

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF MAY 2, 1991

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a public hearing on Thursday, May 2, 1991 at 7:30 p.m. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Martha's Vineyard Racquet & Fitness Club
C/O Jack E. Robinson
Executive Office,
P.O. Box 255
Boston, MA 02130

Location: New York Avenue
Oak Bluffs, MA

Proposal: Conversion of a residential property into a non profit recreational club qualifying as a DRI since the proposal is for a recreational facility designed to serve the residents of more than one town.

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the hearing for testimony 7:40 p.m., described the order of the presentations for the hearing, and asked the applicant to make his presentation.

Mr. Robinson introduced himself and stated that the statistics are in the staff notes that have been handed out tonight. Mr. Robinson discussed the concept and history of the facility. He stated it has been open for 4 years without 1 complaint. He stated there are 1 or 2 unsolicited letters from our neighbors in the files. He stated he feels that the club makes a positive contribution to Oak Bluffs and the Vineyard. He stated the club draws people and this is good for the local economy. He stated the guests eat out every morning and night. He discussed the diversified membership. Mr. Robinson closed by stating that he feels the club is a credit to the Town.

Mr. Clifford, Executive Director, presented the staff review. He reviewed the staff notes discussing the location and lay out of the site using a wall display. He stated he could see no concerns and discussed traffic and septic. He stated that there is no change to the structures as the currently exist. This is simply a use change.

Mr. Schweikert called for questions from the Commissioners.

In regards to a question on the number of bedrooms, the response was 5. In response to the number of employees, the applicant responded 3 during the summer season. There was discussion of the not for profit status and the fact that a permit for this status has been obtained. There was discussion of the proposed bed & breakfast.

Mr. Clifford discussed the applications being the club and the bed & breakfast. It was noted that the Commission was only dealing with the Racquet Club. The bed & breakfast will be dealt with by the Town. Ms. Greene added that the bed & breakfast is on the 2nd floor and clearly has nothing to do with the club.

In response to question on the hours of operation for the club, the application stated it depends on the season, 8:00 a.m. to 10-11:00 p.m. but right now we close at 3:00 p.m. There was discussion of the tennis courts and lighting, Mr. Robinson stated that there are no lights, it is daytime use only. There was discussion on the operation of the club for the past 4 years and the legality of such. Mr. Robinson stated that there were questions of legal interpretation and discussed his position.

There were concerns raised about the operation of a band in the downstairs lounge area and how this might disturb the neighbors. Mr. Robinson discussed the closing hours of the club and the fact that they do not have bands as such but invite guests, many of whom are musicians, to play. There was discussion regarding the serving and sales of alcoholic beverages. Mr. Robinson stated that they serve alcoholic beverages to guests on occasions, but we don't sell alcohol.

There was discussion that the hours of operation should be regulated by the town and of the existing noise by-law in place in the Town of Oak Bluffs. It was stated that the Zoning Board of Appeals would review this and could condition the hours of operation.

There was discussion on the existing parking, the capacity, surfacing and access. There was also discussion on the permit control on the lighting.

When there were no further questions, Mr. Schweikert called for testimony from Town Boards.

Mr. Mavro, Oak Bluffs Building and Zoning Inspector, testified that the last thing he heard this hearing was going to discuss the inn (bed & breakfast) now you are only discussing the Racquet club. He discussed the past law suits and injunctions regarding this proposal. He stated that to his knowledge the applicant had served alcohol and that there was a complete bar set up. He discussed advertisements he had seen offering a breakfast and dinner. He discussed the special permit from the Board of Appeals which he contended allowed only 1 tennis court but the applicant built 2. He stated that the applicant has no right to be operating commercial courts. He stated that on his visit to the site he saw rates for the tennis, pro, the pro shop, etc. posted. This is completely commercial no matter how it is regulated as a club, inn, profit or non-profit. He discussed the musical equipment and the boasts in ads regarding music. He stated that this

club is strictly for blacks and he could back this statement up with ads that he has seen. Mr. Mavro stated that the Town had no problem with Mr. Brooks, who the applicant discussed. The town is not prejudice. This project should be judged on its merits. He discussed the pre-existing surrounding uses and stated that if they were applied for now the Zoning Board of Appeals would not allow the uses, in his opinion. He discussed the traffic and all he has heard about State Road. He stated this is a major road for Oak Bluffs and cars go back and forth in front of here constantly. Mr. Mavro then answered questions for the Commissioners.

There were questions about the ads Mr. Mavro stated to have seen regarding the food. Mr. Mavro stated the ad was in the Boston Herald 2 weeks ago. Mr. Robinson stated that guests are given a \$40.00 cashiers check to patronize Oak Bluffs restaurants. He stated there is no food for sale. Mr. Mavro further discussed the septic system and the fact that it is not adequate for food preparation.

There was discussion on the club and the admittance of the general public. Mr. Robinson stated it is a private club and you need to be a member to play. There was again some discussion on the bed and breakfast and it was stated that is not before the Commission tonight.

In response to a question of whether there was a commercial kitchen, the applicant responded no cooking is done other than with a pressure cooker. He further stated there is a residential kitchen in the basement level.

Mr. Mavro further discussed the serving of alcoholic beverages. You can't give alcohol away in this type of arrangement. He also discussed that the ads for the bed & breakfast indicated an automatic membership into the club. There was discussion of the fact that the serving of alcohol is not up to the Commission but the Town licensing boards.

There was further discussion of the history of this proposal, the permit application, injunctions, litigation, etc. Mr. Mavro stated the applicant has been in contempt of court since July. The applicant contended that the Judge had stated the order. Mr. Mavro contended that this stay referred it back to the injunction being in full force.

There was discussion on the septic system and a permit for the occupation of a home business. Ms. Greene read a letter dated 2/15/90 from the Board of Health to the Board of Appeals in Oak Bluffs available in the file regarding the septic capacity as it relates to a bed and breakfast.

In response to the question of why this is a not for profit. It was stated that the applicant isn't in it for the money. Mr. Mavro stated that there are no provisions for a for-profit club. There was discussion with the applicant regarding application for not for profit status. The applicant stated the status has been received. There was some discussion of reserves for the club regarding this status.

Mr. Schweikert asked what the Commission could do to facilitate the applicant and the Town to enter into some kind of a compromise? Mr. Mavro stated that would be hard to do. The Judge gave Mr. Robinson a change and he didn't take it. This will go back to the Zoning Board of Appeals and they can condition it.

When there was no further Town Board testimony, Mr. Schweikert called for proponents, there were none. He then called for opponents.

Linda Marinelli stated she is an Oak Bluffs selectmen but speaks for herself tonight. She discussed the history of the proposal and the 1975 ZBA decision. She raised questions as to its legitimacy specifically regarding allowing an accessory structure that is some 10 times larger than the main structure. She agreed with Mr. Mavro that the 1975 decision said a tennis court and that because of a typo it said courts and the applicant built two. She stated that if this project goes through then the Town of Oak Bluffs will have to put up with anybody doing anything they want without a permit and then negotiating and that isn't right. Ms. Marinelli stated that in her opinion serving liquor changes the use. You can't give liquor away whether its for profit or not. She showed a pile of papers she had researched on this project and discussed the litigation. She stated that Mr. Robinson's ads are a mockery to the Town. He has made terrible remarks to the leaders of Oak Bluffs. She stated that she hopes some careful consideration is made.

There was discussion that the ads, litigation, etc. doesn't have anything to do with the Commission. What we have before us is narrow and we have to deal with it. Ms. Marinelli agreed and stated she is just frustrated. She stated it is a residential area and if nothing else you should hold him to 1 tennis court.

There was discussion of whether or not the question of 1 or 2 courts is before us. Mr. Clifford responded no it is not. He discussed his understanding from the applicant being that there was 1 existing court that was resurfaced and 1 that was constructed. It was stated that the Town of Oak Bluffs had the enforcement power here. There was discussion of the courts history, permits and the litigation.

It was stated that a lot of the questions tonight should be dealt with by the ZBA that they are not regional issues.

There was some further discussion of the parking and the circulation on the site. There was discussion of the run-off for the parking and access road and the sloping of the site to retain run-off on the property.

There was further discussion of the tennis club as it relates to tournaments, the applicant stated they are private tournaments. There was discussion on the serving of food, the applicant stated they probably serve food 7-8 times a year on Saturdays in July & August.

There was discussion of the amenities offered, the philosophy of the club, the membership, the lounge, fee structure and expenses. The applicant compared the membership fees to others on the Island and

stated they haven't broken even yet. He further discussed the benefit to the community and Island with regard to free tennis lessons the club offers.

There was lengthy discussion of the number of members, reciprocal agreements made with 1,350 other member clubs and the applicant stated that they have not had 1 single reciprocal visitor in 2 years. He discussed similar experience by 2 other clubs on the Island. There was discussion on the potential for this reciprocity and the fact that there have been no police complaints thus far. Mr. Mavro warned that the potential is there.

There were generally statements by several Commissioners that there are issues but they should be dealt with by the Town's, they are local questions and issues, that the change of use and concept of the club is a good one in that it serves the community.

Mr. Robinson made a closing statement and thanked the Commission and stated he hopes this can be resolved to everyone's satisfaction.

There being no further testimony, the hearing was closed at 8:50 p.m.

Following a short recess, Ms. Greene, Chairman, opened the Special Meeting of the Commission at 9:00 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Ms. Greene asked Mr. Clifford to update the Commissioners on the status of the administrator Norm Friedman. Mr. Clifford stated he was flown by chopper to Boston today and he is doing well. Mr. Colaneri stated he had seen him this morning and he seemed quite chipper. Commissioners discussed sending him a little something.

ITEM #2 - Old Business

There was none.

ITEM #3 - Minutes of April 11 and April 18th.

These minutes were approved after being duly motioned and seconded. (Hall, Clarke & Briggs abstained from the April 11th vote. Hall, Briggs, Combra, & Clarke abstained from the April 18th vote.)

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Schweikert discussed the last 2 LUPC meetings including discussion on the Cape Cod Company Squibnocket proposal, the Island Elderly Housing Proposal, the Brownell DRI, and the Standards & Criteria which he stated will go back to public hearing.

There was some discussion on the Brownell DRI and the Island Elderly Housing proposal and waiver requests.

Mr. Early stated that the Planning and Economic Development (PED) meeting was cancelled and will be rescheduled.

There was discussion on clarifying the policies for correspondence regarding a DRI and it was asked to be put on the agenda for discussion.

Ms. Greene discussed the transportation symposium that took place in Woods Hole and stated that it was a worthwhile meeting and that a lot of progress was made.

ITEM #5 - Discussion - Brownell DRI, Town of Edgartown

Mr. Schweikert discussed the LUPC concerns for the project as follows: the applicant's letter in response to requests for additional information; that LUPC felt that the parking would contribute to the congestion on Pent Lane; that they don't feel it would provide the year round economic benefit the applicant stated in that there are many year round inns in Edgartown now; they were also concerned with the fact that Edgartown had made the decision to preserve this as a buffer property between business and residential zones and this would re-emphasize the business expansion creeping into the residential zone.

It was motioned to move to Item 6 for this DRI. The motioned carried.

ITEM #6 - Possible Vote - Brownell DRI, Town of Edgartown

It was motioned and seconded to deny the Brownell DRI for the reasons stated by LUPC. There was limited discussion on this motion including the fact that the owner would not reside and that it therefore wasn't technically a bed and breakfast. The motion passed with a vote of 11 in favor, none opposed and 4 abstentions, Briggs, Combra, Wey, Clarke. Commissioners Best and Hall were not present in the room during this discussion or vote.

ITEM #5 - Discussion - Boch DRI, Town of Tisbury

There was discussion on the surface of the parking, the run-off, the percentage of marine related use required, possible testing and removal of the surface materials at regular intervals, other possible alternatives to the surface material, and the fact that LUPC had no recommendation at this time. There was also concern for the Entwhistle Building retaining a historic appearance.

It was agreed that not all the issues have been addressed. There was a consensus to return this DRI to the LUPC agenda for further discussion.

ITEM #5 - Discussion - M.V. Racquet & Fitness Club, Jack E. Robinson, Town of Oak Bluffs

It was motioned to move to Item 6 for this DRI. The motioned carried.

ITEM #6 - Possible Vote - M.V. Racquet & Fitness Club, Town of Oak Bluffs

It was moved and seconded to approve the M.V. Racquet & Fitness Club with the following conditions: A directive should be included to the Zoning Board of Appeals that the pro-shop should be non-commercial, that reasonable hours of operation be set, that no alcohol sales or service take place without a Board of Selectmen's license, and that the Board of Health review the septic system for adequacy to serve a place of assemblage; a specific condition that no lighting will be allowed on the tennis courts.

There was discussion on whether or not liquor service was a regional issue, the Selectmen's authority to issue such permits, the parking and lighting plans, the lighting of the tennis courts, donations to the transit authority, the non-profit status of the club.

It was motioned and seconded to amend the previous motion to include the following condition: that the design of the parking be modified to restrict parking to on-site and provide only 1 exit or egress from Chichawakee Road, and to screen the parking. This motion was approved.

There was further discussion on the membership, the layout of the facility, the lounge, permitted occupancy that would be set by the Building Inspector, the fact that the club is exempt from handicap access requirements, the location of the residence of Mr. Robinson, and the septic.

It was motioned and seconded to modify the motion to approve with conditions to include the following condition: If the property is ever regraded or the drainage is changed that the plan come back to LUPC for review and approved and that all run-off should be controlled on-site. This motion passed.

The motion to approve the M.V. Racquet & Fitness Club DRI with conditions as stated above passed unanimously.

Ms. Greene took the agenda out of order and moved to Item #7.

ITEM #7 - New Business

Mr. Schweikert discussed the possibility of implementing a District of Critical Planning Concern to protect the architectural integrity of Ocean Park in Oak Bluffs.

There was discussion on this issue specifically regarding the regional importance of this area, the difficulty and length of time involved in creating a historic district, exemption allowance in a DCPC and the benefits of imposing a DCPC.

Commissioners agreed that it was an excellent idea and Commissioners asked the PED Committee to work on putting together nominations papers.

ITEM #6 - Possible Vote - Written Decision, Cronig's DRI, Town of Tisbury.

There was discussion on Condition 15(f) and a proposed amendment discussed with the applicant. There was lengthy discussion on this amendment.

It was motioned and duly seconded to amend 15(f) to the following language: The Applicant shall meet with Elder Services, operators of the "Lift Van" to determine a cost to provide such "Lift Van" service to those residents of the Town of Tisbury who are in need of said service to gain access to the market for the purposes of grocery shopping, the cost thus determined to be shared equally by the Applicant and Elder Services for a period of four (4) years following the adoption of this Decision and further the cost to the Applicant shall not exceed \$2,500.00 annually for the period thus established. This amendment passed with 3 votes in opposition, Hall, Hebert & Greene.

There was discussion on Condition 15(b) related to improvements on Colonial Lane and the phrase "to the extent he is legally able" and the ramifications of such a statement being included in the decision.

It was motioned and seconded to strike the words "to the extent that he is legally able" from condition 15(b). This motion carried.

There was further discussion on the landscaping and the fact that it might not have been addressed adequately. Several Commissioners felt that the conditions placed already were adequate especially when considering the monetary consequences of the other conditions.

It was motioned and seconded to amend the written decision to include the following condition: The landscaping plan return to LUPC for further review and approval. This motion passed with a vote of 7 in favor, 6 opposed.

It was motioned and seconded to approve the written decision on the Cronig's DRI with the 3 amendments enumerated above. This motioned passed with a vote of 10 in favor, 3 opposed, 1 abstention, Clarke. Mr. Wey, Ms. Sibley and Mr. Jason were not present at the table during this discussion and vote.

ITEM #7 - New Business

Ms. Greene asked Mr. Clifford to discuss the plan of the Wamponoag Tribe to create a Health Care Consortium. Mr. Clifford discussed the plan and called attention to the Concept Plan submitted to the Kellogg Foundation. There was discussion on this issue including the need for this type of service on the Island and what it would entail.

It was motioned, seconded, and approved unanimously to support the concept and agreed to join the consortium.

