

THE MARTHA'S VINEYARD COMMISSION

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Minutes of the Special Meeting of December 4, 2003

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

IN ATTENDANCE

Commissioners: James A. Athearn, Chairman (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed – Edgartown), Jane A. Greene (Appointed – Chilmark), Deborah Moore (Elected – Aquinnah), Katherine Newman (Appointed – Aquinnah), Megan Ottens-Sargent (Elected – Aquinnah), Doug Sederholm (Elected – Chilmark); Linda Sibley, (Elected – West Tisbury), Paul Strauss (Appointed – County), Richard Toole (Elected – Oak Bluffs), Roger Wey (Appointed – Oak Bluffs), Andrew Woodruff (Elected – West Tisbury)

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

There being a quorum present, Christina Brown, Hearing Officer called the public hearing to order at 7:30 P.M. and read the Public Notice.

I. ESTRELLA YOGA STUDIO (DRI No 506-1) – PUBLIC HEARING

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

Present for the applicant: Cliff Estrella, owner, and Glenn Hearn, representative.

1.1 Applicant's Presentation

Glenn Hearn explained the proposal:

- to build a yoga studio on Cournoyer Road in West Tisbury, in a mixed business district;
- located on a paved road with a turnaround, the site of the Sears project approved by the Commission several years ago but never constructed;
- bordered by Vineyard Gardens, the town of West Tisbury (public safety building), residential lots, and a commercial lot on Cournoyer Lane;
- the required setback from an abutting residential use zone is 40'; the proposed setback is 45'; a 25' buffer of shrubbery is proposed for the sides facing the housing and public safety building;
- the proposed footprint is 2,550 square feet, 10 parking spaces are proposed in gravel and bluestone;

- there would be a limit of 10 yoga students at a time;
- the design would be similar to the other Cournoyer buildings along the lane;
- there would be yoga facilities on the ground floor and a 1-bedroom efficiency apartment upstairs;
- the building would occupy 7% of the property, the parking area would be cleared and the rest would be remain vegetated;
- there is an existing septic system on the property, designed for 582 gallons per day; DEP would allow 440 gallons per day for this 40,011 square foot lot; 110 gallons would be used for the apartment; the deed allows for borrowing a capacity of 220 gallons per day from the adjacent property; without enlarging the existing septic system on the property, they have a capacity of 582 gallons per day; so, with improvements, 660 gallons per day could be allowed; it is hard to estimate the water use since it is unclear how many people would take showers; using the analogy of a 10 gallons per person per day for a public swimming pool would allow for 47 students per day; they are planning on two and probably no more than three classes per day; they would use low-flow showers;
- comparing the traffic impacts to the proposed Sears project that would have included 26 parking spaces, 2 trailer trucks per day, resulting in a 23.6 second delay or level D, David Wessling's calculation was that the delay with this project at the peak time, one class ending and the other class starting, would be 16.7 seconds or level C;
- the proposal includes low-wattage lights on the ceiling of the porch shining down and small, low-wattage downward-directed lights at each entrance;
- the landscaping would include some shrubs similar to the other properties in the Cournoyer development; they would add more white pine trees to screen the back of the Vineyard Gardens property;
- they request a waiver from the affordable housing provision since Mr. Estrella is proposing that the upstairs housing unit would effectively be an affordable unit, to be used by his son;
- a water meter would be installed to monitor water use;
- the Planning Board and Board of Health could place restrictions on the project;
- the Planning Board held a meeting on November 10 and has not received any public comment; it would require site plan review; the Planning Board has sent a letter saying that this would be a good transitional use between the commercial and residential areas.

1.2 Staff Reports

Jennifer Rand distributed a new report from Bill Wilcox that supercedes the one distributed by mail, as well the letter from the Planning Board to which Glenn Hearn referred.

Bill Wilcox summarized his report:

- he described the soils and noted that the site is within the Zone of Contribution for the Tisbury public supply wells and the town's Groundwater Protection District; because of the impervious surface proposed, the Planning Board would have to issue a special permit; he doesn't foresee any problems with the Special Permit;
- he recommends that the 582-gallon wastewater system capacity should be the limit; he recommends installation of a water meter as an appropriate way to keep track of wastewater flow, that could be conditioned by the MVC; the Board of Health would probably require this.
- in response to a question from Megan Ottens-Sargent about the possibility of limiting the water consumption in showers, he said that a shower is usually about 7 gallons so thirty showers per day would be well within the capacity;

- in response to a question from Doug Sederholm about the borrowing of the septage capacity, he reiterated his recommendation that the flow be limited to 582 gallons per day, as designed, and as "grandfathered" by the already installed wastewater system, that water flow be metered and be monitored weekly, that he believes the system would be adequate, and that it is remote enough from the supply wells to not pose a problem.

1.3 Commissioners Questions

Linda DeWitt asked for an explanation of the term "hot yoga". Glenn Hearn responded that it is yoga done in a hot room, about 90 degrees, with the usual yoga movements.

John Best felt that it was unlikely that most people would wait to take showers on the premises. He asked whether this space would not be in demand for other classes such as dance classes. Glenn Hearn said that this could be a possibility. It could be used for massages or perhaps by the Charter School.

Megan Ottens-Sargent asked whether any sidewalk was planned to the Charter School. Glenn Hearn replied that there were no definite plans for such a use. She asked whether the traffic analysis of the Sears proposal was for the originally proposed or the finally approved sized structure. David Wessling said he believed it was the final version but, at any rate, indicated a negligible impact on State Road.

Paul Strauss asked how far the houses were from the building and whether screening was planned. Glenn Hearn said that there was already screening and they could put in more. Jennifer Rand said that the distance is about 145' from the houses to the building.

Richard Toole asked whether there was monitoring of the use of pesticides on Vineyard Gardens property. Bill Wilcox said that there was not a requirement by the town but there was by the Department of Food and Agriculture; the well must be tested when first installed; he would recommend testing it again. Jim Athearn noted that there is fertilizer stacked not far from the well, that the tenant might want to monitor.

Doug Sederholm asked about the possible level of traffic that might be generated if the building were used more intensively. David Wessling said the analysis is based on the application. There would be a bit of a backup getting onto State Road, but little impact on the flow of State Road.

Linda Sibley said that there might be 20 people per class that would leave in a short time period. The overall number would be less than for the Sears proposal, but there would be short time periods with more cars. However, she didn't think that this would be a problem on State Road.

Deborah Moore asked what would happen if they needed more parking. Glenn Hearn said that there are no limits on the number of cars and the parking area could be increased.

Linda DeWitt said that the traffic concern in the area seems to be the Charter School.

Andrew Woodruff said that the main traffic concern is the speed of traffic.

Linda Sibley asked for a definition of low wattage. Glenn Hearn replied that the proposal is for 75-watt recessed lights.

John Best asked about the long-term affordability of the housing unit that was being provided. Cliff Estrella responded that, if his son could afford to move out, it would probably be used by someone who works there. Linda Sibley said that she feels that this would be adequate,

provided there is a commitment to rent it out as year-round housing. Jennifer Rand said that in the case of the recent projects on Evelyn Way, there were affordable housing contributions.

Andrew Woodruff asked about screening. Glenn Hearn said that the screening is already dense. Andrew Woodruff said that if there were to be additional screening, it should not be at the expense of existing vegetation.

Glenn Hearn said that there was no problem with committing that it would be rented on a year-round basis and not go above the fair-market rent for a one-bedroom apartment, as established by HUD. Linda Sibley said that the owner could always come back and ask for a change in this offer, at which time he could consider making a more customary affordable housing contribution.

1.4 Testimony from Public Officials

There was none.

1.5 Public Testimony

Stan Schonbrun is an abutter, map 16 lot 30, and has no problem with the proposal. He wanted to know how excess water usage would be handled and what would happen to the "borrowed" septage capacity of the adjacent lot. Christina Brown suggested that he ask the Board of Health to ensure that this is secured. He requested that the Commission ask for a foliage buffer on the side facing the residential lots. He noted that lots of kids walk across his property and this property to get to the Charter School. He has no problem with this and hoped that the applicant will also tolerate this.

Glenn Hearn said the owner proposes to reroute this path to a location along the edge of the property.

Christina Brown closed the public hearing at 8:36 p.m.

Linda Sibley moved, and it was duly seconded, that the Commission suspend the rules and not refer it to LUPC, in order to take immediate action. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion carried.

2. ESTRELLA YOGA STUDIO (DRI No 506-1) – DELIBERATIONS AND DECISION

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

Present for the applicant: Cliff Estrella, owner and Glenn Hearn, representative

Doug Sederholm moved and it was duly seconded to approve the proposal and to accept the following offers:

- *to limit wastewater usage to 582 gallons per day, to install a water meter, to monitor it and to report periodically to the West Tisbury Board of Health, as may be required by that Board;*
- *that if the apartment is to be rented, it be at fair market rent for an apartment of equivalent size, as determined by HUD, on a year-round basis;*
- *to maintain a 25-foot no-cut buffer along the property line facing the neighboring residential properties and that this may be supplemented with additional vegetative screening; to reroute the pedestrian path along border.*

- Christina Brown said that this would be a benefit to the community compared to potential alternative uses of the site, in terms of preservation of vegetation and the use of the building. Richard Toole and Megan Ottens-Sargent noted that this would be a good transition use and that this would be a good mixed use.
- Jim Athearn said that the landscaping could be more of a garden. Linda Sibley said that this landscaping would not be visible from the public way and therefore is not much of a concern for the Commission.

Roll call vote. In favor: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, D. Moore, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, P. Strauss, R. Toole, R. Wey, A. Woodruff Opposed:0. Abstentions: 0. The motion carried.

3. JENNEY LANE (DRI No. 573) – ADOPTION OF WRITTEN DECISION

Christina Brown announced her abstention and left the room. Jennie Green also left the room.

Commissioners eligible for this item: J. Athearn, J. Best, L. DeWitt, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole.

Linda Sibley moved, and it was duly seconded, that the written decision of the Commission's November 6, 2003 approval of the application of Island Affordable Housing Fund for subdivision of a five-acre parcel into six lots and to further subdivide lot four into 10 "exclusive use zones" be adopted as presented.

- Richard Toole suggested that page 3 A2 could note that it is a cluster plan that provides open space on the lot, but agreed that it was not necessary to change it.
- John Best noted a typographical error in page 3 A2, which should read "...a detrimental effect...".

Roll call vote: In favor: J. Athearn, J. Best, L. DeWitt, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole. Opposed: 0. Abstentions: 0. The motion carried.

4. LUPC REPORT

Upcoming meeting - December 15, 5:30 P.M., - BADD Company and the Coleman subdivision in Chilmark.

5. MINUTES OF PREVIOUS MEETINGS

Deferred.

6. OTHER BUSINESS

Jim Athearn noted an upcoming training session for land use mediation. Mark London suggested that town representatives be sponsored by their towns, and that the Commission could pay to send some elected Commissioners and some staff.

Mark London reported that the towns of Oak Bluffs and Tisbury have asked the Commission to be liaison to MassHighway regarding the drawbridge replacement project. Commissioners were copied correspondence regarding the proposal.

Jim Athearn reported from the All-Island Selectmen's Association meeting, where a number of Selectmen had reported concerns about the Charitable Trust. The Commission will hold a public hearing early next year.

Mark London reported from a meeting with representatives from the Nantucket and Cape Cod planning commissions and presented a draft memorandum of understanding, to consider adopting prior to the end of the year.

Megan Ottens-Sargent asked for an update on the water testing for nitrates in Edgartown wells. Bill Wilcox reported that there has been sampling and also surveying to determine groundwater flow. Observation wells will then be installed, in order to pinpoint the source of the nitrates.

7. NOMINATING COMMITTEE

John Best said that the Nominating Committee met earlier in the evening and unanimously voted to present the following slate: Jim Athearn, Chair, Linda Sibley, Vice-Chair, and Jane A. Greene, Clerk-Treasurer.

Jim Athearn asked for nominations from the floor. There were none and he closed nominations.

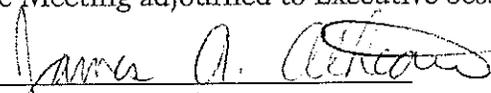
8. EXECUTIVE SESSION

Commissioners present for this item: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, D. Moore, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, P. Strauss, R. Toole, R. Wey, A. Woodruff.

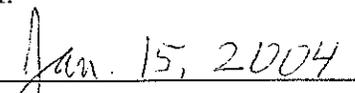
Christina Brown moved, and it was moved and duly seconded to adjourn to Executive Session, to discuss ongoing and pending litigation, to include the Commission members and Executive Director, and to not return to Regular Session.

Roll call vote: In Favor: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, D. Moore, K. Newman, M. Ottens-Sargent, D. Sederholm, L. Sibley, P. Strauss, R. Toole, R. Wey, A. Woodruff. Opposed: none. Abstentions: none. The motion carried.

The Meeting adjourned to Executive Session at 10:15 p.m.



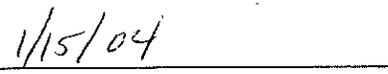
Chairman



Date



Clerk-Treasurer



Date