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Decision of the Martha's Vineyard Commission DRI 271-M – Dockside Inn

1. SUMMARY

<u>Referring Board:</u>	Self referred after DRI Compliance Letter.
<u>Subject:</u>	Development of Regional Impact # 271-M Dockside Inn
<u>Project:</u>	To modify the 1988 DRI 271 Decision to reflect the current capacity and use.
<u>Owner:</u>	Madison Griffin LLC; Caleb Caldwell and John Tiernan
<u>Applicant:</u>	Madison Griffin LLC; Caleb Caldwell and John Tiernan
<u>Applicant Address:</u>	P.O. Box 1206, Oak Bluffs, MA 02557
<u>Project Location:</u>	9 Circuit Avenue Extension, Oak Bluffs (Map 8 Lot 289)
<u>Description:</u>	To modify the original 1988 DRI 271 Decision of an 18 guest room hotel with a managers apartment, 4 staff rooms and 9 parking spaces to permit the existing 22 guest room hotel with a managers apartment and 6 on-site parking spaces.
<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 May 10, 2018.
<u>Written Decision:</u>	This written decision was approved by a vote of the Commission on May 24, 2018.

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 project was self-referred to the Commission after the Applicant received a letter from the MVC notifying them that they were not in compliance with an MVC Decision issued in 1988. The Applicant promptly requested a modification to the original decision. The Commission began the DRI Modification Review 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 2.1 (Modification to a Previous DRI). After a Land Use Planning Committee (LUPC) meeting on September 25, 2017 at which the LUPC voted to recommend to the full Commission that a public hearing was required the Applicant decided to forego modification review and go straight to a public hearing as a DRI and the project was reviewed as such by the Martha's Vineyard Commission.

2.2 Hearings

Notice: Public notice of a public hearing on the Application was published in the M.V. Times on March 20, 2018.

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 5, 2018.

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 "Site Plan...prepared for Madison Griffin, LLC" consisting of one 11" by 17" sheet showing the property bounds and structures. Prepared by Sourati Engineering Group, P.O. Box 4458, 107 Beach Road, Suite 202 in Vineyard Haven, MA 02568. Dated December 6, 2017; Scale 1' = 10'.
- P2 "Existing First Floor Plan; EX-01" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing first floor plan. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale ¼" = 1'-0".
- P3 "Existing Second Floor Plan; EX-02" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing second floor plan. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale ¼" = 1'-0".
- P4 "Existing Third Floor Plan; EX-03" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing third plan. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale ¼" = 1'-0".

- P5 "Existing fourth Floor Plan; EX-04" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing fourth (roof) plan. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale $\frac{1}{4}" = 1'-0"$.
- P6 "Existing South and East Exterior Elevations; EX-05" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing east and south elevations of the hotel. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale $\frac{1}{4}" = 1'-0"$.
- P7 "Existing North and West Exterior Elevations; EX-06" prepared for the Dockside Inn located at 9 Circuit Avenue Extension in Oak Bluffs, MA. Plan consisting of one 24" by 36" sheet showing the existing north and west elevations of the hotel. Plan prepared by Sullivan + Associates Architects, Oak Bluffs, MA 02557; dated May 5, 2017; Scale $\frac{1}{4}" = 1'-0"$.
- P9 "Madison Griffin Corporation DRI Amendment Proposals" prepared by the Applicant consisting of seven (7) proposed amendments to the MVC DRI 271 Decision, dated April 11, 2018.

2.4 Other Exhibits

- E1. MVC Staff Report dated August 8, 2017; revised March 23, 2018; revised April 5, 2018.
- E2. Letter from Scott Dario, August 4, 2017
- E3. Letter from Scott Dario, October 20, 2017
- E4. Letter from Scott Dario, March 20, 2018
- E5. Minutes of the Land Use Planning Committee meeting, September 25, 2017.
- E6. Minutes of the Commission's Public Hearing, April 5, 2018.
- E7. Minutes of the Land Use Planning Committee Post-Public Hearing Review, April 30, 2018.
- E8. Minutes of the Commission's Deliberations and Decision, May 10, 2018.
- E9. Minutes of the Commission's Approval of the Written Decision, May 24, 2018.

2.5 Summary of Testimony

The following is a summary of the principal testimony given during the public hearing on December 15, 2016:

- Presentation of the project by Jay Theise (Attorney); Caleb Caldwell.
- Staff report presented by Dan Doyle, MVC Planner.
- Oral testimony from Public: June Manning; Mark Morris; Scott Dario; Doug Abdelnour; Chad Mettel; Jordan Wallace; Michael Wallace; Benjamin Deforest.

3. FINDINGS

3.1 Project Description

- The proposal is to modify the 1988 DRI 271 Decision to reflect the current capacity and use. The current owners purchased the property in 2012 and were unaware of the DRI status.
- That the number of guest rooms shall be increased from 18 to 22 as presently exist
- DRI 271 is also hereby amended to approve and include the Applicant's related tour business use.
- The 4 employee rooms have become guestrooms (the property now has 22 guest rooms) plus the manager's apartment. The Applicants now own a rental house in Oak Bluffs and have indicated they use it to house employees. Fully staffed they have a total of five full-time housekeeping staff and three front desk staff. They currently provide housing for four of eight employees.
- When purchased in 2012 the property had a 100-sf glass and aluminum "sun room" attached on the east side ground level which they replaced with a 385-sf breakfast room. They also added a 36-sf trash enclosure off of Pasque Avenue for purposes of concealing four 90-gallon trash cans.
- In 2012 there were three additional angled parking spaces with pea-stone on the south side of the building on Pasque partially in the public Right of Way (ROW). The Applicant subsequently landscaped over these three parking spots and the Town later added granite curbing to define the roadway.
- They get five parking passes annually from the Oak Bluffs Police which allow guests to park on the North Bluff.
- Oak Bluffs Land and Wharf Company (OBLW) Tours was approved by the Oak Bluffs Board of Selectmen for a municipal street license that included operation of four fifteen passenger vans in January 2017.

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 CONSIDERING 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 the proposed development at this location is appropriate. The Commission notes that the downtown hotel has existed for at least thirty years and its location in the commercially zoned district near the various ferry terminals and bus hub is also appropriate for the tour business.

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 property will continue to be connected to the town sewer.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the proposal is appropriately located in the commercial downtown and that the southeast corner of the property that was landscaped is more aesthetically pleasing than the previous condition.

With respect to Night Lighting and Noise, the Commission finds that with night lighting and noise the proposal will have no change.

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

With respect to Traffic and Transportation, the Commission finds that the proposal, with the tour business, could result in a slight increase in traffic. The Commission notes that the hotel operators actively encourage their guests to not bring their cars.

With respect to Scenic Values, Character, and Identity: The Commission finds that the proposal will have no change.

With respect to the Impact on Abutters, the Commission finds that the tour business aspect of the proposal adds a slight increase in intensity of use to an already busy street. The Commission notes that relative to other operators and uses on the street the increase is minor.

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 proposal will have no change. The Commission notes that with this modification the workforce housing provided by this business is now conditioned in perpetuity.

A5 The Commission finds that the proposed development would have beneficial impacts on the provision of municipal services or burden on taxpayers in making provision therefore (Section 15(e) of the Act).

With respect to impact on services and burden on taxpayers the Commission finds that the proposal is a benefit because it will have no impact on schools and will increase tax revenue 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).

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).

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 considering 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 the Island Plan adopted by the MVC in December 2010.

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 finds that the proposed development is not located within any 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 May 10, 2018 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 May 10, 2018:

- Voting in favor: Gail Barmakian; Clarence A. "Trip" Barnes III; Leon Brathwaite; Rob Doyle; Josh Goldstein; Jim Joyce; Joan Malkin; Kathy Newman; Ben Robinson; Doug Sederholm; Linda Sibley; Richard Toole and James Vercruysse.
- 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 May 10, 2018 and was approved by vote of the Commission on May 24, 2018.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions 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. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town 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 and/or Town's attorney's fees and costs incurred in obtaining judicial relief.

1 Housing:

- 1.1 As offered by the Applicant, it shall be the owner's responsibility to provide provisions for off premises employee housing in lieu of the original four small employee rooms and they shall continue to provide a managers apartment on the premises for the hotel manager.
- 1.2 The Applicant shall submit an annual inspection and certification to the Oak Bluffs Board of Health and MVC that they are providing workforce housing for four (4) employees.

2 Transportation and Parking:

- 2.1 The hotel shall continue its policy of discouraging guests from bringing their automobiles, informing them that parking is limited in the town of Oak Bluffs and that affordable Island wide Public Transportation is readily available.
- 2.2 The hotel shall continue to maintain the existing six (6) parking spaces on site.
- 2.3 As offered by the Applicant, the hotels parking spaces are hereby re-designated as the existing six (6) spaces on the north side of the property, which may be used at any given time (modified by Condition 3.2) for the loading and unloading of tour vans no greater in size than the present fifteen (15) passenger vans used in connection with the property.
- 2.4 The hotel shall continue to have bike racks on premises for employees and guests.
- 2.5 The Applicant shall apply to the Oak Bluffs Planning Board to determine the amount of parking and/or mitigation required for the approved use of the property to operate a hotel and tour business.

3 Tour Operation:

- 3.1 The hotel shall apply for all appropriate town permits and licenses to operate a hotel and tour business.
- 3.2 The applicant shall submit a van loading and unloading plan for the tour operation for the review and approval of LUPC prior to beginning operation. This shall include information

indicating where the vans are parked off site, how often they come to the site, and how and where they load passengers. Should the Applicant propose substantial changes to the plan they shall be submitted for the review and approval of the MVC for modification review.

4 As-Built Plan

- 4.1 The applicant must provide an as-built hardcopy (24" by 36") plan that details all structures, features and topographical information prior to being given a notice of compliance from the Martha's Vineyard Commission.

5 Modifications to this Decision

- 5.1 As offered by the Applicant, the applicant shall not alter the design or use of the premises from the approved plan, uses, and operating conditions without the approval of the Martha's Vineyard Commission.

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.

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. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

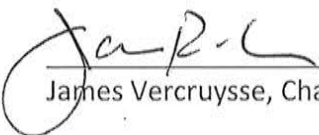
6.2 Notice of Appellate Rights

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 satisfy the conditions herein. 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 may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.

6.5 Signature Block


James Vercruysse, Chairman

June 12, 2018
Date

6.6 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County

On this 12th day of June, 2018, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared James Verkrugse, 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 January 31, 2025

6.5 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: June 13, 2018

Deed – Book 1469, page 485

Document Number: 00003219