

THE MARTHA'S VINEYARD COMMISSION

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Minutes of the Special Meeting of February 20, 2003

Held in the Olde Stone Building,
33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: Jim Athearn, Chairman (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed – Edgartown), Tristan Israel (Appointed – Tisbury), Katherine Newman (Appointed – Aquinnah), Megan Ottens-Sargent (Elected – Aquinnah), Deborah Moore (Elected – Aquinnah), Douglas Sederholm (Elected – Chilmark), Richard Toole (Elected - Oak Bluffs), Alan Schweikert (Appointed - Oak Bluffs), Linda Sibley (Elected – West Tisbury), Andrew Woodruff (Elected -West Tisbury)

Staff: Mark London (Executive Director), Christine Flynn (Regional Planner), Jennifer Rand (DRI Coordinator), Bill Wilcox (Water Resources Planner), David Wessling (Transportation Planner)

At 7:42 p.m. Jim Athearn, Chairman, called the meeting to order.

1. COTTRELL BUILDING (DRI No. 562) PUBLIC HEARING

There being a quorum present, Christina Brown, Hearing Officer, opened the Public Hearing at 7:42 p.m. and read the Notice of the continued Public Hearing.

Commissioners present for the Hearing: J. Athearn, J. Best, C. Brown, L. DeWitt, T. Israel, D. Moore, K. Newman, M. Ottens-Sargent, A. Schweikert, D. Sederholm, L. Sibley, A. Woodruff

Representatives of the applicant: Christopher Cottrell is the owner of the property.

1.1 Applicant's Presentation

Christopher Cottrell is the owner of the property.

- The intention is to build an office building with an apartment above. He is hoping to get a realtor, a bookkeeper, or an attorney in the office space. The apartment upstairs might be rented to an employee of his.

- The proposed exterior material is a grey, artificial shingle with pine trim painted white. He showed siding samples.
- The landscaping is mostly on the side of the building. The property would be fenced on the side and rear. One tree would be planted in front.
- The parking area would be in asphalt; he has a letter from an engineer saying that gravel would not work for EPA reasons. There would be Belgian blocks to delineate the edge of property facing the street as well as curbs, except at the entrance to the parking.
- The electrical would be mainly underground to keep the wires concealed. There would be minimal landscaping lights in the front that could be aimed at signs.
- He will no longer keep his business or trucks on the site.

1.2 Staff Reports

Jennifer Rand summarized the staff report.

- The proposal meets zoning requirements. The site is surrounded by industrial and commercial uses.
- They have added a tree as required by the Tisbury zoning bylaw.
- There had been house on the property that was moved. He did a lot of work helping the new owner to install the house in the new location. He proposes to waive \$2,000 of these cost to the owner in lieu of an affordable housing contribution.
- She estimated that they need about 12-15 parking spaces. Tisbury Building Inspector Ken Barwick said the parking calculation would be based on the office use. There is provision whereby the ZBA can grant a waiver of up to a third of the parking spaces if the applicant makes a compelling case.

Bill Wilcox described the water issues.

- Water is located 100 feet below the surface. The site is located on the divide between the Lake Tashmoo watershed and the end of the Chop; it is so close to the watershed boundary that he cannot say whether it is in the Tashmoo watershed.
- There will be substantial nitrogen loading, 41 kg per acre, since it is a small lot. However given uncertainty as to whether goes to the Tashmoo watershed, he would not recommend denitrification of wastewater. He suggested that the small amount of landscaping be

Mark London talked about the scenic values.

- The project appears to fit into the character of Evelyn Way and would hardly be visible from State Road.

David Wessling summarized his traffic report.

- LUPC agreed to a modified traffic study given the small size and scale of the project.
- His report shows very little change, perhaps a couple of additional trips at peak hour that would cause no problem on State Road.

- His main concern is that the design of the parking lot might lead motor vehicles to back onto Evelyn Way. He was not sure they needed that many places. The spaces in front of the building would be for the commercial activity and those on the side for the residential.

1.3 Testimony From Town Officials

There was none.

1.4 Public Testimony With Concerns About the Project

Tripp Barnes operates a trucking company and lives in a house this street. It is a very busy street. It is still a private street. He has a permit for 32 trucks going in and out. Other businesses on the street will be expanding. His house is near the new sewer processing building. He is most concerned about parking; it is an industrial street, and he would sacrifice the tree to get another parking space. He believes that there are 147 registered trucks on the street.

Barry Stone, is part owner of Vineyard Electricians. He is new on the street. He is in favor of the project that will better the appearance of street; he is thinking of doing something similar. However, the street is thin for the amount of traffic. Mr. Perry, up the street, has on-site parking but there is someone who always parks on street and makes it hard to turn.

1.6 Commissioner Questions

Linda Sibley asked whether the zoning requires an outdoor space for the residential use. Jennifer Rand could not find such a requirement in the zoning bylaw. Chris Cottrell said that the backyard is shown in gravel for drainage purposes but he could put in grass.

Linda DeWitt asked about the amount of traffic on the street. Chris Cottrell said it was worse than normal because of the construction on Main Street.

Tristan Israel wanted to know who was getting the house and wanted to know if the parking met the zoning requirement. Chris Cottrell replied that it is someone who has lived on the Vineyard for 10-15 years; he still lives here but goes down to work in New York City. The plan shows 12 parking spaces but he has not checked with the Town yet; if it did not meet the minimum requirement, he would ask for the waiver.

Megan Ottens-Sargent asked whether there should be limits on the type of commercial uses based on traffic. Chris Cottrell said that the application was for office and/or retail since he hasn't finalized the mix yet. He was thinking of the possibility of having some "light retail". He doesn't want too much traffic on street. Jennifer Rand pointed out that there is no zoning category of light retail.

Christina Brown asked what other boards the project would go to since they might be able to settle some of these details. Chris Cottrell indicated that it would go to the ZBA

Linda Sibley asked whether he had considered locating the building at the front of the lot and putting the building at the rear. Chris Cottrell replied that this would not be feasible because there was a 30' setback at the front and only a 15' setback at the sides and rear.

Tristan Israel said there is a big difference between office and light retail. Even with office, there could be different intensities. He wanted to know what kind of retail could be acceptable. The applicant had to spell out clearly what he wanted.

John Best asked whether the person who is getting the existing house would be eligible for affordable housing. He also asked why there were two sets of steps off the deck. Chris Cottrell said he sold the house to someone who could not otherwise afford one and he has helped him with the move. The two sets of steps were to provide two means of egress from the apartment.

Megan Ottens-Sargent asked what the parking requirement would be if the office space were, in fact, retail. Jennifer Rand replied that the zoning requirement is the same.

Jim Athearn said that at LUPC, they had talked about the need to define the edge of Evelyn Way. The applicant has proposed short lengths of Belgian curbing, but he wonders whether the applicant would consider a narrow planting bed. Chris Cottrell replied that he wants to make it easy to maintain and it might be better to have a fence.

Linda Sibley wondered whether it wouldn't be better to move the Belgian block along the property line by the road than by the tree. There was no follow up discussion.

Tristan Israel asked whether changing the use from office to retail would change the conclusions of the traffic study. David Wessling replied that the study was only for office space and would have to be recalculated for retail. Linda Sibley noted that this was the same square footage as her business; based on her experience, a retail use would probably need less parking but would have more turnover.

Andrew Woodruff asked whether the applicant would consider pulling the parking back a bit and planting another tree. Chris Cottrell said he would if there was room.

Linda DeWitt wondered whether this is a safe neighborhood for kids? Chris Cottrell pointed out that there is a house right next door and there are trails and woods located nearby.

Christina Brown closed the Public Hearing at 8:32 p.m. LUPC will discuss the proposal at its next meeting.

2. BRIDGE HOUSING (DRI No. 560) - REOPENED PUBLIC HEARING

Commissioners present for the Hearing: J. Athearn, J. Best, C. Brown, L. DeWitt, T. Israel, K. Newman, M. Ottens-Sargent, A. Schweikert, D. Sederholm, L. Sibley, R. Toole, A. Woodruff.

Representatives of the applicant: Brad Austin, President of Bridge Housing.

Christina Brown reopened the Public Hearing that was continued from February 13, 2003 at 8:42 p.m. She reminded everyone that tonight's session would be devoted to Commissioners' questions. There will be a LUPC session on the project March 3rd that is open to the public and another Public Hearing on March 13th that will again be devoted primarily to the public.

2.1 Staff Report

Jennifer Rand clarified the restrictions in the Island Roads' District of Critical Planning Concern.

- The District is 200 feet deep.
- Residential use is allowed within the 200-foot deep District.
- No structure is permitted less than 50 feet from the road. The permitted height varies based on the setback.
- There are restrictions on stone walls.
- There are no restrictions on planting or the cutting of vegetation.

Bill Wilcox discussed five water resource issues.

- Since this is outside the public supply area of Tisbury, it will need a private system. According to Department of Environmental Protection regulations, this will be designated as a public supply system so they will need a larger protected area around the wells. The original placement of wells is not workable. This could be addressed with 2 or 3 supply wells on the Land Bank property where there are no constraints. For example, there could be two 4,700 gallon per day wells or three with less capacity. This issue can be addressed although there might some difficulty because of the topography.
- The proposal meets the nitrogen loading limits of the Lake Tashmoo watershed.
- Water runoff does not appear to be an issue because of the sandy soil.
- About 15 of the site's 24 acres is in the zone of contribution of the Town well. The Department of Environmental Protection may want to make sure that nitrogen loading doesn't impact the well. Either the Town or DEP can choose to require and evaluation of the impact of the project. He doesn't think there will be an impact since 14.5 to 16 acres are within the zone of contribution and that will dilute the nitrogen loading to acceptable levels.
- The biggest issue is the nitrogen loading on abutting lots. Wastewater flow is about parallel to State Road so based on a rough ground water model, the water on the Land Bank portion of the property will probably not dilute the wastewater from the project. He estimates that there will be 7.9ppm leaving the property. Though this is within the acceptable limit for drinking water of about 10ppm, there is some risk in having groundwater contamination averaging 7.9ppm crossing a property line in that it doesn't mix evenly. If one happened to be in a lot just downstream from the wastewater sources, one could get a concentration of more than 10ppm at the well; alternatively, one might not get any nitrogen whatsoever. Installation of a denitrification treatment system would bring the nitrogen loading down to 4.3ppm. He discussed with the applicant the possibility of collecting more information to determine which way the water flows; it might go to the Land Bank property of Tisbury Meadows and not affect the private wells at all. Another option is to put in monitoring wells and if the nitrogen levels end up being too high, denitrification could be installed then. His concern would be funding this installation in that it might be costly and could be hard to do after the fact.

There were questions of clarification to Bill Wilcox about his report.

- **Christina Brown** asked whether the hydrology people are talking. **Bill Wilcox** confirmed that there had been discussions with Kent Healy and Tom Noble from Horsley and Whitten, Inc. and that all their figures are in the same ballpark.
- **John Best** asked whether there was enough room for the zones of protection around the wells if they were on the Land Bank property. **Bill Wilcox** said that they might need three or even four wells to keep diameters within property, unless get easements from abutters.
- **Tristan Israel** noted that **Bill Wilcox's** report says he disagrees with the DEP methodology and wonders if we are not obliged to use it. **Bill Wilcox** said that this only comes into play if the Board of Health or DEP chooses to review the project.
- **Tristan Israel** asked if the project was lower density, say 24 units, what would the water requirements be. **Bill Wilcox** replied that he has a spreadsheet that shows the options.
- **Linda Sibley** asked what the cost of a denitrification system would be. **Bill Wilcox** said that individual systems cost \$7,000 to \$10,000 but he will get an estimate of the cost for a combined system. He noted that Bridge Housing Corp. is concerned about cost and the estimated level of nitrogen is still within the required limit.

David Wessling commented on the traffic report.

- As agreed to by LUPC, it was a cooperative study that **David Wessling** worked on with **Ike Russell** and **Barbara Shriber**. He believes it was done fairly and according to professional standards.
- He corrected a table in the traffic report. Based on the ratio of traffic volumes to State Road's capacity, the road's level of service should not be problematic if the project is built.
- He studied the flow on State Road today (but with the recent proposals for the Kingdom Hall, gas station and Cronig's health products store), assumed 2% growth without the Bridge project, and the flow with the Bridge project. The LOS at the driveway translates into a slight delay of 15 seconds to turn out; this is at the low end of the normal range. However, the impact on the level of service on State Road itself, based on the increase in flow and the capacity of the road, is negligible. There is no need for mitigation although Bridge Housing Corp. plans to install a bus stop and a community mail box to discourage car use.

There were questions of clarification to **David Wessling** about his report.

- **Tristan Israel** asked whether a two percent growth factor, the Kingdom Hall Church, and the Scottish Bakehouse had been included within the traffic study. **David Wessling** responded that the two percent growth factor, the Kingdom Hall Church, Cronig's and the gas station had been included.
- **Linda DeWitt** asked how it could be that, say, fifty cars pulling out onto State Road within an hour at the beginning of the day would have little impact. **David Wessling** said that they do not expect so many and that the projected average delay will be in the acceptable range. He pointed out that the problem on State Road was in the business district where there are 16,000 cars per day; here there are only 11,000.
- **Jim Athearn** commented that there are many projects on State Road, each one having a negligible impact on its own, but when do we add them all up?

2.2 Questions from Commissioners

Linda DeWitt asked whether there are examples of this type of modular building on the Island. Brad Austin said he knows of four and will supply the addresses.

John Best wanted to know whether all the units would count towards the Town's 40B threshold; has it been confirmed in writing? Brad Austin replied that there have been positive discussions but that the Department of Housing and Community Development is waiting for the project to be approved by the MVC before proceeding with its qualifying the units towards Tisbury's Chapter 40B housing inventory.

Andrew Woodruff asked whether it would be possible to move two units away from State Road so that the setback was closer to 200' rather than the present 75'. Also, since this is the last section of the ancient way without development, would it be possible to have a larger setback and only one crossing by the loop road. Finally, he wondered whether it could be possible to minimize the impact of the density through design as was done at Island Co-housing. Brad Austin noted that other neighboring houses are also set back 75' and don't have buffers. The two houses closer to the road are one-story houses. The units closer to the road would be for elderly or handicapped tenants so that they would be closer to the bus stop; however, they could clustering the houses a bit more and moving these houses back to further minimize the visual impact from the road.

Jim Athearn commended the applicant for what was perhaps the most thorough presentation in years.

Tristan Israel said that since the density comes from what the applicant says is needed to work financially, it would be useful to see what are the financial impacts of reducing the density. How did they arrive at the figure of 32 units?

Linda Sibley said that the big issue for the neighborhood is density. The biggest detriment to lowering the density is that there would be fewer affordable housing units; this could be greater than the economic impact. She asked how they came to this density. She was struck by a neighbor who said you can't solve the affordable housing problem at the expense of particular neighborhoods that are asked to bear the cost of solving the general problem. Brad Austin replied that the number had been established based on an number of considerations, notably economic and demographic (needs' assessment). They don't want to build market housing since they believe that each one exacerbates the problem. He asked the Commissioners not to lose sight of the fact that is clustered development rather than a development of the whole site. If they had known that they would be coming to the MVC, they could have puffed the number of units up like other applicants have done. They think that this is a reasonable proposal. Brad Austin stated that Bridge Housing Corp. could argue that zoning allows for 104 bedrooms and then proposed a 40B plan that would account for only 25% of the units as affordable housing, and filled up the rest of the site with market rate housing.

Linda Sibley noted that if a private developer came for a project on the whole site, they would put open space into conservation restriction free of charge. Here, it is being bought by the public since the Land Bank uses public money although she appreciates the fact that the Norton's are selling the property below market value. Brad Austin replied that although this is true from an economic point of view, from a land use point of view this is good clustered development. There could have been a proposal to use the Land Bank property for 6 or 7 market houses. Linda Sibley suggested that the Land Bank should get the credit for the land preservation, and Bridge Housing Corp. should get the credit for the affordable housing.

Megan Ottens-Sargent noted that the density is being driven by economics. She thinks it is positive that the Land Bank is involved, but notes that the land is not being gifted, it is being sold close to market value. Brad Austin said that at the first Public Hearing, Peter Wells had shown a sample subdivision plan that would suggest that the property value could be \$3 to 3.3 million.

Jim Athearn asked again that since there is concern about density that is based on economics, would it be fair to share their economic information. Brad Austin said that the project will cost \$6 to 6.5 million, and the sales model generates \$5.9 million so it almost pays for itself. The exact budget depends on whether there will be a denitrification system, on interest rates and on the mix of income levels. There is a document they could provide.

Tristan Israel noted that the developers of Fairwinds provided scenarios based on various options.

Mark London noted that density is a theoretical number and that it would be useful if the applicant could be prepared to discuss each specific impact that has raised concern. The solution may or may not mean changing the number of units.

Megan Ottens-Sargent asked whether the whole project could be moved back 100 feet. Brad Austin said that the Land Bank is paying \$60,000 per acre whereas Bridge Housing Corp. is paying \$120,000 per acre, so if they purchase more acreage it could cost more. Andrew Woodruff also reminded everyone that there is an important ridge dividing the two parts of the property and it would be hard to go to other side. Linda Sibley wondered whether the Land Bank might be interested in the land along the road.

John Best is Chairman of the Land Bank Advisory Committee. The \$60,000 per acre is in the range of what they are paying for large acreage that is not being purchased free and clear of encumbrances because the development rights have essentially been given to the developers in terms of water and nitrogen credits. The Land Bank didn't want whole site. The back part has the most interesting topography and is adjacent to another Land Bank property. There will be a walkway easement across the housing part between the bus stop and the Land Bank property. The Land Bank would have no interest in the land along the road.

Christina Brown closed this session of the Public Hearing at 9:42 p.m. and continued the Public Hearing to March 13, 2003 at 7:45 p.m. She invited the public to the March 3, 2003 LUPC meeting on the project, to the next Hearing and to submit written information whenever it was convenient before the closing of the Hearings.

3. KINGDOM HALL (DRI No. 559) - WRITTEN DECISION

Commissioners in attendance for this item: J. Athearn, J. Best, C. Brown, L. DeWitt, T. Israel, K. Newman, M. Ottens-Sargent, A. Schweikert, D. Sederholm, L. Sibley, R. Toole, A. Woodruff.

It was moved by Tristan Israel and duly seconded that the draft written decision on Kingdom Hall (DRI No. 559) be adopted.

- Jennifer Rand proposed that, at Christina Brown's suggestion, the list of offers be referenced as part of the Plan.

- Linda Sibley noted that some offers were not specifically accepted as conditions.
- Jennifer Rand said that she prefers not to condition the acceptance of offers since they are part of the public file and there are other offers and discussions that are in the public record.
- Linda Sibley felt it was better to specifically mention the offers because of compliance issues. Offers sometimes can be forgotten if they are into cited in the written decision.
- Doug Sederholm said that offers become part of the application.
- Mark London said that staff has started preparing a document for each DRI that pulls the offers out of the testimony, ensures that the wording is clear, and then gets confirmed by the applicant. This could become a standard procedure.
- Jim Athearn asked whether everyone agreed with this procedure.
- Tristan Israel said yes, as long as the applicant confirms his or her agreement with the offer sheet. The other Commissioners indicated their general approval.

Christina Brown moved an amendment to the motion to include the list of offers indicating which offers were chosen. Tristan Israel accepted the amendment to his motion.

Roll call vote. In favor: .C. Brown, T. Israel, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff, J. Athearn. Opposed: None. Abstentions: None. The motion carried.

4. MINUTES OF PREVIOUS MEETINGS

It was moved by Tristan Israel and duly seconded that the Minutes of January 16, 2003 be adopted.

The following correction was noted.

Page 1 should read "... opened the Public Hearing ...".

Voice vote to adopt the Minutes as amended. In favor: 9. Opposed: 0. Abstentions: 2. The motion carried.

It was moved by Tristan Israel and duly seconded that the Minutes of January 23, 2003 be adopted.

The following correction were noted.

Page 1 - list of Commissioners should read: " Christina Brown - Edgartown" and "Deborah Brown - Aquinnah". Page 6 line 3 should read: "... substantially burden ...". Page 3 line 2 should read: "... suggested that they could ask for a refund ...". Page 5 line 3 should read: "... Vanbelle ...". Page 8 line 39 should read: "... committee, ...". Page 11 line 13 should read: "Guidance as to When Changes to an Approved Project Necessitate a Request to the Martha's Vineyard Commission for a Modification or Amendment to the DRI Decision, dated January 28, 2003..." Page 11 line 24 should read: "... as possible about the Kingdom Hall application and ..."

Voice vote to adopt the Minutes as amended. In favor: 11. Opposed: 0. Abstentions: 0. The motion carried.

It was moved by Christina Brown and duly seconded that the Minutes of February 6, 2003 be adopted.

The following corrections were noted.

Page 1 - list of Commissioners should read: "Christina Brown - Edgartown" and "Deborah Brown - Aquinnah". Page 7 line 11 should read: "... burden on the applicants' exercise of religion ...". Page 9 line 2 should read: "... and the previously approved subdivision DRI approved ...".

Jim Athearn asked for comments about the new format of the minutes.

- Christina Brown likes the minutes this way.
- Tristan Israel thinks they are wonderful and easy to scan.
- Linda Sibley agrees with the new format as long as they are thorough; they are easier to review. She wondered whether the draft should be shown to applicants or members of the public to ensure that they are not misquoted.
- Christina Brown thought that this was not a good idea.
- Tristan Israel was afraid this would open up long discussions with applicants about wording. If they wish, they can dispute the wording in the appeal process.

Jennifer Rand noted that the minutes are no longer registered as part of the decision, partly to save the cost of registration. It was agreed that the Policy and Practice Committee will look at this question.

5. UPCOMING LUPC MEETINGS AND SITE VISITS

After discussion, the dates of upcoming meetings and visits were revised. The following are the planned dates.

- Monday, February 24 - no LUPC meeting.
- Wednesday, February 26 - 9 a.m. - site visit to Island Elderly (Commissioners that cannot make it should call Jennifer Rand).
- Monday, March 3 - 4 p.m. site visit to Bridge Housing . 5:30 p.m. LUPC on Bridge Housing.
- Thursday, March 6 - Commission - Public Hearing on the Cottrell Building including possible deliberation and vote. Staff was asked to prepare a recommendation.
- Monday, March 10 - LUPC - Islander Building, Daggett House and Church Street building.
- Thursday, March 13 - Public Hearing on Bridge Housing and on AT&T.
- Thursday, March 20 - Commission - Public Hearing on amendments to regulations of Cape Pogue DCPC, to be held in Edgartown.

6. EXECUTIVE COMMITTEE

Jim Athearn reported that the Executive Committee met earlier this evening and, among other things, discussed committee memberships. He wants to know what the new Commissioners' interests are and will be calling them soon.

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Jim Athearn adjourned the meeting at 10:37 p.m.

James A. Athearn
Chairman

July 10, 2003
Date

Paul R. Pearce
Clerk-Treasurer

7/24/03
Date