

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557
617-693-3453

DATE: March 14, 1985
TO: Planning Board of the Town of Edgartown
FROM: Martha's Vineyard Commission
SUBJECT: DEVELOPMENT OF REGIONAL IMPACT
RE; RESIDENTIAL SUBDIVISION
APPLICANT: Muskoday Farms - Edward Raposa
c/o Smith and Dowling
P.O. Box 1087
Tisbury, MA 02568

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission hereby denies permission for the development contained in the Application of Muskoday Farms, Edward D. Raposa, c/o Smith and Dowling, P.O. Box 1087, Tisbury, Massachusetts, 02568, for the subdivision of land in the Town of Edgartown as shown on the plans entitled: Muskoday Farms, A Plan of Land in Edgartown, Massachusetts prepared for Edward D. Raposa, Smith and Dowling, Engineers-Surveyors-Planners, Vineyard Haven, Massachusetts, May, 1984, consisting of two (2) sheets (the Plan).

The Planning Board of the Town of Edgartown shall not grant the appropriate development permits.

The decision is rendered pursuant to the vote of the Commission on March 14, 1985.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Criteria and Standards, Developments of Regional Impact, Section 3.203. The Application was referred to the Commission by the Planning Board of the Town of Edgartown 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 noticed public hearing on the Application was conducted by the Commission pursuant to the Act and Massachusetts General Laws, Chapter 30A, Section 2, on January 3, 1985, at 8:45 PM at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the division of land into a cluster development which proposes to divide a contiguous ownership of land into ten (10) or more lots.

Mr. Widdiss, Chairman of the Land Use Planning Committee, read the public notice and opened the hearing for testimony at 8:45 PM.

Doug Dowling, agent for the applicant, explained the proposal and the designs presented. He noted that the proposal was on parcel #3 of a three lot subdivision which was before the Edgartown Planning Board; parcel #3 is the rear most portion of the land. He discussed access, 550 ft. from Herring Creek Road to the first dwelling on lot #1. He discussed the proposed screening and the street trees. There are 30 lots proposed with a growth rate of 10 per year in accordance with town regulations.

With respect to low or moderate income lots, there were no proposals made. He indicated a possible build-out time of 5 years realistically. He discussed the provision of water and the options being presented to abutters whose wells are less than 200 ft away from any proposed septic systems.

A discussion of water services proposed followed. A discussion of the relationship of Grant's Pit operations from the proposed lots followed. Mr. Dowling discussed the no-cut, no-build areas as well as the recreational areas.

On a question regarding low and moderate income lots, Mr. Dowling explained the project was a build-out project, lot and house as a package, and the price range would be in the \$90-\$100,000 range. A discussion of what moderate might be followed.

Mr. Widdiss asked if the applicant could explain what he felt the benefits of the proposal were. Mr. Dowling indicated that he felt the following were benefits:

1. Proposal on back of property and hidden, screened. He felt the detriments would be for the potential owners who would be living near Grant's Pit. He felt the screening would help greatly. He did not feel that there would be any detriments to the surrounding areas.
2. Cluster as a height - town encourages it. A discussion of clustering followed.

A discussion of the three lot subdivision that was before the Planning Board followed. A discussion of year-round vs seasonal usage of the project followed. A brief discussion of the previous three lot subdivision followed again. A discussion of possible sale of development rights followed. A further discussion of low-moderate income lots followed. Mr. Dowling indicated that the choice was no youth lots, but do other things such as only 30 lots and not 36 and other factors. A discussion of moderate lots followed.

A discussion of water in the area followed. Mrs. White an abutter, discussed the standing water in Grant's Pit. A discussion of the potential septic systems followed. A discussion of the landscape phasing followed. A discussion of water quality in the area followed.

Jim Muth, MVC staff, briefly discussed the staff review. Russell, Smith, MVC staff, briefly discussed the proposal as related to water quality.

Mr. Widdiss then called for proponents - there were none. He then called for opponents.

Marilyn White, an abutter, stated that she did not want to speak in opposition to the plan because she felt the plan was better than the last plan, but she had a concern regarding water quality. She discussed the reasons for her concern.

A discussion of the groundwater flow in the area followed. A discussion of the water service to the area followed.

Mr. Morgan raised the issue of what might happen to the remaining acreage of the land not before the Commission. He felt that some consideration should be given to what might happen. A discussion of the matter followed.

Pending a meeting between the LUPC and the applicant, the hearing was continued at 10:19 PM, until the next meeting.

The Martha's Vineyard Commission held a continuation of the public hearing on January 17, 1985 in the Commission offices.

Mr. Widdiss read the hearing notice and re-opened the hearing for testimony at 9:03 PM.

Doug Dowling, agent for the applicant, reviewed the proposal and briefly discussed some aspects of the plan.

A brief discussion of the remainder of the farm followed; a discussion of total number of lots possible, the variations in lot size and related matter followed. A discussion of the terms grid, conventional and cluster developments followed. A discussion of low cost housing units followed. Mr. Dowling indicated that none had been proposed.

Mr. Widdiss read a letter in opposition to the proposal from Cheryl Welch, Muskoday Lane.

There being no further testimony, the hearing was closed at 9:15 PM.

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 detriments of the proposed development will exceed the probable benefits of the proposal in light of the considerations set forth in Section 15 of the Act. Specifically, the proposed development is found to be in conflict with the following policies of the Martha's Vineyard Commission:

- 1.004 It is a policy consistent with the Commission's general purpose as delineated in Chapter 637 of the Acts of 1974, (as amended by Chapter 831 of the Acts of 1977), namely to protect the health, safety and general welfare of Island residents and visitors, by promoting the enhancement of sound local economies, by preserving and conserving the Island's unique values, and by protecting these values from developments and uses which would impair them or cause irreversible damage to them.

- 2.603 The well-being of other parts of the island economy, particularly tourism, will be encouraged by the encouragement in this fashion of fishing and farming activities.
- 2.701 The preservation of open farming and grazing lands is in the best interests of the people of Martha's Vineyard. To promote farming and to foster the expansion of the agricultural use of land, it will do all in its power to preserve suitable land open and available for these purposes.
- 2.702 Agricultural land protects pure water, fresh air and wildlife. It adds to the aesthetic enjoyment of the environment, and it allows for the development of agricultural activity which can be of economic benefit to the Island, both in generating income, and in enabling Island people to produce more of what Island people consume, leading as far as possible towards self-sufficiency. The need to pay special heed to the protection of fertile lands with agricultural potential is pressing, because built-on land is almost certainly lost irreversibly to agricultural pursuits.
- B. The Commission finds that the proposed development will interfere substantially and unreasonably with the achievement of the objectives of the Town of Edgartown Open Space Plan, dated January, 1979. Specifically, the proposed development conflicts with Section 4, Open Space Goals, Objectives and Achievements, number 5:
- encourage agricultural use of land which is especially suitable for the purpose and to prevent permanent loss of such land to development.
- C. The Commission finds that the development proposal will be more detrimental than beneficial when compared to alternative manners of development or developments occurring in alternative locations.

Specifically, the Commission finds the design layout of the proposed development insensitive to the environmental considerations of the particular site in view of the options and alternatives available to the applicant.

Pursuant the Section 15 of Chapter 831 of the Acts of 1977, as amended:

- A. The Commission has considered the question of whether development at the proposed location is or is not essential or especially appropriate in view of available alternatives on the Island of Martha's Vineyard. The Commission finds that the development is not especially appropriate at the proposed location since the results would be a loss of agricultural lands, and would be destructive to the open space values in the area that the Town of Edgartown and the State have made major investment in.
- B. Further, the Commission has considered the question of whether the proposed development will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and finds that the proposal as submitted will have a more adverse impact on the environment since the density is too high.
- C. Further, the Commission has considered the question of whether the proposed development will favorably or adversely affect the supply of needed low and moderate income housing for Island residents and finds an unwillingness on the part of the applicant to recognize the problem and not to address the issue.
- D. Further, the Commission has considered the question of whether the proposed development will favorably or adversely affect the provision of municipal services and the burden on taxpayers in making provision there for and finds that in order to be rural the land must take care of itself and the proposed development cannot occur without such water service being provided.

- E. Further, the Commission has considered the question of whether the proposed development will use efficiently or burden unduly existing public facilities or those which are to be developed within the succeeding five years and finds that approval, in general, will catch up with the Town of Edgartown if the protection of the aquifer is not considered and that approval does not meet rural mandate of the Martha's Vineyard Commission.
- F. Further, the Commission has considered the question of whether the proposed development will aid or interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan and finds that the development is in conflict with the Town of Edgartown Open Space Plan.
- G. Further, the Commission has considered the question of whether the development will further contravene land development objectives and policies developed by regional or state agencies and finds that the proposal contradicts State farmland policies and flies in the face of heavy investments the State has made to maintain the quality of the area.

The Commission disapproves the development application and denies permission to the Planning Board in the Town of Edgartown for the granting of the necessary development permits.

The Applicant may modify the development proposal and/or submit a new proposal to the Planning Board of the Town of Edgartown.

This Decision is written consistent with the Vote of the Commission:
March 14, 1985.

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.

Leonard Jason Jr.
Leonard Jason Jr., Chairman

Norman Friedman
Notary

3/14/85
Date

3/14/85
Date

MARTHA'S VINEYARD COMMISSION
BOX 1447 - OLDE STONE BUILDING
OAK BLUFFS, MASSACHUSETTS 02557

NORMAN FRIEDMAN, NOTARY PUBLIC
MY COMMISSION EXPIRES
NOVEMBER 2, 1990

Edgartown, Mass. March 15 1985
at 9 o'clock and 50 minutes A.M.
Received and entered with Dukes County Deeds
book 426 Page 056

Attest: *Dorothy W. King*
Register