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Martha's Vineyard Commission

Land Use Planning Committee

Notes of the Meeting of March 22, 2010

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

Commissioners Present: Linda Sibley, John Breckenridge; Chris Murphy; Fred Hancock; and Christina Brown

MVC Staff Present: Paul Foley;

Audience: Sharon Estrella

1. DRI 549-M2 Hart Hardware Landscape Plan – Modification Review

Applicant: James Hart, the Hart Co., Inc.

Project Location: 56 Indian Hill Road, West Tisbury, MA Map 16 Lot 82 (0.53 acres)

Proposal: To modify the approved DRI 549-M landscape plan from 2007 to reflect new plantings for screening after several of the existing trees that were supposed to remain were cut.

Summary:

- The proposed modification is to replace the mature oak trees that were cut with a stockade fence and row of Leyland Cypress. The new plan would have one more parking space (19) than the original. He is willing to make some of those future spots that would only be developed if they are needed.
- The landscape would be irrigated. Jim will replace any plants that do not survive.
- The driveway would have a pea-stone surface except the apron and handicapped spots would be paved.
- The LUPC vote on a Motion to recommend to the full Commission that this does not require a public hearing. Fred Hancock and Christina Brown voted in favor and Linda Sibley, John Breckenridge, and Chris Murphy voted against it. The Motion did not pass.
- Christina Brown made a Motion that the regional issues that the MVC are responsible for are impacted enough by this change that the LUPC should recommend to the full Commission that it needs to go to a public hearing for review as a DRI. John Breckenridge duly seconded the Motion.
- **The LUPC voted unanimously to recommend to the full Commission that this is a significant change requiring a public hearing review as a DRI.**

Discussion:

- Jim Hart said that he was not there when trees were removed.
- Fred Hancock asked if the parking was the same on the new plan as the old.
- Paul Foley said that there were 18 parking spots on the original plan with several of those to be developed at a later date if necessary. The new plan has 19 parking spots on it with no mention of whether some would be developed later. Some of the trees that were cut that were not supposed to be were where some of the future parking was going to be.
- Christina Brown added that we sometimes say grade them but leave the spot green until it is proven that they are required.
- John Breckenridge asked if there will be irrigation.

- Jim Hart answered yes there will be irrigation.
- John Breckenridge asked if he would be guaranteeing the health of the plants for several years.
- Jim Hart said that if they die they will be replaced.
- Linda Sibley noted that they have red cedars on one property line and Leyland cypress on the other. The Leyland Cypress is evidently supposed to block the upper parts of the building from the neighbor's lot. We also have a six foot high privacy fence.
- Jim Hart said that when he met out at the site with the neighbors and Paul Foley they discussed that the trajectory of the view is such that the low level is fairly well blocked because there are cedars on the neighbors' property plus the fence.
- Linda Sibley asked if there was a discussion about replacing any of the lost canopy.
- Jim Hart said that the roadway is so close that it would be hard to support them. Some existing trees are not on the plan because they are on the neighbors' property.
- Linda Sibley asked what is going to happen when the fence gets put in and comes across an existing mature tree.
- Jim Hart said that then the fence will have to stop and start again after it. He noted that there are a few red maples with 3"-5" caliper.
- Fred Hancock asked what the material is for the driveway.
- Jim Hart answered peastone except the apron and handicapped parking.
- Christina Brown asked if he was asking for the five spots on the right now that were originally going to be left for the future on an as needed basis.
- Jim Hart said that it depends if they will be approved or not. If he has to put them in later he will come back.
- Christina Brown noted that the original landscaping plan had clethra at the base of the existing oaks that are gone. So we are being asked to approve this change primarily for screening purposes. It is zoned for business so it seems reasonable to look at screening. Whether Leyland Cypress is the best plant is questionable.
- Linda Sibley added that since the neighbors have cedars it creates a variety.
- Christina Brown lamented the loss of the clethra and understory.
- Paul Foley noted that on the proposed revised plan it looks like the foundation plantings have changed. It was inkberry and clethra and now it is hydrangea.
- Jim Hart said that was Kris Horiuchi's idea.

Recommendation:

- Chris Murphy said we should be deciding if we want to make a recommendation whether we want this to go to a public hearing or not. He thinks it should go to public hearing
- Paul Foley read the 7 landscaping conditions.
- Linda Sibley said that it seems to her that it has to go to the full Commission to decide if it needs a public hearing.
- Christina Brown said she thought that LUPC could handle it.
- Linda Sibley pointed out that the DRI 549 Decision is more specific than many of our conditions. She felt the question before the LUPC is a decision of whether to recommend to the full commission whether or not it goes to public hearing. We can not just approve the landscaping plan
- Fred Hancock said it seems that since there is a fence and no undergrowth it is not the worst thing to have some plants along the fence.
- Linda Sibley thought we might think about some more shade trees. It is an issue that should be raised.

- **Christina Brown made a Motion that the LUPC recommend to the full Commission that we approve this change. Fred Hancock duly seconded the Motion.**
- Christina Brown said that the reason she made the Motion is that the MVC laid out a lot of conditions on landscaping and most of them had to do with screening for the neighbors. The intent of the landscaping plan conditions was a vegetative buffer. It is regrettable that the trees came down.
- Chris Murphy said he thinks that anytime there is a major change the neighbors should have a right to comment on the changes.
- John Breckenridge agreed with Chris. There was a major concern about traffic on Indian Hill Road and that was supposed to be screened.
- Chris Murphy added that in the original town drawing it is not clear that the properties on Indian Hill Road have a right to access it for business.
- Paul Foley disagreed and noted that Cronig's and all of the businesses in Middletown Exchange have access onto Indian Hill Road. How could they create a business district and not allow properties access onto a public road?
- Linda Sibley said she does recall that there was some concern at the public hearing about the view from Indian Hill Road. It is not a commercial road the way that State Road is but she does not think that is our issue. She thinks that there should be a public hearing.
- **The LUPC vote on the Motion to recommend to the full Commission that this does not require a public hearing. Fred Hancock and Christina Brown voted in favor and Linda Sibley, John Breckenridge, and Chris Murphy voted against it. The Motion did not pass.**
- Linda Sibley noted that this is going to look very different from what was approved.
- Christina Brown said she was still looking for the regional impact. Others said that the visible location of the project and the ongoing issues with this property make it of regional impact.
- **Christina Brown made a Motion that the regional issues that the MVC are responsible for are impacted enough by this change that the LUPC should recommend to the full Commission that it needs to go to a public hearing for review as a DRI. John Breckenridge duly seconded the Motion. The LUPC voted the Motion unanimously.**
- Linda Sibley said that she is concerned that the full commission might feel otherwise.
- Chris Murphy said that the full commission could say it should come back to the LUPC.
- Linda Sibley said that is why she wanted to let Mrs. Estrella speak, it is appropriate for the abutters to speak.
- Sharon Estrella said that the reason the root balls stuck out is that it was supposed to be a ten foot buffer and it is only nine feet. If they had left the buffer alone those trees would not have been affected.
- Linda Sibley asked her if she wanted that ten foot buffer to be preserved.
- Sharon Estrella said she did not see why not.
- Linda Sibley asked Jim Hart if that was a misunderstanding.
- Jim Hart said he did not know. The road was supposed to be 16 feet wide. He guesses if it is on the plan then that is what it was supposed to do. He said he was curious about a ten foot buffer. What is it going to do if there is a stockade fence their. How will it impact the view from the neighbors?
- Chris Murphy noted that Mr. Hart had proposed this plan.
- Linda Sibley said that she would actually prefer it if the plan went back to the shade trees.

- Jim Hart asked then how do you mix a shade tree in with a 14'-16' Leyland Cypress.
- Linda Sibley suggested that if we have a public hearing we either need to have Kris Horiuchi here or we need to have an LUPC and ask her some questions.

Procedural Question:

- Jim Hart asked a procedural question. With the new DRI Checklist it says that old DRI's that expire without being acted on will no longer be considered DRI's. So he was wondering if he were to let this expire and just go back to the original plan for an office building that was approved by the Planning Board would he still be subject to MVC review.
- Chris Murphy felt that he had made a substantial start to the project when he cut the trees.
- Jim Hart said it only came to the MVC as a change of use. All of the foundation, septic etc was already in when he got sent to the MVC.
- Linda Sibley said that is something that we would have to talk to our attorney about.
- Chris Murphy said that he can't walk away at this point and not replace the planting. The work done on this property would come under his approval.
- Linda Sibley reiterated that it is not for us to decide. It is a legal issue.
- Chris Murphy added that the proposal on this property has been a moving target for a long time. He finally got it straightened out and then Dale blew it up. He's not sure where it would stand if Jim decided he just wanted to do a house. He has a Commission permit and he did something that is prohibited by the permit. It seems to Chris that the project is a DRI that has been acted upon.
- Jim Hart said that thinks that it may be against the 5th amendment.
- Chris Murphy said we are not denying Jim the use of his property.
- Christina Brown asked the neighbor what she thinks.
- Sharon Estrella said she is not sure. It's been ten years and it just gets worse.
- Christina Brown said she thinks everyone is looking to make it better.
- Sharon Estrella said they told Paul at the site that if Jim puts the hedge up that is fine but it does not meant that they approve of the whole project.
- Linda Sibley asked if Sharon needs more information.
- Sharon said that they are going to see the top of his house. Whatever the MVC decides is what is going to happen.