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## Martha's Vineyard Commission Land Use Planning Committee

### Notes of the Meeting of December 12, 2011

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

*MVC Commissioners Present: Christina Brown (Acting LUPC Chair); Chris Murphy; Fred Hancock; John Breckenridge; Brian Smith, Camille Road, and Ned Orleans.*

*MVC Staff Present: Paul Foley; Bill Veno; Sheri Caseau; and Mike Mauro*

#### Documents referred to during the meeting

- LUPC Agenda of December 12, 2011
- C.R. 6 – 2011 Bizarro/ABC Staff Report 2011-12-12
- DRI 77-M3 426 State Road/Sibley Staff Report 2011-12-12
- DRI 77-M3 426 State Road/Sibley Offers
- DRI 77-M3 426 State Road/Sibley revised Site Plan

#### **1. Bizarro/ABC (C.R. 6 - 2011) Concurrence Review**

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**Applicant:** Monte Bizarro and Christine Ewing (owners); ABC (tenant)

**Project Location:** Pine Hill Road off of Dr. Fisher Road, West Tisbury Map 21 Lot 12.1 (1.01 acres/43,995 sf). The property was the subject of a Form A that divided Lot 12 into 3 one-acre parcels.

**Proposal:** To clear and fence an additional 9,025 square feet (95' X 95') on a one-acre site to store dumpsters and roll-off containers of ABC Disposal Service.

**Purpose:** To review the project and decide whether or not to make a recommendation to the full Commission to concur or not to concur that this is a proposal that requires a public hearing review as a Development of Regional Impact.

Brian Smith excused himself from the table. He works for ABC Disposal Service and thought they are not the applicant they are the company who lease the space on the property and the company for whom the expansion is intended to be leased to. He did say he would answer any factual questions about the operations of ABC if asked.

#### **Introduction:**

- Paul Foley presented a staff report and slide presentation:
  - The proposal is to clear and fence (a 6' stockade fence) an additional 9,025 square feet (95' X 95') on a one-acre site to store dumpsters and roll-off containers of ABC Disposal Service similar to the portion of the lot already leased by ABC.
  - The existing fenced in area covers an area of approximately 19,000 sf. The total property is approximately 43,995 sf. With the new enclosure approximately 28,025 sf (19,000 + 9,025) would be within the stockade fences and 15,970 outside the fences.
  - The original owner of the property, Mr. Williams, did a Form A that divided Lot 12 into 3 one-acre parcels. That subdivision triggered the MVC DRI Checklist but was not sent to the

MVC. This property then was sold to Mr. Bizarro who parked trucks and containers in a fenced in area at the rear of the property. The access is off of Pine Hill Road. Other than the driveway the property has a 100 foot vegetative buffer along Pine Hill Road.

- Within the last few years Mr. Bizarro sold his business to ABC Disposal Service Inc. of New Bedford. ABC now leases that portion of the property from Mr. Bizarro who now also works for ABC. ABC stores empty garbage containers and 1 truck though allowed up to 7 trucks.
- In 2010 Big Sky Tents was approved with conditions to build a 9,600 sf building on the abutting lot which is the middle of the three one-acre lots of the original 3-acre parcel. One of the conditions was to create an easement so that Bizarro could exit through the Big Sky property to minimize the traffic on Pine Hill. Bizarro is not interested in using that easement, if it were to materialize. They want to use their own legal access off of Pine Hill Road.
- The property is now wholly within the Light-Industrial (L-I) District. When the L-I District was drawn a number of properties, including this one, were split between the L-I District and the Residential District. In 2000 the properties that were in both were incorporated into the L-I District. Several neighbors have questioned the re-zoning of the L-I District in 2000.
- The key concerns to be addressed are:
  - How long are the containers stored? How often are they retrieved?
  - Is this too much intensity of use for a property bordering a rural residential area?
  - How will Dr. Fisher Road and Pine Hill Road be impacted? Maintained?
  - Are the buffers along Pine Hill Roads sufficient?
- Christine Ewing said that 0 to 3 containers would be moved a day by truck. They cannot start before 6:00 am and they are back by 5:00 pm.
- John Breckenridge asked what the hours we placed on Big Sky were.
- Mike Mauro replied that Big Sky hours were limited to 7:00 am to 7:00 pm.
- John Breckenridge asked if ABC operated 7 days a week because he recalled that Big Sky was not 7 days a week.
- Christine Ewing replied yes, ABC operates 7 days a week. Currently their trucks are in Vineyard Haven. There is only one truck at this site though it is allowed up to 7.
- Christina Brown asked how many containers the site is limited to.
- Christine Ewing said that the number of containers is not limited. They could probably fit around fifty containers in there.
- John Breckenridge asked if they were cleaned out.
- Christine Ewing said that they are sanitized. There is no water on site and they are not allowed to clean them there nor are they allowed to have trash on site.. In the six years they have been there they have not had any issues with garbage smells.
- Christina Brown asked about the Big Sky easement.
- Christine Ewing said she had never heard about it until staff mentioned it. Monte has been filling his driveway with RAP. The West Tisbury Planning Board asked them to form a Road Association. Monte only uses a small strip of Pine Hill Road. Her understanding is that the Big Sky project is not happening so she doesn't know whether that easement exists or not.
- Brian Smith noted that six months ago the trip generation was about 30 trips a day. Now they only have one truck there and they would be moving 0-3 containers a day which results in a decrease in trip generation. They only have dead storage there now so there is much less activity.
- Fred Hancock said the proposal seems like a non-regional West Tisbury issue.
- Christina Brown said that the West Tisbury Site Plan Review would look at the same issues the MVC does.

- Chris Murphy thought otherwise. This is a small piece in a bigger puzzle. His opinion is that we should have dealt with this when the property was subdivided (Which triggered the DRI Checklist but was not sent). To him the question is how we can make this as good as possible. There could be a bigger buffer. The other issue is getting traffic off of Pine Hill Road. The whole point of protecting ancient ways was so that they were not covered in RAP. We wanted them to be old dirt roads. He thinks now is the time to make this right.
- Christine Ewing asked who is going to pay to move the gate and make the easement and what about the money they have already spent on the driveway.
- Christina Brown said that if Big Sky doesn't act then the easement dies.
- Christine Ewing asked why Peter Williams would pay for a road for Monte to use.
- Chris Murphy said in order to expand there ought to be some pay back. We need to know the legal status of that easement.
- Christine Ewing reiterated that the amount of traffic should be decreasing with the proposal.
- John Breckenridge asked if they would give up the right to have up to 7 trucks there.
- Christine Ewing said no.
- John pointed out that then the trip generation could easily go back up again.
- Christine Ewing said that the Pine Hill Road people were asked by the West Tisbury Planning Board to form a road association but she doesn't know what became of that.
- Fred Hancock said it seemed that this entails a decrease in trips generations and that is a decrease in intensity of use and he would like someone to state what the regional impact is.
- Chris Murphy said the increase is the expansion of the use of the land. The traffic is peripheral. This area has changed dramatically over the last 10 years. There are two ancient ways here that we are trying to protect.
- Ned Orleans said we need to know what is going on with Big Sky so that we can know what is happening with the easement.
- Christina Brown asked if the Big Sky project went ahead with the easement would Monte use it.
- Linda Sibley said that staff should help them craft an offer.
- The LUPC took a short break from this project and Christine Ewing tried to contact Peter Williams, the owner of the abutting property where an easement for a proposed project by Big Sky Tents was, and Monte Bizarro the owner of this property. She was not able to reach either one and the LUPC continued.
- Christine Ewing said she didn't think their proposal should be contingent on the property next door.
- Chris Murphy said we are trying to fix a problem that was created when this area was rezoned without planning the access accordingly.
- Ned Orleans asked what the regional impact is.
- Chris Murphy said that the ancient ways are a regional resource. We want to keep them as special and ancient as we can.
- **Fred Hancock made a Motion to recommend to the full Commission not to concur that this is a proposal that requires a public hearing review as a Development of Regional Impact. The Motion was duly seconded by Ned Orleans. The Motion passed 5-2 (FH, PC, NO, CR, CB voted not to concur while CM and JB voted to concur).**
- John Breckenridge added that he was not necessarily opposed but just wanted to make sure we had done our due diligence.

## **2. 426 State Road/ Sibley (DRI 77-M3) Modification Review**

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**Applicant:** Linda and Donald Sibley; Doug Hoehn (agent); Simon Bollin (Assistant Applicant).

**Project Location:** 426 State Road, Tisbury Map 22 Lot 8 (0.89 acres)

**Proposal:** To relocate Radio Shack from its current location on State Road and renovate and create a mixed-use building at 426 State Road in the building that formerly housed Vineyard Home Center.

**Purpose:** To review the project and decide whether or not to make a recommendation to the full Commission as to whether this is a significant change to the approved DRI requiring a public hearing review as a Development of Regional Impact.

### **Discussion:**

This was a continued LUPC from the previous Monday.

- Linda Sibley noted that last week she was told to make concrete offers, which she has done. She noted that the original DRI did not include the entire existing structure. The middle part of the building was approved by the MVC in 1977 but then the Town of Tisbury dropped out of the MVC for a few years and the front and back of the building were built. The modifications that she is proposing are to the previous use not to the original DRI. If she is sent back to the Town as a minor modification she understands that her current plan will become the "Plan" for this DRI and site going forward.
- She thinks the modifications that she is making are modest, they are proposing to make the building mixed-use and they are enclosing a portico. They are creating two affordable housing units for which they have offered to keep at the 80% AMI level and use the DCRHA and/or Morgan Woods lists for eligible tenants.
- Simon Bollin noted that they have been told by the Tisbury Building Inspector that if they were simply moving Vineyard Electronics into the 426 State Road site they could do that without referral to the MVC. The issue that triggers the DRI Referral is the creation of the affordable housing units which also incurs a lot of cost on the part of the Applicant. However, it is something that Linda wants to do even though she does not have to.
- Christina Brown noted that the Applicant had submitted specific offers that were actually more detailed than we often get at full DRI's. She asked if along with the offer of denitrifying the wastewater that would also include an Operation and Maintenance plan.
- Simon Bollin answered yes. He noted that the new nitrogen loading is less than the previous use. In terms of storm water runoff he said that they will be removing 13,000 sf of asphalt and replacing it with a pervious surface. They went out during a recent rain storm and inspected where the rain goes and found that it mostly stays on the site. Jerry Goodale has agreed to allow a bio-swale along the property line. There will also be a vegetative buffer along the border with Vineyard Home Center.
- Christina Brown noted that the parking plan will be reviewed by Tisbury Site Plan Review.
- Simon Bollin said that they thought they were only required to provide 26 parking spaces but Kenn Barwick said they would need 33 spots so that is what the plan shows. There was a discussion of whether the four spots at the very rear of the building were realistic. Simon said those would be for employees only and that they are removing a protuberance at the back of the building to facilitate circumnavigating the building if necessary. They do not expect much travel around the building but want it available if necessary. They will consider that as overflow parking. They can and will ask the Town for a reduction in parking but for now they wanted to show that they could fit the required amount of parking.

- Linda Sibley said that if she had to she would ask Jerry Goodale for an easement along the back of the property where it has been used historically by Vineyard Home Center and is not reachable by the Goodale property proper but is technically on the Goodale property.
- Bill Veno said there was a discrepancy in the staff report about trip generation that needed to be addressed.
- Simon Bollin reminded the commissioners of the offer to limit the total amount of trips per day to below 450; otherwise they would return to the MVC for review.
- The LUPC reviewed the offers. Pete Cabana asked if they were going to try for LEED status. Linda Sibley said no because they did not know what they would find once they opened the building up and did not want to make an unachievable offer. Pete Cabana suggested they talk to the Cape Light Compact about advice and rebates for efficiency.
- Christina Brown asked if they were going to use white cedar shingles. They are. Christina suggested they add that to the offers.
- ***Ned Orleans made a Motion to recommend to the full Commission that this is a significant change and requires a public hearing review as a DRI. Brian Smith duly seconded the Motion.***
- Christina Brown said the proposal is a change but the changes are aesthetic and improvements. She does not see them as regional impacts. The traffic should decrease, the nitrogen loading is expected to be less, and the appearance of the building and landscape will be improved. They have made elaborate offers and the modified plan will be recorded at the Registry of Deeds so this will become the plan of record.
- Ned Orleans said Vineyard Electronics is a significant merchant and he thinks the business will grow. He added that Linda as a member of the MVC should be scrutinized more than the average applicant.
- Chris Murphy said that it seems that any similar business could move in there and it would just be retail replacing retail. If you accept that the Vineyard Home Center was all retail then this will be less retail and therefore less impact.
- Fred Hancock said he agrees with Chris Murphy. He said it is similar to the Tisbury Farm Market that consolidated two existing businesses on State Road into one location.
- Pete Cabana said he agrees with Ned that because Linda is a commissioner we should scrutinize her project more.
- Brian Smith said that it looks like a similar operation as what was there before. We can't determine if they will be successful or not. He understands the concern with Linda being a commissioner but does not see why she should have an additional burden because she is a commissioner.
- Ned Orleans said that there is a political impact that we have to consider.
- Camille Rose said that she cannot agree that there is a change in use, retail is retail. The offers and proposed changes are all positive. She does not see a regional impact and she thinks we should apply our standards fairly. We should not discriminate against someone just because they are a commissioner.
- John Breckenridge said this looks like a positive project. There will be a decrease in intensity of use, less hardscape, less forklifts roaming the property and such. Politics aside this a better project and he does not see the regional impact.
- Chris Murphy said we should consider the point that Ned made about political fallout.
- John Breckenridge said that at the full Commission we should be clear about why this appears to be an improvement to the property.

- Christina Brown asked whether there were any time constraints. Simon Bollin replied that the seller is placing a time demand on the project. They are supposed to sign the P.N.S. on this Friday. There is also the fact that Vineyard Electronics lease in their current building is up on April 1. He noted that the Building Inspector said if they were just the Vineyard Electronics moving in they could do it tomorrow without making any changes. But they are adding apartments and de-nitrification and need time to get their permits and do the construction.
- ***Ned Orleans withdrew his Motion*** noting that he was persuaded that the political reason does not justify holding this project up, especially given the time constraints. Brian Smith withdrew the second.
- ***Fred Hancock made a Motion to recommend to the full Commission that this modification does not require a public hearing review as a DRI given that the project should result in less vehicular trips, less hardscape, aesthetic improvements, better landscaping and screening, two affordable housing units, and detailed offers. The Motion was duly seconded by Ned Orleans. The Motion passed unanimously (7-0)***

Adjourned 7:30 p.m.