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## Decision of the Martha's Vineyard Commission

### DRI 661 – Squibnocket Beach Parking Lot

#### 1. SUMMARY

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- Referring Board: Chilmark Conservation Commission
- Subject: Development of Regional Impact # 661  
Squibnocket Beach Parking Lot Relocation
- Project: Relocation of the Squibnocket Beach parking lot inland from the existing revetment which will become the subject of a beach restoration project. The project also includes the relocation of the skiff launch area.
- Owner: Town of Chilmark
- Applicant: The Town of Chilmark represented by Reid Silva of Vineyard Land Surveying and Engineering.
- Applicant Address: C/O Vineyard Land Surveying & Engineering; P.O. Box 421, West Tisbury, MA 02575.
- Project Location: Squibnocket Road, Chilmark, MA Map 35 Lots 17.3 & 17.4
- Description: The proposal is to relocate a parking lot with 45 spots up the hill perpendicular to the Ocean on the existing Squibnocket Road. There will be a retaining wall varying in height from 2' to 6' high. The plan includes the removal of the rock revetment on both sides of the existing Squibnocket beach and parking lot; beach restoration with a new dune and vegetation which is to be left to natural processes after installation; and relocation of the skiff launch and utilities.
- Decision: The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions at a vote of the Commission on April 28, 2016.
- Written Decision: This written decision was approved by a vote of the Commission on May 19, 2016.

The permit-granting authorities of the Town of Chilmark 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.

## **2. FACTS**

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The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

### **2.1 Referral**

The project was referred on January 20, 2016 by the Chilmark Conservation Commission for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, under DRI Checklist Sections 8.3 (Archaeology) and 8.5 B (New Hard Surface Road in Coastal DCPC); a Mandatory DRI Review.

### **2.2 Hearings**

Notice: Public notice of a public hearing on the Application was published in the Martha's Vineyard Times, March 10, 2016.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on March 24, 2016 and closed on that date. The written record was left open until 5:00 pm April 1, 2016.

### **2.3 The Plan**

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan."

- P1 "Town NOI Dec 17, 2015" being a Notice of Intent to the Massachusetts Department of Environmental Protection under the Massachusetts Wetlands Protection Act M.G.L. c. 131 Section 40 submitted by the Town of Chilmark on December 17, 2015. The NOI consists of 38 pages of statement, letters, declarations and plans including: General Information; Buffer Zone & Resource Area Impacts; Other Applicable Standards and Requirements; and attachments including a Plan and Materials list; Project Summary; Project Narrative; Parking and Restoration Plan; Stormwater Checklist; Stormwater Report; Abutter lists; property and locus information; USGS topographic map; a letter from Thomas French, Assistant Director of the Division of Fisheries & Wildlife; and The proposed Parking and Restoration Plan and Elevations.
- P2 "Parking and Restoration Plan: Sheet C1" prepared for The Town of Chilmark by Vineyard Land Surveying & Engineering Inc. showing the proposed relocated parking lot, restored beach, relocated skiff launch, line of work and contours. Vineyard Land Surveying & Engineering Inc., 12 Courmoyer Road, P.O. Box 421, West Tisbury, MA 02575. Plan dated December 17, 2015 from page 37 of the Notice of Intent cited above.
- P3 Environmental Notification Form EEA # 15428: Squibnocket Beach Restoration and Access Project. Consisting of 7 pages of: General Project Information including programmatic and physical elements; alternatives; mitigation measures; phasing; and declarations on Areas of Critical Environmental Concern; Rare Species; Historical/Archeology Resources; Water Resources; and a USGS topographic map.
- P4 Final Town Committee on Squibnocket Slide Show dated December 18, 2015.
- P5 "Squibnocket Farm Proposed Planting Plan" prepared by VHB and Haley & Aldrich consisting of one page of landscape plan with locations and plant list and two details dated March 8, 2016 and updated March 29, 2016.

## **2.4 Other Exhibits**

- E1. Referral to the MVC from the Chilmark Conservation Commission; January 20, 2016
- E2. MVC Staff Report, February 26, 2016; revised February 29, 2016; revised March 24, 2016.
- E3. Power Point slide presentation dated March 24, 2016 prepared by Paul Foley, MVC DRI Coordinator, showing the site, images of the proposed project, plans, elevations, aerials, and other images illustrating the site and the proposal.
- E4. Letters from the following citizens: Charlie Parker and 20 abutters (February 3, 2016); Jack Taylor (March 2, 2016); Rosalie Hornblower (March 7, 2016); Jack Taylor (March 11, 2016); Wendy Weldon and Leanne Cowley, co-chairs of the Squibnocket Pond District Advisory Committee writing as individuals (March 15, 2016); Charlie Parker and abutters revised presentation for March 24, 2016; Vineyard Conservation Society (March 24, 2016); Chris Murphy (March 25, 2016); Steve Bernier (March 28, 2016); Wendy Weldon and Leanne Cowley (March 28, 2016); Dave Damroth (March 30, 2016); Jack Taylor (March 30, 2016); Doug Liman – Slide Show (March 31, 2016); Parker, Orphanos, Jeffers and others (March 31, 2016); Alison Burger (March 31, 2016); Thomas Bena (April 1, 2016); Thomas Bena attachment with 62 page Squibnocket Chronology (April 1, 2016); Vineyard Open Land Foundation (VOLF), Eric Peters (April 1, 2016); Warren Spector (April 1, 2016); Zachary Lee (April 1, 2016).
- E5. Minutes of the Commission's Land Use Planning Committee meeting, February 29, 2016.
- E6. Minutes of the Commission's Public Hearing, March 24, 2016.
- E7. Minutes of the Commission's Land Use Planning Committee meeting, April 11, 2016.
- E8. Minutes of the Commission Meeting of April 28, 2016– Deliberation and Decision.
- E9. Minutes of the Commission Meeting of May 19, 2016– Approval of the Written Decision.

## **2.5 Summary of Testimony**

The following is a summary of the principal testimony given during the public hearing on March 24, 2016:

- Presentation of the project by: Warren Doty, Chilmark Board of Selectmen; Jim Malkin Chairman of the Squibnocket Advisory Committee; Chuck Hodgkinson, Chilmark Zoning Board of Appeals; and Reid Silva of Vineyard Land Surveying presented the Town engineering design, permitting and construction plans.
- Staff report by Paul Foley, MVC DRI coordinator.
- Oral testimony from Public Officials on March 24, 2016 by: Sandy Broyard; Chairman of the Chilmark Conservation Commission.
- Oral testimony from Public on March 24, 2016 by: Charlie Parker; Thomas Bena; Doug Liman; Jack Taylor; Eric Peters (Chairman of the Vineyard Open Land Foundation); Janet Weidner; Tony Orphanos; Constance Messmer; Richard Toole; and Chris Murphy.

## **3. FINDINGS**

### **3.1 Project Description**

- The proposal was reviewed concurrently with a related and interconnected but separate project on abutting properties to relocate the access road to the Squibnocket Ridge Subdivision from the current beach to a new 300 foot long elevated causeway.
- The Squibnocket Beach Parking Lot Relocation project consists of the following:
  - The new lot will accommodate 45 parking spaces and will be located up the hill perpendicular to the Ocean partially on the existing Squibnocket Road with a cul-de-sac at the end for vehicular turn around;

- The northeast side of the parking lot (25 spaces) will be on the existing Squibnocket Road. These spaces and the cul-de-sac will be paved. The rest will be gravel.
- There will be a retaining wall varying in height from 2' to 6' high on the pond side (SW);
- Beach restoration including a new dune and vegetation. The restored beach is proposed to be left to natural processes after installation.
- Relocation of the skiff launch;
- Removal of rock revetment on both sides of the existing Squibnocket beach and parking lot. However, the rock revetment beyond the existing access on the separate abutting project creating a new access to the Squibnocket Farms Subdivision along the beach is proposed to remain.
- There will be an A.D.A. accessible seasonal port-o-potty located in the cul-de-sac.
- The end of the cul-de-sac is approximately 120 feet inland from the Mean High Water.

### **3.2 Statutory Authority**

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 by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluating the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all the testimony presented and reviewing all documents and correspondence submitted during the hearing and review period.

### **3.3 Benefits and Detriments**

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 the Act.

#### **A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.**

##### **A1 The Commission finds that the proposed development at this location may be appropriate in view of the available alternatives (Section 15(a) of the Act.)**

The Commission finds that this is an appropriate managed-retreat response to the impact on the existing parking lot by increased erosion and rising sea level. The Commission finds that the removal of the revetment will return a more natural process to the beach and the parking lot should be safer without the access to the subdivision running through it. The Commission notes that the proposal was favorably received by state agencies as a model of managed retreat.

##### **A2 The Commission finds that the proposed development would have a minimal impact upon the environment relative to other alternatives (Section 15(b) of the Act).**

With respect to Wastewater and Groundwater, the Commission finds that the proposal is a benefit because the area covered by parking is not demonstrably larger than the existing parking lot, it is

farther away from the water and the plans include a trench drain and swales to deal with storm water. The Commission notes that the new parking lot will be partly pervious and the storm water will be better controlled than it is now.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the proposal will be a benefit for open space, natural community and habitat. Removal of the revetment and restoration of the dune as part of the managed retreat will return the beach to more natural conditions.

With respect to Night Lighting and Noise, the Commission finds that the project will have no lighting.

**A3 The Commission finds that the proposed development would have a minimal overall effect upon other persons and property (Section 15(c) of the Act).**

With respect to Traffic and Transportation, the Commission finds that there will be a positive benefit on traffic and transportation. The Commission finds that the trips numbers will be about the same and that safety will be improved by removing the access to the subdivision from the beach parking lot and improving Bus and handicap transportation drop-off and pickup at the cul-de-sac.

With respect to Scenic Values, Character, and Identity, the Commission finds that the proposal provides the benefit of a more natural setting as seen from the beach or ocean by replacing the parking lot with a more natural beach. The Commission finds that perspective depends upon where you stand and that the project could negatively impact the scenic values of at least one abutter but the Commission notes that the landscape plans include appropriate screening to mitigate those impacts. With respect to character and identity the Commission finds that the beach will now feel like a beach rather than a parking lot.

With respect to the Impact on Abutters, the Commission notes that some close abutters could be negatively impacted by noise and exhaust and scenic vista by having the parking lot closer to their homes.

**A4 The Commission finds that the proposed development would have a neutral impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).**

**A5 The Commission finds that the proposed development would have a positive impact on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).**

The Commission finds that the proposal will provide an improved beach and that the proposed parking lot should weather storms better requiring less maintenance.

**A6 The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years. (Section 15(f) of the Act).**

The Commission notes that the proposal may take some pressure off other crowded town beaches.

**A7 The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act).**

The Commission finds that the proposal is consistent with Town plans.

**A8 The Commission finds that the proposed development would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).**

The Commission finds that the development is consistent with the policies of the Martha's Vineyard Commission Regional Policy Plan, adopted by the vote of the Martha's Vineyard Commission, June 1991, as well as those of the Island Plan, adopted by vote of the Commission on December 10, 2009. The Commission notes and that the proposal is consistent with the Massachusetts Coastal Program Policies.

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) of the Act.

**B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.**

**C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.**

**D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.**

#### **4. DECISION**

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The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on April 28, 2016 and made its decision at the same meeting.

The following Commissioners, all of who participated in all hearings and deliberations on this project, participated in the decision on April 28, 2016.

- Voting in favor: Clarence 'Trip' Barnes III; John Breckenridge; Christina Brown; Robert Doyle; Lenny Jason; James Joyce; Joan Malkin; Kathy Newman; Doug Sederholm; Linda Sibley; Ernest Thomas; and James Vercruysse.
- Voting against: None
- Abstentions: None.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with the conditions listed in section 5 below.

This written Decision is consistent with the vote of the Commission April 28, 2016 and was approved by vote of the Commission on May 19, 2016.

## **5. CONDITIONS**

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After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions in order to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. These Conditions shall be part of the permit granted by the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission's and/or Towns attorney's fees and costs incurred in obtaining judicial relief.

### **1 Landscaping:**

- 1.1 A final landscaping plan, essentially the same as the plan dated March 8, 2016 and updated March 21, 2016, including an implementation timetable, showing plant species and locations shall be submitted for the review and approval of LUPC within 60 days following completion of the causeway construction. All landscape plantings shall be maintained as shown on the final approved plan, in perpetuity.
- 1.2 All fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of landscaping.

## **6. CONCLUSION**

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### **6.1 Permitting from the Town**

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

The permit-granting authorities of the Town of Chilmark 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. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

The Town' building inspector shall not issue a Certificate of Occupancy until it has received a Certificate of Compliance issued by the Executive Director of the Martha's Vineyard Commission confirming that the following condition in this Decision has been satisfied: 1.1.

### **6.2 Notice of Appellate Rights**

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 Chilmark Town Clerk.

**6.3 Length of Validity of Decision**

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. Should substantial construction not occur during said two (2) year period, 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.

**6.3 Signature Block**

Jim Vercruyse  
Jim Vercruyse, Chairman

5.24.16  
Date

**6.4 Notarization of Decision**

Commonwealth of Massachusetts  
County of Dukes County, Mass.

On this 24<sup>th</sup> day of May, 2016, before me,  
Donna Lee Stewart, the undersigned Notary Public, personally  
appeared James Vercruyse, proved to me through satisfactory evidence of identity,  
which was/were personal knowledge to be the person(s) whose name(s)  
was/were signed on the preceding or attached document in my presence, and who swore or affirmed to  
me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and  
belief.

Donna Lee Stewart  
Signature of Notary Public

Donna Lee Stewart  
Printed Name of Notary  
My Commission Expires February 24, 2023

**6.5 Filing of Decision**

Filed at the Dukes County Registry of Deeds, Edgartown, on: May 24, 2016

Deed - Book \_\_\_\_\_, page \_\_\_\_\_  
Decis 82271 13890  
13889