

488 007

# 26

# THE MARTHA'S VINEYARD COMMISSION

BOX 1447  
OAK BLUFFS  
MASSACHUSETTS  
02557

DATE: November 12, 1987

TO: Planning Board, Town of Chilmark

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact  
RE: Residential Subdivision

APPLICANT: Trustees of Reservations  
c/o Tom Counter, Agent  
P.O. Box 210  
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 Trustees of Reservations, c/o Tom Counter, Agent, P.O. Box 210, Edgartown, MA 02539 for the Development of Land in the Town of Chilmark, as shown on the plans entitled: "Plan of Land in Chilmark, Mass., Prepared for the Trustees of Reservations, dated January 30, 1987, revised June 29, 1987, by Schofield Brothers, Inc., State Road, Vineyard Haven, Mass." consisting of one (1) sheet; "Assessment of Development Potential for the Sigourney Land, Chilmark, Mass, for the Trustees of Reservations, Beverly, MA, dated January, 1984, by Tom Counter and Associates, Box 531, Vineyard Haven, Mass. including Descriptions, Maps, Restrictions, Draft Declaration of Protective Covenants and Agreement, Access Specifications and Memorandum"; Making a total of one (1) sheet plus the Assessment of Development Potential, (the Plan).

The Decision is rendered pursuant to the vote of the Commission on November 12, 1987.

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

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.201. The Application was referred to the Commission by the Planning Board of the Town of Chilmark for action pursuant to Chapter 831 Acts of 1977 as Amended (the Act). The Application and Notice of public hearing relative thereto are incorporated herein. Martha's Vineyard Commission staff document exhibits are incorporated 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 October 15, 1987 at 8:00 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

The proposal is for the subdivision of 58.6 acres of land into three residential lots plus open space.

Sanford Evans, Chairman of the Land Use Planning Committee (LUPC) read the public hearing notice and opened the hearing for testimony at 8:05 P.M. Mr. Evans then called for the staff presentation.

Barry Didato, MVC Staff, referenced a hand out to Commissioners and then discussed the proposal. He stated that the proposal is for the subdivision of approximately 58.6 acres into four lots; three of which will be for sale as building lots, proposed acreages of lots to be sold are 7.00 ac., 3.37 ac. and 3.12 ac. and the remaining  $\pm$  45.11 acres to be used as public conservation land, not to be further subdivided or developed other than a tool shed, possible caretaker housing and unpaved parking area for the public to gain access to the Conservation land. Mr. Didato noted that the applicant proposes to use the capital from the sale of the three building lots to fund the construction of the parking facility, creation of a management plan, trail system, the erection of a tool shed and caretaker housing. He then stated the location of the property is Chilmark Tax Assessor Map 14 Lot 22, Chilmark, having approximately 1,550' frontage on North Road. The site includes part of the summit of Prospect Hill. And further stated although this subdivision does not abut the Menemsha Hills Conservation Area to the west, it is hoped that public access will be gained to this preserve via the open space lands on the abutting Prospect Hills Subdivision. He addressed zoning in this area stating it falls within the District IIA - 3 acre minimum lot size a

stated that the proposed building lots lie within the Island Road District, however the proposed building envelopes for the three lots are not located within 200 feet of North Road. Mr. Didato then said there will be only one access/egress point to be used in this subdivision. Also a building height of 28 feet is permitted in this area by Special Permit from Chilmark Zoning Board of Appeals.

Mr. Didato then addressed the natural features of this area stating the topography consists of slopes often exceeding 8 - 15%, glacial moraine area, and the highest point on this parcel is estimated to be almost 290 feet, the lowest being approximately 160 feet. (NOTE: registered elevations for Prospect Hill 308, Peaked Hill 302). The future use of an existing borrow pit is to be considered in the Management Plan for the Conservation area. Part of the low lying topography consists of a wetland located in the southern portion of the Conservation area. Mr. Didato stated the site is also located within the watershed of the Roaring Brook Drainage Basin. Further, that vegetation in this area consists of predominantly oaks with a rich variety of understory growth. Soils at this location are as follows: Building sites EcC, EcD - Eastchop loamy sand - generally 8 - 15% - rapid permeability and slope generally and Conservation Area - NaB, NaC, ChB, ChC - Nantucket Sandy loam 8 -15% slopes Chilmark Sandy loam 3-15% slopes. Addressing the affordable housing provision, Mr. Didato stated that although the Applicant does not propose to use the three building lots for Affordable Housing, the Trustee's long range plans are to employ and house a caretaker on the site. He then addressed development concerns as follows: Management Plan for Conservation Area; height restrictions for site development because of locations on ridge line and mean natural grade and possible architectural conformance to the building dimensions and form of a dwelling built in Chilmark before 1850. He then stated he has summarized correspondence for which has been submitted for the record.

Mr. Didato showed an aerial which depicted the parcel of land which is being reviewed and showed abutting properties, he then showed a video of the parcel which showed the access roadway, the proposed building lots and the ridge which the building envelopes are on.

There being no questions for staff Mr. Evans asked for the applicants presentation.

Tom Counter, Agent for the applicant, showed the topography of land and an old survey of the property which depicted the ownership pattern showing abutting property. He showed the Commissioners the piece of land with the three proposed parcels and stated that by selling these the Trustees will be able to create an endowment to pay for the management of the property after the plan has been created and discussed the money that would be needed. He stated that one tool shed and a possible caretakers house are proposed for the open space lot and spoke of the open space management plan which has not been worked out yet and stated this will be a lengthy process taking approximately one year. Mr. Counter said that Town Boards and abutters will have a say in the management plan. He further stated that no public access will be allowed until the management plan is in effect to protect the land, especially the critical area of the bluff at the beach.

Mrs. Eber asked if a covenant is in place stating there will be no further subdivision on the 7 acre lot? Mr. Counter answered in the affirmative and stated that there will be a covenant on the 45 acre lot which will restrict future subdivision of that lot.

Mr. Counter then said that the purpose of buying this property is to give the public access to this area as at this time there is no public access to beach or trail system.

Mr. Early asked Mr. Counter the nature of the public access. Mr. Counter stated this is part of the management plan and therefore nothing in concrete however, constraints may be to the number of people the area can tolerate, possibly by limiting the number of cars to ten in the parking area. There was discussion of fee and membership. Mr. Counter could not answer as the management plan has not been created.

Mr. Evans asked Mr. Counter how the building lots were chosen. Mr. Counter stated that access, zoning re: 3acre lots; trail system, wetlands on property and powerlines which are pre-existing were all taken into consideration. He showed the ridge which the proposed building envelopes are placed and stated lot #1 is the lot with a view. Mr. Counter further stated that there will be no visual impact as the elevation from the road to the foundation is a difference of 30'.

Mr. Evans asked if there would be a 200' no cut buffer? Mr.

Counter stated that it seems appropriate.

Mr. Counter further stated that guest houses are restricted.

Mr. Ferraguzzi questioned the length of time that it would take to put the management plan in place. Mr. Counter stated up to a year.

Mr. Evans called for testimony from Town Boards. There was none.

Mr. Evans then called for proponents. Ann Herron of Edgartown stated that this proposal is very appealing as it will allow a person to go up Island and wonder, further that she is in favor of the project.

Mr. Evans then asked for opposing testimony.

Sidney Harris, Chilmark, spoke of access to the beach and questioned access without disturbing the ecology.

Mr. Evans then summarized the correspondence as in staff handout and read additional material into the record: Memo regarding Planning and Management Guidelines for the open space management plan to Tom Counter form Davis Charington. He further stated that the Chilmark Conservation Commission has submitted a letter and responds favorably to the proposal.

August 10, 1987, To: Chilmark Board of Health, From: Martin T.

Donoghue - Schofield Brothers stating - based on soil tests, test holes show soils suitable for single family dwelling waste disposal systems.

August 31, 1987, TO: Chilmark Planning Board, From: Chilmark Board of Health - Board of Health finds soil logs and perc tests adequate for subdivision.

September 16, 1987, TO: MVC, From: Chilmark Planning Board - Sending application for subdivision as DRI asking if any further information is necessary. We are trying to facilitate this as quickly as possible.

October 8, 1987, TO: MVC, From: Chilmark Planning Board - We have referred this application for subdivision to the Commission as a DRI on the basis of a "development of a contiguous ownership of thirty acres or more." We have made the referral with the full recommendation of the Planning Board for its approval. This subdivision will allow public access to Menemsha Hills Reservation and we are convinced that, under the care of Trustees of Reservation, the development will prove beneficial for the Town and Island.

October 14, 1987, To: MVC, From: Chilmark Conservation Commission -  
The Chilmark Conservation Commission has reviewed the Trustees of  
Reservation's Menemsha project. We foresee no problem with the access  
road as presented. The Commission is wholeheartedly in favor of the  
plan, since it will give public access in a carefully planned way to  
Menemsha Hills.

Mr. Morgan questioned the location of a possible 10 car parking  
lot; how the number 10 has been derived at and how will the additional  
cars be turned away. Mr. Counter stated this will be a part of the  
management plan.

As Commissioners further questioned the management plan taking up  
to a year before it is finalized, Mr. Counter explained that the sole  
purpose of this subdivision is to gain access for the public.

Mr. Sidney Harris asked how the Trustees propose to keep cars  
from using a private access which exists and is at this time being  
used. Mr. Counter again stated this is part of the management plan.

There being no further testimony Mr. Evans closed the public  
hearing and stated the record would be kept open for one week at 9:00  
P.M.

Following the close of the public hearing, no correspondence was  
received for the record.

FINDINGS AND CONDITIONS

1. The Commission has considered the application and the  
recommendation presented from the Land Use Planning Committee meeting,  
the public hearing, and discussions during its decision deliberations  
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, as conditioned 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 plan will be consistent with local development ordinances and By-laws in place at the time of the submittal.
- d. The Commission finds, as conditioned herein, that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

2. Pursuant to Section 15 of the Act, 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. Specifically, the goals and objectives of the Chilmark Master Plan and the Chilmark Open Space Plan, dated 1985, enumerate the need to preserve and enhance roadside vistas, public access and open space acquisition.

- a. THE COMMISSION FINDS THAT IN ORDER TO MAINTAIN THAT THE PROPOSED DEVELOPMENT, AS CONDITIONED HEREIN, WILL COMPLEMENT THE TOWN'S PLANS, THE APPLICANT SHALL SUBMIT A MANAGEMENT PLAN TO THE MARTHA'S VINEYARD COMMISSION AND THE CHILMARK PLANNING BOARD, IN A FORM SATISFACTORY TO THE MARTHA'S VINEYARD COMMISSION, FOR REVIEW AND APPROVAL BY THE COMMISSION AND CHILMARK PLANNING BOARD. SAID PLAN SHALL BE SUBMITTED TO THE MARTHA'S VINEYARD COMMISSION AND CHILMARK PLANNING BOARD WITHIN TWELVE (12) MONTHS OF THE APPROVAL OF THE PLAN BY THE CHILMARK PLANNING BOARD.
- b. FURTHER, THE COMMISSION FINDS THE NATURAL FEATURES OF THIS AREA TO BE UNIQUE AND THEREFORE STATES THAT THE APPLICANT SHALL PREPARE A VISUAL IMPACT ANALYSIS OF THE BUILDING SITE FOR LOTS 1, 2, 3, AND 4 TO DETERMINE APPROPRIATE DESIGN CRITERIA AND TO MINIMIZE THE VISUAL IMPACT TO THE SURROUNDING LAND. SAID ANALYSIS SHALL BE SUBMITTED TO THE MARTHA'S VINEYARD COMMISSION, IN A FORM SATISFACTORY TO THE COMMISSION, FOR REVIEW AND APPROVAL BY THE STAFF AND LAND USE PLANNING COMMITTEE OF THE COMMISSION, PRIOR TO ANY DWELLING CONSTRUCTION.

c. IF ANY SINGLE FAMILY RESIDENCE IS PROPOSED FOR LOT 4, ALSO KNOWN AS PROSPECT PLACE, THE RESIDENCE SHALL BE USED FOR CARETAKING ONLY AND THE APPLICANT SHALL SUBMIT THIS PROPOSAL TO THE LAND USE PLANNING COMMITTEE FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION OF THE RESIDENCE.

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 this Decision, apply to appropriate Town of Chilmark Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: November 12, 1987.

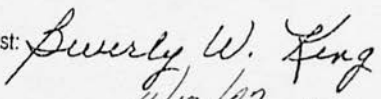
Any applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

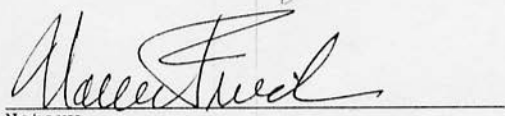
The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited therein.

Any party aggrieved by a determination of the Commission may appeal to the 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.

Edgartown, Mass. NOV 13 19 87  
at 9 o'clock and 57 minutes A M  
Received and entered with Dukes County Deeds  
book 488 page 007

  
\_\_\_\_\_  
John G. Early, Chairman

Attest:   
11/12/87 \_\_\_\_\_  
Date Register

  
\_\_\_\_\_  
Notary

11/12/87  
\_\_\_\_\_  
Date