

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF MARCH 23, 1989

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a continued public hearing on Thursday, March 23, 1989 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: Martha's Vineyard Hospital, Inc.  
c/o Schofield Brothers  
97 State Road  
P. O. Box 339  
Vineyard Haven, MA 02568

Location: Off Linton, Oak Bluffs, MA

Proposal: Construction of a parking lot qualifying as a DRI since the proposal is within the Coastal District DCPC.

James Young, Chairman of the Land Use Planning Committee (LUPC), read the Martha's Vineyard Hospital Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Thomas Bales, MVC Staff, to make his presentation.

Mr. Bales used wall displays to review the updated staff notes (available in their entirety in the DRI file). He addressed the following points: Questions of ownership of Dorchester Ave. and he stated that since it will be kept open there should be no problems arising from blocking rights of access; concerning permeable paving surfaces, I have had discussion with the manufacturer concerning the inability of grass to grow if this surface was used here based on the heavy usage of the lot, the need for rubber protection of snow plowing blades, and the manufacturers recommendation against using this surface in a hospital parking lot where maneuverability with crutches and wheel chairs would be limited. Mr. Bales then stated that revised plans were received today in which the applicant addresses abutters concerns. This plan increases the buffer from 21-26', reduces the amount of parking from 36 to 32 spaces, retains the existing Cedar tree buffer, incorporates addition ground cover to add to this buffer, and decreases the paved surface on lot 5.18 from 88% to 85% of the total area. The applicant has stated that these changes related to an agreement between the Hospital and the Downings prior to the hospital construction. Mr. Bales then reviewed correspondence received since the February 16th public hearing from Dr. & Mrs. Downing, dated March

21, 1989 (available in its entirety in the DRI file) summarized as follows: We would like the Commission to be aware that we are opposed to the construction of a parking lot adjacent to our property until an agreement or settlement is reached between us and the Martha's Vineyard Hospital. The plans drawn by Schofield Brothers, Inc. do not reflect the agreements made to us by the Hospital before and during its construction. Mr. Bales then answered questions from the Commissioners.

Ms. Harney, Commissioner, asked what stages the negotiations are at between the Hospital and the Downings? Mr. Bales stated that there has been discussion between them and suggested the applicant should comment on this.

Mr. Young, Commissioner, asked if Linton Lane was under town ownership? Mr. Bales stated that during the discussion between the Downings and the Hospital prior to construction the Downings contended that they held ownership to the middle of Linton Lane.

Mr. Filley, Commissioner, asked how the Bowens felt about the proposed buffer to their property? Mr. Bales responded that they feel the buffer is sufficient.

Mr. Evans, Commissioner, asked if the MVC has copies of the agreements eluded to? Mr. Bales responded that they were informal, verbal agreements. Mr. Evans then asked if we know what they are? Mr. Bales stated that some of the points are a request for reserved parking in the lot, ownership of to the middle of Linton Lane, and use of the land to the existing Cedar tree line. Mr. Evans then asked if Mr. Bales believed that the revised plan submitted by the applicant meets the Downings requirements? Mr. Bales responded it addresses some of the major concerns but there has been no formal agreement between the two parties.

Mr. Morgan, Commissioner, asked what was meant by a formal agreement and what were the reasons for the Downing's requesting one? Mr. Young asked if there was a representative from the Downing family present who could answer this? Ms. Gloria Pope stated she is the sister of Dr. Downing and the when the Hospital was built they took some land and promised to leave some of this land untouched. Now this parking lot is going further into this land, they now have a stake put in the yard, not even on the Hospital land. When the Hospital was being constructed there were agreements between the two parties on various points. Mr. Young asked if these agreements were documented? Ms. Pope responded no, they were made with a shake of hands, word of mouth agreements.

Mr. Young asked the applicant to make his presentation and hopefully respond to these points.

Mr. Barbini stated that the stake in the Downings yard is actually where the property line falls. There are no documents stating that they were given rights to this land. Based on the gentlemen's agreement and the verbal line that was drawn at the Cedar trees, we relocated the parking to this point, even though the land in question is legally owned by the Hospital. Mr. Young asked if the letter from

the Downings was composed before or after these revisions were made? Mr. Barbini stated before, they have not seen the revisions, we just submitted them today.

Ms. Allen, Commissioner, asked the applicant what stage the negotiations are in with the Downings and if this revision would resolve them? Mr. Barbini stated that the Downings are requiring more than is being offered in this revision, namely additional buffer, reserved parking spots, an additional gate on Linton Lane, and a walkway. From the Hospitals point of view, although not legally bound, there was a gentlemen's agreement which merits moving the buffer to this point. We have also discussed 2 reserved parking spaces, that is where the negotiation came to a standstill.

Mr. Barbini stated that the Downing's haven't seen this new plan yet, however, we did discuss them in a telephone conversation. Ms. Pope stated it is much different to talk about something over the phone than to see it for yourselves, there is a possibility for misunderstanding when things are relayed via phone calls.

Ms. Abbey Taylor, Hospital representative, stated that she and Mr. Federowitz, President of the Hospital, had met with the Downings and discussed these points and visited the site during these discussion. We called and told them of the revisions to the plan and are sure that they are clear on these revisions. They stated they are happy with this but want an addition 10' buffer, 3 reserved spaces with Hospital assurance that no one else will park in these spaces, and a gate. We agreed to 2 reserved spaces and the additional gate but not the 3rd space of the additional 10' of buffer.

Mr. Ewing, Commissioner, stated that it is clear there would be a large impact on the Downing property which justifies the buffer but why is the additional parking needed, how many spaces do the Downing's have now? Ms. Pope responded 2 but they are small, one behind the other, and often blocked or inaccessible due to people parking there for the Hospital.

These was further discussion about the methods of access used by the Downings, the available parking, the reasoning for closing Linton Lane being ambulance servicing and the possibility of opening it to this point.

Mr. Evans asked Mr. Barbini how much the north-west slope is? The response was 5-6', 14' to 8'. Mr. Evans then asked if he had plans to use fill on this slope? Mr. Barbini responded that they will add approximately 1' of fill and grade it slightly to taper it down with a milder slope to the existing grade.

Ms. Allen asked if the applicant anticipates a written agreement with the Downings? Mr. Barbini stated if we come to terms. Ms. Taylor added that we can't do the additional 10' buffer it would greatly reduce the amount of parking available and therefore not fully alleviate the problems we are now experiencing. We did offer to FAX down the revised plan to them and called them for their FAX number, we never received a return call. Ms. Allen then asked Ms. Pope if it would be possible for the Downings to come before the Commission and

if she felt this was what they would agree to? Ms. Pope responded that she was unsure.

When there were no further questions for the applicant Mr. Young called on Town Board testimony, there was none. He called on public testimony in favor of the proposal, there was none. He then called on public testimony opposed to the project.

Mr. Victor Lynn, owner of property of nearby Windmere Road, stated that the problems we have is controlling spill over parking, even where it is posted as No parking. We want the hospital assurance that this will be addressed. Ms. Abbey responded for the Hospital by stating that they have had similar complaints from the Fire Dept. because fire lanes are repeatedly blocked. This is one of the main reasons we began this project. We will begin a program of public notices in the newspapers and distributed by leaflets on the vehicles to deter this illegal parking.

When there was no further testimony, applicant statements, or Commissioner's questions, Mr. Young asked for a consensus from the Commissioners on how best to deal with the matter of closing or continuing this public hearing.

There was discussion about the gate and the existing parking. The Commissioners requested Staff prepare a new video of the site depicting the points discussed in tonight's public hearing with stakes of the proposed parking, gate, and buffers.

There was discussion on whether or not this hearing should be continued to allow the Hospital to send copies of the revised plan to the abutters and allow them time to respond or whether closing the hearing and allowing time for this to occur before deliberation on the decision would be sufficient.

Mr. Fischer, Commissioner, asked how long the applicant anticipates the project will take to complete after the approval is received? The applicant responded 2-3 weeks if the contractor works continuously.

When there was no further discussion Mr. Young closed the public hearing at 8:50 p.m. with the record remaining open for two weeks and instructed the applicant to send copies of the new plan to the Downings for their review.

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After a short recess the Martha's Vineyard Commission held a continued public hearing regarding the following Development of Regional Impact (DRI):

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

Location: Off Old Farm Road and West Tisbury Town Line  
West Tisbury, MA

Proposal: Subdivision of land qualifying as a DRI since the proposal is on property which has been the subject of a previous DRI and land is in contiguous ownership of greater than 30 acres.

James Young, Chairman of the Land Use Planning Committee (LUPC), read the Crocker/Mill Brook Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mark Adams, MVC Staff, who will be making a brief presentation.

Mr. Adams stated that the proposal is for subdivision 63.19 acres into 16 residential lots ranging in size from 3.04 acres to 6.90 acres. West Tisbury Assessor's map #24, lot #1. Access off Tea Lane via Old Farm Road. It has a hydrant lot of .40 acres and a private way of 3.32 acres. Wetland acreage, zoning, and Board of Health are as presented before. We don't have any analysis on any other plans that have been or will be submitted so we are not prepared to take questions on any of the conceptual plans you see on the right.

Mr. Young went on to state, Mr. Crocker, the Martha's Vineyard Commission continued this hearing at your request for the following reasons: submission of Chilmark plan, submission of West Tisbury plan, and resolution with West Tisbury Planning Board regarding the EIS. The Hearing is open and I turn to you, Mr. Crocker, for additional information.

Mr. Crocker stated that they were able to comply with 2 of the 3 requests. There is a preliminary plan for the Chilmark portion which contains 10 market value lots and 1 youth lot. Most of the lots did land within the stone boundary of Oak Forest. We did get an amended worksheet from the 16 lot submission to the 9 lot plan. However we didn't get everything rolling until the end. We have lawyers looking at the possibility of conflict of interest relating to Mr. Barbini working on our EIS and now being employed by E.I.P. We would like to meet with LUPC to resolve the issue of a total plan for 19 market lots and 1 youth lot. That is our request.

Mr. Young stated that he and Ms. Borer, Executive Director, had met and agreed, subject to full Commission approval, that because the Chilmark plan was recently submitted and is in a preliminary state it would probably be best to continue the public hearing to be rescheduled when applications are complete. Namely no concept plans; no preliminary plans; definitive plan for West Tisbury, modification of the 16 lot plan if necessary; definitive Chilmark plan, let Chilmark dispense with preliminary, Form B, first and then submit definitive; and utilization and submission of plan for access on option property in Chilmark at the request of the Chilmark Planning Board. The intent is to clear water that has already been badly muddied and deal with this as the Commission originally decided to, with 2 definitive plans for 1 complete review.

There was discussion among Commissioners and Town Board members about the rules and regulations governing subdivisions and the EIS submission pursuant to these rules. Mr. Young stated that when the definitive plans are submitted in West Tisbury and Chilmark these

boards can require the applicant to submit EISS based on their regulations.

Mr. Evans added that since we will undoubtedly have questions of our own perhaps the best approach would be to have staff and LUPC sit down and work out what issues are of most concern to the Commission and relay these to both town planning boards so we could get one package done that would address both town boards' and Commission's concerns. It was agreed that this would be a good direction in which it proceed.

When there was no further discussion Mr. Young continued the public hearing at 9:15 p.m. until such time when the applicant can submit the requested information.

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After a short recess Mr. Filley, Vice-Chairman, opened the special meeting of the Commission and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Filley reminded Commissioners of the Computer Mapping Demonstration Saturday, March 25th at 12:00 at the Commission offices by Dr. Podolsky of the Island Institute. This is a computerized mapping analysis and information system using satellite images - capabilities to analyze ground cover/land use types and create databases of information on land use - overlay mapping capabilities for added features - (i.e., overlay assessors maps - zoning districts - etc.)

ITEM #2 - Old Business

Mr. Filley asked Ms. Borer to update Commissioner on their request for information concerning Mr. Rose's building.

Ms. Borer showed a plan for the new building and stated that the Ken Rose building would be 4,400 sq. ft. with 14 store units, 1 manager's office, and 2 bathrooms. The difference in square footage between the old building and the new building is only 150 ft. The building appears large because of the narrowness of the lot and the individual cottage structures being attached with a board walkway. She stated that there were preliminary meetings to discuss these plans several years ago. Since there is only 150 ft. of additional building it does not qualify as a DRI. Several Commissioners stated that the plan sounds quite nice. There was also discussion regarding the determination of DRIs and whether clear lots and lots cleared of old buildings should have the same limits to qualify as DRIs and the possibility of amending the DRI criteria to reflect this.

ITEM #3 - Minutes of March 16, 1989

It was motioned and seconded to approve the draft minutes with the following correction, page 10, Item #7 change Ms. Colebrook was concerned to Ms. Colebrook was curious. This motion passed with no opposition, 2 abstention (Wey, Young). (Allen abstained, Harney was in favor.

ITEM #4 - Committee Reports

Mr. Young reported that LUPC had met with the applicants for the M.V. Hospital, which was heard earlier; the DelReal DRI, which will be discussed under Item #5; and the Vineyard Crossing DRI applicant who presented a 23 lot conceptual plan, with 20 market lots and 3 youth lots. Next Monday we will meet with Jeff Young to discuss the Dreamland project, applicants for the M.V. Racquet & Fitness Club, and the Oak Bluffs Parking and Traffic Committee who have requested a meeting with the Commission.

Mr. Jason, Commissioner, asked Mr. Young if the Commission will see the Surfside and Captain's Table projects at the same time as the Dreamland proposal? Mr. Young responded that we requested the applicant present the Dreamland and Captain's Table proposals before the Surfside DRI is continued.

Mr. Jason, Chairman of Planning and Economic Development (PED) Committee, reported that there would be a meeting on April 6th at 6:30 p.m. at the Commission offices.

Ms. Harney, Co-Chairman of the Comprehensive Planning Advisory Committee (CPAC), stated there would be a meeting next Thursday at 5:30 here at the Commission offices. There will be public forums on May 21 and 23, sponsored by the League of Women Voters and chaired by CPAC.

Mr. Morgan reported that the Cape Pogue DCPC Subcommittee had met to review an exemption request and has granted Mr. Leland an exemption from the DCPC moratorium on 9 acres for additions to the main house and a guest house and we have indicated conditions. There were discussions with the Edgartown Planning Board about proposed guidelines and amendments to the boundaries that would include the west shore and Oliver's Point. Mr. Saxe, MVC staff, will continue work on this.

Mr. Morgan then updated the Commissioners on the status of the moped legislation and the hearing held the day before. He stated that there was insistence that the Towns could regulate and control moped usage under Chapter 85, Sections 10 & 10A. Ms. Bryant, Commissioner, asked if there were any doctor or surgeons present to testify? Mr. Morgan responded yes the only surgeon on Nantucket came to testify and he stated the helmet law has considerable reduce the severity but the number of accidents is still high. It was stated that there are still 2 accidents per day for a 100 day period on the Vineyard. Ms. Borer, Executive Director, stated that the Commission had submitted written testimony and included statistic on moped accidents from the Transportation Development report with this testimony. Ms. Sibley asked if all else fails will the Commission see if it can do something for the whole Island under Chapter 85 and thereby help the towns solve this problem? Mr. Filley stated that the MVC is very interested and dedicated to this issue.

Mr. Morgan went on to state that the Department of Public Works has agreed to open the hearings again to discuss the new rate schedule. There will be a hearing in late April on the Vineyard. It was

suggested they find the large auditorium on the Island for this meeting. Ms. Bryant added that it is important to provide a place with adequate handicap access. The high school was discussed as a possible site for this hearing.

Carol Borer reported that the Gay Head DCPC Subcommittee has rescheduled their site visit to Monday, March 27 at 12:00.

Mr. Ewing reported that the Edgartown Ponds DCPC Subcommittee met to discuss exemption procedures and we were provided with additional staff information by Ms. Waterman, MVC Staff. We will be scheduling a site visit shortly. The next meeting will be Thursday the 30th at 7:00 p.m. here at the Commission offices.

When there were no further committee reports Mr. Filley moved on to the next agenda item.

ITEM #5 - Discussion - Juan DelReal DRI, Town of Edgartown

Mr. Filley opened this discussion by stating that as always I will remind the public that this discussion is for the Commissioners only with public input accepted only at the request of a Commissioner through the Chair. He then introduced Greg Saxe, MVC staff, to give an update on this DRI.

Mr. Saxe reviewed the staff update (available in its entirety in the DRI file) including new correspondence from Mr. Hans Van Lohuizen supporting the project; LUPC discussion; possible conditions; and other possible changes. He went on to read a letter submitted by the applicant addressing LUPC discussion and suggestions which is summarized as follows: FROM: Juan del Real, dated March 22, 1989. The letter addressed 2 points: (1) Parking: Commission expressed concern over expansion in parking that would detract from the quaint garden look. The applicant does not believe that parking beyond the existing 2 spaces would be required, accordingly, if the Commission so desires, we would agree to a modification of our proposal to include only the existing 2 parking spaces. (2) Conference Room: The conference room would be limited to guests who are staying at the Shiverick Inn and no more than 14 to 17 persons would attend a conference. Once we eliminated from that number the 5 guests staying at 92 Main St. it became apparent that no more than 9 to 12 people would be required to walk on Pent Lane for conferences. If the Commission so desires, however, we are prepared to eliminate the Conference Room from our construction plan and use the space instead of an enlarged Garden Room. Responding to the Selectmen's concern that the property should retain its residential character, we are prepared to take the following steps: (1) move our family quarters to 92 Main Street; (2) reduce the scope of the project from 5 to 4 guestrooms; (3) post no signs in front of the property (other than a small plaque to be affixed to the facade of the building); and (4) restrict access to the property so that only one guestroom would be accessed through Main Street. Mr. Saxe then answered questions from the Commissioners.

Ms. Sibley, Commissioner, asked if the 2 parking spaces proposed would be adequate? Mr. Saxe responded that based on the zoning this is all

that is required. The applicant has stated that the parking provided at the Shiverick Inn isn't full most of the time and that is right around the corner.

Mr. Young reported that LUPC has concerns with the extra rooms, namely the library and conference rooms, in terms of possible future ownership. Ms. Eber expressed concern at LUPC over the increase of approximately 70% and the pedestrian traffic generation. The applicant's letter does address these points.

Mr. Lee, Commissioner, asked, regarding the possibility of future ownership, wouldn't this come back as a DRI? The response was no unless a permit is sought. If the applicant receives approval from the MVC he will go to the Town and they also could condition against a change in use.

Mr. Evans asked if this is outside the Historic District? The response was no it is inside. Mr. Evans then asked if the Historic Commission has reviewed this? The response was no, not yet. Mr. Evans stated that he does like the concept and what Mr. DelReal has done with the Shiverick Inn, however, he is mystified by the architectural handling of the back of building. Pent Lane is near the center of town, is visible, and people wander through the area. We need to be concerned about how buildings are modified that, the look of the building is in fact in keeping with the pattern of how things are done historically in Edgartown. I don't know anything in Edgartown that is like this. I think this will look awkward with the flat roof jutting out. He said it reminded him of the beginning of a three decker in South Boston. He is concerned with the visual impact even though the concept is beneficial and certainly better than summer rental use.

Mr. Filley, Commissioner, asked how this relates in size to others in this area? Mr. Saxe responded that it is shorter and smaller than the buildings on both sides and is now the smallest building on the block and will probable continue to be so.

Mr. Fischer, Commissioner, asked how many letters have been received from proponents and opponents? Mr. Saxe responded 2 letters in opposition, one from the Edgartown Selectmen, signed by 2 members and one from abutters across Pent Lane. We also received correspondence from the ZBA that was submitted to them during the 1984 and 1986 application process. 9 form letters were submitted in favor of the project from Edgartown business people and the one additional letter received tonight.

Mr. Morgan, Commissioner, felt that although Mr. DelReal has done the Shiverick in fine taste if the reasoning for this conversion in a residential district is that others have done the same in this area, we might as well forget about zoning, and that is what is happening in the residential area from the Court House to Cannonball Park in Edgartown. If we want to send a message to the rest of the Vineyard we should send a message that just because you are next door to something that makes your case a little easier to present it doesn't mean that that is what your property should become or is going to become. He went on to say that the existing uses aren't Inn they

rent rooms as Lodging Houses and some have been in existence for about 70 years. The Selectmen are opposed and the Board of Appeals did not see fit to change that or everything in the residential area into business. Without denying the Morey and Chadwick DRIs we are giving a negative signal and if we continue to change residences to Inn we may possibly change a way of life that we would not want to change. Mr. Morgan then discussed the additional pedestrian generation and the potential effects on Pent Lane. Given Mr. DelReal the credit for what he did to the Shiverick Inn it is my estimation that he shouldn't be rewarded by opening up another Inn. This isn't going to be the last time we are going to hear a proposition like this. The zoning was changed to maintain this residential area as a buffer between the 2 business zones and I think we should respect that and take a look at what the area will look like if we continue to allow new and additional Inns.

Ms. Sibley stated that at the public hearing it was presented that in practical terms this is not being used as a residence but as rental property, and since the rents are so expensive there are often several families crowding into this building unsupervised. Mr. Jason stated he has never received complaints on this property. There was discussion where this information had come from and the ability to document it.

Mr. Jason, Commissioner, stated he didn't think Mr. DelReal was the issue. What we have here is a community making a conscious decision to remove a portion of their business district and create a buffer between businesses and residences and I think that for us to approve a commercial venture in this buffer is doing a disservice.

Ms. Bryant stated the Historic Commission hasn't comments on this and concerning Mr. Morgan's statements these changes couldn't have occurred without the Town's approval. Mr. Saxe stated that the Historic Commission has not yet had the opportunity to comment in the process, they haven't chosen not to comment and only 2 special permits have been granted within this re-zoned district.

Mr. Morgan said the applicant stated that this property has been for sale for 11 years but if the owner had shown it as residence at a residential price it might have been sold but it has been marketed as a possible business location after a permit from the Zoning Board of Appeals.

Ms. Bryant asked if it was customary for the ZBA to approve these permits? Mr. Saxe responded one previous request was denied and one was withdrawn.

Mr. Ewing stated he agrees with what Mr. Jason said, it flies in the face of the zoning, especially with a 70% expansion. The applicant stated that he is very interested in keeping the architectural aesthetics of the period, to put a box like that on the back of the structure is not in keeping with the 1800's architectural style. The impact of Pent Lane will be significant.

When there was no further discussion, Mr. Filley moved to the next agenda item.

ITEM #6 - Possible Vote - Juan DelReal DRI, Town of Edgartown

It was motioned and second to deny the DelReal DRI based on the reasons stated above. There was no discussion. This motion passed on a vote of 9 in favor, 0 opposed, 4 abstentions (Bryant, Colebrook, Lee, Wey). (Harney was in favor, Allen abstained).

ITEM #7 - New Business - There was none.

ITEM #8 - Correspondence - There was none.

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

ATTEST

  
J. Woodward Filley,  
Vice-Chairman

3/31/89  
Date

  
James Young,  
Clerk/Treasurer

3/30/89  
Date

Attendance:

Present: Bryant\*, Colebrook, Eber, Evans, Ewing, Filley, Fischer, Jason, Lee, Morgan, Sibley, Wey, Young, Allen, Harney.

Absent: Early, Medeiros, Scott, Delaney, McCavitt, Geller.

\* Ms. Bryant arrived at 8:25 p.m.