The Martha's Vineyard Commission held the continuation of a public hearing on Thursday, October 6, 1988 at 8:00 p.m. at the Commission's offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Jurate and Peter Antioco  
The Chadwick Inn  
P.O. Box 1035  
Edgartown, MA 02539

Location: 67 Winter Street  
Edgartown, MA

Proposal: Alteration of an historic building qualifying as a DRI since the addition is greater than 1,000 square feet and the historical district has determined application is a DRI.

James Young, Chairman of the Land Use Planning Committee (LUPC), read the Antioco Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mr. Saxe, MVC Staff, to make his presentation.

Mr. Saxe then gave the following presentation: Referred by the Historic District Commission and is an addition of over 1,000 square feet.


Proposal: Expansion and exterior renovation of existing Inn, including the following: demolish garage (675 sq. ft.); addition of 1 parking space and 1 loading space to 8 current parking spaces, and addition of a bicycle rack; addition of 2 new wings (5,425 sq. ft.) with seven guest suites in one, and owner's quarters (2 bedroom) and a lap pool (measures 50' X 7.5' X 5'; for use by owners only) in the other. The 21 guest rooms each have a full bathroom. There are no separate facilities for the pool. There are two bathrooms within the proposed owners quarters. Renovation of existing 15 room facility (8,375 sq. ft.) including removal of one guest room, relocation of breakfast room, kitchen, and a guestroom, and conversion of sitting
room to two retail spaces each of 250 square feet. The retail spaces will have an entrance separate from those used for the Inn. The applicants intent is that these business' will be gallery, craft, or antique oriented to match the character of the Inn. The attic will no longer be used to house staff, staff housing will be provided off-site. Addition of 800 square feet of porches. Bedrooms: Existing - 15 guestrooms, 1 owners, 1 staff (attic). Proposed - 21 guestrooms, 2 owners. Net addition of 6,225 sq. ft. (includes porches), to 8,375 sq. ft. existing. Landscaping: Maintain existing frontyard, screen parking, establish interior courtyard rosegarden, establish trellis type planting on fences, establish foundation screening around new construction. Lighting: Coach-style lights on interior porch walls, low post (36" maximum) on parking lot and walkways. Height: 27 +/- ft. to roofline crest (same as existing), chimneys exceed this height. Zoning: The type and size of current use and proposed expansion are permitted uses, with the exception of the pool which requires a permit. Setbacks are met: 5' side and rear, 10' from street right-of-way. Lot area to floor area ratio: 52% proposed, 1% is permissible. Approvals required: Indoor Pool - Board of Health, Building Inspector, and Sewer Commission. New construction - Zoning Board of Appeals, Special permit (Sec 9.2A addition over 1,500 sq. ft.). Retail signage - Sign Committee. Renovation of Historic Structure - Historic District Commission.

Special considerations

Traffic: Nine new spaces required by zoning. The applicant suggests that their practice of discouraging guests against bringing cars and design is consistent with Town goals. The applicant would opt to pay surcharge penalty or provide off-site facility. They hold that parking provided is consistent with other local Inns. Historic: Colonial architecture utilized. Detached wing design is intended to minimize visual scale. Porches, brick walks, trellises, and courtyard add charm consistent with Edgartown's Historic Character. Water Use: Sewer Department has approved 6 new bedrooms, pool and retail. Permits for pool must be attained from the Board of Health and the Building Inspector. The pool is a continuous recycling, backwashing system with no outflow. Affordable Housing: Employees will be housed off-site. Retail use: Exterior signage if proposed would be reviewed by committee. New Construction: Zoning Board of Appeals Special Permit required (Sec 9.2A and addition over 1,500 sq. ft.)

Summary: 1) Although the floor area to lot area ratio is only 50% of that which is permitted, the lots involved are bounded on three sides by roads, thus increasing perceived scale. 2) The site is located across from the park behind the Whaling Church. Winter Street, on which the proposed retail and Inn entrances are located, is heavily trafficked by pedestrians who use this route from the bike racks and shuttle drop off. Addition of small retail shops should not substantially alter the foot traffic in the neighborhood. 3) The uses, and architectural and landscaping designs are consistent with Edgartown's zoning and open space plan. Although the addition of porches and removal of the garage will improve the historic character of the site, the aesthetic prominence of the proposed additions is significant. The detached wing design is intended to minimize the
impact for a building of this overall size. The largest portion of this addition is closest to the street. The angles and courtyard created by this; the sense of peering into and through trellis, walkways, and courtyards, certainly is compatible with local character. There is a trade-off between keeping structures back from streets and this type of design.

Correspondence: 1) The Historic District Commission has raised concern over the scale and prominence of the proposal. 2) The Sewer Commission has approved 6 new bedrooms (total 23 bedrooms), retail, and pool, which is to be for the owners use only. They are concerned that a maximum occupancy be determined as several rooms and suites are flexible by design.

To highlight some of the questions from the previous public hearing, Mr. Saxe stated that there was a new map on the wall with the actual borders of the 3 lots shown in red. The proposal would result in 23 bedrooms. They have received permission from the Sewer Commission for 6 bedrooms, 2 retail spaces, and a pool for the owner's use only. He then addressed questions from the Commissioners.

Mr. Ferraguzzi, Commissioner, The staff notes indicate employee housing is off-site. Where? Mr. Saxe responded that it was a residence in the neighborhood. They can't use the attic to house staff so they will house them where their children are living now. Mr. Antioco added the address 18 N. Summer Street.

Mr. Lee, Commissioner, The pool is for owner's use only? Mr. Saxe responded yes. I understood it was to be an amenity used to attract year-round guests. Response, no it is only for the owner's use, that is how the application was submitted to the Sewer Commissioner. I misstated that in my previous presentation.

Mr. Evans, Commissioner, The letter from the Sewer Commission, how long is it? Can you read it? Mr. Young responded that he would read the letter at the end of the hearing.

Mr. Jason, Commissioner, The pool is not part of the commercial section but part of the residential quarters. That is correct.

Mr. Young then called on Mr. Antioco to make his presentation.

Mr. Antioco said that he had a service disability and that the lap pool was for his exercise. The issue seems clouded because this is an Inn, but the lap pool is connected to the owner's quarters. The Sewer Commission proposed, and I agreed to, periodic, unnotified inspections. He stated that he could have increased the use of each lot substantially but he chose to spread the addition onto all three lots. He doesn't want to develop it any more than necessary, after all he has to live there too. Mr. Antioco then answered questions from the Commissioners.

Mr. Ferraguzzi, The North Summer St. staff quarters, how many living spaces are there? There are 3 bedrooms. There is also additional
parking space which we use when it is necessary. We own this property.

Mr. Morgan, Commissioner, Questioned what he meant by Sewer Commission will do periodic inspections. Are they inspecting to see if there is anyone else in the pool besides you? Steve Vancour will check to be sure no one is using the pool except myself and my family. It is permitted for use by 4 people. Mr. Morgan said he also understood it was an amenity to attract year-round business. Mr. Antioco stated that what would attract year-round or more specifically off-season guests would be the fireplaces and increase room in the suites. People want a sitting room with a fireplace in the winter.

Mr. Young then called on Town Boards, public proponents, public opponents, or neutral comments, there was none.

Mr. Widdiss, Commissioner, asked Mr. Antioco to explain the Sewer Commissioner/Board of Health objection to guests using the pool. Mr. Antioco stated that it had to do with the anticipated increased use of showers. They calculate that 4 family members using the pool will increase shower usage by 4, likewise if 42 guests used the pool they will take 42 showers.

Mr. Young then read the letter from the Historic District Commission which was summarized in the staff notes. Mr. Young asked the Commissioner if there was any other correspondence they would like read. Mr. Young then read the letter from the Wastewater Commission, Edgartown.

Mr. Jason, Commissioner, That letter is dated September 15th, what happened at the meeting on September 26th? Mr. Young asked the applicant if there was approval of the application for the shops and the swimming pool. The applicant responded that he submitted the sewer commission application with lap pool approval for 4 and the shops. He also answered some questions they had, one being the loft being considered a new bedroom but that was cleared up as being relocated from the existing facility, therefore there are 23 bedrooms.

The public hearing was closed at 8:30 p.m. with the record to remain open for one week.

At 8:45 p.m., Mr. Early, Chairman, opened the special meeting.

ITEM #1 - Chairman's Report - Reported that he was somewhat disturbed by anonymous correspondence in the DRI correspondence file and feels this should be discussed as a Commission Policy.

ITEM #2 - Old Business - There was none

ITEM #3 - Minutes of September 29, 1988 - It was motioned and seconded to approve the draft minutes. There was no discussion. The motion carried with 1 abstention (West).
ITEM #4 - Committee Reports

Mr. Young reported that the LUPC had not met on this week and would not meet again until October 17 at which time they would discuss the Aquinnah Shop addition, Mass. Audubon Society DRI, Swan Neck DRI, and begin the working session regarding the amendments to MVC Standards & Criteria for DRI's. On October 24th they will meet with MVY Realty Trust on the DRI Modification and continue with the Working Session. On October 31st Wesley Arms, Surfside Inn, and continued Working Sessions are scheduled.

There were no DCPC Subcommittee reports or Task Force Reports.

ITEM #5 - Possible Vote - Written Decision Deer Run Trust Phase I DRI Modification.

It was motioned and seconded to accept the Written Decision as drafted. This motion carried on a vote of 12 in favor, 1 opposed, and 1 abstention (McCavitt). Medeiros was not present for this vote. (Harney in favor).

ITEM #6 - Staff, Commissioners, and Public discussion regarding the issues requiring review arriving from the MVY Trust DRI Modification request.

Mr. Early, Chairman, called on Ms. Borer, Executive Director, to make the following presentation:

The request is to modify by relocating site access. June 1987 MVC Decision: applicant utilized Old Holmes Hold Road as proposed site access drive. Use of this access was dependant upon approval at Town Meeting of the proposed improvements to Old Holmes Hole Road. Such approval was not forthcoming and, hence, applicant requests on-site access alternative. October 1988: Applicant proposes on-site access drive parallel to Old Holmes Hole Road. On-site alignment same as original. On-site access 60 feet to west of original. Sight Distance: To/from the east will increase to greater than 500 ft. To/from the west will remain greater than 500 ft. Westbound left storage lane, increased from 80 ft. to 110 ft. Northbound left storage lane, remains the same at 175 ft. Right-turning traffic will turn into a 16 foot opening on State Road, rather than the original 13 foot opening, while tracking along a 40 radius curve, rather than the original 50 radius curve. Parking: June 1987: Standard spaces (9' x 19') = 264; Compact spaces (8'6" x 19') = 55; Handicap spaces (8' x 19') = 7; Motorcycle spaces (8' x 8') = 7; Total (minus Motorcycle) = 326. October 1988: Standard spaces (9' x 19') = 84; Compact spaces (8'6" x 19') = 233; Handicap spaces (8' x 19') = 7; Motorcycle spaces (8' x 8') = 4; Total (minus Motorcycle) = 324. Planting Plan: Loss of 17 trees and Island planters in southern parking lot. Loss of some trees at northwest corner of access drive and State Road, relocated at edge of parking lot. Loss of plantings on abutters land on eastern side of access. Bank and Supermarket Buildings: Location of buildings remains the same. Square footage/footprint remains the same. Entrances, service areas, drive up windows remain the same.
Crosswalks: No changes. Lighting: 3 light posts deleted. Bike Path Easement and climbing lane: Tisbury Planning Board suggests that easement for sidewalk would be an appropriate alternative as Planning Board and Department of Public Works do not recommend the inter-connective bike path system to utilize this road. Drainage Plan: Entrance redesigned to include 3 leaching basins and 2 catch basins. Not clear if this is in addition to June 1987 proposal and how earlier plan may change. Septic System Plan: No changes.

Summary of Tisbury Planning Board Decision rendered August 31, 1988:
1. Issue raised over access way, shown on plan between north and south parking, between ownership and use. a. Applicant to executive an agreement with Planning Board to protect interests of all entitled to access. b. Improvements on this way will be in accordance with approval from Planning Board at applicants expense. 2. Off street parking. a. Parking plan geometry slightly altered along east side; new plan does not affect traffic pattern or flow. 3. Drainage and paving. a. Realignment of road will necessitate contouring a dip to avoid a runoff. b. Applicant to make improvements including direct access covers, concrete bottoms, and special baffles. For additional discussion and evaluation as per Rizzo Associates' Review of Plans. 1. As proposed in modification, the left turn lane into the site from State Road will prevent left turn movements onto State Road from Old Holmes Hole Road. 2. The left turn lane from State Road will also serve as the left turn lane into Old Holmes Hole Road - which will eliminate the storage capacity of this lane for entrance to the site. 3. 1 and 2 may be minor under present conditions, but could be severe if Old Homes Hole Road was improved in the future. 4. The proposed on-site access drive is also more directly in line with an access drive to several apartment buildings on the north side of State Road. a. This impact on turning movements associated with the proposal should be discussed and evaluated. 5. Proposed access drive will require a State Highway curb cut permit. a. The status of this curb cut permit application should be reviewed.


Ms. Borer went on to say that the Commission had attempted to survey traffic on State Road. A traffic counter was put down on this portion of State Road on August 4, 1988 and the cable was pulled from the down-Island side of the road. It was replaced again on August 15, 18, 19 and on August 22nd the traffic counter box was removed from the site. This has been reported to the Police as well as the Department
of Public Works. Therefore there are no traffic counts. Ms. Borger introduced Eric Wodlinger, Choate, Hall, & Stewart counsel for the Commission to review some of the legal issues addressed by Bernstein & Bronstein.

Mr. Wodlinger said the letter addressed legal flaws namely split-site zoning and subdivision control laws. There was also a lengthy brief which was apparently submitted to the Town of Tisbury. I have had contact with the Tisbury Town counsel concerning the issue of right of way between the two holdings. The 2 lots are a subdivision of the Down Island Farms. The 3 documents premised that the Town of Tisbury had ownership interest in Old Holmes Hole Road. He has received a letter from Carmen Durso, Town counsel, Tisbury, which stated that it is the opinion of the town's title examiner that the Town may enjoy easement rights of passage, but that they hold no title to ownership where the road passes between the 2 lots. The 2 lots can be considered 1 lot for zoning purposes. Has also received from the applicant's attorney a title opinion and title material as to the registered and unregistered land. After reviewing this material as it related to Chapter 183 section 58 as it relates to the ownership of private way where they abut privately held land I would advise you that it appears clear to me that MVY owns title to Old Holmes Hole Road where it passes between the two parcels. It involves the fact that the title was sold to the predecessor of MVY before it ever ended up in the Town's hands. Therefore the chain of title which ended up in the Town did not have a claim to the bit of road between the two parcels so while on its face one might think the Town has an interest in the road if you compare the time of the deeds, the Town has no fee interest, right of passage only. The Town counsel may be correct in that it could be construed 1 lot for zoning purposes because of the unity of ownership. Our advise on the issue raised by Bernstein & Bronstein is that the issues arise only if the title for the two parcels is separated by Town ownership of the road and we conclude as did Town counsel that the applicant has good fee interest in the road, therefore these three issues do not arise and are not an impediment to the Commission's consideration of the modification application.

Mr. Early then asked Mr. Wodlinger to answer questions from the Commissioners.

Mr. Ferraguzzi, Commissioner, Only the section between the 2 lots is MVY's, the rest is the Town's. Mr. Wodlinger responded we didn't conduct a title search on the road going southerly. What about north? The area in red on the wall map appears to be Town owned. It is the area unaccepted at the Town meeting for a joint use access road.

Mr. Young, Commissioner, Regarding the parking area to the south, are there spots here that have been relocated from the Supermarket parking? Ms. Borger responded that it appears the island's in the south parking lot have been removed to add additional space. Although I have not counted them it appears that there are some moved. Mr. Young, previously this south lot was to be used primarily for bank employees. That is correct. Does this mean that this lot will no be
used for supermarket patrons? The applicant will have to answer that question.

Mr. Early, Commissioner, What is the significance of the major shift from regular to compact spaces? The applicant will have to answer this also.

Mr. Young it seems that the change of access in the applicants mind is not going to interfere with the Town's plan to use Old Holmes Hole Road as a through run. In other words at some point in time both those roads will be in, is that right? Ms. Borer responded by reading a paragraph from page 4 of the Roche, Carens & DeGiamoco letter of October 6, 1988. "Since others have rights of passage over Holmes Hole Road, which is located in large part on the Trust's land, those rights will remain unchanged. The road providing access to the site will be dedicated to use by those entitled to use Holmes Hole Road. Additionally, should a connector road ever be established, the Trust will agree to have such road tie into its access road so that there would not be two parallel roads off State Road."

Mr. Ferraguzzi, Isn't it true that with this proposed modification there would be two parallel roads. Yes.

Mr. Ewing, Commissioner, The are 17 trees lost in the lot, what are the dimensions of the lot? It would have to be scaled off. It's a large enough area? Ms. Borer responded yes. Is it all paved? Yes. That is the same as with the Northwest corner? Yes, because of the shift of access. What about the bike path easement and the climbing lane? These have been eliminated? We have not heard from the applicant that it is not going to be, however the Tisbury Planning Board Decision recommending they would prefer a sidewalk. Since the sidewalk would not leave adequate space for the bike path it is assumed it will replace it.

John Gahan, MVV Realty Trust, I want to point out that the scope of this modification involves the change of access from off-site to on-site. The original plan proposed to the Planning Board in 1987 was for an on-site access. The Planning Board suggested using Old Holmes Hole Road as a possible off-site access which would require a combining of land owned by the MVV Trust and the Town of Tisbury. Old Holmes Hole Road is not shown on any recorded plans and therefore there is no definitive start or end to this road. The majority of the road however is indicated in red as owned by the Town of Tisbury. A portion is on the Trust's property. What we did in November of '87 and May of '88 is to combine the sliver of Trust property and the Town of Tisbury's property to create a joint right-of-way. We were turned down twice at Town meetings. We have now reverted to our original plan, without use of Town land. It does still involve a sliver of Old Holmes Hole Road which has always been on our property. Concerning right of passage, legally as long as we don't deny rights we haven't violated any title laws. We will improve the road and allow use of a paved, maintained road. As it relates to the connector road we will allow it to tie in at our expense. There is no need for 2 roads but we can't tell the Town of Tisbury what to do. We have tried to
combine our efforts but if the Town of Tisbury wants passage on and old, unpaved road there is nothing the Trust or the Commission can do about it. Concerning the environmental impact there are no new effects not previously disclosed on the Environmental Impact Report. The drainage, crosswalks, etc. have not changed. The issue is the scope and effect on traffic and traffic management. The second change is the $400,000 gift to the Town of Tisbury. During the MVC deliberations in July, 1987, the status of the connector road was addressed. The next week at the LUPC meeting a traffic study regarding the bypass road was discussed and the applicant offered $400,000 for the study of this access road and possible purchase of land if acquisition was necessary. This was included in the MVC Decision as a condition. We have approached the Town twice and have been turned down. We therefore submit that it is impossible, by no fault of the applicant, to fulfill this condition. We do not suggest that you eliminate this condition but substitute an equivalent condition which will be able to be complied with. Mr. Gahan then introduced Bill Roach as the traffic expert for who would be available for questions from the Commissioners.

Mr. Ferraguzzi asked Mr. Gahan, this is the original plan you went before the Planning Board with, the one you wanted to use before. Mr. Gahan replied that the access road is the one shown there but that the building placement has been reversed for aesthetic reasons.

Mr. Evans, Commissioner, explain the July 14, 1988 subdivision plan. What the applicant did is took the entire site and said if we can't proceed with this, what are the alternative uses. The effects of filing the subdivision plan is that if it is approved by the Planning Board there are protections for the landowners that subsequent changes in zoning won't prohibit use of this land. Mr. Evans asked how this plan could have been approved without the Commission seeing the plan? Mr. Jason, Commissioner According to the DRI checklist it is part of a previous decision and therefore is a DRI. The applicant stated that they are investigating that point and they will come before the Commission prior to recording the final plan. Why it wasn't referred to you when the plan was filed is between the Planning Board of Tisbury and the Commission. Ms. Eber, newly appointed Chairman of the Tisbury Planning Board, commented that the Planning Board didn't file any approval with the Town Clerk of this subdivision plan, according to the time frame that the State allows us we have until October 19th to do so. Mr. Jason stated that his fear is it will be approved by default, however, if the applicant says he won't record it until we review it he's convinced.

Mr. Wodlinger said he had had discussed this with Tisbury Town Counsel and that they had written a memo to all the Town Board of Tisbury saying that the applicant will be asked to execute extension agreements for the period while the MVC considers the DRI. If an applicant refuses to do that the Town Counsel has instructed the various boards to deny without prejudice the application to be refiled when the MVC approves. I'm assuming that the Planning Board will ask the applicant to execute and extension agreement on the subdivision as
well. If that happens the Commission's reviewing authority will still be upheld.

Ms. Eber stated that the problem here was that the Planning Board was told to request the applicant to give an extension for the length of time necessary for the MVC to make a decision, however the public hearing was already closed, not continued.

Mr. Wodlinger suggested that the Town Counsel confer with the Applicants counsel to discuss mechanisms to extent the time period. He doesn't want to see anyone's rights prejudiced over a procedural matter. This subdivision plan is separate from the modification, both of these plans fall under DRI regulations as alteration to a DRI previously considered. This is a classic zoning freeze. It represents a court legal decision during the planning process, the landowner should be protected against possible alterations in the zoning. There is a freeze that follows the issuance of a building permit, which is a 6 month freeze, there is also the subdivision plans which I believe last 8 years. It affects only local zoning and does not affect the Commission. It is a commonly used tool during the development planning. It is possible to impose conditions to say we approve but with no separate ownership. This can be accomplished since the subdivision sets the ground work for future development and 4 separate use lots and ownership.

Mr. Evans, Commissioner, Is counsel suggesting that it would be possible for the MVC to condition this subdivision plan? It is possible to do? Yes. The scope of the public hearing should include the issue would there be ill effects for separation of ownership.

Mr. McCavitt, Commissioner, In theory the modification could be denied. The subdivision is the only thing that would authorize separation of the 5 lots, one being a road lot. If this wasn't a previous DRI it wouldn't even qualify as a DRI. It is possible to deny but what would be required for a denial. Any proposed activity on the 5 lots would come back to the MVC, once a DRI always a DRI, right? That is correct.

Mr. Early asked the applicant to explain the change in parking spaces from standard to compact. The Tisbury By-Laws require 1 space for every 150 feet. That is 1 more than we provided. However, there is no space size designated. We could have met this requirement or asked the Planning Board to OK a decrease. We chose to meet the requirement. There was no other reason, no surveys, no statistics on increased need for compact spaces.

Mr. Ewing, Commissioner, then asked if that is the same reason the trees were removed? The response was affirmative. So you have about 1 1/2 acres of open parking lot? Yes.

Ms. Eber, Commissioner, said when the new plans were submitted to the Planning Board they were told that the only change was the elimination of 1 parking space. They weren't told of the tree removals, etc. The applicant responded that a landscape plan was submitted to Mr. Renear.
Ms. Eber responded that if there were major revisions they should have been told. Response was a revised plan was done. It did point out the removal of spaces in the corner and removal of trees in the backlot to accommodate the extra spaces there.

Ms. Borer read from the Tisbury Planning Board Decision, dated August 31, 1988 RE: Landscaping and Lighting. "Landscaping has been revised along the accessway and in the area of lots 22A04.10 and 22A04.20; the species designations, plan, and densities are essentially as before. There was some discussion relative to additional plantings and increased calipers for some areas. The applicant offered to make such additional plantings as the Planning Board may require - taken under advisement for further design study."

Mr. Cooke stated that Mr. Bill Roche could address the enhancements.

Mr. Evans asked if anyone could say how many spaces were lost in the supermarket area? Approximately 20 was the applicant's response.

Mr. Ewing, Commissioner, Does Tisbury have any provisions to accept cash in lieu of spaces? Ms. Eber responded no. Occasionally we do allow off-site parking alternatives but we do not allow cash contributions.

Mr. Roach stated that they have moved the access away from the curve, improved the site distance, and moved the intersection away from the curve also. The concerns raised by Rizzo Associates in their October 5th letter, the left hand turning and movement ability on Old Homes Hole Road and the resulting storage capacity of the left lane and the more direct line with the drive of the apartment buildings on the north side of State Road are not much different than previously proposed. The effects are the same.

Ms. Eber, What are the effects of using both roads simultaneously? As a traffic engineer I would prefer and did try to have a single road. During busy times we propose to post an officer to control traffic.

Mr. Early interrupts this discussion and again states that the purpose of this meeting is to discuss what issues require review, to raise the issues, this is not a public hearing. It's 10:00 now and I'd like to proceed with the public input.

Mr. Ewing, Commissioner, What is the triangle in the road on the proposed plan? Applicant responded that it is painted on the street. Not an Island? No.

Mr. Jason, Commissioner, Concerning the statement on page 6 of the October 6th letter from Roche, Carens, & DeGiacomo $400,000 condition does not relate to the site itself therefore the Commission should modify or eliminate this condition without a public hearing. This is one of the conditions that made me change my vote and I feel it should be discussed as part of a public hearing.
Mr. Early then called on Town Boards for input or discussion. There was none. He then called on the public.

Mr. Burton Engley, regarding the parking. State law does have standards for the number of handicapped spaces required and the size of those spaces. It requires 12' stalls. I think the Commission should look into these laws.

Mr. Brandon O'Neil, Conservation Society Director, I have followed the Tisbury Planning Board deliberations as this revised DRI made it's way back to you. As far as identifying issues for the DRI Modification request I would certainly urge the staff and the Commissioners to pay special attention to this whole matter of the Ancient Ways that runs through this property. Old Holmes Hole Road is an Ancient Way, is the Old County highway running to points west, as John Ganes pointed out it is not bound certain, it is not laid out, it is not registered. However it is found in the historic record for the last 300 years and as a result it does have a special status on the Island. We are concerned about the loss of these way as is the Commission. The Commissions policy is to discourage use of these ways for subdivision access. The public gains rights thru uninterrupted use. The Planning Board discussion established that the Town does have a fee ownership. Referring to the Tisbury Planning Board Decision Page 5, Section 3 raised concerns about the revised plans improvements on the access road. One issue I suggest requires review is the Ancient Ways and the Towns approval of these improvements.

Eileen Ordover, Citizens for a Livable Island and Conservation Commission, Referring to the August 31 Tisbury Planning Board Decision, Tisbury and the applicant each recognize that the other has a fee interest. I am surprised that the decision by the Tisbury Planning Board says the town does have a fee interest in this portion that will pass thru the MVY Trust lots. If Tisbury does have fee interest then this DRI is illegal. If the parking spaces are considered off-site then a special permit is needed. There are 180 spaces off site since the Town has partial fee interest on this road. The same issue effects the legality on the improvement of the road it they don't own it. She believes that the altered access won't work, however it will aid the Commission in identifying problems. The proposal differs in ways other than access. Many of the conditions and gifts aren't going to happen. This creates the need for a broader scope at the public hearing. There will be no $400,000 gift, no improvement to the town road, this will effect the benefit/detriment balance.

Mr. Sternbach, Requests clarification on the $100,000 donation to the Senior Center. Was this a condition? Has it been donated or has it slipped away? Mr. Gahan, responds for the applicant, the condition was for a gift of land or $100,000 in lieu of the land gift. The dead has been tended on the land but we are not sure if they'll keep the land or request the $100,000. The 2nd gift of $100,000 was to the Duke's County Regional Housing Authority, not to Tisbury or the Council on Aging. The money hasn't been given yet because we can't proceed yet. Since there has been no decision forthcoming we cannot
Mr. Early called a short recess at 10:20. When the meeting was reconvened Mr. Wodlinger was called on to give a summary of the issues:

1) Traffic effects resulting from the change in location of the access.
2) Relocation of parking spaces.
3) Changes in landscaping.
4) Revisions on the Decision. Required and/or desirable.
5) Economic changes resulting from the change in location of the access and the parking.

2) Legal issues: 1) Ownership of the section of Old Holmes Hole Road. The opinion of counsel will remain the same unless new information is provided. 2) Ancient Ways, does this affect title or prescriptions for use?

Mr. Early then called on the Commissioners to add any issue they might want discussed.

Mr. Evans, Commissioner, The subdivision plans should be appropriate for discussion during the public hearing. I also suggest we ask the Town for input regarding their planning intents for this area. Reconfiguration of the parking might raise issues as to the appropriateness of the scale and scope of this building projects.

Mr. Young, Commissioner, Parking issues that should be addressed in addition to the relocation are changes in the lot sizes and landscaping.

Mr. Wodlinger responded to Mr. Evans that the modification of access is a separate issue from the subdivision and should be considered as such. Mr. Evans questioned what he meant. Mr. Wodlinger clarified that these are 2 distinct issues. 1 moves the road and the other subdivides the property. There should be 2 public hearings. Mr. Evans asked if we could suggest conditions for the subdivision. The response was yes, at that public hearing.

Mr. McCavitt, Commissioner, We should discuss the traffic impact. The potential impact of continued and future use of Old Holmes Hole Road. The potential of 2 openings of certain width with no distance between them. Will the dirt road be used in addition to or instead of the new road.

Mr. Filley, Commissioner, I think we should elaborate on the conditions issues. Any specifics, for instance the $400,000 is this a dead issue. When we imposed this condition we felt the connector road was important, if the town is unwilling to accept the donations should we a) Give the money to another project, b) Give the money to the Town of Tisbury to use at it's discretion, c) Use the money to improve the Island as a whole or d) say the condition is inappropriate now. We
know this condition has failed and should look at alternatives.

Ms. Eber, Commissioner, Is it possible to discuss the impact of the "idea" of a connector road? How this influenced the original decision? Mr. Wodlinger, I am not quite sure how to phase your point. Ms. Eber, feels the connect road had an important impact on the decision. Feels there should be discussion if there will ever be a connector road. Mr. Wodlinger said if enough Commissioners feel this is needed we could certainly discuss it.

Ms. Medeiros, Commissioner, doesn't think that a former decision should be part of this modification. This modification has caused agony over the 2 roads being side by side. This should be the main topic of discussion.

Mr. Young, Great weight was put on the condition to improve the road and the money to be donated. Feels it would be appropriate to discuss this if the modified access affords the same conformity to the Town's Master Plan.

Mr. Ewing asked a question to counsel. Who can vote? Mr. Wodlinger stated that this is separate from all past decision. All Commissioners present at the public hearing will be able to vote.

Mr. Filley, the proposed modifications to State Road should be part of the discussion.

Mr. McCavitt asked counsel to restate issues.

1) Changes in the traffic: effect of the change in location of the access road and the two roads being closely parallel.
2) Change in the parking: size of spaces, relocation of spaces and possible implications.
3) Changes in landscaping: location and number of plantings.
4) Change or revision of failed conditions: implication of the change in the road.
5) Drainage as it relates to the parking modifications and the road.
6) Modified access compared with the Town's Master Plan and the possible connector road.

It was motioned and seconded to accept these issues as the scope of the public hearing. This motion was carried with no opposition and no abstentions.

Mr. Wodlinger, in order to quell any allegations of conflict of interest the staff will circulate prior disclosure and new forms for disclosure.

Mr. Jason, Commissioner, what about conflict of interest caused by affiliations with opponents? Mr. Wodlinger said he would investigate this. Any questions about the disclosure should be directed to Ms. Borer or Mr. Friedman. Ms. Borer requests they be returned by the 21st of October.
Item #8 - Correspondence - There was none.

The meeting was adjourned at 11:10 p.m.

ATTEND

John G. Early, Chairman Date

J. Woodward Filley, Date
Clerk/Treasurer

Attendance:

Present: Jason, Widdiss, Filley, West, Young, Eber, Ferraguzzi, Evans, Scott, Early, Medeiros*, Ewing, Lee, Morgan, McCavitt, Harney.

Absent: Lynch, Wey, Delaney, Allen, Geller, Harris.

*Medeiros arrived at 10:05 p.m.