

## THE MARTHA'S VINEYARD COMMISSION

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DATE: June 16, 1994  
 TO: Planning Board, Town of Chilmark  
 FROM: Martha's Vineyard Commission  
 SUBJECT: Development of Regional Impact  
 RE: Modification of Previous DRI Decision  
 APPLICANT: Flanders Farm Corp (aka North Tabor Farm)

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 DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application for the modification of a previous Development of Regional Impact (DRI) of Flanders Farm Corp. (the Applicant).

The Development of Regional Impact (DRI) previously approved with conditions by the Commission and for which said modification has been requested is the division of land as shown on the plans entitled "Definitive Plan of Flanders Farm, Chilmark, Mass, dated April 22, 1987; MVC File #248, Approved with Conditions on June 11, 1987", and recorded in the Dukes County Registry of Deeds, Book 477, Page 848 through Page 856.

This Decision is rendered pursuant to the vote of the Commission on June 16, 1994.

The Planning Board of the Town of Chilmark may now grant the request of the Applicant in accordance with the conditions contained herein or may grant the request of the Applicant in accordance with the conditions contained herein and may place further conditions thereon or may deny the request of the Applicant for a modification.

Facts

The proposed modification is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.102. The Application was referred to the Commission by the Planning Board of the Town of Chilmark for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and Notice of Public

Hearing relative thereto are incorporated into the record contained herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

The proposal is for the modification of a previous Decision qualifying as a Development of Regional Impact since the proposal is an amendment or modification to a previously approved DRI application.

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 said Chapter 831 on Thursday, May 19, 1994 at 8:00 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

A summary of the testimony submitted at the hearing is provided as Exhibit A attached hereto. This summary is for the convenience of the reader only and was not relied upon by the Commission in reaching its decision in this matter.

#### Findings and Conclusions

The Commission has considered the Application for Modification and the information presented at the public hearing and based upon such considerations, makes the following findings pursuant to Section 15 of the Act and the Regulations of the Martha's Vineyard Commission, Section 2.500(5)(b) Modification of a Previous DRI Decision.

The Decision of the Martha's Vineyard Commission, dated June 11, 1987, and recorded in the Dukes County Registry of Deeds, Book 477 Page 848 through Page 857 is hereby amended as follows:

Following Condition 3b insert a new paragraph as follows:

- c. THAT THE APPLICANT SHALL PLACE IN AN ESCROW ACCOUNT WHICH SHALL BE ADMINISTERED BY THE CHILMARK FARM COMMITTEE THE SUM OF FIFTEEN THOUSAND DOLLARS (\$15,000) TO BE KNOWN AS THE "FARMERS FUND" TO BE USED FOR THE PURPOSES OF ENSURING THAT THE FARMING PROPOSAL ACCEPTED BY SAID CHILMARK FARM COMMITTEE SHALL BE CARRIED OUT; and

Further

THAT A SUM OF MONEY OR EQUIVALENCY THAT WOULD EQUAL THE EQUIPMENT LISTING AS SUBMITTED BY THE APPLICANT AND AGREED TO BY THE CHILMARK FARM COMMITTEE SHALL BE PLACED IN A SEPARATE

ESCROW ACCOUNT, ALSO TO BE ADMINISTERED BY SAID CHILMARK FARM COMMITTEE FOR THE PURPOSES OF ENSURING THAT THE PROVISION OF SAID EQUIPMENT LIST SHALL BE CARRIED OUT; and

Further

THAT ONCE THE TOWN OF CHILMARK HAS SUBMITTED WRITTEN PROOF OF THE EXISTENCE OF SAID ESCROW ACCOUNTS, THEN THE MARTHA'S VINEYARD COMMISSION SHALL TAKE THE NECESSARY STEPS TO ISSUE A CERTIFICATE OF COMPLIANCE TO SAID APPLICANT.

The Applicant is hereby advised that the conditions as contained in the original decision of the Martha's Vineyard Commission dated April 22, 1987 shall remain intact and unaltered.

The Commission finds that the proposed development modification is consistent with local ordinances and by-laws to the extent it is required to, only the application being before it at this time.

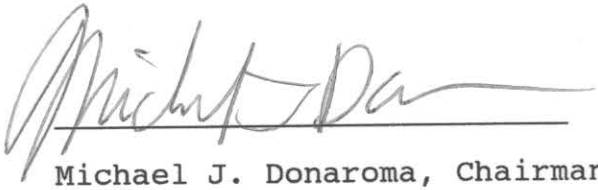
The Applicant must, consistent with this Decision, apply to appropriate Town of Chilmark Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: June 16, 1994.

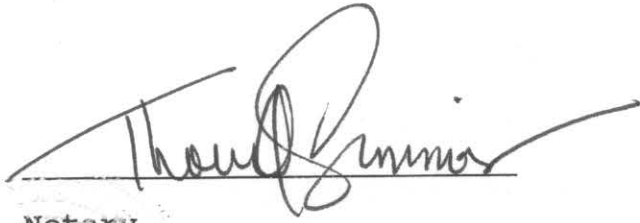
Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

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

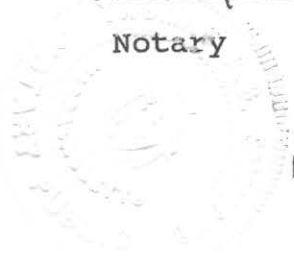
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.

  
Michael J. Donaroma, Chairman

6-16-94  
Date

  
Notary

6/16/94  
Date



Thomas R.G. Simmons  
Notary Public  
My Commission Expires August 11, 2000

SUMMARY OF THE HEARING TESTIMONY (5/19/94)

The Martha's Vineyard Commission held a public hearing on Thursday, May 19, 1994 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: North Tabor Farm  
c/o Harold Brown  
Hamilton Realty Co.  
39 Brighton Avenue  
Allston, MA 02134

Location: off North Road and Tabor House Road  
Chilmark, MA

Proposal: Request for modification of a previous DRI decision; the request having been deemed a significant change by the MVC.

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the hearing for testimony, at 8:05 p.m. She called upon the applicant for his presentation.

Mr. Hehre described the farmer selection process that had been recently used, and the details of the pending purchase and sales agreement. He discussed the creation of a \$15,000 Farmer's Fund to be administered by the Farm Committee, said fund to cover improvements that are yet to be made on the property. He discussed the proposed changes in use, and stated that they were consistent with sound agricultural practices.

Ms. Sibley called for a staff report.

Mr. Wilcox reiterated the interview process for the farm. The Farm Committee is happy with the candidate and the five-year plan is realistic. Mr. Brown's offer of \$15,000 to replace crops that were not planted originally is seen as fair by the Committee. He raised a question as to the timing of the creation of the fund.

Ms. Sibley called for questions from Commissioners.

Mr. Hall asked why the MVC issued a Certificate of Non Compliance on this property.

Ms. Greene explained that the original decision required immediate plantings of blueberries and grapes and this has not been done.

Ms. Riggs asked what kinds of crops would be raised. Mr. Wilcox responded cut flowers, blueberries, fruit trees, shitake mushrooms, vegetables and herbs.

Mr. Colaneri questioned the extent of additional negotiations needed to make the plan go forward.

Mr. Wilcox responded that the only item left was how and when the \$15,000 would be forthcoming. He stated that Mr. Brown has agreed to provide a list of equipment to be included in the purchase as well.

Mr. Hehre stated that he has requested Letters of Intent in order to identify when those acts would take place. He stated that the bank has suggested that on the day of closing, that certain funds be held in escrow for the Farm Committee. Mr. Hehre replied "basically".

Mr. Hall asked if the applicants met affordable housing criteria. Mr. Hehre said yes. He added that the lot is being sold at the price set by the Housing Authority.

Ms. Greene asked about the relationship between the \$15,000 Funds and the disposition of the tractor and the other farm equipment.

Mr. Jason asked how much would be set aside. Mr. Hehre stated that they have not yet identified which equipment would be appropriate. Mr. Brown will supply the equipment, but it should be prudent.

Mr. Jason asked what Mr. Brown was supplying. Mr. Hehre

said a tractor with implements, a brush cutter, a rototiller, and a chain saw.

Mr. Wilcox stated that the Farm Committee is in receipt of a letter from Mr. Brown prior to those proceeding listing equipment that he would provide.

Mr. Jason and Ms. Greene requested that the letter be submitted as part of the record.

Mr. Early asked if this list would specify capacity and size of the equipment. General discussion followed. Mr. Hehre believed that the value of the items would be around \$14-15,000.

Mr. Colaneri asked if we could put specific equipment requirements in the decision. Ms. Greene said yes. Mr. Wilcox retrieved the letter containing the equipment and it was read into the record. It was noted that the barn and the fence had not been included in the present list. Mr. Wilcox stated that the barn was significantly smaller than the dimensions stated in the letter.

Mrs. Sibley called for testimony from town boards.

Alex Preston, Chairman of the Chilmark Planning Board, stated that Mr. Wilcox has covered the issues that concerned the Planning Board.

Ms. Sibley called for public testimony in favor of the proposal.

Matthew Dix, the farmer selected to purchase the lot, said that everyone has put over a year of time working on this plan, and he believed the entire plan would work well.

Ms. Sibley called for public testimony in opposition to the proposal. There was none.

Ms. Sibley called for general public testimony.

Gertrude Shea, an abutter, raised a question about what will happen to the fields. She also expressed concern over previous use of the lots, asked whether the new farmers will be permanent residents, and asked if the farm could be resold in a few years.

Mr. Sullivan stated that uses were governed by town zoning laws. Mr. Jason responded that the lot could be sold as an affordable farm lot, but not at market value. General discussion followed.

Russell Walton stated that this situation matched what was originally intended.

Pam Goff, a Chilmark Selectman, stressed the importance of the Farm aspect of this subdivision and is glad to see an affordable home and a working farm there.

Ms. Sibley asked the applicant to summarize. Mr. Hehre reiterated the lengthy process used to arrive at this plan.

There being no further testimony the hearing was closed at 9:00 p.m.

Edgartown, Mass. June 29, 1994  
 at 8 o'clock and 32 minutes AM  
 received and entered with Dukes County Deeds  
 book 636 page 578

Attest: Beverly W. King  
 Register