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**Minutes of the Commission Meeting  
Held on August 22, 2013  
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 Tripp Barnes (E-Tisbury)	P Joan Malkin (A-Chilmark)
P John Breckenridge (E-Oak Bluffs)	P W. Karl McLaurin (A-Governor)
P Christina Brown (E-Edgartown)	P Katherine Newman (A-Aquinnah)
P Madeline Fisher (E-Edgartown)	- Ned Orleans (A-Tisbury)
P Josh Goldstein (E-Tisbury)	P Camille Rose (E-Aquinnah)
P Erik Hammarlund (E-West Tisbury)	P Doug Sederholm (E-Chilmark)
P Fred Hancock (A-Oak Bluffs)	P Linda Sibley (E-West Tisbury)
P Leonard Jason (A-Edgartown)	P Brian Smith (A-West Tisbury)
- James Joyce (A-Edgartown)	

Staff: Bill Veno (Senior Planner), Paul Foley (DRI 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**

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Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, L. Jason, J. Malkin, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith.

**Erik Hammarlund moved and it was duly seconded to approve the minutes of August 1, 2013 with corrections as noted, indicating that the meeting was held at The Tisbury Senior Center, revising the language for line 534 "Leonard Jason was haunted by the slide and asked if the building is to scale", and revising the language for line 363 "Katherine Newman said that she understood why but also that she supported the pedestrian way". In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.**

**John Breckenridge** joined the meeting.

**Christina Brown moved and it was duly seconded to approve the minutes of August 8, 2013 with corrections as noted: line 301 revise the language to "if the pole project had been before the Commission...", revise the language for line 66 "with no testimony taken this evening", correct the spelling on line 489 to Rymes. In favor: 10. Opposed: 0. Abstentions: 4. The motion passed.**

**W. Karl McLaurin** joined the meeting.

## **2. NOVA VIDA/ALLIANCE CHURCH EXPANSION – Oak Bluffs (DRI-603-M3) CONTINUED PUBLIC HEARING**

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*Commissioners Present:* T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, E. Hammarlund, F. Hancock, L. Jason, J. Malkin, W. K. McLaurin, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith.

*For the Applicant:* Rosemarie Haigazian, Valci Carvalho, Darran Reubens

**Tripp Barnes, Leonard Jason, Madeline Fisher, Joan Malkin, Katherine Newman** and **W. Karl McLaurin** excused themselves from the meeting.

**Brian Smith**, Public Hearing Officer opened the continued public hearing at 7:15 p.m. for Nova Vida Alliance Church DRI 603-M3. This is a continuation of the public hearing held on July 18, 2013.

### **2.1 Staff Report**

**Paul Foley** presented the following along with a Power Point /slide show:

- Proposed Offers have been added to the packet of information comparing them to the DRI 603, 2008 conditions. 2013 Proposed Offers were submitted on August 22, 2013.
- A revised site plan has been submitted.
- The MVC has accepted the previously approved wastewater flows that exceed the limit under section 3.5 of the Policy, which says: "If the previously developed site already exceeds the nitrogen loading limits in this policy, the total nitrogen loading of the property shall not be increased". In the September 11, 2008 decision the applicant offered further mitigation if water usage exceeded 153,000 gallons per year. Water use has exceeded this annual amount every year.
- Wastewater is to be determined and de-nitrification is to be clarified at tonight's meeting.
- The site plan has been slightly changed and with de-nitrification the applicant would meet the grandfathering for wastewater.
- George Sourati has been asked for the as-is drawing of the septic system.

**Josh Goldstein** noted that the wastewater issue is the most important part of this project.

**Darran Reubens** said George Sourati has been communicating with Sheri Caseau on the wastewater issue.

**John Breckenridge** asked if the existing septic treatment is a leaching pit or a filtration system. Paul Foley said it's a leaching field.

**Brian Smith** noted that Sheri Caseau will discuss wastewater and the offers will not be discussed this evening since they were just received by the MVC. It is possible that he might close the public hearing except for written testimony pertaining to the offers.

**Erik Hammarlund** said if needed and at an appropriate time he will suggest that the entire public hearing should be continued so the public can have time to address the offers.

### **2.2 Wastewater Report**

**Sheri Caseau** presented the following.

- The project site is in the Sengekontacket Pond Watershed that is classified as an Impaired Watershed in the MVC Policy.
- The applicant and the engineer have clarified the use of the meeting rooms and the basement. The basement under the church will be a crawl space and the rest of the basement will be used for passive storage. Meetings will only be those related to the church and meetings under 35 people were not part of the calculations.
- There is a commercial kitchen that will only be for church uses.
- The existing water usage for the year June 2012 to June 2013 from the water records was 141,000 gallons per year. This water usage for the existing building yields a nitrogen load of 16.81 kg/yr.
- The MVC DRI 603 Conditions state in order to prevent any increase in nitrogen loading compared to the previous use of the property, the MVC conditioned the project to maintain water use no greater than the year-long use ending in June 2007 of 139,000 gallons. As offered by the applicant, a 10% overage was proposed bringing the threshold for action to 153,000 gallons per year. This usage would produce a wastewater only nitrogen load of 18.24 kg/yr.
- Proposed use:
  - The existing building with the second-floor, three-bedroom apartment, 14.36 kg/yr.
  - Sanctuary with kitchen for 150 days for 150 people, 18.60 kg/yr.
  - Roof Runoff; 0.056 kg/yr.
  - Driveways, pervious and impervious, 0.071 kg/yr.
  - Total for proposed project, 39.39 kg/yr.
- The calculations assume all storage is passive and attendance to education services included in the sanctuary count and church related meetings with less than thirty five people were not considered.
- Total nitrogen load for the proposed project with a denitrifying system; 17.81 kg/yr.
- The engineer for the applicant indicated that they plan to install a denitrifying septic system. With the denitrifying system the project will not meet the nitrogen load of the pond but will fall below the conditions of the September 11, 2008 decision.

### **2.3 Commissioners Discussion**

**Doug Sederholm** noted in the 2008 approval the structure was smaller and still had 150 seats but fewer meeting rooms and asked if there were any living quarters with the 2008 approval.

**Rosemarie Haigazian** said there was the apartment.

**Doug Sederholm** said he is trying to understand if a realistic projection for nitrogen load has been made for this project. There are still 150 seats but more meeting rooms and areas of use and he wants to ensure the MVC is talking about the realistic levels of use. **Sheri Caseau** said the proposed use mostly included the church. The basement was a concern because in the past services were held there but for the proposed project it will be passive storage.

**Erik Hammarlund** said in dealing with the Compliance Committee he has seen what the MVC thinks will happen may actually be different from what does happen. With regards to worse case scenarios and after reading number five of the proposed offers (Church Services) why nitrogen

load for less than thirty five people was not part of the calculations confuses him. Limitations are not part of the offers so why is the MVC assuming a lower limit of use.

There was a discussion about limits of use and nitrogen load:

- **Sheri Caseau** said when she met with the applicant and the engineer there were limits.
- **Rosemarie Haigazian** said the use is not to exceed twelve times per year, but she cannot tell the MVC what the exact limit is. That is not fair to the Church to set exact limits.
- **Erik Hammarlund** said obviously the Church cannot limit the number of funerals as an example or perhaps the celebrations that may occur but then the MVC has to assume there could be endless activities.
- **Rosemarie Haigazian** said twelve times per year is as liberal as the applicant dares to be. Their offers are trying not to be unfair to the congregation as well as the community.
- **Doug Sederholm** said the Commission is trying to protect the pond and not ostracize anyone. If the limits for the pond are used the nitrogen load would be less than 6 kg/year. Is the MVC supposed to say turn off the water when the applicant gets to the usage of 153,000 gallons? The MVC's mandate is to protect the natural resources. There should be a way to have the congregation determine their activity level and show respect for an impaired watershed.
- **Rosemarie Haigazian** said she was distressed that George Sourati is not at the meeting tonight. The applicant left the nitrogen calculations to George Sourati and Sheri Caseau to work out what is respectful to the watershed and the applicant does not think they will violate the parameters.
- **John Breckenridge** reviewed various usage calculations based on a 150 seat church and noted that the most recent water reports has the church already using 141,000 gallons.
- **Rosemarie Haigazian** said the sanctuary will be used three times per week.
- **John Breckenridge** asked if the applicant crosses the threshold will they offer further mitigation and what else can be done in addition to de-nitrification.
- **Sheri Caseau** said there are other systems that could be used.
- **Josh Goldstein** asked why not go with the higher systems now.
- **John Breckenridge** said he would like to have money put in escrow to ensure the mitigation would happen.
- **Sheri Caseau** said she could work with the engineer and it may be less expensive to do the better system now.
- **Erik Hammarlund** noted if the applicant thinks the activity level is twelve events but is willing to also state less than twenty five events, those limits may also work. He encourages the applicant to set high limits to give them flexibility. He is trying to help the applicant meet the nitrogen load but if the level of activity is not limited then the MVC has to assume the level will be at capacity.
- **Valci Carvalho** said in nine years there have been twelve weddings.
- **Rosemarie Haigazian** said the applicant does not expect more than twelve events per year. It was the understanding at the meeting that what the applicant proposed was acceptable.
- **Bill Veno** noted that Sheri Caseau needs to know the number of events and the size of the events in order to calculate the nitrogen load.

- **Sheri Caseau** said twelve events per year were used for the calculations but not meetings with under thirty five people.
- **Christina Brown** offered a suggestion; the applicant has picked twelve special activities to stay within the grandfathering issue, is there a way for the applicant to state it will not exceed twelve per year over a five year period.
- **Rosemarie Haigazian** said that could be done.
- **Josh Goldstein** asked who enforces these limits.
- **Linda Sibley** asked if any permits are needed for a wedding or similar activity.
- **Rosemarie Haigazian** said permits are not needed.
- **Linda Sibley** said as an observation, the MVC tells applicants all the time if they are not willing to put a clear limit then the MVC has to assume the maximum usage. A suggestion is to have Sheri Caseau pick a number of activities and do the calculations and then the Commission could weigh in and see if the probability is a realistic number, since the pastor has indicated the actual number of activities is lower than what has been projected.
- **Camille Rose** questioned why meetings with thirty four people have no impact on the nitrogen load.
- **Valci Carvalho** said in 2008 the project was approved with under thirty four people so that was the number that was used. Also at the same time a twenty eight child daycare was approved with the project. Now there is just the parsonage, the 150 seat church and a couple of meeting rooms. The Commission and the Staff calculated the usage in 2008 and used different guidelines and came up with the number and he has just carried that calculation on in this proposal.
- **Christina Brown** said in looking at offer 5a the applicant could include limiting the number of activities over an average number of years and the applicant had indicated they could do that.
- **Doug Sederholm** asked Sheri Caseau for clarification; is the 18.60 kg/yr calculation based on 153,000 gallons/year.
- **Sheri Caseau** said that number is just based on the use of the building.
- **Doug Sederholm** noted the current size of the congregation is 75-85 and in 2005 there was a day care. The daycare was stopped in July 2012. In the last twelve months 141,000 gallons of water was used and that was for a group of only 75-85 people in the congregation. The applicant now wants to build a 150-seat sanctuary and will use the meeting rooms, so wouldn't it be logical to use the number of seats that can be filled. He would like to understand what a realistic number for water usage is.
- **Rosemarie Haigazian** said the applicant can put in a well for the watering of the plants. That use is not in the 141,000 gallons. The applicant is not going to use their metered water for the plants.
- **Doug Sederholm** said the applicant doesn't know how much of the 141,000 gallons was used in the past to water the plants.
- **Erik Hammarlund** felt the water usage for the plants would not be more than 20,000 gallons.
- **John Breckenridge** asked if after the daycare was stopped and there was a cease and desist for the rooms upstairs, was there still usage of the upstairs.
- **Valci Carvalho** said there are six people living upstairs.
- **John Breckenridge** said that is where the 141,000 gallon usage came from.

- **John Breckenridge** noted the 2008 decision says there are no wells.
- **Rosemarie Haigazian** said she was told that as long as the well was for watering plants and there is a Title 5 system it is okay to have a well and she will work with Sheri Caseau to obtain clarification.

**Brian Smith** asked that the discussion move forward from wastewater.

**Rosemarie Haigazian** said there is a typo on the parking offers 8f, it should state 12 spaces for overflow parking on the grass.

**Rosemarie Haigazian** said with regards to alternate site access it should state that the applicant will accept the offer from the Church of Latter Day Saints if the offer is reasonable.

**Doug Sederholm** noted that change would need to come before the MVC.

## **2.4 Public Testimony**

**Brian Smith** asked that the comments be kept to five minutes or less.

**Kris Chvatal** said he appreciates everyone trying to get the correct numbers regarding water usage, but the applicant is right, no one is going to keep track of how many events are held. There is no mechanism for doing that. What he thinks the applicant is asking is that the building should be judged for its full potential.

**Ed Redd** said it doesn't make sense to him what Kris Chvatal has said regarding keeping track of the activities. You can ask the church and they can tell you. He can't imagine the lawyer or the pastor won't give you a number. It can be self-reporting.

**Doug Sederholm** said the congregation does not need to self-report. The water meter will tell the usage and the nitrogen load would be determined from that usage. The applicant needs to plan for the full potential of use.

**Russell Wendt** noted that everyone has been talking about the 2008 decision and felt that everyone should review that decision as there may be some misconceptions. He doesn't believe the decision included housing. Those numbers need to be looked at and not assume it includes housing and daycare.

**Fred Hancock** said the daycare is in the 2008 decision.

**Brian Smith**, Public Hearing Officer continued the public hearing until September 19, 2013 due to the wastewater needs and all information must be presented three days in advance of the meeting so it can be reviewed.

**Erik Hammarlund** excused himself from the meeting. **Madeline Fisher, Joan Malkin, Leonard Jason** and **Trip Barnes** rejoined the meeting.

## **3. NSTAR POLES EXPANSION (DRI-642) PUBLIC HEARING**

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*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, F. Hancock, L. Jason, J. Malkin, C. Rose, D. Sederholm, L. Sibley, B. Smith.*

*For the Applicant: Jerry McDermott, Karen Courveau*

**Brian Smith**, Public Hearing Officer, opened the continued Public Hearing at 8:10 p.m.

### **3.1 Staff Report**

**Paul Foley** presented the following.

- The packet of information includes the Staff Report with updated information in bold, a letter from NSTAR, a response from NSTAR to the email sent by Mark London, Mass General Law chapter 166 section 22, the 1969 Decision, a letter from Richard Toole and correspondence pertaining to the project.
- People have called the MVC concerned about the extenders and at the last meeting NSTAR did say they will be removed.
- A site visit still needs to be done.
- Peter Rosbeck gave a passionate presentation at the last hearing and unfortunately NSTAR had to leave before hearing it, and it is worth hearing.

### **3.2 Applicant's Presentation**

**Jerry McDermott** presented the following.

- He apologized that NSTAR was not able to stay at the last public hearing. They feel it is important to hear from those concerned and will view the video.
- Unfortunately this meeting could not be rescheduled and Vern Oheim and Jeffrey Stevens could not attend tonight.
- NSTAR has been working diligently with the Town of Tisbury and has also been communicating with all the towns.
- NSTAR wants to be respectable to everyone.

**Brian Smith** noted that there was some concern about the continuation of the work and he believed that there would not be any more work done until September. **Jerry McDermott** said he believed the pole set was done but not the line work.

### **3.3 Testimony from Public Officials**

**Gail Barmakian** said she is speaking as a member of the Oak Bluffs Board of Selectmen, but not speaking for the Board. The Board of Selectmen will try to address the issues with NSTAR at a meeting. The Board did vote to add nineteen poles along Edgartown-Vineyard Haven Road. If she had known what they looked like, she would not have voted for it. NSTAR sends someone to the Board of Selectmen meeting who does not have technological background and they need those types of answers, for example the number of wires, what the alternatives may be, etc. Going forward she hopes a technological associate attends the Board of Selectmen meetings and that there are more discussions with NSTAR.

**Fred Hancock** noted that Mark London sent a memo to NSTAR suggesting the idea that the MVC would set up a permanent committee similar to a model the MVC uses with the State DOT. That committee would enable the Commission and the towns to have some idea of when NSTAR will plan for the future and also provide an idea of what the plans are. The MVC thinks this is a good step going forward. The committee would create long term collaboration between the Martha's Vineyard community and NSTAR on maintaining and planning the electrical distribution system on the Island.

**Gail Barmakian** said she thought it a good idea to have meetings for future planning as well as to understand the needs of the towns.

**Fred LaPiana**, Tisbury DPW Director, made several comments.

- He thanked the Commission for considering the idea of the planning committee and Gail Barmakian's perspective with communication is important. The Town of Tisbury has had good communication with NSTAR.
- NSTAR has responded to the Town's needs and the poles that are being discussed tonight. The Town was caught off guard. NSTAR has offered mitigation for the trees that were cut and will be planting bushes along Edgartown-Vineyard Haven Road.
- It is important that the Town receive information about the infrastructure that NSTAR is putting in. The Town has service communication via a microwave system. The cable that Comcast is putting in with NSTAR is great for the Island but the Town needs two fibers to establish effective and safe service communication with an existing program. The Town is asking for two of the fibers that are being put in to the Island as part of the Open Cape and Island infrastructure to support the Town's communication needs and surely NSTAR could help obtain them for safety and emergency situation needs.

**Bill Straw** from the Town of Tisbury noted that presently at the Park and Ride there are eleven generators to support the needs of the Island. NSTAR gets the generators from Milton KAT and Green Power generators are advertised on their website. Green generators substantially reduce pollution. He proposes that we investigate to see if NSTAR can supply green generators as backup for the Island.

**Jerry McDermott** said he was unaware of the green generators and NSTAR will look into it.

**Tristan Israel** said as a procedural point if the public hearing is continued the All Island Selectmen Meeting is on September 12, 2013 and hopes a continued public hearing would be on a later date so all selectmen and interested people could attend.

### **3.4 Public Testimony**

**Richard Toole** said he sent a letter to the MVC two weeks ago and he hopes the letter was read. When Tristan Israel first brought the issue to the MVC, he thought perhaps it was too late but it wasn't. He applauds what Mark London wrote to NSTAR in his memo. We are all adults so let's talk about the project ahead of time. But the issue is really the energy consumption. The amount of carbon pumping into the air may have something to do with the sea-level rise. He is appalled that NSTAR didn't say anything to the Island when one or two cables were down and ask the public to dial down on their use.

### **3.5 Commissioners' Questions**

**Doug Sederholm** asked if once the new cable is in, will NSTAR still need the temporary generators. **Paul Foley** said Mark Baldwin stated that the temporary generators will not be needed but the permanent generators will be and was not sure how much the permanent generators would be used.

**Doug Sederholm** agreed that if temporary generators are needed, they should be green.

**Joan Malkin** asked if the process of setting up a regional committee is part of this hearing or a separate issue. **Brian Smith** said it may be a result of the hearing and DRI.

There was a discussion about planting bushes as mitigation:



- **Linda Sibley** said that Margot Datz's letter to the MVC talks about the same concerns Fred LaPiana mentioned about the cutting of the trees. She would like to know that NSTAR would plan to plant bushes to mitigate the situation everywhere and not just in Tisbury.
- **Jerry McDermott** said NSTAR can have their arborist meet with the Towns arborists and Paul Sellers has a list of native plants that can be used.
- **Bill Straw** asked if all of the trees were cut away from the poles and low plants were planted would that save future maintenance costs.
- **Jerry McDermott** said the maintenance costs would have to be reviewed.

**Brian Smith** asked if NSTAR could address Fred LaPiana's concerns about service communication. **Jerry McDermott** said NSTAR has received Fred LaPiana's letters and NSTAR will meet and follow up with him.

**Madeline Fisher** said the NSTAR representatives met with the Edgartown Selectmen a couple of weeks ago and requested numbers for undergrounding; the Selectmen have not yet received that information. **Jerry McDermott** acknowledged that NSTAR owed the Town of Edgartown a cost comparison.

There was a discussion about closing the public hearing.

- **Brian Smith** suggested closing the public hearing.
- **Leonard Jason** questioned closing the public hearing since a lot of issues could come out of the numbers requested by Madeline Fisher for undergrounding.
- **Linda Sibley** said with regards to Leonard Jason's point, in recent years public hearings have been kept open for new testimony.
- **Tristan Israel** noted that NSTAR is also talking with the Town of Tisbury about parameters for undergrounding and the cost to the community. One of the conditions for the DRI could possibly be working towards that goal.

**Jay Grande** said NSTAR has offered to work with the Town of Tisbury on cost estimates for Beach Street.

**Fred Hancock** asked for clarification on Jay Grande's memo and asked if that was the Town of Tisbury's request for conditions.

- **Jay Grande** confirmed that is the Town's request.
- **Doug Sederholm** asked how the items in the memo could be conditions on a project that doesn't include the downtown cables.
- **Jay Grande** said it would be mitigation.

**Brian Smith**, Public Hearing Officer continued the public hearing until September 19, 2013.

**Katherine Newman** rejoined the meeting.

#### **4. BAYSIDE/HOULAHAN SUBDIVISION – EDGARTOWN (DRI -450-M2) PUBLIC HEARING**

*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, F. Hancock, L. Jason, J. Malkin, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith.*

*For the Applicant: Sean Murphy (Lawyer/Agent), Doug Hoehn (Engineer), Kris Horiuchi (Landscape Architect)*

**Brian Smith**, Public Hearing Officer, opened the Public Hearing at 8:45 p.m. and read the public hearing notice. This is a continuation of the public hearing of August 8, 2013 which did not hear any testimony. The applicant is Tara Hills Trust. The project location is off of Katama Road across from Crocker Drive. The proposal is a subdivision to create a nine-parcel residential subdivision on 53.89 acres between Katama Road and Katama Bay.

#### **4.1 Staff Report**

**Paul Foley** presented the following.

- The applicant is the Tara Hills Trust: Andy Houlahan, Sean Murphy, Doug Hoehn and Kris Horiuchi.
- The project location is off of Katama Road across from Crocker Drive (Map 36 Lots 159.11-15, 53.9 acres). Hiacoomes Way and West Bat Drive.
- The proposal is a subdivision to create a nine-parcel residential subdivision on 53.89 acres between Katama Road and Katama Bay.
- DRI 450 first came to the MVC in 1997 and was approved with conditions for five residential lots. Conditions included no building within 200 feet of the wetland, no septic system within 325 feet of any wetland, pervious driveways, that an intensive locational archaeological survey be done, restrictions on the size and location of lawns within 500 feet of wetlands, no pesticides, walkways were allowed from three lots (Lots 1, 3 and 5) across the wetlands, only two docks were allowed (not to impede lawful traversing), no guesthouses on lots 4 and 5 and \$1,000 per lot to DCRHA. The decision was modified later in 1997 and changed the condition regarding walkways to be for lots 1, 2 and 5.
- The proposal is to modify the approved five-parcel subdivision to create a nine-parcel residential subdivision.
- The proposal adds four inland lots to the approved five lot subdivision. Four Open Space lots are included as well as restrictions within residential lots. The engineer estimates the proposal retains 72% Open Space.
- Much of the lot is designated habitat by the National Habitat Endangered Species Program (NHEPS).
- The engineer estimates that under zoning, the property could fit a maximum of 28 lots.
- The applicant requested a waiver for a parking study. Staff was instructed by LUPC to do a traffic report with the assistance of the applicant as necessary.
- The plan includes an additional three new piers (two exist).
- According to offers (8/22/13) there could be up to 78 bedrooms on the nine lots; they could make a voluntary contribution of \$300,000 to the Edgartown Affordable Housing Committee upon the sale of the first waterfront lot to an unrelated third party.
- The site plan was reviewed.
- Key issues:
  - Why do development envelopes extend into the Coastal DCPC and 200 feet Wetland Buffer?
  - How will the new walkways across the salt marsh to the proposed new piers impact the marsh?
  - What limits cutting, lawns, etc. within the development envelopes?

- How will buildings, development and cutting within the development envelopes and view corridors impact the view from Katama Bay?
- The property is mostly pitch pine woodlands with some maritime shrub-land and a bit of grasslands. The edge along the water is wetlands.
- About two-thirds of the property is designated as habitat by NHESP.
- The applicant has offered to prohibit pesticides, herbicides and fungicides and to limit fertilizers to organic slow release.
- The applicants have proposed four open space lots. Three of them (A, B and C) cannot be touched and require management plans to be approved by NHESP.
- The fourth open space lot (D) is a buffer lot which may have screening plantings.
- The nitrogen loading limit for the property is 889 kg/yr.
- The estimated total nitrogen load for the proposed project is 191 kg/yr.
- The applicant has offered to make a voluntary contribution of \$300,000 to the Edgartown Affordable Housing Committee upon the sale of the first waterfront lot sold to an unrelated third party.
- A vegetative buffer along Katama Road will limit impact to the streetscape. Of more concern is the impact on the view from Katama Bay if lots were to be largely cleared and mown.
- Photos of the site were reviewed.
- The offers were received today.

**John Breckenridge** asked what parameters define the Coastal District. **Doug Hoehn** said 500 feet from a coastal water body and elevation 10.

**John Breckenridge** asked if the Coastal District line will change with the new FEMA maps. **Doug Hoehn** said it would not as the Coastal District is zoning. The new lines do not go as far as the development envelopes.

#### **4.2 Applicant's Presentation**

**Sean Murphy** presented the following:

- The property consists of five lots that were approved in 1997.
- The Houlahan family has had the property for over sixty years and it is a special property to the family.
- The estate attorney told them they had to divide the property into lots and the conditions placed on it were not typical to a subdivision; this was done quickly for estate planning. At the time the family did not have a plan. The MVC did not have written policies in place at that time and now the policies exist and the applicant was able to craft the new plan.
- This project is not about maximizing the property and developing the property. At the end of the day the family will have some lots on the inland side and the waterfront lots.
- As you come down Katama Road nothing changes even in twenty years with the plan. Nothing changes with the view from the north as well as the bayside.
- There is 1500 feet of frontage on Katama Road.
- The applicant has worked with NHESP. Mark Mello conducted the study and NHESP approved it in concept with regards to layout and development envelopes. NHESP considered the open space as not touched.
- The archaeological study done in 1999 found nothing.

- A shellfish study was done and five quahogs were found and no other commercial fish. The property is not a viable habitat for shellfish.
- The applicant has met with the Edgartown Health Department, the Marine Advisory Committee and the Planning Board.
- The applicant is here for approval of the four lots and revision of some of the original conditions and is asking to obtain permission. They want the ability to do what everyone else has done on the harbor.
- The nitrogen load is well below what is allowed and has met all of the MVC policies.
- The applicant is asking to have the lawn restrictions removed so they can obtain approval from the Wetland Commission. The applicant offers that the landscape plans for the five waterfront lots will be reviewed by the Edgartown Conservation Commission. The proposed plan complies with the MVC Site Design and Landscape Policy, NHESP regulations, and the Edgartown Conservation Commission and Planning Board policies.
- The applicant is asking to go from two piers to five piers and is only asking for the ability to apply. Even with five piers the property has greater distances and frontages than other properties on the harbor.
- The applicant wants the ability to be able to go back to the Town of Edgartown to seek approval of the project.

**Doug Hoehn** presented the following.

- The proposed site plan was reviewed.
- The lots were picked out with topography in mind.
- The areas potentially available for development were reviewed on the site plan.
- Total Open Space with the wetlands is 72.7 %. Total Open Space without the wetlands is 68.9 %
- The applicant went to NHESP twice to discuss and review to be sure everyone was on the same page. The property is all moth habitat.
- Andy Houlahan has hired Oxbow Associates who specialize in dealing with NHESP and are working on the conservation management plan.
- Open space exceeds what is required by the MVC policy.
- The applicant has submitted a document of calculations to the MVC showing that the project will generate only 21.4 % of the allowable nitrogen load for this property based on the MVC Water Quality Policy. This was based on the worst case scenario, that the development envelope would be totally used.
- The applicant offers to place septic systems on the five waterfront lots inland of the Coastal District line.
- The Coastal District governs height which is 26 feet in Edgartown and also well-to-septic separation though that is not an issue since there is town water.
- There is no affordable housing requirement but Andy Houlahan came up with his offer.
- The Town of Edgartown has a Harbor Management Plan and a Fared Pier Line. Piers can be applied for and are usually approved. The applicant is asking for the ability to apply.
- The applicant offers to prohibit guest houses on lots 5, 8 and 9.
- The Katama District allows one bedroom per acre rather than one bedroom per 10,000 square feet.

**Kris Horiuchi** presented the following.

- When they met with LUPC, the existing vegetation on the site was brought up. They have worked with Oxbow Associates and are looking at sensitive sites like this property which include old fields and pitch pine forest.
- The nine-lot layout was crafted with NHESP and the study from Oxbow Associates.
- The applicant is working closely with NHESP to develop a management plan on how to maintain the old field and to work extensively with the entire acreage.
- Views of the property were reviewed and with the development, views from Katama Road are basically unchanged. The views from Katama Bay were also reviewed.
- Photos of the property from Katama Bay were reviewed to show the character of the site.
- It was quickly learned that they could not put ridge poles on the site because the tree line was taller so they used helium balloons to model the view of the development.
- The five waterfront lots do not break the tree line.
- The applicant is proposing that the five waterfront lots will submit landscape plans to the Edgartown Conservation Committee.
- The view channels are not shown in the plans but the applicant has the understanding that there would not be any clear cuts.

#### **4.3 Commissioner's Questions**

**Joan Malkin** asked where in the building envelope they sited the houses. **Kris Horiuchi** said Doug Hoehn placed them based on views, topography and wetland setbacks.

**John Breckenridge** asked what elevation the balloons were set at. **Kris Horiuchi** said elevation 16, 20 and 24. At the 26 foot height the structure would not break the tree line and even at the highest elevation of the development the structure would not break the view and are consistent with the fabric of the houses on Katama Bay.

**Doug Sederholm** asked what the assumption is for sea-level rise. **Doug Hoehn** said he did not know.

**John Breckenridge** asked Christina Brown to clarify the Edgartown Bylaw for wetlands.

**Christina Brown** said Edgartown has a local wetlands bylaw and one facet is view channels. The policy is 15 degrees from a point on the house and it is case by case on what can be cut and cutting all the trees is never allowed. The understory cannot be cut below four feet and when the cutting is done the Conservation Commission has to be on site.

**Doug Hoehn** noted because how strict the Edgartown view channel policy is the property will be protected.

**Sean Murphy** noted that 200 feet of wetlands is in the Conservation Commission jurisdiction and the applicant will also allow the Conservation Commission to control the landscape plan for the five waterfront lots.

**Doug Sederholm** asked the applicant for clarification; upwind of the Coastal District are they stating the Edgartown Conservation Commission would have to approve if a property owner wanted to clear cut? **Sean Murphy** confirmed that is correct.

**John Breckenridge** asked with regards to the view channels if the restrictions are just a policy. **Christina Brown** said it is a policy that was adopted under a bylaw and the 15-degree requirement is a policy not a bylaw.

**Doug Sederholm** asked if under the Conservation Commission a structure can be built between the 100-foot and 200-foot setback. **Christina Brown** said it could but requires approval from the Conservation Commission. **Sean Murphy** added that the Conservation Commission wants the construction area to be outside the 100 feet.

**Joan Malkin** asked what is the impact of sea-level rise at 1.5 feet on this project. **Doug Hoehn** reviewed on the layout that there would not be much difference because the property is rising where the development envelopes start.

There was a discussion about Homeowner Association Rules.

- **Fred Hancock** asked if it would be a fair assumption that the Homeowner Association Rules have to be in place before any lots are sold and whether that can put in the offers.
- **Doug Hoehn** confirmed that it could.
- **Fred Hancock** said the MVC would want to be sure that the rules cover things such as the use of pesticides and suggested the Homeowner Association Rules become part of the offers.
- **Sean Murphy** said the applicant can submit the rules and there will be strict covenants. The protection of the property is a large part of Andy Houlahan's legacy.

**Sean Murphy** said lots A, B and C will be under a neutral group such as a Land Trust to control the open space. Under the Open Space Policy there is a combination of deed and open space restrictions. A third party will control lots A, B and C. **Fred Hancock** said that should be in the offers. **Sean Murphy** confirmed that it can.

**Fred Hancock** said offer number three, MVC Site Design and Landscape Policy, should say reviewed and approved.

**Joan Malkin** asked how many children are part of the Trust. **Doug Hoehn** said three sons and an ex-wife are part of the Trust.

**Doug Sederholm** asked if there are any lot line changes from the original first plan. **Doug Hoehn** said the building zone is the same place but it is a different configuration.

**John Breckenridge** asked what length and depth the piers can be. **Doug Hoehn** said there is no length requirement. Edgartown has Faired Pier Lines and there is not much depth in the Bay in this location.

**John Breckenridge** asked if it is possible to request that the view channels not exceed 15 degrees. **Leonard Jason** said why not leave that in the hands of the Edgartown Conservation Commission since it is probably a long standing policy.

**Linda Sibley** said this is not an appropriate time to have an MVC jurisdiction argument.

**Doug Hoehn** said the Town of Edgartown has a lot of jurisdiction on all of these issues and we are trying to get them back into their hands.

**Sean Murphy** noted that when Doug Hoehn was working with the NHESP and they were asked about their concerns, the NHESP said they were not worried since the project was located in Edgartown and they were comfortable that Edgartown can handle the project.

**Christina Brown** noted there is never an open view channel in Edgartown and often additional plantings are required.

**Josh Goldstein** said the applicant is looking to the MVC for approval, so why not approve it.

**Linda Sibley** said this is a public hearing and the Commission is now having a discussion that is not appropriate at a public hearing.

**Christina Brown** noted that the old archaeological study presumably does not need to be done again. **Sean Murphy** said it did not need to be done and the MVC has a copy of the study that was previously done.

**Fred Hancock** said a Certificate of Compliance was issued by the MVC and one of the conditions was an archaeological study.

#### **4.4 Testimony from Public Officials**

**Mike McCourt** of the Edgartown Planning Board commends the efforts of the developer for doing what they have done and to make it work. This project could be a mess. For the size of the property and where it is located it is far from being a mess. The Planning Board would like to see the project go through.

**Brian Smith**, Public Hearing Officer closed the public hearing and scheduled a Post Public Hearing for September 9, 2013.

**Doug Sederholm** really appreciates the professionalism of the applicant's representatives and especially since they tried to cover all of the bases.

### **5. NEW BUSINESS**

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*Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, M. Fisher, J. Goldstein, F. Hancock, L. Jason, J. Malkin, K. Newman, C. Rose, D. Sederholm, L. Sibley, B. Smith.*

**Sheri Caseau** said there will be a presentation by Dr. Brown on the Mass Estuaries report on the Tisbury Great Pond on August 27, 2013 at 5:30 p.m. at the Chilmark Town Hall. The study has confirmed low but significant levels in one of the Island's largest estuary systems.

The meeting was adjourned at 10:00 p.m.

#### **DOCUMENTS REFERRED TO DURING THE MEETING**

- Martha's Vineyard Commission, Minutes of the Commission Meeting – Draft, Held on August 1, 2013
- Martha's Vineyard Commission, Minutes of the Commission Meeting – Draft, Held on August 8, 2013
- Martha's Vineyard Commission, DRI #603-M3 Nova Vida/Alliance Church Expansion, MVC Staff Report – 2013-08-22

- DRI 603-M3 Nova Vida/Alliance Church Proposed Offers Relative to DRI 603 2008 Conditions
- DRI 603-M3 Nova Vida/Alliance Church Expansion 203 – Proposed Offers
- Alliance Community Church Proposed Site Plan and Parking Plan, Dated 8-18-13
- Martha's Vineyard Commission, DRI 642 – NSTAR Poles Expansion, MVC Staff Report – 2013-08-07
- Letter from NSTAR to Mark London Dated July 19, 2013
- Email to Mark London from Jerry McDermott, RE: Upcoming MVC DRI Hearing Thursday, August 8 at 7:30 p.m., Dated August 7, 2013
- General Laws: Chapter 166, Section 22
- Order for Pole and Wire Locations 1969
- Letter to the MV Commission from Richard Toole Re. D.R.I. #642, NSTAR Poles Expansion
- DRI 642 NSTAR Correspondence
- Memo from Town of Tisbury Office of the Selectmen from Jay Grande, Town Administrator to the Martha's Vineyard Commission, RE: NSTAR Poles Expansion, Town of Tisbury's Board of Selectmen's Objectives, Dated August 22, 2013
- Martha's Vineyard Commission, DRI # 450-M3 Houlahan/Bayside Subdivision, MVC Staff Report – 2013-08-22
- Tara Hills Trust/Houlahan DRI Offers, Dated August 22, 2013

Chairman

Date

9-19-13

Clerk-Treasurer

Date

10-1-13