

THE MARTHA'S VINEYARD COMMISSION

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MARTHA'S VINEYARD COMMISSION

MINUTES OF APRIL 7, 1988 MEETING

The Martha's Vineyard Commission held a public hearing at the Chilmark Community Center, South Road, Chilmark, MA, on Thursday, April 7, 1988 at 8:00 P.M. regarding the following Development of Regional Impact (DRI).

Applicant: Mill Brook Trust
James H. Crocker Jr., Trustee
P.O. Box 755
Osterville, MA 02655

Location: On West Tisbury - Chilmark Town line
between North and Middle Road
Town of West Tisbury, MA

Proposal: Preliminary subdivision of 63.2 acres of
land into 13 lots and open space qualifying as a
DRI since the proposal is a contiguous ownership
of greater than 30 acres creating more than 10
lots.

NOTE: THIS HEARING WILL BE CONSOLIDATED WITH MILL BROOK
TRUST - CHILMARK PARCEL HEARING

Applicant: Mill Brook Trust
James H. Crocker Jr., Trustee
P.O. Box 755
Osterville, MA 02655

Location: Off Tea Lane and Chilmark/West Tisbury
Town Line
Town of Chilmark, MA

Proposal: Subdivision of 81.9 acres of land into
15 lots and open space qualifying as a DRI since
the proposal is a contiguous ownership of greater
than 30 acres creating more than 10 lots.

NOTE: THIS HEARING WILL BE CONSOLIDATED WITH MILL BROOK
TRUST - WEST TISBURY PARCEL HEARING

James Young, Chairman of the Land Use Planning Committee, read both public hearing notices at 8:10 P.M. and explained that at the original public hearing of the Chilmark portion of this proposal the MVC requested that the applicant submit the entire parcel which includes West Tisbury so the development could be reviewed in full. He stated since that time the applicant has submitted preliminary plans for the West Tisbury parcel. Mr. Young then stated the order in which the public hearing would proceed and then opened the hearing testimony and asked for the staff presentation.

Mark Adams, MVC Staff, referenced plans hanging on the wall which depicted the location of the proposal; access roads to the proposal; existing dwellings in the surrounding area; wetlands; agricultural soils; DCPC designations; vulnerable areas, i.e. wetlands, slopes and ridge tops, and plant and wildlife habitat. Mr. Adams then referenced the staff handout for this proposal (see staff notes attached to original minutes and in the DRI file for entire staff presentation). Mr. Adams discussed the two accesses to the proposal (Tea Lane/Old Farm Road and Roth Woodlands Road). He noted the present zoning in Chilmark and West Tisbury and discussed overlay districts as being the Inland Zone of the Coastal DCPC and the Island Road District. He discussed subdivision regulations for both towns regarding standard roadways; Board of Health requirements; setbacks and septic and well locations. He stated the site is composed of Chilmark sandy loam and Eastchop loamy sand and stated for agricultural purposes this land falls within categories VI and VII which indicates a potential for limited field crops. He then discussed the on-site septic systems having severe limitations due to the poor filtration of soils. Further that percolation tests have been done for the Chilmark parcel however, have not been reported for West Tisbury. Mr. Adams then showed on a map that the site is contained within the headwater drainage of Mill Brook. He then described the site regarding the characteristics of the land (i.e. valleys, slopes & ridgetops, panoramic views, stone walls, trails, possibility of ancient homesite, & capped well, Wascomsim's Rock and extensive wetlands). He also stated that in a relatively small area there is a broad diversity of plant communities. Further, he named these plants and explained each. He noted that the State Natural Heritage Program ranks this area as significant regionally and statewide. Mr. Adams then discussed the proposed site treatment which would prohibit site grading and would protect all existing mature trees to within fifteen feet of any structure. He then stated the plan provides 5 open space parcels and depicted them on a plan. Further, he reviewed the towns open space goals. Mr. Adams described adjacent land uses stating the proposal is bordered on three sides by large unsubdivided parcels of which many have some form of conservation restrictions emphasizing habitat protection and on the Chilmark side exists subdivided residential land.

Mr. Adams then discussed municipal impacts from this proposal regarding population figures existing and at buildout: schools; traffic; solid waste including the municipal landfill; road runoff and septic nitrogen loading; fire, police & emergency access and affordable housing.

Mr. Adams then summarized correspondence received by the Commission and noted all letters are on file at the MVC (see summarized correspondence attached to handout).

Mr. Young then stated that a letter was received on April 5, 1988 which has been omitted from the summary of Correspondence - West Tisbury Conservation Commission, which stated they did an on-site inspection; found extensive wetlands which they judged to be crucial to the balance of the Mill Brook watershed; it appeared access to some lots would involve damage to the wetlands; also that development in the wetlands would have a negative impact on a much larger ecosystem and that they were opposed to access via Roth Woodlands.

Following Mr. Adams presentation, Mr. Young asked if there were any questions from Commissioners?

Mr. Filley asked how Mr. Adams arrived at a potential for 240 lots. Mr. Adams stated under present zoning this is an estimated number of potential lots with further subdivision.

Mr. Filley further asked if the percentage of vehicle trips per day for the 11 existing dwellings has been calculated. Mr. Adams answered in the negative.

Mr. Widdiss questioned the number of acres which this proposal encompasses. Mr. Adams noted there is an error on the handout, instead of 53.3 total acres in West Tisbury it should read 63.3 acres making a total of 145.1 acres.

Mr. Jason asked who the eleven abutting neighbors are which signed the agreement to maintain Old Farm Road. Mr. Adams gave Mr. Jason a copy of the agreement and then read the signatures. Mr. Schafer, Attorney for the applicant, stated that Mr. Green has also signed the agreement although not included in the documentation and has been recorded.

Mr. Ewing questioned septic suitability on some of the lots within the West Tisbury Parcel. Mr. Adams stated there are some questions regarding setback requirements being met on the lots within the wetland area noting there are 7 lots (3, 7, 6, 5, 4, 2, 1) in the northern section and 1 lot (#1) within the Chilmark parcel.

Mr. West asked for the location of Wascosim's Rock. Mr. Adams located it on the plan and stated it is located at the junction where the Town line jogs. Mr. West noted all lots are down gradient of Wascosim's Rock.

Mr. Evans noted that there are building envelopes in the Chilmark portion and questioned if there were any for the West Tisbury portion. Mr. Adams noted that the West Tisbury parcel is a preliminary plan and is not needed. Further he stated that the applicant feels all lots are buildable.

Mr. Young asked if there were any lots outside of this proposal which have deeded access to Roth Woodlands. Mr. Adams answered in the affirmative, depicting on Assessors, the area which the original land court decision addressed.

Mr. Widdiss asked how many lots are existing. Mr. Adams stated off Old Farm Road he estimates 40 existing that are 3 to 5 acre lots.

Mr. Wey asked how close the roads within the subdivision are to the wetlands and noted they seem very close in some areas. Mr. Adams stated the applicant has noted this in his submission. He stated there are several locations that the roadway comes within the 100' buffer zone of the wetland and showed the locations on the plan.

Mr. Ferraguzzi questioned the reason for the substandard affordable housing lot? Mr. Adams stated this is allowed in Chilmark and showed the lot on the plan.

Mrs. Scott asked for the number of residents presently using Roth Woodlands? Mr. Adams stated there are presently 46 vehicle trips per day during July and August however, he cannot give a percentage of residents versus public travelling this roadway.

Mr. West asked if the 150' setback for septic systems from wetlands can be met on some lots. Mr. Adams stated the applicant believes this requirement can be met.

Mr. Filley asked if an EIR has been submitted? Mr. Adams answered for the Chilmark side only.

Mr. Young then called for the applicant's presentation. Mr. Schafer, Applicant's Attorney, stated they had no presentation at this time and would possibly speak during the applicant's rebuttal portion of the public hearing.

Mr. Young then called for Town Board Testimony.

David Douglas, Chairman of the West Tisbury Planning Board, stated his Board has only reviewed the preliminary plan and stated their first concern lies with the northern section of the subdivision (lots 2,3,4,5,6,7) which are the main area of wetlands and how these lots could be accessed without damage to the wetlands. He further stated that some lots appear to front on the main road, which is wetland, and stated frontage must supply adequate access which to the Board seems very difficult. Further, the Board's major concern is the subdivision access being through Chilmark. Lastly, the Board is very concerned for the endangered species.

Chris Murphy, Chilmark Planning Board, stated the Board has several traffic reports which are not yet in and noted he hopes the MVC will keep the record open for submission of these reports. He stated the Board has serious concerns, the major being density and stated they feel that Chilmark's 3 acre zoning is not sufficient and that the Town needs the MVC's help in scaling down the proposal. He discussed protection of physical and limited resources; traffic generation, history and current status of the road, access for emergency vehicles; history of site and the effect of the subdivision on Mill Brook Watershed and Roth Woodlands. He then stated many questions have been asked about the appropriateness of access on the land locked portion of West Tisbury through Chilmark. He stated the least desirable area for building is within the West Tisbury parcel as there is so much wetland and stated one proposed solution would be to site all the houses within the wooded area of the Chilmark parcel and have none within the West Tisbury parcel.

Drew Marvell, Planning Board, stated the Board has voted opposed (with one negative vote) to allowing traffic from a West Tisbury subdivision to access from Chilmark. The second problem is the Roth Woodlands Road is unsafe as it goes through a wetland and is only 16' wide and comes out at an unsafe curve on North Road and the fact that all traffic would then have to use Old Farm Road to Tea Lane is also dangerous. He stated that there have been near accidents on Tea Lane and that the Town doesn't want to have the historical character of this road destroyed. He stated a consultant has been hired to look into how much traffic the roadway can withstand and also maintain the character and still be safe.

Russell Walton, Conservation Commission officer, stated he has delineated the wetlands as marked on the map. He stated the problem, as he sees it is water runs out of the hill from all directions and stated there are indications of groundwater flow i.e. edge marked by vegetation which is a fairly good indicator of wetlands; water has been seen along trail in the past and there is indication of this happening recently as leaves have been swept away he feels that the northern part must be considered part of the Mill Brook Watershed. He stated that he agrees with Mass. Natural Heritage that areas within the subdivision should be protected to provide large enough areas for the plant population.

Mr. Chris Murphy said his Board would like to see in the end, no more than 12 lots on the entire parcel which would include the 2 lots as resident homesite lots and further all lots to be sited within the Chilmark parcel and that the rest of the parcel (WT and Chilmark) should be deeded forever conservation land. He explained that the Board feels the Oak forest can absorb much more than the wetland areas and that the protection of Wascosim's Rock is important.

Mr. Young then asked for public testimony.

Virginia Jones, Abutter, expressed concern if all lots should be sited within the area of Chilmark. Also she stated concerns for Tea Lane regarding the extensive wetlands in this area which have never been addressed.

Jules Worthington, Tea Lane Homeowners Association spokesman, read Article 1 Section 1 of the Chilmark's Zoning By-law which addresses the health, safety and welfare for the Town of Chilmark. He then read a statement of the homeowners association which summarized three major objections as follows: this is a poorly planned subdivision; this parcel is one of the last rural frontiers in Chilmark and the inadequacy of access i.e. historical roadways and width of roadway which makes access hazardous. Lastly, he stated that the detriments of this development outweigh the benefits and therefore requests denial of the plan so that the Town will have the time to develop a definitive plan for the Tea Lane area.

Frank Dunkl, abutter to Roth Woodlands access, stated that he is familiar with the ecological consideration for this area. He stated he and his family were aware prior to purchase of their land that this area was a very diverse and ecologically rich section of the Island. Further, there is evidence of this diverse watershed being documented as early as 1847. Mr. Dunkl stated prior to the developers purchase of the property he spoke to the developer and made him aware of the problems there would be in developing this property. Mr. Dunkl stated concerns which were discussed with applicant are: there are more wetlands on the property than would appear when walking through; perched watertables and areas where springs come out of a hill; watertables which disappear into the ground and stated the implications of this would be where water disappears into the ground pollution is taken with it and will show up somewhere else; also the developer was told that conservation groups are very serious about this area and stated donations regarding conservation restrictions to protect the wetlands; trail systems and endangered species and noted some of these species have been located on his property. He suggested that the whole Mill Brook watershed be protected.

Mr. Dunkl then discussed concerns of access being obtained to the development without traffic crossing through wetlands and discussed the locations stating that although offsite, the wetlands would still be travelled through and questioned how the roads could be properly graded to protect the wetlands. Mr. Dunkl stated concerns regarding the emergency access time and road improvement versus road modification.

Bill Goldsmith, stated a great deal has been heard regarding the property and that he has not heard one Chilmark resident make a major defense for this project as proposed.

Burton Engley, opponent, stated this proposal is not a sensitively designed project and that he would hope the whole plan would be reconsidered.

Mr. Young asked for the applicant's rebuttal, he further stated that the applicant may respond in writing if he wishes. There was discussion of the length of time the record would be kept open. Mr. Young asked the Chilmark Planning Board how much time they would need? Mr. Murphy stated two weeks would be adequate time. Mr. Young stated if the record is kept open for 30 days so the applicant has enough time to respond the MVC will need an extension of the 60 day period for 30 days.

Kerry Simmons, Land Planner for the applicant, stated that he would like to re-enforce that the applicant feels strongly that this is a sensitive piece of land and this is the reason for the applicant becoming involved with this parcel. He stated they have met several times with many people to find out the local values and this has been incorporated into the plan. Further, he stated all concerns mentioned tonight have been mentioned in the past. Mr. Simmons further stated that the West Tisbury parcel being presented is in preliminary form and can be changed as there is no concern which can not be accommodated satisfactory.

Mr. Jason then asked if the applicant would be willing to give up access rights to Roth Woodlands. Mr. Schafer, Attorney for applicant, answered in the negative and further stated this would be unfair.

Mr. McCavitt asked the status of Roth Woodlands Lane and asked what rights would be given up?

Mark Adams, MVC Staff, stated that parts of this proposal and other parcels have been granted access via Roth Woodlands in landcourt and further discussed the history of the landcourting.

Mr. Schafer, Attorney, for the applicant stated the three week extention as requested will be granted. There being no further discussion Mr. Young closed the public hearing and stated the record would be open for 30 days at 10:45 P.M.

Following the public hearing John G. Early, Chairman of the Martha's Vineyard Commission, opened the special meeting of the Commission.

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

Item #2 - Old Business - There was none.

Item #3 - Minutes of March 24, 1988

Motion to approve as written - seconded.
The motion carried with 4 abstentions (West, Early, Evans, Wey)

Item #4 - Committee Reports

Land Use Planning Committee (LUPC)

James Young, Chairman of the LUPC, stated the Committee met last Monday to discuss the following DRI proposals: Ralph Packer Pier enlargement; Surfside Inn DRI and Mill Brook DRI. Also the Committee will meet again on April 11 to discuss the following: Norman Rankow DRI; Simkins Airport Hangar DRI and Priester's Pond - Millbrook DRI.

Lagoon Pond Management

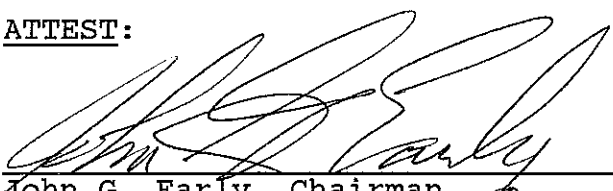
Mr. Young stated Lagoon Pond Management Committee will meet on Friday at 2:00 at the Dukes County Extension Service and any member of the Lagoon Pond DCPC committee is invited.

Item #5 - New Business - Mr. Early stated a new District Nomination has been received from Peter Lars Look of Edgartown, for all land bordered by the Atlantic Ocean, and/or Vineyard and Nantucket Sounds, and Cape Pogue Bay and Poucha Pond. Mrs. Borer, Executive Director, explained this is for the area of Cape Pogue Lighthouse to Wasque on Chappaquiddick Island. Mr. Early stated he has appointed a DCPC committee which will consist of Steve Ewing, Chairman; David Ferraguzzi, Richard West, Larry McCavitt and Lenny Jason.

Item #6 - Correspondence - There was none.

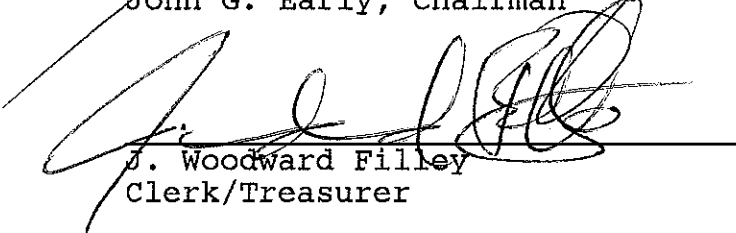
There being no further business the meeting adjourned at 11:00 P.M.

ATTEST:



John G. Early, Chairman

4/28/88
Date



J. Woodward Filley
Clerk/Treasurer

5/4/88
Date

ATTENDANCE:

Present: Jason, Lynch, Widdiss, Filley, West, Young, Ferraguzzi, Evans, Scott, Early, Wey, Ewing, Lee, Morgan, McCavitt, Harney

Absent: Eber, Custer, Delaney, Allen, Geller, Harris