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Minutes of the Meeting of December 2, 2004

Held in the Olde Stone Building, 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: James Athearn (Elected – Edgartown), John Best (Elected – Tisbury), John Breckenridge (Appointed – Oak Bluffs), Christina Brown (Elected – Edgartown), Linda DeWitt (Appointed - Edgartown), Jane Greene (Appointed – Chilmark), Ned Orleans (Appointed - Tisbury), Megan Ottens-Sargent (Elected – Aquinnah), D. Sederholm (Elected - Chilmark), Linda Sibley (Elected - West Tisbury), Richard Toole (Elected-Oak Bluffs), Andrew Woodruff (Elected – West Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Jo-Ann Taylor (DRI Coordinator), Paul Foley (DRI Analyst), Srinivas Sattoor (Traffic Planner)

There being a quorum present, Jim Athearn, Chair, called the meeting to order at 7:39 p.m.

1. CARROLL TRUCKING SUBDIVISION: DRI 532-M1 – CONCURRENCE REVIEW

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

Paul Foley gave the staff report:

- The Carrolls want to carve off an acre of their six-acre parcel to create two ½-acre house lots.
- The property was a DRI and so is a mandatory DRI referral back to the Commission.
- Abutter Thomas Pachico is also subdividing and doesn't need to come before the Commission; Pachico and the Carrolls will share a road going to their new lots.
- The Carrolls complied with the conditions of their 2001 DRI approval.
- LUPC recommended that this does not require further review by the Commission or the public and that the Commission not concur with the referral.

John Best said that LUPC had wanted to hear from Bill Wilcox about wastewater issues.

Megan Ottens-Sargent asked whether the Planning Board would review the subdivision.
Christina Brown responded that Planning Board review is triggered because the subdivision requires a new road.

Megan Ottens-Sargent asked whether the Commission needs to consider issues of density. **John Best** noted the Carrolls' property fits the zoning requirements for subdivision and sharing the road may make the Pachico property – which is not under Commission review – subdividable.

Linda Sibley said she felt the Planning Board would review the issues and the Commission did not need to.

Linda Sibley moved and it was duly seconded to not concur that this is a DRI. A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley asked whether this portion of the Carrolls' property would cease to be a DRI and suggested that the Commission's lawyer be asked whether the subdivided lots would continue to be considered DRIs.

2. 4 CAUSEWAY ROAD: DRI NO. 574-2 – APPROVAL

Commissioners Present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley

For the Applicant: Gerald Sullivan, owner

Ned Orleans moved and it was duly seconded to approve the application for DRI No. 574-2 with conditions.

2.1 LUPC Report

Christina Brown gave the LUPC report:

- Comprehensive staff notes were provided to Commissioners.
- LUPC recommended approval of the project in its final version, subject to the offers of the applicant that were accepted and a number of conditions.
- Conditions were written related to use of fertilizers, hay bales for sedimentation control, and maintenance of landscaping.

2.2 Offers

Christina Brown read the applicant's offers:

1. As offered by the Applicant, all residential units on the property shall be rented on a year 'round basis only, for a period of ten years from the date(s) of the certificate(s) of occupancy.
2. As offered by the Applicant, the existing three-bedroom residence (presently used as an office) shall be rented on a year 'round basis at a reasonable rate for a period of ten years from the date of its availability for residence. A reasonable rate shall be defined as no more than \$1,600 in 2004, to be adjusted for inflation (determined by referring to the change in HUD Media Family Income Limits for Dukes County, for a household size of four individuals at 100% of median income). The Applicant shall make every effort to rent the residence to a municipal employee such as a teacher. In the event that the tenant of the existing building elects to remain housed there for office space, the building proposed to house office number ten (10) shall be rented as a two-bedroom residence in a like manner.

3. As offered by the Applicant, a Cultural Resource Monitor representing the Wampanoag Tribe of Gay Head Aquinnah will be allowed to monitor the excavation phases of the project, in order to best protect any burial site(s) that may be encountered.
4. As offered by the Applicant, in order to soften the visual impacts of the project as seen from the public access to War Veterans Memorial Park, a certified arborist will be consulted regarding excavation and construction in the near vicinity of several large trees at the far end of the property, in order to maximize their potential for survival. In the event that one or more of these trees does not survive with at least fifty percent (50% of its pre-excavation canopy after five years, the Applicant shall replant one or more effective replacement trees of at least two-inch (2") caliper. In the event of any significant change in the use or site context of the park (e.g. construction of an access road through, or parking lot in, the park), the Applicant may come before the Commission to request a change in this provision.
5. As offered by the Applicant, trim paint shall be maintained in soft white.
6. As offered by the Applicant, exterior lighting shall be limited to those shown on the lighting plan and shall incorporate down-lighting and motion detectors unless prohibited by law.
7. As offered by the Applicant, the abutter to the east will be consulted regarding selection of appropriate arboreal screening between the properties.
8. As offered by the Applicant, a stop sign and stop line will be placed at the site driveway. Construction will be performed during the off-season. Users and especially employees of the project will be actively encouraged to use alternate modes of transportation during peak season, particularly the Park'n'Ride and bicycles.
9. All other offers in the documents constituting the Plan, as well as offers in the oral testimony at the public hearing, are accepted and become part of the Plan as herein conditioned.

Jane Greene said she is concerned that the \$1,600 is more than fair market rent for a 3-bedroom unit. She said there is no provision stating that if the residence is only a 2-bedroom, the rent would be reduced accordingly.

John Best said that the Commission and Mr. Sullivan had agreed that the rent would be adjusted accordingly for a smaller unit.

Christine Flynn explained how fair market value is calculated.

Mark London said \$1,600 represents 30% of the median income. **Jane Greene** said she believes the rent is high given that it does not include heat and electricity. **Christina Brown** said that the Commission has traditionally looked at Island rents differently than HUD might.

Megan Ottens-Sargent asked whether the Commission should entertain a condition related to the ten-year requirement to rent on a year-round basis.

James Athearn said a reasonable affordable housing contribution is a reduced rent for a year-round residence for ten years. **Linda Sibley** concurred and felt the Commission shouldn't revise the offer.

John Best moved, and it was duly seconded that, the Commission accepts the applicants offers, with the conditions specified on page four.

Conditions state:

- All fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides, including herbicides, fungicides and insecticides, shall be used in the maintenance of landscaping.
- Hay bales, and/or any such erosion and sedimentation controls as may be required by the Tisbury Conservation Commission in an Order of Conditions, shall be utilized during excavation and construction phases, to minimize erosion and sedimentation impacts downslope and to the south of the project site.
- Landscaping shall be maintained in accordance with the landscaping plan.

Christina Brown read written comments from **Kathy Newman** who was unable to attend the meeting:

- The Commission has to balance the impact of projects on various aspects of the Island.
- In this project Mr. Sullivan and Ms. Fitzgerald should be applauded for their efforts to work within the Commission process, adjusting and adapting to local voices as the project unfolded.

Linda DeWitt asked whether the Commission has ever had to enforce landscaping conditions.

Jane Greene said it had. **James Athearn** said the Commission doesn't have enforcement capabilities; **Doug Sederholm** added that the Commission has injunctive power but it is a cumbersome and expensive process.

Doug Sederholm said he is concerned that none of the residential units are guaranteed to stay residential beyond ten years. He said the 3-bedroom residence is under a "sunset" provision, only guaranteed to be residential for ten years. He said he'd like to see it in perpetuity, although he's not sure the Commission would support that position.

James Athearn said he believed that the ten-year provision is related to year-round rental and the 3-bedroom house will remain residential beyond ten years; **Doug Sederholm** said the offer does not state that. The application may state that a residential space is part of the project but the offers and conditions do not clearly state that.

Linda Sibley suggested a condition that states that the Commission recognizes the offer that at least one 3-bedroom or one 2-bedroom will be part of the complex.

Bill Veno said, referring to the minutes of the applicant's presentation, there were three alternatives presented, all of which included a residence.

Doug Sederholm moved, and it was duly seconded, to amend the motion of Mr. Best and add the condition that there shall always be either a 3-bedroom residential unit or a 2-bedroom unit on the property.

John Best asked whether this precludes a family member from occupying the residence.

Linda Sibley suggested, and **Doug Sederholm** concurred, adding the statement that conversion of the 3 or 2-bedroom residential unit would require the owner to come before the Commission.

A voice vote was taken. In favor: 9. Opposed: 0. Abstentions: 0. The motion passed.

2.3 Benefits and Detriments

James Athearn explained that LUPC reviewed the benefits and detriments. The application has been discussed quite a lot; the applicant has made changes in response to discussion.

- Wastewater and groundwater has been discussed.
- Night light and noise are not likely to be a problem.
- Habitat is not much affected.
- Scenic values are affected.
- Character and identity are affected; the applicant has responded to concerns.

Christina Brown said that a benefit of the development of this property goes along with "Smart Growth" principles for in-fill commercial development. The proposal is for office space development within walking distance of the present compact downtown while leaving some green space.

Linda DeWitt said a benefit is that the plan is for a mix of commercial and residential uses.

Megan Ottens-Sargent said that a benefit is the mixed use, some of the lot will remain open space, and it won't be black-top.

Linda Sibley said the architect and applicant did a great job of redesigning the look of the project, which was one of the major concerns of neighbors. The Commission needs to acknowledge that the additional traffic is a detriment.

Megan Ottens-Sargent said that the lot's corner location is a good one for a project such as this and the corner allows options for traffic.

A roll call vote was taken. In favor: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley.

Opposed: None. Abstentions: None. The motion passed.

James Athearn thanked Mr. Sullivan for his patience and hard work.

3. ELECTION OF OFFICERS

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

John Best reported that the nominating committee met and developed the following slate: Linda Sibley, Chair; Doug Sederholm, Vice-Chair; Jane Greene, Treasurer.

James Athearn opened the floor for further nominations of officers.

Christina Brown thanked the nominees for being willing and dedicated. **James Athearn** thanked the nominating committee for its work.

James Athearn said, there being no nominations from the floor, he would accept the slate.

Linda DeWitt said she hadn't known James Athearn had declined the nomination for chair and she wanted to say that she would have supported him. **James Athearn** said that being chair has been a privilege and often a pleasure and he looks forward to Linda's leadership.

4. WINDFARM

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

Commissioners received a 26-page draft Executive Summary of the Draft Environmental Impact Statement from the Army Corps of Engineers and a copy of Frequently Asked Questions. **Mark London** said he deadline for written comments was extended beyond January 10th forty-five days to February 24.

5. PLANNING PROCESS

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

Mark London explained his proposal for the next phase of Island-wide planning:

- Fifteen years after the first Island-wide planning, this proposal would re-focus on where we're going, are we happy with where we're going, and, if we're not happy with where we're going, are there changes we should make now to end up where we want to be.
- The proposal is a hybrid of comprehensive and strategic planning programs: comprehensive in looking at development, creating affordable housing, while minimizing negative impacts on traffic, wastewater, and preservation of open space; strategic in that it would prioritize critical issues such as affordable housing, water quality, and perhaps transportation.
- To sustain momentum and public involvement, planning would not be spread over too long a time period. The first six to nine months would be for preparation, pulling together existing information and documenting new information and not directly involve the public.
- The main public part of the process would be pulling together goals, objectives and policies that are in place and using those as a springboard to begin action-oriented work.
- Fall '05 and winter/spring '06 would focus on goals, objectives, and policies, and then developing action plans for the topics that would probably be affordable housing and water quality.
- The overview is growth, including land use and development. Components might include be housing, economic development, open space and recreation, cultural resources, scenic values, historic preservation, water quality, wastewater, drinking water, transportation, public services and infrastructure, including facilities such as school and hospital, taxes, solid waste and emergency planning.

James Athearn asked about infrastructure in terms of supermarkets and auto repair shops, for instance, and the island reaching the threshold point. As the population rises, would that enable places like Walmart or McDonalds to make inroads. **Mark London** said that with limited land, some marginal businesses may be pushed out, requiring Vineyarders to obtain those services off-Island.

Mark London continued that the plan outlines the products of the planning process:

- Background documents on each of the topics by the end of the summer, outlining, among other things, historic context, past trends, future, trends, and identify issues.
- Technical studies.
- Continued development of models for traffic and water quality to use, for instance, in impact projections.
- Revision of comprehensive policy plan.
- Strategic action plans for each of the areas.
- Revision of Commission guidelines.

The plan proposes:

- The process be overseen by a steering committee.
- A small task force be set up for each of the topics.
- Sub-committees, such as those already in place, revise Commission guidelines.
- Existing knowledge be tapped into.

Techniques are listed to gain broad public participation.

Budget implications would be for contracting out specialized studies, summer intern wages, printing, advertisement, videotaping and preparation of documents. **Mark London** suggested \$120,000 for two additional full-time staff for FY2006 funded 1/3 from grants, 1/3 from private contributions, and 1/3 from towns. Assessments for towns would show a line item for three years; the basic budget for next year will increase about 2.5%. \$40,000 distributed among the six towns would raise assessments an additional 2%.

Ned Orleans asked how 'priority' was determined. **Mark London** explained the way he assessed the urgency of exploring and addressing island issues. His assessment shows housing and water quality are the most urgent topics.

John Breckenridge asked whether staff for compilation work is funded to begin before FY2006 or FY2007. **Mark London** suggested that some of the sorting and organizing work might be done by a summer intern. Updating and completing the work could be done by staff, theoretically funded in FY2006 through the proposed budget. In practice, grants and fundraising might fund the position sooner.

Ned Orleans suggested differentiating between fiscal year and calendar year.

Linda Sibley suggested that the wording read 2/3 of the \$120,000 should be from grants and fundraising combined.

Linda DeWitt asked whether the Commission has staff to do fundraising. **Mark London** said fundraising can be grueling and he would hope that a small number of people would donate larger amounts.

Mimi Davisson [commissioner elect from Oak Bluffs] commented that she was glad to see that the assessment amounts in the first year are modest. She urged the Commission to have a deliverable product after the first year to help the public understand the importance of the planning process.

James Athearn commented on the exciting aspect of the process and said he's hoping that the Commission and other participants will be doing important work.

Ned Orleans asked how Mark London would respond to a town board member asking 'what's the benefit for our town?'

Mark London said he would like to discuss with Commission the ways to talk with selectmen in a more methodical way, including whether there is a downside to the process. The Commission would have to assure towns that they would not be bound to make changes they didn't want to make. He believes everyone on the Island will benefit from the process of analysis and from having an identified direction. He would like to meet with each Board of Selectmen to present the plan.

Linda Sibley said she would also like to be able to present to boards of selectmen the new information/analysis that the Commission could provide. Of particular interest is objective information on the economy.

Jane Greene said she feels that if the Commission doesn't do the economic analysis first then there's no point in doing the planning. It's imperative that planners know where the Island will be in 10 to 20 years.

Ned Orleans asked whether Mark London would consider developing "optional" plans for policies. **Mark London** said the idea is to present tools for planning, but ultimately towns would be making their own decisions.

Mark London said the process is to present the plan; staff could begin the first studies, apply for grants, and figure out how to go about fundraising and gain private sector involvement.

James Athearn suggested that this be an agenda item each meeting.

Mark London said he would like feedback on the proposal.

Christina Brown moved and it was duly seconded that the Commission endorse the concept of this planning program as laid out and proceed with presenting the plan to Boards of Selectmen and Finance Committees as part of the budget process.

Megan Ottens-Sargent asked for confirmation that the Commission would be examining and revising the proposal after further discussion during the month of December.

A voice vote was taken. In favor: 12. Opposed: 0. Abstentions: 0. The motion passed.

Linda Sibley said that it would be important to present the proposal personally to boards and stay focused on the exciting aspects of it. **Ned Orleans** said it would be important to plan a specific presentation on the proposal.

5. OTHER

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, D. Sederholm, L. Sibley, R. Toole, A. Woodruff

5.1 Correspondence

Bill Veno handed out correspondence from Ann Holister related to overall Island development.

5.2 Committees

Jim Athearn suggested that the DRI review committees such as that on landscape and open-space guidelines present their work at a meeting in the near future.

5.3 Meeting with Federal EPA Representative

Mark London reported on a meeting with Robert Barney who is the regional administrator for the New England Region of the Environmental Protection Agency. They discussed shared concerns about water quality, air quality, planning process, and smart growth.

5.4 Scheduling

Mark London asked that members of the finance committee and the personnel committee stay to schedule meetings. He said Commission members should have copies of personnel policies. The personnel committee is working on strategies for making staff salaries comparable to those in other agencies over the next few years.

The meeting adjourned at 9:50 p.m.

Linda B. Sibley

Chairman

2/17/05

Date

W. Athearn

Clerk-Treasurer

02/17/05

Date