

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557
617-693-3453

DATE: September 27, 1984
TO: Planning Board Town of Oak Bluffs
FROM: Martha's Vineyard Commission
SUBJECT: DEVELOPMENT OF REGIONAL IMPACT
RE: RESIDENTIAL SUBDIVISION
APPLICANT: Meadow View Farms II, Peter Van Rosbeck, Trustee
1359 Centre Street, Newton Center, MA

DECISION OF THE MARTHA'S VINEYARD COMMISSION
SUMMARY

The Martha's Vineyard Commission (the "Commission") hereby approves with certain conditions the Application of the Meadow View Farms II, Peter Van Rosbeck, c/o Dean Swift, R.L.S. Tisbury, Massachusetts 02568 for the subdivision of land in the Town of Oak Bluffs as shown on the plans entitled: "Plan of land in Oak Bluffs, Massachusetts, surveyed for Meadow View Farms Realty Trust, Dean R. Swift, R.L.S., August 1984, consisting of five (5) sheets, (the Plan).

The decision, with conditions contained herein, is rendered pursuant to the vote of the Commission on September 27, 1984.

The Planning Board of the Town of Oak Bluffs may now grant the necessary development permits for the Applicant's residential subdivision in accordance with the conditions contained herein, or may approve in accordance with the conditions contained herein and place further conditions thereon, or may disapprove the development application.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Criteria and Standards, Developments of Regional Impact, Section 3.201. The application was referred to the Commission by the Planning Board of the Town of Oak Bluffs for action pursuant to M.G.L. Chapter 831, Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated herein.

A duly notice public hearing on the Application was conducted by the Commission pursuant to the Act and Massachusetts General Laws, Chapter 30A, Section 2, on September 20, 1984 at 8:00 p.m. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the division of 44.3 acres into 30 lots plus common lands.

The hearing was chaired by Marc Widdiss, Chairman of the Land Use Planning Committee. Mr. Widdiss read the legal notice and opened the public hearing for testimony at 8:00 p.m.

James Muth, staff member, described the proposal using maps of the area in which the property is located and the plan of the proposed development. He went through the staff checklist, mentioning each of the points covered. He discussed the layout, the open space and the relationship of the proposal to the Island Road District. He noticed that the proposal was the second part of a development; the first having previously been reviewed. Mr. Muth noted that an existing trail had been kept open as part of the open space and as a continuation of a similar practice in an adjacent subdivision.

Peter Rosbeck, the applicant, discussed the proposal and the reason for the type of design presented. He noted that the lots on Barnes Road had access restrictions on them and would have to access onto the new road and not Barnes Road. He also discussed the concept of a housing fund rather than a youth lot. He felt the youth lot program had problems. He felt the fund could be leveraged to help more people than a youth lot program could.

Mr. Rosbeck responded to questions from the Commissioners regarding the plan and land court procedures.

Tom Durawa, Commissioner asked for reaction to Jim Muth's proposal for the open land and the trail. Mr. Rosbeck replied that the trail was included in the open space and is intended to be used as a footpath, he did not foresee automobile usage in the designated open spaces and on the trail.

Ben Moore questioned the two lots on Barnes Road. Mr. Rosbeck

responded by saying that there is housing on the two lots and the lots act as a buffer to the proposal. A discussion of this point and of growth in general followed.

Mr. Widdiss called for other proponents. There were none. Mr. Widdiss noted that the hearing would be continued until September 27th, at which time opponents would be heard.

The Martha's Vineyard Commission held a continuation of a public hearing on Thursday, September 27, 1984 at 9:40 p.m. Mr. Widdiss chaired the meeting, read the public notice and opened the hearing for testimony.

James Muth, MVC staff, briefly reviewed the proposal. Mr. Rosbeck the applicant, discussed several points and raised the issue of his proposed alternative to the youth lot program.

Mr. Widdiss called for opponents - there were none.

In response to questions regarding the alternative to the youth lot program, Mr. Rosbeck discussed in detail his proposal that was similar to that which had been accepted a year earlier.

Mr. Clifford, Martha's Vineyard Commission, reported that the Oak Bluffs Planning Board had expressed no major concerns regarding the proposal and indeed liked the concepts being put forth regarding the pathway and youth lot alternative.

There being no further testimony, the hearing was closed at 9:53 p.m.

FINDINGS and CONDITIONS

The Commission has considered the Application and the information presented at the Public Hearing, and based upon such consideration, makes the following findings pursuant to Section 14 of the Act:

- A. The Commission finds that the probable benefits of the proposed development, subject to the conditions set forth herein, will exceed the probable detriments of the proposal in light of the considerations set forth in Section 15 of the Act.

- B. The Commission finds that the proposed development will not interfere substantially or unreasonably with the achievement of the objectives of any general plan of the Town or of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plan(s) will be consistent with local development ordinances and by-laws.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

The Commission has considered the question of potential burden on existing public facilities resulting from this proposal pursuant to Section 15 of the Act. In order to secure a reasonable rate of development, the Commission sets the following condition:

BUILDING PERMITS FOR RESIDENTIAL CONSTRUCTION ON LOTS SHOWN ON ANY PLAN APPROVED BY THE TOWN PLANNING BOARD PURSUANT TO THIS DECISION MAY BE ISSUED AT A RATE NOT GREATER THEN FIVE PERMITS EACH YEAR COMMENCING FROM THE DATE OF THIS DECISION. BUILDING PERMITS NOT ISSUED IN ANY YEAR WITHIN THE ALLOWED GROWTH RATE MAY BE ISSUED IN A SUBSEQUENT YEAR. IF THE TOWN ADOPTS REGULATIONS REGARDING THE RATE OF DEVELOPMENT WITHIN THE TOWN, SUCH REGULATIONS SHALL CONTROL THE DEVELOPMENT OF LAND AND LOTS SHOWN ON SUCH PLANS.

In addition to the rate of development, the Commission has considered the potential adverse effect of this proposal on the supply of needed low and moderate income housing for Island residents pursuant to Section 15 of the Act. In order to secure opportunities for low or moderate income housing for Island residents, the Commission sets the following condition:

THE BOARD OF SELECTMEN AND THE APPLICANT JOINTLY, AND/OR IN CONJUNCTION WITH ANY OTHER APPROPRIATE TOWN BOARDS, SHALL DETERMINE, FROM THE ALTERNATIVES LISTED BELOW, EITHER "ALTERNATIVE A" OR "ALTERNATIVE B", WHICHEVER IS DEEMED

MOST APPROPRIATE AND SUITABLE FOR THE TOWN IN THE GIVEN

SITUATION:

"ALTERNATE A"

TWO LOTS SELECTED BY THE APPLICANT SHALL BE DESIGNATED "RESIDENTIAL HOMESITE LOTS". THE LOCATION OF SUCH LOTS SHALL BE DESIGNATED WITHIN THE SUBDIVISION PRIOR TO THE SALE OF ANY LOT(S) WITHIN THE SUBDIVISION. NOTIFICATION BY THE APPLICANT OF THE DESIGNATION OF SUCH LOTS SHALL BE GIVEN TO THE BOARD OF SELECTMEN AND PLANNING BOARD OF THE TOWN OF OAK BLUFFS AND THE MARTHA'S VINEYARD COMMISSION. SUCH LOTS SHALL BE SOLD IN A BONA FIDE SALE TO A PERSON OR PERSONS PURCHASING SUCH LOTS WILL BE ESTABLISHED BY THE BOARD OF SELECTMEN IN CONSULTATION WITH ANY OTHER APPROPRIATE BOARD OF THE TOWN OF OAK BLUFFS. PUBLIC NOTICE SHALL BE GIVEN BY THE SELECTMEN TO RECEIVE APPLICATIONS FOR THOSE PERSONS MEETING THE ESTABLISHED STANDARDS. IF NO APPLICANTS ARE APPROVED BY THE BOARD OF SELECTMEN FOR PURCHASE OF SUCH LOTS, THIS CONDITION SHALL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT. SUCH RESIDENT HOMESITE LOTS SHALL BE EXCLUDED FROM THE RATE OF DEVELOPMENT ESTABLISHED IN THE FIRST CONDITION OF THIS DECISION.

OR

"ALTERNATE B"

IN LIEU OF THE TWO LOTS AS SPECIFIED IN THE PREVIOUS PARAGRAPH, A SUM OF MONEY EQUAL TO AN AMOUNT TO BE DETERMINED BY THE BOARD OF SELECTMEN OF THE TOWN OF OAK BLUFFS AND THE APPLICANT JOINTLY TO BE USED TO ESTABLISH A FUND FOR THE PURPOSE OF DISTRIBUTION TO A PERSON OR PERSONS OF LOW OR MODERATE INCOME TO ASSIST SAID PERSON(S) WITH THE PROVISION OF HOUSING. STANDARDS DETERMINING APPROPRIATE QUALIFICATIONS FOR A PERSON OR PERSONS WILL BE ESTABLISHED BY THE BOARD OF SELECTMEN TO RECEIVE APPLICATIONS FOR THOSE PERSONS MEETING THE ESTABLISHED STANDARDS. IF NO APPLICANTS ARE APPROVED BY THE BOARD OF SELECTMEN FOR RECEIPT OF SUCH MONEY WITHIN ONE YEAR AFTER THE ESTABLISHMENT OF SUCH FUND, THIS CONDITIONS SHALL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT.

The Commission has considered the question of the potential impact of this proposal on the environment and on other persons or

property pursuant to Section 15 of the Act and has set the following condition:

That the Applicant use his good faith, best efforts to preserve the use of the existing trail across the subject property for all persons lawfully entitled thereto for the sole purpose of walking, hiking and horseback riding.

Futher,

That there shall be no clear cutting of vegetation within the buffer areas around the perimeter of the development with the exception of appropriate recreational facilities within the large common land and any walking paths the developer may deem appropriate around the remainder of the buffer areas.

Edgartown, Mass. October 15, 1984
at 10 o'clock and 31 minutes A M
Received and entered with Dukes County Deeds
book 451 Page 234

Attest: Dwight W. King
Register

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the Application being before it at this time. The Applicant must, consistent with the decision, apply to appropriate Town of Oak Bluffs officers or boards for any other development permits which may be required together with any other development permits required by law.

The Commission approves the Town of Oak Bluffs officials granting applicable development permits.

This Decision is written consistent with the Vote of the Commission: September 27, 1984.

Any party aggrieved by a determination of the Commission may appeal to the Superior Court within twenty 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 of the town in which the proposed development is located.

Margaret Harris
Margaret Harris, Vice Chairman
Norman Friedman
Notary

10/11/84
Date
10/11/84
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990

