Minutes of the Commission Meeting  
Held on June 14, 2007  
In the Stone Building  
Oak Bluffs, MA

IN ATTENDANCE

Commissioners:  (P = Present; A = Appointed; E = Elected)
P  James Athearn (E – Edgartown)  
P  John Breckenridge (A – Oak Bluffs)  
P  Christina Brown (E - Edgartown)  
P  Peter Cabana (A – Tisbury)  
-  Martin Crane (A – Governor Appointee)  
P  Mimi Davisson (E – Oak Bluffs)  
-  Mark Morris (A – Edgartown)  
P  Chris Murphy (A – Chilmark)  
P  Katherine Newman (A –Aquinnah)  
P  Ned Orleans (A – Tisbury)  
P  Jim Powell (A – West Tisbury)  
P  Doug Sederholm (E – Chilmark)  
P  Susan Shea (A – Aquinnah)  
P  Linda Sibley (E – West Tisbury)  
P  Paul Strauss (County Comm. Rep.)  
-  Richard Toole (E – Oak Bluffs)  
P  Andrew Woodruff (E – West Tisbury)  

Staff:  Mark London (Executive Director), Paul Foley (DRI Coordinator), Jim Miller (Traffic Analyst), Christine Flynn (Affordable Housing Coordinator)

The meeting was called to order at 7:36 p.m.

1.  44 NORTH WATER STREET REALTY TRUST: DRI NO. 604 – PUBLIC HEARING


For the applicant:  Kevin Kerr, attorney, Tim O’Connell, owner

Christina Brown opened the public hearing.

1.1 Staff Report

Paul Foley gave the staff report.

- The proposal is to subdivide two lots into seven lots.
- The property is in the B1 Commercial District and Historic District.
- The Edgartown Planning Board has given preliminary approval.
- Construction on the property will be subject to the Historic Commission.
- The Building Inspector issued a permit for demolition of the bar and restaurant and part of the hotel that had been an old long garage that had been converted to rooms.
- The development site abuts Nevin Square, businesses and residences.
- The applicants are not submitting plans for the subdivided lots. They want to subdivide the lots and sell them.
- The project was referred by the Edgartown Planning Board under DRI trigger 3.201.
• The issues include what are the future uses of the seven lots.
• The project does not trigger the Commission’s affordable housing policy at this time.
• ITE estimated trips for the previous use is 376 trips a day.
• The landscaping is mostly intact.
• There is a shell driveway where the garage was and the areas disturbed by the demolition have been seeded with grass as requested by Historic District Commission.
• The lots contain a fair amount of open space.
• ITE estimates for commercial uses of 1,999 sf on each lot is up to 600 trips a day. For homes on each lot the estimate is only 84 trips a day.
• The Edgartown Planning Board referred the project after they approved the subdivision with the condition that no additional curb cuts on Simpson Lane would be made without further approval by the Planning Board.
• Anthony Bongiorno wrote to request that the Commission withhold a decision until the Town has had an opportunity to examine whether they want to use the lots for parking.
• James Nevin wrote supporting Mr. Bongiorno’s position.
• Staff noted that this subdivision would not preclude that from happening.
• Kevin Kerr submitted a letter with the applicant’s offers. Essentially the offers say that anything other than single-family homes and the previous use would be referred back for DRI review.
• One concern is the issue of segmentation and ensuring that there isn’t a major slip through the cracks.
• Mr. Kerr requested that if they don’t execute the subdivision plan, then the property shouldn’t become a DRI.
• Erik Wodlinger has written an opinion about that request.
• The existing buildings in the front on Water Street are three houses with 9 bedrooms, 7 bedrooms, and 1 bedroom. There are three houses on Simpson’s Lane with two being single-family homes and one a four-unit building.
• A slideshow showed existing uses and the plan.

1.2 Applicants’ Presentation

Kevin Kerr, acting as Trustee, introduced himself and Tim O’Connell, manager of Seaport Development LLC and described the application.
• Two Edgartown approvals brought the project before the Commission.
• The demolition received all necessary municipal approvals including a building permit. The Historic Commission determined there was no architectural or historical significance to the building that was demolished.
• It’s fair to say that the neighborhood liked the demolition.
• On February 20, 2007, the Edgartown Planning Board endorsed the division of land. An ANR plan doesn’t have meaning until something is planned or conveyed.
• There is no development project and no new use of land proposed.
The applicant is asking that the Commission to act expeditiously. A sale was lost because the Planning Board decided, after its approval in February, to refer the subdivision to the Commission.

It has been determined that, under the worst-case scenario of traffic, there would be no material adverse impact on traffic conditions. The traffic report illustrates that there isn’t a significant adverse impact even under worst-case scenario.

## 1.3 Town Boards

Roger Becker, Chair of the Edgartown Planning Board, said they voted on an application of and Approval-Not-Required (ANR) subdivision.

- The concern was whether Simpson Lane could handle the subdivision. The Planning Board thought that it could handle traffic, but they limited adding more curb cuts.
- The Planning Board was restricted from reviewing it for impacts on neighborhood, a business area that is pretty fully developed.
- Dividing up the lots wouldn’t really affect the area in general.

The sites are served by town water and town sewer.

## 1.4 Public Comment

The Commission received two letters from members of the public.

Anthony Bongiorno, owner of property in Nevin Square, opposes the subdivision.

- He requests that Commission postpone its decision until after Edgartown as the opportunity to examine whether it wants the land for parking and a staging area for the ferry.
- He explained that Simpson’s Lane is the line that divides residential from business. North Water to Main Street is fully developed commercial. The other side of Simpson’s Lane is residential.

Mr. Nevin also requested that the Commission continue the hearing until Edgartown has examined whether it wants the land for staging and parking.

Claudia Kennedy from the Board of Trade in Edgartown said she doesn’t understand the importance of subdividing. She said the Board is interested in the possibility of the Town to use it for parking.

Carol Coulter asked whether the two houses are included in the seven lots. Kevin Kerr clarified that they are.

There was a discussion of the possible replacement uses.

- Christina Brown said the applicant submitted a fairly thorough application with a letter in which they suggest or offer that they would like the possibility of building single family houses on each lot or replacing the guest rooms and restaurant that were demolished. She asked if they are asking for the same numbers for guest rooms and the same kind of restaurant.
- Kevin Kerr said the zoning restricts the kind of restaurant.
• Commissioners asked whether each of the lots could have a small restaurant and discussed whether a 4500-square-foot restaurant is different from two 2400 square foot restaurants.

• **John Breckenridge** said different kinds of restaurants have different kinds of traffic and asked whether the offer would be narrowed to the same kind of restaurant.

• **Kevin Kerr** said they working with the general principle of the pre-existing restaurant.

Commissioners and the applicant confirmed that there are three existing curb cuts to Simpson’s Lane.

**Christina Brown**, after discussion of potential build-out of residential units on the lots, suggested that the applicant clarify the offer on restaurants and include an offer of how the affordable housing policy might be implemented if triggered.

The application will be reviewed at LUPC on June 18th, and discussed at the Commission meeting on June 21st.

**Christina Brown** closed the public hearing and left the written record open until June 21. She added that two or three people, in the context of the LUPC process, could work with the applicant so the application could be voted on expeditiously.

2. **MIDDLE LINE ROAD COMMUNITY HOUSING PROGRAM: DRI NO. 597 – DELIBERATION & DECISION**


**Doug Sederholm** explained that this is a public meeting, but not a public hearing. Before voting on the application, Commissioners will determine the scope of their decision on the Form B Application, review and discuss offers and conditions, then discuss benefits and detriments.

2.1 **LUPC Report**

**Doug Sederholm** gave the LUPC report.

- He clarified the offers and noted that the application would be coming back for review and approval on road access, house siting, final delineation of cut zones, and fire safety issues.
- The applicant has clarified that if there are not sufficient applicants in the under 100% of Area Median Income (AMI) category, they would make the units available to people in the 150% AMI category.
- There was considerable discussion on the offer on open space. The applicant wants the ability to create some meadowlike areas, so the issue of no cut zones versus open space became confusing. If there were anything different in the plan than what was submitted to Natural Heritage, the applicant would have to resubmit to Natural Heritage for review by them, regardless of the Commission’s decision.
- On the motion to recommend the project for approval by the full Commission, the LUPC vote was tied, with Doug Sederholm abstaining.
• Road access and siting of buildings is not final. The Commission’s decision will be on whether to approve Chilmark’s affordable housing project of 12 units with separate septic systems.

2.2 Discussion

Mark London added that the Commission is voting on accepting the plan except for those aspects of the plan that haven’t been decided. If the Form C that the applicants submit conforms to the plan that was approved, there wouldn’t be an issue. If they come back with a Form C that doesn’t conform to the plan, then they would be requesting a modification.

Commissioners discussed the elements of the application that are fixed and the elements that still need to be decided and the scope of the Commission’s decision.

• Chris Murphy said Chilmark doesn’t want to spend a lot of money doing something that the Commission is not going to approve. The Commission’s vote at this time would be an agreement in principle and can be modified when the specifics are done.

• Linda Sibley said unless there’s something astounding and new in the next submission, the Commission would stick with the concepts it approves at this point.

Doug Sederholm detailed the scope of the project to be voted on:

• This is a community housing project proposed by the Town of Chilmark.
• Six of the sites will be homesite lots with long-term leases and their own septic.
• The town is going to own the land and there will be long-term leases to homesite winners.
• Each of the nine buildings will have it’s own septic.
• A general layout of the buildings and roadway is included in the application.
• There will be a no-cut zone for Holman Road except where it’s crossed by the access road.
• Eight affordable units will be available to people with AMI of 150% or under. Four will be reserved for people with 100% AMI or under with the option of renting to over 100% AMI applicants if under 100% AMI applicants aren’t on the list.
• Certain areas such as the clay pits and beech stand will be maintained as absolutely no cut zones.
• 70-80% of the 21 acres will be maintained as open space whether the applicants create a meadow or not.
• This a 21-acre project as offered and the Cassutta property, under conservation restriction, is not part of the project.
• The applicants offered that they will return with a Form C which will address items that are unclear:
  - Road access
  - House siting
  - Final delineation of cut zone
  - Lawn areas
  - Access
  - Fire safety issues
  - Open Space
• The landscaping offer included that all species shall be non-invasive and shall include
native species. The Landscaping offer also includes the type of fertilizers to be used in the
MVC standard language.
• Exterior lighting will be consistent with the Chilmark lighting by-law.
• The applicant has submitted draft implementation guidelines for the homesite housing by-
law. No rental guidelines have been adopted yet.
• The Form C should clarify the rolling concept of income qualification for rental units.
• The units will have Title 5 septic systems.
• There will be a 50-foot no-cut buffer along Holman Road except where the access road
crosses.
• The Form C should clarify the use of the Cape Light Compact Grant.
• The archaeological survey will be done before the Form C is submitted. If the initial study
indicates that there is significant archaeological potential, then the Form C could state that
the Tribe would be notified of the excavation.
• If there are major alterations to the use of the premises, they’ll come before the
Commission to request the alterations.

**Linda Sibley** asked that the Commission accept the staff’s report that project meets the
Commission’s current (as of June 2007) nitrogen loading guidelines, barring a substantial change
in information.

**Peter Cabana** said that tying LEED certification to a Cape Light Compact grant is a good effort.
It would be wonderful if a revenue-neutral situation could be reached and Cape Light Compact
grants could help with LEED certification. The offer is very proactive.

The applicants have agreed to archaeological oversight.

**Mimi Davisson moved, and it was duly seconded, that when the applicants return with the Form C, they will discuss how they have considered universal access and visitibility in the rental units. They’ll present what they thought about and what they did or did not do. Agreed by consensus**

Peter Cabana asked that, upon completion, the applicants submit a report on LEED, what they
accomplished and what grants they received in relation to energy conservation for the three rental
buildings.

**Linda Sibley moved, and it was duly seconded, that the final landscaping and open space plan be consistent with the offers. Agreed by consensus**

**Linda Sibley** asked that the applicants consider requiring individuals to meet more stringent
energy codes as long as the measures involved result in energy savings.

**Andrew Woodruff** asked whether the Commission’s approval would allow the town the
flexibility to re-site the homes. **Doug Sederholm** confirmed that the Commission approval
allows the town to work toward further clustering.

**John Breckenridge** asked for confirmation that the development plan protect Holman Road
and insure perpetual public access.
Peter Cabana asked about the fire department’s request for a storage tank and well. It will be part of the Form C submission.

Mark London asked the applicant to clarify the offer on public access. Warren Doty confirmed that there will be public access on Holman Road; the Land Bank bought the Holman Road easement and they will maintain it.

Doug Sederholm said some of these units should be reserved for people for 80% or less AMI.
- He proposed that two of the units be reserved for applicants making 80% or below of AMI. That’s the group that needs the most help. The town wants to address the issues of the town. The town benefits from the labors of the people in this category.
- He’s sensitive to the fact that half of the sites are homesites and residents will have to show income to receive a mortgage.

Doug Sederholm moved, and it was duly seconded, that six of the units be reserved for applicants at or below 150% AMI, four at or below 100% AMI, and two at or below 80% AMI.
- Chris Murphy said the entire project is an affordable housing project. The 80% AMI restriction was raised and the applicants made it clear that they didn’t want to do it. They weren’t going to commit to 80%. The number at each level of AMI would be dependent on the applicant pool.
- Christina Brown suggested that the Commission not change the AMI levels. She agrees that the Island needs all levels of affordable housing. Adding two units at 80% would not significantly impact the affordable housing problem. There are good reasons why they proposed what they did.

A hand vote was taken. In favor: 6. Opposed: 6. Abstentions: 0. The motion does not pass.

Kathy Newman moved, and it was duly seconded, that the applicant consider including two units at 80% AMI, and report back on their decision when they submit the Form C. A voice vote was taken. In favor: 11. Opposed: 1. Abstentions: None. The motion passed.

Christina Brown moved, and it was duly seconded, to approve the Form B with conditions.

Linda Sibley moved, and it was duly seconded, to accept the conditions as discussed.
- Report on the application of Universal Access.
- Report the LEED Level achieved and the awards received from Cape Light Compact.
- Submit a final Landscape and Open Space plan.
- Report on considering that homeowners meet more stringent energy codes with a rapid payback.
- Submit the final building siting for Commission approval.
- Report on the consideration of including 80% AMI units.
- Holman Road will have public access through the Land Bank.
• The applicants will return with specifics on road access, sight lines on Tabor House, siting of all the buildings, and screening.

She added, for the record, that the wastewater plan meets the Commission’s current policy.

Commissioners approved the motion to accept the conditions by consensus.

2.3 Benefits and Detriments

Commissioners considered the benefits and detriments of the project.

Is the Location Appropriate/Essential in View of the Alternatives

Andrew Woodruff said Chilmark would be hardpressed to find an alternative location. In the planning efforts they certainly looked at other locations.

Jim Athearn said he respects the applicants’ integrity and intentions, but he believes they are on the wrong track, by looking for land to build new affordable housing, rather than use existing housing. He spoke about the Island, the purpose of the Commission, development of rural areas and affordable housing.

• 6,000 houses have been built on Martha’s Vineyard in 25 years. It’s not okay to consume land to solve our immediate needs.
• The 21 acres of the proposed site should be used as conservation land, protecting rural values and a large unbroken woodland. Developing that parcel weakens the natural structure of the land and it’s a key parcel to keeping Chilmark rural. Open space should be used to protect the existing land.
• The 1990-91 Island Plan’s affordable housing goals were to maximize the year-round housing potential within the existing housing stock and create new units within existing structures and developed land.
• Sometimes there are conflicts between what the Island wants. We have thousands of houses but we are not going to find another 21 acres of woodland like this.
• He is a strong supporter of creating affordable housing out of existing stock. By being creative and working with people, the town could find existing houses to use.
• With charitable remainder trusts and passing houses to families, making housing affordable is easier.
• Selling 21 acres to the Land Bank would allow Chilmark to buy existing housing stock.
• The Island has already lost thousands of acres because we haven’t had the courage or conviction to say no.

Chris Murphy said he believes in all of Jim Athearn’s statements. The problem is how do to get from pie in the sky to practical everyday reality.

• The Town could do a lesser development that doesn’t require Commission approval.
• This proposal preserves open space. The land could have been subdivided with a build-out of seven houses, seven guest houses and pools. In effect, the entire acreage could have been developed.
• This is one of the first developments that will meet the Commission’s Open Space Policy. The planners should be commended for that.
• He said this proposal is better than anything else that’s come before the Commission.
• He proposed moving forward the interests of our community.

Doug Sederholm said Cozy Hearth with 10 units on 10 acres did just as well with open space.

Ned Orleans said he’s heard opinions from a few people.
• Chilmark is different and so are the other five towns.
• The Martha’s Vineyard Commission is a land use agency and he must focus on land-use issues. The MVC is a land use agency but it was legislated to be different than other land use agencies.
• The Commission is supposed to look at things with Island-wide impact. One strategy to achieve a common objective for all six towns won’t work. If the objective is to build affordable housing, that’s not difficult. If the objective is to build affordable housing that’s integrated into the town and its services, that’s more difficult.
• He will support the application. He’s come to the conclusion he was using this application to make a bigger point and that’s not fair to Chilmark. We can’t stop the world as we try to solve a problem.
• The issue of integrated affordable housing is important to address. The Island is going to end up with 10 or 20 affordable housing projects that won’t be well-integrated into the community. It’s time for the Commission to be proactive and play a leadership role in developing strategies for affordable housing across the island. Maybe, hopefully, the Island Plan will be the mechanism.

Linda Sibley agrees with Jim Athearn, except whether it’s practical to achieve affordable housing in the way he suggested because of a lack of mechanisms and money, particularly in Chilmark, where property values are so out of whack.
• Chilmark is lucky to own this property and be able to create some housing for the people of Chilmark. If they don’t do this, Chilmark will become a place where ordinary people can’t live. It’s completely impossible for someone who earns their living here year round to consider being able to buy in Chilmark.
• She sees this project as an attempt by Chilmark to maintain its character at the expense of the land. People are part of Island character, too. The people of Chilmark need to be kept and housed in Chilmark.
• This is an appropriate use of this land, in view of the alternatives. There are no alternatives.

Jim Athearn said the town is doing the project at the expense of this piece of land. When people speak of economics, they have to assign true costs to natural habitat and other issues. The maintenance of natural land in a community is priceless. Let’s pay for affordable housing with dollars, not land.

Doug Sederholm said the problem is that land and providing affordable housing is priceless. He asked how, on this application, people and land could both be promoted.
• Chilmark is different. All of our towns are different and unique.
• This is a project in an isolated area. Chilmark isn’t set up for smart growth. The Selectmen said they have scoured the land stock and inventory.
• It’s a tragedy to develop this piece of property and the town has voted to do it.
• He’s critical of how they’ve set up the affordable housing. He would like to see the applicants provide housing for people at the lowest end of the housing stock.
• The town has made a decision to take a beautiful piece of land and put affordable housing stock on it and they are preserving 70%. It’s what they can do to preserve two things that are priceless.

Kathy Newman said she agrees with Jim Athearn, but a lot of the houses that have been built are ones that the Commission has no control over. She would hate for the Commission to squelch this project.

Jim Athearn said they do have control over this because the town owns this. It’s difficult to have control over private property.

Environmental Impact

Mimi Davisson reiterated Chris Murphy’s comment that the land could be developed with seven houses with guesthouses and pools.

Andrew Woodruff said he originally became interested in clustered development when he did an exhibit at the fair when he was a child.
- It was his hope that this project would be more in keeping with cluster development.
- In his judgment, the project doesn’t pass his standards as a model for future development.

Effect on Other Persons and Property

Jim Athearn said the development of the land affects abutters and hunters, and walkers. The Land Bank won’t be able to offer hunting on its property. This project takes a piece out of Island culture.

Traffic and Transportation

Doug Sederholm said it’s going to be a detriment that 12 more families will be using the road.

Character and Identity

Mimi Davisson asked how this community in the woods would contribute to Chilmark.

Doug Sederholm said Chilmark has a lot of people who contribute to the character of the town who are hanging on by their fingernails.
- The town needs people for the fire department, town hall, and teachers. The school embodies its sense of itself.
- The development would add to the sense of community to the town. It would have people who are committed to the town living relatively close together.

Chris Murphy said the project does add to a sense of community.
- Chilmark has created 30 youth lots, which are a form of affordable housing.
- This is another affordable endeavor. It will help keep teachers, EMTs, and firemen as well as good citizens in town.
- How can Commissioners oppose it when it’s moving the town in the right direction?
- You have to have people in your town who are a part of the community.
Doug Sederholm said it would help the demographics of the town. The residents will likely be younger families who are needed in town.

**Impact on Services**

Doug Sederholm pointed out that the project will be adding to the tax base but there will also be some burden on taxpayers and to the tax base.

Jim Athearn pointed out that West Tisbury didn’t do so well in adding to their tax base. Year-round housing costs the town money.

Doug Sederholm said Chilmark has the lowest level of year-round housing in the Island.

**Burden on Public Facilities**

Mimi Davison pointed out that a bus route would have an impact.

Doug Sederholm said the project might mean more kids for the school, which would be a benefit.

**Municipality’s Master Plan**

Doug Sederholm said it is part of the master plan to develop affordable housing.

**Town, Regional, and State Plan Objectives**

Jim Athearn said the location of the project in this area contravenes the Commission’s affordable housing and land use principles.

Christina Brown referred to the Commission’s adopted principles of 1975 and 1981. The policy plan supports this proposal in terms of getting more affordable housing and keeping more open space.

Jim Athearn said there are contradictory phrases in the policy such as using Town-owned land for affordable housing, but building housing close to town centers.

Linda Sibley said smart growth doesn’t completely fit with Chilmark. Beetlebung Corner is the town center. It doesn’t have a real downtown. The growth pattern of the town doesn’t fit the smart growth concept.

Jim Athearn the idea of the smart growth concept is to locate any development next to existing developments. South Road, Squibnocket, and Menemsha are developed.

Christina Brown said one would hope that the development, with its Holman Road connection, would become part of the North Tabor Farm neighborhood.

Christina Brown moved that the Commission waive its fee in accordance with the policy for municipalities. In favor: 11. Opposed: 1. Abstentions: 0. The motion passed.

3. OTHER

3.1 Affordable Housing

Ned Orleans suggested that the Commission examine the question of integrated affordable housing. Some good hard study can help determine a number of strategies to achieve the same goal.

Ned Orleans moved, and it was duly seconded, that the Commission and the Island Plan Steering Committee undertake a study of affordable housing from the perspective of integrating affordable housing into the community, especially in terms of the unique qualities of each town.

- Mark London said that the proposal could work into the Island Plan efforts of the housing group and/or the development group.

A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

There was a discussion of the Housing Bank Legislation.

- Linda Sibley would like for the Commission to try to further the prospects of the Legislature to pass the Housing Bank legislation. The strategies for developing affordable housing depend on there being a solid reliable funding source when appropriate properties become available.

- Mark London said the Commission could write a new letter to people who are proposing the Housing Bank.

- He added that there is a lot of work being done on small projects.

- Warren Doty said Island Housing Trust is very dedicated to scattered site housing. That’s been the thrust.

- The president of the Island Housing Trust said that of the 59 units the Island Housing Trust owns, 39 were distressed units, 9 were infill in more densely settled areas, and 30 were accessory apartments in West Tisbury. It would be a good idea for the Island Housing Trust to report on its projects.

- The Island Housing Trust lobbied the Legislature on Realtors’ Day. Non-Island realtors are lobbying against the Housing Bank.

- The Commission has already played a supportive role in writing the Legislature.

- Mimi Davisson suggested that individuals could write letters as well.

3.2 Cronigs

Mark London said it is a three-phase project, but the application is for the first phase. He’s applying for squaring off the building and landscaping and the parking.

Linda Sibley asked to see details of changes and landscaping changes in the parking lot.
The meeting adjourned at 10:46 p.m.

Chairman

Clerk-Treasurer

Date

11-15-07

Date

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