

# THE MARTHA'S VINEYARD COMMISSION

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Date: May 17, 2001

To: Zoning Board of Appeals, Town of Oak Bluffs

From: Martha's Vineyard Commission

Subject: Development of Regional Impact  
 re: recreational facility

Applicant: Vineyard Youth Tennis, Inc.  
 c/o Alan Schweikert  
 Post Office Box 182  
 Oak Bluffs, MA 02557

## Decision of the Martha's Vineyard Commission Summary

The Martha's Vineyard Commission hereby approves, with certain conditions, the granting of permits for the Application of Vineyard Youth Tennis, Inc., c/o Alan Schweikert, Post Office Box 182, Oak Bluffs, MA 02557, for the construction of a recreational facility as shown on the plans entitled: "Plan of Land in Oak Bluffs., Mass., Prepared for Vineyard Youth Tennis, Inc., dated: August 20, 2000, scale: 1" = 60', Rev. March 21, 2001, and parking expansion area, asphalt apron, turnouts along access road, note about septage design, Vineyard Land Survey, Inc., Post Office Box 421, 12 Cournoyer Road, West Tisbury, Massachusetts," consisting of one (1) sheet; plus "Landscape Screening Plan prepared for Vineyard Youth Tennis, Inc., Oak Bluffs, Mass., Landscape, Landscape Designers/Contractors, Edgartown, Mass., dated March 15, 2001, scale: 1" = 60', revisions by: K.S.G.," consisting of one (1) sheet; plus "Vineyard Youth Tennis Main Building, First Floor Plan, William C. Sullivan, New School Designs, Post Office Box 1001, Tisbury, Mass., scale: 1/4" = 1', dated 30 November 00, drawn by W.C.S., sheet A-1," consisting of one (1) sheet; plus

“Vineyard Youth Tennis Main Building, Second Floor Plan, William C. Sullivan, New School Designs, Post Office Box 1001, Tisbury, Mass., scale:  $\frac{1}{4}$ " = 1', dated 30 November 00, drawn by W.C.S., sheet A-2,” consisting of one (1) sheet; and totaling four (4) sheets (the Plan).

This Decision is rendered pursuant to the vote of the Commission on May 3, 2001.

The Board of Appeals of the Town of Oak Bluffs may now grant the necessary development permits for the Applicant’s proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may disapprove the development application.

The conditions set forth in this Decision are to be made a part of any local approval granted, and should the Applicant receive all the necessary development permits from all local boards involved, it shall be incumbent upon the officials of the Town of Oak Bluffs to enforce all of the conditions contained herein.

#### Facts

The proposed development is a Development of Regional Impact as defined by the Commission’s Standards and Criteria, Development of Regional Impact, Section 3.601. The Application was referred to the Commission by the Board of Appeals of the Town of Oak Bluffs for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and public hearing relative thereto are incorporated into the record herein. Martha’s Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, March 22, 2001 at 7:30 p.m. in the Cafeteria of the Martha’s Vineyard Regional High School, the Vineyard Haven-Edgartown Road, Oak Bluffs, Mass. The hearing was continued to April 12, 2001.

A duly noticed continued public hearing on the Application was conducted by the Commission on Thursday, April 12, 2001 at 7:45 p.m. in the Commission Offices,

Olde Stone Building, 33 New York Avenue, Oak Bluffs, Mass. The hearing was closed the same night.

The proposal is for the construction of a recreational facility at the intersection of Airport Road (a.k.a. Barnes Road) and the Vineyard Haven-Edgartown Road.

A summary of the testimony provided at the hearing is provided as Exhibit A attached hereto. The hearing summary is for the convenience of the reader and was not relied upon by the Commission in reaching its decision on this matter.

#### Findings and Conditions

The Commission has considered the Application and the information presented at the public hearing and, based upon such considerations, makes the following findings pursuant to Section 14 of the Act.

- A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).**

The purpose of the Commission, as set forth in Section 1 of the Act, is to “protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha’s Vineyard which contribute to public enjoyment, inspiration and scientific study.”

1. Based upon the record and testimony presented therein and in addressing whether the proposal will have a favorable or adverse impact on the environment, the Commission sets the following conditions (Section 15(b) of the Act):

- a. **That the inflatable structure known as a “bubble” shall not be inflated and erected prior to October 15 of any given year and shall be deflated and dismantled no later than April 15 of any given year;**

**and further**

- b. **That the Commission accepts the Applicant’s landscape plan as a preliminary submittal and hereby directs the Applicant to submit an “as built” landscape plan that**

shall be equal to or exceed the amount and number of plantings depicted on the preliminary submittal; and should the Commission determine that the submitted “as built” landscape plan does not meet the standards proposed by the Applicant, then the Applicant shall return to the Commission with a revised plan that does meet the standard set by the original preliminary submittal;

and further

- c. That the Applicant shall install a two-rail split-rail fence, screened with a coated metal wire mesh, of no less than four (4) feet in height; said fence shall be located in accordance with one of the following options:

- 1. The Applicant shall pursue the possibility of installing said fence on the property currently known as “Goodale’s” at a distance of five (5) feet to the west of the center of the trail now in existence; said fence to run to a point one hundred (100) feet beyond the northerly and southerly edges of the cleared areas;

or

- 2. The Applicant shall install said fence no less than five (5) feet to the east of the center of the trail now in existence and shall include a gated entryway from said trail to the complex; said fence to run to a point one hundred (100) feet beyond the northerly and southerly edges of the cleared areas;

and

- 3. That the Applicant shall submit a plan indicating which option was chosen and exactly where the fence will be located; said plan to receive approval from the Commission prior to the start of construction;

and further

- d. That the Applicant shall delay the clearing for any overflow parking area until such time as there is compelling evidence of the need for same; and further that the Applicant shall return to the Commission with a plan for such a parking area;

and further

- e. That the Applicant shall increase the buffer that is proposed to run from south of the entrance drive southerly to the end of the property from fifty (50) feet to one hundred (100) feet;

and further

- f. That the Commission accepts the Applicant's offer to create a Conservation Restriction, to be given to the Martha's Vineyard Land Bank; and that a bicycle rest stop shall be provided, should the Town of Oak Bluffs be desirous of same, to be located along the Vineyard Haven-Edgartown Road on the northerly property line of the site; and that the Conservation Restriction shall include a ten (10) foot easement from the end of the existing trail northerly along the westerly property line to the northerly property line and then easterly along said northerly property line for the purposes of providing for a walking trail;

and further

- g. That the Commission accepts the Applicant's offer of establishing hours of operation during the summer months of eight-thirty (8:30) a.m. to eleven (11:00) a.m. and four-thirty (4:30) p.m. to seven (7:00) p.m. and to provide no lessons between the hours of eleven (11:00) a.m. and four-thirty (4:30) p.m.;

and further

- h. That the Commission accepts the Applicant's offer of providing no outdoor lighting on-site, except for recessed lighting in the ceiling of the porch running around the building and low ground lighting, no more than two (2) feet high, going from the parking area to the building.

- 2. Based upon the record and the testimony presented therein and in addressing the effect upon other persons or property, the Commission sets the following conditions (Section 15(c) of the Act):

- a. That the Vineyard Youth Tennis Center shall provide services only for youth up to the age of 18 years or graduation from high school, whichever occurs later; this condition shall not be construed to preclude parent/child tournaments from being held on occasion;

and further

- b. That the Commission accepts the Applicant's offer to continue to provide a schedule of lessons that is equitable and fair for all children.

- 3. Based upon the record and the testimony presented therein and in addressing the effect upon the provision of needed low and

moderate income housing, the Commission sets the following condition (Section 15(d) of the Act):

- a. **That the Commission accepts the Applicant's offer to provide the sum of three thousand dollars (\$3,000.00) to the Oak Bluffs Resident Homesite Committee program prior to the issuance of a building permit.**

- 4. Based upon the record and the testimony therein and in addressing the effect on the provision of municipal services and the burden on taxpayers therefor, the Commission sets the following condition (Section 15(e) of the Act):

- a. **That the Commission accepts the Applicant's offer to make payments in lieu of taxes equal to the amount of taxes the Town of Oak Bluffs would have collected from the property in question; said payments and the taxes shall be calculated based upon the assessed value of the property as vacant land and the tax rate in the Town of Oak Bluffs in any given year.**

- 5. Based upon the record and the testimony presented therein and in addressing the effect upon existing public facilities and any undue burden thereof, the Commission sets the following condition (Section 15(f) of the Act):

- a. **That the Commission accepts the Applicant's offer to work with the Town of Oak Bluffs and to make available, by land donation or other means, mitigation for potential traffic issues to accommodate predicted changes to the traffic patterns at the blinker light.**

- 6. Based upon the record and the testimony presented therein and in addressing the effect upon the ability of the municipality to achieve the objectives set forth in the municipal general plan, the Commission sets the following condition (Section 15(h) of the Act):

- a. **That should the proposal ever fail and the land and facility revert to the Town of Oak Bluffs, there shall be no change of building or land usage of the recreational facility and said land and facility shall not be used for any usage other than what has been approved by the Commission without that new proposal being brought back before the Commission for review and approval.**

- B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.**
- C. THE COMMISSION FINDS THAT SHOULD THE DEVELOPMENT SECURE A SPECIAL PERMIT FROM THE TOWN OF OAK BLUFFS, THE PROPOSAL WILL BE GENERALLY CONSISTENT WITH THE DEVELOPMENT BY-LAWS OF THE TOWN OF OAK BLUFFS.**
- D. THE COMMISSION FINDS THAT THE PROPOSAL FALLS WITHIN THE ISLAND ROAD DISTRICT AND IS GENERALLY CONSISTENT WITH THE REGULATIONS FOR THE DEVELOPMENT OF THAT DISTRICT IN OAK BLUFFS.**

The Applicant must, consistent with this Decision, apply to the appropriate Town of Oak Bluffs Officers and Boards for any other development permits which may be required by law.

This Decision is written consistent with the vote of the Commission: May 3, 2001.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder may appeal to the full Martha's Vineyard Commission, which shall decide such Appeal, after notice and hearing, within twenty-one (21) days of the close of the public hearing.

The Executive Director may issue Certificates of Compliances which shall be conclusive evidence of the satisfaction of the conditions recited herein.

Any party aggrieved by a determination of the Commission may appeal to Superior Court with twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Town Clerk in the Town in which the proposed developed is located.

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction, and should substantial construction not occur during said two (2) year period, then this Decision shall become null and void and have no further effect. This

time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.

Jan P. V.  
Chairman

5/18/01  
Date

Irene Miller Fyler  
Notary

5/18/01  
Date

**IRENE MILLER FYLER**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES  
JUNE 10, 2005