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Minutes of the Commission Meeting Held on October 1, 2015 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P= Present; A= Appointed; E= Elected)

P Tripp Barnes (E-Tisbury)	P James Joyce (A-Edgartown)
P John Breckenridge (A-Oak Bluffs)	P Joan Malkin (A-Chilmark)
P Christina Brown (E-Edgartown)	- Yvonne Boyle (A-Governor)
- Harold Chapdelaine (A-Tisbury)	- Katherine Newman (A-Aquinnah)
P Robert Doyle (E-Chilmark)	P Doug Sederholm (E-West Tisbury)
P Josh Goldstein (E-Tisbury)	- Abe Seiman (E-Oak Bluffs)
P Fred Hancock (E-Oak Bluffs)	P Linda Sibley (E-West Tisbury)
P Leonard Jason (A- County)	P Ernie Thomas (A-West Tisbury)
	P James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Christine Flynn (Economic Development and Affordable Housing), Sheri Caseau (Water Resource Planner).

Chairman Fred Hancock called the meeting to order at 7:00 p.m.

1. MINUTES

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruysse.

Josh Goldstein moved and it was duly seconded to approve the minutes of September 17, 2015 as written. Voice vote. In favor: 11. Opposed: 0. Abstentions: 2. The motion passed.

2. NEW BUSINESS

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruysse.

2.1 Executive Director's Report

Adam Turner presented the following.

- The MVC has been made part of a rural commission to study issues critical to the welfare and vitality of rural communities and it meets every quarter. A regular member can be named to represent the MVC to that commission.

- **Fred Hancock** added that he and Adam Turner discussed that perhaps that member should be from the MVC staff and Bill Veno has been named due to his background.
- The governor has invited Commissioners and other elected officials to a meeting on October 19, 2015 regarding turning the State and Government Assets.
- There is a conference on inter-county and inter-city issues on December 15, 2015 that is being held in Worcester. It is being sponsored by the Governor and the Lieutenant Governor and the MVC has a couple of slots if anyone wants to attend.

2.2 Reports from Committees and/or Staff

DRI Checklist Review Committee

Fred Hancock said the committee had their first meeting. It was attended by a couple of members of the Oak Bluffs Planning Board. Linda Sibley was named chairman of the committee since she is the chairman for LUPC it seemed a natural fit. The committee's weekly meeting will at 8:00 a.m. on Wednesday mornings. After speaking with the Planning Boards it was suggested that some evening meetings be added so that others could attend and the committee also thought it was a good idea and they will be scheduled at the same time as LUPC for open input.

- **Leonard Jason** asked if the committee thought about having a meeting with each town to get input so the MVC would be going to the towns.
- **Linda Sibley** said she sees a problem with that as there are six towns and that would eat up six weeks into the schedule for the review and the MVC would have to also meet the towns meeting times. If the towns can come on certain nights it would take less time.
- **Leonard Jason** asked what the turnout was at the last meeting.
- **Fred Hancock** said the committee did not anticipate a large turnout as it was an organizational meeting.
- **Adam Turner** said that a letter is being sent to each Planning Board and he plans to attend their meetings and outreach to the towns. The DRI Checklist will be passed out and the towns will know about the review and they will be asked how effective they can be in the process.
- **James Vercruyse** asked that those meetings be posted as he would like to attend the one for Aquinnah so he can represent the MVC for his town.
- **Fred Hancock** said the meetings are currently October 6, 2015 for Edgartown and October 8, 2015 for Tisbury.
- **Christina Brown** noted that it is not just the Planning Boards it is also other town boards that need to be involved such as the Conservation Commission and the Board of Health.
- **Linda Sibley** noted that what Leonard Jason had said is very interesting but if the meetings are held at the MVC then the Planning Boards of the different towns can hear each other's ideas.
- **Leonard Jason** said additional attendees could be the Building Inspectors, Planning Boards and any permit granting authority.
- **Adam Turner** said he would be broader and send the information to others and will do so as he becomes more familiar with whom that may be.

Watershed Presentation

Adam Turner noted that he wanted the MVC staff to become more involved in presenting issues and introduced Sheri Caseau, Water Resource Planner.

Sheri Caseau presented the following.

- The MVC is working with a consultant from Right Pierce to address Island wide wastewater and planning issues that the Island is facing.
- Tonight is an overview of the watersheds and problems that the Vineyard is facing with nitrogen.
- A watershed is an area of land where all of the water that is under it or drains off of it goes into the same place. Flowing water is constantly moving downhill towards the same body of water with contaminants.
- A map of the Island watersheds was reviewed. 71 % of the Island drains into a coastal pond and most towns share more than one watershed.
- The Lagoon Pond water shed was reviewed.
- Water moves downhill through the watershed about one foot per day and carries the pollutants with it.
- Nitrogen doesn't get broken down in ground water. In West Tisbury it will take approximately 15-35 years for the groundwater to reach the pond but it will eventually impact the pond.
- The ponds are more impacted where the population densities are located.
- The Massachusetts Estuary Project (MEP) has given the MVC nitrogen reduction information which will get the ponds healthy.
- Nitrogen comes from septic tanks and fertilizers, acid rain, road runoff and agriculture. Studies are being done to pin down what is contributing to the nitrogen from acid rain.
- The DCPC for fertilizer will hopefully help to reduce the nitrogen.
- The biggest portion of nitrogen is from septic tanks. The largest manageable source of nitrogen on the Island is the discharge from septic tanks.
- The goal for the coastal ponds is to eventually have a healthy seagrass bed. If there are excess nutrients the algae growth feeds off the nitrogen and the pond will eventually lose eel grass habitat. Healthy eel grass beds were shown such as in Lagoon Pond and Vineyard Haven Harbor. Work has been done with the Tisbury Shellfish Constable regarding the seagrass beds.
- Undesirable algae growth was reviewed.
- Wastewater Management Facts.
 - One billion gallons per year is generated and 2.7 million gallons per day.
 - 89% is treated and disposed of on site.
 - 71% of Vineyard wastewater is in the watershed or a nitro sensitive coastal pond.
 - An additional 28% of existing wastewater flow needs to be collected and treated.
- What has been done to reduce nitrogen on the Island.
 - MEP reports have been compiled for the eight ponds.
 - Water sampling is being done.
 - Fertilizer Regulations have been put in place.
 - Shellfish aquaculture.
 - Work is being done with the towns to develop nitrogen reduction areas.
 - Edgartown and Oak Bluffs have expanded their sewage treatment plant and Tisbury is researching to expand theirs.

- Water sampling is being done and samples are being taken from every pond and then sent to labs which provide the nitrogen numbers.
- What the MVC plans to do.
 - Adopt a watershed map.
 - Work with the towns to create a list of solutions and projects.
 - Next year Adam Turner would like to expand the water sampling program.
 - Create a repository for pond information and post studies on the MVC website.
 - Presentations of sections of the 208b comprehensive wastewater plan from the Cape Cod Commission.
 - Precise allocation of nitrogen loading.

Doug Sederholm asked what exactly the allocation will be. **Sheri Caseau** said how much each town is contributing to the watershed will be looked at.

Leonard Jason asked exactly how much are the ponds over and what nitrogen numbers are being reviewed. **Sheri Caseau** said as an example right now the Lagoon is 33% over in nitrogen.

Leonard Jason said it should be known what the nitrogen load is being measured against so we know where we are going, there should be a base line. What is that certain reading and what is it measured against. **Adam Turner** said the science and the testing will provide more data and make it more reliable and that is the direction we need to move forward in.

Josh Goldstein asked what effect has dredging under Little Bridge had on Sengekontacket Pond. **Sheri Caseau** said there is a study and that detail will be provided to the MVC for review. When the Tashmoo inlet was dredged it made a difference and helped a lot for that seagrass bed.

3. BEACH STREET HISTORICAL DEMOLITION – EDGARTOWN DRI 658 PUBLIC HEARING

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruyse.

For the Applicant : Sean Murphy (Attorney), Bill Senst (Architect)

Linda Sibley, Public Hearing Officer opened the Public Hearing at 7:35 p.m. and read the public hearing notice. The location is 2 Beach Street, Edgartown Map 29B Lot 84. The proposal is to demolish a 1,926 sf pre-existing non-conforming house over 100 years old and replace it with a 2,064 sf house. The public hearing process was reviewed.

3.1 Staff Report

Adam Turner presented the following.

- The applicant is Beach Street Properties LLC.
- The location is 2 Beach Street, Edgartown Map 29B Lot 84 (0.09 acres).
- The proposal is to demolish a 1,926 sf pre-existing non-conforming house over 100 years old and replace it with a 2,064 sf house.
- Zoning is R-60 Residential.

- The property lies within the shore zone of the Coastal DCPC. The house is not in the Edgartown Historic District though it is close.
- The current owner bought the property in November 2014 and wishes to replace the existing circa 1890 building with a new single family home and applied for a building permit in June 2015.
- The project was referred by the Edgartown Planning Board on June 19, 2015 and received at the MVC on July 9, 2015.
- On August 24, 2015 LUPC voted to recommend to the full Commission that the proposal did not require public hearing review as a DRI.
- On September 10, 2015 the Commission voted to conduct a public hearing as a DRI and render a decision under those guidelines.
- Key Issues include.
 - How historically significant is the building?
 - Does the proposed replacement building create any new impacts?
 - The property is within an area proposed to become part of the expanded Edgartown Historic District Commission (HDC). Should the MVC review the project as the HDC would if it were currently in the HDC District?
 - Does this proposal require a public hearing review as a DRI?
- The tax records say only that the house was built in 1890. Some in Edgartown doing research on the building believe that it (along with other houses in the area) incorporated materials from a huge ice house.
- The building is typical of simpler Edgartown homes built during the period. It is two stories high, clad in natural shingles with white trim, with a gable roof punctuated with a dormer and octagonal tower in the corner, and with double hung windows (six over six on the ground floor and four over four in the dormers). A ground floor porch extends along the whole front.
- The MVC reached out to Mass Historic and they did not provide and information. The age of the building is about 125 years old. The history of the building has not been analyzed at this point. The only historical information available is the possible link to the ice house.
- The building is a simple though not exceptional example of home construction in Edgartown from that period. The building is located in a historic area identified in the Island Plan, i.e. an area with a high concentration of century old buildings. The building lies within the area which the Edgartown Historic District Commission is proposing to include in an expansion of the Edgartown Historic District.
- It appears the building is intact from its original construction.
- The building is highly visible from a public way in that it directly fronts on Dunham and Beach Streets in downtown Edgartown.
- The new building design and materials are similar to the existing building and would harmonize with the character of the area. The second floor of the building extends over the front porch so the building would be somewhat more imposing on the street.
- The Edgartown Historic District Commission has recommended that the existing building “be put forth for public review”.
- An email was received from Diane Durawa with concerns about the history of the building, views and access and suggests a public hearing review. A report was received today from the Town of Edgartown.

- The site plan was reviewed as well as the proposed and existing elevations and the proposed floor plans.

Doug Sederholm asked what part of the house has to be taken down and what is it used for. **Adam Turner** showed the structure but did not know what the use was for that section of the building.

Ernie Thomas said the house is on Dunham Road and it seems that Dunham Road was laid out after the house was built and he is curious why it was configured as it is. **Leonard Jason** said he would assume the roadway lay out was done first and then the house was built. It is really a dirt path and through the years it was paved and no one looked at it until a plot plan was done. **Adam Turner** added that no one bothered to survey it.

Fred Hancock asked if the new proposed building fits within the lot lines. **Leonard Jason** said it would go to the Board of Appeals for a Special Permit.

3.2 Applicants' Presentation

Sean Murphy presented the following.

- The project has to go to the Planning Board for the Special Permit.
- The house is 1,926 sf and the proposed building is 2,064 sf for an additional 138 sf.
- The proposed structure will be the same height and the same footprint as the existing structure.
- Under the proposed plans the building will be the same height but if the existing house remains and improvements were to be done a Special Permit would be needed to raise it out of the flood plain.
- Whether the house remained or not it needs a complete upgrade and the corner of the house has to come off and also has to be raised up to meet the flood plain if the structure remains.
- Two people have asked for the house so the house will most likely remain intact and it can be relocated.
- He did research on the house to see if it was historic and it was tough to find anything. He researched the title and the letter from Town of Edgartown Historic District Commission is incorrect. There are no Pease, Butler or Ripley families involved in the property ownership. He went to the museum and looked at the Henry Hough books and didn't find anything with historic value about the ice house.
- It is not felt that the house is in a historic area as defined by the Island Plan. The date of 1890 for the house is a guess. During that period it was a building boom in Tower Hill. Most houses in the area were built in 1940, 1950 and 1960. A few were built in 1890 to 1900 and he presented a list of the properties in the area that included their age.
- Beach Street is not a public way only Dunham Road and it is not a highly travelled road.
- The house cannot be seen from the harbor so it does not meet the Island Plan.
- The letter from Edgartown says the houses in the area have been increased in size. This house will not be increased and the applicant wants to maintain the character. The letter also states that the neighborhood has changed and it has done just that.

- The applicant has great respect for the Edgartown Historic District Commission but they are just reaching to find something to make this house historic and that doesn't seem fair that this one house should be deemed historic when it would require to be chopped up and raised up.
- The applicant will gladly give the house away. Per Edgartown by-laws they have to give Dukes County Regional Housing Authority the option and if they don't want it they have two private citizens who have asked for it.
- The character of the home will remain with the proposed project and it is asked that the proposed project be sent back to the town without any conditions.

Doug Sederholm asked what are the standards that the Planning Board will review the project by. **Sean Murphy** said it is the character of the neighborhood and will it be detrimental to the neighborhood.

John Breckenridge asked for a comparison of the new building versus the existing house. Will the new structure be shingled and the same type of trim. **Bill Senst** said it will be the same and the height will conform to the maximum height allowed.

There was a discussion about the building height.

- **John Breckenridge** asked if the existing house had to be raised to meet the flood plain would it be the same height as the proposed building.
- **Bill Senst** said it would be close.
- **Sean Murphy** added that it would be the same height as what is there presently. The new house will be at the same height as what is there now. Therefore the new house would actually be lower than if the existing house was raised to meet the flood plain.
- **Bill Veno** and **Adam Turner** showed the elevation for the existing house versus the proposed structure to demonstrate the building height.
- **Christina Brown** asked what the height is from the mean natural grade.
- **Bill Senst** said it is 26 feet and the existing house is 26 feet.
- **Leonard Jason** added that if 50% improvement were done to the existing house it would require that the house be raised to meet the flood plain.

Joan Malkin asked if the applicant is under any obligation to demolish anything. **Sean Murphy** said the corner of the building has to be demolished. **Linda Sibley** said the applicant would be required to cut off the corner of the house and demolish the garage.

3.3 Public Testimony

George Davis is speaking on behalf of the Naylor's who own 4 Beach Street and are abutters. It is an unfortunate process and especially if we were waiting for the Historic Commission to present. They thought they were being asked for a yes or no, they met two weeks ago and didn't realize they should have added more content to their original letter. The Naylor's had a building that in 2010 they did a comparable renovation to as the proposed project. At that time it went to the Planning Board and the Naylor's had to keep 25 % of the existing structure for historic purposes. Since the proposed project is an abutting property it should be apples to apples to the Naylor's. With regards to the size, the new house is the same size and the footprint is comparable but the cubic feet is somewhat larger. The second floor adds more and he disputes the proposed

is the same size house as the existing. Obviously the house is encroaching in the roadway and can the town make some other accommodation, he asked Leonard Jason if that is possible.

- **Leonard Jason** said the applicant was told to rectify the situation and they could go before the town.

The main question is the abutting property had to maintain 25% of the existing structure for their renovation. The applicant's house needs work but the question is does it all come down to if the house stays or at least to what has occurred for 4 Beach Street. He understands the project is before the MVC due to guidelines but it seems unfair even for the applicant to come to the MVC if it is just going back to the town.

3.4 Commissioners' Discussion

Doug Sederholm asked if the Planning Board imposed the 25 % restriction. **George Davis** said it was imposed by the Planning Board with some input from the Historic Commission.

Linda Sibley said that when something comes before the MVC the Commission can deny it or approve or approve with conditions. When the project goes back to the town they can also apply conditions.

Doug Sederholm asked if 4 Beach Street is the property shown as 82 on the handout. **Sean Murphy** confirmed that is correct. **George Davis** added that the lot for the house on 4 Beach Street is larger but the house is relatively similar in size to the proposed.

Trip Barnes felt the process seems to becoming complicated.

Leonard Jason said it is important to treat people fairly. The Naylors could have come back to the MVC if the Historic Commission had sent them but they chose not to. **Linda Sibley** agreed.

Leonard Jason added that when a Zoning By-law is proposed and published and if approved it is retroactive to the date it was posted. **Sean Murphy** said that would not apply to this project.

3.5 Applicants' Closing Statement

Sean Murphy said he agrees with George Davis that the project should go back to the Planning Board to decide. The Planning Board sent the project to the MVC because the Planning Board was reminded about the checklist as a mandatory referral. The question is whether the building is historic. The applicant will do the best to build within the character of the neighborhood and will donate the existing structure.

Linda Sibley, Public Hearing Officer closed the public hearing and the written record at 8:15 p.m.

Linda Sibley moved and it was duly seconded to waive referral to LUPC and go directly to Deliberation and Decision. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

3.6 Deliberation and Decision

Linda Sibley moved and it was duly seconded to approve the proposed project with limited conditions as specified by Sean Murphy; to be built as proposed and offer the existing building to someone who wants to take it.

- **Doug Sederholm** said the motion seems to preclude what the Planning Board wants done.
- **Linda Sibley** said the Planning Board can make more restrictive conditions if it chooses to do so.
- **John Breckenridge** said it would be in the applicant's hands if the Planning Board has the final input.
- **Doug Sederholm** said the Planning Board could be more restrictive and say that the applicant can't demolish the structure and has to keep 75 % of the building.
- **Joan Malkin** said then the applicant wouldn't be able to give the house away but she is not as concerned about that.
- **Fred Hancock** said if the MVC puts a condition on this building it potentially stays as a DRI. If the MVC just granted the demolition then all the DRI nature of the property is finished.
- **Leonard Jason** suggested adding language to the motion "or as any other condition the Planning Board wants to place on the applicant".
- **Doug Sederholm** said but if the applicant wants to knock it down the MVC wants to make sure they build what they presented.
- **Leonard Jason** said that is where it gets sticky because the MVC doesn't know what the Planning Board will do.
- **Linda Sibley** said why can't the MVC endorse the applicant's plan that includes character of the building. Otherwise the MVC would not have fulfilled its obligation under Chapter 831 regarding character.
- **Sean Murphy** said if the applicant was to go and build a glass box the Planning Board and the Historic Commission could refer the project back to the MVC.
- **Linda Sibley** withdrew her motion.

Joan Malkin moved and it was duly seconded to approve the demolition and to the extent the demolition proceeds and there is no contrary requirement by the Edgartown Planning Board the structure is to be built/developed as proposed.

- **Sean Murphy** asked what happens if after the structure is built and the applicant wants to change a window does it come back to the MVC.
- **Linda Sibley** said she did not believe so since that would not be substantial.

Benefits and Detriments

- There is no significant change to wastewater.
- No change to night lighting and noise.
- The building will be energy efficient.
- No change in traffic.
- No change to scenic values and character and identity.
- There will be some impact to abutters.
- The project will have a positive impact on the tax payers as the tax base will increase.
- It will have a positive impact on town facilities and meeting State, Regional and Town Planning objectives as it will be removed from being in the right of way.
- The existing home will be given away for housing.

Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruyse. Opposed: none. Abstentions: none. The motion passed.

4. CAPE COD EXPRESS – EGARTOWN DRI 194-M MODIFICATION REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruyse.

For the Applicant: John Folino

4.1 Staff Report

Bill Venio presented the following.

- The project is a modification to a storage building that was approved by the MVC and built in 1988.
- The modification is to extend the loading dock 20 feet to be able to do transfers without being in the outdoor elements.
- The site plan for the Airport Business Park was reviewed.
- There are three entrances to service the four parcels and the circulation is complex.
- The building has a number of bay doors, four on each side and a couple on each end.
- The current loading dock is 40 x 32 feet and the applicant wants to add an additional 20 feet and enclose it.
- The plan includes adding concrete and putting in trench drains.
- The west and south sides of the building were reviewed.
- The vegetative buffer at the roadway was shown. In the 1988 plan it showed a 50 foot landscape buffer from the roadway and the buffer actually measures 20 to 30 feet in width. This was brought up at LUPC and LUPC suggested adding language to relieve the applicant from adhering to the 1988 landscape plan.
- There will be no additional employees and traffic does not appear to be an issue.
- The proposed project has gone to the Airport Commission for approval.

Doug Sederholm asked if the applicant submitted a drainage plan. **Bill Venio** said they did.

4.2 Land Use Planning Committee (LUPC) Report

Linda Sibley, LUPC Chairman said LUPC voted unanimously to recommend to the full commission that the modification does not require a public hearing and voted to recommend approval of the modification and release any landscape requirements from the 1988 approval and to follow the Airport Commission regulations.

4.3 Applicants' Presentation

John Folino presented the following.

- As talked about at LUPC the buffer was left from the prior owner and Cape Cod Express did not add or modify to it.
- The loading dock is replacing an existing tractor trailer dock.

- The proposed plan will keep the tractor trailer trucks to the south and will make the area safer. The plan will keep larger trucks in one area and smaller trucks in another.

Linda Sibley moved and it was duly seconded that the modification does not rise to the level requiring a public hearing. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded to approve the changes as requested and to release the applicant from the landscape conditions from the MVC 1998 approval. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F Hancock, L. Jason, J. Joyce, J. Malkin, D. Sederholm, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.

Leonard Jason, T. Barnes, Fred Hancock, and Linda Sibley excused themselves from the meeting.

5. DIAS HIGH POINT LANE – TISBURY DRI 653 CONTINUED PUBLIC HEARING AND DELIBERATION AND DECISION

Commissioners Present: J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, J. Joyce, J. Malkin, D. Sederholm, E. Thomas, J. Vercruysse.

For the Applicant: Chris Dias

James Vercruysse, Public Hearing Officer opened the continued public hearing to hear new testimony and the Land Use Planning Committee (LUPC) Report.

5.1 Staff Report

Adam Turner presented the following.

- The public hearing was opened on July 16, 2015 and nine Commissioners were eligible to hear the testimony.
- In the interim since that time several events have occurred. An ANR plan was filed for the entire property in August 2015 and the dimensions were slightly different.
- Due to that fact a hearing was required and continued to tonight.
- In reviewing the record the Tisbury Planning Board did slightly alter the dimensions.
- The dimensions on the ANR plan are consistent with the proposed site plan.
- The technical correction had to be noted for the record.
 - **Joan Malkin** asked if after his examination there remains no issue for the Commission to consider the proposed project with regards to the dimensions.
- **Adam Turner** said that is correct.
- The ANR and site plan was slightly different for Lot 4 on the site plan versus the subdivision plan.
- The Tisbury Planning Board did make a slight correction and it is important that all dimensions stay the same and is in the public record.

5.2 Applicants' Presentation

Chris Dias said he agreed with Adam Turner and did not have anything further to add.

5.3 Public Testimony

Mary Gosselin said in the 2012 plan the access to High Point Lane does not extend to Lot 4.

- **Adam Turner** said the easement does extend to Lot 4.

James Vercruyse, Public Hearing Officer closed the Public hearing and written record.

Christina Brown moved and it was duly seconded to do to Deliberation and Decision without going to a post public hearing LUPC. Voice vote. In favor: 8. Opposed: 0. Abstentions: 1. The motion passed.

5.4 Land Use Planning Committee (LUPC) Report

John Breckenridge said there was a post public hearing on July 22, 2015 and the project was reviewed and the applicant's offers were submitted as well as comments from the Tisbury Planning Board and the owner of the mini golf.

Doug Sederholm asked if the comments were submitted when the public record was open.

John Breckenridge confirmed they were.

John Breckenridge presented the following.

- Letters from the Planning Board and testimony from the mini golf were presented at the public hearing.
- LUPC's main concern was public safety. There is a right of way from State Road to Lot 4 the proposed applicant's building. The right of way goes through the parking lot used by the mini golf.
- The applicant requested to use the right of way if they were to purchase Lot 1 in the future so then there would be two lots using the right of way.
- LUPC explained to the applicant that Lot 1 could still have access from High Point Lane and come back to the MVC if they purchased Lot 1 and ask for access from the right of way. It was agreed at LUPC to delete that from the applicant's offers and as it would put undue burden and an amount of traffic on the right of way as well as the public using the mini golf.
- It was noted by the applicant at LUPC that they did not want to restrict the size of the vehicles for the proposed project. LUPC noted that if the business grew in the future the applicant could come back to the MVC to request the use of larger vehicles. LUPC agreed not to include anything above the 24 foot truck.
- LUPC did not receive the written offers back from the applicant until September 25, 2015 and the applicant has put back his request to have access potentially to the right of way to Lot 1 and not limit the truck access to Lot 4 by 24 foot vehicles.

Joan Malkin asked if the right of way over the mini golf land is limited to Lot 4. **Tommy Pachico** clarified it is not. **Doug Sederholm** added that the MVC has the power to condition that issue.

5.5 Deliberation and Decision

There was a discussion about reviewing the applicant's offers.

- **James Joyce** said this is the second time tonight that the information is not available to the Commissioners until the last minute and this issue has been brought up before. Information such as the applicant's offers should be available earlier so they can be reviewed.
- **John Breckenridge** said that the MVC has tried for two months to receive the information and they were sent to the Commissioners.
- **James Vercruysse** said this is an important decision and he would also like time to read through the offers.
- **Doug Sederholm** suggested a recess so the Commissioners have time to review.

James Vercruysse, Public Hearing Officer recessed the meeting at 9:05 p.m. and reconvened at 9:10 p.m.

Joan Malkin asked for clarification if LUPC had any further conditions other than 2.2 and 3.4. **John Breckenridge** confirmed only 2.2 and 3.4.

There was a discussion about the offers.

- **James Vercruysse** asked for clarification on 2.2.
 - **John Breckenridge** said at LUPC the offers did not have 2.2 and it has been added back.
 - **Doug Sederholm** said that 2.2 did not need to be included. It can be added when or if the applicant buys Lot 1 and then they would have to come back to the MVC.
 - **James Joyce** asked if a deeded right of way is the same as a street. Do you have the same rights.
 - **Christina Brown** said it is like a private street.
 - **Joan Malkin** said sometimes the right of way specifies what it is used for.
 - **Doug Sederholm** said it is for vehicle access.
 - **James Joyce** asked if it can be used just like a road.
 - **Doug Sederholm** said for the benefit of the property that holds the easement. The right to use the space for access is owned by the property owner of Lot 13.11, the big lot that has the four lots has the property right to use it.
 - **Joan Malkin** asked where the service road is that is mentioned in 2.2-2.3 .
 - **Bill Veno** showed the location of the service road.
 - **Christina Brown** said it would be helpful to note the map and lot number rather than the mini golf in 2.2-2.3.

Doug Sederholm suggested that it might be cleaner to revise the language on 3.1 by striking the word forward and replacing it with "in the direction of travel".

Joan Malkin suggested to revise the language on 3.2 to "and make available the deeded right of way for access".

Joan Malkin asked if there is any reason to include the maintenance of the systems in 4.1.

Doug Sederholm said that is covered in 4.2.

Robert Doyle did not remember offer 5.2 at the public hearing. **John Breckenridge** said the evolution started with short term and to avoid that now states 90 days.

There was a discussion about offer 6 Site Design and Landscaping.

- **Joan Malkin** questioned not stating additional screening in offer 6.
- **James Joyce** said it would be nice if the offer states the trees have to be irrigated so they thrive.
- **John Breckenridge** said it had been discussed that the landscaping is to be maintained in perpetuity.
- **Christina Brown** suggested that the final landscape plan state that it will include six native trees, additional screening and be submitted to LUPC for final approval.

There was a discussion about offer 9.1 under Lighting.

- **James Vercruysse** asked if the town has lighting restrictions.
- **Christina Brown** said the lighting plan should also come back to LUPC for final approval. It should be a landscape and lighting plan.
- **Doug Sederholm** said the MVC can accept the applicant's offers and then it comes back to the MVC to condition.

Doug Sederholm moved and it was duly seconded to accept offers under paragraph 1, 2.1, 2.3, 3.1 with the language revised to in the direction of travel, 3.2 with language as revised, 4.1, 4.2, 5.1, 5.2, 6, 7, 8, 9, and 10 and to reject offer 2.2. Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.

Christina Brown moved and it was duly seconded to accept the applicant's offers to become conditions . Voice vote. In favor: 9. Opposed : 0. Abstentions: 0. The motion passed.

Doug Sederholm moved and it was duly seconded that the applicant submit final landscape, lighting and storm water plan to LUPC and the final landscape plan will include additional screening in addition to the six native trees. Voice vote. In favor: 9. Opposed: 0. Abstentions:0. The motion passed.

Doug Sederholm feels offer 3.4 as proposed by LUPC makes sense.

Doug Sederholm moved and it was duly seconded to accept offer 3.4 as drafted by LUPC as a condition.

- **John Breckenridge** said 3.4 came as a recommendation from the Tisbury Planning Board.
- **Doug Sederholm** read the detail from the Tisbury Planning Board.
- **James Vercruysse** said it is clear for the flatbed trucks but the 24 foot trucks need clarification.
- **Trip Barnes** said it is the bed. The overall truck is the bed plus the cab. For box trucks it is also the bed.

Voice vote. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.

John Breckenridge moved and it was duly seconded to approve the project as presented with offers and conditions as clarified.

- **Christina Brown** said the motion should be with offers presented by the applicant and conditions as proposed by the MVC.

Benefits and Detriments

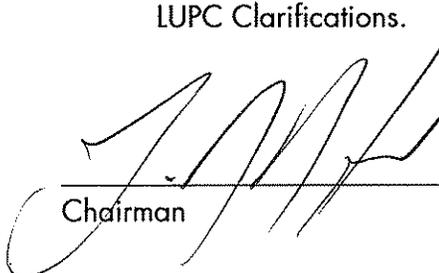
- The project is appropriate for a commercial zone.
- The project meets the MVC wastewater guidelines.
- There is no impact from night lighting.
- Energy efficiency is neutral.
- The project is consistent with the character of the neighborhood.
- Housing is being offered and possibly as work force housing.
- The town tax base will be increased.
- No impact on public facilities.
- The project achieves Town, State and Regional Planning Objectives as it conforms to zoning.
- The project is not in a DCPC.
- Habitat will be removed as the property is currently not developed.
- Traffic will adversely affect the mini golf but it will be somewhat mitigated as the applicant has offered to be open to only wholesale, there will be control of the size of the trucks and the hours of operation will be limited.
- The biggest detriment is the traffic and impact on abutters but it is mitigated as much as possible.

Roll call vote. J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, J. Joyce, J. Malkin, D. Sederholm, E. Thomas, J. Verduyse. Opposed: none. Abstentions: none. The motion passed.

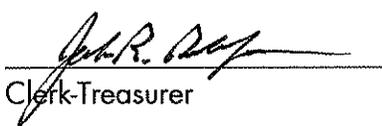
The meeting was adjourned at 9:55 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on September 17, 2015.
- Martha’s Vineyard Commission C.R. #4 – 2015 Beach St. Demolition MVC Staff Report – September 30, 2015.
- Letter from the Town of Edgartown Historic District Commission, Re: Beach ST Property LLC, Dated September 30, 2015.
- Dias High Point Lane Applicant’s 9-25-15 Clarification of Offers compared to 7-27-15 LUPC Clarifications.


Chairman

11-17-15
Date


Clerk-Treasurer

11/23/15
Date