

# THE MARTHA'S VINEYARD COMMISSION

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## *Martha's Vineyard Commission Minutes for the Regular Meeting of November 21, 2002*

The Martha's Vineyard Commission (the MVC or the Commission) held its Regular Meeting on Thursday, November 21, 2002 at 7:30 in the first floor conference room at the Commission Offices in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 7:33 p.m., a quorum being present, the Special Meeting opened. Presiding was Richard J. Toole, a Commissioner at large from Oak Bluffs, Chairman of the Land Use Planning Committee (LUPC) and the Hearing Officer that evening. *[Commissioners seated at the gavel were: J. Athearn; C. Brown; M. Donaroma; J. Greene; T. Israel; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer. Mr. Best arrived at 7:50 p.m. Ms. Cini recused herself from the first Hearing of the evening and came to the table at 8:40 p.m.]*

### **Public Hearing: Pearlson-Sturges Subdivision Definitive Plan (DRI No. 383-1).**

*The Commission members seated for the Public Hearing were: J. Athearn; J. Best; C. Brown; M. Donaroma; J. Greene; T. Israel; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.]*

Mr. Toole read into the record the Notice of Public Hearing for the Pearlson-Sturges Subdivision Definitive Plan Development of Regional Impact (DRI No. 383-1). *[See the Full Martha's Vineyard Commission Meeting File of November 21, 2002 (the meeting file) for a copy of the notice.]* Mr. Toole then outlined the procedure for the Hearing.

**Applicant's Presentation.**

**George Sourati of Sourati Engineering of Tisbury, an engineer for the Applicant,** introduced himself and referred to the locus plan on display. He pointed to Old Farm Farm, off which the parcel was located. This was a crossroad, he explained, between North Road and Tea Lane. Mr. Sourati turned to a color blowup of the Assessor's Map, which showed the locus in more detail. *[See the meeting file for copies of the two maps.]* The parcel they would review was 16.8 acres, indicated on the second map in purple, he said.

Mr. Sourati pointed to the eastern property line, which abutted Martha's Vineyard Land Bank Commission (Land Bank) property. The map indicated in orange, he noted, the previous subdivision approved by the Commission for this land back in 1994 (DRI No. 383). Tisbury Selectmen's Appointee Tristan Israel asked about the sizes of those parcels. Mr. Sourati replied that they were "mostly three acres, and this one is four-point-three, this one's four-point-eight."

Edgartown member at large James Athearn wanted to know who owned the 12-acre parcel to the southwest. "This is Dan Akroyd," answered Mr. Sourati. Responding to a query from West Tisbury member at large Linda Sibley, Mr. Sourati indicated that the 84-acre parcel in the lower right-hand corner belonged to Mr. and Mrs. Robert D. Harrington, Jr. The parcel went all the way down to Middle Road, he added. He pointed as well to the two lots owned by Anne and Paul Grand and to the 59 acres owned by Virginia Jones.

Mr. Sourati referred the members to another map in their packets, with access indicated in yellow. The map showed, he said, that, as things stood, there was an existing right-of-way from Old Farm Road to the back property that was currently owned by the Land Bank. The right-of-way, related Mr. Sourati, had been granted in 1987 to the people who owned the parcel currently owned by the Land Bank. Subsequently, those owners sold the property to the Land Bank, "so by default, the Land Bank also owns a 40-foot right-of-way to the 17 acres, which are subject to review."

Mr. Sourati explained that the Applicant had gone to the Chilmark Planning Board as well as to the Land Bank, where the Applicant requested that he be allowed to relocate the easement shown in yellow down to where he was proposed the subdivision road. (The proposed access road to the subdivision was shown in green.)

"The Land Bank has agreed to the relocation of their easement," reported Mr. Sourati. "Should this subdivision be approved by the Commission and the Planning Board, the Land Bank easement would move from the yellow to the green. Because the road does not go all the way down to the Land Bank property – it ends in a cul-de-sac here [pointing] – we will be providing a new short easement, about a hundred feet, from the cul-de-sac down to the Land Bank property."

**Questions and Comments from Commission Members.**

"Was the easement vehicular?" wondered Megan Ottens-Sargent, the Aquinnah Selectmen's Appointee. "They have vehicular rights to it," responded Mr. Sourati, explaining that in 1986, when the easement was granted, it was for a full 40-foot right-of-way.

"Is it actively used by the Land Bank?" asked Alan Schweikert, the Oak Bluffs Selectmen's Appointee. "Currently, it's not used, it's just woods," replied Mr. Sourati.

At this point Jane A. Greene, the Chilmark Selectmen's Appointee, made the disclosure that her son was on the Youth Lot List in Chilmark. "And if anybody thinks I shouldn't sit, I will remove myself," she stated. (The parcel was being subdivided into three market-rate lots plus a Youth Lot for the Town of Chilmark.) No one objected.

West Tisbury Selectmen's Appointee Kate Warner inquired, "Have you discussed with the Land Bank that there's only a 50-foot buffer from Land Bank property?" "Yes," answered Mr. Sourati, "what I actually forgot to mention [was] in part of the negotiation with the Land Bank, they asked us, you know, the Applicant, whether we would be willing to give a no-cut zone, a 50-foot no-cut zone. The zoning setbacks in Chilmark are 50 feet from the property line... and the Applicant has agreed to that."

West Tisbury member at large Andrew Woodruff related that he had been told that originally the Youth Lot had been located somewhere else on the site. Where had it been? he wanted to know.

Mr. Sourati explained that originally there had been a plan for a five-lot subdivision, with one lot being a Youth Lot. At that time, the land was under agreement and did not belong to the current Applicant, and this was the plan then being proposed. Mr. Sourati pointed to where the then-triangular-shaped Youth Lot was to have gone, fronting on Old Farm Road.

However, Mr. Sourati related, the neighbors and the Planning Board had not liked the location of the Youth Lot. So when they had come before Planning Board again, a plan had been devised at the board's request for a 1.4-acre Youth Lot fronting the Land Bank property.

Mr. Woodruff inquired if there was some reason that the Youth Lot had not been pushed back more toward the 5.5-acre lot, affording it a larger buffer. Mr. Sourati responded that the current plan had been worked on and agreed to by the Planning Board. Was the topography part of the reason the Youth Lot had ended up there? asked Mr. Woodruff. "No," answered Mr. Sourati, who then showed Mr. Woodruff a topographical map with 2-foot contours.

Robert Zeltzer, a Chilmark Commissioner at large, wanted to know if anyone had checked to see if there was water under the Youth Lot, since the last time the Applicant had presented a Youth Lot, there had been problems with water availability. "I have personally perc-ed all the lots, including the Youth Lot," replied Mr. Sourati. In addition, he said, there were no wetlands on the property.

Mr. Sourati then explained that in Chilmark, once the Planning Board approved a subdivision plan, the Applicant was required to put in the well before each lot could be sold. "So I expect the Planning Board to require the same," he said. He added that the Youth Lot in the same general area to which Mr. Zeltzer had referred had had a problem related to soils and the septic system. "No, it had to do with water," countered Mr. Zeltzer, adding, "They had to drill a well on another lot." *[Mr. Best arrived at this point, 7:50 p.m.]*

Ms. Sibley wanted to see the exact boundaries of the Youth Lot; Mr. Sourati showed her. "Did the Planning Board discuss building envelopes for the other lots?" inquired Ms. Warner. "They have discussed building envelopes, and we have reduced ...," Mr. Sourati began to explain, then interrupted himself and stated that the final sites of the buildings had not yet been determined. However, he said, he had discussed all the proposed setbacks with the board, "and they seemed to be satisfied."

Ms. Sibley asked if the Town Planning Board had imposed any other kinds of restrictions – on building placement, for instance – aside from the setbacks. Mr. Sourati replied that the board had wanted to know if the Applicant was willing *not* to have a guesthouse on a 3-acre lot. So there could be guesthouses on the two larger lots but not on the 3-acre lot or the Youth Lot, he pointed out.

Mr. Zeltzer commended Sourati Engineering for the clear presentation. "It makes it really easy to see," he said.

Ms. Greene expressed the concern that the Youth Lot at the end of the road, which would become part of the Old Farm Road Association, would be assessed the highest rates for road repairs. Mr. Sourati said that he believed the landowners shared the road-maintenance costs equally. **Abby Rabinovitz of Tea Lane Associates, an agent for the Applicant**, stated for the record that the costs were shared equally.

Mr. Israel wanted to know if any of the buildings would be visible from the road. Mr. Sourati stated unequivocally that the buildings would not be seen from any of the Town roads, that is, from North Road, Middle Road, Tea Lane or South Road. Mr. Israel wondered if the MVC could write a Condition to that effect. Ms. Greene pointed out that Mr. Sourati had made testimony to that effect and that that should be adequate.

Tisbury member at large John Best noted that the Town of Chilmark had a height restriction of 24 feet, which meant that an owner could not have a full second story with a pitched roof. Ms. Warner suggested that, since the trees in Chilmark tended to be short, the Commission should recommend to the Planning Board that the houses not be located on ridges. She added that this was a steep and varied site.

Based on her own recollections of the area, Ms. Sibley stated that her greatest concern would be the visibility of the structures from Waskosim's Rock. Mr. Sourati stated emphatically that the houses would not be visible from Waskosim's Rock and that the Applicant had worked with the Land Bank for the past year on issues like this. Ms. Sibley clarified her point, saying that she meant the houses might be visible if one stood atop the rock itself.

Mr. Athearn remarked that he, too, was concerned about the view from the Land Bank property. He also pointed out that a 50-foot buffer would not be very effective during the winter and would be only moderately effective in the summer. "It seems that there's enough room on this plan to allow for a hundred-foot buffer," he said. Mr. Sourati showed him how that would not be possible, that a 100-foot setback would cut into the Youth Lot. He also he stated that the Land Bank had agreed to the 50-foot no-cut zone.

Mr. Schweikert inquired if the Land Bank trails were close to the property being reviewed. "I don't know," replied Mr. Sourati. Mr. Woodruff suggested another way to move the property lines. "Yes, it can be done," said Mr. Sourati, "but the Applicant does not wish to move the lines." **Charles Gilstead, another engineer working for the Applicant**, stressed that he had worked closely with the Planning Board and that the shape of one of lots, for instance, had been at their request.

Michael Donaroma, the Edgartown Selectmen's Appointee, suggested that Staff speak to Land Bank staff about the visibility issue. DRI Coordinator Jennifer Rand responded that she had a letter from the Land Bank giving its blessing to the moving of the easement location. Mr. Sourati pointed out that even if there were a 200-foot setback, one could still see a house in the dead of winter. Ms. Rand then referred to a letter from the Planning Board which stated that the subdivision before them was an improvement over the five-lot one that had been approved by the board earlier.

The discussion about the setbacks continued. Ms. Rand emphasized that in her conversations with the Planning Board, the board had stressed that it was satisfied with the plan and that it had worked very hard with the Applicant. Mr. Woodruff argued that there was adequate room to have a 100-foot buffer and that the move would change the plan so little that he could not imagine the Planning Board's objecting.

"I want to caution this Commission that we're not in the business of designing people's projects," declared Ms. Greene. "I think we need to look at the value of what's before us,

and that is what the Application is. It's not what we decide we want to make it." Mr. Woodruff argued further for the change.

Mr. Israel wanted to know if there were any threatened or special species of flora on the property. Mr. Sourati answered that the Applicant had not done a plant study or anything like that. He emphasized that this was "pretty open land, you know, rolling hills, no wetlands whatsoever. We did a full wetland survey."

Responding to a question from Chairman James Vercruysse of Aquinnah, Mr. Sourati described the trees on the parcel as mostly oaks, a few cedars and a few pines. "You have some birches in there too, though, besides oak," said Ms. Greene. What was the average height of the trees? wondered Chairman Vercruysse. Mr. Sourati answered that some of the trees were "very tall." "So we're talking about 24-foot homes and 40-foot trees," observed the Chairman. An unidentified person noted that there were even 60-foot trees there.

Ms. Ottens-Sargent requested a history of the lot sizes for this Application, which Mr. Sourati provided. He confirmed that the no-cut zone had been established before the final shape of the Youth Lot had been determined.

Christina Brown, a Commissioner at large from Edgartown, verified with Mr. Sourati that the Land Bank had legal access from Old Farm Road. Mr. Sourati related that the Applicant had not discussed with the Land Bank what the agency intended to do with the access. William Veno, an MVC Staffer who also works for the Land Bank, explained that in the current management plan of the land, the Land Bank did not identify this easement as public, although they could do so in the future.

Mr. Zeltzer related that he had frequently, during the winter months, walked Old Farm Road. "I imagine if it became a principal access to the Land Bank land, people ... might be upset," he added.

When Mr. Israel persisted with more questions about public access, Ms. Rabinvitz stated that she understood that the Old Farm Road Association and the Land Bank had signed an agreement to the effect that the Land Bank did not really need all of Old Farm Road for access. Therefore, the Land Bank had agreed to move what had been the access point a little farther down toward Mill Valley Lane. The proposal simply moved the easement, she said, and the Land Bank would no longer have to pay for the maintenance of Old Farm Road.

Responding to a question from Mr. Athearn, Mr. Sourati showed on the map where the Pearlson-Sturges partnership owned three other 3-acre parcels, none of which could be further subdivided. Mr. Sourati also stated that the partnership had once owned what was now the Land Bank property.

Staff had nothing to add to what the Applicant had presented. Nor were there any public officials or citizens present who wished to testify.

The Hearing Officer asked if there were any other Commissioner concerns. Mr. Athearn requested that the Written Record be kept open so the Applicant could bring back a revised plan with a 100-foot buffer. Ms. Greene expressed great concern that a larger buffer would lead to the loss of the Youth Lot. Ms. Greene also asked that the Written Record be kept open until the Commission had received confirmation that the Youth Lot would not be saddled with an exorbitant road-maintenance fee. "I would be happy to get that to you," said Ms. Rabinovitz.

Mr. Athearn said that his suggestion would, in fact, increase the size of the Youth Lot. If the western boundary were moved 50 feet farther to the west, that would add about a quarter of an acre to the lot, he said, and would also provide the ability to push the building envelope a little farther back.

Mr. Woodruff requested that the Oral Vote on the development be postponed until he had had an opportunity to visit the site. Ms. Warner said that she wanted the Chilmark Planning Board to comment on Mr. Athearn's suggestion as well as on her suggestion that none of the houses be built on ridges or land peaks. Mr. Sourati pointed out that if the Commission approved the development, the Applicant would be returning to the Planning Board for their permit.

Ms. Brown recommended that as long as the Written Record was kept open, Staff should ask the Land Bank how the agency viewed the 50-foot buffer and Mr. Athearn's suggestion. Mr. Israel wanted to ensure that the Planning Board knew of the Commission's concerns about the buffer. Mr. Donaroma proposed that the Commission make its recommendations to the Planning Board part of the Written Decision.

Mr. Zeltzer remarked that the same Applicant had had a proposal before them in another Town. *[Mr. Zeltzer was referring to DRI No. 496, the Pearlson Office building in West Tisbury, approved by the Commission on September 9, 1999.]* "I understand that these are not interrelated," he said. "But we create Conditions. These Conditions, generally, are only as good as the Applicant's willingness to comply with them..."

Mr. Zeltzer continued: "And on State Road in West Tisbury, this Commission created a Condition for there to be ... a functioning apartment on the second floor of the office building that was put there in an effort to start to create some habitation on State Road in that area so that it didn't die as soon as the stores closed."

"To the best of my knowledge," declared Mr. Zeltzer, "the apartment has not been built." There was a space there, he said, but one could not take a bath or a shower up there. Ms. Rand related that at Mr. Zeltzer's request, she had spoken to a West Tisbury Town

official or board member (she could not remember which) and that she had been told there was not a functioning apartment on the second floor.

Mr. Sourati testified that there definitely was an apartment there. Ms. Rabinovitz related that she had lived in the apartment when her winter rental had ended. It was not a rental unit, though, she said, that is, she did not pay rent.

Having established this fact, Mr. Sourati offered a brief summation of the development before them, and Mr. Toole closed the Public Hearing but left the Written Record open until Monday, December 2, at 5:00 p.m. The time was 8:31 p.m. The Chairman called for a brief recess.

**Public Hearing: Anderson Irrevocable Trust/Wintertide Building (DRI No. 504-1).**

At 8:41 p.m. the Hearing Officer reconvened the Regular Meeting and moved on to the next Public Hearing. *[Ms. Cini was now at the table. Thus, the Commission members seated for the Wintertide Public Hearing were: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; T. Israel; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Verduyck; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.]*

Mr. Toole read into the record the Notice of Public Hearing for the Anderson Irrevocable Trust Development of Regional Impact (DRI No. 504-1). *[See the meeting file for a copy of the notice. Take note that the building is commonly known as the Wintertide Building.]* Mr. Toole outlined the Hearing procedure to be followed.

**Applicant's Presentation.**

**Eric Anderson, the Applicant,** introduced himself and described the proposed renovation to the building, which involved the addition of a third floor where there was currently an attic space. The new area would add approximately 1,400 additional square feet of rental space, plus 100 to 150 square feet of access lobby and stairway.

It would also include, Mr. Anderson continued, an expansion of the second-floor lobby and the creation of a communal space for artists to use at times when they did not wish to be in their studios; it was also a place where they could lunch or meet with people. The renovation would include as well a pedestrian walkway on the westerly side of the building, an area currently used "as a Dumpster, garbage, whatever," he said, adding that this would allow for complete paved access around the building's perimeter.

Mr. Anderson related that the building was located on the westerly side of Beach Street Extension, at the confluence with Beach Road. "So it's a ... readily observable spot for anyone who goes anywhere on the Island, especially into Vineyard Haven," he said. In front of the building, Mr. Anderson went on, was a large, paved public area, which

provided for considerable pedestrian traffic year-round. There was also a large brick area that ran down the side of the building.

Mr. Anderson related that currently there was retail on the first floor of the building and primarily artists' studios on the second floor. He then listed the specific nature of the tenants on the first floor: a coffee-roasting business; a delicatessen in front; a jeweler; a real estate office; a Christian Science reading room; a space currently vacant that would be a photographic gallery; a second jeweler; and a gallery selling ethnic art. The second floor contained: two separate architects' offices; and studios for a sculptor, three painters, a writer, a music teacher, a seamstress, a clothing designer and another office.

In the past, Mr. Anderson noted, there was generally a waiting list of five to 10 people who wanted to rent in the building and "be part of the scene, so to speak."

Mr. Anderson then showed the front elevation of the building from Beach Street and the same elevation with the proposed third-floor dormer and the shared artists' space on the second floor drawn in. He pointed out that one had to be some ways away from the building to see the dormer. He also displayed the view from Vineyard Haven Harbor as well as the view from the opposite side, that is, from the Boch parking lot on Beach Road.

Turning to the site layout, Mr. Anderson explained that currently the building had a second-floor deck that provided egress from that floor, with a stairway going down. It was there (at the bottom of the stair), he said, that they planned to locate the refuse area and then create a paved area along the side of the building where the Dumpster was kept now. The trash would be picked up probably every other day, he noted.

#### **Questions and Comments from the Commission Members.**

Mr. Best wanted to know if it was a spiral staircase that he saw on the second-floor elevation. "It's an outside spiral staircase," replied Mr. Anderson. "It goes from the deck down to the ground."

Mr. Israel requested further details on how the garbage would be stored. "It's going to work where there would be basically barrels on wheels that will be stacked, and it'll be wheeled out every day or every other day to an operator that will accept the rubbish," said Mr. Anderson.

Mr. Best confirmed with Mr. Anderson that the area where the Dumpster was currently would become a landscaped patio. Would there be seating? he wondered. "This is just outdoor seating," responded Mr. Anderson, adding, "It doesn't have to have outdoor seating. That was just a 'for-instance.' Unfortunately, in Vineyard Haven there aren't a lot of public spaces where people can go and sit down, especially by the harbor area."

Responding to another question from Mr. Best, Mr. Anderson explained that the patio area would not be "part and parcel" of one of the rental spaces. "It's not going to be part of the café?" asked Mr. Best. No, it would not be an area for outdoor service for the restaurant, said Mr. Anderson, referring to the E&E New York Deli on the ground floor.

**James Weisman, the Applicant's architect**, commented that the patio space was small and would support "a very simple" landscape plan, with one tree and a bench or two. He also pointed out that Mr. Anderson's property ended at the Entwhistle shop, so the area was quite small.

Mr. Anderson noted that when the Town sewer system was installed, a number of elements currently on the site would have to be moved or adjusted during construction. He had already granted the Town an easement to perform that work, he said.

Mr. Weisman stressed that the Applicant and he did not know what would be happening to the Boch parking lot, which currently abutted the service yard where the Dumpster was. "So by enhancing that space now," he said, "it encourages whatever takes place on the property next door perhaps to be a pedestrian access or a walkway ..." Ms. Ottens-Sargent wanted to know if one could actually walk to the beach from around that way. Yes, answered Mr. Weisman, it would encourage people to walk in that area and down to the harbor shore.

County Commission representative Roger Wey asked what the additional square footage on the third floor and on the second floor would amount to. "It's about a hundred and fifty [square feet] on the second floor," said Mr. Weisman, "and it's about fourteen hundred on the third [floor]."

How many additional tenants would the renovation be facilitating? inquired Mr. Israel. "It's not cast in stone," replied Mr. Anderson. "There'd be a minimum of four more tenants up there and possibly five or even six." He mentioned that he had spoken to a second-floor tenant who was interested in moving into one of the third-floor studios.

Mr. Israel wondered if the Applicant would be willing to pay for space at the Tisbury Park-and-Ride for the tenants, since parking was scarce in that area of the project. "Any new tenants in the building would have to engage in a leasing arrangement with the Park-and-Ride," replied Mr. Anderson, adding, "There is no parking there, anyway."

"What is the hexagon for?" asked Ms. Warner. "That's going to be shared space," answered Mr. Anderson. "Artists don't like necessarily to bring people into their studios, they're a mess. They could meet people. They could sit down, have lunch with them."

Ms. Warner also wanted to know what the element in the middle of the bow on the third floor was. That's a lobby with a balcony, said Mr. Weisman. It would open up the space, said Mr. Anderson.

Was there a need for an elevator? inquired Mr. Best. That was currently being discussed with the Building Inspector, replied Mr. Anderson. "In all likelihood there will be some sort of chairlift incorporated into the project," he said.

Mr. Israel confirmed with Mr. Anderson that the building tenants would stay within the water-usage allocation stipulated by the Town of Tisbury.

Referring to the curved roof element on the third floor, Ms. Greene remarked, "It doesn't look like Vineyard Haven, and I'm wondering if it's a necessity that you have a rounded roof. It doesn't go with the rest of the community." Mr. Anderson responded that he had met with the Town's architectural review committee, and he had made the point to them that the interior space that they were seeking to create would be greatly enhanced by that type of construction. He added that one would not really see it from the street.

Mr. Anderson also emphasized that as far as architectural style in Vineyard Haven was concerned, nothing was "static." Ms. Greene expressed concern that one would be able to see the roof from the harbor.

Ms. Sibley wanted to know if there was any bylaw or regulation in Tisbury that precluded having living space in this district. Mr. Anderson replied that construction in that district was by Special Permit only and that the Planning Board probably would not approve it. He noted that every time the building got a new tenant, he had to appear before the Planning Board to have it reviewed for a change in use.

**Tony Peak of the Tisbury Planning Board** explained that the building straddled two zoning overlay districts, the Waterfront Commercial District and the Harbor Management District. Uses permitted in each district differed, and the building was partly in one district and partly in the other, he said.

Under the Harbor District, Mr. Peak continued, a dwelling on the second floor was a permitted use, and in the past the Planning Board had applied different parts of the regulations to different parts of buildings. So conceivably there *could* be an apartment permitted in the end of the building closest to Five Corners, he concluded.

Ms. Ottens-Sargent asked if the water allocation limit would affect whether an apartment could be permitted. Mr. Anderson answered that the whole allocation for the building was 1,000 gallons and that this could sustain, perhaps, three or four apartments.

Ms. Ottens-Sargent then remarked that although she was "not too keen on redesigning [the] building," the curved roof element did not seem harmonious with the architectural aesthetic of the area. Would it be possible, she wondered, to create a cupola or widow's walk on the exterior to disguise the curve?

Mr. Weisman related that in considering the building design, he had concluded that: one, a pediment could be affixed to the end of the curve to square it off; and two, that the curve was only slight different from its neighbors and that the difference was indeed worth the ability to provide the type of space the Applicant was looking for.

Mr. Weisman also referred to a letter from the Harbor Management District Site Plan Review Board, which had bestowed its blessing on the design. He then read aloud the letter and submitted it for the Written Record. *[See DRI File No. 504-1 for a copy of the letter.]*

Chairman Vercruysse spoke in favor of the bowed roof, noting that it did not come out to the end when looking at the Beach Street Extension elevation. "It's set back, and I think it's going to make a beautiful interior space," he said. "I mean, it *is* a departure for what's normal down there, but I'm not too impressed with anything that's [down there now]."

Ms. Sibley commented that she was more concerned with the hexagon than with the bowed roof. Ms. Warner suggested that the hexagon be removed, adding that the bowed roof would, in fact, be visible from the street.

Mr. Woodruff inquired if the building was at the limit of its permitted height. Mr. Weisman responded that it was close to it. "The changes we make to the roof don't change the height," he explained. Mr. Woodruff also expressed concern about the out-of-character quality of the bowed roof.

Mr. Israel pointed out that the renovation would result in the area's being more pedestrian-friendly, a quality that would also be promoted by the approved Beach Road Realty Trust building planned for across the street (DRI No. 535).

Ms. Brown observed that on this working waterfront there was a mixture of styles and that the New England pattern of adding on to buildings and sometimes changing the architecture was reflected in this design. She cautioned the members about making any individual judgment calls about the hexagon or the bowed roof. "That's not our call," she said. "Our call is, does it in any way detract from or add to the general character ..."

Ms. Brown also expressed concern that if apartments were part of the plan, the artists would lose their studio space, something that was in short supply.

Ms. Warner remarked, "My general impression is that when they sewer what's now a working waterfront that has all these funky buildings, a lot of those buildings will disappear, because that's been holding the district back. And so, you know, that aspect could soon be gone. You know, I often worry that Tisbury hasn't got a tight-enough lid on that."

"This building is visible from up on Main Street, it's visible from Beach Road," Ms. Warner went on. "This is, you know, this *is* visible from the harbor. This is a building that gets a lot of looking-at. I want to remind people that we let the Tisbury Inn breeze through here, and anybody who looks at the Tisbury Inn today perhaps thinks that maybe we allowed that building to be too tall."

Addressing a point made by Ms. Brown, Ms. Sibley observed that the natural organic accretions to New England buildings still usually resulted in simple pitched roofs and not hexagons. She added that what she had in mind in bringing up the question of apartments was the whole issue of affordable housing for artists, noting that there was "a tremendous tradition of artists living in the studio apartments..."

Mr. Weisman remarked that the sewerage constraints in Tisbury in these districts were stringent and that he doubted that the building would be allowed enough flow to support apartments.

Adding onto what Ms. Warner had said, Mr. Woodruff commented, "[T]his is one of the more traditional buildings left in this area." Thus, it was particularly important that it be kept traditional in look, he said.

Mr. Anderson related that he and Mr. Weisman had presented two specific plans to the Harbor Management District Site Plan Review Board, one with a traditional-style dormer and the other in the style presented that evening. And after at least four meetings, the board had come to the conclusion that "it *was* evolutionary, that it spoke of what the nature of the building was about. It was about *artists*, ... about maybe playing with forms a little bit."

Mr. Anderson continued, "And at the same time they said that they wanted it to be done evoking something from the past and that if there were any change to be made, ... it would be made somewhat to the fenestration."

Mr. Anderson then expressed frustration over having to redesign the building once more after such an extensive review. "I'm kind of at a loss here," he commented. "I feel like I'm between a rock and a hard place." "You're right," remarked Mr. Donaroma.

Mr. Zeltzer explained to the Applicant that one of the things the Commission was charged with was respecting the character of the Island, "and apparently enough people around this particular set of tables feel that because Vineyard Haven is the principal entrance and exit point for the Island, because this is located where, unfortunately, all of the traffic must go, it then becomes a significant factor in the character of the Island."

Turning to the subject of the landscaping, Mr. Zeltzer noted that the Applicant had touted the landscaped areas as one of the benefits of the project. "And I would fault you greatly on building management and control," he said. "The park out front – which is, when

clean and neat and doesn't have billboards propped up in the middle of it, flags stuck in the middle of it, and for about four weeks last summer an 8-foot refrigerated unit sat there, one that was apparently nonfunctional ... and a broken-down motorcycle [- is fine].”

Mr. Peak of the Planning Board stated that he was also the Planning Board representative to the Site Review Committee. He related that he had intended to go over how the board had reached its conclusion during the Town official testimony segment of the Hearing, although he was willing to do that right now if it would be helpful.

Ms. Sibley remarked that although she was sympathetic to Mr. Anderson, all the meetings with the Site Review Committee should have made it clear that the hexagon and the bowed roof would be an issue. Mr. Israel commended the Applicant for his efforts to work with the Town boards.

#### **DRI Coordinator's Staff Report.**

**DRI Coordinator Jennifer Rand** referred to her Staff Report for the project. [See the meeting file for a copy.] Three new aspects of the project had been revealed since she had written the report, she said.

Ms. Rand related that the Applicant had extended an offer of a \$1,000 donation to the Dukes County Regional Housing Authority, “which is well within keeping with our policy.” In addition, on a recent site visit, she had come to the conclusion that Mr. Weisman's depiction of the side garden was “probably a little ambitious.” The area was “quite small,” she said.

Ms. Rand had also wondered if the renovation would result in blocking the view of the water, so she had driven down Beach Street from the top of Main Street. “[A]ctually, you can't see it as much as you think you can,” she remarked. The time was 9:30 p.m.

Mr. Best posed a question about some numbers written on the elevations. Ms. Weisman replied that engineer George Sourati had written those and that he would ask him what the numbers meant.

#### **Testimony from Public Officials and Town Boards.**

**Mr. Peak, the Planning Board member who had spoken earlier,** related that in all honesty the first time he had seen the plan, he had thought it might be somebody's idea of a joke, “because I had the exact same reaction you did.” And although he was “still not thrilled” with the idea of a bowed roof in terms of its consistency with the architecture down there, the Waterfront Commercial Overlay District had been established to try to enhance the character of the area as well as enhance the *uses* of the area that were consistent with historic uses.

However, Mr. Peak cautioned, the district was not an architecturally covenanted area as a Historic District was, for instance. "So there's a lot more latitude," he said.

Mr. Peak reported that the committee had, in fact, removed some elements of the plan presented to them that they considered "much more egregious." For example, there had an angular window that followed the line of the gable that they deemed unsuitable since the large planes of glass would have looked too modern.

The committee had concluded that the dormer could not be raised because of height limitations, and a flat roof, even with the very shallow pitch, would result in an untenably reduced height on the interior. "So the bow actually extends the usable space outward towards the walls of the building," he said. In addition, flat dormers had their own disadvantages and actually might wind up being "even more disagreeable."

Mr. Peak related that one could not see the building from Beach Street until one got down to the Harbor Landing condominiums, and as one walked down toward it, because the dormer were set back from the gable of the roof, one lost one's sightline to the gable end of the dormer.

Coming up Beach Road, Mr. Peak went on, one did not really see the building, because of the siting of the buildings nearby, until one reached Gannon & Benjamin, he said, also pointing out that the apparent asymmetry brought about by the stairwell was not actually as striking as it might seem from the elevation drawings.

In conclusion, said Mr. Peak, there were aspects of the building that the committee had "liked less." "It's very startling when you first start looking at it and try to take this in," he remarked, "but we decided ultimately that, as we stated in the letter, that if you're going to not actually forbid the use of that third story by making a dormer, you know, that was not satisfactory to provide the headroom, that the bowed roof, except for one or two when you're really looking for it, is not going to be very visible. The single most visible place would probably be coming in from the harbor... There's no question it'll be there."

Mr. Peak then stated that he would prefer that the Commission turn down the proposal rather than to require that a flat dormer be used. He also mentioned that the Planning Board was currently working on this district and that they would welcome any input on how to promote the district "without turning it into a luxury residential area."

#### **More Questions and Comments from Commission Members.**

Mr. Athearn expressed the opinion that there had to be some legal means by which the dormer could be raised to accommodate an adequate interior height. Mr. Peak replied

that the Zoning Board of Appeals could grant an extension *up to* the height of the legal limit for a non-conforming building, but that a building could not exceed the limit.

Ms. Sibley wondered if the committee had considered asking for less fenestration. Mr. Peak responded that the committee had kept in mind that these would be artists' studios, where light was an important commodity. Mr. Weisman stated, "The building has a structural module of 8 feet ... and the roof beams, the curve beams would be spaced 8 feet from center." The windows had been grouped, he said, between these 8-foot points, thus increasing the solidity of the structure, and they would have mullions similar to those on the windows below.

Ms. Sibley then asked Mr. Peak if his committee had discussed the hexagon at all. "The shape of the hexagon is jarring," replied Mr. Peak. "I think ... because of its location back between the buildings, I think ultimately we again have let up on that a little bit because we decided that the sideway obstruction of the structure if it were square or some other shape than the hexagon would be similar and that's what would be more noticeable to us."

Ms. Greene wanted to know what color membrane would be put on the roof, since it could not be shingled. "That's a dark gray," answered Mr. Anderson.

#### **Staff Report on Traffic.**

**Transportation Planner David Wessling** gave a brief summary of his Staff Notes titled *Wintertide Building (DRI #504-1): Review of Traffic Impact Analysis*, beginning by stating that the Land Use Planning Committee had voted to reduce the requirement for a full traffic study for the project. *[See the meeting file for a copy of the report.]*

Mr. Wessling related that he had worked with Mr. Weisman on the traffic report and that he agreed with the architect's conclusions. Those conclusions, he stated, were that the project would have "a very minimal impact on traffic at Five Corners" under the basic assumption that it would only be used for artists for their working space and not for retail sales or residential purposes.

In addition, said Mr. Wessling, the Applicant had made what he considered a very generous offer concerning mitigation, which was the requirement that one, tenants lease parking spaces at the Tisbury Park-and-Ride, two, the Applicant would encourage the tenants to use public transportation, and three, the Applicant would install a bicycle rack on the site. "So, all in all, I agree with the conclusions in the report," stated Mr. Wessling.

Ms. Greene said that she had been unaware that one could rent a space at the Tisbury Park-and-Ride. Also, she had read recently that one could park there all day for free. Mr. Israel explained that because of the upcoming sewer construction, the Selectmen had

decided to forego the parking fee for the time being. Also, the Town already offered discounts to businesses. Lastly, he reported, if one wanted to park there outside of the hours of 5:00 a.m. until midnight, a permit for that purpose could be purchased at Town Hall.

Chairman Vercruysse suggested a visit to the site.

Responding to a question from Mr. Woodruff, Mr. Weisman said that the second-floor ceiling was 9 feet in the center part, the building was 34 feet wide and the dormer shown was about 5 feet in from each side. "So the space we're proposing stops 5 feet from each side," he noted.

Mr. Toole then closed the Hearing session, continuing the Public Hearing to Thursday, December 12, at 7:30 p.m. In the meantime, he added, the DRI Coordinator would arrange for a site visit. The time was 9:49 p.m.

*[Note: The Nominating Committee met during the recess.]*

**Discussion/Oral Vote: Black Dog Bakery-Café Modification (DRI No. 522M-2).**

Chairman Vercruysse took the gavel and reopened the Regular Meeting at 10:18 p.m. The Commission turned to a consideration of the Black Dog Bakery-Café Modification (DRI No. 522M-2).

Ms. Brown reported that the Land Use Planning Committee had reviewed the Application post-Hearing and had voted to recommend Approval of the Request for Modification with several Conditions. Instead of the pine trees that the Applicant wanted to plant, the Applicant would be required to plant three London plane trees of 4-inch caliper. The second proposed Condition was that there should be no outside lighting on the railroad car.

After some discussion of the species of tree in Condition 1, Ms. Sibley recommended that the trees be red maples (*Acer rubrem*), since there were no London planes on State Road. The others agreed.

Mr. Israel expressed concern about the Applicant's failure to comply with the Commission's Decisions in the past. Ms. Warner suggested setting a deadline for compliance, with removal of the railroad car if the Applicant failed to meet it. Mr. Donaroma informed the members that the Applicant could plant the maples any time up to Memorial Day. Mr. Israel suggested imposing a deadline of Arbor Day 2003. The others agreed.

More discussion followed, after which Ms. Brown made a **Motion That The Commission Approve The Black Dog Bakery-Café Modification With The**

**Conditions Of One, Planting Three Red Maples (*Acer Rubrem*) Of Four-Inch Caliper (At A Minimum) Along The Street; Two, That There Be No Outside Lighting Of The Railroad Car; And Three, That If The Work Was Not Done By May First, Two Thousand Three, The Previously Approved Railroad Car Would Be Removed.** Mr. Israel provided a Second.

Comprehensive Planner William G. Veno then conducted a Roll Call Vote on the Motion, which carried unanimously.

AYES: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma;  
J. Greene; T. Israel; M. Ottens-Sargent; L. Sibley; R. Toole;  
J. Vercruysse; K. Warner; R. Wey; and A. Woodruff.

NAYS: None.

ABSTAINING: None.

*[Messrs. Schweikert and Zeltzer were ineligible to vote.]*

**Discussion/Vote: The Kidder Building Written Decision (DRI No. 557).**

Ms. Greene made a **Motion To Approve The Kidder Building Decision As Written**, duly seconded by Mr. Zeltzer. *[See the meeting file for a copy of the Written Decision.]* There being no discussion, Mr. Veno conducted a Roll Call Vote on the Motion, with the following results:

AYES: J. Athearn; J. Best; C. Brown; J. Greene; T. Israel;  
M. Ottens-Sargent; A. Schweikert; L. Sibley; J. Vercruysse;  
K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

*[Ms. Cini, Mr. Donaroma and Mr. Toole were ineligible to vote.]*

**Discussion/Vote: Proposal To Buy MVC Parking Lot.**

Marcia Mulford Cini, a Tisbury Commissioner at large and Chair of the Finance Committee, referred the members to her memorandum dated November 21, 2002 and titled "Proposed Purchase of Maple Street Parking Lot." *[See the meeting file for a copy.]* Ms. Cini explained that the Commission had had a lease on the parking lot for five years and that the Commission had been offered an Option To Purchase by the landlord.

"So moved," said Mr. Zeltzer, whose Motion was seconded by Mr. Donaroma. After some discussion and a detailed explanation from Ms. Cini, the Motion carried by unanimous Voice Vote. The time was 10:32 p.m.

**Discussion: Appointment of Trustees For The Commission's Charitable Trust.**

Chairman Vercruysse referred the members to the list in their packet labeled "Trustee Candidates Recommended by the Executive Committee." [See the meeting file for a copy of the list.] He asked for other suggestions from the Commissioners and provided some details on how the charitable trust would operate.

Ms. Warner related how at a meeting two days earlier the Edgartown Selectmen had expressed concern about the concept of the trust. The Chairman explained that donors would have to sign an agreement stating that they had no interests connected to projects or land areas under review by the Commission. He emphasized that the trust would be blind and that the current Commission members would not know who the donors were.

Ms. Brown, who had attended the Selectmen's meeting referred to by Ms. Warner, described the Selectmen's initial reaction as the position that in the case of a public agency, any donors and amounts contributed had to be part of the Public Record. "They were incredulous, to say the least, that legally ... the donors could be secret, not open to the Public Record," she reported, "and they disliked it in general terms." Ms. Brown added, "We said we'd come back to them with the legal part."

Mr. Donaroma express his desire "to move along on this," to vote on the slate and to let the public know what the Commission was doing. "I think it's a really bad idea," he remarked, referring to the charitable trust. He then added, "I think we need the money, but politically it's a difficult thing to do, and we should at least be talking about it or explaining it, if not anything else.

"We already have the ability to accept money from people," noted the Chairman, adding, "It just never comes in." Ms. Sibley explained what the Chairman was referring to: "This gives us the ability to accept money in a way so that we don't know who gave it."

Ms. Sibley elaborated: "... [W]hen someone made the comment that money never comes in, well, the fact is that this was precipitated several years ago by a group standing before us and offering to raise money for us, and we realized that that group had a clear political agenda and that we would be uncomfortable taking money from them because the public at large would fear that we would be influenced. So we set about creating this mechanism."

Chairman Vercruysse suggested meeting with Commission Counsel Eric Wodlinger and coming up with a press release about the trust. "Let's do what we have to do tonight," recommended Mr. Zeltzer, "and do the rest at another time."

Mr. Zeltzer then recommended that former Commissioner John Early's name be added to the list. The Chairman explained that he had left Mr. Early off the list because the West Tisbury Selectman was still politically active. "That's a fair point," conceded Mr. Zeltzer.

Ms. Ottens-Sargent offered the name of former Governor's Appointee Marie Allen of Oak Bluffs. Ms. Warner suggested Anne Gallagher of Oak Bluffs, another former Governor's Appointee. Ms. Sibley recommended Helen Manning of Aquinnah. Mr. Best suggested Marie Laurson of Tisbury, and Ms. Ottens-Sargent threw in the name of Robert Morgan of Edgartown. "My aim is not to expand the list," cautioned Chairman Vercruysse.

The Chairman then related that candidate Woody Filley had had the support of four of the five Executive Committee members. So the Chairman had telephoned to see if Mr. Filley was interested, and he had been. He had also spoken with George Mathiesen of West Tisbury, who had expressed interest as well.

**"Motion To Choose Woody Filley As One Of The Executives,"** said Ms. Sibley, whose Motion was seconded by Ms. Ottens-Sargent. By Voice Vote, the Motion carried, with 13 Ayes, two Nays and one Abstaining.

Mr. Wey suggested the name of Tom Durawa of Edgartown. Ms. Warner recommended that each Commissioner take the list and check off the names of at most three candidates that they supported for the positions. "That's a good idea," said Mr. Wey.

Mr. Israel objected to the dispatch with which the business before them was being conducted. Mr. Zeltzer made a **Motion To Put Marie Allen's Name At The Head Of The List**, duly seconded by Mr. Wey. Ms. Greene recommended putting Mr. Zeltzer's name on the list. "He's crackpot," joked Mr. Best.

The Commissioners then marked their lists in the manner suggested by Ms. Warner. *[The tallying was done after the Meeting.]* The time was 10:47 p.m.

#### **Announcement of 2003 Slate of Officers.**

Chairman Vercruysse announced that the Nominating Committee had met earlier that evening and had come up with a Slate of Officers for 2003 by Majority Vote: Ms. Brown for Chair; Ms. Sibley for Vice-Chair; and Ms. Greene for Clerk-Treasurer. The slate would be discussed and voted on in the Regular Meeting on December 19, he added.

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Regular Meeting of November 21, 2002: Page 21*

Ms. Greene made a Motion To Adjourn, duly seconded. The Special Meeting adjourned at 10:51 p.m.

*James A. Athearn*  
Chairman

*July 10, 2003* Date

*Jana Greene*  
Clerk-Treasurer

*7/24/03* Date

PRESENT: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; T. Israel;  
M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse;  
K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

ABSENT: A. Bilzerian; E.P. Horne; J.P. Kelley; C.M. Oglesby; and R.L. Taylor.

*[These Minutes were prepared by Staff Secretary Pia Webster using a tape recording of the Meeting as well as written notes taken by Executive Director Mark London and Comprehensive Planner William and Venno.]*