

September 29, 2023

FILE NO: 099333.4

Via E-Mail

Richard Saltzberg
DRI Coordinator
Martha's Vineyard Commission
P.O. Box 1447
Oak Bluffs, MA 02557
saltzberg@mvcommission.org

Re: Flat Point Farm (DRI 34-M5)

Dear Mr. Saltzberg:

We represent Monomoy Farm LLC, which is the owner of 85 Tiah's Cove Road (Parcel 31-69). Our client's property abuts the land subject to the Flat Point Farm proposal. Accordingly, our client is "party in interest" under the MGL c. 40A, Section 11.

By letter dated July 12, 2023, the West Tisbury Planning Board referred this project to the Martha's Vineyard Commission under criteria 1.3.D of the DRI Checklist as a Modification to a previous DRI. That classification allows for a potentially truncated/deferential review process. However, it does not apply to expired plans. The MVC's DRI decision for the Flat Point Farm was recorded in July 2018, and expired per its terms absent a written extension. We have not located a written extension online.

Moreover, regardless of the 2018 decision, this project should be fully vetted in its current iteration by the MVC and the public. To apparently evade the regulatory requirements associated with larger projects, this application has been segmented into a Form A (related to 8 lots) and a Form C (related to the remaining lots). In fact, the project comprises a 14 lot subdivision, with 13 buildable/built lots. That is an increase of 7 buildable/built lots over the status quo. Compare Exhibits 1 (existing configuration) and 2 (proposed configuration) attached hereto. Accordingly, this project should have been referred under DRI Checklist criteria 2.3.d as a Division of Land 30+ acres, 5+ parcels. That classification requires mandatory public hearings. Given its scope and the amount of time that has lapsed (over 5 years), new public hearings are certainly warranted.

As a result, we respectfully request that you reclassify the referral pursuant to DRI Procedures 3.3, and notice and conduct public hearings.

While we continue to evaluate the new plans submitted to the MVC just yesterday afternoon, we expect to present evidence at these public hearings that the ANR lots are invalid and improper under MGL c. 41, Section 81L. In addition, the Definitive Subdivision Plan fails to comply with various provisions of West Tisbury's Subdivision Regulations for projects involving more than 10 lots. Finally, all of the new lots lack "vital" and "adequate" access over the northern portion of the Road to Great Neck as required by Massachusetts law. Perry v. Planning Bd. of Nantucket, 15 Mass. App. Ct. 144, 151-152 (1983) and MGL c. 41, Section 81M.

We have raised all of these issues with counsel for the applicant and tried to reach an appropriate resolution with him, but have received no substantive response to date.

Thank you for your courtesy and attention to this matter.

Sincerely,



Christopher J. Cunio

CJC:mcb

cc: Eric Peters, Esq.