



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**

# **Notes of the Meeting of February 17, 2009**

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

*Commissioners Present: Linda Sibley (Chair); John Breckenridge; Ned Orleans; Chris Murphy; Kathy Newman; Holly Stephenson; Christina Brown; Casey Sharpe.*

*MVC Staff Present: Paul Foley; Chris Flynn*

### **1. Bradley Square Revised (DRI 612-M) Post-Public Hearing Review**

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Applicant: Philippe Jordi (Island Housing Trust); Matt Cramer (Hutker Architects).

#### **Procedure:**

- Chair Sibley said that we are basically asking whether this is better or worse than the original. We have three choices:
  - We could deny this plan;
  - We could approve this plan as it is proposed;
  - We could approve some aspects of this plan and change or condition some aspects within this plan and not others.
- Commissioner Sharpe asked what the consequences were if we denied this plan.
- Chair Sibley said that then they would still be approved for the original plan that the MVC approved last June.
- Commissioner Sharpe asked what would happen if the town rejected that plan.
- Chair Sibley replied that then they would be stuck between the two. They would have to make further changes that are amenable to both boards. She added that these changes are not in response to the town or the Zoning Board of Appeals (ZBA) but rather to a group.
- Philippe Jordi said that since the ZBA had sent recommended conditions that constituted a good indication of their intentions.
- Commissioner Murphy noted that when we approve something the local boards can make more stringent conditions. We had an approval and it went to the town. It was suggested that the applicants make changes. They changed the plan and it came here, not to the ZBA.
- Philippe Jordi said that they, the Applicant, had met with the Oak Bluffs Concerned Citizens (OBCC), they came up with an agreement that was brought to the ZBA. The ZBA sent it immediately without looking at the changes to the MVC because they realized that the changes were significant. Once the MVC makes its decision it goes back to the ZBA.
- Commissioner Brown asked the Applicant if they could tell the LUPC whether their offers are the same as the ZBA conditions.
- Philippe Jordi said that the only thing that was not in the offers that were presented at the public hearing was that the maximum occupancy of the meeting hall had changed from 74 to 30. There is also the issue of tree number 52. He said that they attempted to try and make the ZBA conditions be reflected in the offers.

### **Motion:**

- ***Commissioner Murphy made a Motion to approve the modification. Commissioner Sharpe Seconded the Motion.***

### **Offers and Conditions:**

#### **Activities:**

- Commissioner Stephenson noted that offer 9.1 was changed at the public hearing from 3 activities a week to 2 activities per week.
- Commissioner Breckenridge said his understanding was that there would be no more than two event per week.
- Philippe Jordi said that was not correct. He said that the ZBA had limited them to two evening meetings per week. Not events. Not including the daytime.
- Staff Note - the signed offers of February 5 read:
  - There shall be no more than three activities each week with more than 30 participants at the Denniston Center. The Applicant may ask the Commission to review this condition at any time.
- Commissioner Breckenridge said that we are agreeing that there will be a limit of two meetings per week in the evening.
- Philippe Jordi agreed.
- Commissioner Breckenridge said that offer number 2.3 should be changed so that where it says the maximum occupancy for the meeting hall is 74 it should say 30 people or less.
- Philippe Jordi said that Section 3.1, which limits when events for more than 30 people can be scheduled, should be revised as well.
- Commissioner Breckenridge said that the last time they met with the ZBA they were saying two evening meetings per week. But now they are still allowed to have unlimited daytime events. Under 3.4 he was thinking maybe it should be deleted. But there could be events in the daytime that may need a shuttle.
- Commissioner Orleans noted that the three events they talked about were night time events.
- Commissioner Murphy asked if the Applicant agreed at the meeting that there would never be meetings of more than 30 people.
- Philippe Jordi confirmed that is what they agreed to.
- Commissioner Orleans felt that means that 3.1 and 3.4 are not necessary.
- Commissioner Brown confirmed that the agreed maximum occupancy is 30 people night or day.
- Philippe Jordi reiterated that they have agreed to a maximum occupancy of 30 people and two evening meetings per week.
- Commissioner Brown asked if that means they can only have two meetings in the evening per week even if there are only three people there.
- Chair Sibley pointed out that though the signed offer states in offer 9.2, "The Denniston Center (the sanctuary and office indicated on the plan)" what we are really talking about as the Denniston Center is the meeting hall, not the office. In 9.2 we should take out the parentheses and just say the Denniston Center and not include the office.

#### **Trees:**

- Commissioner Breckenridge said that he didn't want to get into who has jurisdiction over the tree but he thought it would be helpful if we wrote the condition for everybody. The condition would be

- trees numbered 53 and 36 shall not be cut down. Prior to construction they should be protected, this should include such restrictions as digging must be 15 feet or more from the circumference of the tree. A deep root fertilizer should be injected into the tree to ensure the survival of the tree.
- Commissioner Murphy said we could make it easier if we said to them they should do their best. They have said they will do their best. If we start telling people how to do that then we become the liable party if the tree dies.
  - Commissioner Breckenridge said that he would leave it at 53 and 36 shall not be cut down.
  - Philippe Jordi said that ultimately this is a 40b so the Tree wardens concerns should be taken up by the ZBA He noted that the fifth bullet under offer 4.1 tells the provisions that will be made to try and save the tree.
  - Chair Sibley said that the second Philippe said 40b he was saying that the tree warden could be overruled. She told the Applicant that they should care more about the trees, especially that tree, which is important to the character of the area. She noted that if they truly cared passionately about the trees they would not even raise the issue of jurisdiction. She said we should restrict how close you can excavate and you should be required to protect the root system. They can write the offer. Preserving the tree should be paramount. She doesn't understand why they are not trying to save that tree. She noted that they have two oversized parking lots. You should reduce them in size and move the buildings back.
  - Philippe Jordi said that as long as they can get the health and safety issue agreed to by the town they will do what they can to save that tree. It is also an issue with the fire chief who has a say as to the size of the parking lots. Matt Cramer added that the current plan shows the parking lot entry and driving area at 18 feet wide because that is what the fire chief wants.
  - Commissioner Murphy said that there are two simple ways we can deal with this. We can say do what the tree warden says. The second is we can require the applicant to hire an independent arborist to tell us what the best way is.
  - **Commissioner Breckenridge made a Motion, with respect to trees 52 and 36, that we should write a condition that says the applicant must abide by the conditions in the tree wardens letter of February 5, 2009. If there are changes let them come back to us. Commissioner Murphy Seconded the Motion.**
  - The LUPC voted to recommend to the full Commission the Motion. All voted aye except Commissioner Brown who abstained.
  - Commissioner Stephenson asked the Applicant if they are considering moving the building back.
  - Matt Cramer said that they will try and see if they can shift the building over a foot or two and shrink the parking a bit.
  - Commissioner Stephenson asked why they wouldn't redesign the building so that it fits the site. She pointed out that the original problem was the buildings were too large. You have made the building footprints significantly larger.
  - Philippe Jordi said that the two other buildings are smaller now. We moved the increase to the commercially zoned parcel.
  - Commissioner Stephenson said that it seems to her that they could squeeze the Bradley One building down.
  - Chair Sibley noted that the Applicant is trying to respond to a variety of concerns. Her sense is that we are considering impacts on Dukes County Avenue which is clearly a very public road. She reiterated that she had a visceral reaction when the Applicant said they would "try to save the tree". Save the tree, period.

- Philippe Jordi said they are going to try and save the tree (tree 52). They just can't guarantee. We will come back with a landscaping plan with the specifics of how they will try. If a tree dies he doesn't know what they can do.

### **General Discussion:**

- Chair Sibley said we need a general discussion as compared to the previous proposal. We now have more parking imposed on the neighborhood.
- Commissioner Murphy said he thinks the way to handle this is not to tell them to make this smaller but rather to say you should do this and figure out a way to do it. We could continue this as long as it takes. We do not need to finish this on Thursday night. It's a question of the tree or the building. We need to get that wrapped up before we approve it. To refer back to the first set of hearings was that the neighbors were concerned with parking. This plan addresses parking by adding parking on site.
- Commissioner Newman said that personally in terms of covering up the land she preferred the first proposal. It is a great project and she wants the project to happen. The neighbors won't let this happen unless the parking is there. It doesn't seem to her that there is any element there that is any different than what was there before.
- Commissioner Murphy said that at some point we talked about the parking lots and the ability of the residents to rent them out. I do not think we should allow that. If unit 1 has a space they cannot rent that out. Commissioner Breckenridge Seconded that as a Motion.
- Commissioner Newman asked why we would do that.
- Commissioner Murphy said that the parking spaces are at a premium. If someone here wanted
- Commissioner Brown said that gets too restrictive. If I buy a condo and it has a parking space I want to do with it what I want.
- Commissioner Murphy noted that the difference is that now there is a commercial unit. The project still does not have adequate parking. One way you can stop the parking from spilling into the neighborhood is to ensure that the spots on site are used by the uses on site.
- Commissioner Breckenridge agreed and said that if our goal is to keep cars from the neighborhood, if someone rents out there space on site then they end up spilling into the street.
- Chair Sibley noted that we urged Muckerheide to do that and he agreed immediately.
- Philippe Jordi said that there will be a condo association and the issue will be dealt with internally. If you want to start defining what the condo association can and can't do then we could be here for a while.
- Chair Sibley said that we have a motion on the floor to recommend approval. She wondered whether this overrules the original Decision or is this an acceptable alternative.
- Commissioner Sharpe said we should say this is an acceptable alternative.
- Commissioner Newman asked if it is then ok if they pick pieces of one and use parts of the other.
- Commissioner Murphy said he thinks you have to have it one way or the other. We can't say mix or match.
- Commissioner Breckenridge agreed. We are voting on a modified plan. He doesn't feel comfortable playing the best of both worlds
- Commissioner Sharpe said that she liked the other plan better but would accept this plan.
- Chair Sibley said she did not think it would be possible for the Commission to accept both plans. She suggested commissioners think about it between now and Thursday.
- Chair Sibley said then that we agree that the motion on the table is to approve the modified plan as amended today and not the original plan.

- Commissioner Orleans noted that the ZBA has essentially ruled out the other plan.
- Chair Sibley brought the Motion to a vote. There was a Motion to recommend to the full commission to approve the modified plan with an added condition that reflects the tree wardens concerns and stipulations about Tree 52 and 36 and we are also going to change offers 3.1 and 9.1 to quote the ZBA conditions.

**Vote:**

***The LUPC voted unanimously to recommend to the Full Commission approval of the plan as amended by the offers and conditions.***

- Commissioner Brown noted that we should discuss the benefits and detriments at the Deliberation and Decision on Thursday.