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**Minutes of the Commission Meeting  
Held on March 24, 2011  
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 Bill Bennett (A – Chilmark)	P Lenny Jason (A – County)
P John Breckenridge (E – Oak Bluffs)	P Katherine Newman (E – Aquinnah)
P Christina Brown (E – Edgartown)	P Ned Orleans (A – Tisbury)
P Peter Cabana (A – Tisbury)	P Camille Rose (A – Aquinnah)
Martin Crane (A – Governor)	P Doug Sederholm (E – Chilmark)
P Erik Hammarlund (E - West Tisbury)	P Linda Sibley (E – West Tisbury)
P Fred Hancock (A – Oak Bluffs)	P Brian Smith (A – West Tisbury)
P Chris Murphy (E – Chilmark)	Holly Stephenson (E – Tisbury)
Jim Joyce (A – Edgartown)	

Staff: Mark London (Executive Director), Paul Foley (DRI Coordinator), Michael Mauro (Transportation Planner), William Veno (Senior Planner) and Jo-Ann Taylor (DCPC Coordinator).

**Chris Murphy** called the meeting to order at 7:05 p.m.

**1. EXECUTIVE DIRECTOR'S REPORT**

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**Mark London** gave the Executive Director's Report.

- The next phase of the building renovations is preceding which includes installing a fire escape for the second and third floors.
- Prior to the meeting, the Finance Committee met and approved a transfer from the General Reserve Fund to the Building Reserve Fund to cover part of the cost of the renovations, which will be replaced out of coming years' budgets.

**2. MV HOSPITAL PARKING LOTS: DRI 324-M3 WRITTEN DECISION**

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Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, E. Hammarlund, F. Hancock, C. Murphy, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith

**Fred Hancock moved, and it was duly seconded, to approve the written decision.**

- The Commissioners discussed the motion.
  - Line 202, add: "This will be sufficient for the Hospital's current needs and therefore fulfill condition 12.13 of the original DRI."
  - Line 184 references a ten-year return storm and Line 315 references a ten-year 24 hour return storm. The term should be consistent.

- Line 190 speaks to night lighting and noise for the Eastville parking lot. It should state specifically "for the Eastville lot" in that sentence and the following sentence.
- Line 211 discusses the impact on abutters. The sentence that starts with "The Commission notes the testimony from across the street about the local impacts and the need for long term planning" should state "The local impacts, the expansion of the hospital zone to the surrounding residential neighborhood, and the need for a long term plan".
- Line 272 needs to state which Commissioners voted for and against it.

***A roll call vote was taken to approve the written decision with corrections. In favor: B. Bennett, J. Breckenridge, C. Brown, E. Hammarlund, F. Hancock, C. Murphy, N. Orleans, D. Sederholm, L. Sibley, B. Smith. Opposed: None. Abstentions: C. Rose. The motion passed.***

### **3. COMMITTEE REPORTS**

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#### **3.1 PED Report**

**Katherine Newman** provided the PED Report.

- PED met on Wednesday March 23<sup>rd</sup> to discuss revising DRI Policies – landscaping, agriculture, affordable housing, energy, and open space – in sync with the Island Plan.
- The next meeting will be Wednesday, April 13<sup>th</sup> at 12:00 p.m. at the West Tisbury Town Hall.

#### **3.2 LUPC Report**

**Paul Foley** provided the LUPC Report.

- Wavelengths has made changes to their proposal. It will be coming back to the Commission to determine if it is a significant change to require a public hearing.
- Vineyard Home Center is proposing to move their operation to another location, which is a change of use and will need to be determined if it is significant or not.

#### **3.3 Compliance Committee Report**

**Fred Hancock** provided the Compliance Committee report.

- The members of the committee are: Fred Hancock, Linda Sibley, Erik Hammarlund, and Brian Smith.
- They are meeting after the Commission meeting to decide on a monthly meeting schedule.
- The Hart property has requested to withdraw the DRI, which may need to go to LUPC to determine the proper procedure.

### **4. OCEAN CLUB DRI 309-M PUBLIC HEARING**

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*Commissioners Present: B. Bennett, J. Breckenridge, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, L. Jason, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith*

*For the Applicant: Mark Wallace and Michael Wallace*

**Doug Sederholm** opened the public hearing and read the hearing notice.

## **4.1 Staff Report**

**Paul Foley** provided the staff report.

- The applicants are Mark and Michael Wallace DBA Ocean Club.
- The project location is 9 Oak Bluffs Avenue, Oak Bluffs, MA Map 9 Lot 43.
- The proposal is to expand an existing 90-seat, 3,200 sf restaurant to incorporate the entire upstairs (+ 6,400 sf) for functions and a night club in downtown Oak Bluffs with an additional capacity of 500.
- The zoning is B-1 Commercial.
- The local permits needed for the proposal are: Planning Board for parking, the Wastewater Commission for hookup to Sewer, and the Board of Selectmen for an entertainment license.
- A Building Permit will not be needed. The Building Inspector, Fire Department, and Health Inspector will have to do inspections.
- An additional bathroom and licenses will not be needed because the upstairs and downstairs are under the same ownership.
- The surrounding land uses are the Strand Movie Theater, Surfside Motel, restaurants and various retail stores.
- The building has been the site of bars, restaurants, dance hall, game room, among other things in the past. The part of the building that the Ocean Club restaurant currently occupies was Danny Quinn's last year and Balance Restaurant for two years prior to that. The space had been a t-shirt shop before then. The other half of the ground floor is a car and moped rental. The upstairs that is proposed to be the function hall / night club was the Game Room until 2006.
- In 2007 The MVC voted not to concur with the referral of Balance Restaurant based on specific elements of a plan to place a 90 seat restaurant in half of the ground floor (3,400 sf) that would also be a 150-seat function hall in the shoulder seasons.
- The 2007 Balance Restaurant proposal included the following commitments:
  - They proposed to provide employees with Vineyard Transit Authority (VTA) passes;
  - They said they made an arrangement with a local taxi company to provide rides to employees for a fixed rate to a park and ride parking lot;
  - They had ten spots at Budget Rental Cars for the restaurant parking in the evening.
  - They were supposed to pay into the Oak Bluffs Parking Mitigation Fund.
  - They were going to give customers with a M.V. taxi receipt with a complimentary dessert.
  - They would arrange for shuttles and/or taxis to shuttle guests for functions.
  - Concerns about noise were addressed with a vestibule in front, limited access to the rear, a promise to not dump bottles at night and to coordinate trash and recycling pickups.
- The DRI Referral was from the Oak Bluffs Board of Selectmen on August 10, 2010.
- The project was referred under Sections 1.1b as a Discretionary Referral. The project was also referred under 3.1f (Increase in Intensity of Use – a concurrence review). Since the project was referred as a concurrence review it does not need to be reviewed as a Discretionary Referral.
- Some Key Issues are as follows:

- Traffic: Can downtown Oak Bluffs accommodate the parking needs of a function hall / night club with a capacity of 500?
- Wastewater: What flow will the Oak Bluffs Wastewater Commission allow?
- A.D.A.: How will the second floor be made handicapped accessible? It is advisable to submit the plans to the Architectural Advisement Board.
- It is a downtown site with no land and is not an NHESP estimated or priority site. There are some planter boxes.
- The previous restaurant on the ground floor (3,200 sf) was approved to hookup to the Town Sewer with the flow of a 150-seat restaurant.
- The current proposal for the upstairs (6,400 sf) has not been approved for any expanded flow from the Wastewater Commission yet. The Commission received a letter stating that the Wastewater Commission would be amenable to allow the necessary flow for the facility.
- The Oak Bluffs Planning Board said that Balance Restaurant required 35 parking spaces based on a 150-seat restaurant but were given credit for 18 spaces due to the preexisting retail. Therefore they either had to provide 17 spaces or to pay into the Oak Bluffs Parking Mitigation Fund \$1450 a year.
- For 500-seat function room would need 125 parking spaces according to the bylaws. The payment to the Parking Mitigation Fund would be \$6,750 a year.
- The site is one block from the Oak Bluffs bus hub, taxi stop, and ferry terminal.
- LUPC approved a traffic scope.
- It does not trigger the MVC Affordable Housing Policy because it is not an expansion.
- The restaurant/night club is a permitted land use within the B-1 Business District.
- The Applicant's plan to improve the façade of the building and air conditioning.
- The property abuts a hotel and is close to a movie theater, both of which are concerned about noise.
- There are 54 letters in the Commissioner's packets.

#### **4.2 Applicant's Presentation**

**Mark Wallace** provided the Applicant's Presentation.

- They have owned the property for several years and have used the space for non-profits.
- The property has a liquor license.
- The building is a significant part of Oak Bluff's history and its use has been missed by the community.
- The only other viable uses would be to sell it to the neighbors for additional hotel rooms, which was not financially viable or to subdivide it into condominiums.

**Michael Wallace** provided additional information.

- The restaurant downstairs is seasonal, open from April 1<sup>st</sup> to December 31<sup>st</sup>.
- The upstairs would be an extension to the restaurant as an event / venue space that is connected to the same licenses that are currently held.
- It would be comparable to the Harbor View with the ability to divide the space up if necessary.
- It would be used for community events such as the prom, Pinewood Derby, public memorial services, performing arts, and auctions; fundraising events; and private events.

### 4.3 Commissioner Questions

**Doug Sederholm** asked if the property was condominiumized as the upstairs was separate from the downstairs. **Michael Wallace** said that the upstairs and downstairs are separate, but they own both condominiums.

**Doug Sederholm** asked if there would be a possibility of live music during private events. He asked if an operator would be hired to manage the facility. **Michael Wallace** said that the manager of the Ocean Club would manage the space. The general manager would be either the event coordinator or an event coordinator would be hired for it specifically. Live music is a definite thing they are looking to do.

**Doug Sederholm** asked if there was any presentation in regards to traffic or parking.

**Mark Wallace** provided information on traffic and parking.

- They have commitments and a historical relationship with Island Transport, which is the top provider of transportation to wedding events. Island Transport's terminal is two properties down.
- The property has connections with all buses, cab stands, and the ferry.
- There is no outside parking, so people will not be driving to the building. They will take a cab or bus.

**Michael Wallace** said that if everyone showed up at once to attend a function it would still be less than the amount of people who show up to take any one of the three ferries that come into Oak Bluffs. The infrastructure is present to handle large amounts of people entering the area.

There was a discussion regarding off-site parking.

- **Doug Sederholm** asked if there were any current arrangements to provide off-site parking.
- **Mark Wallace** said that other than the school, which they have made arrangements with a long time ago, they do not own a site for parking.
- **Doug Sederholm** asked if they had the ability to use the Oak Bluffs School.
- **Mark Wallace** said they did, and they would have the capabilities to pick people up there and from VTA Park and Rides.
- **Doug Sederholm** asked if they would be providing a shuttle from the Oak Bluffs School for 500 people.
- **Mark Wallace** said yes.
- **Michael Wallace** said that people would have to use existing public transportation or parking in-town because there is no parking on the premises. They will have to obtain a waiver from the Town Planning Board.

There was a discussion regarding noise mitigation.

- **Doug Sederholm** asked if they had any plans for noise mitigation.
- **Mark Wallace** said that noise is subjective and he has spent time with the neighbors to address the issue.
  - There has been a history of the property being noisy.

- The property has been closed off completely, a vestibule has been incorporated with buffer zones, and a catering kitchen will buffer the rear wall.
- It will be fully air-conditioned.
- There will be on-going sound mitigation. They will not be allowed to keep their entertainment license if there are on-going noise issues.
- **Doug Sederholm** asked if they were planning to install any sound mitigation materials.
- **Mark Wallace** said they were insulating the inside walls and installing acoustic panels.
- **Doug Sederholm** said the pictures show an open ceiling. He asked if the ceiling would be closed and have acoustic panels hung.
- **Mark Wallace** said that the ceiling would be open but the panels would be installed in the ceiling.
- **Michael Wallace** said the best noise control is the volume control on the amp system.

**Michael Wallace** presented a list of benefits for the proposal.

- It will restore the Dreamland building to its historic use as a place of assembly.
- The location of being in town and close to buses, cabs, and ferries gives the guests the ability not to use a car.
- The Island needs a space to hold a large amount of people. There is no other venue of its kind besides tent rentals.
- It is the only venue of its kind that incorporates a full-service restaurant. There is the ability to hire a caterer or have a pot-luck.
- The guest will have the opportunity to enjoy the in-town shops and the harbor which will be good for neighboring businesses.
- The fundraising events will be able to save money.

**Doug Sederholm** asked if the kitchen for the restaurant would be of sufficient capacity to handle a full restaurant and a 300 person wedding. **Mark Wallace** said a chef or restaurant manager could answer the question better. The food for a wedding is prepared in advance and not prepared in the same manner as restaurant food. **Michael Wallace** said there would be warmers and a catering kitchen upstairs.

**Mark Wallace** said that the capacity for sit down functions is 300. The 500 capacity is a building code number.

**Mark Wallace** said there is no place for a wedding over 200 people. This venue would allow Martha's Vineyard to compete with Newport and other destinations.

**Jack Collins**, attorney for the Wallaces, said what they would like the result of the process to be.

- He would like the Commission to waive the traffic study or may work out a reasonable approach to handle it.
- He would like to have the Town of Oak Bluffs handle the mitigation issues.

**Chris Murphy** said that Mark Wallace had stated that when he was purchasing the property no one else wanted it because "once a DRI, always a DRI". He asked when the DRI was. **Mark Wallace** said it was about 1989, when the Surfside got permission to add a third floor and make it part of the hotel.

There was a discussion regarding July and August traffic.

- **Fred Hancock** said that he is concerned about July and August traffic. He asked if there was any thought in regards to scheduling around the Steamship Authority's schedule. He also asked if in July and August there is a wedding rental that they have to have a transportation plan, such as a bus contract.
- **Michael Wallace** said that he does not think venues address transportation in their contracts, but is addressed by wedding planners because guests have to get to the wedding. The functions held would be primarily at night so as there would not be a conflict with the Steamship Authority.
- **Mark Wallace** said that they would schedule around the Steamship Authority's schedule. They would also require a plan on how people would be arriving and departing the function.
- **Fred Hancock** said the Commission is looking for that kind of thing in writing on how the concerns are going to be addressed.

There was a discussion regarding the conditions on traffic mitigation for Balance that were not entirely met.

- **Erik Hammarlund** said he would like to know what happened and if conditions were not met, why.
- **Doug Sederholm** said that it was Balance, a completely different operator.
- **Mark Wallace** said that Balance had made a commitment for a 10 year lease for over \$1,000,000. The commitments made to the Commission were made in good faith, but in reality were not able to be tracked.

**Eric Hammarlund** asked if there were plans to make the second floor handicap accessible.

**Mark Wallace** said that they don't plan on doing anything that would trigger the requirement of making it accessible. The cost of an elevator is \$100,000. They will put an elevator in if it is successful, for the reason that it may be needed to be successful, but want to install it if they choose to, not because someone requires it.

**Camille Rose** said that she was concerned about the amount of energy that would be used in air-conditioning and heat. She asked if they had considered solar panels. **Mark Wallace** said he does not have the resources to invest in solar panels now. The space will only be air-conditioned or heated when it is being used.

**Brian Smith** asked if they knew what the demand was for July and August weddings compared to the shoulder seasons. **Mark Wallace** said there is not a lot of demand for July and August weddings because there is no place to stay. It is a June, September, and October business.

**Peter Cabana** suggested that geo-thermo and other technology be looked at when considering air-conditioning.

**Linda Sibley** recommended the testimony in regards to sound mitigation be written down with some technical details so that it can be evaluated. She asked why in the information presented there was no mention of the side walls. **Mark Wallace** said one side wall is insulated and the other will be. **Linda Sibley** asked it be put in writing with a description of the type of insulation.

**Lenny Jason** asked if they would be open year-round. **Mark Wallace** said the current liquor regulations require them to close on January 1<sup>st</sup>. They can be open from April 1<sup>st</sup> to December 31<sup>st</sup>, but the Oak Bluff's Selectmen have been allowing fundraising during the off-months.

**Mark London** said that Mark Wallace said it could be a nice place for kids to hang out and would be a nice liquor-free environment. He asked for clarification. **Mark Wallace** said there was a plan to have the bar area in the front portion contained in a separate room. There will be the ability to close down the area so that the space is completely liquor-free.

**Mark London** said he wondered about the cost of the events for the non-profits and fundraising. He asked if there was an offer to make the rental at a lower cost. **Mark Wallace** gave examples of where the rental fee was waived. **Mark London** asked for something in writing as a commitment into the future, as other event spaces such as the Field Club have done.

#### **4.3 Public Testimony**

**Jo-Anna Fairchild**, Vineyard Coach and Concierge, said she has been working for the last 6 years as an event planner and has been an event producer for 30 years. She has done an event at the Ocean Club, which was professional and wonderful to work with. Last year did tent events during which the weather turned bad and had no indoor space to move to. There is a need for the venue. Martha's Vineyard is second to Las Vegas as a destination location for weddings. The Ocean Club would have the ambiance which would suit a wedding as well as a corporate event. She would like to see the building return to one of its original uses.

**Rob Meyers** said he has worked with the Wallace brothers on a couple of events. As a musician he would love to see this type of venue for all the local talent and to attract national talent. They had a Haitian fundraiser which had food, music, and an art auction, if it was held at the Ocean Club it would be able to be in one space. They have the community in mind and would provide a great venue. **Doug Sederholm** asked if they had the Haitian fundraiser at the Ocean Club. **Rob Meyers** said they did not, half was at the Nye Gallery and the other half was at the Oyster Bar and Grille.

**Doug Sederholm** asked how many people were at the Obama party. **Mark Wallace** said that about 180 to 200 people attended. They had only owned the building for two weeks at that time.

**Tristan Israel** said that he was attending the meeting is to support a venue that would offer a place for the local talent to perform. He hopes the Commission allows the project to happen. The traffic and noise can be conditioned through mitigation. The building has a tremendous history and hopes the Commissioners consider that in their deliberations.

**Nancy Gardella**, Martha's Vineyard Chamber of Commerce, said that given the history of the building she is pleased to be able to speak on the project's behalf. The Chamber fields requests for individuals, corporations, and groups seeking mid-size venues. The events would have the trickle-down effect of benefiting many businesses throughout the Island. She believes that Mark and Mike are taking the concerns very seriously and are doing everything possible to address them. She does not speak for the members of the Chamber of Commerce, but speaks as the Director of the Chamber.

There was a discussion regarding transportation and parking.

- **Judy Murray**, owner of MV Event Planning, said that there are concerns regarding parking and transportation. She said that she had a couple of events last year that for an event of 150 people there were 2 cars. At an event at the Ag Hall for 225 people there were 10 cars. For destination weddings, the hosts go out of their way to provide transportation for their guests.
- **Doug Sederholm** asked how the people got to the events.
- **Judy Murray** said that trolleys and buses were used.
- **Doug Sederholm** asked if she believed it would not be an imposition for somebody who wanted to rent the space if part of the standard contract was the requirement to provide a transportation plan.
- **Judy Murray** said that the time of year would have to be considered. The owners and managers would encourage people to get the transportation in order. There is no venue on the Island that requires transportation. Details are sometimes required if the event is over a certain number of people or for specific hours, which would be at the client's expense.
- **Doug Sederholm** asked if it would be a problem if the applicant required in the standard contract for a wedding in September on a Saturday that the client had to provide a transportation plan.
- **Judy Murray** said it would be hard to dictate to a client because it is up for interpretation. Who would dictate how the plan would be and at what times? Renting trolleys and buses may not be in everybody's budget.

**Mike Benjamin**, a musician from Edgartown, said that the closing of the Atlantic Connection affected Oak Bluffs. The Ocean Club may be able to bring back some of the positive things that was lost.

- The Atlantic Connection used to have concerts in the summer for 400 people and is no longer there. So if a venue of similar size is started there may not be an addition to traffic. It is just replacing something that used to exist.
- He receives a lot of requests for venues that would accommodate 250 to 300 people in town. There is a demand for it.
- There is a lot of money generated from weddings and it is a clean business.

**Elizabeth Luce**, owner of the Dockside hotel next to Dreamland, said that she understand the benefit to the non-profits and the need in the community. Some of her concerns had been addressed, but others had not.

- She is concerned about:
  - Traffic.
  - The end time for events for 300 to 400 people
  - The night club scene with drinking and noise of people exiting all at once.
- She is trying to turn her property into a child-friendly / family-oriented property. Children go to bed early.
- There are current issues with taxis parking in front of their property even though it is not a parking spot.

**Mark Luce**, owner of the Dockside hotel next to Dreamland, said that the proposal is for a mixed-use venue with some function hall, weddings, non-profits, and night club. He asked if the function hall venue does not work out, will it be turned into a straight night club.

**Mark Wallace** said that there are currently 10 to 15 bars in Oak Bluffs. He would not have any competition doing this type of a venue.

**Doug Sederholm** said that there are about 30 liquor licenses in Oak Bluffs. The Commission has to look at the worst case scenario when reviewing an open-ended proposal, which would be a nightclub, opened every night with 500 people.

**Linda Sibley** asked if the venue would be used to serve alcohol and have musicians play in between weddings and organized events. **Mark Wallace** said yes.

**Doug Sederholm** asked if it would be like Nectars. **Mark Wallace** said that Nectars is a nightclub, which does not have functions. **Doug Sederholm** said they could have bands four nights a week. **Mark Wallace** said it was possible, but did not think it would be in the best interest of his licensing authority, the Oak Bluffs Board of Selectmen. He sees it as an issue for the licensing authority, but does not see it being the route he would like to take for the business.

**Fred Hancock** asked if they would like to address the hours of operation. **Mark Wallace** said the hours of operation for the restaurant are 10:30 a.m. to 1:30 a.m. Last call would be 1:00 a.m. **Michael Wallace** said that patrons cannot enter the venue after 12:30 a.m. which has helped with reducing everyone leaving establishments all at once.

There was a discussion regarding the use and times of use of the venue.

- **Mark London** asked for clarification on the use. They have discussed weddings which would be mostly off-season, and non-profit functions which might also be largely off-season. What would the activities be during the peak season of July and August when traffic and parking is of greatest concern?
- **Mark Wallace** said that there is a lot of non-profit activity in the peak season.
- **Michael Wallace** said that they would get ancillary business from allowing a non-profit to use the upstairs during peak season, such as people would eat downstairs at the restaurant.
- **Mark London** said it sounded like the majority of events in the summer time would be shows, which don't have a designated guest list or captive audience which can more easily be provided alternative transportation. Unlike the early days of Dreamland, the Vineyard is now very car oriented and if there is a good show, many people will drive there from all over the Island. The impacts to traffic may be less because it is downtown, but there will still be impacts. Commission staff has recommended a professional traffic study to gather accurate data and present it in a standardized format.

**Ben Hall Jr.**, owner and operator of the Strand Movie Theater in Oak Bluffs, asked how the B2 zoning line goes through the middle of the building and what it means. Their proposal has a tremendous number of benefits. He has concerns with the amount of noise. When there is music at the restaurant, the base does penetrate the movie theater and has some impact on the films. He asked for some kind of standard and is interested in the final mitigation. He also raised concern about trash and the noise of disposing the trash.

**Paul Foley** said that a previous condition from Balance was that they would not dispose of bottles at night and they would coordinate trash pick-ups with the neighbors.

**Doug Sederholm** asked if people had complained about the noise during the movies. **Ben Hall Jr.** said that people have walked out, but never explained why. He has not received any complaints about the noise.

**Michelle Kim-Lee**, attorney for Kate and Jeff Young owners of the Surfside Motel, said she had submitted letters.

- There are concerns about noise, traffic, and foot traffic.
- There have been issues with patrons after leaving events being in the front, rear, and in the courtyard of the Surfside property.
- Cars have been parked illegally at the Surfside Motel.
- Loud music vibrations are going into the motel, including vibrating and shaking. It is a major concern for a hotel if this will be going on until 1:30 a.m.
- There is a concern regarding the lack of traffic and parking studies for pedestrian and vehicle traffic, noise studies, and handicap access by professionals.
- There are concerns regarding the Town of Oak Bluffs appropriately handling the proposal. Noise complaints filed by guests to the Town have not been put through the proper procedures or hearings.
- They request full review of the Commission and a stay on all Town action until the review is completed.

**Jeff Young**, owner of the Surfside Motel, is concerned that hotel patrons would not get a restful night sleep. There are ten rooms that face Oak Bluffs Ave that he is concerned about hearing the noise of people departing events. He would prefer events not lasting until 1:30 a.m. but would end at 10:00 p.m. He requested that the bands not be permitted to breakdown in the back or front of the building as it would disturb the guests.

**Doug Sederholm** asked if the ten rooms facing Oak Bluffs Ave were air-conditioned. **Jeff Young** said the rooms are air-conditioned but people having consumed alcohol at 1:30 a.m. are probably louder than they realize. Security is present, but the rooms are affected by the operation.

#### **4.4 Commissioner Questions**

**Doug Sederholm** said that the LUPC unanimously approved the scope of work for the traffic study that was recommended by staff with the modification that no new traffic counts had to be done, and to require the study be prepared and presented by a professional traffic consultant. The applicant has not done that. He feels compelled to follow the LUPC unanimous vote and does not think he has the authority to do otherwise. He suggested continuing the public hearing until April 7<sup>th</sup>, so that the applicant would have the opportunity to do the study.

**Linda Sibley** said she would also like the plans for sound mitigation be put in writing. The Commission needs to be able to evaluate the adequacy of the mitigation.

**Doug Sederholm** asked what the roof was made out of. **Mark Wallace** said the roof was plywood, regular framed roof. It is not insulated. The building is higher than the surrounding buildings, so there is no pass through by means of the roof. They plan on mitigating the sound

because it is important to the neighbors and the success of their venture. He will provide a written explanation.

**Peter Cabana** said that normally traffic studies are done and suggested getting someone who is experienced and consulting an acoustic engineer with numerical factors that can be evaluated.

**Mark Wallace** said he has consulted an acoustic engineer. He is prepared to get a traffic study done.

**Chris Murphy** said that the proposal is an extension of the restaurant that is already there. When Ben De Forest stood before the Commission he was acting as the current applicant's agent. The commitments that were made were done in their name. He believes that they are trying to follow through with the commitments, but they need to be lived up to. He feels it was a serious mistake when they voted not to concur and did not vote it as a DRI. He feels the two should be rolled together as one instead of having a nonoccurrence and a concurrence.

**Linda Sibley** said she disagreed and that any conditions placed on the request would substitute the other conditions.

**Erik Hammarlund** said that no matter how much he trusts these applicants, they will not always be there. He has to insist upon legal promises. The things for the community have to be included or they will not be enforceable in the long-term future.

**Brian Smith** asked what the hours of operation were for the Game Room when it was at that location. **Mark Wallace** said it was open to 11:30 p.m. or 12:00 a.m.

There was discussion regarding the traffic study.

- **Lenny Jason** asked what would be accomplished by having a professional engineer doing a traffic report. He would rather see the money be put into sound mitigation.
- **Brian Smith** asked if there was a professional engineer who has encountered this particular issue in a resort community where the majority of the people are probably staying nearby and walking to the event.
- **Linda Sibley** said yes there were people who prepare professional traffic studies to the MVC all the time who are familiar with all types of conditions.
- **Doug Sederholm** said it was not known if most of the people would be walking or staying nearby, which is something a professional may be able to evaluate.
- **Peter Cabana** said he disagreed because there were professional wedding event planners that have commented on how transportation was handled with other events.
- **Linda Sibley** said that the weddings would be in the fall and spring. There are concerns about the traffic and parking in the summer time, which would not be the weddings which are by invitation events. The issue is the music nights and people are coming from all over the Island to attend with no organization or planning.
- **Mark Wallace** said that the traffic study is going to cost between \$2,000 and \$5,000. He is prepared to do the traffic study, but would rather spend the money on something that is more valuable to the community and the Commission.
- **Doug Sederholm** said the issue was thoroughly discussed at LUPC and vetted there. It would be a bad and dangerous precedent to undo it at this point. If anyone had problems with having a traffic study, they should have been at LUPC to voice the concerns

and discuss it then. LUPC is an open committee and the agenda was well publicized. The LUPC voted unanimously to have a traffic study.

- **Mark Wallace** said that it was not clear to the LUPC that the reason why the proposal was before the MVC was for an entertainment license and not for a permit to use the space.
- **Doug Sederholm** said that it was a completely different issue.
- **Bill Bennett** said the building is not a new building, it is not a new use, and it is in the middle of town with a lot of public transportation nearby. He does not see the purpose of a traffic study for something that has already been in the community and already being used with the same capacity of people.
- **Mark London** said that it was previously a game room, which typically had between 50 and 70 people in there at a time and the people would drift in and out. It is now going to be a function hall, where up to 500 people will be arriving and leaving at the same time. It will be one of the biggest parking and traffic generators on the Island. He suggested that the traffic and parking warrants being looked at carefully. It might be fine. He recommends the Commission asks the applicant to complete a traffic study, as many other applicants for much smaller projects have done.
- **Doug Sederholm** said the decision is made at LUPC and was voted on unanimously.

**Doug Sederholm** continued the public hearing until April 7, 2011.

## 5. DCPC WRITTEN DECISIONS

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*Commissioners Present: B. Bennett, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith*

***Doug Sederholm moved, and it was duly seconded, to approve the written decision to designate Ben Toms Road, Middle Line Path, Penny Wise Path, Tar Kiln Road, and Watcha Path as Special Ways within the Special Way Zone of the Island Road District.***

- The Commissioners discussed the motion.
  - **Christina Brown** asked what the highlighted portions were on Page 2. **Jo-Ann Taylor** said the sections were added to the draft after it was emailed to the Commissioners.
  - **Doug Sederholm** said on Line 18, the word "special" should be deleted. On Line 41, the word "regarding" should be deleted.
  - **Bill Bennett** asked that if they adopted the written decision it would not affect the other items before them. **Chris Murphy** said that was correct.

***A roll call vote was taken on the approval of the written decision for the designation of the five ways, with corrections. In favor: C. Brown, P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley, B. Smith. Opposed: B. Bennett, Abstentions: C. Rose. The motion passed.***

***Doug Sederholm moved, and it was duly seconded, to approve the written decision amending (clarifying) findings, goals, and guidelines.***

**A roll call vote was taken on the approval of the written decision. In favor: C. Brown, P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: None, Abstentions: B. Bennett. The motion passed.**

There was a discussion regarding the date in the written decision for the Special Ways.

- **Christina Brown** asked if the written decision approval date should be included in the written decision.
- **Doug Sederholm** said it should not matter and would be an administrative issue.
- It was agreed to leave it as it was voted.

**Jo-Ann Taylor** said that after hearing testimony on March 10, 2011 regarding making the specific qualifications clearer, staff reviewed the document and recommended further revising the the following text.

*"The district contains a place, landscape, way, or view which is in some special way expressive of the character of Martha's Vineyard Island, traditions of the island and residents and of special interests to island visitors. The maintenance and protection of those values are essential to a sound local economy. The district also*

- *is of exceptional cultural, symbolic, historic, archeological, or recreational value, or*
- *is either visible to or accessible to the public or has reasonable potential to be made so, or*
- *is rare, unique or make an unusual contribution to the diversity of the Island character, or*
- *is irreplaceable or replaceable with extraordinary effort or expense."*

**Erik Hammarlund** was concerned that the changes make the policy broader.

**Chris Murphy** explained that the process is that someone who had voted in favor of the motion has to make a motion to reconsider it with the proposed changes.

**Erik Hammarlund** said that there is an error in the original. He made an amendment, which included the word exceptional that is not reflected.

**Linda Sibley** said that if someone moved to change the qualifications, they could then agree to delay making the changes.

**Christina Brown moved, and it was duly seconded, to reconsider the vote on the qualifications and to accept the proposed changes to the Qualifications as proposed by staff.**

- **Bill Bennett** said the revisions addressed his concerns in the original document.
- **Erik Hammarlund** said that he feels the amendment makes it broader. The original had the requirement that it had to be exceptional which is not required in the revision. He questioned the degree of change and if it was allowable without a public hearing.
- **Mark London** said the issue appears to be with the second bullet, where merely providing public access by itself shouldn't be enough to designate.
- **Erik Hammarlund** suggested moving the second bullet to the bottom and rewriting it.

- **Linda Sibley** said that the first part of the qualification still needs to be met.
- **Mark London** suggested removing the second bullet entirely.

**Erik Hammarlund moved, and it was duly seconded to amend the motion to strike the second bullet.**

- **Christina Brown** asked if it was important for it to be included in the text.
- **Erik Hammarlund** recommended asking counsel before taking the vote.

**Eric Hammarlund withdrew his amendment and Christina Brown withdrew her motion to reconsider and amend.**

**Christina Brown moved, and it was duly seconded to reconsider the March 10, 2011 vote on the Specific Qualifications.**

- **Christina Brown** said that the Commission could then continue the discussion and make the amendment at the next meeting, after consulting counsel.

**A roll call vote was taken. In favor: B. Bennett, C. Brown, P. Cabana, E. Hammarlund, F. Hancock, C. Murphy, K. Newman, N. Orleans, C. Rose, D. Sederholm, L. Sibley, B. Smith. Opposed: None. Abstentions: None. The motion passed.**

**Chris Murphy** continued the discussion until the next meeting.

**Bill Bennett** asked if a public hearing was needed for the changes. **Chris Murphy** said that the Commission is allowed to reconsider it at the following meeting, which is what they are doing.

**Erik Hammarlund** said that counsel could advise to what the extent of the reconsideration could be.

The meeting adjourned at 9:53 p.m.

DOCUMENTS REFERRED TO DURING THE MEETING:

- MV Hospital Parking Lot DRI 324-M3 Written Decision
- Ocean Club DRI 309-M Public Hearing Notice
- Ocean Club DRI 309-M Staff Report
- Ocean Club DRI 309-M Oak Bluffs Selectmen's Procedures for Noise and Nightclubs
- Ocean Club DRI 309-M Applicant's Narrative
- Ocean Club DRI 309-M Letters Page 1-3
- DCPC Special Ways Written Decision
- DCPC Amending(Clarifying) Findings, Goals, and Guidelines Written Decision
- DCPC Specific Qualifications staff notes

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Chairman

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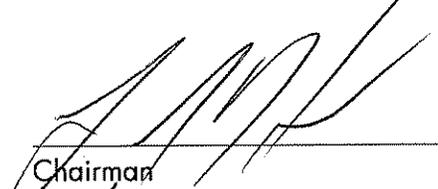
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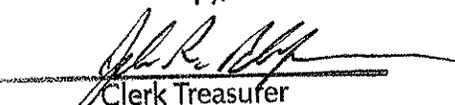
  
Chairman

5-3-11  
Date

  
Clerk-Treasurer

5-5-11  
Date

A True Copy, Attest:

  
Clerk Treasurer  
Martha's Vineyard Commission