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Decision of the Martha's Vineyard Commission

DRI 39-M2 – Woodland Business Center (Phase 2)

Date: August 24, 2006
To: Building Inspector, Town of Tisbury, MA
From: Martha's Vineyard Commission
Subject: Development of Regional Impact #39-M2
Woodland Business Center
Project: Woodland Business Center
Owner: Sam Dunn
Applicant: Sam Dunn.
Project Location: Woodlands Business Center, State Road, Tisbury, MA. Map 39, Lot 2.15 (0.48 acres).

1. SUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves the granting of permits for the development as submitted in the application of the Woodland Business Center, Sam Dunn c/o Schofield, Barbini, and Hoehn, Post Office Box 339, Vineyard Haven, Massachusetts, 02568 for a project on State Road, Tisbury, Massachusetts.

This Decision is rendered pursuant to a vote of the Commission on August 3, 2006. The permit-granting authorities of the Town of Tisbury 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

The project was referred to the Commission by the Planning Board of the Town of Tisbury, 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 3.102b "once a DRI, always a DRI" and was reviewed as such by the Martha's Vineyard Commission. 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 June 22, 2006 at the Stone Building in Oak Bluffs, MA pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831. The hearing was continued to July 13, 2006 and closed the same day.

Description: To build a 5,000 square foot building with 3 retail units (condos) in an existing retail complex on currently vacant land. The Woodland Business Center now accommodates 18 business condominiums in three one-story buildings. This proposal would add one more building (5,000 sf) and three more business condos. The existing Building 1 is approximately 4,000 square feet, the existing Building 2 is approximately 8,800 square feet, for a total of approximately 12,800 square feet. The recently approved building will be 968 sf (Phase 1) with one retail space. This proposal for a 5,000 sf three unit building is Phase 2 of the same project.

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

- "Woodland Center: Site Plan", Scale 1" = 10', consisting of one 24" X 36" sheet prepared by Schofield, Barbini, and Hoehn, State Road, Vineyard Haven, MA – September 12, 2005.
- "New Building at Woodland Center: Front Elevation", Scale 1" = 10', consisting of one 8.5" X 11" sheet prepared by Schofield, Barbini, and Hoehn, State Road, Vineyard Haven, MA – Undated – MVC date stamped July 21, 2006.
- "New Building at Woodland Center: Floor Plan", Scale 1" = 10', consisting of one 8.5" X 11" sheet prepared by Schofield, Barbini, and Hoehn, State Road, Vineyard Haven, MA – Undated – MVC date stamped July 21, 2006.
- "New Building at Woodland Center: Side Elevation", Scale 1" = 10', consisting of one 8.5" X 11" sheet prepared by Schofield, Barbini, and Hoehn, State Road, Vineyard Haven, MA – Undated – MVC date stamped July 21, 2006.
- "Proposed Sewage Disposal System", Scale As Noted, consisting of one 24" X 36" sheet prepared by Schofield, Barbini, and Hoehn, State Road, Vineyard Haven, MA – June 19, 2006.

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 property is already an active retail business center and that the proposed use is consistent with the neighborhood.

A2 The Commission finds that the proposed development 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 the site is within the zone of contribution for the Tashmoo supply well, a nitrogen-sensitive area as defined in Title 5. The Commission notes that the Board of Health and the Applicant came to an agreement for flow limitations and treatment with wastewater nitrification reduction systems for the entire retail center. The commission notes that the wastewater will be treated using a de-nitrification system resulting in overall nitrogen loading that is significantly less than the previous nitrogen load from the entire Woodland complex. The Commission also notes that the Applicant has designed a stormwater collection and infiltration system to handle a portion of the runoff from the adjoining parking lot that currently flows into abutting properties

With respect to open space, natural community and habitat, the Commission finds that the property has little vegetation, some of which should be preserved in the final landscaping plan.

With respect to night lighting and noise, the Commission notes that the Applicant will return to the Land Use Planning Committee (LUPC) for approval of a lighting plan and that those conditions will result in acceptable exterior lighting.

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

With respect to traffic and transportation, the Commission finds that the recently instituted reorganization of the vehicular circulation of the entire retail complex has improved the traffic situation. The Commission also notes that the Applicant has granted a dormant easement should the Town of Tisbury ever desire a connector road through this property. The proposed new building will add to the traffic on State Road but the particular location and configuration of the site and especially the fact that the main impact will be on private property make this impact acceptable.

With respect to scenic values, the Commission finds that the proposed new building will be hardly visible from the public way, and that it will be consistent with and continue the well-articulated recent renovations to the entire Woodland Business Center complex that have improved the visual aspect of the buildings.

With respect to character and identity, the Commission notes that the commercial center is a well-established landmark of Upper State Road and finds that the recent renovations and proposed new building are of an architectural character that better harmonizes with the character of the Vineyard than the previous design.

With respect to the impact on abutters, the Commission finds that this project will have a minimal impact. The Commission notes that stormwater management for the entire Woodland Business Center has been addressed with this project.

A4 The Commission finds that the proposed development would have no impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).

The Commission notes that the applicant has offered to make a \$3,000 contribution to affordable housing that meets the MVC 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 finds that this development will have a limited impact on the need for and the cost of municipal services.

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).

The Commission notes that the Applicant has expressed a willingness to work with the Town on plans to connect service roads across this property.

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 policies of the Martha's Vineyard Commission Regional Policy Plan, adopted by the vote of the Martha's Vineyard Commission, June 1991.

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 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.

The requested project, as a whole, conforms to 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 noted 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.

The Commission finds that this project is consistent with local zoning.

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 not located within any DCPC's.

4. CONDITIONS

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.

4.1 Permitted Uses

- 4.1.1 As offered by the Applicant, the Applicant shall not rent or sell to any of the following types of businesses: fast food restaurant; hardware store; convenience store; bank; auto parts store; video store; and moped/car rentals without returning for the approval of the Commission.
- 4.1.2 No other business that generates more than 120 trips per day per 1000 square feet (based on the current Institute of Traffic Engineers Handbook) shall be allowed in the building without returning for the approval of the Commission

4.2 Traffic

- 4.2.1 As offered by the Applicant, the Applicant shall grant a dormant easement for the Tisbury Planning Board's proposed rear drive and pedestrian connector. The Applicant shall participate in the implementation of the plan if and when the adjacent sections are implemented. The dormant easement shall be activated at the discretion of the Tisbury Planning Board.
- 4.2.2 The layout of the dormant easement and adjacent landscaping, as well as the ultimate the layout of the connector road shall be submitted to and is subject to the approval to the Tisbury Planning Board.

4.3 Signage

- 4.3.1 There shall be no signage on State Road for this building or its occupants.

4.4 Landscaping

- 4.4.1 As offered by the Applicant, all fertilizers will 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.
- 4.4.2 A final Landscaping Plan showing existing large trees and other vegetation and indicating which are to be preserved shall be submitted to and is subject to the approval of LUPC before construction begins. (The Commission recognizes that anything that is planted under the electric easement has to be approved by the NStar.)

4.5 Wastewater

4.5.1 The Applicant shall install an advanced nitrogen-reduction treatment system. The project shall not generate more than 375 gallons per day. The operation of the system shall be monitored by the Tisbury Board of Health and reports shall be submitted on a quarterly basis for the first three years and an annual basis thereafter, or as otherwise determined by the Tisbury Board of Health.

4.6 Stormwater

4.6.1 The Applicant shall design a stormwater treatment and infiltration system that will achieve both 50% hydrocarbon removal and infiltrate 1.5 inches of runoff. The proposed system including design, installation and maintenance contract shall be submitted to and is subject to the approval of LUPC.

4.7 Lighting

4.7.1 A final lighting shall be submitted to and is subject to the approval of LUPC before construction begins. It should be based on the following principles.

- All exterior lighting should be downward shielded to prevent direct light from escaping the property.
- On buildings, there should be approximately one light per store, each with illumination equivalent to a 100-watt incandescent bulb or less.
- Building and landscaping lighting should be on timers to ensure that they are turned off during the day as well as turned off during the night when the stores are closed.
- For landscaping, bollard lights no more than 2 feet tall, if needed for pedestrian and vehicular safety.
- Lighting on signs should be shielded to prevent glare for drivers. Signs on buildings should not be illuminated.
- Security lighting, if any, should be on motion detectors.

4.8 Energy

4.8.1 A final energy plan shall be submitted to and is subject to the approval of LUPC before construction begins.

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 Tisbury 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: August 24, 2006 and was approved by vote at the Commission meeting of August 24, 2006.

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 Tisbury 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, Chairman
Commonwealth of Massachusetts
County of Dukes County, Mass.

Date

On this _____ day of _____, _____, before me,
_____, the undersigned Notary Public, personally
appeared _____, proved to me through satisfactory evidence of identity,
which was/were _____ 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

Printed Name of Notary
My Commission Expires _____