

THE MARTHA'S VINEYARD COMMISSION

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Date: April 27, 2000
To: Building Inspector
 Town of Tisbury
From: Martha's Vineyard Commission
Subject: Development of Regional Impact
 re: commercial development
Applicant: Ralph Packer/Leo DeSorcy
 Post Office Box 308
 Vineyard Haven, MA 02568

Decision of the Martha's Vineyard Commission
Summary

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the granting of permits for the Application of Ralph Packer/Leo DeSorcy, Post Office Box 308, Vineyard Haven, MA 02568, as shown on the plans entitled: "Addition and Alterations, SBS Granary, State Road, Tisbury, Mass., dated: April '92, Bill Lee, 636 Mayflower Street., Duxbury, Mass.," and consisting of individual sheets numbered 1 of 4 through 4 of 4 and depicting 'Floor plan, Front Elevation, Left Elevation, Basement/Foundation Plan, Rear Elevation, Framing Plan,'" consisting of four (4) sheets; plus "Proposed Parking Plan for the SBS Store, December 15, 1999, Scale: 1" = 30', Vineyard Land Surveying, Inc., Post Office Box 421, West Tisbury, Mass., Job No. 25," consisting of two (2) sheets; and totalling six (6) sheets (the Plan).

This Decision is rendered pursuant to the vote of the Commission on April 27, 2000.

The Building Inspector of the Town of Tisbury may now grant the necessary development permits for the Applicant's proposal in accordance with the conditions contained herein, or may approve the proposal in accordance with the conditions contained herein and may place further

conditions thereon in accordance with applicable law, or may disapprove the development application.

Facts

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact, Section 3.302b. The Application was referred to the Commission by the Building Inspector of the Town of Tisbury for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). Since the referral required a concurrence vote by the Commission, on Thursday, December 2, 1999, the Commission did discuss the matter. Following discussion, the full Commission did vote that the proposal was significant enough to require a public hearing and thereby concurred with the referral. The Application and notice of public hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, March 23, 2000 at 8:00 p.m. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Mass. The hearing was closed the same night.

The proposal is for the construction of two additions to a commercial development in the Business District along State Road in Tisbury. A summary of the testimony provided at the hearing is provided as Exhibit A attached hereto. The hearing summary is for the convenience of the reader and was not relied upon by the Commission in reaching its Decision on this matter.

Findings and Conditions

The Commission has considered the Application and the information presented at the public hearing and based upon such consideration makes the following findings pursuant to Section 14 of the Act.

- A. **THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).**

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving

for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study."

The Commission has listened to all of the testimony presented and has reviewed all documents and correspondence submitted during the hearing and review period and

1. Based upon the record and the testimony therein and in considering the impact favorably or adversely upon the environment, the Commission sets the following conditions (Section 15(b) of the Act):
 - a. **That the site plan and construction plans shall be modified by the Applicant in accordance with the directions set forth by the Land Use Planning Committee of the Commission; and further**
 - b. **That the Applicant shall install a total of four (4) shade trees, two (2) at each end of the building for the purposes of providing a screening of the roof of the main building; and further**
 - c. **That the Applicant shall install landscaping to be comprised of shrubs on the embankment above Olde Holmes Hole Road; and further**
 - d. **That the Applicant shall move the portable greenhouse approximately twenty (20) to twenty-five (25) feet forward toward State Road for the purposes of improving the parking and circulation on the site; and further**
 - e. **That the Applicant shall secure the unfinished building at the rear of the property for safety purposes until such time as said building is completed and ready for use; and further**
 - f. **That there shall be no outdoor displays permitted or placed within the landscaped buffer in existence on-site.**

2. Based upon the record and the testimony presented therein, and in considering whether the development will favorably or adversely affect other persons and property, the Commission sets the following conditions (Section 15(c) of the Act):
 - a. **That the Applicant shall limit the use of the proposed additions to office and/or retail uses; and further**
 - b. **That the Applicant shall be permitted to continue using a portion of the site as a bus staging and/or storage area; and further**
 - c. **That the Applicant shall have installed a system for the lighting proposed that will extinguish all outside lighting at 7:00 p.m.; said system to also include a motion-sensitive control that**

would permit the exterior lighting to function after 7:00 p.m. when the motion-sensitive control was activated.

3. Based upon the record and the testimony presented therein, and in considering the effects upon the provision of needed low and moderate income housing, the Commission sets the following condition (Section 15(d) of the Act):
 - a. **That the Commission accepts the Applicant's offer to provide the sum of One Thousand Dollars (\$1,000.00) to the Dukes County Regional Housing Authority in accordance with the Martha's Vineyard Commission Affordable Housing Policy, said sum to be provided upon the granting of an occupancy permit by the Town of Tisbury.**

The Martha's Vineyard Commission wishes to acknowledge the presence on-site of storage containers and to indicate to the Applicant that this Decision should in no way be construed to mean that the use of containers is part of this approval with conditions. The Applicant is advised that there shall be no increase in the number of storage containers presently on-site, and should the Applicant or any tenants thereof wish to place additional containers on the premises, then said action shall require Commission approval.

- B. **THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.**
- C. **THE COMMISSION FINDS THE DEVELOPMENT PROPOSAL TO BE GENERALLY CONSISTENT WITH THE DEVELOPMENT ORDINANCES AND BYLAWS OF THE TOWN OF TISBURY.**
- D. **THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT WITHIN ANY DISTRICT OF CRITICAL PLANNING CONCERN, AND THEREFORE THIS ISSUE IS NOT PERTINENT TO THE PROPOSAL.**

The Applicant must, consistent with this Decision, apply to appropriate Town of Tisbury Officers and Boards for any other development permits which may be required by law.

This Decision is written consistent with the vote of the Commission: April 27, 2000.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder may appeal to the full Martha's Vineyard Commission, which shall decide such Appeal, after notice and hearing, within twenty-one (21) days of the close of the public hearing.

The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited herein.

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction, and should substantial construction not occur during said two (2) year period, then this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.


Chairman

April 28, 2000
Date


Notary Public

April 28, 2000
Date

IRENE MILLER FYLER
NOTARY PUBLIC
MY COMMISSION EXPIRES
JUNE 10, 2005

EXHIBIT A

Excerpt from the Meeting Minutes of March 23, 2000

Public Hearing: SBS Expansion, Town of Tisbury (DRI #191M).

[Mr. Donaroma, who was abstaining because of a conflict, left the meeting room for the duration of this Hearing. Those Commission members present for the Hearing were: J. Best; C. Brown; M. Cini; M. Colaneri; J. Greene; B. Hall, Jr.; T. Israel; L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole; J. Verduyck; and R. Zeltzer.]

Ms. Brown, the Co-Chair of the Land Use Planning Committee, now took over as the Hearing Officer. She read aloud the Notice of Public Hearing *[see the Meeting File]* and then outlined the Hearing procedure.

Applicant Presentation.

The Applicant's Presentation was provided by **Ralph M. Packer and Leo DeSorcy**. Mr. Packer explained that the SBS building had come before the Commission as a DRI many years before and that now the owners wished to put on an addition at each end of the building. He then referred to a number of elevations to show how the additions would be in character with the original building.

Mr. Packer continued that the extra space would be used for retail sales and an office, joking that he would not be renting mopeds or opening a restaurant. On the right side would be the Black Dog Catalogue Store. He then showed to the Commission members a site plan that indicated the location of the trees on the property and the dry wells as well as the proposed relocation of the portable greenhouse. Mr. Packer described the farmer's porch, noted that the setback was twice the distance required, and pointed out that deliveries would be at the rear of the building.

Staff Report.

Mr. Clifford provided the Staff Report, following item for item the report that had been mailed the week before to the Commission members. *[See the Meeting File of March 23, 2000 for a copy of this report.]*

Questions from Commission Members.

Ms. Sibley wondered if the Applicant had any specific statement about lighting. Mr. DeSorcy pointed to three light poles on the site plan; the lighting would not change, said Mr. Packer. "That's too bad," remarked Mr. Colaneri. Ms. Sibley asked if the lights could be turned off at a certain point during the night. Mr. Packer explained that the lights were supposed to be on a timer. "Could you re-calibrate your timer?" asked Ms. Sibley. Yes, replied Mr. Packer. Ms. Sibley also wanted to know if there were any plans that showed the semi-permanent storage containers on the lot. "Candidly, I think they're being used as part of the building," she noted. Mr. Clifford said he had not seen any such plans. "I'd like to see a record of those," said Ms. Sibley, "so we know what's really on the site when we're approving it."

Mr. Hall wanted to know if there was a copy in the DRI File of the site plan brought by Mr. Packer that evening. Mr. DeSorcy replied that this was the first time that the Commission or Staff members were seeing this plan and that it would be part of the record now. Mr. Hall asked if, other than right in front of the building, there were designated parking spaces. There are bumper logs in front, replied Mr. Packer, as well as on the west side. Because they did not have a hard surface, further designation was not feasible.

Responding to further questions from Mr. Hall, Mr. Packer said that new gravel had recently been laid on the parking lot and that the grassy area along State Road would remain unchanged. One uncertain element was the proposed location of the portable greenhouse, continued Mr. Packer. It might be desirable to move the greenhouse "ahead" so as to allow more space between it and the addition on that end.

All the trees shown on the plan are already existing? asked Ms. Sibley. Yes, replied Mr. DeSorcy, they were not planning to add any. Are the parking spaces going to be marked? wondered Ms. Sibley. Just bumper logs on the west side and in the front, said Mr. Packer.

Testimony from Town Boards.

Peter Cronig, Chairman of the Tisbury Planning Board, remarked that the Applicant would be returning to his board to firm up details on parking, lighting, and so forth.

Ms. Brown asked for testimony from members of the public in favor of the proposal, in opposition to it and in general; there was none.

More Questions from Commission Members.

Mr. Israel noted that the Black Dog Catalogue Store held an annual sale. Would it continue to be only once a year? he asked. Yes, replied Mr. Packer. Mr. Israel also wanted to know how the Applicant and the Town could work on getting a crosswalk between the two Black Dog enterprises in the area. It would probably have to be dealt with through the State, remarked Ms. Greene.

Mr. Israel then asked if the buses were still being parking on the lot. Mr. Packer said that six or seven buses from Dukes County Travel, whose offices were across the street, had been parked there. The question of where the buses would go during the summer months was "in limbo." "Aren't the buses currently parked where you show parking?" wondered Mr. Zeltzer. Right, said Mr. Packer. "So that really isn't available when the buses are there," remarked Mr. Zeltzer. "That is correct," replied Mr. Packer.

Mr. Zeltzer also had questions about the unfinished building at the rear of the property. "We are presently doing another drawing, done by the same architect who did this, and we're proposing to finish the building," said Mr. Packer. "For what purpose?" asked Mr. Zeltzer. "Retail sales, something of that nature," said Mr. Packer. Ms. Brown remarked that she assumed the Applicant anticipated returning to the Commission to tell them about that. "We'd love to come back," said Mr. Packer.

Mr. Toole noted that during the site visit there had been talk of having access to the back building from the current access off State Road. Had the Applicant considered that further? he wondered. Originally, replied Mr. Packer, they were going to have a freight entry in that area with delivery from the back. But since then, the people who use the property had felt that it was becoming a late-hour drive-through and that a gate would be necessary. So, if that rear building was finished, how would it be accessed? asked Mr. Toole. The lower level would be accessed from Old Holmes Hole Road, and the upper part would be from the existing parking area, responded Mr. Packer. In addition, the Applicant had already been to the Commission for the back building. "You approved it," Mr. Packer said.

Ms. Sibley repeated her request for a plan which showed the semi-permanent storage facilities on the site, unless the Applicant planned to remove them. Mr. Packer explained that two of these units, on the west side, were used by the Black Dog; they would be removed when the Black Dog finished with their new facility down the road. There was another unit in back of the grain room and two others in back of that. "As far as I know, there's no requirement for using them as storage containers," remarked Mr. Packer. But some of them were in place where the Applicant now showed parking, observed Ms.

Sibley, who thought that they functioned as part of the building structure, that is, that they were the equivalent of a building storeroom.

Mr. Packer made the **Applicant's Final Statement**, noting that they had been working on the project for a year, that they had enjoyed coming to the LUPC and that they wished to make the building compatible for the area. Ms. Greene requested that if the Hearing was closed that evening, the Public Record be kept open so the Applicant could submit the documentation requested by Ms. Sibley. Ms. Brown closed the Hearing at 9:23 p.m and left the Public Record open for one week.

Edgartown, Mass. May 12, 2000
at 12 o'clock and 20 minutes P. M
received and entered with Dukes County Deeds
book 796 page 608

Attest:

Dianne E. Powers Register

May

RECEIVED
MAY 12 2000
REGISTER