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Minutes of the Commission Meeting Held on November 17, 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)
P John Breckenridge (A-Oak Bluffs)	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)	- 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)
-- Leonard Jason (A-County)	P James Vercruysse (E-Aquinnah)

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

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

1. WAVELENGTHS BUILDING-EDGARTOWN DRI 623-M3 MODIFICATION REVIEW

Doug Sederholm recused himself as he has done legal work for the applicant.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, L. Sibley, E. Thomas, J. Vercruysse.

For the Applicant: Colin Young, Jayne Leaf (Jayne Steidle)

1.1 Staff Report

Paul Foley presented the following.

- The packet of information contains the Edgartown Planning Board Requests and Public Hearing minutes of 9/3/16, 10/4/16 and 10/18/16, the Edgartown Planning Board Referral letter and the 2016 Applicant Timeline.
- The MVC approved the project in 2010 with two buildings.
- The ZBA denied the rear building with three residential units.
- The 2016 timeline was reviewed in detail noting that the Edgartown Planning Board did a site visit on June 21, 2016 to determine and review the changes from the original plan. Leonard Jason issued a stop work order on July 29, 2016 due to changes discovered to the building. The first public hearing was held on September 13, 2016 and on October 18, 2016 the project was referred to the MVC. The MVC did a site visit on November 4, 2016. On November 7, 2016 LUPC recommended that a public hearing was not necessary and that the changes and mitigation from the Town of Edgartown be attached and approved as a condition of a full MVC approval.

- The Edgartown Planning Board issued on September 15, 2016 a List of Planning Board Requests for Special Permit Application.
 - 1. Include all gutters and downspouts on elevations and renderings. Show how downspouts drain, i.e. cistern or other.
 - 2. Include all exterior lighting on elevations, renderings and site plans.
 - 3. Include both handicapped ramps on elevations, site plan and renderings. Show handicap ramp next to handicap parking and lighting for same.
 - 4. Include dark green shutters on all windows on elevations and renderings.
 - 5. Include scaled size and placement of all windows on elevations and renderings.
 - 6. Include placement of flower boxes on front and Clarion side of building on elevations and renderings.
 - 7. Include placement of handicapped parking spaces on landscaping and site plans.
 - 8. Include attractive cover to hide electric boxes on corner of building on elevations and renderings.
 - 9. Include covers or greenery to hide HVAC compressors on elevations and renderings.
 - 10. Include new detailed landscaping on site plan, elevations and renderings (example: similar to Dance Studio abutter).
 - 11. Include a reduced size of dormer over front entrance on elevation and rendering.
 - 12. Provide a copy of the association/condominium covenants and bylaws, including who will be responsible for maintenance of the exterior of the structure, landscaping, parking lot and access.
 - 13. Provide the drawings for the rail system on all decks and the elevator railings.
- The site plan was reviewed.
- The building is in the correct location but the trees that were wanted to be protected were not.
- The approved 2011 elevation versus the 2016 proposed modification was shown.
 - **Fred Hancock** noted that there was a back section of the building that was moved out to the face and the building is much larger.
- The approved rear view of the building versus the proposed was shown.
- There is an issue with the dormer over the front door on the second floor and the Planning Board suggested it be redesigned to what was originally approved per the plans.
- The landscape plan is supposed to come back to LUPC.
- The planting plan is mostly native species.
- The question is if the modification is a significant change to require a public hearing.
 - **Linda Sibley** noted that the Edgartown Planning Board did accept a proposed plan with the applicant.

1. Land Use Planning Committee Report (LUPC)

Fred Hancock, LUPC Chairman said LUPC voted 4 to 1 to recommended that the modification did not need a public hearing because the Edgartown Planning Board had extensive public hearings. He noted he was the singular vote to require such hearing.

John Breckenridge attended LUPC and he noted that a member of the Edgartown Planning Board also joined the LUPC meeting. He had the understanding that the Planning Board had developed a 13 point modification listing and the massing of scale was perhaps addressed and resolved with the Planning Board. But he found that item # 11 was not resolved and the Edgartown Planning Board referred back to the MVC. Many of the requests were declined. LUPC was trying to determine based on all of the public hearings that many of the issues were resolved and they have not been.

1.3 Commissioners' Discussion

Robert Cavallo of the Edgartown Planning Board said that is not the building that was approved by the Edgartown Planning Board. Two major requests that the Planning Board made were refused by the applicant; move the balcony on the side facing the dance studio and remove the dormer on the front of the building. The Planning Board has not agreed to anything.

Linda Sibley said this puts the MVC in an awkward position. We were relying for both our votes on the fact that Edgartown had its own thorough process.

James Joyce said it sounds like the Planning Board can put stipulations on the project and the MVC just needs to decide if the modification requires a public hearing.

Linda Sibley said Edgartown has a very unusual process. Most towns do not have a special permit process. At LUPC we were very influenced by the fact that Edgartown had many public hearings and have enforcement power. LUPC felt it was redundant based on what we were hearing.

Robert Doyle agreed with Linda Sibley's recollection of LUPC.

Joan Malkin also agreed about the LUPC meeting but noted that Mr. Cavallo's statements tonight are very different from his colleagues and perhaps LUPC made a decision on an incomplete view.

Robert Cavallo said Mr. Sparks was not speaking for him and we have no idea what the rest of the Board will say.

Katherine Newman said this appears not to be resolved and if the MVC had a public hearing what clarity would that provide to the public.

Joan Malkin said the test and question is if this is a significant modification.

James Vercruyse said a MVC public hearing would give the public a forum to express their opinions about the modification.

John Breckenridge asked if the MVC does not have a public hearing doesn't the modification go back to Edgartown.

James Vercruyse said the MVC needs to determine if the modification is significant and if the MVC should approve the modification.

Adam Turner said the first test is do we need a public hearing and then for the MVC to decide on the 13 Planning Board modification requests.

James Joyce said it is obvious there are significant changes and the question is can Edgartown handle. Is there more that the MVC can do that Edgartown can't?

Linda Sibley said her vote at LUPC was to approve the changes as negotiated with the Edgartown Planning Board but one could conclude that our public hearing gives more people the opportunity to view the streetscape.

Fred Hancock said it is vitally important that the MVC approve of its decision for the project and if someone builds something different the MVC has to uphold its approved decision. Just as Mr. Cavallo stated we need to review versus the proposed. With two organizations reviewing it would have more clarity.

Trip Barnes moved that the modification does not rise to the level requiring a public hearing.

- **James Vercruyse**, Chairman noted the motion was not seconded.

Christina Brown suggested that the MVC consider a public hearing under the circumstances and that the applicant gives us a clearer statement of what they are proposing to the MVC and the Edgartown Planning Board.

Colin Young, Project Manager said there is only one item that the applicant said could not be done and that is # 11 due to construction circumstances and financial considerations to do so as it is an extremely high energy building. We did come back to the Planning Board with a new plan.

Katherine Newman said she felt what Fred Hancock said is another piece to consider. What is the consequence of having one thing approved and another built and then not having a public hearing.

Fred Hancock moved and it was duly seconded that the changes are so significant that they require a public hearing and there is nothing in the modification about the changes on the south side of the building.

- **James Joyce** asked is there something the MVC can do that the Edgartown Planning Board can't do.
- **James Vercruysse** said the MVC can give a wider Island appeal and give a large public forum.
- **John Breckenridge** said he can't imagine this has a wide Island appeal and he is not that upset about it.
- **Christina Brown** said a public hearing could be very useful in this case to let people know what happened. She thinks it could clear the air and the MVC can provide another forum.

Voice vote. In favor: 10. Opposed: 3. Abstentions : 0. The motion passed.

James Vercruysse, Chairman noted that MVC staff will be in contact with the applicant and the public hearing will be scheduled.

Linda Sibley noted that the process was addressing if the changes were substantial enough to require a public hearing.

2. OAK BLUFFS WATER DISTRICT SOLAR FARM DRI 660 DELIBERATION AND DECISION

Doug Sederholm rejoined the meeting.

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

2.1 Land Use Planning Committee Report (LUPC)

Fred Hancock, LUPC Chairman said LUPC met on Monday November 14, 2016 and voted unanimously to recommend to the Full Commission that the MVC deny the proposal because the detriments far outweigh the benefits. After going through the benefits and detriments it became apparent.

Paul Foley noted the eligible Commissioners are; Trip Barnes, John Breckenridge, Christina Brown, Robert Doyle, Josh Goldstein, Fred Hancock, James Joyce, Joan Malkin, Katherine Newman, Doug Sederholm, Linda Sibley, Ernie Thomas and James Vercruysse.

2.2 Benefits and Detriments

Adam Turner led the review of the Benefits and Detriments per the DRI 660 Oak Bluffs Water District Solar Project (11/16/2016) Staff Draft of Facts Pertinent to Benefits and Detriments Analysis.

Benefits

Impact on Services and Burden on Taxpayers – The applicant's proposal will provide funding for the OB Water District. The proposal is projected to generate approximately \$667,627 over 20 years or \$2,770/month savings through the utility purchasing power from the solar generation contractor at a lower rate than is projected that they would have from their current energy provider.

The total amount per year from the Water District's electricity usage is approximately \$100,000 per year in total (\$8,300/month) per testimony. The amount purchased would amount to approximately a third of the District's current monthly electric purchase.

The applicant indicated that the investor would likely pay approximately \$235,574 as payment in lieu of taxes (PILOT) to the Town of Oak Bluffs, but no agreement has been concluded with the Town.

Testimony regarding whether the applicant would be liable for these tax payments wasn't conclusive.

- **Linda Sibley** noted that if voted to approve the project this should be conditioned.
- **Joan Malkin** said it is an estimated number and who is to say it is the correct number.
- **James Joyce** said this was the driving force and the taxpayer is to save approximately \$17 /yr and it doesn't seem worthwhile over the course of the project.
- **Christina Brown** said if it was established it would be a benefit but the taxpayers don't pay only the water users do so it is a smaller group of the public receiving the benefit.
- **Doug Sederholm** said the clear majority of the Oak Bluffs taxpayers are on town water so it is a benefit.
- **Fred Hancock** noted that LUPC said it is a small benefit.

Use Efficiently or Unduly Burden Other Facilities – The development of a solar facility will provide increased efficiency in terms of power and other utilities; will enable the Water District to rely, at least in part, on “clean energy” and will mean that energy will not need to be procured from off-Island to the same extent. Project opponents cited the potential harm to the Island forests and suggested an alternative site would be more appropriate for a solar facility.

- **Linda Sibley** said the last sentence of the Staff Analysis does not belong in this category.
- **Joan Malkin** said unless you consider the forest to be a public facility.
- **Doug Sederholm** said he doesn't feel that sentence is necessary.
- **James Vercruysse** said generating electricity locally is a benefit.

Detriments

Location – Whether the proposed location is or is not essential or especially appropriate in view of the available alternatives on the Island of Martha's Vineyard. The applicant stated that this was the best location for the proposal given that it is situated on land that the Water District controls. Public testimony suggested the Water District should work with the Town of Oak Bluffs to find a more appropriate location that has already been developed or disturbed for this type of project such as public building rooftops, parking lots and the Oak Bluffs landfill. The applicant did not submit any evidence that it had considered other potential sites.

- **Linda Sibley** said location is the issue.
- **Doug Sederholm** noted that the analysis is not how he remembered it from the testimony. The applicant considered using their roof tops but it wasn't enough space and they are a governmental agency and do not have control over any other location other than their own. They thought this was the only location that they could put it. Perhaps the Town of Oak Bluffs was considering another location but that would not benefit the Water District.
- **Linda Sibley** said LUPC found this is not an appropriate location due to the natural resources it disturbs; disturbance of water and disruption of existing ancient forest as well as inviting in invasive species.
- **Trip Barnes** noted that this is the property that the Water District owns.
- **Doug Sederholm** said what they want to do is to harness a natural resource and if the Water District can't do it as this location perhaps others can in another location.

Wastewater and Groundwater – The property contains three town water production wells. The proposal concerns the development of a solar production facility adjacent to those wells and includes the removal of approximately 10 acres of existing vegetation, stump removal and regraded. The work is proposed to take place in Zones 1 and 2, although the preponderance of activity is planned for Zone 2. There was evidence concerning the general loss of filtering capacity when existing soils and trees are removed. This would be of greatest significance in Zone 1 but is also a factor in Zone 2.

There was also evidence that forests make a contribution to the sequestration of carbon dioxide, ozone, methane, nitrous oxides, chlorofluorocarbons and other pollutants and to the production of oxygen and removal would decrease these capacities.

The MVC Water Quality Policy nitrogen budget for the 56.25 acre property in the Lagoon Pond Watershed is 191.25 kg/yr. Clearing 10.37 acres for the solar panels is estimated to result in a nitrogen load of 33.77 kg/yr below the budget for the property.

- **Fred Hancock** said does this have a more favorable or adverse effect. Based on the applicant the regrowth would happen within 3-4 years for filtration and during that period it is still an impaired watershed and feels the regrowth will also not grow back as well.
- **Linda Sibley** said the experts testified that the replant cannot do what the ancient forest can do. The root system is what is important and can't be replaced. They are removing something that is irreplaceable.
- **James Vercruysse** thought there was conflicting testimony on this issue.
- **Linda Sibley** questioned who has the credibility. You have arguments between the experts. We had testimony from one world renowned expert and one local expert that have no axe to grind on this issue and she respects that.
- **Joan Malkin** feels there is a loss of filtration ability but it is not a killer or overwhelming detriment.
- **Fred Hancock** noted this also filters the water that goes down to Lagoon Pond.
- **Joan Malkin** said our principal concern for the watershed is the nitrogen.
- **James Vercruysse** feels the wastewater and groundwater is a little inconclusive.

Open Space/Community and Habitat – The proposal includes the removal of 10.37 acres of forest for the development of the solar facility. There was extensive testimony regarding the possible impact of the proposed project. The applicant's expert testified that disturbance of the soil would not have permanent impact on the ecological functionality of the project area since no agricultural use is planned and that in any event identical functionality would be reestablished in 60-70 years with the planting of appropriate vegetation. The applicant testified that with respect to fragmentation there is already a gravel pit located to the north of the project area.

Individuals (including experts) testified that the soils in the project area and abutting areas have not been disturbed for thousands of years; that the forest cannot be replicated or replaced once it is removed; that any soil disruption will result in fragmentation, separating contiguous habitat of similarly undisturbed soils (located in the State Forest and the other adjacent properties); that herbaceous species are difficult to establish on the Island and any replanting will require irrigation and weeding; That despite efforts invasive species will inevitably take hold in the area; that the proposed re-vegetated grasses are not as effective as the existing vegetation in filtration; and that the disruption will impact the large interdependent communities of plants in the forest (of which the trees are just a part).

Testimony was focused on the uniqueness of the project area as representing one of the northernmost populations of forest type on the continent and the fact that it abuts the largest block of ancient woodlands on the Island and in the region (with some evidence suggesting some trees dating back before European settlement).

- **Doug Sederholm** said the Staff Analysis omits the applicant's testimony to the contrary but he finds the evidence submitted by David Foster and Tim Boland more persuasive. We have to keep in mind there was testimony to the contrary.
- **Christina Brown** said the applicant's expert said the ecological functionality would be re-established in 60-70 years. She thinks that is the disagreement between the experts and the applicant, if the same vegetation would exist in 60-70 years.
- **John Breckenridge** said if you disturb the soils you will never re-establish the same habitat and it is an invitation for invasive species.
- **Doug Sederholm** said to put it in context the applicant pointed out that clearing 5.9 acres of forest is one tenth of 1% of the forest.
- **Fred Hancock** said a letter was received from Luanne Johnson about disturbing the habitat of animals and birds. Both flora and fauna if pulled out might regrow in 60 years but with a break in habitat it might not.
- **James Joyce** said he believed that all the experts agreed that the 5.9 acres being taken out would not come back.
- **Paul Foley** showed the areas that would be disturbed.

Character and Identity – The character and identity of the property will change. The property, currently forested, would have 10 acres of land developed with solar arrays. Testimony illustrated that the forest was shrinking throughout the Island with increasing negative effect.

- **Doug Sederholm** noted the acreage needs to be corrected to 5.9 acres.

Neutral

Night Lighting and Noise – No lighting is proposed. The facility will operate 24 hours a day, 7 days a week. Peak operation is during the day. The facility will not be manned but will be monitored from offsite. The generators and other noisy equipment would be at least 1,500 feet away from residential neighbors and will be screened from vegetation.

- **Linda Sibley** questions the generators and the noise.
- **James Vercruyse** said there are not any generators but there are inverters and they do make noise.
- **Linda Sibley** said the language should then be revised and not state generators.

Traffic and Transportation – No change in traffic or parking is expected to result from the project as completed.

Scenic Values – The project will not be visible from Barnes Road. The project will be visible from the bike trail in the State Forest, particularly in the off-season, despite the buffering and fencing proposed by the applicant.

- **Fred Hancock** thought it might be a small detriment as there is nothing there now.
- **Joan Malkin** said it affects the continuity of the forest but the general consensus is that it is neutral.

Impact on Abutters – The project is expected to have a minimal impact on the neighboring residential properties. The impact on the abutting State Forest is noted in Character and Identity.

Low and Moderate Income – The application will have little or no impact on low and moderate income housing.

Conforms to Zoning – The project is in the R-3 Residential Zone. The proposed use is consistent with local zoning.

- **Christina Brown** said it would be useful to state that the project is in an R-3 Residential Zone where solar arrays are allowed by Special Permit.

Conforms to DCPC Regulations – The project is not located in any DCPC. However, the property abuts the State Forest in Edgartown, the Groundwater Production DCPC District in Tisbury and the Greenland’s Water Resource Protection DCPC in West Tisbury.

- **Doug Sederholm** noted that the last statement should be deleted as the language is not relevant.

Conflicting

Consistency with and Ability to Achieve Town, Regional and State Plan Objectives – The town of Oak Bluffs Conservation Commission submitted a letter opposed to the project pointing out (a) the clearing of old growth forest eliminates many valuable environmental functions and (b) in light of the purpose of the tract, to protect water quality production, the best use of the land is to leave it intact.

The project proposes an alternative energy project which is consistent with local and regional energy goals. However, the project at the proposed site is inconsistent with local and regional open space goals insofar as such goals recommend developed/disturbed sites for renewable energy facilities.

The applicant has received NHESP approval and DEP approved the project under the Drinking Water Program with conditions.

Testimony identified careful site selection for renewable facilities of all types as critical factors in minimizing the loss and fragmentation of wildlife habitat and forest that sequester carbon and provide many other valuable functions including nutrient retention and water quality protection. Public testimony also identified alternative sites such as Oak Bluffs Landfill, rooftops and parking lots as preferable.

It was noted that this is a benefit in some respects and a detriment in others.

- **Fred Hancock** said it seems it goes with some objectives and not with others.
- **James Vercruysse** felt it was conflicting.
- **Trip Barnes** said setting aside the acreage no doubt it will change in 25 years. He feels this piece of land was set aside for the Water District to save energy. So where is a suitable space/location.

Fred Hancock moved and it was duly seconded that in view of the review of the Benefits and Detriments that the Commission not approve this project. It is a very small benefit for a lot of detriment and does not think the MVC wants to be in a position that cutting down ancient forests to put solar arrays is a good thing.

- **Linda Sibley** said the language old growth forest should be deleted from the Benefits and Detriments Staff Analysis. It is a miss statement it is an ancient forest.
- **Adam Turner** said he had summarized what they said.
- **Ernie Thomas** doesn’t understand the money thing. It has been said that the applicant would generate \$670,000 over 20 years. Given the fact the power they will use if it isn’t approved the energy will come from perhaps a coal burning facility that impacts us and perhaps in 20 years the forest will be dead. It is a sacrifice but 5.9 acres might be a reasonable exchange for solar.
- **Doug Sederholm** said he is not concerned if this particular project is built with regards to clean energy. Clean energy projects will be done. This is a good project in the wrong place. The forest is not the right place. It is a good idea but not worth sacrificing 6 acres of our forest. The special thing of Martha’s Vineyard is our beauty and we have to protect it. He applauds the Water District for trying to do a good thing but it is in the wrong place. He takes the Commission seriously and this is only the third project in 14 years that might get denied.
- **Linda Sibley** said in spirit it goes to the motion at LUPC, it was agreed not to address Article 97 but the spirit of Article 97 that properties be put into conservation stays in conservation does apply.

- **Trip Barnes** said if the applicant was putting up a 2,000 sf garage would the MVC be here discussing this.
- **Fred Hancock** said that would trigger the MVC DRI Checklist, it is conservation land.
- **James Vercruyse**, Chairman noted that a yes vote is to deny and a no vote is to not deny.

Roll call vote. In favor: J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, J. Vercruyse. Opposed: T. Barnes, E. Thomas. Abstentions: none. The motion passed and the project is denied.

Christina Brown noted that the State legislature is working on solar siting reform and suggested that the MVC look into it and write in support.

3. MINI GOLF ANR MODIFICATION – TISBURY DRI 345-M4 MODIFICATION REVIEW

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, J. Vercruyse.

3.1 Staff Report

Paul Foley presented the following.

- The site plan was reviewed.
- The easement was sold to Dias which affects Condition 3 of DRI 345.
- The proposal requires a modification of the 1992 Decision; "... and said plan propose an access road to the rear of the applicant's property, then an easement for a portion of said access road shall be dedicated by the applicant if requested, and the applicant shall, at that time, redesign the parking area to make use of the new access road and shall simultaneously cease to use the existing curb cut along State Road".

3.2 Commissioners' Discussion

Christina Brown said if in fact the Town of Tisbury wants to do the access road is there any other place for it. **Paul Foley** said it is not the Connector Road. It was an access road to minimize the curb cuts.

Linda Sibley said the MVC is extinguishing a condition that is not practical.

Linda Sibley moved and it was duly seconded that the modification is not significant enough to 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 modification removing the condition that requires the applicant to use High Point Lane.

- **Joan Malkin** asked why anyone is trying to get rid of the condition.
- **Linda Sibley** said if there is a road there they have to use it and can't access from State Road.
- **Joan Malkin** said the land gets conveyed from the mini golf to Dias and could one day be the access road/service road to the rear of the property. What if there is a master plan with the road.
- **James Vercruyse** said there is no master plan and there are buildings there at the location.
- **Paul Foley** said the site plan is changing and the condition needs to be removed since it is no longer feasible on the property. If the applicant decides to sell the property they can't with the condition.
- **Josh Goldstein** said in 1992 the condition made sense and in 2016 it doesn't.
- **Linda Sibley** said the condition is a stumbling block for the applicant to selling their property.
- **Doug Sederholm** said the condition would prevent future purchasers of the property from building there. Let's get rid of it.

Roll call vote. In favor: J. Breckenridge, C. Brown, R Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, D. Sederholm, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none Abstentions: none. The motion passed.

4. DIAS MIXED USE HIGH POINT LANE – TISBURY DRI 653-M MODIFICATION REVIEW

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

4.1 Staff Report

Paul Foley presented the following.

- DRI 653-M2 Condition 2.1 (Dias Mixed Use) states the applicant shall access this project only from High Point Lane. A fully engineered plan that includes grading, drainage, pavement management, retaining walls and precise boundaries are to be identified on the plan.
- The revised site plan was reviewed.

Fred Hancock noted that the real issue is approving a strip of property and LUPC approved the plan but said the Full Commission had to approve the additional strip of property.

Christina Brown moved and it was duly seconded that the modification is not significant enough to require a public hearing.

- **Robert Doyle** noted the condition to put 6 trees along the mini golf is not represented on the plan.
- **James Vercruysse** said it is now a driveway so there is no room for the trees.
- **Joan Malkin** suggested having the applicant come back with a landscape plan with the new configuration of traffic flow.
- **Linda Sibley** said the trees shouldn't disappear because they have an addition of land.
- **Josh Goldstein** said the Town of Tisbury should handle the tree issue.
- **James Vercruysse** asked if the MVC should condition that the applicant come back to LUPC with the landscape plan.
- **Doug Sederholm** said the applicant bought the strip of land from the mini golf for putting in access on it but there is a condition to screen from the mini golf. But if they can't screen and have access then we are approving something that can't happen. We shouldn't be dealing with a third party they don't have control over. If they have room on their property to put the trees it is okay.
- **James Vercruysse** views the issue as a different use of space.
- **Fred Hancock** said the modification is back to the MVC because LUPC cannot approve.

Voice vote. In favor: 13. Opposed: 0. Abstentions: 1. The motion passed.

Joan Malkin moved and it was duly seconded to approve the addition of the extra piece of land from the mini golf and the applicant must return to the MVC with the landscape plan and it is not being reviewed as a separate commercial lot.

- **Geoghan Coogan** said we are not reviewing it as a separate commercial lot because it is a title issue for the applicant.

Roll call vote. In favor: J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: T. Barnes. The motion passed.

5. HARBORVIEW HOTEL – EDGARTOWN DRI 614 EXTENSION REQUEST

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, J. Veracruz.

For the Applicant: Sean Murphy

5.1 Staff Report

Paul Foley presented the following.

- The Harborview Hotel in Edgartown is seeking a further modification of the 2008 Decision of the MVC DRI 614 to allow for an additional three years to be added to the phasing dates for construction of the improvements.
- The original MVC approval for the proposed work was valid until August 12, 2013 but a modification was granted by the Commission on April 27, 2012 allowing offices in the basement of the Huxford Cottage and revising the phasing to allow for Phase 1 to begin from September 2012 to May 2013, Phase 2 from September 2013 to May 2014, Phase 3 from September 2014 to May 2015 and Phase 4 from September 2015 to May 2016.
- New dates are being requested for Phase 1 to begin September 2019 to May 2020, Phase 2 September 2020 to May 2021, Phase 3 September 2021 to May 2022 and Phase 4 September 2022 to May 2023.
- The basis for the request is that in May 2012 a new group of seasonal residents made substantial personal financial investments in the Harbor View Hotel and became the controlling investors in the property.
- The local residents made this investment in order to assure its continued viability as a hotel for the town of Edgartown and the Island.
- Since their investment, the sales of the hotel suites have increased and the units are continuing to sell. However, there have still not been enough sales to produce the funding necessary to renovate the remainder of the hotel property per the 2008 plans.
- The additional phasing time will allow the investor team to have a more realistic timetable and for the continuation of financing.
- A full compliance review of the property and the applicant's compliance with the 2008 Decision as modified by the August 14, 2009 Modification and the April 27, 2012 Modification was conducted by the Commission when the applicant requested the installation of cooktops in the units. There have been no changes since that time.

Josh Goldstein noted that May 2012 was a terrifying time for hotels on the Island.

Josh Goldstein moved and it was duly seconded to approve the extension request and especially in view of all that the Harbor View Hotel does for the Island. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

6. NOVA VIDA CHURCH – OAK BLUFFS DRI 603-M4 EXTENSION REQUEST

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, J. Veracruz.

For the Applicant: Rosemarie Haigazian

6.1 Staff Report

Paul Foley presented the following.

- The project was denied by the MVC in 2013 and then came back and was approved.

- The applicant is requesting an extension for compliance with the building of their church structure as approved.
- The church administration has encountered delays with the financing, the general contractor and many of the professionals involved.
- The applicant has not yet been able to secure a building permit.
- The applicant has stated that the demands of the building department have been many and often, expended after compliance with the last meeting, requiring further detail, certification and plans.
- The church is seeking two additional years “but failing that, asks for any further extension the Commission can provide. I am sure you remember the extended time required and the intense opposition of certain neighbors, who continue to interfere with their efforts. We have asked to take extraordinary and deliberate efforts to move this project forward and greatly appreciate any thoughtful consideration you can provide”.

Doug Sederholm moved and it was duly seconded to approve the extension request.

- **Joan Malkin** asked if anything has been done on the lot.
- **John Breckenridge** said some landscaping.
- **Fred Hancock** said no construction has yet to be done.
- **Rosemarie Haigazian** noted the property looks very similar to the way it was on the MVC site visit.
- **Christina Brown** said part of the reason for the extension is the applicant is working with the Building Inspector and also noted that any change would have to come back to the MVC.

Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

7. BIG SKY TENTS BUILDING – WEST TISBURY DRI 618-M EXTENSION REQUEST

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, J. Verduyck.

For the Applicant: Reid Silva

7.1 Staff Report

Paul Foley presented the following.

- The site plan was reviewed.
- The applicant is requesting an extension to DRI 618 that was issued on December 13, 2010.
- The original 2 year permit was extended by the Permit Extension Act for an additional 4 years making the permit valid until December 13, 2016.
- The permit was not acted upon due primarily to an issue with access to the property over the land of an adjacent property owner.
- The purchase of the property by Big Sky Tents from Peter Williams was delayed until May 2016 when the access issues were resolved.
- There has not been enough time since to contract work and finish some of the details required prior to the start of construction.
- With the extension the applicant will be allowed enough time to finish the construction documents and start construction this Winter or Spring.

Linda Sibley moved and it was duly seconded to approve the extension request. Voice vote In favor: 13. Opposed: 0. Abstentions: 1. The motion passed.

8. NEW BUSINESS

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

8.1 Reports from Chairman, Committees and/or Staff

Chairman Report

James Vercruysse moved and it was duly seconded to give a Staff Appreciation Day the day after Thanksgiving. Voice vote. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm and Linda Sibley excused themselves from the meeting.

James Vercruysse, Chairman appointed the Nominating Committee for the Executive Committee. The members are Leonard Jason, Fred Hancock, Katherine Newman, Josh Goldstein, James Joyce, Ernie Thomas and Joan Malkin. The meeting is tentatively scheduled for December 1, 2016 at 6:00 p.m.

Staff Report

Bill Venio said the Oak Bluffs Planning Board and Selectmen had an informal meeting tonight with landowners who are along the Edgartown-Vineyard Haven Road near Goodales and Barnes Road. It was a forum for people to see what would or would not happen with the road. They are aware that they need to come to the MVC for any project as that road corridor has an impact on all Island towns especially down Island.

8.2 Executive Director Report

Adam Turner presented the following.

- The Housing Production Plan meetings are important.
- The hard part now is how we will do this and the programs that will be done.
- The MVC will be involved and the decision and goals will be done in concert with the MVC.
- Currently this is mainly with the towns but we will be looking at how the MVC will be involved.
- The tough work is getting the housing built and how to make the programs equitable.

Katherine Newman noted that the meetings are nicely done and being run by a professional group.

Ben Robinson said this will also be presented at the All Island Planning Meeting and the goals have not yet been decided on. He noted that we don't have a housing shortage on the Island it is just not affordable.

Adam Turner noted that community housing and year round housing is needed in the market. We need everyone's help to get it done. The big programs will be going through the MVC.

9. 426 STATE ROAD DIVISION OF SPACE – TISBURY DRI 77-M4 MODIFICATION REVIEW

Linda Sibley recused herself from the meeting and Doug Sederholm excused himself from the meeting.

Commissioners Present: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Joyce, J. Malkin, K. Newman, B. Robinson, E. Thomas, J. Vercruysse.

For the Applicant: Jeff Young, Kate Young

9.1 Staff Report

Paul Foley presented the following.

- The site plan was reviewed.

- The retail space on the front right was formerly occupied by Vineyard Electronics and includes an office, storage space and a half bath. Miller Professionals wanted to the space for their seasonal landscaping company.
- The communicating door between the front retail space and the office space was removed and replaced the window with a separate office entrance. A permit was pulled for this work.
- Millers Professionals meets with 15 to 25 men at 8:00 am and sends them to various off site work sites. Some of the men park their cars behind the building in spaces rented from Goodale and the men return approximately at 5:00 p.m. Some of the trucks and equipment are stored at night behind a fence toward the back of the property.
- MV Sound and Security wanted to rent half the space of Vineyard Electronics which was 2,200 sf with an office and half bath. That would leave the middle space, 1,000 sf with no entrance. The applicant began to install a wall dividing the two spaces and including the new office and half bath.
- The Tisbury Building Inspector and Fire Chief issued a stop work order. The applicant addressed their concerns.
- The applicant has said they will complete the native shrubs and plantings stipulated in the 2011 MVC modification.
- The applicant would like to install a handicap ramp to the middle shop. LUPC asked how that can be done with the current parking. The ramp would not impede traffic flow as three spaces are being made for compact cars only and all trucks should park in the side lot which can accommodate 25 to 26 vehicles.
- The nitrogen load is 4.9 kg/a/yr. The applicant has received Smart Growth credit and has been coming in under the nitrogen usage for the property without the credit. The applicant is interested in jointly installing with Cape Cod Five Bank the new Tisbury sewer system as soon as the Town is able to do so.

9.2 Commissioners' Questions

John Breckenridge said the whole project was remanded back to the Town due to few vehicles and the denitrification system. It is a light industrial use and warehousing in the back. The Town has now sent the project back to the MVC due to the modifications that are being done in the front of the building. He asked the applicant if they went to the Town when Miller Landscaping came in. **Jeff Young** said Chris Miller went to the Town and pulled the permit for putting in the door but did not refer to the MVC.

John Breckenridge said he went today to look at the handicap access. The original plan called for 33 parking spaces on the front and side. Today there was a considerable amount of landscape equipment on the side and behind the fence and that was originally for employee parking. He is just bringing the facts forward as it was a big change from the approval and he is seeing more activity.

Kate Young said being the company is landscaping they are not there all day. **Jeff Young** said part of the lease agreement is the back area and they took advantage of the front area as it is not being used right now.

Josh Goldstein noted that Electronic Security is near his business now and they are a boutique operation. They are not retail and there is not a lot of traffic.

Paul Foley showed the parking areas and the use.

Joan Malkin said this was originally a DRI and asked if the applicant is in compliance with that? **Paul Foley** said they are except for a little bit of the landscaping from the last applicant, Vineyard Electronics, but they said they would complete that. **James Joyce** noted that Linda Sibley of Vineyard Electronics was not in compliance with the Landscaping.

John Breckenridge noted there are housekeeping issues with the changes and the modifications and keeping areas open for their tenants use.

Fred Hancock said at LUPC it was noted that the proposal is for two half baths.

There was a discussion about the parking.

- **Jeff Young** said the new tenants will have signed designated parking.
- **Joan Malkin** said suppose the current non-leased space is leased to a high traffic use what happens, it is a potential area of concern.
- **John Breckenridge** said he hopes the Town would refer it back to the MVC.
- **Fred Hancock** added or ask the applicant if they plan to rent to high traffic use.
- **Jeff Young** asked if the MVC could tell him what the MVC would not want in the space.
- **Joan Malkin** said she did not know enough about possible usage to know if there would be enough parking.

Ben Robinson said the alterations may trigger a Special Permit for the Town of Tisbury.

Josh Goldstein moved and it was duly seconded that the modification is not significant enough to require a public hearing. Voice vote. In favor: 11. Opposed: 0. Abstentions: 1. The motion passed.

Josh Goldstein moved and it was duly seconded to approve the modification as proposed with two half baths.

- **Fred Hancock** said that landscape and traffic is to be confined to the back part of the property.

Josh Goldstein amended his motion and it was duly seconded to approve the modification as proposed with two half baths and contingent on the completion of the landscaping plan and parking plan.

- **Joan Malkin** and **Christina Brown** had the same concerns, does the current approval say what the uses of the building are.
- **Paul Foley** said the uses are warehouse and light industrial in the back and retail in the front.

Roll call vote. In favor: T. Barnes, J. Breckenridge, C. Brown, R. Doyle, J. Goldstein, F. Hancock, J. Malkin, K. Newman, B. Robinson, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: J. Joyce. The motion passed.

The meeting was adjourned at 9:25 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Town of Edgartown Planning Board September 15, 2016 Wave Lengths/Jayne Leaf 223 Upper Main St (201-95) List of Planning Board Requests for Special Permit Application
- Edgartown Planning Board Public Hearing Minutes September 13, 2016, October 4, 2016 and October 18, 2016
- Town of Edgartown Planning Board Letter to MVC, Dated October 24, 2016, RE: Wave Lengths, a.k.a. Jayne Steidle 223 Upper Main Street (29A-95) MVC DRI #623
- Wave Lengths Time Line November 17th (2016)
- Martha's Vineyard Commission Land Use Planning Committee Notes of the Meeting of November 14, 2016
- DRI 660 – Oak Bluffs Water District Solar Project (11/16/2016) Staff Draft of Facts Pertinent to Benefits and Detriments Analysis
- DRI 653-M2 Condition 2.1
- DRI 345-M4 Mini Gold ANR Plan of the Land Dated July 26, 2016, Easement sold by Mini-Golf to DRI 653

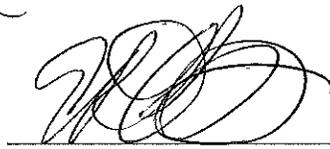
- 1992 DRI 345 Mini Golf Condition 3
- Letter to the MVC from Sean Murphy, Dated October 27, 2016, RE; Harbor View Hotel DRI # 614 Edgartown, MA
- Letter to the MVC from Rosemarie Haigazian, Dated November 10, 2016, RE; Alliance Church
- Letter to the MVC from Reid Silva, Dated November 17, 2016, RE; Big Sky Tents, DRI # 618-M
- DRI 77-M4 426 State Road Modification Review Proposal
- Applicant's Explanation DRI 77-M4 426 State Road Dated 11/17/2016
- Town of Tisbury Office of Building Inspection & Zoning Enforcement Referral to the MVC, 426 State Road LLC, Dated October 24, 2016
- Site Plan 426 State Road, Vineyard Haven, October 31, 2016



 Chairman

1-19-17

 Date



 Clerk-Treasurer

1-19-2017

 Date