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## Martha's Vineyard Commission Land Use Planning Committee Minutes of the Meeting of January 31, 2011

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 p.m.

Commissioners Present: Doug Sederholm (Chairman of LUPC); Chris Murphy; Christina Brown; Ned Orleans; Brian Smith; Fred Hancock; John Breckenridge; and Pete Cabana.

MVC Staff Present: Mark London; Paul Foley; Bill Veno; and Mike Mauro.

Note: The LUPC reviewed three projects on January 31, 2011: Edgartown Meat & Fish (DRI170-M2); Bradley Square Demolition (DRI 612-M2); and Rickard Bread Retail Increase (DRI 311-M4).

### 1. Edgartown Meat & Fish (DRI 170-M2) Concurrence Review

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**Applicant:** John Ready, Edgartown Meat & Fish Market; Sean Murphy (Lawyer/Agent)

**Project Location:** 240 Edgartown-Vineyard Haven Rd, Edgartown Map 21 Lot 10.2 (Unit 2)

**Proposal:** To convert the former Hollywood Video Store to a meat, fish & grocery market.

**Present for the Applicant:** Sean Murphy

#### Documents:

The LUPC had the following documents before them for this project:

- MVC Staff Report for DRI 170-M2 dated 2011-01-28
- LUPC Notes 2011-01-24
- The Referral Letter from the Edgartown Planning Board.
- Site plan of the business complex and store layout.
- A PowerPoint presentation of the site.

#### Staff Report:

- Mike Mauro gave a report on the traffic
  - The previous use as a video store is estimated to have generated 66 peak hour trips using the ITE trip generation estimates for the 4850 square feet in question.
  - The proposed use does not appear in the ITE Guidebook. Therefore staff divided the space with the majority falling under the "supermarket" category and the remainder under the "fast food restaurant" restaurant category. Using this calculation the proposed use is expected to generate 76 peak hour trips. This is an increase of 10 trips per peak hour (15%).
  - There were no accidents recorded during the three-year period.
  - There is a total of 71 spaces in the Post Office Square Complex.
  - The Edgartown zoning requires 14 spaces for this use in this space.
  - The ITE Parking Generation Guide suggests 24 spaces for this use in this space.
  - The overall parking appears to be adequate for the proposed use.
  - Staff recommends that bicycle racks be installed.
  - Concerns from tenants have been brought to the staff's attention in regards to cut through traffic.

## **Applicant's Presentation:**

- Sean Murphy said that there are two bike racks on the premises.
- Doug Sederholm noted that the Edgartown Planning Board, in their referral letter, said that they would hold a public hearing through the Special Permit process required under the B-2 Master Plan.
- Chris Murphy asked what the original trip generation estimates were when the complex was approved by the MVC in 1984. Staff was going to look that up.
- Doug Sederholm noted that we also do not know at this time what use will go into the remaining 1,210 sf unit.
- Sean Murphy explained that if a high traffic generating use such as a pizza place were to go into the remaining unit, then that would have to come back to the MVC for review. He reiterated that the Edgartown Meat & Fish Market doesn't need the full 6,060 square feet. They do not need that much space but that is what is available. They will be occupying 4,850 sf and the remaining commercial unit will be leased to a separate retail outfit.
- Christina Brown said that she felt that the parking was adequate. She added that originally the MVC was silent on the issue of opening the side access from Mariner's Way but that the Edgartown Planning Board had urged them to open it up. There seem to be advantages to allowing this kind of movement from one property to the next without having to go out onto the main road.
- John Breckenridge asked where trucks make their deliveries. Sean Murphy explained that the Post Office has its own loading zone. The truck deliveries at the Granite hardware store generally pull up in front of their door. The Edgartown Meat & Fish Market plan is to load in the gap between buildings b and c. They would make deliveries after 8:00 a.m. so as not to disturb the residential neighbors.
- Doug Sederholm asked if they would be using semi-trucks for deliveries. Sean Murphy answered no, they would be box trucks like Sid Wainer uses.
- ***Christina Brown made a Motion to recommend to the full Commission that this proposal does not rise to the level of a regional impact and can be adequately dealt with through the Planning Boards Special Permit process and should be remanded to the Town. Chris Murphy duly seconded the motion. The Motion passed unanimously (8-0).***
- Christina Brown added that the original Upper Main Street Master Plan did not single out food for special review but was amended so that a change of use to a food establishment would be reviewed under a Special Permit.

## **2. Bradley Square Demolition (DRI 612-M) Pre-Public Hearing Review**

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**Applicant:** Island Affordable Housing Fund (Ewell Hopkins – Executive Director)

**Project Location:** 96 Dukes County, Oak Bluffs Map 11 Lot 193 (0.43 acres). The property was two lots that were merged during the Bradley Square permitting process.

**Proposal:** To be permitted to demolish a 3,049 square foot historic building.

**Present for the Applicant:** Ewell Hopkins

### **Documents:**

The LUPC had the following documents before them for this project:

- MVC Staff Report for DRI 612-M2 dated 2011-01-28.
- LUPC Notes 2010-12-13
- A PowerPoint presentation of the site.

## **Presentation:**

- Ewell Hopkins, Executive Director of the Island Affordably Housing Fund, said he had been to two different meetings in the last few hours at the Town of Oak Bluffs. One with the Housing Committee and one at the Community Preservation Committee (CPC).
- The town has now expressed to him an interest in the commercial lot only. Apparently the Oak Bluffs Housing Committee is looking at the possibility of buying the commercial lot and building some live-work studios on the corner.
- He also just learned that the remaining \$350,000 that had been allotted to the Bradley Square Project for affordable housing was going back to a town vote to see if it should be transferred to the Housing Committee.
- He said he is not advocating demolition; he just wants to know whether or not it might be possible and what the approval process would be. His goal is to determine the land value of the property and eliminate uncertainty. He has asked for permission for the option to demolish the Denniston building if that is the course they have to take.
- He requested funding from the Oak Bluffs Community Preservation Committee (CPC) last year for historical preservation but was turned down. The Oak Bluffs Historical Commission has imposed a six-month demolition delay on his proposal and since then the Cottage City Historical District has taken measures to place the Denniston/Bradley lot within their district.
- He realizes that it is one lot now but they are marketing the property as three lots, two small commercial lots and one bigger residential lot.
- He said he has received one proposal for a housing initiative that would require removal of the Denniston building. Doug Sederholm asked where that proposal came from and Ewell Hopkins answered that it came from Don Muckerheide.

## **Process Issues:**

- There were a number of questions and discussions about the role, jurisdiction, and options of the Commission.
- Staff will verify with Counsel that the MVC can deny the proposal to demolish, and that the six-month demolition delay is tolled while the project is in front of the Commission.
- There was a question of whether the Cottage City Historical District could act to include this property into its jurisdiction while the project was in front of the MVC. There was some discussion that they could since they are not issuing a development permit but only expanding their jurisdiction. If the project comes into their jurisdiction, it could impact the referral to the MVC since the DRI Checklist item states:  
***1.4 Demolition of Historic Structures:*** *The demolition or exterior alteration of any structure which has been identified as having historic significance by a local historic commission or architectural commission, by a general plan of the Town, by the Massachusetts Historical Commission, or is listed with the National or Massachusetts Registers of Historic Places, exclusive of structures located within established historic districts or which are already protected by local historical or architectural commission review, as well as buildings located in the Martha's Vineyard Camp Meeting Association.*
- Mark London summarized the Cape Cod Commission guidelines on demolition of historic buildings. Its position is basically that an historic building cannot be demolished in almost all cases. Their practice would not be to consider tearing it down without a specific replacement plan, just to possibly increase the value of a property.
- Mark said that typically, there are three considerations for a board in reviewing a proposal to demolish an historic structure:

- Intrinsic Architectural and Historic Value: This is based on its design, its role in its context, and its association with people or activities of importance to the community. It is also based on its integrity; i.e. whether its defining characteristics are still in place, irrespective of their condition.
  - Condition: Can it be salvaged, in whole or in part?
  - Replacement Program: What is the proposal for the future use of the property if the building were demolished?
- Brian Smith noted that the original Bradley Square project was sold as and approved as an historic preservation project, among other things, so he wonders how can the MVC now go ahead and say it is okay to demolish this historic building. How do we tell the Oak Bluffs Historical Commission, who recently deemed the building as "Preferably Preserved", that they are wrong?
  - Doug Sederholm said the key to the original Bradley Square project was the affordable housing aspect but agreed with Brian that the Island Affordable Housing Fund did present it as a historically significant building.
  - Ewell Hopkins reiterated that one of the challenges was that he asked for CPC money for historic preservation and was turned down. He said that he is simply looking for clarity. He needs to know what his options are. He said that he recently heard a proposal to move the building.
  - Doug Sederholm said that is not the proposal in front of us now. Right now the MVC only has a request for a demolition in front of them. If a concrete alternative plan arises then that should be brought to our attention.
  - There was a discussion of whether we were considering the demolition of the building or a modification to the original Bradley Square plan. Would they have to surrender their original approval before the Commission could consider the proposal for demolition? Some felt that because there is an approved permit for the original proposal, this should be considered as a modification. Others felt that the current proposal is a de facto rescission of the original proposal. Christina Brown felt that it could be okay for the applicant to retain their original approval and the current proposal, even though they are not compatible, so that they could market one or the other; once they started executing one of the plans, the other would be invalid. Others disagreed with this interpretation and the question was added to the list for clarification by MVC Counsel.
  - Ewell Hopkins said that as a Board the Island Housing Trust had voted to not go through with the Bradley Square plan. Some thought they should not give up the MVC approval because it could be viewed as a commodity when it comes to selling the property.
  - Doug Sederholm said what is relevant for the referral to the MVC is whether there is evidence that the building is historically significant as defined in DRI Checklist section 1.4.
  - Fred Hancock asked if there was any prohibition, or whether it would trigger the DRI Checklist, if the Applicant wanted to move the building.
  - It was noted that the DRI Checklist states: "...*demolition or exterior alteration of any structure which has been identified as having historic significance...*"
  - It was also noted that the MVC reviewed the moving of the historic Seth Daggett house in Tisbury because it was a significant alteration of a historic building.

### **Historical Significance:**

- The first steps will be to assess the intrinsic historical value of the building and the physical condition of the building. We may need a third party objective analysis of these two questions.
- The next step would be to know what the replacement plan would be. Some, but not all, Commissioners felt that the MVC should only consider the issue of demolition if there was a legitimate plan for what would happen next.

- Chris Murphy noted that at the original Bradley Square hearings John Early told the Commission that the building was salvageable.
- Mark London said that he had talked to Chris Scott of the Historic Preservation Trust and that he had suggested a few builders who might be able to assess the structural integrity of the building.
- John Breckenridge noted that Ewell is trying to establish the value of the property. John suggested that the MVC could tell him that the MVC would not consider whether the building can be demolished unless it is tied to a specific redevelopment project.
- Ewell Hopkins said that if the MVC told him that he cannot demolish the building, then at least he would know where he stands. Right now there is no clarity and that the uncertainty is what is making everything so difficult. He said he does not have a desire to tear the building down but he needs to extricate his organization out of the property any way he can.
- Doug Sederholm reiterated that the Applicant will have to address the three steps (historical significance, condition, and replacement plan) at a public hearing.

### **Next Steps:**

- There was a question of whether the MVC should proceed with scheduling a hearing, once the three steps had been addressed, or whether the MVC should wait for the Cottage City Historic District to hold its vote.
- Doug Sederholm said that it is the Applicant's choice to seek a public hearing on its request for a demolition permit when it believes it is ready for the hearing. At that point, the Applicant would meet with LUPC for a pre-public hearing review and, if the matter is ripe for public hearing, the MVC should schedule the public hearing..
- At the pre-public hearing review LUPC will confirm that the Applicant is ready to address the historical significance, structural integrity, and possible replacement plan issues.
- Chris Murphy thinks the Applicants have to decide if they want to rescind the original DRI 612 Decision first. There was another discussion of whether the Applicant had to rescind or modify in some way the original approval. A number of options were discussed such as splitting surrendering the MVC approval on the residential part of the property, if the Commission agrees.
- Ultimately it was decided that the Applicant has several options. It can market the property with the approved DRI; seek modification of the DRI that was approved; or abandon the approved DRI. Most members of LUPC seemed to view the Dennison Building as an integral element of the approved DRI. Therefore, as long as the DRI is still in place, the request for a demolition permit was, de facto, a request for modification of the DRI. If the Applicant proceeds with its request for a demolition permit, it should either first abandon the approved DRI or seek modification of the DRI to allow the demolition of the Denison Building. A public hearing before the MVC is required for both a demolition permit and any significant modification of a DRI.
- John Breckenridge suggested that to go ahead with a proposal to demolish the building without a replacement plan in place, the chances for approval would not be good. Christina Brown disagreed with that assessment.
- Christina Brown moved that we can waive the need for a traffic study with this project. Everyone agreed.

### **3. Rickard Bread Retail Increase (DRI 311-M4) Modification Review**

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**Applicant:** Kathryn and Michael Rickard

**Project Location:** 114 Cook Street, Tisbury, Map 22C Lot 5 (0.61 acres)

**Proposal:** To add soups and sandwiches to the offerings in the 200 sf retail section of a 3,200 sf bakery that currently offers pastries and beverages.

**Present for the Applicant:** Kathryn and Michael Rickard

**Documents:**

The LUPC had the following documents before them for this project:

- Applicant narrative explaining the proposal dated January 27, 2011.
- Page 7 of the DRI 311-M3 Decision (2010) containing the Conditions.
- A photocopy of retail receipts from one week in August 2010.
- A floor plan of the bakery.

**Staff Report:**

- Paul Foley explained that the project had originally come to the MVC in 1989 when the 6,400 sf building was built with two 3,200 sf units. One of the conditions stipulated that the ...“building shall be restricted to wholesale business”.
- The Rickard’s first came to the MVC in 2008 to locate a bakery in the half of the building (3,200 ad) that formerly housed a party and tent rental business. The MVC remanded the referral to the Town as an insignificant change. The Rickard’s returned last April (2010) when they wanted to provide a 200 sf retail section within the 3,200 sf bakery to offer pastries and beverages. At the time they also wanted to have soups and sandwiches but were dissuaded from that.
- He noted that the MVC DRI 311-M2 Decision that allowed the retail incorporated a few safeguards in case the traffic became a problem. One was that they would create a new turnout, which they have.
- Now that they have established a good reputation and have receipts that indicate they are not a traffic problem, they would like to be able to sell the same things they offer in their small Edgartown retail shop such as soups and sandwiches as well as t-shirts and mugs with their logo.
- Paul Foley added that he had spoken to the Building Inspector and the Planning Board assistant that day and neither of them thought there were any problems with the proposal
- Doug Sederholm asked if there was any issue with water.
- Paul Foley said he thought the property was just outside the Tashmoo watershed. He did not think that water was an issue but he would check to make sure with Bill Wilcox before the full Commission reviewed the proposal.
- Doug Sederholm said that if water is not an issue then the only issue to consider is traffic.
- The receipts from peak season in August indicate that traffic is not a problem.
- Mark London noted that the DRI 311-M3 Decision Condition 2.1 also says that the Commission can take “other measures” in addition to the turnout that Paul mentioned, if necessary.
- John Breckenridge said that when the Applicant’s were before the MVC last year he was among the most cautious when it came to considering the implications of retail sales on that road. He said he has been there and does not think there is a problem.
- Gates Rickard said the Board of Health had been to the store to check it out and said it was fine.
- ***Ned Orleans made a Motion to recommend to the full Commission that this is an insignificant modification to DRI 311 and does not require a public hearing review as a DRI. The Motion was duly seconded by John Breckenridge and passed unanimously (8-0).***
- Doug Sederholm said that this project should go first on Thursday night.

Adjourned 7:00 p.m.