

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF SEPTEMBER 7, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, September 7, 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: Charles J. Stephens, Ocean Moors
c/o Richard Barbini
Schofield Brothers
97 State Road
P.O. Box 339
Vineyard Haven, MA 02539

Location: On Chappaquiddick Road
Chappaquiddick Island,
Edgartown, MA

Proposal: Subdivision of land qualifying as a DRI since
it is a subdivision of greater than 20 acres.

James Young, Chairman of the Land Use Planning Committee, (LUPC), read the Ocean Moors Public Hearing Notice, opened the hearing for testimony at 8:12 p.m., described the order of the presentations for the hearing, and introduced Melissa Waterman, MVC Staff, to make her presentation.

Ms. Waterman referred to maps and aerial photos to show the location of the project while reviewing staff notes (available in their entirety in the DRI and Meeting files). She noted a correction to page 1 of the staff notes, Project Description, second paragraph, delete the words no cut to read: the applicant proposes covenants that would provide a 50' wide no build buffer. Following Ms. Waterman's presentation she answered questions from the Commissioners.

Mr. Schweikert, Commissioner, asked if the clearing for lots 4 and 5 will be done through the open space or on the lots? Ms. Waterman responded that the applicant would like to provide some clearing here in the open space, which would be very minimal because of the wetlands, and then clearing on the two lots. Mr. Schweikert asked if they would get visual easements? Ms. Waterman stated that she believes it is stated in the covenants that they want to be able to do this.

Ms. Colebrook, Commissioner, asked if the Conservation Commission would have input here? Ms. Waterman responded yes, Edgartown has very strict conservation restrictions.

Ms. Harney, Commissioner, asked about the 12' road and the fact that no drainage is proposed? Ms. Waterman responded the road will be dirt or hardener surface without heavy traffic and shouldn't cause a drainage problem.

Mr. Joe Cressy, abutter to the proposal, made a correction to Page 2 of the staff notes, Regional Character, the lot described, to the south a subdivided 7.3 acre lot, is actually a 17.5 acre lot. He continued by stating that there are presently about 18 houses occupied in the winter on Chappaquiddick with about 65 year round residents.

Mr. Young called on the applicant to make his presentation.

Mr. Richard Barbini, Schofield Brothers, spoke representing the Stephens' who were also present. He stated that since this process has started they have also been negotiating with the Edgartown Planning Board and have put on a few more restrictions that he reviewed: 1) Exclude guesthouses, there will be no guesthouses on these lots; 2) The Planning Board and Mrs. Potter asked us if we would consider giving a 10 foot easement along Chappaquiddick Road for a future bike path, the bike path would actually be on the other side of the road but the road is tucked right to the property line and there is a house there, so the Stephens' have agreed that if and when a bike path is constructed they will give a 10 foot easement along the 2 lots on this section of the road so they can shift the road towards our property so the bike path will fit on the other side; 3) We have also been in negotiation with the trail, which seem to be a big issue. We have been out there with the Planning Board, obviously we have to get together with the Conservation Commission, but the trail will remain open. It will be moved with the approval of both the Planning Board and the Conservation Commission to a spot that works for everybody, so there is no intent to close trails; 4) Concerning the actual extent of the clearing for view easements, if you walk this piece of property, when you get down to the wetlands, there is nothing to cut in the wetlands, it just stops right there, there is very little transition. The Town of Edgartown has very strict regulations on what you can cut and trim. So what will happen is that when the house sites are picked we will go to the Conservation Commission and they only allow limited view channels, they don't allow clear cutting at all, so it is mostly pruning and shearing of trees. I can't tell you exactly where it is going to be but I can tell you it will be viewed by the Conservation Commission since they have jurisdiction over almost all of lots 4 and 5 because of their local by-laws. 5) Concerning the types septic on lots 4 and 5, I don't have the answer to the question, but my educated guess would be that 5 would be trenches and 4 would be a pit since the land on lot 4 goes up. 6) Our intention for the management of the open space lot is to donate it to the Land Bank so it becomes part of that entire piece of Land Bank property. So this would put most of the wetlands under their jurisdiction so that there management plan could be extended over this. 7) We have not considered limiting lawn size but I don't see where that is a problem. Historically when looking at Chappaquiddick, I don't think there are a lot of big lawns on Chappaquiddick and I don't think people moving over will want big lawns but if that is a concern we will certainly add a restricting to

limit the lawn size. Lastly, the reason the affordable housing issue was stated this way was based on the Commission's written policy that states that subdivision of 10 lots or less don't need an affordable housing provision.

Mr. Young asked Mr. Barbini about the trail, where does it go? Mr. Barbini showed the location on a wall display, going through the buildable portions of lots 4 and 5. What we are proposing to do is move it. Mr. Young then asked about the management plan for lot 6? Mr. Barbini stated that we have not approached them yet but we propose to donate this land to the Land Bank where it will be managed like the other Land Bank properties in this area.

Mr. Young then called for testimony from Federal, State, or Town Boards, there was none. He then called on public testimony in favor of the project, there was none. He then called for public testimony opposed to the project.

Mr. Joseph Cressy, abutter to the south, stated that he isn't really speaking in opposition or in support either, he is just speaking as a concerned neighbor. There are a number of issues he thinks this Commission should examine. One is that the parcels, including the Jones parcel 2 sections to the north which is now Land Bank property, the James Stephens property directly to the north, and my parcel directly to the south, all are very large parcels. Relatively speaking my is the smallest at 17.5 acres, the others are considerably larger. I think in the past we have gone through with the M.V. Commission and the Land Bank the sensitivity of Pocha Pond and its being a nursery and nutrient factory for the scallop beds in Cape Pogue Bay. Both the East Beach Dunes and the Dyke Bridge are visible from the distance..... It is a very fragile and natural area that has been maintained that way since time began, just about. There are basically six riparian owners of the entire Pocha Pond and that's all. He listed these owners and the location and size of their property. Putting six houses, or six lots, in here is a potential threat to the purity and the naturalness of Pocha Pond. I know it is close to my house, but I dare say however that except for lot 5, the southeast lot, I will never see them. But I think that there are some niceties and some protection that might be asked, imposed, or required to protect this very rare and very natural environment. After all it is the largest marsh area on Martha's Vineyard by far. Some of the things I would suggest would be this: 1) that the land proposed does indeed go to the Land Bank; 2) that very strict restrictions be put on septic systems, view easements and building envelopes especially with the front lots who should be encouraged to move their building envelopes as far to the road, indeed that is actually the more saleable area for them because it is the higher land and gives them really unrestricted views. He described the views from Lots 1 and 2. The protection parameters of the no build areas around the edge might be enlarged and might be no cut in addition to no build. Maybe it should be pushed in a little bit because I think everybody there enjoys their privacy. 3) The lawn issue, I don't think anybody over there has a lawn so to speak. We know that Eel Pond for instance is fallow now and not productive because it is surrounded by lawns and it is full of all the fertilizers that just leach into it. There is no

shellfish, no life in Eel Pond at all. 4) Septic Systems, I would recommend that they be pushed back, even if they have to pump uphill, they should be pushed back just as far inland as possible. What I am saying is stop any leaking of effluent, fertilizers, or pesticides or anything that might pollute the pond. My concern is Pocha Pond, not having a house or five houses next to me. With respect to the trail, the concern with the trail is this, that trail goes now from the Dyke Road, through Tom Farm's neck, through the Welch/Potter Land, through the Land Bank Land, through here and then comes to my land and then on to the Trustees land. It is a very, very good trail. I have gone on record in the past with counsel for the Land Bank, Ron Rappaport, and with others saying that I will give, which I haven't dedicated yet, but I will give a trail easement across my land to keep this in continuum. That offer and intent still exists. I intend to do that but I want to make sure, and I have been waiting, because this land has been on the market, that this land is also included. Dick mentioned early that they were afraid of the liability issue with respect to somebody riding through there and getting thrown from a horse on somebodies land. If the trail is a passive use on your property and you are not trying to prohibit people I see no problem with that. I'd like to see the trail easement inland so it could cut out behind me and then over to the Trustees'. I am very anxious to have that in place, people not only ride horses there but there are also a lot of bird watchers, hikers and even cross country skiers when we have a decent snow.

Mr. Young called on further testimony on this proposal, there was none. He then called on the applicant for a final statement.

Mr. Barbini addressed the issue of septic systems by stating that they are restricting areas for the septic systems and they are up from Pocha Pond as shown on the plan and they will be in the covenant that way when they are drawn up.

Mr. Young called on any further questions from the Commissioners.

Mr. Jason, Commissioner, asked if they had considered a cluster development plan for this project? Mr. Barbini responded yes but they did not feel it was appropriate for the subdivision of these lots. They felt that larger lots are more appropriate for sale and better suited for Chappaquiddick than smaller lots with open space

Mr. Stephens, the applicant, stated that he has been concerned from the very beginning about preserving the natural qualities and certainly has been concerned about this development in the way that is going to be acceptable to the community as a whole and certainly to our neighbors. As a result of that we have agreed to a 75 foot inset instead of a 50 foot one, I am going to donate lot #6 to the Land Bank, I was asked if we were going to have guesthouses and I chose not to go ahead with guest houses. I am trying to be sensitive about environmental concerns and the concerns of the people around us. As Mr. Barbini mentioned the septic systems will be pushed further back, we have the setbacks, and are sensitive to the trail. Although I am not sure if anyone uses the trail, how many people ride the trail, but if there is a trail that is used by some of the neighbors well fine,

we don't want to deny them the trail particularly if it goes a good way around the Pond. But on the other hand I don't think it is right for me to offer a couple of lots for sale and then say to prospective buyers, but you have this easement which is a horseriding trail. In order to accommodate both the concerns of the people who want to ride through, there are not very many of them, we will be happy to try and have the trail move down to Lot #6, which is the lot being donated to the Land Bank. So we express the willingness on our part to be mindful of peoples' concerns and to take them into account in so far as they are reasonable and on that basis I am sure that we can work well together.

Mr. Young asked, in case there is some conflict with having the horse trail and the wetlands on Lot 6 would there be some problems with having the trail on the non buildable areas of lots 4 and 5? Mr. Stephens stated that he would prefer not to have a horse trail running through a property that he is going to have for sale, particularly in view of the fact that I have the option of Lot #6. I don't feel it is right to have a prospective buyer consider a parcel and have to say in advance but you have this easement that goes through it. I think that is unfair particularly in view of the fact that we could move it down to Lot #6. Mr. Young stated he was just asking in anticipation of a conflict with the wetlands on Lot #6, if there is no conflict then that is fine.

Ms. Bryant, Commissioner, asked Mr. Stephens if he would put something in writing regarding his flexibility on this trail issue? Mr. Stephens responded that he thinks the donation of more than 4 acres to the Land Bank is a demonstration of that. That land will be available for people to walk through and observe nature and so on.

Mr. Young asked if the relocation of the horse trail will be worked out with the Planning Board? Mr. Barbini responded yes, and the Conservation Commission. Mr. Young asked, and your intent is not to close the horse trail off, period? Mr. Stephens stated yes that is our intent, not to close the trail off but to shift it down to Lot #6. Our intent also is to maintain a proper border along the property to be sure that peoples' privacy is not affected. Particularly Mr. Cressy's and my brother's property.

Ms. Colebrook, Commissioner, asked how wide is the trail? The response was it varies, perhaps from 6-8 feet wide. Ms. Colebrook then asked if there is a problem with relocating the trail because of the wetlands on lot #6 are you still open for consideration of the 6-8 foot trail on lots 4 and 5? Mr. Stephens responded that he doesn't anticipate a problem because a good part of lot #6 is not per say wetlands.

Ms. Waterman showed the wetlands and the setbacks on the lot, and the existing trails using wall displays.

Mr. Morgan asked what would the alternative be if in fact it were not possible to move the trail to lot #6? Mr. Stephens stated he thinks he would be disposed to shifting the boundaries of lots #4 and 5 how ever much would be necessary to accommodate a 6 foot trail but as

close to where the boundary now exists as possible. It might require making lot #6 a bit larger and reduce the size of lots 4 and 5. I'd rather not do it but I would be disposed to do it if that would be the way out of the inpass.

Mr. Jason asked if this trail relocation was discussed with the Planning Board and the Conservation Commission and what were their feelings? Mr. Barbini responded that they did discuss it and the Planning Board had no problems with it. There was only 1 member from the Conservation Commission present. Mr. Jason asked if there were any endangered plants or species? The response was no.

Mr. Geller, Commissioner, asked about the question of cluster development, why was it rejected? Mr. Barbini responded that the applicant didn't want smaller lots. They felt that they wanted larger lots, at least 3 1/2 acres and that is why cluster development was rejected.

When there were no further questions or testimony Mr. Young continued the public hearing at 9:00 p.m., until such time as the Edgartown Planning Board has commented on this proposal following their meeting. If the Planning Board has input we will reconvene and hear that input at that time, if they have no input we will reconvene and close the public hearing at that time. The written record remains open.

The Martha's Vineyard Commission held a continued public hearing on Thursday, September 7, 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: Jeff Young
M.V. Surfside Motel
P.O. Box 2507
Oak Bluffs, MA 02557

Location: Oak Bluffs Ave., aka Lake Ave.
Oak Bluffs, MA

Proposal: Commercial addition to an existing structure qualifying as a DRI since the cumulative square footage is greater than 1,000 square feet.

James Young, Chairman of the Land Use Planning Committee, (LUPC), read the Surfside Public Hearing Notice, opened the hearing for testimony and described the order of the presentations for the hearing. Mr. Young stated that they had continued the hearing for two reasons: 1) to get input from the Oak Bluffs Architectural Advisory Board, and 2) to be sure that this proposal complied with State laws regarding handicap accessibility and accommodations. Apparently we also have a change in facade so Tom Bales, MVC Staff, will give us a staff update.

Mr. Bales stated that the applicant's architect had submitted revised plans reconfiguring the proposal and while they have not been to the

Architectural Access Board they fully intend to comply with all handicap requirements and have no objections to the Commission conditioning their decision upon the Board's approval. Mr. Bales noted that copies of the entire staff notes were available in the Commissioners packets for their review (also available in their entirety in the DRI and Meeting Files). Mr. Bales then answered questions from the Commissioners.

Ms. Colebrook asked for an explanation of the separation of the hearings for this project and the Dreamland garage project? Mr. Young explained that they had come in as separate projects but due to the fact that they abutted and also would be connected we combined the public hearing. Now the LUPC has been told by the applicant that they must discuss extension of the option for Dreamland with the current owner. The applicant requested that the hearings be separated and proceedings continue with the Surfside DRI.

Mr. Young asked Mr. Sherman, applicant's agent, if he wanted to give a presentation.

Mr. Sherman stated that they had submitted plans to the Architectural Access Board who will be ruling on them.

Mr. Young asked, it is my understanding that the process will be that if the Commission rules favorably on this it will then go to the Oak Bluffs Architectural Review Committee who will look at the construction drawings and propose any changes at that time? Mr. Sherman responded that is correct. He added that the facade changes you now see are in response to some informal input previously given.

Mr. Jason asked, this addition is going to be above the small space that currently exists? The response was yes.

Ms. Colebrook asked in reference to Mr. Wey's correspondence, where are the catchbasins? The response was in the upper corner of the lot at the lowest elevation near Pasque Ave.

Questions followed about the height of the structure as it relates to the Captain's Table (Standby Diner) and other structures on Oak Bluffs Avenue. There were questions and discussion regarding the fact that the two projects, Surfside and Captain's Table, were never tied together in the past and don't actually connect, there is a few feet between them.

Following these questions and discussion Mr. Young called on testimony from Federal or State agencies, Town Boards, and public in favor or opposed to the project, there was none.

Mr. Young closed the public hearing at 9:19 p.m. with the record remaining open for one week.

Following a short recess Mr. Early opened the Special Meeting of the Commission at 9:20 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early called Commissioners attention to a meeting notice for a very important Comprehensive Plan Advisory Committee meeting for 7:00 p.m. next Thursday in this location. He then gave an update regarding the letter sent to the Steamship Authority by stating that it has had much attention in the press but to date we have had no response.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of August 31, 1989

It was motioned and seconded to approve the draft minutes as presented. There was no discussion. This motion passed with no opposition, 2 abstentions, Jason and Fischer. (Harney was in favor, Geller abstained.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Legislative Liaison, reported that the Review Board to over see the County budget has been organized and if they are operational by October 15th they could approve the budget by October 30th. There are questions of whether they have the right to override line items and to overrule the County Advisory Board. He also reported that Senator Rauschenbach and someone from the Department of Environmental Protection will be coming to the Vineyard on September 28th to report on Airport sewage. He will let the Executive Director know the details of the meeting.

Mr. Early asked, do I understand that the function of the County Financial Advisory Board is still up in the air at this point as far as whether or not it is susceptible to being overruled by the County Review Board? Mr. Morgan stated that it is his impression that the Review Board will be more concerned with seeing if the County budget is sound in terms of the general budget. It is my feeling, and the feeling of those in Boston I have discussed it with, that they are not going to overrule the County Advisory Board.

Mr. Young, Chairman of the Land Use Planning Committee (LUPC), reported that LUPC had not met this week but would be meeting September 11th. On the agenda is Cronig's State Road Market, M.V. Shipyard, and the A&P Expansion in Edgartown regarding traffic impact analysis. The following monday we will consider two recommendations, James Rogers and Whiting, Solon, Whiting DRIs, and we will also be looking at the Keyland Trust DRI and the Edgartown National Bank.

Mr. Filley, CoChairperson of the Comprehensive Plan Advisory Committee, reported that they had met today at the Oak Bluffs town hall to discuss water and wastewater. There was good representation including people from the town water department. He referred Commissioners to the long term agenda and the meeting next Thursday.

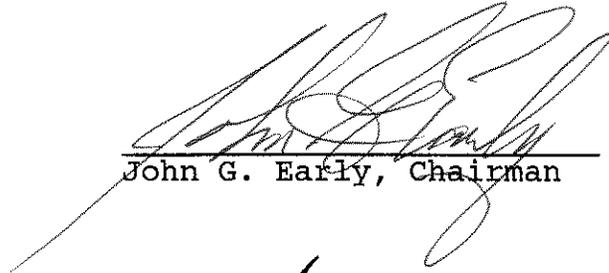
Ms. Waterman, MVC Staff, reported that the Edgartown Ponds will be meeting next Thursday at a location to be determined.

ITEM #5 - New Business - There was none.

ITEM #6 - Correspondence - There was none.

The meeting was adjourned at 9:30 p.m.

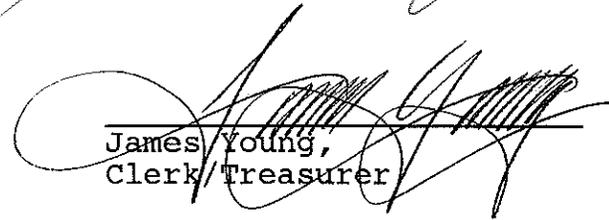
ATTEST



John G. Early, Chairman

9/29/89

Date



James Young,
Clerk/Treasurer

9/28/89

Date

Attendance

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

Absent: Ewing, McCavitt, Allen, Davis.

* Ms. Bryant arrived at 8:45 p.m.