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Martha's Vineyard Commission

Land Use Planning Committee

Draft Notes of the Meeting of October 15, 2007

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 P.M.

Commissioners Present: John Breckenridge; Christina Brown; Chris Murphy, Ned Orleans; Paul Strauss, and Richard Toole.

MVC Staff Present: Mark London, Paul Foley.

1. DRI 607 Moujabber

Present for the Applicant: Joseph Moujabber (Owner), Matthew Iverson (Lawyer), Peter Pometti (Architect)

Project Location: 10 Sea View Avenue Extension, Oak Bluffs Map 9 Lot 50 (0.18 acres - 7,841 sf)

Proposal: The plans referred to the MVC are not what have been built but rather a proposal for modifying what has been built into an attached addition. The applicant said that they do not expect to build the 2004 proposal exactly but would like to ascertain what type and size of addition would be acceptable with respect to zoning, to the Copeland District Review Committee, the Cottage City Historic District Commission, and – if the DRI referral is accepted – by the MVC.

Discussion:

- The Selectmen have referred a project to us as a Discretionary Referral. The project they sent is on the plans shown at the meeting. It was noted that it often happens that an applicant will change the plan during the review process.
- The issue now is not the merits of this plan or how it might change. It is whether the project has regional impact such that it requires review by the full Commission. LUPC should make a recommendation to the full Commission on whether it agrees with the Selectmen's referral of this project as a Development of Regional Impact.
- In the letter from the Selectmen, they not only refer it as a DRI but also asked for guidance on the dealing with the proposal and on the language of the DCPC. They note that the North Bluff is a unique, highly visible neighborhood.
 - **Commissioner John Breckenridge made a motion, seconded by Paul Strauss, that the LUPC recommend to the full Commission that it accept the Discretionary Referral and review the proposal as a Development of Regional Impact, based on:**
 - **The concerns raised in the Selectmen's referral,**
 - **The presence of the District of Critical Planning Concern**
 - **The effects on the views from an important gateway to the Island,**
 - **Concerns about fitting into the architectural nature of the historic neighborhood and waterfront streetscape, and**
 - **How the Commission has previously dealt with other projects in the neighborhood (such as the Lookout Tavern).**

- Chairman Brown noted that the MVC has accepted single-family houses in the past, such as the Peter Sharp house in Edgartown in 1994, because of the impact on views of the water and on the streetscape.
- Commissioner Murphy said that when anything is sent from the Selectmen, he is usually the first to say we should abide by the Selectmen's referral. He asked the applicant what they think about being referred to the MVC.
- Matthew Iverson, attorney for the applicant, said his answer depends on what type of guidance and what type of process this would be going forward. This has been before a judge. What he is asking for now and have been since 2004 is some kind of guidance. If review by the Commission will help give them the guidance they have been looking for, they welcome review. He is curious as to what that process will be like. How will the MVC bring in those town boards as part of this process?
- Chairman Brown responded that the MVC always wants informal and formal discussions and comments from town boards. We need to work together. We have different regulations but we always try to work with town boards. We also need to work from the overall criteria set out in our enabling legislation, Chapter 831, which is different than what the town operates under.
- Mr. Iverson asked the LUPC if they anticipate any change from the standard practice. He added that putting together five sets of plans costs money and that they are concerned that they will be redesigning this five times.
- Chairman Brown responded that we encourage and invite communication with the towns. She anticipates that both the staff and the LUPC will more assertively ask town boards for comments and to work with us. She also noted that when a project is before the MVC, a town board can discuss a project and hold hearings, but cannot give a final decision.
- Commissioner Orleans said that it seems to him that given the history of the project where there has been a lot of town input and public input we should recognize that the MVC and MVC Staff are the only regional board that has a chance of bringing everyone together. On that basis alone it seems to him that the MVC should be involved and accept the referral.
- Mr. Iverson asked if there are any modifications that they could make that would de-trigger the MVC referral. Is there any way they could take this out of the MVC zone?
- A Commissioner noted that the history of the project is an additional reason for MVC review.
- Chairman Brown thought that even ignoring the history, the 2004 proposal would merit review. The MVC concurred with the referral of the Lookout Tavern, right next door, because of how it affected the streetscape. This appears to be higher and with a boxier roofline than what is generally found.
- Mark London noted that with a Discretionary Referral, there is a time limit to decide on whether to accept the referral. We have already had one extension. We are scheduled to have a public hearing on November 1. It might be possible to take a month or two to develop guidelines and look at a new design that would not be a DRI, but at this point, it might be easiest to simply review it as a DRI. We could then work with local boards to offer as much guidance as we could. The Commission could, for example, support the Cottage City Historic District Architectural Guidelines and staff could analyze the existing defining characteristics of the North Bluff. The two would dovetail to give a good idea of what might be desirable.
- Commissioner Murphy noted that each board acts on its own direction. Once the MVC comes up with conditions the town cannot ignore them.
- Matt Iverson confirmed that the MVC conditions become necessary but not sufficient.

- Chairman Brown said that if we accept this as a DRI, it begins the process in which the plans further evolve.
- Commissioner Murphy questioned whether we should double up on the local review.
- Commissioner Orleans asked whether Oak Bluffs has the wherewithal to undertake this type of review. In his view, the MVC is the only one who could bring the various parties together and look at what is best for the Island.
- Commissioner Strauss agreed that the best chance to get the town boards together is through the MVC process.
- Mark London said that ideally, we would formulate a general idea of what type of proposal might be acceptable, and get feedback from other boards and the public on this guidance, before the applicant puts pen to paper.
- Commissioner Breckenridge suggested that if the MVC accepts it as a DRI, Mark consult with counsel as to whether we could have a working meeting between LUPC, various town boards, and the applicant to discuss what kind of plan might be acceptable.
- Mr. Iverson said that Mr. Moujabber has been to a number of hearings and they are not cheap. As he understands it "once a DRI always a DRI". If there is some way to define parameters prior to it being accepted as a DRI, that would be preferable.
- Commissioner Toole said he feels like the Selectmen are looking for guidance for the whole area.
- Commissioner Murphy asked if there is a way to have a public hearing on the substance of the subject without going through the whole DRI Process.
- Commissioner Strauss asked what advantage that would be compared to simply accepting it as a DRI. The key part of what Commissioner Breckenridge just suggested would come after the MVC accepts the nomination. He thinks all the other issues will unfold quickly afterward.
- Commissioner Murphy said that one of the informal criteria we have used in the past is whether or not the project would get a public hearing at the local level. This will get a number of them. He's just trying to get to how we become the peacemakers here.
- Commissioner Strauss said he thinks the way to do that is to accept it as a DRI and then get the information we need.
- Commissioner Murphy asked what the regional impact is that is not being addressed by the town.
- Commissioner Breckenridge responded, emphatically, that one of the regional issues is the view from the island gateway (the Steamship Pier), which is not necessarily part of the mandate of the other boards. This is an important gateway and we should review it, as we have with other applicants in that area.
- Mr. Iverson wanted to be clear that we are not dealing with the project as built. He said they expect to modify the plans in front of LUPC. He asked whether the MVC has ever accepted a project that has already been dealt with by the town.
- Staff noted several recent cases including 21 Kennebec, 44 Circuit, etc...
- Commissioner Brown called the vote.
 - ***The LUPC unanimously voted to recommend to the full Commission to accept the Discretionary Referral for 10 Sea View Avenue as a Development of Regional Impact.***

Adjourned 6:51 p.m.