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## **Minutes of the Commission Meeting Held on July 20, 2006 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 James Athearn (E – Edgartown)	P 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)	P 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.)
P Chris Murphy (A – Chilmark)	- Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DCPC Coordinator), Jo-Ann Taylor (Coastal Planner/DCPC Coordinator), Srinivas Sattoor (Transportation Planner)

### **1. 21 KENNEBEC AVENUE – CONCURRENCE REVIEW**

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*Commissioners present: J. Breckenridge, J. Best, C. Brown, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, D. Sederholm, L. Sibley, P. Strauss*

**Linda Sibley** explained that the Commission has been advised by counsel that the project should have been a mandatory referral as a checklist item. Commissioners can vote to transfer the referral to that mandatory checklist item.

**Christina Brown moved, and it was duly seconded, that the referral of the project located at 21 Kennebec Avenue, originally referred by the Oak Bluffs Board of Selectmen as a discretionary referral under Section 3.111, be dealt with by the Commission as a mandatory referral under 3.401D as it is a development that proposes which mix residential and business uses and consists of more than four premises. A roll call vote was taken. In favor: J. Breckenridge, J. Best, C. Brown, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, D. Sederholm, L. Sibley, P. Strauss. The motion passed.**

## **2. JENNEY LANE: DRI NO. 573 - MODIFICATION**

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*Christina Brown, as a direct abutter, recused herself and left the room.*

*Commissioners present: J. Breckenridge, J. Best, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss.*

*For the applicant: John Abrams.*

**Linda Sibley** reported that LUPC voted to recommend that the proposed changes were not sufficiently substantial as to require a public hearing.

**Paul Foley** summarized the LUPC meeting, noting that the Commission needed to decide whether it was a substantial change requiring a public hearing and if not, whether it approved of the changes. LUPC did not make a recommendation on the approval of the changes because the majority of Commissioners at LUPC had not participated in the original hearing on the project.

**John Abrams** explained the reason for returning to the Commission.

- The Commission decision and the Planning Board decision had both been under appeal during the last two years. The appeal concerning the Commission's decision was dismissed. The applicant reached a settlement with the plaintiffs on the Planning Board Appeals' decision.
- When the Commission and BZA had approved the project, there were to be ten out of ten low-income homes. A condition of the settlement was that there be nine low income and one at market rate.
- After the Commission decision, the Planning Board moved one house to the front on Pine Street with parking behind and that will be the market house. The Commission had considered this potential change but had voted 5 to 4 not to approve it, saying the applicants could come back if they wanted to change the plan.

**Doug Sederholm** said that the Commission spent a lot of time during the original hearings talking about a second access from Curtis Lane. Commissioners didn't insist on it but there was a lot of sentiment in favor of it. He asked for clarification on the Planning Board's decision for Curtis Lane access for only two houses. **John Abrams** explained that the Commission's decision stated that if the Planning Board required the second access, the project would not need to come before the Commission; the Planning Board felt that the second access is very close to several houses and wanted it toned down; it is also a walking and bike access for the neighborhood.

**Megan Ottens-Sargent** said the change from ten affordable units to nine is not substantial enough to require a public hearing. The change resolves the litigation and addresses neighbors' concerns.

***Megan Ottens-Sargent moved and it was duly seconded, that the proposed changes are not sufficiently substantial as to require a public hearing. A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.***

***Paul Strauss moved, and it was duly seconded, to approve the changes as presented. A roll call vote was taken. In favor: J. Best, J. Breckenridge, C.***

**Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss. Opposed: None. Abstentions: None. The motion passed.**

In response to a request from a member of the public, there was a discussion of the possibility of changing the angle of the house on Pine Street so that it would be parallel to the street and consistent with the rest of the houses on the street.

- **John Abrams** said the orientation of the houses on the street varies. The plan was part of the Planning Board's decision and pointed out the plan that they approved.
- **Doug Sederholm** said that the orientation of the house could have been part of the negotiation for the settlement.
- **John Abrams** said the negotiation was about making one house market rate; it happened to be the house under discussion.
- **Linda Sibley** said that this orientation was part of the Planning Board's decision. If abutters wish to continue the dialogue, they should do so with Mr. Abrams and the Planning Board.
- **John Abrams** said he would be happy to discuss the orientation of the house but he would like to hear from the Commission that if the Planning Board were to change the orientation, the change would not have to come before the Commission.
- **Megan Ottens-Sargent** asked whether the Commission had approved a specific plan.
- **Linda Sibley** said there had been a motion on the floor to allow the moving of this house if the Planning Board desired, but the motion failed.
- **John Abrams** added that the Commission had also had a condition that houses could be moved from the locations shown on the plan by up to 15 feet.
- **Linda Sibley** said it needs to be a Planning Board issue, unless a Commissioner wants to make a motion to reconsider the Commission's decision to allow the changes.

**Carlene Condon moved, and it was duly seconded, that if the applicant were to decide to rotate the house, and it were approved by the Planning Board, this would not be a substantial alteration of the plan and the Commission would not need to review it again. A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.**

In response to questions from a member of the public:

- **John Abrams** said that it isn't clear yet asked whether there was going to be a Habitat for Humanity house.
- **Linda Sibley** said there would be a crash barrier on the plan by the houses coming down onto Curtis Lane.

**Linda Sibley** encouraged members of the public to direct further questions to the applicant and the Edgartown Planning Board.

### **3. ALLEY MOORE FARM: DRI NO. 503 – REQUEST FOR EXTENSION**

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*Commissioners present. J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss*

**Paul Foley** explained that the applicant is requesting another extension as they wait for settlement of the conservation restrictions. He referenced letters from Alley Moore, from the Planning Board and the Trustees of Reservation.

**Linda Sibley** noted that the project is for a subdivision into two buildable lots and a third lot that will be deemed forever wild.

**Chris Murphy moved, and it was duly seconded, that the extension be granted. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 0. The motion passed.**

### **4. CINGULAR WIRELESS: DRI NO. 590 – PUBLIC HEARING**

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*Linda Sibley recused herself and left the room.*

*Commissioners present. J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, P. Strauss*

*For the applicant: Laura Sullivan, attorney*

**Christina Brown** opened the public hearing and read the hearing notice. The application by Cingular Wireless and the Gay Head Baptist Church is to install, operate, and maintain a wireless communication node with antennas within the steeple of the Community Baptist Church and to install nearby cables and equipment cabinets surrounded by stockade fence.

#### **4.1 Staff Report**

**Paul Foley** outlined the contents of Commissioners' packets, which included a memo from the town describing their preferred method for wireless coverage, a letter from the Church approving the siting of the antenna inside the church, and a letter from Anderson Krieger, representing Cingular Wireless. He then summarized the staff report.

- Zoning is rural residential.
- Aquinnah has a personal wireless service facilities by-law the purpose of which is to minimize the visual and environmental impacts of personal wireless facilities in order to preserve the historical, cultural, and archaeological values of the town.
- The proposed project appears to contravene a couple of the sections of the by-law. The facility must be 500 feet from any residence and 1500 feet from any historic district, school, playground, etc.
- In addition, all applicants for a special permit for a personal wireless facility need to make a good faith effort to co-locate with other carriers.
- The Federal Communications Commission ruled that towns cannot deny a wireless system based on health reasons.

- The Church is considered the oldest Baptist church in North America.
- Cingular applied in 2005 to affix an antenna within the church steeple. After the public hearing, the Aquinnah Planning Board voted to deny the application. The Commission received the referral from the Aquinnah selectmen on December 8, 2005.
- Cingular would install 3 antennas within the steeple, which would be rebuilt in fiberglass.
- The project triggers a number of DRI referrals including; 3.101a (discretionary); 3.03 (within a DCPC); 3.104a (demolition or alteration of the exterior of a historic structure), 3.801a (erection of a tower exceeding 35 feet).
- One key issue is whether individual cell towers such as this are the best way to provide coverage as opposed to a distributed antenna system.
- Some of the issues to be considered are:
  - The location of this contravenes local zoning by-laws but are local by-laws trumped by the Federal Communications Act of 1996.
  - Should the town have the ability to choose how its wireless service is provided?
  - Is the reconstruction of the church steeple out of fiberglass consistent with by-laws?
- Some bushes will be cut to accommodate the equipment shed.
- Rent from the transmitter would help the church financially.

## **4.2 Applicant's Presentation**

**Laura Sullivan**, attorney for Anderson Krieger and representing Cingular Wireless, presented information about the application.

- Cingular contests the Commission's jurisdiction over the application. The referral was not made in a timely manner. It was made after the Aquinnah Planning Board denied the application. Also, it does not trigger any DRI threshold.
- The case has been appealed to the Federal District Court and the State Court.
- Currently there are 8 Cingular sites across the Island, each of which has a footprint of 360 degrees. The goal is to have overlapping footprints to ensure service coverage.
- The distance the signal covers depends on the height of the antennas, the strength of the output from the antenna, and interference from buildings and trees, etc.
- She pointed out the map that shows coverage distance of the proposed tower and the overlap from the Chilmark antenna.
- It would extend service cellular coverage in Aquinnah significantly. Typically the signal carries better over the water but she couldn't give a sense of how much coverage there would be over the water.
- Cingular is trying to figure out why Aquinnah is so opposed to this project that is enclosed within an existing structure and improves service.
- In recognizing that there wasn't service in Aquinnah, Cingular identified two existing structures appropriate for antennas: the lighthouse and the church spire.
- The by-law in place at the time of the initial analysis stated a preference for town-owned parcels but there weren't any identifiable town-owned parcels.
- A major challenge to the Planning Board decision is a challenge to the setback section of the by-law, which they argue is based on health concerns.
- The intention is not to replace the entire steeple; they would replace the shingles at the very top of the spire which would block the antenna signal with fiberglass material

constructed to match the existing materials. Interior structural supports would be installed to support the antenna.

- The top of the steeple is 48 feet; the antenna would be at elevation 38 or 39 feet.
- The equipment would be located within an 8-foot stockade fence enclosure immediately adjacent to the church; the area is surrounded by brush and wouldn't be visible.
- Although Cingular believes that the project doesn't come under Commission jurisdiction, the DRI criteria related to the project are outlined in her letter.

**Megan Ottens-Sargent** asked whether the church was considered a historic building the way the school is.

- **Laura Sullivan** said the town determines the designation of a historical building.
- **Jim Powell** said he looked at documents in Aquinnah that show the building as a historic area in Aquinnah and under the Massachusetts Registry.
- **Laura Sullivan** said Cingular has located on a number of historic buildings, including sites that are listed in the Historic Registrar. In many cases a historic district has requested that the original materials be preserved so they might be restored should the carrier abandon the site. That provision is not yet in this plan.

**Jim Powell** asked if Cingular would provide, construct or maintain a distributed antenna system. **Laura Sullivan** said a wireless carrier doesn't provide the system, it provides cellular service via antennas, including by distributed antenna system. Cingular does use distributed antenna systems in some situations.

**There was a discussion of co-location.**

- **Carlene Condon** said it sounds like there is a limited number of sites available in Aquinnah for antennas and asked whether the church is a good site for co-location.
- **Laura Sullivan** said that Cingular co-locates with other carriers at thousands of sites around the country. Typically co-location opportunities take place on a newly-built structure with two to four antennas on a tower. In this instance, it might be possible to locate another set of antennas in the spire. Cingular would not object to other providers as long they don't interfere with Cingular. Cingular wouldn't actually share its antenna..

**Megan Ottens-Sargent** asked whether the church would be considered a "special place" under Aquinnah by-laws. She asked for images of historic structures where Cingular has modified a structure. She would like to know, should other carriers co-locate, would they alter the visual integrity and character of the site with additional antennas and ground equipment. **Laura Sullivan** replied:

- She would get a list of churches where Cingular is currently located.
- Other carriers tend to go where somebody already is, because it's a good place.
- Without knowing any of the other carriers on the Island or their needs, she could see how two or possibly three carriers could co-locate without changing the structure.
- Her assumption is that there is not space within the church for the equipment or Cingular would locate their equipment in the church.
- The equipment area outside the church within the stockade fence is 10 feet by 20 feet.
- Any other carrier would have to go through this same process for approvals with site plan conditions.

**Doug Sederholm** asked what the minimum separation between its own and other's antennas when Cingular co-locates. He asked whether it's reasonable to assume, given the size of the spire, that no carrier will want to co-locate in the spire. **Laura Sullivan** said she believes its 10 feet tip to tip, from the top of one to the bottom of another. Depending on the circumstances, they can work at the same elevation. Signal interference can be caused in that circumstance but there are ways to work around the interference. She reiterated that it would be possible to co-locate in the spire.

**Christina Brown** suggested that Cingular provide diagrams of how another carrier might co-locate in the spire. **Laura Sullivan** said Cingular could provide diagrams but she doesn't have specific knowledge of other carrier's needs.

**Christina Brown** suggested that Cingular meet with staff to clarify issues and questions related to co-location.

**Carlene Condon** asked for confirmation that there's nothing in the agreement between Cingular and the church that would prevent co-location.

**Carlene Condon** asked whether, in cases where Cingular has duplicated a structure, the work has ever been done in anything other than fiberglass. **Laura Sullivan** said she's not aware that Cingular has reconstructed in natural materials. In Copley Square they used canvas to recreate verdigris copper, but the moisture in natural materials can cause problems.

#### **4.3 Town Boards**

**Peter Temple** presented information on behalf of the Aquinnah Planning Board.

- The wireless by-law was approved as part of the town-wide DCPC, the primary purpose of which is to preserve and protect the rural character of the town.
- Most of the provisions deal with visibility, so one of the questions about setback requirements is related to visibility.
- He would separate the question of why the Planning Board is opposed from why they voted the way they did.
- The setback requirement of the by-law is clear. Given that the location Cingular chose is an historic site within an historic area and within 500 feet of a residence and 1500 feet of a library and playground, a permit could not be granted and would require variances from the Zoning Board of Appeals.
- They were also concerned about the co-location issue. The Cingular representatives at the hearing said a second antenna would be significantly inferior. He understood that Cingular wouldn't be interested in that site unless they were going in first. It's been the Planning Board's assumption that no one else would want to co-locate at that site.
- Aquinnah amended its by-law to read that if there were a place in town where everyone could go, they would encourage use of that site and all the carriers would be located on one site.
- They've since learned about the distributed antenna system. Instead of having one or two big transmitters on two big towers, Aquinnah could have lower power transmitters that are two or three feet tall.
- In their minds, the Cingular plan does not significantly increase coverage in town.

- For police and boaters and public safety, Aquinnah would like to have a system with as many carriers as possible. The DAS system allows for improved coverage and does not need big structures. Also, the people in town who are concerned about potential impacts prefer the distributed antennas system because the transmitters are less powerful.

**Doug Sederholm** asked whether the construction of the wireless transmitter by Cingular would have any adverse affect on the town's proposal to install a DAS. **Peter Temple** said it could have an adverse affect because the town's ability to build the system and get everybody on line is a function of timing and number of carriers.

**Camille Rose**, Selectman, explained coverage and how it might or might not serve the town.

- The issues are whether locating the system in a historic building is appropriate or does putting an artificial material on it disrespect the character of the building and the character of the town when there is an alternative.
- Allowing the changes to this building for a telecommunications system could be the beginning of a proliferation of towers disguised as trees or flag poles.
- The DAS system is a viable alternative. The DAS system is a low impact regional solution. Aquinnah probably wouldn't get the interest in developing the DAS system if other wireless systems were available.
- There are a number of factors, but the Planning Board is asking the Commission to support their decision based on the town's by-laws.

**Carlene Condon** asked if there had been discussion between Cingular and the town about Cingular working with the town on the DAS and if not, why not.

**Jim Powell** said the church has moved toward the proposal because they are trying to preserve their building; there would be a financial benefit for leasing out the steeple. If the DAS system were utilized would there be financial consideration that would be commensurate? **Camille Rose** said she's not knowledgeable about the financial agreement between Cingular and the church. It is the town's assumption that the church would benefit from being a site.

**John Breckenridge** asked whether the DAS system is one that would be run by the town.

**Camille Rose** said that there are a number of management options from licensing a management company to having the town build it, bond it, and sell it. The town could simply rent the space. The aim is to have coverage without towers. They see this as providing a service without having towers. They aren't aiming to make a profit.

**Chris Murphy** said it would make more sense to postpone this vote until after a ruling from the U.S. District Court. **Christina Brown** had already asked counsel, who recommended that the Commission make its decision before August 31<sup>st</sup>, the judge's date. She clarified that the Commission's responsibility is to decide whether the proposal has regional benefits and detriments, which might include multi-town cell phone coverage and impact on historic structures.

**Megan Ottens-Sargent** said a regional issue is that the general public would benefit from better cell phone coverage no matter where they live.

**Doug Sederholm** raised two issues.

- He noted that for the Commission to approve a DRI it must conform to local zoning. How could the Commission approve something that on its face violates the zoning by-laws. The

Commissioners would have to find the particular setback requirements invalid and that's not up to the Commission.

- The possibility of Cingular building this transmitter having an unquantifiable effect on Aquinnah's ability to build a DAS system is difficult to include in the benefits and detriments discussion. Can that effect be quantified? If other carriers could go on the DAS system and have better coverage why would they want to go with Cingular?

**Camille Rose** said their consultants have said their chances of success in developing a DAS system depend on two things. They would need to have Chilmark and the four major carriers for the DAS to be a financial success. It's an expensive undertaking. A reason why this particular tower would have no benefit is that Chilmark wouldn't be part of the system.

**Doug Sederholm** said in a way, Aquinnah is trying to kill the Cingular project so they'll go into the DAS system. **Camille Rose** said her answers were related to regional impact; however, their original decision was based on the Aquinnah's by-laws which was approved by the Commission and is the same as the Cape Cod Commission's.

**Megan Ottens-Sargent** stated that the Planning Board's denial was based on the cell phone by-law, not on the DCPC preservation of historic sites. **Camille Rose** clarified that issues of historic sites are included in the cell phone by-law.

**Megan Ottens-Sargent** said the Commission looks at whether a proposal contravenes DCPC regulations and asked whether there are Aquinnah regulations besides the cell phone by-law that are violated by the Cingular proposal. **Camille Rose** replied that use of natural materials is part of the regulations.

**Megan Ottens-Sargent** referenced Section D, which outlines the need for a project to meet municipal regulations.

**Carlene Condon** said effectively the Commission is in the same position as the Planning Board whereby because the proposal violated the cell phone by-law it had to be turned down. She suggested that the Commission has to hear from applicant's counsel about how the Commission could go further with the proposal.

**Mark London** said Commission counsel said the decision could be written to note that the project is in contravention with local bylaws and would only be applicable if and when those parts of the bylaw are pre-empted by FCC regulations on the basis of their dealing improperly with health issues, as argued by Cingular. He will ask counsel for an opinion in writing that clarifies how to deal with this issue.

**Megan Ottens-Sargent** asked that staff list DCPC regulations that this proposal contravenes.

**Christina Brown** continued the public hearing until 8:30 pm on August 3<sup>rd</sup>.

**Chris Murphy** requested that the original materials in the steeple be stored. He also observed that the current design added a large storage area adjacent to the church that is inconsistent with the building design and will detract from its historic appearance. He suggested that any equipment on the ground should go in a small building that's compatible with the church design and located away from the church.

**Christina Brown** said the Commission is very concerned about cell phone coverage island-wide as a regional issue. She suggested that the Commission hear from towns and the cell phone company about whether there is a rational way to provide maximum cell phone service with a minimum of towers.

**Laura Sullivan** said this proposal is Cingular's solution.

*Jim Powell left the meeting.*

## **5. MULLEN WAY DCPC – CONSIDERATION OF NOMINATION**

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*Commissioners Present: J. Athearn, J. Breckenridge, J. Best, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, D. Sederholm, L. Sibley P. Strauss*

*Petitioners: Rob Coe, resident; Ron Monterosso, attorney;*

**Jo-Ann Taylor** explained the procedure.

- The Commission is to consider whether to accept or not accept the nomination for consideration of designation.
- Should the Commission accept the nomination, a moratorium would take place. The Commission has 45 days from June 20 to take the vote on considering the nomination, and 60 days within which to hold a public hearing.
- The planning district qualifications are the basis for the decision. There must be a need for the district, there must be a regional need, and has to be appropriately size and shape.
- There are specific qualifications: this is nominated as a cultural or resource district and as a hazardous district.

**Doug Sederholm** asked the criteria for accepting a nomination for consideration. **Jo-Ann Taylor** said the criteria are that the Commission finds that there's a substantial chance it could qualify. The reason why there is the extra step is the moratorium.

**Linda Sibley** added that if the Commission were to accept the nomination, they would have to develop a short statement stating the reasons for the acceptance.

**Rob Coad** said in light of a proposed development for nine multimillion-dollar homes, he's concerned with the historic and cultural character of the neighborhood and the safety of the residents of the neighborhood.

- The road goes from 12.5 feet wide to 16.5 feet wide and is laid out at 17.2 feet wide. The Selectmen don't want to widen the street. There are no sidewalks. Children use the street to play on and ride bikes.
- Over the years, traffic has increased. Three homes were built at the end of the street and traffic has sped up.
- Any development at the end of the street would increase the driveway effect of the street and speeds would increase and change the character of the neighborhood.

**Ron Monterosso** (using a slide show of photographs of the area) said he is an attorney but he is doing this work pro bono. His intent is to give a sense of the historical and cultural aspects of the road through the slide show.

- The visual aspect of the road would change if it were to be expanded to its full 17-foot width.
- Residents of the road work out the single lane aspect of the road. Residents of any subdivision at the end of the road would have no incentive to share the road.
- The road is really an alley but was designated a public road in the 1940s, which means that a developer can extend the road, even though it is narrow, and use it as the basis for a new subdivision.
- A house on Mullen Way is the second oldest house on Martha's Vineyard and is owned by the prospective developer who can tear it down because it's not in a historic district.
- The developer's land could be subdivided into 14 lots. He speculated that the houses would likely be large.
- Traffic would not just be residents but workers, maintenance people, and service people as well. Traffic studies would not apply because of the size of the houses and services the residents would want.
- They are presenting historic houses, a historic neighborhood since the 1920s or 1930s. Culturally, this road is what Martha's Vineyard about. The street is like a sidewalk. Everybody knows each other. When a delivery truck comes, it blocks the street but everybody lives with it.
- Hazard-wise the road is an issue for fire trucks and emergencies. If you add 8 to 14 lots, emergency vehicles would block any evacuation.
- The road qualifies as a safety issue and as a cultural historic area, meeting the provisions of the DCPC.
- The town's current regulations are not adequate. It is a public road. The Planning Board doesn't have a regulation that allows them to consider the width of Mullen Way in approving or disapproving a development on Mullen Way.
- Regional impact is relevant in that this neighborhood is reflective of the character of the Island and should be protected as an example of neighborhoods across the Island.

**Jane Rogers**, Edgartown, said the road as it is, welcoming and charming, has intrinsic value. If the road is taken away, it changes everything. She feels that these neighborhoods and small houses are being taken away one little house at a time. The neighborhood feels like a community and it's important that people have a chance to speak about the neighborhood.

**Carlene Condon** asked whether there is any other access to the developable property. **Ron Monterosso** said the developers haven't been able to develop another access; the abutters to the property are town cemetery and conservation land.

**Megan Ottens-Sargent** asked if the Planning Board were to approve the subdivision, what regulations would apply to Mullen Way to address public safety. **Ron Monterosso** said one of the planning board members mentioned eminent domain but houses are right on the street and this is not a plausible option. To get the full 17 feet, hedges and trees would have to be torn down.

**John Breckenridge** asked how many houses are on Mullen Way and wondered whether two to four houses on the undeveloped property might be appropriate. **Ron Monterosso** said there are 12 to 14 residences and some are seasonal. There are seasonal residents but there are long-term seasonal residents who spend a lot of time in their houses, many of which are multi-generational. He added that he doesn't believe that the developers will find two to four houses financially viable.

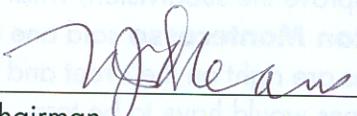
**Paul Strauss** said they chose two categories for the DCPC proposal. Did they consider any other categories? **Ron Monterosso** said these two categories fit and the others didn't. Everybody would like to see affordable housing to come out of this but it didn't fit.

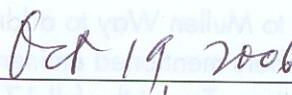
**Paul Strauss moved, and it was duly seconded, to accept the nomination for consideration.**

- **Linda Sibley** asked whether the possible DCPC regulations would control what would happen on the existing lots and that they wouldn't be replaced by mansions. **Ron Monterosso** said yes, that the intent is to preserve the character of the neighborhood.
- **Linda Sibley** asked why this isn't spot zoning. **Ron Monterosso** said he believes that this can be a model for other neighborhoods. If this one can be done, other neighborhoods might have more incentive to also seek designation.
- **Mimi Davisson** asked if they were working to beef up zoning by-laws as well. **Christina Brown** said that the Planning Board has to work within state regulations.
- **Doug Sederholm** asked if the Commission needs a general statement of purpose in the motion.

**Doug Sederholm moved to amend the motion to state that in accepting the nomination for designation the Commission does so based on the information provided so far that the neighborhood is reflective of the historical character of Martha's Vineyard and is in some special way a neighborhood that is expressive of the character of the Island and traditions of Island residents. And further, the Commission has some concern for the adequacy of existing regulations to protect the safety of the residents of the neighborhood from traffic pending from the development because essentially this is a grandfathered street that under today's standards would never be approved. Paul Strauss and Megan Ottens-Sargent accepted the amendment, with the option that MVC staff may clarify the language. A roll call vote was taken on the motion as amended. In favor: J. Athearn, J. Breckenridge, J. Best, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, D. Sederholm, L. Sibley P. Strauss Opposed: None. Abstentions: None. The motion passed.**

The meeting adjourned at 11:00 p.m.

  
Chairman

  
Date

Linda B. Sibley  
Clerk-Treasurer

Oct 19, 2006  
Date