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## Martha's Vineyard Commission

### Land Use Planning Committee

# Draft Minutes of the Meeting of December 18, 2006

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

Commissioners Present: Christina Brown, John Breckenridge, Chris Murphy, Ned Orleans, Kathy Newman, Doug Sederholm, Mark Morris, Paul Strauss, and Andrew Woodruff.

MVC Staff Present: Mark London, Paul Foley, Bill Wilcox, and Jim Miller.

## 1. Middle Line Road (DRI 597) Pre-Public Hearing Review

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Present for the Applicant: Warren Doty, Chuck Hodgkinson, Andy Goldman, Lenny Jason, Kent Healy, Frank Fenner, Riggs Parker, Steve Schwab.

**Project Location:** 62 Middle Line Road, Chilmark, MA Map 13 Lot 43 (20 acres)

**Proposal:** To create a 9-building, 12-unit affordable housing complex on a 20-acre site in Chilmark.

Chairman Christina Brown opened the meeting at 5:37 p.m.

### Applicants' Presentation

- Warren Doty, Chilmark Selectman, gave an overview of the project.
  - They have looked at the Martha's Vineyard Commission policies (Open Space policy, Energy policy, NHESP, MHC, Affordable Housing) and are prepared to address what they think are the MVC concerns.
  - They have had 5 town meetings going back to 2003. They are going to have a 12-unit development on 20 acres. The Town voted for half owned and half rental. They have included another piece of land abutting this property where the Town owns a conservation restriction (CR). The town bought the land that the housing will go on in 1951 and is combining these two properties as one application.
  - They are going to ground lease out to the homeowners. They will issue a Request For Proposals (RFP) for a developer to build the 6 rental units.
  - They have been to all of the boards in Chilmark. They have referred it to the MVC from the Board of Selectmen. They will then apply for a Form C Subdivision.
  - The Board of Health strongly recommended that they go with separate septic systems for each building (9 septic systems with 9 wells). They felt that each homeowner should administer his or her own system.
  - The process has been costly. They first had to buy the clay rights to the land and appropriated about \$250,000. The Town has been banking its Community Preservation Act (CPA) funds since 2002 for this project. They have the money and are ready to go ahead with this project.
- David Handlin (Architect):
  - Background – He and his Landscape architect felt that the earlier South Mountain Company concept plan had some deficiencies. It retained Holman Road as a path and created a new access road that crossed the path and ran between some of the houses. There was also an issue of parking and backing out into the access road. Each house had a half-acre area,

which does not measure up to zoning of 1 acre. He said he could go on about these shortcomings, but went onto his plan instead.

- They generated four plans and arrived at this plan. The subdivision driveway is along the current Holman path. They propose to create another walking trail around the perimeter of the property, possibly with panels, where the landscape architect said there were interesting plants along the higher ground.
- They have organized the project into three clusters with three buildings each, namely one duplex and two homesite houses. There would be 4 parking spaces in front of each duplex. Every unit gets it's own driveway.
- In terms of open space they have delineated the property into primary open space characterized by significant features such as the clay pits and the beech grove.
- Holman Road, which is now a walking path would become the main road access with a 40-foot right of way which is necessary for a Form C Subdivision.
- At this point they calculate that they have 86% open space for all of the no-build. That is not hard and fast because they may add to the building envelopes. They may end up with 60%-70% open space.
- Mr. Handlin noted that the MVC Energy Policy is more of an intention rather than a policy. They have simulated the energy requirements for the proposed buildings and think they can exceed the Massachusetts Building Code Energy requirements by 17%. They will end up between 10-20% better.
- They are looking at LEED certification for this project. That goes beyond energy. They are not sure how high up the LEED ladder they can go for this project.
- Steve Schwab (Chairman of Housing Committee):
  - The policy for Middle Line will satisfy the goals of the town. They have recently developed new guidelines. Zoning article 6 section 6.9 provides for Chilmark to create affordability in perpetuity. 6. 6.0 describe the rental guidelines.
  - In June of last year at town meeting they debated the ratio of owner to rental units and settle on 6 home sites and 6 rentals with ground lease to the homesite lots. Eligible recipients will be chosen by lottery with preference to Chilmark residents.
  - They have developed implementation guidelines that are in the process of being adopted by the Town. They want to serve families of different incomes (100-150% AMI).
  - In early January they have a public hearing for the guidelines before the selectmen. In January they have to finalize and formalize the home association bylaws, ground leases, and master homeowner declaration, management with DCRHA, rental ground lease agreements, and agreements with the developer.
  - Target dates are January 2007. They expect to hold lotteries in April 2007.
- Chuck Hodgkinson:
  - They have contacted the Massachusetts Historical Commission (MHC) and provided copies of a letter from them. MHC told them that there are two sites south of this lot where there is potential for significant resources. They recommend a random survey on the property of areas where construction will take place.
  - They have met with the Tribal Officer who agrees with the MHC letter. She would like to be there for the survey and any excavations.
  - Some of property (south west corner) is in estimated habitat number 626. There are two State-listed endangered species in the vicinity. They need to send the Division of Wildlife and Fisheries (NHESP) the Site Plan and the Division will tell the Town whether they need to make any changes.

- Jim Miller (MVC Transportation Planner):
  - The nearby intersections currently operate at Level of Service (LOS) A and should continue to do so after construction of the project. The major road link is Tabor House Road where he counted about 100 cars a day in November, and anticipates we can expect 300-600 vehicles per day during the summer.
  - The project is estimated to generate roughly 144 trips a day on Middle Line Road. It is a one-lane road with turnouts, which should be sufficient. There is no paving shown on the plans so there will be no impervious surfaces.
  - The number of parking spots is sufficient.
  - The major issue is the sight line to the right while exiting onto Tabor House Road from Middle Line Road. It has not been measured yet but looks to be less than 150 feet whereas AASHTO recommends a minimum of over 300 feet. There may be other solutions to that intersection.
  - The VTA does not go up Tabor House Road. The VTA runs along North Road hourly during the summer season and three or four times daily in off-season.
- Andy Goldman discussed water issues.
  - For the purposes of this discussion they have worked with the nitrogen loading limits of the MVC.
  - The northern section of the property (7 acres) has no nitrogen loading limits. The southern 2/3 is in the Tisbury Great Pond watershed that is nitrogen sensitive.
  - Looking at the loading limits, they note that all of the land in the Tisbury Great Pond watershed is allotted a nitrogen load. It is clear that the Town was going to need more land. As it happens, the Town owns the conservation restriction on the land across the road (the CR was established in the 1980's), thus the total land are controlled by the Town is 62 acres which is enough for the nitrogen loading of the project.
  - The state guidelines of Title 5 specifically say that you can use additional land. They assume that we have a unity of interest. They think that the threat to Tisbury Great pond from this project is minimal. Here we have a public project with a town-owned CR on an abutting piece of land.
  - They would like to follow the 4<sup>th</sup> recommendation in the staff report ("The remaining option is to allow the use of nitrogen loading allocated to other nearby parcels to be applied to this project..."). He feels that the second and third options – pumping some of the wastewater to the upper part of the property located in the North Shore Watershed, or nitrogen reduction systems – are too expensive. They are willing to make efforts to reduce the nitrogen loading from landscaping.
- Rusty Walton (Conservation Commission).
  - The Town dump has been capped and was designed so that it can become a parking area. The Town hopes to make it a park and ride, possibly for Menemsha. It might be possible to use it for access and egress for this property.

### **Commissioner Questions**

- A commissioner asked if Holman Road is an ancient way? Warren Doty said that it was established at the time of the brick kiln and is not specifically designated as such. At the moment it is a foot trail and the plan makes it the road access. Later, a commissioner suggested that the architect should elaborate on why they need to use Holman Road as the access because it is not clear that it is necessary or the right thing to do.

- Commissioners wanted to know what the viability of the proposal to use the abutting property for nitrogen rights. The Commission has to think it through to make sure that it is not setting an undesirable precedent.
- Bill Wilcox said that the 1.2 kilo/acre load limit is the entire load limit for the pond divided by the entire acreage. Including protected land provided a margin of safety. Every acre in the watershed has been assigned a nitrogen load of 1.2 kilos/acre/year.
- Warren Doty said that this idea of transferring rights should not be seen as some new precedent that would allow anybody to claim the unclaimed nitrogen loading rights of others. They are not asking for the rights from the other conservation lands held by the Land Bank or Sheriff's Meadow. They are adding an abutting property whose conservation restriction the Town itself owns. It would be a fairly specific precedent.
- A commissioner wanted a ballpark figure on how much it would cost to pump the wastewater to a leaching field over the hill where it is not in a nitrogen-sensitive watershed. Kent Healey (project Civil Engineer) did not know the cost off hand, but noted that it would require more energy.
- A commissioner wanted more information about the Board of Health (BoH) recommendation to have individual septic systems. Mr. Doty explained that the process they have followed was to go to each board and get their input on the project. At the BoH two of the three members felt strongly about this issue. They think that it is important to have each unit responsible for their own system.
- A commissioner said he would like to see a cost comparison between 9 individual septic systems versus a packet treatment plant or clustered septic systems. It may be that de-nitrifying three cluster systems (one for each housing cluster) may be the same cost as 9 individual Title 5 systems.
- There was some discussion about NHESP but was left that we will hear more about NHESP by and during the Public Hearing.
- A commissioner wondered who referred the project. He thought that if it is the Selectmen then it is a discretionary referral whereas this is a mandatory referral. [Note: The Selectmen can send a mandatory referral]. Another commissioner suggested that the best course would be for the Selectmen to take it to the Planning Board for a subdivision permit, and then they can send it.
- In closing, Warren Doty said that the notion of an affordable housing project with 70% open space is extraordinary. The schedule that they would like to follow is a public hearing in January.

## **2. Balance (DRI 597) Concurrence Review**

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*Present for the Applicant: Herb Putnam, Ben DeForrest, and Stacey Reilly*

### **Applicants' Presentation**

- Herb Putnam (Applicant):
  - He is here for two concurrence referrals. He noted that staff had made them aware of some of the key issues and that they had been working to address these.
  - Parking:
    - Balance employees will be given Vineyard Transit Authority (VTA) passes.
    - They have spoken to Michael Dutton in the Selectmen's office about using the Oak Bluffs School parking lot as an employee lot and they have an agreement with one of the taxi companies to ferry their employees for a special group rate.
    - They have ten spots at Budget Rental Cars for public restaurant parking.
    - The Oak Bluffs Planning Board requires 1 spot for every 4 seats. They give credit for previous use. For 150 seats they need 35 spots but have credit for 17 seats. Therefore they need 18 parking spots for this proposal.

- Oak Bluffs has a Parking Mitigation Fund that allows new commercial ventures to pay into in lieu of providing parking spaces. The fund will be used to create a satellite parking lot. [Note: Renee Balter provided a letter outlining the parking situation in Oak Bluffs and some of the possible solutions the Town is looking at.] They will contribute to the mitigation fund.
- They feel that they are dealing with the parking issue.
- Noise
  - Mr. Putnam said they are very cognizant of noise and trash issues. They have been good neighbors and have letters from former abutters.
  - They propose specific times for trash pickup that will be arranged with neighbors.
  - The building has 14" thick walls. They will have a double door vestibule in front that will prevent noise from inside spilling out. The back door is an alarmed emergency exit that will only be used by management and staff.
  - There will be no dumping of bottles and cans at night.
- Hours and Schedule
  - They have been granted a seasonal all-alcohol license that runs from April 1 to January 1.
  - They are replacing a three-month T-shirt shop with a nine-month restaurant.
  - They are going to have a consistent staff of Vineyarders. In peak season they will need about 20% more employees. They will hire some from the High School culinary arts program as well as from Johnson and Wales, who finds housing for its student interns.
  - They are working with the town Selectmen, Historical District, Cottage City Historical Commission, Planning Board, and they have a note of support from the police. They will be A.D.A. accessible.

## Discussion

- A commissioner said that the MVC is aware of the parking mitigation fund but has yet to see the solutions.
- The Applicant noted that The Game Room was 6400 sf of floor area and is now empty. The Atlantic Connection is closed so some of the parking demand and traffic generation has been alleviated.
- A commissioner wanted more information about the function facility. The applicants clarified that it is the same space as the restaurant. They will be running the restaurant alone in July and August and will complement that by hosting functions in the shoulder season.
- A commissioner wanted to know more about the 10 parking spots at Budget. He suggested that at the Concurrence Review they convince him that they are not doing a shell game with parking spaces. The applicant said that the spaces will be marked. They will have a valet parker who will put them in the right spot.
- It was noted that this location has been a restaurant, a bar, and even a dance hall in the past.

**Mark Morris moved and it was seconded by Ned Orleans to recommend to the full Commission to not concur with the referral as a Development of Regional Impact. Voice vote. In favor: 5. Opposed: 3. Abstentions: 0. LUPC approved the motion to recommend non-concurrence.**

Adjourned 7:14 pm