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## **Minutes of the Commission Meeting Held on December 15, 2016 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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

P Tripp Barnes (E-Tisbury)	P James Joyce (A-Edgartown)
- Yvonne Boyle (A-Governor)	- Joan Malkin (A-Chilmark)
- 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)	P Abe Seiman (E-Oak Bluffs)
P Josh Goldstein (E-Tisbury)	P Linda Sibley (E-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Ernie Thomas (A-West Tisbury)
P Leonard Jason (A-County)	P James Vercruysse (E-Aquinnah)

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

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

### **1. ANNOUNCEMENTS**

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

Abe Seiman said this will be his last meeting as a commissioner. As you know he loves learning and has three Master Degrees. He has had a varied career that started as a statistician and then he became a nursing home administrator and supervised a group of services in Manhattan that included home care with the advent of the Aids epidemic and then he moved on to a Hospital unit for respiratory patients. The point of this is since he was elected as a Commissioner all of you have welcomed me and thanks to you he learned and all of you accepted me and that enabled me to learn and he is grateful to all for this experience. He thanked the staff for their expertise and for also helping him to learn. He gained how to run a meeting based on facts and not opinion and a meeting conducted in a way that was dependent on facts and a meeting held with respect for each other and he hopes to carry that on. He thanked everyone for the experience.

### **2. SYDNEY HOTEL EXPANSION-EDGARTOWN DRI 669 DELIBERATION AND DECISION**

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

#### **2.1 Land Use Planning Committee Report**

**Fred Hancock**, LUPC Chairman said LUPC voted unanimously to recommend to the Commission to approve the project and recommended that the MVC use the Benefits and Detriments as a base point for Deliberation.

**Paul Foley** said the eligible Commissioners to vote are T. Barnes, J. Breckenridge, J. Goldstein, F. Hancock, L. Jason, J. Malkin, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas and J. Vercruysse. The applicant has submitted two additional offers while the written record was open regarding a final landscape plan and working with the Town on crosswalks. The applicant also submitted revised plans that clarified the parking near the entrance with regards to the bike rack and the plantings.

**Fred Hancock** said the applicant submitted a drawing for the parking that moved the delivery space to the other side.

## **2.2 Benefits and Detriments**

**Doug Sederholm** suggested that the MVC use the Benefits and Detriments notes that were reviewed at LUPC. This project strikes me as not a controversial application and given our lengthy agenda tonight it would benefit us to use the Benefits and Detriments from LUPC.

***Doug Sederholm moved and it was duly seconded to accept the Benefits and Detriments that were so well summarized in the Land Use Planning Committee notes of December 12, 2016. Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.***

### **Benefits**

**Wastewater and Groundwater** – With respect to wastewater and groundwater the LUPC finds that the project is a benefit because the project will be connected to the town sewer and a storm water management plan, containing the runoff to the property, will come back to the MVC for review and approval.

**Open Space** – With respect to open space the LUPC finds that the proposal is a benefit because it is converting what was a vacant lot and then briefly a private parking lot into mixed-use development that incorporates a significant amount of public access including connections to the park owned by the Preservation Trust, a courtyard and sidewalk seating and creating public sidewalks on private property.

**Night Lighting** – With respect to night lighting the LUPC finds that the proposal is a benefit because they are proposing minimal lighting with the final plan to return to the LUPC for review and approval and are proposing adding lamp posts of the same sort the town uses in downtown.

**Traffic and Transportation** – With respect to traffic and transportation the LUPC finds that the proposal is a benefit. The LUPC agreed with the applicant's suggestion that a hotel situated in a central downtown location such as this is likely to be attractive to guests who do not bring their cars. The LUPC notes that the applicant has made an offer that guests must reserve a parking space and I informed if one is not available. The LUPC does note there will be less private parking available in town.

**Scenic Values** – With respect to scenic values the LUPC finds that the proposal is a benefit because the proposed plantings will be an improvement over the vacant parking lot, the design of the building is in keeping with the mass, scale and design of downtown and the applicant is voluntarily adding public sidewalks on private land.

**Character and Identity** – With respect to character and identity the LUPC finds that the proposal is a benefit because the design of the building is in keeping with the mass, scale and design of downtown and the applicant is voluntarily adding public sidewalks on private land.

**Impact on Abutters** – With respect to impact on abutters the LUPC finds that the proposal is a benefit because the project completes the build out of downtown and the applicant is voluntarily adding public sidewalks on private land.

**Housing** – With respect to housing the LUPC finds that the proposal is a benefit because it incorporates sufficient staff housing.



Impact on Services and Burden on Taxpayers – With respect to impact on services and burden on taxpayers the LUPC finds that the proposal is a benefit because it will generate increased property tax and increased room tax and will have no impact on schools.

Consistency with Town Plans – With respect to consistency with town plans the LUPC finds that the proposal is a benefit.

#### Neutral

Natural Community and Habitat – With respect to natural community the LUPC finds the project is neutral as it is appropriately located in the commercial downtown. With respect to habitat the LUPC finds that the project is neutral because it is not currently habitat and it is appropriately located in the commercial downtown.

Noise – With respect to Noise the LUPC finds that the proposal is a neutral.

Conforms to Zoning and DCPC Regulations – With respect to zoning the LUPC notes that the proposal is subject to Special Permit review at the town.

Is Essential in view of the Alternatives – With respect to whether the project is essential in view of the alternatives the LUPC finds that it is and notes the project completes the build out of downtown in a manner that is in keeping with the mass, scale and design of downtown.

***Doug Sederholm moved and it was duly seconded to approve the project as submitted and to accept all of the offers and the new drawings submitted by the applicant.***

- **Fred Hancock** said the LUPC finding at the end of the day was that the project was an appropriate use on this site and was incredibly appropriate as an infill and provides a benefit to Edgartown.
- **James Vercruysse** said this was a very well presented project. All details were thought of and questions were answered in a timely manner.

***Roll call vote. In favor: T. Barnes, J. Goldstein, F. Hancock, L. Jason, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.***

### **3. LAMPOST BAR CONVERSION-OAK BLUFFS DRI 670 DELIBERATION AND DECISION**

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

**Paul Foley** noted the eligible Commissioners to vote are T. Barnes, J. Breckenridge, J. Goldstein, F. Hancock, L. Jason, J. Malkin, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas and J. Vercruysse.

#### **3.1 Land Use Planning Committee Report**

**Fred Hancock**, LUPC Chairman said LUPC voted unanimously to approve the project. The Benefits and Detriments were outlined at the meeting and a written set of offers have been submitted, however, the notes say the Town of Tisbury noise regulations and this project is in Oak Bluffs so that needs to be corrected. We also needed to know what to call the workforce/dormitory housing and how to define it. The applicant defined it as "The units will be rented to employees of local businesses either permanent year round housing or temporary housing as needed."

***Linda Sibley moved and it was duly seconded to adopt the discussion of Benefits and Detriments that LUPC went through and reviewed. Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.***

#### **3.2 Benefits and Detriments**

##### **Benefits**

Wastewater and Groundwater - With respect to wastewater and groundwater the LUPC finds that the project is a slight benefit because the project will continue to be connected to the town sewer but should take up less capacity.

Noise – LUPC finds that the proposal is a benefit because the workforce housing should create less noise than the nightclub.

Traffic and Transportation – With respect to traffic and transportation LUPC finds that the proposal is a benefit.

Scenic Values – LUPC finds that the proposal is a benefit because the proposed design of the building is in keeping with the mass, scale and design of the current building and the historic downtown.

Character and Identity – LUPC finds that the proposal is a benefit because the proposed design of the building is in keeping with the mass, scale and design of the current building and the historic downtown.

Impact on Abutters – LUPC finds that the proposal is a benefit because the workforce housing should have less impact than the nightclub.

Housing – LUPC finds that the proposal is a benefit because it incorporates workforce housing for businesses and may accommodate the workforce housing needs of other businesses.

Impact on Services and Burden on Taxpayers – LUPC finds that the proposal is a slight benefit because it will have no impact on schools and may decrease the impact on police services.

Consistency with Town Plans – With respect to consistency with town plans the LUPC finds the proposal is a benefit.

Is Essential in View of the Alternatives – The LUPC finds that it is and notes the project provides needed workforce housing and is improving an existing historic building in a manner that is in keeping with the mass, scale and design of the historic downtown.

#### Neutral

Open Space; Natural Community and Habitat – LUPC finds that the proposal will have no change and that there is currently no open space or habitat and it is appropriately located in the commercial downtown.

Night Lighting – LUPC finds that the proposal will have no change with respect to night lighting.

Conforms to Zoning and DCPC Regulations – The LUPC noted that to their knowledge the proposal is consistent with zoning.

### **3.3 Deliberation and Decision**

**Linda Sibley** said there were some serious concerns about the one bathroom for the first floor housing. It was not conditioned as it is a management problem but we should point out that we thought it was impractical.

**Adam Turner** presented comments from Joan Malkin who could not be presented at the meeting. The construction schedule for Phase 2 should be clear that the construction does not interrupt businesses in season and she was also concerned about the number of bathrooms.

**Fred Hancock** said it was felt that it was not the place of LUPC to tell the applicant the number of bathrooms, if it meets code it will be their decision.

There was a discussion about the construction plan.

- **James Vercruysse** said under the construction management plan it does not state that the applicant will work with the Town and that should be added.
- **Linda Sibley** said the applicant has their own staging area in the back.
- **Geoghan Coogan** said the only impact on the street will be the relocation of the door and the applicant will coordinate with the Police Department. All interior construction will be staged in the back.

***Linda Sibley moved and it was duly seconded to approve the project with the offers as submitted with the correction of town to Oak Bluffs and with the Benefits and Detriments as worked out with LUPC.***



- **Leonard Jason** suggested that the motion should include that if the applicant does not get the permit for the bathrooms as planned they do not need to come back to the MVC as the bathrooms would have to be built to code.
- **Linda Sibley** agreed to amend her motion to include Leonard Jason's suggestion.

***Linda Sibley moved and it was duly seconded to amend her motion to also include that if the applicant does not get the permit for the bathrooms as planned they do not need to come back to the MVC as the bathrooms would have to be built to code. Roll call vote. In favor: T. Barnes, J. Goldstein, F. Hancock, L. Jason, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.***

#### **4. VINEYARD DECORATORS EXPANSION-EDGARTOWN DRI 369-M3 DELIBERATION AND DECISION**

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

**Paul Foley** noted the eligible Commissioners to vote are T. Barnes, J. Breckenridge, J. Goldstein, F. Hancock, L. Jason, J. Malkin, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas and J. Vercruysse.

##### **4.1 Land Use Planning Committee Report**

**Paul Foley** said the Benefits and Detriments were reviewed at LUPC. After the close of the oral testimony the applicant submitted the map/plan showing the stormwater plan for the roof runoff but was asked to have the plan supplied for the parking lot runoff before the issuance of the Certificate of Occupancy. The easement plan for the truck movement for deliveries was also required before issuance of the Certificate of Occupancy. LUPC recommended to the Commission that the benefits outweigh the detriments.

**Doug Sederholm** said the stormwater and easement plans would be a condition. **Fred Hancock** confirmed it would.

***Doug Sederholm moved and it was duly seconded that this is a noncontroversial project and to adopt the Benefits and Detriments as set forth in the notes of the LUPC meeting of December 12, 2016. Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.***

##### **4.2 Benefits and Detriments**

###### **Benefits**

Wastewater and Groundwater – LUPC finds that the project is a slight benefit because the project appears to handle the additional roof runoff and that a final plan will come back for review.

Traffic and Transportation – The LUPC finds that the proposal is a slight benefit because the consolidation of the operation of the business in one location may decrease truck trips.

Housing – The LUPC finds that the applicant will be conditioned to make the recommended affordable housing mitigation.

Impact on Services and Burden on Taxpayers – The LUPC finds that the proposal is a slight benefit because it will pay slightly higher property taxes, will have no impact on schools and the Airport provides firefighting services.

Is Essential in View of the Alternatives – The LUPC finds that the proposal is an appropriate infill project.

###### **Neutral**

Open Space; Natural Community and Habitat – The LUPC finds that the proposal will have little change and that there is currently no open space or habitat in the proposed expansion location and it is appropriately located in a developed area.

Night Lighting and Noise – LUPC finds that the proposal will have little change with respect to night lighting and the final plan will come back for review. With respect to noise the LUPC finds that the proposal will have no change.

Scenic Values – With respect to scenic values the LUPC finds the proposal will have no change.

Character and Identity - With respect to character and identity the LUPC finds the proposal will have little change.

Impact on Abutters - With respect to impact on abutters the LUPC finds the proposal will have no change.

Consistency with Town Plans – With respect to consistency with town plans the LUPC finds that it is.

Conforms to Zoning and DCPC Regulations – With respect to zoning the LUPC noted that to their knowledge the proposal is consistent with zoning and not in a DCPC.

***Doug Sederholm moved and it was duly seconded to accept the offers and approve the application with two additional conditions; provide a stormwater runoff drainage agreement for the parking area before the building permit is issued and submit an easement plan with the next door neighbor that allows the applicant to move their vehicles on the neighbor's property adjacent to the loading dock, Lot 24 1.2.***

- **Paul Foley** noted that LUPC also recommended conditions such as an Affordable Housing contribution, a lighting plan and a stormwater plan.
- **Leonard Jason** suggested in the event the applicant does not get the permit to build at the proposed height that they do not have to come back to the MVC as the building would then be lower in height.
- **Doug Sederholm** agreed to amend his motion to include Leonard Jason's suggestion.

***Doug Sederholm moved and it was duly seconded to amend his motion to also include that in the event the applicant does not obtain the permit to build at the proposed height that they do not have to come back to the MVC. Roll call vote. In favor: T. Barnes, J. Goldstein, F. Hancock, L. Jason, K. Newman, B. Robinson, D. Sederholm, A. Seiman, L. Sibley, E. Thomas, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.***

## **5. WAVELENGTHS MODIFICATIONS-EDGARTOWN DRI 623-M3 PUBLIC HEARING**

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*Doug Sederholm recused himself as he has represented the applicant in other matters.*

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

*For the Applicant:* Colin Jones (Project Manager), Phil Miller (Contractor), Jayne Leaf (Owner)

**Fred Hancock**, Public Hearing Officer opened the Public Hearing and read the public hearing notice. The location is 223 Upper Main Street, Edgartown Map 20-A Lot 95. The applicant is Jayne Leaf and Colin Jones. The proposal is to make modifications to a previously approved three story 5,309 sf mixed use structure including larger dormers on the third floor, moving a third floor balcony from the back to the side and an elevator appurtenance, different windows and a landscape plan. The public hearing process was reviewed.

### **5.1 Staff Report**

**Paul Foley** presented the following.

- Site photos were reviewed in detail and how the building meets the tree line so the building looks like the ferry that hit the dock.
- In 2010 the MVC approved a plan to remove an existing one story building at 223 Upper Main Street and replace it with a three story 4,198 sf mixed use building and build a new three story 5,381 building with 2 bedroom residential units in the back of the property.
- When the plan returned to the Planning Board they found that the lack of a vehicular outlet to adjoining properties meant that the Floor Area Ratio could not exceed 50%. Therefore the plan was



modified to the 2011 proposal which eliminated the 5,381 sf building in back and increased the size of the front building by 1,183 sf (22%). The new proposal had 2,844 sf of commercial space on the first and second floors (up to 5 units), a 1,140 sf two bedroom apartment on the third floor and a 1,990 sf basement.

- In 2014 the MVC voted that the proposal to convert the second floor of the approved DRI 623-M decision from the two offices to two 2-bedroom apartments in an approved, but not yet built, building located at 223 Upper Main Street was not a significant enough change to require a DRI public hearing.
- The trees were misrepresented on the plan and it was not caught by the MVC or the Town. That is why the building was approved in its present location too close to the canopy of the three mature street trees. Had the spread of the trees been accurately drawn on the plan it would have been clear to everyone that the building should have been moved further back. Especially after the building in back was removed from the plan. Let that be a cautionary tale about accurate plans.
- The new proposal is to make modifications to a previously approved three story 5,309 sf mixed use structure including larger dormers on the third floor, moving a third floor balcony from the back to the side, an elevator appurtenance, different windows and a landscape plan. This has increased the massing slightly.
- As proposed and as built plans were reviewed. The third floor plan as approved versus as built was reviewed. Elevations were reviewed.
- Key Issues include.
  - Does the increased size of the third floor with larger dormers and the moving of the third floor deck to the side require a public hearing as a DRI?
  - Should there be further mitigation/alteration beyond the 12 items that the applicant has agreed to of the 13 on the Edgartown Planning Board list?
  - The cost is a consideration to removing the dormer.
- Correspondence has been received in favor and opposed from James Harper, Bernhardt Ochse, Michael Emig, Peter Sullo, Robin Sherman Harper and Jackie Stallings.
- It was shown where trees were removed on a neighbor's property which previously helped to hide the building.

**Leonard Jason** asked how much more square footage was built versus what was approved. **Paul Foley** said it is several hundred square feet but did not have the time yet to determine the exact number.

## **5.2 Applicants' Presentation**

**Colin Young** said at this point the extended part of the building is the dormer. It was a modular building and they changed it without telling us. Because it is a super high efficiency building in order to keep that they had to keep the continuum of the exterior walls. All of the conduit runs up through it. The reason not to change the building is due to the cost and the energy efficiency. Any changes we should have known about including the window change.

**Phil Miller** is from Miller Starbuck Construction. After the modular company we were doing the fit out. It is Zip panel construction. This project came in 15 boxes and was assembled. The disassembly is different that stick built. One goal was to be accessible with the elevator as well as the other energy efficiencies. We spent a lot of time with the Planning Board and generated a task list and felt we got to as many issues as we could and left the Planning Board feeling we satisfied all of the issues that were brought up. The dormer would be 112 sf and the deck is inset so with the dormers the net added square footage is 250sf. It does not add square footage to the bedrooms and the bathrooms. The room configuration is the same net square footage around 256 sf. The deck was originally on the rear side of the building and it was slide out.

## **5.3 Commissioners' Questions**

**Fred Hancock** said what he doesn't see is how the end was moved out 10 feet and the porch with the two large dormers makes a huge change on the south side of the building. **Colin Young** said our original architect Chuck Sullivan did the plans. Several different plans were worked on for the third floor. The plans that were given to the second architect to look at had a difference in the third floor. We realized it at the Planning Board meeting and he was just as shocked. The mistakes that were made were not on purpose. He takes blame for not watching it as closely. We made the error and want to fix it so it does not destroy the building and the energy efficiency.

There was a discussion about the design and the plans of the building.

- **Katherine Newman** said the presentation was originally on the architectural design of the building. Did the MVC ever see the modular building design?
- **Colin Young** said modular is just a way of building.
- **Leonard Jason** said the MVC did not see the modular building design.
- **Katherine Newman** said if they work differently then you can't have a modular built from an architectural design, you can't switch from one mode to the other.
- **James Joyce** said the applicant sent the wrong plans to the modular company.
- **Fred Hancock** noted that they also made revisions.
- **Ernie Thomas** asked when the modular company changed from one set of plans to the other did they inform you it would look different? There must have been some communication.
- **Colin Young** said when we sent the plans to them the porch was moved from the back to the side. I did not realize the working plans were not the ones on file with the MVC. Regarding the dormers they did not discuss that they just built it.
- **Ernie Thomas** asked if the plan was changed between when the MVC approved it and it was sent to the modular company.
- **Colin Young** said they had varied plans of the same building by Chuck Sullivan and we sent the wrong plan.
- **Katherine Newman** said didn't the company send back plans and wasn't it noticed that the building looked different.
- **Colin Young** said he did not notice the dormers. We thought the two looked the same.
- **Jayne Leaf** said there were a lot of things wrong and there were a lot of mistakes from the architect. It was not intentional.
- **Colin Young** said it came to light when the modular company put it together such as the differences for commercial versus residential. We did tell them that the elevator could not exceed a certain height.
- **Phil Miller** said the building started as one footprint. The modification was only in plan view. It changed again when code was added for the elevators for code compliance. There was a lack of coordination and multiple designers exasperated the problem. He did not know what the previous plans were. It makes a mixed stew with the changes.
- **Linda Sibley** said the tangle of parties involved and the people looking at it were not familiar with what was approved.

There was a discussion about redoing the third floor.

- **Josh Goldstein** said the Readers Digest version is what would be involved to take it apart and redo the third floor.
- **Phil Miller** said it would be a complete remodel with taking apart the third floor and trying to preserve what is on the second floor. It would be more or less a third of the building being taken apart.
- **Josh Goldstein** asked if they would be able to get new modular panels.
- **Phil Miller** said what generates the energy benefit is that you have an envelope that makes it viable versus stick built. To take it apart and stick build you change the dynamic at that level.



**James Joyce** said aren't we here for a modification and can't we talk about that rather than talking about how to rebuild. **Fred Hancock** said we are getting information on what was done and what can be done. **Adam Turner** added that it is a Public Hearing so we are just getting the testimony.

There was a discussion about the plan that was sent to the modular company.

- **Ben Robinson** noted that it was stated that it was an accident that the plan was sent to the modular company for the third floor, but someone sent it. Do you like the third floor and how the plan turned out?
- **Colin Young** said they like this one better.
- **Ben Robinson** said then it might not have been an accident as somebody chose that plan to send to the modular company.
- **Colin Young** said the disconnect was that so much time passed we thought this was the right one.
- **Ben Robinson** asked if it was a conscious decision to choose that plan.
- **Colin Young** said we sent the plan thinking it was the correct one.

**Phil Miller** said what started driving the changes in the third floor was the elevator to comply with code. The regulatory board has to approve the modular construction and at the modular level a lot of it was driven by complying with the second and third floor. It is a different permitting process as well.

**Ben Robinson** asked if the changes were made before the plans were sent to the modular company. **Phil Miller** said that is correct to say.

#### **5.4 Public Testimony**

**Kelly Hess** is an Edgartown resident and lives an eighth of a mile away from the project and is a Wave Length customer. This building needs to be done. It is there and enough is enough. She doesn't know about plans but she drives past it at least 16 times a day. It needs to be done for the business, for the real estate and it is an eyesore as it is. It is a terrible misunderstanding of the plans. It is just time and it needs to be done.

**Stacy Wallace** has lived in Edgartown for 21 years. She has been a summer resident since 1965 and moved here 30 years ago. She goes to Wave Lengths and knows the owners to be honest and very professional people. She agrees with Kelly Hess that it was a terrible mistake. It was not done intentionally and Jayne has suffered with it. She volunteers on the Island and there is a housing crisis and Jayne has housing. She takes exception that the statement was made by the MVC staff that the building looks like a ferry that missed the dock. She would like us to come together as a community and show each other the respect we deserve.

**Fred Mascolo** is on the Edgartown Planning Board but he is here tonight as an Edgartown resident. This is a real pickle. He would not think in a million years that they did this on purpose. This is a real mess. They are local people trying to do better. He hopes the MVC finds a resolution so everyone is happy.

**Roy Riley** is a West Tisbury resident and he has spent his life as a licensed contractor. He showed the type of plan you receive from a modular company and it is not an architects plan. You cannot get a permit without everything being signed off. Leonard Jason could back me on that. The company is very reputable and the applicants are honest people. They admitted their mistakes. Let's not attack them. Let's move on.

**Phil Mercier** is an Edgartown resident. He has looked at the plans and the change was made. With the exception of the dormer the changes are at the back of the building and don't affect the front view and he supports the project.

**Barbara Daci** is a client of Wave Lengths and hopes that everyone comes to a conclusion and moves forward.

**Bob Sparks** is a member of the Planning Board and the only problem the Planning Board had was the increased mass. Our first public hearing was similar to tonight's meeting; how did this happen and pointing fingers. They admitted their mistakes. He appreciates where the MVC is at because that is where the Planning Board was. The applicant has gone a long way with the 12 of the 13 items on the list being done. So let's resolve this and move forward.



- **Josh Goldstein** said that maybe the Planning Board can help the MVC. The issue is with the precedent it can set. That a building can be built that does not comply with what was approved. What do we do?
- **Bob Sparks** said that is where the Planning Board was also. The applicant has been working with us for almost five years. There were sets of plans after plans. After we sat down and understood what happened it didn't seem fair to us to say take it down.
- **Josh Goldstein** said but what happens with regards to the precedent that is set.
- **Jayne Leaf** said she has paid dearly for this. She has invested her life savings into this and has worked hard to be able to do this.
- **Fred Mascolo** said the Planning Board sees it all the time with changes. The tough issue is this modification was a mistake. That is why we are where we are. The challenge for the MVC is can you forgive the mistake or not and live with the modification.
- **Josh Goldstein** said he is looking for what you do for the next project that uses this as a precedent.
- **Fred Mascolo** said if the circumstances are the same the MVC does what you will do here. If they are different then you take different action. It is a pickle.
- **Bob Sparks** said the Planning Board had soul searching as what we should have done to have prevented this. It is a learning experience for us and we are a lot more vigilant for looking at projects in town.
- **Linda Sibley** said the Planning Board was not aware it was going to be modular construction. The MVC looked at the architectural plans and approved those not knowing it couldn't be built.
- **Fred Hancock** said he has seen modular plans with that sense of complication.
- **James Vercruysse** said he did not think the MVC needed to be concerned about precedent. Everything before the MVC is unique and reviewed on those merits.
- **Trip Barnes** said this is a tough one. He knows this was not a situation that was planned this way especially knowing Jayne Leaf. He knows that being a week before Christmas he would not vote to tear it down.

**Janna O'Shaunessy** said she thinks this process started eight years ago. Since then the codes have changed including the elevator. NStar cut the beautiful tree down. There is also a utility pole smack in front. The front part of the property is not a straight line it has a dip. Jayne works seven days a week 24 hours a day and with the cease and desist order there is damage she has to fix. It is not her fault that the zoning has changed. Perhaps some landscaping and trees will help.

### **5.5 Applicants' Closing Statement**

**Jayne Leaf** said she didn't spend her life savings on the building for this to happen. It was not on purpose. It was just a mistake. She has tried everything to make it right.

**James Joyce** asked who owns the trees out front. **Jayne Leaf** said the town does.

**Fred Hancock**, Public Hearing Officer closed the Public Hearing.

**James Joyce moved and it was duly seconded to waive Post Public Hearing LUPC and go directly to Deliberation and Decision. Voice vote. In favor: 13. Opposed. 0. Abstentions: 0. The motion passed.**

### **5.6 Deliberation and Decision**

**Linda Sibley** said from what she has heard from the Edgartown Planning Board and the list of the 13 items are all done except the one that structurally is not realistic (number 11.) she suggests the modification is approved as presented with the stipulation to accept the conditions of the Edgartown Planning Board .

**Jayne Leaf** said the items have been agreed on except number 11.

**Linda Sibley moved and it was duly seconded to approve the changes as presented with the completion of the 12 conditions of the Edgartown Planning Board along with any other conditions from the Edgartown Planning Board and the existing MVC conditions.**



- **Fred Hancock** said his concern is the south side of the building and to reduce the massing on that side and remove the deck. The third floor massing is more massive than it was before.
- **James Joyce** understands Fred trying to put it back but he is okay with how it is now.
- **Ben Robinson** said he is not sure that the change is worthwhile and would change the mass.
- **Katherine Newman** said she would like to leave the changes to the Edgartown Planning Board.
- **Abe Seiman** said he does not see that the changes make that much of a visual difference but is concerned about the Edgartown Planning Board making changes.
- **Paul Foley** noted that the Planning Board can't add more but they can be more restrictive than the MVC.
- **James Joyce** said the MVC can't do anything about the trees out front and that is perhaps a concern.
- **Linda Sibley** clarified Paul Foley's comment about the building looking like a ferry hitting a dock and that it was about the building meeting the trees.
- **Paul Foley** added that he had said it was not the applicant's fault; it was an oversight by the MVC and Planning Board not noticing it on the plan.
- **Christina Brown** disagrees with the language of the motion that allows changes approved by the Edgartown Planning Board. It is leaving a wide door open and suggests the motion not include that.
- **Paul Foley** said the MVC original conditions still apply.
- **Linda Sibley** said the motion does include that language and as Paul Foley stated the Planning Board is more restrictive than the MVC.
- **James Vercruysse** said the Commission works hard to make these decisions and we hope the people abide by them. We take it seriously. We are not here to penalize anyone and hopes the builders and everyone also takes this seriously.

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

**Adam Turner** said that he sat in on the three Planning Board public hearings. Without the work of the Edgartown Planning Board we would not have been able to make a decision. They worked hard to get to the bottom of it.

**Linda Sibley** said she wished the other towns would follow suit with the Special Permit process.

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

## **6.0 PHILLIPS HARDWARE MIXED USE-OAK BLUFFS WRITTEN DECISION**

*Doug Sederholm rejoined the meeting and Leonard Jason excused himself from the meeting.*

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

**Doug Sederholm** suggested revising the language on line 188 to "...what the applicant prefers and the applicant is working...".

**Doug Sederholm** suggested on line 345 to delete "Mass" as it seems redundant.

**Fred Hancock moved and it was duly seconded to approve the Written Decision as corrected. Roll call vote. In favor: R. Doyle, J. Goldstein, F. Hancock, K. Newman, D. Sederholm, L. Sibley, R. Thomas, J. Vercruysse. Opposed: none. Abstentions: None. The motion passed.**

## 7.0 OAK BLUFFS WATER DISTRICT SOLAR PANELS-OAK BLUFFS DRI 660 WRITTEN DECISION

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

**Christina Brown** felt that the Written Decision should address throughout that the Public Hearing continued without taking testimony at the applicant's request.

There was a discussion about section 3.3.1 Findings, Project Description lines 274 to 276.

- **Linda Sibley** said for the second bullet point the problem is there was a total removal of vegetation in one part and a cropping in another.
- **Christina Brown** said it was clearly defined by the applicant.
- **Paul Foley** said the applicant was incorrect and he submitted the correct information for the Public Record.
- **Doug Sederholm** said the question is what was in the Public Record.
- **Paul Foley** said that both plans are in the record and on the website. The Applicants plan does not include large areas that need to be cut, cleared and graded outside the fenced in areas. The staff slide show clearly proves that the area to be cleared and graded is significantly larger than the 5.77 acres that the applicant claims.
- **James Vercruysse** asked shouldn't our decision be in coordination with their proposal?
- **Linda Sibley** asked if the total number of acres being cut is 10.37.
- **Paul Foley** said the total area of cutting is 10.37 acres and the area being cleared and graded is significantly more than 5.77 acres. It's closer to 8 acres being cleared and graded.
- **Doug Sederholm** suggested using the word "cutting" 10.37 acres rather than "clearing".

**Linda Sibley** suggested on line 277 to change the word "cleared" to "cut".

**Fred Hancock** suggested on line 279 to change the word "cleared" to "altered".

**Fred Hancock** asked if line 314 is relevant to this decision and does it muddy the waters. **Paul Foley** said it was in the Staff Report. **Doug Sederholm** said there is no relevance and suggested striking lines 314 and 315.

**Doug Sederholm** suggested revising the language on line 351 to "...soils are disturbed and trees are removed."

**Doug Sederholm** and **Linda Sibley** suggested adding language on line 353 to "...removal of the trees would decrease...".

**Doug Sederholm** suggested revising the language on line 364 to "The applicant offered" rather than "There was also".

**Doug Sederholm** suggested adding language on line 368 "... testimony by Mr. Boland and others...".

- **Linda Sibley** noted that David Forester is a world famous expert and should be added.
- **Katherine Newman** said she did not remember him as part of the testimony.

**Doug Sederholm** suggested striking the language "of which the trees are just a part" on line 372.

**Doug Sederholm** said the Written Decision should add a note that Article 97 was raised and there was conflicting testimony whether Article 97 was applicable to the project site and referral on Chapter 831. The Commission did not resolve that conflict.

**Doug Sederholm** suggested that lines 396 to 399 should be moved to the end of line 389 and the language should be revised "... would have neutral impact on residential abutters."

**Bill Veno** and **Doug Sederholm** suggested striking the words "very small" on line 401.

**Doug Sederholm** suggested striking the language on lines 412 and 413 "would provide increased efficiency in terms of power and other utilities and" and to revise line 413 to "...electric utility...".



Doug Sederholm suggested on line 501 to delete "Mass" as it seems redundant.

***Doug Sederholm moved and it was duly seconded to approve the Written Decision with the corrections as agreed.***

- Linda Sibley said we are voting on if this is an accurate reflection of our decision.
- Fred Hancock said it shows who voted for it.

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

## **8.0 NEW BUSINESS**

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

### **8.1 Reports from Chairman, Committees and /or Staff**

James Vercruysse noted that Santander Bank historic roof is still ongoing. Paul Foley said that Sean Murphy sent an update to him that Jay Grande is still working with the bank on the issue.

#### Vote on 2017 Officers

James Vercruysse opened to receive nominations from the floor.

Fred Hancock said the Nominating Committee nominated James Vercruysse as Chairman, Robert Doyle as Vice Chairman and Ernie Thomas as Clerk/Treasurer.

***James Joyce moved and it was duly seconded to approve the nominations. Voice vote. In favor: 13. Opposed: 0. Abstentions: 1. The motion passed.***

Fred Hancock noted that John Breckenridge has withdrawn his name from Oak Bluffs to be appointed as a Commissioner. He has been a Commissioner for 12 years and has worked very hard as the Clerk/Treasurer. He was responsible for getting me on the Commission. I also thank the staff for their hard work over this past month and that was very important to be able to get this work out on a timely manner and to get it out by the end of the year and he knows that was also appreciated by the applicants.

Doug Sederholm said that no one who has served for 12 years on the Commission ever worked so hard to prepare himself as John Breckenridge. He personally appreciated that and John had an unenviable task as Treasurer.

Doug Sederholm reminded all members that they need to be sworn in for the New Year.

### **8.2 Executive Director's Report**

Adam Turner said the Joint Transportation Committee will meet to amend the Transportation Improvement Plan. They will be working with MassDOT on the \$547,000 project for the bike paths and repaving in the State Forest.

Governor Baker cut the Tourist Fund in the State Budget and we lost \$350,000. Tourism was the only public funds the Chamber of Commerce received for marketing and that also returned funds to the State Budget.

Ann Crook will be doing an Airport Master Plan presentation.

He wishes everyone a Merry Christmas, Happy Holidays and a Happy Chanukah and thanked the Commission for their time and hard work.

## 9.0 MINUTES

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

**Doug Sederholm moved and it was duly seconded to approve the Minutes of October 20, 2016 as written. Voice vote. In favor: 12 . Opposed : 0. Abstentions: 1. The motion passed.**

**Doug Sederholm moved and it was duly seconded to approve the Minutes of November 3, 2016 as written. Voice vote. In favor: 13 . Opposed : 0. Abstentions: 1. The motion passed.**

The meeting was adjourned at 9:40 p.m.

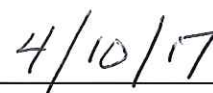
### DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on October 20, 2016
- Minutes of the Commission Meeting – Draft, Held on November 3, 2016
- Martha's Vineyard Commission Land Use Planning Committee Notes of the Meeting of December 12, 2016
- Written Offers, Sydney Hotel, Dated December 8, 2016 as submitted by Sean Murphy
- Notes of DRI 670 Lampost Conversion Post Public Hearing Review December 12, 2016
- DRI 670 Lampost Offers, December 8, 2016
- Lampost Apartments Sketch Dated 10-07-16 from Maurice O'Connor Architect
- Site Plan for Vineyard Decorators, Inc., November 29, 2016
- Martha's Vineyard Commission DRI # 623-M3 Wavelengths Modifications MVC Staff Report – 2016-12-15
- Town of Edgartown The Planning Board, List of Planning Board Request for Special Permit Application, September 15, 2016, Wave Lengths/Jayne Leaf
- Applicant Explanation, Wave Lengths from Colin Jones, Dated December 1, 2016
- Edgartown Planning Board 2016 Minutes for the three Public Hearing for Wave Lengths
- The Edgartown Planning Board Referral Letter, Dated October 24, 2016, RE Wave Lengths MVC DRI # 623
- Wave Lengths 2016 Timeline
- Correspondence received by the MVC for Wave Lengths from Jay Harper, Bernhardt Ochse, Michael Emig, Peter Sullo, Robin Sherman-Harper, Jackie Stallings
- Elevations for Wave Lengths, Dated 2/18/16 and 4/5/16
- Decision of the Martha's Vineyard Commission DRI 663 – Phillips Hardware Mixed Use
- Decision of the Martha's Vineyard Commission DRI 660 – Oak Bluffs Water District Solar Farm

  
Chairman

  
Date

  
Clerk-Treasurer

  
Date