



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 July 25, 2011

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 p.m.

#### Documents referred to during the meeting

- Offers, Public Hearing Minutes of July 7, 2011, and Kidder Site Plan
- Site Plan of Roundabout

#### **1. Kidder Division – Post Public Hearing Review**

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**Applicant:** Michael Kidder, TNF Realty Trust

**Project Location:** Map 32 Lot 1.2 (16 acres) and Lot 1.11 (4 acres).

**Proposal:** The proposal is to combine a 4-acre lot and a 16-acre lot and then re-divide them into three residential lots.

*MVC Commissioners Present: Doug Sederholm (Chair); Chris Murphy; Fred Hancock; Ned Orleans; Camille Rose; Brian Smith; and Pete Cabana.*

*MVC Staff Present: Mark London, Paul Foley, Bill Veno, Sheri Caseau; and Mike Mauro.*

*Present for the Applicant: Michael Kidder (owner); Doug Hoehn (agent)*

#### **Offers:**

- Doug Sederholm noted that there had been a site visit since the public hearing and suggested they go over the applicant offers.
- Mark London noted that there were a few small editorial items in the offers that could be revised such as turning off the lights of the building when it is closed, which is usually reserved for commercial projects.
- The Applicant changed the wording of an offer on being reviewed by Natural Heritage and Endangered Species Program (NHESP) from what had been a condition on habitat in the Tom's Neck Farm Subdivision (DRI 483). LUPC felt that the revised offer seemed reasonable.
- Doug Hoehn said the Northern Harrier habitat is outside the building envelopes. He had talked to NHESP. The Applicant is currently doing a study on the site. The Edgartown Conservation Commission will oversee the view channels.
- The Applicant changed the wording of an offer on being reviewed by the Massachusetts Historical Commission from what had been a condition on archeology in the Tom's Neck Farm Subdivision (DRI 483). They simply eliminated the words "release, sale, or transfer" from the offer because the lots will remain in the family.
- Doug Sederholm asked if once the plan is done they are saying there will not be any transfers.
- Doug Hoehn said that they haven't started the archeological study yet because they have not located the house sites yet.

- Mark London said that the offer has to be clarified to indicate that the building envelopes where they plan to do the archeological studies are different from the development envelopes indicated on the plan.
- Chris Murphy said it seemed to him that the development envelopes could be shaved down a bit.
- Doug Hoehn replied that the development envelopes were designed to meet the MVC Open Space Policy, and includes all areas where there might be any kind of development, including existing roads. The NHESP will define the areas that they want protected.
- Mr. Murphy noted that nevertheless the development envelopes could be much smaller. Doug Hoehn replied that they want flexibility.
- Doug Sederholm clarified that the archeological study is going to be for areas that are going to be disturbed.
- Doug Hoehn said that the plan locating the planned house sites would be done in the next week or two.
- Doug Sederholm clarified that the Applicant will identify the building envelopes and report to NHESP and Mass Historic.
- Chris Murphy asked what would happen if the studies come back and say that the site is so significant that they cannot build in those locations.
- Michael Kidder recalled that at the Pre-Hearing LUPC someone had noted that in some instances if the site is significant the Tribe and Mass Historic will let you build on pilings. It was noted that in some cases that is allowed but that is up to them.
- Fred Hancock asked about the building sizes and whether limiting them should be included as an offer.
- Doug Hoehn said that there is a limit on two of the lots through a private agreement between the Kidders and their neighbors the Coles.
- Doug Sederholm quoted the Staff Report stating that the Applicants have said they plan on building small houses (approximately 3000 sf). The house on lot B would be legally restricted to 7,000 sf plus a guest house. The house on lot C would be legally restricted to 2,750 sf plus a guest house. Lot A would have no restriction. He suggested that they might want to repeat this in the offers, since the present restrictions are in a private agreement that could be changed. Michael Kidder said that he plans on these being small houses but did not make an offer to that effect.
- It was noted that Mr. Kidder had said, and it was in the Staff Report, that the houses would be less than 3,000 square feet. If the Applicant does not want to revise the offer the MVC could make a condition if they felt so compelled about it. It was also noted that Edgartown limits guest houses to 900 square feet. They can be somewhat larger through a Special Permit.
- To the offer on mowing, Doug Sederholm suggested adding the words "and to the same extent" after the words: "Mowing of the property will continue in the same manner..." Mike Kidder was okay with that.
- Chris Murphy suggested that they eliminate the words "no cut" from: "At least 75 % of the property will remain outside of the development envelopes and be a protected no-cut zone". All agreed. Staff was asked to work with the applicant to come up with wording regarding what the "protected zone" would be.
- Doug Sederholm asked if there was a limit on any further subdivision.
- Doug Hoehn replied that there is a private agreement and that there is only enough frontage for three lots. Doug Sederholm replied that then it would be easy to make an offer restricting any further subdivision.

- Doug Hoehn said that though they probably could not create additional building lots, they may want to shift lot lines around. He suggested wording that would restrict further subdivision to create additional building lots.
- Fred Hancock said that at the public hearing staff was asked to look at the development envelopes.
- Paul Foley said that though he was not at the public hearing but that he thought the development envelopes were quite large and that a number of trees would be lost in the clearing of view channels and some house sites. If they were going to have the house lots sited in a couple of weeks he did not understand what the hurry for a decision was without the final plan.
- Doug Hoehn said that they want to maintain flexibility to move houses around within the development envelopes without having to come back to the Commission. He noted that the Edgartown Conservation Commission has strict oversight on the clearing for view channels and that plan with building envelopes meets the MVC Open Space guidelines.

### **Benefits and Detriments:**

- It was noted that 75% of the property will be retained outside the development envelopes.
- Chris Murphy said that compared to a traditional subdivision, this one minimally impacts the land.
- Doug Sederholm thought that given the topography and land area, they probably could not do a traditional subdivision.
- Traffic would have a de minimus impact. Any impact on town services would be more than offset by the increase to the Town tax base.

### **Recommendation:**

- ***Chris Murphy made a Motion to recommend to the Full Commission to approve the plan with the clarified offers. The Motion was duly seconded by Camille Rose and passed by a vote of 4-0 with three abstentions.***
- Mark London suggested that given the upcoming MVC schedule, the LUPC might ask staff to draft a Written Decision. LUPC directed staff to draft a written decision reflecting the LUPC recommendations.

## **2. Roundabout – Pre-Discretionary Public Hearing Review**

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**Applicant:** Oak Bluffs Board of Selectmen; Massachusetts Dept. of Transportation

**Project Location:** Intersection of Edgartown-Vineyard Haven Road with Barnes Road.

**Proposal:** To convert a four-way stop into a roundabout.

*MVC Commissioners Present: Doug Sederholm (Chair); Chris Murphy; Fred Hancock; Ned Orleans; Camille Rose; Brian Smith; Pete Cabana; Christina Brown; and Linda Sibley.*

*MVC Staff Present: Mark London, Paul Foley, Bill Veno, Sheri Caseau; and Mike Mauro.*

*For the Applicant: Michael Dutton (Oak Bluffs Town Administrator), Kathy Burton (Chairman, Oak Bluffs Board of Selectman), Greg Coogan (Oak Bluffs Selectman)*

### **Procedure:**

- The West Tisbury Board of Selectmen sent the Oak Bluffs Roundabout project at the Blinker intersection (Edgartown-Vineyard-Haven Road and Barnes Road) to the MVC as a Discretionary Referral as a Development of Regional Impact.
- Mark London explained the reason for holding the LUPC today had to do with the strict timelines associated with a Discretionary Referral and the fact that the Michael Dutton, the Town

Administrator, was in his last week on the job. The MVC Act requires a hearing on whether or not it should be a DRI to be advertized by the end of July, to be held by August 9, and a decision on whether it is a DRI by August 19. If it is accepted as a DRI, a second public hearing would be scheduled on the merits of the proposal.

- It would be possible to extend the timetable if the applicant agrees. In this case, it would be best to have both Boards of Selectmen agree to it. He thought that the West Tisbury selectmen might be willing to grant an extension.
- Kathy Burton said she didn't favor extending the deadline. The Oak Bluffs Selectmen wants the project out to bid in November as planned and are concerned that any delay could jeopardize the funding.
- Doug Sederholm said that when the West Tisbury Selectmen referred the project to the MVC as a Discretionary Referral, they did not spell out their concerns in much detail. We have to make sure that if we go to a public hearing, we hear from the West Tisbury Board of Selectmen.

### **Project Chronology:**

- Michael Dutton provided a timeline of the process thus far and explained the various time constraints.
  - In 2001, the Board of Selectmen (BOS) hired MS Transportation to do a study of the Blinker Intersection, which was then a two-way stop. The study outlined four options: increased signage, a four-way stop, a traffic signal, and a roundabout. The study recommended construction of a roundabout as the best long-term solution, with a conversion from a two-way to a four-way stop as a temporary measure.
  - In 2002 or 2003, after a series of accidents, the BOS decided to make the intersection a four-way stop. It also approved the principle of building a roundabout and identified the funding and planning costs for the Transportation Improvement Projects (TIP) list. With the project on the TIP, the design would be paid for locally but the construction would be paid for by the state.
  - In 2004, the BOS hired Greenman Pederson Inc. (GPI) to prepare a preliminary design. The BOS subsequently put a hold on the roundabout and asked the MVC to collect data and compare alternatives.
  - In May 2006, the MVC transportation staff completed an analysis of the options for the intersection including traffic lights and a roundabout.
  - In the summer of 2006, the BOS held three public hearings on possible solutions for intersection.
  - On Sept. 28, 2006, the BOS voted in favor of construction of the roundabout.
  - In 2009 or 2010 the BOS made an agreement with the Massachusetts Department of Transportation (MassDOT) whereby MassDOT would take over the project, doing both the design and construction. MassDOT kept GPI as the project designers.
  - On April 20, 2011 MassDOT held the 25% Design Public Hearing including an extensive presentation by GPI and public comment. After the hearing, MassDOT authorized GPI to complete the plans.
  - On June 26, 2011, the Oak Bluffs Town Meeting had a presentation by GPI and general discussion of the roundabout proposal in conjunction with a motion to accept temporary construction easements. The motion passes by a wide margin.
  - The 75% plans should be complete by the end of the summer, and MassDOT expects to advertise for public bids this coming November.

## **Discussion of the Proposal:**

- Doug Sederholm asked whether either of the roads are state roads and why the state would take over.
- Michael Dutton said both roads are town roads. Edgartown-Vineyard Haven Road was improved with State funds in 2004 or 2005. He guesses they recognized that it was a project that needed doing. The roundabout on Nantucket, funded by MassDOT, was just being completed and they presumably felt they could take advantage of that experience to move the Oak Bluffs project along.
- Doug Sederholm asked what power the town had or has to influence the project.
- Michael Dutton said that if Town Meeting had voted not to grant the easements this past June, Mass DOT would probably have backed out.
- Michael and Greg Coogan said that GPI presented the 25% plans at the public hearing on April 20, 2011 at the Oak Bluffs Library meeting room. John Diaz, project engineer at GPI, made a PowerPoint presentation that went through the safety, traffic, and other issues. There were maybe 25 people there. About 8-10 had some issues with the roundabout and 8-10 were there just for information. They thought the presentation allayed a lot of fears and that there was a sense of general approval.
- Doug Sederholm asked if there was a discussion of traffic flow and how it might affect other intersections. Greg Coogan said that with the two-way stop there was an issue with the traffic flow on Barnes Road. When they changed it to a four-way stop, it switched the backup to Edgartown-Vineyard Haven Road. The GPI presentation said that wait times and safety would both be improved with the roundabout.
- Mark London asked if there was anyone from other Boards of Selectmen in attendance. Greg Coogan said he did not think any other Selectmen were there, though there were a few citizens from other towns.
- Kathy Burton asked if the hearing was televised. Mark London said he did not think so.
- Pete Cabana asked whether a timed light was reviewed; he thought that might be an option. Fred Hancock said that question was asked repeatedly and the answer was that the intersection does not have the level of flow necessary to allow a stop light based on Federal Highway Administration criteria for funding. Mark Mauro added that the Manual of Uniform Traffic Control Devices (MUTCD) sets out requirements for a traffic signal and this intersection does not warrant one.
- Doug Sederholm said it was an important point but that it gets us into the territory of discussing the merits.
- Bill Venno said he was at the meeting as well and he heard someone raise the question the DRI question.
- Brian Smith asked if any studies looked at the impact on either end of Edgartown-Vineyard Haven Road. Michael Dutton confirmed that there was discussion about that. They said that it should not have a significant impact on those intersections.
- Mark London added that if the amount of traffic on the road remains the same, easing congestion at intersections along the road would not increase the flow at the ends, and so there should be no change to the congestion at the ends. If a road handles, say, 1000 cars an hour, the number does not increase regardless of how quickly they get through one or more intersection along the road. The one caveat is that if the roundabout improves the flow, it could make the Edgartown – Vineyard Haven Road a more attractive choice, which could increase the number of cars per hour; however, it is believed that this impact would be relatively limited.
- Fred Hancock said that the main point he got out of the April 20 presentation was that the roundabout would improve safety.

- Linda Sibley said she has had customers who have said they do not go through the four-way stop and would rather go the long way around to West Tisbury. It is ironic that if the roundabout improved flow, it might actually relieve West Tisbury of those people who go to such lengths to avoid the four-way stop.
- Michael Dutton said that the June 26, 2011 Town Meeting authorized the takings and easements necessary for the roundabout and MassDOT is scheduled to advertise the Request for Proposals (RFP) to construct the roundabout in November. He added that MassDOT has committed to not do any construction during the summer.
- Fred Hancock asked if there were any additional town approvals needed. Michael Dutton said he had not finished reviewing the zoning but he did not think so. MassDOT has the money to construct it.
- Michael Dutton said that whatever the MVC needs to do should be done soon.
- Mark London said that he recalls that the question about the roundabout being a DRI was raised several years ago, before the Oak Bluffs BOS approved it, but no town board of Oak Bluff or any Board of Selectmen from another town or the County ever sent it, so the issue of whether it would qualify or not was never settled.
- Michael Dutton said that the OB BOS reached out to the MVC in 2004 for guidance. Mark London said the MVC staff did traffic counts and a report. Staff also presented it to the Commission.
- Doug Sederholm asked if the only remaining approvals needed was with MassDOT. Michael Dutton said he thought so but it still remains to be confirmed that there are no local permits required.
- Linda Sibley suggested that in addition to permits he should also look into other approvals such as certificates, licenses, certifications, determinations, exemptions, variances, waivers or other approvals or determination of rights.
- Kathy Burton said that she was a bit worried about the finances at the state so she would be hesitant to okay an extension of the Discretionary Review timeline. She does not want to send the state a mixed message.
- Linda Sibley asked what the impediment of August 4 was. Chris Murphy said that West Tisbury was hesitant to go forward until Richard Knabel returns from off island, but he is due to return at the beginning of August.
- Linda Sibley said she thinks the roundabout has regional impact but that it should have been sent a couple of years ago.
- Brian Smith read portions of the West Tisbury referral letter out loud.
- Linda Sibley asked if they sent it because people are complaining or do they have regional concerns.
- Mike Mauro asked if the town had contacted anyone at District 5 at MassDOT about this referral. He added that the roundabout has been on the TIP for several years.
- Doug Sederholm noted that the Applicant has asked the MVC to proceed with the public hearing on August 4.
- Doug Sederholm asked whether LUPC should make a recommendation. Linda Sibley said she did not think we could make a recommendation without hearing the specific concerns of the West Tisbury BOS and holding the public hearing.
- Doug Sederholm said that the issue of whether a local permit is needed for the MVC to review a Discretionary Referral is an open question.
- Fred Hancock said the Commission should consider whether the project has regional impact but also whether it is reasonable to halt it at this point in the life of the project. Doug Sederholm agreed

that the question might not be whether it has regional impact but rather whether the project should be before the MVC as a DRI at this point in the program.

- Mark London said staff should gather more information, particularly on the chronology of meetings and approvals, and ask Commissioners what other information they would like to have.
- Camille Rose said that she doesn't think that people all over the Island follow proceedings in Oak Bluffs all that closely. Most people did not realize that this was a done deal.
- Fred Hancock said that he thought John Diaz from GPI did a great job explaining the advantages of the roundabout and that it would be helpful if he were at the August 4 public hearing.
- Chris Murphy said the Discretionary Referral process is clear. The MVC has to determine whether the project has regional impact or not.
- Brian Smith added that we need to establish if the MVC has jurisdiction.
- Christina Brown asked to clarify whether this is an Oak Bluffs project or a state project.
- Michael Dutton said the question never came up whether the project should be referred as a DRI. In 2004 the OB BOS looked to the MVC for guidance and he did not recall that it ever came up then.

Adjourned 7:08 p.m.