

THE MARTHA'S VINEYARD COMMISSION

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MARTHA'S VINEYARD COMMISSION

MINUTES OF JUNE 30, 1988

The Martha's Vineyard Commission held a public hearing on Thursday, June 30, 1988 at 8:00 P.M. at the Commission office, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Douglas & Margaret Cabral
P.O. Box 2031
Vineyard Haven, MA 0568

Location: Off Mass. State Highway, West Tisbury

Proposal: Subdivision of 23.85 + acres into 2 lots
qualifying as a DRI since the proposal is the
subject of a previous DRI application.

Edith Eber, Vice Chair of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony at 8:10 P.M. She asked for the staff presentation.

Melissa Waterman, MVC staff, referenced plans of the subdivision and an aerial of the property hanging on the wall. She stated this proposal is part of a previous DRI (Hilltop Farm DRI). Ms. Waterman stated this proposal is for the division of 23.85 acres of land in West Tisbury into 2 lots, Assessor's Map 8, parcel 22.12 within the Hilltop Farm subdivision. Ms. Waterman discussed the previous MVC decision regarding the 1981 Hilltop Farm as follows: approval without conditions by the MVC of an 11 lot subdivision on 88.5 acres of land. Lot number 1 = 46.44 acres (within which present DRI located) and the total of the other 10 lots = 42.06 acres. She stated that Protective provisions of that subdivision included pertinent provisions, two most important are: #3 "The granted premises may not be subdivided" and #17 "Grantor reserves to itself, its successors and assigns the right to waive any of the restrictions herein contained and shall be the sole judge as to the propriety of said waiver....".

Ms. Waterman stated the property lies between the 190 and 200 foot elevation. Vegetation in the forest and old pastureland and meadows as noted in previous DRI are beech, maple, hornbeam, sassafras, and rhododendron species. She stated because the property is located on the western terminal moraine, the soils are varied, ranging from soils good for crops and pasture, wetlands soils, and soils limited in use for house sites or cropland. Some soils found on-site are east chop loamy sand, haven very fine sandy loam,

Freetown/Swansea mucks, Ridgebury Variant fine, sandy loam and Moshup loam. The land has slopes which range from 3 to 25%.

Ms. Waterman then stated the subdivision land lies within Lot 1 of the 1981 subdivision. The access to the two lots is via the 40' way, known as Red Coat Hill Rd., a road considered to be an Ancient Way. The road is maintained by the lot owners of Hilltop Farm, as per Protective Provision no. 13. Access to Lot 1-F (16.5 acres) lies on a 20' easement through Lot 1-G (7.35 acres). She stated that covenant and restriction on lot 1-G state: 1. No more than two building lots may be sought on the lot. 2. The two lots may only be sought at such time that there is an access to said lots from State Rd. which is approved by the West Tisbury Planning Board. Ms. Waterman stated that the number of homes built in the previous subdivision appear, from 1986 air photos, to be three.

She then stated reasons given by the Land Bank for purchase are agricultural preservation, geologic significance as the land is the high point between Lambert's Cove Road and State Road, and is on the high point of the terminal moraine, scenic views, and Public walking access on Red Coat Hill Road, with parking on Land Bank-owned Mai Fane land and at the Wakeman Center. Further in the distant future, the property may act as part of a public trail system in West Tisbury.

Ms. Waterman stated that she has no specific development concerns.

Mr. Ewing asked for the Red Coat Hill Road location. Ms. Waterman showed the location on the plan.

Mr. Ferraguzzi asked if Red Coat Hill Road was the subdivision road. Ms. Waterman answered in the affirmative.

Mr. Jason asked if this would also be access for the public. Ms. Waterman stated as she understands it. Mr. Jason then asked if there is a proposed management plan for the agricultural lands which the Land Bank will purchase. Ms. Waterman answered not at this time.

Mr. Ferraguzzi asked who will be using this land. Ms. Waterman stated she believes it will be used by the public for pedestrian access.

Mr. Ferraguzzi, referencing the staff handout, questioned the protective provisions of the original subdivision, stating that his understanding is #17 contradicts #3. Ms. Waterman stated that the applicant could best explain this. Ms. Waterman stated the reason she incorporated these provisions in the handout is because #3 stated no further subdivision but looking further number 17 states the Grantor reserves itself ... to waive any of the restrictions ...

Mr. Ferraguzzi asked who the Grantor is. Ms. Waterman answered Mr. Cabral.

Mr. Early asked the dates of the riders. Ms. Waterman stated that Rider A is for the current DRI and the Protected Provisions are from the previous DRI.

Mr. Cabral stated he and his former wife are the Grantor and that he has retained 42 acres.

Mr. Ferraguzzi asked if this meant no one could further subdivide a lot without the permission of the original subdivider. Mr. Cabral stated any lot conveyed out is subject to the restrictions and that he still retains the right.

Mrs. Eber called for the applicant's presentation.. Mr. Cabral stated that the plan has been created for the sole purpose of the

conveyance (as noted on plan) of 16 acres of land to the Land Bank. He discussed an option provision on the additional 7.78 acres of land that the first option to purchase will go to his former wife and the second option to the Land Bank. He stated that in Rider A #2 it states that the Land Bank will utilize this property for passive recreational use only.

Mr. Early asked for clarification regarding lot 1-G as in handout, and lot 1-D as in rider. Mr. Cabral stated that originally the parcel was 81 acres then divided into 2 lots one of which was further divided into 10 lots.

Mr. Evans stated he would assume the 7.7 acre parcel is buildable. He then asked if this would be further subdivided as zoning in West Tisbury is 3 acres. Mr. Cabral stated there are no plans at the present time. He further stated that restrictions previously placed on the 23.8 acre parcel will now be placed on the 7 acre parcel. Mr. Evans asked how the applicant plans to access the second lot. Mr. Cabral stated there are no plans at the present and that it will take Planning Board approval to agree on the access.

Mr. Evans asked the total number of lots possible on all the land. Mr. Cabral answered 16 lots.

Mr. Cabral stated that this land is being subdivided as a non-building, non-subdividable lot for the Land Bank as noted on the plan.

Mr. Jason asked the applicant to confirm what is meant by passive recreation. Mr. Cabral stated no basketball courts or tennis courts will be allowed but there can be walking trails and horseback riding.

Mr. Jason asked if this will be another overgrown field. Mr. Cabral stated there is also wooded area on the lot and that he can not answer this question as he does not know what the Land Bank's management plan of the property will be. Mr. Jason stated if this area is to be preserved for agricultural purposes, will agricultural uses be allowed. Mr. Cabral stated that he believes it is the intent of the Land Bank to allow agricultural uses.

Mr. Cabral stated that the access easement makes clear that it is used for walking, horseback riding and Land Bank Maintenance vehicles only.

Mr. Ferraguzzi asked if there were restrictions on vehicle access down the road. Mr. Cabral answered in the negative but stated there will be no parking provided.

Mrs. Eber called for Town Board testimony. There was none.

Mrs. Eber called for testimony from proponents. There was none.

Mrs. Eber called for testimony from opponents. There was none.

Mrs. Eber called for comments. There was none.

Mr. Early asked if there has been any written communication from the Land Bank. Ms. Waterman answered in the negative.

Mrs. Eber noted that there was no correspondence for the record.

Mr. Cabral stated as far as the Land Bank is concerned the rider which puts restriction on use and access are part of the purchase and sales agreement which has been executed.

Mr. Filley stated reading the second part of the rider he has concerns for the meaning of passive recreation and concern that this may interfere with agricultural use.

Mr. Ferraguzzi asked if the restriction stating no building means that a shed or barn would not be allowed if a person leased the property for agricultural uses.

Mr. Cabral asked where language, in staff handout, relative to agricultural use came from. Ms. Waterman stated from Mr. Bosted of the Land Bank to MVC staff.

Mr. Morgan stated agricultural preservation can be addressed through conditions in the MVC Decision.

Mr. Evans asked if there are monies set aside for management of open space.

Joyce Cabral stated the Land Bank has just hired a person to care for the open areas.

Mr. Ferraguzzi asked if there is anyone present representing the Land Bank. There was no response.

Mr. Morgan stated that chances are the hearing will be closed with the record open for a week and this will give Ms. Waterman time to get the answers from the Land Bank.

There was discussion of the Land Bank being at the following hearing.

Mr. Jason stated he would like assurances.

Mr. Lynch stated that there are lots of questions which have not been answered and asked if the hearing could be continued for the Land Bank to answer some of these questions.

Mr. Filley stated that he feels the Land Bank is sensitive to the issue of maintenance and access.

Following lengthy discussion of whether the public hearing should be continued so questions of maintenance and management can be addressed, Mrs. Eber continued the public hearing until July 7, 1988 at 8:00 P.M.

Item #1 - Chairman's Report - There was none.

Item #2 - Old Business -

Carol Borer stated at the request of Commissioners, she has reviewed the plans for the addition that has been constructed at Cronigs Real Estate building on Main Street, Vineyard Haven and has determined the addition is 998 square feet.

Item #3 - Minutes of June 23, 1988

Motion to approve as written. Seconded. The motion carried with one abstention (Lynch).

Item #4 - Committee Reports

Land Use Planning Committee - None

District of Critical Planning Concern (DCPC)

Cape Pogue DCPC - Mr. Morgan stated the committee met prior to this meeting however, only one member was present. He stated that

guidelines have been drawn up but other committee members should review prior to any further discussion.

Lagoon Pond DCPC - Mr. Morgan stated that the committee is off and running with the management plan.

Item #5 - Discussion - Cabral DRI

Mr. Early stated this item is moot.

Item #6 - Possible Vote -

Cabral DRI - Mr. Early stated this item is moot.

MSPCA Written Decision - Mr. Early stated due to a lack of quorum, this vote will be held over until next week.

Item #7 - New Business

Mr. Early stated a DCPC Nomination has been submitted by the Town of Edgartown Board of Selectmen and asked Mrs. Borer to explain.

Mrs. Borer stated the area of this nomination encompasses the Katama Air Field and clear zones. Mrs. Borer stated that this nomination was just submitted and the staff has not reviewed for specific boundaries.

Mr. Geller asked if the FAA has regulations in place regarding no building beyond a certain point and height restrictions? Mrs. Borer stated she is not sure the Board of Selectmen have reviewed this or not.

Mr. Ferraguzzi asked if there was a different process the MVC could use or if the number of DCPC's could be limited as there are not enough Commissioner's to review them properly. Mrs. Borer stated legally the number of DCPC's can not be controlled but what could be done is staff could put more time into the research and information gathering to give to the DCPC Committee so the Committee will not have to meet as often. Mr. Ferraguzzi felt that the staff is already busy enough.

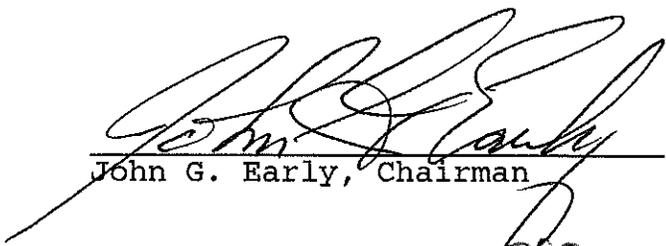
Mr. Early then appointed the DCPC Committee for Katama Air Field DCPC: John Early, Roger Wey, Bob Morgan, Ann Harney and Lenny Jason.

Item #7 - New Business - None

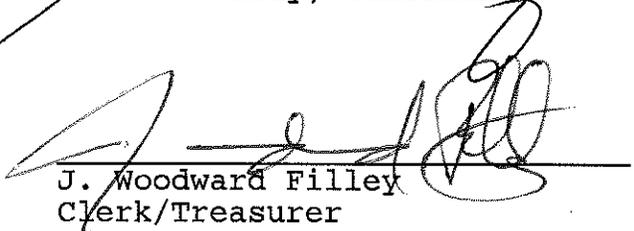
Item #8 - Correspondence - None

Motion to adjourn at 9:10 P.M. - Seconded

ATTEST



John G. Early, Chairman
Date 7/8/88



J. Woodward Filley
Clerk/Treasurer
Date 7/14/88

ATTENDANCE:

Present: Jason, Lynch, Widdiss, Filley, Eber, Ferraguzzi, Evans, Scott, Early, Wey, Ewing, Morgan, Geller, Harney

Absent: West, Young, Custer, Lee, Delaney, McCavitt, Allen, Harris