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Minutes of the Commission Meeting Held on June 19, 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)
- Peter Cabana (A – Tisbury)	P Susan Shea (A – Aquinnah)
- Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P 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 Coordinator), Bill Wilcox (Water Resource Planner), Christine Flynn (Affordable Housing Planner).

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

1. HARBOR VIEW HOTEL: DRI NO. 614 – PUBLIC HEARING (CONT.)

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

Doug Sederholm reopened the public hearing, which had been continued to this date for the purpose of receiving written testimony. There were no new issues raised and he closed the public hearing without taking any testimony.

2. BRADLEY SQUARE: DRI NO. 612 - DELIBERATION AND DECISION

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

Doug Sederholm reported that Commissioners received a number of documents including:

- A memo on zoning issues.
- The applicant's offers as of June 18th.
- A memo from Bill Wilcox.

- Offers as incorporated into conditions.
- A draft analysis of benefits and detriments

Richard Toole gave the LUPC report.

- LUPC voted to recommend to the full Commission to approve the project. It was not a unanimous vote.
- LUPC reviewed the benefits and detriments and prepared a draft analysis, now given to Commissioners.
- LUPC reviewed applicant offers.

2.1 Offers and Conditions

Doug Sederholm reviewed the applicants' offers under affordability.

- The proposal is for nine residential units, between 80% and 100% AMI. Four will be given town preference.
- There will be a condominium document outlining rules and regulations for residential units, the office, and sanctuary.
- Maximum capacity of the sanctuary will be 74.
- The sanctuary may be used between 8:30 a.m. and 9:30 p.m.
- Office use is limited to the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.

Mimi Davisson said she had expressed concern about the distribution of affordable housing units ;she wondered if the applicants would consider modifying their offer in 1.1 to change the distribution of units allocated to various AMI categories to give the applicant flexibility to reallocate the AMI designations if it turns out they are able to afford to. **Doug Sederholm** noted that the language already gives the applicant the flexibility to reduce the AMI categories.

Commissioners discussed uses of the Denniston Center.

- **Jim Athearn** said he was surprised to see the use of the Denniston Center so broadly defined.
- **Doug Sederholm** said the hours are broadly defined but the uses will have to be more specifically defined.
- **Chris Murphy** said that LUPC asked the applicant to limit the uses to those that would be allowed within the zoning, but that's not what they've chosen to offer.
- **Christina Brown** said there is a rental policy document from Martha's Vineyard Preservation Trust about uses.
- **Doug Sederholm** said that, as long as the Denniston Center and office are owned by a non-profit which is dedicated to an educational function, the use can probably meet the zoning requirements, if not the spirit of the zoning.
- **Chris Murphy** asked if the owner/operators would be in violation of the zoning if they leased the property for a function like a wedding.

Linda Sibley said the applicants are restricting the use of the office to 9:00 a.m. to 5:00 p.m.; it seems like this use has less impact than any of the other uses and wondered if it would be fair to broaden those hours. **Doug Sederholm** said hours of operation may mean hours the office is open to the public.

There was a discussion of parking.

- **Mimi Davisson** said the section 1.4 does explicitly mention parking spaces, and she wondered if the parking spaces are specifically part of the units.
- **Doug Sederholm** said that parking is addressed in 2.2.
- **Mimi Davisson** asked if a resident doesn't intend to use their parking space, would the resident be able to rent the parking space.
- The applicant clarified that the parking space regulations, including rental of unused spaces, will be part of the condominium documents.

Commissioners and staff discussed the applicants' transportation offers.

- **Mark London** noted that in sections 2.1 and 2.4, the word *events* has been changed to *activities* as a broader term.
- **Ned Orleans** said section 2.2 should be revised to clarify that that one on-site parking space will be provided per unit.
- **John Breckenridge** commented that the shuttle service needs to be promoted and encouraged to make it successful. This is a positive first step forward. He doesn't know the details of the shuttle service. The Town has a wonderful opportunity with this service and its success may impact how the Commission reviews projects in the future.
- **Doug Sederholm** said if the Commission wants to address the parking problem in Oak Bluffs, why wouldn't it require any user of the Denniston Center to provide shuttle service themselves, instead of relying on an unknown.
- **John Breckenridge** said LUPC worked at rewording the offer. If implemented, promoted and advertised, the program could be very successful. It may be unfair and irresponsible to tie Oak Bluff's parking problems to Bradley Square but the applicants have an opportunity to shine in addressing the issue.

Commissioners discussed Landscaping.

- The landscaping plan will be submitted to LUPC for approval.
- **Linda Sibley** raised the question of sidewalks. She honestly doesn't think that sidewalks are always a good thing. Putting sidewalks on this property alone doesn't make sense. She would like to offer the applicant the option of not building sidewalks if the town doesn't build sidewalks.
- **John Breckenridge** said a condition that might be added is that the applicant shall cooperate with the Town of Oak Bluffs in doing the traffic study.
- **Chris Murphy** said the community open space section needs wordsmithing. If the building is to be used for a private function, it's not public space.
- **Christina Brown** said use of the open space is an insurance issue. This is actually private land and the condo association will own the green space. When The Denniston Center uses the space, it's the condo association's issue.
- It was agreed that the language should read . . . *shall be accessible for and during functions related to the Denniston Center.*

Commissioners discussed Building Design.

- **Mimi Davisson** asked about universal access design.
- **John Early** said all of the ground floor units with commercial activity will be handicapped accessible, including the Denniston Center.

- **Doug Sederholm** asked about the signage requirements in the B-1 district.

Commissioners agreed that the Energy Efficiency offers are very good.

Commissioners discussed Noise and Night Lighting.

- **John Breckenridge** said the applicant and LUPC mutually agreed that no amplification will be used outside of the building.
- Commissioners and the applicants agreed to add the offer that windows in the Cultural Center will be closed during amplified activities.

Commissioners discussed the Stormwater offers and Bill Wilcox's suggestions, as included in the offers.

John Breckenridge said that the applicant's memo of May 22nd states that the commercial kitchen in the basement of the Denniston Building is not part of the application.

- It was clarified that the kitchen is not part of the application. The project description will state that there is not a commercial kitchen.
- It was clarified that any future owner who wanted a commercial kitchen would have to come before the Commission.

Ned Orleans referred to section 1.3; he is not aware that the Oak Bluffs Arts District is an official body. **Philippe Jordi** said the Arts District is a group with officers; they will certify the arts aspect of the artist live/work spaces.

Mimi Davisson asked whether the Arts District includes various kinds of artists, like musicians, writers, or dancers.

Susan Shea asked whether it is possible to be notified when the affordable unit drawings are to take place so that Commissioners could attend.

Commissioners discussed possible parking conditions.

- Each residential condo unit will have a designated parking space.
- The applicant agreed it would be a good idea to limit the subletting of parking spaces to private, passenger vehicles, or commercial vehicles no larger than a pick up truck.
- **Kathy Newman** said if there was going to be a sublet, wouldn't it be better to first offer rentals to Bradley Square residents to help alleviate neighborhood parking.
- Commissioners agreed that Kathy's idea is a good one but may not be feasible.
- Commissioners and the applicant agreed that language should be: If owners of residential units do not use their parking spaces, their spaces may be sublet upon approval of the condominium association.

Linda Sibley moved, and it was duly seconded, that should the applicant choose to expand permissible hours of operation of the office in the Denniston Building to 8:30 a.m. to 9:00 p.m., the applicant would not have to return to the Commission for approval. Commissioners voted unanimously to approve the condition.

Commissioners discussed the use of the Denniston Center.

- **Chris Murphy** asked whether the applicant intended to include the use policies document by the Martha's Vineyard Preservation Trust as their offer.
- **Philippe Jordi** and **Doug Sederholm** reiterated that the offer is based on the Preservation Trust policies. Renters of the Denniston Center would be expected to comply with the Martha's Vineyard Preservation Trust policies.
- **Chris Murphy** suggested that the front page of the Trust policy should be attached to the decision. The applicant agreed.
- **Jim Athearn** said he is sensitive to using the function hall too often and raising the ire of the neighbors. It seems the Commission should consider some kind of restriction but he's not sure how to do it fairly and practically. He suggested something that allows reasonable use but doesn't become a real bane to the neighborhood.
- **Doug Sederholm** asked if he would consider having the applicant come back after a year to explain what the use has been and give the neighbors a forum to comment.
- **Jim Powell** asked whether the local town boards would have the power to deal with use.
- **Christina Brown** said technically this is a 40B. It may be useful to the Zoning Board of Appeals to have the Commission create the requirement that the ZBA should set the restrictions.
- **John Breckenridge** said churches have stated the number of activities they'll have a week.
- **Doug Sederholm** said the Denniston Center is different because it would be used by many different groups.
- **Linda Sibley** said that as a land use agency, it would not be unreasonable to limit the number of days the Denniston Center will be used for activities.

Chris Murphy moved to limit the number of events of over thirty people to one per week.

- **Linda Sibley** said that one per week is way too restrictive, though seven times a week is way too many.
- **Jim Athearn** said limiting the number of events for over thirty people still leaves lots of room for events for fewer than thirty people.

Chris Murphy amended his motion to read that the number of events for more than thirty people be limited to two per week. The motion was seconded.

- The applicant can return for modification.
- **Linda Sibley** said she would be less restrictive of religious use of the space and would limit the non-religious use of the space.
- **Philippe Jordi** said there were examples of how the public would be benefited. He said limiting public access would be detrimental.
- Commissioners discussed the use of the facility and the appropriate number of activities and services.
- Commissioners agreed that the final language of the motion should be:

There shall be no more than three religious services and/or two other activities with more than thirty participants per week. The

applicant may ask the Commission to review this condition at any time.

A hand vote was taken. In favor: 6. Opposed: 7. Abstentions: 1. The motion did not pass.

Linda Sibley moved, and it was duly seconded, that there shall be no more than three activities with more than thirty participants per week. The applicant may ask the Commission to review this condition at any time. A hand vote was taken. In favor: 9. Opposed: 4. Abstentions: 1. The motion passed.

Chris Murphy moved that any organization sponsoring an activity of more than thirty people shall be required to provide its own shuttle service.

- Commissioners discussed the shuttle service.
- **Ron D'Orio** explained that the shuttle service will run from July 1st to August 31st, seven days a week, from 8:30 a.m. to 11:30 a.m. and 4:30 p.m. to 8:30 p.m. The route goes up Dukes County Avenue, down Wing by the harbor, up Circuit, making a 15 minute loop stopping at the school parking lot.

A hand vote was taken. In favor: 5. Opposed: 7. Abstentions: 2. The motion did not pass.

Linda Sibley moved, and it was duly seconded, that should the town decide not to construct sidewalks along Dukes County Avenue and Masonic Avenue, the applicant shall be required to return to the Commission with any proposal to construct impervious sidewalks or paths. A hand vote was taken. In favor: 10. Opposed: 3. Abstentions: 1. The motion passed.

John Breckenridge asked if the Commission could ask the applicant to look at sidewalks in the traffic study. The applicants clarified that they intended to include a review of sidewalks in the traffic study.

Jim Powell asked about zig-zag fencing. The fencing proposal will come before LUPC.

Christina Brown asked whether certain conditions should be met before a Certificate of Occupancy is issued. Staff will include in the written decision which conditions and offers shall be met prior to issuance of a Certificate.

Commissioners discussed use of the Denniston Center. **Mark London** suggested language proposed by Eric Woddlinger.

Chris Murphy moved, and it was duly seconded, that the Denniston Center (the sanctuary and office as indicated on the plans) shall only be used for non-profit educational, cultural, or religious purposes, and other purposes subsidiary and incidental thereto, as determined by the Oak Bluffs Building Inspector.

- **Linda Sibley** said that essentially the Commission is approving uses as defined by the Dover Amendment but not extending uses to 40B definitions.
- **Jim Powell** said that the motion includes built-in enforcement by the Oak Bluffs Building Inspector.

A hand vote was taken. In favor: 11. Opposed: 2. Abstentions: 1. The motion passed.

Richard Toole moved, and it was duly seconded, to approve the project with conditions and offers as agreed upon.

2.2 Benefits and Detriments

Commissioners discussed Benefits & Detriments of the project. Comments are those of individual Commissioners, and not necessarily the opinion of the Commission as a whole.

Appropriate or Essential in that Location

- It's an in-fill, in-town project that allows residents to walk to town.
- It provides affordable housing.
- It's a similar use to the neighborhood and generally fits in.
- It saves a historic building.
- The project will increase the number of cars and traffic.
- The Denniston Center and massing will have negative impacts on the neighborhood.

Environment:

- It's on town sewer and water

Open Space and Habitat:

- It provides 1400 square feet of open space in the B-1 District.
- There will be a loss of open space and trees.

Night lighting and Noise:

- There will be more night lighting and noise, but it will be limited.

Energy:

- It will be a green project.
- It will exceed the Massachusetts Energy Code by 50%.

Traffic and Transportation:

- It may provide sidewalks.
- It will provide a shuttle for events of more than 30 people.
- It's within walking distance of town.
- It will increase pressure from traffic and parking.

Scenic Values:

- It would be an improvement to a neglected lot.
- There will be many structures and the property is largely open at the moment.
- It will be large and dense.
- Fencing tends to reduce the feeling of open space in a neighborhood.

Character and Identity:

- It saves the church and sanctuary and brings back the cultural use of that building.
- It preserves artifacts and displays them.
- It provides small apartments with artists' studios, rather than providing large homes and/or businesses.

- It provides the opportunity for low key businesses.
- It contributes to the diversity of Oak Bluffs.
- It adds to the evolving neighborhood by bringing families and artists who would help enliven the area.
- The use of the meeting room could be detrimental if uses are not seen as educational or religious.
- There is a 30 foot extension of the B-1 District although this is provided for in the by-laws.
- A corresponding benefit is it will provide activity space to the neighborhood.

Impact on Abutter:

- It is too big.
- The impact of Denniston will be considerable for the neighborhood.
- The cumulative massing is inappropriate for the neighborhood.
- It will improve the neighborhood by taking a derelict, run-down property and providing a lovely development.
- The use of the meeting room may well be detrimental, regardless of use, to a residential neighborhood because of traffic noise, etc. The activity has benefits to the wider community and the detriments are to the neighbors.

Low and Moderate Income Housing:

- It provides affordable housing to a range of incomes.
- Four of the units will have Oak Bluffs preference.
- One of the units may be developed by Habitat for Humanity.
- Singling out four of the units for artists may not be a major plus, as there are other groups that need housing.
- Only one unit has been created by preservation. Everything else is new construction.

Impact on Services:

- The project will generate property tax income.
- The project will place some burden on fire, school, and police.
- There was extensive testimony on concerns about parking. There will be a burden on street parking.

Consistency with Town, Regional, and State Objectives:

- The project necessitates the use of the Park and Ride.
- It does not alleviate parking problems in the neighborhood.
- Staff might include describing the project's consistency with Island Plan objectives.
- The Commission is not required to determine that the project conforms to zoning because it is a 40B project and adds to the supply of affordable housing, as outlined in Chapter 831.

John Breckenridge pointed out that Oak Bluffs currently has a ten year old Master Plan.

- Some of the issues related to detriments and benefits, especially those that stem from the same source, could conflict with the Master Plan.
- This project is a good stimulus to take a look at the Town Master Plan.

2.3 Decision

Chris Murphy said the project is interesting. It's too big and has too great an impact on parking and traffic. The applicant hasn't listened to the neighborhood. The applicant should reconsider the project by reducing the number of units, reducing the massing, and creating more parking on site.

Jim Athearn said originally he was overwhelmed by the idea of cramming all the elements of the project into the lot. With the modification to reduce by one unit and move the project back from the street, he feels it's appropriate to approve it and pass it on to local boards.

Susan Shea said the Denniston Building should not be moved. It should be kept in the same location and the two other buildings should be located on the other side of it. If that had been proposed originally, the project would have been more straightforward.

Kathy Newman said she heard concerns about the density and size, but she thinks it's one of the most interesting projects because it combines preservation, affordable housing and in-fill development.

Paul Strauss said the scale and mass are too large. The cultural aspects possibly outweigh those factors. Ultimately, it's not a rural neighborhood. The diversity and vibrancy of this project leads him to vote for the project.

Richard Toole said he thinks this is an excellent example of in-fill development. The developers have put a lot of thought into it. Eventually it will fit into the neighborhood. There's a lot of fear of change which he can understand. The review process should help deal with those fears. Commissioners can't deny a project that makes sense except for the impact of the automobile.

Linda Sibley said that it seems that the benefits and detriments are flowing from the same issues. The developers are trying to do a lot so the impact is a lot. What it accomplishes outweighs the detriments of its size.

John Breckenridge said the Commission has reviewed a few similar projects that have been turned down or withdrawn because of size and impact, including Veira Park, Oyster Bar, and the Robinson project. Some of those same issues of size and impact applied to World Revival Church and the Hospital. He was cool to this project at first, but the project is supported by the positive steps forward with the cultural renovation and the parking and traffic plan.

Mimi Davisson said she will vote yes, but without the affordable housing component she would vote no. The applicant can't solve the parking problems; the town must solve them. She hopes that everyone, including new residents and existing neighbors, will join together and insist that Oak Bluffs update its Master Plan and create a master plan for parking especially in the B-1 district. During the public hearing, she heard tension between the applicant and neighbors; everyone can learn a lesson for the future that if neighbors had been actively involved earlier, the project would be even better.

Doug Sederholm said he thinks this project really stretches the envelope in terms of the burden it's putting on this neighborhood. The question is whether the benefits to the Island outweigh the detriments to the neighborhood. He's disappointed that there weren't enough votes to support that

a shuttle service be provided by Denniston Center users; he urged the applicant to consider requiring that Denniston Center users provide shuttle service; the town shuttle isn't a practical solution. The benefits do outweigh the detriments; people have to wean themselves from petroleum and the project shouldn't be denied because of traffic. This project is a great burden on the neighborhood and it's right on the edge of what he can approve but it's on the right edge; affordable housing is the single greatest need on the Island. If we don't have affordable housing, we won't have community.

A roll call vote was taken on the main motion to approve the Bradley Square project with conditions. In favor: J. Athearn, J. Breckenridge, C. Brown, M. Davisson, M. Morris, K. Newman, N. Orleans, J. Powell, D. Sederholm, S. Shea, L. Sibley, P. Strauss, R. Toole. Opposed: C. Murphy. Abstentions: None. The motion passed.

3. MOUJABBER: DRI NO. 607- PUBLIC HEARING (CONT.)

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

Richard Toole reopened the public hearing for the purpose of receiving written materials, and, having no new issues raised, he closed the public hearing without taking any testimony.

The meeting adjourned at 9:50 p.m.

Christina Brown
Chairman

March 9, 2009
Date

W. Meas
Clerk-Treasurer

March 6, 2009
Date