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Martha's Vineyard Commission

DRI 674-M5 Stone Bank Development

MVC Staff Report – 2023-6-12

1. DESCRIPTION

- 1.1 **Applicant:** Dunn MV Investments aka Dunn Family, LLC
- 1.2 **Applicant's Agent:** Reid "Sam" Dunn
- 1.3 **Project Location:** 75 Main Street & 16 Union Street, Tisbury
- 1.4 **Proposal:** Review of unapproved modifications and consideration of various project elements specifically set aside in prior DRIs for future review.
- 1.5 **Zoning:** B1 District
- 1.6 **Local Permits:** Tisbury Building Department, Tisbury Fire Department, Tisbury Planning Board, Tisbury Select Board, Tisbury Wastewater Department, Tisbury Zoning Board of Appeals
- 1.7 **State Permits:** Architectural Access Board
- 1.8 **Surrounding Land Uses:** To the South, the development site fronts Union Street and abuts commercial property occupied by a restaurant, an ice cream shop, and a bicycle shop. Also to the South, the development site abuts a municipal parking lot and a Steamship-Authority-owned roundabout, beyond which is the Steamship Authority's Vineyard Haven Terminal. To the East, the development site fronts Vineyard Haven Harbor. To the North, the development site fronts a 10-foot-wide private way and abuts a private residence, and a multi-unit private residence. To the West, the development site fronts Main Street and abuts commercial property occupied by a sport and clothing shop and by a pharmacy, among other businesses.
- 1.9 **Project History:** This development has come before the Commission through DRI 674 Santander Historic Roof Tiles, DRI 674 M Old Stone Bank Condos, DRI 674 M2 Old Stone Bank Condos Modification of Decision, DRI 674 M3 Stone Bank Restaurant, and DRI 674 M4 Stone Bank Condos Modifications.
- 1.10 **Plans Reserved for LUPC Review** A Drainage Plan, An Energy Plan, Landscape Plans, Lighting Plans, an Outdoor Heating Plan, a Pest Control Plan, Restaurant Aesthetics & Architectural Elements Plans & Details, a Solar Plan, a Stormwater Plan.
 - Regarding an Energy Plan, Condition 5.2 of the DRI 674 M decision states: "The Applicant shall present a plan showing the energy sources for hot water heaters on the property, including potential on-site renewable energy, to the LUPC for approval prior to receipt of a Building Permit."
 - Regarding Landscape and Lighting Plans (pursuant to DRI 674 M), Condition 6 of the DRI 674 M decision states: "All lighting on the property must be downward-shielded/downlighting. Landscape lighting must be LED. Building lighting must be no more than the minimum required by the local and MA Building Code. No additional lighting is permitted on Main Street. A final landscape plan showing the location and types of existing and proposed vegetation, pavers, and surface treatments, and including a long-term maintenance plan along with details related to external equipment (see 8.1 below) [beach access] shall be

submitted to the LUPC for approval before a Certificate of Occupancy is issued. A final lighting plan shall be submitted to the LUPC before a Building Permit is issued.”

- Regarding a Landscape Plan (pursuant to DRI 674 M3), Condition 9 of the DRI 674 M3 decision states: “A final landscape plan for the property shall be submitted to the LUPC for review and approval prior to receipt of a Building Permit. The plan shall include hedges or other vegetated screening to shield the residential properties to the north from noise and lighting generated by the restaurant. Only slow-release, water-insoluble nitrogen-source fertilizers may be used in the maintenance of landscaping, and only for the establishment of plants. Landscaping must use only native or low-maintenance, drought-tolerant species that are non-invasive to minimize the application of nitrogen and water. No pesticides or herbicides shall be used in the maintenance of landscaping. The plan shall clarify pedestrian traffic flow on the paths through and adjacent to the restaurant so as to minimize conflict with the restaurant. The plan shall indicate the amenities of the pocket park. The plan shall include ongoing landscape maintenance, including garbage cleanup.”
- Regarding a Lighting Plan (pursuant to DRI 674 M3), Condition 10 of the DRI 674 M3 decision states: “The final exterior lighting plan for the entire property shall be submitted to the LUPC for review and approval prior to receipt of a Certificate of Occupancy. All exterior lighting shall be downward-shielded and comply with International Dark Sky Association standards. The color temperature of exterior lighting shall not exceed 3,000 Kelvin. The plan shall include all path lighting, and restaurant lighting which shall be confined to and contained within the restaurant area.”
- Regarding the Pest Control Plan, Condition 3 of the DRI 674 M3 decision states: “Within six months after one full year of operations, a pest control program shall be submitted to the LUPC for review and approval. The plan shall be developed in consultation with the immediate residential abutters, and address, at minimum, procedures for the containment of trash and the frequency of pickups. The plan may not include the use of pesticides or other toxins.”
- Regarding an Outdoor Heating Plan, Condition 5 of the DRI 674 M3 decision states: “Any plan for outdoor heating shall be submitted to the LUPC for review and approval prior to the receipt of a Building Permit.”
- Regarding Restaurant Aesthetics and Architectural Elements, Condition 4 of the DRI 674 M3 decision states: “A final drawing set for the proposed awning, deck, fish tank, take-out window, and other features of the building and seating area, including any proposed colors, prepared in accordance with the DRI application guidelines, shall be submitted to the LUPC for review and approval prior to the receipt of a Building Permit.”
- Regarding a Solar Panel Plan (part of an Energy Plan), Condition 5.1 of the DRI 674 M decision states: “Subject to Tisbury Historic Commission approval [deemed legally infeasible], solar panels shall be installed on the south-facing roofs of buildings Band D1. Plans showing the final location and capacity of the solar panels shall be submitted to the LUPC for approval prior to receipt of a Building Permit.” Further regarding this plan, a June 29, 2022 Commission letter relative to DRI 674 M4 states in part: “[T]he original request had been to not install any solar panels, but the request was revised after the LUPC meeting on May 10, 2022, at which commissioners suggested including solar panels on Building D1. The LUPC voted to recommend approval of the modifications subject to more information, including a diagram showing the full extent of the proposed solar panels prior to the meeting with the full Commission. After continued discussion at the

MVC meeting on June 23, the applicant withdrew the revised proposal and offered to return with a proposal for additional solar panels onsite. As such, Condition 5.1 requiring approval of the location and capacity of the solar panels prior to receipt of a Building Permit has not yet been satisfied.”

- Regarding Stormwater and Drainage Plan (pursuant to DRI 674 M), Condition 3.8 of the DRI 674 M decision states: “The Applicant shall provide an engineered stormwater plan, including as it relates to drainage of the proposed walkways, for LUPC review and approval prior to the issuance of a Building Permit.”

1.11 Building & Unit Summaries:

- I. **Building A/75 Main Street & 16 Union Court:** This compound building includes the historic bank building (see DRI 674) and a newly construction addition. The Main Street level of the building, which last operated as a branch of Santander Bank, is vacant. As of June 8, 2023, the Applicant has applied to Tisbury’s Wastewater Department for flow to support an 85-seat restaurant in this vacant bank space. The cellar of the bank building has been divided into two units: 16 Union Court A, which is occupied by a retail business, “Cornado,” and 16 Union Court Unit B, a space slated for a sound studio. An addition to the bank building is comprised of a 2nd Floor residence (16 Union Court Unit D) and a ground floor commercial/office space (16 Union Court Unit C). The roof of the bank building clad with clay tile. The exterior walls are composed of random rubble that has been rounded by glacial or oceanic forces. The Southern exterior of the addition is clad in what the Applicant described as cement clapboards painted a “putty color”. The Applicant described the specific type of paint as a “mystery”. The Eastern and Northern exterior walls are clad in cedar shakes.
- II. **Building B/20 Union Court:** This three-floor building is comprised of two ground floor commercial/office spaces (Units A & B) and two upper story residences (Units C & D) each with bedrooms on the second and third floors. The Applicant occupies both residences. The building is roofed with apparent cedar shingles. The Southern exterior is clad in Benjamin Moore “Beau Green” painted cement clapboards. The Northern, Western, and Eastern exterior walls are clad in cedar shakes. The two residential units have been unified, thus eliminating one residential unit from the development. The building has an unapproved exterior staircase and an unapproved skylight.
- III. **Building C/24 Union Court:** Previously this building was used for drive through banking. The carport remains and is being incorporated into a seating area for a 70-seat outdoor restaurant that will operate its kitchen out of Building E/8 Union Court (see DRI 674 M3). The building is presently occupied by the Mone Insurance Agency. A prior plan to add to the height of the building was eliminated (see DRI 674 M4). The South-facing teller window under the carport is the proposed location of an aquarium/fish tank that would serve as a decorative backdrop to the restaurant. This proposed feature was set aside for review by the Commission. No plan has been approved for it yet. According to the Applicant, another business may operate out of the rear (Western end) of the building. The roof is clad in clay tiles. The exterior walls are made of random rubble rounded by glacial or oceanic forces.
- IV. **Building D-1/26 Union Court:** This is a standalone, elevated dwelling. The second and third floors comprise the living areas. At ground level is a North-South-oriented carport built into the foundation. This building is expected to receive solar panels on its Southern roof

line. Where the solar panels will go the roof is clad with asphalt shingles, an apparent unapproved modification. Elsewhere on the roof cedar shingles are used. The Southern and Western exterior walls are clad in Benjamin Moore “Bryant Gold” painted cement clapboards. The Northern and Eastern exterior walls are clad in cedar shingles. The foundation is clad in wooden trelliswork.

- V. **Building D-2/30 Union Court:** This is a standalone, elevated dwelling. The second and third floors comprise the living areas. At ground level is a West-East-oriented carport built into the foundation. A retaining wall/planter is built against the Southern portion of the foundation atop this a wooden, wire clad, fence has been erected. The fence hasn’t been approved and the retaining wall might not have been approved. If approved, it may have only been partially approved. The Southern side of the foundation is a solid slab while the Northern portion is comprised of pillars. The building is roofed with cedar shingles. The Eastern and Southern exterior walls are clad in Benjamin Moore “Mediterranean Olive” painted cement clapboards. Synthetic trellis work is mounted in the Southern exterior. Prior plans depicted this as cedar trelliswork. The Northern and Western exterior walls are clad in cedar shakes.
- VI. **Building E/8 Union Court:** This is a standalone, mixed-use building. The ground floor is being prepared to serve as a restaurant kitchen (see 674 M3). The second floor is residential. The residence has an unapproved skylight. The roof is clad with cedar shingles. The exterior walls are all clad in Benjamin Moore “Grand Canyon Red” painted cement clapboards accented with white colored trim boards.
- VII. **Building F/2 Union Court:** This is a three-floor, standalone mixed-use building. The ground floor is occupied by Sea Bags (see CR 1-2023). The second floor is designated as an affordable ownership apartment (see DRI 674 M & DRI 674 M2). The third floor is a residence. Part of this building is being prepared for the installation of an elevator. The Western exterior wall is devoid of windows—an unapproved modification. The roof is clad in cedar shingles. The Southern, Eastern, and Western exterior walls are clad in Benjamin Moore “Mediterranean Olive” painted cement clapboards accented with white colored trim boards. An upper section of the Western exterior is a lighter, olive hue. The Applicant stated this is because it has yet to be painted. The Northern exterior wall is clad in cedar shakes.

1.12 Modification Summary:

I. Wood-Framed Wire Fencing: Despite written warnings not to erect fencing prior to Commission Approval, the Applicant has erected a span of wood-framed wire fencing between Building A/16 Union Court and Building C/24 Union Court. The fencing divides access to multiple units in Building A/16 Union Court and all of Building B/20 Union Court from the public pocket park and from the public walkway. A single wooden gate is set into the fence. The fence style appears on a plan of architectural elements dated September 15, 2021. The gate doesn’t appear on that plan. The Applicant has expressed a desire to line either side of this fence with shrubbery. Some Japanese cedars have already been installed. The placement of the fence appears on a site plan dated May 3, 2023. The plan hasn’t been reviewed or approved by the Commission. Placement of the fence has never been approved.

II. Wooden Plank Fences: Despite written warnings not to erect fencing prior to Commission approval, the Applicant has erected wooden plank fences in multiple

locations including adjacent to Buildings A/16 Union Court, C/24 Union Court, and F/2 Union Court. The Commission doesn't appear to have authorized or approved this fencing.

III. Wire-clad Wooden Plank Fence: Despite written warnings not to erect fencing prior to Commission approval, the Applicant has erected wire-clad wooden plank fence atop a timber retaining wall in front of Building D-2/30 Union Court. The fence directly abuts a Town of Tisbury parking lot. The Applicant has expressed a desire to send English Ivy creeping up the wire on the fence. It's unclear if the wire on the fence is of appropriate grade and gauge for direct public exposure in a parking area where the potential exists for it to be bumped or snagged by vehicle mountings or loads such as cooler racks, bike racks, ladders etc.). It's also unclear how, if at all, ivy would affect the lifespan of a wooden fence. English ivy was stripped from brick on Harvard's and other Ivy League's academic buildings due to the damage it was found to cause.

IV. Retaining Wall/Planter Wall: The Applicant has repaired, enlarged, and expanded a timber retaining wall directly in between Building D-2/30 Union Court and a Town of Tisbury parking lot. The full scope of work doesn't appear to have been approved by the Commission. Where the retaining wall runs in front of Building D-2/30 Union Court, the earth supported by the retaining wall backs up against the foundation of that building. In that section the retaining wall serves as an earthen foundation for a mahogany walkway. Elsewhere the retaining wall serves as an elongated planter. After a 10-foot break that the Applicant expects to build a gate in, the retaining wall continues Eastward toward VTA bus shelters. The retaining wall, in conjunction with the solid building foundation behind it, and the proposed gate, has created staff concern about the potential for unfavorable stormwater circulation. Staff recommends an independent study be conducted to determine what affect, if any, the wall, foundation, and gate may have on stormwater flow.

V. Building D-2/30 Union Court Foundation: This building is located in a flood zone. As such its inhabitable portions are on the second and third floors. The ground level of the building is comprised of an open foundation. The foundation is solid on its Southern side and pillared on its Northern side. A West-East-oriented carport built into the foundation. The positioning of the pillared side versus the solid side appears not to have been approved by the Commission. As built, the foundation contributes to staff concerns about possible untoward stormwater flow (See IV. Retaining Wall/Planter Wall).

VI. Building B/20 Union Court Unification of Residential Units C & D: Per September 15, 2021 floor plans (see DRI 674 M, DRI 674 M2, and DRI 674 M3), the second and third floors of Building B/20 Union Court were to be comprised of two residential units. However, during a May 25, 2023 staff visit to the building in the company of the Applicant, it was revealed the two units had been connected into one large double unit. Furthermore, the Applicant revealed (and the furnishings showed), that the Applicant had been living in the residence for an undisclosed period prior to the issuance of a temporary occupancy permit (Tisbury's Building Department, following a Zoom meeting with Commission staff, issued a 90-day temporary occupancy permit for this building and others throughout the development. This took effect either May 26, 2023, May 29, 2023, or May 30, 2023). The Commission previously approved plans for Building B/20 Union Court that clearly showed two residential units. The overall development as approved and

amended contained 10 residential units, one of which was specifically an affordable unit. With the unification of Building B/20 Union Court Units C and D, the development contains nine residential units overall. This is a reduction in the residential units approved by the Commission and potentially impactful in light of the acute housing crisis.

VII. Building B/20 Union Court Exterior Staircase & Skylight:

According to the Applicant, an exterior staircase on the Western end of Building B/20 Union Court was never on plans approved by the Commission and is therefore an unapproved modification. Also, a skylight has been cut into the Southern roofline that appears to have never been on plans approved by the Commission.

VII. Building F/2 Union Court Western Exterior Wall: The exterior Western wall on Building F/2 Union Court is devoid of windows apparently counter to plans previously approved by the Commission. The streetside effect is a somewhat monolithic when looking down at the building from the top of Union Street.

IX. Building D-2/30 Union Court Azec Trelliswork: Counter to plans previously approved by the Commission, the Applicant has affixed synthetic material (Azec) trelliswork to the Southern face of Building D-2/30 Union Court. On a prior elevation plan the trelliswork was clearly marked as cedar.

X. Building D-1/26 Union Court Asphalt Shingles: Apparently asphalt shingles aren't allowed at this development. The Applicant has clad the majority of the Southern roofline on Building D-1/26 Union Court with such shingles. This is the proposed location of a solar panel array. It's unclear if the proposed solar panels, would screen all the asphalt shingles from public view.

- 1.13 Special Planning Concerns:** VTA Bus Shelters, Emergency Access/Mutual Aid Access, Building Chromatics, Beach Access through Beach Rose Dune (see Planning Concerns section).

2. ADMINISTRATIVE SUMMARY

- 2.1 DRI Referral:** Applicant self-referral
- 2.2 DRI Trigger:** 1.2 Modification of a previous DRI
- 2.3 LUPC:** Scheduled June 12
- 2.4 Public Hearing:** Not slated

3. PLANNING CONCERNS

- 3.1 Wastewater:** Pending
- 3.2 Stormwater:** The barrier presented by the Southern portion of the foundation of Building D-2/30 Union Court, the retaining wall built against it, a proposed fence gate, and other topographical features have raised staff concerns about detrimental stormwater circulation. Additionally, stormwater concern has risen regarding a proposal by the Applicant to carve a path through a low, beach-rose-capped dune to reach the beach at the Easternmost portion of the development site. Staff recommends a study be conducted to ascertain if a hazard exists and if so, how it might be mitigated.
- 3.3 Traffic and transportation:** Pending

- 3.4 Historic Character:** Do the paint colors selected for buildings in the development enhance, detract, or have no impact on the historic character and Romanesque aesthetics of the early 20th Century Stone Bank? A portion of the DRI 674 M3 decision’s Benefits and Detriments section states: “The project site is highly visible, given its proximity to the Town parking lot, VTA hub, and Steamship Authority terminal to the [S]outh.”
- 3.5 Scenic Values:** Are the building colors complimentary, uncomplimentary, or not impactful to the neighborhood architectural color scheme. Do the building colors impact the scenic values of the B1 District or the nearby waterfront? A portion of the DRI 674 M3 decision’s Benefits and Detriments section states: “The project site is highly visible, given its proximity to the Town parking lot, VTA hub, and Steamship Authority terminal to the [S]outh.”
- 3.6 Energy:** Pending
- 3.7 Economic Development:** Pending
- 3.8 Safety & Health:** Pending
- 3.9 Housing:** Should a clause be added to the condominium documents prohibiting the unification of two or more residential units?
- 3.10 Impact on Abutters:** Pending