Minutes of the Commission Meeting
Held on November 1, 2012
In the Stone Building
33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners:  (P = Present; A = Appointed; E = Elected)
P  John Breckenridge (E-Oak Bluffs)   P  Chris Murphy (E-Chilmark)
-  Christina Brown (E-Edgartown)   P  Katherine Newman (E-Aquinnah)
P  Peter Cabana (E-Tisbury)    P  Ned Orleans (A-Tisbury)
-   Tim Carroll (A-Chilmark)    P  Camille Rose (A-Aquinnah)
-  Martin Crane (A-Governor)    P  Doug Sederholm (E-Chilmark)
P  Erik Hammarlund (E-West Tisbury)    P  Linda Sibley (E-West Tisbury)
P  Fred Hancock (A-Oak Bluffs)    P  Brian Smith (A-West Tisbury)
P  Leonard Jason (A-County)    -   Holly Stephenson (E-Tisbury)
P  James Joyce (A-Edgartown)

Staff:  Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Sheri Caseau (Water Resources Planner)

Chairman Chris Murphy called the meeting to order at 7:00 p.m.

1.  MINUTES


Fred Hancock moved and it was duly seconded to approve the minutes with corrections as noted on lines 104, line 300 and line 146 of October 18, 2012. In Favor: 9. Opposed: 0. Abstentions: 3. The motion passed.

Linda Sibley excused herself from the meeting.

2.  EDGARTOWN NATIONAL BANK (OYSTER BAR) RENOVATION – OAK BLUFFS
   (CR 6-2012) – CONCURRENCE REVIEW


For the Applicant:  Gregory Berks (Vice president/Chief Operating Officer Edgartown National Bank)

2.1 Staff Report

Paul Foley presented the following:
The proposal is to restore, repair and renovate the existing building.
They will have a new HVAC system.
The building will be in compliance with the setbacks.
The bank will relocate to this location and will occupy 51% of the building.
49% of the building may be leased as retail or office space.
There will be no bar or nightclub but there may be a restaurant.
Any liquor that is served on the leased premises will be ancillary to a full restaurant menu.
With the proposed DRI Checklist this would not be a mandatory referral as it is a “walk-in” bank, but it is with the current checklist which requires referral as a very high traffic generating use, since it doesn’t differentiate between drive-in and walk-in banks.

2.2 Applicant’s Presentation

Gregory Banks added that there would be no excavation for the basement. They will renovate the existing structure. There will be a central foyer to access both spaces. There would not be any nightclub with loud noises which would disturb the abutters.

2.3 Land Use Planning Committee (LUPC) Report

Doug Sederholm, LUPC Chairman, said that LUPC voted unanimously to recommend to the full Commission to not concur with this referral. Thetraffic review showed that there is no significant impact.

Mark London added that the trip generation for before and after is the same with12 trips/hour, so there is little impact.

Fred Hancock moved and it was duly seconded that the proposal as presented with the offers made, which specifically state that they are part of the project that the Bank will build, including the use, does not rise to the level of a public hearing and is not a DRI. Voice vote. In favor: 11. Opposed 0. Abstentions: 0. The motion passed.

Eric Hammarlund joined the meeting and Linda Sibley re-joined the meeting.

3. BLACK DOG TAVERN OUTDOOR SEATING – TISBURY (CR 5-2012) – CONCURRENCE REVIEW


For the Applicant: David Montambeault (Agent), Elise Elliston (Architect)

3.1 Staff Report

Paul Foley presented the following.
• The Applicant is the Black Dog Tavern Co., Inc.
• The proposal is to construct a timber framed roof over the garden (7 seasonal tables with 27 seats) to an existing 90-seat restaurant as well as renovating the refrigeration and sanitation.
• Local permits that are required; Building Permit, Board of Health for seating capacity, etc., Conservation Commission, Planning Board for a Special Permit, Wastewater Commission, Site Plan Review Board for aesthetics.
• LUPC voted on October 22, 2012, 4-3 to recommend to the full Commission that this requires a public hearing as a DRI.
• Key issues are if the addition of 7 seasonal outdoor tables to an existing 90 seat restaurant will increase traffic or parking to such an extent as to become a regional concern.
• Correspondence has been received from the Tisbury Site Plan Review Board. They submitted their minutes of October 24, 2012 and a letter stating that the project would not create any significant additional auto traffic and could be an asset to the Waterfront Commercial District.
• The site plan was reviewed.

3.2 Applicant’s Presentation

David Montambeault presented the following.
• They have gone before several review boards and the Board of Health and have been approved for the 27 seats.
• One concern is the parking and the increase in traffic. Based on the recommendations of the MVC Staff, they created additional parking in the rear for six new spaces and will have VTA passes for managers. They increased the number of bicycle racks and will improve the moped area. The senior executive associates will have leased parking spaces offsite.
• They expect this to be overflow seating and to offer service to the patrons rather than waiting. This is expected to be overflow and not a destination.

Elise Elliston presented the following.
• She showed models of the structure and explained the proposal.
• The former leaching field will be used and the plants will stay planted at the perimeter.
• There is a pedestrian corridor.
• The refrigeration units are now made similar to a garage so that they can be rented and maintenance will be more affordable.
• She observed that this is a perfect situation where you have an employee workforce that does not drive and one or two managers come from off island. All of these associates do not need a parking space.
• This design will afford a good way for people to wait for the boat as well as service at the restaurant during the summer.
• The dumpster will be relocated.

Mark London noted that after the LUPC meeting, staff estimated the traffic increase at Five Corners which came out to 4 trips/hour.

3.3 Land Use Planning Committee Report

Doug Sederholm, LUPC Chairman said LUPC voted a 3-3 tie to concur and have a public hearing. Linda Sibley made the motion, as she was concerned about the very public location and being viewed from other areas. He broke the tie to have a public hearing based on these
comments from Linda. LUPC didn’t have the letter from the Site Review Board or the staff’s traffic estimate at the time.

3.4 Commissioners’ Discussion

Tony Peak, from the Tisbury Planning Board, said that the Waterfront Commercial District has very limited uses by right. Because of the setbacks from the high water mark, a special permit is needed in this case.

Linda Sibley said that she had satisfied her concern by visiting the neighborhood and hearing that the Town has a special permit process.

Eric Hammarlund said you can’t see it from the water so it won’t affect the harbor view.

James Joyce thought this is a good idea and is more concerned with the bathroom issues rather than the parking. David Montambeault noted that they have not had to answer that question yet but they do have a contingency plan to add more bathroom facilities. Tony Peak said that Board of Health could address that issue.

Doug Sederholm moved and it was duly seconded that the Commission not concur with the referral since the proposal does not have a regional impact and can be dealt with by the local boards. Voice vote. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

4. SITE DESIGN AND LANDSCAPE DRI POLICY – CONTINUED PUBLIC HEARING


Doug Sederholm, Public Hearing Officer, opened the Public Hearing at 7:35 p.m.

There was no public comment.

Linda Sibley noted that the consensus of the sub-committee was that there were no substantive changes needed and they are working on final wording.

Doug Sederholm, Public Hearing Officer, closed the Public Hearing at 7:40 p.m. and scheduled Deliberation and Decision for November 8, 2012 [subsequently postponed to November 15, 2012]

5. SEPIESSA AFFORDABLE HOUSING EXPANSION – WEST TISBURY (DRI 340-M) DELIBERATION & DECISION


5.1 Land Use Planning Committee Report

Doug Sederholm presented the following:

- LUPC held a post public hearing review at 6:00 p.m. on November 1, 2012.
• The offers were reviewed and LUPC clarified the landscaping and screening offer. The Applicant will work with staff to finalize that and will come back for approval prior to obtaining a certificate of occupancy.
• The screening plan shows the location of the native trees (American Holly or Eastern Arborvitae) and shrubs (Arrowwood Viburnum) to screen the driveway and parking area from abutting properties to the north and native shrubs in front of the new building (Inkberry).
• LUPC voted unanimously to recommend that the Commission accept the offers and approve the application.

5.2 Benefits and Detriments

Doug Sederholm said that LUPC briefly discussed the benefits and detriments and concluded that the benefits overwhelmingly outweigh the detriments.
• They are cutting the nitrogen contribution in half.
• They are providing affordable housing for 80% or less of the median income, which is desperately needed on the Island,
• There is a small impact on abutters due to the increase in size of the project.

Brian Smith said there will be an increase in traffic.

Linda Sibley noted that the landscape plan will mitigate the impact on the abutters.

Doug Sederholm moved and it was duly seconded to approve the proposal, accepting all offers as discussed, and with the proviso that the landscape plan come back to LUPC for approval. Roll call vote. In favor: J. Breckenridge, P. Cabana, F. Hancock, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: none. Abstentions: none. The motion passed.

6. ALLEN FARM ESTATE PLAN – CHILMARK (DRI 121-M) MODIFICATION REVIEW


For the Applicant: Clarissa Allen, Mitch Posin, Reid Silva (Agent)

6.1 Staff Report

Paul Foley presented the following.
• The project location is 421 South Road, Chilmark Map 25 Lot 21 (50.2 acres).
• It is a Form B Preliminary Subdivision of 50.2 acres into four lots.
• In 1980 DRI 121 was approved to divide 116.5 acres into 12 lots. Of the 116.5 acres 77.5 were on the north side of South Road comprising eight of the twelve buildable lots plus two open space lots. Somewhere along the line in the ensuing years one more three acre lot (Map 25 Lot 20-11) was carved off of Map 25 Lot 20-1 (Lot 5).
• The Allen Farm created two affordable lots in 1980 though not required by the MVC. Most of the property on the south side of South Road is permanent open space.
• A Form B preliminary Subdivision of 50.2 acres into four lots is the proposal. One of the four lots would be the already developed home site lot of 16.5 acres. The other lots would
be 12.8 acres, 11.4 acres and 9.5 acres. The plan also includes a proposed access road (0.7 acres).

- Key issues include:
  - The property is located in the Chilmark Pond watershed, a compromised watershed, with a nitrogen load limit of 0.2 kilograms per acre per year. The total load limit for the 9.5 acre parcel would be 1.9 kg/yr; the total load limit for the 12.8 acre parcel would be 2.56 kg/yr; the total load limit for the 11.4 acre parcel would be 2.28 kg/yr.
  - One additional 3 acre parcel, Lot 13, was carved off on the north side of South Road (the South Mountain lot) since the 1980 MVC DRI Review.

- Vegetation is farm, pasture and woods.
- The habitat site is not mapped as a National Heritage Endangered Species Program (NHESP) habitat.
- Much of the original subdivision is protected and/or still farmed.
- There is a wind turbine on the farm providing energy.
- The Applicant said at LUPC that all of their buildings have composting toilets and that they would commit to composting toilets on the new lots.
- The need for a traffic summary was waived.
- Since they volunteered two lots at the time of the original subdivision in 1980 (of the 12 lots) they met the policy for affordable housing. The lots were not in perpetuity but that was not the norm at the time. The current proposal brings the total number of developed or developable lots to 14 which would not trigger the MVC Affordable Housing Policy.
- Scenic values; streetscape, building massing and architectural detailing are not applicable since buildings are not planned at this time.
- Some curious abutters have come in to see the plan.
- We have received a letter from Mr. & Mrs. Maloney in support of the project.

**John Breckenridge** questioned the most recent lots on the north side of the road. There was open space that was changed and it appears that an additional residential lot was created that wasn’t approved by the Commission.

**Paul Foley** said he has tried to clarify the situation. This is what has been there for 27 years. The open space is the same as it was, just reconfigured. He has not found evidence in the MVC files that the Commission approved the additional lot 13. The Chilmark Planning Board scanned its files and he has not looked at the plans yet.

### 6.2 Commissioners’ Discussion

**Clarissa Allen** introduced Rob Kendall who did the original planning in 1980 and noted that he will be available to answer any questions.

**Chris Murphy** noted that the first question to be addressed is if this modification requires a full hearing. If it does require a public hearing, that has been posted and the Commission can move into that tonight.

**Reid Silva** said that the Form B is non-binding. A lot of the information is very preliminary. More planning would be done when there is a Form C, and questions from the community and the abutters could be addressed at that time.
There was a discussion of the best procedure for dealing with a Form B subdivision.

- **Linda Sibley** asked whether, if the Commission approved the Form B, would the Form C have to come back to the Commission?
- **Chris Murphy** noted that the Commission does not have a procedure for dealing with a Form B. If the Form B were approved, the Form C would not automatically have to come back to the MVC.
- **Linda Sibley** asked if the MVC remands it to the Town, can we be certain it will come back at the Form C stage. If the MVC votes not to hold a public hearing and does not approving anything, will that leave the mandatory requirement to come back to the MVC as a Form C.
- **Doug Sederholm** said the MVC should make it clear and not take a chance. The Commission should be consistent in the application of its review and follow what it did for Flat Point Farm.
- **John Breckenridge** noted that for Flat Point Farm, the Commission gave a list of what should be included in the Form C, and made a specific requirement that the Form C be approved by the Commission.
- **Erik Hammarlund** asked why the Applicant came to us with a Form B. **Reid Silva** said they are not ready now to divide the lot. They are looking for feedback, information gathering, and planning.
- **Mitch Posin** said that the Applicants would take what they want to do and the Commission’s comments on the Form B and then prepare a full Form C application in the future.
- **Doug Sederholm, Fred Hancock** and **Chris Murphy** all agreed that the when the Applicant is ready to come back with a Form C, they would need to come back a full proposal including all of the offers.
- **Rob Kendall** noted that the lot that is in question sits on a definitive plan approved by the Planning Board. They are now back to do long-term planning and it would be a problem if the Commission could not review it as a long term plan.
- **Chris Murphy** noted that the Commission is trying to get to a point to allow them to move forward with their planning. This is a modification of an approved plan at the Commission level.
- **Erik Hammarlund** said that on the plan there are no houses, no septic locations and it is fairly rough. With some careful definition the Commission could make it come back to the MVC and still give the Applicant the information they need.
- **Reid Silva** said it has to come back no matter what. The Form B does not create a subdivision. This approval is nonbinding.
- **Chris Murphy** said that if you had a Form B with the Planning Board, why refer it to the Commission. Reid’s argument is that this is not a real plan and there is no subdivision.
- **Fred Hancock** said we must at least approve the lot we did not previously have.
- **Erik Hammarlund** asked why the MVC has jurisdiction over this, since they are not proposing a house or a subdivision.
• **Clarissa Allen** said that she assumed that she had to come back to the Commission because it was already a DRI. With respect to Lot 13, she asked whether it is possible that the MVC files are as chaotic as Chilmark’s. She can’t imagine that she didn’t do something by the book.

• **Paul Foley** said the MVC files are in good order.

• **Chris Murphy** asked Leonard Jason if the Chilmark Planning Board has a Form B application does it have to come back to the Commission.

• **Leonard Jason** said the Form B it protects them from any zoning change and has to come back within six months with a Form C. We would need to ask the Planning Board if it automatically would have to come back to the MVC.

• **Mark London** said that if the Commission approves the Form B, it can simply condition that Form C return for MVC approval. This would give them the opportunity to do all the planning needed for a definitive approval.

**Chris Murphy** said the easiest thing to do is to determine if it rises to the level of a public hearing and if so to hold a public hearing and discuss the conditions. The MVC would be approving the Form B for 4 lots, plus definitively approve Lot 13.

**Katherine Newman** suggested that if Paul does not have Clarissa’s map, it should be added to the MVC files. **Fred Hancock** and **Chris Murphy** both said it would be added.

**Rob Kendall** said he was sorry that it has gotten so complex. He suggested separate Lot 13 from the discussion; it is not the Applicant’s fault that it is not on the MVC maps. **Chris Murphy** said that is a problem we can fix tonight. **Rob Kendall** noted that the guidelines that have been discussed would be part of a Form C.

**Erik Hammarlund** asked if we can split off and approve this lot.

**Linda Sibley** said that to fix this confusion, the Commission should hold the public hearing to approving the existing lots as such, and to make comments on the Form B simple.

**Katherine Newman** said if we did not have the last corrected map, isn’t that the MVC problem. **Chris Murphy** said that 27 years ago, it may have come before the Commission but we have no evidence of that so the Commission can now correct this. **Fred Hancock** said the Commission should not be working on a plan that is not consistent with the MVC plans.

**Doug Sederholm** moved and it was duly seconded that the modification requires a public hearing.

• **Erik Hammarlund** said he does not think the MVC has jurisdiction to hear this.

• **Chris Murphy** said that two years ago, the MVC did almost the same thing for the Fischer Farm.

• **Camille Rose** said that the MVC is delivering guidance to them that they can use at their convenience.

• **Clarissa Allen** said that they are asking their regional planning authority to help them plan and noted that they are not planning on moving forward with a Form C now.

• **Linda Sibley** noted that we have done Form B before and our counsel has never said it is not within our jurisdiction.
• Erik Hammarlund withdrew his statement.


7. ALLEN FARM ESTATE PLAN – CHILMARK (DRI 121-M) PUBLIC HEARING

For the Applicant: Clarissa Allen, Mitch Posin, Reid Silva (Agent)

Doug Sederholm, Public Hearing Officer opened the Public Hearing at 8:25 p.m. and read the public hearing notice. The location is 421 South Road, Chilmark Map 25 Lot 21 (50.2 acres). The proposal is a Form B Preliminary Subdivision of 50.2 acres into four lots and approval of existing Lot 13.

7.1 Applicants’ Presentation

Reid Silva presented the following:
- On the 50 acres there is an existing farm house with a barn, sheds and out buildings.
- The proposal is three additional building sites.
- The applicant has talked about various issues with the LUPC such as nitrogen loading. The proposal still has to be developed into a full plan.
- They want open space and preserved farm land, so have determined three additional lots.
- The point of the Form B is to say what to expect. They are looking for comments and are not ready for a Form C. They are not ready for a binding decision.
- There are understandings and the offers would be agreements to address these concerns.
- He agreed with the draft offers provided that they say that the Applicant would “address” the Commission’s policies when they come back with the Form C.

Doug Sederholm stated that he wanted to be sure that the Applicant understands that with the possible offers, they are saying that when they come back, they will specify how they will respond to those issues and the Commission would make a decision based on how they address the policies.

Clarissa Allen said that they take planning very seriously and want their values to continue with their family. When the Commission was developed, there were huge developments happening. She doesn’t want to be construed as a developer. They try very hard to take good care of this land. They are trustworthy and that has been demonstrated. Doug Sederholm said no one views them that way and they are going through a process.

Ned Orleans said that the Commission never considered Caroline Schlossberg as a developer when she came before it with her estate plan.

7.2 Public Testimony

Ron Mechur lives in Oak Bluffs, has been on the Island for 35 years and is a land use planning consultant. He is representing the Schlesinger family, abutters. Unfortunately there are Island families that have land but are land poor. Clarissa asked them to speak tonight. They are in favor of the application. It is a step in the right direction with ten acre building lots. They want to talk
with Clarissa and Mitch more about keeping the viewshed open. They want to ensure that the
farm stays as it is as a heritage and legacy. Chilmark has had endless meetings about
development and the size of buildings. They believe these three building envelopes are outside
the DCPC. They would like to talk with Clarissa and Mitch more about the wind turbine and other
items such as view lines. They are happy to be here today to offer these ideas. They want to
engage the family as neighbors in an ongoing dialogue to preserve the farm.

Doug Sederholm noted that the MVC received a letter in support of the proposal from Mr. and
Mrs. Maloney and he read the letter dated November 1, 2012.

7.3 Commissioners’ Questions

Peter Cabana asked if the lot that has the wind turbine is sold, would the turbine be part of the
sale or would the ownership stay with present owners. Leonard Jason noted that the turbine is
zoned for agricultural use and cannot be sold for anything else.

Doug Sederholm, Public Hearing Officer closed the Public Hearing at 8:45 p.m.

8. ALLEN FARM ESTATE PLAN – CHILMARK (DRI 121-M) – DELIBERATION AND
DECISION

Commissioners Present: Commissioners Present: J. Breckenridge, P. Cabana, E. Hammarlund, F.
Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L.
Sibley, B. Smith.
For the Applicant: Clarissa Allen, Mitch Posin, Reid Silva (Agent)

Linda Sibley moved and it was duly seconded to waive referral to the Land Use
Planning Committee (LUPC) and have Deliberation and Decision on this proposal
tonight.

- Doug Sederholm asked if the Applicant was comfortable in doing this and with the
substitution of the word “address” in 2, 3, and 4 of the proposed offers.
- Clarissa Allen said yes.

Reid Silva agreed that these were the Applicant’s offers with the change of the wording to
“address”.

Erik Hammarlund moved and it was duly seconded to the creation of Lot 13 and
the reconfiguration of the adjacent open space lot. Roll call vote. In favor: J.
Breckenridge, P. Cabana, E. Hammarlund, F. Hancock, J. Joyce, C. Murphy, K.

Erik Hammarlund moved and it was duly seconded to approve the proposed
Form B division of the property with the signed offers as revised.

- Linda Sibley said the Commission should approve the Form B subdivision since it meets
most of its criteria for sensible land use.
- Doug Sederholm agreed with Linda Sibley and agreed that the people before us are
trustworthy and terrific stewards of the land. By accepting their offers, should it fall into the
wrong hands, it would come back to the MVC and this makes sure that the Commission
can do its job.

Roll call vote. In favor: J. Breckenridge, P. Cabana, E. Hammarlund, F. Hancock,
J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B.

9. REPORTS FROM COMMITTEES AND/OR STAFF

Commissioners Present: J. Breckenridge, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J.

Doug Sederholm mentioned that an important issue is to be discussed next Thursday, the DRI
Checklist Public Hearing. He asked that everyone please review it so we can have an intelligent
discussion.

The meeting was adjourned at 8:55 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on October 18, 2012
- Memo from the Edgartown National Bank from Gregory Berks - Re: 57 Circuit Avenue
  Project
- Memo from the James Dunn, Building Inspector, Dated October 17, 2012 – Re:
  Edgartown National Bank Project
- Proposed Elevations – 57 Circuit Avenue
- Revised Memo from the Edgartown National Bank from Gregory Berks, Dated November
  1, 2012 - Re: 57 Circuit Avenue Project
- Martha’s Vineyard Commission – C.R. #5-2012 Black Dog Garden Seating – MVC Staff
  Report – 2012-11-01
- Letter from the Site Plan Review Board, Town of Tisbury , Dated October 31, 2012 – Re:
  The Black Dog Tavern Company Inc. 21 Beach Street Ext. AP 07E06
- Draft Meeting Minutes Dated October 24, 2012, Site Plan Review Board, Town of Tisbury
- Proposed Elevations – Black Dog Tavern Company, Inc. Garden Seating
- Memo from the Island Housing Trust, Dated October 25, 2012 – Re: DRI # 340-M
  Sepiessa Affordable Housing Expansion Offers
  Contract, De-nitrification O & M, TNC-DCRHA, Landscaping Plan
- Martha’s Vineyard Commission – DRI # 121-M Allen Farm Estate Plan – MVC Staff Report
  – 2012-11-01
- Letter from John and Kristin Maloney d November 1, 2012
- Possible Offers or Conditions for Allen Farm Form B – Draft , Dated October 22, 2012