

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Land Use Planning Committee

Minutes of the Meeting of Monday, 11 December 2000

The Land Use Planning Committee (LUPC) of the Martha's Vineyard Commission (the MVC or the Commission) held its regular meeting on Monday, 11 December 2000, at 5:30 p.m. in the first floor conference room at the Commission Offices, Olde Stone Building, 33 New York Avenue, Oak Bluffs, Massachusetts.

At 5:38 p.m. Christina Brown – a Commission member at large from Edgartown and the Co-Chair of the LUPC – opened the meeting. *[Present at the opening of the meeting were Ms. Brown; Edgartown Commission member at large Benjamin Hall, Jr.; Chilmark Selectmen's Appointee Jane A. Greene; Aquinnah Selectmen's Appointee Megan Ottens-Sargent; Richard J. Toole, Oak Bluffs Selectmen's Appointee and Commission Chairman; and staff secretary Pia Webster. Marcia Mulford Cini, a Commission member at large from Tisbury, arrived at the meeting at 5:52 p.m.]*

Ms. Brown announced that LUPC Co-Chair Michael Donaroma had an important Land Bank meeting that he was required to attend that evening and that Linda Sibley was "tied up" with her business. The committee then began to go through Draft Five of the *Standards and Criteria*, as prepared by the Process and Procedures Committee (P&PC).

Regarding the proposed revision to paragraph 3 of page 1, Ms. Brown thought that the encouragement for the referring board to call the Executive Director in the case of confusion was "a good idea."

Mr. Hall referred to a memorandum he had written as a member of the P&PC regarding where the jurisdiction of the Commission started. According to Chapter 831, he explained, it was the Town that made the decision as to whether or not to send up a project. "We cannot send it back," he said, "and we must hold a Public Hearing." Ms. Greene wondered, though, what the Commission should do if the project did not meet the *Standards and Criteria*. Mr. Hall replied, "Even if it's patently wrong, we can't send it back." The committee then discussed briefly the Ben Tom and the Stripers cases.

Regarding Section 3.101(a) on page 4, Mr. Hall pointed out that the word "any" in front of "municipal agency" should be "a", in order to mimic more closely the wording of Section 14(e) of Chapter 831. The other committee members agreed.

The committee then discussed the definition of development permit. Ms. Brown noted that the definition's wording actually came right out of Chapter 831. Mr. Hall pointed to a typographical error in the definition of development permit on page 2. The word "alternation" should be instead "alteration." Ms. Brown referred back to the third paragraph of the Preamble on page 1, where it was made clear that the Applicant had to be requesting "any permit, approval, authority or permission from Town authorities for development or development permits as defined further in this Checklist."

The discussion turned to whether or not a rental license was a development permit and would therefore trigger a DRI referral.

Mr. Hall proceeded down to Section 3.102(d), which concerned the list contained in Attachment B of categories of traffic-generating businesses. He expressed concern that all retail projects would now be subject to Commission review, thus instigating a "huge expansion" of the Commission's jurisdiction.

Ms. Greene pointed out that the wording of Section 3.102(c) had to be corrected to conform with the Memorandum of Understanding between the Airport Commission and the MVC regarding the Airport Business Park. The wording, she suggested, should be changed to the following: "c) is on a Martha's Vineyard Airport parcel *outside of the Airport Business Park* and contains non-airport-related facilities."

A discussion ensued as to why Section 3.102(c) had been included. Mr. Toole explained that, for instance, this section would have captured the Keyland Kitchens expansion.

Ms. Greene returned the discussion to Section 2, Definitions. Regarding Definition 2.19, Contiguous Ownership, she wondered why the phrase "and may cross zoning district boundaries" had been added. Mrs. Webster noted that this phrase had come from Staff member William Veno and that she would ask him about the rationale behind it. Ms. Greene also pointed out that the definitions needed to be put into alphabetical order.

Regarding Definition 2.22, Island Identity Corridor, Ms. Greene was concerned that the term did not appear in the body of the Standards and Criteria text but only as a question on Attachment A and in the Attachment C list. Mr. Hall explained that the Island Identity Corridor could only be an Intra-Town, Inter-Town or County-Wide Referral. Ms. Greene also observed that the way it was written, the Commission would be looking at single-family residences. A discussion regarding this last point ensued.

Mrs. Webster pointed out that the Commission also had to define how far from the centerline of the corridor the structure had to be or if it simply had to be visible from the corridor, in other words, was this a question of the viewshed. Ms. Ottens-Sargent pointed out that, in fact, there was much concern about so-called trophy houses on the

Island. Ms. Greene agreed, pointing to the example of a house in Quitsa which had been expanded to huge proportions.

Mr. Hall noted that the Commission would not have to look at every residence, only the ones referred and only then after a concurrence vote. There was nothing mandatory about such a referral, he said, and if the Town Boards or County or the Commission did not see a particular residence has having regional impact, then it would not come to Public Hearing. Ms. Greene cautioned that this seemed fairly subjective. "But 831 doesn't say that we can't review residences," responded Mr. Hall. Ms. Cini was of the opinion, though, that "by its silence" on the matter, Chapter 831 was indicating that the Commission could not review residences.

Regarding Question (p) on Attachment A (the guideline on Island Identity Corridors), Mr. Hall thought that perhaps it should state that the project had to be "on a lot abutting" an Island Identity Corridor.

After much discussion, the committee decided that the definition of Island Identity Corridor had to be worked into Question (p) on Attachment A and that Attachment C should be dispensed with altogether. One wording suggested was: "Is the project located on a road or segment of a road that provides views of natural or culturally historic resources that are signature features of the Island and which would diminish the value of these resources to convey the innate character of the Island or to be a daily reminder of same to Island residents?"

Ms. Greene recommended that if Attachment C were to be retained, then Lighthouse Road in Aquinnah, Old South Road [town?], Meetinghouse Road [town?] and a number of roads in Chilmark had to be included.

Regarding Definitions 2.23 and 2.24, Fast Food and Take-Out, respectively, Mr. Hall and Ms. Brown recommended that the Commission use instead the definitions used by the Town of Edgartown.

The talk then turned to the idea being proposed in the revised *Regulations* of having a second type of Development of Regional Impact, DRI Level II. Mr. Hall explained the mechanics of this type of referral to the others. Among the unresolved issues discussed was the fee to be paid by the Applicant. Ms. Greene expressed concern that having to advertise the concurrence would slow down the process significantly.

The discussion returned to Section 3.102(c). Neither Mr. Hall nor Ms. Brown endorsed the idea of Attachment B. Ms. Greene wondered if the traffic-generating categories even really applied to the Vineyard. [Incidentally, Ms. Brown pointed out that no reference had been made in the revised Standards and Criteria to golf courses.] Ms. Greene recommended removing all the projects in the "high" category from the list. Ms. Brown reminded the committee members that such referrals required a concurrence vote to come to full Public Hearing.

The discussion turned to whether or not the types of projects listed in Attachment B would be coming to the Commission in many cases as changes of use. Referring to

Definition 2.13, Change of Use, Mr. Hall professed to being "completely confused," recommending that the definition needed much work.

The discussion moved on to Section 3.109(i) on page 6. Ms. Greene noted that the wording had to be corrected so that (i)'s meaning made sense in connection with the introductory phase on page 5. Mr. Hall explained that this section was intended to capture project likes the one of State Road in Tisbury just past the Black Dog Bakery Café. He recommended that a Section 3.109(i) require a concurrence vote. The other committee members seemed to agree. "I don't know about all these concurrences," remarked Ms. Brown.

The committee turned to Section 3.200, Division of Land. Ms. Brown commented that she really like the addition of Section 3.025(b) regarding farmland that had been actively worked within the past five years. Ms. Greene wondered whether such restrictions on farmland would hold up family subdivisions. It was agreed by all that the wording of this section had to be adjusted to convey the idea that five acres of land had to be farmed, not just a piece of the five acres. The wording suggested was: "Any development which proposes to divide a contiguous or related ownership of land *of which five (5) acres or more is: ...*"

The talk turned to a discussion of what constituted a tree farm, which Ms. Greene said should be clearly defined. For that matter, with something of a stretch her own land in Chilmark (which was slightly less than five acres) could be classified as a tree farm. What would happen, then, if she wished to subdivide and give a lot of one of her children? "It would be unfair to families," she declared.

Ms. Brown expressed concern about the term "irrevocable deed restriction" used in Section 3.200. What it was really referring to, she said, was a Conservation Restriction. It was agreed that Mr. Veno, who had suggested the change, should be available on Thursday evening to explain the reasoning behind it. "We need legal language on this," recommended Ms. Greene.

Regarding Section 3.104(a), the committee discussed the issue of guest houses and whether it should be ten or more dwelling units or ten or more lots that was the threshold. Mr. Hall and Ms. Greene recommended leaving the wording as it was.

Regarding Section 3.501, Ms. Greene pointed out that West Basin was, in fact, a harbor and thus belonged in Section 3.501(a) and not as a separate item in 3.051(b). Ms. Ottens-Sargent wondered if Menemsha Channel should be included in this section. Ms. Brown requested that staff prepare maps with the boundaries of the harbors described in Section 3.501 before Thursday's full Commission Meeting.

Regarding Section 3.300, the committee agreed that some sort of cumulative provision had to be added, in other words, over how many years could a total of additions to a project accumulate to trigger a referral. Ms. Brown recommended that staff ask Leonard Jason, Jr., for guidelines on this matter.

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*Land Use Planning Committee
Meeting of 11 December 2000: Page 5*

Regarding Section 3.301(b), Mr. Hall and Ms. Greene agreed that 750 square feet was a tiny addition and that the original figure of 1,500 feet was preferable.

Regarding Section 3.301(d), Mr. Hall declared that all changes of use should not be referred to the Commission. "If that goes in, you're going to get concurrences on every little thing," he remarked. "We're going to lose our way if we look at everything," agreed Ms. Cini. Mr. Hall wondered if instead the standard should be an increase in the intensity of use.

The discussion wound down, and Ms. Brown adjourned the meeting at 7:08 p.m.