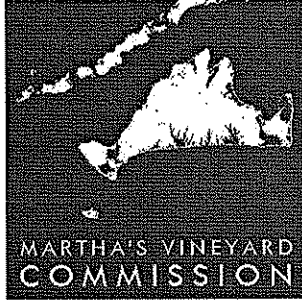




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P.O.BOX 1447 • 33 NEW YORK AVENUE • OAK BLUFFS • MA • 02557
508.693.3453 • FAX: 508.693 7894
INFO@MVCOMMISSION.ORG • WWW.MVCOMMISSION.ORG

Decision of the Martha's Vineyard Commission

DRI 606 – Wampanoag Community Center

1. SUMMARY

- Referring Board: Building Inspector, Town of Aquinnah, MA
- Subject: Development of Regional Impact # 606
Wampanoag Community Center
- Project: To complete a 6,176square foot Community Center building with a
gymnasium, stage, locker rooms, and kitchen.
- Owner: Wampanoag Tribe of Gay Head (Aquinnah)
- Applicant: Durwood Vanderhoop, Planner, Wampanoag Tribe of Gay Head (Aquinnah)
- Applicant Address: Tribal Administration Building, Community Center Road, Aquinnah, MA
- Project Location: Off of Community Center Road, Part of the "Strock lands" (3 acres)
- Description: To complete a 6,176 square foot Community Center with a gymnasium,
stage, locker rooms, and kitchen. Work includes an improved access road,
parking, and landscaping. The facility would be operated as a gathering
place for the Tribe and Town and would occasionally host functions such as
weddings and pow-wows.
- Decision: 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 November 15, 2007.
- Written Decision: This written decision was approved by a vote of the Commission on December
13, 2007.

The permit-granting authorities of the Town of Aquinnah 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 project was referred to the Commission on June 12, 2007 by the Building Inspector of the Town of Aquinnah, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's 1976 Standards and Criteria Administrative Checklist for Developments of Regional Impact, Sections 3.60 (Public Facilities). The 1976 Checklist was the document in effect in 1983 which is the year that the Tribe and Town have agreed to use for mutual land planning and zoning issues.

2.2 Hearings

Notice: Public notice of a public hearing on the Application was published in the Vineyard Gazette, November 2, 2007.

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 November 15, 2007.

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 "Wampanoag Tribe of Aquinnah Community Center: Floor Plan", consisting of one 11" x 17" page, prepared by Sullivan O'Connor Architecture, POB 989, Oak Bluffs, MA 02557, April 10, 2005.
- P2 "Wampanoag Tribe of Aquinnah Community Center: Roof Plan A", consisting of one 11" x 17" page, prepared by Sullivan O'Connor Architecture, POB 989, Oak Bluffs, MA 02557, April 10, 2005.
- P3 "Wampanoag Tribe of Aquinnah Community Center: Exterior Elevations – Southeast and Southwest", consisting of one 11" x 17" page, prepared by Sullivan O'Connor Architecture, POB 989, Oak Bluffs, MA 02557, April 10, 2005.
- P4 "Wampanoag Tribe of Aquinnah Community Center: Floor Plan – Northwest and Northeast", consisting of one 11" x 17" page, prepared by Sullivan O'Connor Architecture, POB 989, Oak Bluffs, MA 02557, April 10, 2005.
- P5 "Wampanoag Tribe of Aquinnah Community Center: Site Plan", consisting of one 11" x 17" page, prepared by Sullivan O'Connor Architecture, POB 989, Oak Bluffs, MA 02557, April 10, 2005.

2.5 Summary of Testimony

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

- Presentation of the project by Durwood Vanderhoop, Tribal Planner, Wampanoag Tribe of Aquinnah.
- Staff reports by Paul Foley, MVC DRI coordinator; Bill Wilcox, MVC Water Planner; Mark London, Executive Director.

3. FINDINGS

3.1 Project Description

- To complete a 6,176 square foot Community Center with a gymnasium, stage, locker rooms, and kitchen.
- Future plans are to add a daycare, elder center, class room, and possibly a campground and ball field.
- The Wampanoag Community Center consists of 6,176 sq. ft. of a prefab structural steel building on Tribal land in Aquinnah, MA.
- Work includes an improved access road, parking, and landscaping.
- Other than permitting that is now required due to an agreement between the Tribe and the Town the project is waiting for funding for an HVAC system.
- The facility would be operated as a gathering place for the Tribe and Town and would occasionally host functions such as weddings and pow-wows.
- The Community Center building is framed in, with rough plumbing; the roof is tight but not all the siding is on the building yet.

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 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 this is part of the Tribal lands and is located close to both the Tribal Administration Building and Tribal Housing, who will be the primary users of the facility.

A2 The Commission finds that the proposed development would have a minimal 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 project will be connected to the Tribal Wastewater Treatment Facility, which will treat the effluent with advanced de-nitrification. The Commission also notes that the Tribe has installed a Storm Treat System and is buffered from surrounding wetlands.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the project was built on a previously disturbed site and has a relatively small footprint for the use.

With respect to Night Lighting and Noise, the Commission finds that the project has minimal lighting, which will be downward shielded, and the location is such that noise should not be an issue.

With respect to Energy and Sustainability, the Commission finds that the project has radiant floor heating and is adequately insulated.

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

With respect to Traffic and Transportation, the Commission finds that the project will have a minimal impact on traffic generation.

With respect to Scenic Values, Character, and Identity: The Commission finds that the project is not visible for any roads. The Commission notes that this is an opportunity for the Tribe to protect and share their unique culture that is such an important part of the Island character and identity.

With respect to the Impact on Abutters, the Commission finds that the project is being built partly for the benefit of the tenants of the abutting tribal housing.

A4 The Commission finds that the proposed development 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 primary beneficiaries of the Wampanoag Community Center are the approximately 100 residents of the Aquinnah Wampanoag Tribal Housing development.

A5 The Commission finds that the proposed development would have minor 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 there is no cost to the Town.

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).

The Commission finds that there are no other facilities like this "up-island".

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 a community center was identified as a goal in the 1993 Tribal Master Plan.

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, and the addition of conditions such as those relating to wastewater and future traffic mitigation, 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 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, advances 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 the 1983 Gay Head Zoning By-laws apply to this project and that two Special Permits have already been granted.

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 located within Aquinnah District of Critical Planning Concern (DCPC).

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on November 15, 2007 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 November 15, 2007.

- Voting in favor: Jim Athearn; John Breckenridge; Christina Brown; Peter Cabana; Mimi Davisson; Chris Murphy; Katherine Newman; Ned Orleans; Jim Powell; Doug Sederholm; Susan Shea; Linda Sibley; Richard Toole; 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 November 15, 2007 and was approved by vote of the Commission on December 13, 2007.

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 Wastewater, Groundwater And Stormwater Management

- 1.1 As offered by the Applicant, an Operation and Maintenance Plan for the StormTreat storm water treatment system will be submitted to the MVC.

2 Landscaping

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

3 Exterior Lighting

- 3.1 As offered by the Applicant, all exterior lighting shall be downward shielded to prevent direct light from spilling off the property.
- 3.2 The ground lighting can be solar or low voltage conventional lighting
- 3.3 Building lights and pole lights shall be turned off within an hour after the building is closed and security lighting shall be motion sensitive.

4 Substantial Alterations

- 4.1 Should the applicant substantially alter the use of the premises from the proposed uses it shall return to the Martha's Vineyard Commission to request approval of said alteration.
- 4.2 The modification of the doors and windows or the addition of solar panels or solar equipment are permitted, without the Applicant having to return to the MVC for further review.

6. CONCLUSION

6.1 Permitting from the Town

The Applicant must, consistent with this Decision, apply to the appropriate Town of Aquinnah 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 Aquinnah 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


E. Douglas Sederholm, Chairman

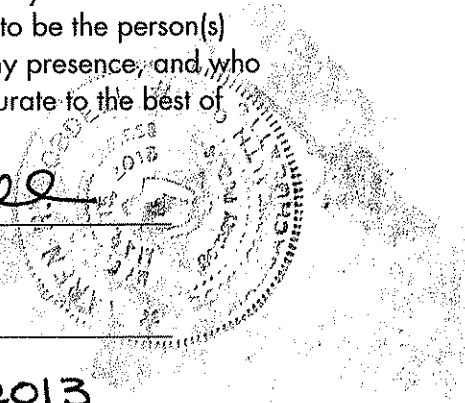
1-8-08
Date

6.4 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 8th day of January, 2008, before me,
E. Douglas Sederholm, the undersigned Notary Public, personally
appeared _____, proved to me through satisfactory evidence of
identity, which was/were Personal Knowledge 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.

Karen H Lobdell
Signature of Notary Public
Karen H Lobdell
Printed Name of Notary
My Commission Expires 3/15/2013



6.5 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: 1-10-08

Deed - Book _____, page
1140 546

Attest:
Deanne E. Powers Register