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Decision of the Martha's Vineyard Commission DRI 645 – Bowling on Uncas Avenue

1. SUMMARY

- Referring Board: Building Inspector, Town of Oak Bluffs, MA
- Subject: Development of Regional Impact # 645
- Project: To demolish several buildings and build a bowling alley with a restaurant and two affordable apartments.
- Owner: MV Bowl LLC (Reid Sam Dunn and Larkin B. Reeves, Trustees)
- Applicant: MV Bowl LLC (Reid Sam Dunn and Larkin B. Reeves, Trustees)
- Applicant Address: 455 State Road, PMB 108, Vineyard Haven, MA 02568
- Project Location: 7, 13 & 19 Uncas Avenue, Oak Bluffs Map 11 Lots 153, 154, & 155.
- Description: To demolish several buildings and build a 13,500 sf bowling alley with 10 lanes and a 44 seat restaurant, 18 seat bar, game room, two affordable apartments and a 32 car parking lot.
- Decision: 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 March 6, 2014.
- Written Decision: This written decision was approved by a vote of the Commission on March 20, 2014.

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 referred to the Commission on October 30, 2013 by the Building Inspector of the Town of Oak Bluffs, MA 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 3.1A (Development of Commercial – 3,000 s.f.); and 3.1b (Development of 2,000-3,000 s.f. Commercial). Both are mandatory referrals requiring review as a Development of Regional Impact 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 Vineyard Gazette, January 23, 2014.

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 February 6, 2014, which was continued to February 20, 2014 and closed on that date.

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: Proposed Bowling Center – 6, 13, & 19 Uncas Ave., Oak Bluffs, MA" consisting of one 18" X 22" sheet with proposed building, parking layout, and locus map. Scale 1" = 20'. Stamp dated Approved with Conditions March 6, 2014. Unsigned.
- P1 "First and Second Floor Plans: Proposed Bowling Center – 6, 13, & 19 Uncas Ave., Oak Bluffs, MA" consisting of one 18" X 22" sheet with interior layout of proposed bowling alley, bar & restaurant, and second floor. Scale 1" = 10'. Stamp dated Approved with Conditions March 6, 2014. Unsigned.
- P1 "Elevations: Proposed Bowling Center – 6, 13, & 19 Uncas Ave., Oak Bluffs, MA" consisting of one 18" X 22" sheet with proposed Uncas Avenue elevations, West, South, and North elevations. Scale 1" = 10'. Stamp dated Approved with Conditions March 6, 2014. Unsigned.
- P1 "Uncas Bowling Materials List: Outdoor Light Fixtures" consisting of one 8.5" X 11" sheet with proposed materials for siding, trim, windows, doors, cornerboards, soffits, and lighting fixtures. Stamp dated Approved with Conditions March 6, 2014.

2.4 Other Exhibits

- E1. Referral to the MVC from the Oak Bluffs Building Inspector; received October 30, 2013.

E2. Staff Report, by Paul Foley, MVC DRI Coordinator, with the assistance of other staff members, November 18, 2013; revised January 6, 2013; revised January 27, 2013; revised February 6, 2013; revised February 20, 2013.

E3. Photographs of the site, taken on November 18, 2013 by MVC staff member Paul Foley.

E4. Letters were received from the following:

A. Letters were received from the Following prior to February 13, 2014:
David and Sherry Harte; Alison Stewart & Lisa Stewart Crisp; Byron and Kathleen Barnett; B. and K. Barnett; addendum; Dianne Streett; Courtney Reynolds; Sandra Dolphin; Elisabeth McCarthy; Grace Reynolds; Katherine Scott; Robert Young; Megan Aebi; Alyssa Estrada; R. Alexander; Yoshino White; Sharon Burton; Kathleen Barnett (3) with 2 articles; Deborah Arrindell; Caitly Crisp; Amy Wilkinson; Sara Farr; Patricia Alulema; Candace Jennings; Robert Wilkinson; Arthur Bates; Susan Leigh; Dan Pashman; Amy Parker; Charlie Pane; Aja Stephens; Rita Henderson; Amy Wilkinson (2); Kelley Krisp; Ellen Kaplan, Esquire – Motion to Intervene.; Alison Stewart (Public Comments); David Nordheimer; Elisabeth Slaughter; Kathleen Barnett (4); Lindsley Newbury; Lindsay Sabadosa; Peggy Barmore; Alan Brigish; Julia Celeste; June & Andrew Flake; John Folino; Jackson Parker; John Tiernan; Lowely Finnerty; Mary Rentschler; Bill Bennett; Bob Mone; Alan Schwiekert; Ashley Spinney; Brian Aithearn; Barbara Day; Carol Kenney; Deborah Pigeon; Fred Mascolo; Gail Moffitt; Geoff Rose; Harriet Bernstein; Heather Spinney; Jennifer Cutrer; Jim Feiner; Judith Merion; Jerry Murphy; Kim Nye; Leo & Alison Convery; Marilyn Wey; Nora Nevin; Nina Thayer; Paul Lazes; Robin Brown; Rhea Cobban; Ralph Friedman; Renee Ortiz; Stephanie Burke; Sean Federowicz; Susan Tirabassi; Valerie Hart; Wendy Harman; Jen O'Hanlon; William Baldwin; S. Callen; C. Mason; S. Spinney; R. Paradise; R. Marolf; T. Lyman; D. Nugent; L. Stewart; R. Meyers; J. Guadagno; B. Horrigan; C. Walton; S. Mullen; E. Tatreau; M. Ellis; P. Pil; K. Nye; S. Finley

B. Letters were received from the Following between February 13, 2014 and March 3, 2014
Kim Brown; Nicole Stent; Kerry Scott; Kathy Burton; Michelle Stent; Karin Wilkinson; Sean Conley; Kim Nye (2); T.J. Hegarty; Beth McElhinney; Michael Jacobs; Vivian & Dave Stein; Rich Cowen; Craig Tharpe; Harvey & Eleanor Beth; Lisa Stewart Crisp & Alison Stewart – Request for Assistance; Gail Barmakian; Andy Farrissey; Blaine White; Cathy Brennan; Guinevere Cramer; Glenn Tunstull; Joseph Vera; Sam Feldman; Sheila Ross; Annie Bradshaw; Alex and Wendy Palmer; Alex and Wendy Palmer (2); Arnie Reisman; Annie Schwenk; Annie Schwenk (2); Alison Stewart (4); Bill Nash; Barbara Peckham; Barbara Ronchetti; Beth Serusa; Brian Smith; Byron and Kathleen Barnett (6); Carla Cooper; Corinne de Langevant; Cathy Deese; Christopher Forbes; Christine Todd; David Harte (3); Dick Pratt; E. Ventura; Gary Chadwell; Gail Moffitt; Holly Alaimo; Jaime Hamlin; Joanne Lambert; John Newsom; Judith Schubert; Kathleen Landers; Lorna Rainey; Mary Ibsen; Michael Marcus; Michael Sullivan; Pat Albee; Penny Franklin; Paul Grosvenor; Pat Nagi; Renee Balter; Rodney Hawkins II; Susan Bennett; Shirley Collier; Steve McQuiggan; Wendy Palmer; A. Campbell; Alison Stewart & William Wolff & Lisa Stewart Crisp, Kelley Crisp, & Caitlin Crisp; G. Althea; Diane Streett; Kerry Scott (2); Ellen Kaplan; Courtney

Reynolds; Lydia Anderson; Yoshino White; Byron & Kathleen Barnett (7); Barnett – Cerami Associates Acoustic Review.

- E5. A petition stating "The undersigned support the new Bowling center proposed for Uncas Avenue in Oak Bluffs and encourage the Martha's Vineyard Commission and the of Oak Bluffs to approve it as soon as possible" was signed by about 1,000 people.
- E6. "Applicant Offers/DRI 645/Uncas Bowling" signed by Reid Sam Dunn, dated February 27, 2014 and clarified at LUPC on March 3, 2014 consisting of four pages of details on: Hours of Operation and Business Practices; Affordable Housing; Environmental; Energy; Noise and Light Mitigation; Parking Lot and Transportation; Landscaping; and Lighting.
- E7. Minutes of the Commission's Land Use Planning Committee meeting, December 18, 2013.
- E8. Minutes of the Commission's Land Use Planning Committee meeting, January 6, 2014.
- E9. Minutes of the Commission's Land Use Planning Committee meeting, January 20, 2014.
- E10. Minutes of the Commission's Public Hearing, February 6, 2014.
- E11. Minutes of the Commission's Continued Public Hearing, February 20, 2014.
- E12. Minutes of the Commission's Post Public Hearing Land Use Planning Committee meeting, March 3, 2014.
- E13. Minutes of the Commission Meeting of March 6, 2014 – Deliberations and Decision.
- E14. Minutes of the Commission Meeting of March 20, 2014 – Approval of the Written Decision.

2.5 Summary of Testimony

The following is a summary of the principal testimony given during the public hearing.

- Presentation of the project by Reid Sam Dunn.
- Staff reports by Paul Foley, MVC DRI coordinator; Sheri Caseau, MVC Water Planner; and Priscilla LeClerc, MVC Traffic Planner.
- Oral testimony from Public on February 6, 2014: Christine Todd; Byron Barnett; Kathleen Barnett; Alison Stewart; Don Lambert; Lisa Stewart Crisp; Kathryn Sullivan; Amy Billings; and Ewell Hopkins.
- Oral testimony from Public on February 20, 2014: John Bradford; Christine Todd; Byron Barnett; Ellen Kaplan; John Tiernan; Lisa Stewart Crisp; Gail Barmakian; Ann Smith; and Amy Billings.

3. FINDINGS

3.1 Project Description

- The application is for a 13,500 s.f. bowling alley with 10 lanes, a 44 seat restaurant, 18 seat bar, game room, event room, 2 affordable apartments, and a 32 car parking lot.
- The proposed building will include an event room on the second floor to be limited to a maximum of 50 people and used from June 15 to September 15 a maximum of twice per week for events lasting about 3 hours and to an average of two events per week from September 16 to June 14.

- The two affordable apartments will be rented in perpetuity to income qualified recipient(s) earning 80% or less than the Area Median Income (AMI) and monitored by the Dukes County Regional Housing Authority.
- The structure will be a steel building which will be sheathed in a combination of cedar shingles and Hardee board as shown on the elevations.
- The property with four lots is 0.62 acres.
- Parking would be on the west side between Uncas and Hiawatha Avenues with 30-32 off-street parking spaces.

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

The Commission finds this is an appropriate location for this proposal. It is one of the few locations on the Island where a project such as this would meet zoning and would also allow alcohol which appears to be an essential component of the project viability. The Commission notes that it is unfortunate that it is on the cusp of a residential district.

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 proposal will incorporate a FAST enhanced de-nitrification system which reduces the nitrogen levels well beyond a standard Title 5 system or simple de-nitrification system, and allows the project to meet the MVC Water Quality Policy and help protect the quarter quality in Sunset Lake in the Oak Bluffs Harbor.

With respect to Open Space, Natural Community and Habitat, the Commission finds that the site is in the B-1 zoning district and is not required by Town zoning to provide open space.

With respect to Night Lighting and Noise, the Commission finds that the project includes extensive measures to mitigate the impact of noise on the abutters and surrounding neighborhood. With respect to the night lighting the Commission finds that the offers are consistent with MVC policy.

With respect to Energy and Sustainability, the Commission finds that the project will meet the Massachusetts Energy Stretch Code and may include solar panels at the time of construction. If not, it will include conduits for the possibility of installing solar panels in the future.

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

With respect to Traffic and Transportation, the Commission finds that with this proposal there will be an increase in traffic but that the levels should still be tolerable.

With respect to Scenic Values, Character, and Identity, the Commission finds that the site will have a new building, street trees, and shrubs replacing the currently largely derelict buildings.

With respect to the Impact on Abutters, the Commission finds that the impact on abutters will be the major detriment to the project particularly with respect to increased traffic and activity. The project will have a negative impact on residential abutters compared to the present largely unused property, especially during the evenings. The Commission notes that these impacts could have been greater with other potential uses allowed in the B1 zoning district. It is not clear what effect it will have on property values.

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

The Commission notes that the project includes two new affordable housing permanently deed-restricted to households earning less than 80% of the area median income.

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

The Commission finds that the project should increase tax revenue for the Town. The Commission notes that the project may require more police services in the area.

A6 The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities 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 such as those relating to wastewater and future traffic mitigation, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriments in light of 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 Commission 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.

The Commission notes that all of the properties on which the project is proposed are zoned B-1 Commercial, though they abut both residentially zoned and commercially zoned properties.

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.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on March 6, 2014 and made its decision at the same meeting.

The following Commissioners, all of whom participated in all hearings and deliberations on this project, participated in the decision on March 6, 2014.

- Voting in favor: Clarence 'Trip' Barnes III; John Breckenridge; Christina Brown; Madeline Fisher; Josh Goldstein; Fred Hancock; Joan Malkin; Katherine Newman; and Linda Sibley.
- 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 March 6, 2014 and was approved by vote of the Commission on March 20, 2014.

5. 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 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. **Hours of Operation/Business Practices**

- 1.1 As offered by the Applicant, the business will generally be open daily, year round. The opening hour shall not be before 9 AM.
- 1.2 As offered by the Applicant, there shall be a "last call" on food, alcohol and bowling at 10:30 PM. Sunday through Thursday and at 11:30 PM Friday and Saturday. Alcohol served at last call shall be limited to one per customer.
- 1.3 As offered by the Applicant, during the alcohol license application process with the Town of Oak Bluffs the Selectmen will designate a closing hour.
- 1.4 As offered by the Applicant, the use of the event room shall be limited from June 15 to September 15 to twice per week for events lasting about 3 hours and to an average of two events per week from September 16 to June 14. A maximum of 50 people shall be allowed at any event at any time during the year.
- 1.5 As offered by the Applicant, the restaurant and bar shall be open only when the facility is open for bowling. Food and drink will be served at the lanes.
- 1.6 As offered by the Applicant, recreational activities shall be limited to bowling, golf and other games requiring physicality such as ping-pong and shuffleboard. There shall be no arcade or video games.

2. **Affordable Housing**

- 2.1 As offered by the Applicant, two affordable units are included in the project, replacing the two year-round units currently on the site. They shall be rented in perpetuity to income qualified recipient(s) earning 80% or less than the Area Median Income (AMI). This housing shall be monitored by the Dukes County Regional Housing Authority. The annual income certification and monitoring shall be done by the Dukes County Regional Housing Authority for an administrative fee to be paid by the applicant.
- 2.2 As offered by the Applicant, the applicant shall reserve the facility once annually for three years for a fundraiser for non-profit Island Housing organizations. Such offer shall include the facility and all bowling activity at no charge, with food and drink at normal rates.

3. Environmental

- 3.1 As offered by the Applicant, any financial institution lending on the property shall require clean environmental reports as a condition of lending. In the event additional reports are required by lender the applicant shall copy MVC on such reports.
- 3.2 As offered by the Applicant, the project shall employ a FAST System (Bio-Microbics MicroFAST 9.0 and NitrifAST 4.5 systems with Micro-C and alkalinity feed system). These are on-site additions to Title 5 systems that are approved by DEP for general use in Massachusetts.
- This advanced treatment de-nitrification system shall be used for the entire wastewater flow, and is designed such that the nitrogen load on the property shall not exceed 21.60 kilograms per year.
 - As per DEP requirements the effluent shall be monitored monthly for 36 months. Once the system produces satisfactory test results the system will be monitored quarterly for pH, BOD, TSS and Total Nitrogen.
 - Testing, maintenance and reporting shall be done by a licensed contractor.
 - All reports required by DEP on testing of wastewater shall be filed annually for the life of the facility with the MVC and the Town Board of Health.
- 3.3 As offered by the Applicant, an operation and maintenance manual for the wastewater de-nitrification system, as supplied by the manufacturer, shall be based on the design, installation, use, and maintenance recommended by the manufacturer. This manual shall be submitted to and is subject to the MVC's Land Use and Planning Committee prior to installation. A copy of the manual shall also be provided to Oak Bluffs Board of Health.
- 3.4 As offered by the Applicant, stormwater shall be directed to vegetated areas or underground filtration to avoid runoff from the property.
- 3.5 As offered by the Applicant, all commercial kitchen and bar sink drains shall be lead to a grease trap which shall be maintained regularly.
- 3.6 As offered by the Applicant, commercial kitchen oils shall be recycled and given to an Island supplier of bio-diesel.

4. Energy

- 4.1 As offered by the Applicant, the applicant shall pursue to the possibility that a third party solar contractor will place solar panels on the roof but does not guarantee that it shall occur. In the event it does not occur the applicant shall install conduits to the roof for future use.
- 4.2 As offered by the Applicant, the building shall meet the Massachusetts stretch code.

5. Noise

- 5.1 As offered by the Applicant, the sound reduction measures recommended by Cavanaugh Tocci Associates, Acoustics Consultants in their report dated February 26, 2014 to separate bowling noise from residential uses shall be implemented.
- 5.2 As offered by the Applicant, walls adjacent to residential properties shall be continuous and solid, with no windows, doors, air vents or other openings.
- 5.3 As offered by the Applicant, the separation between the apartments from the event room and restaurant shall be soundproofed using two layers of 5/8" drywall on hat channels and resilient clips. In addition the apartment floors shall be padded and carpeted over 440 Sound Barrier underlayment.

- 5.4 As offered by the Applicant, the applicant shall upgrade the exterior walls of the building to insure sound isolation per the design proposed in letter to Sam Dunn dated 2/19/14 by Cavanaugh Tocci Associates. The report proposes design specifications that will achieve a Sound Transmission Class (STC) rating of 62. If the building, once complete, does not achieve this rating, the Applicant will undertake the necessary additional soundproofing efforts so that it does. Any change to the design or materials used on the exterior walls shall meet the same STC rating.
- 5.5 As offered by the Applicant, the applicant agrees that the facility shall not allow amplified live music on the premises.
- 5.6 As offered by the Applicant, signage shall be posted inside the facility and in the parking lot advising customers that the facility is adjacent to residential uses and asking customers to avoid loud or boisterous behavior in the parking lot.
- 5.7 As offered by the Applicant, there shall be no activities on the property that exceed the Commonwealth of Massachusetts Department of Environmental Protection's Noise Control Regulation 310 CMR 7.1 0 at all boundaries of the property or that exceed the Town of Oak Bluffs noise regulations.
- 5.8 As offered by the Applicant, kitchen exhaust shall occur on the roof of the north elevation facing the parking lot. Given the prevailing wind is from the southwest the effluent shall be generally carried away from residential properties.
- 5.9 As offered by the Applicant, HVAC condensing units and bath exhaust fans shall be located either facing the parking lot or B-1 zoning.

6. Parking Lot and Transportation

- 6.1 As offered by the Applicant, the parking lot shall be exclusively for patrons of the bowling center.
- 6.2 As offered by the Applicant, apartment residents shall be encouraged to park on Hiawatha Avenue.
- 6.3 As offered by the Applicant, employees shall park in the 2 tandem spaces available in the loading area or on the street.
- 6.4 As offered by the Applicant, the Applicant shall purchase V.T.A. bus passes for any year-round employees that agree not to drive to work.

7. Landscaping

- 7.1 As offered by the Applicant, landscaping shall be in accordance with the site plan.
- 7.2 As offered by the Applicant, a final landscaping plan, including an implementation timetable, showing plant species and locations is to be submitted for the review and is subject to the approval of LUPC before construction begins.
- 7.3 As offered by the Applicant, all fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of landscaping.
- 7.4 As offered by the Applicant, all landscaping plans shall use best management practices.
- 7.5 As offered by the Applicant, the detailed landscaping plan shall be in accordance with MVC Site Design and Landscape Policy. The shrubs around the parking lot shall be chosen to offer year-round buffering. The trees shall include a variety of species.

8. Lighting Mitigation

8.1 As offered by the Applicant, a final lighting plan shall be submitted to and is subject to the approval of LUPC before construction begins. It should be based on the following principles:

- The parking lot shall be lit by existing streetlights and ambient lighting from the building.
- There shall be no exterior lighting on the south or west elevations of the building.
- All exterior lighting shall be downward shielded to prevent direct light from escaping the property.
- Exterior lighting shall be limited to that required for safe access to the property entrances, and shall be on timers to ensure that they are turned off during the day as well as turned off during the night when the business is closed.
- Sign Lighting shall be gooseneck type, shielded to prevent glare for drivers.

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.

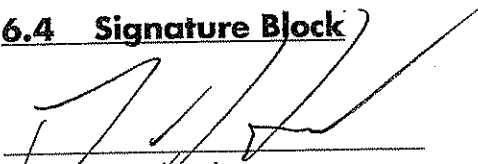
6.2 Notice of Appellate Rights

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 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.

6.4 Signature Block



Fred Hancock, Chairman

3-21-14

Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 26th day of March, 2014, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Fred Hancock, 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 9, 2018

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: March 27, 2014

Deed - Book 1344, page 612
DECIS-00001613