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Martha's Vineyard Commission Land Use Planning Committee Notes of the Meeting of November 1, 2010

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

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

1. Nova Vida Daycare (DRI 603-M2)

Applicant: Sue Burgoyne (Little Learners Childcare); the owner of the property is Alliance Community Church (formerly Nova Vida); Valci Carvalho (Pastor)

Project Location: 1 Ryan's Way, Oak Bluffs Map 56 Lot 15.8 (1.44 acres)

Proposal: The proposal involves a change of ownership to continue operation of 28-child daycare that was formerly owned and operated by the Martha's Vineyard Hospital.

- Condition 7.d of the DRI 603 Decision states that: "when the hospital daycare vacates the building the Applicant shall return to the MVC for review and approval for the continued use of the building as a daycare".
- The current daycare has a provisional license for 20 children until March 2011. In March they hope to be granted a permanent license for 28 children. 90% of clients are returning from the Hospital daycare. The applicants would like to up the total number of children at any given time to 28 if possible.

Documents:

The LUPC had the following documents before them:

- Printed e-mail memo from Jessica Burgoyne describing Little Learners Childcare.
- MVC Staff Report for DRI 603-M2 dated November 1, 2010.

Presentation:

- Sue Burgoyne operated the Hospital Daycare in the same location. The Hospital decided not to move the daycare back to the Hospital as originally planned. Instead they decided to get out of the operation of the daycare and turn over the assets and clients to Sue Burgoyne.
- Sue and Jessica Burgoyne said that they are planning on serving the same kids, the same number of kids, with the same number of vehicle trips. They offer healthy snacks and are considering hot lunches. They have also added someone who comes occasionally to teach music.
- In response to a question from John Breckenridge, Sue Burgoyne clarified that the parents supply lunch and they now offer pre-packaged snacks as a supplement and as part of nutritional education. They would like to improve the nutritional habits of the children and families.
- There would be no laundry and no dishwashing.

Wastewater:

- Ned Orleans noted that the Staff Report says that "In order to prevent any increase in nitrogen loading from 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" and that the partial year water use for

2010 would translate to a full year use of 297,333 gallons assuming consistent monthly usage. Therefore they may have a wastewater issue.

- Bill Wilcox said that we conditioned them so that they would not increase the water usage. The numbers seem to indicate there has been an increase though Valci said last spring that it must be due to a leak. Bill was going to look and see if he could get the full year's usage numbers.

Applicability:

- Question 1: To what extent do MVC DRI Conditions apply to a project that has not been implemented even if the property is still a DRI?
- Question 2: If the property is a DRI and the owners have not exercised the DRI approval can they do something different on the property?
- NOTE: The original DRI 603 Approval would have expired on September 11, 2010 except for a few things:
 1. The State of Massachusetts in the Permit Extension Act of the 2010 Statutes, Chapter 240, Section 173, which became effective on August 5, 2010, added two years to the approvals of most regulatory approvals, including those of the MVC, for projects approved between August 15, 2008 and August 15, 2010;
 2. The applicants have made a few of the landscape changes required in the DRI Decision thus potentially constituting a substantial start to the project;
 3. The applicants have returned to the MVC twice in the meantime requesting modifications that were ultimately withdrawn.

Motion:

- ***John Breckenridge made a Motion that because the DRI 603 approval has not been acted upon the DRI 603 Conditions are moot and the current proposal does not need to be reviewed by the MVC. If the owners of the church should act upon the DRI 603 approval in the future then the currently proposed daycare would also have to be reviewed. Christina Brown seconded the Motion which passed unanimously (5-0).***

Public Comment:

- Russ Wendt, a resident of the Ryan's Way neighborhood, pointed out that this is a residential neighborhood and that to have a home business the owner of the property is supposed to live there. If the MVC can't do anything who can. Who is the responsible party if something happens on that property?
- Linda Sibley said that under State law, churches, daycares, and educational facilities have special allowances.
- Russ Wendt asked if anyone had read the 57 pages that explain what is required for a daycare. He has and doubts if the proposal meets them.
- Linda Sibley suggested that the LUPC Meeting Notes and Motion be sent to the MVC Counsel for review, particularly as to whether the DRI 603 Conditions apply even if they have not exercised the approval.
- There was some discussion as to whether the church was operating in the building and if there were people living in the building.
- Mark London pointed out that the determination of whether the existing uses were legal or illegal is a matter for the Building Inspector.

Adjourned 7:00 p.m.