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## **Goodale's Pit: MVC Committee Recommends No DRI Review**

By PETER BRANNEN

Goodale's Pit, the longtime family-owned earth mining business in Oak Bluffs, does not need review by the Martha's Vineyard Commission as a development of regional impact, a key commission subcommittee decided Monday.

The MVC land use planning committee voted 10-1 to recommend no review by the full commission, sending the matter back to the town.

Neighbors to the sand and gravel pit, which also hosts a small asphalt plant, complained to the Oak Bluffs selectmen in April about tree clearing, an access road that had been rerouted and emissions from the asphalt plant owned by the Lawrence-Lynch Corp.

But on Monday the land use committee questioned whether the project was under their jurisdiction as there is no permit currently before any town board to review. Commission members also questioned whether there was in fact a change of intensity in use of the pit as tree clearing has always been an incidental component of the mining operation.

Jerry Goodale and his son, Peter, appeared before the committee with their attorney Kevin O'Flaherty before an overflow crowd at the commission building.

"This is not an expansion of the business operations that have been ongoing at that site for more than 50 years," declared Mr. Flaherty. "What's happened with respect to the clearing and mining operations is no different than what's been going on there as a permitted legal use."

When resources are depleted, Mr. Flaherty said, the Goodales have had to move out to different parts of their 100-acre lot to clear trees and access new sand and gravel deposits in the same manner that they always have. Most commissioners were sympathetic to Mr. Flaherty's argument.

"Has Goodale bought more land?" commissioner Leonard Jason asked rhetorically. "Then how can it be expanding? It's no different than if you have a restaurant in a residential area and they suddenly start selling more dinners, they're not expanding their use. They're still a restaurant and [Goodale's] is still a gravel pit. So I don't understand why we're getting into expansion," he said.

"They're doing what they've always done," agreed commissioner Fred Hancock. "The fact is that there are neighbors closer now who bought land next to a gravel pit who now are complaining that there's a gravel pit."

Jo Maxwell of the abutting Little Pond Road association objected to the characterization.

“We really thought it was just a sand pit,” she said. “It’s true we bought land next to a sand pit but it was so small you couldn’t even see it. What really started us all being alarmed is that the expansion went so quickly.”

Commission DRI coordinator Paul Foley said that the state’s Natural Heritage and Endangered Species program has been in negotiations with the Goodales over a restitution plan for the protection of rare and endangered moths on the property.

Mr. O’Flaherty also said the MVC enabling legislation did not provide for discretionary referrals of the sort the town had undertaken.

“There has to be an application for a development permit,” he said. “There is no such thing here. . . without the application the board doesn’t have free-roaming enforcement powers,” he said.

But the commission set aside the question of the referral’s legal status to discuss whether the concerns of the town and of neighbors were regional.

With three town wells lying just south of the gravel pit on land the town bought from the Goodales, neighbors raised concerns about groundwater contamination. But commission water resource planner Bill Wilcox said the wells were up-gradient from the pit and therefore unlikely to be contaminated. He did say that other town wells closer to the Lagoon could be affected but only in the case of some sort of “catastrophic failure” at the pit. As for the materials used in the mining and mixing operations, Mr. Wilcox said none were particularly toxic or likely to contaminate the water table. He conceded that “there were a lot of unknowns” on the site, such as past practices for fuel storage.

Ms. Maxwell questioned lack of oversight at the pit.

“We just don’t know who’s really monitoring it,” she said. “The selectmen didn’t know anything about it, the zoning board didn’t know anything about it, the building inspector didn’t know anything about it, nobody knew and there were no permits. If there is a sand and gravel pit there we would just like to make sure someone is monitoring it. We continue to find that everybody is passing the ball to somebody else and nobody really knows. We’re not ‘not-in-my-backyard’ people at all, our concern is just whatever is going on there can we make sure that it’s safe?”

Doug Reece, also of the Little Pond Road association, described emissions from a new asphalt tower that recently replaced a structure that was 20 to 30 feet shorter.

“It now spews toxic fumes over the alpaca farm to the point that those people can’t work certain parts of the day,” he said.

The Goodales said emissions from the new asphalt plant which is leased by the Lawrence-Lynch Corp. are regularly monitored by the EPA.

“We’re not equipped to be the EPA,” said commissioner Doug Sederholm.

“I think this is not what the Martha’s Vineyard Commission was chartered to do,” said commissioner Linda Sibley, “To go back and in effect retroactively judge an ongoing project.”

Commissioner Holly Stephenson was the lone dissenter.

“How you can look at the Goodale pit and not say that’s a regional issue?” she said. “It’s huge. You can see it flying over in an airplane. It doesn’t seem clear to me that anyone has any idea what’s going on on that property. This seems to be a place that has escaped any kind of study historically and because of that we are deciding that they should forever escape any kind of study?”

The commission voted 10-1 not to recommend a full review by the commission and return the matter to the town. Mr. Sederholm urged cooperation among the Goodales and their neighbors

“If I were operating a pit for 50 years and people started jumping up and down about how I should do my business, I would be very put out by that,” he said. “And I might not want to talk to them about their concerns but they might have legitimate concerns.”

The full commission will meet next Thursday at 7 p.m. to vote on the recommendation.