

THE MARTHA'S VINEYARD COMMISSION

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DATE: May 21, 1992
TO: Conservation Commission, Town of Edgartown
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: dredging
APPLICANT: Edgartown Ponds Area Advisory Committee
c/o J. E. MacKenty
P.O. Box 6
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 Edgartown Ponds Area Advisory Committee, c/o J.E. MacKenty, P.O. Box 6, Edgartown, MA, for the dredging of some 1,577 \pm cubic yards of materials from Wintucket Cove in Edgartown Great Pond as shown on the plan entitled: "Plan of Wintucket Cove Opening Shoals, for John MacKenty, Edgartown, Massachusetts; undated; Vineyard Land Surveying, P.O. Box 421, West Tisbury, Massachusetts;" John R. Lolley, Jr. P.E.; consisting of one (1) sheet, (the Plan).

This Decision is rendered pursuant to the vote of the Commission on May 21, 1992.

The Conservation Commission 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 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 3.501. The Application was referred to the Commission by the Conservation Commission 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 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 7, 1992 at 8:00 P.M. at the Martha's Vineyard Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

The proposal is for the dredging of some 1,577 \pm cubic yards of materials from Wintucket Cove qualifying as a DRI since the proposal is within the waters of a body of water of 10 acres or more.

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing notice and opened the hearing for testimony at 8:10 p.m.

Mr. Schweikert called upon the applicant for his presentation.

John MacKenty, Edgartown Ponds Advisory Committee, explained the proposal. He noted that there had been a serious milfoil problem due to lack of mixing of fresh and salt waters. He indicated that the spoils would be placed along the immediate shoreline.

Mr. Schweikert then called for staff presentation.

Ms. Taylor, MVC staff, discussed the proposal and its effects. She discussed the issue of water quality with respect to the various adopted plans of the Town, the region and the MVC. She also indicated that the riparian owner had given her approval of the project. She then discussed the different means of dredging, hydraulic vs. mechanical and that mechanical had been proposed for use.

Ms. Taylor felt that a possible condition for consideration was one of having the Shellfish Constable aware of and on site at the time the work was done. She also offered a recommendation

for consideration and that was to have any monitoring results of the project forwarded to the MVC for the files.

Mr. Schweikert called for Commissioner questions.

Ms. Marinelli questioned the time of year for the work to be done.

Mr. MacKenty indicated that it would be done as soon as all permits were in place, summer or fall and after an opening.

A discussion of whether there were shellfish present and whether there would be problems during spawning season followed.

A discussion of this matter followed.

Mr. Colaneri discussed the use of mechanical means of dredge and the fact that there would be minimal effect.

Mr. Sullivan felt the proposal would benefit the pond.

Mr. Schweikert called for testimony from Town boards.

Tom Wallace, Chairman of the Ponds Committee, discussed the time involved in studying the issue and felt that the benefits outweighed the detriments.

Mr. MacKenty indicated that there were letters in the file from the Shellfish Committee and the Edgartown Marine Advisory Committee endorsing the project.

Mr. Schweikert called for proponents - there were none. He then called for opponents - there were none.

Mr. Schweikert called for any final comments.

Mr. Donaroma asked who would be monitoring the project. Mr. Wallace indicated that as applicants, the Ponds Committee would be responsible to see that it is done right. A discussion of this matter followed.

Mr. Schweikert called for any other comments - there were none.

There being no further testimony, the hearing was closed at 8:22 p.m.

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 Edgartown 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 15 (b) of the Act, the Commission has considered whether the development in the manner proposed will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and in light of said consideration has set the following condition:

IN ORDER TO ENSURE AS LITTLE DISTURBANCE AS POSSIBLE TO SHELLFISH HABITAT IN THE AREA, THE APPLICANT SHALL NOTIFY THE EDGARTOWN SHELLFISH CONSTABLE AT LEAST SEVEN (7) DAYS PRIOR TO THE COMMENCEMENT OF WORK IN ORDER FOR HIM TO BE ON-SITE AT THE START OF SAID WORK.

In light of the testimony taken at the Public Hearing and the discussion subsequent thereto, and pursuant to Section 15 (b) of the Act, the Commission does strongly recommend to the Applicant that a program of monitoring the results and effects of

the completed dredging be established for several years and any reports forthcoming from said monitoring be submitted to the Commission for inclusion in the record.

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: May 21, 1992.

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

5/21/92
Date

Norman Friedman
Notary

5/21/92
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 10, 1997

Edgartown, Mass. May 21 1992
at 8 o'clock and 40 minutes A M
Received and entered with Dukes County Deeds
book 581 page 041

Beverly W. King