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Minutes of the Commission Meeting Held on July 17, 2008 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

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| 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) | P Susan Shea (A – Aquinnah) |
| - Martin Crane (A – Governor Appointee) | P Linda Sibley (E – West Tisbury) |
| - 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) |
| - Katherine Newman (A – Aquinnah) | |

Staff: Mark London (Executive Director), Bill Veno (Senior Analyst), Paul Foley (DRI Coordinator), Bill Wilcox (Water Resource Planner), Christine Flynn (Economic Development & Affordable Housing Planner)

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

1. EXECUTIVE DIRECTOR'S REPORT

Mark London reported that the Island Plan Transportation Forum was successful and prompted interesting conversations for the approximately 45 who attended people. The next forum is on the Built Environment on August 4th.

2. ASSEMBLIA DE DEUS NOVA VIDA: DRI NO. 603 – DELIBERATION & DECISION

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, P. Cabana, C. Murphy, N. Orleans, J. Powell, D. Sederholm (Chair), S. Shea, L. Sibley, R. Toole

For the applicant: Arthur Smith, attorney

Richard Toole gave the LUPC report.

- LUPC ran out of time and didn't make a final recommendation to the Commission.
- They discussed possible modifications so it wouldn't have such a significant impact.

2.1 Offers and Conditions

Commissioners reviewed the proposed offers.

- The church will have no more than three regular church activities a week that have more than 25 people.

- There may be one special activity a month with more than 25 people.
- Activities will be limited to 9 a.m. to 10 p.m. Memorial Day Weekend to Columbus Day Weekend and 9 a.m. to 9 p.m. in the off-season. There will be no outdoor socializing and participants will be asked to disperse quickly and quietly.
- Activities with fewer than 25 participants will not be limited in their occurrence but must take place within the stated hours.

Arthur Smith, representing the Church, clarified that the Church does not want to limit the number of services, nor the hour of operations, but will limit the number of special services. Daycare will be limited to 28 children as approved. After the Hospital withdraws its programs, the daycare will stay in place on the first floor for Island and Church children and will remain limited to 28 children.

John Breckenridge mentioned that LUPC discussed the hours of operations and activities in relation to other churches on the Island. World Revival Church's daycare is related to church activities only.

Chris Murphy said that the Church pays property taxes on the portion of the building that is used for daycare.

Susan Shea said LUPC discussed that once the Hospital daycare moves back to the Hospital, the applicant should have to come back and reapply to the Commission for its own daycare.

Arthur Smith continued clarifying the applicant's position.

- The community room will only be used for Church purposes. It may be used for Church-related weddings, possibly two a year. It won't be used for anything other than Church-related activities. Use of the community room is unlimited for Church-related activities.
- The kitchen is required by law to be "commercial", but kitchen will not be rented for or used for producing commercial food products. The Church will use Energy Star appliances. The kitchen will have a grease trap that will be pumped out. There will be no fryolator.
- Energy saving measures include providing roughed-in access for future hot water and solar panels. The location of entrances allow for less heat loss. Insulation will be to code.
- Exterior lighting will be limited to that required by code and will be downward-shielded with motion sensors. Exterior lights will be on during services and turned off after services, except for the sign light.
- There will be a 6-foot cedar fence on the south side. There will be a 3-foot cedar fence in the informal play area for child safety.
- The landscape plan will be submitted for review and approval to LUPC.
- The Church will increase intensity of the buffer toward the north. This area will be managed as a no-cut zone.
- The Church will plant a hedge for the perimeter close to Ryan's Way.
- Parking areas will not be paved. The overflow parking area will be grass and will be used as an informal play area for children when not used for parking.
- Fertilizer will be slow release.

Jamie Weisman clarified that windows shall be closed when the Church is used by more than 25 people. The word *endeavor* should be taken out.

Arthur Smith continued.

- The Church shall keep building doors closed during services when services are amplified. Windows shall remain closed during services and when services are amplified. The church will endeavor not to impose noise on the neighborhood.
- The Church shall discuss with parishioners the need to maintain minimum interaction with the neighborhood.
- Construction documents shall be completed in three months. The building permit will be obtained in four months. A substantive start on construction will be made in six months. The date references will be after the expiration of the appeal period on the Commission decision.
- All work shall conform to drawings.
- All hardscape and landscape will be as noted on plans.
- Renovations and site work shall be completed in a timely matter.

Ned Orleans noted that offers 2-7 under construction are superfluous and just represent what has to be done anyway. It's unnecessary to include them and doesn't move in the direction of simplification.

Commissioners discussed offers under Renovations and Construction and Code.

- There's been a question as to whether the second floor can support a sanctuary so it would be worth keeping the offer related to a structural engineer signing off on the structural drawings.
- Under Renovations, offers 4, 5, 6 and 7 are withdrawn as unnecessary.
- Under Construction and Code, offers 1 and 2 are withdrawn as unnecessary.

Doug Sederholm read the transportation offers.

- The Church will promote use of public transportation.
- The Church will institute a carpooling program.
- The Church uses a minivan to pick up seven parishioners at a time making four trips per service.
- No vehicle parking is allowed on the bike path or residential streets.
- The Church will instruct its members that no parking is allowed on or on the shoulders of Edgartown Vineyard Haven Road.
- The Church is prepared, if possible, in the future, to relocate the entry to the property from Edgartown Vineyard Haven Road and has provided a ten-foot easement on the west side to allow for an alternate entrance.
- An alternative site plan has been prepared for future reference if the access were to change to the Mormon side of the lot. If the access were available through the Mormon property, the entrance on Ryan's Way would be removed.
- The Church will have 34 parking spaces. Overflow parking is provided for 17 cars.
- All parking on the site will be for church and daycare.
- There will be no overnight parking on site except for the church van. No unregistered cars are to be stored on site.

- The parking lot will not be used as a commercial lot.

Additional offers include:

- A ten-foot right of way is established on the north side of the property.
- If the Mormons are willing at any time to offer joint access, the Church shall use the joint access and shall close off the access from Ryan's Way except for emergency access.
- The Church offers to grade to original grade situation the existing curb cut to Edgartown Vineyard Haven Road and replant it.
- Wastewater flow is limited to 150 seats.
- The commercial kitchen will have a grease trap that will be inspected quarterly and pumped as necessary. Records of inspections will be kept.
- Further nitrogen contribution mitigation will be dependent on future water use records exceeding the 2006 water use level of by more than 10%, which would be indicated by annual water meter readings exceeding 150,000 gallons.
- If the flow should exceed the mitigated gallons, the Church will be willing to work with the Commission to lower the nitrogen load
- There is no residential use of the property.

Commissioners discussed the applicant's withdrawal of the number of services offers.

- **Mark London** said the wastewater use and traffic calculations are based on a specific level of use as offered by the applicant. If they remove the offers related to the number of services, the wastewater and traffic impacts will have to be recalculated and mitigated, based on higher possible levels of use.
- **Doug Sederholm** said the Commission would also be put in a position of having to condition the level of use. It makes more sense to have the Church propose what it believes is a reasonable level of activity than have it imposed by the Commission. The Commission is allowed to impose level of use for health and safety reasons.
- **Arthur Smith** said he's seen nothing that allows any board to limit church services.
- **Mark London** said the aim isn't to limit religious expression; it is to determine and mitigate specific impacts based on the anticipated use. Specifying the maximum number activities is a way to determine the level of use, and to make sure that the wastewater, traffic, and other impacts have been adequately mitigated.
- **Arthur Smith** said the Church wasn't happy with the idea of being limited on their time.
- **Christina Brown** said the level and amount of activity speaks to traffic, parking and wastewater issues. Aside from the legalities, common sense says if the proposal on level of use from the Church isn't used, the Commission needs to get more information

Commissioners took a brief recess.

Arthur Smith said that the applicant proposes to re-offer the proposed schedule of services changing the number in offers one and two from 25 to 35.

Doug Sederholm clarified that the new offer is that there may be one special activity a month of 35 or more people.

Commissioners discussed proposed conditions.

Mark London clarified that there are two sets of conditions, one coming out of LUPC minutes relating to hours. Commission counsel suggested that if the concern is related to noise, using DEP standards would be a reasonable regulation, balancing the needs of church with the desire to limit noise. Condition Number 4 is suggested wording from counsel; the rest is from LUPC.

Chris Murphy moved, and it was duly seconded, that Church activities end at 8:00 p.m. and the premises be cleared by 8:30 p.m.

- **Linda Sibley** noted that motion is not consistent with what the Commission has done with other churches and would impinge on the Church's ability to hold services. Their practice is to hold services until 10:00 p.m. The Commission hasn't asked the other churches to end services at 8:00 p.m.
- **Paul Foley** clarified that the Vineyard Assembly of God said that evening services are expected to be until 8:30 p.m. World Revival offered that services would not be held between 7 a.m. and 10 a.m. or between 4:00 p.m. and 6:00 p.m. because of traffic.
- **Mark London** reported that Eric Wodlinger suggested that noise-related concerns could be addressed by tying into DEP regulations for noise which require that noise can't be more than 10 decibels greater than background noise, with a reference to hours of 7 a.m. to 9 p.m. For the Church to have services outside those hours, they would have to demonstrate that the building would be constructed and operated in a way to respect the noise regulations.
- **Chris Murphy** said there's no requirement that the Commission be consistent from one project to another. Commissioners are dancing around this project very carefully because a church is involved.
 - There is no history to this Church.
 - The Church has come to the Commission for a permit having purchased this property. Anything the applicant has done hasn't yet been legal. The Commission is dealing with this proposal and has every right to regulate it.
 - Commissioners haven't taken into account the impact on the community. This lot was laid out as a residential lot in a residential subdivision. The Commission has the right and the obligation to protect the residential neighbors from a major intrusion.
 - The Church has said it wants 150 congregants, but that doesn't mean the Commission has to approve that number. The number can be limited to what can fit on the ground and in the community.
 - He's proposing to limit the hours so the Church doesn't disturb the residential community where it is located.
- **Doug Sederholm** said that the Church has a history and is a group of people, even if the building doesn't.
- **John Breckenridge** said the set of circumstances is different from other churches. The separation from its neighbors is less than that of other churches. A church's nature is celebratory. The proximity to neighbors warrants some serious consideration.

Commissioner voted on the motion to end services at 8:00 p.m. and leave the premises by 8:30. A voice vote was taken. In favor: 6. Opposed: 4. Abstentions: 1. The motion passed.

Commissioners discussed Condition 2.1 that the commercial kitchen will not be rented for producing food products to be used for commercial sale or carry out and will be used only in conjunction with church related activities.

- **Jim Athearn** said if a worthy project came up, the Church could come back to the Commission for a change.

Commissioners voted unanimously to approve Condition 2.1.

Commissioners discussed Energy-Saving Measures.

- **Jim Powell** asked, because this is a renovation, if there is a different energy saving requirement.
- **Doug Sederholm** said the proposed offer does not need to be elaborated on.
- **Jim Athearn** asked how a DRI inspector would check on whether solar panels and hot water mains had been piped, as offered.
- **Christina Brown** suggested that this would be an opportunity for the building inspector and DRI coordinator to work together. She added that she's delighted the Church is putting it in piping for solar panels and hot water.

Commissioners discussed the Fencing Offer.

- **Chris Murphy** asked whether there should be a statement that the fence shall be maintained. The offer will be that the fences will be provided and maintained.

Commissioners discussed the Landscaping Condition.

John Breckenridge moved, and it was duly seconded, that the applicant shall recreate a fifty foot vegetative buffer along Edgartown Vineyard Haven Road by replanting the area with native species. Once replanted, the area will become a no-cut vegetative buffer.

- **Jim Athearn** said that the buffer doesn't seem critical. That the applicant wants to increase the intensity of the buffer seems satisfactory.
- **Christina Brown** said the goal of keeping the sense of vegetation and keeping a rural feel to the road is a worthy goal, especially as the area continues to be developed.
- **Mark London** added that presently, some development along the road is highly visible, but by ensuring that there were no-cut zones along the road, there could be lot of vegetation along the road in ten or fifteen years.
- **Paul Foley** added that the front yard was originally very heavily vegetated. A lot of vegetation was taken out for the septic system.
- **Jim Powell** asked if there will be vegetation added on the south side. He asked whether there will vegetative buffer on the outside of the property.

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

Commissioner discussed the proposed fence condition.

Chris Murphy moved, and it was duly seconded, to move the 6 foot high fence 8 feet in from the property line, add an 8 foot vegetative buffer, and remove

spaces in the parking area to accommodate the fence. The purpose is to create some protection for the neighbor on the south of the property.

- **John Breckenridge** said by code, the applicant needs 30 parking spaces plus two handicapped.
- **Doug Sederholm** clarified that the motion is to add a condition placing the fence 8 feet off of the property line and reconfiguring the parking to accommodate that move. He has concerns about the proposal because it would require a reconfiguration of parking and traffic circulation, and might raise safety issues related to internal traffic circulation.
- **Christina Brown** asked what Chris Murphy hopes to accomplish with the motion.
- **Chris Murphy** said limited buffering for the abutter would be reasonable. He would be looking at reducing the number of people and therefore the number of spaces. He's trying to address not the number of spaces, but the buffering to the neighbor.
- **Linda Sibley** said she thinks the proposed condition is a noble goal but she feels the Commission would have to reopen the public hearing to reconfigure the parking. Everything that the Commissioners considered in terms of parking and traffic was based on the plan as submitted. The impact of this proposal would have to be evaluated.
- **Mark London** said they might want to review the number of people and the number of spaces compared to other churches.
- Nova Vida is way below the required number of parking spaces compared to the number of seats. The overflow parking will be regularly used.
- **Chris Murphy** suggested that discussing the reduction of the number of congregants would be helpful.

The motion was tabled.

Christina Brown asked to rediscuss the limitation of hours.

Linda Sibley said Chris Murphy made it clear that he feels that aspects of Church activity are an unwarranted imposition into the neighborhood.

- For all practical purposes, if the Church has to end services at 8:00 p.m., it would be required to start services at 6:00 p.m. which may be a hardship for congregants. By placing the 8:00 p.m. limitation, the Commission is basically saying the Church can't have nighttime services.
- With the kinds of limitations that Commissioners are proposing suggests that maybe this isn't a proper place to have a church.

Chris Murphy moved, and it was duly seconded, to limit the number of congregants to 75 people.

- **Doug Sederholm** said the pastor reported that the service is currently 60 to 70 people. It's reasonable to assume that he wants to increase the size of the congregation.
- **Christina Brown** asked Commissioners why they would limit the size. She asked what the issues are and whether there are other ways to deal with the issues.
- The issue is noise and cars and people coming to the church. Are 250 people more disruptive than 75?

- **Peter Cabana** said he voted on the limitation of hours, but he finds himself saying there should either be no church or allow them to decide the number of congregants and the hours.
- **Doug Sederholm** said Commissioners can impose reasonable restrictions on the use of the property. Commissioners can't prevent the Church from using the property as a church unless there is a compelling governmental interest
- **Mark London** reiterated that Commissioners have to look at each of the compelling government interests and come up the way of dealing with that that is least restrictive..
- **Doug Sederholm** added that they cannot impose a substantial burden on a person's right to practice religion unless the Commission can demonstrate a compelling governmental interest.
- The Commission can regulate without substantially burdening someone's exercise of their religious beliefs. The Commission could say no night services except for Christmas midnight mass.
- The law gives Commissioners leeway but it has to be used carefully.
- **Christina Brown** added that Commissioners have to have reasons to limit size and time.
- She said she would prefer to put noise limits rather than the 8:00 p.m. limit.
- **Jim Athearn** said the issues related to size of the congregation and time of services seem all related to noise. If noise were regulated, then size wouldn't matter.
- **Linda Sibley** said even though it's not desirable to have a picket fence on the property, if the fence could be moved, it would be a reasonable restriction if it doesn't affect the parking.
- She said a reasonable limit on the number of congregants, needs to work backwards from the capacity of the property. It's not reasonable just pick a number of congregants
- This is not a large property but it's not as constrained as Bradley Square and the capacity of the sanctuary at Bradley Square was 74.
- **Doug Sederholm** said the only reason to limit the capacity of the sanctuary is to lessen the impact of noise, traffic and congestions.
- **Chris Murphy** suggested that if the number of congregants were limited to seventy people, the Church could, after the it's congregation grows, come back and go through the public hearing process, request an increase, and show that they've mitigated their impact on the neighborhood.
- **Richard Toole** said it must be obvious that this is a very difficult issue. The big concern from the public was enforcement.
- **Linda Sibley** said the comparison to the church in West Tisbury isn't a fair one. The proposed church did not exist when the Ryan's Way neighborhood was developed. People bought into a residential neighborhood. This is not the only incursion into the neighborhood.
- **Christina Brown** said when Commissioners reviewed the traffic report based on 150 people, there was no clear problem with the number. There wasn't a demonstrated burden of traffic.

- **Chris Murphy** said the Commission took endless testimony on the effect of the traffic of this building at its current capacity.

A voice vote was taken on the motion to limit the number of congregants to 75. In favor: 4. Opposed 7. Abstentions: 0. The motion did not pass.

Chris Murphy moved, and it was duly seconded, to move the stockade fence eight feet in and to create an eight foot wide vegetative buffer and redesign the parking area. In favor: 6. Opposed: 5. Abstentions: 0

Jim Athearn moved that the applicant submit to LUPC a reconfigured parking plan roughly equivalent to the previous plan, prior to obtaining the building permit.

- **Christina Brown** said a redesigned site plan should go back to a public hearing.
- **Linda Sibley** said essentially we're moving to reopen the public hearing.
- **Chris Murphy** said that because the building and septic are already in place, and there are buffers, the major components are already in place. The timing of the public hearing can be before the Church gets a building permit.
- **Jim Powell** said there is more room on the property to park so there are other places the south parking places could be put.

A voice vote was taken. In favor: 8. Opposed: 3. Abstentions: 0. The motion passed.

Richard Toole moved, and it was duly seconded, to limit the number of congregants to 100 people.

- **Richard Toole** added that he liked the idea of the Church start at 75 congregants and come back if the congregation grows.
- **Christina Brown** asked what the basis for deciding whether the size of the congregation should be increased.
- **Chris Murphy** said the basis would noise, disruption, traffic, and compliance.

A voice vote was taken. In favor: 4. Opposed: 6. Abstentions: 0. The motion did not pass.

Commissioners discussed the Noise Conditions.

- **Mark London** clarified that the DEP's Noise Control Regulation limit is 10 decibels greater than the ambient noise level. The condition would require the Church to remain under that level.
- **Linda Sibley** asked whether the ambient noise level is the traffic in the area.
- **Doug Sederholm** said he is sure it is well-defined in the regulations.
- **Mark London** clarified that the draft possible wording is that no formal or informal activities can take place on the property before 7 a.m. and after 9 p.m. unless the DEP standard was not exceeded at all boundaries, and that the Applicant would first have to have an engineer or architect demonstrate they can meet these regulations.
- **Chris Murphy** said the noise standard is unenforceable and the only things that can be enforced is closing the windows.

- **Linda Sibley** said the conditions are what the lawyer said they should condition. She added that the attorney might have to defend this decision in court. He would rather defend noise conditions than time restrictions.
- **Chris Murphy** said his preference is to keep it simple.

A voice vote was taken on the noise conditions. In favor: 8. Opposed: 3. Abstentions: 0. The motion passed.

John Breckenridge moved, and it was duly seconded, to approve the wastewater conditions.

- **Chris Murphy** said no wells on site needs to be included.
- **John Breckenridge** said the property is currently three times over the nitrogen limit for the two watersheds it's in. The water policy states that as a previously developed site, the project doesn't have to provide additional denitrification unless they exceed their current water usage.
- **Bill Wilcox** said the number is based on 139,000 gallons used.
- **Doug Sederholm** asked who would do the readings.
- The records could be obtained from the town's water readings.
- The intent of Condition 3 is to say that the applicant is grandfathered for the present reading but if they exceed the readings they have to provide mitigation to meet the Commission's water policy.
- **Doug Sederholm** clarified that if the Church has to increase their water usage, it will have to bring the nitrogen contribution way down by tying into the high school, making a payment, or denitrifying.

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

Jim Powell moved, and it was duly seconded, to approve the energy condition that the project will exceed the Mass Energy Code by 20%. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.

Bill Wilcox said that under the wastewater condition, "as necessary" should be more determined. The grease trap is inspected by the septic pumper. It will ruin the leaching system if it's not taken care of.

Chris Murphy moved, and it was duly seconded, that the condition related to the grease trap be changed to a requirement that it be pumped twice a year.

- **Jim Athearn** said he hated to see it pumped if it weren't necessary.

A voice vote was taken. In favor: 3. Opposed: 7. Abstentions: 1. The motion did not pass.

John Breckenridge moved, and it was duly seconded, that the condition will read that the applicant will have the grease trap inspected quarterly by a registered sanitarium and shall be cleaned as necessary as determined by an inspector.

- **Christina Brown** asked whether results of the inspection should go to the Board of Health.

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

Jim Powell moved, and it was duly seconded, to approve the condition on substantial alterations. A voice vote was taken. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Susan Shea moved, and it was duly seconded, that the daycare be limited to 28 children. After the Hospital daycare moves back to the Hospital, approval for the daycare is over, and the applicant will have to return to the Commission for approval.

- **Doug Sederholm** suggested that the regulatory body for daycare should deal with daycare issues.
- **Susan Shea** clarified that once the Church is no longer providing daycare for the hospital, it will have to reapply to the Commission for daycare use.
- It's a commercial use that does provide income to the Town of Oak Bluffs.
- **Linda Sibley** said it's more appropriate to provide limits on daycare than limiting hours. If there are impacts on the neighborhood, the Commission would have an opportunity to address it through the daycare.
- If the applicant were required to come back, the Commission could have a public hearing.
- **Richard Toole** said that this is another activity that's been imposed on this neighborhood.

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

Jim Athearn moved, and it was duly seconded, to modify the condition on hours, requiring that all church related activities shall be limited to the hours of 9:00 a.m. to 9:00 p.m. year round.

- **Linda Sibley** asked whether this is consistent with conditions for Bradley Square. She's concerned with allowing a reasonable length of time.

A voice vote was taken. In favor: 6. Opposed: 4. Abstentions: 1. The motion passed.

2.2 Benefits and Detriments

Commissioners discussed the benefits and detriments of the proposal.

- **Jim Powell** suggested that staff outline the benefits and detriments.
- **Jim Athearn** said it provides a community service by providing a place for people to gather for inspiration.
- **Jim Powell** said it is a locus for gathering and community providing services to each other.
- Another benefit is that the Church provides community service through daycare.
- Detriments were discussed during the meeting.
- **Linda Sibley** said that to the extent that Commissioners have discussed the detriments, primarily the impact on the neighborhood, those detriments are significant but do not

outweigh the benefits to the religious community in light of the conditions that have been placed on the use of the property.

2.3 Decision

Jim Powell moved, and it was duly seconded, to approve the project, accepting the offer as clarified and with conditions. A roll call vote was taken. In favor: J. Athearn, C. Brown, P. Cabana, N. Orleans, J. Powell, D. Sederholm, L. Sibley. Opposed: J. Breckenridge, C. Murphy, S. Shea, R. Toole. Abstentions: None. The motion passed.

3. AA CAR RENTAL: DRI NO. 616 – PUBLIC HEARING

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

Richard Toole continued the public hearing.

4. DONALD MUCKERHEIDE: DRI NO. 615 – PUBLIC HEARING

Commissioners present: J. Athearn, J. Breckenridge, C. Brown, M. Davisson, C. Murphy, J. Powell, D. Sederholm, S. Shea, L. Sibley, R. Toole

For the applicant: Donald Muckerheide, applicant

Richard Toole opened the public hearing.

- The proposal is to add seven modular units and to reconfigure one unit into two units to create nine units of housing. The stated goal of the project is to create year-round housing to sell as condominium units within the 120 to 150% AMI guidelines

Paul Foley presented a slide show of the location.

- There is an existing building.
- He wants to add modular units two wide, six high and one on top of the existing building.
- Each one of the units would be two bedrooms.
- An oak tree has been cut down.
- The driveway and parking will be hardscape.
- The landscape plan shows a pervious hardscape. The plan shows additional vegetation.

Donald Muckerheide described his proposal.

- He's trying to fill a niche on the Island that isn't filled by affordable or community housing. These will be units that aren't dirt cheap but paraprofessionals could afford it.
- The property won't be rented on a weekly basis. The units are for residential use, not rental use.
- The parking lot is black rap with quahog shell or light stone on top and can accommodate wheel chairs.
- All of the abutters signed a letter saying they have seen the plan, approve it and like it.

Paul Foley summarized the staff report.

- There is no concrete.

- All parking is on site.
- The Applicant has said that he doesn't see the need to plan roof run off for a 25 year rain event. There won't be silting because there won't be silt on the roof. There will be a vegetative border that will absorb roof run off.
- Regarding affordable housing, the units will be sold for between 125% and 150% AMI.
- The units will be highly efficient, with Energy Star appliances and on demand water heating units. Photovoltaics are ineffective, expensive, and costly.
- The units have more than two bedrooms. There may be schoolchildren which would be a good thing.
- The Arts District gets credit for improvement and expansion of the road but he worked on getting the road improved.
- The sewer will have a big impact on the road.
- The building is three stories high and will be less than 35 feet in accordance with B1 zoning in Oak Bluffs.
- The oak tree was cut because branches were in the way and the maples are taller and will grow better and fill in.

Thatcher Ulrick, a neighbor, asked for access to handouts.

Bill Wilcox reported on water.

- The project will tie into Oak Bluffs water and sewer so wastewater isn't an issue.
- The project is in the Oak Bluffs Harbor District.
- He would like to have figures on pervious pavement and areas of impervious areas. He doesn't have specific figures on areas contributing to leaching pits.
- Parking area run off is an issue in terms of carrying silt to the infiltration system. He is asking for a stormwater plan stamped by an engineer. There is a plan from Schofield Barbini, but it's not a plan that clearly demonstrates the adequacy of the pits. He may be able to clear that up with a phone call. At some point in the process he would like the plan.

Donald Muckerheide explained the following:

- There is no silting with rap. It's a stable material.
- The low point in the neighborhood is down Arch Avenue at the Conto's property. Oak Bluffs is supposed to reengineer the road. His gutter system should contain the water to his infiltration system.

Bill Wilcox said that the policy calls for handling a 25-year return storm on site and he believes that should at least be looked at.

Christine Flynn had questions about some of the affordable housing aspects of the project.

- She said it would be helpful to see the condominium association agreement.
- She hasn't seen anything on how short-term rentals will be monitored and restricted.
- She would like to see condo and maintenance fees and how those will impact the affordability.
- She asked how income of buyers will be certified.
- She asked how resale will be monitored.

- The price range the applicant is aiming for is within the 120% AMI for a family of four.

Donald Muckerheide responded:

- There will be no short-term rentals. Nobody will buy a unit for rental income.
- Condo fees will probably start at \$50 a month and will be according to what needs to be done.

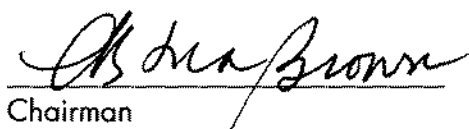
Donald Muckerheide described the exterior construction.

- The exterior walls will be high-grade vinyl siding with solid corner boards and window frames. Windows will be six-over-, offering views to the east and west; south views will be the back of the restaurant.
- There will be a full basement under main section. The mechanicals will be in each unit.
- Each unit will get a 10 ft by 10ft storage unit in the basement.
- Heating will be by propane heated hot water.

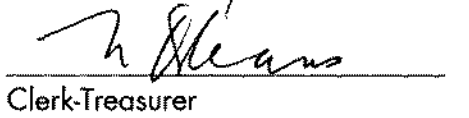
Peter Cabana said he believes that an architect is required for a project of this size. **Don Muckerheide** said that the modular company provides architectural plans. Jim Powell asked if the applicant could provide brochures from the modular companies so the Commission might be able to see some basic concepts.

Richard Toole continued the hearing until August 7th.at 7:30 p.m.

The meeting adjourned at 11:00 p.m.


Chairman

5/21/09
Date


Clerk-Treasurer

5/21/09
Date