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Minutes of the Commission Meeting Held on February 17, 2005 In the Olde Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: James Athearn (Elected – Edgartown), John Best (Elected – Tisbury), John Breckenridge (Appointed – Oak Bluffs), Mimi Davisson (Elected – Oak Bluffs), Linda DeWitt (Appointed – Edgartown), Katherine Newman (Appointed – Aquinnah), Ned Orleans (Appointed – Tisbury), Megan Ottens-Sargent (Elected – Aquinnah), Doug Sederholm (Elected – Chilmark), Linda Sibley (Elected – West Tisbury), Andrew Woodruff (Elected – Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Srinivas Sattoor (Traffic Consultant)

1. SOUTH MOUNTAIN COMPANY: DRI 462-M – PUBLIC HEARING

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley

Applicant: John Abrams, South Mountain

Andrew Woodruff abstained from discussion.

James Athearn opened the public hearing and read the hearing notice.

1.1 Applicant's Presentation

John Abrams explained the proposal:

- The company needs more space for employees working on site.
- Under the original DRI approval, the company was limited to 12 employees on-site; South Mountain would like approval to expand to 18 employees on site.
- The proposed expansion is a 400 sq. ft. addition to the woodworking shop, additional lumber storage, and an additional office, with a total footprint increase 10%.
- Originally the project was heavily conditioned and the conditions have been met, including the establishment of a road association.
- The site is served by composting toilets and a graywater system.
- He said the Commission staff has been terrific in terms of monitoring the traffic, which shows that South Mountain contributes 19% of Stoney Hill Road traffic during off-season and 10% in summer; predictions indicate an increase of 4% in off-season and 2% in summer.

1.2 Staff Report

Paul Foley explained various handouts to Commissioners, including two letters of support from abutters, and summarized the staff report:

- The site is 6.3 acres in rural residential zoning.
- The application is for three different additions for a total of 2,769 sq. ft. and increase in the number of on-site employees from 12 to 18.
- The project was originally referred in 1998 and was approved with conditions.
- The addition was referred by West Tisbury Zoning Board of Appeals triggered by the original DRI and by an expansion of over 1,000 sq. ft.
- LUPC had originally voted not to concur that the expansion required a public hearing but counsel clarified that, since the referral was made under two provisions of the Standards and Criteria, the more restrictive one which required a public hearing applied.
- The three key issues in the application for modifications are: increased traffic, expansion of office space in a residential area and noise.
- Other factors include:
 - Wastewater does not significantly contribute to nitrogen loading.
 - The original DRI preserves open space.
 - The company has the only windmill on the Island.
 - The company provides innovative incentives for environmentally friendly activities such as carpooling or buying environmentally friendly cars.
 - The traffic study showed an increase of 30 weekday trips and 10 Saturday trips with the expansion. The increase was calculated based on the percent increase in footprint.

John Abrams said that some of the employees who are currently working in the field might be working on site. In fact, fewer trips might be generated because on-site employees wouldn't be going back and forth.

Doug Sederholm said it was more reasonable to estimate 3 new trips per day per additional person because some of the increase in space is for storage.

Paul Foley further outlined the report:

- In terms of economic impact, the expansion does not mean the hiring of new employees.
- The Commission's Affordable Housing mitigation recommendation is \$1,384; the applicant has offered to contribute \$5,000.
- In terms of scenic values, the building and additions are not visible from Stoney Hill Road.

Megan Ottens-Sargent asked whether West Tisbury zoning has changed since 1998 to allow mixed use. **John Abrams** responded that he didn't believe zoning had changed.

1.3 Public Comment

Keith Mayberry, an abutter, said he had no problem with design or added space. Traffic is non-existent on the road.

1.4 Commissioners' Questions

Mimi Davisson asked for clarification on the 6 new jobs. **John Abrams** responded that South Mountain does not anticipate hiring six new people but wants to bring existing employees in from the field.

Megan Ottens-Sargent asked whether South Mountain anticipates a change in freight traffic. **John Abrams** said he wouldn't anticipate a discernible increase in freight traffic or in public traffic.

James Athearn asked about road maintenance. **John Abrams** responded that the road is maintained by a road association. The maintenance is contracted out and the association officers do a great job.

Paul Foley said that on the site visit, while in the office, they couldn't hear the noise of machines. **Doug Sederholm** added that they couldn't hear windmill.

The public hearing was closed.

2. SOUTH MOUNTAIN COMPANY: DRI 462-M – DECISION

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley

James Athearn moved and it was duly seconded to waive referral to LUPC. The motion was agreed to by consensus.

Doug Sederholm moved and it was duly seconded to approve the application for the expansion as proposed and an increase in on-site employee to 18. A role call vote was taken. In favor: J. Athearn, J. Best, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley. Opposed: None. Abstentions: None. The motion passed.

James Athearn said he thought a smaller project might allow a smaller fee. Commissioners discussed staff time on applications, how fees are structured and an applicant's ability to set up a complete application

Linda Sibley said she is making a list of process decisions including when minutes should be more or less detailed, the written decision process, and time and fee structure. She will wait to schedule the discussions until new members are on board.

3. UNITED PARCEL SERVICE: DRI NO. 532-M2 – CONCURRENCE REVIEW

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, A. Woodruff

For the Applicant: Doug Hoehn, Steve Thomas and Arthur Bouchard

3.1 Applicant's Presentation

Doug Hoehn explained the proposal for repositioning the existing building and for adding the new T, and the bathroom and office. The building will be a reduction of 50 sq. ft. in total floor area. An upgraded septic system is required, approved by the Board of Health, to be installed with Carroll's Trucking. The project was referred by the Zoning Board of Appeals for commercial use in a residential district.

Steve Thomas explained that employees requested site improvements for improved working conditions. UPS wants to be a good employer and a good neighbor.

Larry Silvia said he has been an employee for 29 years. The facility is crude with no bathroom, running water, or lockers. UPS wants to make a better and nicer facility. He said he is speaking for all the employees and asking for Commission support.

3.2 Commissioners' Comments and Discussion

LUPC had some concerns about paving.

- **Steve Thomas** said they want to pave an area of about 4600 sq. ft., because trucks regularly drive through this area or park on it leading to mud and gravel being dragged and draining off.
- **Linda Sibley** asked whether there was a drainage plan. **Doug Hoehn** hasn't done the drainage plan yet; it would depend on the final amount of paving.
- **Katherine Newman** said she asked the question about paving at LUPC and had wondered why gravel wouldn't work.
- **Steve Thomas** explained that with gravel, more ruts and potholes would be created because of the turning use of the area.
- **Larry Silvia** said there are a couple of catch basins but they fill up too fast; they probably need to be dug out.
- **Steve Newman** said they know the present drainage issue is due to drainage from the unpaved area; if drainage is a problem after paving, they will address it.

Paul Foley explained the lighting plan. No lighting is being added; two exterior lights are staying in the same place and two will be moved. The lighting consists of wall packs installed above the doors to light up the steps.

Linda Sibley asked whether there were any conditions on lighting when Carroll's Trucking was approved. It was clarified that there were no conditions.

Linda DeWitt asked about ZBA concerns. **Paul Foley** said one ZBA concern was the clean-up of the site. A second concern was the modification of a pre-existing non-conforming use.

John Breckenridge said his understanding from LUPC is that a major component of the proposal is the re-siting of the building for more ease in delivery. He commented that it is an extremely high traffic area; by turning the building, the entranceway might become more congested.

Steve Thomas explained that they are turning the building so that if larger trucks are required in the future, they could be accommodated. The building will be turned 6 to 8 feet, which he believes it will not affect the present traffic flow.

John Breckenridge asked whether parking would be moved. **Steve Thomas** said if they didn't meet traffic and parking codes, they would negotiate with Carroll's to move parking.

John Breckenridge asked whether this was the most economical and practical delivery site. Would the airport area be more practical? **Steve Thomas** responded that the issue had already been addressed. UPS received a special permit to operate from the site and it is the most economical and practical site for their delivery routes.

James Athearn said he has appreciated friendly and good service with UPS. Due to the nature of the modifications and public comment at the original DRI hearings, he said he is inclined to have the proposal go through the public hearing process so neighbors can comment on the modifications.

Steve Thomas said that UPS would not be increasing traffic. UPS is only trying to improve the site. UPS has already agreed with the ZBA to limit growth at that site as part of the special permit and was conditioned to not install a customer service desk.

Megan Ottens-Sargent asked for clarification on how traffic is limited. **Steve Thomas** said their special permit allows for 8 to 15 employees, 8 employee vehicles, and 14 UPS commercial vehicles. He said that planning for larger commercial vehicles is only speculation.

Megan Ottens-Sargent moved and it was duly seconded to not concur with the referral on the grounds that the proposal is not a substantial change of regional impact.

- **Linda Sibley** said that the decision is whether or not the application proposes a substantial change and whether the public needs to have the opportunity to comment. Commissioners clarified that the ZBA will hold a public hearing.
- **John Best** explained that his feelings are mixed. The regional impact seems negligible if there is no increase in space or traffic; the Zoning Board of Appeals' public hearing will give neighbors the opportunity to comment.

A voice vote was taken. In favor: 9. Opposed: 2. Abstentions: 0. The motion passed.

4. VINEYARD YOUTH TENNIS: DRI NO. 539-M – REVIEW OF PROPOSED MODIFICATIONS TO CONDITIONS

Commissioners Present: J. Athearn, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, A. Woodruff

For the Applicant: Alan Schweikert, Gordie Ernst (Executive Director)

John Best abstained from discussion.

Megan Ottens-Sargent disclosed that her daughter had benefited from the program. **Doug Sederholm** disclosed that he had been counsel for a VYT employee in connection with the

termination of her employment. **Linda DeWitt** disclosed that she had been an employee of VYT for three months a few years ago.

Linda Sibley explained that the applicant is asking for a change to the conditions to the previous DRI approval. The Commission has to decide if the changes are substantial enough to require a hearing. If the Commission decides the changes are not substantial, the Commission could approve some or all of the changes and thereby modify the previous written decision.

4.1 Applicant's Presentation

Alan Schweikert, a member of the Board of Directors of VYT, outlined the proposed modifications to conditions.

- VYT is a non-profit organization dedicated to providing free tennis to kids. VYT has been in operation since 1997. They have found they can't effectively accommodate all the kids who want to participate and are requesting several changes to the conditions.
- VYT proposes changing the date for dismantling the inflatable bubble from April 15th to May 15th; the weather isn't good enough in April for outdoor tennis.
- A condition was that VYT would delay clearing the overflow parking area until compelling evidence indicates that it is needed. VYT is asking to clear the overflow parking, beyond the existing area. During the summer months, VYT especially needs additional parking space, probably 10 to 12 spaces.
- Summer hours were conditioned as 8:30 a.m. to 11:00 a.m. and 4:30 p.m. to 7:00 p.m. VYT is requesting more flexibility for instruction between 8:30 a.m. and 7:00 p.m. They've found that beach traffic, considered an issue when establishing hours, is not as heavy in the afternoon as expected.
- A condition was no exterior lighting except 2 ft. mushroom lights. VYT is proposing five 7 ft. high lights. They have discovered a need to light the walkway and parking area in the winter for safety. The lights are turned off at 8:30 p.m. The taller lights had been installed but were turned off when the Board realized that they did not meet the MVC conditions (they were turned on this week to allow Commissioners to assess their impact).
- A condition was that VYT was to provide services for youth up to 18 years old. VYT is proposing parent/child play at least twice a month.
- VYT is requesting that the facility would be open for benefit tournaments in which adults would play and the beneficiaries would be children.

4.2 Commissioner's Questions

Doug Sederholm asked whether the lights are designed so that they were shielded with downward lighting. **Ned Orleans** said he drove through and the lights aren't very visible.

Linda Sibley said they aren't consistent with what the Commission usually requires.

Alan Schweikert clarified that the lights would not be extended to the parking lot.

Megan Ottens-Sargent asked if there would be a limit on tournaments. **Gordie Ernst** explained that weekends are underutilized and parents aren't usually available during the week. Parents

want to share the sport with their children and the facility tends to be available for that on the weekends.

Linda DeWitt said that LUPC discussed that adults playing changes some aspects of VYT.

James Athearn asked if the applicant is asking for adult/child play twice a month or would no limitations be more realistic. **Gordie Ernst** explained that of course no limitations would be preferable but they're talking about setting aside court time for 4-5 hours at a time two weekends a month. **Mimi Davisson** asked for clarification that a round robin might require adult/child use on two days of a weekend.

Regarding tournaments, **Alan Schweikert** explained VYT's desire to be the site for benefit tournaments in which adults play and children are the recipients. **Gordie Ernst** said that three tournaments per year might be likely.

James Athearn said that considerations in VYT's original approval had been the use of the area, commotion, and the impact on private clubs. He asked how sponsoring tournaments might impact private clubs. **Alan Schweikert** explained that a club donates court time and players pay money. He said VYT is not trying to compete with private courts; in fact, sponsoring a tournament may be more of a burden for private clubs.

Linda DeWitt asked how many kids were going through VYT in a year. **Gordie Ernst** said it was about 500 kids, with the majority being Island children and 100-125 being summer residents.

4.3 Staff Report

Paul Foley summarized the staff report:

- The zoning is R-3 residential, requiring 60,000 sq. ft. minimum lot size.
- VYT was originally approved with conditions on May 17, 2001, as a charitable organization whose mission is to provide tennis lessons to children.
- The DRI was originally triggered because of its status as a health facility of 2,000 sq. ft. or more.
- Some of the key issues are:
 - Can the blinker accommodate additional traffic? With the 4-way stop, accidents have decreased, but the traffic going south has not.
 - Is there compelling evidence to justify clearing the overflow parking area? With the present limited hours, one class starts as soon as the previous one ends so that although only 16 children may be using the facility at a time, at the time of the changeover, parking for as many as 32 is needed.
 - The change in lighting is a safety concern.
 - Is there any reason not to allow parent/child play, tournaments, or the bubble to stay up?
 - The traffic study indicates an existing level of service of "F" already at the blinking light intersection. The only change with additional traffic might be a change in northbound traffic from "E" to "F".

- VYT and Commission Traffic Planners concur that the estimate is for an additional 76 trips for added hours.

Gordie Ernst explained that the proposed change in hours gives VYT flexibility in planning class times; VYT would probably not increase the number of classes so additional traffic would not be an issue. **Mark London** said that, unless the applicant limits the number of classes per day, the Commission has to assume the worse case scenario, namely that there will be more than twice as many classes per day.

Linda Sibley clarified that VYT is presently open all day but it has been limited in their class times.

Mark London asked what percent of traffic is generated by classes and what percent is generated by activities and staff. **Gordie Ernst** said 75% is generated from classes and the peak is 3:30 p.m. to 5:00 p.m.

4.4 Commissioner's Discussion

Linda Sibley reported that LUPC recommended that there should be a public hearing. **Mimi Davisson** said that there were two private individuals who came to LUPC; there should be a forum for them to speak.

John Breckenridge said the extent and number of the modifications made a public hearing appropriate.

Megan Ottens-Sargent moved and it was duly seconded that the proposed modifications are sufficiently substantial to warrant a public hearing.

James Athearn said he did not believe a public hearing was warranted.

- At the original hearings the bubble was an issue; experience shows that the bubble is not visible and is innocuous.
- The issue of competition with private concerns was discussed at the previous hearing.
- Traffic has been altered by the 4-way stop and is not as serious a problem.
- He said since they have already done a lot of work on the original application and modifications and it would seem that public concerns would have already been addressed.

Linda Sibley said Commissioners should remember that no other board is going to hear the proposed modifications. It is entirely possible that the public doesn't know about the proposals. When a public hearing is held, it is advertised and at least the public has the opportunity to comment.

Doug Sederholm said he believes that some of the changes are substantial enough to require a public hearing, especially expanding the hours of operation and changing the nature of the operation.

Andrew Woodruff said he agreed with many of Jim Athearn's observations; however, he feels that the public should be informed although the outcome may be no different.

Megan Ottens-Sargent said the residential neighbors were originally concerned and it may be valuable to have their feedback that there has not been negative impact.

A voice vote was taken. In favor: 9. No: 1. Abstentions: 0. The motion passed.

The Commission took a brief recess.

5. CAPE WIND PROPOSAL: COMMISSION COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

Commissioners Present: J. Athearn, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, A. Woodruff

Commissioners reviewed the letter that was written and approved by the subcommittee.

Linda Sibley stated that at the last meeting, the Commission position was it did not believe that the Army Corps should take action on the proposal until a comprehensive oceans policy was in place.

After discussion of the letter, it was agreed that the body would remain and the bulleted statements on page two would be removed. Commissioners agreed that the subcommittee would refine the language and e-mail the final draft to everyone before sending it to the Army Corps of Engineers.

Doug Sederholm moved and it was duly seconded to approve the document with bullets removed and to charge the subcommittee to rework the paragraph above the bullets.

- **Megan Ottens-Sargent** asked for clarification on wording "denied without prejudice."
Mark London said the statement is included because the Commission would prefer postponement, but Army Corps procedure doesn't allow for postponement.

A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.

6. MEETING DATES

There will be a Commission meeting on Thursday, March 10th, and possibly on Thursday, March 17th, if necessary.

7. MINUTES

Commissioners Present: J. Athearn, J. Breckenridge, M. Davisson, L. DeWitt, K. Newman, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, A. Woodruff

7.1 Minutes of November 18th

Doug Sederholm moved and it was duly seconded that the minutes of November 18, 2004, be approved as written. A voice vote was taken. In favor: 8. Opposed: 0. Abstentions: 2. The motion passed.

7.2 Minutes of January 20

Doug Sederholm moved and it was duly seconded that the minutes of January 20, 2005, be approved with the following corrections:

- Page 5, Line 37 should read "that should be a political decision"
- Page 6, Line 7 should read "Commonwealth and the Federal Government have not done planning"

A voice vote was taken. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.

8. OTHER

Ned Orleans suggested that subcommittee meetings be included on extended schedule.

8.1 Correspondence

The Commission received a letter from Art Flathers about composting. It will be discussed at a future meeting.

8.2 Forums

The Forum organizers are looking for new contributors to the Forum subcommittee. For each forum there is one segment producer. The subcommittee meets every couple weeks to work out details.

Linda Sibley said the schedule is for two spring forums on sustainability as collaborative efforts, three in the summer, and one in the fall. The amount of work for each forum varies.

The April 2nd Forum will be on making sustainable planting. It will be a collaborative effort between, Polly Hill, the Chamber of Commerce, the Ag Society, and the Commission. There will be a marketplace and a series of demonstrations as part of Sustainability Day. The Commission's forum is entitled: *Backyards and the State Forest, What Role Should Natives and Exotics Play.*

The second spring forum will be on energy in cooperation with Vineyard Energy Project and Vineyard Unplugged, with speakers and a local panel.

The summer forums will be on affordable housing, making the Vineyard a sustainable island, and traffic and transportation. The fall forum topic will be water quality.

8.3 PED

The sub-committees on water quality and affordable housing guidelines are close to submitting drafts. The sub-committee on open space and landscaping will start meeting again. Staff is working on economic analysis.

The meeting adjourned at 10:50 p.m.

Linda B. Libley
Chairman

April 28, 2005
Date

Nathaniel J. Means
Clerk-Treasurer

May 12, 2005
Date