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## Minutes of the Commission Meeting Held on March 13, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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

P James Athearn (E – Edgartown)	- Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E - Edgartown)	P Doug Sederholm (E – Chilmark)
P Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	- Paul Strauss (County Comm. Rep.)
- Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Paul Foley (DRI Analyst/Planner), Bill Veno (Senior Planner), Christine Flynn (Economic Development & Affordable Housing Planner)

The meeting was called to order at 7:40 p.m.

**Doug Sederholm** reported that Mark London was unable to attend the meeting because of a family medical emergency.

### 1. MIDDLE LINE ROAD: DRI 597M - FORM C APPLICATION PUBLIC HEARING

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, J. Powell, D. Sederholm, S. Shea, L. Sibley, R. Toole, A. Woodruff.

For the applicant: Andrew Goldman, Committee Member; Reed Silva, Vineyard Land Surveying, David Handlin, architect, Chuck Hodgkinson, Chilmark employee.

**Richard Toole** read the public hearing notice on the proposal to build a 9-building, 12-unit affordable housing project.

#### 1.1 Staff Report

**Paul Foley** gave the staff report.

- A condition of the preliminary plan was that a final plan would be submitted. The final plan would include the location of turnouts along Middle Line Road, road access, house

sitings, setbacks, final delineation of cut zones, location of septic systems, lawns, rental guidelines, final landscaping plan and open space plan.

- Offers and conditions would include:
  - The standard condition on fertilizers.
  - One-third of the dwellings will be devoted to qualified applicants earning up to 100% of the AMI.
  - Town wastewater regulations will be met.
  - 70 to 80% of the property will be retained as open space.
  - Significant features such as the clay pits and the beech grove will be preserved and have a 50-foot buffer.
  - The total number of units will be twelve.
  - Any major changes would have to be submitted to Natural Heritage for review.
  - The applicants will apply for LEED certification and get the highest level they can.
  - The applicants will apply for a Cape Light Compact Grant.
  - Sight lines will be improved at Middle Line Road and Tabor House Road.
  - An archaeological survey will be conducted. The Tribe will be notified at least one week in advance of any excavation.
  - Universal access will be considered.
  - Perpetual public access to Holman Road is a goal
- The project was originally referred by the Chilmark Planning Board.
- The new key planning concern is that the phase one archaeological survey was completed with limited findings in the project site. Quartz flakes were found in the middle of the new road access and the historical preservation officer was notified. She recommended that a phase 2 study be done on the roadway.
- The Form C plan was submitted to Natural Heritage and it was approved. Between the first submittal and the present, a new species has been found on that property, but, since the plan has not changed, Natural Heritage decided not to do a review. If a meadow were proposed, the plan would have to be resubmitted because it wasn't on the original plan.
- A detailed landscape plan is required. Only non-invasive plant species will be used and they will limit landscaped lawn to 3000 square feet per building.
- For energy sustainability, they are aiming for LEED certification. David Handlin, a LEED certified architect, outlined the points they are aiming for.
- In terms of nitrogen loading, the project has satisfied Commission policy. The optimum well depth can't be determined prior to drilling. Chilmark's regulations require that each building have its own well, with a percolation rate of at least 5 gallons per minute for a four hour period. A tenth well for fire safety will be drilled.
- A revised intersection with Tabor House Road is proposed.
- Subject to permitting, Chilmark will purchase two additional lots for the access road for \$500,000.
- Economic impact includes the cost of the project, estimated at \$3 to 4 million, including the Phase 1 archaeological study for \$19,000. The second phase study will be about \$20,000.

- James Lengyel, Martha's Vineyard Land Bank, asked that an open easement be agreed to for the future. If trails were to come to the property, an easement would be available to cross the property.
- Paul Foley reviewed slides of the new access on Tabor House Road.

**Christine Flynn** reviewed her memo on three points of clarification. It includes three income thresholds for each of the units, the maximum wholesale values and maximum resale values for the homeowner units.

**Doug Sederholm** asked for clarification on the lot layout and the limit of the no-cut zone and whether it overlaps 50-foot buffer zone for Holman Road.

## **1.2 Applicant's Presentation**

**Reed Silva**, Vineyard Land Surveying, developed the subdivision plan. The lot lines have stayed largely the same. The only significant change is that the road access has been developed with neighbors and town parcels.

- There are 9 building sites with 7 lots. The part of the project with the three duplexes and much of the open space is on one large lot.
- The two lots to be acquired are the Jaksa and Jenkinson lots.
- The access has been designed for sight lines and perpendicular access and to keep some turns so it looks like a winding country road.
- The access is 18 feet wide, so two cars can pass. The new proposed turnouts were developed with input from the roads inspector and to avoid wetlands.
- Sites 2, 5, and 8, are the duplex lots and are interconnected through the easement.
- They have added a 50-foot no-cut zone on the Emin side. There is a no-build zone 75 foot from the Emin lot line.
- He showed the proposed septic sites and wells with the addition of the fire tank and well. The proposed systems are all gravity. Most of the house sites were controlled by the location of septic sites, which are based on soil testing.
- The access road will have a minimum of cutting, grading, and filling. The subdivision road will be processed stone and hardener base. The maximum slope is 10% due to the separation required from Holman Road and from the clay pit. There is a 22-foot vertical drop between the highest and lowest point. The plan in profile of the entrance shows about 15 feet. They tried to keep it a gradual slope and maintain the perpendicular entrance.

**Dave Handlin**, architect, said the principle of the plan is three duplex units and six resident homesites.

- There are three cul de sacs, each leading to a duplex unit in the middle and to two resident home sites on the wings. Within the cul de sac area, there is a septic for the duplexes.
- Green space is 83% of the site. There are the two clay pits, wetlands, and the beech grove.
- They've delineated a potential cut zone for the septic systems. There's a cut zone around the duplex units for the maneuvering of construction.

- They've established a 75-foot no-build line from the property line of the Emin lot. The town has negotiated with the Emins about putting in a vegetative buffer to buffer the building sites.
- They've tried to protect Old Holman Road by crossing it only once and having a 50-foot buffer on each side. The Town intends to add a positive walking easement for the walking trail to North Road.
- Slight changes were made by moving houses away from the east lot line to protect abutters with the result that septics had to move a bit, too. Exact resident home site locations are not predetermined.
- With gravity systems and the soils, the houses have to be on Emin side of the lot. Holman Road is the natural low point of the lot. To use the gravity system, the houses are on the higher point away from Holman Rd.
- Two potential well sites are within the 50-foot buffer of Holman Rd. **Reed Silva** added that wells and septics are fixed. They were the most difficult design portion of the project because of the relationship of the septics, wells and wetlands. It's as tight as possible while still accommodating gravity systems.
- The disturbance in the 50-foot no-cut zone to Holman Road from Lots 7 and 8 will be the wells and trenching to the house.
- It's a fairly open wooded area, with low level brush and oaks. The disturbance would be somewhat minimal. The well sites can't move and keep the same configuration.
- The effect that they want to achieve is houses tucked into the woods. A design review committee will deal with usage. They've done grading plans for the duplexes. Because of the grading, they don't have to go beyond the no-cut zone. There will be grass around the buildings and lighting at the building entrances according to the Mass Building Code.
- Cape Light Compact will bear the cost of LEED certification for the three duplexes, saving the Town \$8,000 to \$12,000.

### **1.3 Commissioners' Questions**

**Doug Sederholm** said he appreciated that the well sites are locked in; he asked how they propose protecting and preserving Holman Road and the buffer areas, considering that two of the well sites require the ditches cross Holman Road and the 50-foot buffer. **Reed Silva** said that he thinks the disturbance, if done correctly, can be very minimal; there isn't a specific plan, yet, on how to remediate the trenching. **Doug Sederholm** said it would be a shame to disturb the integrity of the area that they're working so hard to protect and recommended developing a protocol.

**Reed Silva** explained that utilities will be underground along the access road and drives. Utilities will run up Middle Line to the access road to each of the nine sites.

- Utilities and water lines can't be in the same trench. The infrastructure will be established with the rental units. The main service will come to the property line of the home sites. Then the resident home site owner takes it the rest of the way.
- The plan is that the Town will bring the utility and access to each of the sites, as well as create the road, improve the road, create the new intersections, cut the driveway in to the

site. The only things the home site owners will have to do is clear the site, place the septic, and build the house.

**Mimi Davisson** asked whether their roads will be sufficient for construction staging. **David Handlin** said they've tried to leave enough space around the potential building sites; modulars won't be used, eliminating the need for an extensive staging area; the Planning Board has asked them to block off Holman Road so no construction vehicles can go down them by mistake.

**Chris Murphy** said this is a huge improvement from using Holman Road as access. They can develop wording so that any intrusion into the 50-foot buffer can be repaired as naturally as possible.

**Jim Athearn** asked about wells. **Chuck Hodgkinson** imagines that roads and driveways would be cut first so drillers can get access; they could create wording specifying that driveways wouldn't be developed until wells are drilled to ensure that each home site lot has a viable well before it is cleared and developed.

**Chris Murphy** suggested that, if utilities don't have to run along the access road, the archaeological findings aren't an issue; road material could be laid on top of what's there, requiring no disturbance of artifacts; if there's no subsurface disturbance, artifacts won't be disturbed. **Reed Silva** said he wouldn't suggest building on top of the surface material; it's poorly drained and would be costly.

**Andrew Woodruff** asked if a spur or access needs to be built for the fire well access. **Reed Silva** said that they are planning a pull-out off from the traveled way for fire vehicles filling up; there's no pull-out into the wooded area; the two newly acquired lots are technically part of the plan; the Town has proposed that the road will be cut and the rest of the lots will be preserved as open space.

**Russ Walton** said the Selectmen made it very clear that one of the main reasons for acquiring the lots was to create a green buffer along the road and create a buffer zone for abutting lots and landfill.

**Kathy Newman** asked for clarification on the wells. **Reed Silva** said that there will be ten wells, one for each lot and one for the fire tank; the well for lot 5 will be on lot 4.

**Jim Powell** supported Chris Murphy's suggestion and recommended building up the access road on top of the subsurface; he stated his concerns in general about proper construction and its effect on surface vegetation. **Chuck Hodgkinson** explained that John Keene has provided an estimate to bring Middle Line Road and the access road up to Chilmark Planning Board road specifications.

**Christina Brown** asked what will happen to the old beginning of Middle Line Road. **Chuck Hodgkinson** explained that voters at Town Meeting approved giving Selectmen authorization to remove the vehicular traffic easement and keep the road preserved as a walking path. Vehicular access to Land Bank property by vehicle will be by the new entrance.

**Chris Murphy** asked about using a stand pipe in one of the old clay pits. **Chuck Hodgkinson** explained that the fire chief asked for a water tank to use for this development and for the other houses in the area.

**Susan Shea** asked if the architect could give the home site owners suggestions for use of the 3,000 square feet of lawn other than lawn. **David Handlin** explained that the design review committee would discuss use of lawn space.

**Susan Shea** suggested that bleaching oils aren't the best treatment for windows, doors, and porches, because the bleach leaches into the water supply. **David Handlin** said he's happy to discuss alternatives; the intention is to make the buildings as simple and unonerous as possible while maintaining some level of consistency.

**Jim Athearn** asked about all the windows and doors being white; it's the bane of the Land Bank to have white trim houses that shine like beacons through the woods. **David Handlin** said he wants colors to be uniform; the goal is to be uniform throughout the resident home sites.

**Mimi Davisson** said she was struck by limiting colors of windows and roofs as being very restrictive.

**George Davis**, speaking on behalf of the Emms, said he has a March 11<sup>th</sup> memo, some of which is incorrect.

- The agreement between the town and abutters doesn't require that the trees be on the abutters' side of the lot line. The abutters aren't to be responsible for maintenance of the trees.
- He'll submit the document as part of the plan.

#### **1.4 Public Comment**

**Andrew Goldman**, member of the Selectmen's Implementation Committee, Chairman of the Housing Committee, Chairman of the CPP, spoke about initial and on-going affordability.

- For income and certification, Chilmark will be working Dukes County Regional Housing Authority who will be making the final determination that individuals comply with the town's requirements that two rental and two home site units will be at 100% or below AMI.
- To avoid problems with deed riders, the town will own the land, and home site eligible purchasers will enter into long-term deeds with the town for the land.

**Christine Flynn** said she will review of the Town's memo responding to her points of clarification. The town has made a big effort to address the questions she raised.

**Andrew Goldman** explained that their proposal is that the lots be permanently affordable and that resale have limits and require approval by Chilmark.

- The Regional Housing Authority will be involved.
- They're not yet sure of the ownership structure of rental units. They are hopeful that an outside entity will do the construction.
- Chilmark's preference is that the Housing Authority will manage the rental units.

**Andrew Goldman** explained that in the by-laws and implementation guidelines, Chilmark has developed three levels of preferences for residents, with the most preference being given to people living, working, or volunteering in Chilmark.

**Jim Athearn** asked if a home site owner can leave a house to a family member. **Andrew Goldman** said that because public monies are involved, the public purpose should be maintained and, so, a home site, could be passed on to a family member if the family member qualifies under the affordability guidelines.

**Chris Murphy** suggested that Chilmark respond to James Lengyels' letter regarding the Land Bank request. **Andrew Goldman** said he believed the Town would respond favorably.

**Peter Cabana** suggested creating a preference category for craftspeople to help keep people on the Island; he also suggested creating a category for people who have already left the Island for economic reasons. **Andrew Goldman** said Chilmark could consider language that would help people become eligible again, if they were previously eligible.

**Mimi Davison** asked about access; she noticed that there is VTA access and wondered if there is there any possibility of getting bus access a little closer. **Russ Walton** said it is a little nebulous as yet; when the landfill can be used for parking, it could be a park and ride for Menemsha and possibly a loop off North Road.

**John Breckenridge** said craftspeople are very important to this Island, but teachers and health care participants are all very important. He requested that the preferences be kept open to other workers who may have left the Island.

**Mr. Emin** explained his concerns.

- He asked about the elderly qualifying for affordable housing.
- All the buildings seem to be along the property line which seems a little unfair. Most of the property is unusable.
- The wells are a concern. If the drillers can't get usable water, what happens?
- He believes there will be digging to bring the utilities.
- He would like to see more screening along the property line because it is a rural area.

**Andrew Goldman** said they haven't had a special set-aside or preference for the elderly. Preferences are based on income guidelines and residency.

**John Breckenridge** asked about screening. **Chuck Hodgkinson** explained that Selectmen have been negotiating the screening with the neighbors; a resolution wasn't reached with the Planning Board; one of the questions was where the trees should go; right now there is a 75-foot no-build zone and a 50-foot no-cut zone; if the trees go on the Town side, some cutting may have to take place.

**Linda Sibley** and **Russ Walton** said red cedars won't grow well; they suggested white pine, spruce and holly. **Christina Brown** said it's an issue for the Town and abutters to negotiate; a copy of the resolution should be included in the final proposal.

**Andrew Woodruff** said he's sympathetic with Mr. Emin and the close proximity of the development. It begs the questions of why the development couldn't have been moved 25 feet further down.

There was a discussion of well water.

- **George Davis** spoke about well water.
  - The staff report refers to the USGS report, the poor aquifer, and the Chilmark requirement that there should be a pumping test to establish that there is an adequate flow rate.
  - It's well established, according to the USGS report, that there may be problems with finding groundwater at the wellsites.
  - Blair Emin had to replumb twice. They had water at 25 feet, then went to 90 feet, then back to 25. They had to put a larger casing in for more volume. They don't have a lot of water.
  - Some of the beds are good aquifer, and some are poor. Water supply is uncertain. In some locations, they might not find ground water. It's incumbent upon the town to test for water.
- **Reed Silva** said each site has to have a well. You need to have water on the site. If there's no water, then there's no site.
- **George Davis** said:
  - There is a groundwater issue. Any wells in this area may negatively impact the Emin wells. There should be some sort of well insurance.
  - He does have a copy of the agreement. The screening language is in paragraph C.
- **Doug Sederholm** asked whether the potential impact on the Emin well is a matter of negotiation with the town. The negotiation with the town was selling the lot on Tabor House Road. Mr. Emin wanted to speak directly to the Commission as an abutter for more screening and about issue of wells.

**Paul Foley** added that the archaeological surveyors were impressed by the stone walls.

**Linda Sibley** said it's reasonable that the applicant wants the town to accommodate screening on town land. However, some of the screening might work better on the abutter's land. She agreed that the initial obligation is on the Town, but suggested the abutter be open to an offer of what will provide the best screening.

**Chris Murphy** said he doesn't understand why the Town has to supply a 50-foot no-cut border and the abutter doesn't have to provide a corresponding one; Chilmark doesn't require a no-cut zone; every effort should be made to screen all the houses; as much as the abutters don't want to see the neighbors, the neighbors don't want to see the abutters. **Doug Sederholm** said that the only thing that can be accomplished in this context is creating the 50-foot buffer; the 50-foot buffer benefits both parties.

**Richard Toole** closed this session of the public hearing, and continued the public hearing until April 3, 2008 for the sole purpose of getting more information about the archaeological report, if necessary, and for firming up offers from the applicant.

**Christina Brown** suggested, as part of the written record work, the Town work with the staff to work out all of the offers so they are in writing and part of the application, including the conservation restriction on Tabor House and the walking easement on Middle Line Road.

**Jim Athearn** suggested that the Town committee discuss whether the architect's ideas about uniform colors are what the town really wants.

**Chuck Hodgkinson** submitted a summary, as requested by LUPC, summarizing how the plan addresses Commission policies.

The meeting adjourned at 9:40 p.m.

  
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Chairman

6-12-08  
Date

  
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Clerk-Treasurer

6-19-08  
Date