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Martha's Vineyard Commission

DRI # 34-M3 Flat Point Farm Estate Plan

MVC Staff Report – 2018-05-03

1. DESCRIPTION

- 1.1 Applicant:** Flat Point Farm, Priscilla P. Fischer Trust, (Trustees: Tim Madigan; Eleanor Neubert; Jean O'Reilly; Arnold Fischer Jr); Reid Silva (Agent); Eric Peters (Attorney).
- 1.2 Project Location:** Road to Great Neck, West Tisbury Map 35 Lot 3.1 (91.6 acres)
- 1.3 Proposal:** A Form B Preliminary Estate Plan that proposes to create four (4) new lots for building, reconfigures four (4) existing building lots, creates and/or reconfigures five (5) lots around existing buildings and places an additional 35 acres (total 60.5) into conservation on a farm on Tisbury Great Pond. Total of 13 buildable lots.
- 1.4 Zoning:** RU – Residential 3-acre minimum lot size. The purpose of the Rural District (RU) is to maintain the Town's historic pattern of rural settlement, characterized by large expanses of open space and unspoiled views from the road, a scattering of residences and small businesses, and clustered development surrounded by open space. A considerable amount of the property, within 500 feet of the water is within the Coastal District DCPC. The first 100 feet is considered the Shore Zone and has more stringent regulations than the Inland Zone (100'-500' from water).
- 1.5 Local Permits:** Planning Board for Form B Preliminary Plan.
- 1.6 Surrounding Land Uses:** The property is a combination of farm fields (hay and pasture) and woods between two coves of the Tisbury Great Pond.
- 1.7 Project History:** The property has been in the Fischer family for several generations.
- In 1976 Arnie Fischer Sr. came to the MVC to subdivide four 5-acre lots, one for each of his children, out of the original 130 (+/-) acre farm. There was also the main farm lot (Lot 3.1) and the oyster shack lot (Lot 3.4).
 - In 2007 a 12.9 acre Form A lot (DRI 34-M) around an existing camp building built in 1969 was created by Short Cove. The lot was eventually sold to the Land Bank and is permanently protected open space.
 - In 2009 the MVC approved a Form B preliminary estate plan for the farm proposing 2 large conservation parcels (total 67.8 acres), including the five 4-acre lots from 1976 and five lots around existing buildings and three 1-acre youth lots. Comparatively, the current Form B has 7 less acres in conservation and one off site affordable lot rather than three on site in 2009.
 - A Form B is a preliminary plan that is not recorded by the Planning Board or developable. The 2009 plan never proceeded to a Form C Definitive Plan.
- 1.8 Project Summary:**
- A Form B Preliminary Estate Plan that proposes to create four (4) new lots for building, reconfigures four (4) existing building lots, creates and/or reconfigures five (5) lots around existing buildings and places an additional 34.95 acres (total 60.5) into conservation on a farm on Tisbury Great Pond. Total of 13 buildable lots.
 - The four (4) existing 5-acre lots created in 1976 are being truncated to a little over 3-acres each and four new 3- acre lots are being created from the 2-acres taken from each and an additional 7 acres of land that are currently woods resulting in a total of eight (8) 3-3.5 acre lots in that area.
 - Proposed Lots A-E are five Form A lots around existing structures that range from 3.1 to 6.3 acres for a total of 23.2 acres.

- The Land Bank purchased the 12.9 acre lot that was the subject of DRI 34-M in 2007. The Land Bank holds an Agricultural Preservation Restriction (APR) on a 25.54 field along Tisbury Great Pond. As part of this plan the Land Bank would be purchasing an additional 34.95 acres of agricultural conservation land for a total of 73.4 acres of conservation of the original farm.
- The Applicant is proposing to purchase or create one affordable housing lot off site.
- The plan also includes a significant relocation of the road within the farm away from the cove and existing and proposed house lots.
- The proposed Form B Preliminary Plan results in a total of thirteen (13) buildable lots and 73.4 acres of conserved land (including the 12.9 sold to Land Bank) on a total of 122.5 acres (DRI).

2. ADMINISTRATIVE SUMMARY

- 2.1 DRI Referral:** West Tisbury Planning Board. The Planning Board sent a letter indicating that they felt the proposal could be dealt with by the Town and that the Modification did not necessitate full DRI review. However, the project triggers mandatory referral under Section 3.203 a and b.
- 2.2 DRI Trigger:** 1.2 (Modification to a Previous DRI). The Applicant chose to go to a public hearing.
- 2.3 LUPC:** February 12, 2018
- 2.4 Site visits:** April 30, 2018.
- 2.5 Public Hearing:** May 3, 2018.

3. PLANNING CONCERNS

3.1 Some Potential Key Issues

- **Nitrogen:** The 2009 MVC Decision said that the property must meet the MVC Nitrogen budget in place when the final Form C plan was reviewed.
- **Nitrogen:** Agricultural use has been grandfathered leaving capacity for 41 bedrooms with I/A.
- **Affordable Housing:** The Applicant is proposing to create one offsite affordable lot. Details on where, when and how that would be executed have not been submitted yet.
- **Road to Great Neck:** Neighbors along the Road to Great Neck have expressed concern with increased traffic on this private rural dirt road and questioned the right to expand on it.
- The road within Flat Point Farm is being relocated and will change how and where some neighbors access their property.

3.2 Environment

- **Vegetation:** About 1/5th of property is woods and the remaining 4/5th is hay fields and scattered houses.
- **Habitat:** The site is mapped in an NHESP Priority Habitat.
- **Landscaping:** None is planned at this point.
- **Open Space:** Nearly two thirds of the original farm will either be placed under a conservation restriction or owned outright by a conservation organization.
The property already has a 2-mile loop trail with public access from Tiah's Cove Road through the property to the Tisbury Great Pond.
- **Lighting:** No additional lighting is planned at this point.
- **Waste Management:**
- **Wastewater / Stormwater:**
 - The 2009 MVC Decision said that the property must meet the MVC Nitrogen budget in place when the final division is done (the Form C would still have to be reviewed).
 - The property is located along the shore of Tisbury Great Pond, a nitrogen sensitive pond. The site elevation appears to range from 10 feet to over 15 feet NGVD. The Pond at times

will be 3-4 feet above sea level and is flushed 2-3 times a year by breaching the barrier beach.

- The Nitrogen limit for the Tisbury Great Pond watershed is 0.8 kilograms per acre per year, or 87.8 kilograms of nitrogen loading per year for the entire property (not including the 12.9 acres sold to Land Bank).
 - Existing 21 Bedrooms in 6 existing residences without I/A (assumed) = 42.4 k/a/y
 - Leaves 45.4 k/a/y available:
 - Capacity for 20 additional bedrooms with Title V only;
 - Capacity for 41 additional bedrooms with Title V with I/A de-nitrification.
- Current agricultural loads alone exceed the allowable nitrogen budget load, but the agricultural load was “grandfathered” in 2009 (and for other DRI’s) as long as the agricultural loads do not increase. If N-loading from agricultural activities were factored in, even partially, it would decrease the property’s N budget available for residential uses.
- There are no restrictions on the agricultural lands ensuring no change in current agricultural practices that could lead to increases nitrogen loading.
- The Land Bank currently has no agreement with the applicant on the availability of the Nitrogen credits from the 35 acre parcel intended for sale to the Land Bank.
- The farm portions have been managed as grassland. Site soil type is largely Riverhead sandy loam, a Prime Agricultural Soil.

3.3 **Transportation**

- **Access:** Road to Great Neck is a private dirt road off of Tiah’s Cove Road in West Tisbury.
 - The Flat Point Farm has a prescriptive easement on Road to Great Neck. It has been used by this property for so long that there is a right to use it based on historic use.
 - Widening would require permission from owners along the route.
- **Trip Generation:**
 - The MVC uses 10 trips per household per day (5 in & 5 out) for rural residential trip generation.
 - The existing 7 residences would therefore be expected to create 70 trips per day.
 - The proposed 6 new residences would therefore be expected to create 60 trips per day.
- **Roadways:**
 - Automatic traffic recorder counts were conducted on July 9 – 21, 2009 on the Edgartown Vineyard Haven-West Tisbury Road west of Old County Road at the Mill Pond. This count location is requested annually by the Massachusetts Highway Department (MHD Station #7154) as part of their Regional Planning Agency (RPA) count program.
 - The average daily traffic volume was approximately 7,707 vehicles.
 - The MVC does not have any historical data either New Lane/Tiah’s Cove Road or the Road to Great Neck.
- **Sight Lines:**
 - Sight lines at the study area intersections and the existing driveways were also analyzed and are adequate.
 - The posted speed limit along Edgartown Vineyard Haven-West Tisbury Road is 35 mph. The corresponding required sight distance for 35 mph is 250 feet. At the study area intersection of Edgartown Vineyard Haven-West Tisbury Road and New Lane,

sight lines exceed 700 feet in each direction which is more than adequate for the posted speed limit.

- At the existing intersection of New Lane, Tiah's Cove Road, and the Road to Great Neck Road, the sight lines are approximately 350 feet looking left and 300 feet looking right. The posted speed limit on New Lane-Tiah's Cove Road is 25 mph, which require 155 feet of sight distance, making these sight lines adequate.

- **Rural Road turnouts:**

- Turn-outs along Flat Point Farm Road and Road to Great Neck Road were found to be sufficient by staff during the 2009 review. Turn-outs were carved on either side of the dirt roadway at regular intervals making two-way traffic safe.

- **Parking:** All lots either already have or will have their own parking.

- **Traffic Summary:**

- The increase in trips will have a minimal impact on the New Lane and Edgartown – West Tisbury Road.
- The increase in trips will have a moderate impact on Road to Great Neck.

3.4 Affordable Housing

- The proposal increases the total number of buildable lots on the property from 9 to 13
- However the proposed project does not trigger the MVC's Affordable Housing Policy because four of the thirteen buildable lots were created in 1976 before the MVC adopted an Affordable Housing Policy, and per MVC Counsel's advice in 2009, those four lots are exempt from the total count towards the MVC's Affordable Housing Policy.
- The Applicant is proposing to create one offsite affordable lot. Details on where, when and how that would be executed have not been submitted yet.
- The West Tisbury Zoning By-laws Section 4.4-6 requires more affordable housing mitigation than the MVC policy (20% versus 10%). By Special Permit, the Planning Board may exempt Applicants from this requirement by creating lots for the use of family members, if it finds that suitable resale restrictions are in place. Since the Planning Board can grant a Special Permit to exempt proposals then the MVC does not have to meet the 20% affordable standard in the zoning.

3.5 The Economic Impact

- The potential impacts to municipal services are likely to be minimal.

3.6 Scenic Values

- **Trails:** To the north, the land bank has an agricultural preservation restriction (APR) over Crow Hollow Farm and maintains a public walking path along the east and south perimeter of the farm. This is served by a 2-car trailhead off Tiah's Cove Road and dead-ends before reaching Road to Great Neck, a private road. The trail overlooks a field on Flat Pt Farm. This proposal would include the Land Bank buying the 30 acre farm field.
- The Land Bank trail continues along the southerly border of Flat Point to Tisbury Great Pond.
- The proposal adds 60 acres to permanent protected status.
- **Architectural Detailing:**

3.7 Local Impact/Abutters

- During the previous Preliminary Estate Plan review in 2009 with one less buildable lot the existing residents along Road to Great Neck expressed concern about increased traffic.

4. CORRESPONDENCE

- ### **4.1 Town Officials:** the **Town of West Tisbury Planning Board** has written in their referral that they feel with this proposal "We believe that we have worked out a good and responsive plan with

the applicant”. **Town of West Tisbury Affordable Housing** has written stating that “the WTAHC believes there should be more than one affordable building lot”. **West Tisbury Town Counsel** has submitted a letter that was requested by the W.T. Affordable Housing and concluded that the proposal will require one lot for affordable housing by the Town zoning.

4.2 Island Organizations:

4.3 Public: **Michael Colaneri** has written with concerns about the proposed affordable housing mitigation. He counts the non-buildable conservation lots in the total and concludes that the Applicant should provide three affordable lots under the West Tisbury zoning. **Chris O’Sullivan** has written with concerns about how the reconfigured road could affect their property. **Emily Fischer** has written noting that she is in the family and one of these lots is being created for her and that she and her husband hope to continue it as a working family farm. **Paul Karasik** has written that he lives on Road to Great Neck and supports the plan and notes that the Fischer’s are “hardworking, ethical and good neighbors who enrich the town”. Prudy Burt has written in support of the plan. **Samantha Look** has written that she lives on Road to Great Neck and has concerns for the increased traffic on this rural dirt road. **Simon Athearn** also lives on Road to Great Neck and has written in support of the plan noting the excellent stewardship by the Fischer’s and that the “road is lightly used, and mostly cared for by the Fischer family”. **Sarah O’Sullivan** an abutter has written that they “generally support the outlines of the Preliminary Plan” but that they do have concerns with the proposed change to the access to their property and how it would align with their buildings. **Tucker Hubbell** has written in support noting the family efforts toward workforce housing and stewardship.