

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JANUARY 11, 1990

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a continued public hearing on Thursday, January 11, 1990 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Jane C. Brown
Trustee of Keyland Realty Trust
c/o Martin V. Tomassian, Jr.
P.O. Box 355
Edgartown, MA 02539

Location: Upper Main Street
Edgartown - Vineyard Haven Road and
Edgartown - Oak Bluffs Road
Edgartown, MA

Proposal: New commercial construction qualifying as a DRI since the proposal is greater than 1,000 square feet.

Robert T. Morgan, Sr., Chairman of the Land Use Planning Committee, (LUPC), read the Keyland Public Hearing Notice, opened the hearing for testimony, and immediately continued the hearing to a later date, at the applicant's request so the applicant could finalize site plans.

Mr. Filley, Chairman, opened the special meeting of the Commission at 8:08 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Filley reported that several representatives of the Commission, including myself and Carol Borer, Executive Director, will be attending the Governor's signing of the Cape Cod Commission Act. Anyone interested in attending should speak to one of us at the close of the meeting.

Mr. Filley continued by stating that Mr. Dick Hall, former legal advisor for the Interior Department under President Carter, will be speaking on the N.I.M.B.Y (not in my back yard) philosophy Monday, January 22, 1990 at 7:30 p.m. at the Episcopal Church.

Mr. Filley closed by reporting on the Edgartown Petition to withdraw from the Commission. This petition was actually filed on November 8, 1989 but the news broke this week. He stated that he would like to hear from any/or all of the people who have initiated this petition and he encouraged members of the Commission to take the time to listen to anyone, from Edgartown or other towns, who is dissatisfied with the Commission and report back to us. All complaints will be heard.

ITEM #2 - Old Business

Ms. Borer reminded Commissioners of the invitation from the West Tisbury Planning Board for an open table discussion on January 22, 1990 at 8:00 p.m. at the West Tisbury Church. All Commissioners are invited to attend this meeting.

ITEM #3 - Minutes of January 4, 1990

It was motioned and seconded to approve the minutes as presented with one correction as follows: pg. 1, para. 6, change spelling of Photo to Feauteux. This motion passed with no opposition, 1 abstention, McCavitt. (Harney was in favor.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of LUPC, reported that they had conducted a site visit on Monday of the Sears DRI on the Oak Bluffs Harbor. Several members of LUPC attended and it doesn't appear there are any major problems at this time. That evening LUPC met and reviewed the Crocker/Millbrook DRI. Eight members were present and I will ask if any members wish to comment.

Mr. Young, Commissioner, stated that they had discussed the Environmental Impact Statement requirements and it was an extremely productive meeting, I thought. Discussion included the scope and some specific details that LUPC, the Towns and the applicant had questions on. I left the meeting with a clear impression that, from the Commission's point of view, we had ironed out all the issues related to the EIS. It is now going back to the 2 Town Boards for any further input from them. I think that we are probably well on the way to finalizing the EIS for this application.

Ms. Sibley, Commissioner, stated that 2 members of the West Tisbury Planning Board were present for that discussion and later that evening they discussed it with the Planning Board. They seemed to be comfortable with what we had developed. They will examine it in more detail and address any additional issues they might have. We should expect to hear from them soon.

Ms. Borer reported that we also had an update on pending DRIs at that LUPC meeting. Based on site visits conducted, both the Sears and the Leland DRIs have been deemed complete and public hearings will be scheduled shortly. Regarding the Playhouse Theatre DRI, McDonough & Scully will be forwarding their review of the traffic study to us shortly. I think we can anticipate the need for a meeting between the

applicant, LUPC, and the two traffic engineers. The traffic analysis for the Cronig's Market DRI was received this week and we will be forwarding it to McDonough & Scully for their review. That hearing won't be scheduled until we have that report back.

Mr. Filley asked for other Committee reports.

Mr. Morgan, Legislative Liaison, reported that tomorrow the House Ways & Means Committee would produce a tax package which might be talked about as early as Tuesday.

Ms. Bryant, Commissioner, added that the Medicaid bill regarding nursing homes is in again so we will need to lobby.

Mr. Fisher, Chairman of the Gay Head Cliffs Area DCPC Committee, reported that they had met this evening with Mr. Kent Healy and Mr. Silva and reviewed 3 proposed septic locations on the Diem property. No agreement was reached. There will be a site visit of the property next Thursday, January 18th. We will be meeting at the Gay Head Town Hall at noon for anyone interested in attending.

Mr. Ewing, Chairman of the Edgartown Ponds DCPC Committee, reported that he had met last week with the Edgartown Planning Board and they have decided to form a South Shore Ponds Management Task Force to deal with the issues of the ponds on the South Shore. They are continuing their work on the proposed regulations for this DCPC. The DCPC Committee will be meeting again soon.

Mr. Schweikert, Commissioner, asked if this new Task Force would be working in conjunction with the Edgartown Harbor Management Study through the Woods Hole Oceanographic Institute? Mr. Ewing replied not directly, but the information gathered will be used by both groups.

Mr. Saxe, MVC Staff, asked if they had considered adding the Cape Pogue District to this management committee as well, since the regulations for that area do call for the formation of such a committee? Mr. Ewing responded no, that has not been considered. The South Shore Management Task Force will probably have enough to do with the management of the South Shore ponds.

Mr. Saxe reported that State officials scheduled to appear did not show up to yesterday's meeting hosted by the Airport Commissioners to discuss a regional septage treatment facility. Engineers from Camp-Dresser-McKee, Oak Bluffs, and Dufraine-Henry, Airport, Island Health officials and water supply and sewage treatment representatives discussed the need to determine a structure to conduct and develop a regional septage treatment plan.

Mr. Early, Chairman of the Planning and Economic Development Committee, reported that there would be a public hearing on the proposed regulations for the Oak Bluffs Planned Development District here on Thursday, January 18th at 8:00 p.m.

When there were no further committee reports Mr. Filley skipped to

Item #7.

ITEM #7 - New Business - There was none.

ITEM #8 - Correspondence - There was none.

Mr. Filley stated the special meeting will be continued following the close of the public hearing. He then called a short recess until the 8:30 public hearing.

The Martha's Vineyard Commission held a public hearing on Thursday, January 11, 1990 at 8:30 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Martha's Vineyard Shipyard
Phil Hale
P.O. Box 1119
Vineyard Haven, MA 02568

Location: Beach Road
Vineyard Haven, MA

Proposal: Construction of a pier and bulkhead and dredging qualifying as a DRI since the proposal is for commercial use within the Vineyard Haven Harbor and entails a change in the intensity of use of a commercial pier.

Robert T. Morgan, Sr., Chairman of the Land Use Planning Committee, (LUPC), read the M.V. Shipyard Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mark Adams, MVC Staff, to make his presentation.

Mr. Adams used wall displays and maps at the back of the staff notes to familiarize the Commissioners with the area and major aspects of the proposal. He reviewed the staff notes and correspondence available in their entirety in the DRI and Meeting files. Following Mr. Adams review of the staff notes he answered questions from the Commissioners.

Ms. Colebrook, Commissioner, asked about the statement made in correspondence that this is one of the only full service boatyards, is this true? Mr. Morgan asked the applicant to address this. Mr. Hale, Applicant, responded that there is 1 boatyard in Edgartown and 3 in Vineyard Haven, each one with slightly different niches in the market. Servicing large sailboats is one of the services M.V. Shipyard provides that the others don't.

Mr. Fischer, Commissioner, asked how many other fuel piers there are in the Vineyard Haven Harbor? Mr. Hale responded that there is one other operational (Machine & Marine), to the best of my knowledge Coastwise is not using their fuel pump.

Ms. Borer, Executive Director, asked for clarification. There will be approximately 1,000 cubic yards dredged, 157 cubic yard will be placed behind the bulkhead, so there is an additional 850 cubic yards with no disposal site? Mr. Adams responded yes, 850 cubic yards will have to be disposed of and the site has not yet been selected.

Mr. Wey, Commissioner, asked where the 4,000 gallon underground fuel tank will be located? Mr. Adams responded 11 feet from Beach Road at a maximum distance from the shoreline. Mr. Wey then asked about classification of the proposed dredging material as type "A", does this mean it is the cleanest? Mr. Barbini from Schofield Brothers, Inc., authors of the Environmental Impact Statement, responded yes.

Mr. Early, Commissioner, asked what can you do with Type "A", where can you dispose of it? Mr. Barbini responded it can be used for beach protection, landfilling, or can be removed by ocean disposal. They have a list of approved disposal sites and this type of soil, which is the least contaminated, can go to everyone of them.

Mr. Adams stated that there were no detectable levels of pesticides or PCBs. Trace metals such as cooper and zinc were detected but there were no unusually heavy metals. Is that true Mr. Barbini? Mr. Barbini responded yes.

Mr. Schweikert asked what is the consistency, sand or mud? Mr. Barbini responded it is sand and gravel with little silt, a course material. It could be used for beach protection very easily.

Ms. Borer asked if a sedimentation analysis was done and if so what was found? Mr. Barbini responded yes, it is included in the file. We found some metals but they were all well under the limits.

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

Mr. Phil Hale stated that this is the 3rd and final phase of our redevelopment process and it is the most important. We're a boatyard and as such this is crucial to our continued operation. Due to permit processes we will not be able to begin until this fall but we hope to be completed and able to offer full service again by this time next year. I will be happy to answer any questions you may have.

Mr. Barbini, applicant's agent from Schofield Brothers, Inc., stated that applications are pending with Tisbury Town Boards awaiting the MVC Decision. After the Town permits process, we will be going through Federal and State permit processes, these reviews will be very thorough. Concerning the issue of the dredging material, before we are through with the Federal and State permit reviews they will have to review the site for disposal of these materials and I am sure it will be scrutinized very carefully. Mr. Barbini closed by stating that this project is the result of a lot of time and effort.

Mr. Morgan then called on questions for the applicant or his agent.

Mr. McCavitt, Commissioner, asked what are the reasons for the bulkhead and the filling behind it? Mr. Barbini responded that the fill will be used to level the land behind the bulkhead to allow for use of this land. Mr. McCavitt asked what is the use of the bulkhead? Mr. Barbini responded that the bulkhead will allow for dredging right up to the pier and will allow for a deeper channel for approach. Mr. McCavitt stated he was just curious in light of the extensive process for bulkhead permits. Mr. Barbini stated it has been a major issue. The project will go forward with or without the bulkhead, the piers are of paramount importance.

Mr. Early, Commissioner, asked the bulkhead is apparently wall to wall on Lot #15, is that correct? The response was yes. Mr. Early asked who the owners of the abutting property are? The response was Campbell Oil and Packard. Mr. Early then asked if conventional pilings will be used for pier construction? The response was yes.

When there were no further questions, Mr. Morgan called for Town Board testimony, there was none. Mr. Morgan then called for testimony in favor of the proposal.

Mr. Jim Rothchild testified that he had used the services of the M.V. Shipyard for the past 4 years. He has watched them growing over the past years and this Shipyard provides the best service and attention on the Island. The Shipyard is important to the economy, not only of Vineyard Haven but of Martha's Vineyard as well. He strongly urged its approval.

Ms. Virginia Jones testified that she supports this proposal. She is an employee of one of the sister shipyard on Vineyard Haven Harbor and that they have always had a cooperative stance with the M.V. Shipyard and a fine working relationship. I hope these plans can come to fruition as soon as possible.

Mr. Joe Cressy, Edgartown Resident, testified that he has used the M.V. Shipyard for the past several years and is in support of this proposal. Although there are other shipyards on the Vineyard this is the only one that can really handle large vessels. M.V. Shipyard is part of the history and marine environment of Martha's Vineyard. It fills a commercial gap and provides for serious needs. It is a tradition that should be continued on Martha's Vineyard.

Mr. Hugh Schwarz, Vineyard Haven resident, stated that he has used M.V. Shipyard for over 50 years. He stated that they fill a unique niche in that they are the only yard that will haul deep water boats and service boats that are not wooden. I urge this proposal's approval. The bulkhead discussed would add to the utility of the yard since maneuvering in the harbor has become more and more difficult over the years.

Patricia Costa testified that although she is not presently associated with the boatyard she had been associated with M.V. Shipyard for 17 years and in those years she had seen their sensitivity to the Island as a whole and hopes that they will have the support of this Commission to proceed with this project.

When there was no further testimony in favor of the proposal, Mr. Morgan called for testimony in opposition, there was none. He then called on questions from the Commissioners.

Mr. McCavitt asked where the existing concrete pad is located, on piles or on the ground? The response was on the ground.

Mr. Morgan then called on the applicant for any additional comments.

Mr. Hale stated he has nothing more to add. He hopes the Commission can support this project.

Mr. Morgan asked for any additional comments from the Commissioners.

Mr. Jason, Commissioner, asked aside from voting on the project tonight, which can't be done since the record must remain open for one week, is there anything else the Commission can do to expedite this proposal? He suggested that perhaps we can consider voting on the draft decision on the same evening as the oral vote. There was a consensus that the oral vote and draft decision will be dealt with on the next meeting's agenda.

Mr. Morgan closed the public hearing at 8:58 p.m. with the record remaining open for one week.

Mr. Filley reconvened the special meeting of the Commission at 9:00 p.m. and returned to item #5.

ITEM #5 - Discussion - Consideration of West Tisbury Special Ways DCPC, Town of West Tisbury.

Mr. Filley asked Ms. Sibley, Chairperson of the West Tisbury Special Ways DCPC Committee, to make a report.

Ms. Sibley stated that the DCPC Committee had met last Thursday and voted unanimously to recommend consideration of this District. Ms. Sibley read the sections from the nomination including type of district and statement of purpose of this District by the West Tisbury Planning Board as nominators (available in their entirety in the DCPC and meeting files). Ms. Sibley continued by stating that the West Tisbury Planning Board and a special committee that they set up have done an exhaustive inventory of the special ways in that Town and this is only a small fraction of the ways that they hope might be recognized. The Committee feels that the ones chosen are well defined, not very controversial, and are being used actively and that they will be used as a model for future designations.

Mr. Early asked what types of development permits will be affected by this moratorium? Mr. Adams, MVC Staff, stated that this will designate an 80 foot boundary on these roads, 40 feet on each side of the center line and that any development as defined by Chapter 831 will be affected. For example, the construction of a house next to or

obstructing a trail might be affected. The Town has already begun working on proposed regulations and these might be discussed after the close of the public hearing on this DCPC. These proposed regulations include a special permit process for habitable structures with this 80 foot band. They do provide for alternatives.

Virginia Jones, West Tisbury Planning Board members, stated that there are few subdivisible lots. There are only a few on the Scrubby Neck/Watcha Path section and possibly some on Holmes Hole Road.

Mr. Adams stated that the way this nomination was worked out it has nothing to do with having any public rights. The only intent is to protect the integrity of the physical trails.

Mr. Jason stated that he hopes the Town will develop a plan to acquire such rights. This will send a signal to the Land Bank and the Commission regarding what they want to maintain. Someone should investigate acquisition of these rights considering the potential for conflict between vehicle, pedestrian, bike and equestrian use. Mr. Jason stated that he would prefer to see an all Island trail system laid out and then acquisition, possibly through DRI review. While I agree with the concept, this method doesn't give us what we need, an Island wide trail system.

Ms. Sibley stated that the work done in West Tisbury has stimulated Edgartown to do similar work and will possibly stimulate other towns as well. Several of these ways have the potential to link to other towns and if the ways are defined then you know what sections will have to be moved in order to accommodate development and links to other towns. We should not discourage West Tisbury in this endeavor.

Mr. Jason stated that he doesn't want to discourage West Tisbury, he just feels it is important to develop an Island-wide plan for trails. He stated that the Edgartown Conservation Commission has made a number of recommendations on DRIs in recent years to protect their special ways.

Mr. Young stated that through DRI review several special ways have been rerouted, i.e. Red Farm and Vine DRIs. It is important to establish these trails using this DCPC and other trails can be added as they are established.

Mr. Sullivan, Commissioner, stated that he agrees that it would be great to have an Island-wide trails system but I also think it is good to have these down on paper.

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

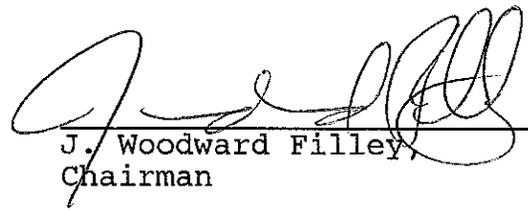
ITEM #6 - Possible Vote - Consideration of West Tisbury Special Ways DCPC

It was motioned and seconded to consider the nomination of the West Tisbury Special Ways DCPC. Ms. Sibley read the bounds for this DCPC. There was no further discussion. This motion passed unanimously.

Ms. Jones thanked the Commission for its decision and Mark Adams, MVC Staff, for all his work on the project.

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

ATTEST

 1/18/90
J. Woodward Filley, Date
Chairman

 1-18-90
Albert O. Fischer, III, Date
Clerk/Treasurer

Attendance

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

Absent: Eber, Allen, Geller, Davis.