



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453  
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

**Minutes of the Commission Meeting  
Held on July 7, 2011  
In the Stone Building  
33 New York Avenue, Oak Bluffs, MA**

**IN ATTENDANCE**

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

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

Staff: Jo-Ann Taylor (replacing the vacationing DRI Coordinator), Mark London (Executive Director)

**Chris Murphy** called the meeting to order at 7:10 p.m.

**1. DRI-485-M6 – TISBURY MARKETPLACE – MODIFICATION REVIEW**

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*Commissioners Present: J. Breckenridge, F. Hancock, J. Joyce, E. Hammarlund, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm.*

*For the Applicant: Sam Dunn (owner).*

**1.1. Applicants Presentation**

- **Sam Dunn** explained the proposal.
  - This is a small modification to previously approved plans in order to move the new building back 18 feet, and to relocate some parking spaces.
  - This is to comply with a request from the Tisbury Conservation Commission with respect to the buffer from the pond, and will also better preserve views from the existing building.
  - The parking closest to the pond has been eliminated and will be replaced with parking at the rear of the building where storage trailers will be removed, providing a net gain of four parking spaces.
  - All condominium owners are in agreement and have signed off on the plan.

- The condo association has also agreed with all the proposed traffic and parking changes with the exception of changing the traffic flow through the parking lot and adding a cut through in the raised central island, which they are still considering. He is continuing to use his best efforts to have these proposals go ahead.

## **1.2 Commissioners' Discussion**

- **Mark London** stated that staff concluded that the modification would not have any significant impact. LUPC voted unanimously to recommend to the Commission that this is not a substantial modification requiring a public hearing and that the modification be approved. He noted that the bike path should be advantageous for the retail stores to gain foot access to the Market Place.

## **1.3 Decision**

***Doug Sederholm moved and it was duly seconded that the proposed modification does not have regional impact and does not need a public hearing. Voice vote. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.***

***Doug Sederholm moved and it was duly seconded that the Commission approve the proposed modifications. Roll call vote: In favor: J. Breckenridge, F. Hancock, E. Hammarlund, J. Joyce, K. Newman, N. Orleans, C. Rose, D. Sederholm, and H. Stephenson. Opposed: None. Abstentions: C. Murphy***

## **2. TNF REALTY TRUST / M. KIDDER FORM A, CHAPPAQUIDDICK, EDGARTOWN (DRI - 632 ) - PUBLIC HEARING**

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*Commissioners Present: J. Breckenridge, F. Hancock, J. Joyce, E. Hammarlund, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm.*

*For the Applicant: Mike Kidder (owner) and other family members, Doug Hoehn (agent), Chris Horiuchi (landscape architect).*

### **2.1 Staff Report**

**Mark London** gave the staff report.

- The proposal is to combine a 4 acre lot and a 16 acre lot and then re-divide them into three residential lots. Lot A would be 3.75 acres. Lot B would be 10.2 acres. Lot C would be 5.9 acres.
- Two new house lots would be created on two of the lots. The third property has a barn on it and would eventually also have a house on it.
- The applicant is just now submitting building envelopes tonight at the public hearing.
- The access road through Tom's Neck Farm would be used to access lots A and B. An existing access from the Dike Bridge would access lot C.
- The proposal abuts Tom's Neck Farm which underwent many archaeological studies.
- Much of the property is wetlands.
- Applicants have contacted NHESP about studying the endangered species.

## **2.2 Applicants' Presentation**

- **Doug Hoehn** described the proposal.
  - The proposal is to combine 2 lots (one 4-acre lot and one 16-acre lot) to then be re-subdivided into 3 residential lots.
  - During the location review it was noted that the 4-acre lot at the end of Tom's Neck Farm Road has been given the right to access via the Tom's Neck Farm subdivision.
  - The 16-acre lot is part of an 84-acre parcel of land off of Dike Bridge Road. A special permit has been granted by the Planning Board to grant the lot access. The access has been limited to serve 2 lots.
  - The 16-acre lot is subdivided into two lots. The house size for one lot will be 7,000 square feet plus a guest house, barn and other accessory structures. The second lot house size will be 2,750 square feet plus a guest house, barn and other accessory structures. He noted that the staff report incorrectly had said that these areas included the guest houses and other structures.
  - The development envelopes are for 4.7 acres which represent a total of 23% of the property and are the best representation at this time.
  - The Trust has filed a preliminary request for review with the National Heritage and Endangered Species Program (the priority habitat is for the Northern Harrier and for Papillose nut sedge, a grassland plant that is prevalent in August). NHESP said that this should only be a concern with construction within 50 feet of wetlands, which is not permitted in any event. They apparently feel that view channels subject to the Edgartown Conservation Commission should not be an issue. However, a determination cannot be made at this time as to how this could affect the building envelopes until the study is completed.
  - Doug Hoehn stated that they have taken the initiative to do an archeological study and have contracted with PAL (Public Archaeology Lab).
  - The Commission's Open Space Policy was addressed and it was noted that 77 % of the property is outside the development envelopes.
  - The mowing of the property will continue in the same manner as it has traditionally been done.
  - The applicants will obtain permission for view channels (selective view clearing) from the Edgartown Conservation Commission.
  - The Trust would like to process the plan as presented and offer the condition that if the development envelopes need to change due to the results of the studies, the Trust will come back to the MVC for review of the modification. This will allow for the permit process to be started.
- **John Breckenridge** questioned what the degree of view channels would be. **Kris Horiuchi** stated the Edgartown Commission regulates view channels and they would be compliant with the commission; they generally allow two 15 degree channels. She also noted that, as called for in the MVC's Open Space Policy, the open space areas are significant and important wetland and natural resource areas that should be kept as they are now to ensure the quality of the habitat and open areas.

- **John Breckenridge** asked about the frequency of mowing. **Mike Kidder** confirmed they will keep open spaces as they are currently maintained and it is not a manicured lawn.
- **Kathy Newman** asked for clarification of the access from Dike Bridge Road and the other houses. **Kris Horiuchi** confirmed they will use the existing roads for access to the lots.
- **Fred Hancock** requested clarification of the guest house footprints. **Doug Hoehn** stated it is restricted by Edgartown to 900 square feet.
- **Holly Stephenson** had a general concern about the subdivision of the lots and the development envelope providing leeway in siting as there are a lot of unknowns and asked whether the MVC's targets for open space preservation apply to each lot or to the overall development. **Doug Hoehn** stated they meet the MVC policy. **Mark London** said that the policy says that the overall sum total of non-development must meet the Commission's target.
- **James Joyce** questioned the nitrogen loading and how many acres are wetlands. **Doug Hoehn** confirmed it was a little over 5 acres. **James Joyce** wanted to know if the nitrogen load can take into consideration the wetlands. **Doug Hoehn** stated this is a MVC policy and not a Title 5 issue. MVC policy does not take out wetlands, however, the Edgartown Board of Health does. However, in this case, they are so far below the limits that it would not make any difference.
- **Fred Hancock** asked if there are any other restrictions in the development envelope about planting for agricultural uses. **Kris Horiuchi** stated there are not, however, the Edgartown Conservation Commission will be reviewing the plans and they require a limit of 2000 square feet of lawn.
- **Doug Hoehn** noted that the plan meets the Edgartown Planning Board Form A requirements.
- **Doug Sederholm** clarified that the application was already a DRI, and if approved by the MVC, would then be further reviewed by town boards.

### **2.3 Public Comments**

- **Ann Floyd**, owner of Tom's Neck Farm asked for clarification on the access to Lot A, since the development envelope overlaps the road. **Doug Hoehn** noted there is an easement for access and that the development envelope is sufficiently large enough to allow for construction in a way that does not infringe on anyone using the road.

### **2.2 Commissioners' Discussion**

- **Mark London** asked Commissioners to consider whether they are comfortable approving the proposal as it is presented, given that work is still being done on habitat and archeology.
- **Doug Hoehn** stated that the studies will not be completed for some time and the Trust would like to get the plan processed and recorded, so that the lots can be divided. He reiterated that if any changes are needed they will come back to the commission. He assumes and is comfortable with the MVC imposing conditions similar to those of Tom's Neck Farm.
- **Doug Sederholm** asked if anyone feels it is necessary to keep the record open.

- **Erik Hammarlund** stated that since this is prime Vineyard property, he is concerned that the development envelopes are fairly large to provide leeway in siting, and it is unwise to approve the proposal until the environmental and archeological questions are answered.
- **Doug Hoehn** noted that the studies were being done voluntarily and would hate to have them create a delay.
- **Katherine Newman** stated they are willing to work with MVC and make it a condition of the proposal that if something changes, they must come back for approval.
- **Fred Hancock** did not feel it was necessary to keep the hearing record open as the MVC just received the building envelope plan and staff needs time to review the plan before it is approved.
- **John Breckenridge** felt that the record could be closed and that Mike Kidder has been a magnificent steward to the property.
- **Katherine Newman** asked Mark London if the Trust worked with the staff to develop the building envelope. **Mark London** said it had been discussed, but this was the first time they were seeing the actual plan.

## **2.4 Action**

Doug Sederholm closed the public hearing and kept the written record open until Monday, July 18 at noon, especially for receiving written offers and to allow staff to analyze the just-received plan delineating the development envelopes.

A site visit should be organized before the next LUPC meeting.

## **3. GOODALE PIT, OAK BLUFFS (D.R. #1-2011) - ADOPTION OF WRITTEN DECISION**

- Commissioners reviewed the summary, facts and conclusions of the Goodale Pit written decision.
- **Holy Stephenson** questioned the wording that according to the Town local permits are not necessary at this time.
- **Chris Murphy** felt that this was correct, and if it is determined that a local permit is required, Oak Bluffs can refer it again.

***Doug Sederholm moved and it was duly seconded that the draft written decision be approved. Roll call vote. In favor: J. Breckenridge, F. Hancock, E. Hammarlund, J. Joyce, K. Newman, N. Orleans, C. Rose, D. Sederholm, and H. Stephenson. Opposed: None. Abstentions: C. Murphy. The motion passed.***

## **5. NEW BUSINESS**

### **5.1 Executive Director's Report**

- **Mark London** reported that staff is close to having a draft of the Wind Energy Plan for Dukes County. The draft will be sent to the members of the work group for a two-week review for comments. The aim is to put it out to the public and invite comment by mid-July. It would then go back to the Work Group after Labor Day and based on the recommendations it would then go to the Commission in the fall for adoption.

- Upcoming meeting dates were reviewed and the staff will work with members' availability due to the Agricultural Fair falling during the 3<sup>rd</sup> week of August.

Doug Sederholm recused himself from the rest of the meeting and left the room.

## **6. HART LANDSCAPE, WEST TISBURY (DRI-549-M2)- MODIFICATION REVIEW**

*Commissioners Present: J. Breckenridge, F. Hancock, J. Joyce, E. Hammarlund, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm.*

*Applicant: James Hart (owner).*

*Public: Sharon and Manny Estrella (abutters).*

- **Fred Hancock** provided a summary of the LUPC meeting of June 13, 2011.
  - LUPC voted 6 to 1 to approve the modified landscape plan. LUPC asked that five trees close to Indian Hill Road that had been called out as red cedar, be replaced with indigenous shade trees.
  - It recommended that the Commission require a certificate of compliance from MVC before a certificate of occupancy is issued.
  - It recommended to the Commission that it modify several conditions of the DRI Decision to reflect the final landscaping plan, namely conditions 4.2, 4.3, 4.7 and 7.2.
- **Jim Hart** verified the plan has provided indigenous shade trees on the road side of the plan. They will be 10 foot oak trees, with irrigation provided and a 2 year survival plan.
- **Chris Murphy** noted that the West Tisbury Planning Board has essentially signed off on the plan and LUPC has also signed off.
- **Sharon Estrella** said that she was concerned that LUPC had approved a plan that was different from the one seen by the West Tisbury Planning Board.
- **Chris Murphy** said that although we sought input from the Planning Board, the official procedure calls for the MVC to approve the proposal first. If the MVC approves the plan and sends the decision to the Planning Board, the Planning Board cannot be less restrictive than the MVC, but they can be more restrictive.
- **Mark London** provided information that based on the latest plan, the required buffer area has changed slightly to 88%. He noted that the plan maintains the previous proposals to protect the neighbors privacy with the row of cypress and cedars, but that the trees on Indian Hill Road have been revised to shade trees to reestablish the tree canopy along that rural road.
- **John Breckenridge** stated that the plan is very substantial to protect the neighbors' privacy and be effective for Indian Hill Road and it will restore the site.
- A discussion of Condition 4.6 followed (Condition 4.6: The four parking spaces on the west side of the lot (P8 to P11) will not be created in the first phase, will only be created and used if the other 14 spaces are not adequate...) and whether it had to be modified or left as is. If left as is then those parking spaces could not be developed at this time but there is no stipulation that the area be returned to grass. The MVC decided to leave the condition as is because the new plan shows those parking spaces as grass to only be developed as parking if necessary and are marked as "Future Parking Area".

**Fred Hancock moved and it was duly seconded to ratify LUPC's approval of the landscape plan and to modify the conditions as follows:**

- **Condition 4.3: All remaining mature trees standing as of July 1, 2011 shall be retained.**
- **Condition 4.7: add: A Certificate of Compliance must be obtained from the MVC before the Certificate of Occupancy is issued.**
- **Condition 7.2: A 10-foot vegetative buffer shall be maintained along 88% of the perimeter of the property.**

**Roll call vote on the motion to modify the decision. Roll call vote. In favor: Chris Murphy, Fred Hancock, Erik Hammarlund, John Breckenridge, Holly Stephenson, Jim Joyce, Kathy Newman, Camille Rose, , and Ned Orleans. Opposed: none. Abstentions: none. The motion passed.**

The meeting was adjourned at 8:47 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING

- Tisbury Marketplace Condominium Phase II Alternative Site Plan
- TNF Realty Trust
  - Martha's Vineyard Commission DRI #632 Kidder Division Chappy MVC Staff Report – Updated June 30, 2011
  - Aerial View Plan
  - Subdivision Plans with Conservation Restrictions
  - Development Envelope Plan
- Hart-Proposed Modifications to Landscaping Conditions – June 30, 2011

*Chris Murphy*      9/1/2011  
Chairman

*J.B. Blife*      9/1/11  
Clerk-Treasurer