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Minutes of the Commission Meeting Held on November 4, 2010 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Bill Bennett (A – Chilmark)	P Katherine Newman (E – Aquinnah)
P John Breckenridge (E – Oak Bluffs)	P Ned Orleans (A – Tisbury)
P Christina Brown (E – Edgartown)	P Camille Rose (A – Aquinnah)
P Peter Cabana (A – Tisbury)	P Doug Sederholm (E – Chilmark)
- Martin Crane (A – Governor)	P Linda Sibley (E – West Tisbury)
P Fred Hancock (A – Oak Bluffs)	P Brian Smith (A – West Tisbury)
P Chris Murphy (E – Chilmark)	P Holly Stephenson (E – Tisbury)
P Jim Joyce (A – Edgartown)	P Andrew Woodruff (E – West Tisbury)
P Lenny Jason (A – County)	

Staff: Mark London (Executive Director); Paul Foley (DRI Coordinator); Michael Mauro (Transportation Planner)

Christina Brown called the meeting to order at 7:00 p.m.

1. DCPC ISLAND WIND REGULATIONS PUBLIC HEARING

Christina Brown opened the public hearing and read the hearing notice. She explained the purpose of the interim regulations.

- Last year, all Island towns nominated a District of Critical Planning Concern for wind energy facilities in the ocean area and for the land other than for Edgartown.
- The Commission designated the Island Wind DCPC, with an Ocean Zone and a Land Zone. This put in place a one-year moratorium within the District, namely the airspace in the two zones. It gave the towns one year after the designation of the DCPC to adopt regulations in conformance with the guidelines in the DCPC designation.
- The timing of the adoption of the DCPC in the fall and annual town meetings in the spring requires an extension beyond the original twelve months.
- The proposed regulation would extend the protections of the DCPC until the towns have had the opportunity to work out and adopt detailed regulations.

1.1 Staff Report

Mark London gave the staff report.

- If the moratorium lapses without town regulations having been adopted, the DCPC would lapse and could not be re-designated for another year.

- MVC Counsel advised that the Commission adopt an interim regulation that would serve as a placeholder to be replaced by the detailed regulations adopted at town meetings next year.
- The interim regulation also provides protection in that any project within the district would be referred to the Commission.

Christina Brown said there are two zones in the DCPC.

- The Ocean Zone is the area up to the three-mile limit and is the airspace more than 220 feet above mean sea level.
- The Land Zone is the airspace more than 150 feet above mean natural grade and or surface water level.
- Wind energy facilities not as high as the thresholds are not included in the DCPC and would not be regulated by the proposed regulation.

1.2 Public Testimony

Andrew Giahna, Chilmark resident, had questions regarding the start points of the zones.

Christina Brown explained that mean natural grade is the surface of the ground as left by nature. The highest point could not exceed 150 feet above this.

Doug Sederholm explained that any wind turbine that is under the 150 feet would not be regulated by the proposed regulations. Any project that exceeds 150 feet would require referral to the Martha's Vineyard Commission as a Development of Regional Impact. Projects that are under 150-feet high will be regulated by the town, unless the town chooses to refer it to the Commission.

Eric Glasgow, Chilmark resident, had concerns regarding the towns drafting regulations in a timely manner.

Doug Sederholm, Chairman of the Wind Plan Work Group provided information on the status proposed regulations.

- All of the towns have members on the Wind Plan Work Group.
- One charge of the Work Group is to draft model DCPC regulations for both the ocean and land zones for consideration and adoption by each of the six towns.
- A fourteen-page draft regulation is currently ready for distribution to the Work Group.
- The proposed regulation that is currently being considered has a sunset date of one year from today. If a town does not adopt something within the year, there will be no regulation.

Linda Sibley explained that the moratorium would end with the adoption of the Interim Regulations in each town.

Holly Stephenson said that a lot of towns want to have something voted on at town meeting, which may have to be submitted earlier than January.

Andy Goldman, Chilmark appointee to the Wind Plan Work Group, urged support for the regulation. He explained that at the last Chilmark annual town meeting, he asked for a moratorium until a regulation could be proposed from the MVC. He was told that it was not needed and a bylaw could be proposed. As time went people became concerned and there is

now a sub-committee of the Planning Board which is having meetings and working on regulations hopefully to be presented in April.

Chris Murphy explained that once a DCPC is approved a year moratorium is imposed to create new regulations, which the towns are to create. In this case the towns decided to draw up the regulations jointly with the Commission.

Christina Brown closed the public hearing.

1.3 Decisions

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of Aquinnah;

- 1. No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.**
- 2. The boundaries of the Island Wind District Ocean Zone in the Town of Aquinnah are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation.**
- 3. The boundaries of the Island Wind District Land Zone in the Town of Aquinnah are as follows: That portion of the air space over all lands and inland waters within the County of Dukes County which exceeds one hundred fifty (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except school buildings and grounds, the Indian Common Lands (generally known as the Cranberry Bogs, the Clay Cliffs and Herring Creek) and the Settlement Lands.**
- 4. This regulation shall remain in effect until the first to occur of:**
 - a. Adoption by the Town of Aquinnah of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or**
 - b. November 3, 2011.**

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of Chilmark;

1. **No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.**
2. **The boundaries of the Island Wind District Ocean Zone in the Town of Chilmark are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation.**
3. **The boundaries of the Island Wind District Land Zone in the Town of Chilmark are as follows: That portion of the air space over all lands and inland waters of municipal corporation which exceeds one hundred fifty (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except school buildings and grounds.**
4. **This regulation shall remain in effect until the first to occur of:**
 - a. **Adoption by the Town of Chilmark of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or**
 - b. **November 3, 2011.**

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of Edgartown;

1. **No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.**
2. **The boundaries of the Island Wind District Ocean Zone in the Town of Edgartown are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation .**
3. **This regulation shall remain in effect until the first to occur of:**
 - a. **Adoption by the Town of Edgartown of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or**
 - b. **November 3, 2011.**

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of Oak Bluffs;

- 1. No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.**
- 2. The boundaries of the Island Wind District Ocean Zone in the Town of Oak Bluffs are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation.**
- 3. The boundaries of the Island Wind District Land Zone in the Town of Oak Bluffs are as follows: That portion of the air space over all lands and inland waters within the municipal corporation which exceeds one hundred fifty (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except school buildings and grounds.**
- 4. This regulation shall remain in effect until the first to occur of:**
 - a. Adoption by the Town of Oak Bluffs of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or**
 - b. November 3, 2011.**

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of Tisbury;

- 1. No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.**
- 2. The boundaries of the Island Wind District Ocean Zone in the Town of Tisbury are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation.**

3. *The boundaries of the Island Wind District Land Zone in the Town of Tisbury are as follows: That portion of the air space over all lands and inland waters within the municipal corporation which exceeds one hundred fifty (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except school buildings and grounds.*
4. *This regulation shall remain in effect until the first to occur of:*
 - a. *Adoption by the Town of Tisbury of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or*
 - b. *November 3, 2011.*

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Doug Sederholm moved, and it was duly seconded, to adopt a regulation to govern the Island Wind District as a District of Critical Planning Concern in the Town of West Tisbury;

1. *No wind energy facility shall be permitted within the Island Wind District of Critical Planning Concern unless approved by the Martha's Vineyard Commission as a Development of Regional Impact.*
2. *The boundaries of the Island Wind District Ocean Zone in the Town of West Tisbury are as follows: That portion of the air space over all ocean waters within the County of Dukes County which exceeds two hundred twenty feet (220') in height above mean sea level, and extending from the Mean Low Water Line seaward to the bounds of the municipal corporation .*
3. *The boundaries of the Island Wind District Land Zone in the Town of West Tisbury are as follows: That portion of the air space over all lands and inland waters within the municipal corporation which exceeds one hundred fifty (150') in height above mean natural grade (for land areas) and/or surface water level (for inland water areas), extending from the Mean Low Water line landward; except school buildings and grounds.*
4. *This regulation shall remain in effect until the first to occur of:*
 - a. *Adoption by the Town of West Tisbury of implementing regulations for this DCPC after such regulations in draft form have been approved by the Martha's Vineyard Commission as being in conformance with the district's guidelines; or*
 - b. *November 3, 2011.*

A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

There was discussion regarding Gosnold.

- **Holly Stephenson** asked if Gosnold was included.
- **Christina Brown** said that it was not included in the original DCPC.
- **Lenny Jason** asked what counsel's opinion was regarding the Commission's charge over the waters surrounding Gosnold.
- **Mark London** said that MVC counsel argued that Gosnold's ocean waters are under the jurisdiction of the MVC. Gosnold's counsel said there is an argument stating that it is not. The consensus was not to spend money on litigation, but to work together and try to come up with a plan that everybody is happy with.
- **Linda Sibley** stated that Gosnold did not ask to be included. Edgartown had asked that the land portion not be included and the Commission respected the Town's request.
- **Mark London** stated that Gosnold is a member of the committee. There have been meetings and presentations on Gosnold.
- **Doug Sederholm** said the Gosnold Energy Committee met in late September on Gosnold. Members of the public had concerns regarding lack of self-determination over wind energy development in the ocean. The state may not currently have an interest in developing that area, but private developers may. Gosnold had asked the MVC's counsel to comment on the draft MOU with the state.
- **Lenny Jason** asked if the year waiting period applied to Gosnold or if the waters around Gosnold could be addressed at a later date. **Christina Brown** said there would be no waiting period and the MVC could address the waters tomorrow if requested.
- **Mark London** said that if it is determined that the MVC has jurisdiction over Gosnold waters, there is another tool that could be used besides creating a DCPC. If there was a proposed project in the waters of Gosnold, any Island town could refer it to the Commission as a DRI.

2. DRI COMPLIANCE PROCEDURES POLICY

Chris Murphy said that the Compliance Committee was formed to address a number of concerns related to DRI compliance. He hopes the procedure could be adopted, not as a permanent document but as a work in progress that is subject to change.

2.1 Commissioner's Discussion

Kathy Newman asked if there was a current exit procedure. **Chris Murphy** said that there is not a standardize procedure and each DRI is done a little differently. A standard procedure would be clear to everyone.

There was a discussion regarding projects that are in non-compliance.

- **Kathy Newman** asked how the MVC would become aware of a non-compliance issue.
- **Chris Murphy** said that this could be when a member of the community calls and asks the Commission what is going on regarding a particular project. The inquiry should be able to be answered by the DRI staff person. If it can't be answered, then there is a procedure for the next steps.
- **Kathy Newman** asked if it would make sense to have someone from the Commission watch projects for compliance.
- **Paul Foley** said that usually people call them in or sometimes they are in the newspaper.

- **Kathy Newman** asked if the building inspectors are the ones to call and if there is something the Commission should be doing with the building inspectors.
- **Chris Murphy** said the Commission should always be working with and improving relations with the building inspectors.
- **Fred Hancock** asked if there were timeframes for each step of the process regarding non-compliance.
- **Chris Murphy** said it was discussed, but felt that until the procedure had been gone through a few times they should not try to determine the timeframes.
- **John Breckenridge** suggested using certified letters when addressing non-compliance projects.
- **Linda Sibley** asked Lenny Jason as a building inspector how he finds out if a project is in non-compliance of a condition. She also asked if he routinely inspects projects to make sure they are in compliance.
- **Lenny Jason** said that he does check on compliance but it is usually a neighbor that will make the report.

Andrew Woodruff asked if it was possible to ask the towns how the process would work for them. **Chris Murphy** said that the town building inspectors were consulted and would continue to be met with.

Camille Rose suggested asking the town selectmen to amend the building inspector's job descriptions to include enforcing MVC DRI conditions.

Lenny Jason said he had concerns regarding:

- The 125% bond,
- Subdivisions were not addressed,
- In the Exit Procedures, the part requiring that an as-built plan should be provided to the Commission once the project is completed,
- Section 3.15: The clarification should be made by staff and not the LUPC.

Andrew Woodruff asked how the procedure would be used moving forward. **Chris Murphy** said that the procedures would be in place and the committee would continue to work addressing other areas of concern.

Andrew Woodruff asked how the procedure would work with a building inspector. **Chris Murphy** said the better the Commission writes a written decision the easier it is on a building inspector. The enforcement piece would be clear as well.

Lenny Jason asked if the Commission had the right to revoke decisions. **Chris Murphy** said he believes the Commission does. **Christina Brown** said the question was added to the list to be investigated.

Chris Murphy moved and it was duly seconded, to accept the DRI Compliance Procedures.

- **Linda Sibley** said she would like to approve the document, but would also like to see the suggestions that were made reviewed by the committee and brought back.
- **Lenny Jason** said he had a problem with adopting something with the promise to change it later. He suggested adopting it as a temporary policy.

- **Christina Brown** said that Section 1.1 Number 4 “consider a bond equal to 125% of the value of the value of the work” did not belong in the document as a procedure.
- **Chris Murphy** said there could be a time where the Commission would like to be able to do it and it should be left as a tool.
- **Ned Orleans** said that the next two lines of Section 1.1 Number 4 state “This would only be used when the scale of the project and the possible impacts of non completion justify the cost and effort of bonding. We would need clear, readily applicable criteria to indicate when bonding is required.” This should address Lenny Jason’s concerns.
- **Camille Rose** suggested adding the phrase “up to” 125%”.
- **Doug Sederholm** noted that the section states the Commission would “consider” bonding which means they could do what they wanted and it would be a truly unusual project for a bond to be required. The 125% is not of the value of the whole work, but for the conditions that will be completed after the occupancy of the building, such as landscaping.
- **Christina Brown** said the Commission did not have criteria for bonding so it was premature to include this item in the procedure.
- **Kathy Newman** suggested adding to the motion that the committee return with clear criteria for the requirement of bonds.
- **John Breckenridge** suggested removing the word “consider” and add at the end “provide clear readily-applicable criteria to the applicant when bonding is required”.
- **Kathy Newman** asked if there were situations that were known that would require a bond that could be included in the document.
- **Chris Murphy** stated that he did not know of a situation, other than when the Commission was deliberating and would feel more assured that the conditions were going to meet with the requirement of a bond.
- **Linda Sibley** said that leaving Number 4 out would not make it impossible to require a bond, but leaving it in would allow the applicants to know that they Commission could require a bond. She suggested removing the last sentence that states “We would need clear, readily applicable criteria to indicate when bonding is required.”
- **Lenny Jason** asked if as-built plans would be required. He said it did not make sense to record plans on a deed that were different even slightly than what was built.
- **Chris Murphy** explained that the plans the decision was based on would be recorded. Before the Certificate of Occupancy is issued the building inspector has to approve what is built. There has to be a process to approve what was built. If the project is not built as it was presented then there has to be a process to deal with what was not approved.
- **Linda Sibley** said the intent was to put in place a process to determine if what was built was substantially changed from what was approved.
- **Doug Sederholm** said that Lenny Jason made a good point. You record decisions and not approved plans, references to the approved plans are made in the written decision. At the exit process the applicant should provide a set of as-built plans to the Commission to be compared to the approved plan to approve compliance. None of the plans should be recorded.
- **Kathy Newman** asked if the building inspector receives a copy of the plans before a project is built.

- **Lenny Jason** said the dates of the drawings change. He looks at the elevations to see if they are the same. He also asks to see the plans that have that particular date the Commission refers to.
- **Mark London** suggested changing Section 1.2 Number 1 from "Approved plans should be recorded with the decision, to include at least the main plans needed to understand the proposal such as the overall site plan." to "Approved plans should be referenced with the recorded decision." He also said that Section 3.1 Number 5 should be written so that staff can answer questions, but could refer to the LUPC if needed.

Linda Sibley moved, and it was duly seconded, to change the wording of Section 1.1 Number 4 to read: Make clear to an applicant that the Commission may require a bond equal to 125% of the value of the work for those conditions which will be completed after the occupancy of the building (e.g. landscaping), when the scale of the project and the possible impacts of noncompletion justify the cost and effort of bonding. A voice vote was taken. In favor: 13. Opposed: 3. Abstentions: 0. The motion passed.

Linda Sibley moved, and it was duly seconded, to remove from Section 1.2 Number 1, the last sentence which reads "Approved plans should be recorded with the decision, to include at least the main plans needed to understand the proposal such as the overall site plan." The section will read "Send a copy of the Decision and approved plan (clearly stamped "Approved by the MVC" with the date) to the applicant, the building inspector, and the referring board. Have the applicant submit four sets of the approved plans, one for each of the above and one for the MVC." A voice vote was taken. In favor: 16. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, to add a second sentence to Section 1.2 Number 6, that states "At the second meeting the applicant shall provide a set of as built plans, which will be compared to the approved plan to confirm that the project is substantially similar to the approved plan." A voice vote was taken. In favor: 16. Opposed: 0. Abstentions: 0.

Ned Orleans moved, and it was duly seconded, to replace the initials "LUPC" with "MVC staff" in Section 3.1 Number 5. A voice vote was taken. In favor: 14. Opposed: 0. Abstentions: 2. The motion passed.

Douglas Sederholm moved, and it was duly seconded, to continue the motion to accept the DRI Compliance Procedures dated August 15, 2010 as amended. A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

3. OAK BLUFFS FISHING PIER DRI 628 DELIBERATION AND DECISION

John Breckenridge moved, and it was duly seconded, to continue the Oak Bluffs Fishing Pier Deliberation and Decision to November 18, 2010. A voice vote was taken. In favor: 15. Opposed: 0. Abstentions: 0. The motion passed.

4. WAVELENGTHS DRI 623 CONTINUED PUBLIC HEARING

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

For the Applicant: Jayne Steide and Melissa Montesson; Chuck Sullivan (architect); Doug Hoehn (engineer); Colin Jones (Project Manager)

Linda Sibley opened the public hearing.

4.1 Staff Report

Paul Foley gave the staff report.

- A letter from James Carter, owner of the Clarion was received stating that he would not grant an easement at this time for the approval of the project. He feels it should be evaluated in its own right. If the project was approved in the future, he may then be open to an easement.
- Staff reviewed the revised parking and assessed it in terms of zoning. The 11 surface parking spaces appear to fall two spots short of what is required by zoning.

4.2 Applicant's Presentation / Commissioner Questions

Doug Hoehn said that they would like to be able to close the public hearing and move forward with the project.

Chuck Sullivan described the changes that were made to the buildings.

- The length of the back building was reduced by 14 feet and moved 5 feet towards Main Street, which allowed a turn-around area to be incorporated on the property. It will also allow for future access to adjacent properties.
- The original proposal for the back building to have four units with two bedrooms each was reduced to three units with a total of six bedrooms.
- The width of the front building was reduced by 2 feet which allowed for a driveway width of 16 feet and a one-foot area for curb and planting between the driveway and the property line.
- The commercial units were increased to three units from two though the square footage has decreased slightly. The parking for the commercial units is based on square-footage which was reduced by 276 square feet. It is intended that two of the parking spots be shared with the commercial owners.

Jim Joyce asked for clarification on parking.

Paul Foley said this was the first he had heard that garage spaces would be for use by the commercial units. If the commercial units are able to use two of the garage spaces they would technically have enough to meet the number of spaces required by zoning.

Linda Sibley asked Michael Mauro to define a “large truck” as referred to in the traffic report.

Michael Mauro said that the minimum recommended amount of space for a T-shape turnaround is 60’ x20’; the proposed turnaround is 43’ x 12’. It is ample enough for a passenger vehicle or small truck. It would not accommodate a large truck such as an emergency response vehicle.

There were questions regarding the two shared parking spaces.

- **Chuck Sullivan** explained that there are six parking spaces in the garages. Two would not be offered to the residential condo owners. Each of the units in the back building will have a garage door, one parking spot, and an interior access to their unit. Three spots will be allocated to the front building, one for the residential unit, and two for the commercial units.
- **John Breckenridge** asked what kind of doors would be installed. **Chuck Sullivan** said the garage doors will be overhead doors.
- **Kathy Newman** asked what would happen if someone in one of the units had two cars. **Chuck Sullivan** said they would have to park off-site. It would be stipulated in the condo agreement that they would only be able to have one car on-site.

There was a discussion regarding the south side setbacks.

- **Holly Stephenson** said that the proposal does not have the required number of feet for the set-back on the south side and would also be potentially removing trees. She pointed out that the number of units were reduced, but the size of the units were increased by 300 s.f. so there was not enough change to move the building out of the set-back area. She asked if it was possible to not increase the size of the units to allow for the required setbacks and trees.
- **Doug Hoehn** stated the fence is not the property line. The required set-back is 10 feet from the property line. However they are applying for a special permit and would be 5 feet from the property line.
- **Chuck Sullivan** said the majority of the trees are in between the fence and the property line. He explained that because a commercial stairway requires having a 22 square foot landing at the bottom, the building would never make the required 10 foot setback and still have the driveway as presented. The Planning Board does not have a problem with the set-back.

John Breckenridge asked if the roof pitch was typical of the streetscape in Edgartown and would it be reviewed by the Planning Board. He also asked if the project was close to the height restrictions. **Chuck Sullivan** said the dormers are at a 4 pitch and the main roof gables are at an 8 pitch. He believes the studio next door has dormers as well at a pitch. The building is at 31.9 feet and the maximum height is 32 feet. The pitch of the dormers and roof would be reviewed by the Planning Board.

4.3 Testimony from Public Officials

Michael McCourt, Edgartown Planning Board, said the project has been reviewed.

- The biggest concern was with the fire department and the ability to get emergency vehicles in and out of the property. The Board will be looking for approval from the fire chief.

- There is a concern with the parking and the ability of vehicles to turn around. They do not want a vehicle backing up onto Main Street if the parking lot is full. The turn-around in the back is an improvement, but it is still cramped.

Robert Sparks, Edgartown Planning Board, said there is still concern about parking. The parking in the back does make a difference. The fire chief is satisfied with the changes and the situation.

Linda Sibley asked if the Board was looking to resolve the areas of concern or did they feel that they were already resolved. **Robert Sparks** said that he feels the Board is satisfied and the concerns are resolved.

4.5 Commissioner Questions

There was a discussion regarding the ability of large trucks turning around.

- **Lenny Jason** asked if the Planning Board was aware that a large truck could not use the T turn-around such as UPS.
- The Board is aware and UPS trucks often park along the sidewalks of Main Street.
- **Chuck Sullivan** asked for clarification on the report that a large truck or ambulance could not turn around in the turn-around. He thinks a trash-truck, ambulance, and a UPS truck could turn around.
- **Linda Sibley** asked staff to look into the dimensions of the turn-around and if a large truck could use it.

Lenny Jason asked if the drainage was reviewed. **Paul Foley** explained that Bill Wilcox had reviewed the project, thought it was okay, and asked for a final plan which states the type and size of storm it is designed for to be presented to the Commission.

There was discussion regarding open space requirements.

- **Holly Stephenson** asked if there were requirements for open space for the residential units.
- **Doug Hoehn** said that it was calculated and the minimum requirement was met in the original proposal, but he had not re-calculated the figures with the changes. He will recalculate the figures.
- **Chuck Sullivan** answered that the building was reduced by 14 feet with which the turn-around was created. At the end of the turn-around is some green space.

Peter Cabana asked for more information on the drainage. **Doug Hoehn** said the whole site pitches to the back, where there will be a large catch basin and leaching field. He does not have the information on what type and frequency of storm it is designed for with him, but is at his office.

Linda Sibley closed the public hearing.

5. BIG SKY TENT DRI 618-M DELIBERATION AND DECISION

Commissioners present: J. Breckenridge, C. Brown, L. Jason, J. Joyce, C. Murphy, N. Orleans, C. Rose, D. Sederholm, B. Smith.

For the Applicant: Jim Eddy; Reid Silva (Engineer/Agent)

Chris Murphy said that he thinks the applicant did a good job in addressing the concerns of the neighbors and it should move forward.

John Breckenridge said that the LUPC and the applicant have worked through the project to address concerns of the neighbors and offers have been made which will buffer the property.

John Breckenridge moved, and it was duly seconded, to approve the application with the offers as conditions by the applicant as submitted.

- **Chris Murphy** said that the abutters requested the hours of operation be reduced, especially on the weekend evenings. They are currently 7:00 a.m. to 7:00 p.m. every day.
- **John Breckenridge** said that if the operation was a fifteen-truck operation with many trips he would be concerned, but the operation is a three to four-truck operation making up to three trips a day. Based on the offers, the hours of operation are not a particular detriment to the neighborhood.
- **Doug Sederholm** said that none of the trucks would be passing any of the neighbors, but would be accessing the property by Stagecoach Road. The truck impact on the neighbors will be relatively minimal.
- **Lenny Jason** said even with four trucks, the sound of chairs being loaded on a Sunday morning will drive the neighbors crazy. He thinks the Commission should do their best to accommodate them.
- **James Joyce** stated that Saturday and Sunday were probably their busiest days. **Jim Eddy** said that Saturdays are usually when events are taking place. Sunday mornings are when they would be picking things up from the events. Typically they would be returning to the warehouse later in the morning. Chairs are loaded in stacks of twenty-eight.
- **Doug Sederholm** asked for clarification from the applicant if modifying the hours of operation to 7:00 a.m. to 7:00 p.m. six days a week and 10:00 a.m. to 7:00 p.m. on Sunday would significantly impair his business. **Jim Eddy** said yes, if he could not get the trucks in the morning until 10:00 a.m. it would be detrimental to his business. **Douglas Sederholm** asked about loading and un-loading. **Jim Eddy** said they are usually leaving with empty trucks on a Sunday.
- **Christina Brown** told the applicant that the Commission just adopted a policy that would require as-built plans filed with the Commission once the property was built.

A roll call vote was taken. In favor: J. Breckenridge, C. Brown, J. Joyce, C. Murphy, N. Orleans, D. Sederholm, B. Smith. Opposed: L. Jason, C. Rose. Abstentions: None. The motion passed.

6. BRIDGE HOUSING EXTENSION REQUEST

Christina Brown read the extension request.

Doug Sederholm moved, and it was duly seconded, to approve a two-year extension to the Bridge Housing. A roll call vote was taken. In favor: J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: None. Abstentions: None. The motion passed.

7. NOMINATING COMMITTEE

Christina Brown said that the Nominating Committee will nominate a slate of Commissioners to fill the positions of Chairman, Vice-Chairman, and Clerk-Treasurer to be voted upon with other nominations by the full Commission at the regular meeting in December. The Committee is comprised of a representative from each town and the County. She asked the following people who have agreed to serve on the Committee.

- Aquinnah – Camille Rose
- Chilmark – Bill Bennett
- Dukes County Commissioners – Lenny Jason
- Edgartown – Jim Joyce
- Oak Bluffs – Fred Hancock
- Tisbury – Ned Orleans
- West Tisbury – Linda Sibley

8. TISBURY MARKET PLACE NEW BUILDING DRI 485-M5 CONTINUED WRITTEN DECISION

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith, H. Stephenson.

John Breckenridge said that line 343 should read "...residential condominium unit will be occupied by a year-round occupant who may rent it for periods of time..."

Fred Hancock said that in line 412 "Certificate of Occupancy" was replaced with "Building Permit". He thinks that Sections 2.1, 2.2, and 2.3 should stay "Certificate of Occupancy". It was agreed to change line 412 back to "Certificate of Occupancy".

Douglas Sederholm said that the items in Section 6.2 are all items that would need to be done after a building permit but before a certificate of occupancy. The open space issue is covered by Section 9.1. The sentence that reads "He shall relinquish his right..." should read "...relinquish these rights...", which refers to the applicant relinquishing the rights to further development in Parcels A and B; and any rights to build parking facilities between Parcels A and B.

Linda Sibley moved, and it was duly seconded, to accept the Tisbury Marketplace New Building Written Decision as corrected. A roll call vote was taken. In favor: J. Breckenridge, C. Brown, F. Hancock, C. Murphy, K. Newman,

N. Orleans, C. Rose, D. Sederholm, L. Sibley. Opposed: None. Abstentions: None. The motion passed.

9. OTHER BUSINESS

9.1 Chasin Site Visit

The Chasin Site Visit was scheduled for 9:00 a.m. November 17, 2010.

9.2 Hart Application Project West Tisbury

Lenny Jason asked for an update on the Hart Application. **Paul Foley** said that the Commission had requested a revised landscape plan. Jim Hart had called twice this week and copies of all the minutes were sent to him.

10. COMMITTEE REPORTS

10.1 Planning and Economic Development Committee

The next PED meeting will be Wednesday, November 10, 2010 at noon at the West Tisbury Town Hall. Landscaping regulations will be discussed.

10.2 Wind Energy Plan Work Group Meeting

The next Wind Energy Plan Work Group meeting will be Tuesday, November 9, 2010 at 5:00 p.m. at the MVC building. Draft DCPC regulations for the land and ocean zones and comments on the RI SAMP will be discussed.

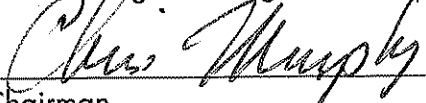
10.3 Executive Committee Meeting

The next Executive Committee meeting will be Tuesday, November 9, 2010 at 8:30 a.m. at the MVC building. Procedures will be discussed.

The meeting adjourned at 10:00 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- DCPC Island Wind Regulations Public Hearing Notice.
- DCPC Island Wind District Interim Regulations
- DCPC Island Wind District Interim Regulations Staff Report
- DRI Compliance Procedure Policy
- Wavelengths DRI 623 Staff Report
- Wavelengths DRI 623 Revised Site Plan 2010-10-05
- Wavelengths DRI 623 Revised Site Elevations
- Wavelengths DRI 623 Traffic Study
- Letter from James Carter, owner of the Clarion regarding Wavelengths DRI 623
- Tisbury Market Place DRI 485-M5 Written Decision
- Bridge Housing Extension Request


Chairman

1/20/11
Date


Clerk-Treasurer

1/20/11
Date