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**Minutes of the Commission Meeting
Held on May 3, 2012
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

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

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|------------------------------------|---------------------------------|
| - Bill Bennett (A-Chilmark) | - Chris Murphy (E-Chilmark) |
| P John Breckenridge (E-Oak Bluffs) | P Katherine Newman (E-Aquinnah) |
| P Christina Brown (E-Edgartown) | P Ned Orleans (A-Tisbury) |
| P Peter Cabana (E-Tisbury) | P Camille Rose (A-Aquinnah) |
| - Martin Crane (A-Governor) | - Doug Sederholm (E-Chilmark) |
| P Erik Hammarlund (E-West Tisbury) | - Linda Sibley (E-West Tisbury) |
| P Fred Hancock (A-Oak Bluffs) | P Brian Smith (A-West Tisbury) |
| P Leonard Jason (A-County) | P Holly Stephenson (E-Tisbury) |
| P James Joyce (A-Edgartown) | |

Staff: Paul Foley (DRI Planner), Jo-Ann Taylor (Coastal Planner, DCPC Coordinator), Sheri Caseau (Water Resources Planner), Christine Flynn (Economic Development and Affordable Housing Planner)

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

1. MINUTES

Commissioners Present: J. Breckenridge, Brown, P. Cabana, E. Hammarlund, Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

Christina Brown moved and it was duly seconded to approve the minutes of March 22, 2012, with corrections as noted. Voice vote. In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

Christina Brown moved and it was duly seconded to approve the minutes of April 5, 2012, with corrections as noted. Voice vote. In favor: 11. Opposed: 0. Abstentions: 2. The motion passed.

Katherine Newman moved and it was duly seconded to approve the minutes of April 26, 2012, with corrections as noted. Voice vote. In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

2. MORNING GLORY FARM EVENTS – EDGARTOWN (DRI-620-M) MODIFICATION REVIEW

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

For the Applicant: Jim Athearn, Simon Athearn

2.1 Staff Report

Paul Foley presented the Staff Report:

- The Commission received a letter from Jim Athearn regarding the program.
- The notes from the Land Use Planning Committee (LUPC) are attached to the letter with the packet of information.
- The following is a summary of the request:
 - Ongoing programs will have estimated attendees of 0-75 and will be absorbed into the normal business flow.
 - Extraordinary events are estimated to be six per year with an estimated attendance of 50-125 attendees.
 - Events for organizations other than Morning Glory Farm will be in the winter months and are estimated to be six to nine events per year.
 - Weddings will have no more than 175 guests with a maximum of four per year between January 1 and April 30.
 - Four farm festivals are planned per year.
 - Winter hours of operation will be 9:00 a.m. – 5:00 p.m. Sunday through Saturday.
- Morning Glory Farm has looked at other farm stands in the state on how to promote farming and activities.
- The farm has held several events for the past ten years such as the Pumpkin Festival and the Strawberry Festival. LUPC felt that these were established events.
- The farm did have a family wedding and LUPC asked if they planned to have future weddings and the applicant estimated four per year.
- The threshold for a police detail is approximately 125 people.

2.2 Applicants' Presentation

Jim Athearn presented the following.

- Read Milne and Brianna Valenti from the Plum Hill School are present to answer any questions regarding the planned Mayday event to benefit the school.
- Paul Foley outlined their request very well.
- It is hard to imagine exactly the type of things they might want to do in the future so they have described them as types of events.

2.3 Commissioners' Questions

John Breckenridge noted that Paul mentioned that a police detail is needed for 125 people and asked where that is stated in the proposal and is it at the discretion of the farm. **Jim Athearn** said that when there is not enough parking at the farm stand, their staff manages traffic

and sends vehicles to other parking lots. The police are across the street on Meshacket Road. It is at the discretion of the farm. He talked with the Police Department and decided we would need a detail for the Pumpkin Festival.

Erik Hammarlund said that they did a great job summarizing and asked if they are stating that these are things that they would like to do and are seeking open approval, and wanted to know specifically what the applicant is asking for. **Jim Athearn** said that currently they have two farm festivals per year and is not sure how the May Day Festival will be, so they decided to ask for one per month should they be developed. They want to stay within bounds and have stated they would be managed by their staff, so the events would not be out of scale and to ensure safety. These are descriptions of activities. It is in the realm of possibility to have nine per year. It would give them a framework to work within.

Brian Smith said he was not sure that weddings are farm related activities and asked if they were just hoping to achieve extra income in the winter months. **Jim Athearn** said it is not about the money. The farm stand is not open in the winter so they thought it would be a good idea and use of the space.

Brian Smith noted that they are asking for winter hours of operation so that is for the farm stand as well as the events. **Jim Athearn** confirmed it was and said that they did receive a request for a wedding in June. They wanted the farm experience. It is the framework to have a non-farm event on a farm.

James Joyce asked how many parking spaces do you have and is it enough. **Jim Athearn** stated there are 62 spaces and to accommodate 175 people you have to allow for mass transit and bus in from elsewhere. For a one-time event they would need to arrange transportation.

James Joyce asked if they have received any complaints from abutters regarding the events. **Jim Athearn** said they have not and that the abutters are a sewer plant, conservation land, and their fields.

2.4 Commissioners Discussion

Leonard Jason noted that there was a disagreement with the Town on what is considered a farm event and what is not. The Town does not feel he can hold the events without a special permit. They are okay with the Pumpkin and Strawberry Festivals.

Linda Sibley noted that the question before the MVC is if we have a problem with the regional impact, but is there is a problem from the Zoning Inspector's perspective. **Fred Hancock** noted that the important thing is that it is on a per case basis, not a year round usage. **Leonard Jason** said it appears that it could be on a year round basis.

Katherine Newman asked if there is a zoning by-law that specifically says that weddings cannot be at farm stands. **Leonard Jason** said that it is a state law that a farm stand is protected for agricultural uses.

Holly Stephenson noted that it is more than "trumping" the Edgartown zoning. There is an exception for agricultural uses. Is it okay to say it is authorized if the MVC approves. **Jim Athearn** noted that if the events were not agriculture related and the MVC approved them, he expected he would still need to go to the town. There is a legal question as to what the legal

exemption for farms means. It is a legal question between the state, the town and him, not with the MVC.

John Breckenridge said he was still concerned about the regional impact. Large groups will generate traffic. He is concerned when I see a statement such as “we struggle to make our farm viable...”, as the farm appears to be viable. This may have a major impact to the neighbors with the increased parking and felt that the details needed to be reviewed more.

Katherine Newman said they have shown that the festivals that fall under the farm guidance have been overseen and controlled well by the farm. Isn't being married on a farm within Island character.

Fred Hancock asked for further clarification on the winter hours of operation. **Jim Athearn** said that they have asked for the hours in the event that they have good crops, they would like to be able to be open.

Linda Sibley said she has no problem with expanding summer hours into the winter as traffic is considerably less. We can approve things that are under the agricultural exemption, so we need to decide whether it is in character with a farm.

James Joyce asked whether we need a public hearing if someone is asking for a Modification Review. **Fred Hancock** said we are deciding whether we do need a public hearing.

Erik Hammarlund asked if there is anything else that the existing Development of Regional Impact (DRI) requires that has failed to make it into the Modification Review. **Jim Athearn** said the only thing that came to mind were the events.

Leonard Jason moved and it was duly seconded that the modification is of significance requiring a public hearing. Voice vote. In favor: 7. Opposed: 3. Abstentions: 2. The motion passed.

Jim Athearn questioned whether they have the time or the money to pursue this, and could drop the request for the modification. He also noted that the Plum Hill School really wants their May 12th event.

Linda Sibley noted that typically on a modification the fees are for staff time only and not those of a new application.

Holly Stephenson said if the MVC voted it did not require a modification review; it would not resolve the issue with the Edgartown Zoning Board. **Jim Athearn** noted that restaurants are not allowed in a residential area but since they are a farm, they are allowed to have one. The zoning exemption is a state issue. The MVC has its own compliance regulations. This is not contrary to the conditions of the DRI. They could scale back and take out the weddings and pursue only the farm-related activities and winter hours of operation.

Linda Sibley said if you shortened the list you may not need to have a public hearing. But why not bring forward the things you want to do. **Jim Athearn** said that for events in the winter, is it not hard to have them farm related.

John Breckenridge noted that in his letter to the MVC, the applicant mentioned a contra dance to promote the farm and asked how that falls into farm related events. **Jim Athearn** noted that

at the Agricultural Society, they celebrate rural farm heritage and that social function is an important one for promoting agriculture.

Fred Hancock suggested that Jim Athearn review and decide how he wants to amend the modification. **Erik Hammarlund** said that he thought the applicant made it clear that they do not want a public hearing.

Linda Sibley noted that the Agricultural Society is approved to be a place of assembly and that Morning Glory Farm is asking for the same thing and suggested that the applicant re-review.

Fred Hancock reminded the Commission that there is a full agenda and that we need to move onto other topics.

Erik Hammarlund asked if we leave the vote standing or ask what the applicant wants to do.

Linda Sibley said we have the vote standing.

3. LEAF MIXED-USE – 284 UPPER MAIN STREET – EDGARTOWN (DRI-637) PUBLIC HEARING

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

For the Applicant: Chuck Sullivan (Architect), Doug Hoehn (Engineer), Colin Jones (Project Manager)

Linda Sibley, Acting Hearing Officer opened the Public Hearing at 7:50 p.m. and read the public hearing notice. The location is 284 Upper Main Street, Edgartown, Map 20-A Lot 64 (.023 acres). The proposal is to remove an existing residential house and guest house at 284 Upper Main Street and replace them with a three story mixed-use building.

Linda Sibley questioned the date of the posting of the public hearing. **Paul Foley** confirmed that the newspaper and the MVC calendar on the website correctly have the date as May 3, 2012.

3.1 Staff Report

Paul Foley presented the Staff Report:

- The packet of information includes the LUPC notes, plans and a revised letter from the neighborhood.
- The location is 284 Upper Main Street, Edgartown.
- The proposal is to remove an existing residential house and guest house and replace them with a three story mixed-use building.
- The new proposal would be 2,136 square feet of commercial space on the first floor with up to four units. The second floor would have 2,136 square feet of office space with two units. There would be a three bedroom apartment on the third floor (1,460 square feet) and there would be a full basement.
- Zoning is B-2 Business. The six foot side building setback in the corner requires a Special Permit from the Planning Board.
- Local permits required are a Building Permit and a Special Permit from the Planning Board.

- Surrounding land uses are a residence, Donaroma's Nursery, Edgartown Park and Ride and businesses.
- The Applicants were half of the team that was approved in 2011 in DRI 623-M (Wavelengths) down the street at 223 Upper Main Street to remove an existing one story building and replace it with a three story 5,309 square feet mixed-use building.
- The proposal is for a total of 5,632 square feet. Decks and balconies would add up to 791 square feet (6,423 square feet total).
- Site visits were done on May 3, 2012.
- Key issues include:
 - How does the proposal fit the streetscape and the neighborhood.
 - Does the site plan achieve adequate parking and circulation.
 - Why does the exit into the Park and Ride run along the property lines removing all of the vegetative screening and increasing the impact on the abutters.
 - Is this too much intensity of use for the ¼ acre at a busy intersection.
 - The proposal develops virtually the whole site with either building or parking.
 - Existing vegetative screening in front and back are proposed to be removed.
- This is not a National Heritage Endangered Species (NHESP) habitat.
- Almost all existing trees and plants within the property would be removed. The applicants have said they will plant street trees along Upper Main Street in front of the new building. They will retain screening on the side of the property.
- The Edgartown zoning for the B-II (Article X 10.5 a.4) requires that "at least 20% of the lot shall consist of open space dedicated to natural or pedestrian use...". Article X 10.5 b.4 requires that "parking areas shall contain 250 sf of planted areas for every 1,000 sf of parking".
- Lighting: Minimum required by code to be downward shielded and on motion detectors.
- They would be connecting to the town sewer.
- Charlie Crevo of C3 Consulting will be performing the Traffic Impact Analysis (TIA). The TIA is not completed yet but the LOS analysis states that both driveways will operate at acceptable levels of service in the year 2012 during both a.m. and p.m. peak hours.
- According to the ITE Trip Generation the proposed uses will generate 122 daily trips. The retail uses will generate 93 daily trips (14 AM peak, 6 PM peak), the offices will generate 22 daily trips (3 AM peak, 3 PM peak), and the apartment will generate 7 daily trips (1 AM peak, 1 PM peak).
- The site plan shows 15 parking spaces including one for handicapped.
- The site abuts the Town Park and Ride.
- The Edgartown Zoning By-laws for the B-II Upper Main Street District requires one space per 250 square feet of office or professional use, one space per 350 square feet of retail use and one space per two bedroom dwelling. Based on the uses according to zoning, a parking supply of 15 spaces would be required for the revised proposal.
- The Martha's Vineyard Transit Authority (VTA) provides bus service along Upper Main Street.
- There is a Shared Use Path (SUP) and sidewalks on Upper Main Street for bicycle and pedestrian use.
- According to the MVC Affordable Housing Policy, the recommended monetary mitigation for a commercial development of 6,300 total square feet is \$4,450.

- The applicant has offered to sell the three bedroom condominium residential unit at a reduced rate to a year round employee who is the construction project manager and will be the future on sight manager of the condominium association.
- The proposed project will demolish a three bedroom home and one bedroom guest house that have been rented seasonally, from May to October for the past several years to the Harborview Hotel for workforce housing.
- The applicant is working with the Edgartown Affordable Housing Committee to begin compliance with the Edgartown Demolition Delay By-law for both the house and guest house to see if there is a possibility to move one or both of the housing units off site.
- The Wavelengths Salon would move into one of the two office spaces on the second floor. The current hours of operation are 10:00 a.m. – 6:00 p.m. Tuesday to Saturday and 9:00 a.m. – 5:00 p.m. on Monday. There are six employees.
- The proposed project is an allowable use in the B-II Upper Main Street District.
- The potential impact to schools is likely to be minimal since there will be one three bedroom condominium unit.
- The potential impacts to municipal services such as police and fire are likely to be minimal since the proposed project is located within a densely developed commercial area.
- The creation of new commercial condominium units will provide business owners an opportunity to purchase commercial space.
- The applicant has supplied a streetscape elevation showing the proposed building to scale in relation to surrounding buildings.
- The proposed vehicular access/exit into the Park and Ride would negatively impact the direct residential abutter by removing vegetative screening and increasing the amount and proximity of traffic to their backyard. A neighbor has expressed their concerns that there is too much activity proposed on the site, not enough setbacks, too much parking and a loss of vegetative screening. She is looking for a ten foot privacy fence to screen her area.
- The site plan was reviewed.

Linda Sibley questioned the letter from the Board of Selectmen versus the applicant. **Paul Foley** clarified that the letter from the Selectmen addresses the exit and the letter from the abutter addresses a privacy fence.

Leonard Jason asked if they have tried to get an easement from the abutters. **Doug Hoehn** said they were not asked to do so.

3.2 Applicants' Presentation

Doug Hoehn and **Chuck Sullivan** presented the following:

- The site plan was reviewed.
- The site plan was revised on May 3, 2012 based on issues that were raised at the LUPC meeting.
- The parking has been slightly revised; drainage was added and the bay between the two rows has been widened.
- They will keep whatever vegetation we can and supplement it, especially between the abutters.
- The Selectmen were concerned about screening so they will talk with both parties about what can be done.

- With respect to the slope, the elevation is 26 feet on top of the bank and 22 feet on the bottom. That is four feet over a distance of 10-12 feet. A concern was raised about stabilization of the bank, so they have added a retaining wall.
- LUPC asked about making the road narrower, but it is 10 feet wide when it becomes a service road.
- The service road is in response to the Selectmen's concern. It eventually becomes available to the abutters to tie into the road if their property becomes commercial.
- They do not have a landscaping plan, but can provide one if it is wanted.
- This plan is similar to the Wavelengths plan that was approved by the MVC in 2011.
- To bring the scale down, they added the farmers porch.
- The use is a similar use to what was previously approved; commercial use on the first floor and residential on the second floor.
- The streetscape photo was presented and reviewed in detail.
- The newer buildings are closer to the street as the B-II District now requires.
- They will need to get relief from the Planning Board on the 10 foot side setback. This was filed with the Planning Board and they requested that they give them the relief as part of their Special Permit.

Christina Brown noted that Edgartown requires 20% of the plan to be open and leafy green.

Doug Hoehn said that on the first plan they have just over 20%. He has not calculated it on the revised plan but it will be on the sides.

Fred Hancock asked if it was a paved driveway. **Doug Hoehn** said it would be whatever the Town requires and it is a hard surface with drainage that is dustless.

John Breckenridge asked if the gutters will drain into the dry wells. **Doug Hoehn** confirmed that they would.

3.3 Testimony from Public Officials

Linda Sibley noted that the MVC received a letter from the Edgartown Planning Board that they cannot be here tonight, so we will continue the Public Hearing so they can attend.

3.4 Public Testimony

Arthur Smith is a direct abutter. He reviewed the properties on the streetscape photo. The new building is almost twice the size of what is on the site now. He personally feels it is a little too large for the lot and would like to see it scaled back. The parking lot will come to the lot line of his property and he is worried about the new building looming over his property. He is also concerned about the parking and the coming and going. He is worried about the speed of the traffic and how it will impact those entering and exiting the property. He would like to see vegetation as a buffer. He did not see any place for trash and delivery trucks and is worried about the waste that will be generated as well as the noise. They need more plantings around it to mitigate the scale.

Tanya Chipperfield is speaking on behalf of her parents and grandmother. They are worried about the size of the building and the closeness to their property. They would like a fence or screening that would be 10 feet back.

Laurel Bettl works for Al Alexander but is speaking on her own behalf. She asked if there is a way for the proposed service road to be revised. They are constantly closed in, in the back. They are now all converging on Edgartown Pizza.

It was noted that there is no signage now. Any signage would help to direct traffic. It doesn't appear there would be a problem if there was signage. **Doug Hoehn** noted that when it was brought up at the LUPC meeting, they reviewed it again. He said that Edgartown Highway Superintendent Stewart Fuller has committed to fixing the problem at that corner.

Chuck Sullivan addressed the vegetation and said the line of the driveway won't change, so the vegetation will not be affected. **Doug Hoehn** added that they can add more screening if needed.

3.5 Commissioners' Questions

Linda Sibley asked about a plan that had been mentioned at one time to go straight into the Park and Ride. **Doug Hoehn** replied that it is not being proposed as it was not accepted by the Town.

Peter Cabana asked if that scenario was entertained, could the Town provide an easement. **Doug Hoehn** said they could but it was not accepted.

Chuck Sullivan asked Linda Sibley to read the letter from the Edgartown Planning Board and she complied and noted that the letter indicated that the Planning Board hoped that there would be a continuation of the hearing.

John Breckenridge noted that the applicants have heard comments about making the building smaller and asked what that would do to the first floor plan. He also asked if they are required to have an elevator. **Chuck Sullivan** said he is not sure at this time how the plan would be affected and the elevator is required for the offices on the second floor.

Fred Hancock asked if some of the parking burden could be shifted to the Park and Ride. **Doug Hoehn** said it is not something that the Planning Board can waive. He did not think they have the ability to do so due to zoning.

Holly Stephenson noted that the setback on the side looks like it is 5 feet at the narrowest point and asked why it is necessary to make the building so large to push it into the setbacks. **Doug Hoehn** said the Planning Board can grant the relief if they want to.

Linda Sibley noted that the MVC does not have the complete traffic report. She would also like to see a landscaping plan that shows the trees that are being removed. We also have not heard any testimony from the Planning Board. When Charlie Crevo does his report will it address what the consequences would be if it was a two way in and out. He states the traffic is moving slowly so can he look at that? We have not had a traffic engineering analysis to determine if the service road does what the Town thinks it does. **Paul Foley** will ask Charlie to address that.

Peter Cabana asked Doug if there was a two way in and out would it make a difference. **Doug Hoehn** said the selectmen said that the service road was to handle the three properties.

John Breckenridge asked if there was a walkway to the front building entrance. **Doug Hoehn** noted that there is a maximum setback so the parking is in the back of the building. There is a walkway should someone want to enter via the front of the building.

Christina Brown said that it was mentioned that the apartment will be offered to be sold to an employee. Will that be an ongoing covenant when that employee wants to sell it.

Linda Sibley asked if the Commission had a list of offers. **Doug Hoehn** said they did not and asked if they needed that now or before they voted. They will draft a list so the public can respond to the offers.

Peter Cabana said with the three entrances coming into the property, can the building be rotated 180 degrees so the three main entrances can be revised. **Linda Sibley** asked if the proposed orientation was chosen for aesthetics. **Chuck Sullivan** said it was designed as it is for visibility of the three shops on the main street.

Linda Sibley, Acting Hearing Officer continued the Public Hearing to May 17, 2012 at 8:00 p.m.

4. ISLAND ROAD DCPC – ADOPTION OF WRITTEN DECISION FROM AMENDMENT VOTE FEBRUARY 9, 2012

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

Jo-Ann Taylor reviewed a summary of what the MVC voted on in February. The Island Road District of Critical Planning Concern Amendments Voted February 9, 2012, Amendments to Section 4.12 and Amendments to Section 5 Goals and Guidelines can be found starting on page 29 of the Decision of the Martha's Vineyard Commission Designating the Island Road District as a District of Critical Planning Concern. She noted that there is nothing in the written summary that has not previously appeared in staff notes or Commission discussion.

Katherine Newman asked if Peter Temple has read them as well and **Jo-Ann Taylor** confirmed that he has.

Linda Sibley moved and it was duly seconded to approve the written decision as written and amended on February 9, 2012. Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, K. Newman, L. Sibley, B. Smith, H. Stephenson. Opposed: none. Abstentions: E, Hammarlund, N. Orleans, C. Rose. The motion passed.

5. ISLAND ROAD DCPC – REGULATIONS IN AQUINNAH – PUBLIC HEARING

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

Fred Hancock, Acting Hearing Officer opened the Public Hearing at 9:00 p.m. and read the hearing notice for the Island Road DCPC in the Town of Aquinnah. To review the conformance of the proposed amended regulations to the Goals and Guidelines in the Commission's Decision designating the Island Road District as amended February 9, 2012.

5.1 Staff Report

Jo-Ann Taylor presented the Staff Report:

- The proposal for grandfathering is very similar to what the Commission heard in March and voted on in April, regarding other Districts in Aquinnah.
- We were not able to hear the proposed amendments for the Island Road regulations at the time of the Commission's March Public Hearing because it was not requested in time, having surfaced only at the March Planning Board Hearing.
- The staff recommendation is for the Commission to find in conformance grandfathering as of the designation date of December 22, 1975 as follows:
 - 14.1-5(D)(4) The Planning Board Plan Review Committee shall have the authority to modify or vary the dimensional requirements of section 14.1-5(D)(2) y Special Permit for the reconstruction, extension, or alteration or pre-existing, nonconforming structures in existence as of December 22, 1975, based on the standards established in Section 13.4-11A.
- At the time of review of any amendments proposed for the Island Road District regulations, the Commission also reviews and confirms conformance of the Town's entire Island Road District regulation with the February 2012 amended Goals and Guidelines. After review, the Staff recommendation is for the Commission to find conformance of Section 14.1 Island Road District regulations, with the Goals and Guidelines of the Island Road District as amended February 9, 2012.
- Section 3.5, most of the setback summary was found in conformance on April 5. The proposal for May 3 would insert the setback of 20 feet for the Special Ways Zone; insert the designation date and standards for the Island Road District.
- The staff recommendation is to find in conformance Section 3.5 Setbacks amended to read as follows:
 - A. Except as provided in Section 13.8 (Special and Historic Places, also in Section 2.4-3) of this By-Law, all structures shall be set back at least:
 1. Thirty (30) feet from any lot line.
 2. One hundred and fifty (150) feet from Moshup Trail,
 3. Twenty (20) feet from the centerline of Old Lobsterville Road, Old South Road and Old Church Road (the Special Ways Zone).
 4. Forty (40) feet measured from the centerline of all other roads and public ways.
 5. One hundred and fifty (150) feet from the crest of bluffs or cliffs in the Gay Head Cliff Area DCPC.
 6. One hundred (100) feet from wetlands, water bodies, beaches, dunes or the crest of bluffs over 15 feet high in the Coastal District, except for fishing related marine commercial structures.
 - B. The Planning Board Plan Review Committee shall have the authority to modify or vary these dimensional requirements by Special Permit for the reconstruction, extension, or alteration of pre-existing, nonconforming structures based on the standards established in Section 13.4-11A (also in 3.4-2A), except in the Coastal District and in the Special Ways Zone, in which only municipal structures can be extended, provided, however, that in the Gay Head Cliff Area District the setback from the crest of bluffs or cliffs shall not in any case be less than 50' (fifty feet). Where Districts of Critical Planning Concern overlap, the earliest designation date (December 22, 1975 for the Coastal District and for the Island Road District, May 4, 1989 for the Gay Head Cliff Area

- District, September 7, 1995 for the Moshup Trail District, and June 17, 1999 for the Town of Aquinnah District) shall define the date of “pre-existing, nonconforming”.
- C. On Municipal lots, except those in the Special Ways Zone, the Planning Board Plan Review Committee shall have the authority to modify or vary these dimensional requirements by Special Permit for new structures if it determines that the siting of the new structure is in harmony with the goals of the applicable By-Laws and in the Moshup Trail District the *Moshup Trail: Site Design Guidelines*, provided however that in the Gay Head Cliff Area District the setback from the crest of bluffs or cliffs shall not in any case be less than 50’ (fifty feet).

Fred Hancock, Acting Hearing Officer closed the Public Hearing at 9:15 p.m.

6. ISLAND ROAD DCPC – REGULATIONS IN AQUINNAH – DISCUSSION AND VOTE

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

Christina Brown moved and it was duly seconded that the amended regulations as proposed and heard at the Public Hearing are in conformance with the MVC Goals and Guidelines as amended on February 9, 2012, as recommended by staff and to include the grandfathering date of December 22, 1975.

- **Leonard Jason** asked Jo-Ann Taylor to review the grandfathering as it relates to structures.
- **Jo-Ann Taylor** said that grandfathering does not come automatically in a DCPC regulation. They want to introduce grandfathering and there is no reason for the Commission to not allow it.
- **Leonard Jason** asked if the Commission has a written legal opinion that grandfathering is not automatic for DCPC regulations.
- **Jo-Ann Taylor** said that we have court cases to reference such as the Island Properties Case. The Commission has done it before with regulations, finding conformance. If a town wants to introduce grandfathering proactively, the Commission has found conformance in the past. Grandfathering is not automatic like for zoning regulations.

Roll call vote. In favor: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson. Opposed: none. Abstentions: none. The motion passed.

Peter Cabana excused himself from the meeting.

7. ISLAND FUELS – INCREASED CAPACITY – TISBURY (DRI-566-M3) PUBLIC HEARING

Commissioners Present: J. Breckenridge, C. Brown, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

For the Applicant: Jay McMann

Linda Sibley, Acting Hearing Officer opened the Public Hearing at 9:20 p.m. and read the Public hearing notice. The applicant is Jay McMann of Island Fuel, Inc. The location is 44 Evelyn Way, Tisbury, MA Map 22-C Lot 7. The proposal is to increase the capacity for storing Number

2 Heating Oil and Diesel from the existing 10,000 gallons by adding a new 15,000 gallon tank (for a total of 25,000 gallons) in a 25 feet tall above ground storage tank on the existing tank pad at 44 Evelyn Way.

7.1 Staff Report

Paul Foley presented the Staff Report:

- In 2003 the MVC approved a proposal (DRI 566-M.V. Electric) to construct a second office building on the property with three offices on the ground floor and two apartments above. The proposal was approved with two conditions (landscaping and affordable housing) but never developed.
- In 2007 the property came back (DRI 566-M Cornerstone) with a proposal to subdivide the 22,680 square foot lot into two 11,340 square foot lots and construct a two story 4,256 square foot building for the shop and office of Cornerstone Builders with a two bedroom apartment on the southern lot. DRI 566-M (primarily the southern lot) was approved with Conditions.
- In 2010 this Applicant was approved to locate a fuel company with three trucks on the northern parcel at 44 Evelyn Way and install a 10,000 gallon above ground storage tank with two compartments for Number 2 Heating Oil and Diesel.
- The proposal is to increase the capacity for storing Number 2 Heating Oil and Diesel from 10,000 gallons to 25,000 gallons in an additional 25 feet tall above ground storage tank.
- The applicant would also like to have five trucks on the site rather than three.
- Conditions in the DRI 566-M 2 Decision call for the front of the lot to be planted with five trees and four rhododendrons which were recently planted.
- The applicant has submitted a 2012 Spill Prevention Control and Countermeasure Plan.
- The Tisbury Fire Department sent a letter stating that the facility and its equipment, including vehicles meet all current Commonwealth of Massachusetts Fire Safety Code regulations and standards and all permits are current.

7.2 Commissioners Discussion

Linda Sibley raised the possibility that the company's logo, a lighthouse, be incorporated into the tank. The Commissioners had a discussion regarding this idea. **Linda Sibley** thought it might need a sign permit. **John Breckenridge** was reluctant to include it as part of the MVC decision. **Holly Stephenson** thought the decision should be left to the Town.

Linda Sibley, Acting Hearing Officer closed the Public Hearing at 9:35 p.m.

Christina Brown moved and it was duly seconded to go directly to deliberation without going back to LUPC. Voice vote. In Favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

8. ISLAND FUELS – INCREASED CAPACITY – TISBURY (DRI-566-M3) – DELIBERATION AND DECISION

Commissioners Present: J. Breckenridge, C. Brown, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

For the Applicant: Jay McMann

Linda Sibley moved and it was duly seconded to approve the modification as applied for and outlined in the Staff Report and it does not supersede the original conditions except the size of the tank. Roll call vote. In favor: J. Breckenridge, C. Brown, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson. Opposed: none. Abstentions: none. The motion passed.

9. NEW BUSINESS

Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, C. Rose, L. Sibley, B. Smith, H. Stephenson.

9.1 Reports from Chairman, Committees or Staff

Fred Hancock noted that the Compliance Committee meeting is Tuesday at 8:30 a.m.

Paul Foley said there are two continued public hearings scheduled for the May 17, 2012 meeting: the Oyster Bar with revised plans and the Leaf Mixed-Use. There is a tentative public hearing on June 7, 2012.

9.2 Morning Glory Farm

Christina Brown noted that if the Commission could revisit a vote in the same session and wondered whether we should do that with the Athearn proposal. **Fred Hancock** believed that he is coming back with a revised proposal.

Christina Brown moved to reconsider the need for a Public Hearing.

- **Fred Hancock** said we need to revisit this procedure with our by-laws because we do not have this issue written down.
- **Linda Sibley** felt it was unfair to the Commissioner who left to take a vote. **Paul Foley** noted that Peter Cabana voted that it did not require a public hearing.
- **Christina Brown** said that she rethought about the issue and most of the issues will be dealt with by the zoning and for the regional impact it has to do with parking and he is willing to handle that.
- **Fred Hancock** asked if it triggers the places of assembly on the DRI Checklist and that would be a mandatory review. He also noted that we are straying from strictly farm events to places of assembly.
- **Erik Hammarlund** said it appears that Jim was willing to revise many of the items, so what does he have to do to come back. **Fred Hancock** said he just needs to come back with a new proposal for the modification.
- **Linda Sibley** said that what triggered this for her was when he stated and equated the proposal to the Agricultural Society which has a place of assembly approval.

- **Katherine Newman** thought he was just pleased to be able to offer additional ideas and looked to be surprised when reviewed.
- **Brian Smith** said this is the discussion that should be coming out at the public hearing.
- **Leonard Jason** said he would vote against Christina's motion because he still does not know specifically what he is proposing.
- **Katherine Newman** asked how the Allen Sheep Farm fits into this issue. **Leonard Jason** said it was done long before zoning, it was a grandfathered use.

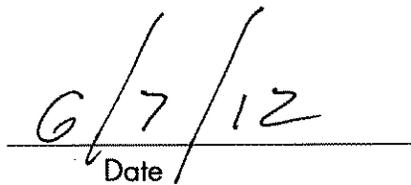
Christina Brown withdrew her motion.

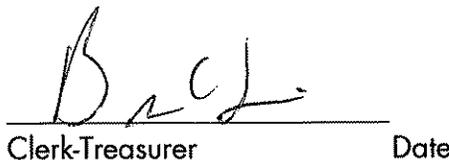
The meeting was adjourned at 9:50 p.m.

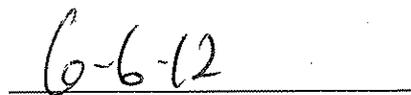
DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on March 22, 2012
- Minutes of the Commission Meeting – Draft, Held on April 5, 2012
- Minutes of the Commission Meeting – Draft, Held on April 26, 2012
- Morning Glory Farm Modification Request – Letter from Applicant dated April 30, 2012
- Martha's Vineyard Commission – DRI #637 Leaf Mixed-Use 284 Upper Main Street, MVC Staff Report -2012-05-03
- Decision of the Martha's Vineyard Commission Designating the Island Road District as a District of Critical Planning Concern; December 22, 1975 as amended 1976, 1990, 2007, 2008, 2009, 2010, 2011, 2012
- Island Road DCPC in the Town of Aquinnah Public Hearing May 3, 2012, Conformance of Proposed Amended Regulations – Staff Notes (Jo-Ann Taylor, DCPC Coordinator) (notes April 30, 2012)
- Martha's Vineyard Commission – DRI #566-M3 Island Fuels Increased Capacity – MVC Staff Report – 2012-05-03


Chairman


Date


Clerk-Treasurer


Date