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## **Minutes of the Commission Meeting Held on February 9, 2012 In the Stone Building 33 New York Avenue, Oak Bluffs, MA**

### **IN ATTENDANCE**

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

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

Staff: Bill Veno (Senior Planner), Paul Foley (DRI Planner), Jo-Ann Taylor (Coastal Planner DCPC Coordinator), Sheri Caseau (Water Resources Planner), Michael Mauro (Transportation Planner)

Chairman Chris Murphy called the meeting to order at 7:00 p.m.

### **1. MEETING MINUTES**

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Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley, B. Smith.

#### **Minutes of April 28, 2011**

**Christina Brown moved and it was duly seconded to approve the minutes of April 28, 2011. Voice vote. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.**

#### **Minutes of January 26, 2012**

**Fred Hancock moved and it was duly seconded to approve the minutes of January 26, 2012. Voice vote. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.**

#### **Minutes of February 2, 2012**

**Fred Hancock moved and it was duly seconded to approve the minutes of February 2, 2012 with clarifications as noted. Voice vote. In favor: 10. Opposed: 0. Abstentions: 3. The motion passed.**

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## **2. ISLAND ROAD DCPC – AMENDMENTS – CONTINUED DELIBERATION AND DECISION**

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*Erik Hammarlund, Doug Sederholm, Ned Orleans and Peter Cabana excused themselves from this part of the meeting.*

*Commissioners Present: J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, L. Sibley, B. Smith.*

**James Joyce** noted that the record is closed.

### **2.1 Staff Report**

**Jo-Ann Taylor** gave a review of the Island Road District of Critical Planning Concern (DCPC) Committee recommendation.

- Clarification of grandfathering was presented.
  - The regulations now in place for each town are grandfathered.
  - These are the regulations in effect unless a town wants to change a regulation or if a new nomination is designated.
  - Grandfathering ceases when the Commission designates a new way.
- During the January 5, 2012 meeting, there was some speculation that a town might end up with two sets of regulations; one to govern the existing Special Ways and one to govern Special Ways designated after the amendments. There should only be one set of Special Ways regulations for each town.
- In the event of a new nomination and designation of Special Ways, there are two possible outcomes:
  - New regulations must be adopted that conform to the 2012 guidelines. OR
  - Existing regulations must be found by the Commission to be in conformance with the 2012 Guidelines.
- The process for a new proposal is as follows:
  - A town or 75 taxpayers or the Commission nominates a new Special Way.
  - The Commission accepts or rejects the nomination.
  - If the nomination is accepted, the Commission holds a public hearing.
  - The Commission votes to designate or not designate the nomination. If designated the Commission designates the nominated area in the Special Ways Zone with 2012 Guidelines for Development.
  - The town proposes regulations for all of that Town's Special Ways in conformance with the 2012 Guidelines for Development.
  - The town has six months to submit conforming regulations, otherwise the Commission may adopt its own regulations. The regulations must be approved or adopted within twelve months after designation.
  - The Commission will hold a public hearing.
  - The Commission votes to approve conformance of the town regulations with the 2012 Guidelines for Development.
  - The Town Meeting adopts the regulations by a two-thirds vote for all the Special Ways in that town.

- It is a staff recommendation for clarification of text to Section 5V.A. Development Guidelines, number 3; to add "and/or grass". Some of the ways are maintained by mowing grass.

## **2.2 Commissioners Discussion**

**Chris Murphy** asked if anyone has any questions about the process itself.

**Leonard Jason** asked what the far reaching effects are in the next year or so. **Chris Murphy** replied that anyone applying for a DCPC will have to submit their regulations. **Jo-Ann Taylor** clarified that at the time of designation grandfathering goes away so the town will have one year to provide new regulations.

- As an example; if a town is happy with their regulations and because the Commission is amending their decision, it does not affect their regulations, they are grandfathered.
- If the town wants to add another way and the Commission makes the designation, the grandfathering goes away when regulations come up for conformance.

**Chris Murphy** asked for clarification on which guidelines would be followed. **Jo-Ann Taylor** said it would be the 2012 amended goals and guidelines.

**Leonard Jason** asked if we aren't in court over similar issues. **Jo-Ann Taylor** said we are defending a challenge to a decision made in 2007 and 2008, but in the court judgment there is nothing regarding the amendments in the judgment. The judgment excluded them as the judge thought they were based on the designation.

**Bill Veno** noted that we are in court about some of these things and Counsel has helped the Commission in drafting the regulations.

**Leonard Jason** asked if we are in court over certain things, why won't we end up in court over this. Why not let the judge decide what is what first? **Jo-Ann Taylor** noted that the amendment proposals have not been argued in court. Should all of the 2007 and 2008 decisions be reinstated, it would not affect this amendment action. The final resolution of the appeal would not affect the 2012 amendments. The Goals and Guidelines in effect will be the ones that were subsequently voted.

**Linda Sibley** said the problem is we were told Counsel looked at this. What is not clear is does Counsel think it is a good idea based on its substance, because it would be nice to have the towns have more flexibility, or are we doing this to satisfy the lawsuit? Why don't we have Counsel here to tell us directly what should be done?

**Fred Hancock** noted that there were parts that needed clarification. Some of the language doesn't mean what it used to mean. Now, what is included in the language regarding permitted uses gives the towns more leeway on what they can regulate on a special way.

**Christina Brown** said that in 1974 we adopted guidelines and in 2008 we adopted amendments to it. In 2012 we are again looking to adopt amendments and those are better than the ones from 2008. If we adopt them in 2012, they are cleaner and more specific to what the Commission needs. We clarify that we don't give public rights to ways, and the towns under these guidelines are free to adopt regulations and they are the permitting authority.

**Fred Hancock** stated that in 2008 we had some Special Permit uses coming back as a Development of Regional Impact (DRI) and that has been eliminated in the proposed amendments.

**Chris Murphy** said that whatever is ongoing legally, the changes here won't affect it and this is a hope to make the future nominations work better.

**Linda Sibley** said she thinks these are better than what we had in place.

**Leonard Jason** understands what Christina said, that we righted the wrong and gave the town more latitude.

**Fred Hancock moved and it was duly seconded to approve the amendments with the addition at line 99 to add "and/or grass". Roll call vote. In favor: J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, K. Newman, L. Sibley, B. Smith, C. Murphy. Opposed: none. Abstentions: none. The motion passed.**

**Ben Hall Jr.**, as a point of order, asked what was just voted. **Chris Murphy** said it was voted to amend the Goals and Guidelines.

*James Joyce, Erik Hammarlund, Doug Sederholm and Peter Cabana excused themselves from the proceedings.*

### **3. TISBURY MARKETPLACE THEATER (DRI-485-M7) DELIBERATION AND DECISION**

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*Commissioners Present: J. Breckenridge, C. Brown, F. Hancock, L. Jason, C. Murphy, K. Newman, N. Orleans, L. Sibley, B. Smith.*

*For the Applicant: Sam Dunn and Richard Paradise*

#### **3.1 Staff Report**

**Paul Foley** gave the Staff Report:

- The packet of information includes the Offers as clarified at the Land Use Planning Committee (LUPC) and some additional Offers, correspondence submitted by Sam Dunn and the LUPC meeting notes.
- The site plan and slides of the existing site were reviewed.
- The trailers will be relocated and the electrical box will be staying.

#### **3.2 Commissioners Discussion**

**John Breckenridge** said that in the Offers, number 1c, it should state that parking attendants will be on site no later than 6:30 prior to the summer showings.

**Linda Sibley** noted that the motion to recommend should be as clarified at LUPC.

**Brian Smith** said it should state one hour before show time to accommodate variable show times. **Richard Paradise** noted that showings are no earlier than 7:30.

**John Breckenridge** restated it should say no later than one hour prior to summer showings.

**John Breckenridge** said that at the January 9, 2012 LUPC meeting, the Applicant made additional clarifications to the Offers. In number nine, the applicant agrees to work with the Tisbury Marketplace Condominium Association to establish and enforce leased parking spaces, boat storage and parking by persons not doing business at the Tisbury Marketplace.

**Ned Orleans** thought that was approved previously. **Paul Foley** confirmed that it was. **Chris Murphy** said it was about reversing the flow of the parking lot. **Ned Orleans** stated it was two items; reverse flow of the parking lot and getting rid of parking that should not be there.

**Chris Murphy** said the Commission has no enforcement of leased spaces by the Condominium Association, but the Town of Tisbury does.

**Paul Foley** also noted that an issue was raised about removing the entire center island and building a leaching bed, but it was not an offer.

**Linda Sibley** noted that the LUPC recommended unanimously to recommend to the full Commission to approve the proposal with offers as clarified at LUPC.

**Kathy Newman** asked if it should be added that the Commission will be notified when the issue of traffic circulation is put on the agenda of the condominium owners meetings. **Christina Brown** noted that it will be on the condominium meeting agenda and the Commission will get a copy of the minutes of the meeting. **Kathy Newman** asked if it is appropriate to ask them to bring the outcome of that meeting to LUPC, because if they don't change the traffic flow, the MVC might want to discuss that. **Sam Dunn** said he would document the meeting and bring the minutes to the DRI Coordinator or LUPC, or both.

**Fred Hancock** said that if the Building Inspector tells the condo association that they are in error about leasing spaces, he may bring up the traffic flow as a mitigation measure.

**Leonard Jason** said that if LUPC believed the direction of traffic should be reversed, why are we now relying on "best effort" by the applicant? If we think the reversing the traffic flow makes for a better project, it is incumbent upon the Applicant to make it happen. If he can't, the project doesn't happen.

**Chris Murphy** said that the Commission chose not to give a third party control over this project. He agreed to do his best and we agreed to that. We can't make the condominium association do something.

**Linda Sibley** said that if we absolutely think this project can't work unless there is a reversal of the traffic, due to the detriments and benefits, the MVC could require the applicant to do so, even if it put him in a difficult situation.

**Ned Orleans** noted that an important issue is the drop off and pick up of passengers at the Net Result, an existing business – not one being proposed by the applicant.

**Chris Murphy** said another big issue is: if the traffic is reversed you only have to cross one lane of traffic.

**Ned Orleans** said to avoid a third party entity, one way to make it work, is to have someone preventing drop off and pick up of passengers to help handle a failed road. **Kathy Newman** agreed with Ned and added they have an attendant during show times. **Ned Orleans** noted that the attendant is to direct people to parking, but not about drop off and pick up of passengers.

**Brian Smith** said if the people directing traffic are not enforcement individuals, it could become confrontational.

**Linda Sibley** said in the past we have required high use projects to have a traffic officer.

**Christina Brown** said it did not work so well since the officers were paid by the operation.

**Fred Hancock** understands there is a problem at this intersection, but is not sure this project is responsible for that.

**Leonard Jason** thought the MVC had a responsibility not to make a situation worse.

**Fred Hancock** noted that there are offices and architects at the Marketplace. If retail stores felt it beneficial, they would stay open later.

**Leonard Jason** asked if we want to make a bad situation worse. We already lost part of the view with the other building that is being built.

**Leonard Jason** asked how the condominium votes, is it one vote per unit. **Sam Dunn** said it is and he will have two votes and so will others. One person will have four votes. The total number of votes is 26.

**Leonard Jason** asked what best effort means. **Chris Murphy** said it is an act of faith in the applicant, it is not enforced.

**Kathy Newman** asked if there has been a vote on this by the Condominium Association. **Sam Dunn** said a vote has not been taken and it has been tabled twice regarding the reverse of the traffic flow.

**Linda Sibley** said that offer number eight (Permitted Uses) seems generous, but it should be more restrictive. Any change has to come back to the Commission. We should reject number eight, as our process is that they have to come back to us if they change the use.

**Christina Brown** said we need clarification as to who the Applicant is and what the uses are. The Offers are signed by both and it looks like a joint applicant. It needs to be clear that this is an application for a building and a specific use and any change of the building and use would have to come back to the MVC.

**Chris Murphy** said it could be leased to another non-profit film organization and it does not change the use, so they would not need to come back to the MVC. **Sam Dunn** said that it is his understanding that unless he has another non-profit film institution; he would have to come back to the MVC.

**Chris Murphy** said that if it came to an enforcement issue, it would be against the owner of the condominium and he would have to go after his tenant.

**John Breckenridge** questioned what is being approved. Therefore, you would not be able to sub-lease to another unless it was a non-profit educational or non-profit educational film society.

**Brian Smith** noted that it is zoned for a non-profit educational use.

**Linda Sibley** said we have to agree on what we are stating and if it was sub-leased they would have to be governed by these same rules. **Christina Brown** said that if we say the applicant is Sam Dunn, then it is for him to enforce the building regulations. **Linda Sibley** asked whether we should specifically say it is okay to sub-lease or just state it is for a non-profit educational use.

**Leonard Jason** said it is a good organization in the wrong location. The site is burdened and we recognize there is a problem with parking and traffic.

***Leonard Jason moved and it was duly seconded that the Tisbury Marketplace Theater be denied.***

- **Cristina Brown** said it is difficult to figure out what works and what doesn't. She offered a thought, that in another town, the Commission after much deliberation said it might dissipate from the village. Is the Tisbury Marketplace part of the village?
- **Kathy Newman** noted that we are infilling and putting services in the town. We are not going to eliminate traffic and parking and we need to keep that in consideration.
- **Brian Smith** said we all know this is a failed road and the patrons also know that. Where else would you locate the theater? Main Street parking is a bigger issue. There is not much happening at the Tisbury Marketplace after 6:30 p.m. It is a good project and a good place.
- **Linda Sibley** asked Leonard Jason if there are specific changes that would make him feel better about the project, such as reversing the parking.
- **Leonard Jason** said that someone should be saying enough is enough. Along comes the sewer and all bets are off. There will be run off into the Lagoon.
- **Fred Hancock** said that once it is 6:30 or 7:00 p.m., the traffic flow isn't what it is during the day. It is a boon to the community as it brings people and business to town during off hours.
- **Brian Smith** said it is not just a seasonal business; it could be a benefit in the winter months.
- **John Breckenridge** said that a consideration is that if we were to vote against Leonard Jason's motion and made a motion to approve, we do it with a mandate to reverse the traffic flow. We have had a significant number of changes in the Marketplace and each step has taken a bite into the traffic of the road even though it is during a six-week period.

***Roll call vote: In favor: C. Brown, L. Jason, N. Orleans. Opposed: F. Hancock, C Murphy, K. Newman, L. Sibley, B. Smith, J. Breckenridge. Abstentions: none. The motion did not pass.***

***John Breckenridge moved and it was duly seconded to approve the proposal with the offers as clarified, deleting offer number eight (permitted uses), and with the additional condition that the MVC mandate a reversal of traffic flow as a condition prior to construction, and.***

- **Linda Sibley** said if it was a proposal for daytime use we may agree to that condition, but given it is occurring at night, Brian is right, Beach Road is okay by this hour of the night and that is our primary concern. Crossing two lanes of traffic is not a nightmare at that time.
- **John Breckenridge** said it is important and we need to address this even if with a motion and a condition.
- **Brian Smith** finds it difficult to put this condition in since the Applicant has no control over it. It is the Condominium Association that would need to approve.
- **Chris Murphy** asked if it came before the Condominium Association, would it be a simple majority vote. **Sam Dunn** said he was not sure.
- **Fred Hancock** agrees with Brian and we shouldn't lose sight of the fact that this is a very well thought of organization and we have received overwhelming testimony. This condition is unfair.

**John Breckenridge withdrew his original motion and Ned Orleans who seconded the motion agreed.**

**John Breckenridge moved and it was duly seconded to approve with the offers as clarified and deleting offer number eight (permitted uses).**

- **Ned Orleans** pointed out that the film society could continue to function as it has and the films would still be in Vineyard Haven.
- **Leonard Jason** noted that it is not about the film society, it is about the Tisbury Market Place.
- **Cristina Brown** noted that it will be more convenient and more pleasant; she is a longtime member of the film society. She agrees that it is the right thing in the wrong place and perhaps other buildings could be utilized for it.
- **Kathy Newman** said we are adding a nice cultural venue and yet we are struggling with the traffic. We are not talking about one night a week; it is about multiple nights, so it will not be quite the same as it is now.
- **Christina Brown** said we are again talking about the film society and it should be about non-profit educational uses.
- **Chris Murphy** said that will be clarified in the Detriments and Benefits discussion.

**Roll call vote. In favor: J. Breckenridge, F. Hancock, C. Murphy, K. Newman, L. Sibley, B. Smith. Opposed: C. Brown, N. Orleans, L. Jason. Abstentions: none. The motion passed.**

There was a discussion about condominium associations:

- **Linda Sibley** noted that when there is a condominium, this is a significant problem for the MVC. The condominium association could torpedo the project if the MVC gave them the power to do so. We need to develop a policy up front when an applicant is working with a condominium association; they need to get approval and agreement up front to mitigate those situations.
- **Doug Sederholm** said he did not see how you could address this. You don't necessarily know what the mitigations are before they get to the MVC.
- **Chris Murphy** said our responsibility is to regulate effects regardless of whether or not it is a condominium association. This is an ongoing discussion that may be revisited again.

### **3.3 Detriments and Benefits**

The Commissioners reiterated the list of benefits and detriments.

#### **Benefits**

- Wastewater will be controlled by the sewer.
- The project provides infilling of the space.
- There is downward shielded lighting.
- The building fits in with the streetscape.
- It is a cultural, non-profit educational use.
- The business and economic impact could be beneficial to other businesses in the Marketplace.
- A donation was made for affordable housing.
- More taxes will be paid to the Town of Tisbury.
- It conforms to DCPC regulations.

### Detriments

- There will be more runoff into the Lagoon.
- More car traffic and noise at night.
- Increases traffic in a failed area but not at a failed time.
- Some light, noise and traffic will affect the other condominium owners and the neighborhood.
- It is not consistent with one of the MVC policies to keep existing buildings operable and preserve town character by reusing old buildings.

*James Joyce, Erik Hammarlund, Doug Sederholm and Peter Cabana rejoined the meeting.*

*Chris Murphy recessed the meeting at 8:55 p.m. and reconvened at 9:00 p.m.*

## **4. TISBURY FARM MARKET EXPANSION (DRI-631-M) PUBLIC HEARING**

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*Commissioners Present: J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, J. Joyce, C. Murphy, K. Newman, N. Orleans, D. Sederholm, B. Smith.*

*For the Applicant: Elio Silva*

*Linda Sibley recused herself from the remainder of the meeting.*

**Doug Sederholm**, Public Hearing Officer called the Public Hearing to order at 9:00 p.m. and read the Public Hearing Notice. This is the continuation of the Public Hearing moved from February 2, 2012 to February 9, 2012. The proposal is to modify a 2011 MVC Development of Regional Impact (DRI) Decision to now include the demolition of the concrete-block building in the back (5,360 square feet) to be reconstructed as a two story, 35 foot tall building with a basement.

### **4.1 Staff Report**

**Paul Foley** gave the Staff Report:

- The applicant is Elio Silva d/b/a Tisbury Farm Market.
- Zoning is B-2 Commercial. The maximum height is 35 feet.
- Local boards have not reviewed plans yet except the ZBA who would not grant any reduction in required parking spaces (51). Any permits previously issued would be re-reviewed due to the substantial change.
- A quick review of the history was given:
  - In 1999 the MVC denied a proposal for a gas station and automotive repair shop.
  - In August 2001 the MVC denied a modification to the DRI 489-1 Decision which sought to construct a retail fuel distribution facility with the previously approved automotive repair shop.
- The proposal is to consolidate two small grocery operations into a single site.
- The proposal is to demolish both existing buildings at 412 State Road and rebuild larger.
- The new footprint would be 11,120 square feet with the porch (9,220 square feet without the porch).
- The approved footprint was smaller, 10,060 square feet with the porch (8,760 without the porch).

- The existing footprint is 5,800 square feet (there was a gap between the two buildings which is being filled).
- The total interior space (not including the porch, but with the third floor attic) would be 29,040 gross square feet.
- The existing buildings gross square footage is 6,700.
- The applicant is thinking ahead for future uses.
- The second floor would house four one bedroom apartments (front building) and offices (back building) in 7,700 square feet.
- The concrete block building being replaced does not have a basement or second floor. The proposed building footprint has been increased in the southwest corner in the rear. The overall net increase is about 10,000 gross square feet bigger than the approved DRI 631.
- The second floor of the back will be storage so there should be no customers, office or active storage such as a stock room.
- There would be a ten foot wide covered porch along the publically accessible sides of the building (north and east) comprising 1,900 square feet.
- The new building would be 35 feet high.
- For comparison, Cronig's Supermarket has 22,517 square feet footprint with a sales floor of 16,140 square feet (not including Healthy Additions) on 2.44 acres with 127 parking spaces.
- The Applicant presented his modification to the MVC knowing it would require MVC review.
- The Tisbury Building Inspector referred the original proposal based on a letter of intent. He has not seen the plans.
- LUPC voted that the modification needed to go to a full public hearing.
- Key issues include: the parking layout showing 51 spaces has functionality problems, many of the mature trees are lost with the new parking plan, and the plan is ambitious and packs a lot into one space.
- It is not a National Heritage Endangered Species Program designated habitat.
- A detailed landscape plan has not been submitted yet.
- The only exterior lighting would be downward shielded lights in the ceiling of the porch overhang.
- The Applicant is looking into leasing the roof for solar panels and would build the roof in order to be able to hold them.
- The Applicant is proposing four one bedroom affordable housing apartments. The Applicant has indicated that two will be year round housing dedicated to staff.
- There are currently 28 full time and 12 part time year round workers. The Applicant anticipates that combining the stores will result in a reduction of staff to 20 full time and 8 part time employees.
- The new buildings would be significantly larger in mass than the existing building but occupy essentially the same footprint making this a significant infill development.
- The site plan and elevations were reviewed.

**John Breckenridge** questioned the number of parking spaces for the size of the building. The MVC approved 30, the site plan had 31 and the ZBA wanted 51. **Paul Foley** noted that the

new plan received February 9, 2012 has 51 parking spaces total. A tractor trailer needs a 45 foot radius to turn. The back parking lot would require you to back out onto High Point Lane.

**Doug Sederholm** asked if the total footprint is different. **Paul Foley** said it is slightly different. The back is significantly bigger and the front has been reduced.

**Peter Cabana** noted that the plan shows accessible parking to be 41 spaces and 10 on the grass in the back area. **Paul Foley** said that all parking spaces may not be feasible such as employees parking on the loading dock and the back lot.

**Erik Hammarlund** asked if there are more than 30 non-problematic parking spaces. **Paul Foley** said the applicant can accommodate the 30 spaces, and noted that the 51 spaces include 4 motorcycle spots. **Peter Cabana** said that parking can be defined for cars and motorcycles. **Paul Foley** said the ZBA gave the Applicant a break by including the motorcycle spots since the reduction was not given.

**Ned Orleans** commented that while this is technically a modification, we are really looking at a new proposal. **Doug Sederholm** said that is why we are having a Public Hearing. **Ned Orleans** noted that it is not pertinent to hear what was done before. What is being proposed now is really a new application and the comparisons don't mean anything to him.

**John Breckenridge** asked how tall the building across the street was for comparison to the current red building. **Paul Foley** said the old lumber building is about 25 to 30 feet high. **Doug Sederholm** noted that the building height perpendicular to the street should be similar to the first plan.

**Sheri Caseau** gave the Wastewater Report.

- The calculations for the approved DRI 631 were very close to the limit.
- The 1.01 acre site is located in the Tashmoo Pond watershed, a nitrogen impaired pond within the MVC Water Quality Policy. In the Policy, development projects are allowed 5.6 kilograms of loading per acre. Thus, the site carries a nitrogen allowance of 5.7 kilos per year.
- The Policy allows a 50 % increase in the load limit for in-town smart growth projects. If allowed, this would increase the limit on the property to 8.6 kilos per year.
- If you took the two grocery stores and combined them into a new building the load would be 17.85.
- The nitrogen load from the proposed project using composting toilets to zero out the nitrogen load from the apartments and from the public restroom will be in the range of 13 to 18 kilograms of nitrogen.
- If the remaining grey water is discharged to drip irrigation disposal, the load should decrease by another 50 %.
- If all runoff is discharged to properly sized grassy swales, storm water would add about 0.8 kilos. The final load would be in the range of 8.2 to 19.5 kilos of nitrogen per year.
- If the property is used as proposed and the additional storage area is not actively used, the project will meet the load limit with the smart growth bonus.

**Kathy Newman** asked how connecting to the sewer would affect future use of the empty space. **Sheri Caseau** said the empty space could then be used.

**Michael Mauro** gave the Transportation Report:

- The MVC Staff feels the parking layout showing 51 spaces has functionality problems.
  - Trucks would have limited maneuverability.
  - The parking behind the building would require backing out onto High Point Lane. These parking spaces are not realistically useable on a daily basis.
  - Parking spaces in the loading dock are unconventional.
  - The snaking section of the lot should be one way.
  - The viability of the remaining trees is in doubt.
- The estimated daily trip generation for the approved DRI 631 was 614 trips per day.
- The additional 8,000 square feet of storage/warehouse is expected to generate an additional 28 trips, which would not have a significant impact.
- The parking lot is tight quarters. Semi- tractor trailers need a 45 foot turning radius, so they would need to back in or out or the Applicant would need to use a box truck.

**Doug Sederholm** said this is all based on the ZBA wanting 51 spaces and asked Michael Mauro for any suggestions. **Michael Mauro** noted the following:

- The alley is about 15-16 feet wide and could cause a traffic issue in the parking lot. He recommends it be made one way and exit onto High Point Lane.
- The two parking spaces on the loading dock are unconventional.
- It will be hard to exit from the overflow parking in the back lot. You will need to back out.
- There is a traffic flow issue in the parking lot with 51 spaces.

**Christina Brown** said she is not so concerned about the interior design of the parking lot and the traffic jams, as that will be the owner's issue to resolve. She is concerned about the regional impact; what are the effects on High Point Lane and State Road. **Michael Mauro** stated the Level of Service (LOS) ranges from F to C after construction of the connector roads, based on the study from Charlie Crevo.

**Chris Murphy** asked if there could be one exit and one entrance from the property and wouldn't that also make the internal use better and the traffic flow from State Road.

**Ned Orleans** asked if the Park and Ride is part of the plan for employees. **Elio Silva** said that the ZBA recommended keeping all parking on site and four parking spaces are allocated for the apartments.

**Doug Sederholm** asked if the ZBA approved this plan. **Elio Silva** said yes, with the stacked parking in the back and the motorcycle parking.

#### **4.2 Applicant Presentation**

**Elio Silva** presented the following.

- The current rear building is not a sound structure and the Engineer said it was not safe to continue with the project, so it was necessary to reconstruct the building.
- It does not make sense to put in a single story building with no basement, so the two story building was designed.
- The new building with a new roof will allow for solar panels and will be energy efficient.
- The retail space has been reduced.
- The combining of the two stores will be a benefit to the community and allow for ease of shopping.

**Erik Hammarlund** noted that the building is being constructed with extra space for storage and future use. Can it be built without the extra non-used space? **Elio Silva** said if he built the extra space three years from now, the cost would triple.

**Kathy Newman** asked what materials will be used for the building and the roof. **Elio Silva** said that cedar shingles will be used for the building but it has been recommended to use cement shingles as they are more environmentally sound and have a longer life expectancy. However, if the Commission thinks it must be cedar shingles, he has no problem using them. The roof will be seamed steel and that will best support the solar panels.

**John Breckenridge** noted that the Applicant is essentially putting the second story on for housing and not storage. However, should the sewer come through, the potential use could be storage. **Elio Silva** noted that one apartment is allowed for every 10,000 square feet. Instead of four one bedroom apartments, he could have four 3 bedroom apartments. Housing may not be the best use, it might be office space.

**Fred Hancock** said in terms of massing on the site, it seems that it might make more sense to think about the whole project and make the street building a single story and the back building two stories, which would be further back from the street.

**Kathy Newman** asked if Staff could create a streetscape so the 35 feet can be visualized.

**John Breckenridge** noted that the insurance building is similar in height but it is set three feet below. **Elio Silva** said that the current red barn store is 35 feet high. **John Breckenridge** also noted that trees can mitigate massing. **Elio Silva** noted they are saving nine trees and removing five.

**Elio Silva** also noted that if they construct the buildings 25 feet high they can't make them mix use.

**John Breckenridge** said the drip irrigation system is being put into the grove of trees and asked how that will jeopardize that area. **Elio Silva** said the system is on the surface and is actually giving more life to the trees. It will act as an irrigation system for the trees.

#### **4.3 Public Testimony**

**Bill Engler** moved to the Island from Seattle and is very familiar with cultural branding and identity. Seattle suffered through this twenty years ago. The more parking you build the more sprawling you get. You will not build the use of public transit if you build parking lots. He is very interested in these projects and disclosed that he has done work for Elio. He shops at his store because it is affordable and has a good assortment of products. However, he does not like the access to the stores when shopping with a family and children. One location will provide convenience and safety. What we have right now at the proposed site is a massive eyesore and it could sit there for a very long time if Elio does not develop it. The overall project will enhance the community and bring people to that part of town. He is in full support of the project and said the business owner will figure out the parking.

#### **4.4 Commissioners' Questions**

**Bill Veno** said that from the site visit that was done this morning, the design is based on the existing footprint, but you are taking that away, so why not make it narrower and you would

have more space for parking. **Elio Silva** noted that it is tight right now for rows and shelving; the first floor is retail space.

**Doug Sederholm** asked with the setbacks in mind, does the building have to be located where it is. **Elio Silva** said the suggestion makes sense, but due to the setbacks it has to be where it is.

**Christina Brown moved and it was duly seconded to extend the meeting for ten minutes. Voice vote. Approved unanimously.**

**Christina Brown** would like more clarification from Staff on the traffic flow both incoming and outgoing and the effect it will have on High Point Lane and State Road. **Doug Sederholm** asked if Michael Mauro could provide that information in a memo. **Michael Mauro** agreed to do so.

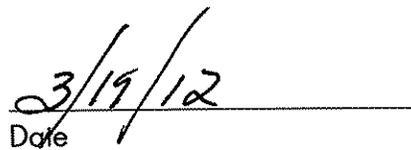
**Doug Sederholm** closed the Public Hearing at 10:09 p.m. and left the written record open until noon Thursday, February 16, 2012.

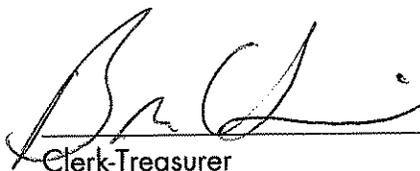
The meeting was adjourned at 10:10 p.m.

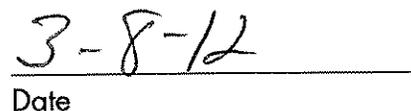
#### DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting-Draft; April 28, 2011
- Minutes of the Commission Meeting-Draft; January 26, 2012
- Minutes of the Commission Meeting-Draft; February 2, 2012
- Island Road DCPC Committee Proposed Amendments Final Recommended Text – to work from on January 5, 2012 and February 9, 2012.
- DCPC Flow Chart After Amendments
- DRI 485-M7 Tisbury Marketplace Theater Offers
- Martha's Vineyard Commission DRI # 631-M Tisbury Farm Market – MVC Staff Report – 2012-02-09 – Modification
- DRI 631-M2 Tisbury Farm Market Expansion Correspondence

  
Chairman

  
Date

  
Clerk-Treasurer

  
Date