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## Decision of the Martha's Vineyard Commission

### DRI 603-M4 – Nova Vida Alliance Church Expansion

#### 1. SUMMARY

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Referring Board: Building Inspector, Town of Oak Bluffs, MA

Subject: Development of Regional Impact # 603-M4  
Nova Vida/Alliance Church Expansion

Project: To modify the existing DRI 603 approval for a 150-seat church in the existing building with a day care by adding an approximately 4,000 square foot (sf) addition to an existing 7,888 sf residential structure to serve as a 150-seat church with a residence.

Owner: Alliance Community Church, Inc.

Applicant: Alliance Community Church, Inc., Valci Carvalho (Pastor)

Applicant Address: P.O. Box 3331, Oak Bluffs, MA, 02557

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

Description: To build a 3,920 sf footprint addition to a property that currently has a three-story building with a 2,768 sf footprint (7,888 gross square feet) and was approved for a 150-seat church and daycare in the existing building. The total square footage as proposed would be 11,808 gross square feet.

Decision: The Martha's Vineyard Commission (the Commission) approved the application to modify a Development of Regional Impact (DRI 603) with conditions, at a vote of the Commission on September 18, 2014.

Written Decision: This written decision was approved by a vote of the Commission on October 16, 2014.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for 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**

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The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, the final offers and draft conditions, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

### **2.1 Referral**

A proposal to build a 6,500 square foot (sf) addition to the existing 7,888 sf building was referred to the Commission on April 11, 2012 by the Building Inspector of the Town of Oak Bluffs, MA 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, Sections 1.2 (Modification to a Previous DRI); 3.1a (2,000 sf); 3.1g (Intensity of Use); 3.1h (Parking for 10 plus); and 6.1 (Place of Assembly). The referral under Section 3.1a and 6.1 made it mandatory that the project should be reviewed through the public hearing process as a Development of Regional Impact and was reviewed as such by the Martha's Vineyard Commission. During the process the proposed addition was reduced to 4,500 sf. On December 19, 2013 the Martha's Vineyard Commission denied the application. On Monday February 24, 2014 the applicant met with MVC Staff with a revised plan for reapplication.

### **2.2 Hearings**

Notice: Public notice of a public hearing on the Application was published in the Martha's Vineyard Times, June 26, 2014.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on July 10, 2014; which was continued to August 7, 2014; which was continued to September 4, 2014. The written record was left open until 4:00 p.m. Monday September 8, 2014 and the hearing was closed on that date.

### **2.3 The Plan**

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

- P1 "Site Plan: Alliance Church - Drawing C-1.1", consisting of one 24" X 36" sheet showing the location of the buildings and parking on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale 1" = 20'. Dated 8/1/2014. \*Note: The access on Edg.-V.H. Road shown on this drawing was not approved – See P5 for approved location of access on Ryan's Way.
- P2 "Floor Plan and Elevations: Alliance Church - Drawing A-1.1", consisting of one 24" X 36" sheet showing south, north, east, and west elevations and a first floor plan of the proposed addition on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Stamped by Michael Walker, Architect, AIA, NCARB, 500 Horseneck Road, South Dartmouth, MA 02748. Scale 1/8" = 1'-0". Dated 8/1/2014.
- P3 "Floor Layout: Alliance Church - Drawing A-1.2", consisting of one 24" X 36" sheet showing the first floor plan of the proposed addition on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale

1/4" = 1'-0". Dated 8/1/2014. Stamped by Michael Walker, Architect, AIA, NCARB, 500 Horseneck Road, South Dartmouth, MA 02748.

- P4 "Existing Floor Plans: Alliance Church - Drawing A-1.3", consisting of one 24" X 36" sheet showing the first and second floor plans of the existing building on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale 1/4" = 1'-0". Dated 8/1/2014.
- P5 "Site Plan: Alliance Church - Drawing C-1", consisting of one 24" X 36" sheet showing the location of the buildings and parking on the site and the location of the access on Ryan's Way located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale 1" = 20'. Dated 6/3/2014.
- P6 "Site Plan- Landscaping: Alliance Church - Drawing C-1.2", consisting of one 24" X 36" sheet showing the location of the buildings, parking, and existing trees to be removed and retained on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale 1" = 20'. Dated 8/1/2014. \*Note: The access on Edg.-V.H. Road shown on this drawing was not approved – See P5 for approved location of access on Ryan's Way.
- P7 "3D Perspective Drawing: Alliance Church", consisting of one 24" X 36" sheet showing the view of the building from the north east (Corner of Ryan's Way and Edg.-V.H. Road) on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Dated 8/1/2014.
- P8 "Proposed Landscape Plan: Alliance Church", consisting of one 24" X 36" sheet showing the proposed landscaping on the site located at 1 Ryan's Way, Oak Bluffs, MA. Prepared by Cape Building Systems, Inc., 13 Industrial Drive, Mattapoisett, MA 02739. Scale 1/16" = 1'. Dated 7/8/2014. \*Note: The access on Edg.-V.H. Road shown on this drawing was not approved – See P5 for approved location of access on Ryan's Way.
- P9 "DRI 603-M4 Nova Vida/Alliance Church Expansion 2014: Proposed Offers of July 8, 2014 as clarified by LUPC September 8 and September 15, 2014 with Conditions" consisting of five pages of offers and conditions with respect to the detailed plans of the proposal in regards to Landscape; Equipment and Commercial Kitchen; Noise; Energy; Church Services; Community Room and other spaces; Exterior Lighting; Traffic, Parking and Access; and Wastewater and Nitrogen. Signed by Valci Carvalho on September 18, 2014.

## **2.4 Other Exhibits**

- E1. Referral to the MVC from the Oak Bluffs Building Inspector April 11, 2012.
- E2. Staff Report, by Paul Foley, MVC DRI Coordinator, with the assistance of other staff members, April 24, 2014; revised July 10, 2014; revised August 6, 2014; revised September 4, 2014.
- E3. Photographs of the site taken on July 18, 2007; May 8, 2008; May 16, 2013; July 8, 2014; and September 3, 2014 by MVC staff member Paul Foley.
- E4. Letter from Reverend Thomas Flanders, New England District Superintendent of the Christian & Missionary Alliance, August 6, 2014.
- E5. Correspondence from Kris Chvatal, "Is it better & necessary" Spreadsheet and Power Point, August 7, 2014.
- E6. Memorandum from L.G. Copley Associates – Memo re Acoustical Study Revised August 14, 2014.

- E7. Letter from Kris Chvatal, August 11, 2014 regarding lack of compliance of Applicant.
- E8. Letter from Kris Chvatal, August 21, 2014 opposed to the proposal.
- E9. E-mail from Kris Chvatal, September 2, 2014 regarding continued compliance violations.
- E10. Letter from Courtney Brady, September 4, 2014 in support of the proposal.
- E11. Letter from H.C.L. Rogers, September 4, 2014 in support of the proposal.
- E12. Letter from Claire Bennett, September 4, 2014 in support of the proposal.
- E13. Letter from Kris Chvatal, September 8, 2014 regarding soundproofing.
- E14. Letter from Kris Chvatal, September 8, 2014 regarding phasing and access.
- E15. Memorandum from L.G. Copley Associates – Memo re Acoustical Study and Offers Revised September 8, 2014.
- E16. Minutes of the Commission’s Land Use Planning Committee meeting, April 28, 2014.
- E17. Minutes of the Commission’s Land Use Planning Committee meeting, September 8, 2014.
- E18. Minutes of the Commission’s Land Use Planning Committee meeting, September 15, 2014.
- E19. Minutes of the Commission’s Public Hearing, July 10, 2014.
- E20. Minutes of the Commission’s Continued Public Hearing, August 7, 2014.
- E21. Minutes of the Commission’s Continued Public Hearing, September 4, 2014.
- E22. Minutes of the Commission Meeting of September 18, 2014– Deliberations and Decision.
- E23. Minutes of the Commission Meeting of October 16, 2014 – Written Decision.

## **2.5 Summary of Testimony**

The following gave testimony during the public hearing of July 10, 2014.

- Presentation of the project by: Rosemarie Haigazian (Lawyer); John Folino (Builder); Ben Madeiras (Landscape Designer); Valci Carvalho (Pastor); and Valci Carvalho Jr.
- Staff reports by Paul Foley (MVC DRI coordinator); Sheri Caseau (Water Resource Planner); and Mark London (MVC Executive Director).
- Oral testimony from Public: Courtney Brady; Edward Gray; Lorinda Karoff; Hyung Suk Lee; reverend Walter Silva Thompson; Kris Chvatal; and Linda Silva Thompson.

The following gave testimony during the public hearing of August 7, 2014.

- Presentation of the project by: Rosemarie Haigazian (Lawyer); John Folino (Builder); Valci Carvalho (Pastor); and Valci Carvalho Jr.
- Staff report by Mark London (MVC Executive Director).
- Oral testimony from Public: Jeffrey Younger; Anthony Cappelli; Russell Wendt; Reverend Pablo DaRosa; Preston Averill; Kris Chvatal;

The following gave testimony during the public hearing of September 4, 2014.

- Presentation of the project by: Rosemarie Haigazian (Lawyer); Valci Carvalho (Pastor); Laurence Copley (Acoustical Engineer); John Folino (Builder); Valci Carvalho Jr.; and Reverend Thomas Flanders.
- Staff reports by Paul Foley (MVC DRI coordinator); and Mark London (MVC Executive Director).
- Oral testimony from Public: Russell Wendt; and Kris Chvatal.

### **3. FINDINGS**

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#### **3.1 Project Description**

- The site is about one and a half-acre (1.44 acre) lot located at 1 Ryan's Way off of Edgartown-Vineyard Haven Road in Oak Bluffs close to the regional High School.
- There is an existing 7,088 s.f. building on the site with three floors including an occupied basement. The existing building has a 2,560 s.f. footprint.
- The proposal is to build a 3,920 s.f. addition for a 150-seat church and associated church activities. The total square footage as proposed would be 11,808 gross square feet.
- The site currently has roughly 15 parking spaces (paved and dirt).
- Prior to 2006, the residential structure was a residence and had been a dance studio among other things. On June 30, 2006 Mr. Carvalho purchased the property for \$1,051,000 and then sold it the same day to the Assembleia De Deus Nova Vida Inc., of which he was the pastor, for \$10. A little over a month later, on August 8, 2006 the building was sold by Nova Vida to Alliance Community Church Inc. for \$10.
- The Martha's Vineyard Hospital daycare then located on the first floor of the building.
- In 2008 the MVC reviewed and approved with conditions a renovated church that was to be built on the second floor above the daycare and the building was to have no residences involved.
- The 2008 DRI 603 project was not developed but was still valid until this modification was approved due to the Massachusetts Permit Extension Act and a one month extension granted by the MVC.
- The Church continued to use the basement for services for some time after a cease-and-desist order was issued by the Town. After that the church congregated in several locations for a couple of years including the old Catholic Church Annex in Oak Bluffs and the Federated Church in Edgartown before returning to the building at 1 Ryan's Way and resuming gatherings there.
- In 2012 a proposal to build a 6,500 s.f. addition to the side of the existing 7,888 s.f. building was referred to the Commission. During the DRI process the proposed addition was reduced to 4,500 sf. On December 19, 2013 the Martha's Vineyard Commission denied the application.

#### **3.2 Statutory Authority**

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.

#### **3.3 Benefits and Detriments**

Based on the record and testimony presented therein, the Commission finds the following 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 modification compared to the previously approved DRI 603 at this location is appropriate in view of the available alternatives (Section 15(a) of the Act.)**

The Commission finds that the establishment of houses of worship is allowed within residential neighborhoods and that the MVC has already approved a church (DRI 603) on this site. The Commission notes that the review of benefits and detriments was done comparing the current proposal with the approved DRI 603 proposal and conditions.

**A2 The Commission finds that the proposed modification compared to the previously approved DRI 603 would have a mixed impact upon the environment relative to other alternatives (Section 15(b) of the Act).**

With respect to Wastewater and Groundwater, the Commission finds that compared to the approved DRI 603 the proposed modification would have an improved impact on ground water quality in that the Church offered to install composting toilets throughout the building at the time of construction in order to cut down the nitrogen loading. The condition in the original project made installation of denitrification systems a possibility in the future when certain thresholds were reached. The Commission notes that the nitrogen loading is above the budgeted amount for this size property in this watershed but with the composting toilets will be below the amount granted in the original approved proposal as the grandfathered level for this property.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the proposed modification will result in a significant increase in building footprint, and parking and driveway areas, and result in a considerable reduction in the overall proportion of the property being used for natural vegetation.

With respect to Night Lighting and Noise, the Commission finds that the benefits of the proposed modification should outweigh the detriments in that the offers, some as recommended by a professional acoustical engineer, are more restrictive with respect to modern construction techniques, location of the proposed building, inclusion of vestibules to baffle sound at entries and exits, and air conditioning. The location of the addition in the current proposal in front of the large existing building should shelter the residential neighborhood from most of the noise emanating from the sanctuary. The Commission notes that the previously approved proposal included a daycare that would have had potentially noisy outdoor activity starting early on weekday mornings. The Commission notes that the original proposal and the proposed modification both have sufficient safeguards to minimize the impact of light.

With respect to Energy and Sustainability, the Commission finds that the proposed new building would be more energy efficient but that the increased size of the total structure would require more energy.

**A3 The Commission finds that the proposed modification compared to the previously approved DRI 603 would have a mixed overall effect upon other persons and property (Section 15(c) of the Act).**

With respect to Traffic and Transportation, the Commission finds that the proposed modification should have similar impacts to the already approved project with the exception that the proposed modification no longer includes a daycare which should reduce the total amount of traffic. The Commission finds that a new curb cut on Edgartown-Vineyard Haven Road solely for the Church might have appeased the neighbors somewhat but it would be detrimental to the greater Island community by impacting a road designated in the Island Road DCPC with unnecessary curb cuts at short intervals. The Commission notes that if and when the neighboring property (Map 5 Lot 55) is developed, this Applicant will make it best efforts to share that driveway onto Edgartown-Vineyard Haven Road and that if that property comes before the MVC for DRI review the MVC will condition the development on Map 5 Lot 55 to share its driveway with the church.

With respect to Scenic Values, Character, and Identity: The Commission finds that the large new section of the building and removal of existing mature vegetation will be a detriment by being more visible from the Edgartown-Vineyard Haven Road. It is noted that this stretch of the Edgartown – Vineyard Haven Road already has many large, institutional buildings.

With respect to the Impact on Abutters, the Commission finds that the proposed modification should have less impact on abutters compared to the already approved DRI 603 with respect to traffic and noise, because the daycare is no longer included, although the new section of the building will be visible.

**A4 The Commission finds that the proposed modification compared to the previously approved DRI 603 would have a minimal impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).**

With respect to housing, the Commission notes that the proposal includes a three-bedroom apartment for an employee of the church.

**A5 The Commission finds that the proposed modification compared to the previously approved DRI 603 would have minor impacts on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).**

**A6 The Commission finds that the proposed modification compared to the previously approved DRI 603 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 modification compared to the previously approved DRI 603 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 modification compared to the previously approved DRI 603 would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).**

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of offers and proposed conditions such as those relating to

wastewater and future traffic mitigation, the Commission has concluded that the probable benefits of the proposed modification to the approved project in this location exceed its probable detriments in light of the considerations set forth in section 14(a) of the Act.

**B. THE COMMISSION FINDS THAT THE PROPOSED MODIFICATION COMPARED TO THE PREVIOUSLY APPROVED DRI 603 WOULD BE 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.**

**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.**

The Commission finds that while churches are allowed in residential districts, they may be reasonably regulated which is why it has worked with the Applicant to refine the plan with offers and added conditions that would reasonably regulate the use of this structure in order to minimize impacts to the residential neighborhood.

**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 finds that the proposed development site is partially located within the Island Roads District of Critical Planning Concern (DCPC). The Commission notes that while the Applicant proposed a new entry/exit onto Edgartown-Vineyard Haven Road to lessen the impact of traffic and noise on the neighbors, the Commission finds that a new curb cut on Edgartown-Vineyard Haven Road within 200 feet of a street on which the property already has legal access does not conform to the spirit or standards of the Island Roads DCPC. Therefore, the Commission does not allow a new curb cut on Edgartown-Vineyard Haven Road for this property unless it is shared with development on the neighboring property (Map 5 Lot 55).

#### **4. DECISION**

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The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on September 18, 2014 and made its decision at the same meeting.

The following Commissioners, all of whom participated in all hearings and deliberations on this project, participated in the decision on September 18, 2014.

- Voting in favor: Trip Barnes; Christina Brown; Fred Hancock; Lenny Jason; Jim Joyce; Joan Malkin; Kathy Newman; Doug Sederholm; Linda Sibley; and James Vercruysse.
- Voting against: Madeline Fisher; Josh Goldstein, and Erik Hammarlund.
- Abstentions: None.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with the conditions listed in section 5 below.



This written Decision is consistent with the vote of the Commission September 18, 2014 and was approved by vote of the Commission on October 16, 2014.

## **5. CONDITIONS**

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After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions 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 conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the conditions, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission's and/or Town's attorney's fees and costs incurred in obtaining judicial relief.

### **1. Landscaping**

- 1.1 As offered by the Applicant, a final landscaping plan including an implementation timetable, signage, fencing, and showing plant species and locations shall be submitted for the review and approval of LUPC before construction begins on the main building. All landscaping plans shall use best management practices.
- 1.2 If the required planting is not done by the time the Applicant applies for a Certificate of Occupancy, and it is not a prudent time to plant, then the Applicant may obtain the Certificate of Occupancy after it has put funds into escrow, as determined by the MVC Land Use Planning Committee, that will be sufficient to guarantee that the required landscaping is installed and set a date when the planting must be installed by.
- 1.3 As offered by the applicant, the church shall increase the intensity of the existing buffer along the Edgartown-Vineyard Haven Road side of the property. The Applicant shall maintain a 30-foot vegetated buffer, including the existing berm, along Edgartown-Vineyard Haven Road by re-planting the area with native species. Once replanted, the area shall be maintained as a no-cut vegetated buffer. The 20 feet between the planted berm and parking area shall remain as lawn for overflow parking.
- 1.4 As offered by the applicant, the Church shall plant and maintain a hedge consisting of, but not limited to native or island compatible evergreens, planted randomly at about 12 feet on center and more closely clustered for the perimeter screening Ryan's Way.
- 1.5 As offered by the applicant, the Church shall maintain in good repair the existing 6'-0" high cedar fence (approximately 50 feet long) along the south edge of the property to screen the parking area from the neighbor. The Applicant shall create and maintain a minimum 8-foot high, vegetated buffer along said fence along the southern property line, adjusting the parking layout as needed. This buffer and fence treatment shall be included in the landscaping plan to be submitted to LUPC for review and approval.
- 1.6 As offered by the applicant, the primary 43-space parking area shall be graveled. There shall be overflow parking on the grass (to be identified on the plan). The driveway and parking areas are to be gravel except the apron, handicapped spots, and drop-off area.

1.7 As offered by the applicant, all fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of landscaping.

**2. Equipment and Commercial Kitchen**

- 2.1 As offered by the applicant, the Church shall use Energy-Star-rated Appliances.
- 2.2 As offered by the applicant, the Commercial Kitchen shall not have a "Fryolator" or similar appliance installed.
- 2.3 As offered by the applicant, the Kitchen shall have a grease trap and a contract with a Martha's Vineyard company to pump out the grease trap associated with kitchen use as needed.
- 2.4 As offered by the Applicant, the commercial kitchen, as required by the Oak Bluffs Board of Health, shall be used only in conjunction with church-related activities, and shall not be used or rented for producing food products available for commercial sale or carry out.

**3. Noise**

- 3.1 As offered by the applicant, there shall be no formal or informal church activities on the property before 7 a.m. and after 9 p.m.
- 3.2 As offered by the applicant, the sanctuary shall be fully air-conditioned, including ventilation (outside air) to code.
- 3.3 As offered by the applicant, windows shall be glazed with windows providing at least STC-30 sound insulation. This can be achieved with operable units with 5/8" thick insulating glass (1/8"-3/8" air-1/8"). Windows shall not be opened during events with amplified music.
- 3.4 As offered by the applicant, all exterior doors opening directly to the sanctuary shall be fitted with acoustic seals at stops (head and jambs) and also at the bottom and any astragal. These doors shall not be left open during events with amplified music.
- 3.5 As offered by the applicant, the basic construction of walls and roof shall be such as to provide sound insulation of STC-40 or greater.
- 3.6 As offered by the applicant, outside A/C units shall be selected and located to avoid noise affecting nearby residences. The location shall be on the west side facing the main road.
- 3.7 As offered by the applicant, the music sound levels within the sanctuary, for the purpose of the acoustic design, shall be as follows:

Octave Band Frequency (Hz)	63	125	250	500	1000	2000	4000	8000
Interior Music Peaks (102 dBA)	84	90	98	100	97	94	83	72

3.8 It is further stipulated that the background ambient sound levels are as follows:

Octave Band Frequency (Hz)	63	125	250	500	1000	2000	4000	8000
Background Ambient (38 dBA)	47	40	38	37	34	24	16	14

- 3.9 As offered by the applicant, sanctuary windows shall be selected such that music sound transmission through the windows (closed) will not exceed the ambient L90 levels at a distance of 190 feet from the sanctuary, based on the stipulated values above.
- 3.10 As offered by the applicant, the basic construction of the walls and roof shall provide attenuation at least 10 dB greater than required of the windows under (3) above, in each octave band.
- 3.11 As offered by the applicant, the Church shall implement the other recommendations of the acoustical engineer it had hired and abide by his memos dated August 14, 2014 and September 8, 2014, his testimony at the public hearing on September 4, 2014 and the offers made in the Memo of September 8, 2014.

- 3.12 As offered by the Applicant at the public hearing September 4, 2014, there shall be no amplified sound anywhere other than in the sanctuary.
- 3.13 There shall be no amplified music anywhere other than in the sanctuary unless the applicant applies for and the Commission approves a modification of this decision.
- 3.14 As offered by the applicant, the Church shall keep building doors and windows closed during services and when amplifying. Both main entrances shall be vestibules with double doors as shown on the plans (See P2 and P3 plans cited on page 3 of this Decision). The church shall install and maintain air conditioning.
- 3.15 As offered by the applicant, there shall be no amplification outdoors.
- 3.16 As offered by the applicant, the Church shall endeavor not to impose noise upon the residential neighborhood.
- 3.17 As offered by the applicant, after night services, the church shall request that parishioners maintain minimum interaction while exiting the property so as to not impose noise upon the residential neighborhood.
- 3.18 There shall be no formal or informal activities on the property that exceed the Commonwealth of Massachusetts Department of Environmental Protection's Noise Control Regulation 310 CMR 7.10 at all boundaries of the property or that exceed the Oak Bluffs noise regulations.

#### **4. Energy**

- 4.1 As offered by the Applicant, the project shall meet the Massachusetts Stretch Code for energy.
- 4.2 As offered by the applicant, solar panels may be installed on the roof of the existing and/or new building. During construction of the new structure and renovation of the existing structure, the Church shall provide electric and piping mains roughed in for possible future solar hot water and/or solar electric panels.

#### **5. Church Services**

- 5.1 As offered by the applicant, there shall be no more than an average of 3 church services or other activities with 35 people or more people in attendance per week. In addition, there may be up to 12 weddings per year.
  - a. Summertime (June 15 to September 30) service days and times: Sunday 6:30 p.m. 9 p.m., Wednesday/Fridays 8 p.m.-9 p.m.
  - b. Wintertime (October 1 to June 14) service days and times: Sunday 6 p.m.-8 p.m., Wednesdays/Fridays 7 p.m.-8 p.m.
- 5.2 As offered by the Applicant, the other activities referred to above shall be limited to between the hours of 9 a.m. and 9 p.m.
- 5.3 As offered by the applicant, after closing (9 p.m.) there shall be no outdoor socializing and participants shall be asked to disperse quickly and quietly.
- 5.4 As offered by the applicant, choir practice, religious school, and other church-related activities of less than 35 people shall not be limited in the number of times they meet but shall be limited to between the hours noted above.

#### **6. Community Room and Other Spaces**

- 6.1 The premises shall only be used as a church, for church-related activities, and a residence.
- 6.2 As offered by the applicant, the Community Room shall only be used for church-related activities, which may include: gatherings after a sanctuary activity, learning functions and classes for

- parishioners, and social interaction as overseen by the church. Activities for 35 people or more, including the church services, shall not exceed 35 hours weekly
- 6.3 As offered by the applicant, the Community Room shall not be rented or otherwise used for any commercial activities or purposes, which include, parties, and/or weddings, other than Church related.
  - 6.4 There will be no basement in the proposed addition. The only exception will be immediately below the composting toilets, where there will be an accessible underground area to allow for maintenance. The basement of the existing building shall be used for storage purposes only. The bathroom that is currently present in the basement shall be removed.
  - 6.5 The top floor of the existing building shall be used as a single-family residence for the person employed by the church and his/her family.

## **7. Exterior Lighting**

- 7.1 The exterior lighting plan shall be submitted and is subject to the approval of the MVC Land Use Planning Committee.
- 7.2 As offered by the applicant, all exterior lighting on the building shall be limited to that required by code and shall be downward shielded. All exit doors shall be provided with downward shielded lights and shall be limited to exit doors or all necessary means of egress and access, required by Code.
- 7.3 As offered by the applicant, all exterior lighting locations shall be as depicted on the Lighting Plan, all the lighting in the parking area shall be downward shielded lighting and shall extend no more than 42 inches above the ground.
- 7.4 As offered by the applicant, any security-lighting shall be on motion sensors.
- 7.5 As offered by the applicant, entry lighting to the property shall be downward shielded and shall be used to illuminate the church name sign, doorways and walkways.
- 7.6 As offered by the applicant, the exterior lights shall be only turned on before services or other activities and shall be turned off no more than 30 minutes after the services or activity or in any case no later than 9:30 p.m.

## **8. Traffic, Parking and Access**

- 8.1 As offered by the applicant, the Church shall promote the use of public transit.
- 8.2 As offered by the applicant, the Church shall institute a car-pooling /ride-sharing program.
- 8.3 As offered by the applicant, the Church shall instruct its members that no vehicle parking is allowed on the bike path or on residential streets.
- 8.4 As offered by the applicant, the Church shall instruct its members that no vehicle parking is allowed on or near the shoulders of Edgartown-Vineyard Haven road.
- 8.5 As offered by the applicant, the Church shall provide no more than 43 formal parking spaces, which includes 2 handicap spaces.
- 8.6 As offered by the Applicant, pursuant to the Oak Bluffs regulations no more than one unregistered vehicle shall be stored on the site.
- 8.7 As offered by the applicant, the parking lot shall not be used as a commercial parking lot. No more than two commercial vehicles shall be parked overnight on the site and they must be owned or operated by an occupant of the residence in the building. Any commercial vehicle parked overnight shall be parked out of sight and be screened from the abutters.
- 8.8 The site access shall remain on Ryan's Way unless the Commission approves a new curb cut on the Edgartown – Vineyard Haven Road shared with the adjacent property (Map 5 Lot 55).

- 8.9 If a project for the abutting property (Map 5 Lot 55) is approved by the Commission with a curb cut on the Edgartown – Vineyard Haven Road which is suitable for sharing with the Alliance Church on terms which the Commission deems reasonable, the Alliance Church shall relocate the entrance to the property to this new curb cut and shall close the access from Ryan’s Way and landscape the current entrance with a buffer no less than 8 feet wide containing but not limited to native trees and plants. This landscaping plan shall be submitted to and is subject to the approval of the MVC’s Land Use Planning Committee.
- 8.10 If the adjacent property (Map 5 Lot 55) is developed by that owner or any subsequent owner in a way that is not subject to MVC jurisdiction, the Alliance Church shall use their best efforts (including making reasonable financial contributions to the construction and maintenance of the curb cut) to arrange with the developer of the abutting property to share in that property’s curb cut on the Edgartown Vineyard Haven Road. If successful in getting an agreement to share the new curb cut, the Alliance Church shall close the curb cut on Ryan’s Way and landscape it as described in condition 8.9
- 8.11 As offered by the applicant, a buffer, no less than 8 feet wide, shall be installed and maintained on the side of the property fronting Ryan’s Way. This buffer will contain but will not be limited to native trees and plants and is subject to review and approval of LUPC.

**9. Wastewater**

- 9.1 As offered by the applicant, all toilets on the property shall be composting toilets installed at the time of construction.
- 9.2 As offered by the applicant, all end products from the composting toilets shall be removed by a licensed septage hauler or composting toilet distributor to be disposed of properly. A complete system maintenance contract for periodic inspection and reporting by a licensed septage hauler or the composting toilet distributor who agrees to take the end-products to a collection facility where they will be appropriately handled for re-use as fertilizer. Reports shall be submitted to the MVC on an annual basis.
- 9.3 As offered by the applicant, well water shall only be used for irrigation of landscaping and any well on the property shall not be connected to the building’s plumbing system.
- 9.4 As offered by the applicant, all storm water runoff from pavement shall be discharged to grassy swales sized to accommodate a 25-year return storm.
- 9.5 As offered by the applicant, the final stormwater plan shall be submitted to, and is subject to the approval of, the Land Use Planning Committee.
- 9.6 As offered by the applicant, based on the water meter records which shall be submitted to the Commission every six months, if the average annual water usage in any two year period exceeds 140,000 gallons per year the applicant shall return to the MVC with proposed nitrogen reduction measures to reduce nitrogen to no more than the grandfathered amount of 17.9 kg/year.
- 9.7 As offered by the applicant, the applicant shall submit annual inspection and maintenance contracts for the composting toilets to the Commission.

**10. Alterations**

- 10.1 As offered by the applicant, the Church shall not alter the design or use of the premises from the approved plan and uses without the approval of the Martha's Vineyard Commission.

**6. CONCLUSION**

**6.1 Permitting from the Town**

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

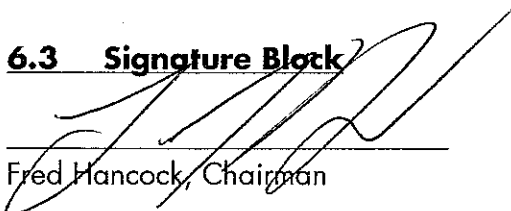
The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

The Town' building inspector shall not issue a Certificate of Occupancy until it has received a Certificate of Compliance issued by the Executive Director or DRI Coordinator of the Martha's Vineyard Commission confirming that the following conditions in this Decision have been satisfied: 1.2; 1.3; 1.4; 1.5; 2.2; 2.3; 3.2; 3.3; 3.4; 3.6; 4.1; 6.4; 6.5; 7.1; 7.2; 7.3; 7.4; 7.5; 8.5; 8.11; 9.1; 9.2; 9.3; and 9.5.

**6.2 Notice of Appellate Rights**

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.

**6.3 Signature Block**

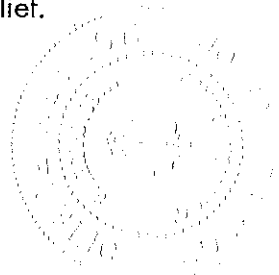
  
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Fred Hancock, Chairman

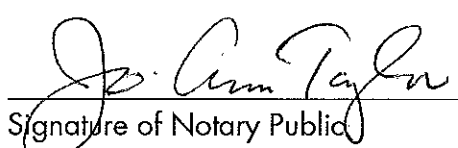
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10-23-14  
Date

**6.4 Notarization of Decision**

Commonwealth of Massachusetts  
County of Dukes County, Mass.

On this 23<sup>rd</sup> day of October, 2014, before me,  
Jo-Ann Taylor, the undersigned Notary Public, personally  
appeared Fred Hancock, 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

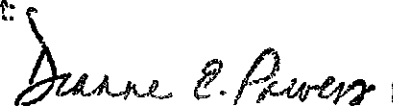
Jo-Ann Taylor  
\_\_\_\_\_  
Printed Name of Notary

My Commission Expires February 9, 2018

**6.5 Filing of Decision**

Filed at the Dukes County Registry of Deeds, Edgartown, on: Oct. 28, 2014

Deed - Book 1360, page 455  
Decision

 Register