

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF AUGUST 31, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, August 31, 1989 at 8:00 p.m. at the West Tisbury School Gymnasium, Old County Road, West Tisbury, MA regarding the following Development of Regional Impact (DRI):

Applicant: Allen Whiting, Prudence Solon, Daniel Whiting
c/o Douglas Hoehn
Schofield Brothers, Inc.
P.O. Box 339
Vineyard Haven, MA 02568

Location: Off Panhandle Road
West Tisbury

Proposal: Subdivision of land qualifying as a DRI since the land is the subject of a previous DRI and a subdivision of 20 acres or more.

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

Mr. Bales referred Commissioners to a copy of the Assessor's Map at the back of the staff notes (available in their entirety in the DRI and Meeting files) to show the location of the proposal. He showed a short video of the site depicting the farm and easement, the existing structures and their drives, and the topography and vegetation of the land. Mr. Bales reviewed the staff notes using wall displays for references. Mr. Bales then read the following correspondence (also available in the DRI and Meeting files): TO: MVC, FROM: Virginia C. Jones, Chairman, West Tisbury Planning Board, DATE: August 31, 1989. The West Tisbury Planning Board members are unable to attend the public hearing for the Whiting, Solon, Whiting proposed subdivision. We did discuss the proposal, and have the following recommendations or conditions: 1) The accesses to the lots should be consolidated to one access for all lots; 2) The farm easement on the northwest portion of the property must remain because of the Agricultural Preservation Restriction on the abutting fields; 3) An easement should be shown on the plan and recorded at the Registry of Deeds for the Fire Department to have access to the pond for fire fighting. Thank

you for allowing us the opportunity to give our input. TO: The West Tisbury Planning Board, FROM: Chief John Cotterill, Jr., West Tisbury Fire Department, DATE: June 26, 1989. RE: The approval of Definitive Plan for a Subdivision; Allen Whiting, Prudence Solon, and Daniel Whiting Map 32 lots 121, 121.1, 121.2, 129, 130. Water Supply for Fire Department. It is my opinion there is probably enough water in the pond for Fire Protection but we need an access for our Fire Equipment. Wide enough road for travel for our Fire Trucks. TO: MVC, FROM Chief John T. Cotterill, Jr., West Tisbury Fire Department, DATE: August 31, 1989. RE: Whiting Subdivision. The Fire Department needs an easement to have access to the pond, in the subdivision, for fire protection and drills. Mr. Bales then answered questions from the Commissioners.

Mr. Ewing, Commissioner, asked so there will be 2 new lots and 1 road created? Mr. Bales responded yes, the 5 existing lots will be reconfigured into 7. Mr. Ewing then asked how the land that is unbuilt is now being used? Mr. Bales responded it is wooded land with some fields.

Mr. Schweikert, Commissioner, asked about the guest houses, did you say they were required? Mr. Bales responded they are not required but they are permitted in the AR-3 zone. Guest houses are limited to 800 sq. ft. unless the lot is greater than 6 acres. On lot 5, which is greater than 6 acres, the guest house could be greater than 800 sq. ft.

Mr. Young asked Mr. Bales to show the location of the existing accesses on the wall maps? Mr. Bales showed the 2 accesses to the homes and the agricultural easement. Mr. Young asked, so the Planning Board is requesting that these be combined into 1 access? Mr. Bales responded that the agricultural easement would remain as is and there would only be one access to the subdivision, which would be shared.

When there were no further questions for Mr. Bales, Mr. Young called on the applicant to make his presentation.

Mr. Douglas Hoehn, Schofield Brothers, stated that he wanted to clarify a few things in basic terms. This subdivision is to increase the lots from 5 to 7 through a reconfigurration of the lot lines. He used the 1982 wall display, depicting the parcel as a 3 lot division, and stated that basically it is splitting in half the 2 lots furthest to the right. Back in the late '70s, while Everett Whiting was still alive he divided off this parcel and gave the middle section to Prudence and the right section to Allen. In the early '80s, during the estate settlement the farm lot was divided off and the left most parcel was given to the 3 children as 1/3 interest each, no boundary lines were formed, 3 years later the parcel was divided into 3 lots. The subdivision road will be built, when it comes time to build, within a 40 foot right of way located approximately where the current driveway enters. The only reason the lower left parcel is included in this subdivision is so the configuration of the lot line can be changed to allow this road layout. Concerning the fire easement requested by the Fire Chief, the applicants have agreed to this, the only thing that has to be worked out is the location. Mr. Hoehn then

answered questions from the Commissioners.

Mr. Young asked, once the new access is built what will happen to the existing accesses? Mr. Whiting responded that the Planning Board wants all lots to access from the one subdivision road. The other roads will be closed off. So there will be only two accesses, one for the lots and one for the agricultural lands. The Fire Department will probably be best off making use of the agricultural access for fire protection purposes due to its proximity to the pond.

When there were no further question for the applicant, Mr. Young called for testimony from Federal, State Agencies and Town Board, there was none. He then called for public testimony in favor of the proposal.

Mr. John Early, spoke as a direct abutter, stating that he has absolutely no problem with this proposal. He thinks it is consistent with other land subdivision and plans that the Whiting family has done and he thinks the Town of West Tisbury will be forever in their debt for maintaining the character of the middle of Town.

When there was no more testimony in favor, Mr. Young called for testimony opposed, there was none. He asked the applicant to make a final statement.

Mr. Hoehn stated that although there are no guarantees on these things the basic idea behind this subdivision is to provide lots for their children. The issue of guesthouses comes up a lot and it came up just a little while before and I would like to address this. The applicants would like to retain the right to build guesthouses on these lots. When you take the acreage for the road off, there is a little over 30 acres left of actual buildable land. Potentially there is enough land for 10 lots and there will only be a net of 7 here. I am not saying they would like to create 10 lots, I am only saying that they are not maximizing the number of lots here. They would like to be able to retain the right to have guesthouses, not that they will, but they want to retain the right for the future. I figured that is probably something that we should put into the record.

When there was no further testimony, Mr. Young closed the public hearing at 8:35 p.m. with the record remaining open for one week.

The Martha's Vineyard Commission held a public hearing on Thursday, August 31, 1989 at 8:30 p.m. at the West Tisbury School Gymnasium, Old County Road, West Tisbury, MA regarding the following Development of Regional Impact (DRI):

Applicant: James Rogers
P.O. Box 1379
Oak Hill Ave.
Vineyard Haven, MA 02568

Location: Off Cook Road
Vineyard Haven, MA

Proposal: Construction of a commercial warehouse
qualifying as a DRI since the square footage is
greater than 1,000 square feet.

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

Mr. Saxe referred to a copy of the assessor's map in the back of the staff notes to show the location of the proposal and the surrounding land uses. Mr. Saxe reviewed the staff notes (available in the DRI and Meeting file) and stated that this use is compatible with other uses currently existing in this area. He stated it is definitely at the defined edge of the business district and this proposal would move Mr. Rogers' business out of his home, in the residential district, into the business district. There was no correspondence on this DRI. Mr. Saxe then showed a video of the site depicting surrounding land uses, topography and vegetation, views to and from the site, and the existing access. Following Mr. Saxe's presentation he answered questions from the Commissioners.

Ms. Colebrook, Commissioner, asked, so the applicant is requesting that no bluestone be used in the parking lot? Mr. Saxe responded no, the applicant is willing to bluestone half of the lot as requested by LUPC, but he wants to retain the right to pave it without a DRI modification hearing if the maintenance of the lot becomes a problem in the future. Ms. Colebrook asked how long the access is that he wants to pave? Mr. Saxe responded approximately 100 feet.

Ms. Eber, Commissioner, asked if Cooke Street is Town owned? Mr. Rogers responded no, it is private.

When there were no further questions for Mr. Saxe, Mr. Young called on the applicant to make his presentation.

Mr. James Rogers, applicant, stated he just wants to touch on a few points that were brought up. On the point of moving to Evelyn Way, Mr. Saxe did ask and I had previously considered it. There are problems in that I would have to go to other people. In fact at one point in time I had asked one of my neighbors Mr. Smith, of Smith and Smith, if he would consider giving me access through the back way there and he said yes but I never pursued it because I am trying to keep the traffic to a minimum and the 2 entrances on State Road are so close to each other that I didn't feel that moving it 100 feet up would significantly change the traffic impact. The intent, as you hopefully saw from the video and the layout Mr. Saxe showed you, is to disrupt the neighborhood as little as possible. It is a residential neighborhood on the other side, I live there. I am trying to put this building within the existing contours the best that I can so it doesn't stick out like a sore thumb which is why we have tried to

recess it back into the hill as much as we can. Concerning bluestone, as I stated at the LUPC meeting, I have no problem with putting bluestone in. The only question I have is that, if in 5 years it is continually washing out, is there a way that I can put bluestone in now and not have to have another public hearing if it became a problem. Could I perhaps meet with staff or someone else and determine that yes this is a problem and we need some relief from it. That was my only concern with asking about a change to bluestone. There were some questions at the LUPC meeting so I asked Mr. Baynes, who has a vested interest in the project, to come tonight in case you have any question you want to asked about his use. Mr. Rogers' then answered questions from the Commissioners.

Mr. Young asked about the access. Are you going to improve the entire length of Cooke Road? Mr. Rogers responded no just from State Road to my property. Mr. Young then asked if he has permission to do that from the owners? Mr. Rogers responded yes. Mr. Young then asked if it is still possible to access through Evelyn Way? Mr. Rogers responded that Mr. Smith had said yes he could access over his property but he never followed up on it. It would take considerable land removal. Mr. Young asked you don't front on Evelyn Way? Mr. Rogers' responded no. Mr. Young asked, you would have to come all the way to the bottom and then come out on Cooke? Mr. Rogers stated yes or come across Mr. Smith's property.

Ms. Colebrook asked Mr. Rogers' if he had considered bluestone for the 100 foot access? Mr. Rogers responded no I had not considered it. Ms. Colebrook asked if he thinks bluestone would be problematic as opposed to paving? Mr. Rogers responded that his only concern would be maintenance. If I could be assured of relief, without an additional public hearing, if and when it becomes a problem I would have no problem considering it. Mr. Rogers suggested that perhaps it might work best if it were paved in the hilly areas and bluestoned in the flat areas.

Mr. Young asked how wide Cooke Street is? Mr. Rogers responded that it is a 30 foot right of way and I intent to improve a 12 foot width of that. Mr. Young questioned who would maintain the road? Mr. Rogers responded that he would maintain the road.

Mr. Saxe again showed the portion of the video that depicted the Cooke Road access and stated that in some sections there are 2 foot hills on the sides and there would probably be problems with this road retaining water if it were bluestoned.

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

Mr. Michael Black, resident on Cooke Road, stated that he is not in opposition but he has questions about access from Rogers Road onto Oak Hill Road. I am concerned that if Cooke Road has too much traffic it would be easy to go down Rogers Road and out Oak Hill Road. Are there any conditions to prevent this? Mr. Young asked Mr. Black if Oak Hill

Road is a private road? Mr. Black responded no it is not a private road. Mr. Rogers stated that it is not legal to access a business from a residential road. Mr. Young asked Mr. Rogers, isn't your clientele going to be limited and wouldn't it be possible for you to make it clear to them that they are not to use Rogers and Oak Hill Road for access and egress? Mr. Rogers responded yes, there is limited clientele and I could instruct them to use Cooke Road as an access. Mr. Saxe showed the locations of Cooke, Rogers and Oak Hill Roads on a wall map.

Mr. Black continued by stating that if it is the intention of Mr. Rogers not to use Oak Hill Road, as a neighbor, I have no objections to this proposal. The way Mr. Rogers keeps his property and runs his business is A-1. It will be an improvement over what Mr. Barnes and some of the others have done in this area.

Mr. Young called for any further testimony.

Ms. Cora Medeiros spoke in favor of this project. She stated that mainly it is because she has the best interest of the applicant at heart, her son-in-law. My daughter would love to get the business out of her house, especially with 2 lively boys running around. It would be a great benefit if you approve this project.

Mr. Fischer, Commissioner, asked if fire trucks could presently use Cooke Road? Mr. Rogers responded no. Mr. Fischer asked, could they after the improvements? Mr. Rogers responded yes.

When there were no further questions or testimony, Mr. Young closed the public hearing at 9:05 p.m. with the record remaining open for one week.

Following a short recess Mr. Early convened the Special Meeting of the Commission at 9:15 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early called the Commissioners attention to a copy of a letter which was sent today to the Steamship Authority Board of Governors. (Copies of this letter are available in the Meeting and Correspondence files at the Commission offices.) In summary, the letter briefly describes the Regional Comprehensive Planning efforts of the Martha's Vineyard Commission and offers its planning expertise in preparing a master plan for the Steamship Authority.

There was agreement among the Commissioners that this was a good idea. Mr. Early added that it will not be a pro-bono effort.

ITEM #2 - Old Business

Mr. Early reported that the Executive Committee had met over the last few weeks to review the issue of a traffic engineering firm to do the Commission's analysis of Scope and Traffic Impact Analysis submitted

by the applicant. We have reviewed 29 firms and have eliminated 25 for one or more of the following reasons: the firm came from a conference list and we were not able to obtain further information; the firm represents a DRI or DCPC applicant or opponent; the firm's location is unrealistic for close consultation and may be located in another state. The final five firms were examined on the basis of fee structure, recommendations, size of projects and urban clients versus rural clients. The Executive Committee recommends McDonough & Scully, Inc. Information was distributed about this firm (available in the Meeting file) which included a brief summary of the firm, by Carol Borer, a copy of the cover letter from the firm, and a perspectus of the company including previous experience, which Ms. Borer reviewed, and resumes of the key personnel. In addition to the very good recommendations and experience in similar areas of the field, they were also very reasonable priced in comparison to others.

Mr. Early stated that this was a unanimous selection by the Executive Committee and asked if any of them would like to comment.

Mr. Young, Executive Committee member, stated that he had missed the meeting but had arrived at the same choice on his own. The pages outlining the firms representative projects are striking. When you review the projects done, the scale and location are the most similar to the scale of projects we will ask them to review.

Mr. Fischer, Commissioner, asked if anyone on the Executive Committee or Commission knew anyone in this firm? Ms. Davis, Commissioner, stated that she has worked with the company before and they seem pretty good. We never had any problems with them.

Mr. Morgan, Commissioner, stated that Commissioner Marvin Geller's firm, Brown, Rudnick, Freed & Gessner, is listed under recent clients. He added that he thinks McDonough & Scully, Inc. is the right choice.

Mr. Early stated that if the Executive Committee's selection is ratified by the full Commission the Executive Director will work out the details of the contract, which will have to be reviewed by our counsel, and the firm will be available immediately to review the scopes and analysis.

It was motioned and seconded to ratify the selection of McDonough & Scully, Inc. made by the Executive Committee. There was discussion on whether the Commissioners could have time to review this information, the fact that there are several DRI's awaiting this selection and the time that has already elapsed, and the fact that the Commission By-Law's require ratification of this selection by the full Commission since they will be consultants. There were questions as to how long the company has been in business, since 1984 and what period the contract would be for, probably initially for a year.

Following this discussion the motion to ratify the selection of McDonough & Scully, Inc. as the Commission's engineering firm passed with no opposition, 1 abstention, Sullivan. (Harney & Davis in favor.)

ITEM #3 - Minutes of August 24, 1989.

It was motioned and second to approve the draft minutes with one correction: correct the spelling of Dello Russo's name throughout. There was no discussion. This motion passed with no opposition, 2 abstentions, Jason, Wey. (Harney was in favor, Davis abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Legislative Liaison, has no report.

Mr. Young, Chairman of the Land Use Planning Committee, reported that they had met Monday and were supposed to review the Harold Sears, pier/bulkhead/dredging DRI proposal. However the applicants did not show. They contend that the application is for private (non-commercial) use and have written to the Conservation Commission asking them to withdraw the DRI application.

There was discussion among the Commissioners about this request. Mr. Jason added that this land, the Oak Bluff's Our Market property, was the subject of a previous DRI, a loading dock in 1984, and is therefore a DRI by that criteria.

Mr. Young stated that LUPC was unaware of this and will examine and act upon this information. He continued by reporting that the East Chop Beach Club also on the agenda for pier/bulkhead/revetment/dredging did not show either. He stated that LUPC did review the 2 projects briefly in the absence of the applicants. He stated that they reviewed the final version of the Swan Neck Management Plan and it is in a very complete form at this time. There was discussion about this management plan and advice Ms. Waterman, MVC staff, had received from Mr. Tim Simmons, Island wildlife expert. Mr. Young continued by reporting that the Surfside DRI continued public hearing has been scheduled for September. It has been separated from the Dreamland DRI since the applicant is unsure if his option to purchase Dreamland is still open.

Mr. Ewing, Chairman of the Edgartown Great Ponds DCPC Committee, reported that they had reviewed 3 exemption applications: the first for a 4,000 square foot house; the second for a garage which will be attached to an existing home; and the third for pruning and walkways. All of these applications were approved. Of these exemption applications the first and third will have to go to the Conservation Commission for final specific site review and approval. The house was approved by the Committee since it is on 15 acres and is sited in the most acceptable portion of the property. We will meet next Thursday at 6:30 p.m. here at the West Tisbury School.

Mr. Filley, Co-chairperson of the Comprehensive Planning Advisory Committee, reported that they had no meeting this week. Next week, September 7th, we will be meeting in the Oak Bluffs' Selectman's meeting room to discuss water, infrastructure and sewage.

Mr. Saxe, MVC Water Resource Planner, added that the MVC had received a grant of \$20,000 from the DEQE to develop a water quality data base and that draft copies are available now and will be available at the September 7th meeting. He discussed the data base and some of the preliminary findings. He added that this year the DEQE has given the MVC a grant of \$19,000 to do an inventory of underground storage tanks and larger septic system that are still under the 15,000 gallon per day limit. There was discussion about the data base, water testing labs, and preliminary results among the Commissioners.

Mr. Tom Bales, MVC Staff, reported that the Town of Oak Bluffs had a meeting on the Oak Bluffs Harbor issue. Draft regulations from the Board of Health, Planning Board, and Harbor Advisory Committee were reviewed. A consultant was hired by the Town of Oak Bluffs to look at more efficient financial management of the harbor.

Mr. Wey, Commissioner from Oak Bluffs, stated that there was discussion about taking out a bond or selling off Town owned land to build a shower/restroom facility for the harbor. He stated that the real concern with a pumpout facility is that after the waste is chemically treated there is no place to bring it besides the Edgartown Treatment Facility, which is at capacity now during the summer. This chemically treated waste cannot be dumped in septage lagoons. He stated that it is also difficult to go to a Town Meeting and say that a pumpout facility for the harbor is a financial priority when we might be looking at cut backs in such vital areas as teachers and police. We have to look at other funding alternatives.

Ms. Borer stated that it is her understanding that the staff will review the regulations with proposed changes so the final package can be presented at a meeting on September 13th. The earliest the Commission can expect to see this final package is the end of September.

Ms. Sibley, Commissioner, added that if possible it would be good to have a few more people interested in serving on the Commission's committee.

ITEM #5 - Discussion - Katama Airport DCPC Regulations, Town of Edgartown

Ms. Borer stated that these regulations have the changes incorporated that were discussed at the public hearing last week. These changes were made by the Edgartown Planning Board following their public hearing.

ITEM #6 - Possible Vote - Katama Airport DCPC Regulations, Town of Edgartown

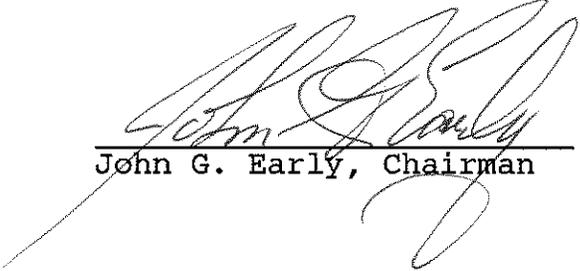
It was motioned and seconded to approve and adopt the draft Katama Airport DCPC Regulations and that these regulations are consistent with the guidelines in the Commission's designation of this District. This motion passed unanimously. (Harney was in favor, Davis abstained.)

ITEM #7 - New Business - There was none.

ITEM #8 - Correspondence - There was none.

The meeting was adjourned at 10:00 p.m.

ATTEST



John G. Early, Chairman Date 9/7/89



James Young,
Clerk/Treasurer Date 9/7/89

Attendance

Present: Bryant, Colebrook, Early*, Eber, Ewing, Filley**, Fischer, Jason, Lee, Morgan, Schweikert, Sibley, Sullivan, Wey, Young, Harney, Davis.

Absent: McCavitt, Allen, Geller.

* Mr. Early was not present at the table during the Whiting, Solon, Whiting Subdivision hearing.

** Mr. Filley arrived at 8:15 p.m.