



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

Martha's Vineyard Commission

DRI # 584 Cozy Hearth Corporation

MVC Staff Report – 7/8/05

**Note: Updated information is printed in bold type*

1. DESCRIPTION

- 1.1 Applicant:** Cozy Hearth Community Corp., William Bennett
- 1.2 Project Location:** Watcha Path Road, Edgartown Map 25, Lots 10.1 (3 acres), 10.2 (3.5 acres), and 10.3 (4.4 acres). 10.9 acres total.
- 1.3 Proposal:** To subdivide 3 lots (10.9 acres) into 11 one-acre lots in three-acre zoning through 40B.
- 1.4 Zoning:** RA-120 – Residential: Minimum Lot Size of 3 acres, 50' Front Setback, 30' Rear and Side Setback. However, the project is an application for a Comprehensive Permit pursuant to M.G.L. chapter 40B, Sec. 20-23.
- 1.5 Surrounding Land Uses:** Residential, woodlots, not far from the Transfer Station.
- 1.6 Project History:** The Cozy Hearth Community Corporation is a non-profit organization formed in May 2002. The articles of organization for the corporation state that the purpose of Cozy Hearth is: To deal with real property for the purpose of creating a community containing affordable housing which qualifies under a state or federal housing subsidy program, to own and maintain common areas and facilities in the community, and to undertake all other activities authorized or permitted by law. The corporation is composed of a group of people who intend to live in the subdivision, several of whom work in the same company. The applicant anticipates that the housing will be subsidized under the Federal Home Loan Bank of Boston's New England Find (NEF) Program as well or through privately contributed funds through the Island Affordable Housing Fund. The land upon which the project is proposed is scrub oak. Cozy Hearth purchased it in 2002.
- 1.7 Project Summary:** The applicants would like to subdivide 3 lots (10.9 acres) into 11 one-acre lots in three-acre zoning through 40B. They are proposing three lots with houses to be available for families earning less than 80% Average Median Income (AMI), one lot for a family earning less than 100% AMI, four lots for families earning less than 140% AMI, and three lots at market rate. The three lots at 80% AMI will have houses built upon them and will be offered at lottery to residents of Edgartown. Members of the Cozy Hearth Corporation will own the remainder of the lots.

2. ADMINISTRATIVE SUMMARY

- 2.1 DRI Referral:** Edgartown ZBA
- 2.2 DRI Trigger:** 3.202, subdivision of 10 or more lots; 3.401a, creation of 10 or more dwelling units.
- 2.3 Pre-Application meeting with staff:** Thursday January 20, 2005
- 2.4 LUPC:** Monday February 7, 2005.
- 2.5 Site visits:** May 9, 2005
- 2.6 Public Hearing:** May 19, 2005, **Continued to July 14, 2005**

3. PLANNING CONCERNS

3.1 Some Key Issues

- Can the intersection of Watcha Path and Edgartown-West Tisbury Road handle the increase in traffic?
- Can the property accommodate the water and wastewater needs of the development?
- How would the increase in intensity of use affect the neighborhood?
- Is this a vital habitat area?
- **Does this set a precedent that undermines zoning?**

3.2 Environment

- **Vegetation:** Presently the property is scrub oak surrounded by rural residential lots.
- **Habitat:** The site is within Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program Priority Habitat 1730. **The Applicant has had a habitat site assessment done and the specialists have found that there is a potential moth habitat on parts of the property. The applicants have shifted house 4 to the east and house 5 to the south (closer to the neighbors). We will get a graphic next week.**
- **Water:** The applicant's are proposing individual wells for each house lot. The project site is located on the outwash plain at an elevation of approximately 40 feet. Groundwater should be at a depth of about 30 feet below grade. The soil types in the area are Carver loamy coarse soil that is droughty and excessively well drained and Riverhead sandy loam, a prime agricultural soil that is well drained.
- **Wastewater / Stormwater:**
 - **The applicants have offered to use Clivus composting toilets on 8-11 of the lots. They are considering whether or not to use them for the houses going to lottery but may not because they will be outside the Corporation for maintenance purposes.**
 - **Composting toilets on all 11 lots would bring them well below the 1.4 kilograms per acre per year. Composting on 8 of the 11 lots may bring them under as well but the numbers have not been run as of 7/7/2005.**
 - The project site is located within the Oyster Pond watershed. It's limit is probably similar to that determined for both Edgartown Great Pond and Tisbury Great Pond, adjusted by size. This approach to estimating the nitrogen load tolerance should be taken as a rough guidance number. If applied to Oyster Pond (207 acres), the limit for the watershed is about 3,600 kilograms. The nitrogen load limit per acre of watershed is 1.4 kilograms. The load allocation for a 10.9-acre parcel is therefore 15.3 kilograms per year.

3.3 Transportation

- **Access:** The project would be accessed from Watcha Path off of Edgartown-West Tisbury Road. An access road is proposed to run along the northern border of the property, setback 15' from the property boundary.
- **Parking:** The applicant's are proposing shared driveways for the lots that would result in there being five driveways off of the access road.
- **Traffic Summary:**
 - Watcha Path Road is a 12–13.5 feet wide unpaved road, privately owned and maintained by the Watcha Path/Jennie Lane/Watcha Lane Road Assoc.
 - The project is estimated to generate 110 daily trips, with a total of 16 trips during the peak hours.
 - The additional traffic will increase the volume on Watcha Path Road by 65%, currently the road has an average daily traffic of 168 vehicles (168 to 278).
 - The Level of Service at the study intersections during the peak season will not be changed due to the additional traffic. The Barnes Road/Edgartown – West Tisbury Road Intersection currently operates at Level of Service (LOS) F during the peak season and theoretically intersections operating with LOS F should not be subject to additional traffic. However, this has to be balanced against the other benefits and detriments of the project and the community's general desire to accommodate some development while not modifying the road network.
 - Although there hasn't been an accident analysis done in the traffic impact study, the accident summary submitted for the Barnes Road/Edgartown-West Tisbury Road intersection indicates that there is a high accident rate.
 - The intersection of Edgartown – West Tisbury Road/Watcha Path Road/Oyster Watcha Road has sight distance and design deficiencies.
 - The applicant has suggested mitigating traffic by promoting car pooling, improving signage, participating in the road association, and working with them to address sight line deficiencies at the intersection of Watcha Path and Oyster Watcha Road.
 - **The Cozy Hearth Corporation is considering putting money into escrow to work on a solution when the project is approved. At this time the two Road Associations probably are not willing to work with them but if they are approved the Cozy Hearth people will have put money towards mitigating the issues involved at the intersection of Watcha Path and Edgartown-West Tisbury Road.**

3.4 Affordable Housing

- **Breakdown of Income Thresholds & Resale Restrictions:**

The following is a breakdown of the income thresholds of the Cozy Hearth Corporation members. This project is designed to meet a range of income thresholds:

To Lottery:

- **3 houses @ 80% or less of AMI (25% required under Chapter 40B)**

Cozy Hearth Members:

- **1 lot @ 50% to 80% of Average Median Income (AMI)**
- **1 lot @ 80% of AMI**
- **1 lot @ 80% to 100% of AMI**
- **3 lots @ 140% of AMI**
- **2 lots @ above 140% of AMI**

In summary, out of the 11 lots, there are 3 houses and 2 lots totaling 5 houses/lots designated for those earning less than 80% AMI. One lot designated between 80% - 100% AMI, 3 lots designated for 140% AMI, and 2 lots designated for above 140% AMI.

The following is a breakdown of the resale restrictions on the lots:

- **3 houses resale restriction @ 80% or less AMI**

Cozy Hearth Members:

- **1 lot resale restriction @ 140% AMI for thirty years**
- **4 lots resale restriction @ 150% AMI for thirty years**
- **3 lots unrestricted**

- The housing suitability analysis in the Edgartown Community Development Plan did not identify the area the site is in as highly suitable, mainly because it is not served by municipal services and is in a nitrogen sensitive watershed. The Plan also noted that affordable housing would likely occur in other locations due to opportunities that are presented.

3.5 Scenic Values

- **Streetscape:** The project will not be visible from Edgartown – West Tisbury road.
- **Building Massing:** The applicant has proposed a revised cluster plan.
- **Architectural Detailing:** The proposal is for three modular homes to be built on the three lots proposed for families earning less than 80% AMI. There was some talk at the Staff/Applicant meeting of the potential for design guidelines for the rest.

3.6 Local Impact/Abutters

- Several abutters have called, come in, and written letters opposed to the project so far. Their main objections include the proposal for one-acre zoning in a three-acre zone, the increase in traffic on Watcha Path, increased nitrogen loading in Oyster-Watcha Pond, and the effect on their land value.

4. CORRESPONDENCE

- 4.1 Town Officials: The Edgartown Resident Home Site Committee has written a third letter stating that they are satisfied with the offer of three perpetually restricted lots and six additional lots with resale restrictions for 30 years. "The Committee is not requesting that any further contributions be made by the proponents beyond those already offered."**

Matt Poole of the Edgartown Board of Health has written that it is important that shared cluster septic systems utilizing enhanced treatment with nitrogen removal must have a operations and management plan.

- 4.2 Island Organizations:** The Vineyard Conservation Society wrote in opposition because they think it would be a bad precedent, density, proximity to the sandplain habitat, and water quality impacts.

- 4.3 Public:** Gunner and Kristen Lamb of Jennie Lane have written in opposition primarily due to the zoning and the affects increased density will have on privacy. Jonathan Spalter of Jennie Lane wrote in opposition citing noise, the environment, zoning, traffic and personal financial impact . Karen Hannigan of Jennie Lane is concerned with the increased density, change of character to the neighborhood, increased traffic at the intersection of Watcha Path and Edg-WT Road, and the circumvention of 3-acre zoning among other issues. William and Betty Kennedy wrote in opposition based on zoning, environment, and in their view this is an inappropriate 40B. Geoff Patterson of Watcha Path wrote in opposition based on zoning, water quality, environment and open space, noise, inappropriate 40B, and traffic. David and Cheryl Mance wrote in opposition based on ground water, traffic and neighborhood character. They feel the added traffic will bring the road to the breaking point and that the applicant should therefore pave the road up to their entrance. They feel that the Town zoned this area 3-acres based upon the distance to sewer treatment. Robert Green of Watcha Path notes that Watcha Path is a designated DCPC when it crosses into West Tisbury. He is also concerned with nitrogen loading into the ponds, rural character and that the tradeoff for only 3 affordable lots is not good planning. Linda Dewitt of Watcha Path has traced the origins of Watcha path to the 1640's and notes the abundance of birds and wildlife. Greg Blaine of Watcha Path is opposed based on character, zoning, density, traffic, water quality and increasing noise from the transfer station. Tam Blaine of Watcha path is opposed based on character, traffic, the environment, and quality of life. Christopher Downing of Jennie Lane is opposed based on density, zoning, and the impact on Watcha Path.

Richard Moon has written in opposition citing density, environmental impact, significant abutter opposition, and setting a bad precedent. He states, "the affordable housing camp must not be allowed to run roughshod over the concerns of conservationists."

Art Nelson has written in support of Cozy Hearth citing the uniqueness of this 40B application. "This group took 40B, a well-intentioned and poorly written piece of legislation crafted toward commercial developers, and

turned it into a tool for a small group of local individuals to create their own affordable housing.”

A letter signed by six neighbors – Ellinor Parece, Steven Parece, Robert Green, John Carbon, Virginia Carbon, and Chris Downing – states that the Cozy Hearth Corporation is not a qualified 501 (C) 3 nonprofit organization and therefore is not eligible to apply for a Comprehensive Permit and thus must be denied by the MVC until this is resolved.

NOTE: The MVC is reviewing the project as a subdivision of 10 or more lots (S&C 3.202) and as a creation of 10 or more dwelling units (S&C 3.401a). The Commission’s Standards and Criteria for what types of developments constitute a DRI are not contingent upon the legal status of the applicant (other than the control of the property). While only a public agency, non-profit organization, or a limited dividend organization can file for a Comprehensive Permit under Chapter 40B Comprehensive Permit Law, the Commission is looking at the proposal as a DRI, not a 40B.