

THE MARTHA'S VINEYARD COMMISSION

BOX 1417
OAK BLUFFS
MASSACHUSETTS
02557

DATE: July 12, 1990
TO: Conservation Commission, Town of Tisbury
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Dredging in Lake Tashmoo
APPLICANT: Department of Environmental Management
Division of Waterways
Eugene Cavanaugh, Director
100 Cambridge Street
Boston, MA 02202

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves the Application of the Department of Environmental Management, Division of Waterways, Eugene Cavanaugh, Director, 100 Cambridge Street, Boston, MA 02202 for dredging in Lake Tashmoo, Tisbury as shown on the plans entitled: "Proposed Harbor Improvements Channel Dredging, Lake Tashmoo, Tisbury, Plan & Detail, prepared by the Department of Environmental Management, Division of Waterways, dated May, 1989", consisting of one (1) sheet; and "Notice of Intent Under the Massachusetts Wetlands Protection Act, G.L. c. 131, s. 40 and Application for a Department of Army Permit and a Filing under the Tisbury Wetlands By-Law, Applicant: Department of Environmental Management, Division of Waterways, dated June 1, 1989", making a total of one (1) sheets and the Notice of Intent, (the Plan).

The Decision is rendered pursuant to the vote of the Commission on July 12, 1990.

The Conservation Commission of the Town of Tisbury may now grant the necessary development permits for the Applicant's proposal or may approve and place 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 3.501. The Application was referred to the Commission by the Conservation Commission of the Town of Tisbury for action pursuant to Chapter 831, Acts of 1977, as Amended, (the Act). The Application and Notice of public hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record 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 June 14, 1990 at 8:00 P.M. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

The proposal is for dredging of Lake Tashmoo qualifying as a DRI since the proposal is for development within a water body or Great Pond of 10 acres or more.

The proposal is for harbor channel dredging of Lake Tashmoo, Tisbury, MA, with the dredged material to be deposited on the east beach for maintenance of the beach. Any additional material to be used to cover the dunes on the south side and then the area to be covered by American Beach Grass. The proposal includes 4.1 acres of dredging spoil or 38,000 cubic yards of material.

The proposal is located at the Lake Tashmoo opening and involves dredging waters adjacent to the following four lots: Assessor's parcels Map # 32-A-1.2, 32-B-1, 32-C-1, and 32-D-1. Map # 32-C-1 to and including 32-C-8.1 are to be used for dredging spoils and Map # 32-D-1 to and including #32-D-8.1 as a backup for spoils. The access to this proposal is across private road through Map # 31-B-4.2 and 31-B-5 over which the Town has use to reach Town owned beach in Map #32 - C-1 and 32-D-1.

This proposal falls with the Coastal District and is subject to Tisbury Zoning By-Law 09.01.02. Adjacent and surrounding land uses

include recreational and residential use, summer homes only. The soils in this area include udipsammments-beaches-Pawcatuck which are undulating or rolling, very deep, excessively drained, sandy soils composed of windblown deposits, nearly level beaches; and nearly level, very deep, very poorly drained mucky peat formed in organic deposits; along coastal shorelines.

Permits required for this proposal include a Chapter 91 dredging permit which has been obtained, a Coastal Zone Management Permit, which has been obtained, Wetlands Protection Act Permit (c.131, s.40) and permit from the Tisbury Conservation Commission. MEPA permit is not required.

The entrance of Lake Tashmoo has silted in causing vessels to run aground at low tides. The shellfish beds have not received adequate flushing also caused by the reduced flow of water into the pond. The dredging spoils are determined to be of type A classification and clear of contamination. The Natural Heritage and Endangered Species Program, Division of Fisheries and Wildlife, noted that the area is a nesting area for Least Terns and the proposal should be carried out so as not to interfere with that nesting. The applicant has agreed to coordinate with the Mass. Audubon Society and Felix Neck Wildlife Sanctuary toward that end.

Therefore, in light of the evidence presented in the course of the public hearing and the materials received into the record, the Commission finds that the probable benefits from this proposed development will exceed its probable detriments.

FINDINGS AND CONDITIONS

The Commission has considered the application and the recommendation presented from the Land Use Planning Committee meeting, the public hearing, and discussion during its decision deliberations and based upon such considerations, makes the following findings.

- a. PURSUANT TO SECTION 15 OF THE ACT, THE COMMISSION FINDS THAT THE DEVELOPMENT AT THE PROPOSED LOCATION IS ESSENTIAL AND ESPECIALLY APPROPRIATE.

- b. PURSUANT TO SECTION 15 OF THE ACT, THE COMMISSION FINDS THAT THE DEVELOPMENT IN THE MANNER PROPOSED WILL HAVE A MORE FAVORABLE IMPACT ON THE ENVIRONMENT IN COMPARISON TO ALTERNATIVE MANNERS OF DEVELOPMENT.
- c. PURSUANT TO SECTION 15 OF THE ACT, THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL FAVORABLY AFFECT OTHER PERSONS AND PROPERTY.
- d. PURSUANT TO SECTION 15 OF THE ACT, THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL FAVORABLY AFFECT THE PROVISION OF MUNICIPAL SERVICES AND THE BURDEN ON TAXPAYERS IN MAKING PROVISIONS THERE FOR.
- e. PURSUANT TO SECTION 15 OF THE ACT, THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL AID THE ABILITY OF THE TOWN TO ACHIEVE THE OBJECTIVES SET FORTH IN THE TOWN'S GENERAL PLAN.

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.

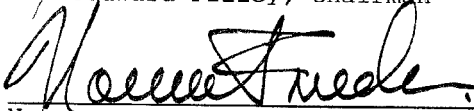
The Applicant must, consistent with this Decision, apply to appropriate Town of Tisbury Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: July 12, 1990.

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.


 J. Woodward Filley, Chairman

7/12/90
 Date


 Notary

7/12/90
 Date

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NORMAN FRIEDMAN
NOTARY PUBLIC
 My commission expires Nov 2, 1990

July 12 1990
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Test: 
 Registrar