

THE MARTHA'S VINEYARD COMMISSION

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DATE: July 8, 1993
TO: Planning Board, Town of Tisbury
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Commercial Development
APPLICANT: Ernest J. Boch
744-A Neponset Street
Norwood, MA 02062

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application of Ernest J. Boch, 744-A Neponset Street, Norwood, MA 02062 for the demolition of a number of buildings and the construction of a commercial lot for valet parking as shown on the plans entitled: "Boch Harbor Parking, Vineyard Haven, Massachusetts, March 12, 1993, prepared for Mr. & Mrs. Ernest J. Boch, designed by Cindy Ann Tyminski" and consisting of the following sheets: "SD-1 Site Contract, # scale of 1" = 100'"; plus "SD-2 Existing Conditions, scale 1" = 10'"; plus "SD-3 Proposed Building Demolition, scale 1" = 10'"; plus "SD-4 Master Plan, scale 1" = 10'"; plus SD-5 Layout and Materials Plan, scale 1" = 10'"; plus SD-6 Proposed Grading, scale 1" = 10'"; plus "SD-7 Drainage Plan, scale 1" = 10'"; plus "SD-8 Traffic Circulation, scale 1" = 10'"; plus "SD-9 Pedestrian Circulation, scale 1" = 10'"; plus "SD-10 Parking Areas: Summer, scale 1" = 10'"; plus "SD-11 Parking Areas - Winter, scale 1" = 10'"; plus SD-12 Planting Plan, scale 1" = 10'"; plus "SD-13 Utility Plan, scale 1" = 10'"; plus SD-14 Details and Plant List"; totalling fourteen (14) sheets, (the Plan).

This Decision is rendered pursuant to the vote of the Commission on July 8, 1993.

The Planning Board 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 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 3.102. The Application was referred to the Commission by the Planning Board 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 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, May 21, 1992 at 8:00 P.M. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

The proposal is for the demolition of existing structures and the construction of a commercial parking lot qualifying as a Development of Regional Impact since the proposal is on property that was in part or in whole the subject of a previous DRI.

The hearing was chaired by Alan Schweikert, Chairman of the Land Use Planning Committee who read the Public Hearing Notice and opened the hearing for testimony at 8:09 p.m. It was noted that Mr. Briggs had left the room.

Mr. Schweikert called upon the Applicant for his presentation.

Gino Montessi, agent for the Applicant explained the proposal and distributed additional copies of the plans. He

explained what was depicted on the plans. He discussed the length of time involved in the planning process. He then explained the differences between this proposal and previous submittals. He discussed the proposed landscaping of grass along the buffer sides and rosa rugosa in the rear. He also noted that there would be no lighting proposed since it was thought that there may be a navigational hazard created.

He then noted that there would be no septic facility on-site. The uses proposed were parking and boat storage. Mr. Montessi indicated that there was a need for employee parking for businesses on Beach Road. He was uncertain of the exact number as of this date. He then discussed keeping a portion of the site for persons taking the SSA since the proximity to the SSA dock was good.

Mr. Montessi felt the heaviest usage of the lot would be between July and August and that usage would tail off in the fall, employee and restaurant users continuing to use the area. Boat storage would begin sometime around October 1st.

Mr. Montessi discussed the problem of lack of boat storage and the effect this has on boat yard work.

Mr. Montessi also noted that the proposal would open vistas to the harbor, permit public access across the beach. He felt that there would be no traffic impact.

Mr. Schweikert called for staff reports.

Mr. Clifford explained the staff report that had been put together by John Schilling and Richard Rooney. He noted that questions that had arisen were noted on the last page. He also discussed the fact that changes had been made on the plan such as lengthening the stacking lane and moving the entrance westerly toward the center of the site.

Mr. Schweikert called for questions from Commissioners.

Mr. Clarke asked for an explanation of what was meant by usage and access by the public.

Mr. Montessi explained what was meant by permitting the existing foot path to remain and that the public would be allowed to

traverse the beach area. He discussed the past usage of the beach for dingy storage and that there were no plans to discontinue such.

Mr. Montessi then discussed the various location in town where people parked their cars to use the boat, Memorial Field, Owen Park, and others.

Mr. Sullivan questioned the need to submit a drainage plan. Mr. Montessi noted that the site sloped to the center and felt there was no need to change the grades.

Mr. Sullivan then asked about the usage of rap and the perocicity of same.

Mr. Montessi discussed the leaching characteristics of the rap materials, surface to be 2-3" thick and any oils that could easily be picked up. He further discussed the advantages of using rap, i.e., lack of dust, etc.

Mr. Colaneri questioned the location of the 100-year flood plain. Mr. Montessi discussed the location of the flood plain and showed the various flood levels on the plans.

Mr. Early further discussed the site grading and the need to have a plan since there are to be building removals.

Mr. Montessi discussed the lack of basements and the ease with which the structures could be removed without disturbing of the site. He discussed building removal techniques and suggested that the buildings might be available to anyone who would care to make an offer.

Ms. Sibley questioned whether the use was temporary, permanent or otherwise.

Mr. Montessi felt it would be permanent but if any further proposals were put forth, it would return as a DRI.

Ms. Sibley further questioned whether the rap would capture any spilled oils.

Mr. Montessi felt it would.

Ms. Sibley then asked if the Applicant would be comfortable with testing and removal of contamination. Mr. Montessi saw no problem with such an issue and a condition to that affect would

not be a problem.

Mr. Best questioned the scale of the transect and noted that the plan was deceiving due to the scale used and the gradient was much gentler.

Mr. Colaneri questioned any work on the boats on-site. Mr. Montessi explained that there would be no on-site work and all work on boats would be in boat yards.

Mr. Lee asked for percentage of the lot devoted to boat storage and the percentage devoted to car parking.

Mr. Montessi indicated that he was uncertain at this time. He was unsure as to the demand.

Mr. Lee questioned whether there had been any projections made.

Mr. Montessi explained how the boats would be faced and that they would be toward the rear of the lot, the front portion remaining open for parking of cars.

Mr. Montessi indicated rough approximation would be 25-30% boat storage and 60-75% car storage.

Mr. Lee questioned the usage of an employee and lack of shelter, and then questioned how the functioning of the lot would occur.

Mr. Montessi discussed the use of an attendant in the summer and possible use of stickers in the winter.

Ms. Sibley discussed the traffic impact and the issue of hourly rates.

Mr. Montessi noted that the minimum time would be half-day charges.

Ms. Sibley further discussed the potential of instituting upper limits on numbers of cars.

Mr. Montessi discussed valet parking. A discussion of how to police an upper limit number followed.

Mr. Montessi discussed usage of signs to direct traffic such as no left turn from lot.

Mr. Jason discussed whether areas were designated for different types of parking.

Mr. Montessi discussed the open lot concept and not designating areas for specific types of parking. A discussion of the future

projections and fee schedules for the lot followed.

Mr. Jason questioned whether there would be any structures on the site.

Mr. Montessi indicated none.

Ms. Greene questioned the potential number of cars.

Mr. Montessi felt somewhere between 90 and 110.

Ms. Greene asked roughly if an attendant would be on-site.

Mr. Montessi felt they would be on-site from 8:00 a.m. to midnight.

Mr. Colaneri asked if the number of cars was based on no boat storage.

Mr. Montessi indicated 'yes' and that once boats were being stored the numbers reduced rapidly.

Mr. Colaneri questioned whether employees from Vineyard Haven Marina would be parking on this lot.

Mr. Montessi discussed ownership of the various parcels in the area and the involvement of the parties in question.

Mr. Colaneri asked about stacking racks for boat storage.

Mr. Montessi indicated none and explained why.

Mr. Clarke discussed how this proposal would create jobs.

Mr. Montessi discussed how employment would be affected by this proposal through the provision of more boats to be worked on and stored.

A discussion of the lack of boat storage followed.

Mr. Clarke questioned security.

Mr. Montessi indicated no more than present.

Ms. Greene questioned when the site would be used as parking and when for boat storage.

Mr. Montessi felt pay parking would be from May 15 to a few weekends after Labor Day; storage from October to late April.

Ms. Sibley questioned whether there would be any year-round boat storage.

Mr. Montessi felt none.

Mr. Clarke questioned any time limits for public access to the water -dawn to dusk; 9 to 5, whatever.

Mr. Montessi indicated 24 hours a day.

Mr. Best questioned where the access was; across the lot from any point.

Mr. Montessi indicated that the fence was to be removed so that access was from any point.

Mr. Donaroma asked if the public could be heard from.

Ms. Greene questioned the landscaping.

Mr. Schweikert noted the various types of landscaping.

Ms. Greene questioned the location of the trees which were required by zoning.

Mr. Montessi indicated that all required trees would be placed along the borders.

Mr. Schweikert called for town boards - there were none.

Mr. Schweikert then called for proponents - there were none.

Mr. Schweikert called for opponents.

Margaret Wolontis felt the proposal did not meet the marine commercial district rules.

Mr. Montessi explained that boat storage was very much marine usage. He further discussed the feelings of the local board. A discussion of this issue followed.

Miles Carpenter discussed the features of the waterfront found in Beauford, South Carolina.

Mr. Schweikert called for any final comments from Commissioners.

Ms. Sibley asked for an indication of where water level and street level were on the transect plan.

Mr. Montessi indicated both.

Ms. Sibley questioned whether anyone could see over the cars.

Mr. Montessi felt that they could.

There being no further testimony, the hearing was closed at 9:05 p.m., the record being kept open for one week.

FINDINGS AND CONDITIONS

The Commission has considered the application and the information presented at the public hearing and based upon such considerations, makes the following findings pursuant to Section

14 of the Act.

- A. The Commission finds that the probable benefits of the proposed development, subject to the conditions set forth 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 of Tisbury or any general plan of the County of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plans, and subject to the conditions set forth herein, will be consistent with local development ordinances and by-laws.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or development occurring in alternative locations.

Pursuant to Section 15(b) of the Act, the Commission has considered whether the proposed development in the manner proposed will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER OF MAY 21, 1992 TO PROVIDE TWENTY-FOUR (24) HOUR ACCESS ACROSS SAID LOT TO THE WATERS EDGE; SAID ACCESS PATH TO BE PROVIDED IN A SAFE, CONVENIENT AND CLEARLY DEFINED MANNER, IDENTIFIED BY AN EASILY READABLE SIGN AT THE SIDEWALK END AND THAT THE BEACH ACCESS SHALL BE FOR THE PURPOSES OF PROVIDING PEDESTRIAN ACCESS TO AND FROM THE WATER'S

EDGE, AND FURTHER, THE APPLICANT SHALL PROVIDE TO THE TOWN OF TISBURY AN EASEMENT FOR THE PURPOSES OF LATERAL PUBLIC ACCESS BELOW MEAN HIGH WATER FOR THE PURPOSES OF STROLLING AND PICKNICKING;

Pursuant to Section 15(b) of the Act, the Commission has considered whether the proposed development in the manner proposed will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER TO HAVE A QUALIFIED SOILS TESTING LABORATORY OR FIRM TEST AND EVALUATE ANNUALLY THE SURFACE OF THE LOT TO DETERMINE THE LEVEL OF CONTAMINATION PRESENT, IF ANY, AND TO RECOMMEND A REPLACEMENT SCHEDULE WITH SAID SCHEDULE BEING SUBMITTED TO THE MARTHA'S VINEYARD COMMISSION FOR THE FILE AND FURTHER, SAID SURFACE REPLACEMENT SCHEDULE TO BE FOLLOWED BY THE APPLICANT AND PROOF THEREOF TO BE SUBMITTED TO THE MVC AND THE TISBURY BOARD OF HEALTH FOR THEIR APPROVAL AND ACCEPTANCE.

Pursuant to Section 15(c) of the Act, the Commission has considered 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 and in light of said consideration has set the following condition:

THAT THE COMMISSION ACCEPTS THE APPLICANT'S OFFER AS PER HIS LETTER DATED 4 SEPTEMBER 1992, THAT HE WILL ENGAGE A TRAFFIC CONSULTING FIRM TO ANALYZE THE OPERATING PROCEDURES DURING THE FIRST YEAR AND MAKE RECOMMENDATIONS THAT WILL RESULT IN IMPROVING THE PERFORMANCE OF THE PARKING LOT. SAID RECOMMENDATIONS SHALL BE REVIEWED BY A COMMITTEE COMPOSED OF THE APPLICANT AND/OR HIS CONSULTANT, A REPRESENTATIVE OF THE TOWN OF TISBURY PLANNING BOARD, A REPRESENTATIVE OF THE LAND USE PLANNING COMMITTEE OF THE MARTHA'S VINEYARD COMMISSION, THE CHIEF OF POLICE OF THE TOWN OF TISBURY OR A REPRESENTATIVE THEREOF, AND THE SUPERINTENDENT OF THE DPW OF THE TOWN OF TISBURY. SAID COMMITTEE SHALL DETERMINE THE ACCEPTABILITY OF THE SCOPE OF THE TRAFFIC AND OPERATING PROCEDURES STUDY AND ANY RECOMMENDED IMPROVEMENTS TO THE OPERATION OF THE PROPOSAL AND SHALL REPORT ITS FINDINGS TO THE FULL MARTHA'S VINEYARD COMMISSION FOR APPROVAL. THE ANALYSIS TO BE UNDERTAKEN SHALL ADDRESS, AMONG OTHER FACTORS, THE IMPACT UPON THE IMPEDIMENTS TO, IF ANY, PASSAGE OF EMERGENCY VEHICLES ALONG THE BEACH ROAD CORRIDOR IN THE AREA OF THE PROPOSAL, THE NUMBER OF VEHICLES ON-SITE, THE LOCATION OF ACCESS EGRESS POINTS, HOURS OF OPERATION, PERCENTAGES OF EMPLOYEE, LONG TERM, SHORT TERM PARKING, BOAT STORAGE, IMPACTS UPON

SURROUNDING INTERSECTIONS AND STREETS.

Pursuant to Section 15(f) of the Act, the Commission has considered whether the proposed development will use efficiently or burden unduly existing public facilities or those which are to be developed within the succeeding five years and in light of said considerations sets the following condition:

THAT THE APPLICANT SHALL MAKE A MONETARY CONTRIBUTION TO THE MARTHA'S VINEYARD TRANSIT AUTHORITY IN THE AMOUNT OF FOUR THOUSAND DOLLARS (\$4,000.00) FOR THE PURPOSES OF ASSISTING THE TRANSIT AUTHORITY IN PROVIDING A TRANSIT SHUTTLE SYSTEM IN THE TOWN OF TISBURY; SAID DOLLAR AMOUNT BEING RESTRICTED AND RESERVED FOR THIS USE AND THIS USE ONLY; SAID MONETARY CONTRIBUTION TO BE MADE AVAILABLE TO THE TRANSIT AUTHORITY ONLY IN THE EVENT THAT THE TISBURY SHUTTLE SYSTEM IS ESTABLISHED AND OPERATING WITHIN FIVE (5) YEARS OF THE DATE OF THIS DECISION.

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: July 8, 1993.

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 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 therein.

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.

Michael J. Donaroma
Michael J. Donaroma, Chairman

7/8/93
Date

Norman Friedman
Notary

7/8/93
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 10, 1997

Edgartown, Mass. July 9 1993
at 2 o'clock and 45 minutes PM
received and entered with Dukes County Deeds
book 609 page 490
Attest: *Suzanne W. King*
Register