

# THE MARTHA'S VINEYARD COMMISSION

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## Minutes of the Meeting of July 1, 2004

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

### IN ATTENDANCE

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

**Staff:** Mark London (Executive Director), Paul Foley (DRI Analyst), Christine Flynn (Economic & Housing Planner)

### 1. MANSION HOUSE BICYCLE SHED: DRI - 550; MODIFICATION

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

**Mark London** explained that the Mansion House is proposing a 100-square foot bicycle shed in the back of the building, virtually invisible from the public way. The shed doesn't require a permit, but is a modification to a DRI. **Mark London** said staff has been working on developing an administrative procedure for approving this type of minor modification; in the meantime, the shed needs review by the full Commission.

*Linda Sibley moved and it was duly seconded that the modification is not substantial and does not require a public hearing. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion carried.*

*Christina Brown moved and it was duly seconded that the Commission approve the modification to the Mansion House DRI to allow construction of the shed. A roll call vote was taken: In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: none. Abstentions: none. The motion carried.*

## 2. PENNYWISE PATH AFFORDABLE HOUSING: DRI 577 – PUBLIC HEARING CONTINUED

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*Commissioners present: J. Athearn, J. Best, J. Breckenridge, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff.*

*For the Applicant: Ted Morgan, Chair, Edgartown Affordable Housing Committee; Alan Gowell, Edgartown Affordable Housing Committee; Pennywise Path Affordable Housing, The Community Builders (Charles Eisenberg); Peter Friedman, attorney; Dick Barbini, engineer; Michael Donaroma, Edgartown Board of Selectmen and Affordable Housing Committee*

**Christina Brown** recused herself from the public hearing.

### 2.1 Staff Report

**Paul Foley** summarized staff notes on the LUPC meeting on June 24<sup>th</sup>. Issues raised by Commissioners included:

- The design wraps around the frost pocket perhaps marginalizing it as a habitat.
- The lifting of the conservation restriction needs further discussion; does the project hinge on it?
- Whether the project includes an agreement with the golf course.
- The access point of the sewer line.
- The proposal is based on one access and the plan shows two.
- 60 units with 137 parking spaces is a lot of cars for one access; the possibility of approving a smaller number with one access was raised.
- Tunneling versus trenching of the sewer line.
- Phasing of the project.
- The necessity of outlining the qualifications of residency.

The applicant was asked to present pro formas at 60, 50, and 40 units.

**Paul Foley** explained that the applicants has submitted a revised plan. No buildings are within 150 feet of the frost pocket and no buildings are within 100 feet of the golf course or Pennywise Path.

Letters were submitted to the Commission stating support for the project from: Island Affordable Housing Fund; Dukes County Regional Housing Authority; Oak Bluffs Resident Homesite Committee. Charles Meehan of 12<sup>th</sup> Street wrote that he does not believe 12<sup>th</sup> Street should be used as access for the project. The Edgartown Affordable Housing Committee submitted a letter (see project file) but later clarified that the portion of the sentence regarding 30% Island preference needs to be struck.

**Doug Sederholm** clarified that he was not present at the LUPC meeting on June 24<sup>th</sup>. He arrived but didn't stay.

**Kathy Newman** asked about the original wording of the warrant for purchasing the 12 acres. **Paul Foley** clarified that it stated that there would be 12 acres of affordable housing; the warrant did not refer to 12 youth lots as had been suggested in previous public testimony.

## 2.2 Applicants' Comments

**Dick Barbini** showed the revised site plan with the housing been moved so it is located 100 feet from Pennywise Path and from the golf course property line, and 150 feet from the frost pocket.

**Michael Donaroma**, representing Board of Selectmen and the Edgartown Affordable Housing Committee, outlined the written responses to questions raised at LUPC and the public hearings including:

- The reason for proposing 60 units, which is a result of the town's desire for mixed income housing and the financing available.
- The difficulty of phasing the project, based on the town's desire for mixed housing and financing available.
- Concerns about 12<sup>th</sup> Street, emergency access, and minimizing cut-through traffic if Metcalf were ever to be proposed as an access.
- Sewer access.
- The warrant approved at town meeting stated "affordable rental housing".

Commissioners and the applicants discussed guidelines for local preference. **Peter Friedman** assured that The Community Builders will use due diligence to pursue local preference and experientially their guidelines and due diligence have worked well. **Jane Greene** said she is still concerned. **James Athearn** asked for guidelines for local preference.

**Megan Ottens-Sargent** asked which organization purchased which land. **Ted Morgan** said the Land Bank paid for the major portion through their Island-wide fund. Edgartown paid for their two 30-acre parcels.

**John Breckenridge** said 67 people are already waiting for housing with Dukes County Regional Housing; do they fit the profile for mixed use? **Alan Gowell** said at this time the Committee hasn't committed to the definition of what constitutes an Edgartown resident, but they are working on the definition and at perhaps weighing people's time in the community. **Jane Greene** pointed out that basing residency on a mailing address wouldn't be enough.

**Paul Strauss** asked for further clarification on funding. The applicant said that a smaller project could be designed but it couldn't contain units for families earning more than 60% AMI because units for 60% AMI and under are eligible for certain sources of funding, such as the Governor's Priority Development Fund and federal and state low income tax credits. The under 60% units help finance the over 60% units. The town wants affordable housing and defined their need for a range of income levels; the financing requirements bring the project to 60 units.

**Linda Sibley** asked for clarification on the rent in the 110% category; the figure represents achievable rent, and isn't a result of the formula. The formula would have resulted in rents that people couldn't have actually paid.

**Andrew Woodruff** asked about eminent domain and whether the court determined a price for the property. **Ted Morgan** said the town paid for two 30-acre parcels, north and south. There is a court challenge related to the taking by eminent domain. **Ted Morgan** clarified that the town owns outright the two parcels but the town may owe more money if the court determines a different value.

**Dick Barbini** spoke in relation to guidelines for local preference. The town put together a subcommittee; two Commissioners from Edgartown will be invited to sit on the subcommittee to develop guidelines.

### 2.3 Public Testimony

**Juleann Van Belle** said she is passionate about and committed to the notion of having decent and affordable housing, as well as committed to preserving the quality of life on the Vineyard. She said she is concerned about the process, the project, and the tone of discussion. Specifically she is concerned that people paying 40% of their income for rental will never get ahead because they have less disposable income. She asked who will be responsible for certifying income level and what the policy will be when a family's income rises above the level they are at. She expressed concern about the following: density; the desirability of including some home ownership; tampering with the conservation restriction; the Edgartown Affordable Housing Committee not asking for support from other Island housing groups. She asked what could be wrong with taking another 6-8 months to revise the project.

**Robert Evans** spoke in support of the Pennywise Path proposal to meet the needs of Edgartown. He said density is always related to affordability and there is always a

struggle is to find a balance between them. This proposal creates decent housing and will help reduce the summer shuffle that he feels is a blight on the Vineyard community.

#### 2.4 Commissioners' Questions and Comments

**Doug Sederholm** asked about the reconfiguration of the site plan to create a larger setback from the frost-pocket. It was clarified that boundary lines of the 7.1-acre portion don't change with the reconfiguration. **Doug Sederholm** asked if the General Court doesn't approve the swap of the 7.1 acres around the frost pocket for the 1.4 acres in conservation along Metcalf, would the 7.1 acres go into conservation anyway because it's around the frost pocket. The applicant responded that it would not at this time because the town hasn't approved placing the 7.1 acres in conservation in and of itself.

**Michael Donaroma** said that if the Metcalf access ever becomes necessary or available, the applicants would come before the Commission with a request for a modification to this decision with specifics related to traffic calming measures.

**Alan Gowell** and Commissioners discussed the 5 acres adjacent to the 12 acres in the proposal. **Paul Foley** clarified there are about 29 acres in the southern municipal parcel and 30 acres in the northern one. Of the 29 acres, 12 acres are proposed for housing, 5 acres are in the buffer for recreation, another 5 acres to the left are for future municipal use, and another 7.1 are around the frost pocket. **Alan Gowell** said that at this time, there are no specific plans for the land reserved for municipal use. The Edgartown Affordable Housing Committee has no interest in developing this parcel further. There are no restrictions on the land. The 5-acre municipal parcel is not part of the application; it's an abutting piece.

**Megan Ottens-Sargent** asked whether the applicant would object to a condition putting the 7.1 acres under conservation irrestrictive of the trade for the 1.4 acres. The Committee responded that an approval for placing the land under conservation would have to come through town meeting.

**Doug Sederholm**, referring to the letter from Edgartown Affordable Housing Committee, asked why the phrase committing 30% of the units to Island residents was struck. **Alan Gowell** said that the intention is that the remaining 30% will be for island residents, but that Fair Housing guidelines prevent making this an absolutely binding commitment.

**Linda DeWitt** spoke in support of the Metcalf access, particularly for emergency vehicles.

**Paul Strauss** asked for a response to Ms. Van Belle's comments regarding home ownership. **Charles Eisenberg** explained the town warrant specifically approved

affordable rental housing, the RFP specifically asked for rental housing, and the tax credits used to finance this project can only be used for rental housing. **Michael Donaroma** said this project will fill a rental void; the Committee is also working hard on ownership opportunities.

Regarding 12<sup>th</sup> Street access, **Michael Donaroma** said that it's up to the town to see how well 12<sup>th</sup> Street works. **Paul Strauss** proposed a condition that the applicant returns in 12 months to report on how it's working.

**Andrew Woodruff** asked what happens when a tenant's income rises and doesn't fit his or her original category. The applicants responded that if space doesn't become available in the tenant's new income bracket, he/she would not be required to move out for at least a year. Residents would be given priority as spaces open in income brackets. Income verification is monitored by the management of TCB, in conjunction with the Massachusetts Department of Housing and Community Development. TCB has four people who interface with tenants about income verification and recertify tenants, as required by the government and the developers.

**Jane Greene** asked about an emergency exit out of the subdivision. The applicants will coordinate with the town to offer an emergency exit, possibly a crash gate at back of land.

In response to questions from **Megan Ottens-Sargent**, it was clarified that the May 14<sup>th</sup> staff report is inaccurate: the 7.1 acres proposed for conservation restriction is not part of the 17.1 acres of the application. The Community Builders is not leasing acreage that includes the frost bottom. **Michael Donaroma** said the frost bottom would be in conservation by nature of its existence; no one would permit building there. He agreed that they would work with Natural Heritage and the Land Bank to protect the frost pocket.

The Commissioners and applicant discussed whether any flexibility existed to change the percents of units available at each income level. The tax credit formula prohibits changing percents for the first fifteen years. Other financing prohibits change for forty years.

**James Athearn** suggested a condition with specific guidelines for eligibility and local preference which aren't too restrictive may be appropriate. **Jane Greene** said the application for tax credits prohibits changing the 70% Edgartown preference.

**Christine Flynn** said she spoke to a variety of housing groups and believes the probability of people moving to the Vineyard for the affordable housing is more of a fear than a reality.

**Andrew Woodruff** requested that everything along Pennywise Path be kept as a natural vegetative buffer, with a possible exception during construction.

**Juleann Van Bell** said the tax credit program is very complex; Greenough House is the only housing for which the Dukes County Regional Housing Authority uses the tax credit program because residents' incomes don't fluctuate. She said she feels a change to the project to include ownership seems to have willingness barriers to it, rather than actual barriers.

#### 2.4 Applicant Summary

**Peter Friedman** thanked the Commission for the process and highlighted some aspects of the proposal:

- Density seems to be the biggest issue but is justified.
- Clustering of the project is balanced with the surrounding open acreage.
- The traffic analysis concluded that the traffic situation is safe.
- The inconvenience of the project is the trade-off for the need to create affordable housing.

He mentioned the extraordinary cooperative process between a government agency and a non-profit, as well as with the Commission. He concluded by saying that ultimately the project is about creating opportunity for members of the community who desperately need this housing; with appropriate conditions the Commission can help create that opportunity.

**Mark London** said that staff would prepare a draft of the Commission's understanding of offers and conditions for the post-hearing LUPC meeting,

**Alan Gowell** summarized a number of points including:

- The applicant's traffic expert concluded the proposal would not generate an unmanageable level of traffic on 12<sup>th</sup> Street. The Commission's traffic expert concurred.
- The guiding principle will be the residents with the deepest roots in the community will get the best preference.
- Wastewater will be handled by the municipal sewer that will reach the project in one of three ways.
- The buildings have been moved further away from the frost bottom.
- The Town of Edgartown wants approval of 60 units of all-rental affordable housing on 12 acres accessible from 12<sup>th</sup> Street. \$11 million is lined up; he said the project can't proceed with unworkable conditions or delays placed on the plans. This proposal is a collaboration between those involved, funding sources, and the law. It is financed and completed and desperately needed.

**Ted Morgan** concluded by saying that the Edgartown Affordable Housing Committee has worked on the project for 3 years, investing about \$70,000 for a consultant, the environmental impact study, surveyors, and a salary for assistant. The town has overwhelmingly supported the project through the designation of 12 acres, approval of

99-year lease and approval of amendments to the conservation restriction. It will be a wonderful project and the Committee needs the Commission's support.

**Linda Sibley** set the post-hearing LUPC meeting for Monday, July 12<sup>th</sup>. The public hearing was closed, except for the written record that was kept open until noon July 8<sup>th</sup>.

### 3. OTHER

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*Commissioners present: J. Athearn, J. Best, J. Breckenridge, Christina Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff.*

#### 3.1 Community Development Plans

**Mark London** reported that draft versions of the Community Development Plans have been submitted to each of the towns. Part of the plan was to do a suitability analysis for open space and resource protection and/or housing development and/or economic development. One of the largest areas most suitable for in-fill development is on Upper State Road between Upper State Road and the landfill (Park and Ride).

#### 3.2 Commission Anniversary

**Mark London** announced a small celebration of the 30<sup>th</sup> anniversary of the Commission would take place on Tuesday, July 27<sup>th</sup>, as an open house from 5:00 – 7:00 p.m. The intention is to launch the website. Past and present commissioners have been invited.

#### 3.3 Website

Commissioners will be asked to explore the beta version of the new website to help staff work out bugs in the system so it can be launched on July 27<sup>th</sup>.

#### 3.4 Upcoming LUPC

**Christina Brown** notified Commissioners that the Nobnocket building outline will be up through July 5<sup>th</sup>; Commissioners should view the outline. **Megan Ottens-Sargent** asked whether the Commission had obtained an elevation for the proposal.

**Christina Brown** reported LUPC had a meeting on Monday, June 28<sup>th</sup>, on 111 New York Avenue Realty Trust. LUPC noted that that traffic, parking, and landscaping did not pose significant negative regional impacts. The two issues LUPC recommended the full Commission discuss are: the size and scale and architecture of the building in the context of New York Avenue and the use of the building for a 19-room hotel at that location.

### 4. CONCEPT PLAN FOR UPPER STATE ROAD: PRESENTATION

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*Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, K. Newman, N. Orleans, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff.*

**Henry Stephenson** presented a slide show on the Tisbury Planning Board's concept plan for Upper State Road, a large triangle of land between State Road, Edgartown Vineyard Haven Road and the Oak Bluffs town line. He explained that the concept plan was partially developed based on issues highlighted by respondents to a questionnaire. Those issues were:

- do something about the traffic,
- look at a connector road,
- look for affordable housing opportunities,
- protect the environment and natural areas.

The concept is based on a series of recommendations including:

- build a connector road system linking State Road and Edgartown Road;
- create a transit center at the Park and Ride lot, expanding service;
- extend commercial development along High Point Lane;
- relocate emergency services to the area, including the fire house and police station;
- create a motor vehicle storage area within the landfill;
- expand residential development, especially affordable housing;
- restore the landscape;
- expand preservation lands.

**Henry Stephenson** and the Commission discussed:

- the possibility of densifying town land in the area near the landfill and protecting the town-owned land in the rest of the triangle as open space;
- the capacity of town septic and right of ways around the town well;
- Land Bank land and presenting the concept to the Land Bank.

**John Best** said this proposal for a connector is the closest to an acceptable possibility that he's seen.

**Mark London** said the proposal is far broader than simply a connector road, it is the redevelopment of a whole part of town. The Commission will assist the planning board by analyzing traffic impact, doing an origin/destination study which could feed into a traffic analysis of the pros and cons of a proposal such as this.

**Ned Orleans** pointed out that the concept plan will be used as a dart board so the Tisbury Planning Board can get feedback from homeowners and business owners. This plan is a result of the questionnaire and the Planning Board hopes the feedback will help them gather further information to support any final proposals.

The meeting adjourned at 10:40 p.m.

James A. Attean  
Chairman

Sept. 30, 2004  
Date

Jane A. Howe  
Clerk-Treasurer

9/30/2004  
Date