

1991

THE MARTHA'S VINEYARD COMMISSION

BOX 1417
OAK BLUFFS
MASSACHUSETTS
02557

DATE: June 27, 1991
TO: Planning Board, Town of Gay Head
FROM: Martha's Vineyard Commission
SUBJECT: Development of Regional Impact
RE: Conversion of a residential property into a
commercial use (restaurant).
APPLICANT: Hugh C. Taylor
R.R. #1 Box 171
Gay Head, MA 02535

DECISION OF THE MARTHA'S VINEYARD COMMISSION

SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the application of Hugh C. Taylor, R.R. #1, Box 171, Gay Head, Ma., for conversion of a residential property into a commercial use, namely a restaurant, as shown on the plans entitled: "Mortgage Inspection Plan, owned by Hugh C. and Jeanne S. Taylor; Vineyard Land Surveying Beach

Road, Vineyard Haven, MA; dated March 11, 1991 and consisting of one (1) sheet; plus "Land in Gay Head, Ma., drawn for Peter Diem, August 4, 1989; Vineyard Land Surveying, Beach Road, Vineyard Haven, Ma. and numbered Sheet 2 of 2", consisting of one (1) sheet; plus "Upgrade of Waste Water Disposal System for Hugh Taylor, Lighthouse Road, Gay Head; Kent A. Healy, West Tisbury, Ma., dated December 19, 1988, consisting of one (1) sheet; plus an untitled sheet depicting the location of the drive and parking, undated, consisting of one (1) sheet; plus an untitled sheet depicting the general lay-out of the restaurant facility and proposed handicapped access, undated, consisting of one (1) sheet; plus an untitled sheet depicting the interior lay-out and square footage of the first floor of the existing structure, undated, consisting of one (1) sheet; plus an untitled sheet

depicting the facade elevations of the existing structure, undated, consisting of one (1) sheet; making a total of seven (7) sheets, (The Plan).

This Decision is rendered pursuant to the vote of the Commission on June 27, 1991.

The Planning Board of the Town of Gay Head may now grant the necessary development permits for the Applicant's proposal in accordance with the conditions contained herein or may approve in accordance with conditions contained herein and place further conditions thereon in accordance with applicable law, or may disapprove the development application.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.301. The Application was referred to the Commission by the Boards of the Town of Gay Head for action pursuant to Chapter 831 Acts of 1977 as Amended (the Act). The Application and Notice of Public Hearing relative thereto are incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 as modified by Chapter 831 on Thursday, May 16, 1989 at 7:30 P.M. at the Martha's Vineyard Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Ma.

The proposal is for the renovation of an existing residential structure into a commercial restaurant qualifying as a DRI since the renovation will result in new construction with floor area greater than 1,000 square feet.

Alan Schweikert, Chairman of the Land Use Planning Committee, (LUPC), read the Public Hearing Notice, opened the

hearing for testimony at 7:36 p.m. and indicated that a presentation by the applicant would be the first order of business.

Hugh Taylor explained the background and history of the proposal. He indicated that 7 rooms optimum could be rented and explained why a special permit was needed. He discussed the commercialness of the eating establishment being proposed. He explained his reasoning for the request and the economic viability of having a restaurant.

He noted the food service areas and kitchen would be slightly greater than 1,000 square feet. He distributed photographs to aid in his presentation and to further explain the location of each of the features of the proposal, i.e. parking, access, dining, etc. He discussed handicapped access and noted that a ruling was expected shortly as to whether the guidelines were applicable to him. He showed where the access would be, the handicap bath, etc.

Mr. Schweikert asked for any staff reviews.

Mr. Clifford indicated that there were notes contained in the handouts from B. Wilcox in reference to the septic system. He explained the agreement with the Town as to who would be responsible for reviewing what and therefore the review was limited to the issue of the restaurant portion of the proposal. He discussed the letter received at the meeting from the Building Inspector and its relationship to the staff notes.

Mr. Wey raised a question of the location of the handicapped bathroom and exactly what was currently existing. A discussion followed.

Mr. Hall asked for an explanation of how this had been referred and the reasons therefore. Mr. Taylor discussed the past operation of the proposal.

Mr. Lee raised a question of the existence of any engineering plans for the septic system. Mr. Clifford noted that

such a plan existed. Mr. Taylor discussed the system as installed. A discussion on the reasons why certain numbers on the plan seemed to be in conflict followed.

Ms. Greene asked for the exact number of seats in the restaurant. Mr. Taylor indicated that 16 would be for guests and 20 for outsiders or a total of 36 maximum seats.

Mr. Hall raised a question regarding Title V regulations in Gay Head. A discussion of this matter followed. Mr. Clifford attempted to explain the reasons for differing numbers on the plan. Mr. Hebert of the Zoning Board of Appeals explained the reasoning for the change of numbers and their desire to have a re-review of the system. A discussion of this matter followed.

Mr. Hall questioned the capacity of the system and the numbers of seats available. Mr. Taylor explained how the numbers were derived.

Ms. Sibley raised a question of the capacity of the system with respect to the bedrooms.

Mr. Sullivan sought an explanation of how the operation of the restaurant would be conducted. A discussion of this issue followed.

Ms. Bryant raised a question regarding the number of general public who would be using the restaurant. A discussion of this matter followed. A discussion of the review by the Handicapped Access Board followed.

Mr. Combra questioned whether the seating would be by reservation only. Mr. Taylor indicated in the affirmative.

Ms. Greene questioned whether there would be lunches and breakfasts for the general public. Mr. Taylor felt that lunch may be a possibility.

Ms. Sibley questioned the number of months of operation. Mr. Taylor indicated 3 or 4 months. A discussion of the bed and breakfast as a year-round operation followed.

Mr. Schweikert next asked for comments from Town Boards.

Wm. Sargent, Gay Head Board of Appeals (ZBA), discussed the issue of the septic system and asked for slow movement and in convert with the Town. He discussed the Board's feelings in this matter and asked for any clarification to indicate that any approval given should not imply complete approval of all matters related to this proposal. A discussion of this matter followed. A discussion of future involvement of the ZBA followed and Mr. Taylor indicated that he was already scheduled with the ZBA.

Ms. Sibley questioned whether any past concerns of the ZBA were applicable still. Mr. Sargent felt that some were and they needed to be addressed on the Town level.

Mr. Hall questioned what was required from the various town regulations. A brief discussion followed. A discussion of the location of wetland in question followed. Mr. Lee explained the change in the by-law with respect to wetlands. A discussion of this matter followed.

Mr. Best discussed what defined wetlands.

Mr. Hall questioned whether there would be a restaurant sign. Mr. Taylor explained the type he would like to have.

Ms. Sibley questioned whether there were traffic concerns. There were none.

Mr. Schweikert then called for proponents - an unidentified male, possibly Wm. Sargent spoke in favor.

Mr. Schweikert then called for opponents - there were none.

There being no further testimony, the hearing was closed at 8:20 p.m.

FINDINGS AND CONDITIONS

The Commission has considered the application and the information presented at the public hearing and based upon such considerations, makes the following findings pursuant to Section 14 of the Act.

- A. The Commission finds that the probable benefits of the proposed development, subject to the conditions set forth herein, will exceed the probable detriments of the proposal in light of the considerations set forth in Section 15 of the Act.
- B. The Commission finds that the proposed development will not interfere substantially or unreasonably with the achievement of the objectives of any general plan of the Town of Gay Head or any general plan of the County of Dukes County.
- C. The Commission finds that the proposed development as set forth in the Application and the plans, and subject to the conditions set forth herein, will be consistent with local development ordinances and by-laws.
- D. The Commission finds that the development proposal will be more beneficial than detrimental when compared to alternative manners of development or development occurring in alternative locations.

Pursuant to Section 15(b) of the Act, the Commission has considered whether the development in the manner proposed will have a more favorable or adverse impact on the environment in comparison to alternative manners of development and in light of the considerations discussed in the record and within the Decision, the Commission sets the following conditions:

THAT THE BOARD OF APPEALS OF THE TOWN OF GAY HEAD SHALL REVIEW THE SEPTIC SYSTEM DESIGN AND APPROVAL TO ENSURE THAT THE SYSTEM IS ADEQUATE FOR THE OPERATION OF A PLACE OF ASSEMBLY (RESTAURANT) RATHER THAN THE CURRENT USAGE AS A RESIDENCE;
and Further,

THAT THE APPLICANT SHALL INSTALL A WATER METER AND SAID METER SHALL BE MONITORED WEEKLY FOR THE FIRST YEAR OF OPERATION BY THE BOARD OF HEALTH AND THE RESULTS SHALL BE SUBMITTED TO THE MARTHA'S VINEYARD COMMISSION FOR

THE FILES;

and Further,

THAT THE SEATING CAPACITY OF THE RESTAURANT SHALL BE NO MORE THAN THIRTY-FOUR (34) SEATS.

Pursuant to Section 15(c) of the Act, the Commission has considered whether the proposed development will favorably or adversely affect other persons and property, and if so, whether, because of circumstances peculiar to the location, the effect is likely to be greater than is ordinarily associated with the development of the types proposed and in light of the considerations discussed in the record and within the Decision, the Commission sets the following conditions:

THAT THE APPLICANT SHALL SUBMIT A PLAN TO THE ARCHITECTURAL ACCESS BOARD FOR REVIEW AND SHALL SUBMIT A COPY OF THE RESPONSE FROM SAID BOARD TO THE BUILDING INSPECTOR OF THE TOWN OF GAY HEAD AND TO THE MARTHA'S VINEYARD COMMISSION FOR THE FILES.

and Further,

THAT THE BOARD OF APPEALS OF THE TOWN OF GAY HEAD SHALL CONSIDER THE LOCATION OF THE PROPOSED RESTAURANT AND THAT IN DEFERENCE TO THE NEIGHBORS, SHALL CONSIDER THE ESTABLISHMENT OF REASONABLE HOURS OF OPERATION OF SAID RESTAURANT.

and Further,

THAT IN FURTHER DEFERENCE TO THE NEIGHBORS, A LIGHTING PLAN SHALL BE SUBMITTED TO THE GAY HEAD PLANNING BOARD PLAN REVIEW COMMITTEE FOR APPROVAL AND THE APPROVED PLAN SHALL BE FORWARDED TO THE MARTHA'S VINEYARD COMMISSION FOR INCLUSION IN THE FILE.

and Further,

THAT ALL PARKING FOR THE PROPOSED RESTAURANT SHALL BE TOTALLY WITHIN THE BOUNDARIES OF THE APPLICANT'S LOT AND SHALL NOT ENCUMBER NOR BLOCK ANY EASEMENTS OR

11-1-83

RIGHTS OF WAY THAT MAY EXIST ON SAID LOT.

The Commission finds that the proposed development is consistent with local ordinances and by-laws to the extent it is required to, only the application being before it at this time.

The Applicant must, consistent with this Decision, apply to appropriate Town of Gay Head Officers and Boards for any other development permits which may be required by law.

The Decision is written consistent with the vote of the Commission: June 27, 1991.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

THE APPLICANT SHALL SUBMIT PROOF THAT HE HAS SATISFACTORILY MET EACH OF THE CONDITIONS CONTAINED HEREIN PRIOR TO OPERATION OF THE FACILITY AND PRIOR TO RECEIVING A CERTIFICATE OF COMPLIANCE FROM THE MARTHA'S VINEYARD COMMISSION.

The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited therein.

Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed development is located.

COPIES FILED 6/27/91
at 10:00 AM and 20 minutes A.M.
Received and entered with Dukes County Clerk
book 51 page 11

Attest: Security W. King
Date 6/27/91

Jane A. Greene
Jane A. Greene, Chairman

Norman Friedman
Notary

6/27/91
Date

NORMAN FRIEDMAN
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 10, 1997

REC'D