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Minutes of the Commission Meeting Held on July 21, 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)	P Joan Malkin (A-Chilmark)
- John Breckenridge (A-Oak Bluffs)	P Katherine Newman (A-Aquinnah)
P Christina Brown (E-Edgartown)	- 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)	- Linda Sibley (E-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Ernie Thomas (A-West Tisbury)
P Leonard Jason (A-County)	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), Priscilla Leclerc (Transportation Planner).

Chairman James Vercruysse called the meeting to order at 7:00 p.m.

1. REVIEW OF DRAFT TRANSPORTATION DOCUMENTS: TIP, UPWP AND PPP

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

James Vercruysse, Chairman noted that the goal tonight is to review the transportation documents for approval.

1.1 Review of Draft Transportation Documents

Priscilla Leclerc presented the following:

- Federal and State Metropolitan Planning Organization (MPO) tasks are accomplished primarily through the MVC staff with the Joint Transportation Committee (JTC) and the MassDOT staff.
- The official signatories for the MPO-related documents are the MVC Chairman and the Martha's Vineyard Transit Authority (VTA) Chairman.
- The planning process is mostly through JTC.
- The current MPO documents awaiting adoption are the Transportation Improvement Program (TIP), Unified Planning Work Program (UPWP) and Public Participation Plan (PPP).
- TIP projects are projects that are eligible for federal surface transportation funds or state funding for the region. The first TIP projects need to be ready to go in the next federal fiscal year and includes five years of projects programmed within estimated highway and transit funds. It is updated annually.

- The TIP programming was reviewed; Highway projects total estimated cost; \$4,807,026 and total programmed transit funds; \$11,393,430.
- The UPWP is developed annually for each federal fiscal year and is an outline of the annual transportation planning activities to be performed for Martha's Vineyard.
- The PPP outlines the local transportation planning process and opportunities for public input. Certification documents generally have a 30 day public comment period prior to being final.
- Priscilla Leclerc asked the MVC to vote tonight to have the MVC Chairman, James Vercruysse to sign these documents.

1.2 Commissioners' Questions

Leonard Jason asked when the documents have to be signed. **Priscilla Leclerc** said the documents are out for a 30 day public comment period and the State deadline is August 3, 2016.

Christina Brown asked for a quick overview of TIP. **Priscilla Leclerc** said the TIP projects need to be under design and the projects can move around to different years via an amendment process. This may happen this year. The transit funds are Federal and State funding and what the towns contribute is on top of that.

Fred Hancock moved and it was duly seconded that the MVC allow the Chairman to sign the Unified Planning Work Program, the Transportation Improvement Program and the Public Participation Plan. Voice vote. In favor: 12. Opposed: 0. Abstentions: 1. The motion passed.

2. HUSEBY LEGACY SUBDIVISION-WEST TISBURY C.R.10-2016 CONCURRENCE REVIEW

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

For the Applicant: Doug Hoehn, Vincent Maciel, Heather Maciel

2.1 Staff Report

Paul Foley presented the following.

- The applicant is Lagoon Legacy LLC, Joe El Deiry, John Keene and Vincent and Heather Maciel.
- The proposal is to subdivide 9.67 acres into four lots in the West Tisbury Light Industrial Zone.
- The project location is 24 Huseby Mountain Road, West Tisbury Map 21 Lot 6.1.
- On July 11, 2016 LUPC voted to recommend to the full Commission that this project does not require a public hearing review as a DRI.
- Key Issues include:
 - Does this proposal have potentially regional impact to require a public hearing as a DRI review?
 - Part of the site is prime agricultural soils.
 - Much of the site is NHESP Habitat. NHESP has approved cutting a total of 5.42 acres including the existing 1.26 acres that are already cleared with a total of 4.25 acres to be retained as no-cut vegetative buffers.
 - The plan appears to include extensive clearing and topographical alteration that could open views of the property to rural residential areas.
 - The property is in the Tisbury Great Pond Watershed which is a compromised pond. It is also very close to the Greenlands Water Resource Protection Area DCPC.
 - A staff site visit showed that the existing land and tree company has a large gas tank on site, presumably for refueling their trucks and machines.
- The site plan and site photos were reviewed.

- It was shown on the site plan the location where John Keene and Vincent Maciel will move their operations.
- The proposal removes a considerable amount of woods but it is zoned light industrial.
- Four different building envelopes were reviewed.

Christina Brown noticed that part of the property is in primary coastal soils. **Paul Foley** showed the location and said it is about 15% of the property.

2.2 Applicants' Presentation

Doug Hoehn presented the following.

- The project was referred by the West Tisbury Planning Board.
- NHESP requirements have been taken care of and he noted the location that is not part of NHESP. Approval was received for clearing 2.6 additional acres and the allowable usage is 5.42 acres as approved by NHESP.
- LUPC voted unanimously to recommend the commissioner not concur after we had a long discussion with them.
- Lagoon Legacy is 50% John Keene and 50% Vincent Maciel.
 - **Adam Turner** noted that John Keene's business is excavation and Vincent Maciel's business is landscaping.
- It is a site that is hard to locate.
- John Keene will have lots 1 and 2 on the westerly side and Vincent Maciel will have lots 3 and 4 on the easterly side. Their use will straddle the property line.
- There is a second letter that was sent from the West Tisbury Planning Board on June 22, 2016 that says the owners are compliant and helpful and the project can be handled at the local level.
- The Board of Health has given tentative approval pending approval from the MVC.
- Grading for the access road in the middle of the property makes the property more useable and it creates a berm on the southerly part which creates a sound buffer from the neighbors.

2.3 Commissioners' Questions

Fred Hancock asked if it can be explained why the project is a four lot subdivision versus two lots. **Doug Hoehn** said it was subdivided into four lots for future use. It is currently being used as two lots but it makes sense to subdivide now. The Maciels have two children who will eventually get the properties.

James Vercruyse asked if the easements for the utilities have been done. **Doug Hoehn** said it is between lots 2 and 3 and showed it on the plot plan.

James Joyce asked if there are any comments about the gas tank and spill containment. **Heather Maciel** said they received approval from the Fire Department and there is a plan for spill containment. **Vincent Maciel** said the town knows about the tank and there is a permit for it.

Doug Hoehn said it does not appear that any additional approvals are needed for the project and if they are needed the applicants would be back to the MVC.

Josh Goldstein moved and it was duly seconded that the project as presented does not rise to the level requiring a public hearing and to not concur with the referral.

- **James Joyce** asked if this is something the public can comment on.
- **James Vercruyse** said if the MVC feels the project is significant enough, then there would be a public hearing. He also noted that a yes vote is to not concur.

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

3. MINUTES

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

Fred Hancock moved and it was duly seconded to approve the minutes of April 14, 2016 as written. Voice vote. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.

4. NEW BUSINESS

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

4.1 Scheduling

James Vercruysse, Chairman noted that MVC meetings are planned for August 4, August 11, September 1 and September 15, 2016.

Doug Sederholm asked what is scheduled for August 11, 2016. **Fred Hancock** said the Commission is avoiding Fair week – the third week – so scheduling for week two of August was planned in case it is needed.

There was a discussion about the High School athletic fields.

- **Paul Foley** noted that the High School athletic fields may need to be heard and it has to be advertised within 30 days and if not heard the public hearing can be postponed.
- **Leonard Jason** asked what triggered the referral.
- **James Vercruysse** asked if there was a referral yet.
- **Paul Foley** said the Chilmark Board of Selectmen referred the project but the applicant has not applied for the Building Permit and Oak Bluffs said they need to apply and the Building Inspector questioned if the applicant needs a permit.

4.2 Reports from Chairman, Committees and/or Staff

Rehabilitation By-Law

James Vercruysse said the rehabilitation by-law is being reviewed.

Fred Hancock said the MVC by-law states that to rehabilitate yourself, if you miss a public hearing, it has to be a project that has at least three public hearing meetings. The issue is if a Commissioner missed the first public hearing what happens when there would then only be a second public hearing. The Executive Committee recommended that the by-law be changed to two meetings, not three. There are two versions of the by-law to consider; the one that would keep three meetings and the revised version with two meetings.

Joan Malkin said the requirement to attend the last public hearing should be maintained as it is your last opportunity to hear all of the information and to ask questions.

Leonard Jason asked if you would review the tape of the first meeting before the second meeting was held. **Fred Hancock** confirmed that would be correct.

Josh Goldstein said the two meeting version makes sense.

Fred Hancock said because it is a by-law change the Commissioners have to be given the by-law for review and then it can be voted on at the next meeting.

Christina Brown asked if the Executive Committee had pros and cons of each version. **Joan Malkin** said there was a concern about being absent from a significant number of public hearings but administratively three hearings were cumbersome and what happens if there are only two public

hearing meetings. Also there can be the issue of a quorum with the three meeting version. The Executive Committee didn't feel there was anything wrong with changing the by-law to two meetings.

Christina Brown said having gone through the rehabilitation process it is not difficult and it is a good idea to read the draft minutes as well.

Fred Hancock noted that the MVC has had a couple of matters that only had nine members to vote and that can prolong matters when trying to schedule those nine members. It doesn't do any favors for the applicant or the MVC when that happens. Those who have gone through the rehabilitation process have found they did have the information and were able to participate going forward.

Christina Brown said it is a good thing to be present at the meetings. **Fred Hancock** noted that it is spelled out in the by-law what is an allowable and good reason to miss a meeting.

4.3 Executive Director Report

Adam Turner presented the following.

- Chris Seidel has been doing great work and the MVC is now doing things in Gosnold. She did a map for the Land Bank Commission and the Chairman wrote a nice appreciation letter which Adam Turner read.
- He attended the Edgartown Planning Board meeting and Wave Lengths has some issues with compliance. The building is different than the plans. Edgartown is going over the compliance issues first and it is on their radar as well as the MVC.
 - **Paul Foley** noted that the setbacks are the same but they have changed the dormers and doors and left out some of the windows.
 - **Doug Sederholm** asked what the difference in massing is. **Paul Foley** said it is slight. The street trees were misrepresented on the plans and now it looks like the building is in the middle of the tree canopy and EverSource did some cutting as well.
 - **Josh Goldstein** asked who the architect was. **Leonard Jason** said Chuck Sullivan did the first plan and then the building was panelized.
 - **Katherine Newman** questioned if there is a process problem. **Leonard Jason** (Edgartown Building Inspector) said the only permit they have is to put a foundation in and the building is where it is supposed to be.
 - **Katherine Newman** noted that this kind of issue is a dilemma when it is already built and asked if it is more of an issue with a modular building. **Leonard Jason** said it is when the building is modular.

5. DRI CHECKLIST REVIEW – STANDARDS AND CRITERIA – PUBLIC HEARING

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

5.1 DRI Checklist Review

Adam Turner gave an overview on the review process.

- The MVC reviews the standards and criteria for the DRI Checklist every two years.
- The MVC began the process in late 2015.
- Eight open meetings were held for public officials, the general public and business owners.
- The comments received were set into a series of matrixes.
- Staff recommendations of the public comments were also reviewed.
- In April and May 2016 the MVC subcommittee reviewed all of the comments and considered recommendations with public comments in mind.

- The DRI Checklist was reviewed line by line.
- In June 2016 the recommendations were put on the MVC website.
- Draft changes were reviewed by MVC counsel and they were found to be lawful.
- Written public testimony can be submitted until August 4, 2016.
- Following the closure of the public hearing the MVC will consider to accept the recommendations.

Adam Turner reviewed the DRI Checklist revisions in detail as noted in the following document; Marked up DRI Checklist May 27 Standards and Criteria Version 13.

- In section 3.1 the thresholds were raised by 500 sf.
- Section 3.1f the requirements have been revised excluding farm land.
- 3.1j commercial parking is based on the number of spaces rather than the square footage.
- Mixed use development thresholds have been raised to 3,500 sf and the number of units raised to three.
- Section 3.3 has been raised to 5,000 sf.
- Section 3.4f has been removed as it has not been used.
- Section 3.4h the shipping container has to be seen from a public way to be referred to the MVC.
- Section 3.5 Demolition in a Commercial District has been removed.
- Section 4.2 has been removed.
- For Section 5.1 a development adjacent to water has been raised to within 25 feet landward of the mean high water.
- Sections 6.1 and 6.2 were raised by 500 sf.
- Section 6.3 was removed.
- Bike paths were added to section 7.1.
- Excavation was included in section 8.2
- The language has been revised for section 8.5 Critical Open Space.
- The revisions are not effective until approved by the State.

Leonard Jason questioned section 8.5 Critical Open Space and asked if the MVC is creating a DCPC.

James Vercruyse said the MVC is not creating a DCPC it is referring to the Aquinnah DCPC specifically.

Fred Hancock noted that Linda Sibley started this review process when she was the LUPC Chairman last year. It was then turned over to himself as the current LUPC Chairman. Joan Malkin's suggestion was that when you see words or items italicized there is a definition for that term located in the back of the document. There are a couple of places that now refer to maps and the maps will become part of the Checklist. Adam Turner has done a great job on this report looking over the kinds of things referred to the MVC over the last ten years. It was a help to the Commissioners to see what kinds of referrals the MVC has had. The Draft DRI Checklist was out to the Town Boards in plenty of time before the public hearing.

5.2 Public Testimony

Brian Packish of the Oak Bluffs Planning Board thanked everyone for their work and is appreciative of all of the changes and the changes are reflective of all of the discussions. He is a little leery of the checklist relating to whether Commercial Parking Lots charges a fee.

- **Fred Hancock** noted that the reason it was said was that there was a question in some people's minds if it is a lot for commercial vehicles or one that you pay to park vehicles/renting out space.
- **Brian Packish** said there could be an issue under 6,000 sf and not charging for space, he could create 20 parking spaces that are 9' x 18' and that could be created in his downtown without a permit.

- **Joan Malkin** said he brought up a good point. The MVC was trying to limit it, as an example tearing down a building in town and people then used it for parking without charging for it. You have raised a valid concern.
- **Brian Packish** said the attempt was to define a commercial parking lot but the MVC might want to adjust.
- **Katherine Newman** said perhaps there are two ways to define it A or B.

Peter Temple is the Chairman of the Aquinnah Planning Board and he thanked the MVC and noted that it was nice that the Town's concerns were heard. He is trying to streamline the concurrence process. He also is concerned about critical open space. Aquinnah will come back to the MVC very quickly to look at our by-laws so that the MVC gives the Town enough ability to handle it. Over half of Aquinnah is defined as critical open space.

Reid Silva is confused on the revision on the referral for Critical Open Space.

- **Joan Malkin** said if you don't want to have to come back to the MVC for every development in Critical Open Space bring in the Town DCPC regulations and show how the Town has protected the Critical Open Space. The Town will come to the MVC and the MVC will hopefully say they are sufficient. Then the Town can say they have authority from the MVC to not refer.
- **Reid Silva** asked if the Checklist will reflect what triggers a referral, as each Town will have a subset of regulations.
- **Doug Sederholm** said if you are otherwise triggered on the Checklist you will be referred but if the only trigger is open space and the Town's DCPC in Critical Open Space has been approved by the MVC it will be handled at the Town level.
- **Joan Malkin** said in order to understand which Town DCPC has received approval she recommends that the information is added to the appendix of the Checklist.
- **Leonard Jason** feels this process is creating a DCPC.
- **Joan Malkin** said that not every DCPC details regulations for Critical Open Space.
- **Leonard Jason** said it should have been done 30 years ago. With the DCPC now you suddenly have a new district within a district.
- **Joan Malkin** said the DCPC regulations should be adequate and the MVC should not have to look at them again.
- **Doug Sederholm** said it could be that any Critical Open Space that is in a DCPC does not need a referral.
- **James Vercruysse** said the key is the map.
- **Leonard Jason** noted that no one has seen the map.
- **Fred Hancock** said it will be available.
- **Joan Malkin** thinks the MVC needs to get the DRI Committee back and review and see if it is adequate or needs more review and discussion.

Eric Peters said it is hard to comment on a map when we don't have one. The Island Road District may be something that qualifies for open space and if included in the map and you suddenly build a house would the owner be in front of the MVC but it is a permitted use under Town regulations. The MVC should be looking at the DCPC to see if it is okay and not the Towns. Why set this up now without a map, it is very confusing and fraught with error and he agrees with Leonard Jason. With regards to the rest of the Checklist he is glad to see thresholds that have been increased and they can be incentives to do things in a certain way. He questions section 3.1 g and h. For section 8.1 he thinks the provisions for historic buildings should be reviewed. If he demolishes a historic building does it mean every time he does something he has to come back for DRI review Perhaps it should be rewritten so it does not trigger the need to come back to the MVC.

- **Joan Malkin** noted that the MVC is working on demolition guidelines and there will be an insertion of the guideline of when an applicant needs to come back to the MVC and when not. It is a process document.
- **Eric Peters** said a MVC process document is not a legal document.
- **Fred Hancock** said if the MVC does not follow our policy we are not doing what we are supposed to do. The MVC has DRI regulations that deal with our processes and they are under review.
- **Adam Turner** clarified that the demolition part is under review.
- **Hyung Suk Lee** said when a demolition decision is made by the Town it often comes back again as a referral. The DRI process is valid in his eyes but enforcement is not actually practiced and he asked if that can be part of the Checklist and also have a final check that things are in compliance.
- **James Vercruyse** said the MVC is not a permit granting authority and enforcement is up to the Town.
- **Josh Goldstein** said it would be awesome if in the future the MVC could allocate funds in the budget for a compliance officer that has a building background.

Reid Silva said with regards to section 2.5 Division of Habitat it is confusing enough with NHESP and it is now included in another set of regulations. NHESP deals with it and they are qualified to regulate it. They are the scientists and biologists. What qualifications does the MVC have to review that issue?

- **Doug Sederholm** asked when NHESP reviews an area of significant habitat being developed what restrictions does it impose besides the percentage that can be developed?
- **Reid Silva** said you have to do a botanical investigation within your disturbed area to see if species is being disturbed. The division of land itself shouldn't be a trigger. NHESP has qualifications to determine what needs to be done, for example they might condition that for Eastern Box Turtle you have to fence that area for protection. NHESP has a lot of procedures to follow. If you have it in a DRI Checklist they may not be regulatory issues.
- **Doug Sederholm** said these are regulatory issues as the MVC is responsible to protect the ecological heritage of the Island.

Hyung Suk Lee noted that section 8 was a good thing as the previous DRI Checklist did not emphasize Built Environment.

James Vercruyse, Public Hearing Officer, continued the Public Hearing until August 4, 2016.

Eric Peters asked if there will be a map by August 4, 2016 since he would be unavailable on that date and would like to make written comment. **Adam Turner** said there would be a map and he can get whatever information Mr. Peters or anyone may need to make written comments.

James Vercruyse, Chairman recessed the meeting at 8:45 p.m. and reconvened at 8:50 p.m.

6. KUEHN'S WAY (BRIDGE) AFFORDABLE HOUSING – TISBURY DRI 560-M3 MODIFICATION REVIEW

James Vercruyse recused himself due to a conflict of interest.

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

For the Applicant: Philippe Jordi

Robert Doyle, Acting Chairman, noted this is a modification review and not a public hearing. This review is to determine if the modification is sufficient enough to require a public hearing. Limited public testimony will be taken.

6.1 Staff Report

Paul Foley presented the following.

- The packet of information includes the 2016 offers, the conditions from the Commission's 2003 decision, a nitrogen comparison, and the proposed plan.
- The project is Kuehn's Way (to be created off State Road) Tisbury, Map 52-B Lot 1 (total property is 14.85 acres and the MV Land Bank has a Conservation Restriction on 8.9 acres).
- The Island Housing Trust proposes to build a neighborhood of ten clustered rental duplex buildings (20 residential rental units) with 40 bedrooms for tenants earning less than 80% AMI to be managed by the DCRHA within a four acre building envelope with 35 parking spaces.
- The zoning is R50 (Rural Residential – 50,000 sf, 1,147 acres, minimum lot size).
- The applicant is applying under Chapter 40B for a Comprehensive Permit.
- The project will use enhanced denitrification septic systems.
- The site is partially in the Island Roads DCPC.
- The Bridge Housing project for this site was referred to the MVC in 2002. The project was approved with conditions by the MVC on May 29, 2003 for 15 duplexes with a total of 30 units of housing for low and moderate income families with eight units sold at 80% or less of AMI and the remainder to be sold between 80% and 140% of AMI. The project was done in conjunction with the Land Bank preserving more than half of a 24 acre property.
- In 2007 the Land Bank purchased the rear 9.15 acre parcel. The Bridge Housing project then returned to the MVC in late 2007 with the result of the legal settlement with abutting landowners which resulted in 13 buildings (9 duplexes and 4 single family detached) with 22 units and 49 bedrooms of affordable housing on 8.7 of the remaining 14.85 acres.
- On November 30, 2009 the MVC voted to extend the "sunset clause" for DRI 560 Bridge Housing as requested. On November 4, 2010 the MVC voted to extend the "sunset clause" for DRI 560 Bridge Housing (Tisbury Map 53-A, Lot 1) for two years until December 4, 2012. The MA State Permit Extension Act automatically extended "for four years beyond its otherwise applicable expiration date, any permit or approval that was 'in effect or existence' during the qualifying period beginning on August 15, 2008 and extending through August 15, 2012". Thus the current MVC approval for DRI 560-M2 last reviewed by the MVC as a modification in 2007 is valid if substantial construction is begun by December 4, 2016.
- The current proposal has fewer units and fewer bedrooms than DRI 560 and 560-M.
- DRI 560 and 560-M had a 200 foot no cut buffer along State Road. The current proposal concentrates the development to the south of Red Coat Hill (a Special Way) whereas the previous DRI's crossed it. This results in only a 100 foot no cut buffer along State Road.
- IHT retains the right to locate wells and septic systems in the Conservation area if necessary.
- The site plan shows a central access road with 35 parking spaces for the complex.
- There would be three 3 bedroom apartments (1,000 sf), fourteen 2 bedroom apartments (900 sf) and three one bedroom apartments (600 sf).
- Utilities on site would be underground.
- The wastewater would be treated with an enhanced denitrification septic system. The applicant is still investigating alternative systems.
- The site is in the Groundwater Protection District DCPC and partially in the Island Roads DCPC.
- The applicant has submitted offers that modify the original 2003 Conditions.
- Key Issues include;
 - Does the proposal require a public hearing review as a Development of Regional Impact?

- The property is partially in NHESP Habitat. A Conservation Restriction is being placed on 9.15 acres by the Martha’s Vineyard Land Bank. NHESP has approved the limit of work area.
- Neighbors have expressed concern that the cluster development is not in character with the neighborhood and about the impact of the concentrated development on wastewater.
- Why was Bridge Housing, DRI 560, going to be on town water and this proposal is drilling wells? Should the four proposed wells have recharge buffers?
- The original MVC DRI Decision conditioned lighting to be shielded to prevent up-lighting and the applicant offered that the only exterior lighting would be porch lights.
- The complex has been designed to try to contain sound within the central area.
- All homes will have a southern exposure for passive solar gain.
- Streetscape; there will not be a 200 foot buffer from State Road.
- The site and the proposed plan were reviewed. The current MVC approved plan was reviewed and the proposed plan was reviewed.
- The current approved plan is no longer developable due to the Conservation Restriction with the Land Bank.
- The proposed utility plan was reviewed. The proposed elevations, renderings and floor plans were reviewed.

Priscilla Leclerc presented the Transportation Report.

- The site is accessed from State Road in Tisbury.
- The approach to State Road of the existing access or new access driveway should be raised to be near or level with State Road. This will improve visibility for vehicles exiting the driveway.
- The Martha’s Vineyard Transit Authority (VTA) provides bus service along State Road.
- Two automatic traffic recorders were set out on State Road. The average daily traffic (ADT) is 13,250. In early August 2004 the ADT was 14,658.
- In addition the MVC transportation staff performed two Peak Hour Turning Movement Counts along State Road on June 22, 2016 at two locations. These were State Road at Old County Road in West Tisbury and closer to the proposed project site at State Road with Deer Hill Road and Peacegate Way. Total in and out trips were as follows; Old County Road 362, Deer Hill Road 12 and Peacegate Way 8.
- Note was made that the estimated project PM Peak Hour trips totaling 12 with 8 in and 4 out for the proposed project coincide with those counted at Deer Hill Road.
- The Level of Service on State Road would not be changed, any delay would most likely occur for residents leaving the site.

Sheri Caseau presented the Wastewater Report.

- The project is in the Tashmoo Watershed which is an impaired watershed.
- The load limit for the 14.85 acre property is 83.16 kg/yr.
- The wastewater is proposed to be denitrified. The system has not yet been determined.
- For 40 bedrooms the wastewater flow will be 70.35 kg/yr if an IA system with effluent of 19 mg/l is installed.
- Stormwater and roof run off will be calculated when plans are finalized.
- The load will be 44 kg/yr so it will be below the limits.

Doug Sederholm said the MVC wastewater policy was set in 2006. **Sheri Caseau** said the project met the 2006 policy in 2007.

Doug Sederholm asked if there was current data. **Sheri Caseau** said the final MEP report came out in 2015. Nitrogen limit is currently over for the pond and the nitrogen load for septic needs to be reduced by 40%. **Doug Sederholm** noted that an interim policy from 2006 is being applied to the proposal.

Adam Turner noted that the proposal is an affordable housing project and read the AMI data.

6.2 Applicants' Presentation

Philippe Jordi presented the following.

- The question is should our proposal be considered a minor modification to a DRI or does it require a DRI hearing.
- Island Housing Trust's (IHT) experience over the past ten years is building thoughtful buildings.
- There are 237 individuals on the wait list for affordable housing, including 73 Tisbury residential households.
- A slide presentation was shown of the families and households that have benefited from affordable housing.
 - **Josh Goldstein** noted that he went to school with people that were shown in the slide presentation and they would have had to leave the Island without affordable housing.
- This project is less detrimental than the prior approved plan. It is 32% less overall developed area, 14% less building envelope, 30% more conservation restriction, 10% fewer units, 18% fewer bedrooms and 38% less nitrogen.
- Our homeowners and tenants of the project will be year round residents.
- He thanked the MVC for their time and consideration.

6.3 Public Testimony

Adam Turner noted that the MVC will be taking limited testimony and each individual will be limited to four minutes.

Paul Munafó is an abutter to the project. It has been 13 years since the project was first considered. He urged the MVC to reconsider for health and safety reasons and to review the density and lower it. He noted that people come a lot faster up State Road than 45mph.

Alec Gale is an abutter and feels the project should be relooked at. He was raised and born on the Island and he used all of his money to buy his house and now a big development is going next to him and it is too much density. His concerns are safety and the density is too large for the size of the land.

Chris Crawford is an abutter on Deer Hill Road. He read a statement noting that a development of this size is an aberration in this area and that pretty much sums up his feelings of this development. It is too dense in one of the last rural areas of Tisbury. It is too dense. The whole project should be reviewed. A traffic study should be done. The Bridge Housing project is not relevant to this project.

Janet Woodcock is concerned about the project. Thirteen years has been a very long time. With Bridge Housing there was a great deal of confusion with the water issues. Since then there is more information. The project should be looked at with a fine tooth comb. She is worried about the traffic. Any damage should be stopped before it happens.

Robert Dias said the issue is about the project and if it is suitable for this location and not necessarily about the Island Housing Trust. What about harmful chemicals that end up in our water. My well is close by and he would like that looked into. What will happen to his well when it is compromised? It is the worst point on State Road regarding traffic. There are multiple accidents each year in that area. Every day is a gamble getting out of our road. There are a lot of people to be living there and with 35 cars there would need to be a crosswalk and is that legal on a State highway. He has lived there since 1980. Clearly when you look at the images it is a significantly different project than the prior proposal.

Carol Collins would like to see a public hearing on the proposal. They keep referring to minor modifications but so much has changed since 13 years ago. It is rental units versus ownership, a new road and traffic will change. It is well water versus town water. It seems Tashmoo needs a 40%-42% reduction in nitrogen. They are riding on a 13 year old permit on a 10 year old policy and that is dangerous to gamble with our water.

Kristen Henshaw said the Land Bank has joined my family to help protect the land and the farm. How can the MVC not see this is not a minor modification and hopes the MVC sees the wisdom to review this project top to bottom. She respectfully requests a public hearing be held so every piece of the project can be looked at. The MVC's responsibility is to all of us.

Richard Toole said we have a serious housing problem on this Island and we are losing our year round community. We need to deal with this or the Island will become a rich man's paradise. This project addresses the issue of housing as best as it can. This is smart growth. We have to make some compromises here. He asks that the project be approved right now as an amendment to the original project.

Dan Seidman said he wears a lot of different hats in the Town of Tisbury and he is speaking as a member of the general public. He understands the need for affordable housing. For lack of a better term this project has been on DRI life support. A lot has happened since 13 years. The issue is not the need for affordable housing. The issue is it is R50 zoning. When you look at the density of what is proposed versus what is there is completely different. There is concern about the water and the density. It would be a benefit to reevaluate the project.

Deborah Sodino said we all understand there is a serious need for affordable housing on the Island. She is an architect for the project. We try hard to find the right property. She appreciates it is a difficult thing for the abutters but the Island Housing Trust has worked very hard on this project. Would another development have denitrification systems and would they provide the reductions as mentioned by Philippe Jordi. There could be a project done by a developer at this location. She supports the organization and the proposal and given the proposed amendment and reductions she asks that the project be approved.

Ken Bilzerian has lived there for 44 years and he feels betrayed that after living here for years that this will be approved because of a little piece of land. It is a huge project. There are numerous accidents. With the number of cars in the church parking lot across the street there are over 300 entries into the road daily. It is like being a skunk in the road trying to get my mail. There is a concern with the effect on the wells. He voted for affordable housing but this is a ridiculous place to put it on such a narrow strip of land.

Doug Ruskin is a board member of the Island Housing Trust. He unfortunately never met a neighbor in favor of affordable housing next to them. This is a DRI and there is lack of affordable housing on the Island. Time has changed in 30-40 years. The nature of the economy has changed and we are losing the people resource. He is sympathetic to the abutters but if we don't find a place to put our residents we will be a place for the superrich and their servants.

Hyung Suk Lee said he praises what the Island Housing Trust is doing but they should come up with a design that is relatively fitting to that area. What he sees is a large scale development and it appears that IHT does understand the neighborhood. They should revisit. We are talking about how fitting the development is to the townscape, tonight he is only hearing the emotional uphill and he asks IHT to go back and review the project again.

Dan Seidman read the MVC statement which states the MVC is to maintain a viable local economy.

6.4 Applicant's Closing Statement

Philippe Jordi said the last modification by the MVC did not require a public hearing and the modification was considerably different. The new changes are reducing the overall impacts. We have worked really hard on the project and feel it is a good project and fitting for the needs of affordable housing as well as the neighborhood.

6.5 Commissioners' Discussion

Katherine Newman said there are so many things to consider. It is a different way of thinking about it. We have an energy situation with housing here and we have to consider that. There are two clear issues which are the wells versus town water and the buffer.

Fred Hancock said everything is less than originally proposed and less than the approved MVC proposal in 2007. To provide a viable local economy affordable housing is needed. The approval for this project happened a long time ago. The MVC is to decide if this modification rises to the need requiring a public hearing.

Fred Hancock moved and it was duly seconded that the modification does not rise to the need requiring a public hearing.

- **James Joyce** asked if the MVC approves does the project still go back to the Town. **Doug Sederholm** said it does. **Fred Hancock** said the water issue would go back to the Town as it requires Town approval.
- **Doug Sederholm** said there are many things that are positive about this project as well as the past ones. We all know that we need affordable housing. We also need to protect our environment and if it drastically degrades that we won't need to be concerned about affordable housing. Our nitrogen policy is ten years out of date and this came up with the Lagoon Ridge project. He is disturbed again that the MVC is not doing anything about the MVC policy issue and that is not the applicant's problem. If the MVC approves this project the nitrogen will go to the pond and we can't blame the applicant for that and is that a reason to require a review. The question is does this project have regional impact that is significant and it does such as wastewater, density, traffic and character and visual impact. The project clearly has a visual impact and is very different that the other two approved projects.
- **Abe Seiman** said the MVC could hold a hearing. There are people who service this Island that come from other areas. It would be beneficial if they resided here. Affordable housing is needed.
- **Joan Malkin** said she is considering what is a minor modification and the changes are less impactful. She hates to be so process-oriented. Is each of the changes minor or not? The percentages are not always a meaningful measure. There are some changes that are not minor and collectively not minor. She is impressed by IHT and their foresight and planning for affordable housing on the Island. She is reconsidering how she viewed the project at LUPC. She thinks the MVC's job is to recognize they are not minor changes and she feels the MVC should review the impacts.
- **Josh Goldstein** is saddened to hear about holding this project up and asked that the MVC August meetings be used to expedite this process.
- **Christina Brown** said the definition of minor is if the impact on the issues is a minor impact. The impact on the issues that the MVC is responsible for are minor.

Leonard Jason moved and it was duly seconded to extend the meeting ten minutes. Voice vote. In favor : 12. Opposed : 0. Abstentions: 0. The motion passed.

- **Leonard Jason** believes it is a good project and it is minor. Everything is less. The MVC should not delay this project any longer.

- 573 • **Christina Brown** said the MVC is charged with weighing the benefits and detriments.
- 574 • **Doug Sederholm** said his comments do not reflect the merits of this project. There are many
- 575 positive things about this project. It is the MVC's responsibility to review the impacts.
- 576 • **Fred Hancock** reiterated the motion; the modification does not rise to the need requiring a
- 577 public hearing.

578 **Voice vote. In favor: 9. Opposed: 2. Abstentions: 1. The motion passed.**

579 **Trip Barnes**, who had abstained from the vote, said this is not what he calls affordable housing. He calls
580 it a golf course but we do have to do something about affordable housing.

581 **Fred Hancock moved and it was duly seconded to approve the modification as presented with**
582 **conditions and offers as presented.**

- 583 • **Joan Malkin** questioned if the 2016 offers are in addition to the 2003 conditions. **Paul Foley** said
- 584 the 2016 offers replace the 2003 conditions.

585 **Roll call vote. In favor: C. Brown, R. Doyle, J. Goldstein, F. Hancock, L. Jason, J. Joyce, J. Malkin, K.**
586 **Newman D. Sederholm, A. Seiman, E. Thomas. Opposed: none. Abstentions: T. Barnes. The motion**
587 **passed.**

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

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590 DOCUMENTS REFERRED TO DURING THE MEETING

- 591 • Minutes of the Commission Meeting – Draft, Held on April 14, 2016
- 592 • Transportation Planning Documents 7/21/2016
- 593 • Martha's Vineyard Commission CR #10-2016 Lagoon Legacy Industrial Subdivision MVC Staff
- 594 Report - 2016-07-21
- 595 • Letter from the Town of West Tisbury Planning Board, Dated May 16, 2016, Subject: Lagoon
- 596 Legacy LLC, Map 21, Lot 6.1, 24 Huseby Mountain Road, Light Industrial District
- 597 • Plan of Land in West Tisbury, MA , Lagoon Legacy LLC , Dated October 7, 2015 and reviewed
- 598 December 3, 2015
- 599 • Martha's Vineyard Commission DRI # 560-M3 Kuehn's Way (Bridge) Affordable Housing MVC
- 600 Staff Report – 2016-07-21
- 601 • 2016 Offers DRI No. 560-M3 Kuehn's Way (Bridge) Housing , 2016 Modified Offers 7/18/16
- 602 • DRI No. 560-M3 Kuehn's Way (Bridge) Housing 2003 Conditions
- 603 • DRI 560 Nitrogen Comparison Over the Years, 7/21/16
- 604 • Kuehn's Way Proposed Plan June 14, 2016
- 605 • Correspondence List 2016-07-21 – DRI 560-M3 Kuehn's Way Affordable Housing
- 606 • Martha's Vineyard Commission Marked Up DRI Checklist May 27 Standards and Criteria
- 607 Version 13

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Chairman

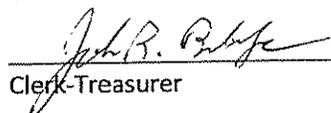
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Date

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Clerk-Treasurer

9/13/16

Date