

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF OCTOBER 15, 1992

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, October 15, 1992 at 8:00 p.m. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA, on the following Development of Regional Impact (DRI):

Applicant: Alan Wilson
P.O. Box 2096
Vineyard Haven, MA 02568

Location: off State Road
Vineyard Haven, MA

Proposal: construction of a commercial structure qualifying as a DRI since the proposal will have a floor area greater than 2,000 sq. ft.

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the hearing notice and opened the hearing for testimony at 8:09 P.M.

Alan Wilson of Island Tire presented the plan. He explained the layout of the site, the type of building and other site features. He noted that he would be including two bathrooms and a storage area above them. The parking consisted of sixteen (16) proposed spaces.

John Schilling, MVC staff, gave the staff presentation. He pointed out the site on a map on the wall, discussed various aspects of the proposal and the surrounding uses. He discussed the soil conditions, site features and various permits that would be needed by the applicant. He explained the access, landscaping and drainage facilities, loading and unloading to be to the rear of the structure. He noted that the applicant was aware of the affordable housing issue and appeared willing to comply.

Richard Rooney, MVC staff reviewed the traffic impact and indicated that would be no impact nor detrimental effects along State Road. He further discussed the planning that had been done to address the closing of curb cuts along State Road and the potential for a future access road to the rear of the properties. He discussed development in the area in light of the B-II corridor study.

Mr. Schweikert then called for Commissioner questions.

Mr. Jason asked where the service road would be in relation to the proposal. Mr. Rooney indicated where the various features were. A discussion of this matter followed. Mr. Wilson discussed the

possibility of an easement across the lot.

Mr. Sullivan discussed his site visit and his opinion of where the road would go.

Ms. Sibley asked about a landscape plan. Mr. Wilson explained where the various landscape features would go and what was already on-site. She discussed her feelings on the proposal and questioned the addition of more trees. A discussion of this matter followed.

Mr. Schweikert then called for town board comments - there were none.

Mr. Schweikert then called for proponents.

Burton Engley raised the issue of the access road and the fact that it should be continued and not last. He then noted that the proposed use of Canadian hemlock may not be good since they may not grow well in that area.

Mr. Schweikert then called for opposition - there was none.

Mr. Donaroma also questioned the use of hemlock and why. Mr. Wilson noted that they would be as a buffer. A discussion of this matter followed.

There being no further testimony, the hearing was closed at 8:32 P.M.

The Martha's Vineyard Commission held a second public hearing on Thursday, October 15, 1992 at 8:30 P.M. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA, on the following Development of Regional Impact (DRI):

Applicant: M.V. Land Bank
Town of Chilmark
David Flanders

Location: Peaked Hill
Chilmark, MA

Proposal: modification of previous DRI Decision

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the public hearing notice and opened the hearing for testimony at 8:33 P.M.

James Lengyel, Executive Director, M.V. Land Bank, presented the proposed changes. He distributed a hand-out summary of what was being requested. He discussed the reductions on the site and why certain conditions were no longer applicable.

He discussed the portions of the site that were in the hands of the individual owners. He further discussed the proposed amendments to the Decision one by one. He then explained why the requested changes had been made. He noted that the request was to eliminate conditions (2a), (2b), (2c), (3a), (3b) and (3c). He then noted that the following conditions were to remain: (3d), (4a), (4b).

Mr. Clifford noted that there would be a brief staff report from Bill

Wilcox and that a staff review had been mailed to all commissioners previously. Mr. Wilcox discussed the shape and slope of the land indicated as Open Space lot #2. He further discussed various erosion control measures that should be considered. He then discussed the wetland area at the head of Fulling Mill Brook and any impact that may occur to that area. He further discussed the requirements of the Coastal DCPC in the immediate area.

Mr. Best asked about the use of any of the lots for farming and whether there were any regulations to prevent this from happening. It was noted that there were no regulations.

Mr. Best questioned the slope of these lots. A discussion of this matter followed.

Mr. Sullivan indicated that he felt the plan was admirable. He then asked if the land Bank were developing a policy of acquiring private partners in the future. A discussion of this matter followed with Mr. Lengyel indicating that the situation was unique.

Mr. Best questioned how the selection process for private partners worked. A discussion of a point of order followed. Mr. Lengyel explained the process used by briefly discussing the presentation made to the Chilmark Town Meeting. He further discussed the problems associated with attempting to create partnerships.

Ms. Greene questioned a covenant that had been filed in the Registry of Deeds. Mr. Lengyel asked to review the item.

Mr. Wilcox then reported on the slopes found on the lots and that they all were within acceptable limits for farming.

Ms. Sibley asked for clarification on the original decision regarding Open Space Lot #2 and where certain phraseology came from. Mr. Clifford explained where it appeared in the original covenants and the relationship of those covenants to the MVC. Covenants were between the Town and developer and not MVC and developer. A discussion of this matter followed.

Ms. Sibley further discussed the covenant issue with respect to Open Space Lot #2. Mr. Lengyel noted that it was to be for farming and/or any other conservation uses. Ms. Sibley asked if it was firmly established that it was for open space only. Mr. Lengyel addressed this issue. A discussion of this matter followed.

Mr. Clarke sought a clarification on the MVC previous decision with relation to the present request. Mr. Clifford explained the relationship of same in the previous decision. Mr. Schweikert read the condition which related to the covenants. Mr. Clifford then further explained the background of that condition.

Mr. Hall raised a question about the deeds that went to the three parties involved and whether there had been a subdivision plan or not for that division. Mr. Lengyel noted that there was reference made to the previous subdivision in the deed.

Mr. Early questioned the reason for the elimination of the environmental report since a portion of the site had the same density. Mr. Wilcox discussed the reduction in density and the impact upon the brooks in the area. A discussion of this matter followed. Pam Goff, Selectman, Chilmark, discussed the previous designers of the site and the impact of the remaining lots which were to be marketable. A discussion of the matter followed.

Ms. Sibley further questioned the location of the wetland and where the agricultural area was. She also wanted to know how far into the lot the 100-foot setback went. Mr. Wilcox explained where the lot boundary was and where the wetland occurred. A discussion of what reviews would occur in each of the areas followed.

Ms. Green read the criteria of the environmental assessment report and explained the LUPC thinking with respect to this matter.

Ms. Bryant asked exactly where the farming activity may occur and whether there may be any run-off impact on the wetlands. Mr. Clifford noted on Lot #2. Mr. Best noted also that it may occur on the four lots being retained. Mr. Jason noted that the entire town was Res - agriculture.

Mr. Colaneri asked if the subdivision would qualify as a DRI. A discussion of this matter followed. It was determined that it probably would qualify since it was over 30 acres.

Mr. Schweikert then asked for comments from Town Boards. Pam Goff, Board of Selectmen, hoped that the MVC would concur with the reduction of the proposal. Phil Smith, Planning Board, discussed the procedure used by the Planning Board and noted that they were happy with the results.

Mr. Clifford read the definition of a meadow. A discussion of this matter followed. Ms. Sibley raised a question regarding the pasturing of animals in meadow areas. Mr. Smith discussed how the areas and lots may be used.

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

Mr. Schweikert read several letters into the record.
- one from the attorney of an abutter - Dr. Roush
A discussion of this letter followed.
Mr. Clifford read a letter regarding Dr. Roush's request and his position on the matter.

Attorney Hurley discussed the letter and the position of Dr. Roush. He further discussed the issue of the covenants and what was done already to eliminate those encumbrances. He discussed the reasons why his client felt the plan was improper for review.

Ms. Bryant discussed the potential litigation and what the MVC had to decide - benefits vs detriments.

Mr. Hall questioned whether the Town planned to work with the MVC on

the planning of the municipal segment of the site. A discussion of this matter followed.

Ms. Sibley questioned whether there was anyone representing David Flanders and her feelings about new or additional conditions. Mr. Early noted that Mr. Lengyel was representing him.

Ms. Goff explained what Mr. Flanders had told the Town as to the rules imposed on the site and what he would do to address them.

Mr. Engley asked where the second letter that had been submitted was. The letter was found and read by Mr. Schweikert. The letter was from a Jay Fleishman of New York in reference to Lot #2.

Ms. Bryant questioned whether there was any Conservation Commission report from 1988. Mr. Clifford indicated it was in the file.

Mr. Best expressed concerns over the agricultural uses and erosion and he felt the Conservation Commission had no jurisdiction and explained why.

There being no further testimony, the hearing was closed at 9:51 P.M.

The Commission recessed briefly.

Following the Public Hearings, the Martha's Vineyard Commission held a Regular Session in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. There being a quorum present, Jennie Greene, Chairman of the Commission, called the meeting to order at 8:59 P.M.

ITEM #2 - Discussion - Wilson DRI - there was no discussion.

Discussion - Peaked Hill DRI-

There was a point raised by Mr. Sullivan about addressing the agriculture issues via conditions. Ms. Sibley felt that more information was needed on the issue of agriculture. A discussion of this matter followed.

Mr. Jason felt that there was a great deal of wildlife in the area. Mr. Sullivan discussed not getting hung up on the agricultural uses. Mr. Hall expressed concern over the road and its ability to handle expected traffic loads.

Ms. Greene discussed the roadway width which she felt was to be eight-foot travel and four-foot shoulders for a total of twelve feet. A discussion of the matter followed.

Mr. Wilcox suggested that a soil conservation service plan could be prepared as well as a cutting and clearing plan for areas over 8% and submitted to the Conservation Commission.

Ms. Sibley questioned whether the Conservation Commission had reported in 1988. Mr. Clifford read the report which only discussed the top of Peaked Hill.

Ms. Bryant explained why she had asked for the report.

Mr. Colaneri asked whether Mr. Wilcox's suggestions could be incorporated or not. A discussion of the previous plan and the covenants followed.

Mr. Colaneri moved to ITEM #6, duly seconded.
On a show of hands indicated a tie, the motion failed.

ITEM #3 - Approval of Minutes - September 17, 1992
On a motion by Mr. Colaneri, duly seconded, the minutes were approved as printed.

ITEM #4 - Reports

CHAIRMAN'S REPORT - there was none.

LUPC - Mr. Schweikert discussed the past meetings at which Maciel Marine, Island Tire and the review of the landscape plan of Marianne's were discussed.

Ms. Greene discussed the submittal of the mini golf for compliance and the letter from Ernest Boch on his offer.

PED - Economic Task Force -

Mr. Early reported on the meeting, the first of the Fall; transportation issues were discussed as well as the amount of foreign exchange that had been transacted.

Mr. Schilling discussed the meeting which has been scheduled for November 18.

LEGISLATIVE LIAISON - Mr. Clarke noted that Secretary Taylor had resigned.

Mr. Hall questioned what had happened to any correspondence sent to counsel regarding any statutory changes on ethics.

Mr. Clifford noted that the ballots for November were incorrectly printed and that a complaint had been lodged with the Secretary of State.

ITEM #5 - Possible Discussion - Island Tire, Alan Wilson DRI
Mr. Early suggested a move to ITEM #6

ITEM #6 - Possible Vote - Island Tire, Alan Wilson DRI
Mr. Early moved approval with conditions, duly seconded.

The conditions to be:

- accept offer of easement for future road
- accept offer of cash contribution in lieu of housing unit in amount of \$2,450 over 2 years
- landscaping plan to LUPC

Ms. Greene restated the motion plus conditions. On a roll-call vote the motion passed with one abstention (Hall).

ITEM #5 - Possible Discussion - Peaked Hill DRI

Mr. Clifford reminded all that the request was for a modification of a previous DRI. He explained how the process could work and what the MVC had to do.

ITEM #6 - Possible Vote - Peaked Hill DRI

Mr. Sullivan noted he hoped for simplicity and not a complicated way.
Ms. Sibley questioned whether it could be done as submitted with minor

changes. A discussion of this issue followed.

Mr. Colaneri moved to modify the previous DRI decision, duly seconded. On a roll-call vote, the motion passed with one abstention (Donaroma).

Mr. Jason moved that the Executive Director file a Certificate of Modification of approval of the definitive subdivision plan, the draft of which is dated August 1992 with conditions.

- Mr. Wilcox reference Lot #2 agricultural issue
- involve town lot - MVC and town - any development of town lot back to MVC
- management report from Land Bank yearly
- view easement on Lot #13
- include memo 9/17/92 from Chilmark Bd. of Selectmen.

- duly seconded.

Ms. Sibley asked if the management should return to MVC or Conservation Commission. A discussion of this matter followed. Mr. Jason indicated to the LUPC.

Mr. Best felt the plan should include the lots as well and discussed this matter further.

Mr. Wilcox discussed a means of limiting the study to a percentage slope. A discussion of this matter followed. He further explained how this matter would be handled.

Mr. Best questioned any erosion controls that may be placed on construction sites. A discussion of this issue followed.

Ms. Greene restated the motion. On a roll-call vote, the motion passed with one abstention (Donaroma).

ITEM #7 - Old Business - there was none.

ITEM #8 - New Business - DCPC - Nashawena Park - Waban Park - Lover's Rock

Mr. Clifford explained the proposal and noted that the prime sponsor was present - Ron Mechur.

Mr. Mechur discussed the proposal as being an extension of the Ocean Park DCPC; that the proposal was a part of the viewshed of the area. He talked of the problems of the area and the need for controls to protect the area. He discussed the styles of architecture in the area and what was necessary for the area.

Mr. Schweikert asked how many were Waban Park residents. A discussion of how the names were gathered and whether there were any opposed from the area followed.

Mr. Jason questioned whether the area could be expanded by the MVC.

Mr. Clifford noted that any nomination could be amended.

Mrs. Marinelli discussed the problems of attempting to expand the areas. A discussion of this matter followed.

Mr. Mechur discussed the Copland plan and its relationship to the proposal. A discussion of the voting on Ocean Park followed.

Mr. Jason discussed the problems of having multiple overlay districts.

Mr. Early discussed the past problems in Oak Bluffs with the development of DCPC and further discussed the moratorium issue.

Mr. Colaneri asked if there were abutting areas that might be interested in joining the DCPC area. A discussion of what constituted neighborhoods in Oak Bluffs followed.

Al Daniels, resident of area, discussed the criteria of creating a DCPC, the uses that take place in the area and the past history of the area. He discussed how the area relates to Ocean Park and felt it was reasonable to include this area.

Mr. Early discussed the need for a precise map indicating boundaries and moved acceptance of the nomination as presented, seconded by Mrs. Marinelli. On a roll-call vote the motion passed.

ITEM #9 - Correspondence -

Ms. Greene read a letter from the Selectmen of Falmouth regarding a possible joint study of traffic issues.

Mr. Clifford discussed the background of the letter and the proposed objective of the Task Force. He further explained what he believed to be the role of the Task Force. Those present agreed to find the people for the Committee.

Ms. Greene then read a letter from MVC Counsel regarding the bike path funding.

There being no further business, the meeting adjourned at 11:17 P.M.

ATTEST

Jane A. Greene 10/22/92
Jane A. Greene, Chairman Date

Thomas Sullivan 10/22/92
Thomas Sullivan, Date
Clerk/Treasurer

Attendance

Present: Best, Briggs, Bryant, Colaneri, Donaroma, Early, Greene, Hall, Jason, Schweikert, Sibley, Sullivan, Marinelli, Clarke, Gallagher

Absent: Alley, Vanderhoop, Lee, Allen, Bolling, Chapin, Benoit