



CAPE COD COMMISSION

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DATE: June 21, 1996 #TR-96002
TO: Mr. George Abbott, Applicant
FROM: Cape Cod Commission
RE: Development of Regional Impact Application
Barnstable County Ordinance 94-10, Chapter A, Section 3(e)
APPLICANT: Mr. George Abbott/Jan Hemeon
P.O. Box 641
Barnstable, MA 02630
PROJECT: All Seasons Motor Inn/Yarmouth Miniature Golf
BOOK/PAGE: Book 5461, Page 155
Document #356168, Certificate #100276

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby denies, without prejudice, the application of Mr. George Abbott and Mr. Jan Hemeon for a Development of Regional Impact qualifying under Section 3(e) of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 94-10, Chapter A, as amended, for the proposed development involving outdoor commercial space greater than 40,000 square feet.

PROJECT DESCRIPTION

The project consists of a proposed new 18-hole miniature golf course (31,500 sq. ft.) with parking (37,000 sq. ft.) for a total of 68,500 square feet of new development. The project would be associated with the All Seasons Motor Inn and would be located at Route 28 and Theater Colony Lane in South Yarmouth. The lots in question abut Main Street Historical District in Yarmouth. The total area of the parcels in question is 6.67 acres. The course would be placed on the first 300 feet of a lot between the existing Motor Inn and Theater Colony Lane. This would be because the back of this parcel contains a large depression and steep topography. The golf course parking would be placed on a lot behind the existing Motor Inn with access onto Theater Colony Lane. The course would include several small ponds, a boat feature and small shed (clubhouse) for storage. Bathroom facilities for course patrons would be provided at the adjacent Motor Inn. Several types of pole-mounted lighting fixtures would illuminate the course and new parking lot. The applicant would keep the parking lot a minimum of 240 feet away from the abutting properties on Main Street and would commit to assigning 40% of the total project area as open space.

The parking lot would be located on residentially-zoned land. As such, the project would require a variance and Special Permit from the Town of Yarmouth Zoning Board of Appeals.

PROCEDURAL HISTORY

The project was referred as a Development of Regional Impact (DRI) by Mr. Forrest White, Yarmouth Building Inspector on January 17, 1996. The referral was received the same day by the Cape Cod Commission. A scoping session on the project was held with interested Town officials on February 13, 1996. On February 16, 1996, a letter was sent to the applicant's representative indicating that additional information was needed to deem the DRI application complete and hold a public hearing. A duly noticed public hearing to consider the DRI application was scheduled for March 11, 1996. On February 20, 1996, the applicant was informed that the DRI application was incomplete and the scheduled public hearing would be continued to April 8, 1996. Therefore, due to an incomplete DRI application, a hearing officer opened and continued the hearing to April 8, 1996. The applicant subsequently filed a complete DRI application on March 11, 1996. On April 8, 1996, the Subcommittee held a public hearing, accepted public testimony and discussed the DRI application. At the April 8, 1996 public hearing, the Subcommittee received letters from town boards requesting the record be kept open for 21 to 30 days from April 8th to allow them time to comment on the proposal. The Subcommittee voted on April 8, 1996 to keep the record open to May 9, 1996 to allow local boards the opportunity to comment on the proposal and also voted to continue the public hearing to May 9, 1996 for further discussion of the project issues. On April 10, 1996, the Commission staff sent a letter to the applicant's representative discussing information related to lighting. On April 24, 1996, a letter was sent to the applicant informing them that the continued public hearing for May 9, 1996 had been tentatively changed to a hearing officer to allow the applicant more time to develop revised information and that a new public hearing had been tentatively scheduled for June 6, 1996. On April 26, 1996, the Commission received a letter withdrawing the project from Commission DRI review. On May 2, 1996, the applicant was informed that a letter should be sent to the Yarmouth Building Inspector requesting that the project be withdrawn from consideration at the local level. The applicant was also informed on May 2, 1996 that the Commission needed evidence that the project had been withdrawn at the local level on or before May 9, 1996 and that failure to provide such evidence might result in a procedural denial of the DIR application. On June 21, 1996, the full Cape Cod Commission opened a public hearing on this project to allow proposed corrections to and comments on factual information contained in a draft written decision for a procedural denial without prejudice. The Subcommittee voted all in favor of approving the April 8, 1996 hearing minutes as presented. The full Cape Cod Commission voted all in favor of denying, without prejudice, the application of Mr. George Abbott and Mr. Jan Hameon for a Development of Regional Impact for the proposed project.

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

Cover letter, DRI application	2/12/96
DRI application form	2/12/96
Copy, DRI fee payment check	2/12/96
Copy, deed	2/12/96
Copy, abutters list	2/12/96
Copy, 3 full size, preliminary site plans	2/12/96
Copy, reduced size, site plans (unacceptable)	2/12/96
Copy, 2 full size, course layout	2/12/96
Copy, 2 reduced size, course layout	2/12/96
Copy, 2 full size, clubhouse exterior elevations	2/12/96
Draft plantings list, submitted at scoping session	2/13/96

A. Materials submitted by the Applicant (continued):

Letter, funding for traffic mitigation	2/20/96
Letter, confirmation of receipt by Town of DRI application	2/20/96
Copy, return receipt for Mass. Historical notification form	2/20/96
Letter, discusses open space and requests waiver of wildlife and plant habitat assessment	2/21/96
Letter, sending map to Mass. Historical	3/5/96
Planting schedule	3/8/96
Site plan (2 full sized and 2 reduced copies)	3/8/96
Landscaping plan (1 full sized copy)	3/8/96
Letter, to Jean Bullock, Yarmouth Planning Dept., submittals	3/20/96
Revised site plan (parking lot) (2 full sized and 2 reduced copies)	4/8/96
Copy, 1 full size, clubhouse exterior elevations (revised)	4/8/96
Letter withdrawing project from Commission review	4/26/96

B. Materials submitted by the State:

Letter, Mass. Historical, requesting map	3/8/96
Letter, Mass. Historical, no impacts	4/4/96

C. Materials submitted by the Town:

DRI Referral Form and cover letter	1/17/96
Site plan review discussion notes	1/17/96
Meeting notice for scoping session	2/8/96
Letter, Route 28 Task Force	4/5/96
Memo, Yarmouth Planning Depart., keep record open	4/5/96
Memo, Yarmouth Planning Dept., summary of comments	4/8/96
Memo, Yarmouth Fire Department	4/8/96
Letter, Yarmouth Selectmen, keep record open for comments	4/9/96

D. Materials submitted by the Public:

Copy of letter-returned	2/16/96
Letter in support, Hearth n'Kettle	2/26/96
Letter, with concerns, JoAnn Wright	3/25/96
Letter, with concerns, Joseph F. and Helen E. Rogers	4/1/96
Letter, with concerns, Shedda and Louis Angeloni	4/2/96
Letter, with concerns, Beverly Winn	4/3/96
Letter, with concerns, Annette St. Pierre	4/4/96
Letter, with concerns, Joseph F. and Helen E. Rogers	4/5/96
Letter, with concerns, Basil and Mary Walsh	6/19/96
Letter, with concerns, Patricia M. DeCoste	6/19/96
Minutes, Yarmouth Board of Appeals	Undated

E. Materials submitted by Cape Cod Commission:

Notes, preapplication meeting	1/19/96
Letter, intent to review as DRI	1/19/96
Memo, notice to subcommittee	1/19/96
Letter, transportation issues	1/22/96
Letter, transportation issues	1/30/96

E. Materials submitted by Cape Cod Commission (continued):

Memo, changes to subcommittee	2/1/96
Memo, changes to subcommittee	2/2/96
Notes, scoping session	2/13/96
Letter, items needed to complete application	2/16/96
Letter, DRI fee refund	2/16/96
Letter, bill for notices	2/20/96
Memo, subcommittee update	2/20/96
Letter, use of DY Highschool library	2/23/96
Letter, cover for fee refund check	3/1/96
Letter, application complete	3/11/96
Minutes, hearing officer	3/11/96
Fax, to Jean Bullock, project submittals to date	3/15/96
Letter, to Trisha Johnson, information request	4/1/96
Staff Report	4/2/96
Fax, to Greg Silverman, directions to hearing	4/3/96
Fax, to South Yarmouth Association, Staff Report	4/8/96
Minutes, hearing	4/8/96
Letter, to David Kellogg, copies of letter in file	4/10/96
Letter, information on lighting, benefits/detriments	4/10/96
Letter, from staff counsel, to David Kellogg, DRI review process	4/17/96
Letter, reschedule public hearing to allow applicant time to develop revised information	4/24/96
Letter, concerning letter of withdrawal at local level	5/2/96
Memo, to Subcommittee, project update	5/3/96
Minutes, hearing officer	5/9/96
Memo, to Subcommittee, project update	5/13/96
Memo, to Subcommittee, project update and attachments showing course layout and associated parking	6/7/96
Project update to staff	Undated
Hearing notices	Undated
Project contacts list and Subcommittee list	Undated

The Application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file TR-96002 are incorporated into the record by reference.

TESTIMONY

The Commission's Subcommittee received testimony at the April 8, 1996 public hearing. Lance Lambros opened the hearing at 7:05 p.m. Ken Brock read the hearing notice. Mr. Lambros introduced the Subcommittee and the staff and explained the hearing procedure.

Peter Slovak, one of four partners in the project explained the proposed project.

Mr. Brock inquired why the proposal consists of 84 parking spaces when only 72 spaces are required by Yarmouth's bylaws. Mr. Slovak stated that the number of spaces could be reduced.

Ms. Andrea Adams of the Cape Cod Commission staff presented the Staff Report.

Ms. Sue Pommrehn of the Cape Cod Commission staff discussed transportation issues.

Ms. Adams stated that the Yarmouth Planning Board was requesting that the Subcommittee keep the record open for an additional thirty days so that they may submit their remarks. She also noted that several letters have been submitted regarding the project.

Mr. Greg Silverman inquired about the proximity of the project to the adjacent historic district. Mr. Slovak explained that there is a 200 foot field and landscape buffer between the project and the neighborhood.

Mr. Lambros inquired about the height of the project. Mr. Slovak stated that no structure will be higher than the club house, which is sixteen feet above grade. Mr. Lambros requested that additional information be submitted.

Mr. Davis explained that the size of the parking spaces are determined by the town regulations. He also suggested that the applicant could construct a six foot high stockade fence along Theater Colony Lane and in the back of the project.

Betsey Antinellis, from the Yarmouth Historical Commission, stated that the lighting from the project will have a negative impact on the historic district.

Charlotte Benner explained the location of the project in relation to the historic district. Priscilla Gregory further explained the relationship.

Roger Schofield requested various modifications to the project, including a landscaped berm surrounding the parking lot, designing the clubhouse in a Cape Cod style, permanently restricting the open space on the site and decreasing the size of the parking lot. He also expressed concern about the possibility of increased pedestrian activity from Old Main Street. Mr. Davis stated agreement that all these requests could be accomplished.

Patricia DeCoste, a direct abutter, expressed concern over community character impacts and stated that her house was originally built in the seventeenth century and functioned as an Indian hospital. She finds it hard to believe that there are no archeological resources on the site and that MHC has no concerns.

Kathleen Moore expressed concern over the impacts of lighting and the increase in traffic on a residential street.

Helen Rogers expressed concern over the increase in traffic on Theater Colony Lane.

Joanne Wright expressed concern over increased traffic on Theater Colony Lane and Karen Way.

Charlotte Benner expressed concern over the bright lighting of the project.

Priscilla Gregory, representing the South Yarmouth Association, expressed several concerns over the project.

Shedda Angelone expressed concerns over increased traffic on Theater Colony Lane.

Mary Waldrin inquired about the seasonal nature of the project.

Joe Capissella expressed concern that the project will negatively change the character of the residential neighborhood on Theater Colony Lane.

Martha Troutman expressed concern over the increased traffic and the bright lights.

Joseph Rogers expressed concern over increased traffic on a dead end road.

Beth Morrison expressed concern over the noise and traffic resulting from night time activity at the course.

Mr. Slovak responded to the concerns of the residents.

Mr. Herb Olsen inquired whether there could be access through the motel. Mr. Davis stated that this could not be done because the projects are separate with different ownership.

Ms. Rogers stated that it is her position that landscaping and a fence would be a good buffer.

Mr. Capissella inquired about the landscaping proposal.

Ms. Gregory noted that Theater Colony Lane will need to be upgraded.

Mr. Capissella noted that the upgrade would only be needed as a result of the project.

Mr. Silverman noted that there has been much testimony pertaining to the traffic impacts on Theater Colony Lane and the community character impacts to the historic district.

Mr. Brock moved that the record be kept open until May 9, 1996 to allow local boards to comment and that the hearing also be continued until May 9, 1996. Mr. Olsen seconded the motion and it was unanimously approved.

On June 20, 1996, the full Commission opened a public hearing on this project to allow proposed corrections to and comments on factual information contained in a draft written decision for a procedural denial without prejudice. Ms. Adams noted the reasons for the procedural denial were stated in the draft findings of the decision. She said the applicant had been contacted several times by Commission staff seeking satisfactory documentation evidencing that the project had been withdrawn from consideration at the local level, but that none had been forthcoming. Mr. Lambros, the Subcommittee chair, asked for comments or corrections to the April 8, 1996 minutes. None were offered. Mr. Lambros moved that the minutes of April 8, 1996 be accepted as presented. Mr. Olsen seconded the motion. The Subcommittee voted all in favor of accepting the minutes. Mr. Lambros moved to close the hearing and the record. Mr. Olsen seconded the motion. The Commission voted all in favor of closing the hearing and the record. Mr. Lambros moved the full Commission deny, without prejudice, the application of Mr. George Abbott and Mr. Jan Hameon for a Development of Regional Impact for the proposed project. Mr. Olsen seconded the motion. The full Cape Cod Commission voted all in favor of denying, without prejudice, the application of Mr. George Abbott and Mr. Jan Hameon for a Development of Regional Impact for the proposed project.

JURISDICTION

The proposed project qualifies as a DRI under Section 3 of the DRI Enabling Regulations as a proposed development involving outdoor commercial space greater than 40,000 square feet.

FINDINGS

The Commission makes the following Findings subject to Section 12 and 13 of the Cape Cod Commission Act:

- 1. The applicants for the All Seasons Motor Inn/Yarmouth Miniature Golf course proposal decided not to pursue the application for a DRI approval of the proposed project. The applicant failed to submit information necessary to grant a DRI approval to the proposed project.
- 2. The applicant filed a letter with the Cape Cod Commission seeking to withdraw the project from DRI review. The Cape Cod Commission Enabling Regulations, Section 9(k) allow withdrawal "so long as the applicant provides documentation that the project has also been withdrawn from consideration at the local level." The applicant did not provide satisfactory documentation evidencing that the project had been withdrawn from consideration at the local level.

CONCLUSION

Based on the above Findings, the Cape Cod Commission hereby procedurally denies the Development of Regional Impact application of Mr. George Abbott and Mr. Jan Hemeon for the All Seasons Motor Inn/Yarmouth Miniature Golf course pursuant to Section 12 and 13 of the Cape Cod Commission Act without prejudice.

Sumner Kaufman
 Sumner Kaufman, Chairman

7/8/96
 Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 8th day of July, 1996.

Katharine L Peters
 NAME, Notary

My Commission expires: SEPTEMBER 15, 1997