CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136
E-mail: frontdesk@capecodcommission.org

DATE:	March 31, 2005
APPLICANT:	Oyster Harbors Club, Inc.
RE:	Development of Regional Impact Exemption Request Cape Cod Commission Act, Section 12(k)
PROJECT #:	EX#05002
PROJECT:	Oyster Harbors Clubhouse 170 Grand Island Drive Osterville, MA 02655
DESCRIPTION:	Lot 36, Land Court Plan 15354-84 (Sheet 9), Certificate of Title No. 119536

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of Oyster Harbors Club, Inc. for a Development of Regional Impact (DRI) Exemption pursuant to Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the proposed Oyster Harbors Clubhouse redevelopment in Osterville, MA. The decision is rendered pursuant to a vote of the Commission on March 31, 2005.

PROJECT DESCRIPTION

Oyster Harbors Club, Inc. proposes to demolish an existing 22,264 square foot clubhouse/restaurant replace it with a 41,791 square foot clubhouse/restaurant building located on a 12.7 acre parcel in an RF-1 zoning district at 170 Grand Island Drive in Osterville, as the functionality and aesthetics of the existing clubhouse no longer conform to the needs of the club's members. The 12,7 acre parcel is located on Grand Island, a private, gated island community. A clubhouse has been operated continuously on the site since the construction of the original three story structure in 1927. A fire in 1967 leveled the original Clubhouse and it was replaced with the current building. The present clubhouse is flanked by a large tennis court and parking lot to the west, a small day care facility and parking lot to the east, Tim's Cove to the north and both the Pro Shop and golf course fairways to the south. Few residential buildings are visible from the site due to the large size of the Club's property and the mature natural vegetation located throughout the site.

The proposed clubhouse will be located over the footprint of the existing foundation, and new frost walls or a slab will be constructed to support the new portion of the structure lying outside any foundation walls. The structure is proposed to be two-story and will be constructed of natural materials that will compliment the surrounding architecture found on Grand Island. Also, an additional 2,070 square feet of impervious surface will result from the proposed redevelopment due to an increase in driveway space.

PROCEDURAL HISTORY

The applicant submitted a DRI Exemption application and a DRI application on February 4, 2005. The DRI Exemption application was deemed complete on February 24, 2005. A duly noticed public hearing was conducted pursuant to Section 5 of the Act by an authorized Subcommittee of the Commission on March 14, 2005 at the Superior Courthouse in Barnstable, MA. The Subcommittee held a public meeting on March 31, 2005 to deliberate on the Project. At this meeting, the Subcommittee voted unanimously to recommend to the full Commission that the applicant be granted the request for a DRI Exemption. The final public hearing was held before the full Commission on March 31, 2005. At this hearing, the Commission voted to ___ approve the DRI Exemption request.

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant:

1. Letter from JGA Architectural Design dated March 2, 2004
2. Design Flow Comparison by Sullivan Engineering dated May 18, 2004
3. Email from John O'Dea to Scott Michaud dated May 21, 2004
4. Preliminary calculations for Oyster Harbors Clubhouse dated December 2, 2004
5. Letter from Peacock and Lewis regarding Clubhouse square footage dated December 2, 2004
6. DRI application form dated February 4, 2005
7. Application for Site Plan review dated February 4, 2005
8. DRI Exemption application dated February 4, 2005
9. Supplemental package to support permit applications dated February 4, 2005
10. Permit/Site Plan drawings dated February 4, 2005
11. Letter to Greg Smith from Sullivan Engineering regarding nitrogen dated February 17, 2005
12. Trip Generation study dated February 17, 2005
13. Letter from Sullivan Engineering regarding FAST System dated March 10, 2005

From Cape Cod Commission staff:

1. Fax to Sullivan Engineering regarding traffic issues dated December 21, 2004
2. Letter to applicant regarding complete DRI Exemption application dated February 24, 2005
3. Letter to Sullivan Engineering from Tim Boesch regarding traffic dated February 17, 2005
4. Letter to Sullivan Engineering from Tim Boesch regarding traffic dated February 23, 2005
5. Staff report dated March 14, 2005

From the Town:

1. DRI referral form dated February 18, 2005

No written testimony or other materials were submitted for the record by state officials or the public.

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of the Commission's proceedings including materials on file for EX-05002 are incorporated into the record by reference.

JURISDICTION

The Oyster Harbors Clubhouse project qualifies as a Development of Regional Impact (DRI) under Section 3(e) (i) of the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, Chapter A, as amended, as "[a]ny of the following proposed commercial, service, retail or wholesale business, office or industrial development, as well as any private health, recreational or educational development which exceeds these criteria: new construction of any building with a gross floor greater than 10,000 [square feet]."

TESTIMONY

A Subcommittee of the Cape Cod Commission held a public hearing at 6:30pm on Monday, March 14, 2005 at the Barnstable Superior Courthouse in Barnstable, MA. The following is a summary of the testimony given.

Greg Smith, project manager reviewed the staff report. He provided background information for the Subcommittee, and stated that the redevelopment of the Clubhouse would not result in any significant regional traffic, natural resource or community character impacts. Regional water resource impacts would be dealt with by the installation of a FAST denitrifying septic system to reduce the nitrogen load to the Three Bay estuarine system.

Doug Murphy, attorney for Oyster Harbors Club, Inc. stated that the applicant is seeking to redevelop the Clubhouse to update and increase the functionality of the facility from that which was constructed in the mid 1960's after a fire destroyed the original three-story clubhouse. The staff report stated the club is closed between December and March; however, he stated that the club was not seeking to limit itself and would want to retain the right to operate in the winter. He stated that the Club is not planning to increase the number of full-time memberships beyond the current 400full and up to 40 Senior Resident Social memberships. These members must be at least 80 years old, have been club members for at least 20 years, and are subject to activity restrictions precluding golf course use. He also stated that the Club does not anticipate an increase in traffic.

John O'Dea from Sullivan Engineering described the FAST System that the applicant has agreed to install as a means of further reducing nitrogen impacts.

Doug Murphy also stated that the applicant did not intend to enlarge the existing foundation to conform to the dimensions of the enlarged building footprint, and that if need be, frost walls or some other alternative will be installed to accommodate those portions of the new building not serviced by a basement.

Larry Murphy, an attorney and Club member appearing on behalf of the Club president continued by saying that the Club has under consideration a proposal to remove the existing foundation and replace it with a slab underneath one half of the new building and a new basement under the other one half of the new building. There is no intention to increase gross basement floor area, and overall gross building floor area will remain at or below 41,791 square feet.

John Catlin, AIA, a project architect described the design of the proposed clubhouse and stated that the building is proposed to be two stories high with cedar shingle siding and roof. He stated that the

proposed structure is 40 feet high, but the structure on the site that was built in 1927 and burned in the early 1960's was a three-story structure.

Jay Zavala expressed concerns that the roofline and height of the proposed Clubhouse would pose a regional community character impact owing to proximity and visibility from the water.

Bob Jones stated that the current view from the water is one of dumpsters, refrigeration and parked vehicles. He felt the redevelopment would be a visual improvement to folks who are on the water looking at the Clubhouse.

Doug Murphy stated that the new building is intended to re-orient the kitchen and administrative areas that are presently on the water side, to the side away from the water and/or within the building.

Doug Mayo, Club manager stated that the new building will enable all such items to either be located within the new building or discretely screened from view.

Bob Jones asked staff what the Commission would be giving up by granting the applicant an exemption.

Greg Smith stated that the applicant would not be required to provide open space or comply with other issue areas (such as solid waste, community character), and the applicant would benefit from a shorter review period and a reduced review fee.

Jay Zavala asked if Scott Michaud had comments about the proposed FAST System.

Scott Michaud stated that the proposed FAST System would serve to reduce nitrogen to the Three Bay System.

Jay Zavala asked for an explanation in Natural Resources section of staff report where staff comments stated the project is largely consistent with the Regional Policy Plan.

stated that a DRI Exemption uses the RPP as a guide in the review and discussed the criteria for granting an exemption.

Bob Jones asked how a possible increase in membership would be handled if no conditions could be placed in the decision.

Greg Smith stated that an increase in membership would require the applicants to return to the Commission for a modification to the decision.

Note: see minutes in project file for complete public hearing and subcommittee meeting proceedings.

FINDINGS

The Commission has considered the application of Oyster Harbors Club, Inc. for the proposed Oyster Harbors Clubhouse in Osterville, MA. Based on consideration of such application and upon the information presented at the public hearing and submitted for the record, the Commission makes the following findings pursuant to Section 12(k) of the Act:

General

G1. The applicant proposes to demolish an existing 22,264 clubhouse for the Oyster Harbor Club on Osterville Grand Island in Barnstable and replace it with a 41,791 square foot clubhouse. The project will result in an increased gross floor area of 19,527 square feet. The clubhouse is an integral part of the Oyster Harbor Club that includes an 18-hole golf course, pro-shop, tennis courts, beach, boating pier, and other accessory uses. The club is located on a private, access-controlled island that is connected to the mainland via Bridge Street. Bridge Street connects to Parker Road and ultimately to Main Street Osterville, all three of which are regional roadways. The proposed clubhouse will result in an additional 2,070 square feet of impervious surface at the site to accommodate additional driveway space.

G2. The proposed redevelopment project may use the existing foundation, or may use a new foundation underlying one half of the new building and a slab and/or frost walls under the other half.

G3. The project is located in a Residential "F" zone in the Town of Barnstable as defined in the town's zoning by-laws. The proposed clubhouse, as a non-conforming use, will require a special permit or a modification to the existing special permit.

G4. The proposed project qualifies as a DRI under Section 3 (e) (i) of the Cape Cod Commission Enabling Regulations governing review of Developments of Regional Impact, Chapter A, as amended, as "[a]ny of the following proposed commercial, service, retail or wholesale business, office or industrial development, as well as any private health, recreational or educational development which exceeds these criteria: new construction of any building with a gross floor greater than 10,000 [square feet]."

G5. Based on information submitted for Commission review, the Commission finds that the location, character and environmental effects of Oyster Harbors Clubhouse, as described in the DRI Exemption application and at the hearing, will not have significant regional impacts outside of the Town of Barnstable and therefore does not require DRI review.

G6. Prior to issuance of a Certificate of Use and Occupancy by the Municipal Agency, and 30 days prior to completion of the work exempted under this section, the Applicant shall file a written request with the Commission for a final Certificate of Compliance. The Commission may enter and inspect the property that has been granted a DRI Exemption at reasonable times and with reasonable notice to determine consistency with said DRI Exemption. Within 30 days of such inspection, the Commission shall issue a final Certificate of Compliance if the project is built in accordance with the DRI Exemption. The Municipal Agency shall not issue a Certificate of Use and Occupancy until the Commission issues its final Certificate of Compliance as required by Section 7, b (viii) of the Enabling Regulations (revised March 2005).

G7. Based on the information submitted for Commission review, the Commission finds that any change in the impacts of the Oyster Harbors Clubhouse as articulated in this decision, and/or a change to the Findings of this decision may require further Commission review according to Section 12 of the Commission's *Enabling Regulations* (as amended March 2005) in effect at the time this decision was rendered.

Transportation

T1. The current club is limited to 400 full memberships plus no more than 40 Senior Social Resident Members, who have no golfing privileges. The applicant has proposed to keep these limits. No other facilities are being expanded. Due to the proposed limit on club membership, the project is not likely to produce regionally significant increases in trip generation.

T2. Other factors contribute to limiting trip generation from the proposed development including:

- The number of clubhouse seats (430) is proposed to stay the same
- 30 percent of the club's membership lives on-island. Consequently, many of the trips to and from the club do not access the public roadway system.
- The club is typically closed from mid-December through mid-March. Clubhouse operations are generally limited to three days per week during the months of March, April, October, November, and December.
- Information from the applicant indicates the club generates much less traffic than would otherwise be expected. When compared to trip generation from the Institute of Transportation Engineer's *Trip Generation* Manual based on the golf course size, number of employees, and acreage, the current club generates about a third as many trips.

T3. The applicant plans to implement a trip reduction program including:

For employees:

- Designated on-site trip reduction program coordinator
- Promote carpooling/ridesharing among employees
    - Periodic carpooling/alternative transportation promotions
    - Post carpooling/ridesharing opportunities and incentives in employee area
    - Designate one preferential parking space per department for employee carpools
    - Institute an employee recognition program for alternative commuters
    - Accommodate flexible work schedules for carpoolers/ride sharers
- Provide a secure bicycle storage facility
- Provide a free meal per shift for each employee so they do not have to leave the premises
- Provide a guaranteed ride home program in case of an emergency and/or inclement weather
- Provide a separate rest area to discourage midday and change of shift trips

For members:

- Provide secure bicycle storage
- Provide and maintain on-site signage oriented to pedestrians and bicyclists

T4. The Clubhouse is located on a strictly controlled, limited access, private-island and therefore congestion impacts, if any, are minimal. Since there are no projected increases in traffic generation anticipated, the project is not anticipated to have regional congestion impacts.

T5. Sight distances at the clubhouse driveways appear to be sufficient for the low speed private roadways surrounding the clubhouse.

T6. The project includes parking for all uses on-site and is designed to meet the peak overall demand, instead of the peak demand for all uses on site, which is consistent with the RPP.

Community Character

C1. The Oyster Harbors Clubhouse will be constructed in accordance with plans A-1 thru A-5 and SP1 thru SP6 completed by Peacock and Lewis dated 9-28-04, which are incorporated herein by reference.

C2. According to the application, the Oyster Harbors Clubhouse is a component of a private golf club with limited membership. The Clubhouse is situated on Grand Island in Osterville, which is a gated community not accessible by the general public. As such, the proposed Clubhouse is not visible from public roadways. However, as the Clubhouse will be situated on a hill overlooking Tim's Cove, the structure will be visible from Cotuit Bay. To minimize the visual impact, the proposed clubhouse has been designed to resemble the other structures on Grand Island, will be clad in cedar siding and cedar roofing materials and will enable the screening or elimination of several unsightly outdoor parking, refrigeration and trash facilities.

C3. Based on the site's location on a private island with restricted access, the project does not result in significant exterior lighting impacts.

C4. Given the Clubhouse's relatively remote location, the existence of adequate vegetative buffers, and the building's design that conforms to other structures on Grand Island, the Project does not present regional community character impacts.

Water Resources

WR1. Metered water use over the preceding five years was used to estimate actual average wastewater flows of 1,767 gallons per day (gpd) for the existing development. The proposed increase in gross floor area, together with the removal of 151 lockers (a basis for Title-5 wastewater flows), has the potential to result in *actual* wastewater flows of up to 2,375 gpd. However, as the applicant has submitted that the club membership will not be increasing beyond the 400 full-time and 40 Senior members, realized wastewater flows may be less than 2,375 gpd.

WR2. The project meets the regional 5-ppm nitrogen limit using potential flows of 2,375 gallons per day in accordance with Minimum Performance Standard (MPS) 2.1.1.1 of the RPP.

WR3. The project is located in a Marine Water Recharge Area for the Three Bays estuarine system. The project is located in the South Narrows Bay subwatershed. Water quality information for this system indicates that the bay's water quality is impaired from watershed development.

WR4. The proposed project results in a net decrease in nitrogen load to groundwater through the installation of a FAST denitrifying septic system; the elimination of 151 lockers from the existing structure; a 18,000-square foot reduction in lawn area; and use of vegetated swales to treat stormwater runoff. Any nitrogen credits that may result from these changes and may be allocated to future development would need to be based on an evaluation of wastewater flows for the proposed project.

Other

The project site is not located in a Wellhead Protection District or a Potential Public Water Supply Area as mapped for the 2002 (as revised) Regional Policy Plan. Therefore, the project does not present regional impacts in the issue areas of Hazardous Materials, Open Space or Solid Waste Management.

CONCLUSION

Based on the findings above, the Commission hereby concludes that as proposed, the location, character, and environmental effects of the Oyster Harbors Clubhouse will not result in significant regional impacts on the values and purposes protected by the Act outside the municipality in which the development is located.

Based upon the above findings, the Commission hereby grants Oyster Harbors Club, Inc. a DRI Exemption from the terms and provisions of the Act, pursuant to Section 12(k) of the Act for the proposed construction of the 41,791 square foot Oyster Harbors Clubhouse.

This Exemption decision shall be strictly construed and is valid for three years from the date of its issuance.

_____ _____

David Ansel, Chair Date

COMMONWEALTH OF MASSACHUSETTS BARNSTABLE, SS

Before me, the undersigned notary public, personally appeared _____, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was ___ photographic identification with signature issued by a federal or state governmental agency, ___ oath or affirmation of a credible witness, or ___ personal knowledge of the undersigned.

_____

Notary Public

My Commission Expires: