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Martha's Vineyard Commission Land Use Planning Committee Draft Notes of the Meeting of April 5, 2010

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 P.M.

Commissioners Present: Linda Sibley, John Breckenridge; Fred Hancock. and Christina Brown
MVC Staff Present: Paul Foley; Mark London

SUMMARY: The LUPC reviewed two projects on April 5, 2010. The first was DRI 598-M2 (Ferry/Fella) and the second was DRI 600-M (YMCA).

DRI 598-M2:

- The DRI 598-M2 proposal is to locate an art gallery in the other half of the residence in front of a tennis/racquetball facility. Originally the proposal included an ice cream parlor but that is not allowed by the State. Basically any food business in existence now cannot transfer its license unless it is in compliance. If they are not on municipal water then they have to be at least 150 feet from a parking lot or road.
- Fred Hancock made a Motion to recommend to the Full Commission that this is an insignificant change to DRI 598 that does not require a public hearing review as a DRI subject to there not being any parking or traffic problems which staff will look into it before the Modification Review before the full commission. Christina Brown duly seconded the Motion.
- Christina Brown added that she wants to make sure there is a document in our file that states clearly what it is he is planning, and there should be a site plan showing the parking.
- Linda Sibley noted that the Motion is subject to the staff traffic report and the applicant stating that he will not have high traffic generating uses. The Motion passed unanimously.

DRI 600-M:

- The proposal is to modify the site plan by adding a walking bridge over the swale between their parking lot and the ice arena; a handicapped accessible playground (50' by 60') in the back; an outdoor basketball court on the future site of the gymnasium; and a covered pavilion (16' by 40') and shed (10' by 12') for the camp. They also want to modify condition 4.3 (no town water for landscape use) and install temporary irrigation to get the foundation plantings established.
- Judy Crawford said that they have altered the plans a bit since they were before the full Commission last week. The ADA Playground will be moved back and over a bit so that they can replant some of those trees. The summer camp area will be moved to the side of the building so that they can replant that area as well. Fred Fournier added that the pavilion and shed area will also be reduced in size. When they get the playground in they are going to have trees between the various outdoor spaces.
- The Applicant's also submitted a report on the status of all of the conditions from DRI 600.
- The LUPC waived the need for a traffic study.
- The Applicant's requested and LUPC recommends that the DRI Fee be waived.

1. DRI 598-M2 Ferry/Fella – Modification Review

Applicant: James Ferry

Project Location: 497 State Road, Map 16 Lot 80. The applicant also owns the abutting property in the rear with the Racquetball/Tennis facility located at 21 Amos Lane, (Map 16 Lot 71).

Proposal: To locate an ice cream parlor in one half of the front residence and an art gallery in the other half of the residence in front of a tennis/racquetball facility.

Staff Report:

- Paul Foley gave the staff report and presented some slides of the location and site.
 - The Applicant was approved with conditions by the MVC in 2007 to construct an outdoor tennis court, an indoor racquetball court, a pro shop, and two offices on 21 Amos Lane.
 - The project was approved with a number of conditions including a deed restriction to restrict the amount of wastewater to 220 gallons per day on the back lot and 440 gallons per day on the front lot and that both buildings will have water meters on them to regulate wastewater production as requested by the Board of Health and records will be kept for their review as needed.
 - There were also a number of conditions about hours of operation and a dormant easement.
 - On June 5, 2008 the MVC voted that the proposal to convert the two upstairs offices at the tennis complex into one yoga instruction studio was not a substantial enough change to DRI 598 to review as a DRI.
 - The proposed modification is to convert part of the building from office/service use (professional dog grooming) to retail use (art gallery and ice cream store).
 - The ice cream parlor is proposed to be run by Fella who has a deli nearby.
 - The art gallery is proposed to be run by Carol Craven Gallery. They generally would have openings on Sundays at which time they would be able to park across State Rd at the bank.
 - The tennis/racquetball facility was approved with the front building being half residence and half dog groomer operation. The dog groomer moved out a couple of years ago.
 - The basement is still a two-bedroom apartment.
 - There are approximately 12 parking spaces for the front building and 10 in back.
 - The ice cream parlor would be open May to October from 11am to 9:00 pm with 8 seats.
 - The ice cream parlor may offer coffee and cookies from their nearby deli location.
 - The project was referred by the Planning Board who felt this was an appropriate location for the proposed uses but wanted the MVC to look at the adequacy of parking and sight lines.

Presentation:

- James Ferry said that the project has changed. He had to deal with the State and they are not allowing any more food service unless you have municipal water or have big setbacks around your well.
- So ice cream is out but Carol Craven is still interested in an art gallery.
- Linda Sibley asked if there was any reason to look at a change from a dog groomer to an art gallery.
- Mark London said we need to find some wording that allows him to change tenants without coming here every time unless they are tenants that are a change of use and/or increased intensity.

- Linda Sibley said that fast food is a trigger and ice cream is fast food. The only problem she sees is if they have large gallery openings where people are going to park and if they are going to park across the street.
- James Ferry said he supposes that the gallery would need a police detail for crossing the street. He added that there has been some clearing that has been done to improve the sight lines.
- Linda Sibley said that the Planning Board asked us to look at parking and sightlines. Assume that was more to do with the ice cream parlor. We need to make a decision about which conditions we are going to change. Would be a good idea to have Mike look at the parking and sight lines.
- James Ferry said he planted some privet and one was too far out but he has removed it. Other than that you can see 100 yards down State Road in either direction.
- ***Fred Hancock made a Motion to recommend to the Full Commission that this is an insignificant change to DRI 598 that does not require a public hearing review as a DRI subject to there not being any parking or traffic problems which staff will look into it before the Modification Review before the full commission. Christina Brown duly seconded the Motion.***
- ***Christina Brown added that she wants to make sure there is a document in our file that states clearly what it is he is planning, and there should be a site plan showing the parking.***
- Linda Sibley suggested that we add to the Motion the offer from the bank. She noted that it also implies that the gallery is only going to have openings on Sundays. Usually they only have openings on weekends or at night.
- James Ferry said that he would not want them to have openings during the week at night because he has the tennis and racquet club which is open to 9 pm.
- Fred Hancock added that with an opening you have a flood of traffic.
- Mark London said we should make sure that we add the comment about high traffic generating uses. We haven't analyzed this in this case. Future changes to high traffic generators would still have to come.
- ***Linda Sibley noted that the Motion is subject to the staff traffic report and the applicant stating that he will not have high traffic generating uses.***
- ***The Motion passed unanimously.***
- Christina Brown asked Mr. Ferry to tell the LUPC about this new state law.
- James Ferry said it's been in effect for 20 years but they just started enforcing it. Basically any food business in existence now cannot transfer its license unless it is in compliance. If they are not on Municipal water then they have to be at least 150 feet from a parking lot or road.
- Bill Wilcox clarified that the well cannot be within 150 feet of those things. It's because it is in an area that is considered a public well supply area. You cannot have certain uses within a certain distance of a public supply well.
- James Ferry said he was told they can allow a variance for 100' but the law is 150'.
- Bill Wilcox said one of the reasons for the law is that a parking lot would be leaking car fluids into the well supply area.
- Mark London said that what it could mean in the long term is that a number of businesses would potentially get together and dig a common well away from the roads and driveways.
- Linda Sibley noted that the West Tisbury Business District is so small that maybe they could band together.
- James Ferry said that you need a water department, it will never happen.
- Christina Brown said that Menemsha used to have a little water company.

- Bill Wilcox said that all of Menemsha is tied in to a water system out of the immediate village area.

2. DRI 600-M YMCA – Modification Review

Applicant: YMCA of Martha's Vineyard represented by Judy Crawford and Fred Fournier.

Project Location: Village Road, Oak Bluffs, MA, part of Map 50 Lot 29 (5 of 25.2 acres)

Proposal: To modify the site plan by adding a walking bridge over the swale between their parking lot and the ice arena; a handicapped accessible playground (50' by 60') in the back; an outdoor basketball court on the future site of the gymnasium; and a covered pavilion (16' by 40') and shed (10' by 12') for the camp. They also want to modify condition 4.3 (no town water for landscape use) and install temporary irrigation to get the foundation plantings established. They had said when they were here that they would be collecting rainwater to use for irrigating plants but apparently that got cut during the process. The proposed modification would also modify Condition 7.1 which states that at least 45% of the property would be retained as open space.

Staff Report:

- Paul Foley gave the staff report and presented some slides of the location and site.
 - The Applicant was approved with The YMCA of Martha's Vineyard was approved by the MVC to construct a 35,000 square foot recreational facility with a pool, teen center, family programs on September 6, 2007.
 - On May 11, 2009 the LUPC approved storm water and the landscaping plans that had to be reviewed before construction could begin.
 - When the site was being prepared the landscape contractor cleared to a line on the plans labeled the "limit of work" which included a half an acre of trees that were supposed to be retained according to the MVC approved landscape plan. The "limit of work" was an area that NHESP allowed to be cut to with the area outside of that to be protected with a Conservation Restriction.
 - The YMCA will be a 35,000 square foot recreational facility with a pool, teen center, family programs, and eventually a gymnasium.
 - The site occupies 5 acres within a larger 25.2 acre property owned the High School also occupied by MV Community Services and the Skate Park. The YMCA will be leasing the land from the High School in exchange for pool time for a High School Swim Team.

Presentation:

- Judy Crawford said that they have altered the plans a bit since they were before the full Commission last week.
- The ADA Playground will be moved back and over a bit so that they can replant some of those trees. The summer camp area will be moved to the side of the building so that they can replant that area as well.
- Fred Fournier added that the pavilion and shed area will also be reduced in size.
- Judy Crawford said that when they get the playground in they are going to have trees between the various outdoor spaces.
- John Breckenridge said that it seemed to him that there was some consideration that we were going to create a buffer from this area and the Island Elderly Housing.
- Fred Fournier said that he and Judy had met with Mark London and Paul Foley about the planting and buffering. They are sliding the ADA playground over and planting a row of maple trees along

the parking lot. They will also be planting a green zone on the other side of the playground as well. Having talked with NHESP they told him that the cutting has impacted a bit of the flyway and he is trying to recreate that fly zone. On the other side of the building they are trying to buffer the basketball court from the parking with three large red maples.

- They are trying to create these pockets so that when you go from the parking area you go from hard to soft to hard to soft and break up these areas. In the approved landscaping plan it shows some under story trees and we are still going to do that. We have shadblow and viburnum and a few others proposed below the maples. So they are still doing the under story we were going to and we are adding some.
- Fred Hancock noted that when they build the gymnasium they might have to access through the ADA playground and areas that are being planted now.
- Linda Sibley asked when they think they will build the gymnasium.
- Fred Fournier answered that they hope to build the gymnasium in one to three years. He also looked at how to access the phases of development. Before they do any planting they have to put in the asphalt for the basketball court.
- Linda Sibley asked if they were thinking of going around the building.
- Fred Fournier said that they have to go around. They probably would not go the short route over the north side because they would have to jump the curb and there are some underground storage tanks there so they would have to go around the building.
- Christina Brown suggested a temporary access road.
- Fred Fournier said that they might have to move a tree in a few years. He added that they are not going to cut down a bunch like happened before.
- Linda Sibley asked if moving a tree in three years would set that tree back.
- Fred Fournier said no because they would transplant them in the winter and when the tree wakes up it never knows it moved.
- Linda Sibley asked if the red maples would be native and natural.
- Fred Fournier said that they can not dig up a native acer rubrum. However, it will not be a cultivar; it will be a straight species variety of acer rubrum. They will be 15' to 18' tall when planted. The landscaping plan shows under story trees. He will add those original under story trees to the new planting plan.
- Fred Hancock asked if there is any issue with the fire department with not having access to the back.
- Fred Fournier said he would take that into consideration.
- Bill Wilcox asked what kind of grass they are planting.
- Fred Fournier answered that it would be a sheep fescue (a hardy plant)
- Mark London said that staff would recommend no traffic study is necessary.
- Paul Foley said that applicants have asked for a DRI fee waiver.
- Mark London said we will have to review our policy. If someone is approved and they come in for a modification we should probably consider giving them a break.
- Linda Sibley noted that we have precedent for waiving fees for modifications such as with the multiple applications from the golf course.
- Christina Brown noted that it is hard to charge for agony.
- **Christina Brown made a Motion that the LUPC recommend to the full Commission to grant the YMCA a DRI fee waiver. Fred Hancock duly seconded the Motion which passed unanimously.**

- Christina Brown said that LUPC should discuss fees for modifications. She added that she did not recommend approving the fee waiver because they are a non-profit but because there is so little staff time involved.
- Bill Wilcox said that on the wastewater end they were originally going to pipe the waste back to the high school. Now it is going to the plant and not coming back so that will take a lot of nitrogen out of the watershed. It was originally going back to the high school because the Town did not have capacity. Now they will have the Leonardo property in a couple of years.
- Linda Sibley said that we should clarify why the gym was not included in the first go round. She added that it would be helpful if we looked at all of these little moving targets.
- Judy Crawford said that Condition 1.2 has changed slightly also. Now Oak Bluffs manages the grant.
- Christina Brown said that for clarity we should just end Condition 1.1 at the end of the first sentence.
- Christina Brown asked if Bill Wilcox has seen the bio-retention swales.
- Fred Fournier said that they held up fine under all of this rain even without the vegetation or seeding.
- Linda Sibley asked if they had thought about adopting the skate park.
- Fred Fournier said they have and they won't. The supervision required would be difficult. It requires work, money and staff time and we have to break even first.
- Mark London noted that Conidian 7.1 is blank but he hopes that it will still be 45% open space.
- Judy Crawford said they are still working on the final number that's why she left it blank. They will have that answer by the time they meet the full Commission. She said that the next thing that might be change is Condition 9.1. We are going to achieve the equivalent of 27 LEED points for Silver LEED Certification but the cost to become officially sanctioned is approximately \$100,000. So they will have their architects sign off that they have achieved the amount of points necessary.
- She added that they have installed solar panels. They did a study and found that they would be much more cost effective than geo-thermal. They are working with the town of Oak Bluffs on the cross walks. The VTA is rebuilding the bus stop in the same place. If they do move it they know that they are committed to contributing.
- For Condition 14.1 which offers that they will treat the pool water with Miox they are going to use something else that is much more effective and environmentally friendly.
- John Breckenridge made a Motion that Conditions such as 14.1 and 1.1 do not require public hearing and that other little tweaks do not require a public hearing either.
- Fred Hancock asked if we have a submission in writing bout the hours for the outdoor basketball court. He felt it would be compared to the courts at Niantic Park where kids hang out.
- Judy Crawford said it would basically shut down at sundown. There will be no lights.