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Martha's Vineyard Commission rejects Goodale's review

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File photo by Ralph Stewart

The Goodales pit operation.

The Martha's Vineyard Commission (MVC) voted 14-1 not to review the Goodale Construction Company mining and manufacturing operation, as referred by the Oak Bluffs board of selectmen, following a public

hearing last week.

Owner Jerry Goodale erected new fences and cut a new road this [spring](#), in preparation for mining new areas of the 100-acre property.

Selectmen referred the operation based on provisions calling for review of an expanding intensity of use, and clearing of protected species habitat. The town later said it intended also to make a discretionary referral under another MVC provision. A discretionary referral is a broad catch-all provision that requires a public hearing. When the town clarified the discretionary referral issue hours before a scheduled June 2 vote, the MVC cancelled the vote and scheduled last Thursday's public hearing.

"Based on the evidence we've heard," Douglas Sederholm of Chilmark said in making his motion not to review, "I have not heard anything that makes this operation any different than it was for the roughly 30 years before the commission was ever created. I haven't heard anything significantly different in the last 33 years since the commission was created."

Commissioners also directed criticism at town officials, who failed to attend a public land use planning committee (LUPC) session on May 23, or the public hearing last Thursday.

On May 9, at the request of neighbors concerned about safety, noise, water quality, and air quality, Oak Bluffs selectmen asked the MVC to review the Goodale operation as a development of regional impact.

"The neighborhood asked my town and their elected representatives for help," John Breckenridge, an elected commissioner from Oak Bluffs, said. "They said, gee whiz, we don't know how to deal with this, but let's throw it over to the MVC without any clear direction."

Camille Rose of Aquinnah and several other commissioners echoed that sentiment.

"I wish we could convey to them what a disappointment it is that no one could show up from the town," Ms. Rose said.

Same public, same debate

The public hearing, discussion, and vote took nearly three hours. It began with the Goodale company's attorney outlining arguments similar to the ones he made at the May 23 committee session.

"I want to correct something in the notice," attorney Kevin O'Flaherty said. "We are not the applicants for anything. Truly we are applying for nothing."

Mr. O'Flaherty repeatedly asserted that the MVC should not review the operation, because Goodale's has not applied for any permit from local boards, and Oak Bluffs town officials have said they are not required to do so.

"This board (MVC) wasn't created to be a free roaming regulatory authority," Mr. O'Flaherty said. "This board, at the end of the day, would have nothing to rule on."

Mr. O'Flaherty said that, based on concerns of neighbors and questions raised by the MVC staff, Goodale's has hired an engineer to determine if all necessary state and federal permits are in place. He said a Massachusetts Department of Environmental Protection official who recently visited the site off Edgartown-Vineyard Haven Road, gave the operation a "clean bill of health," and said the operation needs no new state permits.

Mr. O'Flaherty said that while a new asphalt storage tower erected this spring can hold more hot asphalt for distribution in trucks, the amount of asphalt produced by the plant has not changed. White Brothers-Lynch Corporation leases land on the site and operates the asphalt plant.

He said Goodale's is currently negotiating with the state's Natural Heritage and Endangered Species Program to decide where further mining will be allowed. Under the Massachusetts Endangered Species act, all of the Goodale land, as well as the land owned by Little Pond Association homeowners, is priority habitat.

Intensity of concern

Members of the Little Pond Road Association, whose houses abut the Goodale property argued strenuously that the operation has recently changed the way it operates.

"There is an increase in intensity of use, specifically the asphalt tower," homeowner Doug Reece said. "If you had been sitting here 50 years ago, you couldn't imagine what it would become. You have to look at the future."

Others questioned the accuracy of Mr. O'Flaherty's statements and asked for proof. "To say the asphalt plan is unchanged, that lacks a bit of credibility," homeowner Mike Shabazian said. "In light of the severity of the situation, he should have some documents, he should have some evidence."

Mr. Shabazian said 50 years ago no one envisioned the kind of growth the Island has seen, and no one thought about reclamation of the pit. He implored the MVC to consider the regional impact of that issue.

"Shame on us if we can't convince you," Mr. Shabazian said to commissioners. "Shame on you if you don't have the courage, determination, and vision to do it now."

Mr. Shabazian has been among the most vocal critics of the Goodale operation. His comments at last Thursday's public hearing appear to be at odds with an earlier communication to the MVC.

"There's nothing about Mr. Goodale or his operation that we are attacking. This is not about the fact that this is a vital industry for this Island," Mr. Shabazian said at last week's hearing.

In a May 31 email to MVC staffer Paul Foley, Mr. Shabazian wrote, "As we continue to escalate these many issues to the state and federal level, (as was evident at the 5/23 LUPC meeting), we are encouraged by the overwhelming response to put a microscope on the Goodale pit and the asphalt plant operation. Presumably, the microscope that will be put on every aspect of these operations by multiple state and federal agencies will make an IRS audit seem like a walk in the park."

Lone dissent

Commission member Holly Stephenson of Tisbury cast the only vote against the motion not to accept the referral. She asked whether the entire site is grandfathered under zoning laws and asked whether any documents show the owners intended to mine the entire property. The pit is in a residential zoning district, but preexists zoning laws.

"Where is the presumption that a gravel pit is a gravel pit and covers every piece of acreage they own," she asked.