

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557

DATE: February 16, 1989
TO: Building Inspector, Town of Edgartown
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Modification of a previous DRI Decision
APPLICANT: MSPCA
c/o Edmond G. Coogan, Esq., Agent
P.O. Box 1639
Vineyard Haven, MA 02568

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the Application of MSCPA, c/o Edmond G. Coogan, Esq., Agent, P.O. Box 1639, Vineyard Haven, MA 02568 for the construction of an animal shelter as shown on the plans entitled: "Proposed MSPCA Shelter, Edgartown, MA., prepared by Ed Cuetara, Architect, Dated December 1, 1988, Floor Plan; Elevations Dated December 6, 1988 with Wall Sections; Proposed Site Plan and Screening, Received February 6, 1989 by the MVC", consisting of seven (7) sheets; "Site Plan of Proposed Drainage Facilities, Assr. Pcl. 21-35, Edgartown Vineyard Haven Road, Edgartown, Mass., for MSPCA, c/o Ed Cuetara, Main Street, Edgartown, MA., prepared by Schofield Brothers, Inc., State Road, Vineyard Haven, MA. 02568, Dated June 1, 1987, Revised June 23, 1987 and February 6, 1989" consisting of one (1) sheet; making a total of eight (8) sheets, (The Plan).

The Decision is rendered pursuant to the vote of the Commission on February 16, 1989.

The Building Inspector of the Town of Edgartown 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.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.104. The Application was referred to the Commission by the Building Inspector of the Town of Edgartown 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 February 9, 1989 at 8:30 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

The proposal is for construction of an animal shelter and is a the modification of a previous DRI Decision in the Town of Edgartown.

Mr. Young read the MSPCA Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Greg Saxe, MVC Staff, to make his presentation.

Mr. Saxe gave the following presentation: LOCATION: Corner of Pennywise Path and Vineyard Haven Road, Edgartown. Assessor's Map #21 Lot 3.5 (0.73 acres). PROPOSAL: Request for modification of July 7, 1988 DRI decision qualifying as a DRI since the development is the subject of a previous DRI application. The site presently includes; U-shaped parking loop connecting to Edgartown-Vineyard Haven Road and Pennywise Path, a Director's House (930 sq. ft.), a clinic (2,424 sq. ft.), an animal shelter, an incinerator, one other outbuilding, and a parking area connecting buildings in the rear of the lot. The previous proposal included moving the director's house from the front

of the lot along Edgartown-Vineyard Haven Road to the site of the current shelter, outbuilding, and incinerator in the rear of the lot. The original DRI application proposed a building of over 4,000 sq. ft. The first modification was a 50% reduction in the size of the building. Due to budgetary constraints the applicant now wishes to retain the current site layout and simply replace the existing shelter and outbuilding with a modern facility at the same location within the lot. BUILDING SIZES: Existing clinic 2,424 sq. ft.; Existing residence 930 sq. ft.; Proposed Shelter 2,128 sq. ft. ACCESS: Two access/egress off Pennywise Path and one off Edgartown-Vineyard Haven Road. The former proposals to widen Pennywise Path and for egress through adjacent bank site have been abandoned. The construction of a bank drive through window has precluded this. This connection to the adjacent lot had been a condition in previous decision. PARKING: 16, including one reserved for ambulance. ZONING: Edgartown B-2 District. - Side/rear setback: Required, 20'; Shown, 22'. - Lily Pond Well Zone II Regulations: - dry goods only; - no use/storage of toxic substances; - no underground fuel storage; - no pesticides or fertilizers; - no septic systems within 1,000 feet of well; - 150 gallons wastewater per day/10,000 sq. ft. lot; - no chemical treatment of septic systems. DRAINAGE: The rear parking lot is to be paved (bituminous concrete) with one catch-basin and two leaching basins located on the eastern edge. SEWAGE PROPOSAL: - Tie into existing septic tank and leaching facility (designed 11/5/75 prior to Title IV); - Two existing cesspools on-site to be demolished; - Edgartown Board of Health mandated for this project "no new sewage system can be installed; sewage flows, limited to 650 gallons of wastewater per day; installation of sewage flow monitoring devices (i.e. effluent meter)". SITE FEATURES: SOILS: Carver Loamy Course Sand, 3 to 8% slopes, very deep, gently sloping, excessively drained, very rapid permeability. Slight limitations to septic tank absorption fields due to poor filtering capabilities. VEGETATION: Existing landscape along Edgartown-Vineyard Haven Road, consisting of lawn, mature trees, and

including ornamentals and vines will be retained. The only changes will be a small row planting to screen the incinerator from Pennywise Path. GROUNDWATER: Within Zone II area of contribution to Lily Pond municipal well. Approximately 850' to well head. Groundwater table is 13 feet below grade. Approval for hook up with Edgartown Water Company has been acquired. EXTERIOR LIGHTING: Tall pole lights shown in previous proposal have been removed from plan. CONCERNS: Retain 3 conditions from previous decision with the exception of the easement for egress via bank site. 1 - Sewage flow monitoring; Compliance with Zone of Contribution Requirements: - Allowable sewage flow for lot size $(150(31,000 \text{ sq.ft.}/10,000) = 465 \text{ gal/day})$ is exceeded due to system pre-existing the regulation. As recommended by Edgartown's Board of Health a condition in the previous decisions included a limit on sewage flow of 650 gallons per day. This limit is to be enforced with the aid of a flow meter to be installed by the applicant. - Lot is approximately 850 feet from the well-head. Septic system is therefore a non-conforming use as would be the use of toxic compounds, fertilizers, and pesticides. 2 - Animal exercising policy. 3 - Siding material (cedar shingles). After making this presentation Mr. Saxe answered questions from the Commissioners.

Mr. Jason, Commissioner, asked for the square footage of the proposed shelter in the 3 proposals? Mr. Saxe responded that the original proposal was for 4,500 sq. ft., the 1988 proposal was 2,415 sq. ft., and the current proposal is 2,128.

Ms. Colebrook, Commissioner, asked if the existing building is the same square footage as that proposed? Mr. Saxe responded that the existing shelter is approximately 2,000 sq. ft. The proposed building shows a fenced in dog area which will be constructed like a porch extension and therefore the building really isn't as large as it appears.

Mr. Evans, Commissioner, asked for an explanation of the traffic flow, isn't Pennywise Path a one way road? Mr. Saxe responded that the road is flatter and wider near the bike path and there is sufficient room for 2 cars to pass there. The traffic flow is

functional now, since the plans don't include an increase in use it should continue to function. Mr. Evans then asked about the parking provided and required? Mr. Saxe responded that the parking would remain as is.

Mr. Saxe went on to state that regarding the possibility of access/egress through the bank property, I have looked at the site and it appears that this would be physically possibility. I believe the problem would be monetary not physical.

When there were no further questions for Mr. Saxe, Mr. Young called on the applicant to make his presentation.

Mr. Coogan, agent for the applicant, stated that the MSCPA can now fiscally handle the proposal that is before you. We want to tear down the existing shelter, which is not good for the animals due to lack of individual cages and difficulty cleaning the area. In its place we want to build a facility which will address the needs of the animals including individual cages and ease for cleaning. When we originally made this proposal we proposed making changes to Pennywise Path but the neighbors didn't feel the traffic warranted these types of changes and voiced their disapproval.

When Mr. Coogan was finished Mr. Young asked if Commissioners had any questions for him, there were none. Mr. Young then called on Town Boards to present testimony, there was none. He then called on public testimony in favor of the proposal.

Margaret Hall stated she has been in favor of this proposal since the start and has filled the Gazette with articles to that effect. She feels that it is time we get this up and running so we can use the facility. She went on to state that she has 3 cats.

Joe Robichau, resident of the area, stated that it is nice to see a workable plan presented. Regarding the question on Pennywise Path, the traffic works very well as it is.

When there was no more testimony in favor of the proposal, Mr. Young called on testimony opposed to the proposal, there was none. He then called on Mr. Coogan to make a final statement, he had none other

than to applaud the audience and the statements in favor of the proposal.

There was no further questions or testimony. Mr. Young closed the public hearing at 8:50 p.m.

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 the potential impact of this proposal on the environment in comparison to alternative manners of development. Further, the Commission has considered the potential affect of this

proposal on the provision of municipal services and the burden on taxpayers in making provision there for. The Commission finds that the project site is located within the zone of contribution of the Lily Pond Well. In light of this information and the Town of Edgartown Board of Health's concerns, the Commission sets the following condition to address site evaluation of wastewater flow:

- a. NO SEWAGE/DISPOSAL SYSTEM SHALL GENERATE IN EXCESS OF 650 GALLONS OF WASTE WATER FLOW A DAY. THE APPLICANT SHALL INSTALL, AT ITS EXPENSE, AN EFFLUENT METER ACCEPTABLE TO THE TOWN'S BOARD OF HEALTH TO BE LOCATED BETWEEN THE SEPTIC TANK AND THE LEACHING FACILITY. REPORTED FINDINGS AND MITIGATION MEASURES SHALL BE SET FORTH IN AN AGREEMENT, IN A FORM SATISFACTORY TO THE COMMISSION, BETWEEN THE APPLICANT AND THE TOWN'S BOARD OF HEALTH PRIOR TO CONSTRUCTION TO EFFECT THIS CONDITION AND ASSURE PROTECTION OF THE LILY POND WELL.

FURTHER,

Pursuant to Section 15 of the Act, the Commission has considered the question of whether the proposed development will favorably or adversely affect other persons and property, and if so, whether because of circumstances peculiar to the location, the effect is likely to be greater than is ordinarily associated with the development of the types proposed.

The Commission finds that the proposed development is visible from the Edgartown - Vineyard Haven Road, a bicycle path extends along the length of the northerly property line and the proposal abuts a residential neighborhood. In light of these considerations, the Commission sets the following conditions:

- a. CEDAR SHINGLES SHALL BE USED ON THE EXTERIOR OF THE M.S.P.C.A. SHELTER BUILDING FOR CONSISTENCY WITH OTHER BUILDINGS IN THE NEIGHBORHOOD.
- b. ANIMALS SHALL ONLY BE EXERCISED ON THE APPLICANT'S PROPERTY OR WITHIN THE STRUCTURE.


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 Edgartown 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: February 16, 1989.

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.


John G. Early, Chairman

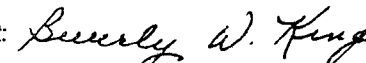
2/16/89
Date


Notary

2/16/89
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
My commission expires Nov 2, 1990

Edgartown, Mass. Feb. 17, 1989
at 9 o'clock and 15 minutes A M
Received and entered with Dukes County Deeds
book 516 page 445

Attest: 
Register