



BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453,
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

Martha's Vineyard Commission

Land Use Planning Committee

Notes of the Meeting of January 25, 2010

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 P.M.

Commissioners Present: Linda Sibley; Chris Murphy, Pete Cabana; Christina Brown; Ned Orleans; John Breckenridge; Kathy Newman; Christina Brown; Holly Stephenson.

MVC Staff Present: Mark London; Paul Foley; Bill Wilcox; Mark Mauro, Chris Flynn.

Summary:

- The LUPC reviewed two separate projects by the same developer (Sam Dunn)
- **The second project** reviewed is to build a new building on the lawn at the Tisbury Market Place.
- The newest proposal is to build a new two-story, 7,050 square foot building with three retail units, two offices, one apartment, and one marine related unit on the lawn at the Tisbury Market Place with a 4,000 square foot footprint.
- Staff will need to find that this proposal meets zoning. We will have to explore that and review the complexities.
 - The current zoning says that only 10% of lots in this district can be covered by parking and driveways. This property is over that but is not increasing the amount of land for parking and driveways but there are certain things on which the window of opportunity closes.
 - There is also an item in the zoning that requires a certain amount of trees.
 - We need to determine if the project encroaches on wetland buffers and wetland vegetation buffers.
 - We need to confirm the septic flow allowed.
- **The LUPC approved the traffic scope prepared by Staff which calls for the Applicant to hire a consultant to perform the traffic study due to this being a large new building in an already congested complex.**

1. DRI 485-M5 Tisbury Market Place New Building – Pre-Hearing Review

Applicant: Sam Dunn

Project Location: Tisbury Marketplace, Beach Road, Tisbury Map 9-B Lot 19.18 and 19.19

Proposal: To build a new building on the lawn at the Tisbury Market Place.

Staff Report:

- Paul Foley explained that Mr. Dunn had called on Friday to say that he was redrawing the plan again for this proposal. Sam Dunn handed out the new proposal. The new proposal is to build a new two-story, 7,050 square foot building with three retail units, two offices, one apartment, and one marine related unit on the lawn at the Tisbury Market Place with a 4,000 square foot footprint.

Presentation:

- Sam Dunn said he was before the MVC last fall. He was negotiating with mark Hutker to occupy the new building. For three months they were trying to put it together but ultimately economic reality set in and he can't do it. One of the things they were going to do was turn it into a flat building

with a green roof on it. This way the neighbors on the second floor would be looking out over the green roof. The green roof also helps insulate the building and retains storm water.

- On the plans there is a dotted line that marks the 100 foot wetlands buffer. The part of the building within the 100 foot buffer has to be water related so they have a 750 sf marine use unit. This has to be a chandlery, sailing school, or boat builder something like that.
- You are also allowed to have one apartment per parcel. This shows an apartment on the second floor. The overall project is a little over 7,000 sf. There are three retail, two offices, one marine unit, and one apartment. The zoning requires zero parking. There is a bylaw for new projects that allows only 10% impervious coverage. Therefore they are adding no new parking and decreasing the amount of impervious spaces. They might have a net loss of one parking space.

Commissioner Questions:

- John Breckenridge said before we go too far this plan shows that work will be done within the 100 foot buffer. Does Tisbury allow that?
- John Best of the Tisbury Conservation Commission said they have purview over the whole 100 feet. They can limit or eliminate projects within 100 feet of the water. However they have purview over the whole property because it is in the flood plain. They don't make a distinction that says the first 50 feet is better than the second. The general rule of thumb is stay out of it altogether. There are times when you allow activities in the 100 foot but mainly if there is no alternative.
- Sam Dunn said that the flood level is 8 feet and that is what his building will be at. The finished floor is supposed to be at 8 feet. It is not in the velocity zone. Originally when he built the original building he had to build it on sticks because they said it was in the velocity zone. The rules have changed so this building does not need to be on stilts.
- He added that though the Conservation Commission has purview it seems to him that the zoning is saying they want you to build water related uses.
- John Best said the Conservation Commission does apply different standards for water related uses, particularly on the harbor side. He can't foresee a need for water related uses on the lagoon side. It is an active shell fishing area. We would not allow a pier in there. In this case he has yet to find a convincing argument that the water related use will in fact be useful there. It is very shallow. The other critical element is that they require not just a 100 foot setback but a buffer from wetlands vegetation. This plan appears to encroach on the wetland plant buffer. He does not believe they have delineated the wetland vegetation. He suggests the MVC should require that as well.
- Chris Murphy said he doesn't know where to begin. This area is probably one of the first commercial areas on the Vineyard. The Tisbury Market Place was a disaster before Mr. Dunn took over. It had all kinds of businesses and they were scattered about haphazardly. Mr. Dunn has done a good job and we have to give him points for that. The whole thing is on the sewer. It used to be a mess. I recall Sam saying that he would develop one side and protect the rest. I have no problem with new buildings in here but not in this location. He suggested putting something over the septic. Creeping into the open space here is an imposition. Going into this protected zone is a big mistake. He would stay on the other side of the fence.
- Sam Dunn said he did make promises and they are cast in stone in the condo documents. He said that they allowed three future sites on the property for future development. He pointed to the three spots out on the plan (Saltwater, next to Rocco's, and this location). He did say he would save the green space but not in this particular location. This is one of the areas that he always thought of as developable. He said he feels this is one of the least intensely developed properties on the waterfront. He feels he is being penalized for having provided so much open space.

- Linda Sibley asked him about developing over the septic area.
- Sam Dunn said that the people who own the units probably wouldn't cotton to that.
- John Best said that there is an impression that a great deal of this property is open space but it is mostly within the 100 foot buffer. The area between this spot and Maciel's Marine is all wetlands and could not be built upon anyway. He thinks that the opportunity to build in this area was minimal to begin with.
- Linda Sibley pointed out that in the Special Order of Conditions the wording does not say "paved parking" area it says "parking" area. Therefore the calculations should include the areas that are parking regardless of whether they are paved or not.
- John Best said he would check that at the Conservation Commission.
- Linda Sibley said she would like this to be resoled and have staff look at it. There is also something in the zoning by law about the number of trees required.
- Holly Stephenson said that what we have here, which the town of Tisbury needs, is waterfront views. It would be a mistake to make him block the view with trees. It would be nice to have a gate and picnic tables.
- Sam Dunn said that there is a gate and picnic tables. He said he told the MVC staff that he is open to having the bike path come through.
- Mark London said that this is one of the critical missing links for the bike path. Sam has offered to support the path through here; but the final decision is up to the Condo Association. He suggests that the bike path should be shown on the plans. We should also try to make this more accessible than it is now. This is an extremely public space. A lot of Vineyarders and visitors go through here. This building would be seen from all sides. There is a design issue. He added that the MVC have a 3d model of this area in Sketchup. We could put this into our model to see how it looks.
- Sam Dunn said they have to get it designed first.
- Linda Sibley asked about the boats parked in the back lot.
- Sam Dunn said that the boats are part of the Gannon & Benjamin operation.
- Linda Sibley asked if it would make sense to put the parking where they have the building and vice versa.
- Sam Dunn said that the Businesses want to be visible from the parking lot. This would be part of the architectural composition.
- John Breckenridge said that his concern with this whole market place is that we have a cumulative expanse of new activity. Net Result got bigger, Rocco's increased the outside seating, Saltwater added on and then added the outdoor patio. They were all nice and well done. But where is the saturation point?
- Ned Orleans said he didn't understand that logic. This is a commercial establishment intended to do business. The growth over the years has not had any decipherable negative impact.
- John Breckenridge replied that eventually there is a threshold that is crossed. He is always concerned about over stuffing the goose.
- Christina Brown said that one critical piece is the traffic impact and asked that the LUPC consider the traffic scope that staff had prepared.
- Tony Peak said that there is an issue with parking. It's true this project predates zoning. If they do not comply with the by-law then it cannot be done. There is an item in the by-law that allows only 10% lot coverage for parking. The open space is common land and requires unanimous support. The bike path, if paved, would add to that 10% coverage. The water related area was developed to protect water dependent businesses. There are also architectural guidelines for the district which are overseen by the Site Plan Review Board even in the B-1 though there are no setbacks. There are

certain things on which the window of opportunity closes. He's not saying that the window is closed on this but it might be.

- Linda Sibley asked what town boards the project has to go through.
- Sam Dunn said the Sewer Board, Building Department, the Conservation Commission, Site Plan Review, and the MVC.
- Linda Sibley said that we will need to find that this meets zoning. We will have to explore that and review the complexities.
- Sam Dunn said that if they are saying that this may not meet zoning I need to know how and why.
- Linda Sibley said that Tony said that it might not meet it so we need to figure this out. He said that what was allowed for the original plan may not be still allowed.
- John Best said that the delineation of the wetlands and vegetation should also be looked into. He added that they should also comply with the MVC energy policy. He added that he would like to bring up the idea of incremental development. Any time a development is added on to ask yourself if this would be allowed if it were part of the original iteration. In relation to wastewater, his conversation with Fred Lapiana was that when the last application came in that he does not have permission from the sewer board. John was involved in the wastewater planning in Tisbury. The Sewer was supposed to be growth neutral.
- Christina Brown said that is a Town issue.
- John Best said that a proposal to build in this location was originally denied because of the septic and may be allowed now based on the sewer that was supposed to be growth neutral.
- Linda Sibley asked who is responsible for delineating the wetlands.
- Sam Dunn said he has to find an engineer to do it.
- Linda added that they should also delineate the wetland line as well as the wetland vegetation at the back of the property.
- Holly Stephenson said she would like to see the three areas he says are developable.

Traffic:

- Mike Mauro presented the proposed Traffic Scope.
- Paul Foley added that we should add analysis of left turns into the complex in addition to the left turns out of the complex.
- Linda Sibley noted that in the proposed traffic scope MVC staff suggests that the Applicant should hire an engineer to do the study because this is a new large building in an already congested complex.
- Mark London said that he could either hire our consultant but the consultant would work for us or he could hire an outside consultant whose work would be reviewed by staff.
- **Christina Brown made a Motion to accept Traffic Study as amended. Pete Cabana Seconded the Motion which was approved unanimously.**

LUPC continued to February 22

Adjourned 7:00