

# THE MARTHA'S VINEYARD COMMISSION

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## Minutes of the Meeting of March 25, 2004

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

### IN ATTENDANCE

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**Commissioners:** James Athearn (Elected - Edgartown), John Best (Elected - Tisbury), John Breckenridge (Appointed - Oak Bluffs), Christina Brown (Elected - Edgartown), Linda DeWitt (Appointed - Edgartown), Jane A. Greene (Appointed - Chilmark), Ned Orleans (Appointed - Tisbury), Megan Ottens-Sargent (Elected - Aquinnah), Robert Schwartz (Appointed - West Tisbury), (Appointed - West Tisbury), Doug Sederholm (Elected - Chilmark), Linda Sibley (Elected - West Tisbury), Paul Strauss (County Comm. Rep.), Richard Toole (Elected - Oak Bluffs), Andrew Woodruff (Elected - West Tisbury)

**Staff:** Jo-Ann Taylor (DRI/DCPC Coordinator), Paul Foley (DRI Coordinator/Planner), Mark London (Executive Director), Bill Veno (Senior Planner)

Jim Athearn introduced John Breckenridge, appointed by the Oak Bluffs Board of Selectmen. John stated that, as a member of the public, he spoke at the March 11<sup>th</sup> public hearing about the 111 Realty Trust application and would recuse himself from participating in the public hearing.

### 1. 111 REALTY TRUST-111-117 NEW YORK AVENUE – CONTINUATION OF PUBLIC HEARING

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*Commissioners present: J. Athearn, J. Best, C. Brown, J. Greene, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, P. Strauss, R. Toole, A. Woodruff*

*Present for the Applicant: Jack E. Robinson, owner, and wife, Claudette.*

#### 1.1 Applicant's Presentation

**Jack Robinson** thanked the Commission and staff for answering questions and helping him through the process. He presented information as requested at the public hearing on March 18th.

- The Martha's Vineyard Racquet Club is a family business.
- This application to the Commission is new. The bed and breakfast was not previously brought before the Commission; the Racquet Club was.
- He presented a list of activities that take place inside and outside the building.
- He provided a letter from Smith and Dowling regarding the septic system.
- Responding to the request for comparison to bed and breakfasts in a residential area, he presented a comparison to some other hotels in Oak Bluffs. The Racquet Club application proposes a building 89 feet long, 99 feet with the porch. The Island Inn has buildings 96, 101 and 128 feet long. . A single family home in the Harthaven district of Oak Bluffs is 101 feet long.
- The zoning of the area is R-1 and R-2 where motels and hotels are permitted with a special permit.
- He explained that they have an international clientele patronizing the club. **John Best** clarified that no one on the Board asked about the nationality or race of the clientele. **Jack Robinson** explained that he had wanted to go into the historical and sociological aspect of the club.
- The club has youth tennis and adult tennis and is a member of the International Health, Racquet, and Sports Club Association. More than 3720 clubs participate.
- He mentioned The New York Times article of July 25, 2003, about African-Americans and Oak Bluffs, and he explained some of the historical and sociological aspects of African-Americans on the island and in the United States. He explained that the University of Virginia is doing a marketing/business survey that includes the Vineyard Tennis and Racquet Club, as a business owned by an African-American.
- He had been confused about what he thought was the Commission's website, but that has now been clarified. He had been concerned about Roger Wey speaking as an individual rather than a selectman. He referred to the Open Meeting Law and the recodified by-laws of the Town of Oak Bluffs which state that the Selectmen have final authority over what happens in Oak Bluffs. **Mark London** clarified that the by-laws state that the Selectmen have final authority "except where federal laws or state laws dictate otherwise." Special permits are given by the elected planning board and the state regulations clarify that that is the case.
- He had received three letters in opposition to the project, but thirteen letters were written in support. The Robinson's expanded their notice area from a 300' to a 900' radius.
- The Racquet Club is a very important asset to the African American community on the island, the east coast, and the United States, as well as to the international community. The project should be judged on its merits and its ability to meet the requirements of the Commission.

- He has spent more than \$35,000 putting together the application, including hiring the architect and doing water analysis and shadow analysis.
- The Racquet Club would separate the parking area from Chickawaukee with privet bushes.
- Without the porch the structure is 89 feet long, 24 feet from the neighbor's, and 30 feet from the street.
- There are 56 trees on the property; the plan is to remove two.
- There is more than enough parking in the proposal and taxis would come in the driveway.
- He is hearing people's concerns about the porch.

## 1.2 Commissioner's Questions

**John Best** clarified that the renovation would put the building 30 feet from the eastern corner but the western end is closer to the property line. The architect doesn't appear to have scaled the western end, which is the end that is closer to an abutter.

When he was asked to clarify regarding the responses to the project, **Jack Robinson** explained that they received 48 total, 13 in favor, 2 opposed and the rest were notes saying they could not appear. The responses are on file with the Commission.

When **Jane Greene** asked about the square footage of the porch, **Jack Robinson** explained that the width is designed at 10 feet but it could be 8 feet or 7 feet or 6 feet.

In response to Jane's question about the number of employees, **Jack Robinson** explained that the only employees they have are family members.

When asked about affordable housing, **Jack Robinson** said he was unaware of the parameters but he is fully supportive of the principles of affordable housing.

**Doug Sederholm** said that the comparison of this project to Harthaven hotels may not be accurate or appropriate because the Harthaven buildings are a longer distance from the main road and with this addition we are looking at a project that is close to the main road in a residential area.

**Jack Robinson** explained that he is willing to negotiate, as long as everyone is working with data.

## 1.3 Staff Report

**Mark London** suggested that there appeared to be two categories of issue: 1) the presence and impact of a hotel of that number of rooms in a residential area and 2) the massing of a building on a streetscape compared to the rest of the streetscape.

## 1.4 Public Testimony

**Michael Davin**, who lives 600 to 700 feet behind the structure, said he is concerned about parking on Chickawaukee and cars that are parked on the public right of way. **Jack Robinson** explained the new parking plan.

**Jane Greene** asked whether the previous decision called for the parking to be on site and for the elimination of the need to back onto Chickawaukee. **Mark London** explained his understanding to be that the parking on Chickawaukee is on town-owned land. The parking could continue on Chickawaukee unless there is some understanding from the town to close that off. **Jack Robinson** explained that for twenty to thirty years, the Racquet Club and The Christian Science Church next door have cooperated to solve their parking needs. If the Racquet Club adds the privet hedge, the Church will have great difficulty using the Club's parking. **Jane Greene** pointed out that the 1991 decision said that parking must be contained on site. The new plan has fewer parking spaces than the old plan. The 1991 condition also called for a screen and buffer between the Club and the road. **Megan Ottens-Sargent** said that the 1991 plan also called for the elimination of backing onto Chickawaukee.

**Bob Dumais** reiterated that he is a direct abutter. He doesn't have a concern with the business as is. He is concerned with the number of rooms, the number and types of functions, the possibility of alcohol being served, the porch, etc.

**Jack Robinson** explained that they don't serve liquor, they are a private club, and the guests are primarily older people. There has been a porch on the back of the property for twenty years.

**Paul Strauss** said that in the earlier hearing, the Commission had asked for a comparison with small bed and breakfasts on New York Avenue and he would like to see that comparison. His research revealed that the mansard roof is mostly found downtown and isn't necessarily characteristic of New York Avenue. He would like **Jack Robinson** to address that aspect of the project. He explained that in the Oak Bluffs Master Plan, the policy is to restrict business growth to already existing business districts and to not expand business districts. **Paul Strauss** asked Mr. Robinson to digest that information and relate his proposal to it in some positive way. In the Master Plan survey, the lowest priority was to expand business growth downtown and on New York Avenue. **Paul Strauss** would like that issue addressed as well.

In response to a question from **Megan Ottens Sargent**, **Jo-Ann Taylor** explained that if the expansion came within the 25-foot setback, it would need a Planning Board special permit, then a variance from the Zoning Board of Appeals. The project came to the Commission through the building inspector and will go back to the building inspector.

The public hearing was continued to Thursday, April 29. There will be an LUPC meeting on April 26th at 5:30, which will be a more informal meeting.

**Christina Brown** asked that affordable housing information be provided to Mr. Robinson. She also said that Commissioners may request information from Mr. Robinson prior to the LUPC meeting.

The Commission recessed from 8:45-8:50.

## **2. PRESERVE AT THE WOODLANDS / SOUTHERN WOODLANDS RESERVATION – PROPOSED SUBDIVISION – DRI 555-2 – PRELIMINARY PRESENTATION**

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*Commissioners present: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholdm, L. Sibley, P. Strauss, R. Toole, A. Woodruff*

*Present for the Applicant: Brian Lafferty, owner's representative and James Lengyel, Executive Director, Martha's Vineyard Land Bank*

**James Athearn** explained that **Brian Lafferty** would be presenting a new plan for the Southern Woodlands and that this was to be a preview prior to the LUPC meeting. He explained that the Commission may give a preliminary impression of the plan but any expressed impression is not binding and the Commission reserves final judgment until after the public hearing.

### **2.1 Applicant's Presentation**

**Brian Lafferty** presented the new proposal for the property.

- He gave credit to the people who worked toward a new plan, which should be considered a use plan for 290 acres of land, rather than a subdivision plan for 90 acres. Oak Bluffs wanted a solution and, after he talked to **James Athearn**, the Land Bank was brought in. Negotiation and design were done by **Brian Lafferty** and **James Lengyel** of the Land Bank; the Commission was not part of any negotiations. The plan is designed to meet the requirements of the Commission and of Oak Bluffs zoning.
- The Land Bank will purchase 190 acres, including Webbs Campground and the bluff. Corey Kupersmith will develop 90 acres of land into a 26-lot subdivision with access from County Road. In the center of the 190 acres, the Town of Oak Bluffs owns a 'landlocked' 23-acre lot. The Land Bank would like to swap a portion of the land it has under agreement adjacent to the Town land designated for Affordable Housing, for the 23-acre site. Because the Land Bank can't easily swap land, Corey Kupersmith will have to swap the land with the Town, and then the Land Bank would purchase the landlocked piece from Kupersmith.
- He gave some background on the changes and negotiations that resulted in the current plan, including the Land Bank purchase of Old Back Way, giving public access to that trail.

- The subdivision will be 2-acre lots with 150 feet of frontage. Lot #1 has 127 feet of frontage because it's 150 feet wide at the point of thirty feet back from the frontage, as allowed by Oak Bluffs zoning. The design meets the co-efficient of regularity, which requires regularly shaped lots throughout the subdivision.
- The entrance to the subdivision will be 1290 feet from County Road. The subdivision will have one loop road, with 25% of open space centralized.
- It will have an equestrian theme. The natural low area will include a pond, a riding rink, barn and stable, with a total of 23 acres of open space, including an acre where three trails intersect and connect with Land Bank land.
- This joint effort generates 215-216 acres of open space. The setback of each lot will be 50 feet adding another 10-12 acres of open space. Parcel "F" is an unbuildable parcel that isn't connected to the current proposal.
- Chase Way will be maintained as is. The public will not have access to trails within the subdivision, but they will not be blocked.
- The Town of Oak Bluffs may require a second egress from the subdivision but it will be maintained as an emergency egress only.

## 2.2 Commissioners' Questions

In response to **Doug Sederholm's** question, **Brian Lafferty** explained that there is a view easement on Land Bank land, but any cutting will be controlled by Fisheries and Wildlife and he'll be working with the Land Bank.

In response to a question from **Paul Strauss**, **Brian Lafferty** confirmed that there will be a 50-foot buffer of natural vegetation in accordance with Oak Bluffs by-laws. He explained that the subdivision has been designed to meet Oak Bluffs' zoning by-laws and DCPC regulations.

In response to a question from **Paul Strauss**, **Brian Lafferty** explained how Corey Kupersmith's total acreage increased.

**Brian Lafferty** confirmed for **Bob Schwartz** that housing placement on the plan is approximate. House, driveway and lawn equal 25% of the lot area; impervious areas equal 15%. In any areas outside that, tree cutting will be limited to 30%.

**Linda Sibley** asked whether Parcel A will be meadow or forested. **Brian Lafferty** responded that it would probably be meadow and native vegetation. He explained that Fisheries and Wildlife would have input into the work done on the land. In looking at the benefits and detriments, Fisheries and Wildlife will likely balance the acreage to be cleared with the 215 acres going into conservation.

In response to a question from **Megan Ottens-Sargent**, **Brian Lafferty** confirmed that each house would have its own septic system, each with a nitrogen sensitive design. Under Title 5, a communal system is prohibited in this subdivision. He estimates that 21 out of the 26 houses will be seasonal.

Responding to **John Breckenridge**, **Brian Lafferty** explained that Corey Kupersmith will sign off on rights to County Road land, but will maintain frontage rights. The road will

be private, probably called "Old Chase Way", and will be have a non-descript marker; the entryway to the subdivision will be about 150 feet back with gates and will be private.

### 2.3 Applicant's Presentation Continued

**James Lengyel** of the Land Bank explained the Land Bank's part of the proposal.

- The Land Bank's goals for the property which are: managing permanent conservation, maintaining existing ancient ways, creating new trails to connect two public roads and giving access to attractive features. A goal is to connect the two public roads via at least one trail system.
- The Land Bank may resurrect the campground, although it is not interested in being campground managers and it would request proposals for lease and management.
- There will be a "Trailhead/Parking Area" at Featherstone and the trails will support the cross-town trail system.
- The Land Bank will study the property and write a full management plan.
- The Land Bank will buy the "Oak Bluffs" piece if the trade can't take place.
- The purchase of the 215 acres will be an all-Island purchase. Within 30 days, the six town advisory board will meet to approve a revenue bond. Each of the towns' Land Bank advisory boards will be asked to pool their money to make this purchase happen.

### 2.4 Commissioners' Questions Continued

In response to **Paul Strauss**, **James Lengyel** explained that any trails within the development/subdivision would not be considered Land Bank property and the Land Bank would create or use substitute trails where necessary to connect trails.

**Andrew Woodruff** asked whether the Land Bank has an interest in the County Road land. **Mr. Lengyel** explained that the Land Bank feels it owns the land; the problems with the deed have been corrected and the Land Bank will be informing the assessors that the Land Bank holds the deed. In response to a question from **Linda Sibley**, **Mr. Lengyel** explained the Land Bank's interest in the County Road plots.

In response to a question from **Linda Sibley**, **James Lengyel** explained that the plan for placement of the subdivision became to shoulder the residential area up against the abutting residential areas and consolidate the conservation areas.

In response to a question from **Linda DeWitt** about the equestrian theme, **Mr. Lengyel** explained that the Land Bank is delighted. They have never had conflict between approved uses of Land Bank land.

He explained, in response to **Paul Strauss**, that it is extremely difficult to take land out of conservation that has been approved under Article 97.

James Athearn explained that, because of the present pending litigation, the board might want to go into Executive Session before discussing this matter further.

*Jane A. Greene moved and it was duly seconded to go into executive session for the purpose of discussing litigation, not to return to public session, and to invite Brian Lafferty, James Lengyel, Priscilla Silvia, Mark London, and Bill Veno.*

- The Commission discussed including James Lengyel, and Priscilla Silvia in executive session discussions as the Land Bank's involvement may be critical for settlement of litigation.

*Roll call vote. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, L. DeWitt, J. Greene, K. Newman, N. Orleans, M. Ottens-Sargent, R. Schwartz, D. Sederholm, L. Sibley, P. Strauss, R. Toole, A. Woodruff. Opposed: None. Abstentions: None. The motion carried.*

The Commission entered Executive Session at 10:10 p.m.

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Chairman

Date

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Clerk-Treasurer

Date