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Martha's Vineyard Commission

Land Use Planning Committee

Draft Minutes of the Meeting of June 11, 2007

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

Commissioners Present: Doug Sederholm (Chair); Ned Orleans; Susan Shea; Pete Cabana; Chris Murphy; Kathy Newman; Jim Athearn.

MVC Staff Present: Mark London; Paul Foley; Bill Wilcox; Jim Miller; Christine Flynn.

1. Middle Line (DRI 597) Post P.H. Review

Present for the Applicant: Warren Doty; Riggs Parker; Andy Goldman; Chuck Hodgkinson; Kent Healy.

Project Location: 73 Middle Line Road, Chilmark, MA Map 13 Lot 43

Proposal: To create a 9-building, 12-unit affordable housing complex on a 21.4-acre site on Middle Line Road in Chilmark.

Doug Sederholm Chaired the meeting as Christina Brown was unavailable.

Review of Applicant Offers

- The LUPC first looked at the offers submitted to the MVC on May 31, 2007.
- Under the first section of Subdivision the LUPC clarified that the Applicant will submit the Form C subdivision to the MVC for its "review and approval". The Form C will come back to the MVC and will include road access, house siting, final delineation of cut zones, lawn areas, access and other fire safety issues.
- A commissioner asked if that included the location of septic systems. The answer was yes.
- Under the heading of Landscaping there was some confusion regarding the second bullet that essentially means that they will not have only native species. The applicant clarified that their intention was that there would be no invasive species. So it will say that "all plantings will be non-invasive and shall include native..."
- Under the heading of Affordable Housing- a commissioner asked if this mean that if there are not enough eligible applicants at the 100% AMI income level would the lower limit go up. Another commissioner added that it is hard to imagine that they might not find eligible applicants at the lower level. The applicant said they think they should be able to find four at that level. On their list right now they have quite a few under the 100% mark.
- A commissioner wanted to know if the units are being offered only to residents of Chilmark. The answer is that the project is being offered Island-wide but preference is given to Chilmark residents, volunteers, and people working in Chilmark.
- Under the heading of Wastewater a commissioner asked why it is so important that the applicant not need any variance or Special Permit. We have talked about some systems

that may need special permits. Does this preclude them from using other systems? Kent Healy replied that they would need permission from the Board of Health for Clivus composting toilets but that this offer does not preclude that. Riggs Parker added that the reason they do not want Special Permits is that they are open to litigation.

- Under the heading of Open Space there was quite a bit of discussion about what would be allowed in the “no cut zones”. The applicant has said they may want to create some meadow within the “Open Space” areas. Mark London expressed some concern that, maybe not in this case, but in other cases, that we are clear about the difference between open space and cut zones. We want to make sure that allowing cutting does not then create basketball courts and baseball fields. Maybe it should be a more varied “natural” habitat.
- Warren Doty said that this sort of thing happened at Waskosim’s Rock with the Land Bank creating a few areas where they created some open meadows.
- Riggs Parker suggested that we strike “in the form of no cut zones” and replace it with “with native species” and in the second sentence strike “cut zones” and replace it with “open space” and then cut “open space such” before meadow and finally add the work “natural” before habitat so that the first offer under Open Space should read:
 - The project will be developed in such a way as to retain 70-80 percent of Open Space **with native species**. There may be some areas within **open space** that will be preserved as a meadow – to provide a more varied **natural** habitat.
- In the second offer under Open Space the applicants clarified that the words “no cut” should be added after 50-foot so that the offer should read:
 - All significant landscape features such as clay pits and ancient ways will be protected with a minimum 50-foot **no cut** buffer with the exception that the access road into the subdivision will cross Holman Road once.
- In the third offer under Open Space the words “is willing to” should be cut and replaced with the word “will” so that the offer should read:
 - The Town **will** cap the total number of dwellings on the 21-acres at 12.
- Under the heading of Habitat there was some discussion as to how to define what “any major changes” might be.
- Under the heading of Energy a commissioner asked if they are going to come back with more info. The offer could be that their goal is to make the project as efficient as possible.
- Warren Doty responded that they intend to get \$20,000 each for the six rental units for photovoltaic solar panels on the roof but it is not a firm award yet. They will only know how much money they get based on the LEED rating. When they get the award they will put it one for one into those units.
- A commissioner asked if there is any incentive for the homesite lots (Homeowners as opposed to rentals) to beat the Energy Code.
- Warren Doty responded that the Energy code has been upgraded significantly recently.
- Under the heading of Transportation – a commissioner noted that If they want to discuss the access issues they could wait until the Form C is submitted or they tell the MVC now what they were thinking regarding moving the road. Riggs Parker said they don’t want to talk about it now they will wait for the Form C submission.
- In the second offer the work “plan” was added so that the offer should read:

- The access **plan** to the Middle Line subdivision will indicate the location of the turnouts on Middle Line Road.
- Warren Doty added that the Town has bought the trail easement from a property owner so that Holman Road will now connect all the way to North Road.
- Under the heading of Archaeology a commissioner asked if the offer includes some type of notice to or participation of the Tribe. Warren Doty responded that they have a quote from the Public Archaeology Lab (PAL) for \$16,200 to do a test pit in each building envelope and that they would be glad to let them know.
- What has happened in the past is that the MVC says in the DRI Decision that the Tribe will be notified of any excavation and allowed to witness it. It was noted that the PAL report will be part of the Form C submission anyway.
- Having completed the review of the Applicant's Offers the LUPC turned to possible conditions and the weighing of the benefits and detriments. There seemed to be some question as to whether LUPC should look at the Benefits and Detriments since this is only a Form B and that it was like a chicken and egg situation. However Staff said that this is a DRI with a Decision. As long as the project is described adequately for you to make your decision you are approving the basics of the plan. If they change something it becomes a modification to the Decision.
- There was a question that if they come back in a few weeks and a few things have been adjusted do we have to have a full hearing. We have to approve the open questions. If they come back with the same thing and say that those houses are too close to the abutters and need to be moved then it is a change. We are agreeing in principle to everything we have discussed. If they come back with essentially the same thing then we take a vote and move on. The proposal has lots of little problems.
- It's a Decision from the MVC but they can't build on it and they can't take it to the Bank. We should be clear in our Decision what we are approving and what we expect to see again.
- Some of the open issues that should be returned for approval include: setbacks, screening, proper road access, the connection to Tabor House Road, etc...
- **Pete Cabana made a motion to recommend approval of the applicants proposal accepting the offers and conditioning it to return when they submit the Form C to the MVC to look at setbacks, screening, sightlines on Tabor House Road, and the adequacy of access. The motion was duly seconded by Chris Murphy.**
- Warren Doty clarified that the setbacks we are talking about are on the eastern side of the property and the sightlines are where Middle Line meets Tabor House Road.
- Commissioner Jim Athearn said that he will be voting against this motion as he will be voting against this application on Thursday night for many reasons especially location and character.
- The vote was three for the motion to recommend approval, three against, and one abstention.
- For the motion: Chric Murphy, Kathy Newman, and Peter Cabana.
- Against the motion: Jim Athearn, Ned Orleans, and Susan Shea.
- Abstaining was the Chairman Doug Sederholm.

- Commissioner Kathy Newman asked for comments from those who opposed the motion
- Susan Shea said that she feels like there are too many questions still out there. Usually we make it a tight package and this doesn't feel like that.
- Ned Orleans said that during the public hearing Riggs and Lenny said that the MVC should leave the local issues to the Town and only look at the regional issues. The biggest regional factor here is the location. It seems to me that what we tend to do is react to each application without looking at the big picture. If we keep doing that we are going to have 10-20 isolated affordable housing projects all over the island. Maybe the Island Plan will look at that but I am tired of being reactive and this is where I want to take a stand. This project is not in a good location and it doesn't fit with Chilmark character.
- Jim Athearn said that the location is why I am against this. There is not much open space land left. This is contrary to smart growth. It doesn't make sense that they are putting this isolated village up in the woods.
- Doug Sederholm added that for the record I am abstaining although I will say that I do not agree with all of the aspects of this project but I do believe that Chilmark is different and that the Selectmen have had some difficult cards dealt to them.

2. Daily Grind (DRI 597) Modification Review

Present for the Applicant: Sam Dunn

Project Location: Tisbury Marketplace, Beach Road, Tisbury Map Lot (acres)

Proposal: To expand the Daily Grind from a bakery, coffee bar, and sandwich deli to a restaurant that also serves dinner at night.

Commissioners Present: Ned Orleans (Chair), Susan Shea, Pete Cabana, Chris Murphy, Kathy Newman, Jim Athearn

Applicant Presentation

- Sam Dunn, the applicant, said that he is the contract owner of the Daily Grind in Tisbury Market Place. That is to say that he will buy it if he receives the permits necessary to do what he wants to do
- He wants to turn it into a real restaurant. He feels that he is not really increasing the intensity at all. It is 44 seats now and he wants to keep it 44 seats. This business has failed now for the second time as a paper plate café. He is buying it contingent on getting all of the approvals.
- The MVC is one of about 5-6 permits he has to get. There are a bunch of slipshod additions over the years so I want to take the roof off and put on an 800 sf addition.
- The main change is to serve dinners in a dining setting with waitresses and real plates.
- He plans to continue the breakfast and lunch aspect as well.
- He is still in negotiation with the Sewer Board and Board of Health and is trying to keep the 44 seats even though he would be going from paper plates to dishes.

- He wants to do breakfast, lunch, and dinner. There is nothing now that prevents it from serving at night. He has an answer from the wastewater people but is still waiting for an o.k. from the Board of Health.
- The Wastewater Commission approved and increase from 980 gallons a day to 1100 gallons a day. The property is on the Town Sewer.
- A commissioner noted that one good thing is that it will add trips and parking at a time when the area has a surplus of parking and little traffic.
- Another commissioner asked how we can make a decision if we don't know all of the information.
- Sam Dunn said that he is landscaping some of the spots that are now paved. He thinks they will have no net loss in parking. He said that somehow that whole corner of the property got paved and he wants to soften it and landscape that area more.
- Commissioners said there was some more information and questions they would need to make a decision whether this was a substantial change or not and whether it required a public hearing as a DRI.
- Information required for a decision
 - What are the changes?
 - What are the hours?
 - What local permits does this need?
 - Will there be a public hearing for this at the town level?
 - How does this part of the whole Tisbury Market Place?
 - If this is all part of Tisbury Market Place you can bet that the issue of lighting is going to come up and you might want to think about the large light over the parking.
 - Sam Dunn replied that he is not really in charge but that he could probably affect that change.
- Jim Miller, MVC Traffic Planner, said that he doesn't think they need a traffic study.

Staff Note: Local Permits required for this project are:

- A Building Permit
- A Special Permit from the Planning Board for food service in the Waterfront/Commercial District that will require a Public Hearing and Site Plan Review.
- A Notice of Intent (NOI) with the Conservation Commission for being in the flood zone and within 100 feet from the Lagoon. NOI requires a Public Hearing.
- Approval from the Sewer Advisory Board for gallons per day.
- Approval from the Board of Health for water usage and number of seats with full service.

Adjourned at 7:05