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Martha's Vineyard Commission

DRI 750 Ocean View Rebuild Staff Report – 2024-2-12

1. DESCRIPTION

- 1.1 **Owner:** Charles Hajjar/OB MV Realty Trust
- 1.2 **Applicant:** Charles Hajjar/OB MV Realty Trust
- 1.3 **Applicant's Agent:** Attorney Ross Seavey
- 1.4 **Applicant's Agent:** Architect Chuck Sullivan
- 1.5 **Applicant's Agent:** Peter Gearhart (Project Manager)
- 1.6 **Project Location:** 16 Chapman Avenue, Oak Bluffs
- 1.7 **Proposal:** Construction of a three-story, mixed-use building that includes a ground floor restaurant, a cellar bakery, and upper floors containing 10 residential units. Also, partial absorption of an adjacent lot (0 Summerfield Pk) for parking purposes.
- 1.8 **Zoning:** Commercial
- 1.9 **Local Permits/Reviews:** Oak Bluffs Building Department, Oak Bluffs Fire Department, Oak Bluffs Board of Health, Oak Bluffs Planning Board (special permit/site plan review), Oak Bluffs Select Board (common victualler, alcoholic beverages license), and Oak Bluffs Wastewater Department
- 1.10 **State Permits/Reviews:** Massachusetts Department of Fire Services (review of sprinkler system plans).
- 1.11 **Surrounding Land Uses:** To the East, the Project Site fronts Chapman Avenue. Beyond is Washington Park. To the North, the Project Site fronts Wayland Avenue. Beyond is Washington Park. To the South, the Project Site abuts residential property. To the North, the Project Site abuts East Chop Association property and residential property.

1.12 Project History:

- Images provided by the Applicant show that prior to 1965, a three-story hotel existed on the Project Site as far back as 1890.
- What had been known as the Ocean View House became the Ocean View Hotel by the 1930s.
- The Ocean View Hotel was destroyed by a major fire in January 1965. The fire was fought by the Oak Bluffs, Edgartown, and Tisbury Fire Departments.
- Two intruders inadvertently started the fire in the Ocean View Hotel during its winter closure period, according to Mike Carroll, a former member of the Tisbury Fire Department who fought the fire.
- East Chop Association members opposed reissuing a liquor license to the property if it wasn't going to be rebuilt as a hotel.
- The Commonwealth's Alcoholic Beverages Control Commission (ABCC) split in its approval of reissuing the license. The ABCC chair identified himself to the Vineyard Gazette as the dissenting vote.

- Between 1965 and 1972 some type of single-story or 1.5 story structure, which operated as a restaurant and lounge, was erected on the Project Site.
- In 1972 an attempt to expand that structure and to offer live music and dancing was opposed by neighbors/East Chop Association members, who brought their grievances to the Select Board.
- Opposition carried into 1973 and a petition was sent to the Select Board, ZBA, and Building Department. The petition sought to overturn the building permit and claimed that the Project Site was unlawfully spot zoned for commercial use in 1948 and that also there would be too much noise and a reduction in parking spaces if the project was allowed to continue moving forward.
- In a December 7, 1973 decision, the Oak Bluffs Select Board unanimously denied the petition. The core of the board's reasoning was that the 1948 zoning change for the Project Site represented the legislative will of the Town (town meeting voters had approved a business zone designation for the area).
- The restaurant and lounge, previously located on the Project Site, were subject to numerous repairs, enhancements, and modifications in the subsequent 49 years.
- In 2008, the Ocean View connected to the municipal sewer system.
- The Oak Bluffs Board of Health fielded a number of Ocean View complaints between 1997 and 2017 including overflowing trash, loose cardboard, early morning truck noises (ostensibly in violation of town regulations), malodorous water running into a catch basin, puppies in the bar, a food associated illness, a fruit fly infestation, and a rat running through the dining room.
- Early morning truck noise appears to be the only consistent complaint across different ownership of the Ocean View.
- In 2013 the Ocean View was cited for eight Building and Fire Code violations.
- On March 3, 2022, the Ocean View, which had been closed, was gutted by fire.
- The fire was fought by firefighters from all Vineyard towns. The remains of the building were demolished the same year.
- An investigation by a State Police Fire Investigation Team found the cause of the fire to be of an undetermined nature.
- On January 25, 2023 the Oak Bluffs Wastewater Commissioners voted 2-0 to approved the 10 upper story apartments found in the Applicant's plans for flow.
- The approval was based on the condition the 180 seats allotted to the Ocean View Restaurant were reduced to 148.

1.13 Project Summary: Construction of a Victorian style, 18,768 square foot mixed-use building consisting of a 4,956 square foot cellar (restaurant & bar storage, restaurant bakery, residential storage), a 4,956 square foot ground floor (restaurant & bar), a 4,428 square foot second floor (five workforce apartments), and a 4,428 square foot third floor (five workforce apartments). Also, expansion of the lot to include (by a real estate transfer) a portion of an adjacent parcel owned by the East Chop Association. Lastly, expansion of automobile parking to achieve 39 spaces.

2. ADMINISTRATIVE SUMMARY

2.1 DRI Referral: Oak Bluffs Building Department

- 2.2 **DRI Triggers (as referred):** 3.1 commercial development over 3,500 square feet, 3.1 creation of ten or more parking spaces, and 4.1 creation of five or more dwelling units
- 2.3 **Possible Trigger:** 3.1 change of use
- 2.4 **LUPC:** Slated February 12, 2024
- 2.5 **Full Commission:** Slated March 7, 2024

3. **PLANNING CONCERNS**

3.1 **Wastewater**

- On January 25, 2024, Oak Bluffs Wastewater Commissioners approved a flow plan to address the proposed ten apartments.
- The plan was put forth by Peter Gearhart, agent for the Applicant.
- The meeting minutes state in part: “the restaurant has 8940 GPD (gallons per day) and of that, 6300 GPD is attributed to seating (180 seats on record). So with 35 GPD for each seat, this would reduce the seating to 148 in order to reallocate 1,110 GPD to the (10) ten bedrooms.”

3.2 **Stormwater**

- A stamped drainage plan has been submitted.
- The square footage of the roofs of the proposed structure will be approximately 5,900.
- The square footage of the proposed paved areas will be approximately 11,700.

3.3 **Environment / Habitat:**

- The project Site does not contain sensitive habitat.

3.4 **Traffic and Transportation**

- Through a land exchange with the East Chop Association, the Applicant plans to expand the Project Site and to utilize the new area accommodate some of the 39 parking spaces proposed for the project.
- This is a large new building with residences and a restaurant. It is therefore recommended by staff that a consultant be hired to carry out the study. Staff recommends the following as the scope for the proposed Oceanview Rebuild (DRI #750) **traffic impact study:**

1. Introduction and Site Description

- A brief description of the proposed development.
- A general description of the location, zoning, access to the site and maps.

2. Traffic

- A summary of traffic counts on the neighboring street network would be compiled.
- Streets to include: Chapman Avenue, Wayland Avenue, New York Avenue and East Chop Drive.
- The traffic counts would give a contextual analysis, including an aerial photo indicating the expected traffic from the project site. (MVC traffic count database can be used for this purpose)
- A trip generation summary from the proposed land use, to include the total daily traffic generated by the site and traffic generated during the peak hours. Trip generation would compare existing with proposed and would include all potential uses.
- Assessment of the current and future Level of Service (L.O.S.)

- Analysis of accidents on Chapman Avenue/Wayland Avenue for the most recent 3 years.
- Analysis of sightlines at all entrances/exits to proposed site.
- Analysis of traffic circulation/flow at site with Chapman Avenue and Wayland Avenue.
- Assessment of the potential impacts on Chapman Avenue and Wayland Avenue.

3. Parking

- Analysis of existing and future parking supply and demand.
- Analysis of existing and proposed parking lot circulation.

4. Bicycle and Pedestrian

- Existing and proposed networks and amenities.

5. Public Transit

- Existing situation.

3.5 Massing

- The proposed mixed-use building would be 18,768 square feet in total.

3.6 Character and Identity

- The Project Site is in the Copeland District.
- According to the Architectural Narrative, “The exterior of the proposed building is designed to be reminiscent of the three-story mansard style Ocean View House (Hotel) that occupied the site from approximately 1880 to 1965.”

3.7 Energy

- The Applicant intends to mount solar panels.
- The Applicant intends to install at least one electric vehicle charging station.
- Heating information for the proposed building has not yet been supplied.

3.8 Economic Development

- Because of reduced seating, restaurant staff is expected shrink from 14 to 12.
- A reopened Ocean View Restaurant would restart old business relationships (and associated revenues) and perhaps provide new business relationships to vendors such as suppliers of food, liquor, linen, paper products, cleaning services, pest control services, rubbish collection, and insurance.
- A reopened restaurant would restart revenue for the Ocean View Restaurant owner who has had that revenue cut off since March, 2022.

3.9 Social Development

- The Ocean View Restaurant was a long-established eatery and bar. A reopening would return a popular social gathering place to the neighborhood, the Town, and the Vineyard.

3.10 Health and Safety

- Staff recommends that the sprinkler system design take into account the cellar bakery.
- The Project Site was subject to two structure fires since 1965. Pollutants from those fire may remain in the soil.
- According to the Applicant’s Agent, “An environmental assessment was completed prior to the purchase of the property and will be provided. Building materials from the burned

down building were tested for asbestos prior to disposal and no asbestos was found; report to be provided. The soils have not been tested but will be as part of the construction process, any contaminated soils will be removed and disposed of in accordance with state and federal laws.”

- Several leach pits existed on the property prior to a sewer connection. It’s unclear if they were filled in or removed (potential collapse hazard).
- The Applicant’s Agent states: “We have no records suggesting they were or were not removed or filled. We will confirm this and, if they are still present, we may explore using them for storm water if practical and allowed by the Oak Bluffs Board of Health, otherwise they will be filled in accordance with state and local regulations regarding the decommissioning of leaching pits.”

3.11 Noise

- The Project Site is spot zoned for commercial use. The neighborhood is otherwise residential.
- The Oak Bluffs Board of Health regulations prohibit garbage collections prior to 8am.
- Oak Bluffs Alcoholic Beverage Control Policy addresses noise as follows: “The licensing authority recognizes the right of neighboring property owners to the quiet enjoyment of their homes or businesses. Each license holder shall be responsible for limiting the noise generated inside their establishment or on outside property that is under their control. A violation punishable by Section 11.00 shall be deemed to occur if noise is clearly audible at a distance of 100 feet away from the inside or outside source at any time of day or night. Noise shall be definition include, but not be limited to, sound produced by guests or employees through human outcry or disturbance, music produced or reproduced whether or not amplified, operation of machinery, equipment or cleanup associated with the sale of alcohol or operation of the establishment.”

3.12 Night lighting

- A lighting plan, preliminary or otherwise has not yet been submitted.

3.13 Housing

- The residential units are positioned in a ‘top of the shop’ manner.
- The Applicant has suggested some restaurant staff could be housed in the upper floor residential units.
- The units would be designated workforce housing however specific details about what demographic the units might cater to has not yet been provided nor has language about restrictions.
- The amount the Applicant expects to charge for rent has not yet been provided.
- The square footage of the residential units has not yet been provided.
- The Architectural Narrative states that the proposed housing is in accord with several elements of the Oak Bluffs Master Plan.
- The Architectural Narrative argues the project’s housing would confer following benefits:
- ‘Smart Growth’ location for housing density that takes advantage of existing town infrastructure, including roads, utility connections including wastewater, and walkable proximity to transit stops and shopping.

- The property is included in the extremely limited B-1 zone that allows apartments with town approval. Only 20 acres out of +/- 4,736 acres of land in the town are zoned B-
- Walking distance to the center of Oak Bluffs reducing auto traffic and parking availability for both restaurant patrons and apartment residents.
- Compact building design increases construction and energy efficiency.
- Private investment requiring no taxpayer money, monetary subsidies or inducements.
- Preserves open space by not requiring clearing of land.
- Increased property tax revenue for the town.

Staff further notes the following:

- The project appears to fall under “3B, Mixed Use DRIs” section of the MVC Housing Policy, specifically 3B.2 (b) , which addresses Mixed use, Above the Shop housing.
- Residential component:
This section of the policy states that if the Above the Shop units are all Community Housing (deed restricted to max 150% AMI), or Workforce Housing (restricted for Island-based employees), the Commission may waive mitigation regarding the residential space.
The project as proposed shows ten (10) Above the Shop units, all restricted to Workforce Housing, so it appears the Commission may waive mitigation with respect to the residential component.
- Commercial component:
This section of the policy states that if the commercial space component is either not increasing in size, or is decreasing in size, the Commission may waive mitigation with respect to the commercial component. If the commercial component is increasing in size, the Commission may consider waiving mitigation on 50% of the new square footage. **Final square footage of commercial space would be necessary to determine commercial component mitigation.**
- Summary:
Thus, as currently proposed, the project complies with the MVC Housing Policy, as well as providing benefits by addressing a critical community need for Workforce Housing rental units in a walkable, Smart Growth location.
- **MVC Definition of Workforce Housing (Section 6 of Housing Policy):**
“Workforce Housing means housing restricted to year-round employees of the applicant or another employer operating on the Island and, in the discretion of the Commission in appropriate cases, may also include Seasonal Employees.”

Additional information from the applicant that would be helpful for a hearing:

- Estimated rents for the residential units.
- Addressing short-term-rentals.
- Addressing the distribution of year round workforce and seasonal employee housing – see Section 5.2 of the MVC Housing Policy: *“Rentals of Affordable and Community Housing must be for year-round occupancy, provided that rentals of Workforce Housing for Seasonal Employees may be for less than one year but in no event less than 90 consecutive days.*

Formatting information from the applicant for hearing: All Housing-related details described above should be formatted by the applicant as formal Offers to the MVC and provided via letter prior to the hearing.

3.14 Impact on Abutters

- Several letters of concern have been received to date primarily regarding scale, traffic, noise, and viewshed.

3.15 Impact of Municipal Services and Taxpayers

- The reconstruction of the restaurant, the construction of 10 apartments, and the expansion of the parking area would restore a certain tax value that was degraded following the 2022 fire and would then elevate that value. Tax revenue for the Town would ultimately be higher if proposed project reached fruition.