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## **Minutes of the Commission Meeting Held on December 14, 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)	- Deborah Pigeon (E – Oak Bluffs)
P Christina Brown (E - Edgartown)	P Jim Powell (A – West Tisbury)
P Martin Crane (A – Governor Appointee)	P Doug Sederholm (E – Chilmark)
P Mimi Davisson (E – Oak Bluffs)	P Linda Sibley (E – West Tisbury)
- Mark Morris (A – Edgartown)	P Paul Strauss (County Comm. Rep.)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

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

The meeting was called to order at 7:42 p.m.

### **1. HART PLUMBING & HARDWARE: DRI 549M – PUBLIC HEARING**

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Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, M. Crane, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, L. Sibley, P. Strauss, A. Woodruff

For the Applicant: James Hart, owner; Dick Barbini, engineer;

**Doug Sederholm**, upon discovering that James Ferry is an abutter, recused himself and left the room as he represents James Ferry in regard to his land.

**Christina Brown** read the Public Hearing Notice and opened the hearing. She explained that the proposal is to change the use of a building from offices to a plumbing supply office, hardware store and two apartments. The building had been approved by the West Tisbury Planning Board for offices, but has not yet been built.

#### **1.1 Applicant's Presentation**

**Dick Barbini** gave a brief history of the project.

- The lot is a about a half acre.

- Mr. Barbini said the lot is approved and has permits to build a roughly 2,000 sq. ft. office and full basement to be used for storage and two apartments upstairs. **Paul Foley** clarified that the West Tisbury approval was for offices on the first floor, storage above and storage below and does not include approval for apartments. Mr. Hart was told by the ZBA from the beginning that if he wanted to utilize the basement for the offices or place apartments above he would have to go to the MVC for DRI Review.
- Mr. Hart started construction and had second thoughts about whether office space would be economically viable; he talked with the Town about changing the approved building to a hardware store and plumbing supply office. West Tisbury sent it to the Commission for a DRI concurrence review based on increased intensity of use. The Commission voted to concur that the project was a DRI based on change in use and increase in intensity of use.
- The first floor of 1900 sq. ft. would be for Mr. Hart's plumbing business and the hardware store. The basement would be for active storage. The upstairs would be two one-bedroom apartments, one designated for affordability as required by the West Tisbury Planning Board.
- Mr. Hart is proposing two curbcuts to the property. The main entrance has been redesigned as a 20 ft. wide road with a 20 ft. wide radius; the parking lot has nine spaces in front, one handicapped space; six spaces in the back and three spaces on the side of the building. The total is 19 spaces, with one handicapped.
- The second curb cut is for an exit from a 10 ft. wide road around the building exiting on Indian Hill for deliveries only. The exit would be gated and would be used for deliveries and Mr. Hart's employees.
- The applicant has submitted a detailed landscaping plan, adding more buffer on Indian Hill Road, to reasonably screen the building.
- A porch facing Indian Hill Road has been added to make the building look more residential, and they are proposing a privacy fence on the west side. They are trying to keep as many trees as possible.

**Dick Barbini** gave the reasons for the second curb cut.

- The original plan didn't have a second egress. The originally planned curb cut was the one further away from Cronig's.
- They prefer a second driveway for exit only, which he said is a better engineering solution, eliminating the need for trucks to back down the ramp. Delivery trucks' backing out is their last preference.
- In response to questions from Commissioners, he said that the owner would love to exit onto State Road, but the right of way is deeded specifically to other landowners. The applicant has no legal way of using the right of way.
- He can make a turnaround for trucks in the front of the building but it is better engineering to have trucks drive around the building.

**Jim Powell** asked about changing the flow of traffic around the building. **Dick Barbini** said that's their second preference and pointed out the basement door access on the east side of the basement.

**Jim Powell** asked if freight trucks load from the back as opposed to the side door. **Dick Barbini** said it doesn't matter which way the trucks come in.

**Dick Barbini** said they're trying to make the retaining wall look more attractive by keeping the plantings.

**Jim Powell asked** if there is rebar in the retaining wall. **Jim Hart** said that it's made of interlocking pieces and rebar isn't used.

**Mark London** asked about the planned privacy screen. **Dick Barbini** explained that there was most concern from an abutter on that side. The backside of the building looks onto a catch basin lot.

**Dick Barbini** added that within the requirements of Title 5, the septic with advanced treatment is allowed by DEP up to 370 gallons per day that could allow up to 3,000 square foot of retail and two apartments. The DEP letter authorizes 345 gpd and the West Tisbury Board of Health has approved this flow based on 2 bedrooms, 1000 square feet of retail and 1000 square feet of office space. Changes to the building use will require Board of Health approval and a final inspection of the Bioclere is required before use.

## **1.2 Staff Report**

**Paul Foley** outlined the staff report.

- The project is at 56 Indian Hill Road.
- The West Tisbury Zoning Board of Appeals hasn't approved any apartments, only offices. When they were approved in 2001, the applicant was told that if he wanted to use the basements or put apartments on the third floor, the project would have to come before the Commission.
- It is a pre-existing non-conforming grandfathered lot allowing a building under 2,000 sq. feet.
- The immediate neighbors are residential although it is a mixed-use business district.
- The project was before the Commission in 2002 and was withdrawn without prejudice.
- This proposal is for a change of use from office and storage space to hardware store, plumbing supply, and apartments, one of which would be deed-restricted affordable.
- The plumbing business has six employees that come in the morning to pick up supplies and leave. The applicant expects three employees for the hardware store.
- The project was referred by the West Tisbury Planning Board under change of intensity of use and as a high traffic generating business.
- A concurrence review was held on October 5<sup>th</sup>; the Commission voted to concur with the referral.
- The key issues are wastewater and traffic/circulation.
- This would be the first business to have its only access on Indian Hill Road.
- The lot was largely cleared; the applicant has submitted a landscaping plan.
- Minimal night lighting was part of site plan review
- It is not a NHESP or Priority Habitat site.
- Eighteen parking spaces are proposed. The parking areas are shown on the plan as entirely paved.
- Trip generation estimates are 100 vehicle trips per weekday for 1,950 sq. feet, which doesn't include the basement. With apartments, trip generation increases to 120 trips per day.

- Morning peak hour trips are 10 to 11; Saturday morning peak hour trips are 22. *(Note: these numbers would double if you include the basement storage space as part of the square footage of the active retail).*
- The site is 100 yards from the VTA Up-Island hub.
- Most intersections in the area are at level of service A. Synchro modeling indicates that the left from Indian Hill Road onto State Road can experience ~30 second delays (LOS D) at peak times. The left onto Indian Hill sometimes has a level of service B.
- Half of the traffic may come from Up-Island via Christiantown Road.
- Projections show a 10 to 15% increase in traffic during the peak season and a 30% increase off-season.
- There has been one accident in the last three years in front of the Cronigs entrance.
- The West Tisbury Affordable Housing requirement is met with the one bedroom apartment deed-restricted in perpetuity as affordable.
- In terms of economic impact, the applicant doesn't believe that office space is financially viable. He believes that a hardware store complements his plumbing business and Up-Island residents could use one.
- There is a walk-out basement; the second floor has a gable roof.
- Abutters have expressed concern about the amount of activity relative to the size of the site.
- The West Tisbury Planning Board asked the Commission to review the project as a DRI.

**Mr. Hart** said the retaining wall, which is buckling, will be disassembled and redone with the proper pitch.

### **1.3 Wastewater**

**Bill Wilcox** said that the site is located in an area with wells and septic systems.

- The project has DEP wastewater flow approval for 345 gallons per day, with denitrification.
- The site is at the far northern edge of Tisbury Great Pond Watershed with a nitrogen-loading limit of 1.2 kgs per acre.
- 60% of the design flow, not including run-off, calculates out to 9.9 kgs per acre, making the project over the Commission's loading limit. The paved area nitrogen run-off would be worth calculating.
- DEP requires quarterly monitoring for two years on the system with extension possible at this interval or somewhat less frequently.
- The site is at an elevation of 90 feet plus. There is no high water table limitation for construction or wastewater.
- Erosion is not expected to be a problem.

Responding to questions from Commissioners, Bill Wilcox added the following:

- Testing is done by a company representative or someone local who has been certified.
- Composting toilets or a package treatment system are the only options for reducing nitrogen to the loading limit for this parcel size. Tisbury Great Pond nitrogen loading limits are very hard to meet.
- The pond has good years and bad years. Its quality depends on how good the summer openings are to the ocean.

- The site is just within Tisbury Great Pond Watershed. If it were located to the north it would be in Edgartown Great Pond watershed, which has a 2.2 kgs of nitrogen per acre.
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- If the project were in the Tashmoo watershed, nitrogen loading would be 12.9 kgs per acre per year.
- Commission staff has made its best estimation of watershed boundaries. The boundaries between watersheds in this area are very difficult to place with certainty due to lack of water table elevation data

#### **1.4 Traffic**

**Jim Miller** answered questions about traffic.

- In the height of summer, Indian Hill has about 1000 vehicles a day; this project would add about 100 vehicles a day.
- The impact on intersections would not be great and parking seems sufficient.
- Traffic numbers were generated by staff.
- The numbers are based on studies related to square footage. The numbers come from off-Island but there isn't a scientific way of calculating whether an Up-Island hardware store would generate more traffic than statistics indicate.
- If the number of trips to the hardware store were tripled, the numbers of cars on Indian Hill Road summer could increase from the present 1000 cars per day to 1300. Off-season numbers could increase from 385 to 685.

**Linda Sibley** clarified pedestrians walking to Cronigs or the Post Office would have to walk on Indian Hill Road. **Jim Athearn** asked about better walking routes. **Jim Hart** said that a better route would be on an easement to the State Road walking path.

**Andrew Woodruff** asked about tripling numbers; parking would be more difficult.

#### **1.4 Town Boards**

The West Tisbury Planning Board specifically asked the Commission to concur with the referral. Murray Frank's letter specifically mentions concerns about traffic and parking. The referral letter will be included as part of the formal record.

#### **1.5 Members of the Public**

**Sharon Estrella** said her concern is the size of the building in relation to the size of the lot.

- She just learned that the 11' foot relief setback bordering the gray water lot is going to be a road.
- She's concerned about trucks, runoff, and graywater.
- She's trying to visualize 18 parking places on the lot.
- Three sides of the lot were backfilled when the foundation was put in.
- All of the abutters went to the Planning Board when with the same concerns, but the owner received his original building permit.

**Jim Hart** clarified that there is a deed restriction from building on the neighboring lot; it is a catch basin for the commercial area. There is not a conservation restriction but there is a building restriction on that corner of the lot.

**Dick Barbini** described the topography.

- From the front of the building to Indian Hill is existing contours.
- The retaining wall was constructed and the back portion was leveled off to get a flat area at the base.
- The retaining wall has to be designed to withstand the slope to get the permit.
- They'll put in another retaining wall in the front of the building between the proposed service access drive and the parking.

## **1.6 Commissioner Questions**

**Jim Athearn** asked whether West Tisbury boards have had any serious discussion about a package treatment plant for the commercial area. **Megan Ottens-Sargent** said there has been discussion of an alternative package treatment facility for that area. **Chris Murphy** said the applicant could make an offer that they'd be willing to join if a satellite treatment plan were ever proposed.

**Mimi Davisson** asked if there has been any discussion of a campus situation in that area.

**Mark London** said that the Planning Board has asked the Commission to help organize a planning charrette for the West Tisbury and North Tisbury business areas in the New Year.

**Jim Hart** said a BioClere nitrogen reduction system is already in place. **Megan Ottens-Sargent** pointed out that the nitrogen flow isn't reduced enough to meet Commission numbers.

**Jim Hart** pointed out that it is reduced enough to receive approval from the West Tisbury Planning Board and the DEP for the proposed flow which won't change with the change in use.

**Dick Barbini** said if the town builds a district wastewater treatment system, he's sure the applicant will be mandated to tie in. He said they would tie into a town system.

**Dick Barbini** responded to Commissioner's questions about access.

- They would exit onto State Road if that would become available.
- Both hills would have to be paved;
- He said "We would be willing to not pave anything; I just don't think that is the way to do a public parking lot".
- The right of way to State Road is between Mrs. Estrella's property and this property.

**Linda Sibley** said she assumed that if the applicant had access to the right of way, traffic would be exiting from the back of the property. It would be helpful if he could clarify what he would do if the right of way were available.

There was a further discussion about nitrogen loading.

- **Dick Barbini** said the nitrogen level of this proposal is 370 gallons a day, producing 9.9 kgs of nitrogen per year. The flow and nitrogen will stay the same whether it's office or apartments.
- **Paul Strauss** clarified that the wastewater flow doesn't change and the nitrogen concentration doesn't change.
- **Bill Wilcox** said that the volume of flow wouldn't change with a change in use. The nitrogen concentration might vary. Apartment wastewater might lower the nitrogen concentration.
- **Mark London** asked Bill Wilcox to double-check the nitrogen concentration levels.

- **Christina Brown** asked that Bill Wilcox to provide nitrogen concentration numbers in writing.
- **Dick Barbini** said there's more flow from office and apartments than from just office space, but that defeats the purpose of affordable housing.

**Jim Hart** and **Dick Barbini** responded to Commissioner questions.

- If an owner has certain square footage of retail and wants apartments above, some percent of the apartments has to be affordable.
- Issues related to State Road aren't anything that Jim Hart can predict.
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- The users of the three spaces on the side of the building might have to back up.
- Deliveries can be by UPS or by a delivery truck about every three weeks.
- Nothing more than EnergyStar appliances are planned for energy conservation.
- The project is modeled after Edgartown Hardware and Jim Hart doesn't foresee a box trailer as a storage option.

**Jim Hart** reiterated that the building remains the same as approved. The intensity of use and change of use are the two issues.

- Although the numbers are above Commission nitrogen, they are approved for that flow.
- He believes that the community would be well-served by a hardware store.

There being no further testimony, Christina Brown closed the public hearing.

## **2. MARTHA'S VINEYARD HOSPITAL: DRI NO. 324M - WRITTEN DECISION**

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

***Mimi Davisson moved, and it was duly seconded, that the written decision be accepted as amended.***

**Christina Brown** said recommendations aren't included in this document; this is the document that is recorded with the Registry of Deeds and travels with the property. Recommendations would be submitted in a letter.

Commissioners agreed to the following changes:

- Line 481 . . mitigated to some extent and they are outweighed by the benefits . . .*
- Line 537 . . . for quite a few years . . .*
- Line 598 . . . as well as the increases in vehicular traffic . .*
- Line 616-618 .delete and and though; add semicolon after staff.*
- Line 610-611 . . . possible climate changes*
- Line 697 change who to whom*
- Line 830 The exterior architectural design should be of the quality . . .*

**Christina Brown** suggested that Commissioners review the entire paragraph of Section 5.2. It's only fair that the applicant have some guidance when they bring the plan back in.

***Chris Murphy moved, and it was duly seconded, that 5.2 be deleted.***

- **Paul Strauss** said the harm would be that it would continue to have the phrase *false historicism* that that shouldn't be in any document anywhere.
- **Doug Sederholm** said it could be superfluous but it also might provide a reference to help us pull them back to what we want.
- **Linda Sibley** said if she doesn't find it helpful, why would they.
- **Megan Ottens-Sargent** suggested that the statement be included in the recommendations.

**A voice vote was taken. In favor: 7. Opposed: 5. Abstentions: 0. The motion to delete section 5.2 passed.**

**Mark London** said there was a meeting of their architects and Vineyard architects; this is a synthesis of their memorandum of the recommendations.

Section 12.13 **Ned Orleans** asked where the number 60 came from. It came from a motion by Chris Murphy.

Line 1022 Building permit

Line 998 add a colon at the end of the line.

**A roll call vote was taken on the motion to approve the written decision as amended. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, M. Crane, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, J. Powell, D. Sederholm, L. Sibley, A. Woodruff Opposed: None. Abstentions: Paul Strauss. The motion passed.**

**Mimi Davisson** marked the moment that this will be the last decision for John Best, Megan Ottens-Sargent and Deborah Pigeon.

### **3. ELECTION OF OFFICERS**

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

**John Breckenridge moved, and it was duly seconded, that nominations be closed. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.**

**John Best moved, and it was duly seconded, to approve the nominated slate of officers for 2007: Doug Sederholm, Chair; Linda Sibley, Vice-Chair; Ned Orleans, Treasurer. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.**

**Linda Sibley** thanked Commissioners for being well-behaved during her chairmanship. **Jim Athearn** added that Linda Sibley did a great job as chairman.

**John Best** said he is leaving at the high point of his 16 years on the Commission in terms of the condition the Commission is in; he mentioned the collegial atmosphere of the Commission. He mentioned the unfinished business of energy issues and affordable housing, and he will continue working on making the Island a more pedestrian-friendly place. He asked the Commission to please evaluate the Executive Director.



**4. MARTHA'S VINEYARD HOSPITAL DRI NO. 324M - RECOMMENDATIONS**

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

**Kathy Newman moved, and it was duly seconded, to approve the list of recommendations for the hospital project. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.**

**5. OTHER**

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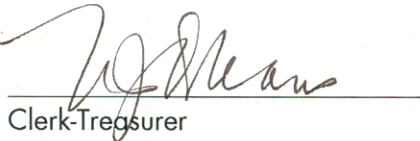
LUPC will meet on Monday, December 18<sup>th</sup>, to review the Town of Chilmark's affordable housing plan on Middle Line Road.

**Doug Sederholm** thanked John Best, Megan Ottens-Sargent, and Deborah Pigeon for their service to the Commission and said they would be missed.

The meeting adjourned at 11:00 p.m.

  
Chairman

3-8-07  
Date

  
Clerk-Treasurer

3-8-07  
Date