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DRI No. 585



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Decision of the Martha's Vineyard Commission

DRI 585 **45 Circuit Avenue Realty Trust**

Date: March 24, 2005

To: Building Inspector, Town of Oak Bluffs

From: Martha's Vineyard Commission

Subject: Development of Regional Impact 585
45 Circuit Avenue Realty Trust

Project: To construct a new building with elements of the pre-existing structure on a smaller footprint but with more square feet.

Owner: Gene Erez

Applicant: Circuit Avenue Realty Trust, Gene Erez

Project Location: 45 Circuit Avenue, Oak Bluffs, Map 11 Lot 14 (0.05 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 Circuit Avenue Realty Trust, 45 Circuit Avenue, Oak Bluffs, Massachusetts.

This Decision is rendered pursuant to a vote of the Commission on March 17, 2005. 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 project was referred to the Commission by the Building Inspector of the Town of Oak Bluffs 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, Section 3.104a and 3.402 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 March 17, 2005 pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831.

Description: The Circuit Avenue Realty Trust plans to replace the pre-existing building that had one retail store and one seasonal four-bedroom apartment. The proposed structure would have two retail stores and three year-round apartments with a total of five bedrooms (two 2-BR and one 1-BR). The original building had a gross area of 2,980 square feet and the proposed building would have 3,566 square feet on a slightly smaller footprint. While retail is expanding from one store to two, the square footage of retail is being reduced from 1,474 square feet to 1,375 square feet. The original structure had two floors and the proposed structure would be three floors but will be only 4-5 feet higher. The proposal also includes adding a basement for storage and mechanical.

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

- "Proposed Site Plan, Elevations, & Photographs", Scale 1/4" = 1'-0", consisting of four sheets prepared by Sullivan O'Connor Architects, P.O.B. 989, Oak Bluffs, MA March 14, 2005
- Floor Plans and Front Elevation, Scale 1/4" = 1'-0", consisting of one sheet prepared by Sullivan O'Connor Architects, P.O.B. 989, Oak Bluffs, MA March 14, 2005

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 essential and appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that the proposed use will provide services important to the Vineyard's economy and community, and that the building has been well designed. The Commission notes that remediation of the existing situation (a large gap in downtown) is best achieved through the approval of this project which proposes to replace one store with two and one seasonal apartment with three year-round apartments while respecting the character and scale of the streetscape and pre-existing building.

A2 The Commission finds that the proposed development would have a positive impact upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to wastewater and groundwater, the Commission notes that the project will be connected to Town water and sewer. The expansion should create approximately the same runoff as the previous structure and will be handled the same.

With respect to open space, natural community and habitat, the Commission finds that the site is downtown in the business district.

With respect to night lighting and noise, the Commission notes that since the site is downtown in the business district the impact of light pollution are not as great as in a rural setting. The Commission notes that the proposed use will be a mixed-used business and residence and should accommodate a balance that satisfies both types of user.

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 notes that the proposed addition is for an increase from one four-bedroom unit to three units with five-bedrooms, which should generate a relatively insignificant increase in vehicle trips. The Commission believes that though the site has no parking it is important to provide housing in places where services are readily available so that people are not forced to own a vehicle to survive. The Commission is satisfied that the applicant will be subject to the new Parking Mitigation Trust administered by the Planning Board of the Town of Oak Bluffs.

With respect to scenic values, the Commission notes that the Applicant is working with the Oak Bluffs Historical Commission (The Historical Commission sent a letter of support) to ensure that the building is in keeping with Oak Bluffs historic character.

With respect to character and identity, the Commission finds that the proposed building is generally consistent with Island architecture and that the proposed building fits in well with the streetscape.

With respect to the impact on abutters, the Commission finds that the negative impact will be worse if the site is left vacant. The Commission notes that none of the 102 abutters within 300' weighed in at the Public Hearing.

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

The Commission finds that the applicant proposes to increase the number of residential units from one seasonal four-bedroom unit to three year-round units with five-bedrooms. The Commission is pleased that the applicant is looking into financial alternatives that could facilitate designating one or more of the units as affordable. The Commission notes that the Applicant will contribute the calculated monetary mitigation offer of \$1,783 to meet the MVC's Affordable Housing Policy toward the construction of new affordable housing units if the designation of apartments as permanently affordable is not financially feasible.

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 notes that perhaps the biggest threat to municipal services is the continued vacancy of this parcel. The Commission finds that it is important that the Town of Oak Bluff take responsibility for coordinating and overseeing the construction scheduling.

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).

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

- I-4: "Give top priority to year-round job opportunities for permanent Island residents and increase the Island's self-sufficiency..."
- I-23: "Plan commercial development to match the scale and density of Island neighborhoods. Limit overall square footage, massing of individual buildings and expanses of paved areas to blend with the rural scale of the Island."
- III-1: "Safe, warm, dry, affordable year-round housing must be available to the Island community. Proposals by private developers should reflect an effort to meet a share of the housing need"
- III-2: "Maximize the year-round housing potential within the existing housing stock. Create new units within existing structures and within existing developed land..."
- IV-17 "The preservation of Island character demands careful consideration of visual factors..."

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, 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 enumerated 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.

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 notes that the proposed development site is not located within any Districts of Critical Planning Concern.

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 part of this decision. Items that derive their origin in an offer from the Applicant and that were accepted by the Commission are so noted.

1. Acceptance of Offers

The Commission accepts the following Applicant's offers.

Affordable Housing

- a. The Applicant will rent the three residential units on a year-round basis.
- b. Before a Certificate of Occupancy is granted the Applicant will arrange for the long-term affordability of one or more of the apartments through the offices of a public or private affordably housing group or, failing that, The applicant will contribute the recommended MVC affordable housing mitigation contribution of \$1,783 to a recognized island affordable housing group.

2. Construction Scheduling

- c. Prior to the commencement of construction the Applicant shall prepare and submit to the Oak Bluffs Board of Selectmen (or such offices as they may designate) for approval a construction schedule and plan, designed to minimize disruption of day-to-day activities in the area.
- d. The Applicant shall have 15 months from the signing of this document to finish construction on the proposed building.

3. Minor Building Refinements

- e. The further fine-tuning of details associated with this project does not have to return to the Martha's Vineyard Commission if the Oak Bluffs Historical Commission approves them.

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 Oak Bluffs 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: March 17, 2005 and was approved by vote at the Commission meeting of March 24, 2005.

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. 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
Linda B. Sibley, Chairman

March 25, 2005
Date

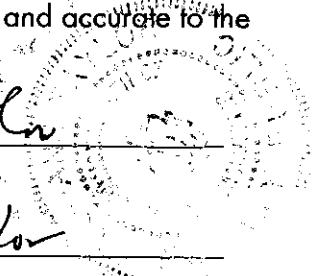
Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 25th day of March, 2005, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Linda B. Sibley, 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.

Jo-Ann Taylor
Signature of Notary Public

Jo-Ann Taylor
Printed Name of Notary

My Commission Expires February 11, 2011



Attest:
Deanne E. Powers Register