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Martha's Vineyard Commission

DRI # 603-M3 Nova Vida/ Alliance Church Expansion

MVC Staff Report – 2013-12-16

Note: New information is printed in bold type.

1. DESCRIPTION

- 1.1 Applicant:** Alliance Community Church (formerly Nova Vida); Valci Carvalho (Pastor)
- 1.2 Project Location:** 1 Ryan's Way, Oak Bluffs Map 56 Lot 15.8 (1.44 acres)
- 1.3 Proposal:** To build a 4,500 s.f. footprint addition that is (24 feet high) designed to house a 150 seat church and associated activity and classrooms with a kitchen and **one 3-bedroom apartment parsonage**. The property already has a three-story building with a 2,768s.f. footprint (7,888 gsf) and was approved for a 150 seat church and daycare in the existing building. The total gross square footage as proposed would be **12,430 gsf**.
- 1.4 Zoning:** R-3 Residential.
- 1.5 Local Permits:** The project needs permission from the following Boards: Building Inspector for Building Permit; Board of Health.
- 1.6 Surrounding Land Uses:** Residences, the High School. The YMCA, MV Arena, etc are nearby on the other side of Ed-VH Road. The adjacent property is owned by the Church of Latter Day Saints who submitted a plan several years ago to build a church but has not been pursued.
- 1.7 Project History:** The house was (prior to 2006) permitted as an 11-room boarding house and had been a dance studio among other things. Mr. Carvalho purchased the property in 2006 for \$1,051,000 and then sold it to the Assembleia De Deus Nova Vida Church of which he was the pastor for \$10. The Martha's Vineyard Hospital daycare then located on the first floor of the building. The MVC approved a renovated church that was to be built on the second floor above the day care and the building was to have no residences involved. The project was not developed though some of the landscaping was done and additional trees were cut. At some point in the last few years the Nova Vida Church was acquired by the Alliance (Christian and Missionary Alliance) Church which describes itself as "a light-bearing, Jesus-centered missions and church-planting movement with the deeper life at its heart". Their "church-planting efforts focus on bringing unreached people to Christ. Building and empowering these new disciples—then releasing them to reach others—results in churches multiplying". When the original Nova Vida Church was approved for a 150 seat church in the existing building the congregation was estimated at 85-90. Since that time the Church has reportedly fluctuated between 60-80 members.
- 1.8 Project Summary:**
- To build a 4,500 s.f. footprint addition that is (24 feet high) and is designed to house a 150 seat church and associated activity and classrooms with kitchen and a 3-Bedroom parsonage on a property that has a three-story building with a 2,560 s.f. footprint (7,084 gsf). The total gross square footage proposed would be **12,430 gsf**
 - **The proposal previously included a full 4500 sf basement for a total gross square footage of 16,084 gsf. The proposal is now that the addition would be crawl space except for 150 sf of mechanicals.**

- The property was approved with conditions to locate a 150-seat church in the existing building that at the time also housed a 28-child daycare which has now vacated.
- The Church continued to use the basement for services long after a cease and desist order was issued. Since then the church has congregated in several location including the old Catholic Church Annex in Oak Bluffs near Tony's and for the past couple of years **at the Federated Church** in Edgartown.
- The originally approved church (2008) in the existing building was to hold services three nights a week (Wednesday, Friday, and Sunday) from 6:30 pm to 9:00 pm with amplified music.
- The proposed hours are:
 - Winter Services – Sunday, Wednesday, and Friday 7:00 pm – 9:00 pm and Sunday School 10:00 am – 12:00 pm.
 - Summer Services - Sunday, Wednesday, and Friday 7:30 pm – 9:30 pm
 - Study Classes – Monday 7:00 – 9:00 pm
 - Ministers counseling Hours – Monday 5:00-9:00 pm.
 - 1-2 Weddings per year.
- There was a condition against residences in the building if and when the church located in the building. There are currently six bedrooms on the second floor of the existing building.
- The Applicant submitted plans for a 6,500 sf building with no basement in 2012. The proposal was then reduced to a 4,500 sf addition with full basement.
- The kitchen as proposed would not be a commercial kitchen.
- **A revised site plan** shows a driveway and parking surrounding the building and extending to 10 feet from the property on three sides **but now shows 12 parking spots along the boundary with LDS as being grass overflow spots.**

2. ADMINISTRATIVE SUMMARY

- 2.1 DRI Referral:** James Dunn, Oak Bluffs Building Inspector. April 11, 2012
- 2.2 DRI Trigger:** 3.1a (2,000 sf) Mandatory review; 3.1g (Intensity of Use); 3.1h (Parking for 10 plus).
- 2.3 Pre-Application meeting with staff:** April 5, 2012
- 2.4 LUPC:** April 30, 2012; October 22, 2012; February 4, 2013. **Post-Public Hearing Review on December 12, 2013.**
- 2.5 Site visits:** May 16, 2013 @ 8:30 am.
- 2.6 Public Hearing:** May 16, 2013; continued to June 20, 2013, continued to July 18, 2013, continued to August 22, 2013; continued to October 17, 2013; continued to November 21, 2013; **continued to December 12, 2013. The written record was left open until 4:00 pm Monday December 16, 2013.**

3. PLANNING CONCERNS

3.1 Some Key Issues

- **Necessity:** A 150 seat church has already been approved primarily within the existing building. What necessitates such a large structure covering the majority of a residential lot in a huge metal building and parking lot for a use that can be accommodated in the existing structure with the approved plan?
- **Size:** The size of the proposal would appear able to accommodate more than 150 people.
- **Intensity of Use:** What other uses such as classes and activities are proposed to merit such a huge expansion upon the already approved 150-seat church in the existing building?

- **Intensity of Use:** Is this expansion a reasonable proposal in a residential neighborhood?
- **Wastewater: The proposed usage far exceeds the nitrogen-loading limit for the property, but could meet the grandfathered limit allowed by the MVC Water Quality Policy with all composting toilets.**
- **Parking:** The new site plan shows most of the lot covered in either building or parking. The parking now extends along the property line of the abutters. The parking along the boundary with the Mormon Church shows 12 spots of overflow parking as grass.

3.2 Environment

- **Vegetation:** The site was about one-third covered in trees. Many trees had been taken down prior to the previous DRI review. Several appear to have been taken down since.
- **Habitat:** The site is mapped as habitat by NHESP for state listed rare species. Any additional cutting would have to go to NHESP for review.
- **Landscaping:**
 - Most of the landscaping conditions of the approved DRI 603 have not been implemented.
 - The Applicant did build a stockade fence along the rear neighbor's border.
 - A number of piles of landscaping materials have been for several years and are currently stored on the site. Neighbors have asserted for years that a landscaping business is operating out of the property. The owner denies this.
 - The applicant has built a small (3'-4') planted berm along the front of the property. Applicant has said they will plant three native trees for each tree removed. A landscaping plan has not been submitted yet.
- **Open Space:** The proposed site plan leaves little room for open space. The majority of the lot would be covered in building or parking.
- **Lighting:** To be determined.
- **Noise:** The applicant hired an acoustical engineer for advice on how to treat and insulate the sanctuary in order to minimize noise escaping the building. The amplified music of the church which meets at night throughout the week, church members arriving and leaving the large parking lot, and additional classes and activities would add to the existing burden this property presents to the residential neighborhood. The daycare, which began in the early morning hours, has vacated.
- **Energy/Sustainability:** To be determined.
- **Wastewater:**
 - Nitrogen Loading Limit: The project site is in the Sengekontacket Pond Watershed that is classified as an Impaired Watershed in our Policy. This means any project must meet the nitrogen load limit allocated to the site based on its area. This site contains 1.44 acres that is allotted 4.1 kilograms per acre per year. This would allow a total nitrogen loading for this property: **5.90 kg/yr**
 - We have accepted previously approved wastewater flows that exceed the limit under section 3.5 of the Policy (If the previously developed site already exceeds the nitrogen-loading limits in this policy, the total nitrogen loading of the property shall not be increased). In the September 11, 2008 decision the applicant offered further mitigation if water usage exceeded 153,000 gals/yr. Water use has exceeded this amount every year.

Water Use/Wastewater Production

The Oak Bluffs Water District has provided the following water use figures based on meter readings:

Time Frame	Water Use	Annual use rate
2008 to 2009	329,000 gallons over 12 months	329,000 gallons
9/8/09 – 6/2/10	223,000 gallons over 8.75 months	305,800 gallons
6/2/10 to 6/2/11	107,000 +87,000gallons over 12 months	194,000 gallons
6/2/11to 6/12	126,000 gallons over 12 months	154,000 gallons
6/12-6/13	141,000 gallons over 12 months	141,000 gallons

The existing use for the year 6/12-6/13 from the water records was 141,000 gallons per year. This water usage for the existing building yields a Nitrogen load of: 16.81kg/yr

MVC DRI 603 Conditions:

In order to prevent any increase in nitrogen loading compared to the previous use of the property, the MVC conditioned the project to maintain water use no greater than the year-long use ending in June 2007, of 139,000 gallons (3.1). As offered by the Applicant, a 10% overage was proposed bringing the threshold for action to 153,000 gallons per year.

This usage would produce a wastewater only nitrogen load of: 18.24 kg/yr

The Applicant and their Engineer have offered to make all of the toilets in the building composting toilets. With all of the toilets being composting toilets the project will not meet the nitrogen load of the pond but will fall below the nitrogen load calculated from water use that would have triggered De-nitrification in the conditions of the September 11, 2008 decision.

**Total Nitrogen load for existing and proposed building using Title 5 flow design
39.81 kg/yr (including stormwater)**

**Total Nitrogen load for existing and proposed with composting toilets
16.97 kg/yr (including stormwater)**

**Nitrogen load limit calculated from max. water usage that would have required de-nitrification in the Sept 11, 2008 DRI 603 MVC decision
17.9 kg/yr**

All calculations assume all storage is passive

*attendance to Educational services included in sanctuary count

Stormwater:

- Roof runoff will be directed to drywells.
- Surface runoff will be graded to what’s left of the permeable surface.

3.3 Transportation

- **Traffic Scope and Study:** A traffic scope was approved at the April 30, 2012 LUPC which called for a traffic study. A Traffic Impact Assessment Study was prepared by Charles Crevo of C3 Consulting.

- **Access:** Ryan's Way, off of Edgartown-Vineyard Haven Road. A residential cul-de-sac subdivision with 11 properties. The church driveway is approximately 140 feet from Edgartown-Vineyard Haven Road on Ryan's Way. The Applicant has offered to close the second unpaved driveway and plant it. If and when the Latter Day Saints property is developed the Applicant is willing to close the existing entrance and use a joint access from Ed-VH Road with the LDS. **The joint access cannot be established at this time until LDS property is developed.**
- **Public Transit:** The site is on 3 V.T.A. routes. Routes 1, 7, and 9.
- **Crash history:** MassDOT crash records from 2008-2010 state that no crashes were reported at the intersection of Ryan's Way and Ed-VH Road.
- **Parking:**
 - The site currently has roughly 10 gravel parking spaces plus a dirt area that could accommodate approximately 12-14 cars. There is also a grass area that could accommodate approximately 15-20 vehicles.
 - The approved parking layout in the 2008 proposed expansion had 34 Parking spaces including 2 handicapped spaces. The parking areas and the access roadway around the building are supposed to be pervious gravel
 - The **revised site plan shows 45** parking spaces on site, including 2 handicapped parking spaces, **with 12 spots along west property line remaining as grass.**
 - The projected traffic volume for a Sunday morning is 70 vehicles.
 - There are three different parking supply ratios (based on seats, attendees and sf) which range from requiring 40 and 69 to 157 spaces.
 - The revised parking plan surrounds the property with vehicular circulation, which could impact abutters.
- **Impact Analysis:** Sight lines at the property and onto Edg.-V.H. Road are adequate.
- **Traffic Summary:**
 - The Traffic Study looked at the existing background traffic volumes and prepared estimates to represent probable growth in a five year (2018) no development (No-Build) scenario and a 2018 Build scenario. Levels of Service (LOS) were calculated for each.
 - For the 2018 Build scenario the LOS value of the Edgartown-Vineyard Haven Road and Ryan's Way is not significantly altered.
 - Sunday Peak Hour (9-10 am)Traffic Volumes:
 - The existing traffic on a Sunday from 9:00 am to 10:00 am on Ryan's Way is 12 trips in and 12 trips out.
 - The 2018 No-Build estimated volumes are 18 in and 18 out.
 - The 2018 Build estimated volumes are 89 in and 88 out.

3.4 Affordable Housing

- Several church members currently live in the building. The MVC has had an unwritten policy not to apply the Affordable Housing Policy to religious and government institutions

3.5 Economic Impact

- The proposed project by a religious organization would exempt the property from the Oak Bluffs' property taxes. However, if any activities on the premises are not directly associated with the practice or operation of a religion, those activities will not be exempt i.e. the hospital's daycare.

3.6 Scenic Values

- **The proposed church is much larger than other recently built churches with similar or larger capacity see table.**

Table 1: DRI Churches Comparison

	Proposed Nova Vida/ Alliance	<i>World Revival Church</i>	<i>Jehovah's Witness</i>	<i>Vineyard Assembly of God</i>
<i>Acres</i>	1.44 acres	<i>1.5 acres</i>	<i>2.2 acres</i>	<i>1.57 acres</i>
<i>Gross Square Feet</i>	12,430 gsf	<i>5,464 gsf</i>	<i>4,726 gsf</i>	<i>8,068 gsf w/ pars.</i>
<i>Seats</i>	150	<i>200</i>	<i>150</i>	<i>185</i>
<i>Parking Spaces</i>	43	<i>74</i>	<i>62</i>	<i>70</i>

- **Streetscape:** The 4,500 sf footprint, 24 foot high, single-story additional structure would be very visible from the road. The existing building was a relatively large house that used to be largely unseen because many trees used to be in the front yard. Since so many of the trees have been removed over the years the property is more visible than it used to be.
- **Building Massing:** The 4,500 sf footprint, 24 foot high, single-story additional structure would be significantly larger in mass and scale than the buildings in the residential neighborhood. There are other structures in the vicinity (H.S., MV Arena, & YMCA) that are at an institutional scale.
- **Architectural Detailing:** The proposed expansion is not in character with the residential neighborhood.
- **A.D.A. Accessibility:** The proposed building would be A.D.A. accessible on the first floor.

3.7 Local Impact/Abutters

- A number of residents of Ryan's Way have come to numerous meetings over the years with a litany of concerns about the various operations of the property and the proposal. The addition of night services several times a week would add to the neighbors concerns.

4. CORRESPONDENCE

4.1 Town Officials: Selectman Michael Santoro read a letter at the November 21, 2013 public hearing outlining some of the towns concerns with the proposal.

4.2 Island Organizations:

4.3 Public:

- **Dr. John Campbell** wrote with concerns.
- **Dr. John Campbell** submitted a second letter on **October 2, 2013** saying that he had talked with the pastor who assured him the church would close earlier and be good neighbors and he therefore said he was satisfied with their plan and withdrew his previous objections.
- **Rosemarie Haigazian** (Lawyer for the Applicant) submitted a letter on **December 11, 2013** challenging the letter read by Selectmen Santoro (That it was not voted on by the BOS and that the cease and desist he spoke of had been rescinded).
- **Kris Chvatal** submitted a letter on **December 13, 2013** rebutting remarks the Applicants lawyer had made about him in the letter of December 11, 2013.
- **Kris Chvatal** submitted a letter on **December 15, 2013** with his reasoning for why the MVC should deny the proposal.
- **Kris Chvatal** submitted a letter on **December 16, 2013** with his opinion on why the MVC has firm legal basis for denying the modification under RLUIPA and the Dover Amendment.