

**SHM RESPONSE TO
PLANNING BOARD LETTER DATED AUGUST 3, 2022
November 14, 2022**

Please allow this memorandum to serve as a written response to the Tisbury Planning Board letter dated August 3, 2022 as requested by the MVC and to the MVC staff inquiries in an email dated November 9, 2022.

PLANNING BOARD COMMENT LETTER RESPONSE:

Pedestrian and Bike Access Response-

- **Permanent easement donates valuable interest in real estate**
- **Feasible permitting location similar to previously approved paths**
- **Connects to other desired bike path locations**
- **Bike path Easement not required by DEP c. 91 License**

The conveyance of an easement interest in real property by way of a donation is considered by most a very valuable asset to the benefited party and a restrictive encumbrance on the Grantor's land. SHM will cooperate with and support the town, or whatever entity is sponsoring the bike path in its approval, but is not offering to achieve or pay for permitting nor is it offering to contribute to the financial cost to construct it. SHM believes that permitting of bike path in the proposed location of the easement is feasible as similar projects in the town have been approved. SHM believes the value of the easement is significant and consistent with mitigation for the scope of its proposed site reconfiguration.

It should be noted that this easement bike path offer is NOT an obligation SHM has under its c. 91 Waterways License to provide public access, which public access has already been established as required by its Ch. 91 license plan and approved by MassDEP.

As SHM has not yet determined its development plans, if any, for parcel 9-B-3, it is not at this time prepared to route the bike path easement across this property. It has proposed to run the easement on the boat yard side of the property line to Lagoon Pond Road which it understands is where the bike path is requested to come out for access to memorial park where it would connect.

SHM does not agree that the MVC approval should be conditioned upon obtaining permits for or the construction of the bike path prior to SHM receiving its permits for this proposed project.

Water Quality Response:

- **Water quality directly linked to nitrogen from septic systems not Marina**
- **Marina is on town sewer**
- **Shellfish closures not from marina operations per DMF**
- **SHM to cooperate and collaborate with LPA on improving pond water quality**
- **SHM to do a marsh rehabilitation feasibility study**
- **Implements Best Practices Management and Standard Operating Procedures to benefit pond and environment**
- **Removing 10 boats from permanent in water dockage during boating season**
- **Install new no wake informational sign**
- **Removal of old buildings that have reached the end of their useful life**
- **Adding 9,000 square feet of stormwater infiltration swales**
- **Site plan reconfiguration includes drainage infiltration to handle site stormwater runoff**
- **Agreeing to allow the building on stilts to be repurposed elsewhere to preserve its character**

Water quality decline in the west arm of the lagoon is a direct effect of nitrogen loading to the area which has been proven and stated primarily due to residential septic systems surrounding the lagoon and the pond. It should be noted that SHM does not have an underground septic system, is currently on town sewer and is mostly permeable. The Department of Marine Fisheries has made it clear that the shellfish closures have not been due to the location or the operation of the SHM Marina. The proposed site improvements noted on the site plan will drastically reduce and better manage site run off. The addition of 9000 sq. ft. of vegetative drainage swales, which will collect site and roof run off, will filter out additional nitrogen before it is absorbed to ground water. The removal of the northern most building, adding a vegetative swale and natural planting along the northern edge, will not only increase the operational buffer to the resource area, but will also eliminate run off into bass creek.

This site improvement plan also included the removal of 10 seasonal boats from the water to provide staging area for racked boats. The racked boats will add only 4 boats per day to the lagoon, which will not sit in the lagoon 24/7 but merely transit from the Marina to the harbor and back, greatly reducing the potential impact from them sitting in the water all season.

As part of our continual evaluations to reduce our footprint, we have recently adopted copper free bottom paint for all our summer storage customers that are in the lagoon. This will effectively remove any leaching copper from bottom paint in to the lagoon water.

The addition of a new 'No Wake' sign at the entrance channel to the west arm will also serve to

better inform all users of the west arm, by indicating the “no wake zone, headway speed only, caution shell fishing area, sealed heads mandatory”, helping to reduce any potential boater impact in the area.

Safe Harbor has and will continue to monitor its runoff into the lagoon through its required MSGP Stormwater permit testing requirements. This data is submitted to EPA quarterly.

Safe Harbor has also committed, through its offers, to work with any town board, private interest group or other party that will help develop ideas and implement real change around the lagoon with the direct goals of reducing nitrogen loading to the lagoon, and improving water quality. Those efforts have already started with a great meeting with LPA board members, where we have identified potential ways of partnering and floated a host of ideas.

Safe Harbor as also committed, through its offers, to conduct a Marsh rehabilitation feasibility study for the marsh to the east of the marina. Safe harbor will share that data with the MVC. If that study finds it feasible, Safe Harbor will partner and work with town boards and interest groups to develop a plan and process for conducting rehabilitation or revetment to strengthen and hopefully rebuild the marsh area.

Along with the benefits and improvement above, SHM has submitted, which are part of the public record, enhanced BMP and SOPs that have been drafted and implemented to have an ongoing and continual positive impact to improve and protect the lagoon water quality.

SHM does not agree MVC approval should requires a public/private water quality study or measurable improvements of the water quality of the pond and lagoon prior to the issuance of any building permits. It remains SHM’s position that water quality is primarily related to causes unassociated with its operations and beyond SHM’s control. SHM will, however, as it has stated previously on multiple occasions participate in any study which is meant to improve the water quality of the pond and or the lagoon.

Traffic

- **Traffic not an issue per MVC staff review**
- **Parking lot reconfiguration and traveled ways will improve access to Lagoon Pond Road**
- **Additional rack storage will free up trailered boats from five corners and the public boat ramp**

Although noted by MVC Staff that traffic was not an issue as a result of this project and a traffic study has not been required, the proposed plan included an improved parking plan. The plan will allow an entrance and exit from the main lot where the building on stilts is, removing backing up out and onto lagoon pond road, reducing the potential for accidents and increased traffic delays.

Lighting

SHM has proposed no new lighting which is not shielded and downcast for the safety of its customers and employees. No lighting is proposed that will create light pollution or cast off the SHM property.

STAFF NOVEMBER 9, 2022 EMAIL RESPONSES:

1. The property is bounded by Bass Creek, the centerline of which is the northeasterly boundary line, thus a small portion of the vegetated wetland identified on the site plan is on property owned by SHM.
2. As previously stated above, SHM will cooperate with and support the town or whatever entity is sponsoring the bike path in its approval but is not offering to achieve or pay for permitting nor is it offering to contribute to the financial cost to construct it. SHM believes that permitting of bike path in the proposed location of the easement is feasible with an elevated platform to cross the wetland and a continuation of the existing bridge already on the adjacent property in the wetland not owned or controlled by SHM. Similar projects in the town have been approved. SHM believes the value of the easement is significant and consistent with mitigation for the scope of its proposed operational and site reconfiguration.
3. The proposed plan accounts for building and parking stormwater runoff to mitigate potential flooding onto Lagoon Pond Road by way of infiltration through grass swales and rain gardens throughout the site. By removing the building on stilts and regrading that area SHM is helping deal with the runoff from its site to lagoon pond road as best as possible.
4. Written closing remarks have been submitted under separate document.

