

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF NOVEMBER 16, 1989

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, November 16, 1989 at 8:00 p.m. at the West Tisbury School Cafeteria, Old County Road, West Tisbury, MA regarding the following Development of Regional Impact (DRI):

Applicant: George W. Manter
P.O. Box 94
West Tisbury, MA 02575

Location: Off the Road to the Dump and Dr. Fisher Road
West Tisbury, MA

Proposal: Subdivision of land qualifying as a DRI since the proposal is greater than 20 acres and the proposal seeks a division of land located in part within a business district.

James Young, Chairman of the Land Use Planning Committee, (LUPC), read the Manter 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 used an aerial photo and map to show the location, zoning and access while review his staff notes (available in their entirety in the DRI and Meeting files). There were no questions for Mr. Saxe following his presentation.

Mr. Manter, Applicant, stated that there was nothing he wanted to add. He stated that he understands that any further subdivision of these lots will come back to the Commission for review as a DRI.

When there were no question for Mr. Manter, Mr. Young called for testimony from Town Boards, or public in favor or opposed to this proposal, there was none.

Mr. Saxe added that there is another access on the property, Dr. Fisher Road which is an ancient way that crosses Lot #1 on this property and continues on to the State Forest, but it is not the proposed access for this subdivision.

Ms. Colebrook, Commissioner, asked about this way, is it a horse, pedestrian, bicycle or vehicular trail? Is there a possibility it could be blocked off?

Mr. Early, Chairman, responded that Dr. Fisher Road is a DCPC and is a vehicle way, which is in terrible shape, but is travelled fairly heavily. It could not be blocked off.

When there were no further comments or questions, Mr. Young closed the public hearing at 8:17 p.m. with the record remaining open for one week.

Following the close of the public hearing Mr. Early convened the Regular Meeting of the Commission at 8:18 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early stated that Jeff Benoit, Director, Massachusetts Coastal Zone Management was unable to attend tonight's meeting.

ITEM #2 - Old Business

Mr. Early read a letter of resignation from Melissa Waterman, MVC Staff, stating that she has accepted a position with the State of Maine as the Gulf of Maine's Project Coordinator. She expressed her appreciation to the Commission and acknowledged the dedication of the members of many Island organization. Mr. Early thanked Ms. Waterman for her years of diligence and wished her the best of luck. A round of applause followed from the Commissioners.

Mr. Early then asked Ms. Borer, Executive Director, to respond to the request to investigate a matter raised at the last meeting relating to the M.V. Refuse District Solid Waste Transfer Station Decision and the duration of the approval for their use of the site.

Ms. Borer read Condition 1c. from the June 15th MVC Decision as follows: "Should the District request continued use of the site as a Transfer Facility, prior to the expiration of three years from the date of this approval, the MVC will conduct a full review of the operation in the form of a public hearing and determine, by vote, if the District may continue operation for a maximum of an additional two years."

Ms. Colebrook asked if the Commission is aware that the District is operating on the Landfill site and of their intentions in the future? Ms. Borer gave Ms. Colebrook a copy of the letter dated November 2, 1989 from the District to the Commission which was distributed at the November 9th Commission meeting (Ms. Colebrook was absent from that meeting.)

Mr. Early asked Ms. Borer if we should make the District aware of this by sending a written statement? Ms. Borer stated that she had discussed this with Mr. Hannigan, M.V. Refuse District, and he is quite clear on this condition.

Mr. Early then continued New Business by asking Ms. Borer to discuss a request received from the Edgartown Conservation Commission.

Ms. Borer read a letter from the Edgartown Conservation Commission received by the MVC November 13, 1989: As per our conversation of earlier today I am enclosing copies of the Morey/Bourne Notice of Intent (NOI) and site plan. Jane Varkonda determined that the end of the driveway is approximately 112 feet from the coastal beach and the lot is in the coastal flood plain. The Commission has not yet issued an Order of Conditions but it voted to do so at their last meeting on November 1st. Included as a condition is that the applicant must receive parallel approval from the Highway Department as curb cuts and the loss of public parking spaces are involved. It was not until a few days ago that it occurred to a Commissioner that the application may be considered a DRI under #13 of the MVC's Checklist. If you require any additional information, please let me know. Signed Lisa C. Morrison.

Ms. Borer showed a wall display and explained that the NOI is for a driveway and parking that will be centered on the property line between two parcels, one of which is the subject of a previous DRI. She also showed proposed grade & fill locations and drainage systems. Ms. Borer stated that the Conservation Commission is asking if this NOI warrants Commission review and public hearing process under Item #13 on the DRI checklist.

Mr. Morgan, Commissioner, asked for further explanation of the location of this proposal. Ms. Borer used another wall display to depict the three lots, the site of the approved guesthouse and the existing structures to orient Mr. Morgan to the location of this proposed drive.

Mr. Filley, Commissioner, asked, the Conservation Commission has reviewed this? Mr. Ewing, Commissioner and Member of the Edgartown Conservation Commission, responded yes we have reviewed it and voted to approve it with an order of conditions. We had some concerns, particularly the loss of the public parking. It obviously could fall under Item #13 on the checklist but it is not a building it is a driveway.

Mr. Sullivan, Commissioner, asked Mr. Ewing if the conditions stated that they must retain the public parking? Mr. Ewing stated it requires the approval of the Highway Department. Parking is not really within our jurisdiction.

It was motioned and seconded to waive the DRI process on this NOI. There was no discussion on this motion. The motion passed unanimously.

Mr. Early then recessed the Regular Meeting of the Commission until after the next public hearing.

The Martha's Vineyard Commission held a continued public hearing on Thursday, November 16, 1989 at 8:30 p.m. at the West Tisbury School Cafeteria, Old County Road, West Tisbury, MA regarding the following Development of Regional Impact (DRI):

Applicant: Jeff Young
 c/o Sam Sherman
 Neils Gabel-Jorgensen
 P.O. Box 2530
 Vineyard Haven, MA 02568

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

Proposal: Commercial addition to an existing structure (Dreamland Garage) qualifying as a DRI since the floor area is greater than 1,000 square feet.

James Young, Chairman of the Land Use Planning Committee, (LUPC), read the Dreamland Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Tom Bales, MVC Staff, to give the Commissioners an update on this DRI.

Mr. Bales reviewed the staff update, including reasons for continuation and possible development impact mitigations, using wall displays to show the location and plans approved by the Oak Bluffs Architectural Assistance Committee (staff update and staff notes are available in their entirety in the DRI and Meeting file). Mr. Bales then answered questions from the Commissioners.

Ms. Colebrook asked about the statement in the original staff notes that the parking lot surface will be cement? Mr. Bales responded that is correct. Mr. Sherman, agent for the applicant, stated that the existing parking is paved, it will be removed and replaced to allow installation of drainage measures. The pavement is necessary to control this drainage.

When there were no further questions Mr. Young asked Mr. Sherman if there was anything he would like to add. Mr. Sherman responded no, I feel everything has been discussed in detail. I will be happy to answer any questions.

Mr. Morgan asked if the Parking Committee had calculated the number of parking spaces required at 9? Mr. Sherman responded yes but we have 11, with one being handicap.

When there were no further questions for Mr. Sherman, Mr. Young called on testimony from Town Boards or members of the public, there was none.

Mr. Ewing, Commissioner, asked Mr. Sherman how many retail units would be on the first floor? Mr. Sherman stated that this is hard to determine since the Young's don't own the building yet no one has approached us. This has not been determined yet.

Mr. Lee, Commissioner, asked if the applicant has considered catering services or a kitchen area for the conference facility? Mr. Sherman stated there will be a small service area, for keeping things chilled and coffee, but no kitchen facility for food preparation. This space is meant to accommodate large groups who use the hotel and need places to hold meetings.

When there were no further comments or questions, Mr. Young closed the continued public hearing at 8:38 p.m. with the record remaining open for one week.

Following the close of the public hearing Mr. Early reconvened the Regular Meeting of the Commission at 8:39 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early returned to Item #1 to call Commissioners' attention to copies of the 1988-1989 MVC Annual Report in their packets. As you can see this report is not fancy but in view of the present budget situation I don't think it should be. He thanked the staff and the Executive Director for the preparation and Mr. Morgan who once again gets the "gold star" for perfect attendance.

Mr. Early stated that there is more Old Business but the principle is not here yet so we will take that up later.

ITEM #3 - Minutes of November 9, 1989

It was motioned and seconded to approve the draft minutes as presented. There was no discussion. This motion passed with no opposition, 3 abstentions, Colebrook, Fischer and Filley. (Harney was in favor.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Legislative Liaison, reported that the bill to establish a Department of Public Works in the Town of Tisbury is moving right along and he wouldn't be surprised if it becomes law within the next 3 weeks. He stated that this was a late file bill and that "home rule" bills usually move fast. He then discussed the Medicare program and a proposed bill that would change the provisions for liens on property when a spouse is in long-term care and receiving Medicare benefits.

The proposed change would put the lien on at the end of the treatment and not when the service is first provided. This would alleviate problems such as a spouse trying to sell property and move to more modest accommodations. He also discussed a proposed merge between the Mass. Maritime Academy and Southeastern University. This will not happen at this time. Mass. Maritime will remain a separate entity.

Mr. Young, Chairman of LUPC, reported that they had met Monday regarding the Edgartown National Bank and had come up with recommendations which will be heard under Item #5, Discussion. We will be meeting again on December 4th to discuss the Leland Subdivision on Chappaquiddick and the Keyland Trust DRI in the B-2 District of Edgartown. The Keyland Public Hearing will be held jointly with the Edgartown Planning Board and is scheduled for December 14th.

Mr. Filley, Co-Chairperson of the Comprehensive Planning Advisory Committee, called Commissioner's attention to a notice of a meeting with the Edgartown Town Officials, Tuesday, November 21st at 3:15 p.m. Mr. Adams, MVC Staff, stated that in addition to this meeting we will be scheduling another meeting with Edgartown Officials to be held on a Tuesday or Wednesday night so more Commissioners and Town officials can attend. There will be a CPAC meeting on Monday, November 27th, since there will be no LUPC meeting that night. It will be held at the Dukes County Extension Service and will be in preparation for the CPAC report to the full Commission on November 30th.

Mr. Jason, Chairman of the Planning and Economic Development Committee (PED), reported that they had met Monday and discussed some proposed regulations for the Planned Development District. The Oak Bluffs Committee will be meeting on November 30th and PED will be scheduling a meeting with the Oak Bluffs Committee sometime after that.

Mr. Ewing, Chairman of the Edgartown Ponds DCPC, reported that they had a joint site visit with the Edgartown Conservation Commission to look at some property under consideration for an exemption. The meeting with the Planning Board went pretty well. He stated that they would need to meet again before Ms. Waterman leaves and continued by stating how valuable she has been to them.

Mr. Saxe, MVC Staff, reported that the Gay Head Cliffs Area DCPC Committee had set up a tentative meeting on November 28th with the Gay Head Site Review Committee for a preliminary review of exemptions prior to review with the applicants. The meeting is scheduled for 4:00 p.m at the Gay Head Town Hall. Some of us will be meeting an hour or two earlier to conduct site visits of these properties and everyone is welcome to attend. Please let me know if you can attend on this date.

ITEM #2 - Old Business

Mr. Early returned to Old Business and stated that Mr. Barwick, Tisbury Building Inspector, is still not present but Ms. Borer will read his request and explain the situation to the Commissioners.

Ms. Borer read the following letter from Mr. Barwick dated October 25, 1989 as follows: RE: B.J. Campbell Oil Company - Assessors Parcel 9C 13 & 14 - Tisbury. Dear Mr. Early: Enclosed please find a Development of Regional Impact Checklist being referred from my office with respect to the proposed construction activity by the B.J. Campbell Oil Inc. located on Beach Road in Vineyard Haven. Assessors Parcel 9C 13 & 14. I respectfully request that the entire Martha's Vineyard Commission review this application as a Development of Regional Impact. If you have any questions or comments, please do not hesitate to call my office.

The following items were discussed: confusion arising in this proposal basically centering on the fact that the applicant can reconstruct the sq. footage previously removed and add up to 999 sq. ft. without this being a DRI, the 1,000 sq. ft. on the checklist is meant to be net gain not net square footage of construction; Commissioners agreed that this should be clarified on the checklist; and review of discussions that took place among Mr. Young, Mr. Jason, Ms. Borer and Mr. Adams and their agreement that this proposal doesn't qualify as a DRI.

Following this discussion it was motioned and seconded that since this proposal has a net gain of less than 1,000 square feet it does not qualify as a DRI. This motion passed on a consensus vote.

ITEM #5 - Discussion - Edgartown National Bank DRI, Town of Tisbury

NOTE: Mr. Schweikert, Commissioner, removed himself from the table during Item #5 & #6 regarding the Edgartown National Bank DRI.

Mr. Early asked Mr. Bales, MVC Staff, to give the Commissioners a brief update of this proposal.

Mr. Bales reviewed his staff update briefly and read correspondence received after the close of the public hearing (all documents are available in their entirety in the DRI and meeting files). Mr. Bales then answered questions from the Commissioners.

Ms. Eber, Commissioner, asked about the statement on Page 3 of the October 26th staff notes that a special permit from the Zoning Board of Appeals will be necessary to convert from residential to commercial use, is it presently residential? Mr. Bales responded yes. But it is commercial zoned? Mr. Bales responded that is correct.

When there were no further questions Mr. Early called for LUPC recommendations.

Mr. Young stated that there were 5 members of LUPC present during discussion of recommendations, 3 were in favor of denial and 2 were in favor of approval with conditions. He gave the majority recommendation as follows: In making a finding of the probable benefits and detriments of the above application as a DRI, the Commission's Land Use Planning Committee (LUPC) considered

Sections 14 & 15 of Chapter 831. Denial of the Application
Section 15a - The development at the proposed location is not essential or especially appropriate in view of available alternatives.
Section 15c - The proposed development will have an adverse effect on other persons and property. - The increased intensity of use at this site will have a detrimental impact on the neighborhood.
Section 15e - The proposed development will adversely effect the provisions of municipal services and the burden on taxpayers in making provisions there for. - Although the applicant has offered police control at this site, such a mitigation measure remains insufficient to overcome the increased projection of vehicle delay and stop & go traffic. Section 15f - The proposed development will unduly burden the existing public facility known as State Road. - The bank site's intersection will have an adverse impact on State Road by increasing traffic and raising additional safety concerns. - The usual traffic flow will be unduly interrupted and further strained.

Mr. Jason gave the minority recommendation as follows: Approval of the project with conditions: Section 15a - The LUPC finds the development is essential and appropriate at this location. - The 3 tenths of 1% increase to traffic is not significant. - Having a bank in Downtown is a benefit to the Town and an economic benefit to the community. - The site's multiple uses would be reduced to one use. - The proposed development will reduce waste water generation on the lot. Section 15c - consideration of whether the proposal will favorably or adversely affect other persons and property - to mitigate any possible adverse effects on other persons and property, the LUPC recommends the following condition: - The northern bound, rear of the lot, shall be adequately screened with shrubs and fencing. Section 15e - consideration of whether the proposal will favorably or adversely affect the provision of municipal services. Section 15f - consideration of whether the proposal will use efficiently or burden unduly existing public facilities. Section 15g - consideration of whether the proposal will aide or interfere with the ability of the Town to achieve objectives in its general plan. The LUPC recommends the following conditions to minimize the above considerations: - The Town of Tisbury's Police Department shall determine the appropriate directions for turning traffic leaving the site, with consideration to traffic patterns in the neighborhood and peak conditions on State Road. - To improve sight distance, the grade in front of the building should be lowered. - If a traffic study is undertaken for the State Road Corridor within 5 years of the date of approval, the Commission accepts the applicants offer of a monetary contribution to such a traffic study. - The applicant shall make a monetary assessment to the MVTA for public transit in the event that such a system is operating along the State Road Corridor or Downtown Tisbury within 3 years of the date of this approval.

Mr. Early asked if any other members of LUPC would like to comment.

Ms. Sibley, Commissioner, related concerns for the numbers of turning movements, stops and delays and the projected 24 cars per hour entering and existing the proposed bank. She discussed the burden that would

be posed on other intersection, already failed, that would be caused by eliminating all left hand turns for this project. She stated that the proposal would cause the Edgartown-State Road intersection to fail at time when it is now functioning and that we have an obligation to the entire Island's residents who must use this road for essential services.

Ms. Eber stated that her concern was with safety, especially with cars coming down that hill at an accelerated speed and having to deal with cars stopped in the middle of the road waiting to execute a left hand turn into this site. The traffic engineer stated that the only way to mitigate this would be to enforce the 20 mph speed limit, the engineer said that the average speed was 30 mph, but honestly I've seen bicycles go down faster than 20 mph. The fact that Causeway Road is right there is also another danger because the cars will be coming out of there too.

Mr. Morgan stated that Causeway Road could be a tremendous advantage as seen in previous DRIs. Concerning the use, this lot could support 4 business as I understand from Mr. Robinson's testimony. I think it would be hard to find 4 business that would affect traffic less than 3/10th of 1%. The 770 customers from Tisbury now utilizing branches of the Edgartown National Bank in Oak Bluffs and Edgartown must be considered in our deliberation of the regional impacts of the traffic. Cutting down the sewage discharge some 70-80% must also be weighed as a benefit.

Ms. Eber stated that as far as Causeway Road is concerned, where it intersects with State Road is in the middle of a hill and if you have ever come up towards State Road on Causeway and tried to make that right turn when cars are barreling down the hill, with a curve up above, so you don't have very much sight distance of cars that are coming down around that curve, you'd find it is a very dangerous situation. Causeway Road in my opinion is not a help it is a hinderance. She asked Mr. Bales if the following is correct: in 1984 the owner got a permit to have 4 businesses on the property, a special permit from the Board of Appeals (BOA); but those permits have to be renewed every 2 years and they were not renewed; so the property reverted back to its original use, residential. Mr. Bales agreed that this is correct.

Mr. Early opened the floor for general discussion. There was general discussion on the following topics: affordable housing, of the 2 apartments located on this site only 1 is rented and usually only seasonally; the bank providing needed services to the community and the Town of Tisbury and the fact that many Commissioners are in favor of a branch office of this bank in Tisbury; agruements for and against the possibility of a better location for this proposal; discussion of the fact that some business will probably locate on this lot and that given the parameters this business may or may not be the best possibility; the adequacy of screening between this proposal and the

abutting neighborhood was discussed, Mr. Zoll, abutter, stated that screening was not of concern to him, that safety was his major concern; discussion that the Edgartown National Bank should not be held responsible for the citizens and officials of the towns failing to address the growing traffic problem; possibility of using the bank as a catalyst to start addressing the traffic issue in the whole area; discussion on the previously failed DCPC for down-Island business districts to deal with the existing traffic and how the Town of Edgartown dealt with its problem through creation and adoption of a Master Plan while Tisbury has not created a coherent plan for the area.

Questions were raised on how the trip generation figures were compiled and how they compared to ITE. Ms. Skiver, MVC staff, stated that the traffic engineers studied other banks and their branches on the Island when conducting their study, not just the Edgartown National Bank Drive-Thru branch. The figure are considerably higher than they would be using ITE standards particularly due to the peak season changes that occur here during the summer, ITE doesn't differentiate seasonal counts.

There was lengthy discussion on the traffic issues of this proposal including the following: several Commission expressed the view that even one more car in this already hazardous area can't be accepted without coherent planning for the entire area; the fact that this proposal is projected to increase traffic by 3/10th of 1% versus the projected 5% growth increase and how the 3/10th of 1% increase should not be considered of regional impact when relating it to the projected growth rate; accident reports for this area discussed by Mr. Zoll during his testimony at the public hearing; the regional impact of traffic all over the Island and the possible relief this proposal might bring to other roads and intersection versus the fact that people who might go to Edgartown and use the shuttle could now go to Tisbury and create more traffic there; discussion on the Fay, Spofford & Thorndike (FST) report and the McDonough & Scully (MS) review of this report including discussion that the FST report was deemed sufficient for a decision by MS but that MS didn't say we should approve the project based on the information provided by FST and that MS believe information of passby versus primary trips is interesting but should be treated with some skepticism; the possibility for additional difficulties when emergency vehicles have to navigate this high traffic volume area during gridlock situations and discussion of the existing problems doing so now in the summer season; and the discussion that there are only two real traffic issues here (1) how bad do you think the road is now? and (2) how much more do you think it can handle?

Following general discussion, Mr. Early moved to Item #6 for a possible vote.

ITEM #6 - Possible Vote - Edgartown National Bank DRI, Town of Tisbury.

It was motioned and seconded to deny the Edgartown National Bank DRI, Town of Tisbury for the reason stated in the majority report of LUPC. Discussion followed on the LUPC report: correction 15f, should be 15g; discussion that 3/10 of 1% is not a very significant increase in traffic in light of the projected 5% increase due to growth; the sites possible uses reducing to one; the benefits of decreased sewage exists but there is the possibility of this sewage going somewhere else if not at this location; the economic benefit of the bank to the town and the community. This motion failed with 7 in favor, 8 opposed, 0 abstentions. (Harney was in favor.)

It was motioned to approve the DRI with conditions as recommended by LUPC and modified as follows: change the period of time in 15g, #4 from 3 years to 5 years; addition of wording to the conditions that they will be performed through agreement with the Town of Tisbury; and addition to 15g, #3 the applicant will comply with mitigations that result from this study.

There was discussion that the following statements should be incorporated into the decision but not be added as conditions: the Commission recognizes the track record of the Edgartown National Bank in providing low-moderate income affordable housing through low-interest mortgages and the Commission would like to see the Bank's best efforts in continuing this program; we have faith in the Edgartown National Bank as a good landowner and hope that they could initiate with the Town of Tisbury and the business community steps towards addressing the traffic problem in this area.

There was no further discussion. The motion to approve with the above conditions passed with a vote of 9 in favor, 6 opposed, 0 abstentions. (Harney was opposed.)

Mr. Schweikert returned to the table and Mr. Early moved to the next DRI under Item #6.

ITEM #6 - Possible Vote - Written Decision, Ocean Moors DRI, Charles Stephens, Chappaquiddick

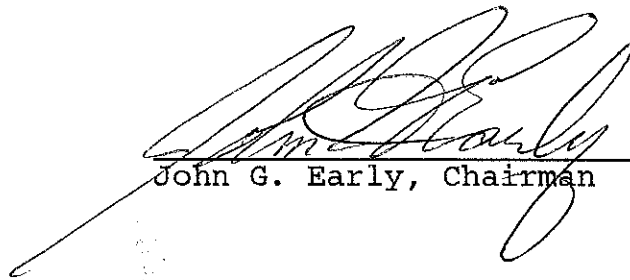
It was motioned and second to approve the draft decision on the Ocean Moors DRI as presented. There was no discussion. This motion passed with 14 in favor, 1 opposed, 1 abstention, Ewing. (Harney abstained.)

ITEM #7 - New Business - There was none.

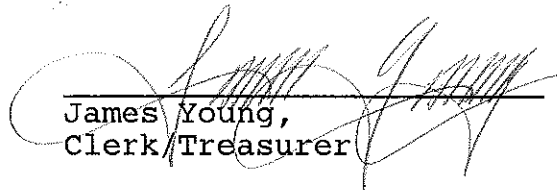
ITEM #8 - Correspondence - There was none.

The meeting was adjourned at 10:09 p.m.

ATTEST



John G. Early, Chairman Date 11/30/89



James Young,
Clerk/Treasurer Date 11/30/89

Attendance

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

Absent: McCavitt, Allen, Geller, Davis.

* Ms. Bryant arrived at 8:15 p.m.

** Mr. Schweikert removed himself from the table during Items #5 & 6 relating to the Edgartown National Bank.

*** Mr. Wey arrived at 8:20 p.m.