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Minutes of the Commission Meeting Held on March 17, 2005 In the Olde Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: James Athearn (Elected – Edgartown), John Best (Elected – Tisbury), John Breckenridge (Appointed – Oak Bluffs), Christina Brown (Appointed – Edgartown), Mimi Davisson (Elected – Oak Bluffs), Linda DeWitt (Appointed – Edgartown), Chris Murphy (Appointed – Chilmark), Katherine Newman (Appointed – Aquinnah), Ned Orleans (Appointed – Tisbury), Megan Ottens-Sargent (Elected – Aquinnah), Deborah Pigeon (Appointed – Oak Bluffs), Jim Powell (Appointed – West Tisbury), Doug Sederholm (Elected – Chilmark), Linda Sibley (Elected – West Tisbury), Paul Strauss (County Comm. Rep.), Andrew Woodruff (Elected – West Tisbury)

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Paul Foley (DRI Coordinator), Srinivas Sattoor (Traffic Consultant)

1. VINEYARD YOUTH TENNIS: DRI 539-M – PUBLIC HEARING

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, M. Davisson, L. DeWitt, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

For the applicant: Alan Schweikert (member of the VYT Board of Directors), Gordie Ernst (VYT Executive Director and tennis pro)

Christina Brown opened the public hearing and read the hearing notice. The proposal is to modify the conditions of the approval for Vineyard Youth Tennis.

Paul Strauss asked whether, as a member of the Oak Bluffs Conservation Commission, he is considered an Oak Bluffs employee and therefore in conflict. **Doug Sederholm** explained that he had contacted the State Ethics Commission regarding a similar situation; the Ethics Commission does not consider the situation a conflict because the Martha's Vineyard Commission is considered a municipal agency that represents all of the towns. **Christina Brown** said the working assumption and policy is that Commission members can sit on the Commission and on other town boards and review the same project.

1.1 Applicant's Presentation

Alan Schweikert said that Vineyard Youth Tennis is a non-profit dedicated to offering free tennis instruction to kids on the Vineyard. VYT feels that the facility, within the existing conditions, can no longer safely and easily accommodate young people's needs. VYT is asking for modification of some of the conditions.

Gordie Ernst and **Alan Schweikert** outlined the proposed modifications:

- *Condition 1a proposes changing the date of the deflation and dismantling of the "bubble" from April 15th to May 15th. The proposal is made because of weather conditions in April and early May.*
- *Condition 1d proposes to clear a designated area for informal play as well as occasional overflow parking. The need for additional parking arises from parents picking up and dropping off at the same time and a perceived safety issue in the existing entry area.*
- *Condition 1g proposes changing the hours of operation to be 8:30 a. m. to 7: 00 p.m., with a maximum of 7 classes in one day. The change in hours would allow VYT to space out the lesson schedule, creating a better schedule for children and better traffic flow.*
- *Condition 1h proposes adding exterior lighting with five 8-foot-high light poles, which would be shielded and turned off no later than 8:30 p.m. The proposal for parking area lights came from the need for improved visibility during pick-ups after dark.*
- *Condition 2a proposes allowing adult/child play up to two weekends a month for a maximum of three hours per day. VYT would like to provide more opportunities for children and their parents or other adults to play together.*
- *A new condition proposes allowing VYT to lend the facility for up to three charity fundraising events per year. Adding charity fundraisers to its program would allow VYT to sponsor fundraisers for charities that would benefit children or for the center itself.*

Alan Schweikert clarified that VYT would like the 3rd line of Condition 2a to read *adult/child* rather than *parent/child*.

1.2 Staff Report

Paul Foley gave the staff report.

- Letters have been received from:
 - Paul Schneider in support of the proposal;
 - the Vineyard Tennis Center expressing concerns;
 - Gail Barmakian (member of the Oak Bluffs Zoning Board of Appeals but speaking for herself) providing background information and included copies of previous ZBA decisions.
- The Commission approved the original plan in 2001.
- The key planning issues related to the proposed modifications are:
 - Traffic: can the blinker intersection accommodate the additional traffic?
 - Overflow parking: is there "compelling evidence" that it is needed, as required in the original decision?
 - Lighting: is there a safety concern?

- He summarized the traffic report:
 - The prime area of traffic concern is the blinker. The analysis indicates that the extended hours would generate 78 additional mid-day trips based on 8 classes a day (later reduced to a maximum of 7).
 - The analysis of traffic does not appear to justify the need for overflow parking. The extension of hours and staggering of classes should alleviate the need for extra parking space.

Srinivas Sattoor gave additional information on the traffic impact study:

- 76 trips during operating hours.
- An additional 78 trips would be added during extended hours, with midday peak hour adding 22 trips. This would increase traffic on adjacent roads by 1.6% (12 trips) or less.
- Given that traffic at the blinker is already at operating at level of service F, in theory no more traffic should be added, although this policy is not generally applied on the Vineyard.
- The parking study submitted by the consultant showed no more than 6 cars parked at a time. No clear information was provided to justify the need for additional parking.

1.3 Commissioners' Questions

John Breckenridge asked about the base numbers of the traffic study. **Srinivas Sattoor** clarified that the numbers used were based on the current hours.

Mark London said that the original analysis was based on the assumption that since the number of hours would double, the number of classes and the amount of traffic would double as well. However, the revised request limits the increase in total daily classes from 5 to 7.

Megan Ottens-Sargent asked about the parking study done in 2002. **Srinivas Sattoor** indicated that the applicant did a car count in the parking lot in August 2002; the count showed two to six vehicles at each 30-minute mark.

James Athearn said the condition makes no reference to the 2-foot-high lights that are currently in place and suggested that wording related to low ground lighting should be maintained in the condition. He asked about the installation of the 8-foot-high lights, which are already in place.

Alan Schweikert said someone had perceived the safety issue and took care of it, unaware of the condition prohibiting exterior lighting.

Mimi Davisson said the Commission assumes that VYT will not be adding any lighting. Commissioners agreed to maintain wording related to low ground lighting.

There was a discussion of the proposed overflow parking area:

- **Mark London** said the original plan had a dotted area that was for overflow parking if there was compelling evidence that additional parking was needed. He said that LUPC had discussed various options for the surface of an overflow area as well as the possibility of deferring clearing the area until VYT goes through a season with extended hours and reassesses the need for additional spaces.

- **Gordie Ernst** said that parking is a safety issue for a short amount of time summer mornings.
- **John Breckenridge** suggested that, with the extended day, overlap might be eliminated.
- **Alan Schweikert** said that the Board is very concerned about the safety issue because people are in a hurry and kids are little. More parking may relieve congestion.
- **Linda Sibley** suggested a safety expert might develop a traffic plan that would be safe.

2.4 Public Comment

Andrew Flake said he and his children are very involved in VYT's program. He sees many benefits from the extraordinary gift of the VYT and encourages everyone to stop by and check out the positives of the program. He hopes the Commission can help VYT to produce the best program it can that supports tennis on the island. He is thrilled with the program.

Connie McHugh, Vineyard Tennis Center, said there isn't another facility like VYT in the country. She said Vineyard Tennis Center's support of the plan came because of the mission of the VYT for children; she has a major concern that VYT stay with that mission focused on children and tennis. She expressed concern that VYT's allowing some adult play could have a negative impact on the Vineyard Tennis Center, such as on the teaching revenue for the tennis pro.

John Cummings commented that parking in Oak Bluffs is dear to his heart and asked that the issue be considered carefully.

Mimi Davisson asked for clarification on the duration of the three charity fundraising events per year. **Gordie Ernst** said they would be one or two days maximum per event.

Andrew Woodruff asked how many students would be entering and exiting during the 7 classes per day. **Gordie Ernst** said there are approximately 16-20 students but the number varies according to class level.

Christine Todd, a member of the Zoning Board of Appeals of Oak Bluffs, said that one of the major concerns during the inception and development of VYT was residential impact. Little residential impact has been realized and residents are not voicing concerns over the proposed modifications. She noted that this is one of the few operations that has stuck to its commitment, and worked within limitations set by the town and Commission. She supports expanding the hours and allowing parents to play with kids in a relaxed and affordable way.

James Athearn asked Andrew Flake for a response to the need for parking. **Andrew Flake** said extra parking under certain circumstances would be an asset.

Connie McHugh commented on parent/children play. When VYT was organizing its program, children played for free at Vineyard Tennis Center; now children play for \$5. Financial assistance is also available. **Alan Schweikert** clarified that, when the bubble collapsed, VYT was charged \$60 an hour to play at Vineyard Tennis Center. VYT has been going to Falmouth because they offered free court time.

Megan Ottens-Sargent asked about parking during tournaments. **Gordon Ernst** said that overflow parking would be at the high school.

Gordie Ernst said the modifications are tied together to help VYT create a program to capture more kids.

Katherine Newman asked whether VYT was comfortable with the idea of trying to work with the existing parking lot for one year. **Alan Schweikert** responded that maybe alternative solutions may exist, but the current situation raises safety concerns.

Gordie Ernst clarified that the additional lighting in the winter is a great help and VYT would proceed with getting the new lights shielded. He added that he would like to create an area of overflow parking for the summer.

Christina Brown closed the public hearing. She said that LUPC would meet and come up with recommendations for full Commission.

The Commission took a brief recess.

2. 45 CIRCUIT AVENUE REALITY TRUST CC: DRI 585 – PUBLIC HEARING

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, M. Davisson, L. DeWitt, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

Christina Brown opened the public hearing and read the hearing notice. The application is to construct a new, larger building on a smaller footprint and with elements of the pre-existing structure.

2.1 Applicant's Presentation

For the Applicant: Chuck Sullivan (architect), Eugene Erez (owner), Maurice O'Connor

Chuck Sullivan explained the proposal.

- The original plan was to replace the first floor and basement. After the second floor was supported, it became apparent that the building wasn't worth saving and it was demolished.
- The proposal is to replace the demolished building with a 3-story building more like building that was built in the 1880s.
- The proposed building is five feet taller than the original; the first floor will be brought to street level.
- Two retail spaces are proposed downstairs; upstairs there will be 2 2-bedroom and one 1-bedroom apartments, with 1,000 additional square feet.
- LUPC waived the need for a traffic study, on the basis of the majority of traffic coming by foot. Ideally, the people living upstairs will be working downstairs or in town.

- The applicant explored the possibility of making one or more of the units affordable and tried to get state or federal grants, but was not able to. He will contribute the Commission's suggested mitigation amount to the Island Affordable Housing Fund. He plans to rent apartments on a year-round basis.
- Regarding water, the building will be hooked up to Oak Bluffs sewer. Drainage is through storm drains and pitched toward street so there will be no erosion on neighboring lots.
- The building is a bit smaller than the original footprint because of codes and setbacks.

Eugene Erez explained the proposal.

- He does not want the wear and tear of seasonal rentals.
- He explained the process of attempting to renovate the building and the decision to demolish it.
- He will meet with the Oak Bluffs Board of Selectmen to develop a construction schedule.
- He has received approvals from the Historical Commission and Wastewater Commission.
- He intends to build the entire building envelope and have the retail space ready by May 15th, so as to comply with the requirement of no construction on Circuit Avenue after May 15th.

2.2 Staff Report

Paul Foley gave the staff report:

- The Commission received a letter from Renee Balter of the Oak Bluffs Historical Commission stating its support for the proposal and the applicant's plan.
- The proposed plan will have three instead of two floors but will be only five feet taller.
- The proposal was referred by the Oak Bluffs Building Inspector's Office. The former building was an historic structure and the proposed building is over 2000 sq. feet.
- The key issues are the project's effect on the Circuit Avenue streetscape and the effect of construction on Circuit Avenue businesses.
- LUPC waived the requirement for the traffic study.
- One retail store will be replaced by two retail stores.
- The applicant looked into affordable housing options, but may end up making the one-time contribution to the Affordable Housing Fund.
- He pointed out a photograph of the streetscape and the way the project's façade fits into the streetscape.

2.3 Town Boards

Kerry Scott, Oak Bluffs Board of Selectmen, said she wanted to convey to the Commission her appreciation for the way the process has been expedited. She asked that the project be conditioned as tightly as possible to minimize potential negative impacts on neighboring businesses such as: construction noise, dust, parking, blocked sidewalks, and disrupted deliveries. The Selectmen want to balance protecting the interests of the neighborhood with supporting Mr. Erez.

Doug Sederholm said Oak Bluffs officials might be in a better position to control the construction than the Commission

Kerry Scott said the Selectmen can deal with the construction schedule, but they are asking for conditions on this project like those on Pacific Cotton.

Ned Orleans said the Pacific Cotton condition was that the applicant had to consult with and get the approval from the Board of Selectmen or their designated agency. He said he feels the Selectmen are asking the Commission to do something the Selectmen are not willing to do.

Kerry Scott said that is not unfair to say.

A letter from Renee Balter, representing the Oak Bluffs Historical Commission, said the Historical Commission had approved Mr. Erez's project.

2.4 Public Comment

Alan Schweikert, Oak Bluffs property owner and real estate broker, spoke in support of the project, which has received the approval of the Historic Commission. He believes that ultimately, Eugene Erez's project will be a credit to the town.

Rea Spence, appraiser, said the project is very consistent with other projects in Oak Bluffs that show pride in ownership. She spoke in support of construction work done by Eugene Erez and she said she likes to see projects that contribute to affordable living.

Paul Strauss said the project was discussed at the Oak Bluffs Selectmen's meeting; it is similar to Pacific Cotton project, which was successful because of the cooperation of parties involved. The intent of the cooperation was to minimize the impact on other businesses.

Kerry Scott said she had thought the Commission had been able to condition the Pacific Cotton construction. If conditions need to be established by the Selectmen, they will do it.

Paul Foley said the Pacific Cotton project began with the Commission, so the Commission was in a good position to establish conditions relating to overseeing the project.

Linda Sibley read the Pacific Cotton condition, which called on the applicant to submit a demolition and construction plan to Selectmen or their designee for approval.

Ned Orleans said Commissioners had written the condition with the assumption that a town agency would have the authority to make decisions with the contractor. There was no agency so the Selectmen had authority; they took it upon themselves to do the job.

Chris Murphy said another issue is parking for 5 bedrooms which will add to the push on the residential neighborhoods. **Megan Ottens-Sargent** pointed out that parking requirements were waved by Oak Bluffs.

Mimi Davisson asked what percent of the 102 abutters is residential versus commercial. A high percent is residential because the site abuts the Campground on the back. It was confirmed that the building was already tied into the wastewater system.

Mimi Davisson asked if there were any by-laws related the hours of operation. **Eugene Erez** said he would have to stop work on May 15th. He would like to begin work at 7:00 a.m. and work as late as possible. He said that he is responsible to the Chief of Police, Highway Department and Roger Wey who was appointed to make decisions on behalf of the Selectmen.

Chuck Sullivan, regarding parking, said the town by-law states that only additional retail space would require additional parking. He clarified that if a project can't meet the parking by-law or planning board requirements, the owner can ask for a waiver which requires a yearly payment to an entity like the Park & Ride.

Alan Schweikert said that the parking mitigation trust was approved by the Attorney General last spring.

Rea Spence suggested Selectmen follow the Campground's building limitations. Work could be suspended for Memorial Day weekend and again at the third week or so in June.

Kerry Scott personally requested that the project strengthen its link to affordable housing.

Christina Brown said that it's very likely the offer that the apartments will be rented year round will be accepted.

Christina Brown closed the public hearing.

2.5 Commissioners' Questions & Discussion

Mimi Davisson moved and it was duly seconded that referral to LUPC be waived and discussion take place immediately. A voice vote was taken. In favor: 16. Opposed: 0. Abstentions: 0. The motion passed.

Doug Sederholm moved, and it was duly seconded, that Commission approve the project and accept the offers made, specifically:

- **that the applicant shall rent the three residential units on a year-round basis,**
- **that the applicant shall prepare and submit for approval, to the Oak Bluffs Board of Selectmen or such offices as they may designate, a construction schedule and plan designed to minimize disruption of day-to-day activity in the area,**
- **that the applicant will donate \$1700 for affordable housing.**

John Breckenridge suggested, after having discussed the project with town officials, that the Commission's approval be more detailed. He suggested the following wording:

The applicant shall prepare and submit a detailed construction schedule and a plan designed to support the neighborhood, promote safety and good construction practice. The plan would:

- Comply with all applicable town by-laws;
- Promote public safety and the mitigation of all noise and dust;
- Minimize the loss of parking on Circuit Avenue; construction vehicles would park on property on Narragansett Avenue;
- Require storage all building materials off site or within the footprint of the building.

- Minimize disruption by scheduling early morning deliveries in cooperation with the Oak Bluffs Police Dept.
- Require that the 2nd and 3rd floors be completed in a prompt fashion. Entire construction is to be completed within 12 months from day the building permit is issued.

Doug Sederholm said he is not being bashful about imposing conditions and thought that John Breckenridge's ideas were good, but in this case felt that the Commission should leave the making of conditions to the town.

James Athearn was inclined to include the phrase *including but not limited to*.

Paul Strauss said he would like to see a few more guidelines, but not specifics; it is appropriate to mention some of the areas so there is agreement on what the issues are.

Linda DeWitt asked for clarification on the amount of work to be done by May 15th. Mr. Erez said the bulk of disruptive construction would be done by May 15th.

Andrew Woodruff said he thinks Doug Sederholm's motion is adequate and that Oak Bluffs can handle overseeing the project. He appreciates John Breckenridge's effort.

Megan Ottens-Sargent pointed out that Kerry Scott asked the Commission to put more clout into an existing regulation. John Breckenridge's motion seems to be a set of guidelines. She said she is comfortable with Doug Sederholm's motion.

John Breckenridge said what was written for Pacific Cotton spoke about day-to-day activity and spoke in general terms about general concerns.

John Breckenridge moved, and it was duly seconded, to amend the motion to include: a schedule to minimize the loss of business parking on Circuit Avenue and adjacent neighborhoods, minimize the impact on traffic on Circuit Avenue businesses by scheduling early morning deliveries, and complying with all applicable town by-laws.

- **Mimi Davisson moved an amendment to the amendment, that the applicant shall prepare and submit to the Oak Bluffs Board of Selectmen or such offices as they may designate for approval a construction schedule plan designed to minimize disruption of day-to-day activities in the area including but not limited to the mitigation of noise, dust, light, protection of public safety and protecting against disruption of parking. The motion died for lack of a second.**

A voice vote was taken on John Breckenridge's amendment. In favor: 4. Opposed: 12. The amendment did not pass.

Doug Sederholm moved, and it was duly seconded, to amend his motion by adding the condition that the project be completed with a certificate of occupancy issued within 15 months of when the building permit is issued. A vote was taken. In favor: 13. Opposed: 2. Abstentions: 1. The motion passed.

Christina Brown moved, and it was duly seconded, to amend the motion by adding that before the certificate of occupancy is granted, the applicant will have arranged for affordability of one of the units for as long-term as possible through existing public or private programs or will have made the \$1,783 contribution to the Island Affordable Housing Fund or Dukes County Regional Authority. A voice vote was taken. In favor: 16. Opposed: 0. Abstentions: 0. The motion passed.

Christina Brown moved, and it was duly seconded, to amend the motion by adding that the Commission is approving the plan; however, further fine-tuning of details associated with this project do not have to return to the Martha's Vineyard Commission if the Oak Bluffs Historical Commission approves them. A voice vote was taken. Approved: 16. Opposed: 0. Abstentions: 0. The motion passed.

Andrew Woodruff said this is a really attractive plan and an asset to the town. He shares Chris Murphy's concerns about parking.

A roll call vote was taken on the motion to approve the project with conditions, as amended. In favor: J. Athearn, J. Best, J. Breckenridge, C. Brown, M. Davisson, L. DeWitt, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, D. Sederholm, L. Sibley, P. Strauss, L. Sibley, A. Woodruff. The motion passed unanimously.

3. OTHER

3.1 Announcements

Mark London made three announcements.

- Written proceedings and DVDs of last year's four forums are available from all town libraries.
- The Commission and Polly Hill Arboretum are co-sponsoring Sustainability Day: Making the Vineyard a Sustainable Island including the first 2005 forum.
- John Pagini, out-going Director of Nantucket's Commission, is scheduled for the March 24th Commission meeting to talk about various topics.

3.2 Connector Road Proposal

Mark London said that on March 16th, the Tisbury Planning Board presented its proposal of a system of connector roads and mixed used development of the surrounding area at a public hearing in Tisbury. It was generally well received. Srinivas Sattoor did a traffic study for the project; the traffic study will be posted on the Commission web site. The meeting will be aired on MVTV, starting on Friday at 5:00.

Ned Orleans said that a couple of the leading opponents to the last by-pass road proposal were very complementary of this iteration. He commented on the good work being done by the planning board. **Mark London** commented that criticism of previous proposals would appear to have been well founded because the traffic study showed that they would not have worked very well. **Linda Sibley** said it was exhilarating to see good pro-active planning going on.

Commissioners suggested including meetings related to regional issues on the Commission's extended schedule.

3.3 LUPC

The next LUPC is on Monday, March 21st

Christina Brown said the Commission is supposed to update the DRI checklist this year. She said she would set one LUPC meeting a month to look at the checklist. The question to be addressed is: what projects involve regional issues that the Commission is to protect?

3.4 Planning Process

Linda Sibley said that in order to move forward with the comprehensive planning process, the Commission needs a Steering Committee, which will include members of the public. Linda Sibley named members of a selection committee with a mandate of selecting the members of the Steering Committee. James Athearn will chair the Steering Committee and will be on the selection committee. She named the following other people as members of the selection committee: Ned Orleans, Linda Sibley, Megan Ottens-Sargent, Paul Strauss, and Chris Murphy.

The meeting was adjourned at 10:47 p.m.

Linda B. Sibley
Chairman

Date

May 12, 2005

Nathaniel J. Blain,
Clerk-Treasurer

Date

May 12, 2005