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## **Martha's Vineyard Commission**

### **Land Use Planning Committee**

# **Notes of the Meeting of July 12, 2010**

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

*Commissioners Present:; Christina Brown; Ned Orleans; Chris Murphy; John Breckenridge; Fred Hancock; Holly Stephenson; and Linda Sibley (at 5:50)*

*MVC Staff Present: Paul Foley; Mark London; Bill Wilcox; Mike Mauro*

**SUMMARY:** The LUPC reviewed three projects:

#### **1. DRI 625 – Chasin Divisions:**

- A proposal to create a Form A plan which re-divides six parcels with 69.3 acres into 10 lots plus one lot for affordable housing for estate planning purposes on Chappaquiddick.
- John Breckenridge made a Motion to approve the traffic scope as recommended by staff which was duly seconded by Ned Orleans and approved unanimously.
- The project will be scheduled for a public hearing when the traffic study is ready.

#### **2. DRI 549-M – Hart Hardware Landscape**

- During the Modification Review before the full Commission it was suggested that the process might be smoother if the Applicant met with the Planning Board, the neighbors, and LUPC to put a plan together that everyone could agree on.
- The LUPC, Applicant, and members of the West Tisbury Planning Board discussed what they would like to see on a revised landscape plan.
- The project will be re-scheduled for LUPC when a new plan is received.

#### **3. C.R. 2 – 2010 – Beach Road Pizza**

- The proposal is to locate a new pizza and sandwich delivery shop in a renovated building on Beach Road with a Century 21 Office, apartment and parking for Budget Rental Car and Blue Canoe Restaurant.
- Due to large number of projects being reviewed as DRI's long Beach and State Roads in Tisbury the LUPC wanted to look closer at the overall traffic situation in the area and take a closer look at the before and after trip generation and parking at 45 Beach Road before making a recommendation.

### **1. DRI 625 – 2010 Chasin Division**

**Applicant:** Richard and Laura Chasin; Glenn Provost (Surveyor/Agent)

**Project Location:** Quammox and Jeremiah Roads, Chappaquiddick, Edgartown Map 34 Lot 39; Map 34 Lot 38; Map 47 Lots 81; 99; 101; and Lot 102 (69.3 acres total).

**Proposal:** To create a Form A plan which re-divides six parcels with 69.3 acres into 10 lots plus one lot for affordable housing for estate planning purposes on Chappaquiddick.

#### **Applicant Presentation:**

- Glenn Provost of Vineyard Land Surveying presented the project.
- The land is in Chappaquiddick and bounded by Quammox, Litchfield, and Jeremiah Roads and Katama Bay. The Chasin's sold some land across Quammox Road to the Land Bank.

- The lot lines that show up on the tax map have changed. The Chasin's de-registered the land that was in the Land Court registration system.
- The piece that is shown with 25 acres is in a trust in which they are the primary beneficiaries trustees. The rest they own outright.
- Everything within the green lines on the plan is the 69-acres that are the subject of this Form A.
- There are two existing dwellings that are serviced off of Quammox Road. Trip Barnes father used to own all of this. The Chasin's live in the main house which will retain the existing guest house. There is also an existing tennis court.
- They would like to divide the land into 10 lots and an 11<sup>th</sup> parcel as parking for the lot across the street owned by the Land Bank. They are making the parking a separate piece here because there is a possibility that they would convey the fee in that land after the lease runs out.
- There are putting development envelopes on each lot.
- The plan he is presenting here today is a little different than the one staff has seen. They have added building lots on the existing buildings.
- Lot 3 is a three-acre lot they are creating as a youth lot in perpetuity.
- There have been a whole lot of plans on this land before.
- There are no new roads proposed. Quammox Road services lots 4 and 5. They would be accessing the affordable lot (3) from the Cashin driveway. There is a possibility that they are going to get access for the youth lot off of Jeremiah. So they have given it fifty feet of frontage on the driveway and Jeremiah. The main driveway has been around since the subdivision control law came into effect in 1973.
- Some of the things they are going to restrict.
  - There is a lot of detail about livestock, and signs, and what you can store in your yard.
  - There will be no further sub-division. There could be moving of lines but no additional lots.
  - All lots will be part of the homeowners association. The youth lot will not be made to pay fees as long as it is affordable.
  - They can have single family dwellings and a guest house as well as appurtenances such as garage and shed on each lot. They can have a pool but there will be no more tennis courts.
  - The pools are limited to no above ground pools. In-ground pools are prohibited on Lots 3 and 6. In-ground pools cannot exceed 800 sf.
  - All structures have to be within the building envelope. Septic systems and such may be located outside the building envelopes.
  - Guest houses can have a maximum of 2 bedrooms. Main houses are limited to no more than 6 bedrooms. Guest houses are prohibited on lots 3 and 6.
  - There is a prohibition against any piers or floating docks of any shape.
  - Asphalt is prohibited. Any septic system component can not be closer than 400 feet to Katama Bay. In addition to the 400 feet any septic design must include a drip irrigation denitrification component.
  - Any fertilizers used will be such as the MVC usually requires.

**Commissioner Questions:**

- Chris Murphy asked for clarification on what Mr. Provost had said about development in the new building envelopes on lots with existing houses. Something to the effect that if they could build in the envelope and keep the existing dwelling which is outside of the new envelope.
- Glenn Provost said he would go over that language later.
- John Breckenridge asked a question regarding limiting the size of guest houses on lots with existing houses. What is the square footage on Lots 4 and 5 of the existing houses?

- Glenn Provost added that they had Mark Mello from the Lloyd Environmental Center in Dartmouth look at the habitat. NHESP told them to look at it. The Applicant had Mr. Mello look at the species list they got from the NHESP. Glenn added that they are not doing any development at this time so he feels that when someone wants to build they will have to go through that at that time.
- Mark London said we will need more information about that. We have said that lots over 6-acres are lots we want to look at from an open space point of view. We should re-read the MVC Open Space Policy. We should look at it from a regional perspective. It would be useful to get the info that Mello gave you.
- Glenn Provost said he didn't want to complicate the fact that we are not doing any development.
- Mark London pointed out that development will happen.
- Glenn Provost said he used as a guideline how the MVC dealt with the issue with Red Gate Farm and Caroline Kennedy.
- Glenn continued describing the project:
  - There is an existing path that lots 10, 9, and 8 are going to use to get to the beach. There will be no stairs.
  - On lots 2, 7, 8, 9, and 10 the footprint of all dwellings (house and guest house) shall not exceed 6,000 sf. the footprint.
  - On lots 1, 4, 5, and 6 the footprint of buildings cannot exceed 5,000 square feet. On lot 3 the footprint cannot exceed 3,000 square feet. The calculation of footprint shall be exclusive of garages, porches, etc...
  - Managed lawns on each lot shall not extend beyond the envelope. Lots 1, 3, 4, 5, and 6 shall not exceed 5,000 sf of managed lawn. Lots 2, 7, 8, 9, and 10 shall not exceed 8,000 sf. Notwithstanding this statement, the managed lawn that currently exists as of this declaration on lots 4, 5, and 7 may be continued to be maintained.
  - Bill Wilcox asked what if they wanted to mow a lawn and create a field.
  - Glenn Provost said he doesn't think they have totally addressed that yet.
  - Only non-invasive plant species may be used in landscaping.
  - He has a copy of what the attorney has written to date about easements and ownership.
- Christina Brown said we might want to look at the Land Bank agreements when they bought the land. She seems to remember that they did not want changes to Quammox Road because it just two tracks. She added that one could argue that there was a house on lot 2 a few years ago.
- Glenn Provost said it's not like they have ten new buildings on a main road. All the roads already exist; they are simply creating a couple of short, shared driveways. It's not much of an impact.
- Chris Murphy asked why they did not do this as a Form C.
- Glenn Provost responded that you would never do a Form C if you can do a Form A.
- Chris Murphy said that the distinction is essentially a question of control. To him this is a tortured way of dividing the land. The lots are fairly big and the envelopes are fairly small but it seems to him that this is an old way of looking at a piece of land as a way to create lots rather than thinking about how to care for the land.
- Glenn Provost said he thinks Chris's explanation is wrong. He said he has been working on this plan for ten years. They have tried to address all of the issues. One of things they have done is have every envelope and driveway staked and had PAL do an Archeological Survey and the State (Mass Historic) has signed off on it. They have not done this haphazardly. They are showing two entrances for three lots on Jeremiah. It's pretty benign.
- Linda Sibley asked if the topography is such that all of these houses will have a view.

- Glenn Provost said he thinks that lots 7, 8, 9, and 10 will have views. Lots 4 and 5 might have a bit of a view.
- Chris Murphy clarified that the problem from his point of view is that they have worked on this plan for ten years and we are just seeing it now. So now they are heavily invested in this plan. They won't be open to any changes.
- Christina Brown said we will be looking at the Open Space Policy and the Mello study.
- John Breckenridge suggested that they might want to think about native "drought tolerant" species. The staff notes talk about limiting managed turf. Maybe they could have a larger turf area if it wasn't being maintained.

### **Traffic:**

- The Traffic Scope was prepared by MVC Staff and included (in addition to the usual items such as a trip generation summary and an analysis of accidents and sightlines)
  - A summary of traffic counts on the neighboring street network would be compiled. *Streets to include*
    - Chappaquiddick Road, west of Litchfield Road
    - Chappaquiddick Road, west of Dike Road
  - An analysis of the impact on the Chappaquiddick Ferry.
  - An analysis to assess the adequacy of sightlines at the intersection of the various driveways.
  - An analysis to assess the potential impacts on Litchfield, Quammox, and Jeremiah Roads.
- Mike Mauro said he would be hesitant to put traffic counters on dirt roads.
- Mark London said just to be clear that the applicant will do traffic impact study. The MVC Staff can give them a hand but the applicant is responsible for putting the study together.
- **John Breckenridge made a Motion to approve the traffic scope as recommended by staff which was duly seconded by Ned Orleans and approved unanimously.**
- Glenn Provost said he would like to go forward with scheduling once they have the traffic study in hand and they have looked at the MVC Open Space Policy. He will call Paul and schedule when they are ready. There is no rush.

## **2. DRI 549-M Hart Hardware Landscape**

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**Applicant:** Jim Hart; Geoghan Coogan (attorney).

**Audience:** Sue Silva; Leah Smith, and David Douglass.

Note: During the Modification Review before the full Commission it was suggested that the process might be smoother if the Applicant met with the Planning Board, the neighbors, and LUPC to put a plan together that everyone could agree on.

### **Discussion:**

- Linda Sibley said she was confused and asked if there had been any communication between the parties yet.
- Jim Hart answered no; he thought this LUPC with everyone was what we had talked about. He and his lawyer did sit down with Paul Foley. Paul had suggested that they should re-plant trees where they had been cut in violation of the landscaping plan. He also suggested they might intersperse street trees in along the fence screening the Estrella's but Jim thinks that then they would lose three Leland cypresses for each street tree. This plan has been modified to add Leland cypress in the back next to the Carignan's. He added that he plans to add street trees in front.

- He explained that four trees were taken down when the driveway was cut to grade. That was Jim's mistake. The root balls had been cut into and he thought they would die. Again he took these other trees down in what was supposed to be future parking but he was trying to get all the grading done at once. He realizes now that he should not have done that. He would put a heavy buffer in front with street trees if that will help to put this behind him.
- John Breckenridge said that his biggest concern has to do with this row of Leland cypress. We are trying to fit this property into a rural country road setting. The concern was about fitting into Indian Hill Road.
- What were mature large trees are now going to be young small Leland cypress. With the fence the privacy is being addressed. So we don't really need Leland cypresses which are not native. John wants to come out of this with a feeling that we are still in a rural country setting and he doesn't think the Leland cypress accomplish that. He would be in favor of re-creating an umbrella effect with more native larger trees.
- Geoghan Coogan said he doesn't think they disagree. The Leland cypress was chosen simply to address the Estrella's concern. The Leland cypress will provide the neighbors with more buffers. Jim doesn't necessarily want Leland cypress. He thought that is what the Estrella's wanted. He is not opposed to any tree the Commission feels is appropriate but the firs concern is making the Estrella's happy.
- Linda Sibley said that while the MVC is concerned to preserve the neighbor's privacy and quality of life our concern is the regional impact which is primarily the concern for the streetscape along Indian Hill Road. The trees that were lost had an impact on the public view. That's why we really wanted to hear from the West Tisbury Planning Board (WTPB). Linda noted that the WTPB wrote us a letter about the height of the building but the LUPC are more concerned with the vegetation.
- Susan Silva of the WTPB said she would like to see 50 foot trees back there. That is what would mitigate the big new building. The Applicant got setback relief from the WTPJB partly based on retaining the existing vegetative buffer. The proposal is too big for the lot in the neighborhood without those trees. Those trees' staying in place was part of the reason why they approved the project.
- Leah Smith (WTPB) said that personally she would like to see a mix of oaks and other natural trees.
- David Douglas (WTPB) noted that the other problem is this is a business zone. It's all very well to have it the way you want it but it is a business zone.
- Geoghan Coogan said that maybe this is not the right forum to debate with the WTPB. They have a bunch of trees that may have come down over the course of the next 20 years. When you look at regional impact you have to look at the long term. If we plants trees that will eventually restore that buffer that should be good enough. The Leland cypress may mitigate the impact greater than what was there before. To say lets knock off the top of the building is not good enough. He can't fix it all right of way.
- John Breckenridge noted that if the cutting had not occurred we would not be here. We would not be talking about Leland cypress. He just doesn't feel they are appropriate or typical to that area. He thinks they should be removed from the plan. He suggested that they go back to Kris Horiuchi (Landscape Architect) and put in 20 caliper trees in there. If Kris says that white pines are good then introduce that. He doesn't think Leland cypress is appropriate.
- Sue Silva (WTPB) agreed.
- John Breckenridge added that they should try to bring it back to where it was.

- Sue Silva said she wants to make sure there is enough dirt and soil so that a good wide buffer zone is maintained. Maybe he should make a wider buffer zone to accommodate the loss of the trees.
- John Breckenridge noted that when we talked about trees at Bradley Square we said you need a 15 feet buffer between the tree and any building.
- Linda Sibley said you can't put a white pine in this ten foot buffer. You might be able to put them in front or you might be able to use a native holly.
- John Breckenridge said that we are trying to re-establish what was there before.
- Linda Sibley asked the members of the WTPB in attendance whether from the WTPB point of view some of you don't think this can be mitigated.
- Sue Silva said she doesn't think it can be mitigated.
- Leah Smith said she is on the fence on this one. She knows they need some parking but is there really a need for all of this.
- Mark London asked what the next step is. Can we get the landscape architect to make a sketch. He cautioned that if we do it should be nothing too in depth. They have heard our concerns. We are looking at landscaping. The building has been approved. We are looking at getting the best possible landscape plan.
- Linda Sibley said it seems to her that Sue Silva is saying it cannot be mitigated, Leah is not sure, and David seems to think it can since it is in the Business District. She then asked what purview the WTPB has at this time.
- Leah added that it seems to her that the WTPB view should be in line with the MVC.
- Linda Sibley said that we have to be careful to not take actions to do what you do not want.
- Geoghan Coogan reiterated that the situation cannot be mitigated instantaneously. It is going to take time. They didn't come back with just a replanting plan. They are happy to try to do some short term and some long term actions.
- Chris Murphy said it our job is to review the planting plan. We want to wait until we hear from the WTPB what they are looking for. The other piece of it is up to the WTPB and has nothing to do with us.
- Sue Silva said that the height of the pre-existing trees was important because that screening was part of the reason that they approved the original plans.
- Chris Murphy said that if the feedback is that this planting has to be 30 feet high that is something we would take into consideration.
- Sue Silva said that the Estrella's wanted the Leland cypress because it grows quickly and is an effective visual screen.
- Linda Sibley said she doesn't necessarily think they wanted the particular species but what it could accomplish.
- John Breckenridge reiterated that we wouldn't be here if the trees were not taken down so we should try to put things back to the way it was before.
- Leah Smith said that most of the WTPB would rather see more usual species such as hollies, oaks and pines. Let the landscape architect look at it and come back with a plan. They should make sure the buffer zone is big enough that they will grow well.
- Linda Sibley noted that the other thing to consider is the acres of trees we have lost due to caterpillars so maybe we should not be looking at monoculture.
- Chris Murphy said that whatever the plant is the planting plan will go into the deed restrictions. They will be required to maintain that buffer, so if anything happens to the trees they have to be replaced.

- Geoghan Coogan noted that if the building had already been built and the trees came down the resolution would just be replant the trees. They would not say take the building down. He is sure there are projects out there where trees have been cut and they are not in front of the Martha's Vineyard Commission. The plan you are looking at is what we came up with after talking to the Estrella's.
- Mark London said that the test is not "if this is as good as before". The test is if they came in today with that plan what would we say. It is a two step process. Come up with a landscaping plan based on what has been discussed. Then we have to decide whether it is good enough.
- Geoghan Coogan noted that there was a building permit issued. They are here because there was a cease and desist order issued based on the landscaping plan. They want to develop a new landscape plan that is good enough for the MVC and the Estrella's.
- Jim Hart said that what would be helpful to him is information that he can provide to Kris Horiuchi about what the LUPC wants. He met with the Estrella's and made this plan based on what they wanted. Some people don't like that so he is just looking for direction.
- Leah Smith said that they should start informally and then come back to the LUPC with a plan later.
- Linda Sibley noted that the neighbors were not happy about the project to begin with. We understand that. But it is business zoned. They have to understand that the solution cannot be individually dictated by the neighbors. We have to impose a plan within reason.

### **3. CR 2 – 2010 Beach Road Pizza**

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**Applicant:** William M. Craffey (Escape MV Inc.)

**Project Location:** 45 Beach Road, Tisbury Map Lot (acres). The applicant is not the owner of the property. The owner is Tisbury Marina LLC.

**Proposal:** To locate a new pizza and sandwich delivery shop on Beach Road.

#### **Staff Report:**

- The proposal is to locate a new pizza and sandwich delivery shop in a renovated building on Beach Road with a Century 21 Office, apartment and parking for Budget Rental Car and Blue Canoe Restaurant.
- The owner has a pizza shop in Edgartown and once owned Island Pizza in Tisbury Marketplace.
- The Applicant estimates that 85% of his business would be call in and pickup by automobile.
- There will be no seating, just counter service. There will be no delivery.
- They do not plan to seek beer and wine permits.
- The project will be connected to the town sewer. They will have two fryolators and a grease trap.
- The applicant will sign a ten-year lease pending permitting
- Budget Rental car will maintain a shed and the rear 20' of the lot for parking.
- Blue Canoe restaurant will also have parking in the back of the lot.
- Hours of operation are estimated to be 10 am to 10 pm in summer and 11 am to 9 pm winter. There would be 3-4 employees in summer and 2-3 in winter.

#### **Applicant Presentation:**

- Will Craffey noted that like everything else on Beach Road the main traffic problem is the summer time in July and August.
- His operation will be all takeout. There will not be any seats.

#### **Discussion:**

- John Breckenridge asked if he is required to have ten spaces.
- Will Craffey answered no, he thinks he has more than he needs.

- John Breckenridge said that if between the Applicant and Century 21 they don't need all that parking wouldn't those front two spots be better if they were landscaped.
- Linda Sibley noted that Mr. Craffey doesn't own the property.
- Will Craffey said that he does have a letter from the owner that he is allowed to talk about what he is going to do but he can't offer particulars like that.
- Linda Sibley suggested that he should look at the Planning Board requirements for parking.
- Ned Orleans said that this is a takeout pizza joint with no seats. **Ned Orleans made a Motion that the LUPC should recommend to the full Commission to not concur that this is a Development of Regional Impact. The Motion was duly seconded by Christina Brown.**
- Chris Murphy asked if we are looking at just the one business or the entire property. There is a bunch of stuff going on at that location.
- Will Craffey said that there is nothing going on that wasn't happening ten years ago at the property. The only difference is him.
- Christina Brown reiterated that it is a renovation of a building and noted that there will be a lot of local review.
- Linda Sibley respectfully disagreed.
- Fred Hancock respectfully disagreed as well. From his point of view the takeout only increases the traffic. It is a definite increase of intensity of use and traffic.
- Linda Sibley pointed out that the MVC reviewed Rickard's and it would be odd not to look at this. We voted to not concur with Little House only after we had some offers in the form of Conditions on their Certificate of Occupancy. She added that the Applicant would be lucky to get people down there this time of year. People on her side of town would not go down to Beach Road in summer, though it is a not a problem the rest of the year.
- Paul Foley noted that though the used car place is gone there is a new user of the parking lot, Blue Canoe Restaurant.
- Ned Orleans said he drives that road everyday. Traffic on that strip takes care of itself. He cannot believe that a takeout pizza parlor is going to sink Beach Road.
- Linda Sibley noted that Ned is arguing the merits. I am not trying to make that argument. We have reviewed comparable projects in comparable circumstances and I don't see how we would not review this one.
- Holly Stephenson said she thought it was glib to say that traffic will take care of itself. This stretch has the same issues. We have had two deaths along this stretch in the last couple of years. Traffic is not taking care of itself.
- Linda Sibley reminded the LUPC that the issue before it is whether this proposal has significant impact.
- Chris Murphy noted that the applicant is representing the entire property even though he is only going to lease a part of it. You cannot present a corner of a property; the MVC looks at the whole thing.
- Dan Seidman of the Tisbury Planning Board said that Mr Craffey came to see them but they looked at the entire complex. The accessory parking has been going on for a long time. They are of the mind that even though this is like a drive through they thought he was going to be more in line with about 50 retail sales a day. As far as the concern about the accident, what happened last week was a freak accident. This business, as the Planning Board saw it is not a destination retail use, it is more of a side trip. Holding his application up due to traffic would be unfortunate.
- Linda Sibley asked how we know this is 50 trips a day use.



- Will Craffey said he has his receipts from Edgartown from last Friday and Saturday. What he found when he had the one store is that when he started a new one in the next town his sales dropped. In Edgartown they will go to Edgartown. If they know they are going to be driving by there they will add it to their list of things to do. His receipts came to 62 sales on Saturday and on Friday there were 53.
- Linda Sibley suggested that staff count those and account for the times when sales occur. That's what our staff should be looking at. It isn't a question of just the number but when they happen.
- Will Craffey said he would leave the receipts. He said that sales increased 4 to 5 % a year. These receipts are a good example of what he expects the sales will look like.
- Linda Sibley said we should have staff make a comparison of other restaurants we have looked at recently. Christina Brown said she doesn't think we need to compare this to other restaurants.
- Mark London asked whether it is the whole property or just the application for leasing a part of the property before us.
- Linda Sibley said that to some degree it is a matter of traffic.
- Will Craffey said that the curb cuts are already there.
- Linda Sibley said she meant the traffic activity coming in and out. She then asked him if he was in a hurry.
- Will Craffey said he would just as soon put it off to next spring.
- Mark London said we should look at the enter property and get an idea of what the prior use was.
- Linda Sibley said our concern is whether this is trivial amount of traffic or not.
- Christina Brown said she retracts her second given to the Motion and noted that since the applicant is not in a hurry she suggested that we do not need to be in a rush.
- **Ned Orleans withdrew his motion.**
- Holly Stephenson said she thinks traffic is an issue. She love the pizza, she went there all the time. But if Blue Canoe is expanding too then there is going to be even more traffic.
- Linda Sibley said that she thinks that the time of day really matters. Blue Canoe will be at night.
- Holly Stephenson added that the liquor licenses have gone into effect as well, so that may impact things too.

Adjourned 7:45