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Minutes of the Commission Meeting Held on June 2, 2016 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Tripp Barnes (E-Tisbury)	P James Joyce (A-Edgartown)
- Yvonne Boyle (A-Governor)	- Joan Malkin (A-Chilmark)
P John Breckenridge (A-Oak Bluffs)	P Katherine Newman (A-Aquinnah)
P Christina Brown (E-Edgartown)	P Ned Orleans (A-Tisbury)
- Peter Connell (A-Governor; non-voting)	P Doug Sederholm (E-West Tisbury)
P Robert Doyle (E-Chilmark)	P Abe Seiman (E-Oak Bluffs)
P Josh Goldstein (E-Tisbury)	P Linda Sibley (E-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Ernie Thomas (A-West Tisbury)
P Leonard Jason (A-County)	- James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Sheri Caseau (Water Resources Planner).

Acting Chairman Robert Doyle called the meeting to order at 7:00 p.m.

1. KATAMA STORE DEMOLITION AND REBUILD-EDGARTOWN C.R. 8-2016 CONCURRENCE REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas.

For the Applicant: Sean Murphy

1.1 Land Use Planning Committee Report

Fred Hancock, LUPC Chairman said LUPC recommended to the full Commission that the proposal did not require a public hearing and to not concur with the referral.

1.2 Staff Report

Paul Foley presented the following.

- The project location is 170 Katama Road, Edgartown Map 29-A Lot 23.
- The proposal is to demolish the existing 2,068 sf building and reconstruct a 2,998 sf replacement with revised parking and access.
- The new building would be one and a half stories and would be comprised of 1,023 sf of retail area, 897 sf of kitchen, 320 sf of walk-in refrigerators, 277 sf of office and a 542 sf loft. There would also be a wrap-around covered porch.
- The existing parking in front that backs into traffic would be removed. The site would have 25 parking spaces on the side and in the back. The parking lot would be crushed stone or shells or some other pervious surface with the exception of the handicapped spot. Per Priscilla Leclerc based on ITE the proposal probably only needs ten spaces.

- Parking would be located adjacent to the existing trees.
- The proposal includes a new septic system with denitrification (FAST).
- Lighting is to be minimal according to code and downward shielded. The store is not open after 8:00 p.m. in the summer so minimum is required. The existing spotlights are to be removed.
- The site photos were reviewed.
- The new plan and elevations were reviewed.
- The DRI referral was received on May 23, 2016 from the Edgartown Zoning Board of Appeals.
- Key issues include: Does the project have regional impact that requires a public hearing review at the MVC and do they really need 25 parking spaces?
- The Town would be responsible to replace the sidewalk.

1.3 Applicants' Presentation

Sean Murphy presented the following.

- He is representing Jackie and Doug Korell.
- Paul Foley summarized the project very thoroughly.
- The Katama General Store is a seasonal store.
- They also have a beer and wine license.
- Their main business is people heading out to the beach and those living in Katama.
- The applicants are part of the Katama community.
- There are twelve seasonal employees.
- The applicants need a new kitchen as the current one is too small and out dated.
- The change is mainly to better operations and nothing else will change.
- They want to keep the country store feel and look.
- A main thing that will change is the parking in the back and it will alleviate the cars backing up into the road in front.
- The Town is fully in support of the parking plan as it will get the cars off the road when backing up from the current parking in front.
- The actual overall increase is 930sf.
- The proposed plan will move the loading zone and deliveries to their own designated area.
- The applicants need to go to the ZBA, Planning Board and Board of Health as well as the selectmen for the beer and wine license and the Building Department for the Building Permit.
- They do not intend to cut any trees.
- They have had great respect with the neighbors over the years.
- Right now a proposed cottage in back is not part of the proposal and the applicant would have to come back for that.

1.4 Commissioners' Questions

Doug Sederholm asked how large is the current kitchen and does it have a grease trap. **Sean Murphy** said it is 168 sf and he does not know if it has a grease trap but the new kitchen will have one.

Doug Sederholm asked what the relation is of parking spaces to the flow of business. **Sean Murphy** said currently people just use the back for additional parking when needed.

Doug Sederholm asked what the plan is for the loft. **Sean Murphy** said it is for storage.

Linda Sibley moved and it was duly seconded to not concur with the referral because the new project does not have sufficient impact to require a DRI review and the project can be handled at the town level. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E Thomas. Opposed: none. Abstentions: none. The motion passed.

2. ISLAND GYMNASTICS-WEST TISBURY DRI 522-M MODIFICATION REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas.

For the Applicant: Elizabeth Goodell

2.1 Staff Report

Paul Foley presented the following.

- The applicant is Elizabeth Goodell.
- The project location is 410 State Road West Tisbury Map 16 Lot 96 (3.03 acres).
- The proposal is to construct a 30' by 28' two story cottage with one bedroom and a loft (app. 1,400 sf) for the owner of Island Gymnastics to live in on the Island Gymnastics property.
- The cottage would be to the west of the existing 4,700 sf metal building.
- The building has been located to require the least cutting of trees and impact.
- The proposal has been cleared by NHESP as a "no take".
- The property is located in the Tashmoo Watershed, an impaired watershed. Soil type is Riverhead sandy loam, which is a nearly level, very deep and well drained.
- The nitrogen load for the property (3.04 acres x 5.6 kg/ac/yr) : 17.02 kg/yr
Current load average of 15 students/day at 3 gals/student : 2.175 kg/yr
Proposed new load (1 bedroom cottage): 4.79 kg/yr
Total Proposed load: 6.97 kg/yr
This project will be well below the limit of the property if the current use stays the same and the cottage is one bedroom as proposed.
- The site plan was reviewed.
- On May 23, 2016 LUPC recommended to the full Commission that this does not require a public hearing and to approve the minor modification as long as the cottage is owner occupied year round. If that changes it would have to come back for modification review.

2.2 Applicants' Presentation

Elizabeth Goodell presented the following.

- Paul Foley summary.
- She would like to have a place to live year round.
- She works on the property most of the time anyway so it should not be an impact on the septic.
- She did go through the septic testing.
- The roof lines will be low and not visible from the road.
- She will add trees if needed.
- The building will be discreet and an additional drive is not needed.
- There is one neighbor so there is some residential and we share the access drive.
- There is a path between the Charter School and the gym and the kids use it all the time.
- It will be helpful from a safety issue that she will be there all the time especially when kids are dropped off.

Linda Sibley moved and it was duly seconded that the modification is not sufficient enough and does not require a public hearing. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved and it was duly seconded to approve the change to DRI 522-M with the provision that the cottage will be owner occupied and if there is a change in occupancy it would have to come back to the MVC.

- **Leonard Jason** asked what do you mean by change of occupancy.

- **Linda Sibley** said if she rents the cottage out.

Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas. Opposed: none. Abstentions: none. The motion passed.

Adam Turner introduced Ned Orleans representing Tisbury and welcomed him back to the MVC.

3. T-MOBILE MODULES ON OAK BLUFFS WATER TOWER C.R. 9-2016 CONCURRENCE REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas.

3.1 Staff Report

Paul Foley presented the following.

- The proposal is to remove three existing antennas attached to the tower on top of the Oak Bluffs water tower and replace them with six antennas and install a new mechanical cabinet on the ground.
- The site plan was reviewed.
- The tower plan was reviewed.

Doug Sederholm moved and it was duly seconded that the Commission does not concur as the proposal does not require a public hearing. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas. Opposed: none. Abstentions: none. The motion passed.

4. LAGOON RIDGE FORM C-OAK BLUFFS DRI 464-M2 DELIBERATION AND DECISION

Katherine Newman excused herself from the meeting.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas.

Paul Foley noted the eligible Commissioners; T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, D. Sederholm, L. Sibley, E. Thomas. J. Vercruysse is also eligible but is not present.

4.1 Wastewater Report

Adam Turner presented the following.

- The property is in the Lagoon Pond watershed which is an impaired watershed.
- The current MVC policy allows 3.4 kg/ac/yr. The 32.47 acre property is allowed 110.4 kg/yr.
- The property will have four units in Cluster A with Innovative Alternative systems with effluent at 19mg/l.
- The Amphidrome system is proposed to serve four lots in Cluster B and 17 lots with 19 units in Cluster C. The shared system will have an effluent at 13 mg/l or less.
- The independent engineer said the systems would meet the MVC policy. It is an engineered system and we are unsure how quickly these can be put in place.
- Staff recommends the following conditions.
 - There be regular water testing and the testing should be done monthly for the first year and if excess levels are not detected then on a quarterly basis until 50% of the units are built/occupied. After that testing should be on a yearly basis. The applicant has only

guaranteed the system for one year so the MVC recommends regular testing and also recommends bonding.

- That the applicant posts a bond to insure the Amphidrome system functions as intended by a specified period. Bonds are required when there is potential for a regulatory agency to take action. Because the system has not yet been designed it is difficult to estimate the bond amount. It is suggested that the applicant put the bond in place as a safeguard as well as a replacement plan to guarantee the functioning of the system.
 - **Josh Goldstein** asked how long the bond would be in place.
 - **Adam Turner** said until half of the bedrooms are on the system and it operates under currently accepted levels for a six month period.
- Monitoring; the third party engineers testified that the system was automated and if it goes off line the operator would be notified. The MVC feels an operator/technician should be available on Island to respond to any emergencies that can't be sufficiently handled remotely.
- The MVC does not want anyone coming back saying they did not know there is any issue with this new system.
 - **Linda Sibley** said she believed the MA State Real Estate law indicates disclosure of the system.
 - **Doug Sederholm** concurred.
- An operations and maintenance manual would be required to be submitted to LUPC for review prior to installation of the system. All test results would be submitted to the MVC and the Oak Bluffs Board of Health.
 - **Leonard Jason** asked how the system is tested and do we have readings.
 - **Adam Turner** said the water testing is done from testing wells in various locations and the MVC would take baseline readings.

4.2 Commissioners' Discussion

Robert Doyle said he thought the MVC was also thinking about a sinking fund once the homeowner takes ownership so the bond could be released. **Christina Brown** said based on her experience it would be cleaner to keep the bond with the developer and he would report to the MVC before the bond was released rather than turning it over to the homeowner.

Adam Turner said the applicant is seeking to use the manufactured system and it appears the nitrogen will be under the levels established by the MVC policy but we want safeguards to prove the system will work since the property is located in an impaired watershed.

There was a discussion about using a bond.

- **James Joyce** said the MVC has not had a lot of experience with bonds and what is the financial implication.
- **Adam Turner** said it would be a surety bond and it is like an insurance policy.
- **James Joyce** asked if the MVC has done a bond on any project.
- **Fred Hancock** said the MVC has not done this type of system before.
- **Doug Sederholm** said the MVC never had to do a bond.
- **Adam Turner** said it would offer some type of protection.
- **Josh Goldstein** said it is something that is done all over the country.
- **Leonard Jason** thought the Board of Health should get the bond.
- **Christina Brown** noted that the Town tried to do that with the Chappy tower and the Planning Board said they didn't want to do it.

There was a discussion about the approval of the system.

- **Leonard Jason** asked if the Board of Health has to approve the system.
- **Adam Turner** said yes and they have already approved the system.
- **Linda Sibley** noted that this is not a normal situation. It is a new and hopefully a very effective system. The Board of Health will certainly do a good job but the MVC has a responsibility and especially with an impaired pond. We certainly don't do many subdivisions perched on top of an impaired pond. We have to take responsibility for this.
- **Doug Sederholm** emphasized what Linda Sibley said. Even though the applicant is adhering to the MVC Nitrogen Policy our policy is grossly out of date and that is not the applicant's fault. Mass Estuary Project says nitrogen should be reduced by 50% and instead we are approving a project that will significantly add to a grossly impaired pond. So it is easy to have belts and suspenders for this. If the applicant finds the bond is grossly expensive he can come back to the MVC. We are not heartless.

Josh Goldstein noted that per the internet the cost of a bond is 1-5 %.

Trip Barnes said he has had experience with bonds and the rules are constantly changing. If it is too expensive the applicant can come back to the MVC. The applicant is taking a real gamble more than the town.

4.3 Possible Conditions

Bill Veno presented the following.

- Many of the issues have been addressed in the covenants and the plans. There are still some corrections that need to be done from what LUPC has seen. The applicant will be doing a definitive plan. The building envelopes on lots in Cluster A and Cluster B should be correctly labeled as development envelopes and be consistent with the applicant's proposed covenants. The septic should not be built outside the development envelopes.
- Exterior lighting on buildings shall be limited to that required by code, exterior lighting shall be downward shielded to prevent light spilling off the property and shall be either motion sensitive or on timers to ensure that they are turned off when not necessary.
- To protect the affordability of the affordable lots and units the lot owners and the unit occupants of same shall be exempt from the homeowner association fees or other maintenance fees unless prior to the transfer of the affordable lots to the Town the applicant or association develops with Dukes County Regional Housing Authority a contribution formula for these lots/units that does not jeopardize the affordability of said lots/units.
 - **Robert Doyle** asked what the Town approved or not approved on affordable housing.
 - **Bill Veno** said the Town has not approved anything. The recommendation is to try and get an answer from the Town if it meets their by-law.
- There is a question if the affordable units will be moderate or low income. Section 6.6.1 is "As offered by the Applicant, two (2) lots for three (3) affordable dwelling units for occupants with Moderate income (defined as not exceeding 80% of Area Median Income) in Cluster C shall be offered to the Oak Bluffs Municipal Affordable Housing Trust Fund".
 - **Doug Sederholm** said it will be moderate income.
 - **Adam Turner** said the MVC form approval let it to the Town to interpret their by-law and the MVC would abide by it.

John Breckenridge said that section 7 Wastewater under 7.5 it should be an approved plan by the Board of Health. **Doug Sederholm** suggested revising the language; "... plan reviewed and approved by the Oak Bluffs Board of Health...".

Bill Veno said Section 8 Habitat, with the definitive plan there will be a filing with NHESP and the applicant has a tentative on that.

Bill Veno noted that for Section 9 Energy Sustainability, Section 10 Archaeological Oversight and Section 11 Universal Design the applicant has addressed them in the covenants. Staff does not think anything has to be added from what is in the covenants and Universal Design standards are spelled out.

Doug Sederholm said the MVC should accept the offers as written in the covenants for Sections 9, 10 and 11.

Linda Sibley suggested that the Commission could accept the covenants as modified by the MVC conditions. **Robert Doyle** asked for clarification. **Linda Sibley** said the Commission is stating that the MVC approve the project as presented by the applicant including his covenants dated on such a date as modified by the MVC conditions etc.

Bill Veno presented the possible conditions on Section 12 Trails and read the conditions. The trails should be identified on the plan and the buffer areas identified as well.

Bill Veno noted that for Section 13 Outstanding Conditions from Original DRI 464 the section is to identify the dedication of the 20 foot easement.

Doug Sederholm noted a typo in section 12.5 convents should be covenants.

James Joyce asked if the applicant has seen these possible conditions and does he have any issue with them. **Bill Veno** said the applicant did see them and we had a conversation. The main one was the ten foot easement of trail to Barnes Road and he seems willing to do it.

There was a discussion about the Trails possible conditions.

- **Doug Sederholm** said the point is to have public access so the trail is useable.
- **Christina Brown** said the Trails section looks great but is concerned that we word them as conditions and are enforceable, i.e. the Form C shall include. We are at the Form C stage so it should be the plan we approve.
- **Linda Sibley** said we want the trail plan to come back to LUPC.
- **Christina Brown** agreed with Linda Sibley and said that should be clear.

4.4 Benefits and Detriments

Wastewater

It has been mitigated as much as expected under the circumstances and the applicant is meeting the MVC policy, but it is further impairing an already impaired pond.

Benefits

- A significant amount of open space is being preserved with an IA system that is denitrification.
- We will learn something from the IA system.
- The applicant is keeping as much open space as possible with the cluster system and is using open space creatively.
- Lighting is appropriate for the development and is dark skies compliant.
- Traffic and transportation is not a significant impact.
- The project retains scenic values for the public and provides access to walking trails.
- Between the setbacks and the development envelopes there is enough buffer to minimize impact on abutters and it does not unduly affect the abutters.
- The applicant has made an affordable housing contribution according to the MVC policy and to the Town by-law for flexible development.
- The project does not unduly impact services and taxpayers.

- There is no burden on public facilities.
- The project is consistent with town, regional and State plans and objectives. The subdivision is planned the way the MVC likes to see them done with clusters rather than clear cutting. The project conforms to DCPC regulations and zoning.

4.5 Deliberation and Decision

There was a discussion about the buffer on Old Back Road.

- **Paul Foley** noted that one possible condition on Form B was that there was a significant buffer on Old Back Road and on the new plan the buffer decreased. Usually you want a 50 foot no cut buffer and it looks like the buffer is approximately 25 feet. As a recommendation the MVC might want to consider a revision.
- **Linda Sibley** does not think a 25 foot buffer is too small. It isn't intrusive and it is really late in the game to be moving roads.
- **Fred Hancock** thought this was an improvement rather than going through people's backyards.

There was a discussion about building envelope versus development envelope.

- **Christina Brown** noted that on page 6 of the covenants building envelope should be revised to development envelope to be consistent.
- **Leonard Jason** said he thought the MVC was changing that. The building envelope is to be established in Form B and Bill Venio said it should now be development envelope.
- **Bill Venio** said the Form B approval said the applicant had to come back and show the development envelope on the lots but he came back with building envelopes. He feels the MVC was asking for the percentage of area of lots to be developed. It is semantics.
- **Doug Sederholm** said the applicant has defined building envelope in paragraph 2 on page 6 of the covenants.
- **Bill Venio** said if you look on the plan you might interpret outside the building envelope and you could cut it all down.
- **Doug Sederholm** said they should be looking at the building envelope with the covenants.

Linda Sibley noted that she thinks it is unfortunate and it is highly likely that the developer will be back before the MVC because the Commission has to make a decision before the Town of Oak Bluffs has interpreted their by-law.

Linda Sibley moved and it was duly seconded that the MVC approve the subdivision as presented by the applicant including the covenants as modified and accepting the DRI 464-M3 Lagoon Ridge Form C Subdivision Potential Conditions from the MVC Staff, dated June 2, 2016. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, D. Sederholm, L. Sibley, E. Thomas. Opposed: none. Abstentions: none. The motion passed.

Robert Doyle, Acting Chairman recessed the meeting at 8:25 p.m. and reconvened at 8:30 p.m.

5. DRI CHECKLIST REVIEW

Katherine Newman rejoined the meeting.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, D. Sederholm, A. Seiman, L. Sibley, E. Thomas.

Adam Turner passed out the DRI Checklist Review Report. It includes the history details, commentary from the review committee and also a revised version of what the committee would like to take forward. The report includes all of the maps. There will be a public hearing on this on July 21, 2016 and the report will be on the MVC website.

Fred Hancock said the DRI Checklist will be sent to the town boards again so it can be reviewed before the public hearing.

6. OAK BLUFFS BOWLING ALLEY CONDITIONS-MODIFICATION DRI 626-M2 DELIBERATION AND DECISION

Kathrine Newman, Linda Sibley and Doug Sederholm excused themselves from the meeting.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, N. Orleans, A. Seiman, E. Thomas.

Paul Foley noted the eligible Commissioners are T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, A. Seiman and E. Thomas. J. Malkin is also eligible but is not present.

6.1 Condition Changes and Staff Recommendations

Adam Turner summarized the condition changes.

- Six different conditions were looked at.
- Condition 1.4 : The applicant proposes to remove the restrictions on the number and size of events which are currently limited to 50 people twice per week. LUPC did recommend that the number restriction be lifted. Two events after 9:00 p.m. per week would be restricted and unrestricted before 9:00 p.m.
- Condition 1.5 : The applicant proposes to remove the restriction on live amplified music. The applicant asked for trios and bands at any time for Barn sponsored events. LUPC recommended that live amplified music would be allowed for trios at any time and large bands to be allowed for client events that are not sponsored by the Barn and are to stop at last call. The request for live bands other than trios has been withdrawn.
- Condition 8.1: The applicant proposes to change the condition on exterior lighting and is asking for the lighting on the parking lot with details to come back to LUPC. It would be a 20' tall pole with three downward facing LED lights. LUPC accepted lighting on a pole rather than bollards. Lighting on a pole is appropriate to the area but it needs to come back to LUPC.
- Right now the applicant is not in compliance for affordable housing and the applicant is asking for 90 days to be in full compliance and the MVC is giving 60 days.
- He also noted that the applicant is not in compliance with the HVAC and there was a lot of testimony to put up a fence.

There was a discussion about the noise and the HVAC units.

- **Adam Turner** noted that in response to abutters to have a sound absorbing fence the applicant submitted a letter from their sound engineer that suggests that they add a 5/8 inch layer of plywood to the back of the stockade fence behind the bowling alley to attenuate the sound towards the neighbors. In exchange two HVAC units behind the Barnett's house would remain. Staff recommends that the applicant disconnect the power to the non-compliant HVAC units immediately and move the existing non-compliant HVAC units into an area which abuts a commercial zone.
- **Leonard Jason** said the applicant will move the HVAC units to aggravate other neighbors to mitigate the current condo neighbors.
- **Christina Brown** said perhaps the MVC should have a plan to be approved by MVC staff.
- **Fred Hancock** said since they are not in compliance and are asking for a modification the MVC could give the applicant a new condition.
- **Robert Doyle** asked if at the new location if the applicant could put some mitigation between the condo and the building.

- **Christina Brown** asked if it would also be non-compliant to move the units to where the others are between the building and the condos.
- **Fred Hancock** said the approval said to locate facing a commercial property. As the MVC usually gives modifications when the project is in compliance the units probably will be moved to where the others are located now. Maybe the MVC wants to ask the applicant to add a layer of plywood to the fence as well as it is not particularly onus to do that.
- **Erik Hammarlund** clarified that 2 of the 14 units will be moved to the commercial area which is further down the row and indicated the area on the site photo.
- **John Breckenridge** said clearly the condos are being used as residential and we have heard testimony about hearing the sound. He suggested that the applicant's proposal for sound attenuation behind the Barnett and Barmore property be submitted to the MVC as well as having an independent review with staff and an engineered plan. Putting in acoustical sound fencing will have a much better chance of absorbing the sound.
- **Christina Brown** noted that during the public hearing the applicant said they were willing to put up better fencing.
- **Josh Goldstein** said the MVC would be forcing the applicant to spend \$10,000 on another study when we have a study that states to put up a couple of sheets of plywood.
- **John Breckenridge** noted that often at times the MVC has a Peer Review.
- **Leonard Jason** said he thought it was worth a shot to put up the plywood and see how it works. When the abutters bought the house they knew they were in a commercial zone.
- **Abe Seiman** said this is a six month trial period. He did not know what the perfect solution is so try it and if it works great and if not it will be back before the MVC.

There was a discussion about the hours of operation.

- **Adam Turner** noted that LUPC voted 3 to 2 to open at 8:00 a.m.
- **Fred Hancock** thought 8:00 a.m. was early for that area in general and it seemed excessive.
- **John Breckenridge** noted that this is a hybrid neighborhood.
- **Christina Brown** said she was taken by the applicant that school programs want to come in the morning and most likely it will be kids at 8:00 a.m.
- **Robert Doyle** polled the Commissioners and it was 5 in favor to open at 8:00 a.m. and 5 in favor to open at 9:00 a.m.
- **James Joyce** noted that the bowling alley has a lot of residences around it.
- **Fred Hancock** suggested opening at 8:30 a.m. and the poll of Commissioners were 9 in favor and 1 abstention.

There was a discussion about last call.

- **Adam Turner** said the applicant wanted 1:00 a.m. across the board. LUPC recommended that last call for food, alcohol and bowling to be 11:00 p.m. on weekdays and 12:00 a.m. Friday and Saturday night and doors to be closed at 11:30 p.m. on weekdays and 12:30 a.m. Friday and Saturday night.
- **John Breckenridge** felt it is important that the MVC be as definitive and precise as we can.
- **Leonard Jason** said let the Selectmen handle it.
- **Josh Goldstein** said he is not a big fan of reinventing the wheel. The modification should say it needs to meet the rules of the Town of Oak Bluffs as set by the Board of Selectmen.
- **Fred Hancock** disagrees because the MVC has last call hours in our original decision. When you look at the total effect of 50 more people in the event room and later hours as well it will make a huge impact on the neighborhood. He thinks the MVC should be taking baby steps and moving incrementally rather than leaving doors wide open.

- **James Joyce** said the applicant always said this was a family venue. There are no families or kids at 11:00 p.m. and 12:30 a.m. The whole venue is changing to a bar.
- **John Breckenridge** said we should be proud of what has been done by the bowling alley for the town but jumping ahead with longer hours really is changing to a night club atmosphere.
- **Josh Goldstein** felt the MVC should let the Oak Bluffs Selectmen do what they want with their town.
- **Fred Hancock** said staying open later and providing food and beverage is changing the atmosphere.
- **Leonard Jason** said allowing the applicant to stay open later is not changing the atmosphere.
- **Trip Barnes** said he spends time at the bowling alley. They want to open at 8:00 a.m. so they can clean up from the night before. It is not a regional impact and it is tough for him to sit here and watch this.
- **Leonard Jason** said he feels that the MVC owes it to these guys to try and make a go of it.
- **Robert Doyle** reiterated that it is a six month trial and if it reverts to a bar atmosphere the MVC can readdress.
- **James Joyce** said the MVC is not listening to all the abutters and neighbors. There are restrictions on Off Shore Ale.
- **Christina Brown** asked if the restrictions are the same for all in Oak Bluffs.
- **John Breckenridge** read the general laws of the Commonwealth and noted the restrictions can be made specifically or generally for each.
- **Abe Seiman** said there is a difference between a bar located on Circuit Avenue versus the bowling alley location. The MVC would be negating our responsibility to the residents that testified.
- **Robert Doyle** polled the Commissioners; fixed hours in favor 5 and hours set by the Selectmen in favor 5.
- **Adam Turner** asked if we split weekdays and weekends would that help with weekdays closing at 11:00 p.m.
- **Fred Hancock** suggested to do last call but give the applicant an hour after last call to close. On weekdays last call would be 11:00 p.m., drinks off the table at 11:30 p.m. and out the door at 12:00 a.m. On weekends; last call 12:00 a.m., drinks off the table at 12:30 a.m. and out the door at 1:00 a.m.
- **John Breckenridge** said the applicant has to go back to the Oak Bluffs Board of Selectmen and have a public hearing. We have had testimony from the Town of Oak Bluffs and the Chief of Police. The Board of Selectmen has to make this a process that will work for the whole town.
- **Robert Doyle** polled the Commissioners to follow the Board of Selectmen's decision, in favor 6 and opposed 3.
- **Adam Turner** clarified that the hours for closing will be set by the Board of Selectmen seven nights a week.

There was a discussion about the Trail Modification Period.

- **Adam Turner** noted that it would be unfair for the trail modification period to expire on New Years Eve and the timeframe should be revised to be accepted by the MVC by the end of January 2017 or it reverts back.
- **Christina Brown** said to hold the MVC onto our own condition may be complicated. Does the Commission have time to react by the end of January 2017?
- **John Breckenridge** said the MVC would be gathering information and input.

Fred Hancock moved and it was duly seconded to accept the modifications as presented and as amended by the MVC and the trial period does not include the compliance issues or the lighting issues.

- **Adam Turner** said what the MVC will be looking for during the trial period is police reports, public safety issues, transportation and traffic issues and noise.

Fred Hancock amended his motion to include the information to be gathered during the trial period as stated by Adam Turner. Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, E. Thomas. Opposed: A. Seiman. Abstentions: none. The motion passed.

7. DIAS MIXED USE/HIGH POINT LANE-TISBURY DRI 653-M WRITTEN DECISION

Ned Orleans excused himself from the meeting.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, A. Seiman, E. Thomas.

Bill Veno noted that on line 16 the Lot will be changed to Lot 1.

Christina Brown asked if line 277 means that the applicant can only use the new decision. **Adam Turner** confirmed that is correct and if not the applicant would have to come back. He asked counsel and once a decision is made in total the other is out and once it goes from application to decision you cannot go back.

Christina Brown noted that line 303 should include language “for final approval before a Building Permit is issued”.

Robert Doyle asked how the MVC documents the deed restriction. **Adam Turner** said MVC counsel does that.

There was a discussion about Building Design.

- **Fred Hancock** noted that he did not see a condition about the non-shiny/non-glare roof and Christina’s Brown condition about the color of the building being a weathered gray shingle color.
- **Adam Turner** said he will be sure that both are added as Building Design.
- **Christina Brown** said Building Design should be part of section 5 Site Design, Landscaping and Building Design.

Leonard Jason questioned where the plan is noted. **Adam Turner** said it is under line 301, 2.2.1 Access; “The Applicant shall access this project only from High Point Lane. The Applicant will develop an access plan and present such to LUPC for final approval before a Building Permit is issued. A fully engineered plan that includes grading, drainage, pavement management, retaining walls and precise boundaries are to be identified on the plan”.

There was a discussion about section 5 Site Design and Landscaping.

- **Fred Hancock** said the Landscaping Plan is not clear, that whole plan has to be approved by LUPC.
- **John Breckenridge** and **Fred Hancock** suggested revising the language on line 336 “Approval of species and a specific landscaping plan shall be submitted to...”.

Fred Hancock moved and it was duly seconded to approve the Written Decision as amended. Roll call vote. In favor: J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, A. Seiman, E. Thomas. Opposed: none. Abstentions: none. The motion passed.

8. NEW BUSINESS

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, A. Seiman, E. Thomas.

8.1 Executive Directors Report

Adam Turner said the next meeting will have Meeting Minutes for approval. He has invited Angie Grant of the VTA to do a presentation. The Coastal Zone Management meeting is in Edgartown on Monday June 6, 2016 and the agenda is posted on the MVC website. The DRI Checklist Review will also be posted on the MVC website.

8.2 Reports from Chairman, Committees and/or Staff

Bill Veno said the Cross Island Hike is this weekend. It is 22 miles and starts at Pecoy Point in Sengekontacket, stops in Edgartown at lunch time, spends the afternoon on Chappaquiddick and then goes three miles on Norton Beach to South Beach.

8.3 Discussion

James Joyce noted that the traffic planning at the Edgartown Post Office that was redesigned to maximize the number of cars and makes the islands smaller is detrimental to the trees. The trees are being killed with trucks backing into them and this is something that needs to be considered for future projects.

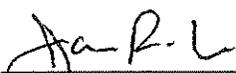
The meeting was adjourned at 9:35 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Martha's Vineyard Commission C.C. #8-2016 Katama General Store Demo. & Recon. MVC Staff Report – 2016-06-01 Concurrence Review
- Martha's Vineyard Commission Land Use Planning Committee Notes of the Meeting of May 23, 2016
- Katama General Store Summary of Proposed Renovations
- Katama General Store Proposed Floor Plans and Proposed Elevations Dated March 31, 2016
- Katama General Store Illustrative Site Plan Dated March 31, 2016
- Martha's Vineyard Commission DRI # 422-M Island Gymnastics Cottage MVC Staff Report 2016-06-01
- Letter to Intent/WT Cottage/Goodell, Dated May 5, 2016
- Letter from Division of Fisheries and Wildlife, RE: NHESP File No: 16-35518, Dated April 22, 2016
- DRI 422 Conditions of 1996
- Island Gymnastics Cottage Elevations, Floor Plan and Site Plan
- Martha's Vineyard Commission C.R. # 9-2016 T-Mobile on Water Tower MVC Staff Report 2016-06-01 Concurrence Review
- T-Mobile 700MHz Installation, Design 704E, Antenna Plans, Grounding Details and Plans and Elevations
- DRI 464-M3 Lagoon Ridge Form C Subdivision Potential Conditions, Dated June 2, 2016
- DRI 464-M2 Lagoon Ridge Form C Covenants Draft 4-11-2016
- DRI 464-M2 Lagoon Ridge Executive Summary, Dated March 30, 2016
- Martha's Vineyard Commission DRI # 464-M3 Lagoon Ridge Form C Subdivision Lagoon Ridge Wastewater
- DRI # 645-M2 Barn Bowl & Bistro Conditions Change – Modification Summary
- Martha's Vineyard Commission Land Use Planning Notes of the Meeting of May 25, 2016

- 573 • Martha's Vineyard Commission DRI #645-M2 Barn Bowl & Bistro Conditions Change MVC Staff
- 574 Report 2016-05-19
- 575 • DRI 645-M2 Bowling Alley Conditions Change Correspondence List
- 576 • Bowl and Bistro Modifications Staff Recommendations
- 577 • Draft Decision Martha's Vineyard Commission FRI 653-M Dias Mixed Use High Point Lane
- 578 • Martha's Vineyard Commission DRI Checklist Review

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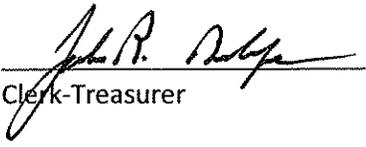


Chairman

10-6-16

Date

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Clerk-Treasurer

10/13/16

Date