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DRI No. 539 M



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Decision of the Martha's Vineyard Commission

DRI 539 M Vineyard Youth Tennis

Date: April 28, 2005

To: Zoning Board of Appeals, Town of Oak Bluffs

From: Martha's Vineyard Commission

Subject: Development of Regional Impact 539 M
Vineyard Youth Tennis

Project: Modification of several conditions of the original MVC decision approved
May 17, 2001.

Owner: Vineyard Youth Tennis Inc.

Applicant: Vineyard Youth Tennis Inc.

Project Location: Barnes/Airport Road, Oak Bluffs, MA, Map 51 Lot 3(12.92 acres).

1. SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves the request for modifications to the Commission Decision of May 17, 2001 of Vineyard Youth Tennis (DRI 539) and the development as submitted in this application of the Vineyard Youth Tennis Inc., Barnes (a.k.a. Airport) Road, Oak Bluffs, Massachusetts.

This Decision is rendered pursuant to a vote of the Commission on April 14, 2005. The permit-granting authorities of the Town of Oak Bluffs should take note of the approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law or may deny the request for approval.

2. FACTS

The original project was referred to the Commission in 2001 by the Zoning Board of Appeals of the Town of Oak Bluffs for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact Section 3.601. The Commission reviewed the Application and subsequently approved it with several conditions. The Applicant contacted the Commission at the beginning of 2005 requesting the Commission modify some of the conditions of the original approval. None of the proposed actions by the Application required development permits from the Town, so the

modification did not involve any referral from a Town board. The Application and notice of 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.

Hearings: A duly noticed public hearing on the Application was conducted by the Commission on March 17, 2005 pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831.

Description: The Applicant is requesting that the Commission modify several conditions of the original decision approved by the Martha's Vineyard Commission on May 17, 2001.

- RE: Condition 1a, they would like to leave the "bubble" up until May 15.
- RE: Condition 1d, they would like to open the reserve parking area.
- RE: Condition 1g, they would like to provide lessons between the hours of 11:00 a.m. and 4:30 p.m.
- RE: Condition 1h, they would like to add lighting to the parking area up to 8:30 p.m.
- RE: Condition 2a, they would like to be allowed to offer "parent-child" tennis play twice a month and they would like to be able to open their facility to charity tennis tournaments.

The Plan: The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan."

- "Plan of Land", Scale 1" = 60'-0", consisting of one sheet prepared by Vineyard Land Surveying Inc., 12 Counoyer Road, West Tisbury, MA. Revised February 28, 2005

3. FINDINGS AND CONCLUSIONS

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 by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

The Commission has reviewed the proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluating the benefits and detriments of such a proposal. The Commission has considered the Application and the information presented at the public hearing, including listening to all the testimony presented and reviewing all documents and correspondence submitted during the hearing and review period. Based on the record and testimony presented therein, the Commission makes the following findings pursuant to Sections 14 and 15 the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

A1 The Commission finds that the proposed development at this location is appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the proposed use will provide services important to the Vineyard's economy and community. The Commission notes that the reservations that were expressed in 2001 have not been borne out.

A2 The Commission finds that the proposed development would have, on balance, a neutral impact upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to wastewater and groundwater, the Commission notes that the modifications do not appear to create an issue.

With respect to open space, natural community and habitat, the Commission finds that some woodland vegetation will be removed for the expanded parking area.

With respect to night lighting and noise, the Commission notes that the applicant put up eight pole lights in the parking lot in violation of the original MVC Decision. However, the Commission now finds the lighting to be needed and hereby agrees to allow them to remain with additional conditions pertaining to the number and shielding thereof. With respect to noise the Commission does not feel that it is an issue at this location.

A3 The Commission finds that the proposed development would have a neutral effect upon other persons and property (Section 15(c) of the Act).

With respect to traffic and transportation, the Commission notes that the traffic volumes on any roads of the study network will not increase noticeably.

With respect to scenic values, the Commission notes that the modifications will not noticeably change the appearance from Barnes Road.

With respect to character and identity, the Commission finds that the modifications should not affect character or identity of the area.

With respect to the impact on abutters, the Commission finds the modifications to have negligible, if any, additional impact on abutters.

A4 The Commission finds that the proposed modifications would have a neutral impact upon the supply of needed low income housing for Island residents (Section 15(d) of the Act).

The Commission finds that the proposed modifications do not trigger the MVC's Affordable Housing Policy.

A5 The Commission finds that the proposed development would have no significant impacts on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).

The Commission notes that though Vineyard Youth Tennis Inc. is a Non-Profit organization, it makes payments to the Town of Oak Bluffs in lieu of taxes.

A6 The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities (other than municipal) or those that are to be developed within the succeeding five years. (Section 15(f) of the Act).

A7 The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act).

A8 The Commission finds that the proposed development would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).

The Commission notes that the development is consistent with the following policies of the Martha's Vineyard Commission Regional Policy Plan, adopted by the vote of the Martha's Vineyard Commission, June 1991:

- I-4: "Give top priority to year-round job opportunities for permanent Island residents and increase the Island's self-sufficiency..."
- I-23: "Plan commercial development to match the scale and density of Island neighborhoods. Limit overall square footage, massing of individual buildings and expanses of paved areas to blend with the rural scale of the Island."

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriments.

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.

The requested modifications, as a whole, advance the Commission's land development objectives, as outlined in the Martha's Vineyard Commission Regional Policy Plan adopted by the Commission in June 1991, and as enumerated previously in section A8 of this decision.

- C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.**
- D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.**

The Commission notes that the proposed development site is not located within any Districts of Critical Planning Concern.

4. CONDITIONS

After reviewing the proposed modifications for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following revisions to previous conditions and an additional condition in order to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is based on the proposal as modified by these revised conditions and the other original conditions which are still in effect. These conditions form an integral part of this decision. Items that derive their origin in an offer from the Applicant and that were accepted by the Commission are so noted.

Modified Condition 1a

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 May 15 of any given year;

Modified Condition 1d

That the Applicant may clear the designated area for use as a multipurpose area for informal play as well as for occasional overflow parking, provided a landscaping plan is submitted for the approval of the Commission's Land Use Planning Committee with the ground surface vegetated (e.g. grass, ground cover, etc.) and with maximum preservation of trees.

Modified Condition 1g

That the Commission accepts the Applicant's plan of establishing the hours of operation during the summer months of 8:30 a.m. to 7:00 p.m. provided that no more than seven classes are provided in one day.

Modified Condition 1h

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, in the parking area, five approximately 8'-high pole lights as presently installed provided the up-lighting is shielded by use of baffles or by painting the inside of the upper panels of glass, and 2' down-shielded lighting along the walking path, all of said lights to be turned off no later than 8:30 p.m.

Modified Condition 2a

That the Vineyard Youth Tennis Center shall provide services and lessons 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 adult/child play from being held up to two weekends per month for a maximum of three hours per day.

New Condition 2C

That the Applicant will be allowed to use their facility for up to three, one- or two-day charity fundraising tennis-related events per year that raise money for the benefit of children, provided that the on-site parking is limited to the number of spaces on the approved plan, and that any additional parking is provided off site.

Modified Condition 5a

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, and accepts the Applicant's offer to promote carpooling in order to reduce the number of vehicular trips to the site.

These conditions are an essential part of this decision and shall be enforced as written. If the Commission finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission's attorney's fees and costs incurred in obtaining judicial relief.

The Applicant must, consistent with this Decision, apply to the appropriate Town of Oak Bluffs Officers and Boards for any local development permits which may be required by law. This Decision is written consistent with the vote of the Commission: April 14, 2005 and was approved by vote at the Commission meeting of April 28, 2005.

Any party aggrieved by a determination of the Commission may appeal to Superior Court within 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 Oak Bluffs Town Clerk. 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. Should substantial construction not occur during said two (2) year period, 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.

Linda B. Sibley
Linda B. Sibley, Chairman

May 7, 2005
Date

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this fourth day of May, 2005, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Linda Sibley, proved to me through satisfactory evidence of
identity, which was/were driver's license to be the person(s)
whose name(s) was/were signed on the preceding or attached document in my presence, and
who swore or affirmed to me that the contents of the document are truthful and accurate to the
best of his/her/their knowledge and belief.

Signature of Notary Public Jo-Ann Taylor
Printed Name of Notary Jo-Ann Taylor
My Commission Expires February 11, 2011

Attest:
Deanne E. Powers Register