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Martha's Vineyard Commission

DRI # 645-M2 Barn Bowl & Bistro Conditions Change MVC Staff Report – 2016-05-05

1. DESCRIPTION

- 1.1 Applicant:** Larkin B. Reeves; Sam Dunn; and Robert Sawyer DBA MV Bowl LLC.
- 1.2 Project Location:** 13 Uncas Avenue, Oak Bluffs Map 11 Lot 153.1 (0.62 acres)
- 1.3 Proposal:** To modify the Conditions in the DRI 645 Decision relative to opening and closing time; exterior lighting; capacity of the function room; and amplified music. The Applicant has revised the modification request to be on a trial basis until October 1, 2017 for all of the proposed modifications except the one on exterior lighting.
- 1.4 Zoning:** B-1 Commercial. (5' setbacks).
- 1.5 Local Permits:** Building Permit; Oak Bluffs Wastewater Commission;
- 1.6 Surrounding Land Uses:** Commercial, Residential, Recreational, and Light Industrial.
- 1.7 Project History:** DRI 145 (Roger Wey Construction) was a proposal to convert an existing town building (2,275 s.f.) into a retail building with 7,800 s.f. was denied in 1982. DRI 448 (Cottage City Studios) a proposal to convert a vacant commercial building into studio apartments was denied in 1997. In 2013 DRI 645 was approved with conditions to construct a bowling alley, a 62-seat bar/restaurant, and two affordable apartments. In 2015 the project was modified to allow the bowling alley to connect to the town sewer (DRI 645-M) rather than install a septic system with enhanced de-nitrification.
- 1.8 Project Summary:** The proposal is to modify the Conditions in the DRI 645 Decision relative to opening and closing time; exterior lighting; capacity of the function room; and amplified music. The modification request is to be on a trial basis until October 1, 2017 for all of the modifications except the exterior lighting. Specifically they would like to change:
- **Condition 1.1:** The Applicant would like to change opening hour to 8:00 am from 9:00.
 - **Condition 1.2:** They would like to remove the restrictions on last call for food, alcohol and bowling. Last call is currently conditioned to be 10:30 pm on a weekdays and 11:30 pm Friday and Saturday night. They are asking for closing time to be set by the town according to the policy that applies to other businesses serving alcohol.
 - **Condition 1.4:** They would like to remove the restrictions on the number and size of events (currently limited to 50 people twice per week).
 - **Condition 5.5:** They would like to remove the restriction on live amplified music.
 - **Condition 8.1:** They would like to change the condition on exterior lighting and are asking for lighting in the parking lot with details to come back to LUPC. Specifications that were submitted show 20' tall lampposts.
 - **Compliance:** The project is not currently in compliance with the affordable housing condition that there are two affordable housing units certified by the DCRHA. Two of the HVAC units face a residentially zoned house in violation of 5.9. The number and size of events is difficult to monitor and therefore compliance is not known.

2. ADMINISTRATIVE SUMMARY

2.1 DRI Referral: Oak Bluffs Department of Building & Zoning

2.2 DRI Trigger: 2.2 (Modification to a Previous DRI).

2.3 LUPC: March 14, 2016. The LUPC voted to recommend to the full Commission that the proposal changes to the bowling alley conditions in DRI 645 requires a public hearing as a DRI. The Applicant chose to go straight to a public hearing without going before the full Commission for modification review.

2.4 Site Visit:

2.5 Public Hearing: May 5, 2016.

3. PLANNING CONCERNS

3.1 Some Key Issues

- **Condition 1.1:** Would changing the opening hour to 8:00 am impact the neighborhood?
- **Condition 1.2:** Would removing the restrictions on last call for food, alcohol and bowling have an adverse impact on the neighborhood?
- **Condition 1.4:** Would removing the restrictions on the number and size of events require more parking? Would it require other mitigation measures relative to traffic and noise?
- **Condition 5.5:** Would removing the restriction on live amplified music have an adverse impact on the neighborhood?
- **Condition 8.1:** Is lighting necessary in the parking lot and if so what kind?
- **Compliance:** The project is not currently in compliance with the affordable housing condition and two of the HVAC units face a residentially zoned house in violation of 5.9. Should the MVC entertain modifications to projects that are not in 100% compliance with a DRI Decision?

3.2 Environment

- **Vegetation:** The site is already developed and has little existing vegetation.
- **Habitat:** The property is not in an NHESP designated habitat.
- **Landscaping:** The landscaping is in place.
- **Open Space:** The site is completely developed. Parking is gravel.
- **Lighting:** In the original DRI 645 Decision the Applicant offered that there would be no exterior lighting and that the parking lot would be lit by existing streetlights and ambient lighting. They would like to change the condition on exterior lighting and are asking for lighting in the parking lot with details to come back to LUPC. Specifications that were submitted show 20' tall lampposts.
- **Noise:** Noise is always an issue where business districts abut residential neighborhoods. Bowling can be noisy so proper noise mitigation was considered in the DRI 645 Decision including building specifications and limits on the size and number of functions and restricting live amplified music. They would like to remove the restrictions on last call for food, alcohol and bowling and on live amplified music.
- **Waste Management:** There is a fenced in trash area as shown on the plans.
- **Wastewater:** The project is connected to the Oak Bluffs Wastewater Treatment Plan. The Applicant may have to go to the Sewer Review Board for an increase in flow.

3.3 Transportation

- **Traffic:** A traffic study was not done for this modification.
- **Access:** One entry and one exit on Uncas Avenue
- **Parking:** Current plans show 32 off-street parking spots.

3.4 **Affordable Housing**

- The DRI 645 Decision conditioned that two affordable units would be included in the project, rented in perpetuity to income qualified recipient(s) earning 80% or less than AMI to be monitored by the Dukes County Regional Housing Authority with annual income certification and monitoring to be done by the DCRHA for an administrative fee to be paid by the applicant.
- Additionally the Applicant offered to reserve the facility once annually for three years for a fundraiser for non-profit Island Housing organizations.
- The applicant is not in compliance with the Affordable Housing Conditions as stipulated in the MVC's written decision.
 - As indicated in an email dated March 14, 2016 from David Vigneault, Executive Director, Dukes County Regional Housing Authority and two other emails:
 - One of the two required Affordable Housing apartment units has been income certified and rented year-round at 80% or less than the Area Median Income.
 - Income Certification has not been done for the second apartment and the project is therefore not in compliance with the MVC's Written Decision.
 - The Applicant has said they have had a delinquent tenant that they have temporarily housed an employee in the second unit free of rent and utilities with the plan they would take over the existing delinquent tenant's apartment. But that cannot happen until they get Unit #1 vacated. They have promised David Vigneault that they would be submitting an application for the other dwelling unit sometime next week.
- The Dukes County Regional Housing Authority's administrative fee has not been billed to the applicant at this time.
- The applicant's offer to host one annual fundraiser for Affordable Housing for three years has not been done yet though it has not been requested yet either.

3.5 Economic Impact: The proposed development is an allowed use in the B-1 Business District.

3.6 **Scenic Values**

- **Streetscape:** The lighting, depending on the details, could impact the character of the neighborhood.

3.7 **Local Impact/Abutters**

- The project is in a B-1 Commercial District but abuts several residentially zoned properties.

4. **CORRESPONDENCE**

4.1 **Town Officials:**

4.2 Public: **Byron Barnett** has written strongly opposing the proposed modifications which he says as a bait and switch from the original proposal and they will adversely impact the neighborhood. **Bruce & Martha Feng, Peggy Barmore, Andrew Upton & Alison Mitchell** (2016-04-29) have written with concerns with noise, safety, and quality of life. They note that the HVAC is located facing their condominium and that they could hear music played at the bowling alley. They request an independent study by an acoustical engineer measure the sound that is actually being generated between 5:00 pm and 1:30 am. They also ask that the MVC require the bowling alley to erect a sound-absorbing fence. They ask that the MVC study the existing parking issues during the peak summer months before modifying the restrictions on functions. **Danetta Thornton Owens** has written with concerns about an increase in traffic, noise and mischief as well as the impact on character with too much lighting. She is concerned that allowing live amplified music will impose on her quality of life and tranquility. **Cindy Flanders** has written in support of the modifications stating that the business has been responsible and earned these privileges.