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# Decision of the Martha's Vineyard Commission DRI 651 – Masonic Ave. Historic Demolition

## 1. SUMMARY

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**Referring Board:** Building Inspector, Town of Oak Bluffs, MA

**Subject:** Development of Regional Impact #651  
Masonic Avenue Historic Demolition

**Project:** To be permitted to demolish a 3,049 square foot house built in 1895.

**Owner:** Masonic Avenue Nominee Trust; Matt Viaggio

**Applicant:** Masonic Avenue Nominee Trust; Matt Viaggio

**Applicant Address:** P.O. Box 2038, Vineyard Haven, MA 02568

**Project Location:** 96 Dukes County Avenue and 8 Masonic Avenue, Oak Bluffs Map 11 Lots 193 & 195 (6,098 sf and 12,632 sf = 0.43 acres).

**Description:** To be permitted to demolish a 3,049 square foot house built in 1895. The Applicant has submitted no plans at this time to rebuild or redevelop the property. The building and property was the subject of previous DRI Review (DRI 612) as the Bradley Square project. The house has been known in the past as the Oakland Mission Hall, the Bradley Memorial Church and the Denniston house.

**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 February 2, 2017.

**Written Decision:** This written decision was approved by a vote of the Commission on March 9, 2017.

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

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The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, 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 proposed modification was referred to the Commission on March 9, 2015 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, Sections 3.4 (Demolition in a Commercial District); 8.2i (Demolition of Building Identified as having Historic Significance); and 8.2ii (Demolition of Building over 100 years old). 8.2i is a Mandatory P.H. DRI Review and the project was reviewed as a DRI. The Application was on hold from April 2015 until November 2016 because the Applicant did not file a DRI Application.

### 2.2 Hearings

Notice: Public notice of a public hearing on the Application was published in the MV Times, December 22, 2016.

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 January 5, 2017 and closed on that date.

### 2.3 The Plan

The Applicant filed no plans as part of the application.

### 2.4 Other Exhibits

- E1. Referral to the MVC from the Oak Bluffs Building Inspector on December 8, 2008.
- E2. Staff Report, by Paul Foley (MVC DRI Coordinator) with the assistance of other staff members, January 5, 2017.
- E3. Photographs of the site, taken on March 23, 2015 by MVC staff.
- E4. Letter from Kent Healy, a civil engineer, who looked at the building on April 9, 2015 and said *"the building is in poor condition and to make it habitable would require a new foundation, reconstruction of the first and second floor framing, a new roof and complete replacement of the plumbing, heating and electrical systems including the septic system. Although the building is not about to collapse, there is very little of that building that could be used in reconstruction"*.
- E5. Letter from Alan Schweikert of Ocean Park Realty who wrote on behalf of the Applicant that *"After promoting the property ... through our marketing efforts in the New York Times, Vineyard Gazette, Boston Globe, and MV Times, just to mention a few mediums, we received hardly any interest. The few people who did look at it felt that the structure required too much work to renovate for any practical purpose...I can only imagine that the property has further deteriorated ..."*.
- E6. Letter from Barbara Baskin who wrote opposed to the demolition. She points out that *"People come and go. This is about a building that has outlasted people, had good bones because it still stands, a sentinel bravely holding onto the history that occurred within it. Can it be fixed and made healthy again – the Affordable Housing folks thought so and not so very long ago... West Tisbury,*

*for example put their foot down to preserve the Old Parsonage which was in very poor condition and a financial burden for the owners. Instead of being demolished, it was sold."*

- E7. Letter from Leah Brown has written in support of the demolition. She notes that Mr. Viaggio was very cooperative when she proposed acquiring and moving the building and when she assembled "a working committee of interested parties to raise funds to move the building to a designated lot on New York Avenue; we met with several qualified contractors to vet the project. All had declared the moving of the building, as a whole or in parts, was too high of a risk for injury or harm to other property and utilities. No contractor would take on the project at any price!" She adds that she is in support of "erecting a plaque that truly reflects the honorable memory the Bradley Church and Dennison family deserves".
- E8. Letter from Kelly Brilliant has written with enthusiastic support of the plan to demolish the building. She says that she is "looking forward to my neighborhood retaining and enhancing its original character and identity as part of the 'Arts District' in Oak Bluffs, and I look forward to being a part of the efforts to upgrade and enhance the neighborhood". The building in her "opinion should be torn down as it may soon pose a rodent, skunk, or general public health and public safety issue...".
- E9. Letter from Sandra Carney has written in support of the demolition. She says she has "done everything to support the preservation of this building, but I also know when it's time to give up! It's time. We have been looking at this run-down building for far too long".
- E10. Minutes of the Commission's Land Use Planning Committee meeting, March 23, 2015.
- E11. Minutes of the Commission's Land Use Planning Committee meeting, November 28, 2016.
- E12. Minutes of the Commission's Public Hearing, January 5, 2017.
- E13. Minutes of the Commission Meeting of February 2, 2017 – Deliberations and Decision.
- E14. Minutes of the Commission Meeting of March 9, 2017 – 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 Matt Viaggio.
- Staff reports by Paul Foley, MVC DRI coordinator.
- Letters from the following citizens of Martha's Vineyard.
- Oral testimony from Town Boards or members of Town Boards: Pam Melrose, Chairman of the Oak Bluffs Historic Commission.
- Oral testimony from Public: Pat Tankard; Ewell Hopkins; David Diriwachter; Thad Harshbarger; Renee Balter; Brian Packish; and Amy Billings.

## **3. FINDINGS**

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### **3.1 Project History**

- The Building was built in 1895 as a Mission to help Portuguese immigrants assimilate into American society.
- In the 1920's the building became the Bradley Memorial Church, reputedly the first primarily African-American Church on the Island. The Reverend Denniston lived upstairs with his family of five children.

- The Massachusetts Historical Commission (MHC) Massachusetts Cultural Resource Information System (MACRIS) page includes two Form B Surveys (1979 & 1999) assessing the historic significance of the building with two essays on the history of the building. The 1979 Form B recommended the building for listing in the National Register of Historic Places as a contributing structure to a potential African-American Historic District.
- The 1999-2000 MHC MACRIS Update lists the building as also eligible individually due to the Reverends Bradley work with Portuguese immigrants in the Oakland Mission Hall.
- The building has been largely abandoned for several decades.
- The property was two lots that were purchased on June 29, 2007 for \$407,250 and \$497,750 for a total of \$905,000 by the Island Affordable Housing Fund, Inc (IAHF).
- IAHF proposed the Bradley Square Project (DRI 612) which was reviewed by the MVC and approved with conditions in 2008. The project was then revised somewhat and approved with conditions in March 2009.
- In 2010 the owners, IAHF, ran into financial trouble, could not develop the project as planned, and applied for a demolition permit.
- The Building was designated as “preferably preserved” by the Oak Bluffs Historical Commission on December 8, 2010 beginning a six-month demolition delay which was referred to the MVC for DRI review and subsequently withdrawn.
- The property was auctioned off by the M.V. Savings Bank on August 3, 2011 for \$495,000.
- The Applicant testified that it took three years to obtain a clear title to the property.
- The proposal is whether the applicant should be permitted to demolish the 3,049 square foot house built in 1895.
- The Applicant has said that the building is in such poor condition that it would cost too much to restore.
- There are no replacement plans.

### **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.

### **3.3 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 DEMOLITION 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 demolition at this location is appropriate in view of the available alternatives (Section 15(a) of the Act.)**

The Commission finds that the property has not been occupied for many years, is in poor structural condition and testimony was taken that the building could not be moved.

**A2 The Commission finds that the proposed demolition 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 it is not applicable. The Commission notes that the proposed demolition will not affect the wastewater and groundwater and that the property has not been occupied in many years

With respect to Open Space, Natural Community and Habitat, the Commission finds that without a replacement plan the impact is neutral.

With respect to Night Lighting and Noise, and Energy and Sustainability, the Commission finds that without a replacement plan the proposal will have no impact.

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

With respect to Traffic and Transportation, the Commission finds that without a replacement plan short term impact of replacing an empty building with an empty lot will have no impact. The Commission notes that any future proposal that would have regional impact would return to the Commission for DRI Review.

With respect to Scenic Values, Character, and Identity, the Commission finds that the building, which sits on a distinctive lot on the corner of Masonic and Dukes County Avenues, is historical and did provide numerous services to the town and island in the past but has long been in a neglected condition. The character and identity will physically change somewhat as the building is taken down. The Commission notes that the Applicant has offered to place a monument of some nature on the site in remembrance of the historic activities that occurred there.

With respect to the Impact on Abutters, the Commission finds that there should be a positive effect on abutting properties as the building has not been maintained for many years and will be removed.

**A4 The Commission finds that the proposed demolition 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 concerns the demolition of a building that has not been occupied for a long time. The Commission finds that there is no redevelopment plan offered so the demolition will have no impact on low and moderate income persons or families.

**A5 The Commission finds that the proposed demolition would have no 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 there should be no impact on taxpayers. The Commission notes that the building was offered to the Town but was not accepted.

**A6 The Commission finds that the proposed demolition 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).**

The Commission finds that the demolition will have no impact on public facilities.

**A7 The Commission finds that the proposed demolition 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 demolition 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 proposal and the testimony presented by the Applicant and others, and the addition of condition, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) of the Act.

**B. THE COMMISSION FINDS THAT THE PROPOSED DEMOLITION 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.**

**C. THE COMMISSION FINDS THAT THE PROPOSED DEMOLITION 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 site is not located within any District of Critical Planning Concern (DCPC).

## 4. DECISION

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The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on February 2, 2017 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 February 2, 2017.

- **Voting in favor: G. Barmakian, T. Barnes, C. Brown, R. Doyle, J. Malkin, K. Newman, B. Robinson, D. Sederholm, L. Sibley, E. Thomas, R. Toole, J. Vercruysse. Abstentions: none. The motion passed.**
- **Voting against: F. Hancock**
- **Abstentions: None**

Based on this vote, the Commission approved the demolition 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 February 2, 2017 and was approved by vote of the Commission on March 9, 2017.

## 5. CONDITIONS

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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 Towns attorney's fees and costs incurred in obtaining judicial relief.

### 1 **Commemorative Plaque:**

- 1.1 The Applicant shall create and install a commemorative plaque which memorializes the historical uses of this site and building as a Portuguese immigration mission and then as an African-American church. The commemorative plaque shall be similar to and consistent with the standards of the African-American Heritage Trail plaques and shall be located in a manner easily visible to the public. The commemorative plaque shall be installed within two years of the demolition of the building. Upon completion of this section the DRI referral will cease. Should future development trigger any section of the DRI standards, the applicant or future owner of this parcel will make application for DRI consideration and approval.

## **6. CONCLUSION**

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### **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 demolition or other permits which may be required by law.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for demolition 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 complete the approved demolition. Should the demolition 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.



**6.3 Signature Block**

Robert Doyle  
Robert Doyle, Vice Chairman

3/16/17  
Date

**6.4 Notarization of Decision**

Commonwealth of Massachusetts  
County of Dukes County, Mass.

On this 16th day of March, 2017, before me,  
Jo-Ann Taylor, the undersigned Notary Public, personally  
appeared Robert Doyle, 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

**6.5 Filing of Decision**

Filed at the Dukes County Registry of Deeds, Edgartown, on: March 21, 2017  
Deed – Book 1434, page 123  
Decis 00001984