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## Minutes of the Commission Meeting Held on December 14, 2017 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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Commissioners: (P= Present; A= Appointed; E= Elected)

P Gail Barmakian (A-Oak Bluffs)	P Michael Kim (A-Governor)
P Trip Barnes (E-Tisbury)	- Joan Malkin (A-Chilmark)
- Christina Brown (E-Edgartown)	P Katherine Newman (A-Aquinnah)
- Peter Connell (A-Governor; non-voting)	P Ben Robinson (A-Tisbury)
- Robert Doyle (E-Chilmark)	P Doug Sederholm (E-West Tisbury)
P Josh Goldstein (E-Tisbury)	- Linda Sibley (E-West Tisbury)
P Fred Hancock (E-Oak Bluffs)	P Ernie Thomas (A-West Tisbury)
- Leonard Jason (A-County)	P Richard Toole (E-Oak Bluffs)
- James Joyce (A-Edgartown)	P James Vercruysse (E-Aquinnah)

Staff: Adam Turner (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Planner), Sheri Caseau (Water Resources Planner), Christine Flynn (Economic Development and Affordable Housing Planner).

**Chairman James Vercruysse** called the meeting to order at 7:00 p.m.

### 1. ANNOUNCEMENTS

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Commissioners Present: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, M. Kim, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse.

**James Vercruysse**, Chairman, said the longest standing Commissioner, Leonard Jason, will be stepping down after almost 40 years. He has been a huge supporter of the Commission and will be missed.

**Adam Turner** said the event needs to be marked in some way, even though Lenny wouldn't want that. He and his contributions have been vital to the Commission. He has assisted Adam since he arrived at the MVC; his help was invaluable and greatly appreciated. Lenny told it the way he saw it. He is respected, trusted and will be irreplaceable. The entire Commission thanks him for his service and contributions.

**Fred Hancock** said he appreciated Lenny and his advice. His actions helped start the Commission in the early days. He thanked him for his help. The DCPCs and the Island Road District were the bedrock things that people wanted us to do. The Island needs to thank him.

**Trip Barnes** said everyone will miss him.

**Doug Sederholm** said it also needs to be noted that this is not the only thing that Lenny has done for the Island. He has been on numerous Committees and Commissions, as well as being the Building Inspector for Edgartown and Chilmark. He has probably given as much to the Island as anyone.

## **2. AIRPORT GAS STATION-EDGARTOWN DRI 441-M3 PUBLIC HEARING**

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*Commissioners Present: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, M. Kim, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse.*

*For the Applicant: Sean Murphy (Attorney & Agent), Louis Paciello (Owner), Ron Fortune*

**James Vercruysse**, Public Hearing Officer, opened the Public Hearing and read the Public Hearing Notice. The applicant is Depot Corner Inc., Louis Paciello (Owner) and Sean Murphy (Attorney and Agent). The location is 3 North Line Road, Edgartown Lot 33 in the Airport Business Park. The proposal is to construct and operate a retail gas station with a convenience store and a carwash at 3 North Line Road in the Martha's Vineyard Airport Business Park at the same location that Airport Mobil had operated.

### **2.1 Staff Report**

**Paul Foley** presented the following:

- The Staff Report includes the applicant's narrative, plans that were revised on December 6, 2017, and correspondence.
- The project is in the B-III Light Industrial and Service District at the MV Airport; which "is intended to provide a location for commercial activities such as light industry, storage, services and trades which are essential to the Island but which may not be appropriate in residential districts or other Island business districts..."
- Carwashes are not specifically allowed in Section 10.A.1, but may be inferred under Section 10.V.2 Service Businesses: auto or truck service such as repair, lubrication, body shop.
- Required permits are: Building Permit; Underground Storage Tank (UST) permit from the Town; Food Service Permit from the Board of Health. The applicant has submitted the following State permits that will be required: Underground Storage Tank (UST) permit from DEP; Self-Serve permit from the State Fire Marshal.
- The Airport Service Station (DRI 441) was approved with conditions by the MVC in January 1997.
- In 2008, the MVC voted on a proposal to add a 10 foot by 14 foot mechanical room to the carwash to house a waste oil heater, which was determined to be an insignificant change based on the agreement that the applicant would submit a completed groundwater monitoring plan for review and approval by the LUPC. The plan required that both the up and down grade wells be sampled, with reporting time limits, and what follow up would be required if they get a hit.
- The groundwater monitoring plan was eventually received, reviewed and approved by the LUPC on February 23, 2009. The current applicant has offered to abide by the 2009 plan.
- The site plan was reviewed.
- The project is in the Airport Business Park. The land is leased, not owned.
- The site plan was revised on December 6, 2017 with the carwash moved in from the property line and the "escape" lane now running between the carwash building and the property line. The convenience store is now slightly smaller at 2,275 sf and the building is now 2,435 sf with the carwash equipment room in it. There are 12 parking spaces instead of 13.
- The fuel operation would consist of four pump islands with eight gas dispensers located under a 24 ft x 98 ft (2,352 sf) solar canopy with both gasoline and diesel pumps at all four pump islands.
- There would be a 2,435 sf convenience store building with an attendant area, manager's office, two public handicap accessible bathrooms, and a carwash equipment room.
- The plan does not include an oil change operation.
- The applicant has submitted the following offers:
  - The applicant will provide a lighting plan and landscape plan for approval by the Martha's Vineyard Commission LUPC prior to receipt of a Certificate of Occupancy.



- The applicant will comply with the Revised Groundwater Monitoring Plan dated February 17, 2009.
- The applicant will make the recommended affordable housing contribution to the Dukes County Regional Housing Authority.
- Key Issues include:
  - Can the DEP UST permit for the previous owner be used or renewed by the new owner?
  - If not, have the rules for locating Underground Storage Tanks for fuel changed since the original airport gas station was built in 1997?
  - How can the MVC best ensure that there are no releases or spills of toxic chemicals such as petroleum, hydrocarbons, Volatile Organic Compounds (VOCs), detergents, nitrates, ammonia, chloride, etc.?
  - How would the noise and dust from the construction process be mitigated, so as not to negatively impact the surrounding businesses?
  - What is the construction schedule?
- The revised site plan of December 6, 2017 was reviewed.
- The site has been cleared.
- The LUPC voted that the proposal does not require a traffic study.
- The following correspondence was received:
  - Joe Forns (a paid consultant for the previous owner) has written noting that the Martha's Vineyard Regional Aquifer is a sole source Aquifer, and that the site is within the impaired Oyster Pond Watershed and within an Interim Wellhead Protection Area.
  - Dawn Horter of Cappaccio Environmental Engineering (a paid consultant for the previous owner) who reviewed the decommissioning of the previous gas station, has written noting that the sole source aquifer, if contaminated, would create a significant hazard to public health and that there are specific criteria under MassDEP Drinking Water Regulations, 310 CMR 22.00, that may apply to the redevelopment of this property, as it would relate to the installation of a fuel distribution facility and lists several other requirements that DEP will require.
  - Michael L. Mahoney (Counsel for the previous owner) has written that "All permits, licenses, regulatory and governmental approvals obtained and maintained by AFS for the installation, operation, and maintenance of underground storage tanks (UST) have been terminated, voided and otherwise closed out..."
- The MVC sent the information from Michael L. Mahoney to the applicant's lawyer who said they are aware of this information and will abide by all regulations.

**Josh Goldstein** said this application seems the same as the Oak Bluffs Town Hall; it was a Town Hall and will be a Town Hall. This was a gas station that will be a gas station. Why is there a hearing?

**Doug Sederholm** said it is a mandatory trigger because it is a gas station.

**Paul Foley** said the project triggered three mandatory triggers.

**James Vercruyse** said more information about the wells was needed.

## **2.2 Applicants' Presentation**

**Sean Murphy** presented the following:

- The project will still be a gas station.
- The proposed hours are the same as they were prior: 7:00 a.m. to 10:00 p.m. in season, and 7:00 a.m. to 8:00 p.m. in the off season.
- The applicant would have liked to take over what was there, but a clean slate allows him to do what he wants.

- With all of the landscape and construction business on island now, there are much larger sets of vehicles and the new design allows for an easier flow of those vehicles.
- There would be gas and diesel at each pump for more efficiency.
- The revised site plan was reviewed showing the changed escape lane and the flow from the carwash to the gas islands.
- The proposal includes solar panels on the canopies.
- The project needs to meet the State Fire Marshal requirements.
- The carwash would reclaim 60% of the water. The reclaimed water will go to a container through a grit separator. The balance goes to the Airport wastewater system.
- The project is in a Zone II and the wellhead protection area.
- All of the water at the Airport comes from Oak Bluffs.
- The wastewater for the facility and the carwash (that is not reclaimed) goes into the Airport wastewater system.
- All of the soaps would be biodegradable. There is no waste, and it would all be contained.
- The convenience store is just that, it would be 2,275 sf and there is no food preparation on the premises.
- The LUPC voted that the project does not need a traffic study.
- The new plan would help alleviate traffic since it is located at the Airport Business Park.
- The Island needs a gas station at this location. It is a central location.
- The elevations were reviewed. The proposed materials are cedar shingles and asphalt roof.
- The drainage system is more detailed than any other project he has worked on.

**Ron Fortune** presented the following about the Groundwater Monitoring System:

- He has been working in the consulting and design industry for 30 years.
- The proposal calls for double wall tanks.
- The industry is heavily regulated and dictates what will be installed.
- The piping is an entirely closed and monitored system.
- There is a sealed container for each of the pumps.
- A total monitoring system would be installed in the building; it is called a TLS350 for total monitoring and alarming, and is governed through the regulation body.
- The pickup points of the catch basins were shown for stormwater.
- The catch basins have a down turned pipe and a seal so any spill or contaminant can be cleaned up easily.
- There are two components for the grease traps that are designed for a 25 year storm.
- The infiltration bed was shown and reviewed.
- There is a center area with collection areas, and per the storm water regulations all storm water will be contained within this facility.
- There is a groove system, so if there was a small spill it would prevent the spill from leaving the area.
- The permit is a package sent to the State Fire Marshal after it is signed off from the local Fire Marshal.

### **2.3 Commissioner's Discussion**

**Doug Sederholm** asked what percentage of the gas station visits were handled by this location. Is that information available? **Sean Murphy** said he did not know.

**Gail Barmakian** asked which watershed the project is in. **Paul Foley** said the Oyster Pond Watershed.



**Ernie Thomas** asked if the gas pumps would be self-service. **Sean Murphy** said they would be, and it requires a special permit from the State Fire Marshal. This project requires a lot of permits. This is one of the most regulated industries in the State.

**Gail Barmakian** asked if DEP and EPA permits would be required. **Sean Murphy** said a permit from DEP for the underground tank(s) and groundwater was needed.

**James Vercruysse** asked how many fuel deliveries there would be per month. **Lou Paciello** said in the summer there might be daily deliveries, and in the off season three to four days per week. The deliveries are one truck that contains 12,000 gallons.

**Fred Hancock** asked if there were chemicals in the fire suppression system. **Ron Fortune** said Carbon Dioxide.

**Richard Toole** said all the water would be contained on site, and asked what happens to it from there. **Ron Fortune** said the infiltration system takes the water and it goes into the ground and is treated with vortex units designed to extract.

**Ben Robinson** asked if there would be a guttering system for the roof runoff. **Ron Fortune** said there would be, they were not drawn on the plans, but he showed how it would flow to the water collection system.

**Gail Barmakian** asked where the water would go with the infiltration system and what the composition of the water would be. **Sean Murphy** said the reclaimed carwash water would stay in the carwash. **Ron Fortune** said he does not have the water composition information.

**Doug Sederholm** asked about the storage capacity of other facilities on the Island. **Lou Paciello** said Depot Corner is 20,000 gallons and Edgartown Mobil is 28,000 gallons.

**Ben Robinson** said the applicant mentioned the building would be cedar shingles with an asphalt roof, and asked what the trim would be. **Sean Murphy** said there would be no PVC.

**Katherine Newman** asked what the lighting would be. **Sean Murphy** said the applicant will submit a formal lighting plan to the LUPC. All of the lighting will be turned off when the facility is closed. FAA and MV Airport approval for the lighting is also required, so it will be submitted to the LUPC once it has gotten their approval.

**James Vercruysse** asked if FAA approval was needed for the solar panels. **Sean Murphy** said the FAA has to technically approve the solar panels, but the proposed panels are allowed by the FAA because they don't reflect. Everything needs approval from the MV Airport.

**Bill Veno** asked how the clearance of the canopy of the proposed project compared to the canopy at Depot Corners. **Sean Murphy** said the clearance is 14'6".

**Bill Veno** asked if they could compare the proposed square footage to Depot Corner or Mobil. **Lou Paciello** and **Sean Murphy** said it is probably about the same as the Mobil.

**Trip Barnes** asked if there would be a second floor or a basement. **Sean Murphy** said no.

#### **2.4 Applicant's Closing Statement**

**Sean Murphy** said a lighting and landscape plan will be submitted to the LUPC for approval. The groundwater monitoring plan will comply with the gas station that was there, or whatever MVC Staff/Sheri Caseau thinks is required. There will be a small affordable housing contribution. The Edgartown Board of Health approval is needed for removal of grit from the carwash, and the applicants will coordinate with the Board of Health on what is appropriate.

**James Vercruysse** asked if the applicant would testify to use wood trim on the building. **Sean Murphy** said they would use wood trim.

**James Vercruysse**, Public Hearing Officer, closed the Public Hearing.

There was a discussion about going directly to Deliberation and Decision.

- **Doug Sederholm** did not feel that the application required a Post Public Hearing LUPC meeting.
- **Josh Goldstein** agreed with Doug Sederholm.
- **James Vercruysse** said there was testimony that the proposal might be in a well contribution zone.
- **Sean Murphy** said it is a highly regulated area, and needs to meet DEP requirements.
- **Doug Sederholm** agreed that it is highly regulated area, and suggested letting the other agencies handle it.
- **Bill Veno** said the applicant would still need to wait for the written MVC decision.
- **Fred Hancock** agreed with Doug Sederholm, and suggested that the meeting continue with the other business tonight, and then come back to deliberate this issue.
- **Paul Foley** said the MVC does not have a quorum for the Chappy Cell Tower. The eligible Commissioners are: T. Barnes, G. Barmakian, J. Goldstein, F. Hancock, J. Joyce, B. Robinson, D. Sederholm, E. Thomas, J. Vercruysse.
- **Gail Barmakian** said with regards to the consultant's letter, she does not know what the DEP regulations are and how it affects the watershed.
- **Fred Hancock** said in his letter he was addressing the carry over permits, and this applicant is applying for all new permits.

***Fred Hancock moved and it was duly seconded to bypass the Post Public Hearing LUPC and go directly to Deliberation and Decision. Voice vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.***

## **2.5 Deliberation and Decision**

### **Benefits**

Wastewater and Groundwater: The wastewater will be treated with a state of the art system and the applicant will be dealing with the water from the car wash more responsibly.

Persons and Property: There will be more pumps and it will be a faster service. The project will offer more gas availability. It has a better design for trucks and they are less likely to back up into the street.

Low and Moderate Income Housing: The applicant is making a generous donation of more than they need to.

Impact on Services and Burden on Taxpayers: The Town would receive more property tax, and there would also be the gas tax.

Consistency with/and Ability to Achieve Town, Regional, State Plans and Objectives: The project meets the Town and regional plans.

### **Neutral**

Appropriateness/ Essential in View of the Alternatives: There was a gas station on this site, so there would be no change in use.

Open Space and Habitat: It does not apply because the development is in a business park.

Night Lighting and Noise: There would be no change, and it is in a business park at the airport.

Character and Identity: The project is in a business park and it looks like a gas station. Vegetation will be left on the next lot.



Use Efficiently or Unduly Burden Other Public Facilities: It will have no effect.

Conforms to Zoning: The project conforms to the Town Zoning.

Conforms to DCPC Regulations: The project is not located in a DCPC.

***Fred Hancock moved and it was duly seconded to approve the proposal noting in the offers that the elements to come back to LUPC for final approval are the lighting, landscaping, groundwater monitoring plan and the contribution to the Dukes County Regional Housing Authority to be done prior to the Certificate of Occupancy, and the applicant agrees to put wood trim on the building. Roll call vote. In favor: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse. Opposed: none. Abstentions: none. The motion passed.***

### **3. CHAPPY PERMANENT TOWER-EDGARTOWN DRI 662-M DELIBERATION AND DECISION**

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Commissioners Present: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, M. Kim, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse.

**James Vercruysse**, Chairman, said Deliberation and Decision has been postponed as the Commission did not have a quorum present.

**Adam Turner** noted that the MVC needs to meet next week because the appointed Commissioners may be different in 2018. The tentative schedule is for a meeting on December 21, 2017 at 7:30 p.m., or January 4, 2018 based on the availability of a quorum.

### **4. MINUTES**

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Commissioners Present: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, M. Kim, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse.

**Josh Goldstein moved and it was duly seconded to approve the minutes of October 19, 2017 as written.**

- **Paul Foley** noted a typo on line 243, it should be Jim Carter.

**Josh Goldstein amended his motion and it was duly seconded to approve the minutes of October 19, 2017 as amended. Voice vote. In favor: 8. Opposed: 0. Abstentions: 2 The motion passed.**

**Josh Goldstein moved and it was duly seconded to approve the minutes of November 2, 2017 as written. Voice vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.**

**Josh Goldstein moved and it was duly seconded to approve the minutes of November 30, 2017 as written. Voice vote. In favor: 9. Opposed: 0. Abstentions: 1. The motion passed.**

### **5 NEW BUSINESS**

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Commissioners Present: G. Barmakian, T. Barnes, J. Goldstein, F. Hancock, M. Kim, K. Newman, B. Robinson, D. Sederholm, E. Thomas, R. Toole, J. Vercruysse.

#### **5.1 Reports from Committees and/or Staff**

##### Nomination of Officers

**James Vercruysse** nominated the following: James Vercruysse, Chairman; Robert Doyle, Vice Chairman. Ernie Thomas, Treasurer. He asked for any nominations from the floor.

**Fred Hancock moved and it was duly seconded to approve the slate of officers. Voice vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion passed.**

## 5.2 Executive Director Report

**Adam Turner** presented the following:

- MVC Staff has been working on nitrogen removal and wastewater for a long time and thought that the Island was out of the EPA and funding mechanisms. With the help of Gail Barmakian, the EPA came in October and looked at what has been going on and what we are doing with shellfish and testing. We have now been invited to be part of their Steering Committee. He thanked everyone who has worked hard on this, and said we are now receiving the results of that hard work.
- A grant was received to continue the work on the HPPs (Housing Production Plans).
- The MVC is a part of the Maker Space program that helps artists and professionals find space for them to use. It is part of Economic Development, and Chris Flynn will be working on this.
- In January 2018, we will begin work on the Island Plan. We need to do a lot more with it and get items implemented. It has been 8 years since it was approved.


**Doug Sederholm** reminded any Commissioner that is appointed or re-appointed that they need to be sworn in for the New Year.

**Fred Hancock** asked if there was a tentative schedule for January 2018. **Adam Turner** said yes, and the Extended Schedule will show what is being proposed. The Chappy Permanent Tower is the only item to carry over.

The meeting was adjourned at 8:15 p.m.

## DOCUMENTS REFERRED TO DURING THE MEETING

- Minutes of the Commission Meeting – Draft, Held on October 19, 2017
- Minutes of the Commission Meeting – Draft, Held on November 2, 2017
- Minutes of the Commission Meeting – Draft, Held on November 30, 2017
- Martha's Vineyard Commission DRI # 441-M3 Airport Gas Station MVC Staff Report 2017-12-14
- DRI 441-M3 Airport Gas Station Correspondence Received as of December 14, 2017 at 5:00 PM
- DRI 441-M3 Airport Gas Station Applicant Narrative from McCarron, Murphy & Vukota, LLP Dated December 11, 2017
- DRI 441-M3 Airport Gas Station Revised Plan 12/6/2017

  
Chairman

3.29.18  
Date

  
Clerk-Treasurer

4-10-2018  
Date