

Questions for Cozy Hearth (September 22-29, 2005)

Questions From Public Hearing on September 22:

Commissioners Questions 9/22:

Doug Sederholm: how will Cozy Hearth guarantee that individuals will follow the rules and the human element will be minimized?

Megan Ottens-Sargent: what's the comparison of impact on Edgartown Wastewater between a Clivus house and a house that's hooked up to Edgartown? Is the impact comparable?

Mark London; in 20 or 50 years from now how will the public entities monitor that Cozy Hearth Clivus toilets are being maintained properly? Will anyone notice 20 years from now?

Christina Brown; what might you consider as an alternative to Clivus mulching toilets?

John Breckenridge: have you considered restricting building #5 to one story to reduce visual impact? Lot 5 is the closest to an abutter and most visible. (Lots were moved to keep them out of habitat area.)

Linda Sibley said on the site visit she was struck by the openness of the space, would you consider landscaping plan as mitigation of the visual impact.

James Athearn: Issues that need to be more fully addressed: Wastewater issue. Traffic issue. Not just a number of additional cars but access; the project needs a solution that we can live with; don't see a clear detailed solution. Wants clarification of ownership of the road. How does it work if it needs to be widened?

Katherine Newman asked for a comparison to co-housing's composting toilets, specifically how the maintenance and human element has worked?

Christina Brown asked for details about maintenance, alternatives to composting toilets, and the road association.

Paul Strauss said this is not a large project and two thirds will remain undeveloped; consider there might be even more benefit if the buildings were more clustered.

Linda Sibley asked for more specific info about methods to reduce visual impact and specifics about storage of vehicles, equipment, parking, noise, etc.

Megan Ottens-Sargent asked what the covenants are?

Questions from Audience 8/22:

Ellie Parece, if one of the homes is sold and the person isn't part of the Cozy Hearth Corporation, how will Cozy Hearth oversee composting toilets?

Ellen Kaplan, Mr. Bennett stated that he anticipates that, based on the expenses to date, the cost of each lot will be \$150,000. This means that Cozy Hearth needs \$1,650,000 from the sales of the lots to cover its development costs and make the project work. ($150,000 \times 11$). There are three unrestricted lots and the purchasers of those lots can immediately sell them for market value. If they paid market value, which I suggest is, conservatively, \$400,000 per lot, Cozy Hearth would only need to raise \$450,000 from the sales of the remaining lots. This means they could decrease the density, get the nitrates to a level which would not require composting toilets, decrease the environmental harm, decrease the traffic, etc and sell lots to people with lower incomes at a lower price. In addition, five others, who are members of the corporation, will buy lots for \$150,000 regardless of their present incomes, and their profit on resale of the lots will not be as restricted as the lots purchased by non-members whose income is no more than 80% of AMI. Why are the people who need affordable housing subsidizing the people who can afford to pay market rate and whose profit on resale is unrestricted or lesser restricted?

Paul Hannigan wanted to know when the public can review and respond to answers.

Karen Hannigan asked if they'd found a conservation group to oversee the protection of conservation land. Cozy Hearth will maintain interior road; She asked whether all 11 lots would contribute the dues (\$1500) to the Road Association that is assessed to other electric tie-ins along Watcha Path?

Robert Green thanked the commission for the site visit. He feels that \$4,000 will not solve the road and intersection problems. He asked if lenders won't lend on restricted properties, how will people get loans.

Geoff Patterson said they need to be looking at nitrogen issues in terms of 200 years from now; who's taking care of things for the future.

Commissioners Questions received via e-mail (Sept 22-29):

NOTE: All questions received by e-mail whether from Commissioners or the Public are presented as received with the exception of the Hannigan's Questions/Letter at the end. That letter has been edited to cull the questions from the statements. The entire text will be included in Commissioner's packets and posted separately.

Here are questions that I'd like answered before the DRI 584 – Cozy Hearth – public hearing is closed. They feel more like questions for the MVC staff than for the applicant, but I'll take answers from any qualified source. Thanks.

1. What will Edgartown's affordable housing numbers be after the approved affordable housing developments and known individual building projects are completed (Jenny Lane, Pennywise Path, Chappy, etc)? How many affordable

housing units will the town have and where will Edgartown stand relative to its 10% state target?

2. How many existing primary homes and guesthouses are currently accessible via Watcha Path? Using a best-guess rule of thumb, what is the guesstimated nitrogen load of those dwellings, assuming that the primary residences are occupied 100% of the year, the guest houses are occupied 50% of the year, and standard septic installations are in place without any special nitrogen treatment capabilities?
3. If all the land that is accessible from the existing length of Watcha Path were developed to the fullest extent allowed by Edgartown zoning bylaws – without need for town special permits or MVC DRIs – what would the numbers be, including the three Cozy Hearth lots as regular lots? Specifically, how many primary homes and guesthouses would there be? What additional nitrogen load would be added, using the same assumptions as in question 2?

Thanks. Ciao. Mimi

I have the following questions for the applicant:

1. Since the Edgartown Board of Health has expressed a strong preference that the MVC not assume that composting toilets will reduce the nitrogen load from this project (because of the unreliability of the human component) and since the project must significantly reduce its nitrogen load to meet the MVC guideline for the Oyster Pond watershed, would the applicant consider installing a package treatment plant to address the issue?
2. What is the estimated cost of installing a package treatment plant for this project?
3. If the MVC approved this project with the condition that the applicant reduce the nitrogen load in its waste stream by using a package treatment plant, how would this affect the finances of the project?
4. Is there any other way the applicant can reduce the nitrogen load in its waste stream to meet the MVC guideline for the Oyster Pond watershed? If so, provide details of the method, cost and effect on the project's finances.
5. What is the estimated cost of installing an amphidrome treatment system for the project? Has the applicant explored with the manufacturer of this system the possibility of using an amphidrome system with additional technology that would increase the amount of nitrogen removed from the waste stream? If so, what is the cost and is it financially feasible for this project? Perhaps the amphidrome manufacturer can provide a system that is less expensive than a package treatment plant but will do a better job at removing nitrogen than a standard amphidrome system. It seems worth exploring with the manufacturer's engineers.

Thanks, Doug Sederholm

Hi Paul-

Can you get an answer to the question I asked at the last Public Hearing-
With respect to the E'Town wastewater plant, how much capacity would the clivis waste material take up? The concern is that "X" # of houses would not be able to hook up to the WW plant in the future-

Also- who would collect the waste? Is "human error" a factor? Can this be addressed in the covenants, and can we specify what should be in the covenants at this point in the public process?

As to financing an alternative septic system - I am curious as to why at least 1 of the 3 market houses isn't financing this project more.

Is it the constraints of 40B that make this unrealistic? I'm specifically referring to the 20% profit limit.

Thanks-

Megan

RE: Cozy Hearth

1. Clarify what type of building massing and styles are proposed. Will all the houses be Cape Cod style and what is meant by this? Cape Cod style normally refers to a house that appears to be one or one and a half stories high, even though there may in fact be a second floor, lit with windows in the end wall and with dormer windows (the springing point of the gable roof is just above the ground floor windows). Some of the photos of sample houses provided by the applicant are like this. However, others photos have a two-story high vertical façade with the roof springing from above the second floor windows, normally called Colonial Style. This produces a much more massive looking building. In order to reduce the visual impact of the proposed buildings on abutters, **could the applicant propose guidelines limiting the heights and styles of houses, while at the same time seeking a certain amount of variety and of scaling down potentially large buildings?**

2. Several recent Vineyard housing projects have included buildings where two or three houses are joined into single buildings. This reduces the total number of buildings on the property. This was done in the version of the Fairwinds project that was approved by the Commission as well as Bridge Housing; in both cases, the total number of buildings was fewer than the number of houses, as each contained buildings with two houses in them. In the case of Bridge, all the buildings were duplexes. Chilmark's Middle Line Road project includes some triplexes. **Would the applicant consider combining several pairs of buildings into semi-detached buildings in order to reduce the total number of buildings on the property?**

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Questions received from the Public via e-mail (Sept 22-29):

Questions for Mr. Bennett regarding Cozy Hearth
From Steven and Ellie Parece
9 Watcha Lane

9/29/05

1. If one of the homeowners were to sell their home, the new homeowner would not be a member of Cozy Hearth. How would you monitor their actions as to your guidelines?
2. As we understand, you are limiting the size of the homes. What is to prevent a present or future homeowner from expanding beyond these guidelines?
3. The division of Fisheries and Wildlife mandated that the "protected open space would need to be protected and marked permanently with some visual barrier". Their example was with iron bar and split rail fence. You have stated that your intent is to solely use concrete bound markers. Without fencing it would seem that the bound markers would easily become overshadowed by undergrowth or even leaves making enforcement difficult at best. Have you received approval from Natural Heritage to forego fencing?
4. Due to the density of the zoning override you are requesting, the 65% traffic increase would obviously have a detrimental impact on Watcha Path. You provided an estimate for possible solutions at the West Tisbury Road intersection to alleviate congestion. In order to have an accurate estimate, you would have had to present the contractor with specific plans or sketches of your proposal. We would like to see these plans to understand exactly where you are planning to connect to Oyster Watcha or West Tisbury Road. Also, what would become of the abandoned section of Watcha Path?
5. Because of the clearing restrictions imposed on you by the Natural Heritage Foundation, the excavation of the property has some logistical problems in dealing with earth stockpiles, trucking deliveries etc. Could you tell us your development plan to minimize encroachment on these sensitive areas?
6. The project is to be constructed on a down gradient. Run off from the site crosses Watcha Path and ends up in sensitive conservation land and inevitably in Oyster Pond. As the sight exists, present topsoils and forest mat minimize the erosive nature of the underlying soils. In the short term, during construction, how do you propose to prevent silt from entering the conservation land? More importantly, in the long term, what design criteria will you implement to protect this fragile habitat from continuing erosion and silt build up caused by heavy rains and generated by the access road?
7. Several of the potential homeowners are unmarried couples. Did the financial qualifications towards your low-income guidelines consider both incomes and will the property be owned jointly?
8. You have estimated the individual lot costs at \$ 180,000.00 and home construction at \$ 150,000.00 to \$ 200,000.00. Will you have letters of

- commitment from a mortgage lender for each of your potential homeowners and do you have verification of each member's financial viability at these figures?
9. Is Cozy Hearth in the position to receive any state or federal grant money? Has this been taken into account concerning your profit margin?
 10. As abutters, we are very concerned with the impact that exterior lighting will have on our surroundings. How specifically do you plan to mitigate exterior lighting?

Questions regarding Cozy Hearth

9/29/05

To: Bill Bennett
From: Robert Green
77 Watcha Path

1. You stated that one lot would be given to your daughter who is still attending elementary school. Will that lot be built on and rented until she can take ownership?
2. What would be the sequence of construction for building the eleven homes?
3. Will the two investors from off island be year-round or seasonal residents?
4. As someone who has lived with a composting toilet for several years in the past I have some knowledge on how the system works. As stated by the Edgartown Board of Health I feel there are some practical questions that should be answered. Are you aware that the Clivis Multrum Systems are actually two systems, one for solid and one a grey water and pump system and that a SAS soil absorption system similar to a leaching field is required? Are you aware that they must meet the same requirement as a Title V including soil samples, set back for wells and that a civil engineer must be involved? Are you aware that while a maintenance contract is required, the ultimate responsibility of the system is with the users? Will there be an onsite-trained person to monitor these systems? Will you require updated service reports to the town board of health? Who will bear the cost of the implementation and maintenance of the systems?
5. In the last meeting, you stated that some of the affordable housing applicants do not necessarily meet affordable housing status. Your lawyer assures you are in compliance with your articles of organization. Are you in fact a non-profit corporation in compliance with the non-profit status of your corporation?
6. Will each of the homeowners be responsible for paying the road association fee which is currently \$150 per household? Will you maintain the road during construction?

Date: September 27, 2005

To: The Martha's Vineyard Commission

Re: Cozy Hearth

When answering questions put by the Commission, Bill Bennett said the Cozy Hearth members did meet the income level guidelines, then he said some did, then he said none did. I am confused. Do the Cozy Hearth members meet the income level guidelines?

Are all the cozy Hearth members year round Island residents? Will they be?

Does Cozy Hearth intend to do screening plantings that would lessen the impact on the existing neighborhood? If so, to what extent, and what might those plantings consist of?

If screen plantings are installed do they have to be within the 30% land use area?

Other than the Clivus Mulchem toilets, what options is Cozy Hearth considering for dealing with the nitrogen issue?

Fence lines are easily observed from a distance. Concrete bounds are only visible by inspection while on the property. Would Cozy Hearth consider fencing as well as concrete bounds to delineate the no cut zones?

Will Cozy Hearth consider covenants regarding automobiles, work vehicles, and any other commercially related items?

What systems will be put in place to ensure that any restrictions or covenants are adhered to so that the existing abutters will not be responsible for monitoring their neighbors?

Corporations dissolve every day for any number of reasons. If Cozy Hearth is responsible for enforcing any restrictions, guidelines, or covenants, what mechanisms will be in place to take over if Cozy Hearth dissolves or goes bankrupt etc.?

What will be the set back requirements for the new construction?

Will outbuildings such as sheds and garages be allowed?

After the duration of the proposed restrictions to the properties expire will the buildings be open to additions and expansion?

What will happen if pre-fab houses are used for some of the lots, and then when the units arrive it is found that more tree removal will be required on Watcha Path or the Cozy Hearth properties to allow the delivery of the buildings?

What is the final proposed plan for the traffic issue? Has future development on Watcha Path been taken into consideration in this plan?

Will the Present Watcha Path neighborhood have any say in what happens with the road?

Geoff Patterson

Dear Mr. Foley:

WE ASK MR. BENNETT TO PUT FORTH A MORE FORMAL PRESENTATION WITH FIRM ANSWERS AND MORE VISUAL DOCUMENTATION OF WHAT HE IS PROPOSING.

WE ASK THAT MR BENNETT SHARE HIS COVENANTS AND GIVE US SOME REAL HOUSE PLANS AND VISUALS. NOT JUST... MAYBES OR RANDOM STOCK DRAWINGS OF SOMEONE ELSE'S HOUSE. ...BUT OF WHAT IS ACTUALLY GOING TO BE BUILT.

As part of a 40B application it is required of the developer to supply, as part of his application, drawings stamped by a certified Architect, scaled architectural drawings showing all 4 elevations and also to list the exterior finish of each house. SEE DOC # 2. We acknowledge that the Martha's Vineyard Commission is not reviewing this project as a 40B, but if Mr. Bennett has detailed plans as part of his 40B applications to other agencies, why has he not shared them with us to date?

WE WANT SOLID DOCUMENTATION OF WHAT HIS PROPOSED HOUSE PLANS ARE. WE WANT TO KNOW WHAT THE SOLID ANSWERS TO THE ROAD ISSUES ARE BEFORE A VOTE IS TAKEN, WE WANT TO KNOW THAT MODULAR HOMES CAN EVEN FIT INTO THIS LITTLE ROAD AND MAKE THE NECESSARY CORNERS WITHOUT HAVING TO CUT TREES OUTSIDE OF THE BUILDING ZONES. WE DON'T WANT TO HAVE THE HOUSE PIECES START ARRIVING ON OUR ROAD AND THEN SEE TREES START DROPPING AT THE LAST MINUTE BECAUSE WE DID NOT DO OUR HOMEWORK.

When we were building our home we looked into modular homes and were told they could not make the corner into Jennie Lane without some major tree clearing. The only modular home that I know of in our neighborhood is the small 900 ft cape that was built about 2 years ago for John Nevin and they had one heck of a time getting it in. It sits on Watcha Path and did not have to make any corners to be placed on its foundation. Cozy Hearth's road will be a 90-degree turn from Watcha Path and then two 45-degree turns on an uphill slope. Their road would feed off of Watcha Path in an area that always has major washouts in the rain. We ask that all of this be looked into by a professional in the modular home business who is clearly told that no more trees can be cut than are shown on the plans approved by NHESP.

We admire Mr. Bennett's want to supply affordable housing but ...We don't want to get half way into this and I am sure neither does he to find a bunch of ½ completed homes sitting on this site. Nor do we want to have vague restrictions on the land and area that every person in this neighborhood loves and cares about. We need to know the answer to the question....to what degree Cozy Hearth is willing to commit to support our Road Association?

Mr. Bennett stated that he will be developing 33% of the land and that he will not be fencing in the open space to be protected by the Conservation Restriction Placed upon him by the Natural Heritage & Endangered Species Program. Please note the Attachment #3, dated Aug 1, 2005 as prepared by Senior Project Analyst, Jon Regosin Ph. D.:

IT CLEARLY STATES THAT THEY WILL PERMIT A PROJECT PRESERVING 70% OF THE LAND AS LONG AS IT WAS PERMANENTLY PROTECTED AND MANAGED APPROPRIATELY AND THAT THE BOUNDARIES OF THE PROTECTED OPEN SPACE WOULD NEED TO BE SURVEYED AND MARKED PERMANENTLY AND WITH SOME VISUAL BARRIER. IT CLEARLY STATES AN IRON BAR IN GROUND (FOR THE MARKER) AND A SPLIT RAIL FENCE (FOR THE BARRIER)

We want to know....Does Cozy Hearth plan to honor this condition?

Has new documentation been received from NHESP that now states 33% of the land can be developed or that no visual barrier needs to be constructed?

Mr. Bennett had stated at our last Commission Meeting he had not yet contacted any one of the many agencies that could possibly oversee the management of this PROTECTED LAND. We see this as a number one priority for Mr. Bennett. Has he now done so? It is a restriction put upon this project and THIS HAS TO BE RESOLVED BEFORE COZY HEARTH CAN PROCEED. Since Sheriff's Meadow already owns the land that runs the entire East side of Watcha Path, perhaps they might be interested in obtaining this land.

With current traffic and homes we have always relied on the very kind and generous services of Greg Blaine and Robert Green. Will they and their equipment be able to continue to service the road with the additional traffic of cars and construction involved here? Does Mr. Bennett plan to find out the answer to this question? Will it require more frequent grading and are Greg and Robert even willing to take this added work on? Mr. Bennett will now be required to work with MEPA to apply for his Conservation Permit. Has he started this process?

RESTRICTIONS ON THIS LAND NEED TO BE RECORDED AS PART OF THE DEED FOR EACH PARCEL, AS THIS WOULD KEEP ALL RESTRICTIONS FOLLOWING THE LAND IN YEARS AND YEARS TO COME. NHESP HAS ADVISED A CONSERVATION ENTITY MIGHT TAKE OWNERSHIP OF THIS LAND WITH A SEPARATE DEED AND TOTALLY BREAK IT OFF FROM THE HOUSE PARCELS. THIS MAKES GOOD SENSE. IS COZY HEARTH WILLING TO DO THIS?

Mr. Bennett has been asked in the past if he had the intention of placing covenants on these lots and we have always understood that his answer was No. At the last Commission Meeting he said he does have covenants and has had them in place since the very beginning. Will he share these covenants with us? We would like to see these covenants. Are there to be Covenants that will be recorded and part of each deed? It is important that we understand what Cozy Hearth really plans. Would they for example: have any architectural requirements and state square footage restrictions that are clearly

defined so that no one five or ten years down the line could raise their roof and make a full 2 story home or put on additions spilling into no build zones, or build a garage, or store commercial materials or bobcats, ditch diggers, etc on their lots? Would such covenants prevent numerous unregistered vehicles to be stored on the property?Or the storage of large or numerous Boats?

We are aware that one of the homeowners owns a very large boat. We do not object to boats we have one and our son is an avid sailor but we ask will this be brought to the land and then are we going to have sanding and varnish work or lead paint work possibly happening that may contaminate our soil?

Would there be any planting of substantial evergreen trees to help with the privacy issue for the neighbors that have wide open site lines?

In researching the application process for a 40 B subdivision it is my understanding that in order to apply for a 40B that part of this application requires the developer to have full scaled architectural drawings for each building to be built that is signed by a registered architect and that they shall include typical floor plans, typical full 4 side elevations and sections and shall identify construction type and exterior finish. Is this not the case? SEE ATTACHED DOCUMENT # 2. Does Mr. Bennett in fact have such plans he used in his application process that he has not shared that he would be willing for all to see?

In an effort to bring this to a solution that is workable for all we ask the above questions. We do not wish to go to war with Mr. Bennett. We would just like some solid answers. We would all benefit by understanding that it is the fear of the unknown and what could happen to our little road, the water of the ponds and the wonderful habitat that we have chosen to live in that needs to be addressed. We don't want three acre zoning to be taken away. This is why our neighborhood is up in arms. ...

Karen and Paul Hannigan

34 Jennie Lane