



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

Martha's Vineyard Commission

Land Use Planning Committee

Minutes of the Meeting of October 2, 2006

Held in the Stone Building, New York Avenue, Oak Bluffs.

Commissioners Present: Linda Sibley, John Breckenridge, Paul Strauss, Carlene Condon, John Best.

MVC Staff Present: Mark London, Paul Foley, Bill Wilcox

NOTE: The LUPC began late, at 6:30 pm, in order to accommodate Yom Kippur.

1. UPS Store (DRI 39-M3) Concurrence Review

Present for the Applicant: Richard Mezger

Project Location: Woodlands Business Center, 455 State Road, Unit 10, Tisbury, MA. Map 39, Lot 2.14 (0.82 acres). A.K.A. the Greenhouse replacement building at the Woodland Business Complex

Proposal: To modify the approved building to replace the greenhouse at the Woodland Business Complex, add a basement, and locate a UPS Store in it.

Referral

- With a modification of a previous DRI we need to ask if this is significant enough to require a public hearing as a DRI.
- It was referred due to a change in the structure.
- Staff talked to council and they said that even though it was referred for one thing if we are aware of the use we look at the entire project.
- A commissioner said we don't have enough information to make a decision since we do not have the traffic generation rate. They added that they think the addition of the basement needs to be discussed as well. It is increasing the size of the building. Basements are not irrelevant.

Proposal

- The proposal would include 150-200 mailboxes in a separate lobby; the usage profile is that the mailboxes are checked 3-4 times a week, usually between 10-11 am and 2-4 pm.
- Operation hours are 9-5 M-F, 9-6 Sat, closed Sunday, with electronic access 24 hours a day for mailbox owners with a key.
- They do not plan to have a copying machine in the lobby.
- The primary customers are expected to be shipping and packaging for retailers. This store will allow retailers to sell items and have this store ship them for them if they do not want to ship it themselves.
- They will have a van that goes to businesses to pick up items to send and to hotels to return items that have been left behind by patrons.

- This is not a Tisbury Printer. There will be no computer time. It's mostly business customers.
- The applicants are looking to minimize traffic by having vans go out and pick up items from businesses.
- Peak hours are not at the same time as Humphrey's.
- The business would like to have a basement but it is not essential. They never thought it was going to be an issue. It is just for storage.
- The "Granite" rule is that basements become retail space unless specifically limited.

Traffic

- It was noted that if they are going to have mailboxes it could be that people up-island will use this instead of driving into town.
- Given the history of traffic in that area, if there is enough of a concern that there may be an issue with traffic, we can have our traffic consultant do a preliminary study.
- Staff asked our traffic consultant to look at this project and he said he could do a basic study within two weeks for under \$1,000.
- The UPS store in Nantucket is on a dead end road in a multi-use building. If we do the counts in the day you will get just the store traffic (albeit off-season).
- Of all the miles of road on the island we only have two miles of very high traffic and this site lies along one of those two miles.

LUPC Recommendation

- The Chair asked if other commissioners thought we have enough info to make a recommendation on substantiality.
- The most expeditious way to move this forward is to bite the bullet and give a green light to the traffic study and have the public hearing on October 19th.
- It was noted that LUPC doesn't have the power to send it straight to public hearing, LUPC only makes a recommendation.
- A commissioner said they would feel more comfortable to have more information before making a decision on the use. If the applicant is willing to get more traffic information they would like to postpone it to the LUPC on October 16.
- The only down side is that if on the 19th you decide the traffic is worth looking at then it wanders into November and the Hospital hearings.
- A commissioner asked if the MVC can post a Public Hearing now and then if it is not necessary just cancel it? We will consult with council and see if it is allowable.
- Chair asked if we LUPC had a consensus that this is ok.
- All said yes
- Staff was instructed to post a Public Hearing for October 19, 2006 in the likely event that the full commission required a Public Hearing as a DRI due to concerns over the amount of traffic that could be generated by this type of operation. This was done to expedite the matter for the applicant and to avoid having this project run into the hearings of the M.V. Hospital.

1. Deep Bottom (DRI 209-M3) Concurrence Review

Present for the Applicant: Peter Sachs, Peter Nicholson

Project Location: Lots 82 and 83 at the Deep Bottom Subdivision.

Proposal: To approve the merging of lots 82 and 83 (parcel A) with a 0.2 acre strip of an abutting open space easement (parcel B) that has a conservation restriction on it in order to make the previously approved (by the MVC) lot merge a 3-acre buildable lot.

Commissioners Present: Linda Sibley, John Breckenridge, Paul Strauss, Carlene Condon

- Commissioner John Best recused himself because he has worked with someone who the applicant bought the property from. He sold the adjoining lot so he said he could add information or he could leave. He has no monetary interest.

Referral

- The project was not actually referred. The applicant's lawyer approached the MVC with a letter from Ron Rappaport, West Tisbury Town Council, to Ernest Mendenhall, West Tisbury Building Inspector, which said that approval was required by the MVC.

History

- In 1986, 1992, and 1995 the Magid (Deep Bottom) Subdivision was before the MVC as a DRI.
- The Commission approved the subdivision with conditions.
- One of the Conditions was to combine 11 pairs of lots to cut down on the density.
- Each time the merging of lots 82 and 83 was specifically designated and approved.
- As it turns out the zoning in 1986 was based on 60,000 square feet rather than one and a half acres (65,340 square feet). Thus, of the 11 pairs of lots to be merged only one was actually a full 3 acres.
- While the lots were approved by the MVC to become a buildable lot three separate times the buildability of the lot apparently ran out in 2002.
- Peter Nicholson, the lawyer for the applicant said that when Peter Rosbeck set up the subdivision he had a lot of restrictions. In those he reserved the right to do what they have done here. You can go to the homeowners and they can convey land from open space if it is concurrently and permanently protected. The Homeowners Association voted to approve it. A plan was drawn up which you see on the back page of your packet. There was parcel A and B. Parcel B (the strip of easement) was conveyed to Peter Sachs and he immediately as a quid pro quo put a Conservation Restriction on it. The Town approved the plan. The question is whether the MVC approves.
- A letter from West Tisbury Town Council to the West Tisbury Building Inspector said that the lot, as presently configure, is not buildable unless and until approval is obtained by the MVC. In his opinion "the applicants must return to the MC to seek a modification of the 1986 decision (or whatever alternate form of administrative action the MVC deems necessary) to permit the 0.20 acre parcel obtained from the open space lot to be utilized in complying with the West Tisbury zoning requirement of three acres."

Discussion

- Once again the charge of LUPC is to decide if this is substantial enough to require a public hearing as a DRI.
- There was a question about who the easements that were transferred to the Homeowners Association
- Most of those easements are used as pedestrian and horse trails. Those that are not linked to the pastures are not generally used at present. But there is a network of these that run between lots to create a trail network
- A commissioner wondered if the lot merge was grandfathered. They are but the buildability ran out in 2002.
- The West Tisbury Building Inspector said that there were many agreements between the Planning Board and the Developer and he believes the last one expired in 2002. It was extended a few times
- On another subject, in terms of regional impacts, these two lots are close to the road. If they built close to the road it could be visible. On the other hand if they said they planned to build further away from the road it might make a difference.
- There is a green belt that is 100 foot buffer and then 50 foot setbacks. You would not want to build in that terrain anyway. The likely spot is further into the lot. The applicant said that he doesn't want the house to be visible from the road. He added that as an architect, that at about 200 feet the level drops about 8-10 feet so a structure will be less imposing. The association limits the cutting to 20 % anyway. He likes the woods. He has no interest in having headlights glare into his house. I think at 200 that I won't be seen from the road. He also doesn't want to be so far in that he gets headlights from the interior road.
- A commissioner asked if any of the other designated open space had been used to add to the other lots. The answer was no.
- Of the 11 lots that were to be merged all the others have been built upon and only one was actually over 3 acres.
- There is an easement with a conservation restriction on the 0.2 acre strip of abutting open space easement that was added to this property to make it 3 full acres. It further restricts that owners of lot A and B will not put a fence in the area.

Wastewater

- Bill Wilcox, MVC Water Resource Planner said they did look at nitrogen loading at the previous DRI Public Hearings on this property at the time and it was ok. However, we have a better idea of nitrogen loading now and it does not quite meet our current standards. With our present standards it should be 5.1 kilos/acre/year and this could generate 6.5 kilos/acre/year. If we used the numbers we are thinking of applying to this property then it will be even closer but still over a bit.
- If we want to be consistent we are treating it as a grandfathered project. If it were a new project we would probably look at this.
- The applicant noted that his wife would not allow him to put anything on this lawn/property because of their kids.

- The Chair instructed commissioners that If they feel that the nitrogen loading issue is important then you should vote the project a substantial change.
- The Applicant indicated a willingness to de-nitrify the wastewater
- *Note: The Applicant has since submitted a letter proposing that he will install a wastewater septic system with de-nitrification and not use herbicides, pesticides, or fungicides on the lawn.*

Motion

- Kathy Newman made a motion that this is an unsubstantial change and does not have regional impact enough to require a public hearing as a Development of Regional Impact and moves that the LUPC recommend to the full commission based on the representations of the applicant not to concur with this as a DRI.
- Paul Strauss seconded the motion.
- All ayes. The LUPC recommends to the full commission that this is an insubstantial change, does not require a public hearing as a DRI, and that the merging of Parcel A (lots 82 and 83) and Parcel B (the 0.2 acre of easement with a Conservation Restriction) should be approved.

Adjourned 7:45 pm