

Date: July 19, 2001
To: Zoning Board of Appeals, Town of Tisbury
From: Martha's Vineyard Commission
Subject: Development of Regional Impact
re: commercial development
Applicant: Carroll's Real Estate Trust
Post Office Box 1656
Vineyard Haven, MA 02568

Decision of the Martha's Vineyard Commission
Summary

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the granting of permits for the Application of Carroll's Real Estate Trust, Post Office Box 1656, Vineyard Haven, MA 02568, for the construction of improvements to a building and site located on the Edgartown-Vineyard Haven Road at Carroll's Way, as shown on the plan entitled: "Existing Site Plan and Proposal, Carroll's Realty Trust, M19-A-20, 475 Edgartown Road, Vineyard Haven, Terrain Associates, Architects, Landscape Design, Construction Management, 24 Look Street, Post Office Box 4512, Vineyard Haven, MA, 02568, Scale: 1" = 50', dated 12/04/00, revised 06/06/01, Drawing Number L.1," consisting of one (1) sheet; plus "Existing Conditions Front, Carroll's Realty Trust, M19-A-20, 475 Edgartown Road, Vineyard Haven, MA 02568, Terrain Associates, Architects, Landscape Design, Construction Management, 24 Look Street, Post Office Box 4512, Vineyard Haven, MA 02568, Scale: 1" = 10', dated 12/04/00, Drawing Number L.2," consisting of one (1) sheet; plus "Proposed Planting Fence and Front Elevation, Carroll's Realty Trust, M19-A-20, 475 Edgartown Road, Vineyard Haven, MA 02568, Architects, Landscape Design, Construction Management, 24 Look Street, Post Office Box 4512, Vineyard Haven, MA 02568, scale unknown, date unknown, Drawing Number L.3," consisting of one (1) sheet; plus "A Drainage Plan in Tisbury, Mass., for Carroll's Real Estate Trust, scale: 1" = 50', January 15, 2001, Smith and Dowling, Engineers – Surveyors –

Planners, 455 State Road, Post Office Box 2083, Vineyard Haven, MA 02568, Job No. 3932.2,” consisting of one (1) sheet; plus a second copy of “Drawing Number L.1,” indicated “Proposed Improvements” and “Completed Improvements as of December 2000,” and a panoramic photo mosaic, consisting of one (1) sheet; and totaling five (5) sheets (the Plan).

This Decision is rendered pursuant to the vote of the Commission on July 19, 2001.

The Martha’s Vineyard Commission wishes to make it perfectly clear to the Applicant and the Zoning Board of Appeals that nothing in this Decision should be construed as approving any or all of the unpermitted uses currently on the site. The Commission leaves that decision with the Zoning Board of Appeals, where it rightfully belongs.

The Zoning Board of Appeals of the Town of Tisbury may now grant the necessary development permits for the Applicant’s proposal in accordance with the conditions contained herein, or may approve in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may disapprove the development Application.

Facts

The proposed development is a Development of Regional Impact as defined by the Commission’s Standards and Criteria, Developments of Regional Impact, Section 3.301(c). The Applicant was referred to the Commission by the Zoning Board of Appeals of the Town of Tisbury for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act). The Application and notice of public hearing relative thereto are incorporated into the record herein. Martha’s Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, March 1, 2001, at 7:30 p.m. in the Commission Offices, Olde Stone Building, 33 New York Avenue, Oak Bluffs, Mass. The hearing was continued to June 7, 2001.

A duly noticed continued public hearing on the Application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831, on Thursday, June 7, 2001, at 7:30 p.m. in the Commission Offices, Olde

Stone Building, 33 New York Avenue, Oak Bluffs, Mass. The hearing was closed the same night.

The proposal is for improvements to an existing building and site.

A summary of the testimony provided at the hearing is provided as Exhibit A attached hereto. The hearing summary is for the convenience of the reader and was not relied upon by the Commission in reaching its Decision on this matter.

Findings and Conditions

The Commission has considered the Application and the information presented at the public hearing and based upon such consideration makes the following findings pursuant to Section 14 of the Act.

- A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(A) OF THE ACT).**

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.”

The Commission has listened to all the testimony presented and has reviewed all documents and correspondence submitted during the hearing and review period and

1. Based upon the record and the testimony presented therein and in considering whether the development will favorably or adversely affect other persons and property, the Commission sets the following conditions (Section 15(c) of the Act):

- a. **That the Applicant shall immediately cease all uses noted in the letter dated March 13, 2000 to the Applicant from the Building Inspector/Zoning Enforcement Officer of the Town of Tisbury, including the following:**

1. **removal of sixty-eight (68) of the sixty-nine (69) unregistered motor vehicles stored outside;**
2. **removal of the unregistered school bus, mobile home/camper stored outside;**
3. **dismantling of and removal of the “old loading dock” located on the southerly side of the property;**

4. **discontinue the staging and parking of trailers and other vehicles within two hundred (200) feet of Edgartown-Vineyard Haven Road;**
 5. **discontinued use and removal of soda/ice machine outside of building;**
 6. **discontinued use of and removal of internally illuminated advertising sign;**
 7. **removal of business materials of Messrs. Shay and Sonia from site; and**
 8. **removal of overnight United Parcel Service box on Carroll's Way.**
- b. **That the Applicant shall immediately apply for any and all special permit considerations from the Zoning Board of Appeals for any existing uses that have not received the appropriate permits or for any planned or future expansions, in accordance with the above-cited letter, and should the Zoning Board of Appeals determine that any of the existing, as yet unpermitted uses or activities would qualify individually or collectively for DRI review, then said Application should be referred back to the MVC for consideration.**
- c. **That the Applicant shall immediately take steps to commence the improvements cited in the Applicant's presentation of March 1, 2001, which included:**
1. **the construction of a new fence along the Edgartown-Vineyard Haven Road;**
 2. **new landscaping in front of said new fence;**
 3. **new wooden façade on the main metal building on the site;**
 4. **construction of a new covered entry with sheltered porch for main building;**
 5. **construction of and continuation of existing fence along property line with Island Elderly Housing complex;**
 6. **construction of new fence and additional landscaping at rear corner of site nearest a neighbor's house;**
 7. **new drainage system of dry wells for those areas where drainage issues are severe; and**
 8. **installation of screening consisting of landscaping and berming along Carroll's Way.**
- d. **That the Applicant shall provide to the Commission an as-built plan no more than twelve (12) months from the date of this Decision, indicating the status of the clean-up and**

depicting all of the improvements proposed and made by the Applicant.

- e. That the Commission shall inspect the site upon receipt of the as-built plans and may require additional screening, landscaping and clean-up/improvement of the site prior to the issuance of a Certificate of Compliance.

- B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.

- C. THE COMMISSION FINDS THE DEVELOPMENT PROPOSAL TO BE GENERALLY CONSISTENT WITH THE DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF TISBURY BUT DOES NOTE THAT THE APPLICANT SHALL NEED TO SECURE SPECIAL PERMITS FOR THOSE ACTIVITIES FOR WHICH NO PERMIT WAS EVER ISSUED.

- D. THE COMMISSION IS COGNIZANT OF THE FACT THAT A PORTION OF THE PROPERTY LIES WITHIN THE ISLAND ROAD DISTRICT BUT THAT THE PROPOSED DEVELOPMENT CONTAINED WITHIN THE APPLICATION IS CONSISTENT WITH THE REGULATIONS OF THAT DISTRICT. THE COMMISSION IS ALSO COGNIZANT OF THE INCONSISTENCIES PRESENTLY ON THE SITE WITH RESPECT TO THE DCPC REGULATIONS OF THE TOWN OF TISBURY BUT THAT THOSE CAN BE ELIMINATED BY COMPLIANCE WITH THE DIRECTIVES FROM THE BUILDING INSPECTOR OF THE TOWN OF TISBURY.

The Applicant must, consistent with this Decision, apply to appropriate Town of Tisbury Officers and Boards for any other development permits which may be required by law.

This Decision is written consistent with the vote of the Commission: July 19, 2001.

The Martha's Vineyard Commission wishes to make it perfectly clear to the Applicant and the Zoning Board of Appeals that nothing in this Decision should be construed as approving any or all of the unpermitted uses currently on the site. The Commission leaves that decision with the Zoning Board of Appeals, where it rightfully belongs.

Any Applicant aggrieved by a Decision of the Staff or Committee hereunder may appeal to the full Martha's Vineyard Commission, which shall decide such Appeal, after notice and hearing, within twenty-one (21) days of the close of public hearing.

The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited herein.

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 Town Clerk in the Town in which the proposed development is located.

The Applicant shall have two (2) years from the date of the receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction, and should substantial construction not occur during said two (2) year period, then 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.

Chairman

Date

Notary

Date