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Martha's Vineyard Commission
Land Use Planning Committee
Notes of the Meeting of June 1, 2009

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

Commissioners Present: Linda Sibley (Chair); Christina Brown; John Breckenridge; Chris Murphy; Ned Orleans; and Holly Stephenson (not eligible to vote)

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

1. 1986 Evelyn Way (DRI 576-M) Post-Public Hearing Review

Applicant: Ken Fosdick, Brian Smith (Allied Waste)

Commissioner Discussion of Offers:

- Commissioner Breckenridge noted that in the offers under landscaping and screening we had discussed at the public hearing whether we should say what height the fence should be. His thought is that we should add language to the offer such as "and construct a screening fence in cooperation with the town of Tisbury which addresses line of sight issues".
- Chairman Sibley asked the Applicant to clarify whether that would be okay to include in the offer. Ken Fosdick said he had no problem with that.
- So the revised offers should add "fence location and design" to the landscape offer.
- Commissioner Murphy said his main concern is that the dumpster/container boxes are potentially a big problem if kids were to get in there. They have to figure out some way to protect against kids getting in there.
- Ken Fosdick said that is the purpose of the fence. He said they will put that on the plan shortly.
- Chairman Sibley asked what about describing the fence as a "security" fence.
- Commissioner Breckenridge suggested that we add a condition where we emphasize the concern about kids getting in to the containers.
- Commissioner Breckenridge had another note under affordable housing that said we were going to add the words "in perpetuity" to the offer of affordable staff housing.
- Paul Foley noted that they also altered the offer at the public hearing to say that the apartment would be free to staff.
- Ken Fosdick agreed that they had in fact done so at the public hearing.
- Chairman Sibley said that these offers will be reprinted to reflect these clarifications for Thursday nights Deliberation and Decision.
- Commissioner Murphy said he thought we discussed that the storm water to be retained on site would be based upon a 25-year storm.
- Bill Wilcox said that our policy doesn't address storms for the roof runoff. The roof runoff will be directed to drywells but that is usually for a 10-year storm. The 25-year storm threshold is for parking lot runoff.
- Chairman Sibley asked if it shouldn't say that the drywells and storm water runoff should say they are designed for those storms rather than guarantee that they will retain all water in those storms. She added that this should also come back to LUPC.
- Plans to come back to LUPC are the Landscape Plan, the fence, and storm water plan.

- Ken Fosdick said Doug Hoehn (the engineer) will do it.
- Commissioner Orleans said the Connector should be called the Tisbury Connector Road "System".
- Chairman Sibley noted that they are offering to install conduits for solar energy not install solar.
- She added that there was some testimony that trucks will not start up before 5:00 am. She asked if the Applicant wanted to add that to the offers.
- Brian Smith of Allied Waste (the proposed tenant) said he can't guarantee that no truck will ever back up before 7:00 am. He said it is rare that they ever back up in the morning. He said that they can offer that no trucks will back up before 7:00 in order to decrease the noise impact on the neighborhood. Generally speaking he said they can design it so that there is no need for backing up in the morning.
- Chairman Sibley asked if commissioners had any other issues.
- Commissioner Brown said that they say in there offers that existing trees will be retained. They should indicate on the landscape plan which trees will be retained and which will not. The landscaping plan should include an inventory and location of all existing trees to be retained.
- Ken Fosdick said he has no intention of cutting down the existing trees. There is one tree near to where the proposed entrance is that may be in jeopardy.
- Chairman Sibley reminded the LUPC that there was a classic case where landscapers saved the buffer conditioned by the MVC and then the contractors came in and obliterated it.
- Ken Fosdick said that the trees are on the side of the building where the building is not. So they will just be planting more trees on that side.
- Commissioner Brown asked if in our Decision are we going to recommend at what time the landscape plan is due for review and approval. Perhaps we should say before the Certificate of Occupancy as opposed to the Building Permit. John Breckenridge agreed.
- Commissioner Stephenson wondered how we ensure they do work with the Town in regards to the connection to the Tisbury Connector Road.
- Ken Fosdick said that if at a future date the Connector Road is approved and moved back they will work with the town and move their entry back if necessary.
- Chairman Sibley said that we can expect that when the landscaping plan comes in it may have already incorporated the town plan.
- Ken Fosdick reiterated "Yes we shall cooperate with the town on the road".
- Commissioner Stephenson said she was not worried that someone isn't going to cooperate she is just concerned about the timing.
- Ken Fosdick repeated that he has said he will work with the town. He added that he has also heard different ideas about how that corner is going to work. In any case, he will do whatever it takes. His only concern would be that if they were to design to the Henry Plan where they lose a little here and gain a little there he may lose out if the town does not end up doing it as they are thinking of doing it now.
- Commissioner Stephenson said she noticed in the hearing minutes that one of the neighbors was concerned about the streetscape from the other side as well.
- Commissioner Breckenridge said we should note that the rear of the building is not screened from the residential neighborhood behind although it seems a ways back.
- Mark London said another concern was the possibility of rats becoming an issue. The Applicants said they have never seen them but would have a plan if they ever saw them.
- Brian Smith said he has never seen a rat on their current property. He has no doubt that there are rats in the area. The neighbor was talking about another company in the same field. He cannot answer for someone else's business.

- Ken Fosdick said that he is not so sure they have any rats. There is nothing there except for stuff that was left by one of their neighbors that they are going to move.
- Brian Smith said that rats live within 150 feet from their food source. He knows about rats and that's why they don't have a problem with them.
- Chairman Sibley said she found one item in Mr. DeGregorio's testimony that could use a condition. He asked about the container cleaning and rat control.
- Brian Smith said they come over on the boat once a week and sets up in a parking space.
- **Christina Brown made a motion that the LUPC recommend to the full commission that we approve this project with the offers as clarified at LUPC.** She added that her motion includes leaving the connection to the Tisbury connector road as is.
- Commissioner Stephenson wondered if there is some way we can change it to ensure that they work with the town of Tisbury before rather than later.
- Chairman Sibley said that they are not going to get beyond LUPC without that in their plan.
- Commissioner Brown said she thought that may bind the applicant to design now what might not be done in the end.
- Ken Fosdick said that the way he worded it in the offers is that they have a plan now but if the town makes a change they will change their entry. They will have an adequate site line at the corner.
- Commissioner Brown said she thinks the offer is fine as long as we add "and sightlines" to the end.
- **John Breckenridge Seconded the Motion. The LUPC voted unanimously to recommend to the full Commission to approve the project as modified (LS; NO; JB; CB) CM left earlier.**

Adjourned 6:25

2. Postscript Discussion on the Oceans and Wind Energy Acts

- Commissioner Brown noted that the MVC Executive Committee is sending the DRI Checklist back to LUPC because the State had issues about wind criteria. Do we want to look at wind criteria or do we want to take that item off of the new checklist.
- The state is proposing two laws. One is The Wind Siting Facilities Act and the other is the Oceans Act which has regulations for the windmills in the ocean. They both allow the State to overrule local decisions.
- Commissioner Orleans asked what we are doing about the State wanting to take over local control other than writing a letter.
- Chairman Sibley said that the Executive Committee said we wanted to talk to our representatives. This is really a power grab by the State.
- Commissioner Orleans asked what we are doing on island. Shouldn't we be a clearing hose on the island for raising opposition? He is really concerned with the impact these bills could have on Martha's Vineyard.
- Chairman Sibley said that there are towns all over the Commonwealth who have the same concern. Representatives are supposed to represent their districts.
- Commissioner Stephenson asked if the MVC could have a public hearing on the subject.
- Chairman Sibley said that we can hold a public forum.
- Commissioner Brown asked everyone to please read the Oceans Act and the Wind Energy Facilities Siting Act.
- Chairman Sibley agreed noting that foaming radicals should be well informed.