

THE MARTHA'S VINEYARD COMMISSION

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DATE: June 16, 1994
 TO: Board of Selectmen, Town of Gay Head
 FROM: Martha's Vineyard Commission
 SUBJECT: Development of Regional Impact
 RE: operation of a small bicycle ferry across
 Menemsha Harbor
 APPLICANT: Hugh Taylor
 RR1 Box 171
 Gay Head, MA 02535

 DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application of Hugh Taylor, RR1, Box 171, Gay Head, Massachusetts, for the operation of a small ferry across Menemsha Harbor for the purposes of transporting bicycles from the easterly shore of Menemsha Harbor in Gay Head to the westerly shore of Menemsha Harbor in West Basin also in Gay Head as shown on the following sheets in reference thereto:

- one copy of a portion of a map produced by the U.S. Army Corps of Engineers depicting a channel condition survey and indicating the proposed ferry routing in blue marker.
- a rough unnamed map indicating bulkhead lines along Menemsha Inlet and showing the proposed pier to be used on the easterly shore of Menemsha Harbor.
- a locus map on a portion of a USGS quadrangle indicating the proposed location of the ferry service.

The number of sheets comprising the plan submittal totals three (3), the Plan.

This Decision is rendered pursuant to the vote of the Commission on June 16, 1994.

The Board of Selectmen of the Town of Gay Head may now grant the necessary permits for the Applicant's proposal in accordance

with the conditions contained herein, or may grant the necessary permits for the development proposal in accordance with the conditions contained herein and may place further conditions therein 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 3.101. The Application was referred to the Commission by the Board of Selectmen of the Town of Gay Head requesting that the proposal be designated as a Development of Regional Impact pursuant to Chapter 831 of the Acts of 1977 as Amended (the Act).

A duly noticed public hearing on the request for designation was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 on Thursday, September 16, 1993 at 8:00 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Ma. Following the testimony presented, the Commission voted to designate the Application as a Development of Regional Impact and scheduled a hearing for Thursday, November 18, 1993 at 7:36 p.m.

A duly noticed public hearing was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 on Thursday, November 18, 1993 at 7:36 p.m. in the Old Whaling Church, Main Street, Edgartown, Ma. The hearing was opened and immediately continued to Thursday, December 2, 1993.

A duly noticed continued public hearing was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 on Thursday, December 2, 1993 at 7:35 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Ma. Following the testimony received, the hearing was continued to a future date.

A duly noticed continued public hearing was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, on Thursday, May 19, 1994 at 8:30 p.m. in the Commission offices,

Olde Stone Building, New York Avenue, Oak Bluffs, Ma.. The hearing was closed the same night.

A summary of the testimony received at the hearings is provided as Exhibit A attached hereto. This summary is for the convenience of the reader only and was not relied upon by the Commission in reaching its decision in this matter.

The proposal is for the operation of a small ferry service across Menemsha Harbor for the purposes of transporting bicycles across said harbor.

FINDINGS AND CONCLUSIONS

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 WILL EXCEED THE PROBABLE DETRIMENTS OF THE PROPOSAL AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT. (SECTION 14(A) OF THE ACT).
1. BASED UPON THE RECORD AND THE TESTIMONY PRESENTED THEREIN, THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT AT THIS LOCATION IS APPROPRIATE IN VIEW OF AVAILABLE ALTERNATIVES. (SECTION 15(A) OF THE ACT).

The Commission does feel that the proposal is appropriate in the location proposed in light of the conditions as set forth herein in that it will offer an alternative means of moving bicycle riders between Gay Head and the rest of the Island and will aid in eliminating the conflicts currently existing between motor vehicles and bicycle riders along State Road in Gay Head and Chilmark:

Condition #1

THAT THE BOARD OF SELECTMEN OF THE TOWN OF GAY HEAD SHALL ISSUE A USAGE LICENSE ON AN ANNUAL BASIS FOR THE PROPOSED OPERATION OF THE FERRY SERVICE.

CONDITION #2

THAT THE BOARD OF SELECTMEN OF THE TOWN OF GAY HEAD SHALL SET A RATE SCHEDULE FOR THE FEES TO BE CHARGED BY THE PROPOSED FERRY SERVICE; SAID RATE SCHEDULE TO BE REVIEWED ANNUALLY AT THE TIME OF ISSUANCE OF THE LICENSE.

CONDITION #3

THAT THE HOURS OF OPERATION SHALL BEGIN NO EARLIER THAN 7 O'CLOCK AM AND SHALL CEASE NO LATER THAN 7 O'CLOCK PM.

CONDITION #4

THAT THE OPERATION OF THE PROPOSED FERRY SERVICE SHALL BE REVIEWED BY THE BOARDS OF SELECTMEN OF THE TOWNS OF GAY HEAD AND CHILMARK ALONG WITH THE MARTHA'S VINEYARD COMMISSION JOINTLY AT THE REQUEST OF THE BOARDS OF SELECTMEN OF SAID TOWNS SHOULD EITHER OR BOTH BOARDS PERCEIVE THERE TO BE A PROBLEM AT ANY TIME IN THE FUTURE DURING THE OPERATION OF THE PROPOSED FERRY SERVICE.

The Commission has considered the factors set forth in Sections 15(b), (c), (d), (e), (f), (g) and (h) of the Act and has found that such factors were not pertinent to the issues raised by the proposed project.

- B. THE COMMISSION FINDS THAT THE PROPOSAL WILL NOT UNREASONABLY INTERFERE WITH THE ACHIEVEMENTS OF THE OBJECTIVES OF THE GENERAL PLAN OF GAY HEAD AND/OR THE REGIONAL ISLAND PLAN (SECTION 14(B) OF THE ACT).
- C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS GENERALLY CONSISTENT WITH DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF GAY HEAD. (SECTION 14(C) OF THE ACT)
- D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS WITHIN A DISTRICT OF CRITICAL PLANNING CONCERN AND IT GENERALLY CONSISTENT WITH THE REGULATIONS ADOPTED FOR SAID DISTRICT. (SECTION 14(D) OF THE ACT)

The Commission approves the Application and permits the Board of Selectmen of the Town of Gay Head to grant the necessary development permit or license.

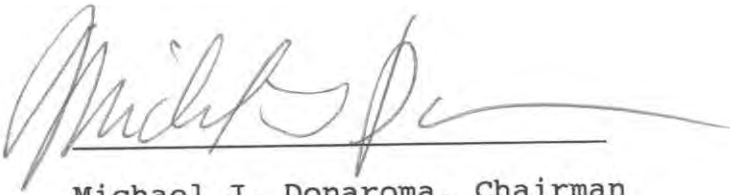
The Decision is written consistent with the vote of the Commission: June 16, 1994

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 determination of the Commission may

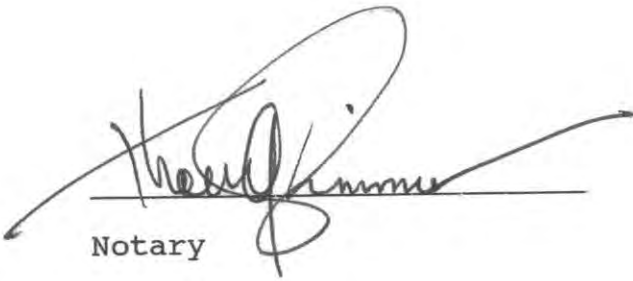
appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.



Michael J. Donaroma, Chairman

6-16-94

Date



Notary

6/16/94

Date

Thomas R.G. Simmons
Notary Public
My Commission Expires August 11, 2000

EXHIBIT ASUMMARY OF THE HEARING TESTIMONY (9/16/93)

The Martha's Vineyard Commission held a public hearing on Thursday, September 16, 1993 at 8:00 p.m. in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA, for the purposes of determining whether the following should be designated as a Development of Regional Impact (DRI):

Proposal: operation of a ferry service across Menemsha Pond

Designation

Requested By: Gay Head Board of Selectmen

Linda Sibley, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the hearing for testimony at 8:04 P.M. She read a letter from the Gay Head Selectmen.

Walter Delaney, Chairman, Board of Selectmen, Town of Gay Head, discussed the concern of the Selectmen and that being a traffic issue on the Chilmark side of the Pond. He further discussed the reasons why the Selectmen supported the proposal. - to remove the bicycles from the State Road to eliminate the conflicts presently existing.

Ms. Sibley then read a letter from the Chilmark Board of Selectmen regarding the issue of parking in Menemsha and requesting designation of the proposal as a DRI.

Ms. Sibley then asked to have the operators of the proposed ferry systems discuss the proposal.

Hugh Taylor of Gay Head discussed his operation and the fact that most of their traffic was bicycle oriented. He indicated that the non bicycle traffic appeared to be people who lived in or around the Menemsha area who want to use the less crowded areas of the Gay Head beaches or locals from Gay Head who are shopping or working in Menemsha. He discussed the possibility of parking on the Noltham lot.

David Thompson, the second applicant, indicated that 90% of his service was for bicycles. He also felt that any non bicycle traffic was local people only. He indicated that maybe 40 or 50 bikes were ferried across the Pond on a busy day. He further discussed the need for more thought into off-site parking for all businesses.

He then discussed the type of boat used, the certification required.

There was no staff report since the issue before the Commission was one of whether the proposals should be designated as DRIs.

Ms. Sibley asked if there were any members of the public who wished to testify that the proposal should be designated as a DRI. There were none.

Ms. Sibley asked if there were any members of the public who wished to testify that the proposal should not be designated as a DRI. There were none.

Ms. Sibley asked if there were any members of the public who wished to testify at all. There were none. She then asked for Commissioner questions.

Ms. Riggs asked how often the service operated. Both parties indicated that it was on-demand service. Ms. Riggs then asked for length of service. - May to Oct? Mr. Taylor discussed the time period and that everything would hinge on how early the bikers would arrive. Mr. Thompson discussed the use by early in the day riders and that the large groups of bikers off the ferries arrived around noon. Ms. Riggs discussed her experience at operating a similar system in Maryland and felt the proposal was a safety measure.

Mr. Sargent discussed limiting usage to bikers only. Mr. Taylor discussed the patronage of the ferry to date.

Mr. Briggs asked how schedules were handled and fares charged. Both proponents discussed the rates used.

Ms. Greene questioned workers usage of the system. Both discussed local workers using the ferry to get home after work.

Ms. Riggs questioned how many persons were qualified to operate the vessels. Both parties indicated a combined total of seven.

Ms. Sibley questioned what type of license was required. Mr. Delaney discussed what the Town required and the fee imposed. A discussion of suspension of the operation and that it was a one year trial followed.

Mr. Chapin asked whether there had been any problems during the current season. Mr. Delaney indicated that he was not aware of any complaints.

Mr. Colaneri questioned what might constitute a parking problem. Mr. Delaney discussed the West Basin area in Gay Head and that there was no parking since it was a State Highway. He further discussed the parking areas in use and how it was handled.

Mr. Sargent discussed the parking issue in the West Basin area.

A discussion of which item on the checklist the proposal may fall under followed.

There being no further discussion or testimony the hearing was closed at 8:27 P.M.

SUMMARY OF THE HEARING TESTIMONY (11/18/93)

The Martha's Vineyard Commission held a public hearing on Thursday, November 18, 1993 at 7:36 p.m. in the Olde Whaling Church, Main Street, Edgartown, MA on the following:

Applicant:	Hugh Taylor RR 1, Box 171 Gay Head, MA 02535 and David Thompson P.O. Box 510 Chilmark, MA 02535
Location:	Menemsha Harbor Gay Head/Chilmark
Proposal:	operation of a bicycle ferry service from and to Gay Head and Chilmark across Menemsha Harbor qualifying as a DRI since the MVC has so designated the same pursuant to § 14(e) of Chapter 831.

Following the reading of the notice at 7:45 P.M., Ms. Sibley immediately continued the hearing until December 2, 1993 in the MVC offices, Oak Bluffs, MA.

SUMMARY OF THE HEARING TESTIMONY (12/2/93)

The Martha's Vineyard Commission held a continued public hearing on Thursday, December 2, 1993, at 7:35 p.m. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, on the following Development of Regional Impact (DRI):

Applicant:	Hugh Taylor RR 1, Box 171 Gay Head, MA David Thompson P.O. Box 510 Chilmark, MA
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Location: Menemsha Harbor
Gay Head - Chilmark

Proposal: Operation of a bicycle ferry service across Menemsha harbor to and from Gay Head and Chilmark qualifying as a DRI since the MVC has so designated pursuant to § 14(e) of Chapter 831.

Ms. Sibley read a note from the Executive Director regarding the David Thompson application and a pending court case. Since ZBA has denied proposal, then a withdrawal is suggested pending settlement or a zoning change proposed for town meeting.

Catherine Kittredge, David Thompson's wife, discussed the matter and questioned how quickly the MVC could act once the zoning issue was resolved. She noted that she was not sure how to proceed.

A discussion of the applications and their status followed.

A discussion of how the referral was made to the Commission followed. A discussion of how the entire town vote took place and when followed. Ms. Kittredge explained what was appealed and what was allowed.

Ms. Sibley indicated that she saw no harm in hearing the application and that the applicant could withdraw prior to any decision. A discussion of how to proceed followed.

A discussion of the past history of the Thompson operation in Chilmark followed. A discussion of continuance followed. It was decided to hear the Hugh Taylor portion first.

Hugh Taylor, applicant, explained how his lease worked in the Town of Gay Head. He then discussed the background of the referral and how it came to the MVC. He discussed his potential impact on Chilmark.

Mr. Taylor then discussed his operation, location and visibility. He described the type of vessel and the hours of operation - roughly 7 a.m. to 7 p.m. He noted that local children also used the service to get from one town to the other.

Mr. Hall questioned whether passengers alone were carried.

Mr. Taylor noted that his lease with Gay Head required that town residents travel for free to get to stores in Menemsha.

He indicated that he did not care to carry passengers. A discussion of beach access followed.

Ms. Bryant questioned handicapped access and parking. Mr. Taylor noted that he felt the users parked in West Basin on the Gay Head side but rarely carried passengers from Chilmark who had come by car. He then discussed the issue of handicapped access.

A discussion of access to the beaches in Gay Head followed and Mr. Taylor noted that parking was a major issue.

Mr. Briggs questioned whether the lease prohibited passengers. Mr. Taylor discussed the issue further.

Ms. Greene questioned if a survey could be done to determine how people got to Menemsha. A discussion of this matter followed. A discussion of the use of North Road and South Roads for bikes followed.

Mr. Schilling, MVC staff, gave the staff report and discussed the operation of the proposal. He then discussed the issue of parking in West Basin and Menemsha.

Mr. Schweikert questioned whether there were shuttle buses in the area. Mr. Schilling indicated no. A discussion of this matter followed.

A discussion of the number of parking spaces available in the Menemsha area followed.

Ms. Sibley questioned whether there was a need for urgency on a decision. Mr. Taylor indicated no for any needed signage and maps.

Ms. Sibley discussed the possibility of a continuance. A discussion of this matter followed.

Ms. Sibley decided that it would be best to take testimony only from those who were here to comment on the Taylor DRI and then continue the hearing.

A discussion of procedural matters relating to the

separation of the two DRIs followed.

Ms. Kittredge noted that she would be away for two months. Ms. Sibley permitted her to present her testimony. Ms. Kittredge discussed the operation of the Taylor proposal, the type of vessel, the licenses required, the handicapped access and other related matters.

Mr. Best questioned the use the previous season. Ms. Kittredge indicated about 2,000 w/bikes and maybe 75 without from Memorial Day to October 15. A discussion of any differences between the two operations followed.

Ms. Sibley questioned the issue of parking. Ms. Kittredge noted that they were negotiating for off site parking somewhere off North Road.

Ms. Sibley then called for town boards.

Herbert Hancock, Chilmark Selectman, spoke for the Board.

He felt that parking was the main issue and hoped that it could be restricted to bicycles only and perhaps small children.

He also hoped that bikes would use North Road and stay off South Road.

Ms. Greene raised a question regarding annual licensing.

A discussion of this matter followed. He indicated that an annual review would be fine.

Ms. Bryant questioned the point of unloading and should they be similar. A discussion of this matter followed.

Ms. Greene asked if there were objections to pedestrians using the service such as pedestrians using the store. A discussion of this matter followed.

Mr. Colaneri questioned where the ferries would go. A discussion of this matter followed.

Mr. Schweikert questioned whether the Selectmen favored the Chilmark service. Mr. Hancock indicated no. In response to a similar question regarding the Gay Head service he felt they would live with it.

A discussion of what the ZBA had done followed.

Ms. Sibley asked for clarification regarding the Gay Head service. Mr. Hancock indicated that the Chilmark Board of Selectmen didn't believe that such a use should occur there because of location and traffic. He hoped that the Gay Head service could be restricted to bicycles only.

Mr. Schweikert questioned whether the Gay Head Selectmen favored the proposal. A discussion of this matter followed.

Ms. Sibley then called for testimony from the public in favor.

Dorothy Packer, Menemsha Market, noted that many bikers were pleased to find such a service and discussed the issue of parking. She indicated she was in favor of the use.

Ms. Sibley then called for testimony in opposition - there was none.

She then asked for any other testimony - there was none.

Ms. Sibley then asked for any final comments. Mr. Taylor indicated he would have no problem with a limit to bicycles only.

A discussion of continuation of the hearing followed.

Ms. Sibley then continued the hearing to a date to be noticed in the future.

SUMMARY OF THE HEARING TESTIMONY (5/19/94)

The Martha's Vineyard Commission held a continued public hearing on Thursday, May 19, 1994 at 8:30 p.m. at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Ma. regarding the following Development of Regional Impact (DRI).

Applicant: Hugh Taylor
RR1 Box 171
Gay Head, MA 02535

Location: Menemsha Harbor
Gay Head, MA

Proposal: operation of a Bicycle Ferry Service in Gay Head across Menemsha Harbor

Linda Sibley, Chairman of the Land Use Planning Committee, read the hearing notice and opened the hearing for testimony at 9:35 p.m.

Mr. Clifford explained this DRI's history. He stated that Mr. Taylor is the only bicycle ferry service before the Commission at this hearing. It has been separated from a previous application which included another service as well. Mr. Taylor seeks permission to run his ferry solely within Gay Head.

Ms. Sibley called upon the applicant for his presentation.

Mr. Taylor explained his proposal to transport pedestrians and bicyclists from the Menemsha side of the Harbor to West Basin in Gay Head. He explained his proposed advertising method to target bicyclists. He explained his lease with the Gay Head selectmen and their scrutiny of his operation. He stated that he is carrying 500,000 liability insurance as part of his lease agreement with Gay Head. He stated that most of his pedestrian passengers are local residents, and he would like to continue being able to service local pedestrians. He stated that the Gay Head Selectmen are requiring him in the lease to service Gay Head residents since he is using the Gay Head Town dock. He also explained his capacity and licenses.

Ms. Gallagher asked about the cost. Mr. Taylor responded \$3.00 one way - \$5.00 round trip. He stated he hopes to run continuously from 7:00 A.M. to 7:00 p.m.

Mr. Schweikert asked if foot passengers were somehow limited. Mr. Taylor responded that he is aware of Chilmark's concern that motorists will park in Menemsha and take the ferry, but last year his foot traffic was almost exclusively local residents. He didn't feel there was a problem, though he couldn't see himself refusing passage to a pedestrian who was not a local resident. There is no restriction.

Ms. Sibley called upon town boards for testimony. Alex Preston, Chilmark Planning Board, stated many townspeople are in favor of the bike ferry, but fear what will happen if people begin driving and parking in Menemsha to take the ferry. Ms. Sibley queried whether Chilmark could control that through time limitations on parking. Mr. Preston reiterated the parking difficulties in Menemsha.

Pam Goff, Chilmark Selectman, stated that parking time limits have been considered, but this doesn't seem popular with many town residents. She favored attracting more bicycle traffic to North Road, and that the Selectmen support the bicycle ferry as a bicycle ferry.

Mr. Schweikert asked if bus service was available to Menemsha. Ms. Goff said no.

Ms. Sibley called for proponents.

Chris Murphy favored the ferry, and asked if the Commission could modify their decision so as to allow for jurisdiction and modification in the future.

Russell Walton spoke as an EMT in favor of removing bicycles from the State Highway and bringing them up North Road.

Phil Smith, a Menemsha resident, was "highly" in favor and suggested a future review could address increased parking problems if they occur.

Ms. Sibley called for opponents. There were none.

Ms. Sibley called for general testimony.

Ms. Greene asked Mr. Taylor if he would provide emergency services gratis. Mr. Taylor replied yes, he already had this past summer. Mr. Walton expressed general support from the Planning Board. Mr. Taylor stated he had no aversion to periodic review. There being no further testimony the hearing was closed at 10:00 p.m.

Edgartown, Mass. June 29 1994
at 8 o'clock and 30 minutes A M
received and entered with Dukes County Deeds
book 636 page 564