1. **DESCRIPTION**

1.1 **Owner:** Island Elderly Housing, Inc.

1.2 **Applicants:** Island Elderly Housing, Inc. (sponsor) and Aidylberg III, Inc. (Peter Freeman, agent)

1.3 **Project Location:** 38 Wing Road (Map 17, Lot 105), Oak Bluffs (0.83 acres)

1.4 **Proposal:** Demolition of a house listed in MACRIS (retroactive), and construction of five age-restricted affordable rental units.

1.5 **Zoning:** The property is located in the Residential 2 (R2) District.

1.6 **Local Permits:** The applicant has applied for a comprehensive permit under Chapter 40B, including waivers in regard to Oak Bluffs Zoning Bylaw sections 3.1 (Principal Uses) and 4.2.4 (More than One Dwelling on One Lot). The MA Department of Housing and Community Development (the subsidizing agency for the project) issued a Project Eligibility Letter in August 2021.

1.7 **Surrounding Land Uses:** Other residential uses in the R2 and R2 Districts.

1.8 **Project History:** The MVC reviewed Aidylberg 2 (DRI 569) in 2003, allowing for the construction of five units of elderly housing under the provisions of Chapter 40B. Aidylberg 1 also included five units. The approval for Aidylberg 2 was extended to September 2007 and both Aidylberg 1 and 2 (4,275 ft² and 4,578 ft², respectively) were completed in 2006.

Prior to the DRI 569 review, former property owner Marguerite Bergstrom subdivided her property on Wing Road, retaining one lot for her house, and gifting two other lots to Island Elderly Housing (IEH) for the purpose of providing elder housing. She retained the right to live in her house until her death, after which that lot would also be given to IEH. Bergstrom died in 2003, and the house was last occupied in 2015.

The former 1.5-story, three-bedroom, 1,200 ft² house was constructed around 1900 and is listed in the Massachusetts Cultural Resource Information System (MACRIS). The MACRIS report from 1979 (prepared by the Oak Bluffs Historical Survey) describes the style of the house as wood-frame construction, with unpainted shingles, gable dormers, a side addition, and covered front porch. The report states that the house “is significant as part of the continued expansion of Cottage City (Oak Bluffs) as a resort and year-round community.”

The Oak Bluffs Building Department issued a demolition permit for the house in October 2019 without referring the project to the MVC. The permit would have expired in November 2020, but local permits were tolled during the MA Covid state of emergency. The Building Department stated in July that it had informed IEH in early 2021 that the project required MVC review, but the house was demolished in May without being referred. The applicant has indicated there may have been some confusion in 2019, since Version 13 of the DRI Checklist, which was in place at the time,
included a threshold of 1900 for demolitions. However, Version 13 of the Checklist also required mandatory review for buildings listed in MACRIS.

IEH had originally pursued a special permit for Aidylberg 3, but withdrew its application in April 2021, in favor of a comprehensive permit under Chapter 40B. The comprehensive permit application was submitted in September 2021. The present applicants are Aidylberg III Inc. (a separate nonprofit that will also own and build the project); and IEH, which is acting as the project sponsor and will provide support and services for Aidylberg 3.

1.9  **Project Summary:** The proposal is to demolish (retroactively) the house at 38 Wing Road, along with a garage and outbuildings, and construct phase three of the Aidylberg elder housing project. The project will include a single L-shaped building with five one-bedroom units of age-restricted rental housing affordable to households earning up to 80% of the Area Median Income. Each unit, as well as a community room and laundry room, will be located on the ground floor. The building will include attic space and a small basement, both of which will be used for mechanical/HVAC, electrical, and plumbing equipment, along with fire suppression equipment and pipes.

The proposed building will have a footprint of 6,809 ft², with 14,964 ft² of parking and paved area, and 14,409 ft² of open (grass) area, amounting to 19%, 41%, and 41% of the lot size, respectively. Aidylberg 1 and 2, which are located on separate lots, each include five units, so the total number of units in the development will increase from 10 to 15. The total number of parking spaces will increase from 13 to 18 (a reduction of five spaces from the previous plan).

2.  **ADMINISTRATIVE SUMMARY**

2.1  **DRI Referral:** Oak Bluffs Zoning Board of Appeals, October 12, 2021

2.2  **DRI Triggers:** 8.1a (Demolition of a building listed in MACRIS)

2.3  **LUPC:** January 31, 2022

2.4  **Public Hearing:** Not yet scheduled

2.5  **Application Fee:** IEH has requested a waiver of the DRI application fee, since it is a registered nonprofit.

3.  **PLANNING CONCERNS**

    **General comment:** Commissioners at the public hearing on April 7, 2022, raised concerns about the design of the new building, including space efficiency (the ratio of total square footage to living space); the location of hallways and porches in regard to impacts on lighting, ventilation, and privacy in the living spaces; the proposed exterior materials and their environmental impacts; and the unused attic space which would add to the massing of the building and increase energy use. A mid-hearing LUPC meeting was held on April 19 to address those concerns, but the applicant has decided to move forward with the plans as proposed.

3.1  **Water and Wastewater:** The property is located within the Farm Pond and Oak Bluffs Harbor watersheds, both of which are impaired. The Oak Bluffs Board of Health has approved plans for a NitROE Innovative/Advanced (I/A) system capable of handling 1,500 gallons per day. An existing cesspool will be abandoned and filled in.
Staff has confirmed that project is exempt from Checklist item 4.1 (Multiple Residential Units – with concurrence), since the dwellings will be deed restricted and the project will include an Innovative/Advanced septic system with nitrogen reduction performance equal to that of the Town sewer.

3.2 **Stormwater and Drainage:** A drainage plan designed for a 25-year storm shows 24 StormTech storage chamber units in two clusters on the property, as well as a new catch basin south of the proposed building.

3.3 **Island Housing Needs:** The project will create five additional units of age-restricted affordable housing at the Aidylberg development, bringing the total to 15. IEH currently has four elder-housing developments, at Hillside Village and Love House in Tisbury, and Woodside Village and Aidylberg Village in Oak Bluffs, and there are about 500 people on the waitlist. (See Economic Development and Affordable Housing staff review below.)

See general comment above.

3.4 **Energy:** The applicant plans to meet or exceed International Energy Conservation Code (IECC) standards for the building envelope, and to install Energy Star compliant propane air conditioning units. The applicant has argued that electric heat pumps do not work as well in cold weather, but is willing to use heat pumps if required by the MVC. (Documentation as to the ineffectiveness of heat pumps in cold weather was not provided.) The comprehensive permit application states that there will be no dishwashers in any of the kitchen units or common areas, and only one washing machine and dryer for the development, which will reduce energy consumption. Daylighting of building corridors and motion sensors will also reduce lighting needs and energy use. The applicant has stated that there would be room in the roof structure for solar equipment, but there are currently no plans to install rooftop solar panels.

See general comment above.

3.5 **Traffic and Transportation:** The project will utilize existing access via Aidylberg Way, and will include five new parking spaces (one per unit). Aidylberg 1 and 2 currently have a total of 13 spaces. A traffic analysis has not been conducted. The property is located on the VTA bus line. The applicant has indicated a willingness to work with the MVC and town to reduce the proposed number of parking spaces, although Oak Bluffs bylaw 7.3.12 (under Flexible Development) requires two spaces per unit.

3.6 **Character and Identity:** The applicant has stated that the cost of restoring the former house rather than demolishing, was extremely high and would only have created up to two elder housing units compared to the five proposed. The applicant has not provided documentation as to the cost of renovation versus demolition. No portions of the house were salvaged.

The proposed development will be highly visible from Wing Road, with minimal vegetative screening. The proposed building will be 27’4” at the highest ridge Elevations. Elevations and a rendering have been provided.
See general comment above.

3.7 **Economic Development:** The applicant does not expect any increase in the number of employees as result of the project. A financial pro forma for the project, submitted as part of the comprehensive permit application, has been provided.

3.8 **Lighting and Landscape:** An earlier lighting plan (when 10 parking spaces were proposed rather than five) showed pole-mounted lighting at four locations in the parking lot, with porch lighting or decorative sconces at 32 locations around the building. The applicant has stated that the fixtures will be Dark-Sky compliant, and the applicant’s architect has stated that the pole lighting can be programmed to not shine toward neighboring properties. Fixture types and spec sheets have been provided. A conceptual landscape plan with proposed species has been provided.

**Staff review: Economic Development and Affordable Housing**

**Economic Development:**

- The proposed project is a Chapter 40B Comprehensive Permit to develop 5 rental units of residential elder housing by Island Elderly Housing. All five rental units will be income restricted at 80% or less of the Area Median Income in perpetuity to be counted on the Massachusetts Department of Housing & Community Development’s (DHCD) Subsidized Housing Inventory (SHI) for Oak Bluffs.
- As part of the Comprehensive Permit Application, the applicant has submitted a financial proforma which estimates the overall cost of the project at $2,321,500.
- The applicant does not anticipate the need for additional staff for the new building.
- The project will be on town water and will have an I/A septic system at the applicant’s expense.
- It is anticipated that there will be a minimal impact to municipal services such as police and fire because the development is in a densely developed residential area.
  - The building development will be up to building code, including fire and safety requirements.
  - The project is age restricted and consists of five one-bedroom apartments; therefore, there will be no school age children or any impact to the schools.
- The property’s FY 2022 assessed valuation is $424,500. There are no taxes paid to the town because IEH is a non-profit. However, IEH paid $283 for 38 Wing Road as a payment in lieu of taxes (PILOT) to Oak Bluffs.
- The development of the proposed project will create new temporary jobs in the professional services and construction industry sectors.

**Affordable Housing:**

- The Island’s need for Affordable Housing, particularly elder housing, is well documented and it should be noted that IEH has a waitlist of over 500 individuals.
- IEH is proposing to develop five one-bedroom rental units for elder housing through the Chapter 40B Comprehensive Permit Act, which allows developers to supersede local zoning if a town has not meet the state’s Affordable Housing goals to designate 10% of its year-round housing stock for Affordable Housing. According to DHCD’s website, Oak Bluffs has a 5.5% threshold with 117 units listed on the state’s Subsidized Housing Inventory.
  - Even though the MVC must approve DRI projects that meet local zoning, the MVC’s enabling legislation Chapter 831 Section 14(c) allows the possibility of a DRI approval even if the development were inconsistent with local zoning provided “the inconsistency is necessary to
enable a substantial segment of the population of a larger community of which the municipality is a part to secure adequate opportunities for housing, education, or recreation …”

- All five rental units will be income restricted at 80% or less of the Area Median Income in perpetuity to be counted on the Massachusetts Department of Housing & Community Development’s (DHCD) Subsidized Housing Inventory (SHI) for Oak Bluffs.
- The project will comply with all Affirmative Fair Housing Laws.
- All Affordable Housing recipients will be income qualified at 80% or less of the Area Median Income
  - The proforma indicated a monthly rent of $1,762, which exceeds DHCD’s 80% AMI rent at $1,585 for a one-bedroom apartment.
- All Affordable Housing units will meet universal design standards to allow residents to age in place
- The proposed project exceeds the MVC’s DRI Housing Policy.