

THE MARTHA'S VINEYARD COMMISSION

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DATE: April 6, 1995
TO: Conservation Commission, Town of Edgartown
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: construction of a shellfish nursery on Land
Bank property on Chappaquiddick
APPLICANT: Martha's Vineyard Land Bank Commission
Martha's Vineyard Shellfish Group, Agent
PO Box 1552
Oak Bluffs, MA 02557

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with conditions, the granting of permits for development contained in the Application of the Martha's Vineyard Land Bank Commission, Martha's Vineyard Shellfish Group, Agent, PO Box 1552, Oak Bluffs, MA, as shown on the plans entitled: "Chappy Point Beach, Edgartown, MA, Exhibit A., scale 1"-100', February 1995, Martha's Vineyard Land Bank Commission", consisting of one (1) sheet, plus, "Profile of Proposed Water Exchange, Plan of Land for Martha's Vineyard Shellfish Group, Prop. Chappaquiddick Nursery, March 17, 1995, Site Engineering Associated, PO Box 261A, Gay Head, MA, #4 Cross Section Map", consisting of one (1) sheet, totalling two (2) sheets, (the Plan).

This Decision is rendered pursuant to the vote of the Commission on April 6, 1995.

The Conservation Commission of the Town of Edgartown may now grant the request for approval of the Applicant's proposal in accordance of this Decision or may grant the request for approval and may place conditions thereon in accordance with applicable laws or may deny the request for approval.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.601. 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 on Thursday, April 6, 1995 at 7:30 pm in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The hearing was closed the same night.

The proposal is for the construction of a shellfish nursery on Land Bank property on Chappaquiddick in Edgartown, MA.

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

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, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT. (SECTION 14(A) OF THE ACT).

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment,

inspiration and scientific study".

1. Based upon the record and the testimony presented therein, and in addressing the effect on the environment in comparison to alternative manners of development, the Commission sets the following condition (Section 15b of the Act):

THAT THE LAND BANK AND/OR THE SHELLFISH GROUP SHOULD GIVE SERIOUS CONSIDERATION TO THE REVEGETATION OF OR THE PLACEMENT OF A SIMPLE RUDIMENTARY BOARDWALK OVER THE AREA WHICH IS TO BE DISTURBED THROUGH THE INSTALLATION OF THE WATER EXCHANGE PIPING.

- B. THE COMMISSION DOES NOT FIND THAT THE PROPOSED DEVELOPMENT WILL SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.
- C. THE COMMISSION FINDS THE PROPOSED DEVELOPMENT TO BE GENERALLY CONSISTENT WITH DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF WEST TISBURY.
- D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS WITHIN THE COASTAL DISTRICT OF CRITICAL PLANNING CONCERN AND IS GENERALLY FOUND TO BE CONSISTENT WITH THE REGULATIONS COVERING THAT DISTRICT.

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.

This Decision is written consistent with the vote of the Commission: April 6, 1995.

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

4/13/95

Date



Notary

04/13/95

Date

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

