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Martha's Vineyard Commission

Land Use Planning Committee

Notes of the Meeting of July 19, 2010

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

Commissioners Present:; Linda Sibley; Christina Brown; Chris Murphy; John Breckenridge; Ned Orleans;
Brian Smith;

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

Audience:

1. DRI 626 – Grey Barn and Farm

Applicant: Molly and Eric Glasgow; The Trustees of Reservations (Chris Kennedy)

Project Location: 22 South Road, Chilmark Map Lot (acres)

Proposal: To renovate the main barn and remove six barns and replace them by building four new barns (milking/dairy barn, a utility barn, an equipment barn and a loafing barn).

Staff Report:

Paul Foley gave a staff report:

- The Applicants own a five-acre lot and they have a 30-year lease from the Trustees of Reservations on an abutting 63-acre lot with an Agricultural Preservation Restriction.
- The Main barn is currently 8,295 square feet and is proposed to be 8,990 sf (an increase of 795 square feet) plus a 200 sf greenhouse. This is where the store is (formerly Campbell & Douglass).
- The total existing square footage of other barns is 20,010 sf and the proposed is 13,798 sf (a decrease of 6,212 sf).
- They plan to have 50 cows in their herd (20-25 milking cows) and up to 40 pigs.
- They plan to be a certified organic farm.
- They plan to have an extensive renewable energy component.
- The applicants are also building an approximately 8,000 sf main house.
- The existing house may be kept for employees.
- Their intention is to sell all of their produce at the store on the site.
- The key issues are:
 - How does the MVC differentiate between agricultural uses and commercial operations on a farm?
 - How will the nitrogen loading from this operation compare to the previous farm?

Discussion:

- Mark London said the main barn building where the store is located is larger but the retail area is smaller.
- The critical question is whether the creamery is agricultural or commercial. The MVC Counsel offered some guidance on how to determine whether the use is commercial. He suggested a three part test. One – is the activity in question integral or peripheral to the operation of a farm. Two – what is the ratio of the activity to the overall activity? In other words is it a small part of the overall operation or is it a large part. Third – are there any regional impacts?

- Linda Sibley said she disagrees that the question is determining between agriculture and commercial because they are not mutually exclusive. The applicants have quoted the Massachusetts General Law. The state gives a lot of leeway to agriculture.
- Lenny Jason said that if you read MGL Chapter 40a it exempts commercial agriculture, not agriculture.
- Eric Glasgow noted that the project was referred under DRI Checklist numbers 3.1 a and c. Their question is whether the issue is if creamery building is less than 2,000 sf.? The overall building with the milking parlor is larger but they thought that the milking area would not be considered commercial. They connected the roof to maximize the solar panel array. They could cut out the roof if that would bring them under the square footage threshold. As far as 3.1 c there is nothing in the DRI Checklist that defines commercial. So they just looked at Massachusetts General Law (MGL).
- Their land already has a State listed Agricultural Preservation Restriction (APR).
- Linda Sibley said we should decide whether it is mandatory or not before we get into the benefits and detriments.
- Lenny Jason clarified that the building that this is part of the operation is going to take place in is 3,900 square feet.
- Linda Sibley asked Mr. Jason, both a MVC Commissioner and the Building Inspector who referred the project, if the Applicants took the Connecting roof out would they then be under the square footage threshold for referral.
- Lenny Jason asked if you can have a creamery without milking the cows.
- Eric Glasgow noted that they were not trying to argue they were just trying to point out that they did not consider this part of the operation as commercial.
- Lenny Jason said that if it is going to be two separate structures then the project would be a concurrence review.
- Chris Murphy asked what the prior use was. In the not too distant past there was a dairy there. He then asked if anything is being on the farm is being imported. Are there going to be
- Lenny Jason said that there was a dairy there at one time. In 1962 it was not a dairy. We adopted zoning in 1973 and there was not a dairy there then.
- Chris Murphy thought it was part of the MV Dairy business. Whether that counts for anything he's not sure.
- Mark London suggested that the three criteria recommended by Counsel would be a good place to start.
- Linda Sibley disagreed. She felt the three criteria were not pertinent to this and she thought it would be better to keep them separate.
- Mark London pointed out that if the new commercial area is under 2,000 square feet then it is a concurrence review.

Applicant Presentation:

- Molly Glasgow said it is their dream to take the farm back to a fully operating dairy farm. They will have up to 60 cows in the herd from everything from cow to sow. They will be 100% pasture based organic grass fed.
- They will bring in feed for pigs and chickens
- They are also considering a small orchard.
- They will be selling cheese, milk, beef, ham, bacon and more.
- They want to do it as locally and organically as possible. They have an opportunity to do something they love to do.

- In response to a question about slaughtering of the livestock they said that they would have to have a butcher cut it up but ultimately they would be become slaughterhouse certified.

Commissioner Questions:

- Linda Sibley clarified that for the time being you they would have to take the meat off-island to be processed.
- John Breckenridge asked if they plan to sell all they produce at their store. The responded yes.
- John Breckenridge asked how many gallons of milk 50 cows can make.
- Eric Glasgow said they expect to produce 80 gallons of milk a day.
- Chris Murphy asked if anything is going to be sold there that will not be made there.
- Eric Glasgow said probably just a few things like t-shirts. He said the law requires that during your peak four month season 50% must be produced on the farm. Molly Glasgow added that they would love to sell other island produce and agricultural products. Eric Glasgow added that you can sell anything you want from a farm in Massachusetts. He clarified that they are not planning on bringing in box trucks to sell Sid Wainers stuff. Their plan is to produce and sell their own stuff.
- Linda Sibley said she was struggling with the square feet and whether it triggers a concurrence or mandatory.
- Lenny Jason said that if he had a plan that did not have an increase of 2,000 square feet of retail then he would send it.
- Eric Glasgow said they would like to keep as much of the solar roof as possible. They received an extensive State Grant for installing solar panels. If the solar panels are not up by 2011 then they do not get their \$500,000 grant. They are already worried about whether the Secret Service is going to hold them up in any way.
- They are also concerned that with the public hearing process they could end up losing their grant. So even though they would like to keep as much roof as possible if it meant saving them time in terms of a public hearing process then in that case they would take out the connecting roof. The other aspect is we have been referred to the MVC for this one building. If we know we could go forward on our other buildings then we could get going on that. If we could do three of them and it was only this last one that had to wait then they might be alright.
- Lenny Jason said he had already issued a permit for those other buildings.
- Eric Glasgow asked if the Commission would oppose them going forward on other buildings. They have building permits for the green and purple barns. Molly Glasgow added that they went through an 8-month permitting process with the state.
- Lenny Jason said that looking at the whole plan item by item he would not send them for the equipment shed.
- Eric Glasgow clarified that in the proposed milking and dairy barn one half of the total building is the milking barn and the other is the creamery. They are really two separate buildings that have a common roof with a breezeway between.
- Linda Sibley suggested that for the sake of our discussion let's pretend they have modified the plan to remove the connecting roof and that it is not a mandatory referral. Then let's discuss if this is a concurrence review whether we would recommend to the full commission whether or not to concur.
- Chris Murphy said that his feeling is that the milking barn is a normal part of a farm activity. The processing of the product is different. That is the key. The other piece is that the original barn is a retail outfit. If it is solely for sale of locally grown produce he would have no problem with it. But if it is going to be a similar store to the previous store which was a retail store with a farm motif with all kinds of products then he would want to see it.

- Christina Brown said that if the retail store is selling cheese and zucchini then its okay. But, she asked, if its sales are simply within the state definition of a farm stand would Chris Murphy be okay with that.
- Chris Murphy said he doesn't have much of a choice. They want to sell what they grow and I don't have a problem with that.
- Linda Sibley asked suggested that ordinarily the MVC would be primarily concerned with whether there would be an increase in intensity of use. If this is an increase of 1,000 sf resulting in a total of 2,000 sf. Does this proposal result in impacts we are concerned about.
- Mark London said that counsel suggested that to decide whether it is commercial per se we should apply a three part test. Is it an integral part of the operation or peripheral? What is the ratio of agriculture to commercial? Are there any regional impacts? He was not sure exactly how you would measure the commercial and agriculture.
- Brian Smith asked if they don't run the risk of losing that grant money if they take that roof away.
- Eric Glasgow responded that it will reduce the grant by a bit but it would allow them to do the project on time.

Wastewater:

- Bill Wilcox said that his preliminary numbers are as follows
 - A herd of dairy cows would produce from 25,000 to 42,000 pounds of nitrogen.
 - The complicating factor is that 8 months of the year it would be deposited directly on the fields where it is taken up by vegetation. For four months it would be deposited in pack bedding in a barn where it would compost and be collected and spread on the fields. It is hard to determine how much will leach.
 - For the swine he figured they would produce 2,000 to 4,000 pounds of nitrogen.
 - The milk processing is fairly low. A total of only about 3 pounds of nitrogen.
 - The residential wastewater is going to roughly double the existing.
 - He was told that the previous farm use was about 100 animals maximum.
 - They had beef cattle which produce less nitrogen than milking cows.
 - There was also a corn field that the Glasgow's are not going to use. So if the previous owner had corn and the Applicant will not then there would be less nitrogen there.
 - The previous total was estimated to be about 17,000 pounds of nitrogen a year.
 - It comes down to how much is going to leach.
- Linda Sibley said that they Bill is saying the lack of the corn is a plus in terms of nitrogen.
- Bill Wilcox said that conceivably the nitrogen doubles but the leaching rate could well be half making it a wash.
- John Breckenridge asked if this land can sustain that many animals. Could there be more animals than that someday down the line?
- Eric Glasgow said that as long as they hold to grass fed they could not have any more cows. They figure you need an acre of grass per cow to sustain grass feeding them. He added that their cows would be smaller because the typical commercial cows are fed protein and corn if not growth hormones. Their cows would not be fed such things and therefore would be smaller.
- Christina Brown asked if Rainbow Farm (the previous name of this farm) did anything to cut down the nitrogen.
- Bill Wilcox said they did have a manure pit and the manure was spread back on the fields. He thinks that the proposed operation could capture more than 90% of the nitrogen.
- Mark London said it might well be in the similar order of magnitude to the previous use but we would need to clarify that. Maybe Bill Wilcox could talk to them and work out a way to reduce the

nitrogen even more. The problem is that there are a lot of assumptions that go into this type of calculation.

- Lenny Jason asked what the regional issues are. He doesn't think there are any. Now the Applicant wants to modify the plan to avoid the Commission.
- Chris Murphy noted that on the question of nitrogen it seems like the farm is almost a closed loop. If they were to put a drip irrigation system on the residential septic they would get rid of 80-90% of that nitrogen. That would be another way of ameliorating the issue.
- Eric Glasgow said that for the dairy and creamery they designed a pressurized drip irrigation system. The system is not about nitrogen it about B.O.D.
- Linda Sibley noticed that there was a representative from the Trustees of Reservations (TTOR).
- Chris Kennedy (TTOR) said that the TTOR owns most of the land where much of this agriculture will take place. The TTOR have owned the 63 acres and an abutting 30 acres that Douglass has. It was bought with help from town. It will always be agriculture.
- When the Glasgow's came to them with their proposal they said hallelujah here is real agriculture. Their primary concern was potential nitrogen loading into Tisbury Great Pond. They feel this proposal will not have an increased impact on nitrogen in Tisbury Great Pond.
- Linda Sibley asked if TTOR has any way of enforcing their agreement.
- Chris Kennedy said that the enforcement would come from the Commonwealth in the form of the APR. Their lease would not be an enforcement mechanism.
- Linda Sibley said that everything we are hearing is good. To what degree are the questions we raised even tied to the commercial aspect? It seems that there is not a huge regional impact.
- Lenny Jason asked what if they built a milking barn connected to the dairy but we not concur.
- John Breckenridge asked if he meant the LUPC should make a recommendation to the full Commission that we ignore the checklist because we cannot find a regional impact.
- Mark London clarified that the question is the application of the word commercial. Because the creamery operation is so small in relation to the overall operation and integral to the operation of the agricultural use that we do not find it to meet the threshold for review. The MVC could say that the creamery is not commercial or industrial but rather an integral part of the agriculture.
- Linda Sibley said that then we are second guessing the Building Inspector on the interpretation.
- **Ned Orleans made a Motion that the LUPC does not accept the mandatory referral because we find no regional impact involved in this particular case, although we understand the reading and interpretation of the Checklist. John Breckenridge duly seconded the Motion.**
- Mark London asked what the basis is for this not being a mandatory.
- Linda Sibley said that Mark London should ask MVC Counsel if the applicants remove the connecting barn is it okay to not review it as mandatory referral.
- Christina Brown clarified that Ned was not making a motion to non-concur.
- Ned Orleans said his Motion is that we do not even accept the referral.
- Linda Sibley asked what if Counsel says they have to remove the roof to not trigger a mandatory.
- Christina Brown announced that she would like to vote for the Motion subject to review by counsel.
- Brian Smith pointed out that the question is whether we consider the creamery as agriculture or commercial.
- John Breckenridge said he was reluctant to give agriculture a free pass.
- **The Motion passed 6 to 0 with one abstention (CM)**

Adjourned 7:12