

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

Minutes of the Commission Meeting Held on February 18, 2010 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

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

P Bill Bennett (A- Chilmark)	P Katherine Newman (E -Aquinnah)
P John Breckenridge (E - Oak Bluffs)	P Ned Orleans (A - Tisbury)
P Christina Brown (E - Edgartown)	P Jim Powell (A - West Tisbury)
- Peter Cabana (E - Tisbury)	P Camille Rose (A - Aquinnah)
- Martin Crane (A - Governor)	P Doug Sederholm (E - Chilmark)
P Fred Hancock (A - Oak Bluffs)	P Linda Sibley (E - West Tisbury)
- Chris Murphy (E - Chilmark)	- Holly Stephenson (E - Tisbury)
P Jim Joyce (A - Edgartown)	P Andrew Woodruff (E - West Tisbury)
P Lenny Jason (A - County)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Christine Flynn (Affordable Housing & Economic Development)

Christina Brown opened the meeting at 7:10 p.m.

1. CROW HOLLOW: DRI 341M - MODIFICATION REVIEW

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley

Applicant: Samantha Look and Kristian Strom, owners; Rob McCarron, lawyer; Doug Hoehn, agent/engineer

Christina Brown explained that the issue before the Commission is to consider whether the proposed modification to the approved plan is significant enough to require a public hearing.

Linda Sibley gave the LUPC report.

- This is an application for modification of the 1991 DRI approval of seven lots, five three-acre lots and three larger lots, containing larger houses. In 1993 there was a lot line change. There is now an agricultural preservation restriction on lot 6 with a 2.5-acre building envelope and a view easement from Tiah's Lane.
- The modification is to create a 3-acre lot around an existing house out of lot 7, leaving 18 plus acres of undivided land.
- There are two changes that would need to be made to the original DRI decision. The first is to create a 3-acre lot around the original farmhouse. The second is either a change to

the wording of the original affordable housing condition or a finding that the applicant's offer satisfies the original condition.

- The 1991 project did not trigger the Commission's affordable housing policy. It still does not. The subdivision fell just short of the triggering the cluster zoning by-law of the West Tisbury. The applicant offered to meet the zoning by-law if further subdivision was made, but since 1991 the by-law has changed.
- The applicant has made an offer that is satisfactory to the West Tisbury Planning Board, namely to create a one-acre homestead lot and pay \$40,000 to an affordable housing fund, which would require a further one-acre subdivision.
- The Affordable Housing Committee has voted that the affordable housing contribution is not adequate. They want two homestead lots and have asked the MVC to hold a public hearing.
- Under the old by-law and the new by-law, the Planning Board makes the decision of whether or not the affordable housing offer meets the guidelines.
- She proposed that first Commissioners should look at whether they want to weigh in on the actual offer, next look at the lot, and, finally, whether a public hearing is necessary.
- There are a number of considerations in determining whether a public hearing is necessary.
 - Is this substantial enough of a change from the original decision that the public ought to have input?
 - Is there enough information so that Commissioners can make a decision without a public hearing?
 - Are there regional issues?

Doug Sederholm said the Commission can't look at the homesite lot without looking at it in the context of creating the 3-acre lot. The question is whether creating two lots is a substantial change.

- He added that it appears that it was expected that there would be development in the future and that there would be an affordable housing component. The question is whether the Commission wants to give the West Tisbury Planning Board and West Tisbury Affordable Housing Committee the opportunity to air their dispute.

Linda Sibley said it's not the Commission's job to mediate between the disputing boards. But the Commission does have to be certain that the offer meets the Commission's condition. In her mind it does because the condition says that the applicants have to meet the by-law. She's willing to give the Planning Board the decision-making authority.

Lenny Jason said the applicant is in compliance with the 1991 decision that states if they subdivided they have to meet the affordable housing policy.

Christina Brown asked whether the offer for one house lot on site and \$40,000 meets the Commission's 1991 decision.

Doug Sederholm, moved, and it was duly seconded, that the affordable housing offer meets the condition.

- **Andrew Woodruff** said he's concerned about where the lot would be and asked whether the lot would have to be on that site

- **Christina Brown** said the location of that lot would have to come before the Planning Board and the Commission. She added that the subdivision doesn't trigger the Commission's affordable housing policy so the Commission doesn't have much say on where the lot goes.
- **Linda Sibley** said she understands his concern, but the cost for the applicant to purchase an offsite lot might be prohibitive.
- **Andrew Woodruff** said the location of the lot is part of his determination of whether the proposed modification might require a public hearing.
- **Rob McCarron**, representing the owners, explained that their preference is not to have development on this property. If an off-site lot could be found, the applicants would certainly be back to the Planning Board.

A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, that the modification, even the creation of the two lots, is not a substantial change that requires a public hearing.

- **Jim Powell** reiterated that the Planning Board took the 1991 and 1993 decisions into account and stated that accepted offer would count as two affordable lots.
- **Doug Sederholm** asked for clarification that the applicant would get credit for two lots.
- **Linda Sibley** pointed out that, under the math, the applicant 'owes' 1.6 lots.
- **Christina Brown** suggested that the Commission change the condition to state that subdivisions must meet the requirements of the Planning Board, in terms of affordable housing, in place at the time of the submission.
- **Linda Sibley** clarified that both the 3-acre lot and 1-acre lot are not substantial but the applicant has to come back for the placement of the 1-acre homesite lot.

A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, to accept the modification to the original decision to create the 3-acre lot as drawn, and a second 1-acre lot, to be located at a future date. A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

Linda Sibley suggested that the Commission consult counsel before changing the language of the decision referring to the flexible by-law that doesn't exist.

2. WOODLAND CENTER: DRI 39-M5 – MODIFICATION REVIEW

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff

For the applicant: Sam Dunn, architect/owner

Paul Foley gave the staff report.

- In the basement of the back building there are existing storage units for the condominium units. The proposal is to add public storage units to the basement.
- LUPC voted to recommend that the modification is not substantial enough to require a public hearing.
- Traffic study estimates are 4 to 6 trips per day.
- One of the tenants expressed some concern that the utilities would be exposed and wondered how the lift on the exterior stairway would fit.

Linda Sibley reported that LUPC voted 7 to 1 that the change is not substantial and does not require a public hearing.

Ned Orleans moved, and it was duly seconded, to endorse the LUPC recommendation that the change is not substantial and does not require a public hearing.

- **Donna Cummins**, one of the unit owners, said her concern is the additional traffic and parking. Nine more units would add more traffic and there are already parking issues.
- **Paul Foley** explained that the traffic planner used the Institute of Traffic Engineers storage unit numbers. In general, there will be four trips per weekend, and six per weekday.
- A neighbor added that the Woodland has a parking issue already.
- **Sam Dunn** explained that he has the right as the declarator to subdivide the unit.
- Commissioners discussed whether the square footage of the basement was considered when calculating the overall square footage of the building during its approval, notably in applying the affordable housing policy. Under the original proposal, the applicant made the appropriate mitigation at the time, but the square footage of the basement may not have been included because it was not active commercial space.
- **Doug Sederholm** commented on the traffic issue; the number from ITE is for mini storage. It doesn't have the level of access that typical mini-storage would have and he wondered whether the traffic will be as much as anticipated.

Discussion was suspended pending clarification of the affordable housing contribution.

3. RICKARD BREAD RETAIL: DRI-311-M2 – MODIFICATION REVIEW

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff

For the applicant: Kate and Gates Rickard, owners

Paul Foley gave the staff report.

- When the original DRI was approved there was to be no retail.
- Rickard Bakery began a small retail operation.
- LUPC met and voted 6 to 1 that it was a significant change.
- The applicants said they would not sell sandwiches.
- The space is a 200 sq. ft. retail outlet in a 3200 sq. ft. factory type building.

- Traffic would be a concern if it became a popular retail. It's a commercial neighborhood abutting a residential neighborhood.

Linda Sibley gave the LUPC report.

- It was 6 to 1 vote.
- She said that hers was the dissenting vote because it was 200 square foot retail that wouldn't generate a lot of traffic.
- Chris Murphy's argument was that the Commission had already seen a violation of the conditions. Having a public hearing would allow public input and formal revision of conditions.
- The traffic planner didn't think that this would generate a lot of traffic if there weren't sandwiches.

The applicants clarified that the request for modification is to have a factory retail outlet, selling baked goods they make to the public and cups of coffee, milk juice, water, to go, in the limited area of 200 square feet.

Fred Hancock said that if there is a condition that a project is wholesale, a request for retail is a substantial change.

John Breckenridge said there is the potential to escalate to a more substantial retail location. He suggested that a public hearing is appropriate to clarify the details of any approval.

Jim Joyce said previous occupants used it as a retail location, even though it was approved for only commercial.

Lenny Jason said the applicant is not going to get high traffic there.

Ned Orleans said it's a change in function. The 200 square feet is not a room. It's a space without walls. It expands itself depending on how much business there is. The neighborhood should have an opportunity to say

Jim Powell moved, and it was duly seconded, that, as recommended by LUPC and supported by the discussion, this is a significant change requiring a public hearing

- **Linda Sibley** recalled that one of the things that was mentioned is the potential for retail use close to a residential area. This could become a little more than just an outlet. For the purposes of establishing clear conditions, a public hearing would be appropriate.

A voice vote was taken. In favor: 11. Opposed: 2. Abstentions: 0. The motion passed.

4. WOODLAND: DRI 39-M-5 – MODIFICATION REVIEW (CONT.)

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff

The discussion resumed on the motion that the change was not substantial and did not need a public hearing.

- **Christine Flynn** clarified that the 5,000 sq. feet of basement was not included in the original calculation. The recommended mitigation is \$3,000. She pointed out that there was an oversight in the original calculation. The applicant is willing to make a \$1500 donation to Habitat for Humanity to offset the affect on affordable housing.
- **Lenny Jason** said his concern is incremental subdivision. At the same time, it's a congested area, but it's a commercial area.
- **Christina Brown** clarified that there will be no outdoor lighting except for what's required by the building code.
- **Dan Sideman**, husband of Bethany Sideman who owns Curves, said one of their concerns is parking. There are parking issues. He asked whether each of the units would be sprinkled and expressed concern that there is a single egress. The parking is a serious issue. 100 people might come to Curves in a day. Even if it is four to six trips a day, any impact on parking would be detrimental to the businesses that are there now.
- **Jim Powell** reminded Commissioners of a request by John Breckenridge regarding French drains and the maintenance plan.
- **Sam Dunn** explained that the drains have been cleaned out.
- **John Breckenridge** added that the maintenance plan was supposed to be handed off to the condo association.
- **Andrew Woodruff** asked if there is room for additional construction. Sam Dunn said that if the Town of Tisbury approved tying into the sewer and all the condo owners approved additional stores, there is the potential for more units, but there are no more developable lots on the site.

A voice vote was taken. In favor: 12. Opposed: 1. Abstentions: 0. The motion passed.

Ned Orleans moved, and it was duly seconded, to approve the modification which includes the affordable housing offer and the requirement that there be no outside lights except those required by the building code. A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff. Opposed: L. Jason. Abstentions: None. The motion passed.

5. 4 CAUSEWAY ROAD: DRI 574M – MODIFICATION REVIEW

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff

For the applicant: Gioghan Coogan: owner of office building.

Christina Brown explained that the property was approved for three buildings. There is one existing building, one new building, and one potential building. The owner has requested a modification.

Linda Sibley explained that the widow of the original developer needs to sell the original residential building. In that pursuit, she is concerned with Condition 2, which says that the applicant shall make an effort to rent the building to a municipal employee. She will keep the

condition that the building would be rented at a reasonable rate. She would like that the municipal employee reference removed, as it might be too limiting, should she sell the building, as well as Condition 5, that trim paint will be white. LUPC voted that unanimously that this is insignificant change and recommended the removal of the sentence from two and all of five.

Gioghan Coogan added that, if she sells this property and someone owns it, they are not required to rent it out.

Doug Sederholm said the clarification needs to state that *if the property is rented*.

Mark London clarified that Commissioners have to remember that the Commission approved a commercial development and that this was the affordable housing component of the development.

Geoghan Coogan said that the Commission's restriction was not a permanent affordable housing restriction, but only for ten years.

Linda Sibley said that the effect of the affordable housing contribution, even for six years, has been more than if the developer had made the affordable housing contribution.

Geoghan Coogan clarified that the project was approved as a whole and they've done one of the two buildings.

Christine Flynn clarified that the project did trigger the affordable housing policy.

- The applicant made a monetary contribution and offered year-round housing in the existing house and in the third building.
- If the next building is built, there will be an affordable housing component.

Linda Sibley argued that the amount of mitigation was based on the full project. For six years the applicant has been giving the affordable unit that was included as mitigation for the whole project. For the Commission's definition of affordability something that is rented year round as opposed to market summer rate is considered affordable.

Doug Sederholm moved, and it was duly seconded, that the requested modifications are insignificant changes not requiring a public hearing, namely:

- ***That condition 2 be revised to read "if the existing three-bedroom residence, presently used as an office, is rented, it shall be rented on a year-round basis";***
- ***That the municipal employee phrase be removed, and***
- ***That condition 5 be deleted.***

A voice vote was taken. In favor: 13. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, to approve the changes. A roll call vote was taken. In favor: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, L. Jason, J. Joyce, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff. Opposed: None. Abstentions: None. The motion passed.

6. EXECUTIVE DIRECTOR'S REPORT

Commissioners present: B. Bennett, J. Breckenridge, C. Brown, F. Hancock, J. Joyce, L. Jason, K. Newman, N. Orleans, J. Powell, C. Rose, D. Sederholm, L. Sibley, A. Woodruff

6.1 Island Plan Document

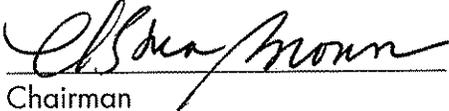
Mark London reported that staff has finished the Island Plan document. Copies will be sent to Boards of Selectmen and libraries. They'll be making CDs and sending out the summary document. The Island Plan Steering Committee will be meeting and discussing moving into the implementation phase.

6.2 Wind Committee

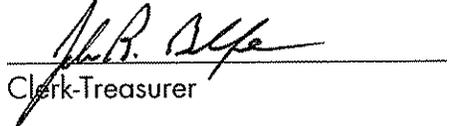
Doug Sederholm reported that the wind committee discussed planning for the next working group meeting which will be March 11th. The committee will firm up how to address the agenda.

Christina Brown clarified that the point of the wind group is to work on plan standards and criteria for towns and the Commission. The DCPC addresses everything above 150 feet.

The meeting adjourned at 9:00 p.m.


Chairman

6/3/10
Date


Clerk-Treasurer

6/3/10
Date