

# THE MARTHA'S VINEYARD COMMISSION

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## Minutes of the Special Meeting of October 23, 2003

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

### IN ATTENDANCE

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**Commissioners:** James A. Athearn, Chairman (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed – Edgartown), Jane A. Greene (Appointed – Chilmark), Tristan Israel (Appointed – Tisbury), Katherine Newman (Appointed – Aquinnah), Megan Ottens-Sargent (Elected – Aquinnah), Bob Schwartz (Appointed – West Tisbury), Doug Sederholm (Elected – Chilmark), Linda Sibley, (Elected – West Tisbury), Paul Strauss (Appointed – County), Richard Toole (Elected – Oak Bluffs)

**Staff:** Mark London (Executive Director), Jennifer Rand (DRI Coordinator), David Wessling (Transportation Planner), Bill Wilcox (Water Resources Planner), Bill Venno, (Comprehensive Planner; Trails & Byways), Christine Flynn, (Regional Planner), Jeff Wooden (Administrator)

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### 1. CK ASSOCIATES (DRI No 555) – ADOPTION OF WRITTEN DECISION

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*Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, K. Newman, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole.*

There being a quorum present, James Athearn, Commission Chairman, opened the Meeting at 7:40 p.m.

*Christina Brown moved and it was duly seconded that the Commission adopt the written decision with modifications.*

Christina Brown proposed and the Commission agreed to the following corrections:

- section A4, paragraph 1, sentence 3 read: "The Commission notes that the proposal to make 25% of the dwelling units DHCD affordable..."
- section A4, paragraph 1, the last sentence be omitted so the paragraph end with the words "... respond to the needs of the Vineyard."

Megan Ottens-Sargent proposed and the Commission agreed to the following corrections:

- the DRI number be 555.
- the project description on page 2 of the draft should refer to the subdivision of lots since the current proposal does not include the construction of all housing.
- section A1, paragraph 5, sentence 1 should read "...impact of a large suburban development on the natural and historic character..."
- section A2, paragraph 2, sentence 13 should read "...fragmentation of woodland . . . at the expense of rarer interior woodland-nesting species. . ."
- section A2, paragraph 3, should read "With respect to night lighting and noise, with no owners' covenants or other measures offered in the application to minimize or mitigate these issues, the Commission has not been convinced that there would not be considerable negative impacts from the large number of houses on the night lighting and noise in the area – both of which would be exacerbated by extensive clearing of vegetation."
- section A3, paragraph 3, sentence 2 should read ". . . certain design standards, the review process seems . . ."
- section A3, paragraph 3, sentence 3 should read "would be transformed into ordinary paved streets."
- section A8, paragraph 1, sentence 2 should read "this plan may not be subject..."

Megan Ottens-Sargent questioned why "Traffic Impact and Access Study" was the only study listed. Christina Brown responded that the study was the only new one presented. Other studies were included in the Comprehensive Permit applications listed in the plan documents.

Megan Ottens-Sargent and John Best proposed and the Commission agreed to the following correction to Section A8:

- Regarding policy IV-11, should read "...development of critical lands *is* unavoidable..."

Megan Ottens-Sargent and John Best proposed and the Commission did not agree to the following correction to Section A8:

- Regarding policy IV-11, the last sentence "Offer incentives....values." is superfluous and should be removed.
- Regarding policy IV-42, the last sentence "Developments...encouraged." is superfluous and should be removed.

Megan Ottens-Sargent proposed corrections that were not accepted:

- section A1, first paragraph and second paragraph, "...ecosystem *and habitat* into a..." should read "...ecosystem into a..." and "...preservation of local character..." should read "...preservation of local character *and natural communities*..."
- section A1 paragraph 7 sentence 1 should read "...threatening further degradation of *important water bodies*..."
- section D regarding the standard "special ways may not be paved", and that there be a comment on the total length of proposed pavement,

Doug Sederholm proposed and the Commission agreed to the following correction:

- section A1, first paragraph, should read "...essential *or* especially appropriate..."

Paul Strauss proposed and the Commission agreed to the following corrections:

- section A3, paragraph 2, sentence 1 should read ". . . Barnes Road. However . . ."

- section A3, paragraph 2, sentence 2 "However, the view from Lagoon Pond and from the bluff on the western side of the lagoon of the site's bluff overlooking the Lagoon would be transformed..." should be clarified by the Executive Director.
- section A4, sentence 4 should read should read "housing that would partially".

Jane A. Greene proposed and the Commission agreed to the following correction:

- section A3, paragraph 2, sentence 2 should read "... the view from the Lagoon Pond and from the bluff west of the Lagoon would be transformed..."

Paul Strauss proposed but the Commission did not agree to the following correction:

- section A7, should read "...provision thereof.."

Richard Toole proposed and the Commission agreed to the following correction:

- Section A2, paragraph 1, last sentence should read "...the considerable amount of septage..."

Mark London suggested, and it was agreed, that other punctuation and typographical errors that do not change the substance of the decision should be given to him after the meeting.

*Roll call vote. In favor: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, K. Newman, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole. There were no votes in opposition or abstentions. The vote was unanimous to adopt the written decision as modified.*

## 2. JENNEY LANE (DRI # 573) DELIBERATIONS AND DECISION

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*Christina Brown recused herself from this discussion and left the meeting room.*

*Commissioners present: J. Athearn, J. Best, L. DeWitt, J. Greene, T. Israel, K. Newman, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole.*

Richard Toole reported on the LUPC meeting of October 20, commenting that the proposed benefits and detriments were reviewed using the table in the Commissioner's worksheet (see meeting file). Staff prepared draft possible conditions based on staff and LUPC recommendations.

Richard Toole read from the LUPC report regarding *wastewater and groundwater* benefits.

- Possible contribution to town sewerage.
- Will tie in four apartment buildings with failing septic systems.
- Will make hook-ups available to some homes on Curtis Lane.
- The Town had the capacity to accommodate water and sewer tie-ins, so there was no impact.

John Best commented, and the Commissioners agreed, that adding sewage to the town system would be a detriment, impacting the town's reserve capacity.

Richard Toole reported on the benefits with respect to *Open Space, Natural Community and Habitat*:

- The project is infill development, so it would not impact rural areas or more highly significant natural community or habitat. Jane A. Greene suggested that an infill development should be listed as a detriment and Jim Athearn agreed. Mark London

suggested that the regional benefit would be in comparison with placing a similar project in an unspoiled pastoral environment. Linda Sibley suggested noting this as a detriment, while pointing out that it is less of a detriment than in a more natural setting.

- Loss of urban open spaces, though some space kept as project is clustered..

Richard Toole on detriments with respect to *Night Lighting and Noise*

- more houses equals more noise; a homeowners association can offer controls.
- will have exterior lighting, although limited. Linda Sibley suggested confirming the limitation of exterior lighting. Jennifer Rand indicated the lighting shown on the preliminary plan submitted, said that lighting was not mentioned as a subject to be included in the condominium covenants, and read from a handout provided by the Applicant saying that the exterior lighting would be designed to provide only enough lighting for safety.

Richard Toole reported on benefits regarding *Traffic And Transportation*.

- The development is near town so it should result in fewer car trips than if the development were located in a more remote area. Jane A. Greene and Doug Sederholm commented that, in light of testimony, there were traffic detriments. Mark London noted that these were listed in the Impact on Abutters section since they did not appear to have a regional impact.

Richard Toole reported on the impacts on *Character And Identity*.

- The benefits are that it is similar in density to surrounding area and that the proposed park-like setting would be safer, and more attractive than having cars all over that would require widening roads to allow for maneuvering.
- A detriment is that there would be less variety of house designs than in the surrounding neighborhood.

Jane A. Greene commented that there was no parking next to the dwellings, and that this should be listed as a detriment, in light of the need to provide parking for families with small children. Doug Sederholm and Richard Toole commented that clustered parking should be a benefit, promoting open space. James Athearn noted that the parking plan of the proposal is distinctly different from the surrounding neighborhood, which should be noted as a comment rather than as a benefit or detriment.

Richard Toole reported the impacts on *Abutters And Neighborhood*.

- A benefit is that it would provide recreational opportunities for the residents of the DCRHA housing.

The following are detriments:

- Developing this parcel will have substantial impact, but not substantially greater than possible alternative uses of the site.
- Will add traffic to a narrow local street.
- Building on parcel of open space in moderate-to-heavily-populated neighborhood.

Linda Sibley noted that much of the traffic concern is from existing commercial interests, but that the impact of this proposal should not be overlooked.

Jane A. Greene suggested adding the presence of the parking area near Pine Street as a detriment to the neighborhood. Katherine Newman suggested that the presence of parking is not out of character with the street, in that there is parking at the jail and that a nicely landscaped lot would serve the park setting and be a benefit.

Doug Sederholm suggested including as a benefit the transfer of land to a neighbor to clear up title issues regarding misplaced construction.

Richard Toole reported a benefit to *Supply of Needed Low and Moderate-Income Housing*.

- Provides 10 homes to low and moderate-income families.

Richard Toole reported detriments to *Impact on Services and Burden on Taxpayers*

- Will add children to school system, but preference will be given to town residents.
- Will increase need for municipal services.

Richard Toole reported benefits regarding *Consistency With or Ability To Achieve Town, County, State Plans and Objectives*

- Consistent with town, county and state objectives for provision of low and moderate income housing.
- Consistent with town, county and state objectives for "smart growth."

Jane A. Greene suggested adding as a detriment that the proposal does not provide low and moderate-income housing in existing structures, which would be consistent with the *Regional Island Plan*.

Richard Toole reported that the project conforms to zoning. Megan Ottens-Sargent commented that she doesn't believe that the project conforms to the cluster zoning by-law as well as it could, particularly with regard to criteria for contiguous open space. She added that many of the issues could be addressed by the Planning Board.

Richard Toole read a draft of the possible conditions (see meeting file).

Doug Sederholm suggested reinserting a proposed condition from the first draft, and it was agreed to include the condition.

- The applicant may substitute "green screening" using large dense shrubs and/or trees in place of the stockade fences shown on the plan entitled "Revised Site and Landscape Plan" dated October 8, 2003.

Doug Sederholm suggested new possible conditions:

- A recommendation to the Planning Board to consider making the Pine Street T-intersection a three-way stop.
- A new condition addressing the issue of safety for bicyclists and pedestrians, to provide a pedestrian and bicycle access to Main Street or to Curtis Lane via one of three alternatives: a strip between the Lolly and Shameth lots, strip from lot 2 to Curtis Lane, create a new path through lot 1 or lot 2 or both from lot 4.

Jane A. Greene suggested new possible conditions:

- that it be possible to store boats near houses,
- that if the town does not take Fisher Lane, that the access to it be physically closed off, and
- that a fire lane go out through Curtis Lane. Linda DeWitt commented that the Fire Chief told her that the currently proposed layout would be acceptable.

Jim Athearn suggested that the strip of land from the project to Curtis Lane be kept in the ownership of the homeowners association so that it could be kept as an option for future access. He also suggested a condition rejecting the offer to contribute to funding of the

neighborhood sewage system so that these funds could be used to compensate for the fact that this strip of land would not be sold.

Megan Ottens-Sargent raised the possibility of use of slow release nitrogen fertilizers, hours for basketball hoop, money in escrow for Fisher Road, widening the sidewalks, and leaving both options for parking up to Planning Board, as well as a recommendation to consider making Fisher Road a dead end.

Linda Sibley said that she would also like to talk about lighting.

Richard Toole recalled that LUPC had discussed the possibility of limiting the hours of construction.

*There was a recess from 9:20 to 9:30 p.m.*

Mark London noted that the draft of possible conditions and recommendations to the town read before the recess was not the latest version.

Richard Toole read the latest version of the Possible Conditions and Recommendations and Suggestions to the Town. He reported that there had been no time at the LUPC meeting to make a recommendation with respect to the approval of the project.

### Possible Conditions

#### Access

1. The applicant may construct a second access into the project should the town Planning Board determine it is necessary.

#### Site Design:

1. The siting of the houses indicated in the Plan may be adjusted by a maximum of 15', and the number of parking spaces (up to three spaces per unit), the specific location of parking, vegetation and other site features can be adjusted, provided that the present setbacks are respected, as determined by the Edgartown Planning Board and subject to the approval of the Martha's Vineyard Commission Executive Director.
2. The applicant may alter the plan to allow one of the homes to be located along Pine Street if the town requires such a move. This change shall not require a further review by the Martha's Vineyard Commission.
3. The applicant shall construct the four small storage units as proposed in the plan entitled "Revised Site and Landscape Plan" dated October 8, 2003.
4. There shall be no additions or outbuildings other than unwinterized porches and decks.
5. The Commission accepts the landscaping as proposed in the plan entitled "Revised Site and Landscape Plan" dated October 8, 2003.6. The applicant may substitute "green screening" using large dense shrubs and/or trees in place of the stockade fences shown on the plan entitled "Revised Site and Landscape Plan" dated October 8, 2003.

#### Traffic:

1. A stop sign and a stop line on the pavement at the site driveway exit(s) shall be installed. The signs shall be located so as to be easily visible, while not being an obstruction to vehicular and pedestrian traffic.
2. Roadside trimming shall be required to improve sight lines at both ends of Fisher Road if it becomes possible to use it as an access.
3. The project must be designed to meet all town standards for emergency access.

### Possible Recommendations and Suggestions to the Town

1. The Commission believes that the addition of a second access point is desirable but not essential. It does not favor the addition of an access through the Jenney property directly onto Main Street (which, we note has not been offered), as the addition of another curb cut on Main Street would adversely affect the traffic on this major road.
2. The Commission recommends the Town take Fisher Road as a public way to provide the possibility, either now or in the future, of a second access or of making Fisher Road a dead end near Pine Street.
3. The Commission recommends that the Town, in cooperation with the applicant and people in the neighborhood, set up a traffic management program. This committee could examine, among other suggestions:
  - The feasibility and merits of creating a second access to the Jenney project either from Fisher Road or directly from Curtis Lane,
  - The merits of making Fisher Road a dead-end near Pine Street,
  - The possibility of using various traffic calming measures in the neighborhood such as installing rumble strips on Pine Street on either side of the curved portion of the street.
4. The Commission believes that the interior parking arrangement should be at the discretion of the owner, provided there are no clear and direct negative impacts in the neighborhood. The Commission feels that the currently proposed parking arrangement is preferable in that it provides for a relatively car-free central open space that would be safer and more attractive than a solution in which each house had individual parking spaces, which would result in cars backing up in many parts of the property, in the need to widen the road, and in cars dominating the landscape. The Commission suggests that a vegetation peninsula be added to visually reduce the scale of the long parking area on the East side.
5. The Commission is concerned about the impact of the project's construction on abutters, and suggests that measures be considered to reduce this impact such as limiting hours of construction.
6. The Commission feels that a substitution of dense vegetative screening for the stockade fence would be appropriate, in order to better integrate the project into the neighborhood.

Jane A. Greene and Doug Sederholm proposed that the section on access should read, "The applicant shall construct a second access should the Planning Board require it. If the Town takes Fisher Road, the applicant should bear the cost of widening and paving Fisher Road." Linda DeWitt suggested looking at the project as presented, without Fisher Road. John Best said that this proposed condition would mean that the Fisher Road segment could be built without having to come back to the Commission, and it would also require that it be financed by the applicant. Linda Sibley said that if the access becomes available, they could go back to the original plan and the conditions should clarify that. Jim Athearn thought that the access to Fisher Road is undesirable and he would like to have the applicant come back if it were to be approved. Jane A. Greene proposed that this be done. Doug Sederholm said that the October 8<sup>th</sup> plan showed that Jenney Lane is to be used as emergency access, with a crash gate.

Mark London said that at LUPC, the consensus seemed to be that the access issues were complex local issues that should be left to the town to determine.

Jane A. Greene moved and it was duly seconded to require that the applicant construct a second access into the project should the town Planning Board determine it is necessary. Voice vote. In favor: 11. Opposed: 0 Abstentions: 0. The motion passed unanimously.

Jane A. Greene moved and it was duly seconded that if the town takes Fisher Road and requires that it be used as an access, it should be widened and improved up to town standards, at the cost of the applicant.

- John Best said that it was not necessary to specify these details and that it might not be necessary for the applicant to pay the entire cost of the improvements to Fisher Road. John Abrams clarified that on the original application, the applicant offered to pay to pave and widen Fisher Road.
- Doug Sederholm noted that the applicant would like the second access, and has been working to achieve the second access.

Voice vote. In favor: 11. Opposed: 0 Abstentions: 0. The motion carried unanimously.

Linda Sibley moved and it was duly seconded that if the second access becomes available, the applicant could return to the original internal road layout, other than modifications specifically made since then.

- Linda Sibley noted that this included narrowing roads.

Voice vote. In favor: 11. Opposed: 0 Abstentions: 0. The motion passed unanimously.

Jane A. Greene moved and it was duly seconded that there be a second emergency access with a crash gate, that meets the requirements of the Town, on either of the two direct accesses from Curtis Lane.

- John Best said that this is a local issue, which should be left to the town and neighbors.
- Jane A. Greene stated that this condition had been made in the past. Jim Athearn suggested putting it into the recommendations to the town. Katherine Newman was opposed to the condition.
- Linda DeWitt said she had talked to the Fire Chief, pointing out that there was only one access, and he was comfortable with that.

Linda Sibley proposed and Jane A. Greene agreed to amend the motion to allow this access should the town require it.

Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion carried.

Linda Sibley moved and it was duly seconded that the previous motion be reconsidered and that should the town require an emergency access, it could be constructed without returning to the Commission.

Voice vote. In favor: 10. Opposed: 1. Abstentions: 0. The motion carried.

Doug Sederholm moved and it was duly seconded that Lot 4 be provided with a permanently deeded pedestrian and bicycle access through one or more of three alternative routes: the strip of land between the Lolly and Shameth lots, the strip of land from Lot 2 to Curtis Lane, or by creating a new path through Lot 1 or Lot 2 or both from Lot 4.

- Linda Sibley noted that the condition would be consistent with the Commission's practice of favoring non-vehicular access.
- Doug Sederholm said that this could be done with easements and they don't have to retain ownership. He noted that the two Curtis Lane accesses are presently used as driveways, so allowing bicycles and pedestrians would not be much of a burden.

Voice Vote. In favor: 8 Opposed: 3 Abstentions: 0 The motion carried.

Jane A. Greene moved that without a town taking of Fisher Road, there should be no access to Fisher Road. The motion failed for lack of a second.

Linda Sibley moved and it was duly seconded to include a condition that the siting of the houses indicated in the Plan may be adjusted by a maximum of 15', and the number of parking spaces (up to 3 spaces per unit), the specific location of parking, vegetation and other site features may be adjusted, provided that the present setbacks are respected, as determined by the Edgartown Planning Board and subject to the approval of the MVC Executive Director. Voice vote. In favor: 1. Opposed: 9. Abstentions: 0. The motion was denied.

Doug Sederholm moved and it was duly seconded to include a condition that the siting of the houses indicated in the Plan may be adjusted by a maximum of 15', and the specific location of vegetation and other site features may be adjusted, provided that the present setbacks are respected, as determined by the Edgartown Planning Board and subject to the approval of the MVC Executive Director. Voice vote. In favor: 9 Opposed: 1. Abstentions: 0. The motion carried.

Tristan Israel moved and it was duly seconded that, the applicant shall provide a maximum of one parking space per house, located close to the house.

- Tristan Israel said that, aesthetics aside, it would be more practical. People would prefer individual parking.
- Doug Sederholm commented that it would mean wider roads and less green space. The desirability of housing parking next to the house would be outweighed by the negative impact on the design.
- Bob Schwartz said that from a physical point of view, if there were multiple cars parked along the road it would have to be substantially widened, and a new plan would have to be submitted and reviewed.
- Megan Ottens-Sargent would rather leave this decision up to the town.

Vote by show of hands. In favor: 2. Opposed: 7. Abstentions: 0. The motion was denied.

Linda Sibley stated that with respect to the location of individual parking at each house, the Edgartown Planning Board would not have the power to require it. Megan Ottens-Sargent was concerned about the possibility of having up to three parking spaces. Linda Sibley said that if there were a motion saying that if the Edgartown Planning Board requires more parking, the Commission would accept that.

Jane A. Greene said that she would prefer postponing completing the deliberations until November 6. This would allow clarification of the town's powers. It was agreed to suspend deliberations.

### 3. MINUTES OF PREVIOUS MEETINGS

*Postponed*

#### 4. OTHER BUSINESS – EARLY RETIREMENT

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Mark London explained that David Wessling had applied for an Early Retirement Program under a Commonwealth program aimed at reducing the size of the public workforce and in reducing the number of senior and more highly paid employees. The cost to the Commission would include \$4,500 per year for eighteen years, for the retirement benefits aside from medical expenses. The Commission might benefit financially, by replacing the employee with a new hire at a lower rate. Medical benefits have not been agreed as yet. Jane A. Greene added that the present personnel policy includes provision for medical benefits for a retiree with twelve years of service, which David does not have.

*Doug Sederholm moved and it was duly seconded that the Commission participate in the Commonwealth of Massachusetts' Early Retirement Program for one employee, subject to the Executive Committee confirming, before October 31, that this does not obligate the Commission to pay the same level of medical insurance premiums that it currently pays for that employee.*

- Tristan Israel suggested that this might allow for re-analyzing various job definitions it might be desirable to combine positions to allow reducing the number of employees. Last year, Tisbury participated in this program and several people took advantage of it.
- Linda DeWitt said that health insurance will change drastically over the years and might be very expensive.

*Voice vote. In favor: 12. Opposed: 0. Abstentions: 0. The motion carried.*

*Jane A. Greene moved and it was duly seconded and voted on to suspend the rules in order to continue meeting past 11 p.m. Voice Vote: In favor: 12. Opposed: 0. Abstentions: 0. The motion carried.*

*Jane A. Greene moved and it was duly seconded that the Commission ask the Executive Committee to attempt to come to an agreement with the applicant on a fair and reasonable retirement package including, but not limited to, the medical insurance premiums to be paid by the Commission, a release of claims on the part of the retiree, and any other matters normally related to an early retirement process. Voice Vote: In favor: 12. Opposed: 0. Abstentions: 0. The motion carried.*

#### 5 OTHER BUSINESS – TISBURY APPOINTMENT

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Tristan Israel announced that he has notified the Tisbury Board of Selectmen that he will be stepping down from the Commission after the November 6<sup>th</sup> Commission meeting. The Town will be advertising for a replacement. He added that he thought that the Commission is a great board and that he respected all of the Commissioners. Everyone does his or her homework.

Jim Athearn thanked Tristan Israel for all his work and dedication to the Commission over the years.

The Meeting was adjourned at 11:15 p.m.

James A. Althaus  
Chairman

Nov. 20, 2003  
Date

James A. Freese  
Clerk-Treasurer

11/21/03  
Date

