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**Minutes of the Commission Meeting
Held on July 13, 2006
In the Stone Building
33 New York Avenue, Oak Bluffs, MA**

IN ATTENDANCE

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

- | | |
|-----------------------------------------|---------------------------------------|
| P James Athearn (E – Edgartown) | - Ned Orleans (A – Tisbury) |
| P John Best (E – Tisbury) | P Megan Ottens-Sargent (E – Aquinnah) |
| P John Breckenridge (A – Oak Bluffs) | P Deborah Pigeon (E – Oak Bluffs) |
| P Christina Brown (E - Edgartown) | P Jim Powell (A – West Tisbury) |
| P Carlene Condon (A – Edgartown) | - Doug Sederholm (E – Chilmark) |
| - Martin Crane (A – Governor Appointee) | P Linda Sibley (E – West Tisbury) |
| P Mimi Davisson (E – Oak Bluffs) | P Paul Strauss (County Comm. Rep.) |
| - Chris Murphy (A – Chilmark) | - Andrew Woodruff (E – West Tisbury) |
| - Katherine Newman (A – Aquinnah) | |

Staff: Mark London (Executive Director), Christine Flynn (Affordable Housing & Economic Planner), Bill Wilcox (Water Resources Planner), Paul Foley (DRI Coordinator)

1. FAIRWINDS: DRI – REQUEST FOR MODIFICATION

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, M. Ottens-Sargent, D. Pigeon, J. Powell, L. Sibley, P. Strauss

For the Applicant: Tom Richardson, managing partner

Tom Richardson explained the modification:

- The Zoning Board of Appeals process approved the plan for basements to be finished as a second family living space, but not bedrooms, except for the 3- bedroom and 4- bedroom lots which could use the finished basement as one of the permitted bedrooms. The houses were originally approved for a specific number of bedrooms and this will not change
- In an effort to control density and wastewater, the condition was added that finished basements may not be rented.
- If a homeowner wants to finish a basement, he/she will need to get a permit from the building inspector.
- The ZBA asked Fairwinds to return to the Commission for an approval on the change of conditions.

Linda Sibley said the Commission must have had a number of bedrooms in mind when it approved the project. Commissioners discussed what defines a finished basement.

23 **Tom Richardson** said the purpose of the modification is to allow residents to apply to finish
 24 their basements. If the room looks like it will be a bedroom, the building permit won't be granted.

25 **Bill Wilcox** explained that in the original decision wastewater calculations were based on
 26 population and the proposal will not change the nitrogen numbers.

27 **Megan Ottens-Sargent** said that if the number of bedrooms won't change, the traffic and
 28 wastewater wouldn't change.

29 **Tom Richardson** said the ZBA approved basements for walk outs in 8 of the 12 units resulting
 30 in an assumption by owners that basements could be finished.

31 **Carlene Condon** said that it seems up to the ZBA and the building inspector to determine
 32 whether a basement is a bedroom.

33 **Linda Sibley** asked whether the project was in compliance with the original conditions.

34 **Lisa Strachan** said there is a list of issues related to compliance with the original conditions.

35 **Linda Sibley** explained that Linda Corran's letter asks a number of questions related to the
 36 project and who will enforce the conditions. Her letter encourages the Commission to have a
 37 public hearing and ask that the developers adhere to the conditions. Linda Sibley said that
 38 compliance with original conditions is a separate issue. The issue before the Commission tonight
 39 is only the modification.

40 **James Athearn** suggested that because interested parties are present, it may be worth
 41 discussing now. **Tom Richardson** agreed.

42 **Lisa Strachan** said she would like to have the abutters and homeowners present when the
 43 issues are discussed.

44 **Tom Richardson** said the issues come down to the road and landscaping.

- 45 • The Commission conditioned an unpaved rap road. The developer added speed bumps
- 46 to control speed and dust. Construction is coming to an end so wear on the road should
- 47 decrease.
- 48 • Leeching basins weren't a conditions but the developer added leeching basins and will
- 49 add swales to create a natural drain into low spots to improve drainage.
- 50 • Homeowners Association documents have been submitted
- 51 • The Homeowners Association is maintaining landscaping. A deed restriction requires
- 52 each lot owner has to maintain the health of the trees. The developer has spent over
- 53 \$103,000 on over 200 trees of different varieties. He has had an arborist help with tree
- 54 selection. He's comfortable that they've met all the landscaping requirements.
- 55 • The developer never marketed that basements could be finished; however when the
- 56 planning board approved walkout basements it was assumed that basements would be
- 57 finished.

58 **Bill Wilcox** said there were no stormwater conditions in the original decision. The road was to
 59 be rap surfaced with swales reinforced with stones and filter fabric at the two low spots on the
 60 road. The developer put in three leeching basins instead of swales. He has concerns about
 61 maintenance of the leaching basins because sedimentation may be excessive requiring frequent
 62 clean outs.

63 **Tom Richardson**, responding to comments and questions, said:

- 64 • The leaching basins are scheduled to be cleaned when the town cleans out the Town
- 65 basins. He indicated that the basin would continue to be cleaned out as needed.
- 66 • The Zoning Board of Appeals approved the full shed dormers in a modification but didn't
- 67 send the project back to the Commission.
- 68 • They have adhered to the landscaping conditions.
- 69 • The road will more than meet conditions when the five swales are put in.

70 **Lisa Strachan** said there was to be a mix of 4 types of homes, as approved by the Commission
71 and the ZBA. However, the development is made up of 12 identical homes, which is
72 unprecedented in a Vineyard development. She raised the issue when the buildings were first
73 being built. She asked why there wasn't oversight. She wants a public hearing on the proposed
74 modifications because the abutters have concerns, including that the houses are three stories
75 above abutters' homes.

76 **Tom Richardson** said the original application showed that many of the houses were three
77 stories high on the backs. Buyers were offered the choice of four housing types. One owner
78 modified his plan for a full shed dormer and all the other owners chose the same design. The
79 affordable houses are not supposed to look significantly different from market rate homes.

80 **Linda Sibley** said the Commission frequently learns that the built houses look nothing like the
81 drawings. The fact that the Zoning Board of Appeals didn't send this back to the Commission
82 doesn't mean that the developer shouldn't have come. She added that Commissioners are
83 constantly learning that they should have been more specific and that is reflected in some of the
84 recent decisions. The houses she viewed on her recent site visit are not what she expected to see
85 based on the original drawings.

86 **Linda Sibley** asked whether Paul Foley had looked at the landscaping plans. **Paul Foley** said
87 it looks like someone has planted and done some damage to trees in the no-cut zone between the
88 houses and neighbors. Any trees in the no-cut zone should have been saved. **Tom Richardson**
89 said they replaced a number of trees.

90
91 **Linda Sibley** said there is some damage to trees and suggested that Paul Foley and an arborist
92 check out the trees. **Linda Strachan** said that six or seven trees are almost dead. **Tom**
93 **Richardson** said they'll be replaced.

94
95 **Jim Athearn** said that the enforcement of conditions has been a puzzle all along. **Linda**
96 **Sibley** said the building inspector is doing the enforcement every day. **Tom Richardson** said
97 that the developer is working closely with Ken Barwick, Tisbury Building Inspector.

98 **Laurel Chapman**, an abutter, asked approximately how many people have come to look at the
99 project. She requested that anyone who hasn't been by, to please do so.

100 **Mimi Davisson moved and it was duly seconded that the modification approved**
101 **by the Tisbury Board of Appeals described in the June 22 2006 document titled**
102 **'Modification' is not a sufficiently substantive change to require a new public**
103 **hearing. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0.**
104 **The motion passed.**

Paul Strauss moved and it was duly seconded to accept the modifications of the Tisbury Planning Board of June 22, 2006 as being compatible with the original conditions of the project. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Christina Brown moved and it was duly seconded that the Commission schedule a discussion of the project and how it worked in relation to what was expected.

- **John Breckenridge** wondered why the Zoning Board of Appeals would send the project back to the Commission.
- **Mimi Davisson** said there are things to be learned from a post project review and she would like to make a discussion a priority.
- **Tom Richardson** encouraged discussion of the project. If you want to learn how to smooth through a 40B process that would be an excellent idea.
- **Linda Sibley** pointed out that the neighbors need an opportunity to express their concerns, and the Commissioners need an opportunity to discuss the project. She suggested that a discussion not be held as a public hearing but as an organized public discussion.
- **Paul Strauss** said it's a good idea to incorporate a post-project review into the approval process. He suggested that the Commission should not be being perceived as limiting discussion and adhering to a too narrow agenda.

A voice vote was taken. In favor: 11. Opposed: None. Abstentions: None. The motion passed.

2. WOODLAND CENTER: DRI - PUBLIC HEARING (CONTINUED)

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, M. Ottens-Sargent, D. Pigeon, J. Powell, L. Sibley, P. Strauss

For the Applicant: Sam Dunn, applicant; Doug Hoehn

Christina Brown reopened the public hearing on the second phase of Woodland, a new building behind the present Woodland Center.

Sam Dunn listed the issues that were left open for discussion: traffic, wastewater, stormwater, and landscaping.

2.1 High Traffic Generating Uses

Sam Dunn submitted a letter with a list of high traffic-generating uses and is offering that if one of those businesses were to want occupancy in Woodland II, he would come back to the Commission for review based on traffic. His list includes fast food store, hardware store, convenience store (but not a specialty food store), bank branch, auto parts store, video store, moped store. He agreed to add supermarket, gas station, lumberyard and garden center.

Sam Dunn said he did not want to make it impossible for someone to put a butcher shop or a specialty Brazilian store.

Linda Sibley said there isn't any information about how much traffic is generated by a specialty food store. Grocery stores on Martha's Vineyard generate a lot more traffic than the ITE numbers.

145 It may be a great location for a butcher shop or specialty Brazilian store, but it needs to be
146 reviewed in terms of traffic.

147 **Megan Ottens-Sargent** asked if there were a limitation on the type of business in Woodland
148 I. **Christina Brown** said Sam Dunn testified that the greenhouse replacement building was for
149 retail or office space.

150 **Mark London** discussed high traffic-generating uses.

- 151 • A list of high generating uses is an appendix to the DRI checklist.
- 152 • Srinivas Sattoor has reviewed ITE traffic counts for the high generating use list and the
153 range of traffic numbers is enormous.
- 154 • The natural cut-off is between 120 and 200 trips per day per 1000 square feet.
- 155 • Martha's Vineyard trip generation rates for supermarkets are double that of ITE trip
156 generation rates; Srinivas Sattoor is examining whether the trip generation rates of all
157 businesses on the list are double that of ITE rates.

158 **Mimi Davisson** asked how many units would be in the building and asked whether Sam Dunn
159 would consider restricting them to a particular size. **Sam Dunn** said he could, but he'd rather
160 not.

161 **John Best** noted that it wouldn't take much for a specialty market to transition into something like
162 a Cumberland Farms.

163 **John Breckenridge** said the distinction is related to food preparation on premise related to
164 traffic and wastewater. He suggested adding "specialty food store excluding value added food
165 preparation".

166 **Linda Sibley** suggested that the Commission ask for a report from Srinivas Sattoor.

- 167 • The conditions for traffic related to supermarkets and convenience stores are different from
168 the mainland.
- 169 • She is not necessarily opposed to a specialty food store; the issue is whether to allow it in
170 this approval.

171 Commissioners and Sam Dunn discussed whether 'restaurant' should be on the list of businesses
172 requiring additional review.

- 173 • **Sam Dunn** said the building doesn't have wastewater capacity for a restaurant.
- 174 • **Mark London** said there could be a sewer sometime in the future, so this should be
175 clarified.
- 176 • **Mimi Davisson** said it should be a condition that there be no restaurants in Woodland
177 II.
- 178 • **Doug Hoehn** said without town sewer there couldn't be a facility approaching
179 restaurant or food preparation.
- 180 • **Paul Strauss** said food preparation can be a slippery slope; is making coffee food
181 preparation?

182 **Paul Foley** reported that Sam Dunn testified during Woodland I that he was aware that locating
183 a high traffic generating business in the greenhouse would require further review by the
184 Commission.

- **Sam Dunn** said he can't imagine that he offered that in that way because the list says general retail which covers everything and would include an apparel store.
- **Christina Brown** said they would look into whether there is a limitation on Woodlands decision from 1976 or in the greenhouse decision.
- **Sam Dunn** remembers the discussion, but he said there's little comfort to the applicant in the process of how the list gets to a developer/owner. In Woodland I, if the physical structure already accommodates a business, the list wouldn't apply. If a building permit were required, the list would. In Woodlands II, he developed the list for review.

2.2 Energy

John Best raised the energy policy. **Sam Dunn** said he reviewed the energy policy and found that it wasn't helpful in developing specifics. For the project, he will be using insulating glass, R 33 in the roof, and R 13 in the wall, as required by code. Given that they are commercial building they will be closed at night. The intent is to build a tight modern building.

2.3 Wastewater

Sam Dunn said Bill Wilcox's numbers in the Tashmoo Watershed are slightly different from what they were allowed. He made the argument that because nitrogen in the first phase was massively reduced, a slight increase in the numbers for Phase II should be allowed.

Doug Hoehn explained that a Waterloo advanced treatment system is being used.

- The lot is in Zone II, a nitrogen sensitive area which allows 110 gallons per 10,000 square feet of land area, which can be increased if advanced treatment is provided.
- The project is approved for 75 gallons per 1000 square feet based on the lot size with the advanced treatment system.
- If retail space, the amount generated would be 50 gallons per 1000 square feet.

Sam Dunn said the Commission is looking at both phases together when it comes to reducing stormwater, it would make sense to look at the nitrogen reduction for both phases as well, i.e. crediting the phase 1 nitrogen reduction when considering phase II.

Bill Wilcox said nitrogen reduction for the first phase is at least 14 kgs per year over what was in place before the upgrade.

- The nitrogen number for all office space, including stormwater, is about 1.2 kilograms greater than what would be allowed in the Tashmoo Watershed. If the uses were 2 offices and 1 retail unit, the load would be 0.1 kilograms over the Tashmoo load limit.
- If you look at both properties, the net reduction is probably in excess of 13 kgs per year whether only 2 of the 3 spaces are offices or all 3 are offices.

2.4 Stormwater

Jim Athearn asked whether the stormwater contribution would be the same whether buildings were there or not. **Bill Wilcox** said the more impervious surface you have, the more stormwater you generate.

Doug Hoehn said:

- They did the best they could to handle the run-off from Woodland I.
- All the run-off from Woodland II will be taken care of by subsurface drainage basins.

- They will provide a channel drain for runoff collection from Woodland I with four leaching basins. The system can handle 1.5 inch of rain per 24 hours. The concept can handle about 80% of the rainfalls that take place.

Sam Dunn said this would capture the majority of particulate matter that they're trying to capture.

Bill Wilcox added that 1.5-inch rainfall represents about 40% of the rainfall that would fall in 24 hour in a 2-year return storm. The Zone II regulations encourage minimizing the impervious area.

Megan Ottens-Sargent asked whether there is technology to capture oil drips and chemicals from impervious surface.

Bill Wilcox explained that there are biological treatment systems but that the site is too small to accommodate a large bio-retention system. There are filters that pick up oil.

Doug Hoehn said there are filters for catch basins but they are using a channel drain, which doesn't have a filter application.

Megan Ottens-Sargent asked if a bio-retention system could be placed on the N-Star easement. **Doug Hoehn** responded that it would block the 30-foot way.

Megan Ottens-Sargent said she's suggesting a solution to the greater problem for removing chemicals from run-off beyond Mr. Dunn's property.

Sam Dunn said the run-off is really a global problem beyond his property.

Paul Strauss said they should require a filtration system that would remove petroleum-based products from this site. He believes that any commercial project should have that requirement. He suggested that Bill Wilcox and Doug Hoehn should find a solution.

2.5 Ownership

Linda Sibley, referencing the lot map, asked for clarification of ownership issues.

Doug Hoehn outlined the Woodland properties:

- There is land owned by Vineyard Auto and land possibly owned by Hinckleys where trucks are stored.
- The land is on the dividing line of commercial and residential.
- N-Star has an easement but doesn't own land.

Linda Sibley asked that the zoning be clarified for the record

Sam Dunn said people in back do not have an easement and won't be getting one. They use Lantern Lane. Vineyard Auto Supply and the former hair salon do have an easement.

Mimi Davisson spoke about the town's possible plan for a connector road and recalled that the applicant had said he was willing to give a dormant easement through the two properties.

Jim Powell said that a connector road between the Cotrell Building and heading toward Merchants Mart would be useful. It looks like it is a possibility with consent of all the interested bodies. Mr. Dunn had said he could place a dormant easement on part of the property.

2.6 Landscaping

Sam Dunn said the landscaping plan is similar to Phase 1 with clematis and roses.

- They will look into which existing trees they can keep.
- He hopes the final plan can be approved at an LUPC meeting.

Linda Sibley encouraged the applicant to plant trees that will provide substantially more shade than honey locusts ever could.

2.6 Other

Mark London noted that the energy policy is still very general and that specifics are to be developed.

Christina Brown said that the applicant had said that outdoor lighting will be similar to Woodland I which will be reviewed by LUPC.

John Breckenridge asked about a stockade fence around the dumpsters. **Sam Dunn** said he could fence or plant around it.

Mimi Davisson raised the question of dormers. **Sam Dunn** said the dormers would match the rest of the architecture.


Christina Brown closed the public hearing.


3. OTHER


Megan Ottens-Sargent asked about the meeting with counsel. **Linda Sibley** said the executive session minutes would be released when the issues are no longer pertinent.

The meeting adjourned at 9:45 p.m.


Chairman


Date


Clerk-Treasurer


Date