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# THE MARTHA'S VINEYARD COMMISSION

BOX 1447  
OAK BLUFFS  
MASSACHUSETTS  
02557

## MARTHA'S VINEYARD COMMISSION

DATE: February 26, 1987

TO: Conservation Commission, Town of Tisbury

FROM: Martha's Vineyard Commission

SUBJECT: Development of Regional Impact  
RE: Pier Development

APPLICANT: MVY Realty Trust  
Michael T. Putziger, Trustee  
c/o Roache, Carens & Degiacomo  
One Post Office Square  
Boston, MA 02109

### DECISION OF THE MARTHA'S VINEYARD COMMISSION

#### SUMMARY

The Martha's Vineyard Commission (the Commission) hereby denies permission for the Development contained in the Application of MVY Realty Trust, Michael T. Putziger, Trustee, c/o Roache, Carens and DeGiacomo, One Post Office Square, Boston, MA 02109 for the Construction of a Pier in Vineyard Haven Harbor in the Town of Tisbury as shown on the Plans Entitled: "MVY Realty Trust, to Construct and Maintain Timber Ramp, Pier and Float in Vineyard Haven Harbor, Tisbury, Massachusetts, by Schofield Brothers, Inc., P.O. Box 339, Vineyard Haven, MA, Dated March 6, 1986, Revised August 1, 1986" consisting of two (2) sheets;

"Notice of Intent under the Tisbury Wetlands By-law for Pier and Float by MVY Realty Trust, Michael T. Putziger, Trustee, c/o Roache, Carens and DeGiacomo, One Post Office Square, Boston, MA 02109, Dated November 11, 1986" consisting of seven (7) sheets; making a total of nine (9) sheets, (the Plan).

The Conservation Commission of the Town of Tisbury shall not grant the appropriate development permits. The Decision is rendered pursuant to the vote of the Commission on February 26, 1987.

## FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.101. The Application was referred to the Commission by the Conservation Commission of the Town of Oak Bluffs for action pursuant to M.G.L. 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 documents are incorporated by reference.

A duly noticed public hearing on the application was scheduled for January 22, 1987. Due to inclement weather, a duly noticed public hearing on the application was rescheduled and conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A Section 2 on February 12, 1987 at 9:00 P.M. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. The proposal is for the construction of a 150 foot pier with a 12 x 25 foot floating dock in Vineyard Haven Harbor.

Sanford Evans, Chairman of the Land Use Planning Committee, read the public hearing notice and opened the hearing for testimony.

Mr. Evans asked for the Applicant's presentation.

Brian Cook, Attorney for the Applicant, stated the proposal is for a 150' timber ramp and pier. Further, that in his opinion by viewing the Commission's Standards and Criteria this project is not a Development of Regional Impact and discussed the MVC Legislation. He stated that this proposal is a non-commercial private pier and for this reason the proposal should not be before the Commission.

Martin Donahue, Agent for the Applicant, discussed the proposal as a private non-commercial pier, the design is open design on piles with a proposed 12' ramp, 8' in width, 150' timber pier consisting of 15 10' bents with an 8' width and at the end of the pier a 12' x 25' float which makes a L configuration. The pier is approximately 420' from the Town Pier and approximately 165' from the Steamship Authority Wharf. Construction of the pier will be from timber which is pressure treated and no creosote will be used. Further, Mr. Donahue stated that the use is non-commercial and will provide access to navigable waters.

Commissioners questioned the width of the pier. Mr. Donahue said that was what the applicant requested and further, the Army Corp. of Engineers put a limit of 10' on the width.

Mr. Evans asked for Staff presentation.

Russell Smith, MVC Staff, referenced the handout and stated that the proposal is for a 150' private timber pier with a 25' floating dock, and stated that up to 4 or 5 boats could fit at the pier. He showed the access to the site which is an existing foot path. Mr. Smith then discussed the history of the proposal regarding the Superceding Order of DEQE and requirements which DEQE has set for this project regarding there be no dredging and piles must be driven not jettied. Further, he stated that no plans have been shown for utilities, current permitting regarding Tisbury Conservation Commission's denial in 4/86, DEQE superceding with conditions. Permits needed are Chapter 91 and the Army Corp which have not been applied for. Mr. Smith discussed that shellfish maps showing quahogs in this area, beach vegetation, and discussed economic estimates/money spent by boaters in the Town and what impact displacing an estimated 3 moorings would have on the Town. He stated environmental concerns on the Town level are circulation, sedimentation and pollution. Further, he stated that in the 1968 Town report it was reported that the harbor mooring capacity was full. Other issues are: existing congestion, public access, storm damage to boats, visual impacts, displaced moorings and first private pier in harbor.

Mr. Smith then showed photographs of the area and boating uses within this area.

Mr. Donahue stated that the moorings would not be displaced but would be moved to a new location in the harbor.

There were questions from the Commissioners as to where the moorings would be placed if the harbor was already full.

Mr. Evans asked for testimony from Town Boards.

Roland Smith, Town Park and Recreation, stated he was opposed to this proposal.

John Best, Tisbury Conservation Commission, discussed the existing anchorage area and the moorings which will be involved.

Edith Eber, Referenced a letter from Mr. Renear, Tisbury Planning Board, regarding a section on the Master Planning Position regarding flow of water; no space for additional moorings; impede navigation; and balance of use allocation.

Mr. Hopkins, MVC Staff, showed a slide presentation of the area in late fall 1986.

Mr. McCavitt, Commissioner, questioned the location of the Town Beach.

Mr. Smith showed the location of Town Beach and stated that there are 8 parcels of privately owned land between the Town Pier and the Steamship Wharf.

David Grunden, Oak Bluffs Conservation Commission, discussed the history of the Crosstown Referral and stated that he felt by allowing one private pier it would break up the beach and there would be no grounds to stop future private piers from being built.

Mr. Evans asked for proponents.

Cora Mederios, resident, discussed the undisturbed beaches that have been loaned to the Town by the owners for public use.

Mr. Evans called for opponents.

Mait Eddey, sailboat owner without power, must be able to tack along beach to anchor.

Rez Williams, boatowner, has submitted a petition opposing the proposal.

Thomas Grove spoke of the unique beach, beautiful dunes, pier not consistent with this area and stated moorings would have to be moved outside of the harbor.

Francis West, resident, stated he was in opposition.

Nat Benjamin spoke of history of the area regarding previous land owner never considering a pier proposal in the harbor and that he was opposed.

Mr. Evans stated that he had letters of correspondence in the file in opposition to the proposal from the Tisbury Conservation Commission, Oak Bluffs Conservation Commission, Chilmark Conservation Commission, Tisbury Selectmen, Tisbury Planning Board, in addition a petition signed by 40 people in opposition, Mait Eddey, Thomas Hale, John Wilbur, Rez Williams, Donald Cronig, Brent Wilbur, Jeanne Campbell, Miles Carpenter, Ed Coogan for the Strock Family, Ed Coogan and Carol Magee.

There was no correspondence in favor.

Mr. McCavitt asked if there was an engineering map in relation to the proposed dock at mean low water. Mr. McCavitt said that of the 150' pier, 138' would be at mean low water and explained Chapter 91 licensing and land under the water to extreme low, belongs to the Commonwealth and is held in trust for the public.



Brian Cook, Attorney, stated that all the impact is on a local level not regional.

Mr. Evans stated for the record the petition in opposition has resident signatures from all Towns on the Island.

There being no further testimony Mr. Evans closed the hearing at 11:05 P.M. and kept the record open for 1 week.

No correspondence or testimony was received while the record was kept open.

#### FINDINGS AND CONDITIONS

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

THE COMMISSION FINDS THAT THE PROBABLE DETRIMENTS OF THE PROPOSED DEVELOPMENT WILL EXCEED THE PROBABLE BENEFITS OF THE PROPOSAL IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT. SPECIFICALLY, THE PROPOSED DEVELOPMENT IS FOUND NOT TO SERVE THE GENERAL PURPOSE OF THE ACT 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 NATURAL, HISTORICAL, ECOLOGICAL, AND CULTURAL VALUES AND BY PROTECTING THESE VALUES FROM DEVELOPMENT USES WHICH WOULD IMPAIR THEM OR CAUSE IRREVERSIBLE DAMAGE TO THEM.

THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL INTERFERE WITH THE MUNICIPALITY'S LAND USE OBJECTIVES SET FORTH IN THE MUNICIPAL MASTER PLAN POLICY AND INNER HARBOR STUDY.

Pursuant to Section 15 of Chapter 831 of the Acts of 1977, as Amended:

The Commission has considered the question of whether development at the proposed location is or is not essential or especially appropriate in view of available alternatives on the Island or Martha's Vineyard.

THE COMMISSION FINDS THAT THE DEVELOPMENT IS NOT ESPECIALLY APPROPRIATE AT THE PROPOSED LOCATION. SPECIFICALLY, THE PROPOSED PROJECT AT THIS LOCATION WILL CHANGE THE CHARACTER AND VALUE OF

VINEYARD HAVEN HARBOR. FURTHER, THE PROPOSAL AT THIS LOCATION WILL JEOPARDIZE NAVIGATION AND MOORING AND ANCHORAGE SPACE. BOAT SAFETY UNDER STORM CONDITIONS WILL BE THREATENED.

FURTHER,


THE COMMISSION HAS CONSIDERED THE QUESTION OF WHETHER THE PROPOSED DEVELOPMENT WILL FAVORABLY OR ADVERSELY AFFECT OTHER PERSONS AND PROPERTY, AND IF SO, WHETHER THE EFFECT IS LIKELY TO BE GREATER THAN IS ORDINARILY ASSOCIATED WITH DEVELOPMENTS OF THE TYPES PROPOSED AND FINDS THAT THE PROPOSED PROJECT WILL NOT SERVE A PROPER PUBLIC PURPOSE AS THE FIRST PRIVATE PIER IN THE INNER HARBOR OF VINEYARD HAVEN.

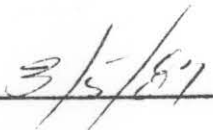
The Commission disapproves the development application and denies permission to the Conservation Commission in the Town of Tisbury for the granting of the necessary development permits.

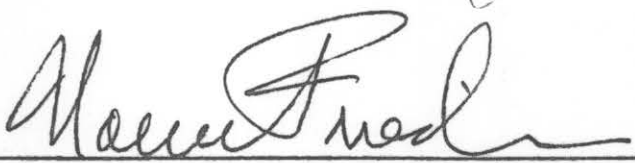
The Applicant may modify the development proposal and or submit a new proposal to the Conservation Commission in the Town of Tisbury.

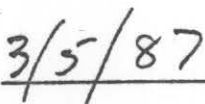
The Decision is written consistent with the vote of the Commission on February 26, 1987.

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.

  
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John G. Early, Chairman

  
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Date

  
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Notary

  
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Date