

THE MARTHA'S VINEYARD COMMISSION

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Date: July 18, 1996
To: Conservation Commission, Town of Oak Bluffs
Conservation Commission, Town of Edgartown
From: Martha's Vineyard Commission
Subject: Development of Regional Impact
re: coastal development
Applicant: Massachusetts Highway Department
Bernard McCourt
District Engineer, District 5
1000 County Road
Taunton, MA 02780

EQ
7-19-96 9:30am
REGISTERED
B 881 P 709

DECISION OF THE MARTHA'S VINEYARD COMMISSION SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the granting of permits for and the Application of the Massachusetts Highway Department, Bernard McCourt, District Engineer, District 5, 1000 County Road, Taunton, MA for the Interim Erosion Control Project at Sylvia State Beach, and Sengekontacket Pond in the Towns of Oak Bluffs and Edgartown as shown on the plans entitled: "The Commonwealth of Massachusetts, Highway Department, Interim Shore Protection Project in the Town of Oak Bluffs, Dukes County, SLB-TSDWG 3/29/96, Title Sheet and Locus", plus "Oak Bluffs/Edgartown, Beach Road at Sylvia Beach, SLBGROIA.DWG 5/22/96, Key Plan", plus "Oak Bluffs/Edgartown, Seaview Ave (Beach Road), SLBGROIA.DWG 3/29/96, Construction Plan, sheet 3", plus "Oak Bluffs/Edgartown, Seaview Ave. (Beach Road), SLBGR01.DWG 3/29/96, Construction Plan, sheet 4", plus "Oak Bluffs/Edgartown, Seaview Ave.(Beach Road), SLBGR01A.DWG 3/29/96, construction Plan, sheet 5", plus "Oak Bluffs/Edgartown, Beach Road at Sylvia State Beach, SYL-XS10.DWG 5/23/96, Cross Sections, sheets 6, 7, 8 and 9", plus "Oak Bluffs/Edgartown, Beach Road at Sylvia State Beach, SYL-XS10.DWG 7/9/96, Typical Details, sheet 10", plus "Oak Bluffs/Edgartown, Seaview Ave (Beach Road), SLB-DREG. 5/22/96, Proposed Dredge Plan in Edgartown (Dredge Area #1) sheet 11", plus "Oak Bluffs/Edgartown Seaview Ave. (Beach Road), SLBGR01A.DWG 5/22/96, Proposed Dredge Plan in Oak Bluffs, (Dredge Area #2),

sheet 12", and totalling twelve (12) sheets, (the Plan).

This Decision is rendered pursuant to the vote of the Commission on: July 18, 1996.

The Conservation Commissions of the Town of Oak Bluffs and the Town of Edgartown grant the necessary development permits for the Applicant's proposal in accordance with the conditions herein or may approve in accordance with the conditions contained herein and may 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 Oak Bluffs 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 herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly notice joint public hearing was held with the Oak Bluffs Conservation Commission pursuant to the Act and M.G.L. Chapter 83A, Section 2 as modified by Chapter 831, on Thursday, July 11, 1996 at 7:30 p.m. 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 interim erosion control measures along a barrier beach in the Town of Oak Bluffs.

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

D. 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 purposed 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".

The Commission has listened to all of the testimony presented and has reviewed all documents and correspondence submitted during the hearing and review period and,

1. Based upon the record and the testimony presented therein and in addressing whether the proposed development will further contravene land development objectives and policies developed by regional or state agencies, the Commission sets the following condition:

- a. that the Commission accepts the offer of the Applicant as set forth in Section 4 of the Memorandum of Understanding dated April 1, 1996 by and between the Massachusetts Department of Environmental Protection, the Massachusetts Highway Department, the Massachusetts Department of Environmental Management, the Towns of Oak Bluffs and Edgartown and the Dukes County Commission regarding an Annual Maintenance and Monitoring Program which shall be in effect for the life of the proposed project, and until a long term alternative solution to the identified problem is found.

- B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT 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 DEVELOPMENT PROPOSAL TO BE GENERALLY CONSISTENT WITH THE DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWNS OF OAK BLUFFS AND EDGARTOWN.**
- D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT WITHIN ANY DISTRICT OF CRITICAL PLANNING CONCERN AND THEREFORE THIS ISSUE IS NOT PERTINENT TO THE PROPOSAL.**

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

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This decision is written consistent with the vote of the

Commission on July 18, 1996.


The Martha's Vineyard Commission wishes to recommend to the Massachusetts Highway Department that any contractual arrangements that are to be made in the future with respect to the proposed development that is the subject of this Decision contain such phraseology as permissible by law to require that successful contractual bidders use, whenever and wherever possible, island labor in the fulfillment of their contractual obligations.

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.

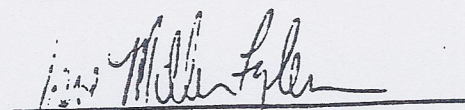
The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited herein.

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.

The Applicant shall have five (5) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction and should substantial construction not occur during said five (5) year period, then this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.


Thomas Sullivan, Chairman

7-18-96
Date


Notary Public

7-18-96
Date

IRENE MILLER FYLER
NOTARY PUBLIC
MY COMMISSION EXPIRES
JUNE 28 1998