

THE MARTHA'S VINEYARD COMMISSION

BOX 1447
OAK BLUFFS
MASSACHUSETTS
02557

DECISION

DATE: June 18, 1987
TO: Town of Tisbury, Building/Zoning Inspector
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Commercial Facility
APPLICANT: Merchant's Mart II
c/o Leo Convery
256 Edgartown Road
Edgartown, MA 02539

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the Application of Merchant's Mart II, c/o Leo Convery, 256 Edgartown Road, Edgartown, MA 02539 for the construction of a commercial facility on State Road in the Town of Tisbury, as shown on the plans entitled: "Merchants' Mart II, State Road, Tisbury, Mass., Dated 23 Mar '86 by Architect Paul Alden Curtis AIA, Inc., 13 Dwight Street, Boston, MA. 02118, Site Plan, Plans, Section and Elevations" consisting of three (3) sheets; "Leo Convery, Vineyard Haven, MA., Dated 2-6-87 by General Building Design, Inc., Floor Plan and Elevations" consisting of one (1) sheet; "Planting List by Alison Convery Dated 4/1/87" consisting of one (1) sheet; "Drainage Plan of Merchant's Mart II on State Rd. in Tisbury, Mass. for Leo P. Convery, Dated February 23, 1987 by Smith & Dowling, State Rd., P.O. Box 1087, Vineyard Haven, Mass." consisting of one (1) sheet; "Individual Sewage Disposal System for a Proposed 9,000 S. F. Retail Building, State Road, Tisbury, MA., for Merchants Mart II, c/o Leo Convery, Harborside Realty, P.O. Box 1261, Edgartown, MA., Dated 6-6-86 by Smith & Dowling, P.O. Box 1087, Vineyard Haven, MA." consisting of one (1) sheet; making a total of seven (7) sheets, (the Plan).

The Decision is rendered pursuant to the vote of the Commission on June 18, 1987. 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 in accordance with the conditions contained herein and 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 3.301. The Application was referred to the Commission by the the Building Inspector of the Town of Tisbury for action pursuant to Chapter 831, Acts of 1977 as Amended (the Act). The Application and Notice of public hearing relative thereto are incorporated herein. Martha's Vineyard Commission staff document exhibits are incorporated 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 October 23, 1986 at 8:00 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

The proposal is for the construction of a 9,000 square foot commercial facility.

Marc Widdiss, Chairman of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony at 8:06 P.M.

Mr. Leo Convery, Applicant, gave a presentation of the proposal discussing the proposal as an expansion of existing project, location, existing uses of space, access off State Highway, new building into embankment, dimensions of building approximately 40 to 45' wide x 200', angle parking and walk through, wood frame building shell, not sure of types of business that would locate within new building; most likely retail or quasi light industrial. Septic system is designed as if office building for purpose of increasing the amount of flow. He discussed Tisbury's requirements for parking, and the ability to turn a semi trailer around and parking for larger trucks.

Commissioners questioned the area of building, parking regulations, and how many buildings would be using access. Mr. Convery said no more

than 9,000 square feet of building, angle parking causes loss of parking spaces, and that access services three buildings.

Rick Hopkins, MVC Staff, gave a presentation referring to handout that was passed out to Commissioners. He described the location of the proposal, zoning, setbacks, access/egress, lack of sidewalk, parking regarding Tisbury's Zoning By-law, traffic generation, soils, drainage, gentle slope, within zone of contribution for West Spring Street municipal well, depth to groundwater 90', will have town water, sewerage plan conforms to Title 5 and local regulations for drygoods only. Mr. Hopkins raised the concern of design considerations to include additional landscaping, provision for handicap access, discussion of excavation into slope. He further pointed out that staff would like some additional information on lighting, storm water drainage, landscaping to the north, signage and a list of materials for the building. In addition, Mr. Hopkins stated that the Applicant had presented a revised parking plan tonight.

Mr. Convery answered to the question of excavation in the slope that there would be a ten foot retaining wall and no cellar, and there would be handicap access. Mr. Convery said the septic plan had been redrawn to comply with office space regulations and further it had been accepted by the Board of Health.

Mr. Widdiss asked for any testimony from Town Boards - There was none.

Mr. Widdiss called for comments from opponents and proponents. There were none.

The Commissioners discussed how the impact of the commercial development in this area of Town might effect land in the future, and questioned how much more space is open for further development.

It was noted that Doug Ewing, MVC Staff, had written up a handout on commercial development for the future based on limited space at the Airport Business Park.

Mr. Widdiss continued the public hearing at 8:50 P.M., to give the Applicant time to submit a drainage, landscaping, sewerage and lighting plan and also a list of materials.

A duly noticed continuation of a 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 November 20, 1986 at 8:30 P.M. at

the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

Mr. Widdiss, Chairman of the Land Use Planning Committee, opened the continuation of the hearing and asked the Applicant for his presentation.

Mr. Leo Convery, Applicant, discussed the planting scheme and drainage plan. He further discussed the building design and some changes that have been made, i.e. width of building, steel frame, wood roof and sidewalls, increase in height of building, pitch of roof 4 & 12, and no cellar due to expense.

Rick Hopkins, MVC Staff, referenced a letter from Mr. Convery dated, October 29, 1986. He discussed 9,000 sq. ft. proposed for drygoods and reasoning for this label, he discussed sewerage disposal, sidewalks, parking access, landscaping and increase in green space. He further discussed the lighting plan.

Commissioners questioned the dimensions of the building. Mr. Convery said the building has the same square footage as first proposed but now wider and shorter, new dimensions are 45' x 200'.

Mr. Widdiss called for Town Board input. There was none.

Mr. Evans, Commissioner, questioned the consistency of the plan, and whether there were enough plans in front of the Commission to be able to vote on now. He further questioned closing the hearing at this point as there are no final plans.

There was discussion between the Commissioners and Applicant, the applicant said that he would stay with original plan if he had to and then would submit any changes.

Mr. Convery further stated that the building would be wood outside with steel frame and that the design will not change.

Commissioners then discussed the roof pitch.

Mr. Widdiss continued this hearing at 9:45 P.M. until new plans could be submitted.

A duly noticed continuation of a 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 April 2, 1987 at 8:00 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

Sanford Evans, Chairman of the Land Use Planning Committee, read the continuation of the public hearing notice and opened the hearing at 8:05 P.M. Mr. Evans asked for the Applicant's presentation and stated although this a continuation from October 23, 1986 the MVC has new Commissioners and he requested the Applicant present his proposal as a first time presentation.

Mr. Leo Convery, Applicant, stated the location of the site as State Road, Vineyard Haven, MA, adjacent to the Merchant Mart I building. Further he discussed existing businesses (dry cleaners, MV Times, Good Year) which surround his site. Mr. Convery stated that the proposed building is 9,000 square feet, composed of a one story building, building will be built into a 12 to 13 foot bank, steel frame with wood exterior, roof pitches will be 4-12 and 2-12 with a 16' eave height. Further he discussed existing buildings and elevations. Proposed building facade is traditional with canopy. He stated that tenants for the proposed building were unknown. Mr. Convery discussed parking and Town of Tisbury requirements and the road system, handicap parking will be located in the front of the building, loading zones for 2 or 3 tractor trailer trucks. He discussed the landscape plan regarding planting of trees throughout the parking area, parking area to be separated with grass, low bushes at the access/egress area for a clear visual view, further he submitted the landscape plan to the MVC.

Mrs. Eber, Commissioner, stated that she could not see any major changes.

Mr. Convery stated that the old proposal was for a building of 40' x 225', and the new proposal is for a building of 45' x 200', further that the new proposal shows a change in the facade of the building.

Roger Wey, Commissioner, questioned the height of the building at the highest point from the ground. Mr. Convery stated it would be approximately 24' feet.

David Ferraguzzi, Commissioner, questioned security lighting. Mr. Convery stated the lighting will be in keeping with existing lighting with a few area lights on building being sodium vapor.

Mr. Evans asked the applicant if any traffic studies have been done. Mr. Convery said no.

Mrs. Custer, Commissioner, stated that in the staff notes of the initial hearing the average was 450 cars per day.

Lenny Jason, Commissioner, questioned the 56 parking spaces regarding meeting requirements of the Town. Mr. Convery stated that the parking was adequate at the last public hearing.

Mr. Evans asked for the staff presentation.

Rick Hopkins, MVC Staff, referenced a handout. He discussed the boundary of the site, zoning being within the B-2 District, proposal meets setback regulations, and the proposed building will be under the maximum height allowed. Mr. Hopkins discussed parking regarding the Tisbury Zoning By-law and explained that the Tisbury Planning Board also uses a .85 factor for parking which is not written within the by-law and therefore the applicant is within the parking regulations. Further he discussed angle and parallel parking of which a portion lies in a private 40' way. Mr. Hopkins discussed traffic monitoring and generation referencing studies done by Phil Herr and the MVY Realty Trust group. He further discussed safety regarding accident statistics from 1982 - 1986 in this area, average speed on State Road east bound as 29 mph, west bound approximately 30 mph, and stopping site distance east and west bound regarding design recommendations. He said stormwater runoff will be on site catch basins which was recommended and endorsed by the Tisbury Planning Board and further stated the catch basins seem to be adequate. He also stated that the sewerage plan meets Title 5 and the plan complies with local Board of Health regulations for a retail/commercial business, however, not for an office complex.

Mr. Convery stated that he feels that the septic plan is within regulations for an office building and thought that the Board of Health has approved the plan.

Mr. Hopkins discussed soils stating that for construction these soils have minor limitations, however soils have severe limitations for filtering. He stated groundwater is 90' below grade, the proposal is within the zone of contribution of West Spring Street Well approximately 500 to 600 ft to the north, and also located within the Lake Tashmoo surface water drainage shed, 1,500 feet to the north. Further that this proposal will have town water. He discussed existing vegetation. Mr. Hopkins then questioned the design planning regarding lighting, signage at the access to the site, no sidewalk on State Road within site, walkway shown within proposal with no crosswalk from parking lot to building.

Woody Filley, Commissioner, asked if there were any special regulations on the West Spring Street Well District. Russell Smith, MVC Staff, answered in the negative.

Lenny Jason, Commissioner, questioned the number of parking spaces and additional loading zones.

Leo Convery stated that he had met with the Planning Board of Tisbury and stated that the Board wanted angle parking.

Mr. Evans asked for testimony from Town Boards. There were none.

Mr. Evans called for testimony opposing, proposing, comments and or concerns. There were none.

Mr. Evans stated that a letter from the Tisbury Board of Health had been submitted, however a letter had not been received stating the Applicant has approval for his septic plan.

Mr. Convery stated he would get a letter stating approval of septic plan.

Mr. Evans read a letter from the Tisbury Board of Health to the MVC stating the Board granted a permit on August 4, 1986 for 9,000 square feet of retail space and would entertain a new application based on same design.

Commissioners asked Russell Smith for his opinion of the septic system. Russell Smith, MVC Staff, stated the septic design was adequate for office space according to Title V, however, Mr. Convery should make application to the Town's Board of Health.

There being no further testimony the hearing was closed at 8:38 P.M.

Following the close of the public hearing the following correspondence was received for the record: letters of May 15, 1987 and June 11, 1987 from Martin V. Tomassian, Jr. granting extension of the Commission's time period; letter from Leo P. Convery, dated April 20, 1987 regarding Land Use Planning Committee Meeting and obtaining letter from Tisbury Board of Health regarding Septic Plan. Facts sheets from Leo Convery to Land Use Planning Committee, dated May 16, 1987 regarding building size comparisons, parking requirements, proposed uses, employees and parking counts.

FINDINGS AND CONDITIONS

The Commission has considered the application and the recommendation presented from the Land Use Planning Committee, the public hearing, and discussions during its decision deliberations and based upon such

consideration, makes the following findings pursuant to Section 14 of the Act:

1. a. The Commission finds that the probable benefits of the proposed development, as conditioned herein, will exceed the probable detriments of the proposal in light of the considerations set forth in Section 15 of the Act.
- b. The Commission finds that the proposed development will not interfere substantially or unreasonably with the achievement of the objectives of any general plan of the Town or of Dukes County.
- c. The Commission finds that the proposed development as set forth in the application and plan will be consistent with local development ordinances and By-laws in place at the time of the submittal.
- d. The Commission finds, as conditioned herein, that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or developments occurring in alternative locations.

FURTHER,

2. Pursuant to Section 15 of the Act, the Commission has considered the question of whether the proposed development will favorably or adversely affect other persons and property, and if so, whether because of circumstances peculiar to the location, the effect is likely to be greater than is ordinarily associated with the development of the types proposed. The Commission finds that the proposed building is visible from State Road and the aesthetic views of such development should be enhanced to serve the general purpose of the Commission as stated in Chapter 831, Acts of 1977, as Amended, namely the protection of the health, safety and general welfare of Island residents and visitors, by preserving and conserving the Island's unique values and by protecting these values from Development uses which would impair them or cause irreversible damage to them. In addition, pedestrian and vehicular safety must be maintained within the project area. In light of this, the Commission sets for the following conditions:

- a. THE PROPOSED BUILDING SHALL NOT EXCEED 8,000 SQUARE FEET. THE APPLICANT SHALL SUBMIT REVISED PLANS, REFLECTING THE TOTAL SQUARE FOOTAGE, TO THE TOWN OF TISBURY BUILDING OFFICIAL AND PLANNING BOARD AND THE MARTHA'S

VINEYARD COMMISSION FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION. THE MARTHA'S VINEYARD COMMISSION SHALL REVIEW THE PLANS TO ENSURE THAT THE BUILDING SQUARE FOOTAGE DOES NOT EXCEED 8,000 SQUARE FEET; THAT ELEVATIONS SHOW COMPLIANCE WITH CONDITION 2c; THAT THOSE PORTIONS OF THE BUILDING VISIBLE FROM STATE ROAD CONFORM TO TRADITIONAL ARCHITECTURAL DESIGN IN THE TOWN OF TISBURY.

- b. THE APPLICANT SHALL INSTALL A CONCRETE PAD FOR PARKING MOTORCYCLES, MOPEDS AND BICYCLES. THE DIMENSIONS AND LOCATION OF SAID CONCRETE PAD SHALL BE INCLUDED ON THE APPLICANT'S PARKING PLAN.
- c. THE EXTERIOR MATERIALS ON ANY PORTION OF THE BUILDING VISIBLE FROM STATE ROAD SHALL BE WOOD.
- d. THE APPLICANT SHALL SUBMIT A LANDSCAPE PLAN TO THE MARTHA'S VINEYARD COMMISSION AND TISBURY PLANNING BOARD, IN A FORM SATISFACTORY TO THE MARTHA'S VINEYARD COMMISSION, FOR REVIEW AND APPROVAL BY THE LAND USE PLANNING COMMITTEE AND TISBURY PLANNING BOARD PRIOR TO CONSTRUCTION TO ENSURE MAXIMUM SCREENING OF PARKING AREA AND BUILDING AND THE PRESERVATION OF RURAL CHARACTER.
- e. THE MARTHA'S VINEYARD COMMISSION IS REGULATING THE NATURE OF USES IN ORDER TO PROHIBIT TYPES OF USES THAT MAY HAVE AN ADVERSE EFFECT ON THE WATERSHED IN WHICH THE PROJECT IS LOCATED. FURTHER, BECAUSE OF CONCERNS OF TRAFFIC ACCESS AND EGRESS ONTO STATE ROAD, THE MVC PERMITS THESE USES ONLY:

WHOLESALEERS

1. ELECTRICAL SUPPLIERS
2. PLUMBING SUPPLIERS
3. HEATING, AIR CONDITIONING SUPPLIERS
4. KITCHEN CABINET SHOP
5. BATH SHOP
6. BUILDERS, JOBBERS SUPPLY
7. GLASS REPAIR
8. AUTO PARTS
9. T.V., ELECTRONIC REPAIR, SUPPLY

RETAILERS

1. CATALOG STORE

- 2. HARDWARE STORE
- 3. MARINE SUPPLY ACCESSORIES
- 4. VIDEO & ELECTRONICS
- 5. CARPET SHOP
- 6. OFFICE SUPPLY

OFFICE

- 1. REAL ESTATE
- 2. MORTGAGE OFFICE
- 3. TRAVEL BUREAU
- 4. SURVEY OR
- 5. LEGAL
- 6. MUNICIPAL

FURTHER,

3. Pursuant to Section 15 of the Act, the Commission has considered whether the proposed development will use efficiently or burden unduly the existing public facility known as State Road and finds that the project as proposed creates a risk to public safety because of limited sight lines along State Road for vehicles entering or exiting the project sight.

Therefore,

- a. THE APPLICANT SHALL SUBMIT TO THE MARTHA'S VINEYARD COMMISSION (MVC), IN A FORM SATISFACTORY TO THE MVC, AN ENGINEERED PLAN REFLECTING SIGHT LINE IMPROVEMENTS ALONG THE STATE ROAD AND THE SOUTH BOUND OF THE APPLICANT'S PROPERTY. SAID PLAN SHALL BE REVIEWED TO ENSURE MAXIMUM SAFE SIGHT DISTANCES ALONG STATE ROAD FOR VEHICLES LEAVING THE SITE, AND APPROVED BY THE MARTHA'S VINEYARD COMMISSION PRIOR TO CONSTRUCTION.
- b. THE COMMISSION NOTES THAT THE APPLICANT'S PARKING PLAN EXTENDS ONTO A 40 FOOT PRIVATE WAY AND THEREFORE FINDS THAT THE APPLICANT SHALL SUBMIT A REVISED PARKING PLAN AND DRAINAGE PLAN TO THE LAND USE PLANNING COMMITTEE AND TISBURY PLANNING BOARD FOR THEIR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION. SAID PLAN SHALL REFLECT THE REDUCTION IN SQUARE FOOTAGE OF THE BUILDING, THE DIMENSIONS AND LOCATION OF THE CONCRETE PAD, IMPROVED TURNING RADIUS AND IMPROVED ACCESS/EGRESS WHICH SERVICES THREE BUILDINGS AND SHOWING NO PARKING ON THE FORTY (40) FOOT PRIVATE WAY.

c. THE APPLICANT SHALL GRANT A PERMANENT BICYCLE PATH/SIDEWALK EASEMENT, IN A FORM SATISFACTORY TO THE MARTHA'S VINEYARD COMMISSION, TO THE TOWN OF TISBURY ALONG THE BOUNDS OF THE APPLICANT'S PROPERTY AND STATE ROAD. SAID EASEMENT SHALL BE GRANTED PRIOR TO CONSTRUCTION. IF THE ENGINEERED PLAN FOR SIGHT LINE IMPROVEMENTS REFLECTS ADEQUATE SPACE FOR A BICYCLE PATH AND OR SIDEWALK, THE APPLICANT SHALL INCUR THE COST OF INSTALLING A BICYCLE PATH AND/OR SIDEWALK.

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the application being before it at this time. 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.

The Decision is written consistent with the vote of the Commission: June 18, 1987.

Any applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission after notice and hearing within 30 days of the filing of the appeal.

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

Any party aggrieved by a determination of the Commission may appeal to the 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.

Dedgartown, Mass. July 8 19 87
at 9 o'clock and 110 minutes A M
Received and entered with Dukes County Deeds
book 477 page 858

[Signature]
John G. Early, Chairman

Attest: [Signature]
7/2/87
Date Register

[Signature]
Notary



7/2/87
Date