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Decision of the Martha's Vineyard Commission

DRI 600-M –Y.M.C.A. Landscape Modifications

1. SUMMARY

<u>Referring Board:</u>	Building Inspector, Town of Oak Bluffs, MA
<u>Subject:</u>	Development of Regional Impact #600-M Y.M.C.A. of Martha's Vineyard
<u>Project:</u>	Modification of site plan by adding a walking bridge; a handicapped accessible playground; an outdoor basketball court; a covered pavilion for the camp; and temporary irrigation. Modification of landscape plan and three conditions of approval.
<u>Owner:</u>	The Martha's Vineyard Regional High School
<u>Applicant:</u>	The Y.M.C.A. of Martha's Vineyard
<u>Applicant Address:</u>	P.O.B. 881, Vineyard Haven, MA
<u>Project Location:</u>	111 R Edgartown-Vineyard Haven Road, Oak Bluffs, MA, part of Map 50 Lot 29 (5 of 25.2 acres).
<u>Description:</u>	Modification of the site plan by adding a walking bridge over the swale between their parking lot and the ice arena; a handicapped accessible playground (50' by 60') in the back; an outdoor basketball court on the future site of the gymnasium; and a covered pavilion for the camp. Modification of condition 4.3 of previous approval to allow temporary installation of irrigation system for three years. Amendment of the landscape plan to mitigate for over-cutting that occurred during preparation of the site. Modification of conditions dealing with wastewater treatment disposal site and means of treating pool water.
<u>Decision:</u>	The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on April 15, 2010.
<u>Written Decision:</u>	This written decision was approved by a vote of the Commission on April 29, 2010.

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

The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, 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

The original project was referred to the Commission on March 19, 2007 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 3.108 and 3.601. For these modifications the Applicants (Fred Fournier and Judy Crawford) submitted the proposal to MVC Staff on March 2, 2010 without going to the Town because they are MVC Conditions they want to modify.

2.2 Hearings

Notice: Public notice of public hearings on the Application was published in the Vineyard Gazette, April 2, 2010.

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 April 15, 2010 and was closed the same night.

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 "Landscape Materials and Layout Plan: L1.0", consisting of one 24" X 36" sheet originally prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, November 13, 2007. The approved plan has hand colored trees in the back and on either sides denoting where plants are to be restored to mitigate for over-cutting originally approved landscape plan from (May 11, 2009). Received by MVC April 15, 2010.
- P2 "Landscape Materials and Layout Plan: L1.0", consisting of one 11" X 17" sheet originally prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, November 13, 2007. The approved plan has trees in the back and on either sides denoting where plants are to be restored to mitigate for over-cutting originally approved landscape plan from (May 11, 2009). Received by MVC April 15, 2010.
- P3 "Planting Plan: L2.0", consisting of one 24" X 36" sheet originally prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, November 13, 2007. This second approved large plan has hand colored trees in the front, sides, and parking lots denoting where plants are to be planted in addition to the revised L1.0. Received by MVC April 15, 2010.
- P4 "Planting Plan: L2.0", consisting of one 11" X 17" sheet originally prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, November 13, 2007. This second approved plan shows trees in the front, sides, and parking lots denoting where plants are to be planted in addition to the revised L1.0. Received by MVC April 15, 2010.

- P5 "YMCA Approved Planting Plan: MVC Composite Image", consisting of one 11" X 17" sheet combining the originally approved plan by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, November 13, 2007 and the revised mitigation plantings denoted in P1 above. This composite image shows trees to be planted from both hardcopy plans. Prepared by Paul Foley, AICP, MVC Staff April 15, 2010.
- P6 "Campus Site Plan: Proposed Internal Traffic Sign Plan", consisting of one 11" X 17" sheet prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, April 9, 2007.
- P7 "Revised Campus Site Plan for MESA", consisting of one 11" X 17" sheet prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, July 11, 2007.
- P8 "Civil Details: C3.1", consisting of one 11" X 17" sheet of Bio-Retention Details prepared by Amsler, Mashek, MacLean, Architects, Inc., 65 Long Wharf, Boston, MA 02110, July 18, 2007.

2.4 Other Exhibits

- E1. Staff Report, by Paul Foley, MVC DRI Coordinator, and Bill Wilcox, MVC Water Resource Planner, with the assistance of other staff members, March 18, 2010, revised April 15, 2010.
- E2. Letters from 8 citizens of Martha's Vineyard.
- E3. Minutes of the Commission's Land Use Planning Committee meeting, March 8, 2010.
- E4. Minutes of the Commission's Public Hearing, April 15, 2010.
- E5. Minutes of the Commission Meeting of April 15, 2010 – Deliberations and Decision.
- E6. Minutes of the Commission Meeting of April 29, 2010 – Approval of the Written Decision.

2.5 Summary of Testimony

The following is a summary of the principal testimony given during the public hearing.

- Presentation of the project by Judy Crawford and Fred Fournier.
- Staff report by Paul Foley, MVC DRI coordinator.
- Oral testimony from Public: Julia Burgess (Executive Director of Community Services) and Ann Wallace (Director of Island Elderly Housing).

3. FINDINGS

3.1 Project Description

- The site occupies 5 acres within a larger 25.2-acre property owned the High School also occupied by MV Community Services and the Skate Park.
- The YMCA is under construction and will be a 35,000 square foot recreational facility with a pool, teen center, and family programs.
- The YMCA will be leasing the land from the High School in exchange for pool time for a High School Swim Team.
- The modifications will change the site plan by adding a walking bridge over the swale between their parking lot and the ice arena; a handicapped accessible playground (50' by 60') in the back;

an outdoor basketball court on the future site of the gymnasium; and a covered pavilion (16' by 40') and shed (10' by 12') for the camp.

- The Applicants also want to modify condition 4.3 (no town water for landscape use) and install temporary irrigation to get the foundation plantings established.
- The following Conditions will be modified by the approval of this proposal:
 - Condition 1.1 – Second sentence; the wastewater will not be piped back to the High School.
 - Condition 4.3 – Temporary irrigation will be installed for three (3) years instead of using solely grey water.
 - Condition 14.1 – Instead of Miox to purify the pool water, the YMCA will be using a new UV system that has been developed and is superior to Miox or chlorine.
- Several other Conditions in the Decision are ongoing or are not required at this time.

3.3 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.

3.4 Benefits and Detriments

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 of the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED MODIFICATIONS TO THE PREVIOUSLY APPROVED PROJECT 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 modifications at this location are appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the modifications are appropriate, and that the previously approved plan was found to be located appropriately.

A2 The Commission finds that the proposed modifications would have a limited 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 modification to the wastewater will result in half as much nitrogen in a nitrogen-sensitive watershed.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the revised landscape plan mitigates the over-cutting that took place.

With respect to Night Lighting and Noise, the Commission finds that the project will add some noise and night lighting to the area but the location is such that it should have minimal impact on abutters..

With respect to Energy and Sustainability, the Commission notes that the original project will be the equivalent of LEED certified, and that this will not be altered as a result of these modifications.

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

With respect to Traffic and Transportation, the Commission notes that the modifications will not increase trip generation. The Commission notes that the bridge over the swale will improve pedestrian circulation and safety.

With respect to Scenic Values, Character, and Identity: the Commission finds that the modifications to the project will enhance its role as recreational and social center for the Island community.

With respect to the Economy, the Commission does not anticipate that the modifications will have any impact.

With respect to the Impact on Abutters, the Commission notes that the Community Services and Island Elderly Housing testified in favor of the modifications.

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

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

A5 The Commission finds that the proposed modifications would have no 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 the proposed modifications should not have any impacts.

A6 The Commission finds that the proposed development would 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).

The Commission finds that the proposed modifications should not have any impacts.

A7 The Commission finds that the proposed modifications to the previously approved project 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 proposed modifications to the previously approved project 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, and the addition of conditions, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) of the Act.

B. THE COMMISSION FINDS THAT THE PROPOSED MODIFICATIONS TO THE PREVIOUSLY APPROVED PROJECT 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 MODIFICATIONS TO THE PREVIOUSLY APPROVED PROJECT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.

D. THE COMMISSION FINDS THAT THE MODIFICATIONS TO THE PREVIOUSLY APPROVED PROJECT IS ARE 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.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on April 15, 2010 and made its decision at the same meeting.

The following Commissioners, all of who participated in all hearings and deliberations on this project, participated in the decision on April 15, 2010.

- Voting in favor: John Breckenridge, Jim Joyce, Lenny Jason, Kathy Newman, Ned Orleans, Camille Rose, Doug Sederholm, Linda Sibley, Holly Stephenson, and Andrew Woodruff. .
- Voting against: None
- 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 April 15, 2010 and was approved by vote of the Commission on April 29, 2010.

5. 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.

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.

1 Modified Conditions

- 1.1 The following Conditions of the original DRI 600 Decision will be modified by the approval of this proposal:
 - 1.1.1 Condition 1.1 – The second sentence shall be removed; the wastewater will not be piped back to the High School.
 - 1.1.2 Condition 4.3 – Temporary irrigation using town water in addition to gray water may be installed for a maximum of three (3) years instead of using solely gray water.
 - 1.1.3 Condition 14.1 – Instead of Miox to purify the pool water, the YMCA may use a new UV system that has been developed and is superior to Miox or chlorine.

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 development permits which may be required by law.

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 Length of Validity of Decision

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.

6.3 Signature Block

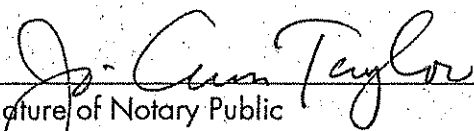

Christina Brown, Chairman

5/5/10
Date

6.4 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 5th day of May, 2010, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Christina Brown, 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 11, 2011

6.5 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: May 11, 2010
Deed - Book 1210, page 1074
Decision - 2810