

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557

DATE July 25, 1991
TO: Planning Board, Town of Chilmark
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Subdivision of land
APPLICANT: Cape Cod Company, Squibnocket Ridge
c/o Vineyard Land Foundation - Mark Racicot
Box 319X RFD
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 Cape Cod Company, Squibnocket Ridge, c/o Vineyard Land Foundation - Mark Racicot, Box 319X, RFD, Vineyard Haven, MA for subdivision of land as shown on the plans entitled: "Squibnocket Ridge", "Plan of Land in Chilmark, MA, surveyed for the Cape Cod Company, c/o Vineyard Open Land Foundation, by the Vineyard Land Surveying, Box 1548, Vineyard Haven, MA", dated January 22, 1991, consisting

of six (6) sheets; Vegetation Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated February 1, 1990, consisting of one (1) sheet; Soils Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated March 4, 1991, consisting of one (1) sheet; Base Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated March 4, 1991, consisting of one (1) sheet; Drainage and Watershed Map, Definitive Plan for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated February 7, 1990, consisting of one (1) sheet; Maximum Development Plan,

Option I, for the Cape Cod Company Property, Chilmark, MA, prepared by the Vineyard Open Land Foundation, Vineyard Haven, MA, 1"=100'+/-, dated November 3, 1989, consisting of one (1) sheet, making a total of eleven (11) sheets, (The Plan).

This Decision is rendered pursuant to the vote of the Commission on July 25, 1991.

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 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 3.201. 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 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 May 9, 1991 at 7:30 P.M. at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

The proposal is for a Subdivision of land qualifying as a DRI since the proposal is a contiguous ownership of 20 acres or more and proposes to divide the land into 10 or more lots.

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the hearing for testimony at 7:45 p.m., described the order of the presentations for the hearing, and asked for the applicant's

presentation.

Mark Racicot introduced himself as the Executive Director of the Vineyard Open Land Foundation (VOLF). He described the Cape Cod Company as a family partnership that expanded to include several families. He discussed the history of the land being in Hornblower ownership since 1920 and the sales to other families in 1980. He described the intent of the proposal as serving the needs of the existing owners by providing house lots and settling the estate of 2 deceased owners. Mr. Racicot stated that VOLF has been working for 4 years to come up with an environmentally sensitive plan and that they had been discussing this with the Chilmark Planning Board for 3 years. He discussed the fact that the owners agreed to put their plans on hold when the Town put a subdivision and building moratorium for the Squibnocket district. He discussed their cooperation in the study including allowing access, providing test well data and environmental impact review information. He stated the Chilmark Planning Board has been reviewing this plan for the past 9 months to work out the details for the final plan.

Mr. Racicot then reviewed the maps on displays noting particular points of interest including the location; acreage; proposed building sites; existing structures; density; roads; elevations and type of land forms; soils and suitability for septic; watershed divides; direction of flow for surface and groundwater; test wells drilled and existing well locations; well production and water potability; septic test holes; septic separations; possible variances by future owners to provide mounded instead of pumped septic systems; siting of homes to reduce intrusion on views; wetlands; plant and animal habitats; inventory work performed; species location; proposed wildlife and plant habitat protection areas; plant and habitat management plans; rare species existing on-site and proposals to move species to protected areas. He discussed the traffic as it relates to this proposal and existing uses surrounding the site.

Mr. Racicot then discussed the mitigations measures proposed

which are outlined in the EIS including: road design, swales and grass ditches to manage run-off; building zones which would include houses, lawns, parking; designated rare plant management zones which will be managed with under recommendations of the Mass. Natural Heritage Program; limiting the number of residential structures and any further subdivision; preserving the agricultural heritage of lots 17 & 25; habitat protection in non-residential lots, open space and passive recreation, potential for agricultural use, discussed acreage of non-residential use; architectural review process within the Homeowners Association; affordable housing proposal for 2 lots off-site and alternative for 3.3 acre beach lot in Menemsha; preservation of archeological sites according to the Mass. Historic Commission; changing routes to beach access per Town requests, gates to prohibit vehicular traffic; management of beach, no beach clubs, owners and guests only; allowing floating roadway on lot 20 to allow access to Town beach. Mr. Racicot stated there are no letters of correspondence from the Fire or Police Chiefs but I have talked to them both and they have no problems with the plan and see no notable impact on their departments.

Mr. Schweikert then called for a staff review.

Bill Wilcox, MVC Staff, stated that the Environmental Impact Review prepared by the applicant is all inclusive. The site is complex but the amount of information is good and shows that a successful sewage disposal and water supply system can be done. He reviewed the staff notes including the breakdown of acreage as follows: 153 acres for house lots; 133 acres for open space and 102 acres for beach. He discussed the density of the proposal, the Squibnocket district and Town by-laws. He discussed the possibility of mounded systems instead of pumped systems on the 3 larger lots and stated pumped systems could be done and that either way it is not a water quality problem more an engineering situation. He discussed the pump tests indicating the aquifer is good and the drainage and contour lines for the site. He

discussed the open space, the good density and the minimizing of the impacts on the ponds. He stated that Mark Racicot has covered everything and I agree with it.

Mr. Schweikert then called for Commissioners questions.

Questions for the Commissioner covered the following topics: drinking water quality, response was iron is high but that is an aesthetic problem not a health problem; percentage of land that is potentially buildable, unsure exactly but more than proposed; any dry wells found, a couple dry and a couple that couldn't meet 5 gallon per minute requirement, water can be found for all lots however; results of water quality study on Squibnocket done by Woods Hole Oceanographic Institution, used data in EIR, showed negligible impact on pond; status of pond now, healthy but low salinity, too many waterfowl for shellfish production; nature of archeological sites, discussed shell middens and other sites; power lines, existing overhead, new will be underground; maintenance of habitats, probably mowing, per recommendations of Natural Heritage Program; discussion of possible donation of Menemsha lot and its statistics, stated is in Chilmark Master

Plan to acquire beach east of public landing, request Commission let Town determine which option to exercise; guesthouses, not allowed, lots over 6 acres can have 2 structures according to regulations; clearing outside building envelopes, Squibnocket Pond Advisory Committee would deal with soil erosion and agricultural uses, Homeowners Association would deal with land clearing; Town beach, lease for 99 years began in 1950 for \$2,000, paid in full, town manages for residents of Town only, full now in summer can't be expanded; possible agricultural expansion of open space; relocation of plants; protection of tiger beetle and piping plover on beach through restriction of vehicular use and no beach clubs or selling of interests, to keep use low; formal recreational facilities, i.e. tennis courts, would be allowed within building zone if allowed under Squibnocket regulations but not thought to be necessary by owners; discussion of abutting properties and their uses; and

hopes to allow continued access for Christmas Bird Count.

When there were no further questions, Mr. Schweikert called for Town Board testimony.

Russell Walton, Chilmark Planning Board and Conservation Officer, testified that he had confirmed the wetlands locations and that the Town has worked with the applicants on this proposal. He stated that some think it is a reasonable density for the area and some would just rather see nothing there at all. I am pleased to see that Great Island has no new house sites proposed. He discussed the fact that some Planning Board members were disturbed by the long barrier beach access, he stated that it may be inaccessible during major storms. In closing he stated that he thinks they have done a very good job working within the limits that were available.

Ms. Bryant asked Mr. Walton how the Planning Board feels about the affordable housing proposals? Mr. Walton replied that they want at least 1 Chilmark Youth Lot. The proposal for the Menemsha land was discussed but not as a complete replacement for affordable housing lots.

There was some discussion of possible waterfowl management plans.

Edmund Knapp, Chilmark Conservation Commission, testified that it is their opinion that they have done an excellent job with this plan, it is a nice plan that minimizes the impact of the division of this property.

Mr. Walton testified again as a member of the Soil Conservation District by saying that he is glad to see more agricultural use planned for this area.

James Hornblower, one of the owners of the property, testified that it is comforting to hear all the good comments. This was a very in-depth study and I'd like to recognize the work of VOLF and the Planning Board. I look forward to approval at your level.

Carol Knapp, testified as a member of the Garden Club, by stating that if everyone did as in-depth a study as this it would

be wonderful for the Vineyard. She discussed the inventory work done by the Garden Club and stated that the plan deserves the Commission's consideration.

John Hornblower, partial owner, testified that the depth and thoughtfulness of the application exemplifies the way the feel about this land.

When there was no further testimony in favor of the proposal, Mr. Schweikert called for testimony opposed. There was none. Mr. Schweikert called for any further questions.

Commissioners questioned including discussion of a hydrant lot, the applicant stated that the Fire Chief didn't request one feeling he had adequate access to water on-site; swan control; traffic, including trips per day, no further subdivision, Squibnocket Beach Club generations, and access roads; agricultural use and potential for increase; allowance of farm buildings and applicant's intent to restore existing barn; intent of applicants to continue agricultural use including bee keeping.

When there was no further testimony or questions, the hearing was closed at 9:35 p.m. with the record remaining open for one week for written testimony.

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, in light of the conditions and limitations specified below.

FINDINGS AND CONDITIONS

The Commission has considered the application and the information presented at the public hearing and based upon such considerations, 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 of Tisbury or any general plan of the County of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plans, and subject to the conditions set forth herein, 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 development occurring in alternative locations.

Pursuant to Section 15b of the Act, the Commission has considered whether the development in the manner proposed will have a more favorable or adverse impact appropriate on the environment in comparison to alternative manners of development and in light of the considerations discussed in the record and within the Decision, the Commission sets the following conditions:

Alternate A. THE APPLICANT SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND AN APPROVED SEPTIC SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE TOWN OF CHILMARK TO BE USED AS A PART OF THE TOWN RESIDENT HOMESITE PROGRAM AND IN ADDITION, SHALL PROVIDE THE SUM OF TWO HUNDRED THOUSAND DOLLARS (\$200,000) PAYABLE OVER A FIVE (5) YEAR PERIOD TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR THE PURPOSES OF PROVIDING AFFORDABLE HOUSING IN THE COUNTY OF DUKES COUNTY.

Alternate B. THE APPLICANT SHALL PROVIDE A BUILDABLE LOT COMPLETE WITH A WELL AND AN APPROVED SEPTIC SYSTEM DESIGN IN THE TOWN OF CHILMARK TO THE

TOWN OF CHILMARK TO BE USED AS A PART OF THE TOWN RESIDENT HOMESITE PROGRAM AND IN ADDITION, SHALL OFFER TO THE TOWN OF CHILMARK THE LOT IN MENEMSHA KNOWN AS THE "BEACH LOT" FOR THE PURPOSES OF PUBLIC BEACH ACCESS AND USES AND IN ADDITION SHALL PROVIDE THE SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) PAYABLE OVER A FIVE (5) YEAR PERIOD TO THE DUKES COUNTY REGIONAL HOUSING AUTHORITY FOR THE PURPOSES OF PROVIDING AFFORDABLE HOUSING IN THE COUNTY OF DUKES COUNTY.

and Further,

SHOULD THE TOWN OF CHILMARK NOT ACCEPT THE LOT IN MENEMSHA KNOWN AS THE "BEACH LOT" WITHIN A PERIOD OF TWO (2) YEARS FROM THE DATE OF THIS DECISION, THEN THE PROVISIONS OF ALTERNATIVE A SHALL APPLY.

and Further,

THE APPLICANT SHALL COMPLY IN FULL WITH THE TERMS OF THE PROGRAM TO BE DESIGNED AND ADMINISTERED BY THE MASSACHUSETTS HISTORICAL COMMISSION FOR THE PURPOSE OF PRESERVATION AND PROTECTION OF AREAS WHICH THE MASSACHUSETTS HISTORICAL COMMISSION DEEMS TO BE OF ARCHEOLOGICAL CONCERN WITHIN THE PROPOSED DEVELOPMENT AND FURTHER, THE APPLICANT SHALL HAVE A QUALIFIED PERSON, DESIGNATED BY THE MASSACHUSETTS HISTORICAL COMMISSION, ON-SITE AT THE TIME OF THE START-UP OF ANY EXCAVATIONS.

and Further,

THE COMMISSION ACCEPTS THE APPLICANT'S PROPOSAL TO PROVIDE, VIA COVENANT, PROTECTION FOR ALL KNOWN ARCHEOLOGICAL SITES AS WELL AS FOR ANY NEWLY DISCOVERED ARCHEOLOGICAL SITES.

and Further,

THE APPLICANT SHALL COVENANT THAT THE SEPTIC TANKS SHALL BE CLEANED AND PUMPED OUT AT THREE (3) YEAR INTERVALS TO ENSURE PROPER FUNCTIONING OF THOSE SYSTEMS.

and Further,

THAT SHOULD A PROGRAM OF FARM FIELD REHABILITATION BE UNDERTAKEN, THEN SAID REHABILITATION SHALL BE BASED ON SOIL CONSERVATION SERVICE AND/OR COUNTY EXTENSION SERVICE PLANS AND ADVISE AND THAT ALL GROUND DISTURBANCE OF GREATER THAN ONE (1) ACRE SHALL HAVE AN EROSION CONTROL PLAN DEVELOPED AND SUBMITTED TO THE CHILMARK PLANNING BOARD.

and Further,

THE APPLICANT SHALL PROVIDE INFORMATION REGARDING THE SEASONAL GROUNDWATER LEVEL IN THE AREAS OF THE PROPOSED BACKING FIELDS IN A FORM SATISFACTORY TO THE CHILMARK BOARD OF HEALTH TO INDICATE THAT WATER LEVELS MEET THE REQUIREMENTS OF THE SQUIBNOCKET DISTRICT REGULATIONS.

and Further,

THE APPLICANT SHALL WORK COOPERATIVELY WITH THE TOWN OF CHILMARK ON ANY SHORELINE EROSION CONTROL MEASURES IN THE VICINITY OF THE TOWN BEACH IN ORDER TO MINIMIZE OFF-SITE SEDIMENTATION, EROSION OR ANY CHANGES IN WAVE OR CURRENT PATTERNS.

and Further,

THE APPLICANT SHALL DEVELOP A MAINTENANCE PLAN OR SCHEDULE IN CONJUNCTION WITH THE MASSACHUSETTS NATURAL HERITAGE PROGRAM FOR THE PROPOSED RARE PLANT ZONES AND INDIGENOUS ANIMAL HABITATS AND SAID MAINTENANCE SCHEDULE

SHALL BE FILED WITH THE CHILMARK CONSERVATION
COMMISSION.

and Further,

THE APPLICANT SHALL LIMIT THE USE OF THE
BEACH IN THE AREA OF THE PROPOSAL BY 4-WHEEL
DRIVE VEHICLES TO PROTECT THE ENDANGERED
SPECIES IN THE AREA.

THAT THE COMMISSION ACCEPT THE APPLICANT'S
OFFER TO ALLOW CONTINUED ACCESS FOR THE
OFFICIAL BIRD COUNTS AND BANDINGS BY
ORGANIZATIONS WHO HAVE HERETOFORE PERFORMED
SUCH COUNTS AND WITH THE DUTY OF SUCH COUNTS.

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: July 25 , 1991.

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 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.

Jane A. Greene
Jane A. Greene, Chairman

7/29/91
Date

Norman Friedman
Notary

7/29/91
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT 10, 1997

Subscribed and sworn to before me on _____ day of _____, 1991.
I, _____, Notary Public for the State of _____, do hereby certify that the foregoing is a true and correct copy of the original as the same was presented and compared with the original before me.
Book _____ Page _____
Notary _____
Witness _____