

THE MARTHA'S VINEYARD COMMISSION

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Date: August 19, 1999

To: Building Inspector
Town of West Tisbury

From: Martha's Vineyard Commission

Subject: Development of Regional Impact
re: commercial development

Applicant: Eleanor Pearlson
Old Farm Road
Chilmark, MA 02535

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 Eleanor Pearlson, Old Farm Road, Chilmark, MA 02535, for the construction of a commercial development in the Business District of the Town of West Tisbury as shown on the plans entitled: "Tea Lane Offices, Landscape Master Plan, Vineyard Gardens Landscape Design and Construction, RR No. 1, Box 483A, Vineyard Haven, MA 02568, scale: 1" = 20', August 9, 1999," consisting of one (1) sheet; plus "Tea Lane Offices, Site Plan, Peter James Breese, Architect, Post Office Box 2726, Vineyard Haven, MA 02568, scale: 1" = 20', undated," consisting of one (1) sheet; plus "Drainage Plan of Land in West Tisbury Prepared for Tea Lane Associates, April 12, 1999, scale: 1" = 20', Vineyard Land Surveying, Inc., Post Office Box 421, Cournoyer Road, West Tisbury, MA 02575, revised 5-13-99, 6-1-99, 8-6-99," consisting of one (1) sheet; plus a series of eight (8) sheets depicting various aspects of the floor plan and facades of the proposed building, of varying scales, submitted by Peter James Breese, Architect, Vineyard Haven, Mass., and totaling eleven (11) sheets (the Plan).

This Decision is rendered pursuant to the vote of the Commission on August 19, 1999.

The Building Inspector of the Town of West 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 3.301a. The Application was referred to the Commission by the Building Inspector of the Town of West Tisbury for action pursuant to Chapter 831 of the 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, July 15, 1999 at 7:30 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 a commercial development in the Business District in West 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 considerations 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 Commission accepts the Applicant's presentation and revised landscaping plan, referred to on page 1 of this Decision, entitled "Tea Lane Offices, Landscape Master Plan, Vineyard Gardens Landscape Design and Construction, RR No. 1, Box 483A, Vineyard Haven, MA 02568, scale: 1" = 20', August 9, 1999," which includes, among other items, large shade (maple and ash) and ornamental (pear) trees; and further**
 - b. **That the Commission accepts the lighting plan as presented and as indicating recessed lights within the soffit areas which are downwardly aimed and which shall be lit only during normal business hours, with the exception of an entrance light for the residential apartment should one be ultimately approved by the Town; and further**
 - c. **That the lighting for the exterior sign shall be turned off after 10:00 p.m. and shall be constructed and angled in such a manner so as to illuminate only the sign itself and nothing else; and further**
 - d. **That the Applicant shall provide on the plan sufficient space for the inclusion of parking spaces 15 through 21, but that the Applicant shall refrain from constructing said spaces until a need for them can be demonstrated to the Site Review Committee of the Planning Board of the Town of West Tisbury.**

2. 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 conditions (Section 15(d) of the Act):
 - a. **That the Commission accepts the Applicant's offer to provide the sum of Two Thousand One Hundred Dollars (\$2,100) to the Dukes County Regional Housing Authority in accordance with the Martha's Vineyard Affordable Housing Policy, said sum to**

be provided upon the granting of a building permit by the Town of West Tisbury; and further

- b. That the Applicant shall be required to apply to the Zoning Board of Appeals for permission to create an apartment on the second floor of the proposed commercial building and shall be required to provide said apartment when and if, and only if, permission is granted by the aforementioned Town Board.

Further, the Commission recommends that the Applicant apply to the Massachusetts Highway Department for permission to remove the deceased evergreen trees which stand within the Right of Way of the State Highway and to replace same with the appropriate shade trees.

- 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 WEST 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 West 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: August 19, 1999.

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.

Richard J Toole
Chairman

Aug 23, 1999
Date

Irene Miller Fyler
Notary Public

August 23, 1999
Date



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

EXHIBIT A

Public Hearing: Pearlson Office Building, Town of West Tisbury (DRI #496).

Michael Donaroma, Chairman of the Land Use Planning Committee (LUPC) and the Selectmen's Appointee from Edgartown, opened the Pearlson Office Building Public Hearing by reading aloud the Notice of Public Hearing.

"The public is invited to a Hearing concerning the following Development of Regional Impact (DRI #496):

Applicant: Eleanor Pearlson
Tea Lane Associates, Inc.
Old Farm Road
Chilmark, Mass.

Location: State Road (North Tisbury Business District)
West Tisbury, Mass.
West Tisbury Assessor's Map 16, Lot 100

Proposal: To construct a two-story building for offices and a studio apartment. Project includes a parking lot and site landscaping.

Date and Time: Thursday, July 15, 1999, at 7:30 p.m.

Place: Martha's Vineyard Commission
Second Floor Conference Room
Olde Stone Building
New York Avenue
Oak Bluffs, Mass.

A copy of the Application and Plan are on file at the Commission Offices for public inspection. Written testimony may be submitted prior to or during the Hearing.

This Hearing is held in accordance with Section 14 of Chapter 831 of the Acts of the Commonwealth of 1977, as amended, and Chapter 30A, Section 2, of the General Laws of the Commonwealth, as modified by said Chapter 831."

Applicant's Presentation.

Peter James Breese introduced himself as **the architect** who had designed the office building. He also introduced Jim Hogan, there to represent Tea Lane Associates, Inc., and Glenn Provost, a civil engineer, who had done the siting. He noted that David LaRue from Vineyard Gardens, who had designed the landscape plan and done the analysis of the existing vegetation, could not be present that evening.

Mr. Breese began by remarking that the written summation provided by MVC Staff member David Wessling and distributed to the Commission members provided a good overview of the project, a "plus-or-minus-4,000-square-foot office building," as he described it, 30 feet high. [The referred-to document, Staff Notes dated July 12, 1999, can be found in the Meeting File of July 15, 1999, as well as in the DRI File.]

Mr. Breese explained that two plans had been developed for the site. The building's size required 27 parking spaces, he continued. If the Commission demanded more planting on the site, then the number of parking spaces would be reduced; however, the Applicant was pursuing approval for the 27 spaces. [In Mr. Wessling's LUPC report, the number of

spaces is given as 28; in the Staff Notes, the number provided is 19. This discrepancy was addressed later in the Meeting. See page 6, paragraph 6, of these Minutes.]

The building would be set back 40 feet from the front property line, Mr. Breese continued. Between the edge of State Road and the front property line there was an additional green space, about 18 feet in width, maintained by the State. He pointed out that the landscape plan showed that State-controlled area as clear; actually, what would go there was up to the State. Currently, he noted, there were pitch pines "that have reached the end of their life span" in that area.

John Best, a Commission member at large from Tisbury, asked Mr. Breese to "locate [the building] vis-a-vis other buildings on State Road." Mr. Breese related that on the Vineyard Haven side was a small antiques store in a structure previously used by Brickman's; on the west side toward West Tisbury was a little red house. "The red house is still within the Business District," explained Mr. Breese, "but is currently used for strictly residential use."

The proposed building would be positioned to the east side of the site, continued the architect, because with the new Martha's Vineyard Co-operative Bank structure and the small antiques store, the office building would complete a zone of building, using the relationship of the buildings as a substructure for that commercial area. The driveway had been brought around the far side, he explained, to increase its distance from the driveway shared by the bank and the store.

There was a brief discussion among the Commission members about where exactly the site was. Mr. Donaroma asked if there were any other questions from the members about the location. Michael Colaneri, a Commission member at large from West Tisbury, asked what the setback was in that area; 30 feet, replied Mr. Breese. And the height of the building will be 30 feet? asked Mr. Colaneri. Right, said Mr. Breese. "It's not in the Roadside District," pointed out Lenny Jason, Jr., the County Commission representative.

Mr. Donaroma asked about the lighting plan. Mr. Breese explained that there would be lighting on the porch itself, but not shining up onto the building. In addition, there would be a small wooden sign that would be lighted until the timers in that district turned them off at 10 p.m. There were no sidewalks at present, but there would be a stone walkway that could connect with any future sidewalk, said Mr. Breese. And the lights would be pointing down, in the soffits over the porch? asked Mr. Colaneri. Yes, replied Mr. Breese.

Mr. Best inquired as to the nature of uses on the site. Mr. Breese replied that on the first floor would be a real estate office. Before he answered fully, Mr. Jason asked if there would be just one curb cut. There was some discussion of drainage on the site and where the driveway would be placed. Mr. Jason wondered if the driveway could be moved over so that when the house next door became commercial, it could share the driveway with the office building. "I believe we could do that," said Mr. Breese. There was further discussion about the driveway and the location of a utility pole.

John Early, the Selectmen's Appointee from West Tisbury, wanted to know if any thought had been given to linking the properties in this subsection along the back of the rear property lines. **Glenn Provost, the engineer who had done the site plan**, said that location of the leaching field of the office building would be a problem; there was no other location for the field other than along the back. Using the site plan, he explained the reasons for the present design, how, for instance, a low area in front was being utilized for natural drainage. He added that if the leaching field were moved and cars would be driving over it in the back, there then would have to be additional vents, something that had been done at the Martha's Vineyard Co-operative Bank nearby.

Mr. Provost continued, noting that the linkage across the back of the properties was a possibility that would require some cooperation with the other business owners. Mr.

Jason and Robert Zeltzer, a Commission member at large from Chilmark, continued to discuss such linkage. Then Mr. Colaneri pointed out that in a letter to the Commission regarding this project, the West Tisbury Fire Chief had expressed concern that there was no place for a fire truck to turn around at the site. Mr. Colaneri suggested that linkage around the back would provide such an area.

Mr. Best asked once more about the uses on the site. Mr. Breese explained how Tea Lane Associates would have a first-floor office, along with storage space in the basement. He pointed out where the handicapped-accessible bathroom, a reception area and a kitchen would be, as well as a shared conference room. Mr. Breese's future architectural office would also be in the building, on the second floor, in addition to a studio apartment or an additional office space.

Mr. Jason wanted to know where the elevator was. "The handicapped lift is right here," said Mr. Breese, pointing to a space next to the reception area. Mr. Jason wondered if the Applicant had the variance for the lift. No, said Mr. Breese, not yet.

Linda Sibley, a Commission member at large from West Tisbury, wanted a more detailed description of the landscaping, which Mr. Breese provided. Mr. Donaroma and Mr. Jason joined in the discussion of the landscaping, with Mr. Donaroma translating some of the Latin names of the plants to be used and providing some information about pear trees.

Ms. Sibley also pointed out that when the Commission had considered the Martha's Vineyard Co-operative Bank project, they had asked for an easement to the Town across the back in case a linkage plan was ever developed. The bank had also granted an easement inside their property line for a bicycle or walking path, in case it was not feasible to do such a path on the State property, she said.

Mr. Provost then returned to the drainage issues and the natural low areas in front that they hoped to utilize for drainage. They were trying to keep construction and equipment out of that area so that when the water ran off the parking lot, it would naturally go down into those low areas. He also pointed to two settling basins, explaining, "If the water filled in quicker than the rate it was going out, it would go into these settling basins, and then it would go in a pipe out here to a leaching area for the stormwater." So if something were constructed in that area, it would seriously impact the drainage system being proposed, Mr. Provost said.

Mr. Colaneri then discussed the potential problem if the driveway were moved, as had been proposed. "No, I don't think so," said Mr. Provost, "because we're just shifting." Mr. Jason wondered about moving the basins more to the east, but Mr. Provost explained that they were trying to keep the drainage system as natural as possible.

Staff Report: David Wessling, Commission Staff Member.

Mr. Wessling began by noting that Messrs. Breese and Provost had described the project accurately. The site was about an acre of land, he said, which basically sloped from the back to the front. Very little of the natural contour would be changed, mostly to divert the flow of water off the lot, he explained.

Mr. Wessling pointed out that the proposal would drastically alter the landscape pattern of the site. Trees and shrubs would be removed to construct the building, parking area and underground structures (that is, the septic and drainage systems). Moreover, after development the building would be quite visible along the road. West Tisbury's zoning bylaw, Mr. Wessling continued, required a 40-foot buffer between the residential zone and the business zone, and the current plan provided for less than that. The bylaw also required a 20-foot green belt.

Mr. Wessling then reviewed the two letters reproduced in the Staff Notes. As noted earlier by Mr. Colaneri, he said, the Fire Chief wanted a turnaround area for trucks. [The letter read: "[T]he only thing I have a problem with is I don't see any place to turn a fire truck or any truck around. This situation must be addressed."] In her letter the West Tisbury Chief of Police supported the proposal but was concerned about the sight lines. ["I would like to see a fairly wide driveway with the brush kept back for clear visibility of on-coming traffic. Clear access and egress is most important."]

MVC Transportation Planner Andrew Grant, as well as Mr. Wessling, had looked at the traffic generation rates and had concluded that they would be a bit higher than the Applicant had suggested, although the project should not have any detrimental effect on State Road traffic, said Mr. Wessling.

There was also a letter from the West Tisbury Planning Board, which had been distributed to the Commission members. The Board expressed some concern about the relationship of the site to the Greenlands Water Resource Protection District. Thus, the Board wished to minimize the amount of paving and required parking. In addition, in order to preserve as much of the Town's rural character as possible, they recommended that as much of the parking area as possible be located behind the building, said Mr. Wessling.

The final point made by the Planning Board was that although under current zoning bylaw a variance was required for the studio apartment, they strongly supported the provision of housing.

Mr. Wessling remarked that there was also a letter from an abutter, Antone Rezendes, which stated in part: "[A]lthough this property is zoned for commercial use, its current use is residential and we would not be willing to share an access drive with the proposed office building." This point had been discussed in LUPC, Mr. Wessling added.

Mr. Wessling then invited questions from the Commission members. Mr. Colaneri noted that the architect had stated that the studio upstairs could be either an apartment or another office. The Application was for an apartment, replied Mr. Wessling. Mr. Jason mentioned that the Applicant would need a variance for a residential use in the Business District.

Mr. Colaneri then observed that it was his impression that West Tisbury was now considering revising the zoning bylaw, having seen the merits of allowing such a residence to be located over a commercial use. "That's really a benefit," he said, "and that's an asset that they really should be looking at more closely, and I think that's why the Planning Board is encouraging at least this proposal ... to look at that and not to have three businesses on that site, but to have two businesses and an affordable housing complex." There was further discussion of this issue. Mr. Jason emphasized that it was a variance that would be required, not a Special Permit.

"Would you like to ask the Applicant what his proposal would be if he can't have an apartment?" asked Mr. Donaroma. Mr. Breese explained that the Applicant would be making an affordable housing contribution in any event; the amount according to the formula would be \$2,198. [According to the Staff Notes, the amount would be \$2,197.] Mr. Breese continued that initially the Applicant hadn't planned to have an apartment in the building. But in a conversation with Kate Warner of the West Tisbury Planning Board, she had suggested to him that they provide some year-round housing. The owners of the building would be satisfied with either an office or an apartment, he added.

Mr. Jason noted that if, in fact, the studio apartment was provided as affordable year-round housing, then the payment to the Dukes County Regional Housing Authority would not be necessary. "And you still get to keep the rent," said Mr. Colaneri. There was more discussion of the affordable housing provision. **Jim Hogan of Tea Lane Associates** said that they had chosen to do both. Was it required that this be year-round housing and did

the Town have the ability to require it? asked Mr. Zeltzer. "We could require it, as well as the Town," noted Mr. Colaneri.

Mr. Toole pointed out the conflicting numbers of planning parking spaces. [See page 2 of these Minutes.] "The 27 is what we're looking for," said Mr. Breese. He explained how with the larger number of spaces, they could provide room for an easier turnaround on the site. "You mean if there were no cars there," said Michele Lazerow, a Commission member at large from Oak Bluffs. "That's right," said Mr. Breese.

There was further discussion of the amount of space allotted for parking, including the Town's requirements for such and how it could be arranged that the site not be opened up so much, that is, that not so much vegetation be removed. Mr. Colaneri believed that the Applicant and the Commission should at least explore the concerns of the West Tisbury Fire Chief and do further work on the parking design while at the same time attempt to "break up" the empty areas. He pointed to the empty lot on the Martha's Vineyard Co-operative Bank site: "That's a great, big, huge empty lot back there. It looks like a gravel pit. I don't think that we should be encouraging these businesses unless they really show a need to do that. Do you want to maintain the, you know, the woodiness of the area and what have you? ... I don't think you need to pave them all. There are times to pave ..."

Ms. Sibley said that she agreed with Mr. Colaneri about not developing the entire site. Moreover, she noted, the landscaping seemed to be "very much in the back. It may be wonderful from the point of view of the neighbors, the residential neighborhood ... but Michael [Colaneri]'s vision of seeing all the way to the back of the parking lot is largely the result of there not being a lot of landscaping in the front. And you can't have it right at the State Road, because it would affect the sight lines. But you could certainly have more trees ..." She then indicated on the site plan where those additional trees should go. Ms. Sibley also noted that a lot depended on what species of trees there would be. For instance, one would want shade trees for the parking lot, but one would also want some evergreens for the five months of the years that there were no leaves. The Commission members discussed this further.

Mr. Donaroma agreed that the bank was "wide open." "It was a horse pasture," Mr. Jason pointed out. "This may not be the forum for this," noted Mr. Donaroma. As for the project before them, though, Mr. Donaroma believed that some judicious landscaping could mitigate any potential impression of emptiness on the site. Further discussion of the landscaping and parking ensued.

There being no more questions from the Commission members, Mr. Donaroma asked for testimony from Town Boards; there was none. He then asked in turn for testimony from members of the public in favor of the proposal, in opposition to the proposal and in general; there was none. Subsequently, he invited the Applicant to have "the last word." The Applicant declined, whereupon Mr. Donaroma closing the Public Hearing. The time was 8:15 p.m.

Edgartown, Mass August 24 1999
at 11 o'clock and 45 minutes P.M.
received and entered with Dukes County Deeds
book 774 page 476
Attest:
Diane E. Powers Register

RECEIVED/ENTERED
DIANE E. POWERS
REGISTER OF DEEDS
DUKES COUNTY, MASS.