

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS 02557
(508) 693-3453
FAX (508) 693-7894

MINUTES OF MAY 30, 1991

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Special Meeting of the Commission on Thursday, May 30, 1991 at 7:30 p.m. in the lower level of the Whaling Church in Edgartown, MA. The meeting was called to order at 7:39 p.m. by Alan Schweikert, Chairman of the Land Use Planning Committee, who noted that the Commission would take one item a bit out of order and just prior to the public hearing the Commission would conduct some other business. He turned the meeting over to Bob Lee, Vice Chairman of the Commission.

Mr. Lee noted that there had been no new information regarding the changes proposed by Oak Bluffs to the Coastal District regulations. He noted that a request had been made by the Town and the Hospital to see if the Commission would act this evening and thus allow the Town to meet its special town meeting deadlines. He opened the matter for discussion.

Mr. Hebert asked which was to be discussed. Mr. Clifford explained that all of the proposals were open for discussion at this time. He further explained the Town's request for action at this time.

Mr. Combra discussed the small jog in the boundary and felt that such was a valid point to have it a straight line. A discussion followed.

Mr. Donaroma questioned which of the three the Hospital favored. Mr. Reynolds, MVH Attorney, indicated that he preferred two and three but hoped that the Commission would cover all bases and vote all three. A discussion of amending the boundary description to remove the jog followed. All agreed that such would be possible.

Mr. Sullivan indicated that he preferred the first choice and explained why.

Ms. Bryant discussed letting the Town decide what it wants.

Mr. Hebert felt also that letting the Town decide would be best and to give them the choices.

Mr. Lee indicated a similar feeling.

Mr. Jason moved approval of all three proposals with the amendment that the jog on Linton Lane be eliminated from the boundary. Duly seconded. On a roll call vote, the Commission voted 11 yes, 0 nay with 2 abstentions (Best, Hall).

The meeting was turned back to Mr. Schweikert.

The Martha's Vineyard Commission held a continued public hearing on Thursday, May 30, 1991 at 7:30 p.m. in the lower level of the Whaling Church, Main Street, Edgartown, MA, regarding the following Development of Regional Impact (DRI):

Applicant: Herring Creek Farm Trust
c/o General Investment & Development Co.
600 Atlantic Avenue, Suite 2000
Boston, MA 02210

Location: Slough Cove Road
Edgartown, MA

Proposal: Subdivision of 207 acres into 54 lots and two private clubs qualifying as a DRI since the proposal is for the division of a related ownership of land into ten (10) or more lots.

Mr. Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the notice of continuation and opened the hearing for testimony at 7:51 p.m. He explained the order for the continuation. He called upon the applicant to begin. Catherine Shortsleeve, representing the applicant, explained who would be giving testimony and what they would be discussing. She noted that they had responded to all comments from the Commissioners and correspondence and that a supplemental EIR would be submitted.

David McIntyre, Sasaki Associates, discussed three of the items of concern: nutrient loading, sewage disposal and sandplain grasslands concept. Mr. McIntyre began with the issue of nutrient levels. He discussed the matter in depths, citing both State and local laws and regulations. He felt that the proposal exceeded the regulations and laws. He discussed buffer zones, reduced septic loading and the like. He noted that a nutrient loading study would be performed to confirm effectiveness of regulations.

He showed a map depicting groundwater contours, watershed divides and directions of flow. He noted that 8 sites were in the flow pattern toward the pond. He then discussed the nutrient monitoring study, the length of time to conduct the same and what might be expected of such a study. He then discussed sewage disposal and explained what a mounded system would look like. He discussed what each of the components of the septic systems would be. He noted that 18 units would have mounded systems ranging from 1 foot in height to 4 feet in height. He noted that no system would be below elevation 8 feet, 100 year flood elevation nor less than 5 feet above groundwater. He then discussed the sandplain grassland habitat by using prepared graphics. He noted that there was no sandplain grasslands on site today and further discussed competing interests and the wish of the developer to develop within the regulations in place. He discussed various endangered species and their habitats.

David Hirzel, Sasaki, discussed the issue of traffic and noted that

the traffic data was being redone and the issue of the beach club will be addressed. He showed an enlargement of the club and discussed its various components. He discussed potential usage frequencies. He felt about one-third of the members would use the place at a time. He discussed various numbers to indicate potential usage numbers. He then discussed the floor diagram since no architectural plans had yet been done. He discussed the central snack bar area, the rest rooms and a 2,500 gallons per day usage. He showed the parking for 80 and 120 cars. He indicated a willingness to do further studies to determine appropriateness. He then discussed beach usage. He cited the standards used to determine the usage numbers. He felt that beach usage would be light in comparison.

Catherine Shortsleeve discussed the open space, the location thereof and how it would be saved. She explained what constituted the open space. She discussed the usage of the open space and what, if any, structures could be allowed. She discussed the draft of the proposed conservation restriction, its enforcement and other legal matters including management and maintenance. She discussed the open space management plan which includes agricultural, wildlife, beach, habitat and other management schemes. She noted that the conservation restriction was in perpetuity. She expected that the draft would be discussed with the MVC and the Edgartown Conservation Commission to reach a final document.

Robert Popeo, Attorney for GID, discussed legal issues related to a 1969 agreement with the Cohans. He discussed the matter at length. He cited chapter and verse of many laws and court cases. He stated that he was there to protect the applicant's rights.

Mr. Hirzel summarized the presentation and discussed the need for the addressing of the issues. He discussed the bonus under the cluster ordinance in Edgartown and how the design did not use those bonuses since it was a 3-acre proposal. He discussed various issues related to protection of the qualities of the Vineyard.

Ms. Shortsleeve discussed the next step. She noted those items still to be resolved and that she would be willing to work with all concerned.

Mr. Schweikert asked for any staff input. Mr. Schilling noted that the supplemental EIR had not been seen so no comments could be discussed. He discussed the scopes of the traffic studies and the pond study. He discussed the issue of nutrient loading and mitigation measures.

Mr. Schweikert noted that he would take things out of order to give the public a chance to finish their testimony. He then called for town boards.

Paul Bagnall, Shellfish Dept., Edgartown, read a letter which was submitted for the record and which expressed the concern for the maintenance of a healthy pond for fisheries. He discussed the history of the fisheries of the pond. He further discussed the access to open the pond in the future.

Mr. Hall raised a question regarding the function of the sluiceway.

Mr. Bagnall explained how the system functioned.

Mr. Schweikert asked the applicant to respond to the issue of access.

Ms. Shortsleeve discussed the issue of the sluiceway as well as indicating that the applicant would be willing to work out an acceptable program for access for pond opening. She discussed related issues and felt that the applicant would be willing to work with the Town on many issues.

Ted Morgan, Selectman, discussed the matter of the development in a rural context. He discussed what would be the best for the Town. He was concerned for the fragility of the area in light of the development.

Dudley Levett, Shellfish Committee read a letter which was submitted for the record. He discussed the impact on the pond, the mounding of septic systems. He discussed the impact of a sluiceway on the pond and that it need not be improved.

Mr. Hall questioned the position of the Committee.

Mr. Briggs raised further questions about any work on the sluiceway.

Mr. Levett felt it should be left as is.

Mr. Schweikert called for proponents. There were none. He then called for opponents.

Michael Allensidener, abutter, discussed the impact of the proposal. He discussed his background and his feeling for the impact of the proposal on people and the Vineyard. He discussed the farm and the loss of the habitat and visual attractiveness of the area.

Bob Berry, Edgartown, discussed the issue of the enormousness of the proposal. He gave a citizen's overview of open space and how it related to the proposal. He discussed open space in general terms and what made the Vineyard the Vineyard.

Michael Wild, abutter, discussed the past ownership of the farm. He further discussed the various components of the farm including the lay of the land, etc... He discussed a number of past agreements, lease arrangements to prolong farming, etc... He discussed the hydrolic activity of the site due to the rather high water table. He discussed the limiting factors of the site including rapid permeability and the like.

He discussed the topography of the site and areas where standing water occurred after heavy rains. He discussed the need for water lines to make the plan work and asked if consideration could be given to making applicant pay for abutter hook-ups if plan was approved. He further discussed the subdivision plan and the problem of how to make the

whole work. He felt legal documents were the only mechanisms to make this work. He further discussed the problems of maintaining the legal documents which were essential to the proposal. He further discussed the Katama Plains area and the development that had occurred in the area.

Donald Liptack, USDA, representing Dukes Conservation District, noted that his comments were more objective than anything else. He discussed the management issues of farming. He discussed the various aspects of farm management. He questioned whether real farming would be compatible with housing development.

Paul Ronan, Edgartown, discussed the potential abuse of water and whether there would be any shortages in the future. He felt the scale of the proposal would be a mistake.

Anne Floyd, Edgartown, questioned the concept of highest and best uses. She was concerned for the loss of the vista and noted that the South Beach area was a very special area.

Sue Troll, Horsley, Witten, Hegemann, Inc., on behalf of Great Plains Conservancy, read a brief letter and discussed problems she saw with the nutrient loading study. She discussed the study being done by Arthur Gaines on the pond. She noted the certain components were missing from the study, total coliform and orthophosphate. She felt the MVC needed certain data to make decision. She discussed the hedgerow concept, the problem of carrying capacity of the land, future management plans and various ground and surface water issues.

Mr. Schweikert called for other testimony. There was none.

He then called for Commissioner's questions.

Mr. Hall raised a question regarding the Natural Heritage Program and the wildlife of the area. Mr. McIntyre noted that it would be addressed in the supplemental EIR.

Mr. Jason raised the issue of when the various studies would be done.

Ms. Shortsleeve indicated as long as necessary; four seasons for the wildlife; traffic by end of July; nutrient loading still being discussed with staff; noted that data collection had started, by November a complete report.(Mr. McIntyre); beach club confirmation through summer.

A discussion of continuations followed.

Mr. Briggs questioned whether beach club study would be limited to Martha's Vineyard.

Ms. Shortsleeve indicated that clubs in northeast had been reviewed.

A discussion of size of clubs studied (250 members) followed.

Mr. Best discussed types of beach clubs that should be studied.

Ms. Shortsleeve discussed what she felt were the issues related to beach clubs such as traffic, access, numbers of users.

Ms. Greene asked for usage information and which clubs on the Vineyard had been studied.

Ms. Shortsleeve read the list of beach clubs studied: Nantucket Yacht Club, Squibnocket, South Beach, Long Point, Gay Head Public Beach, Chappy Beach Club, Jetty's Beach, Sanctity Head, Hazards Beach in Newport, Dunes; Narragansett, Baileys; Newport, Cliffside; Nantucket.

A discussion of whether some were clubs or not followed.

Ms. Greene questioned whether those studied were similar to the proposal. Some were, some were not.

Mr. Early discussed a table in the EIR regarding population usage and the estimate contained therein. The estimate came from Land Vest.

A discussion of the number of units followed.

A discussion of how the usage figures and percentages followed.

Mr. Jason questioned whether any prescriptive rights would be lost due to project. The response was no.

Mr. Combra questioned whether mounded systems were permitted in Edgartown. Peter Look, Edgartown Board of Health indicated yes.

Ms. Greene questioned whether there were any restrictions as to locations in the Town. Mr. Look requested a reserving of an answer pending a written question.

Ms. Sibley discussed cluster developments, how they are designed and compared the application to that. She questioned the reason for the design. Mr. Hirzel explained the reasons and noted the building envelopes which "clustered" the units. The design was an "of right three acre" subdivision and not submitted as cluster. Economics played a part with respect to resale value.

A discussion of this matter followed.

Ms. Greene felt the presentation map was very confusing. She asked that the boundaries be delineated.

Mr. Hirzel traced the boundaries on the map. Ms. Greene felt that the map was deceptive.

Mr. Best discussed clustering techniques.

A discussion of this matter followed.

Mr. Jason questioned the maximum number of units that would fit on the

site under Edgartown zoning cluster.

Mr. Hirzel indicated 65.

Mr. Colaneri noted that the proposal as a cluster was misleading since it was not a cluster and that the presentation plan was misleading since the property lines were unclear.

A discussion of the matter followed.

Ms. Bryant questioned any movement on the affordable housing.

Ms. Shortsleeve indicated 10% on-or off-site or \$3,000 per unit at the choice of the developer.

A discussion of how the dollar figure was developed followed.

Ms. Greene requested that the map be replaced with a new map showing no other property.

Mr. Hirzel indicated that one would be part of the supplemental EIR.

Mr. Hall further discussed the confusion of the map and asked if any reduction of the scope of the proposal had been considered.

Ms. Shortsleeve noted that the plan met all the rules and that there were rights of owners. The answer was no.

Mr. Colaneri further discussed the affordable housing issues.

Ms. Shortsleeve noted that the list had been provided by staff.

A discussion of what actually was given in a particular past DRI followed.

A discussion of whether applicant would consider 20% of assessed value of property followed.

Ms. Shortsleeve indicated willingness to talk and expected fairness. Mr. Jason assured her she would be treated equally and fairly.

Mr. Lee questioned mean elevation of site. Mr. McIntyre indicated a range from 3 MSL to 17 MSL.

Mr. Lee asked for an indication of the area below the 10 foot contour. An overlay map was shown.

Ms. Sibley discussed the confusion of the maps. She wanted to have a clear picture of what there was for abutters and that property lines needed to be shown in bold.

Mr. Hirzel discussed the maps and what was depicted.

Ms. Greene asked also for a clear topographic map that was legible.

A brief discussion followed.

Mr. Lee discussed the use of a Cad Cam system to show many of the features to present a much clearer picture of what is happening. He discussed the need for clearer illustrations of what was being presented so that all would be able to understand. He felt that more concrete information was needed.

Mr. Wey asked for the depth to groundwater. The range was from 3 feet to an excess of 10 feet. Mr. Wey asked for average around where homes were proposed. Again the response was variable across the site.

A discussion of this matter followed.

A discussion of the elevations of first floors in flood prone areas followed.

Mr. Wey questioned whether the homes would be affected by 100-year storm. The response was no.

Mr. Lee questioned which maps were used. Not updated maps.

Mr. Hall questioned the maximum height of structures. The answer for DCPC was 26 feet; 32 feet outside.

A discussion of how to figure height followed.

Marshall Cohan, abutter, also asked to have his property removed from the map. He discussed the problems with the proposal.

Michael Wild, abutter, discussed the physical impact issues as well as the covenants which makes the proposal work. He felt that they were essential for review.

Dudley Levett discussed groundwater issues related to times of year and whether the pond was opened or closed. He felt there was confusion over the usage of sea level elevation and groundwater elevation.

Mr. Briggs raised an issue of mounded systems and the relationship to groundwater.

Mr. Levett discussed the need to make determinations when pond is full and groundwater is high - March or April best time.

Mr. Briggs further questioned mounded systems and groundwater relations. Mr. McIntyre discussed methods of determination of groundwater levels. He discussed the use of monitoring wells to determine groundwater elevations. - used from October to April.

Mr. Hirzel discussed sea level vs. groundwater level which comes to sea level due to flooding; septic systems to groundwater level due to potential pollution.

Mr. Schilling discussed the areas flooded when pond is high and

indicated a great fluctuation.

Mr. Colaneri asked about inclusion of data regarding monitoring of water levels.

Mr. McIntyre indicated that it had been part of original submittal.

Mr. Early discussed issue of mounded systems to flood areas and asked for dimensions of a mounded system.

Mr. McIntyre indicated a range from 1 foot to 4 feet - 2 1/2 foot average; 20-foot width from trench to trench plus 25 feet either side as settling area plus 15+ feet either side for slope to grade; 170 feet plus by 50 feet length.

A discussion of the significance of such systems on the landscape followed.

Ms. Greene asked for a clarification date on when the groundwater was monitored.

Mr. McIntyre indicated by Fall of '89 - Spring of '90.

Mr. Colaneri questioned the timeframe for when the new data might be ready.

Ms. Shortsleeve indicated a proposal to work with staff on new data or work with LUPC until all ready.

A discussion of whether the timeframe would be a year or not followed.

Ms. Greene requested a written homeowners association, rules and regulations and how they are going to apply to open space, how to regulate use of open space.

Ms. Shortsleeve agreed.

Mr. Colaneri questioned the timeframe again. None was suggested.

A discussion followed.

Ms. Greene questioned when the project might be started. As soon as all approvals were given, was the response.

Mr. Hall asked if there was a formal request for continuation.

Mr. Clifford indicated no.

A discussion of procedural issues followed.

An unidentified voice questioned whether one could build below the 10-foot contour.

A brief discussion followed.

Mr. Colaneri asked for an answer. Mr. Colaneri further questioned the timeframe for the next meeting - September, maybe.

Mr. Jason suggested that the applicant complete his application with data asked for and not negotiated.

Ms. Shortsleeve indicated such was in the supplemental EIR.

Ms. Bryant discussed procedural issues.

A brief discussion followed.

Mr. Colaneri questioned future meetings with LUPC.

Ms. Shortsleeve discussed what she saw as items for meeting with LUPC.

Mr. Colaneri indicated that lessening density, affordable housing, changing the plan, etc. should be discussed.

Ms. Shortsleeve discussed certain matters related to the Housing Authority.

A discussion of the use of the LUPC meeting followed.

A discussion of what would be discussed followed. Ms. Shortsleeve discussed entitlement of density.

Stewart Johnson, GID, indicated that all matters were open for discussion with LUPC.

Mr. Jason suggested that the applicant submit what would make a completed application and only then come back for a hearing.

Mr. Johnson discussed parallel paths, new tasks and answering questions.

A discussion of the need to let proposal fly on its own merits followed.

Mr. Hall discussed need to give applicant time to get information.

A discussion with Mr. Popeo regarding what needed to be submitted followed.

Mr. Combra explained the reasons for asking for the information.

A discussion of when all the questions would be answered followed.

There being no further questions or discussion the hearing was closed at 11:09 p.m and continued to a date to be set later.

Jennie Greene, Chairman of the Commission called the Special Meeting to order at 11:16 p.m.

ITEM #1 - Chairman's Report

Ms. Greene reported that there would be a party on June 8, 1991, at her house for Laurie White. Maps available.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes

Minutes of April 25, 1991

Ms. Greene discussed what she felt was necessary in the minutes. Several others voiced their opinions. It was moved and seconded to accept the minutes of April 25 as written - duly passed (Colaneri, Hall, Jason abstained).

Minutes of May 16, 1991

It was moved and seconded to approve as drafted - duly passed. (Hall, Jason abstained).

Minutes of May 23, 1991

It was moved and seconded to approve as drafted - duly passed. (Sibley, Hall abstained).

ITEM #4 - Committee and Legislative Liaison Reports

LUPC - No report

PED - No report

Legislative - Mr. Clifford noted that the MVC was back in the budget for \$100,000. He noted that he would send all numbers to call in support. Mr. Hall suggested others to call. Ms. Bryant suggested Rauschenbach and McGovern.

ITEM #5 - Discussion

A discussion of what was to be discussed at the next LUPC followed.

ITEM #6 - New Business

Mr. Clifford explained the request from Dick Barbini for determination of a proposal change for the M.V. Shipyard as to whether it was significant enough of a change to warrant a DRI. A discussion of how to deal with the matter followed. It was decided to send it to CZM for review.

Ms. Greene noted that the Standards and Criteria would be heard at next week's meeting.

Mr. Colaneri questioned what was being done in Oak Bluffs with respect

to a shelter for * * * * riders. Mr. Schweikert explained what he knew about the proposal. A discussion of whether it was a DRI or not followed. A discussion of how to address the issue followed. It was suggested that a letter be sent to the Selectmen questioning whether it should not have been referred as a DRI. It was moved and seconded to send letter - duly voted (Early abstained).

ITEM #7 - Correspondence - there was none.

There being no further business the meeting adjourned at 11:38 p.m.

ATTEST

Jane A. Greene June 6, 1991
Jane A. Greene, Chairman Date

Thomas Sullivan 6/6/91
Thomas Sullivan, Date
Clerk/Treasurer

Attendance

Present: Best, Briggs, Bryant, Colaneri, Combra, Donaroma, Early, Greene, Hall, Hebert, Jason, Lee, Schweikert, Sibley, Sullivan, Wey, Harney

Absent: Benoit, Clarke, Allen, Davis, Geller

* * * * Island Queen