

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF OCTOBER 21, 1993

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, October 21, 1993 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:** 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 215 acres into 54 lots plus one private club qualifying as a DRI since the proposal is for the division of a related ownership of land into ten (10) or more lots.

There being a quorum present, Linda Sibley, Chair of the Land Use Planning Committee read the public hearing notice and opened the hearing for testimony at 8:00 p.m. She noted that the applicant was present.

She then adjourned the hearing to the Old Whaling Church, Edgartown, MA, which was a larger facility. Adjournment was at 8:04 P.M.

Linda Sibley, Chair of the Land Use Planning Committee, reconvened the public hearing in the Old Whaling Church at 8:35 p.m. She then noted that since the proceedings were for a new DRI, all testimony from the previous DRI did not automatically carry forward and if those testifying wished to have their previous testimony brought forward and included in this hearing record then they needed to state so when they spoke. She also noted that the hearing would not be closed so that all would have an opportunity. She also explained the video taping that was occurring. She discussed the order of testimony and called on the applicant for presentation.

Catherine Shortsleeve, trustee of Herring Creek Farm Trust introduced the members of her team: David Hirzel, Sasaki Assoc; Steve Smith, GeoHydro Cycle; Dr. William Mallar, UMass, Lowell; Dr. Peter Auger, Dr. Eric Strauss, Environmental Consultants, Inc.; Dr. John Ebersall, UMass, Boston; Stuart Johnson, Trustee; Robert Popeo, Christopher Milton of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Ms. Shortsleeve further discussed the time that had gone into the

changes to the plan, the various groups that the Trust had worked with over the years and how the new plan had evolved. She also discussed the term 'sustainable design' and the award that the plan had received for sustainable design.

David Hirzel, Sasaki Assoc., discussed the goals of the plan. He discussed the various studies that had been done on the proposal and the site. He discussed the various attempts to comply with the spirit and word of the regulations covering the site.

Mr. Hirzel then, using the descriptive plan, explained the location of various features of the site. He noted the location of the gifted 25 acres and the location of the amenities, the lot sizes and which lots were clustered and which were not. He then discussed the development envelopes and the limitations thereon. He discussed the various components of the plan; beach, woodland, field, etc. He then discussed the covenants and preservation of open spaces, design controls, no guest houses, etc.

He noted the plan was a substantial revision of the previous submittal. He cited the areas of revisions and the meetings that had taken place that had forced the reconsideration of the design.

Dr. Peter Auger discussed the overall habitat of the site and gave the background of those who had worked on the wildlife study.

He explained how the study was conducted to create a data base including all four seasons, appropriate sample size. The team began by analyzing the area and he noted that a farm is a dramatically altered area; no grassland associated with location. The team sought rare or endangered species to determine potential impact of development. He discussed the relationship of the site to the two great ponds and the meetings that were held with the ponds committees. He then discussed the methodology used to collect the base line data. He then discussed the wetland area and the value thereof. He noted the cataloging of data so that it could be used and checked by others. He discussed the lack of certain species and the abundance of others which he related to the farm issue. He further discussed the methodology of sampling and related it to what was found. He then noted that the types of animals found were indicative of disturbed habitats such as a farm. He noted that deer were indicative of such sites.

Dr. Eric Strauss discussed the various samples of birds that were found on the site. He discussed the methodology used to identify the birds of the area. He noted that diversity occurred at migration times. He discussed management strategies for shore birds such as piping plovers.

He also noted that the greatest diversity and concentrations occurred near fresh water such as rain collection areas. He felt the management strategy proposed was a reasonable one. He then discussed the individual species found in the area.

Dr. Auger then discussed the chances of missing certain species. He discussed the use of certain specialists to review the particularly special areas. He discussed how the methodology was discussed with the MVC and others.

He then discussed the shore bird habitats, the open area habitats, the

beach areas, the use of ORVs on beaches. He discussed the usage of boats on pond edges. He discussed the damage possible. He then discussed the changing of the plan to include sandplain grass areas and their inclusion in the plan. He felt this would improve diversity of habitat, not taking the agricultural issue into account. He further discussed the grassland issue and areas and stressed the biological diversity issue. He further discussed the difference between the old plan and the new plan and the open space characteristics of the new plan. He then discussed the loss of the wetland area when the pond was breached. He then discussed how the wildlife study had influenced the alteration of the plan. He also discussed the agricultural uses of the land and noted that rotation of grazing sheep would be an assistance in habitat restoration.

Dr. John Ebersall discussed his role in the planning and study of the site. He discussed the conservation of the site and the critical concern for the site. He further discussed the issue of sandplains grasslands and the need to return to such a habitat system.

He also discussed how the future preservation of the area may be assisted. He then suggested that it was necessary to weigh the farm area that everyone is used to to the habitat created by sandplain grasslands.

David Hirzel then discussed the open space management plan and used illustrative drawings to show what was being discussed. He showed the various areas such as beaches, wetlands, habitat areas, possible raised walkways, signage, etc. He then showed a no development plan which indicated the areas which prohibited any structural uses, the building envelopes and the open space area. He then showed the subdivision plan itself and how it related to the open space. He then discussed the nutrient loading study and its influence upon the new plan.

Steve Smith, GeoHydro Cycle, discussed his involvement with the proposal. He indicated that the development would have no detrimental effect and would improve the site over that of a farm. He then discussed the methodology used to determine the impacts on groundwater under the farm. He noted where the monitoring wells were located. He further discussed the monitoring wells related to the pond opening. He discussed the fresh water lens under the farm and the means of recharge in the area and felt that the recharge period was 6.2 years. He then discussed the groundwater profile of the area in both a great pond breach period and an unbreached period and indicated how the groundwater flow was altered during the period of breaching. Mr. Smith then indicated that once the groundwater level during breaching had dropped two feet then tidal influence became noticeable.

He then discussed the nitrate loading in the area and the impact on the great pond. He felt that there was no indication of any impact. He then explained the model used to estimate land use impacts. He discussed the impact of the current land uses on the site to groundwater with respect to nitrates was 5,795 lbs. He then discussed potential impacts of nitrates on the groundwater from the plan was approximately 3,862 lbs. He further concluded that no adverse impacts

to either the great pond or the groundwater were indicated by the analysis.

David Hirzel then summarized the changes to the plan and indicated where these occurred.

- increased land area by including through purchase an additional beach parcel.
- elimination of residents beach club
- modified high impact agricultural uses in exchange for grassland habitat and low impact agricultural uses.
- relocated and/or clustered 25 dwelling units
- created 15 acres of grassland via cluster and eliminated homes from best soils on site.
- eliminated 1,500 feet of roadway
- offered 25 acres of open space as donation and developed covenants, easements and restrictions for said open space.
- agreed to coordinated management of sluiceway
- shown development envelopes on all lots
- defer development for 10 years

He then discussed benefits that the plan would offer:

- preservation of open land 85% of site
- 25 acre donation
- open space management plan
- visual character of farm preserved including views
- community character
- maintaining view from Herring Creek Road
- environmental protection
- enhancement of bio diversity
- public education to school by public access to fields and field trips.
- functioning research site
- upgrade of utility systems
- preservation of farmlands
- phased development and deferment
- on-site habitat manager
- increase tax base
- affordable housing and others

Catherine Shortsleeve discussed materials for record and asked that all be entered into record. She discussed how plan related to Regional Island Plan and other regulations and rules.

Ms. Sibley asked for Commissioner questions.

Mr. Sullivan asked about the number of septic systems proposed. 55 including existing ones, 14 in mounded configuration.

Mr. Sullivan asked about beach club system. Inground was response.

Mr. Sullivan asked about capacity. 2,500 gal. per day was indicated.

Mrs. Marinelli asked about septic system relation to groundwater. All above groundwater was response as per Title V.

Ms. Greene asked if existing systems met Title V. There was uncertainty as to what existing systems were. A discussion of how

existing systems operated legally followed.

Mrs. Marinelli questioned whether there would be any swimming pools, the number of showers and bathrooms in total. There would be maximum of four bedrooms per unit and pools were not excluded. The club would have a pool.

A discussion of the question followed. A discussion of Title V requirements followed.

Mr. Sargent raised a question regarding the deep monitoring well. The deep wells were indicated on the map. Mr. Sargent questioned the nitrate loading numbers and the relation of the numbers to any faulty systems or would there be monitoring systems. It was noted that all systems would be Title V.

Ms. Riggs raised a question about affordable housing and public access to ponds. Ms. Shortsleeve discussed the number of affordable housing units - 4 off-site and one on-site. She discussed the commercial beach club and indicated that \$9,250 would be the contribution and that there would be no public access through the property to the great pond.

Ms. Bryant questioned whether the off-site units would be able to use the beach. Ms. Shortsleeve indicated no they were not considered a part of the residential community.

Mr. Hall discussed the number of cabana units. Ms. Shortsleeve discussed the number of cabanas and the location of same.

Mrs. Marinelli questioned whether it would be privately financed or have state, federal or local monies. Ms. Shortsleeve indicated all private from sale of lots.

Mr. Early questioned how one got from the club to the beach, by what conveyance, where parking and what restrictions. Mr. Hirzel indicated no access for vehicles to beach. Access would be by existing walks, boardwalks and other movable materials; parking at club and walk to beach or via golf cart to a point from which one would have to walk.

Mr. Sargent questioned the affordable housing and phasing. Ms. Shortsleeve indicated that the first affordable lot would be made available at the beginning and the rest as each group of ten lots were developed.

Mr. Best raised a question of membership in the club. Ms. Shortsleeve indicated that it was a private membership club at a membership of \$250.

Mr. Best raised a question regarding cluster lots. Mr. Hirzel indicated 15 lots under 3 acres and showed where they were on the plan.

Mr. Best then raised a question regarding the covenants and in perpetuity management. The answer was yes the open area would be subject in perpetuity.

Ms. Bryant raised a question on solicitation of memberships. Ms. Shortsleeve indicated through advertisement.

Ms. Riggs raised concern regarding the sandplain area and the wildlife area and the encroachment of housing thereon. Dr. Auger discussed the alternative to the plan and felt the idea that if developed then return to sandplain grass, if left as farm then no sandplain grass. He further discussed the concept of returning to sandplain grass.

Ms. Greene questioned the use of boats on Crackatuxet Pond and felt that there was confusing data. Mr. Hirzel indicated that the management plan indicated that there would be no boats launched or stored on the banks and that access would be via an elevated walkway extending into the water and no more than 3 craft used to transport club members. A discussion of this matter followed.

Mr. Early questioned how the craft would be landed on the beach side of the pond. Mr. Hirzel indicated by elevated walkways (docks) to protect edges. Ms. Shortsleeve further discussed this issue. Dr. Strauss also discussed this issue and indicated that some form of raised conveyance would be needed and no foot traffic on the pond edge. Mr. Early questioned whether a condition to that end might be in order. Dr. Strauss felt absolutely.

Ms. Sibley noted the time and discussed the continuation and asked if there were any persons who could not return at a continuation.

Robert Hughes, abutter and member of Cohen family, discussed his relationship to the site. He discussed the original sale transaction and indicated that the Cohan family wished to have all previous testimony brought forward to this hearing. He discussed a 1969 agreement and its relationship to the proposal. He also asked that the proposal be denied.

Paul Goldstein, biologist, discussed the wildlife and management plan for the area. He felt agriculture and sandplain grass are compatible and not conflicting. He felt the inventory was inadequate and indicated the reason why. He discussed the lack of identification of certain species that relate to sandplain grass. He discussed those that had been identified. he then discussed the methodology used and why he felt it was lacking. He also noted that he believed the samples were done in spring, fall and summer and felt that certain species only fly at certain times of the year. He then discussed the lack of fox on the island, the misidentification of certain trees and felt that if one is not familiar with the area then it is not an easy task to complete or get correct.

Ms. Sibley explained the procedures that would occur at the continued hearing. She then discussed a procedural matter with the Commissioners regarding responses to experts. A discussion of this matter followed.

Dr. Strauss discussed the methodology used and explained how each was identified. He explained the confidence level of various sightings. He then discussed the migratory habits of certain species. He then

discussed the issue of fox tracks and noted that the report should have said dog.

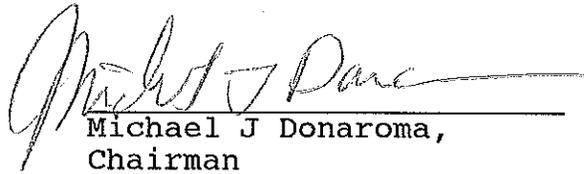
Dr. Auger discussed the issue of fox tracking and how one could mistake the identification of such animals. He then discussed the methodology for determining species and discussed the term extirpated with respect to the species on the site. He indicated comfort with the study.

Ms. Greene raised a question of where the sparrow was spotted. Dr. Strauss indicated near mowed patches where standing water occurred. He then indicated where on the plan near fences and disturbed habitat.

Ms. Sibley then continued the hearing to November 18.

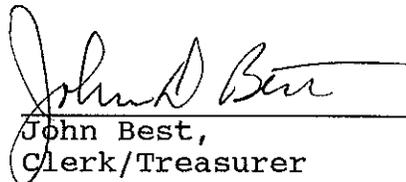
The meeting was adjourned at 11:20 p.m.

ATTEST



Michael J Donaroma,
Chairman

12-3-93
Date



John Best,
Clerk/Treasurer

12-3-93
Date

Attendance

Present: Best, Briggs, Bryant, Colaneri, Donaroma, Early, Greene, Hall, Jason, Marinelli, Riggs, Sargent, Schweikert, Sibley, Sullivan, Vanderhoop, Allen, Chapin, Gallagher

Absent: Clarke, Bolling