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## Minutes of the Commission Meeting Held on January 8, 2009 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)	- Katherine Newman (A – Aquinnah)
P John Breckenridge (A – Oak Bluffs)	- Ned Orleans (A – Tisbury)
P Christina Brown (E - Edgartown)	P Jim Powell (A – West Tisbury)
P Peter Cabana (A – Tisbury)	P Doug Sederholm (E – Chilmark)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
Carlene Gatting (County Appointee)	P Holly Stephenson (E – Tisbury)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Analyst), Paul Foley (DRI Coordinator), Christine Flynn (Affordable Housing and Economic Development)

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

**Christina Brown** welcomed back members who were re-elected and Holly Stephenson who was elected. She welcomed back Jim Athearn and Jim Powell, appointed members. Chris Murphy is vice-president, Ned Orleans continues as treasurer, Linda Sibley has agreed to chair LUPC, and Jim Athearn has agreed to be chair of the planning committee.

### 1. EXECUTIVE DIRECTOR'S REPORT

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**Mark London** gave the Executive Director's report:

- The Lieutenant Governor asked for a list of shovel ready projects. The Commission put in one proposal for an Island-wide Comprehensive Wastewater Management Plan, in cooperation of all the towns.
- Chris Seidel took an active role working with the County to get a joint GIS license shared by towns and other public entities. This will reduce costs and provide a framework for ongoing contact for people working with GIS.
- Nell Coogan will be the replacement for Russell Smith as legislative liaison.

### 2. MUCKERHEIDE HOUSING: DRI NO. 615 – PUBLIC HEARING (CONT.)

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Commissioners present: J. Athearn, J. Breckenridge, C. Brown,, P. Cabana,, C. Murphy, J. Powell, D. Sederholm, L. Sibley, H. Stephenson, A. Woodruff

For the applicant: Donald Muckerheide, Trustee, Violet Realty Trust

## **2.1 Staff Report**

**Paul Foley** gave the staff report.

- The proposal is for a three-story building with twelve two-bedroom units.
- Proposed height is 34 feet.
- The building will be 64 feet long along Dukes County Avenue.
- The footprint is 31% greater than what is there now, but 20% less than original proposal.
- Planning concerns are related to intensity of use and fitting in with the streetscape.
- The front will have four street trees and grass. Parking is in back.
- The applicant is considering installing a green grid roof system and solar collectors inside the mansard roof with a small outdoor roof area for tenants.
- Security lighting will be motion sensitive and downward shielded.
- Trash would be collected in sheltered bins along Arch Avenue.
- The site is in a nitrogen sensitive watershed area. The application should include a clear offer or condition that wastewater would be tied into the town system. The applicant has received wastewater hook-up permission for 19 units. Despite the current moratorium he could proceed with the nineteen units, but would need approval for five more bedrooms.
- Schofield Barbini is designing a storm water system to handle a 25-year return storm on site which should be submitted to LUPC.
- The applicant has agreed to pay \$106,000 (20% of the assessed value) for the affordable housing contribution.
- The units will be priced at \$325,000 - \$350,000 which is at or below the fair market value and is within 120% - 140% AMI for a two to four person household.
- Weekly rentals will be prohibited in the master deed. There will be a rental restriction of thirty or ninety days, and only twice a year.
- The applicant was asked to exclude seasonal residents but he doesn't believe that would be legal.
- Architectural detailing is based on local style, with a mansard roof and two over two windows.

## **2.2 Applicant's Presentation**

**Donald Muckerheide** presented information about the project.

- The architectural style mimics the 1890s Cottage City Hotel style.
- The project employs an efficient use of space, materials and energy. This is as efficient as you can get. It will be highly efficient construction and good for housing people.
- There will be solar collectors and there is the potential to do liquid to air heat exchangers.
- Units will have no common walls with neighbors.
- Hallways are simple for access for solar retrofit.
- The project has a lot of positive design attributes as far as efficiency goes.
- It's a community housing project. It's the only form of construction that local residents could afford on the Island.
- He explained the proposed monetary mitigation and payback. The concept is that theoretically he would be selling the units for \$750,000 or \$1,000,000 less than he might because it's literally being devalued by putting on the rental restriction.

- He explained his decision to take the route of monetary contribution rather than deed restriction for affordable housing. There is a restriction on the value is due to the lack of rentability. It's self-controlling as long as you enforce the rental aspect. People want the potential to own the property. He doesn't want an affordability restriction.
- Hallways are 6 feet and 10 feet. The six-foot hallway is not necessary for egress. The hallways are sound deadening.
- Owners may rent twice a year.
- He hasn't limited the number of people who can purchase a unit. The restriction on the rentability should govern.
- He's sure what the selling price will be. If he can sell them for \$350,000 he'll be doing fine. Alan Schweikert sold one of his units for \$410,000, one for \$300,000, and one for \$400,000.

**Christina Brown** said she thinks it's interesting that the applicant is using rental restrictions instead of price restrictions and wonders how the applicant can be sure that the next time the units are sold, the rental restriction will remain. **Donald Muckerheide** responded that the rental restriction is part of the Master Condominium Deed and could only be changed by the condo association.

**Chris Murphy** said the details of this project have to be very clearly explained. In the end, the Commission is voting on a piece of paper that has to be enforced, so the document should be clearly written and something everyone can live with.

**Andrew Woodruff** said his main concern is the scale of the building. He has to think about benefits and detriments of the scale, relative to the affordability. He also wondered why the applicant doesn't want to cap resale prices.

**Donald Muckerheide** said that to get the price down to affordable levels you have to have a certain number of units.

- This proposal is affordable to build and the design and numbers are easy to work with.
- Whether a house is 30 or 35 feet, you can hardly tell. He doesn't see a problem with the scale of a large building. Large hotels were scattered all around Oak Bluffs.
- This project meets current zoning.
- Restrictions on resale is why people in this price range don't participate in the affordable housing program. They want to be able to sell their properties without restrictions.

**John Breckenridge** asked why there were no exterior fire stairs, whether the applicant would be willing to limit use of the roof garden and whether the applicant would be willing to go before the Cottage City Historic District Commission on an informal basis. **Donald Muckerheide** responded.

- A Massachusetts Building Code consultant advised him that exterior stairs weren't necessary.
- Regarding the roof garden, residents would be subject to the same laws as anyone else.
- The final architectural plans would be submitted to LUPC. The architect from the modular company will draw up the plans. Valid architectural recommendations from LUPC are fine, but he doesn't want to go in front of a lot of boards.

**Jim Powell** asked whether the applicant had spoken to any groups about workers and housing needs. **Donald Muckerheide** said he spoke to Dr. Weiss who said it's a useful place for his demographic; the \$350,000 segment of society needs housing; he would have no problem restricting multiple owners - that's not the purpose of the project; the condo document could restrict multiple owners.

**Donald Muckerheide** said that, as soon as there is a permit, the property will be marketed to be presold. Islanders will be the first market. He'll notify affordable housing groups as soon as units are for sale.

Commissioners and the applicant discussed rental restrictions, the master deed, and condominium documents. The master deed could be submitted to counsel after approval to ensure it meets the concepts agreed to in an approval. The master deed would need to be consistent with offers and conditions and would include that rentals would be a minimum of no less than thirty days.

**Doug Sederholm** said he's not sure that the conditions are sufficient.

- There have to be enough restrictions to guarantee that the units will be residential.
- The project is dense and massive in this neighborhood. It will have to be a benefit that this serves local residents.
- The applicant is on the right track. He's balancing his goal of creating housing that's affordable with his belief in the right of the individual.
- The language needs to be clear and support the goal.

### **2.3 Public Comment**

**Judy Schubert**, Dukes County Avenue, said the project got her attention from the article in the newspaper.

- This is a very large project with a very big impact. It is being billed as a community housing project.
- It is in a B1 district which promotes smart growth, but she wonders where the smart growth aspect of the project is.
- The project doesn't take into account the commercial opportunity of the site. The commercial aspect should be part of the project. It doesn't seem to be adding to the neighborhood.
- The other question is how the rental agreement gets enforced.
- She appreciates that the applicant is trying to create housing for year-round people.

**Michael Hunter**, Dukes County Avenue, commended the applicant for the project.

- He's interested in nailing down some of the aspects of the project.
- He's concerned about the web of the neighborhood and how to monitor the number of people in a unit. What's the maximum number of people who can live in the building during the summer months?

**Don Muckerheide** said that he wouldn't be able to begin construction unless he's received all applicable permits, including for the wastewater permit for the five additional bedrooms. The project couldn't begin from the perspective of the bank until the wastewater permit for the additional five units were received.

**John Breckenridge** asked whether a landscaping plan had been submitted. Don Muckerheide said that:

- The landscaping plan is basically the same;
- Parking will be rap; 35% of the lot will be pervious surface, 65% will be impervious;
- There will be some runoff and the three foot belt around the perimeter of the property will have standard ground cover.

**Don Muckerheide** said that condo association could limit the number of residents. Condo associations have a lot of power. The condo association would not tolerate excess density. The condo association is responsible for enforcement of the condo agreement.

**Linda Sibley** continued the hearing to February 5, 2009 at 7:30pm with the primary purpose of receiving written testimony. The hearing will not be reopened for oral testimony unless she determines that new written testimony raises significant new issues. The comparative analysis of Dukes County Avenue prepared by staff will be added to the written record.

The meeting adjourned at 9:30 p.m.



Chairman

Date

6/4/09



Clerk-Treasurer

Date

6/4/09