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Minutes of the Commission Meeting Held on February 7, 2019 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Gail Barmakian (A-Oak Bluffs)	P Michael Kim (A-Governor; non-voting)
P Trip Barnes (E-Tisbury)	P Joan Malkin (A-Chilmark)
P Leon Brathwaite (A-County)	P Katherine Newman (A-Aquinnah)
P Christina Brown (E-Edgartown)	P Ben Robinson (A-Tisbury)
- Peter Connell (A-Governor; non-voting)	P Doug Sederholm (E-West Tisbury)
P Robert Doyle (E-Chilmark)	P Linda Sibley (E-West Tisbury)
P Josh Goldstein (E-Tisbury)	P Ernie Thomas (A-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Richard Toole (E-Oak Bluffs)
P James Joyce (A-Edgartown)	P James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Sheri Caseau (Water Resources Planner), Christine Flynn (Economic Development and Affordable Housing Planner), Dan Doyle (Regional Planner).

Chairman Doug Sederholm called the meeting to order at 7:00 p.m.

1. 35 MAIN STREET RESTAURANT-TISBURY C.R. 1-2019 CONCURRENCE REVIEW

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: Aaron Zeender, Ben Hall Jr.

1.1 Staff Report

Paul Foley presented the following:

- The location is 35 Main Street, Tisbury. Map 7F Lot 22 (9,854 sf or 0.23 acres).
- The proposal is to convert a retail building on Main Street into a 130 seat restaurant with 100 seats inside and 30 seasonal sets outside.
- Zoning is B-1 Commercial.
- Permits needed are: Building Permit, Common Victualler License and Alcohol License from the Board of Selectmen, Board of Health for food service, Special Permit from ZBA. The Board of Selectmen approved the increased flow conditioned on this use as recommended by the Sewer Flow Review Board.
- The property was most recently the Bunch of Grapes bookstore and before that was the Bowl and Board furniture store. Prior to that it was a taxi stand with a bus stop. A building on the property is shown as early as 1828 on a Sanborn map. The property burned to the ground in the Fire of 1883. The current building is smaller and appears to have had a second floor. It looks as

though the back was dismantled and the gable roof replaced with a flat sloping roof at some point.

- The property has been connected to the sewer for many years with 250 gpd. The BOS approved additional flow of 4,300 gpd in addition to the current 250 gpd on conditions that a signed lease is submitted within 60 days, and that extra flow be surrendered on August 1, 2019 should the restaurant fail to open.
- The B-1 has no requirement for parking spaces. The lease for the restaurant comes with two parking spots. There is a lot in the back with approximately 14 parking spaces that are mostly leased out.
- The owner has said that the restaurant will advertise for patrons to use the Park and Ride.
- Food waste will have daily early morning dumpster service, and farmer pick up for compost daily.
- A historic map and a current map were reviewed. Current photos were reviewed.
- The LUPC had a 2-2 split vote with one abstention on whether this required a public hearing.
- Correspondence has been received in support of the proposal, stating it is felt that the restaurant is needed, can satisfactorily be reviewed at the Town, and does not have regional impact.

Gail Barmakian asked if the applicant is just changing the use. **Paul Foley** said yes, the footprint stays the same. **Aaron Zeender** said there are no exterior alterations.

1.2 Applicants' Presentation

Aaron Zeender presented the following:

- The food will be obtained locally through farms and fishermen.
- The building has been sitting empty for almost three years, except for use as a pop up shop.
- Vineyard Haven could handle a restaurant right now.

Ben Hall presented the following:

- It is a beautiful old building and the structure has been preserved to the greatest extent.
- In 2003, sidewalks on the property were built with an elevated section, and the parking area off to the side was reduced.
- The parking in the back has been maintained and there are long term tenants. The lot has a drive lane, which we let delivery trucks borrow to keep them somewhat off the main street.
- The compostable waste for this project will be picked up by the farmers on a daily basis. Trash will also be picked up on a daily basis. There have been no issues with this in the past with the book store.
- The parking in the front will remain as is. The movie theater needs the space for delivery and we are reserving it for possible future expansion for outside seating. Even in August in downtown Vineyard Haven there are parking spots.
- A restaurant of this nature and in this location is needed.
- The proposal meets the Island Plan and offers a new traffic generator for the town. It has numerous positive aspects.
- The ZBA will address the parking and storage issues and can amply handle the project. We ask that the MVC not concur.
- Construction needs to begin by the end of March, and it would be a loss for the town not to move forward with the project.

1.3 Commissioner's Discussion

James Joyce agrees that the Town can handle the project, but is curious about the two denials at LUPC.

- **Fred Hancock** said the MVC threshold is 50 seats and this project is almost three times that size. He believes a project this large needs to be reviewed. There are several issues, such as affordable housing since employees will require housing, and parking issues. It is the duty of the MVC to look at this project.
- **James Joyce** asked if the Town could handle everything except affordable housing.
- **Fred Hancock** said they could, but they may not be able to hold the applicant to the restrictions. The MVC conditions carry through for the DRI from one applicant to the next.
- **Richard Toole** said he also recommended a full review for the same reasons, especially since it is such a large project in such a busy area of the Island. But he wanted to hear from the rest of the Commissioners.

James Vercruysse asked what the requirements are for a liquor license. **Ben Hall** said more than 40 seats and serve meals. **Josh Goldstein** said patrons must be seated, real china must be used, the restaurant needs to have more than 40 seats, and patrons must be served a meal.

Linda Sibley asked as matter of curiosity where the closest handicap parking is located. **Ben Hall** said it is across the street.

Joan Malkin asked if Mike Mauro has looked at the traffic. **Adam Turner** said he has not. It is a Concurrence Review to determine if the project rises to the level requiring those reports.

Joan Malkin said she is sympathetic to the applicant wanting to get a start for the summer, but that is not an issue which drives the MVC decision making.

Doug Sederholm said the Commission can try to deal with the proposal in an expedited manner, but we do not have control of when the applicant comes to us with the project.

Linda Sibley said this is not new construction and it does meet the Island Plan and what we want to happen in a dense situation. The only thing the MVC can do versus the Town is some provisions for affordable housing. Parking would be a concern if it wasn't for the fact that they are already providing parking to downtown Vineyard Haven. **Doug Sederholm** said the parking is a separate commercial enterprise. **Linda Sibley** said it doesn't matter, they are providing necessary parking to the community.

Christina Brown said 130 seats sounds like a big project and a Concurrence Review is so the MVC can review that. The fact that it requires a Special Permit handles many issues. Since it is in the downtown area and there is a need for it, she does not feel it needs a full public hearing.

Trip Barnes said he is one of the elected members to the MVC from Vineyard Haven. This restaurant is needed and we need it now. Traffic is not something we need to review. We should move the project forward.

Trip Barnes moved and it was duly seconded to not concur. Voice vote. In favor: 14. Opposed: 2. Abstentions: 0. The motion passed.

2. MV ARENA CONCESSIONS-OAK BLUFFS DRI 49-M6 MODIFICATION REVIEW

Josh Goldstein said he has rehabilitated himself.

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: Geoghan Coogan, Brian Mackey

Doug Sederholm, Chairman, said we asked the applicant to come back to the MVC to review the wastewater and Chris Alley has sent an email addressing that.

2.1 Staff Report

Paul Foley presented the following:

- Chris Alley provided information regarding the wastewater for the original design for 450 people at 5 gpd/seat (2,250 gpd), which is the Title V loading rate for a skating rink. Title V does not break down the estimated flow into a skating rink with cafeteria vs. a skating rink with full kitchens vs. a skating rink with no food service. He thinks that 5 gpd per seat is the number to use regardless of the kitchen conditions. He said an alternative would be to use Title V gymnasium flow estimates: 25 gpd/participant and 3 gpd/spectator. Assuming two teams of 20 players and the remaining population as spectators (410), the design flow would be 2,230 gpd, which is essentially the same as the original design.
- The MVC approved the multipurpose room bump out and said if the applicant built it they would have to come back.
- The arena has merged with the YMCA.
- There is no set limit on the nitrogen load. There are two meters and Sheri Caseau felt the concessions would not increase the nitrogen.

2.2 Commissioners' Discussion

There was a discussion about the nitrogen load.

- **Gail Barmakian** said a certain amount of nitrogen is allowed based on the project and we need to know what that is.
- **Paul Foley** said Sheri Caseau did not have a chance to get to the numbers.
- **Gail Barmakian** said from an Oak Bluffs perspective it may be an issue. It may be important to do the numbers based on the nature of the establishment. What Chris Alley said is correct for the ice arena, but we don't know if that includes food service.
- **Linda Sibley** asked if the Board of Health can regulate it.
- **Gail Barmakian** said no, the Board of Health does not have regulation for that area.
- **Sheri Caseau** said she called Brian Dudley (DEP) and he said the kitchen would have an impact, but since the multipurpose room was not built, it could offset this.
- **Doug Sederholm** asked the applicant if they would come back for further review if they built the multipurpose room.
- **Geoghan Coogan** said they would come back.
- **Brian Mackey** said they currently don't have plans to build but will return for further review if they decide to do so.

Linda Sibley moved and it was duly seconded that the modification does not rise to the level requiring a public hearing.

- **Gail Barmakian** said if they separate the amount of water use from the ice they can measure from this year to year, and that would assist to measure the flow and meter the amount of use.
- **Doug Sederholm** asked if the applicant can separate the ice from everything else so it can be determined if the concession area has an effect.
- **Geoghan Coogan** said they can.

Voice vote. In favor: 15. Opposed: 0. Abstentions: 1. The motion passed.

Linda Sibley moved and it was duly seconded to approve the plan with stipulations agreed to by the applicant that if they decide to build the multipurpose room to come back to the MVC for review, and they will maintain water use and provide the information to the MVC. Roll call vote. In favor: G.

Barmakian, T. Barnes, L. Brathwaite, C. Brown, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Opposed: none. Abstentions: R. Doyle. The motion passed.

3. WAVELENGTHS BASEMENT-EDGARTOWN DRI 623-M4 MODIFICATION REVIEW

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: Phil Miller

3.1 Staff Report

Paul Foley presented the following:

- The location is 223 Upper Main Street, Edgartown Map 20-A Lot 95 (0.29 acres).
- The proposal is to utilize the basement of a previously approved three-story 5,309 sf mixed use building for active storage and a visiting staff apartment.
- Permits required are Building Permit, and Modification to Special Permit from the Planning Board.
- On December 2, 2010, the MVC approved a plan to remove an existing one-story building at 223 Upper Main Street and replace it with a three-story 4,198 sf mixed use building and build a new three-story 5,381 sf building with 3 two-bedroom residential units in the back of the property.
- When the plan returned to the Planning Board, it was found that it did not meet the Floor Area Ratio of 50%. Therefore the plan was modified to the 2011 proposal which eliminated the 5,381 sf building in back and increased the size of the front building by 1,183 sf (22%). The new proposal had 2,844 sf of commercial space on the first and second floors (up to 5 units) and a 1,140 sf two-bedroom apartment on the third floor.
- The building is three stories of mixed use with a full 1,990 sf basement with up to three units of office/shop on the first floor and 2 two-bedroom apartments on the second floor and a three-bedroom apartment on the third floor.
- The proposal is to utilize the basement with 500 sf of storage (heated, conditioned space) connected to a flooring business on the main level, and install a business office/kitchenette with a full bath and a bedroom for workforce housing where a manager could stay on island 3-4 nights/week year round.
- The business is by appointment only with a showroom for hardwood and carpet flooring.
- The basement will not be accessed by customers, so it should not need additional ADA access.
- One residential unit on the third floor was sold as a condominium. One entity owns the first floor, basement and two second floor apartments. The two second floor apartments are rented on a year round basis. Wavelengths hair salon occupies two thirds of the first floor. The flooring business will occupy 500 sf of the first floor and 950 sf of active storage, kitchen, bathroom, small office and bedroom in the basement (2,400 sf total).
- The LUPC voted to recommend that this is a minor modification not requiring a public hearing.

3.2 Commissioners' Discussion

Linda Sibley said the language as guest staff apartment sounds strange, and the MVC should be approving staff apartments. She suggested revising the language to staff apartment. **Doug Sederholm** said the Commission could condition it that way.

Adam Turner asked if anyone remembers why the basement was conditioned as storage. **Linda Sibley** said it was for passive storage.

There was a discussion about the basement.

- **Michael Kim** asked if the basement level is completely below grade.
- **Phil Miller** said it is six feet below ground.
- **Michael Kim** said egress will be needed.
- **Phil Miller** said it is already in place.

Joan Malkin asked if the project is on town sewer. **Phil Miller** said it is.

Linda Sibley moved and it was duly seconded that the modification does not rise to the level requiring a public hearing. Voice vote. In favor: 16. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded to approve the changes as proposed and to revise the language to staff apartment. Roll call vote. In favor: G. Barmakian, T. Barnes, L. Brathwaite, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.

4. MEETING HOUSE PLACE SUBDIVISION-EDGARTOWN DRI 682 PUBLIC HEARING

Commissioners Present: G. Barmakian, T. Barnes, L. Brathwaite, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

For the Applicant: Sean Murphy (Attorney), Doug Hoehn (Agent)

Joan Malkin said she is the Vice President of the Vineyard Conservation Society and she does not have a conflict of interest. The Vineyard Conservation Society has filed testimony and she has recused herself from their discussions. She has filed a disclosure form with the Board of Selectmen, Town of Chilmark.

Doug Sederholm said his law partner Howard Miller represented the applicant in purchasing the land, but does not currently represent the applicant and he has not had any direct involvement with the applicant.

James Vercruysse said he is a board member of the Sherriff's Meadow Foundation and he has recused himself from any discussion they have had about the moth habitat.

Christina Brown said that she has filed a disclosure of a possible conflict as she is a member of the Edgartown Affordable Housing Committee and is a Commissioner for the MVC.

Richard Toole, Public Hearing Officer, read the Public Hearing Notice. The applicant is Meeting House Way LLC. The location is 139 Meetinghouse Way, Edgartown Map 37 Lot 47, 54.26 acres. The proposal is the creation of 34 lots on 54 acres through a Form C Definitive Subdivision Plan.

4.1 Staff Report

Paul Foley presented the following:

- The site plan and location map were reviewed, as well as the drone video.
- When the plan was originally mapped by NHESP, it was not mapped as priority habitat.
- Zoning is R-20 Residential: half acre minimum lot size and 50' minimum frontage.
- The surrounding land uses are residential and woods, and is located across Meshacket Road from the capped old town landfill.
- The proposal is the creation of 34 lots on 54 acres with one common lot through a Form C Definitive Subdivision.
- The 34 lots range from 1.0 to 2.68 acres with one common lot. Most lots are 1.0 to 1.5 acres, or two to three times the size of the half acre minimum lot size. There are six lots with 2.0 to 2.68 acres with the additional acreage falling in the proposed deed restricted moth habitat.

- House sizes are limited to 5,000 sf of living space plus a garage with a bedroom. There will be no free standing guest houses.
- Each lot will have a Development Envelope for all construction, driveways and improvements. The applicant estimates total Development Envelopes and road layout equaling 20.31 acres (37.38% of the property) leaving 34.03 acres of open space (62.62% of the property).
- Approximately 16.72 acres of the property will be deed restricted through a Conservation and Management Permit for moth habitat along the eastern and southern edges of the property.
- It is likely that the Homeowner's Association will hold the Conservation Restriction. NHESP will require an offset or other mitigation equal to 3-6 acres for taking land of an endangered species.
- The Common House would be limited to 900 sf of unconditioned space for gathering.
- Key issues:
 - The project will result in a "Take" of state listed rare species which will require a Conservation and Management Permit. The applicant estimates that the offsite mitigation will be 3-6 acres. The applicant has suggested they would contribute a study rather than create a new habitat. What is the plan to pursue off site habitat protection on island as part of its moth habitat mitigation?
 - The Town of Edgartown is already exceeding its current authorized water withdrawal volumes and must address this. According to the comments of the Bureau of Water Resource in the ENF, the projected demand for the proposed subdivision appears to be significantly above the state standard of 65 residential gallons per capita day. How does the applicant propose to conserve water and meet the 65 RGPCD standards?
 - Though connected to the sewer, the clearing of land for roads and development will increase nitrogen in an impaired watershed with a total maximum daily load 1.71 kg/acre/year. The project is currently estimated to be over the new MVC Adjusted Nitrogen Loading Limit of 1.40 kg/acre/year.
 - A final traffic review of the Traffic Study and Addendum still needs to be assessed. How will this project impact roads and intersections in the community?
- The site is currently a combination of mixed oak forest with a large area of pitch pine along the southern and eastern boundary. There are some disturbed areas consisting of dirt roads and small clearings associated with past storage of marine and construction materials.
- This property is partly mapped by NHESP as significant habitat for endangered species, including the Imperial Moth.
- No energy conservation measures have been discussed yet. The proposal allows for very large houses, which has been discussed in the past as being unsustainable and potentially being a drain on the island's energy needs.
- The applicant narrative states that all lighting will be down lighting.
- All fertilizers will be reduced nitrogen, slow release and in compliance with the approved fertilizer regulations in Edgartown.
- The property is bound by segments of three ancient ways, contributing to an existing informal network of paths allowing people to walk, horseback ride and off-road bicycle between Meshacket Road and Meetinghouse Way, as wells as to Wilson's Landing, the public open space on Edgartown Great Pond.
- The property is mapped on the MVC Open Space and Natural Resource Significance Map as "important." The MVC Open Space Policy recommends a target of 60% open space preservation on potential subdivisions in this category.
- The review of the Traffic Study and Addendum have not been finalized yet. The applicant has a traffic study prepared by Greenman-Pedersen, Inc. from January 2018.

- The applicant's affordable housing offer is \$1,112,200. The monetary mitigation will be paid to the Edgartown Affordable Housing Committee over three installments. They will make three installments of \$490,000 plus \$18,300 per lot (total \$622,200) for a total of \$1,112,200.
- Additional offers for the purpose of affordable housing include that for any future sale of a lot the seller will pay 1% of the sale price to the DCRHA. This will be written into the covenants.
- The applicant's offer of \$1,112,200 monetary mitigation and additional offers are consistent with the MVC's Affordable Housing Policy dated 1998.
- The subdivision should not be visible from Meetinghouse Way, as there is a 200 foot vegetated buffer. Lot 1, the closest to Meshacket Road, would be visible from the public way.
- Correspondence has been received from Island organizations and the public.

Sheri Caseau presented the following:

- The site is in the Edgartown Great Pond Watershed and the status of the watershed is impaired. It is recovering and the eel grass is coming back.
- The adjusted nitrogen load limit for the Edgartown Great Pond is 1.40 kg/acre/yr. The nitrogen load limit for this property is 76.08 kg/yr (1.40 kg/acre/yr x 54.34 acres).
- The proposal will be connected to the Edgartown Wastewater Facility (WWTF). No nitrogen contribution was included in total project load. Effluent is greatly reduced by connection to the WWTF, but not completely. With the old MVC Nitrogen Policy, nitrogen contribution connected to the sewer was considered negligible. If effluent is added according to the new policy guidelines at 3 mg/l, load would increase approximately 97 mg/yr.
- If a pond is included for nitrogen attenuation, a hydrological study should be performed to demonstrate that ground water is flowing through it.
- Calculations for roof runoff were based on runoff diverted to on-site subsurface disposal, such as dry wells or infiltration beds.
- Installation of individual groundwater wells for irrigation purposes will need to be applied for and approved by the Board of Health. Segregation of drinking and irrigation water systems is important, as is maintaining a 100 ft minimum separation from sewer force mains. Extra care needs to be provided that groundwater and town water remain independent of each other in order to avoid public well contamination through back siphoning.
- The project's proposed nitrogen contribution:

– Roof Runoff	10.19 kg/yr
– Paved Roads	5.92 kg/yr
– Driveways	5.92 kg/yr
– Development Area*	116.03 kg/yr
– Total	138.96 kg/yr
– Effluent for WWTF**	97.65 kg/yr
– TOTAL	235.71 kg/yr

* Development area calculated by development envelope = bldg. footprints-paved-3000 sf applicant proposes to leave in natural state

** Rough estimate, based on 7 bedrooms on all 34 lots with WWTF effluent strength of 3 mg/l

- The project is over the MVC Nitrogen Loading Limit.
- Roof Runoff Areas:

– Based on roof area runoff to subsurface disposal.	
– Building runoff	97,166 sf
– Porches	37,980 sf
– Barn	1,200 sf
– Total	13,6346 sf

- Per the MVC Policy, Landscape areas are assumed to be included in the entire property exclusive of the footprint of any building/structure and any parking area, but not including any area clearly designated on the plans to remain permanently natural and un-landscaped.
 - Development Envelope area= roof-3000 sf offered as no cut.
877,974 sf-136,346 sf-102,000 sf = 639,628 sf
Per the MVC policy this could be considered landscape area.
- This is a work in progress and the calculations are according to the new MVC policy.

4.2 Commissioners' Discussion

Linda Sibley asked if there were any plans that show how these lots and Development Envelopes overlapping with the areas that are already mowed. She was curious about the area already cut clear with regards to the no cut areas. **Paul Foley** said he can do that.

Katherine Newman asked what the land is that is on the left side of the site plan. **Paul Foley** said it is a five lot subdivision that was previously approved.

Doug Sederholm said he needs to understand how the land was acquired and redistributed. **Paul Foley** said it was part of an ongoing divorce settlement. **Sean Murphy** said part of the divorce is ongoing. The parcel to the left of Division Road (Paul Foley showed it on the site plan) was sold to the Meeting House LLC and has no connection to this proposal. The applicant's property was already subdivided by the previous owner into the five lots.

There was a discussion about Nitrogen Load Limit.

- **Doug Sederholm** said 76 kg/yr load limit is under the MVC current policy, and the MVC estimates 138 kg/yr without WWTF.
- **Sheri Caseau** said that is correct.
- **James Joyce** said he needs clarification on the nitrogen numbers, 138 kg/yr versus 76 kg/yr.
- **Sheri Caseau** said 138 kg/yr is from the run off from the roofs.
- **Doug Sederholm** said 76 kg/yr for the whole property is allowed and without septic for just runoff it is 138 kg/yr. But the development is on Town sewer.
- **Sheri Caseau** said she needs guidance from the MVC on how to calculate the load since the entire area is development.

4.3 Applicants' Presentation

Pio Lombardo presented the following:

- He will review the Nitrogen Management Plan for the subdivision. He has worked with Sheri Caseau and this has been a work in progress and he appreciates her flexibility.
- The plan has been prepared in accordance with the Martha's Vineyard Commission March 19, 2018 Water Quality Management Policy including 20% leaching rate and sewer nitrogen factor.
- The proposed development will have the following covenants/features that affect nitrogen management.
 - Lawn nitrogen fertilizer limit of 2.0 lbs total nitrogen per 1,000 sf per year. All fertilizer will be reduced nitrogen slow release in compliance with the Edgartown fertilizer regulations (per the New England Interstate Water Pollution Control Commission January 2014 Regional Clean Water Guidelines for Fertilization of Urban Turf).
 - Shrubs: nitrogen loading 1.5 lbs/1,000 sf/yr based upon the UNH guidelines.
 - On-site well for landscape irrigation on each lot.
 - Reduce potable water demand – 22,600 gallons per day on average during irrigation period.
 - Reduce potable water demand by 3.39 million gallons per year.

- Remove groundwater nitrogen – 6.43 kg/yr.
- Based upon using groundwater Total Nitrogen concentration of 0.50 mg/L.
- Post development groundwater discharges are estimated at 0.47 mg/L.
- Weather station based irrigation control systems will be required, which minimizes excess irrigation and minimizes leaching.
- Research has shown that a 10% leaching rate is more appropriate per a Cape Cod Resort by a Cornell University national expert, especially with weather station based irrigation control systems, but the analysis uses 20%.
- Landscape plans will use native or low maintenance drought tolerant species that are noninvasive to minimize the application of nitrogen, pesticides and water.
- Use of a Permeable Reactive Barrier to remove significant levels of groundwater nitrogen from the site and upgradient sources (potentially landfill) at the downgradient location of the site.
- Wastewater loadings were considered using effluent Total Nitrogen of 3 mg/L.
- Total Nitrogen as a percentage of maximum is expected to be 25% to 48% plus or minus of the maximum allowed and will protect the quality of the Edgartown Great Pond.

James Joyce said to control fertilizer and nitrogen, we should stipulate what type of grass is used. **Pio Lombardo** said the use will be and the document referenced says the same thing.

Michael Kim asked if the on-site well for landscape irrigation is based on what would be normally for 34 houses. **Pio Lombardo** said it is.

Michael Kim asked if the Title V is based on seasonal occupancy. **Pio Lombardo** said it is based on year round occupancy. Title V numbers are design numbers for peak conditions. Half of the peak is considered the average flow.

Michael Kim asked if the homes are occupied 100 days per year, does that impact your numbers. **Pio Lombardo** said it would significantly.

Michael Kim asked if there are methods to achieve Net Zero. **Pio Lombardo** said with a Permeable Reactive Barrier, and there are other ways with offsite mitigation.

Ben Robinson asked for clarification on the numbers for groundwater Total Nitrogen. **Pio Lombardo** said we arrive at 0.50 mg/L, as there is additional nitrogen groundwater from other sources. Expect the analysis to be the large end of the numbers.

Doug Sederholm said given that the applicant has retained an environmental expert and proposed a very complicated nitrogen plan, it would be of assistance to them and the MVC to have a peer review since the numbers are so different. **Sheri Caseau** said it would be helpful especially with the newer technology of a Permeable Reactive Barrier.

Doug Sederholm moved and it was duly seconded to obtain an independent consultant/peer review. Voice vote. In favor: 16. Opposed: 0. Abstentions: 0. The motion passed.

Pio Lombardo said there is an installed barrier at a site in Falmouth that was done 15 years ago and it still works.

Doug Hoehn presented the following:

- The Development Envelopes average under one half acre in size.
- The average lot size is 1.49 acres.
- The Building Envelopes vary in size, but are close.
- The Pod Plan shows the building lots grouped into three groups.
- When the property was purchased, there was no priority habitat.

- The formal application was started in March 2018 and started with a 36 lot subdivision. Based on the neighbors comments at the public hearing, one lot was dropped, and based on the staff/applicant and the LUPC meetings at the MVC, a second lot was dropped so the project is now 34 lots.
- The 26.2 acres of moth habitat takes up 50% of the property. NHESP has given the applicant credit of 17 acres of open space. The Take is 3.5 acres so the applicant will do monetary mitigation.
- The applicant has a preliminary approval from NHESP for the project. The applicant has contacted conservation groups based on Martha's Vineyard to hold the Conservation Restriction on the property, however no group has agreed to hold the restriction, so it is likely that NHESP will have the homeowner's association hold the Conservation Restriction. The homeowner's association will hire a third party qualified biologist firm to provide NHESP with periodic habitat monitoring and associated reporting.
- Bill Chapman sent an email and told Doug Hoehn that there is no problem with water quality for this development. Water withdrawal limits were set approximately 40 years ago and they are being revised to address what is currently used and it is reviewed through the Division of Conservation and Recreation.
 - **Sean Murphy** said each well can only draw so much water.
- An archeological study of the property has been completed and there are no impacts to the property. Confirmation of the same from the Massachusetts Historical Commission has been sent to the MVC.
 - **Sean Murphy** said PAL has also signed off.

Doug Sederholm said they want another well as backup but the current wells meet their needs.

There was a discussion about the no cut zone.

- **Linda Sibley** questioned the no cut zone versus the current open land.
- **Paul Foley** said the cleared area is out of the habitat.
- **Doug Hoehn** said it would be allowed to revert.
- **Leon Brathwaite** asked if they can plant in the no cut zone.
- **Sean Murphy** said NHESP will want pitch pines.

Fred Hancock asked if the access road is a paved road. **Doug Hoehn** said it is an 18 ft paved road with 3 ft shoulders and has no sidewalks.

Heather Monticup presented the following.

- In August 2017 a traffic count was done.
- The traffic study was done on a 35 home scenario.
- A study was done at the Edgartown-West Tisbury Road at Meetinghouse Way and Meshacket Road, and at Meetinghouse Way at Division Road.
- There will be a minimal impact at the adjacent roadways.
- The increase in delay is less than two seconds during peak hour. The Meshacket Road approach sees the greatest impact.

Doug Sederholm asked what the current delay is. **Heather Monticup** said today the PM Peak hour is 62.8 seconds at Meshacket Road.

- We compared the traffic counts and the August 2017 count was higher than July 2018.
- We were not able to do a count at Pease's Point Road at Katama Way and Clevelandtown Road and Meshacket Road intersection. Mike Mauro was able to provide us with traffic counts. Based on 34 homes, peak hour trips are 5 trips in AM peak hour and 6 trips in PM peak hour.

Adam Turner said there does not seem to be significant traffic impacts but there are some things that need to be worked out such as sight lines. He asked if the applicant has talked with the VTA. **Doug Hoehn** and **Sean Murphy** said they have not talked with the VTA. **Heather Monticup** said the bus line does go by the development.

Fred Hancock asked how many vehicles were assumed per lot. **Heather Monticup** said the ITE trip generation manual was 30 peak hour trips in the AM and 37 trips in the PM peak hour for the development. It is not a linear equation.

Fred Hancock asked what was assumed for exiting the property. **Heather Monticup** said the distribution of traffic will be going to the Edgartown-West Tisbury Road, 45% from the west and 35% from the east.

James Joyce said Meshacket Road is a dangerous road, and asked where bicycles and pedestrians were talked about. **Heather Monticup** said we included bicycle and pedestrian conflicts. The bike path goes past there. We did not include increased numbers for cyclists and pedestrians.

Sean Murphy presented the following.

- The affordable housing contribution is \$1,112,200. The first \$490,000 will be paid in three different payments. After that, an additional \$18,300 will be paid for each lot sold for a total of \$622,200. It is more than double what is required.
- At the applicant's expense, they will run utilities to the neighboring affordable housing development.
- Fencing will be limited by code, such as what is required for a pool.
- The houses are limited to 5,000 sf including the living space above the attached garage.

4.4 Public Testimony

Richard Toole, Public Hearing Officer, said testimony will be heard first from those who cannot return to the Continued Public Hearing.

Susan Drogin said how it was possible to not have a traffic issue at Katama Road, North Water Street, Pease's Point Way and Meshacket Road. The traffic consultants said residents would all be heading up island and that is not so. The assumptions are not realistic.

Bill Rogan lives on Meshacket and it is a very dangerous road for cyclists. On a full rental weekend in August there will be at least 100 cyclists. At night when the bars empty out cars go 60 mph down the road. The road is not lit and people walk from town. It is almost negligent not to have a sidewalk or walkway.

Brendan O'Neill is the Executive Director of the Vineyard Conservation Society and said VCS is concerned about the house size and the environmental impact. In our letter it was raised whether the application is complete. The concern is that an incomplete application masks cumulative impacts of land intended for development. The point of reference was press coverage and there might be interest in the abutting parcels. Previously, during the Herring Creek Farm lawsuits against Edgartown and the MVC, this area of half acre lots was referenced as a counter to charges of Exclusionary Zoning (aka "snob zoning"). That is, Edgartown established a range of large to small lots in its zoning districts designed to accommodate persons of all socioeconomic levels. VCS's view is that submission completeness, subdivision density, house size, water, energy, nitrogen and biodiversity impacts present a totality of detriments that outweigh the project benefits. We urge a vote of disapproval of this DRI.

Jeff Agnoli said in his view the application should be denied. In fact discussing that wastewater and traffic should be mitigated is for what purpose. The detriments far outweigh any benefits. The environment and larger community lose out on this. Neighbors are asking the Commission to look out for a beautiful piece of land and to not lose the beautiful character of this land. We are asking the

Commission to work for us. Local towns and committees are not setup to handle this, but the Commission is setup to preserve the values of the Island.

Richard Cloninger said there is not a bike path through this property and there will be 100 bikes a day coming out of that development. Meshacket Road is a very dangerous road for pedestrians and cyclists and that needs to be addressed and improved. This is 2019 and we should be demanding high efficiency and renewable energy. The water, wastewater and groundwater impacts are muddy at best and need to be worked out. Traffic on Meetinghouse Way will grow. The initial assumptions are not valid. South Beach adds seasonal issues in August. We need more imaginative and regional solutions for this plan. They haven't even talked with the VTA. The housing allowance is not sufficient for the people who will be taking care of these properties. We need to demand more from this developer.

Doug Anderson, the developer spoke to some of the concerns. We will offer to put a bike path on Meshacket Road and Meetinghouse Way, and we have added a bus stop to the plan. The water management code is to be adhered to. Affordable housing is not underestimated. The additional monies bring the affordable housing contribution up to over \$1.1 million and that is over 30% of what is required. The 1% transfer fee over the next 100 years could generate \$20-\$25 million in today's value.

James Athearn considers himself more a resident of Martha's Vineyard rather than Edgartown. This is just one subdivision. If the MVC drone went over the Island you would see subdivision over subdivision. There are over a dozen subdivision roads off the Edgartown-West Tisbury Road. He encourages the Commission to read the preamble of their enabling act. When he was on the Commission for nine years he felt like we were approving office buildings and commercial developments. The cause of the developments is to bring in more houses for more people. As we consider growth for Martha's Vineyard and with the Island Plan, we questioned lots of people and 95% thought the Island should be preserved from more development and 7% felt we needed more development. The evidence is there that we need something with regards to growth. It is the job of the Commission to preserve and protect Martha's Vineyard. He asks the MVC to do their job and deny the project.

Luanne Johnson said in the last few years the Northern Long Eared Bats in New England have been in crisis and the population has crashed. Biodiversity works is trying to figure out how and why the species is in crisis. We found they are existing in forest habitat about a half mile from this development. They coexist with the Imperial Moth and need forest. This forest has not been surveyed, but we feel they are in that area. She urged the Commission to vote for no more habitat loss. This is a large chunk of habitat. This could be the last habitat for them to survive. Please consider that when considering this proposal.

David Nash said it boggles his mind that Meshacket Road would be used for accessing this development. He agrees with his neighbors to not approve the project.

Paul Adler said he is friendly with the developer, the owner and his ex-wife. When the owner came to him he told them it might be a problem. I went to the Land Bank twice regarding the property and they turned me down.

Emily Reddington, Executive Director of the Great Pond Foundation, asked the MVC to consider any infrastructure additions to the Edgartown Great Pond watershed. Great progress has been made with the pond. She hopes that when the MVC considers developments within the watershed that they consider limiting or restricting the input of both nutrients and harmful compounds and what would be most beneficial to the Island.

Chandler Lincoln supports the letter sent by Patrick Kager. He is here to speak about the moth but now realizes the bat is also an endangered species here. Extinction occurs one species at a time. He wants the MVC to consider what is being done to the moth, the bat and our way of life. In the summer he can

walk his dog and see five or more cars a minute and additional bikes and landscape trucks. He does not see that in the winter. Please consider density and all of these items.

Bill Veno spoke about the trails. Roughly 700 feet of Pease's Point Way nearest Meetinghouse Way is currently used as a trail, the first 200 feet also serving as the driveway of an abutting residential lot. An unnamed trail then veers away from the property line and extends 1,300 feet until connecting to Swimming Place Path and to Meetinghouse Way. The applicant said they will not block or restrict public use of the path. Affirmation and dedication of public rights to use the perimeter ways is welcomed, but a pre-existing restrictive covenant on this property calls into question whether other parties could prevent continued use by anyone of the existing path to access the property. This covenant applies to land on the west side of Division Road as well as calling into question the legitimacy of the trail easement that was part of the Division Road DRI. The applicant might consider development of a public trail parallel to Meetinghouse Way.

- **Sean Murphy** said the neighbors have said that they use the green path that is on the site photo continually to cross the property. We offered to not block or prevent anyone from using it. His interpretation is it is not creating a new access. We are saying if used in the past we are not stopping you from using it now. The path is shown on the easement plan as an existing path and he believes the intent of the restriction was no further development.
- **Bill Veno** said because of the Division Road ANR, that access restriction was conveyed to the Land Bank and their legal opinion was it does jeopardize the legal easement.
- **Joan Malkin** said the path is not within the boundary of the development.
- **Sean Murphy** said it is on part, and at the end it turns onto other property. The end of the path is not part of this property.
- **Bill Veno** asked if they considered the road access on Meetinghouse Way and why not consider an alternative.
- **Sean Murphy** said we felt it was a better exit and entrance with the proposed road.

Mark Rosenbaum said he has ridden his bike on Meshacket Road multiple times and has survived. With climate change and adding 5,000 sf houses do they all have swimming pools too? They are the most intensive energy use as well as water issues.

James Athearn said the pipes that ventilate the sewer plant might be smelled exiting their development.

Richard Toole, Public Hearing Officer, asked if the public had any questions that they would like to be answered at the continued public hearing.

- **Bill Rogan** would like information on the bus stop.
- **Luanne Johnson** said the clear cutting that would occur would release a plume so where is the Permeable Reactive Barrier going in.
- **Richard Cloninger** said more information about the insecticides being used and their impact have not been spoken about.
- **Patrick Kager** said grass clippings can add pounds per square foot of nitrogen. He feels the entire contribution from use of the property should be considered with regards to the nitrogen.
- **Linda Sibley** said the bats use the same habitat as the moth so she would like more information from Luann Johnson. **Luanne Johnson** added that they live in pitch pine and oaks and can co-habitat.
- **Ben Robinson** said the no cut zones are hard to maintain and enforce. Why wouldn't open space be contained so homeowners don't have to know where the lot line is, it would be designated for them.
- **Doug Sederholm** said he would like clear guidelines for nitrogen and general parameters, and suggested a peer review from an independent consultant and assumes staff will take care of that. **Adam Tuner** said staff will vet that process.

- **Ernie Thomas** said he would like information on the bat and perhaps a website that can provide that information.
- **Katherine Clermont** asked if there was a study by NHESP. **Sean Murphy** said they did a study and it was not noted as an issue.

Richard Toole, Public Hearing Officer, continued the Public Hearing to March 7, 2019.

Doug Sederholm, Chairman, recessed the meeting at 9:50 p.m. and reconvened at 9:55 p.m.

Leon Brathwaite excused himself from the meeting.

5. MINUTES

Commissioners Present: G. Barmakian, T. Barnes, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

Fred Hancock moved and it was duly seconded to approve the minutes of January 17, 2019 with corrections as noted on line 257 to delete "to", line 276 add the word "should" after Commissioners and correct the typo on line 329 "cones" should be "comes". Voice vote. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.

6. NEW BUSINESS

Commissioners Present: G. Barmakian, T. Barnes, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, M. Kim, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse.

6.1 Executive Director Report

Adam Turner presented the following:

- The Statistical Profile has been finished.
- We are working on the bike and pedestrian path related projects and putting in up island trails.

6.2 Reports from Committees and/or Staff

Doug Sederholm, Chairman, said the MVC received a letter from the Aquinnah Board of Selectmen to review the discretionary referral for the gaming facility proposed by the Tribe. We have asked for them to submit a formal referral within our guidelines.

Richard Toole asked if we are reviewing the green fields at the High School. **Adam Turner** said when they refer it, we will review.

Linda Sibley asked if there was a donation made to NHESP as mitigation what they can spend it on.

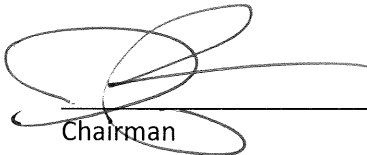
Adam Turner said he will have to ask NHESP.

The meeting was adjourned at 10:00 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on January 17, 2019
- Martha's Vineyard Commission C.R. # 1 – 2019 35 Main Street Restaurant MVC Staff Report 2019-02-07 Concurrence Review
- Correspondence for 35 Main Street Restaurant included in Staff Report
- Martha's Vineyard Commission DRI # 49-M6 M.V. Ice Arena Concessions MVC Staff Report 2019-02-07 Modification Review

- Modification Proposal MV Arena from Geoghan Coogan, President MV Ice Arena
- Emails from Geoghan Coogan and Chris Alley for the MV Ice Arena Concessions, Dated February 4, 2019
- MV Ice Arena Food Service Equipment Layout
- Martha's Vineyard Commission DRI # 623-M4 Wavelengths Basement MVC Staff Report 2019-02-07
- Letter from Phillip Miller, Dated January 24, 2019, Subject: Buildout @ Basement level 223 Upper Main Street Edgartown
- DRI # 623-M4 Wavelengths Basement Layout Plan
- Martha's Vineyard Commission DRI 682 – Meeting House Place Subdivision MVC Staff Report 2019-02-07
- Meeting House Place Narrative Updated January 31, 2019
- Meeting House Place Site Plan, Dated November 13, 2018
- Meetinghouse Way Correspondence
- Nitrogen Management Plan Executive Summary Meeting House Place at 139 Meeting House Road, Dated February 7, 2019
- MVC Nitrogen Analysis, Meetinghouse Way Subdivision


Chairman

3/7/19
Date


Clerk-Treasurer

7-MAR-2019
Date