

THE MARTHA'S VINEYARD COMMISSION

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MARTHA'S VINEYARD COMMISSION MINUTES OF MAY 19, 1988

The Martha's Vineyard Commission held a public hearing at the Old Whaling Church, Main Street, Edgartown, MA on May 19, 1988 at 8:00 P.M. regarding the following Development of Regional Impact (DRI):

Applicant: MSPCA
350 Huntington Avenue
Boston, MA 02130

Location: Off Edgartown-Vineyard Haven Road
Pennywise Path
Edgartown, MA 02539

Proposal: Request for modification of the October 1, 1987 DRI Decision qualifying as a DRI since the development is the subject of a previous DRI Application.

James Young, Chairman of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony at 8:10 P.M. Mr. Young asked for the staff presentation.

Greg Saxe, MVC Staff, stated the change from the previous proposal is a reduction in size of the shelter building from 4,500 square feet to 2,415 square feet. Mr. Saxe explained that the previous proposal had been approved by the Commission with conditions regarding groundwater protection, public safety (traffic), building design (siding), and animal exercising policy, however, was later denied by the Zoning Board of Appeals. He stated reasons given for denial included: use not in harmony with general purposes and intent of the by-law; development inconsistent with the neighborhood; threat to public water supply; possible inadequacy of parking and a building moratorium which surrounded the public well. He noted that this application will not go before the ZBA because there is not a net increase in floor space, and that the Board of Health will sign off before the building permit is issued. Mr. Saxe stated the Board of Health recommends the same controls as in the previous application.

Mr. Saxe stated in addition to the construction of the shelter building the proposal includes: improvement and widening of Pennywise Path from Vineyard Haven Road to the site driveway; relocation and reduction in area of the existing residence from 2,196 square feet to approximately 1,000 sq. ft. and removal of 3 buildings (approximately 2,050 sq.ft.). He said the final product of this proposal will be a site with 3 buildings: new shelter 2,415 sq.ft.; existing clinic

2,424 sq.ft.; Foote home approximately 1,000 sq.ft. on a lot size of 32,000 sq.ft.

Mr. Saxe then reviewed the location of the proposal stating it is on the corner of Pennywise Path and the Vineyard Haven Road, Edgartown Assessor's Map #21 Lot 35 (0.73 acres). He stated this lot is within the B2 zoning district and discussed the required and shown setbacks i.e. Greenbelt setback requirement is 20 feet and shown is 40 feet also, side and rear setback requirements are 10 feet and shown are 10 feet. Mr. Saxe then reviewed the Lily Pond Well Zone of Contribution requirements: dry goods only; no use/storage of toxic substances; no underground fuel storage; no pesticides or fertilizers; no septic systems within 1,000 feet of well; 150 gallons wastewater per day/10,000 sq.ft.lot and no chemical treatment of septic systems.

Mr. Saxe explained that there is one access/egress off Pennywise Path and into/through adjacent property owned by L. Convery (map #21, lot 34.22) as 20' width. The proposal involves widening Pennywise Path to a 20 foot width (presently 10 to 12 feet wide from Vineyard Haven Road to the site's driveway. Also that proposed parking is 16 spaces provided (same as existing) however they will be relocated. He reviewed traffic counts as monitored by the MVC on the Edgartown-Vineyard Haven Road in July and August: average daily flow of 10,358 vt/d and average weekday count of 10,861. Also in November 86 average daily flow of 5,472 and average weekday flow of 5,830. He then discussed potential trip generation using ITE estimates as being: general office 85 vt/d; medical office 519 vt/d; summer impact .8% to 5%/day and winter impact 1.5% to 9.4%/day.

Mr. Saxe reviewed the drainage plan stating stormwater runoff volumes will be contained on-site via two leaching catch basins serving the paved parking area of approximately 4,500 square feet.

He then reviewed the sewage disposal stating as follows: the proposal is to tie into existing septic tank and leaching facility (designed 11/5/75; prior to Title 5); two existing cesspools on-site to be demolished; Edgartown Board of Health mandated for this project no new sewage system can be installed and sewage flows will be limited to 650 gallons wastewater; (Mr. Saxe noted that the limit of sewage flow for this size lot under Town regulations would be 450 gallon limit.) and installation of sewage flow monitoring device (i.e. effluent meter).

Mr. Saxe then said natural features of the site are as follows: soils are Carver Loamy Course Sand, 3 to 8% slopes, very deep, gently sloping, excessively drained, very rapid permeability. Severe limitations for septic tank absorption fields due to poor filtering capabilities. The Landscaping is currently, native deciduous and coniferous species and is not fully screening the roadway view.

Mr. Saxe stated the proposal is found within Zone II area of contribution to the Lily Pond municipal well approximately 850' to well head. The groundwater table is 13 feet below grade and approval for a hook up with Edgartown Water Company has been acquired.

Mr. Saxe stated the proposed exterior building materials are: vertical siding or white cedar shingles (noted: cedar shingles were conditioned in original proposal) and roofing material is a metallic bronze color. He stated the building height as proposed is 21 feet.

The proposed lighting plan consists of three 30 foot standards or may be attached to building. Also a mercury vapor (blue-hue) or high-pressure sodium (gold hue) will be used.

Mr. Saxe stated that a planting schedule has been submitted which includes trees, shrubs, and groundcover. Partial screening is expected and proper maintenance has been planned.

Mr. Saxe then addressed some develop concerns regarding compliance with Zone of Contribution Requirements: allowable sewage flow for lot size (150(31000 sq.ft. -10000)=465 gal/day) is exceeded due to system pre-existing the regulation. A condition in a previous Decision includes a limit on sewage flow of 650 gallons per day. This limit is to be enforced with the aid of a flow meter to be installed by the applicant. These conditions were recommended by the Board of Health for the previous MSPCA application and the lot is approximately 850 feet from the well-head and stated the septic system is therefore a non-conforming use as would be the use of toxic compounds, fertilizers and pesticides. Addressing design considerations: adequacy of screening; hue of lighting (sodium = gold/Mercury = blue); use of white cedar shingles and height and width of chimney. He noted the latter two conditioned in previous Decision. Regarding safety issues, Mr. Saxe stated the following: Ambulance entrance is via proposed main entrance (off Pennywise Path) not off Edgartown-Vineyard Haven Road (as conditioned in previous decision). Regarding nuisance and health: animals to be exercised on-site (as conditioned in previous decision). Landscaping: retain existing vegetation; especially flowering trees, willows, pines and vines along Pennywise Path; increase screening along Edgartown/Vineyard Haven Road and east side of property between proposed shelter and abutter; reduce lawn area and overall intensive landscaping which involves use of fertilizer and pesticides (restricted in ZOC) and may change the way existing vegetation blends with surrounding properties. Regarding site layout: there is no access shown on site plan for incineration room door shown on building.

Following Mr. Saxe's presentation, Mr. Young asked if Commissioners had any questions.

Mr. McCavitt asked what the area that appears to be cement blocks, on the plan, were? Mr. Saxe stated it is unknown to him.

Mr. West asked what the incinerator room was used for. Mr. Cuetara stated it is used for the cremation of animal bodies.

Steve Ewing expressed concerns regarding the septic system as existing and the use of chemicals and fertilizers. Mr. Saxe stated the septic system is pre-existing non-conforming and that the use of fertilizers and toxic substances are controlled. He noted that the applicant has given a list of substances which are used and there are no toxic chemicals.

Woody Filley asked if the access/egress will be a one way flow pattern. Mr. Saxe stated both accesses will be two way traffic. Mr. Filley asked if widening of Pennywise Path is still a concern and if so, would use of a one way flow pattern make a difference. Mr. Saxe stated this was suggested and conditioned previously.

Marie Scott, asked for clarification regarding location, on the lot, of the existing animal shelter.

Mr. McCavitt asked what the vacant lot adjacent to this lot is? Mr. Saxe stated it is a parking area for adjacent business.

Mr. Ewing asked what a flow meter is? Mr. Saxe stated this device measures effluent and how much water goes into the septic system. Mr. Young asked if there is a flow meter in the existing building. Mr. Saxe answered in the negative.

There being no further questions from Commissioners, Mr. Young asked for the applicant's presentation.

Mr. Ed Coogan, Attorney for the Applicant, clarified issues regarding access stating the applicant has agreed to widen Pennywise Path, if necessary. He stated that the Applicant has an agreement with Leo Convery to exit onto his property. Also the applicants proposed a new septic system but the Board of Health felt they should use the existing facility. Mr. Coogan stated Mr. Saxe has explained everything completely, he said that the applicants are willing to do anything regarding the vegetation. Mr. Coogan stated the prime purpose of this proposal is that the MSPCA's existing shelter is no good and they want to replace it with a shelter that functions as one should. Further, they feel that this proposal meets every standard to allow them to get a building permit and the one and only purpose of being here this evening is to offer a plan that they feel will get them a building permit to get a shelter on the Island that works. He then stated that Ron Whitney, Manager of the Shelter and Ed Cuetara, Architect are both at the this hearing to answer any and all questions.

Mr. Young asked what the Foote house is used for. Mr. Coogan stated it is presently Mr. Whitney's residence and will have less bedrooms when relocated.

Mr. Ferraguzzi, asked what the major differences were from the first proposal. Mr. Coogan stated the major difference is the first plan had more space for class room activities. The shelter and work space are the same but less fluff.

Mr. Cuetara, stated that the animal facility is the same.

Mr. Young then called for Town Boards.

Ted Morgan, Board of Selectmen Town of Edgartown, stated his Board is in support of the proposal. He spoke of the need for a new facility and the potential for pollution from the existing facility. He stated the proposed facility will be more sanitary and will provide necessary care for the animals.

There being no further Town Board testimony, Mr. Young called for proponents of the project.

Mrs. Margaret Hall, resident, stated it is so obvious we don't have to speak.

Mr. Young then called for opponents.

Steve Saxe, neighbor on Pennywise Path, expressed concerns of traffic on Pennywise Path and in the area. He expressed concern for the proposed drive through, as everyone is looking for a short cut. He also stated that in the 2 months he has lived on on Pennywise Path, he has already smelled the incinerator a few times. Further stated on two occasions he has counted 19-20 cars in the parking lot.

Judy Saxe, Pennywise Path, discussed concerns regarding contaminates to groundwater as dogs are being walked outside and at the same time on medications unapproved by the FDA.

Marion Burke, Committee to Save Foote Memorial Shelter and employee of the Vet Clinic, stated for the past year the clinic has been patrolling the grounds after the animals have been walked and

picking up fecal matter. Further, medicated dogs are isolated and are not walked in the same location as well dogs.

Ted Morgan, Edgartown Selectmen, stated he would also like to mention that the existing MSPCA, as now operated, allows everything to be washed onto the ground and the new proposal proposes that everything goes into the septic system. Also that with the proposed facility there will not be as much need to walk dogs outside the building.

Mr. Young then asked if the Applicant would like to address any of the issues.

Mr. Coogan, Attorney, stated that if one way traffic would alleviate traffic congestion they will try their best to create this traffic pattern.

Mr. Cuetara, architect, stated that there is only a tentative agreement with the abutter, for an easement to exit through the abutting property.

Mr. Ewing asked if the existing parking in the front will be eliminated. Mr. Cuertara answered in the affirmative.

Mr. McCavitt, asked if the incinerator is regulated by DEQE. Mr. Whitney answered it is inspected by DEQE.

There being no further questions, Mr. Young closed the public hearing and kept the record open for one week at 8:45 P.M.

Following a brief recess, Mr. Filley, Clerk/Treasurer, opened the regular meeting of the Commission at 8:45 P.M.

Item #1 - Chairman's Report

Mr. Filley asked that Carol Borer, Executive Director, give the Chairman's Report since Mr. Early was not present.

Mrs. Borer, welcomed back Melissa Waterman from her hospital stay and recuperation and announced that Chuck Clifford would be entering the hospital for quadruple bypass surgery. She stated that the Land Use Planning Committee is reviewing the Millbrook Crocker DRI and since this is a large project encouraged any Commissioner who could attend these LUPC meetings to do so. She stated the next meeting will be on May 31, 1988 and agendas with be sent to the Commission.

Mr. Early returned to the meeting.

Item #2 - Old Business - There was none.

Item #3 - Minutes of May 12, 1988

Motion to approve as written - seconded.

Mr. Widdiss noted that on page 9, paragraph 7 the word conceive should be concede.

The motion to approve as corrected carried unanimously.

Item #4 - Committee Reports

James Young, Chairman of Land Use Planning Committee, stated the Committee met on Monday and discussed the Millbrook (Crocker) DRI for West Tisbury and Chilmark. He stated the Committee reviewed the applicant's written rebuttal to questions heard at the public hearing. Further, that there are still many questions. He stated the Committee will meet again on Monday, May 23 to discuss the Priester's Pond DRI.

Item # 5 - Discussion

Consideration of Cape Pogue DCPC Nomination.
(Commission Jason was not present for this Discussion)

Dick West, Chairman of the DCPC Committee, stated the Committee met prior to tonight's meeting and unanimously voted to recommend that the MVC consider the Cape Pogue DCPC nomination. Mr. West stated the reasons for this recommendation are: the natural wildlife, natural, scientific and ecological resource district and it is important in identifying the the natural, scientific and ecological resources. He then stated the boundaries as follows: All the land, bordered by the mean high water line, beginning at Wasque Point (southern-most point of Edgartown Assessor's Map 48 lot 45); thence northerly along said land bordered by the Atlantic Ocean to and including Cape Pogue Point, continuing southwesterly around said Point to the tip of land known as Cape Pogue Gut, bordered by the Atlantic Ocean. Thence around the tip in a northeasterly curve bordered by the mean high water line on the east by Cape Pogue Bay. Thence, continuing the curve southerly along the eastern shore of the Bay; including the water's of Shear Pin Pond. Thence continuing along the mean high water line in a southerly direction along the eastern shore of the channel (A/K/A the Lagoon), connecting Cape Pogue Bay and Poucha Pond to it's southern-most point. Thence southerly along the western bound on Map 48 Lot 45 (Edgartown Tax Assessor's Map) for 1,310 feet. Thence southeasterly along the southern boundary of said lot for 360 feet to the point of origin.

Mr. Early asked if Commissioners had any questions.

Marc Widdiss asked if there was some kind of development proposed which the Town would not be able to deal with in its present zoning. Mr. West answered in the negative stating that the coastal and federal districts include most of the land however, this will protect the area with another layer. He spoke of possible areas in this area which could be built on.

Mr. Ferraguzzi asked the nominator why he nominated this.

Peter L. Look stated in his capacity as health agent for the Town of Edgartown, as requested by a local engineering firm, was asked to witness perk tests on land in this nominated area. He stated the existing regulations in the town would not prevent any development. Mr. Look stated his concern at this time is for the environment and breeding population of wildlife. He stated the development which caused him to act would have had an impact on the wildlife. This will help save a very critical part of Martha's Vineyard.

Bob Morgan discussed areas which may be buildable within the boundaries.

As there was no further discussion, Mr. Early moved to Item 6
Possible Vote - Cape Pogue DCPC Nomination

Motion to consider the nomination of the Cape Pogue DCPC. Seconded. The motion to consider carried with a vote of 11 in favor and 2 abstentions (Jason, Filley) Marie Allen voted in favor.

Item #5 - Discussion

Ralph Packer DRI

Melissa Waterman, MVC staff, stated the only questions that were asked by the Commissioners during the public hearing had to do with grain size and dredge spoil and that Mr. Packer is present to answer these questions.

Mr. Young, Chairman of the Land Use Planning Committee, stated that the committee has no recommendation and that personally he has no objections to the project.

Mr. Ferraguzzi said he had been to the site and has seen evidence that this addition to the pier is needed.

There being no further discussion Mr. Early moved to the next item.

Item #6 - Possible Vote

Ralph Packer DRI

Motion to direct the executive director to draft a decision approving the Packer DRI as presented. Seconded.

Mr. Morgan complimented the applicant on the project.

Mr. Widdiss asked that the lighting on the area be directed away from the state highway traffic. Further he stated this should be included in the decision.

Mr. Early restated the motion to approve as presented and on a roll call vote the motion carried with a vote of 11 in favor and 2 abstentions (Widdiss, Evans) Allen voted in favor.

Written Decision Meetinghouse Trust DRI - Modification of Decision

Motion to approve the decision as prepared. Seconded. The motion carried.

Written Decision Robert Simkins DRI

Motion to approve the written decision as prepared. Seconded. The motion carried with a vote of 13 in favor + M. Allen voted in favor.

