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Minutes of the Commission Meeting Held on February 7, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Breckenridge (A – Oak Bluffs)	P Jim Powell (A – West Tisbury)
P Christina Brown (E - Edgartown)	P Doug Sederholm (E – Chilmark)
P Peter Cabana (A – Tisbury)	- Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	- Paul Strauss (County Comm. Rep.)
- Mark Morris (A – Edgartown)	P Richard Toole (E – Oak Bluffs)
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 (DRI Analyst/Planner), Christine Flynn (Economic Development & Affordable Housing Planner), Ed O'Connell (Regulatory Specialist), JoAnn Taylor (Coastal Planner/DCPC Coordinator)

The meeting was called to order at 7:40 p.m.

1. EXECUTIVE DIRECTOR'S REPORT

Mark London distributed the final version of Ed O'Connell's study on the Development Permitting Process for Martha's Vineyard, a companion to the Commonwealth's statewide study, as was presented to the Commission at a recent meeting. He thanked Ed for having worked on it.

2. RICKARD BAKERY: DRI NO. 311M – CONCURRENCE REVIEW

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley

For the applicant: Michael Rickard, owner; Geoghan Coogan, attorney

Richard Toole recused himself and left the room.

John Breckenridge gave the LUPC report:

- After the site visit, LUPC recommended to not concur with the referral as the proposed use is not significantly different from the approved use.

Paul Foley gave a staff report:

- The owners are Katherine and Michael Rickard.
- The location is on Cook Street and there are no proposed external changes.
- Zoning is B-2 Commercial.
- The business requires a permit from the Board of Health, which has been issued with the condition that a grease trap will be installed.
- The site has been a DRI since 1989, with the condition of no retail sales.
- The project was referred by Ken Barwick.
- There is an issue with the original decision, namely that more of the parking lot is paved. However, this was done long ago.
- Bill Wilcox looked at water usage. His final decision was that there would probably be less water usage than the tent rentals' previous usage.
- It is estimated that the bakery will generate less traffic than tent rentals.
- The proposal doesn't trigger the affordable housing policy.
- If successful, they may have up to three employees.
- The Commission has received no correspondence on the project.
- There would be two deliveries a day from the bakery and some deliveries to the store between 8:00 and 10:00 a.m. but that schedule can be rearranged if there's a problem. Bread deliveries will be made early morning and early afternoon.

James Powell moved, and it was duly seconded, that the proposal is not a substantial enough change to require a public hearing and that Commissioners not concur with the referral.

- **Chris Murphy** thanked the building inspector for referring the project and said that part of the reason the Commission can send it back with such assurances is that Commissioners know it will be well monitored.
- **Mimi Davisson** asked for clarification that the DRI is attached to the building and that the building owners have to comply with the previous conditions.

A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley moved, and it was duly seconded, that the Commission accept the change of use. A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley. Opposed: None. Abstentions: None. The motion passed.

3. CORNERSTONE: DRI 566M – PUBLIC HEARING

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, M. Davisson, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole

For the applicant: Ray Bilodeau, owner; George Souratti, engineer; Chuck Sullivan, architect.

Richard Toole opened the public hearing and read the hearing notice.

- The applicant is MV Electric/Cornerstone Builders. The owner is Gene Erez.

- The location is 44 Evelyn Way, Tisbury
- The proposal is to subdivide a lot into two 11,340 sq. ft. lots and construct a two-story 4,256 sq. ft. building with a shop and office for Cornerstone Builders with a 2-bedroom apartment above.

Paul Foley gave the staff report:

- The revised plan is for a 4,235 sq. ft. building.
- The site is in the B-2 district, with setback requirements that gives the project a restricted building envelope.
- Required permits are a Special Permit from the Planning Board for subdivision of land, a building permit, and possibly a parking permit.
- Surrounding land uses are light industrial.
- In 2003, a project was approved, but it lapsed and the lot wasn't subdivided.
- The first floor workshop is 2,098 sq. ft., the second floor office is 1,317 sq. ft. and the apartment is 820 sq. ft.
- Cornerstone currently has 18 to 20 employees. At this site, two secretaries will use the office and two men will be working in the shop. The rest of the employees wouldn't spend a lot of time in the building and are mostly at work sites.
- Parking is being altered a little bit.
- The project was referred by Tisbury Planning Board for dividing land in a commercial district.
- Key issues include:
 - Evelyn Way is slated for becoming a possible connector road.
 - Vegetation includes several mature trees at the entry that will have to be removed. There is an offer to move the beech tree to the corner of the lot.
- The landscaping plan hasn't been submitted yet.
- Lighting will be on the sides of the building.
- For energy sustainability, the applicants will be using efficient insulation and furnace, and on-demand hot water.
- This project isn't in a nitrogen sensitive watershed. A septic plan has been submitted. Bill Wilcox said there isn't a problem with wastewater and the stormwater plan looks fine.
- Traffic generation for the office is 15 weekday trips and 14 trips a day for the workshop. The apartment is estimated at 7 weekday trips. The total estimate for traffic generation is 36 trips per day, assuming 15 employees are not coming to the office and workshop.
- There are 9 parking spaces. There are a few parking requirements in the B-2 district based on square footage, buildings, apartments, and employees. The applicant can request a reduction of the required number of parking spaces. The project should not have a significant impact on traffic, especially in comparison to the connector road.
- The two-bedroom apartment will be a year-round rental, preferably for employees of the resident business.
- The project would be an improvement to the streetscape, except for the loss of trees.
- The ground floor will have an accessible bathroom and conference area.
- The immediate neighbor is MV Electric, which is selling Cornerstone the property.
- Paul Foley presented a slide show showing the building site.

Ray Bilodeau, applicant, said their intention is to own a building and not pay a lease.

- They want a workshop space and an area for trucks to drop off materials, as well as a nice office space.
- They want a nice-looking building with attractive landscaping. The intention is to reuse vegetation from construction sites.
- They don't want the apartment for seasonal rental. They want it to be used by Island people for long-term rentals, if they can.

George Souratti, engineer, showed existing conditions at the site.

- They are proposing a 1 to 2 ft. retaining wall so the grade can be leveled and the drop between Evelyn's Way and the site can be dealt with. They're not proposing any changes to the grades in the back slope.
- **Paul Foley** confirmed that Bill Wilcox said the drainage plan was sufficient.
- Four small drywells will handle rainwater.
- The driveway is unpaved, with sandy soil.
- A 30 ft. long trench will catch stormwater.
- The existing curb cut will be changed to one for MV Electric with 7 parking spaces and one for Cornerstone with 9 parking spaces. Two curb cuts give better access and more parking spaces
- Trees in front will have to be cut, except for a beech tree that will be relocated. If the beech tree doesn't survive, they will plant another. They don't want to do substantial planting over the leeching area. There is a lot of room around the perimeter for larger trees. As plant materials become available, they will fill in.

Chris Murphy said, though he was skeptical at first, he agrees with LUPC's conclusion that the two curb-cut proposal is satisfactory in that it reduces the area to be used for parking and circulation.

Commissioners discussed the number of curb cuts, parking spaces and turning radii. The 2003 project was approved with two curb cuts with paved driveways.

Chuck Sullivan suggested the applicant commit to replacing the removed trees with native species within three years. Commissioners suggested that the applicant make a reasonable commitment to number and location and submit a refinement of the existing offer, with coverage along the outer perimeter.

Ray Bilodeau confirmed that that the rear garage doors give workers the ability to pass through long pieces of lumber to heavy machinery.

- One or two people will be working in the shop and there will be pickups of built cabinetry.
- The applicant is hoping that the access road will come through and the new building can pave the way for improvement.
- They would like a small dumpster.
- Excess lumber is usually used by employees, but Cornerstone would be willing to give it away as firewood.

Mimi Davisson said the economic benefit is the creation of two new year-round jobs for the woodworking cabinetry positions. **Ray Bilodeau** said currently all their employees are residents. Essentially, they could be providing housing for the two new employees.

Richard Toole closed the public hearing.

Commissioners took a short recess.

4. ISLAND ROAD DISTRICT PROPOSED GUIDELINE AMENDMENTS AND EDGARTOWN SPECIAL WAYS REGULATIONS PROPOSED AMENDMENTS- DISCUSSION & DELIBERATION

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole

Mimi Davisson recused herself and left the meeting.

4.1 DCPC Guidelines Amendments

Doug Sederholm opened the discussion on the proposed amendments to Island Road District Guidelines. The Commission is acting in its legislative capacity and has been advised that Commissioners who did not attend the public hearing but read minutes, reviewed tapes, and documents may participate in the discussion and may vote.

The proposed amendments are to the Guidelines for the Special Ways Zone, as specified in the Commission's Decision Designating the Island Road District as a District of Critical Planning Concern.

- Section 5 V A. 1. No way or road shall be constructed within the Special Way Zone which exceeds a width of twelve (12) feet. The proposal is to add: . . . *except that greater width may be allowed by Special Permit after approval by the Martha's Vineyard Commission as a Development of Regional Impact.*
- Section 5 V.A. 2. No fences, walls, or structures shall be erected, placed, or constructed within twenty (20) feet of the centerline of the Special Way. The proposal is to add: . . . *except that lesser setbacks for fences or stone walls may be allowed on small abutting lots, taking into account such factors as height, transparency, and materials to prevent creation of a narrow, visually confined effect; in which case the Town shall demonstrate that the purpose of this guideline's intent is respected and shall determine what acreage determines a small lot.*
- Section 5 V.B.1 Permitted uses: Any use permitted by the applicable town zoning district, provided that the development does not result in direct vehicular access to the Special Way. The proposal is to add: . . . *However, continued vehicular use may be allowed where specifically identified by the Town as routinely traveled by motor vehicles prior to nomination.*

Jo-Ann Taylor explained that the previously proposed amendment related to the 1,000 foot separation between curb cuts isn't necessary. There is sufficient leeway in the Guidelines and adequate precedent to find conformance while leaving the District Guideline intact on that subject.

- It appears that it was never the intent of the 1,000 ft. curb cut rule to apply to Special Ways.
- Notes from the 1975 DCPC Committee recommended that the 1,000 ft. curb cut separation restricted to the Major Road Zone. Right now in Special Ways 1,000 ft. curb cuts are required in the Guidelines, but it is unclear how the 1,000 ft. curb cut appeared in the Special Ways Zone.
- She gave background on curb cut regulations that the Commission wrote and applied only to the Major Road Zone, noting that the Commission not only found those regulations in conformance, but was the author, in the absence of submission of proposals by those towns.
- In Aquinnah and West Tisbury the 1,000 ft. curb cut separation applies to the Major Road Zone and Special Ways.
- In Edgartown, according to the Planning Board, the 1,000 ft. separation applies to only the Major Road Zone. The 1,000 ft. separation doesn't apply on Special Ways, but any curb cut requires a special permit.
- The intent of the amendment is to protect the ways but deal with reality. The amendment allows fencing because there may be Special Ways proposed around the Island that abut neighborhoods. For example, Pennywise Path is a Special Vehicular Way and there are existing fences within the 20 ft. setback. .

Commissioners discussed fences on small lots.

Bill Veno said he worked with the bylaws committee. West Tisbury considered changing its bylaws because Old Holmes Hole Road has fences and no one wanted them set back 20 feet.

Christina Brown moved, and it was duly seconded that the Commission amend the Guidelines for the Island Road District Special Ways Zone as proposed and modified.

- Section 5 V A. 1. No way or road shall be constructed within a Special Way Zone which exceeds a width of twelve (12) feet. The proposal is to add: . . . *except that greater width may be allowed by Special Permit after approval by the Martha's Vineyard Commission as a Development of Regional Impact.*
- Section 5 V.A. 2. No fences, walls, or structures shall be erected, placed, or constructed within twenty (20) feet of the centerline of the Special Way. The proposal is to add: . . . *except that lesser setbacks for fences or stone walls may be allowed on abutting lots of less than one acre in size, taking into account such factors as height, transparency, materials, and natural screening to prevent creation of a narrow, visually confined effect; in which case the Town shall demonstrate that the purpose of this guideline's intent is respected.*
- Section 5 V.B.1 Permitted Uses: Any use permitted by the applicable town zoning district, provided that the development does not result in direct vehicular access to the Special Way. The proposal is to add: . . . *However, continued vehicular use may be allowed where specifically identified by the Town as routinely traveled by motor vehicles prior to nomination of the Special Way and provided that the continued vehicular use is of the same nature and extent as that which existed prior to nomination of the Special Way.*

A roll call vote was taken on the proposed amendment to Section 5 V.A. 1. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: None. The motion passed.

A roll call vote was taken on the proposed amendment to Section 5 V.A. 2. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, N. Orleans, D. Sederholm, L. Sibley.. Opposed: C. Murphy, J. Powell. R. Toole. Abstentions: None. The motion passed.

A roll call vote was taken on the proposed amendment to Section 5 V.B. 1. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: None. The motion passed.

4.1 DCPC Guidelines Amendments

The Commission discussed Edgartown's proposed amendments to the Special Ways By Law Regulations.

- Regulations d.6 allows fences within the Special Ways Zone based on height and transparency. Commissioners had some concern about the possibility of extensive heavy stockade use in proximity to special ways and whether that would be in conformance with the guidelines, especially related to transparency and the possibility of creating a confined visual sense.
- Would Commissioners find the regulation in conformance with the guidelines if it provided for fences that are at least 50% transparent?
- **Roger Becker** said he felt the additional language would be in keeping with the vote of the Planning Board.
- The regulations would be in conformance provided that any fences within 20 feet are 50% transparent.

Doug Sederholm clarified wording changes including adding *and running* to the descriptions of Ben Tom's Road and Pennywise Path.

- There were one or two locations where there was a reference to segments identified as special vehicular ways and where vehicular rights of way pre-exist the designation. The *and* should be changed to *or*. One is in Subsection d.7. The other is f. 1.

Linda Sibley suggested a clarification for Section d.2. There should be no alteration of the width and surface materials. She suggested clarifying further that the existing surface can be maintained, but can't be upgraded.

Jim Powell added that an important aspect and benefit of the wording change is that there is vegetation that need to be protected.

Mark London suggested checking for the wording that existing fences are grandfathered.

Roger Becker said the regulation will be amended to say that non-conforming preexisting fences may remain.

John Breckenridge suggested a minor revision under 2g that the language should be: *“after the matter has been referred to the Martha’s Vineyard Commission as a discretionary referral or otherwise”*. This would allow for a discretionary referral until such time as the Commission adds the item to the DRI Checklist and gets the updated Checklist approved by the Commonwealth.

Mark London suggested that Commissioners read over the document for language that needs to be clarified. Commissioners could add to the findings of conformance that the Town may make further rewording for purposes of clarification that doesn’t result in change of meaning.

Jim Athearn asked about adding the discretionary referral reference. **Christina Brown** clarified that the Town would be directing the Planning Board that every time a Special Ways abutter wants greater than a 12-foot roadway, the Town would be required to make a referral to the Commission.

Roger Becker and Commissioners agreed that he would need to make wording revisions to proposed regulation 2e to make it conform to the revisions in Guideline 5.V.B.1.

Linda Sibley moved, and it was duly seconded, to find that the proposed changes to Edgartown’s Special Ways By-Law as amended conform to the Guidelines, provided that the regulation is amended to require at least fifty percent (50%) transparency for fences within the District, and with the understanding that wording changes may be made that don’t change the meaning of the proposed changes. A roll call vote was taken. In favor: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole. Opposed: None. Abstentions: None. The motion passed.

5. CAPE WIND ENVIRONMENTAL IMPACT STATEMENT

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, K. Newman, N. Orleans, J. Powell, D. Sederholm, L. Sibley, R. Toole

Mark London reported that the 2,000-page draft of the Cape Wind Environmental Impact Statement was released by the Department of Minerals and Mining Management. The Cape Cod Commission and Nantucket Commission will be asking for an extension of the 60-day comment period by 60 or 90 days, and are asking the Martha’s Vineyard Commission to join their request.

Peter Cabana said he would not support the request. He commented that this project has been thoroughly reviewed. Each extension has been a delay tactic.

Jim Powell said the report has been out for a little while. It behooves us to allow sufficient time for review. He would support requesting the additional time especially if Cape Cod and Nantucket want to.

Richard Toole supported Peter Cabana’s comments. **Peter Cabana** said the Commission’s issues should be dealing more with functionality in regard to energy in Massachusetts; the sixty days is sufficient.

Christina Brown asked if staff was planning to review the document. **Doug Sederholm** said the request is to give the public in general adequate time to review, even if we are not planning to comment ourselves.

Jim Powell moved, and it was duly seconded, that the MVC join with the Cape Cod and Nantucket planning commissions, to request that the public comment period on for the Cape Wind EIS be extended by 60 to 90 days. A voice vote was taken. In favor: 7. Opposed: 3. The motion passed.

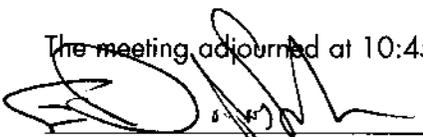
Richard Toole announced that on Monday, Feb. 11th at the Katherine Cornell Theater at 6:30 p.m. there would be an informational meeting on the proposal from Cape Wind and Clean Power Now.

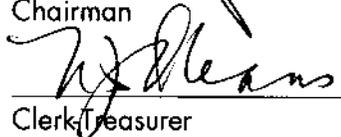
Mark London said he has heard that there is also an event being organized by the critics of the project, in advance of the public hearing in March.

6. OTHER

Linda Sibley reminded the Commission of the discussion of emergency vehicle access on narrow Special Ways and the question of whether two emergency vehicles could pass each other. She reported that she had discussed this with an up-Island fireman who explained that fire trucks can't pass each other on 80% of the Up-Island roads. All the fire departments on the Island plan for, train for, and know how to deal with that. West Tisbury's fire trucks are brush breakers.

The meeting adjourned at 10:45 p.m.


Chairman


Clerk/Treasurer

6-12-08
Date

6-19-08
Date