

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557
617-693-3453

Date: February 20, 1986
TO: Planning Board, Town of Edgartown
From: Martha's Vineyard Commission
Subject: Development of Regional Impact
RE: Residential Subdivision
Applicant: Hallsgate
Benjamin L. Hall
P.O. Box 98
Edgartown, MA 02539

Decision of the Martha's Vineyard Commission

Summary

The Martha's Vineyard Commission (the Commission) hereby approves with certain conditions the Application of Hallsgate, Benjamin L. Hall, P.O. Box 98, Edgartown, MA 02539 for the subdivision of land in the Town of Edgartown as shown on the plan entitled: "Hallsgate, A Plan of Land in Edgartown, Mass, Benjamin and Theresa M. Hall, January 14, 1986, Schofield Brothers Inc., Registered Professional Engineers and Land Surveyors, State Road, Vineyard Haven, Mass." consisting of eight (8) sheets, (the Plan).

The decision, with conditions contained herein, is rendered pursuant to the vote of the Commission on February 20, 1986. The Planning Board of the Town of Edgartown may now grant the necessary development permits for the Applicant's residential subdivision in accordance with the conditions contained herein and may 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

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 February 20, 1986 at 8:15 PM at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the division of 40.5 acres into 18 lots plus one recreation lot.

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 8:31 PM.

Richard Barbini, agent explained the proposal and discussed the layout, the surrounding area and some of the design feature of the proposal. He discussed the 25 feet no cut areas along Pennywise Path and Middle Road.

A discussion of surrounding roads and paths followed. Connections to surrounding roads/paths was not proposed but could be available to the town at some future date if the town chose to do so.

A discussion of the maintenance of the roads followed; road associations were to be set up for both areas.

A discussion of the recreation lot followed; to be a no "build" lot; no dwellings but maybe a gazebo or the like.

A discussion of water and septic usage followed. R. Smith, MVC staff discussed the Board of Health requirements regarding required area per bedroom. He discussed the reasoning for the way the town had been divided with respect to water service. A discussion of the means of figuring the bedrooms per area followed.

A discussion of the small pieces of land adjoining the two proposed subdivisions followed.

Mr. Widdiss called for testimony from town boards. Christina Brown of the Edgartown Conservation Commission discussed ancient ways and the potential impact or use of Pennywise Path

for continued walking and horseback riding. She discussed the use of covenants to protect the usage of those ancient ways.

Mr. Hall discussed possible covenants regarding rights of passage via walking and horseback riding. He indicated that the paths would not be closed and the the new owners would not be able to interfere with passage.

A discussion of maintenance of the old paths followed. Gino Montessi, trustee of Kingswood discussed the possible use of covenants regarding rights of passage.

Mr. Morgan discussed use of Pennywise Path for vehicular access. The applicant agreed with the issue and indicated that covenants could be used to prevent vehicular access to Pennywise Path.

Mr. Widdiss called for proponents - there was none

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

Mr. Early discussed the provision for low-moderate income lots noting that the lots offered would be off-site. He asked when said lots would be made available. The applicant indicated that they would be available at the same time as lots in the subdivision.

A discussion of the proposal and its relationship to land that Edgartown was considering for well protection followed.

A discussion of year-round vs seasonal housing followed.

Mr. Widdiss read a letter from Sheriff's Meadow regarding opposition to the proposal.

There being no further testimony the hearing was closed at 9:10PM.

FINDINGS AND CONDITIONS

The Commission has considered the Applications 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 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 impact upon the locality and upon the ancient ways, so called, abutting the proposed development and in order to lessen any potential future impacts, sets the following condition:

That There Shall Be Maintained a Twenty-five (25) Foot, No Cut, No Build Buffer Along the Length of Pennywise Path and Middle Line Path and That There Shall Be A Covenant Established By The Applicant Restricting Any Future Vehicular Access to Said Pennywise Path and Middle Line Path From Any and All Lots to Be Created By the Proposal.

Further,

That there shall be No Residential Dwelling Structures Permitted On The Recreational Lot So Depicted On The Plan, Now or In The Future.

And Further,

The Commission has considered the impact upon the availability of low and moderate affordable housing on the Island by the proposed development and sets the following conditions:

That the Applicant Shall Make Available In The Town of Edgartown, To The Town, One (1) Buildable Lot, on a Town Way, At a Price Not To Exceed \$20,000. To Be Used By Said Town As An Affordable Housing Lot. Said Lot to Be Sold In A Bona Fide

Price So Stated Above. Selection of and Standards Determining Appropriate Qualifications For Said Person or Persons Will Be In Accordance With the Practices Established By the Town of Edgartown. 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 Town of Edgartown For Purchase of Said Lot, This Condition Shall Be Lapse and Be of No Further Force or Effect After One year From the Date Said Lot Becomes Available.

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 Edgartown 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 Edgartown officials granting the applicable development permits.

This decision is written consistent with the vote of the Commission: February 20, 1986.

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.

[Signature]
John G. Early, Chairman

3/20/86
Date

[Signature]
Notary

3/20/86

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990

Edgartown, Mass. _____ 1986
at _____ o'clock and _____ minutes _____ A M
Received and entered with Dukes County Deeds
book 444 Page 051
Attest: *[Signature]*
Register