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Martha's Vineyard Commission

Land Use Planning Committee

Notes of the Meeting of January 25, 2010

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

Commissioners Present: Linda Sibley; Chris Murphy, Pete Cabana; Christina Brown; Ned Orleans; John Breckenridge; Kathy Newman; Christina Brown; Holly Stephenson.

MVC Staff Present: Mark London; Paul Foley; Bill Wilcox; Mark Mauro, Chris Flynn.

Summary:

- The LUPC reviewed two separate projects by the same developer (Sam Dunn)
- **The first project** is to locate 9 storage units in a 5,000 square foot building with 3 retail units (condos) in an existing retail complex (Woodlands).
- For the Woodland Storage Unit Project the LUPC made a Motion that the LUPC recommend to the full Commission that this be approved.
 - **Christina Brown made a Motion that the LUPC recommend to the full Commission that this application to change the open basement space to nine storage units is a minor modification not requiring a public hearing review and should be approved because the regional issues of traffic and septic are not affected. Pete Cabana Seconded the Motion. The Motion passed 7-1 with Chris Murphy being the one vote against.**
- She added that there should be no additional lighting associated with the proposal.
- Paul Foley said that the storm water plan for the building was approved by the LUPC and that a French drain had been installed. However, he noted that the Condition also called for the drain to have an operation and maintenance plan that was to be turned over to the condominium association and that apparently had not been done.
- **The second project** reviewed is to build a new building on the lawn at the Tisbury Market Place.
- The newest proposal is to build a new two-story, 7,050 square foot building with three retail units, two offices, one apartment, and one marine related unit on the lawn at the Tisbury Market Place with a 4,000 square foot footprint.
- Staff will need to find that this proposal meets zoning. We will have to explore that and review the complexities.
 - The current zoning says that only 10% of lots in this district can be covered by parking and driveways. This property is over that but is not increasing the amount of land for parking and driveways but there are certain things on which the window of opportunity closes.
 - There is also an item in the zoning that requires a certain amount of trees.
 - We need to determine if the project encroaches on wetland buffers and wetland vegetation buffers.
 - We need to confirm the septic flow allowed.
- **The LUPC approved the traffic scope prepared by Staff which calls for the Applicant to hire a consultant to perform the traffic study due to this being a large new building in an already congested complex.**

1. DRI 39-M6 Woodland Storage – Pre-Hearing Review

Applicant: Sam Dunn (Applicant and Architect),

Project Location: Woodlands Business Center, State Road, Tisbury, MA. Map 39, Lot 2.15 (0.48 acres). The parcel is part of a larger DRI that also includes Map 39 Lots 2.12 (0.43 acres), Lot 2.13 (.67 acres), and Lot 2.14 (0.82 acres).

Proposal: To locate 9 storage units in a 5,000 square foot building with 3 retail units (condos) in an existing retail complex.

Project History: The Woodland Business Center accommodates 21 business condominiums in four one-story buildings. Building 1 of the complex is approximately 4,000 square feet, Building 2 is approximately 8,800 square feet, Building 3 (The UPS building - DRI 39-M1 and M3) was built in 2007 and is 968 sf with one retail space. This proposal is for 9 storage units in the basement of Building 4 (5,000 sf) which was built in 2007. The Woodlands was first referred to the MVC in 1976. In August 2006 the MVC approved a proposal to build a new 5,000 square foot building (building 4) with 3 retail units (condos) on vacant land at the back of the complex (DRI 39-M2 - Phase 2).

Presentation:

- Sam Dunn said that he talked to the Architectural Access Board in Boston and the space has to be accessible so he added a lift. The space is indoor, dry, and has sprinklers. He sees it as a place for storing business documents. Currently the other half of the basement has two storage spaces for the upstairs tenants. The one on the left hand side is for Vineyard Tax and the other is for the framer.
- Kathy Newman asked him to confirm that he sees this as a place for business files not large furniture.
- Sam said he believes that there is a need for file storage. He talked to Hutker architects and they have four storage areas spread around the island. He sees a need and this space is just sitting there. In response to a commissioner question as to whether these could ever become living space Sam replied that there is no water flow and there couldn't be bathrooms.
- Linda Sibley said the key questions are whether this would increase traffic or septage.
- Christina Brown asked if this adds a useful service.
- Chris Murphy said he doesn't foresee any problem with it but he feels that it should go to a hearing in order to give the neighbors a chance to let us know if they have any issues. He also asked what other boards the project will go before.
- Sam Dunn said that the Building Inspector referred him here and that he also must go before the Architectural Access Board.
- Kathy Newman asked how many retail units are above this.
- Sam Dunn said that there are three occupied units with one empty unit, so potentially four.
- Kathy Newman said that from her perspective there doesn't seem to be a need for a public hearing.
- Holly Stephenson said that the only thing she could think of that neighbors would care about is something, say dynamite or food that could cause a danger or attract a nuisance.
- Sam said there would be no food or dynamite.
- Christina Brown said she was thinking that the MVC looks at regional issues, traffic, environment, etc... On this one she does not see the regional issue.
- Chris Murphy countered that we have already determined that what goes on at Woodland is a regional impact.
- Holly Stephenson asked there would be any new parking associated with the proposal.

- Sam Dunn Said that he doesn't think that there would ever be more than one person at a time. He sees it as the type of thing that is accessed maybe once a month.
- Tony Peak of the Tisbury Planning Board said that this is the commercial district. This is not an inappropriate use in this district. His only concern would be the incremental increase of activity over time. There should not be a noise issue. He asked if it is going to be accessible 24 hours a day and whether the units will be condominium-ized.
- Sam Dunn said that they may be rented or sold and that people would have keys to the space for access when they need it. He added that the other spaces are owned and that its not going to be monitored. They will have a key and they will own it.
- John Breckenridge said that they will need some bright lighting for night time access.
- Sam replied that it had not occurred to him. This is surrounded by commercial businesses. He can't see anyone being bothered by someone going in there.
- Christina Brown asked if his plan is no additional lighting.
- Sam Dunn replied yes unless the Building Inspector says he has to. We have all the exterior lights in the complex on a timer. This building has lights on the porch in the front on a timer.
- Linda Sibley said that it is obvious from the plan that these are small units that will not accommodate large items.
- Holly Stephenson commented that it is ironic for the MVC to require lights in parking lots when our own lot is so dangerous.
- Linda Sibley said that the MVC generally tries to limit lighting in order to preserve the night sky.
- **Christina Brown made a Motion that the LUPC recommend to the full Commission that this application to change the open basement space to nine storage units is a minor modification not requiring a public hearing review and should be approved because the regional issues of traffic and septic are not affected. Pete Cabana Seconded the Motion. The Motion passed 7-1 with Chris Murphy being the one vote against.**
- John Breckenridge had a question about the hydro-separator that was required in the original DRI Decision for this building.
- Paul Foley said that the stormwater plan for the building was approved by the LUPC and that a French drain had been installed. However, he noted that the Condition also called for the drain to have an operation and maintenance plan that was to be turned over to the condominium association and that apparently had not been done.
- **Christina Brown added to her motion to recommend approval of the modification that there shall be no additional exterior lighting.**

2. DRI 485-M5 Tisbury Market Place New Building – Pre-Hearing Review

Applicant: Sam Dunn

Project Location: Tisbury Marketplace, Beach Road, Tisbury Map 9-B Lot 19.18 and 19.19

Proposal: To build a new building on the lawn at the Tisbury Market Place.

Staff Report:

- Paul Foley explained that Mr. Dunn had called on Friday to say that he was redrawing the plan again for this proposal. Sam Dunn handed out the new proposal. The new proposal is to build a new two-story, 7,050 square foot building with three retail units, two offices, one apartment, and one marine related unit on the lawn at the Tisbury Market Place with a 4,000 square foot footprint.

Presentation:

- Sam Dunn said he was before the MVC last fall. He was negotiating with mark Hutker to occupy the new building. For three months they were trying to put it together but ultimately economic reality set in and he can't do it. One of the things they were going to do was turn it into a flat building with a green roof on it. This way the neighbors on the second floor would be looking out over the green roof. The green roof also helps insulate the building and retains storm water.
- On the plans there is a dotted line that marks the 100 foot wetlands buffer. The part of the building within the 100 foot buffer has to be water related so they have a 750 sf marine use unit. This has to be a chandlery, sailing school, or boat builder something like that.
- You are also allowed to have one apartment per parcel. This shows an apartment on the second floor. The overall project is a little over 7,000 sf. There are three retail, two offices, one marine unit, and one apartment. The zoning requires zero parking. There is a bylaw for new projects that allows only 10% impervious coverage. Therefore they are adding no new parking and decreasing the amount of impervious spaces. They might have a net loss of one parking space.

Commissioner Questions:

- John Breckenridge said before we go too far this plan shows that work will be done within the 100 foot buffer. Does Tisbury allow that?
- John Best of the Tisbury Conservation Commission said they have purview over the whole 100 feet. They can limit or eliminate projects within 100 feet of the water. However they have purview over the whole property because it is in the flood plain. They don't make a distinction that says the first 50 feet is better than the second. The general rule of thumb is stay out of it altogether. There are times when you allow activities in the 100 foot but mainly if there is no alternative.
- Sam Dunn said that the flood level is 8 feet and that is what his building will be at. The finished floor is supposed to be at 8 feet. It is not in the velocity zone. Originally when he built the original building he had to build it on sticks because they said it was in the velocity zone. The rules have changed so this building does not need to be on stilts.
- He added that though the Conservation Commission has purview it seems to him that the zoning is saying they want you to build water related uses.
- John Best said the Conservation Commission does apply different standards for water related uses, particularly on the harbor side. He can't foresee a need for water related uses on the lagoon side. It is an active shell fishing area. We would not allow a pier in there. In this case he has yet to find a convincing argument that the water related use will in fact be useful there. It is very shallow. The other critical element is that they require not just a 100 foot setback but a buffer from wetlands vegetation. This plan appears to encroach on the wetland plant buffer. He does not believe they have delineated the wetland vegetation. He suggests the MVC should require that as well.
- Chris Murphy said he doesn't know where to begin. This area is probably one of the first commercial areas on the Vineyard. The Tisbury Market Place was a disaster before Mr. Dunn took over. It had all kinds of businesses and they were scattered about haphazardly. Mr. Dunn has done a good job and we have to give him points for that. The whole thing is on the sewer. It used to be a mess. I recall Sam saying that he would develop one side and protect the rest. I have no problem with new buildings in here but not in this location. He suggested putting something over the septic. Creeping into the open space here is an imposition. Going into this protected zone is a big mistake. He would stay on the other side of the fence.
- Sam Dunn said he did make promises and they are cast in stone in the condo documents. He said that they allowed three future sites on the property for future development. He pointed to the three

spots out on the plan (Saltwater, next to Rocco's, and this location). He did say he would save the green space but not in this particular location. This is one of the areas that he always thought of as developable. He said he feels this is one of the least intensely developed properties on the waterfront. He feels he is being penalized for having provided so much open space.

- Linda Sibley asked him about developing over the septic area.
- Sam Dunn said that the people who own the units probably wouldn't cotton to that.
- John Best said that there is an impression that a great deal of this property is open space but it is mostly within the 100 foot buffer. The area between this spot and Maciel's Marine is all wetlands and could not be built upon anyway. He thinks that the opportunity to build in this area was minimal to begin with.
- Linda Sibley pointed out that in the Special Order of Conditions the wording does not say "paved parking" area it says "parking" area. Therefore the calculations should include the areas that are parking regardless of whether they are paved or not.
- John Best said he would check that at the Conservation Commission.
- Linda Sibley said she would like this to be resolved and have staff look at it. There is also something in the zoning by law about the number of trees required.
- Holly Stephenson said that what we have here, which the town of Tisbury needs, is waterfront views. It would be a mistake to make him block the view with trees. It would be nice to have a gate and picnic tables.
- Sam Dunn said that there is a gate and picnic tables. He said he told the MVC staff that he is open to having the bike path come through.
- Mark London said that this is one of the critical missing links for the bike path. Sam has offered to support the path through here; but the final decision is up to the Condo Association. He suggests that the bike path should be shown on the plans. We should also try to make this more accessible than it is now. This is an extremely public space. A lot of Vineyarders and visitors go through here. This building would be seen from all sides. There is a design issue. He added that the MVC have a 3d model of this area in Sketchup. We could put this into our model to see how it looks.
- Sam Dunn said they have to get it designed first.
- Linda Sibley asked about the boats parked in the back lot.
- Sam Dunn said that the boats are part of the Gannon & Benjamin operation.
- Linda Sibley asked if it would make sense to put the parking where they have the building and vice versa.
- Sam Dunn said that the Businesses want to be visible from the parking lot. This would be part of the architectural composition.
- John Breckenridge said that his concern with this whole market place is that we have a cumulative expanse of new activity. Net Result got bigger, Rocco's increased the outside seating, Saltwater added on and then added the outdoor patio. They were all nice and well done. But where is the saturation point?
- Ned Orleans said he didn't understand that logic. This is a commercial establishment intended to do business. The growth over the years has not had any decipherable negative impact.
- John Breckenridge replied that eventually there is a threshold that is crossed. He is always concerned about over stuffing the goose.
- Christina Brown said that one critical piece is the traffic impact and asked that the LUPC consider the traffic scope that staff had prepared.
- Tony Peak said that there is an issue with parking. It's true this project predates zoning. If they do not comply with the by-law then it cannot be done. There is an item in the by-law that allows only

10% lot coverage for parking. The open space is common land and requires unanimous support. The bike path, if paved, would add to that 10% coverage. The water related area was developed to protect water dependent businesses. There are also architectural guidelines for the district which are overseen by the Site Plan Review Board even in the B-1 though there are no setbacks. There are certain things on which the window of opportunity closes. He's not saying that the window is closed on this but it might be.

- Linda Sibley asked what town boards the project has to go through.
- Sam Dunn said the Sewer Board, Building Department, the Conservation Commission, Site Plan Review, and the MVC.
- Linda Sibley said that we will need to find that this meets zoning. We will have to explore that and review the complexities.
- Sam Dunn said that if they are saying that this may not meet zoning I need to know how and why.
- Linda Sibley said that Tony said that it might not meet it so we need to figure this out. He said that what was allowed for the original plan may not be still allowed.
- John Best said that the delineation of the wetlands and vegetation should also be looked into. He added that they should also comply with the MVC energy policy. He added that he would like to bring up the idea of incremental development. Any time a development is added on to ask yourself if this would be allowed if it were part of the original iteration. In relation to wastewater, his conversation with Fred Lapiana was that when the last application came in that he does not have permission from the sewer board. John was involved in the wastewater planning in Tisbury. The Sewer was supposed to be growth neutral.
- Christina Brown said that is a Town issue.
- John Best said that a proposal to build in this location was originally denied because of the septic and may be allowed now based on the sewer that was supposed to be growth neutral.
- Linda Sibley asked who is responsible for delineating the wetlands.
- Sam Dunn said he has to find an engineer to do it.
- Linda added that they should also delineate the wetland line as well as the wetland vegetation at the back of the property.
- Holly Stephenson said she would like to see the three areas he says are developable.

Traffic:

- Mike Mauro presented the proposed Traffic Scope.
- Paul Foley added that we should add analysis of left turns into the complex in addition to the left turns out of the complex.
- Linda Sibley noted that in the proposed traffic scope MVC staff suggests that the Applicant should hire an engineer to do the study because this is a new large building in an already congested complex.
- Mark London said that he could either hire our consultant but the consultant would work for us or he could hire an outside consultant whose work would be reviewed by staff.
- **Christina Brown made a Motion to accept Traffic Study as amended. Pete Cabana Seconded the Motion which was approved unanimously.**

LUPC continued to February 22

Adjourned 7:00