

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF SEPTEMBER 17, 1992

## MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a Regular Meeting on Thursday, September 17, 1992 at 8:00 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

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### ITEM #1 - Roll Call

There being a quorum present, Jane Greene, Chairman of the Commission called the meeting to order.

### ITEM #2 - Review Discussion - there was none.

### ITEM #3 - Approval of Minutes - August 20, 1992

It was moved by Mr. Chapin, duly seconded, to approve the Minutes. - so voted with 5 abstentions (Lee, Vanderhoop, Colaneri, Bryant, Clarke).

### ITEM #4 - Reports

#### CHAIRMAN'S REPORT -

Ms. Greene noted that the Executive Director was meeting with the Mass. Highway Dept. to begin negotiations on the future contracts. She also noted that Rich Rooney was missing due to a serious illness that had befallen his father and that Barry Didato's wife was also seriously ill off-Island.

Ms. Greene also reported on a paper that Marie Allen had brought from EOTC regarding the Transit Authority and compliance with the handicapped access laws.

#### LUPC -

Mr. Schweikert reported on a meeting on 8/31 with Doug Dowling representing the Sturgess-Pearlson property. He discussed a compromise that had been worked out that the Town was comfortable with.

A member of the Chilmark Planning Board noted that all had temporarily been put on hold so no letter would be forthcoming as to the acceptance of the compromise.

Mr. Schweikert then reported on a 9/9 meeting regarding Peaked Hill modification. He discussed the proposed modifications and the issue of whether there should be a public hearing or not. He noted it was up for discussion this evening. He then discussed the issue of this proposal having been a DRI and thus fell into the category of "once a DRI always a DRI". A discussion of the reason for it being before the Commission this evening followed.

Ms. Greene reported on an a 9/14 meeting at which James Rogers appeared to request a modification to his decision. She noted that the LUPC felt the retail usage was incidental to the wholesale use but any other changes would have to come before the Commission.

She next noted that the "Waller Farm" had been submitted to the Town as a subdivision. She discussed the history of the site. She noted that the LUPC felt it should be treated as a DRI and go through a full hearing.

PED - no report

EDTF - no meeting but will be meeting early next month

AGRICULTURAL TASK FORCE - no report

LEGISLATIVE LIAISON

Mr. Clarke noted that all MVC legislation passed and was signed. He also noted that it was quiet in Boston due to it being an election year. He discussed the various bills that were of interest to CZM. He then noted that the following week was Coast Week and that he was chairing a Barrier Beach Management Task Force and explained what was to be expected from such a group.

Ms. Bryant discussed the feelings and talks given by Cong. Studds regarding endangered species and the use of resources. A discussion of these issues followed.

Ms. Bryant reported briefly on the Airport Business Park feasibility study.

Mr. Schilling further discussed this matter.

A discussion of the Corps of Engineers' approach to the clean-up of the Airport followed.

Mr. Vanderhoop noted that the Tribe was expecting to break ground next month on the cultural center.

ITEM #5 - Possible Discussion  
Peaked Hill DRI - modification

Ms. Greene explained the current status of the plan and called on James Lengyel of the Land Bank to discuss the matter further. Mr. Lengyel explained the past history of the site, the manner in which it had been re-divided and sold. He then used a handout to compare the proposal to the decision conditions item by item.

Ms. Greene called for discussion.

Mr. Sullivan raised a question regarding procedure and noted he felt it should go to public hearing.

Ms. Bryant asked for input from the Town.

The Planning Board felt it was a great change and was completely in favor.

Mr. Briggs questioned what future municipal uses there might be.

Herbert Hancock of the Board of Selectmen noted several choices that had been discussed: youth lots; elderly housing; community service uses.

Ms. Greene noted that the moving of the school to the site had been discussed.

Mrs. Marinelli questioned any conservation commission involvement and a discussion of this matter followed.

Ms. Sibley questioned whether any portion of the town land would ever return for review.

Mr. Jason noted the Selectmen had suggested that the Town and the MVC work together on the future uses. He further discussed his feelings on the alternative proposal and the question before the MVC.

Mr. Hall noted a problem with the proposed changes and discussed each of them.

Mr. Jason discussed the original purpose of the condition regarding 'Planners fees'. Mr. Lengyel further explained that condition. He noted the Land Bank was seeking a 'topping easement' for lot #13. Mr. Schweikert discussed the location of the various wetlands. Ms. Greene further expanded on the conditions which related to groundwater protection and run-off protection.

Ms. Sibley raised a procedural question regarding a request for modification and a new proposal. She noted that there were very few on the MVC that partook of the original review. She felt the MVC should sit down and discuss process in cases such as this.

Mr. Colaneri noted the Land Bank had agreed to provide a road maintenance agreement. Mr. Lengyel explained the agreement. Mr. Colaneri further discussed the past review and discussed the request for modification and indicated he did not feel it needed to be taken through a lot of bureaucratic processes to attain the goal of a better plan.

Mr. Clarke discussed the MVC regulations regarding the insubstantial nature of the requested modification.

Mr. Hall discussed his feeling on the issue.

Ms. Bryant moved to grant the modification certificate, duly seconded.

Ms. Sibley discussed whether the motion was appropriately worded at this time and explained why.

Mr. Early discussed the previous review in 1988 and expressed his feelings regarding the change.

Mr. Clarke expressed his feeling that the change was substantial.

Mr. Chapin discussed whether the MVC could waive the issue of substantial modification.

Mr. Clarke read the wording of the MVC regulations regarding modifications.

Mr. Sullivan discussed potential changes to the MVC regulations regarding modifications.

A discussion of the motion on the floor followed.

Ms. Sibley noted she was ready to vote for no public hearing but felt there needed to be a vote on the changes.

Mr. Sullivan noted he didn't feel the Commission had moved to ITEM #6 and that a motion in ITEM #5 was not possible.

Mr. Colaneri again questioned the process and moved that the proposal not go for full review and that it was not a substantial change warranting full DRI review and public hearing - duly seconded.

Mr. Jason asked if the memorandum that the Town land, when it becomes time for development, would come to the MVC was a part of the motion.

Mr. Colaneri indicated yes.

Mr. Clarke asked if it were possible as an option to approve the modification with the conditions and not hold a public hearing; that the proposal is insubstantial; we don't want a public hearing, with the present conditions.

A discussion of the motion followed.

Ms. Sibley expressed concern about the environmental status report and asked for something in the record to indicate that the Land Bank would supply an annual report. She asked that someone from the applicant's side state for the record that the commercial area was not the environmentally sensitive area.

Mr. Hancock discussed where the sensitive lands were.

Ms. Greene read the original decision with respect to the environmental status report.

Mr. Sullivan discussed the need for public input.

Mr. Colaneri noted that there was no management plan yet developed and felt that the MVC should be a part of the process of review of the same.

Mr. Jason felt that it was not an issue when the previous development came before the MVC and questioned why now.

Mr. Jason further noted that he was seconding the amendment to the motion requiring an annual report from the Land Bank.

Mrs. Marinelli questioned who kept track of all the various conditions and whether they had been met. A brief discussion followed.

Mr. Sullivan discussed the definition of substantial.

A call for the vote on the amendment followed.

Ms. Greene restated the amendment to include under 3a of the petitioners amendments to the MVC approved conditions that an annual report be provided to the MVC by the Land Bank regarding the

environmental status of the property.

Mr. Lengyel asked for clarification of the amendment.

By roll call vote the amendment passed.

Mr. Jason then moved the question.

Ms. Greene restated the amended motion - that motion being that the proposed modification not go for full DRI review since the proposed modification was not a substantial change warranting full DRI review and public hearing but when it becomes time for development to occur on the Town of Chilmark portion of the site, said development would be submitted to the MVC and that the Land Bank would provide an annual environmental status report on its portion of the site.

Mr. Hall raised a point of order regarding a modification and felt that it was not right to make changes without public input.

Mrs. Marinelli felt it was necessary to define what is substantial in percentages.

Ms. Bryant discussed the meaning of substantial and felt each should vote his/her own feelings.

Mr. Sullivan discussed substantial change in terms of good or bad. A general discussion of the definition of substantial followed.

By roll call vote the Commission voted 7 yea 8 nay and the motion failed.

Ms. Greene noted that the proposal would be scheduled for public hearing.

Mr. Colaneri questioned the vote and asked for clarification.

Ms. Greene recounted the roll call vote and noted that it was a 7-7 vote prior to her vote and her vote broke the tie.

Ms. Greene then noted that the Boch DRI had been postponed to October.

ITEM #7 - Old Business - there was none.

ITEM #8 - New Business -

Request of James Rogers for amendment to DRI. Mr. Rogers read a letter into the record regarding his commercial building and incidental retail sales.

Ms. Greene asked if there were any questions.

Mrs. Marinelli asked if the change was substantial.

Mr. Rogers indicated no.

Ms. Greene explained the original decision and the condition regarding the retail restriction.

Mr. Early asked about tenants.

Mr. Rogers indicated that the maximum would be three and that he had three now and named them as Baines Electric and Tashmoo Boats plus Celebration Caterers.

Mr. Briggs questioned the square footage of the structure and whether the potential for full retail was present.

Mr. Rogers explained the limited retail use which was presently there.

Ms. Greene reread the letter to clarify the issue of retail usage.

A discussion of what would trigger a review followed.

Ms. Sibley questioned whether it was possible to determine the number of cars using the area now and questioned whether there was a need for a traffic study to determine usage.

Mr. Rogers explained the present traffic pattern by tenant.

A discussion of traffic generation followed.

Mr. Colaneri discussed the use of a traffic counter to gather figures.

Mr. Sullivan discussed what would be a generator of traffic and he felt that there would be little traffic increase in his mind.

Mrs. Marinelli questioned what good data would be after the fact.

A discussion of this matter followed.

Ms. Greene noted the LUPC had a recommendation for the Commission and that was that the retail usage there presently was incidental to the business but if there were any changes of use or traffic changes they would have to come back to the MVC.

A discussion of this recommendation followed.

Mr. Jason noted that should the retail become the primary use and not incidental then it would return to the MVC.

A further discussion of this matter followed.

Mr. Colaneri moved that the retail usage was incidental to the present usage and that the letter of Mr. Rogers dated 9/17 be a part of the motion, duly seconded.

By roll call vote the motion passed.

Mrs. Marinelli raised an issue regarding the Robinson DRI. She discussed the conditions placed on the DRI and asked who was responsible to enforce the conditions.

A discussion of this matter followed.

Ms. Greene noted that Eric Peters could discuss the matter of the Daniele DRI under new business.

While Mr. Peters was preparing, the MVC took a brief recess.

Following the recess, Ms. Greene explained why the DRI was before the Commission and the matter under consideration was MVC concurrence as to whether the proposal was a DRI or not since it fell under the 'once a DRI, always a DRI' provisions. She also noted that the LUPC had discussed the matter the previous Monday.

Eric Peters, agent for the Danieles, discussed the proposal and

explained the background of the site.

He then discussed the present proposal of four lots, three of about one-half acre each, one four acre; no guest houses except on four acre; no further subdivision of any lots.

Mr. Peters then discussed the reasons for consideration using Section 12 of the MVC Act.

Mr. Hall asked for an explanation of any negotiations with the Land Bank. Mr. Peters noted that the Planning Board had asked the applicant whether there had been any contacts or attempts to purchase part or all of the property for preservation. There had been none. He noted the Town had turned down an article to purchase the property and that the Land Bank had indicated no interest in a two-acre parcel for preservation.

Mr. Colaneri asked how many times the land in question had been to the MVC. Four times in the past.

A discussion of the most recent proposal which was denied followed.

Ms. Sibley questioned what was agricultural land. It was noted that it was all agricultural soils. A discussion of this issue followed.

Ms. Greene noted the question before the MVC and further cited the fact that there was no town water on the site at this time and that there would be individual septic systems. She further discussed the issue of guest houses and the relocation of the curb cut.

Ms. Greene asked Mr. Donaroma to comment as a planning board member. He discussed what the Board had asked for and the reason for referral with no letter of comment from the Board.

Mr. Hall further discussed the issue from the perspective of the Planning Board as well as the issue of whether the MVC would let the town handle the review alone or did the MVC wish to participate.

Ms. Greene noted that the LUPC was recommending that the proposal be treated as a full DRI.

Mr. Sullivan discussed the issue of the Town acting alone and what might be the result of said action.

Mr. Lee moved that the proposal be considered as a full DRI and schedule a public hearing, duly seconded.

Mr. Hall asked to hear any general comments that others had.

Mr. Lee discussed the impact of development on this site and felt that procedurally it should be reviewed given the past history. A discussion of this matter followed.

Mr. Peters discussed the number of bedrooms permissible.

Mr. Jason discussed what he felt was permissible in Edgartown. A discussion of this matter followed.

On a roll call vote the Commission voted in the affirmative to treat the application as a full DRI and schedule a public hearing.

ITEM #9 - Correspondence

Ms. Greene read a memo from the Board of Selectmen of Falmouth regarding the establishment of a Task Force to study traffic issues material to both parties.

Ms. Bryant questioned any funding potentials. Ms. Greene noted expenses to be shared.

Mr. Jason indicated he felt all should have the memo to review due to the lateness of the hour and so that a better discussion could be had. A discussion of the involvement of the Cape Cod Commission followed.

Ms. Greene asked Jo-Ann Taylor to read a letter she had delivered to the Chair.

Ms. Taylor explained the reason for the letter and the purpose of the grant request.

Mr. Colaneri questioned the extent of the proposal and how much of the main body of the Lagoon would be effected.

Ms. Taylor further discussed the project.

Mr. Hall noted the relation of this proposal to the Policy plan.

Mrs. Marinelli questioned any involvement by the Town of Oak Bluffs. A discussion of this questioned followed.

Mr. Sullivan raised a question of Mudd Creek. It was noted that this area was not a part of this proposal.

Mr. Early questioned how much was being removed. 90,000 cubic yards was the response.

Mr. Jason questioned whether there was any other Island towns seeking funds. Ms. Taylor felt that Edgartown was. Mr. Hall explained that Edgartown was applying for funds to study the downtown area and the waterfront.

A discussion of what was being sought of the Commission followed.

A number of representatives discussed their particular feeling on how to word any form of letter.

A discussion of how to develop a letter of support from those community groups rather than from the regulatory agency followed. A discussion of the relationship of this proposal to the Policy plan followed. A number of members felt that there should be letters of support from other groups.

A discussion of how to achieve the desired end followed.

A general discussion of the role of the Commission followed.

Ms. Greene called for a consensus of the groups on this issue.

Mr. Colaneri discussed whether there should be an endorsement early on and what effect it would have on the application.

Ms. Sibley felt that there should be a chapter and verse letter citing the MVC Policy plan.

Mr. Briggs moved that a letter be drafted citing the pertinent sections of the Policy plan to be sent - duly seconded.

By voice vote, the Commission so voted to send such a letter.

There being no further business the meeting adjourned at 11:15 p.m.

ATTEST

Jane A. Greene                      10-15-92  
Jane A. Greene, Chairman              Date

Thomas Sullivan                      10/15/92  
Thomas Sullivan,                      Date

Clerk/Treasurer

Attendance

Present: Briggs, Bryant, Colaneri, Donaroma, Early, Greene, Hall,  
Vanderhoop, Jason, Lee, Schweikert, Sibley, Sullivan, Marinelli,  
Clarke, Allen, Chapin

Absent: Best, Alley, Benoit, Bolling, Gallagher