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**Minutes of the Commission Meeting
Held on March 19, 2009
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

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|---|--------------------------------------|
| P James Athearn (E – Edgartown) | - Ned Orleans (A – Tisbury) |
| P Bill Bennett (A- Chilmark) | P Jim Powell (A – West Tisbury) |
| P John Breckenridge (A – Oak Bluffs) | P Camille Rose (A - Aquinnah) |
| P Christina Brown (E - Edgartown) | P Doug Sederholm (E – Chilmark) |
| P Peter Cabana (A – Tisbury) | P Casey Sharpe (A – Oak Bluffs) |
| - Martin Crane (A – Governor Appointee) | P Linda Sibley (E – West Tisbury) |
| P Carlene Gating (County Appointee) | P Holly Stephenson (E – Tisbury) |
| P Chris Murphy (A – Chilmark) | P Andrew Woodruff (E – West Tisbury) |
| - Katherine Newman (A –Aquinnah) | |

Staff: Mark London (Executive Director), Paul Foley (DRI Analyst/Planner), Jo-Ann Taylor (Coastal Planner/DCPC Coordinator), Mike Mauro (Traffic Planner)

The meeting was called to order at 7:40 p.m.

1. ISLAND ROAD DISTRICT: SPECIAL WAYS EDGARTOWN – PUBLIC HEARING

Jim Athearn recused himself and sat in the audience as a citizen.

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, J. Powell, C. Rose, D. Sederholm, C. Sharpe, L. Sibley, H. Stephenson, A. Woodruff

Christina Brown opened the public hearing on adding sections of Dunham's Path, Quenonica Road, and Swimming Place Path to the Island Road District Edgartown Special Ways.

Bill Veno showed the paths on the aerial map.

Jo-Ann Taylor explained the proposal.

- The Commission already voted to consider the nomination.
- The vote on whether to make the designation needs to be taken no later than March 30th.
- The decision needs to be based on the Critical Planning District Qualifications, which are closely based on Chapter 831.
- She reviewed the standards for designation.
- There has been no correspondence.

William Basset, Chairman of the By-ways Committee, gave the reasons for designation.

- There is only about a tenth of Quenomica left.
- Dunham Path is one of the prettiest ancient ways in Edgartown.
- Swimming Place Path is mostly gone.
- The committee feels it's time for some rules and regulations to be put in place to save the ancient ways. The Planning Board supported the nomination.

Christina Brown explained that there will be regulations on these paths that are already in place for other paths.

- The paths can't be blocked.
- Neither the Commission nor the town can give the public rights that don't already exist, such as public access.

Robert Green, By-ways Committee, said the proposed addition also forms a network with the six ways that are already protected.

Christina Brown closed the public hearing.

Doug Sederholm moved and it was duly seconded that the Commission approve the expansion of the District, based on the Critical Planning District Qualifications and the public hearing testimony. A roll call vote was taken. In favor: Bill Bennett, John Breckenridge, Christina Brown, Peter Cabana, Carlene Gatting, Chris Murphy, Katherine Newman Jim Powell, Camille Rose, Doug Sederholm, Casey Sharpe, Linda Sibley, Holly Stephenson, Andrew Woodruff. Opposed: none. Abstentions: none. The motion passed.

2. MUCKERHEIDE: DRI 652 – PUBLIC HEARING (CONT.)

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, J. Powell, D. Sederholm, L. Sibley

For the applicant: Donald Muckerheide

Linda Sibley reviewed the LUPC notes on their post-public hearing meeting.

- They reviewed the benefits and detriments.
- The major sticking point during Commissioner's discussion was about the building design. It is a large building for the area.
- The applicant has expressed a reluctant willingness to discuss Plan B, an alternate proposal he submitted reflecting neighborhood character.
- Commissioners attending LUPC who supported the original proposal would also support Plan B. However, they were concerned that this proposal was only conceptual. Commissioners wanted to see more detailed elevations of the front and sides to evaluate it, and potentially as the basis of an approval.
- Since submission of additional plans would require reopening public hearing, LUPC recommended unanimously that the hearing be re-opened, primarily to receive more detailed elevations of Plan B and the south side elevations of Plan A.
- The April 9th meeting could be entirely devoted to review of the Muckerheide project, including deliberation and decision, and possibly even adoption of the written decision.

Christina Brown explained the reason for requesting elevations.

- The Commission is charged to look at what's special about the Vineyard and how development fits.
- One thing that is special about the Vineyard is the small town look and feel. Dukes County Avenue is commercially zoned, but the Commission's concern and presumably the Island's concern is the small town scale. As new uses evolve, it is important that projects be generally similar to the neighborhood.
- Commissioners want the buildings to have a sense of additive massing and shape that works with the neighborhood.

If the new information is available in time, it will be posted on the Commission website in advance of the hearing, so the public can comment before or at the public hearing.

Chris Murphy moved, and it was duly seconded, that the Commission reopen the public hearing on the Muckerheide project for the primary purpose of receiving additional building elevations of the proposals. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.

3. WILLIAMS PARKING: DRI NO. 618 – PUBLIC HEARING (CONT.)

The hearing was continued to April 16th at 8:00 p.m.

4. ISLAND ROADS DISTRICT: SPECIAL WAYS WEST TISBURY – PUBLIC HEARING

Andrew Woodruff recused himself and sat in the audience.

Commissioners present: J. Athearn, B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Gating, C. Murphy, J. Powell, C. Rose, D. Sederholm, C. Sharpe, L. Sibley, H. Stephenson

Christina Brown opened the public hearing on the proposed amendments to the regulations of the Island Road District Special Ways in West Tisbury and to see whether those regulations conform to the guidelines of the Commission for Special Ways.

Jo-Ann Taylor explained that the proposed amendments are minor amendments to existing regulations and appear in conformance to the original guidelines and those that were adopted in 2007, as well as those that were approved for West Tisbury in 1990. She noted:

- West Tisbury is asking for a vote to find conformance with the Commission guidelines.
- She wondered if it's the town's intention to grandfather existing fences. If they want to grandfather, West Tisbury would have to add language to that effect.
- Commissioners have Planning Board minutes which show that the Board unanimously voted to send the amendments to the Commission for approval.
- No correspondence has been received.

Jim Powell said the Planning Board hearing was well-attended by town residents and the Planning Board vote was unanimous.

Linda Sibley said the Commission approval could include accepting that West Tisbury may grandfather existing fences if it chooses to do so.

Jo-Ann Taylor confirmed that if a land owner wants to block vehicular access on a special way crossing his/her property, he may, as long as pedestrian and horse traffic can pass.

Jo-Ann Taylor said that she will try to have a map of Special Ways posted on the website.

Carlene Gatting moved and it was duly seconded that the Commission find that the proposed Amended regulations conform to the guidelines, that minor editorial changes may be made that clarify but do not change the intent or meaning, and that language permitting the grandfathering of existing fences may be included.

- **Chris Murphy** asked about the Section 6.2-5 of the General Regulations and where West Tisbury stands with the 1,000-foot curb cut regulations.
- **Jo-Ann Taylor** said West Tisbury voted the special permit to reduce the 1,000 foot curb cut in 1996. That amendment doesn't appear to have been heard and voted to be in conformance by the Commission. She reviewed the relevant guidelines and noted that the Commission gave itself discretion regarding approving regulations in this District, apparently to facilitate functionality of the District in an Island-wide context. She noted that the Commission has approved the special permit to reduce the 1,000-foot curb cut in other towns.
- **Chris Murphy** said the one issue that does have regional impact is the 1,000-foot separation of curb cuts.
- **Jo-Ann Taylor** read the regulations regarding 1,000-foot curb cut exceptions.
- **Chris Murphy** explained that his concern about wording related to the 1,000-foot curb cut regulations. The purpose of the regulation was to keep the roads uncluttered with access roads and exceptions to this requirement in the Island Roads District should require Commission approval.
- **Linda Sibley** said she understands that Chris Murphy is concerned that some exceptions to the 1,000-foot curb cut have been allowed that shouldn't have been.
- **Chris Murphy** said his concern is that the Planning Board in 1996 gave itself the power to review something that needs a bigger review.
- **Jo-Ann Taylor discussed the 1000-foot curb cut provision.**
 - Without the Special Permit provision, the reduction from 1,000-foot separation would be prohibited.
 - West Tisbury has not issued any special permits for the Special Ways.
 - The provision for the Special Permit is found in a separate section of the Town's Island Road regulations, Section 6.25, including regulations that cover both the Special Ways Zone and the Major Roads Zone. This section follows the sections of regulations specific to the Major Roads Zone and to the Special Ways Zone.
 - The hearing tonight is to review conformance of regulations governing the Special Ways, so anything in Section 6.25 that governs Special Ways is part of the Public Hearing and vote. Tonight's hearing does not include any regulations governing the Major Roads Zone, in Section 6.25 or any other.
- **Chris Murphy** suggested that Section 6.2-5 should be removed from consideration and be dealt with as a whole at a later date.

Carlene Gatting moved and it was duly seconded that her motion be amended as follows: that the Commission find that the proposed amended regulations conform to the

guidelines, that minor editorial changes may be made that clarify but do not change the intent or meaning, that language permitting the grandfathering of existing fences may be included, but that this finding of conformance specifically exclude provision for a Special Permit to reduce the 1,000-foot separation between curb cuts.

- **Jo-Ann Taylor** explained that West Tisbury will need a public hearing through the Commission on the Special Permit regulation to have curb cuts closer than 1,000 feet.
- **Linda Sibley** added that the Commission might ask them to spell out criteria to make the exception meet the guidelines.

A roll call vote was taken on the motion as amended. In favor: Jim Athearn, Bill Bennett, John Breckenridge, Christina Brown, Peter Cabana, Carlene Gattling, Chris Murphy, Jim Powell, Camille Rose, Doug Sederholm, Casey Sharpe, Linda Sibley, Holly Stephenson. Opposed: none. Abstentions: none. The motion passed.

5. 18 STATE ROAD: THAI RESTAURANT: DRI NO. 593M – MODIFICATION REVIEW

Commissioners present: J. Athearn, B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Gattling, C. Murphy, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, H. Stephenson, A. Woodruff

For the applicant: Sylvestro Schiavone, owner; Pissiamai Lauthon Green, applicant; Daniel Dyer, agent

Christina Brown explained the modification review.

- This is a proposal to amend a previous DRI.
- The applicant is a combination of the owner and the restaurateurs.
- This is a question of whether or not Commissioners concur that this is enough of a change to require a public hearing or whether the change has a small enough regional impact that can be covered by the local boards.
- The use is allowed by special permit so it will be reviewed by the Zoning Board of Appeals.

5.1 Staff Report

Paul Foley gave the staff report.

- The Zoning Board of Appeals will look at traffic, wastewater and flood hazards.
- Site plan and floor plans are included.
- The applicant is proposing a 56-seat Thai restaurant with an additional 16 seats in the back in the summer.
- The wastewater permit has been approved. Board of Health is generally okay with the project and will make a final decision after the Commission decision.
- The project requires a building permit and special permit from the Zoning Board of Appeals. The surrounding uses are business, residential and the park behind.
- The slope is a Native American midden, at the edge of a lagoon that was filled to create the park. The back of the site was the location of a well-known known archaeological dig.
- During the first project, Mr. Schiavone notified the Tribe when digging was done. The shed was put on sona tubes.

- The previous DRI has largely been complied with. Mr. Schiavone still needs to submit a landscape plan. There doesn't seem to be any erosion in the back.
- Mr. Schiavone met the energy requirement, except that he didn't install solar conduits because the site is not good for solar because of all the tall trees in back.
- The restaurant would have a take-out door in the back.
- The project was referred by the building inspector as a modification to a DRI, and as a restaurant of more than 50 seats in the B1 District, both of which are concurrence reviews.
- The key issue is parking and traffic. Parking is not required in the B1 and 90% of the restaurants don't have parking. There are about ten spaces. The concern is that traffic could create a bottle neck on State Road, when the parking is full, and people will have to turn around and re-enter State Road
- The owner has installed a sidewalk and plantings have been done out front. There is no specific outdoor lighting plan.
- The building is connected to the sewer system and the restaurant has been approved for increased wastewater flow. The parking and access are gravel. There is a catch basin.
- The proposal does not trigger the affordable housing policy.
- The restaurant will be open seven days a week year round for lunch and dinner. The restaurant will have five full-time employees with three more possible in summer. Hours would be 11:00 a.m. to 10:30 or 11:00 p.m.
- Building massing will not be affected.
- ADA would require accessibility. The back building is accessible.
- There will be additional noise on the outside patio. Noise and activity could affect immediate neighbors.
- The applicant has offered a dormant easement on his property allowing vehicular connection to the adjacent property.

Paul Foley showed slides of the project site.

Doug Sederholm said in the past he represented Daniel Dyer but he has no current representation and no financial interest.

Mike Mauro traffic planner, gave the traffic report.

- The site has one curb cut, and a dormant easement to connect to the adjacent property in the future. .
- Applicants have approached abutters about possible use of their lots for night parking.
- Tisbury doesn't require parking for restaurants.
- The existing site has 11 to 12 parking spots. Three parking spots are used during the day by the lawyer's office in back. Two or three spaces could be used by employees. Six to seven parking spaces are available during the day, nine to ten at night.
- Parking is at a premium in the area.
- Parking generation estimates for a 72-seat restaurant show 36 spaces are necessary. If half of the customers walk the estimated demand is 18 spaces. If staff were required to park at the Park and Ride, this would mean 12 on-site spaces are required during the evening, meeting about 2/3 of the demand.

- A desirable improvement would be to have connectivity with the Grillo and Educomp properties, making it easier for cars to navigate between the lots. A preliminary sketch of this connectivity, prepared by Henry Stephenson of the Tisbury Planning Board, was distributed to Commissioners.
- Deliveries would be before 8:00 a.m.
- Estimated trip generation during peak season of the previous use was 90 trips per day, and with the new use, 230 trips per day. The additional volume of 140 trips per day would have minimal impact on the 18,000 vehicles per day on State Road during peak season.
- Of concern is the impact on State Road traffic of people making left hand turns into the property. Since traffic is already congested, it should be relatively easy to find a gap to make the turn. If it turns out to be a problem, it might be desirable to prohibit left-hand turns into the property during the summer, but that may be difficult to sign and monitor.
- Sight distance is 300 feet to left and right and is more than adequate. Speed is 20 mph which requires 115 feet of sightlines. There are some partial obstructions in the sightline of the driveway, but they won't seriously limit driver's vision.
- Potential mitigations are staff parking at Park and Ride, posting a Lot Full sign during summer months, having a staff parking monitor on site during summer lunchtime, not offering take-out during problematic times, prohibiting left hand turns, and connecting with adjacent properties.

5.2 Commissioner Questions

Chris Murphy asked about delivery trucks. Michael Mauro said that the traffic report does not address the issue.

Carlene Gating asked if the Commission can limit its review to a single topic which could expedite the process.

John Breckenridge asked about the width of the driveway. The question is whether there is enough space for two cars and whether there are setback requirements.

Ken Barwick said there can be a driveway up to the property line and up to the building.

- In terms of traffic coming in both directions, the driveway could provide for a bit of a safety hazard. Some of the outside seating could be pushed away from the apron of the property which would be something reported to the Board of Appeals during the public hearing by the inspector's office.
- He outlined the criteria that could be reviewed during the special permit review, including traffic, lighting, noise, etc.
- The ZBA has a broad range of issues that they look at. The zoning criteria can require that the applicant submit professional studies related to storm impacts, traffic studies, etc.

Holly Stephenson said she believes there are serious traffic and parking issues. Eight spaces are available for 36 cars. Take-out is a traffic-related activity. Ingress and egress are problematic.

Ken Barwick said under the zoning regulations, the Board of Appeals has the provision to recognize parking within 1/10 of a mile as parking for the site. That could provide alleviation of parking concerns.

Doug Sederholm said he agrees with Holly Stephenson, the traffic has significant regional impact, and this should be reviewed at a public hearing.

Doug Sederholm moved, and it was duly seconded, to concur with the referral and hold a public hearing on this proposal.

- **Carlene Gating** suggested that the public hearing be limited to the discussion of traffic issues, traffic being the regional issue.
- **Andrew Woodruff** said the focus can be on traffic, but the Commission can't limit what the public says.
- **Peter Cabana** said a review would have to be done with the knowledge that Tisbury does not have a parking requirement for restaurants.
- **Peter Cabana** asked whether the Zoning Board of Appeals could require fencing along the outside seating.
- **Ken Barwick** confirmed that the Board can address the outside seating question.
- **John Breckenridge** requested that if there were a public hearing, the applicant explain what portion of the business take-out will be.
- **Bill Bennett** said he believes the town has the ability to work out the traffic issues.
- **Jim Athearn** asked what the Commission can do that the Board of Appeals can't do. Commissioners can't discuss it much more than what they've already done. He thinks the town can handle it.
- **Jim Powell** asked about parking on Causeway.
- **Ken Barwick** said there is parking and also a men's and women's room on Causeway. There is a service road that runs parallel to the back yards so it would be possible to walk from Causeway to the back of the restaurant.
- **Holly Stephenson** said there is limited public parking on Causeway, but parking is scarce in the whole area, especially during the day.
- **Christina Brown** commented that Tisbury doesn't want to encourage either parking or new parking in the village area.
- **Carlene Gating** asked about discussions with Educomp on using their parking in the evening.
- **Daniel Dyer** said Pat Gregory is supportive, but is not necessarily prepared to make a binding commitment.
- **Christina Brown** reiterated that the question is whether there are regional concerns, particularly those that have been discussed in terms of traffic, which rise to the level of requiring a public hearing.
- **Sylvestro Schiavone** explained that the toilet facility road is used by everyone. He can easily generate a path to the parking lot. If the parking lot is full Mr. Dyer will put a sign up so people won't have to pull in and then out. He thinks they can eliminate most of the concerns.
- **Daniel Dyer** said that in the summertime he travels the road daily. There are problems in the summer, but the traffic does allow vehicles to slowly maneuver. The concerns are for July and August. The situation isn't ideal, but it is okay and the details will be worked out after approval.
- **Andrew Woodruff** asked about the existing exterior lighting.

- **Linda Sibley** spoke to the motion.
 - The Board of Appeals has sweeping abilities to do the same kind of review that the Commission would do.
 - Commissioners could ask the Commission planner to send them comments on traffic and parking.
 - People are not going to voluntarily drive to this restaurant during maximum times, because they know what traffic is like. Their business is likely to be largely walk-in traffic during the day, and people will learn only to drive there in the evening. She suspects that careful analysis will show a pattern of avoidance behavior during peak traffic.
- **Holly Stephenson** said the traffic is the regional impact. State Road is the main connector road to the hospital and all the emergency services have to get through that intersection.
- **Paul Foley** explained that lighting in the DRI condition was to be downward-shielded. In addition, the parking demand estimate is based on rates calculated for larger restaurants.
- **Peter Cabana** said Commissioners are looking at a DRI changing use. This use will generate 140 trips out of thousands. Parking is an issue that appears to be addressed, everything can be addressed by the Zoning Board of Appeals and abutters appear to want to cooperate.

A voice vote was taken. In favor: 4. Opposed: 9. Abstentions: 1. The motion did not pass..

Linda Sibley moved, and it was duly seconded, that the Commission not concur with the referral. A voice vote was taken. In favor: 9. Opposed: 4. Abstentions: 1. The motion passed.

Linda Sibley moved, and it was duly seconded, that the Commission approve the modification to the DRI as presented by the applicant, namely to change the use to a 56-seat quality sit-down restaurant with 16-seat outdoor terrace, based on the representation by the applicant that a sign will be posted when the lot is full and lights will be downward shielded and turned off at night except for security lighting on motion sensors, including more restrictive restrictions or minor site layout changes as required by the Tisbury Zoning Board of Appeals. A roll call vote was taken. In favor: J. Athearn, B. Bennett, J. Breckenridge, C. Brown, P. Cabana, C. Gatting, C. Murphy, J. Powell, C. Rose, D. Sederholm, C. Sharpe, L. Sibley, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Pissiamai Lauthon Green, restaurateur, said she would like to show everyone about Thai food and culture and share the history of Martha's Vineyard and Thailand. In 1916-1928 her king visited Martha's Vineyard and stayed at 703 and 741 Main Street, Vineyard Haven. She spoke about her desire to help and be part of the community and her excitement about sharing the food of Thailand.

The meeting adjourned at 9:55 p.m.

Ch. dea Munn
Chairman

5/7/09
Date

P. Heals
Clerk-Treasurer

5/7/09
Date