

THE MARTHA'S VINEYARD COMMISSION

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DATE: *July 10, 1997*

TO: *Building Inspector, Town of West Tisbury*

FROM: *Martha's Vineyard Commission*

SUBJECT: *Development of Regional Impact*

APPLICANT: *Options in Education
M.V. Public Charter School
PO Box 860
West Tisbury, MA 02575*

*Decision of the Martha's Vineyard Commission
Summary*

The Martha's Vineyard Commission ("the Commission") hereby approves, with certain conditions, the granting of permits for the development contained in the Application of Options in Education, PO Box 860, West Tisbury, MA 02575 as shown on the plans entitled: "Options in Education, Inc., PO Box 860, West Tisbury, MA 02575, Elevations, 16 May '97, 13 June '97, MacNeely-Cohen Architects, PO Box 2298, Vineyard Haven, MA, scale: 1/8" = 1' ", consisting of one (1) sheet; plus, "Options in Education. Inc., PO Box 869, West Tisbury, MA., Site Plan, Martha's Vineyard Public Charter School, M16L96, Lots 1 & 2, MacNeely-Cohen Architects, PO Box 2298, Vineyard Haven, MA, dated: 18 June 1997, scale: 1" = 40' ", consisting of one (1) sheet; plus "Options in Education, Inc., PO Box 860, West Tisbury, MA, Proposed Phase I Expansion Plan - Martha's Vineyard Public Charter School, dated 16 May '97, revised 13 June '97, MacNeely-Cohen Architects, PO Box 2298, Vineyard Haven, MA., scale: 1/3" = 1' ", consisting of one (1) sheet; plus "Proposed Sewage Disposal System, MV Public Charter School, c/o Schofield, Barbini and Hoehn, PO Box 339, Vineyard Haven, MA, dated July 10, 1996, revised April 24, 1997, scale as noted," consisting of one(1) sheet; and totaling four (4) sheets ("the Plan").

This Decision is rendered pursuant to the vote of the Commission on:
July 10, 1997.

The Building Inspector and all other permit granting boards of the Town of West Tisbury may now grant the request for approval of the Applicant in accordance with the conditions contained herein or may place further conditions thereon in accordance with all applicable laws or may deny the request for approval.

FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact, Section 3.601. The Application was referred to the Commission by the Building Inspector of the Town of West Tisbury pursuant to Chapter 831 of the Acts of 1977, as amended ("the Act"). 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.

A duly noticed public hearing was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 on Thursday, June 19, 1997 at 7:30 p.m. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The hearing and the record were closed the same night.

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.

The proposal is for the expansion of a public charter school.

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 the testimony presented therein, and in addressing whether the development at the proposed location is or is not essential or especially appropriate in view of the available alternatives on the Island of Martha's Vineyard, the Commission sets the following conditions (Section 15(a) of the Act):

- a. That the Applicant shall be limited to one hundred twenty (120) persons (students and others combined) in total, and that any further proposed expansion shall require a full Development of Regional Impact review and at that time the**

Applicant will be expected to and shall submit all pertinent data, documents and studies as shall be required to ensure a complete and proper review by the Commission and its staff; and further

b. The Commission, wishes to make it perfectly and irrevocably clear to the Applicant that the Approval with conditions contained herein shall, in no manner constitute an endorsement or approval of any long-term plan or proposal that may be developed subsequent to this Decision.

2. Based upon the record and the testimony presented therein, and in addressing whether there will be a more favorable or adverse impact on the environment in comparison to alternative manners of development, the Commission sets the following conditions (Section 15(b) of the Act):

a. That the Applicant shall present a landscaping plan and a lighting plan to the Land Use Planning Committee for approval. The Applicant should attempt to break up the mass of the structures through the creative use of the landscaping so proposed; and further

b. That the Applicant shall offer a bike path easement of some twenty (20) feet in width to the Town of West Tisbury along the lot frontage bordering on State Road at a location to be determined by the Town of West Tisbury.

The Commission considered the factors set forth in Section 15(c), (d), (e), (f), (g), and (h) of the Act and found that either such factors were not pertinent to the issue raised by the proposed development, or such factors were relatively minor in their effects in comparison to other factors.

B. THE COMMISSION DOES NOT FIND THAT THE PROPOSED DEVELOPMENT WILL SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR OF THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT, AS CONDITIONED, IS GENERALLY CONSISTENT WITH DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF WEST TISBURY.

D. THE COMMISSION FINDS THAT A PORTION OF THE PROPOSED DEVELOPMENT, SPECIFICALLY THE ROAD FRONTAGE OF LOTS ONE AND TWO OF THE PLAN DOES LIE WITHIN THE ISLAND ROAD DISTRICT OF CRITICAL PLANNING CONCERN. THE COMMISSION IS AWARE THAT THE ENTRANCE DRIVE TO THE DEVELOPMENT DOES NOT CONFORM TO THE REQUIREMENTS OF SAID ISLAND ROAD DISTRICT THROUGH NO FAULT OF THE APPLICANT. THE COMMISSION ACKNOWLEDGES THAT THE LOCATIONAL REQUIREMENTS OF THE MASSACHUSETTS HIGHWAY DEPARTMENT DID NOT PERMIT THE APPLICANT TO COMPLY WITH THE 1,000 FOOT REQUIREMENT CONTAINED IN THE ISLAND ROAD DISTRICT OF CRITICAL PLANNING CONCERN.

The Martha's Vineyard Commission has considered the educational nature of the proposed project and that of the Applicant and has considered it prudent given that consideration to waive compliance with the Martha's Vineyard Affordable Housing Policy.

The Applicant must, consistent with this Decision, apply to the appropriate Town of West Tisbury 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: July 10, 1997 and shall supersede all previous decisions applicable to this Applicant.

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 21 days of the close of the public hearing.

The Executive Director may issue Certificates of Compliance 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 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 Town Clerk in the Town in which the proposed development 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.

Linda B. Sibley
Chair

7-10-97
Date

Irene Miller Fyler
Notary

7-10-97
Date

IRENE MILLER FYLER
NOTARY PUBLIC
MY COMMISSION EXPIRES
JUNE 26, 1998

EXHIBIT A
excerpts from

MARTHA'S VINEYARD COMMISSION MEETING
MINUTES OF JUNE 19, 1997

Ms. Greene called the meeting to order at 7:41 p.m. and read the public hearing notice. Mr. Shay was present but chose to remain in the audience.

Applicant: Options in Education
MV Public Charter School
PO Box 860
West Tisbury, MA 02575

Location: Off the southeast side of State Road, West Tisbury, opposite Upper Lambert's Cove Road and Indian Hill Road, in the Town of West Tisbury, on Assessor's parcel Map 16 Lots 96.1 and 96.2.

Proposal: To construct additions of approximately 2,272 sq. feet for classroom and support space to the MV Public Charter School.

Ms. Greene asked who would be speaking for the school. Mr. Bruce MacNelly, architect for the public charter school, spoke. He discussed the history of the proposal. The project had been before the Commission last year and at that time was presented as a temporary structure. They were now proposing an addition onto the current structure. He pointed out the new construction on a model. He discussed the septic system and stated it had been refiled to allow for the increase in population at the school. They did not plan to get any closer to the road than they already were. The driveway had been amended by the State and appeared presently as the State had requested. He pointed out the parking lot, the lighting plan would not change except if there were exterior doors put on. Then the doors would need to be lit. But the landscaping and parking lot lighting would not change.

Linda Cohen, architect for the project, spoke to the landscaping issues. She suggested planting viburnums, shadbush, blueberry...medium range shrubs and small trees. She thought that planting evergreen trees in with the oak trees would not look natural. She didn't want to create a wall of evergreen trees. She mentioned that Charlotte Costa had spoken to the town about the bike easement. It had not been conveyed yet, but that was because the town wasn't ready. Ms. Costa explained this further.

Mr. Seth Mosher spoke. They currently had 75 students and were going up to 105 for next year. They had applied to the state for that increase in January. It was approved in May.

Mr. Clifford mentioned that there was no staff report. Mr. Simmons had had a death in the family and was not attending the meeting. He asked the Commissioners to read a copy of the past decision which was in their files.

There was one piece of correspondence from an Angel Realty Trust. They had been notified of the public hearing both last year and this year according to records. Angel Realty owned two parcels abutting the school.

Mr. Jason asked if the access road issue had been straightened out. Ms. Cohen said the State had made them move the road to where it is now. Ms. Greene asked if they were planning to do plantings along the road. Ms. Cohen said yes.

Mr. Early said one of the reasons for the state wanting the road where it is was for safety reasons.

Mr. Hall asked if sprinklers were required now because of the increase in students. Ms. Cohen said building code didn't require them to have them because of their easy access (30 feet) to an exit. Mr. Hall asked about sprinklers in the science lab. Mr. MacNelly said they didn't have plumbing in any of the trailers now. The science lab was housed in one of the trailers. He said he didn't think they were required because it was an elementary school and not a high school. Mr. Toole asked if they weren't required to have a safety shower if you were working with chemicals. Ms. Costa said they hoped to have a water hook-up by the summer, but they didn't have it yet. There were no hazardous chemicals being used in the science lab.

Mr. Early asked about the ratio of students. Ms. Cohen explained that the trailer change would happen in 1999 which was when the lease would be up on the trailers. The state had authorized a final student capacity of 180. Mr. Vercruysse asked if at 180 they would have to upgrade their septic system. Ms. Cohen said yes. She explained where on the plan it would be located.

Mr. MacNelly said that since the school was experimental, they preferred to return to the Commission year by year with changes because they weren't sure how the school would develop.

Ms. Sibley asked if the plan layout were accurate with regard to trees. Ms. Cohen said yes. Ms. Sibley asked about the bike path, Ms. Cohen said they didn't know where the town was going to place the bike path. Ms. Cohen said she thought trees would be planted on the inner side of the bike easement. Ms. Sibley suggested that if the trees were planted now, they could be growing and the bike path wouldn't interfere.

Ms. Greene asked for testimony from town boards. There was none. Ms. Greene asked if there were testimony from the public in favor of the project. There was none. She asked if there were testimony from the public in opposition to the project. There was none. She asked if there were general testimony from the public. There was none. There were no additional questions from Commissioners. Ms. Greene asked if the Applicant wished to summarize.

Mr. MacNelly wanted to add that additions would be tied into fund-raising. The physical facility was supported by members of the town and parents of the children in the school.

Mr. Briggs asked if there were a crosswalk across State Road at the school. No, but they were in the process of investigating it. Mr. Early said the Selectmen were going to look at the entire area for crosswalks and sidewalks. Mr. Jason asked if they were going to put up traffic lights that said 'school zone'. Ms. Cohen said they were very expensive, they were having trouble just getting school signs.

There being no further testimony, the public hearing and the record was closed at 8:12 p.m.

Edgartown, Mass. July 14 1997
 at 9 o'clock and 28 minutes A M
 received and entered with Dukes County Deeds
 book 704 page 237
 Attest:

June E. Pomeroy Register

RECEIVED-ENTERED

DIVINE E. BOWERS
 REGISTRY OF DEEDS
 COMPTROLLER OF DUKES COUNTY