oak Bluffs)

Decision of the Martha's Vineyard Commission

Summary

The Martha's Vineyard Commission (the Commission) hereby approves with conditions the granting of permits for the development, as submitted, contained in the application of Island Elderly Housing, 60B Village Road Village, Tisbury, MA 02568, Map 17 Lot 105 (Oak Bluffs) as shown on the plans (and as modified by this decision) entitled: "Aidylberg II, HUD 202 Senior Housing, Island Elderly Housing Inc., HUD #023-EE160, 36 Wing Road, Oak Bluffs, MA." By Studio One Inc., 979 Main Street, Springfield, MA, dated September 25, 2002 rev. November 20, 2003, rev. February 4, 2003, consisting of 37 sheets at various scales.

This Decision is rendered pursuant to a vote of the Commission on September 4, 2003.

The Board of Appeals of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law or may deny the request for approval.

Facts

The proposed development is a Development of Regional Impact (DRI) as defined by the Commission's Standards and Criteria, Developments of Regional Impact, Section 3.401a. The Application was referred to the Commission by the Board of Appeals of the Town of Oak Bluffs for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, July 10, 2003, at 7:30 p.m. in the Commission Offices, Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts. The hearing was closed the same night.

The proposal is for the construction of five (5) additional units of affordable housing for the elderly under the provisions of Chapter 40B.

Findings and Conditions

The Commission has considered the Application and the information presented at the public hearing and based upon such considerations makes the following findings pursuant to Section 14 of the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS MODIFIED BY THE CONDITIONS IMPOSED HEREIN, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study."

1. Based on the record and testimony presented therein and in considering whether the development will favorably or adversely affect the environment, the Commission finds that the development as proposed and subject to the following conditions will have benefits which will outweigh its detriments as measured against the interests and values protected under the Act. (Section 15 (b))

The following landscape conditions shall be incorporated in the landscape plan:

- a) The natural buffer of pine trees and other vegetation between the house and the project site as well as on the two sides of the site facing abutters shall be preserved to the greatest extent possible and disturbed areas are to be

replanted with dense native shrubs and trees of the same species that are there now, in order to re-establish the buffer.

- b) Disturbed lawn areas shall be replanted with low-maintenance grass seed varieties such as Cape Cod Mix or creeping red fescue.
- c) There shall be a chain link or split rail fence (with or without wire) surrounding the rear and right side of the property, of height no greater than four feet. The fence shall be set back a minimum of 3'-4' from the property line. If the applicant desires, the fence may have a gate allowing access to the Oak Bluffs School property (which the Commission encourages in order to allow interaction between students and residents of the project and to facilitate access to the recreational facilities on the school property).
- d) The applicant shall add shade trees to the parking lot design.
- e) The access road may be paved to a width of not more than 22'. The access road shall include a 4' width for a pedestrian walkway separated from the driveway with a raised bituminous berm.
- f) No synthetic herbicides, pesticides, fungicides or quick-release chemical fertilizers shall be used in maintaining the landscape.
- g) A landscaping plan for the site incorporating these conditions shall be submitted for the approval of the LUPC Landscape Review Sub-Committee before construction.

2. Based on the record and testimony presented therein and in considering whether the development will favorably or adversely affect other persons or property, the Commission finds that subject to the following conditions, on balance, the development will favorably affect other persons and properties (Section 15(c) of the Act).

The following conditions shall be incorporated into the plan:

- a) All common rooms shall be air-conditioned, to compensate for the limited cross ventilation, and all living units shall be designed to accommodate air-conditioning units; and
- b) The bathroom and kitchen in the handicap unit are to be equipped with infrared heat-sensitive faucets; and
- c) The front building entry doors and the door to the handicap unit shall be remote button-activated.

3. Based on the record and testimony presented therein and in considering whether the development will favorably or adversely affect the supply of needed low and moderate income for housing for island residents, the Commission finds that, on balance the development will favorably affect affordable housing (Section 15 (d)).

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.

This project is compliant with all local and regional plans.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE, BUT MAY BE NEVERTHELESS BE PERMISSIBLE UNDER CHAPTER 831 SECTION 14[C] AND CHAPTER 40B OF MASSACHUSETTS GENERAL LAWS.

The requested project has been filed under the provisions of M.G.L. Chapter 40B, which allows an Applicant to supercede zoning requirements provided twenty-five percent (25%) of the units are price restricted as affordable, as determined by the U.S. Department of Housing and Urban Development (HUD). While the Commission is not a "local board" under Chapter 40B, the Commission has determined that as a DRI, on balance and as conditioned, this project deserves the Commission's approval. Although the project is not consistent with zoning, the Commission finds that this is needed to secure adequate opportunities for housing as per Chapter 831 section 14[c]. Also, the Town can approve the project with the granting of a comprehensive permit (40B). Granting of a conditional approval by the Martha's Vineyard Commission in no way impacts positively or negatively the Town's authority to grant or to deny this permit.

D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT WITHIN A DISTRICT OF CRITICAL PLANNING CONCERN (DCPC).

The Applicant must, consistent with this Decision, apply to the appropriate Town of Oak Bluffs Officers and Boards for any other development permits which may be required by law.

This Decision is written consistent with the vote of the Commission: September 4, 2003.

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.

The applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction, and should substantial construction not occur during said two (2) year period, then this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.

James A. Athan
Chairman

Oct 8, 2003
Date

Jacqueline C. Campbell
Notary

October 8, 2003
Date

Jacqueline C. Campbell
Notary Public
My Commission Expires
May 7, 2010

Edgartown, Mass. October 14, 2003
at 2 o'clock and 31 minutes P M
received and entered with Dukes County Deeds
book 973 page 1081

Attest:

Dianne E. Powers Register

