

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JANUARY 6, 1994

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, January 6, 1994, at 7:30 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: Leo Convery
P.O. Box 1318
Edgartown, MA 02539

Location: off Edgartown - Vineyard Haven Road
at Mariners Way
Edgartown, MA

Proposal: conversion of a commercial recreational structure into a movie theater qualifying as a DRI since the MVC has so designated the proposal as such under § 14(e) of Chapter 831 of the Acts of 1977 as amended

Michael Donaroma, Chairman of the Martha's Vineyard Commission read the hearing notice and opened the hearing for testimony at 7:36 p.m. Mr. Hall and Ms. Sibley both left the room and abstained from the proceedings.

Mr. Donaroma called for applicant presentation.

Carol Borer, agent for the Applicant, presented the proposal. She distributed a series of photographs showing existing conditions and discussed previous usages in the structure. She further discussed the various uses in the area, the handicapped access, the parking both existing and proposed. She explained how the theater would fit into the existing structure, the adequacy of the existing septic system and other related matters.

She then discussed the potential site access points. She then discussed the hours of operation of the surrounding uses and those of the proposed theater to indicate how conflicts would be eliminated. She then discussed the traffic issues in the general area and the usage of the shuttle bus in the area.

Ms. Borer then noted that she had submitted a petition in favor of the proposal, and one against. She then discussed the attempt to meet with the abutters to discuss concerns. She discussed the options available to make site plan more acceptable to abutters.

She submitted a copy of the letter to the abutters for the record.

John Best noted the site plan was inaccurate with respect to parking. A discussion of this matter followed.

Mrs. Marinelli questioned the depth to groundwater. A review of this matter followed.

Mr. Early questioned whether the 90 trips were per showing or per day. Ms. Borer indicated per showing plus any additional weekend matinees.

Mrs. Marinelli questioned how many of the petition signers were taxpaying voters. A discussion of this matter followed.

Ms. Riggs raised a question on what the objections were. Ms. Borer indicated that noise dominated and parking on Mariners Way.

Mr. Convery noted that the depth to groundwater would be 10'.

Mr. Sullivan questioned the exterior changes that may occur. Ms. Borer noted that the changes would be the elimination of windows and possibly a fire exit to be installed.

Mr. Sullivan questioned the air conditioning. A new unit would be added.

Mr. Colaneri discussed the net effect of the proposed parking changes. A discussion of this matter followed.

Mr. Colaneri noted that there were no walkways linking the various parking areas.

A discussion of any lighting proposals followed.

Mr. Colaneri again questioned whether there were any changes proposed to the walkway system. A discussion of this issue followed.

Mr. Jason questioned which of the banks operated at night. A discussion of this matter followed.

Ms. Greene questioned the time of operation of the Island-wide shuttle. Ms. Borer did not know. Ms. Greene questioned the lack of landscaping or fencing for noise abatement. A discussion of this matter followed.

Ms. Bryant questioned certain parking areas with respect to noise abatement. A discussion of this matter followed.

Mr. Donaroma then called for staff review.

David Wessling, MVC staff discussed the proposal with respect to traffic on-off and internal to the site. He discussed various matters related to parking, the shuttle and other points with respect to vehicular usage of the area and the site. He then discussed the traffic issues, the level of service and related matters.

Mr. Donaroma discussed relation of traffic and movie scheduling. Mr. Donaroma then called for town boards.

Ted Morgan, Selectman, felt proposal should be reviewed as have all other theater proposals in town. He discussed the potential traffic impact. He discussed the past history of the area, the present uses in the area. He discussed the activities related to downtown revitalization. He questioned whether the proposal was in the best interest of the abutters, or of the downtown area. He also felt there should be an annual review and that the MVC should check into the past 4 Flags decision with respect to the use of Mariners Way.

Richard O'Neil, Edgartown Planning Board, discussed the helping of the applicant. He discussed the proposal with respect to the market economy; he also discussed the issue of circulation in and around the site. He felt the Board could handle all of the issues on a town level.

Paul Sheehan, Edgartown Planning Board, discussed a double standard potential. He discussed the need for two theaters in town and that the winter was a different time.

Mr. Donaroma then called for those in favor.

Curry Jones discussed the Upper Main Street plan and what it had envisioned for the area. He felt the proposal satisfied the requirements of the plan. He felt the plan should be moved forward.

Frank McClennan, operator of island movie theaters, discussed the issue of movie theaters and the number of screens needed to make the entire package work. He discussed noise levels both inside and outside the structure.

Mr. Donaroma raised a number of issues related to the operation of a theater.

Gene Barbaddo questioned how the shuttle bus would effect the traffic issue.

Mr. Donaroma then called for those opposed.

Joyce Swartz - abutter discussed the issue of usage of Mariners Way. She read a prepared statement with respect to the proposal. She noted that the use was a special permit for the building. She discussed the relation of the proposed parking to the Zoning By-law.

Peter Look, agreed with previous assessment. He further raised the issue of meeting Lily Pond well regulations.

Ms. Barbario agreed with all previous statements and felt that the impact would be too great for the area.

There being no further public testimony, Mr. Donaroma asked the applicant for a summation.

Ms. Borer clarified a point regarding vehicle usage of the area.

Mr. Briggs questioned the use of any bicycle racks. A discussion of

this matter followed.

Ms. Borer discussed the special permit aspects of the Zoning By law. She read various aspects of the Dodson Plan for B-II. She also felt the proposal was in line with the goals of Edgartown.

There being no further testimony the hearing was closed at 9:05 p.m.

A discussion of the correspondence received followed.

The Martha's Vineyard Commission held a public hearing on Thursday, January 6, 1994 at 7:45 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA on the following Development of Regional Impact (DRI).

Applicant: Peter Sharp, Jr.
Box 351
Westport Point
Newark, MA 02791

Location: North Water Street
Edgartown, MA

Proposal: construction of a single family residence qualifying as a DRI since the MVC has designated the proposal as such according to § 14(e) of Chapter 831 of the Acts of 1977, as amended.

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice and opened the hearing for testimony at 9:13 p.m. She called upon the Applicant for his presentation.

Glenn Provost, representing Mr. Sharp, explained the location of the site and the surrounding area. He discussed the zoning in the area, the type of structure proposed, the siting with respect to the flood plain, the boardwalk, gazebo and pier. He discussed the construction of the house, its height and other related matters.

Ken Hurd distributed computer-generated photos that related to the proposed structure on the site. He indicated that a location had been picked on the site that met all state and local codes for building.

Mr. Jason asked that if an alternative could be found would applicant be willing to listen. Mr. Hurd indicated yes he would.

Ms. Sibley questioned what things had changed from previous decisions to make certain areas of the site unbuildable. A discussion of this matter followed. Without a variance no structure could be built below the 11-foot contour.

A discussion of what elements would be needed for a variance to build in flood plains followed.

Ms. Bryant questioned what might be the reaction to a request for a variance. Mr. Hurd indicated that none had been sought for the upper part of the site.

Mr. Best questioned the scale of the proposals shown on the computer prints. A discussion of the scale of the pictures followed.

Ms. Sibley then called for a staff report of the proposal. Mr. Clifford indicated that there was none.

Ted Morgan, Board of Selectmen, discussed the proposal from the past and hoped that there could be a compromise reached to allow for maintenance of the vista as well as allowing for the construction of the structure.

Ms. Sibley then called for proponents - there were none.

Ms. Sibley then called for those opposed.

George Brush representing Peter Lauson-Johnson, abutter, spoke in favor of viewshed. He discussed a number of matters and related them to photographs with computer-generated overlays.

Mr. Brush further discussed the vista, the number of lots in the area. He further explained the methodology of getting the pictures. He felt that a structure could be built on the low ground without fill or stilts. He discussed the legal issues related to construction; he further discussed the variance issue with relation to the construction of a house in the area. He discussed the significance of the area and the need to work together to have the view preserved and yet a house constructed.

Mr. Brush then read a letter regarding the view amenity from Kip Bramhaul and a second letter from Ray Ellis regarding the need to preserve the view.

He felt the proposal could be denied without prejudice and that an alternate location be found.

Joseph Fornes, environmental engineer discussed coastal processes, historic perspectives and alternatives available. He discussed the historic perspective of the site and surrounding areas. He felt an alternative was possible.

Joseph Eldridge, architect, discussed how one could accomplish the aims of both parties. He discussed the structural needs of any proposal that would allow for the issuance of a permit.

Mr. Hall questioned the insurance issue of this proposal. Plans must be more detailed than normal but it is insurable.

Ms. Sibley questioned the location of one of the pictures submitted. Mr. Brush noted that it was over the Sharp property.

A discussion of a hedge in the area followed.

Ms. Sibley then asked for any general testimony.

Gene Barbaddo, abutter, discussed previous support for a house on the site.

Peter Lauson-Johnson - against proposal and felt that the issue was one of which the view was worth preserving and indicated that the applicant was willing to listen to alternatives.

Ms. Sibley then called for a summation.

Ken Hurd, agent for applicant, felt the applicant was being asked to consider a great deal by asking to put the structure in the floodplain. He discussed a potential view purchase.

Mr. Jason suggested continuance for thirty days to permit applicant to sit down together and see what can happen.

Ms. Sibley then noted that the hearing was continued for thirty days or to a convenient date close to that time at 10:06 p.m.

The Martha's Vineyard Commission held a public hearing on Thursday, January 6, 1994 at 7:55 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA on the following Development of Regional Impact (DRI):

Applicant: Tisbury Wharf Co.
c/o R.M. Packer
P.O. Box 308
Vineyard Haven, MA 02568

Location: Beach Road
Tisbury, MA

Proposal: installation of utilities and septic system qualifying as a DRI since the proposal is for a change in intensity of use of an existing private pier.

Ms. Sibley read the hearing notice and opened the hearing for testimony at 10:12 p.m. Mr. Jason left the room and abstained.

She called for testimony from the applicant.

Ralph Packer asked if a piece of correspondence from Counsel could be discussed.

Ms. Sibley discussed the issue of the MVC ability to question a referral and deem it to be in error and not within the spirit of an item on the checklist.

A discussion of this matter followed.

Mr. Sullivan asked for a reading of said advice. A discussion of this matter followed.

Mr. Donaroma explained his feelings regarding the matter. He then discussed the past activities of the Commission with respect to this application /referral.

A discussion of what the applicant was seeking followed.

Mr. Packer discussed the checklist and how he felt it was not applicable to this proposal.

Ms. Bryant moved that the proposal was not a DRI duly seconded.

Mr. Hall discussed the actual proposal before the Commission. A discussion of this matter followed.

Mrs. Marinelli questioned if there was anything else to be placed on the property. A discussion of this matter followed.

Mr. Best discussed the actions of local boards with respect to the checklist. He raised the issue of what would have constituted a regional impact.

Ms. Sibley discussed the motion on the floor and whether there was a public hearing or not. A further discussion of what could be voted in a public hearing followed.

Mr. Colaneri felt the proposal was not a DRI and explained why.

Ms. Sibley recognized Tristan Israel who explained why the proposal had been referred. He discussed the proposal in light of Item 14(b) of the Checklist.

Mr. Sullivan discussed the letter from Counsel and his feeling related thereto.

Mr. Donaroma felt the hearing should go forward.

Mr. Best discussed previous applications on the site and then discussed the checklist.

Mr. Colaneri discussed the motion before the Commission and felt that the proposal did not meet the meaning of the checklist.

Ms. Bryant indicated that she would like to know what made the proposal a DRI.

Mrs. Marinelli asked for clarification of what could happen on the site.

Ms. Sibley discussed the wording of the checklist and felt that the Conservation Commission had reasonably read the checklist.

Mr. Early concurred that the proposal may have come to the Commission on a technicality.

Mrs. Marinelli further discussed the potential ramifications of not dealing with a referral.

A discussion of procedural matters on when and how to vote followed. Following the discussion, the public hearing was recessed at 10:47 p.m.

Michael Donaroma, Chairman of the Commission, opened the Special Meeting at 10:48 p.m. He moved to ITEM #7 and called for the vote on

the restated motion.

On a roll call vote the Commission voted 3 yeas 8 nays; the motion was defeated and the proposal was considered a DRI as referred.

Mr. Donaroma immediately recessed the meeting.

Ms. Sibley reconvened the public hearing at 10:50 p.m. She called for applicant presentation.

Ralph Packer discussed the history of the utilities and septic/holding tanks. He discussed Board of Health action with respect to these systems. He discussed his previous meetings with the Conservation Commission. He discussed the past meetings with everyone and the confusion that had taken place.

Mr. Packer then noted that he was instructing his agent to withdraw the proposal.

Ms. Sibley noted that said action having occurred, the hearing was mute and closed at 10:55 p.m.

Mr. Donaroma reconvened the Special Meeting at 10:56 P.M.
Mr. Jason returned to the meeting.

A discussion of future matters similar to this followed.

ITEM #3 - Approval of Minutes - December 16, 1993
On a motion by Ms. Greene, duly seconded, the minutes were passed.

ITEM #4 - Reports
Chairman - there was none
LUPC - Ms. Sibley indicated that the report would be given under ITEM #5.

The Chair moved to ITEM #5.

ITEM #5 - Possible Vote - Steere DRI
Ms. Sibley discussed the LUPC meeting and noted that the recommendation was for approval with conditions.
She then read the conditions:

- shingle front plus 20' along sides
- access road - curb cut abandonment
- landscaping on sides

Ms. Sibley read a letter from the Tisbury Planning Board regarding the proposal. Mr. Early discussed his feelings on how to mask the mass of the building. Mr. Donaroma further discussed the landscaping for masking the structure.

Ms. Greene moved approval with conditions:

- shingle front and 20' of sides
- offer of easement for access road
- landscaping appropriate with LUPC

Ms. Sibley discussed the aesthetics of the building.

Ms. Greene further discussed the timing of the landscaping along the property lines.

Mr. Hall discussed a review of lighting.

Mr. Jason noted that the sum of money for affordable housing should be over a period of three years. A discussion of this matter followed. Ms. Sibley read the housing policy for reference with respect to latitude.

On a roll call vote, the Commission approved with conditions the DRI of Jesse Steere by a vote of 11 yea 0 nay and one abstention (Early).

ITEM #8 - Correspondence -

Mr. Clifford read a letter from one Carrie Scott of Farm Neck Road regarding what had actually been reviewed and voted by the MVC regarding the Harthaven DRI and the school site.

Ms. Sibley reported on the meeting between LUPC and the Daniele group over a possible settlement out of court. Mr. Jason felt that it might be appropriate to have Counsel come down to discuss procedures in this matter.

Ms. Riggs asked for permission to send the hydro study to a professor at Ohio University for review. All agreed.

Mr. Jason asked if the North Tabor Farm decision could be mailed to all prior to the next meeting.

There being no further business the meeting adjourned at 11:30 p.m.

ATTEST



Michael J Donaroma,
Chairman

1/20/94
Date



Jane A. Greene,
Clerk/Treasurer

1/20/94
Date

Attendance

Present: Best, Briggs, Bryant, Colaneri, Donaroma, Early, Greene, Hall, Jason, Marinelli, Riggs, Sibley, Sullivan

Absent: Sargent, Schweikert, Vanderhoop, Clarke, Allen, Bolling, Chapin, Gallagher