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Decision of the Martha's Vineyard Commission

DRI 614-M7 Harbor View Hotel Modifications

1. SUMMARY

<u>Referring Board:</u>	Zoning Board of Appeals, Town of Edgartown
<u>Subject:</u>	Development of Regional Impact #614-M7 Harbor View Hotel Modifications
<u>Project:</u>	Relocation and expansion of proposed spa, expansion of proposed Bradley Cottage, and reconfiguration of the number of rooms per building (net number of rooms remains the same).
<u>Owner:</u>	Harbor View Hotel Owner LLC
<u>Applicant:</u>	Marilyn Vukota, Agent
<u>Applicant Address:</u>	P.O. Box 1239 Edgartown, MA 02539
<u>Deed:</u>	Book 1458, Page 46
<u>Previous Decision:</u>	Book 475, Page 272
<u>Project Location:</u>	131 North Water Street, Edgartown. Map 20B, Lot 107.
<u>Decision:</u>	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, 2021.
<u>Written Decision:</u>	This written decision was approved by a vote of the Commission on August 26, 2021.

The permit-granting authorities of the Town of Edgartown 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 the 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. This decision incorporates offers and conditions from previous modifications and is now the definitive summation of all offers and conditions for DRI 614.

2.1 Referral

The project was referred to the Commission on September 15, 2020 by the Zoning Board of Appeals of the Town of Edgartown, 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, DRI Checklist Item 1.2 - Modification to a Previous DRI. The Applicant opted to proceed with a public hearing review as a Development of Regional Impact at the MVC meeting on November 5, 2020.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on November 19 and 26, 2020; notice was also published in the Vineyard Gazette on November 20 and 27, 2020. Abutters within 300 feet of the property were notified by mail on November 13, 2021.

Hearings: The Commission held a duly noticed public hearing on the Application that was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on December 3, 2020, which was opened and continued at the request of the Applicant without testimony to January 7, 2021. The hearing was then continued at the request of the Applicant without testimony again to January 21, 2021. The January 21 hearing was continued to February 11, and then to April 29 and then to May 6, 2021, and closed at that time with the exception of the written record which was left open until 4:30 pm on May 20, 2021 and closed at that time. The hearings were held entirely using remote conference technology as allowable under Chapter 53 of the Acts of 2020, and Chapter 20 of the Acts of 2021.

2.3 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan." All pages are 8.5" x 11" unless otherwise noted.

- P1. Bradley Cottage Floor Plans prepared by Niemitz Design Group, Inc. for the Harborview Hotel Bradley Cottage in Edgartown, MA consisting of three (3) 36" x 24" pages, including ID-1.40 Lower Level Furniture Plan; ID-1.41 First Floor Furniture Plan; and ID-1.41 Second Floor Furniture Plan, scale ¼" = 1'-0", dated July 21, 2020 and updated on July 29, 2020.
- P2. Bradley Cottage Exterior Elevations prepared by Niemitz Design Group, Inc. for the Harborview Hotel Bradley Cottage in Edgartown, MA consisting of two (2) 36" x 24" pages, including ID-3.1

North & East Elevations; and ID-3.2 South & West Elevations, scale $\frac{1}{4}'' = 1'-0''$, dated July 29, 2020, and updated on August 26 & 27, 2020.

- P3. Exterior Rendering of the Bradley Cottage North Elevation prepared by Niemitz Design Group, Inc. for the Harbor View Hotel, consisting of one (1) 17" x 11" page, not to scale, dated August 2020.
- P4. Applicant Presentation consisting of ten (10) pages consisting of a site plan showing spa location approved in 2018 vs. proposed in 2021, aerial photograph of the site, floor plans of Bradley Cottage existing and proposed, elevations of south, east, and west, spa basement plan and spa ground story plan, received by the MVC on February 10, 2021.
- P5. Applicant presentation consisting of two (2) pages consisting of the 2018 Approved Master Plan and the 2021 Proposed Changes to the Master Plan, received by the MVC on May 6, 2021.

Previous Plans Referenced by this Proposed Modification

- P6. Snow Cottage Floor Plans & Elevations prepared by Beacon Architectural Associates, consisting of seven (7) 17" x 11" pages scaled to $\frac{1}{8}'' = 1'-0''$ dated August 11, 2017, including: A-100 Existing Basement Floor Plan; A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; A-103 Proposed Third Floor Plan; A-104 Proposed Roof Plan; A-302 Proposed Front Elevation; and A-302 Proposed Side Elevation.
- P7. Pease Cottage Floor Plans & Elevations prepared by Beacon Architectural Associates, consisting of six (6) 17" x 11" pages scaled to $\frac{1}{8}'' = 1'-0''$ dated August 11, 2017, including: A-100 Proposed Basement Plan; A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; A-103 Proposed Third Floor Plan; A-104 Proposed Roof Plan; and A-301 Proposed Elevations.
- P8. Morse Cottage Floor Plans & Elevations prepared by Beacon Architectural Associates, consisting of six (6) 17" x 11" pages scaled to $\frac{1}{8}'' = 1'-0''$ dated August 11, 2017, including: A-100 Proposed Basement Plan; A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; A-103 Proposed Third Floor Plan; A-104 Proposed Roof Plan; and A-301 Proposed Elevations.
- P9. Main Building Floor Plans prepared by Beacon Architectural Associates for the Harbor View Hotel, consisting of four (4) 42" x 30" pages scaled to $\frac{1}{8}'' = 1'-0''$ dated April 18, 2019, including: A-101 Proposed Hotel First Floor Plan; A-102 Proposed Hotel Second Floor Plan; A-103 Proposed Hotel Third Floor Plan; and A-104 Proposed Hotel 4th Floor Plan.
- P10. "Gov. Mayhew Cottage Renovations & Repairs" prepared by Beacon Architectural Associates for the Harbor View Hotel Phase 2, consisting of fifteen (15) 36" x 24" pages dated June 7, 2019 with final updates on February 21, 2020, including X-001 Title Page; X-002 Abbreviations & General Notes; X-003 Code Review; A-101 Proposed Mayhew First & Second Plans, scale $\frac{1}{8}'' = 1'-0''$; A-102 Proposed Mayhew Third Floor Plan, scale $\frac{1}{8}'' = 1'-0''$; A-103 Proposed Mayhew Attic Plan, scale $\frac{1}{8}'' = 1'-0''$; A-401 Mayhew Cottage Section, scale $\frac{1}{4}'' = 1'-0''$; A-402 Enlarged Plans and Accessibility Details, varying scales; A-403 Mayhew Cottage Partition Types and

Specs, scale $\frac{1}{2}'' = 1'-0''$; A-404 Mayhew Cottage Stair 104 Section, varying scales; A-405 Mayhew Cottage Stair 101 Section, scale $\frac{3}{8}'' = 1'-0''$; A-701 Window and Door Elevations and Details, varying scales; A-702 Mayhew Door Schedule and Elevations; and A-703 Mayhew Finish Schedule and Elevations and Specs, varying scales.

2.4 Other Exhibits

- E1. Referral to the MVC from the Edgartown Zoning Board of Appeals including the ZBA Application, received September 15, 2020.
- E2. Staff Report dated October 26, 2020; and updated on November 5, 2020; January 20, 2021; April 28, 2021; and May 20, 2021.
- E3. Staff Presentation for the MVC dated November 5, 2020; and updated on January 21, 2021, and May 6, 2021.
- E4. Traffic Impact Statement prepared by Ron Müller & Associates, consisting of six (6) pages, dated January 20, 2021.
- E5. Memorandum of Law of the Neighbors of the Harbor View Hotel, in Opposition to the Proposed Harbor View Modifications, submitted by Dylan Sanders, consisting of two hundred thirty-five (235) pages, dated January 20, 2021.
- E6. Memo from the Applicant - Spa Services Narrative, consisting of three (3) pages, dated January 19, 2021, and revised to consist of nine (9) pages on February 10, 2021.
- E7. Memorandum from Kevin O'Flaherty, legal counsel for the Harbor View Hotel, consisting of thirty-eight (38) pages, dated April 27, 2021.
- E8. Email from Kevin O'Flaherty with attached pictures of pool area, consisting of five (5) pages, dated April 28, 2021.
- E9. Email from Marilyn Vukota regarding the use of the spa, consisting of one (1) page, dated April 28, 2021.
- E10. Letter from Marilyn Vukota with responses to MVC questions, consisting of seventeen (17) pages including attachments, dated May 20, 2021.
- E11. Letter from Kevin O'Flaherty consisting of four (4) pages dated May 20, 2021.
- E12. Supplemental Memorandum of Law of the Neighbors of the Harbor View Hotel, In Opposition to the Proposed Harbor View Modifications, submitted by Dylan Sanders, consisting of twenty (20) pages, dated May 20, 2021.
- E13. Agreement between Lynn Allegaert and Scout View Property 1, LLC consisting of five (5) pages, dated April 16, 2008.

- E14. Declaration of Trust of The Harbor View Suites Condominium Trust, 131 North Water Street Edgartown, Massachusetts prepared by Goulston & Storrs, P.C. consisting of forty-one (41) pages dated August 31, 2012.
- E15. Master Deed of the Harbor View Suites Condominium, 131 North Water Street Edgartown, Massachusetts prepared by Goulston & Storrs, P.C. consisting of forty (40) pages dated August 31, 2012.
- E16. Master Deed of the Harbor View Hotel Secondary Condominium, 131 North Water Street Edgartown, Massachusetts, prepared by Goulston & Storrs, P.C. consisting of thirty-nine (39) pages dated June 10, 2015.
- E17. Letters of support from the following individuals and organizations: Megan Honey Baptiste, Rina Barletta, Rebecca Bartlett, the Edgartown Board of Trade, Dale Hamson, Bruce & Laura Marshard, Alice Mattison, Deb Nugent, Susan Pizza, Eugenia, Makenzie Wall, and Jean Wong.
- E18. Letters of opposition from the following individuals: Lynn Allegaert (8): January 18 (2), January 20 (2), February 8, February 11, May 10, and May 19, 2021; Loring Allen & Stuart Randall; Gene and Sara Barbato, January 12, 2021; Gene and Sara Barbato & Janice and Francis Conroy, May 20, 2021; Peter and Adrienne Barris; George Bean; Peter Bienstock; Mary Ella Bitzer; Kate and Chuck Brizius; Edwin Brooks; Geoff Caraboolad; Nancy Caraboolad; Dianne and Curtis Carlson; Isobel Case; Jane Chittick (2): December 19, 2020 and January 8, 2021; Janice and Francis Conroy, February 2, 2021; Ann Dickinson; Peter Dreyer; Vanessa Brooker Eastman; Jesse Fink; Carol Fligor; Linda Austin Forrester; Sylvia Frelinghuysen; William Fruhan; Maggie Greely Boris; Holly Hawkes; Andrew Houlahan; Barbara and Tom Israel; T. Kimball Booker; Tara and Bob Levine; Margaret Littlejohn; John McCall; Alexander Neuhoff; Brien O'Brien; Robin Powell Mandjes; Patricia and Kent Ravenscroft; Tom and Terry Reynolds; John Schaefer; Alysa and Paul Stafford; Jim and Susan Swartz; Elizabeth Trahon; Susan and Robert van Roijen; Dick and Kathy Vermillion; Carol and Sandy Vietor; John H. Wasson; Josh Weeks; Peter Weisman; John Wilson; Alessandra Wingerter, legal counsel representing Jim Swartz, Lynn Allegaert, Geoffrey Caraboolad, Robert and Linda Forrester, Joseph Smith Jr., Edwin Brooks, Richard Zannino, Ann Dickinson, and Louise Neuhoff; James and Carol Wolff, David and Pam Young, Richard Zannino.
- E19. Letters that expressed concern for the project without expressing an opinion: Harriet Dewey; Robert Forrester; Ellen Harley; Robert Hayman; Robert Hughes (2): January 18 and February 9, 2021; William Reinfeld and Yvonne Kwauk; Dylan Sanders, legal counsel representing Jim Swartz, Lynn Allegaert, Geoffrey Caraboolad, Robert and Linda Forrester, Joseph Smith Jr., Edwin Brooks, Richard Zannino, Ann Dickinson, and Louise Neuhoff (2): October 26 and November 4, 2020; Joseph Smith Jr. (2): January 14 and May 6, 2021; and Joe Wargo.
- E20. Minutes of the Commission's Land Use Planning Committee Modification Review, October 26, 2020.
- E21. Minutes of the Commission's Modification Review, November 5, 2020.

- E22. Minutes of the Commission's Public Hearing, January 21, 2021.
- E23. Minutes of the Commission's Continued Public Hearing, February 11, 2021.
- E24. Minutes of the Commission's Continued Public Hearing, April 29, 2021.
- E25. Minutes of the Commission's Continued Public Hearing, May 5, 2021.
- E26. Minutes of the Commission's Land Use Planning Committee Post-Public Hearing Review,
- E27. Minutes of the Commission's Land Use Planning Committee Post-Public Hearing Review,
- E28. Minutes of the Commission's Deliberation and Decision, July 22, 2021.
- E29. Minutes of the Commission's Approval of the Written Decision, August 26, 2021.

2.5 Summary of Testimony

The following gave testimony during the public hearing on January 21, 2021:

- Presentation of the project by Sean Murphy and Scott Little, Harbor View General Manager.
- Staff presentation by Alex Elvin, DRI Coordinator.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Joseph Wargo, Jane Chittick, Sara Piazza, and Robert Forrester.

The following gave testimony during the public hearing on February 11, 2021:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Lynn Allegaert, Geoff Caraboolad, Rich Zannino, and Joseph Smith.

The following gave testimony during the public hearing on April 29, 2021:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Robert Hughes; Jim Swartz; Dylan Sanders, representing several of the immediate neighbors; Mitzi Lawlor; Julia Tarka, representing the Edgartown Board of Trade; and Ned Brooks.

The following gave testimony during the public hearing on May 6, 2021:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Applicant presentation by Marilyn Vukota.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Amanda Turner Philips, Dale Hamson, Dylan Sanders, Robert Hughes, Joseph Wargo, Jim Swartz, Robert Forrester, and Geoff Caraboolad.
- Closing Statement by Marilyn Vukota.

3. FINDINGS

3.1 Project Description

The MVC approved a major expansion and renovation of the Harbor View Hotel with conditions in July 2008 (DRI 614). The project included changes to the Main Hotel, demolition of the Mayhew Building, and the construction of new cottages, with the total finished square footage of all buildings increasing from 91,277 ft² to 113,564 ft², and the number of rooms dropping from 120 to 117. The project was financed by Lehman Brothers, which went bankrupt in September 2008. In May 2012, a new group of seasonal residents became the controlling investors in the property.

DRI 614 was modified in 2009 (614-M) to change the location and size of the spa; 2012 (614-M2) to change the phasing and the location of the office; 2014 (614-M3) to install cook tops in some of the units; 2016 (614-M4) to extend the timelines for the phasing; and 2018 (614-M6) for an extensive modification, including a reduction of 8,000 ft², relocation of the spa, and a net increase of 29 more rooms than the 2008 approval. A proposal in 2017 (614-M5) to modify the Main Hotel and Mayhew Building, as well as the number of cottages, was withdrawn.

The current proposal is to further modify DRI 614 as follows:

Main Hotel: The previously approved 1,620 ft² addition on the south side of the main building will not be constructed. The second, third, and fourth floors were approved for 36 rooms, but have already been built with 40 rooms – an increase of four rooms.

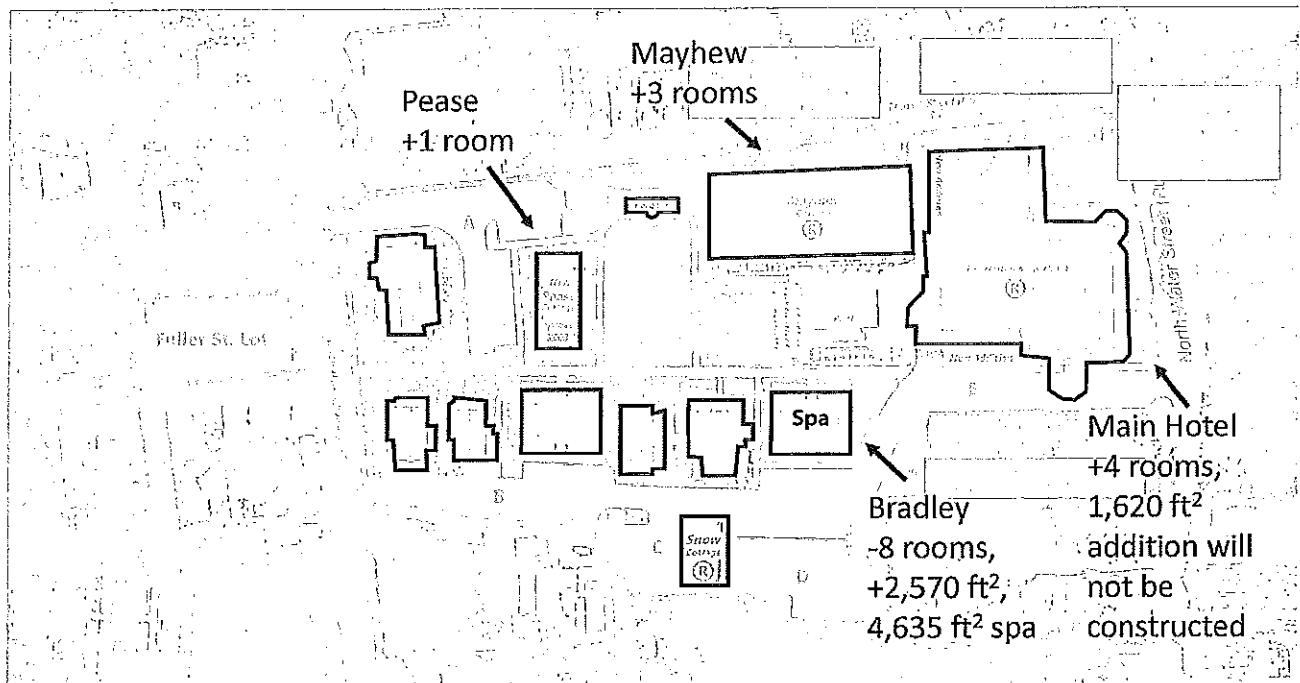
Mayhew Building: The building was approved for 48 rooms but has already been built with 51 rooms – an increase of three rooms.

Bradley Cottage: The replacement cottage was approved as a 7,080 ft² building with 12 rooms, and is proposed to be 9,650 ft², including a 4,625 ft² spa and four guest rooms – an increase of 2,570 ft² and reduction of eight rooms. The spa will occupy the first two floors of the building and be limited to registered guests of the hotel; the third floor will be for guests.

Pease Cottage: The new cottage was approved for 10 rooms, and is proposed to have 11 rooms – an increase of one room.

There will be no net change in the number of rooms, since eight rooms will be added to the Main Hotel, Mayhew Building, and Pease Cottage, and eight rooms will be eliminated from Bradley Cottage. The proposal also includes extending the project phasing to 2024.

Current Proposal



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 evaluation 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 testimony presented and reviewing all documents 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 of 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 15 OF THE ACT.**

A1. The Commission finds that the proposed development at this location is essential and appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Harbor View Hotel is a historic, pre-existing non-conforming use in the R-5 Residential District of Edgartown, with surrounding residential properties and town-owned land. The hotel is one of 13 hotels in Edgartown, which has a total of about 513 hotel rooms, not including Airbnb and other short-term rentals. The Commission also notes the following:

- Thirteen years have passed since the original approval of DRI 614, and conditions on the Island and at the hotel have changed, while much of the project remains unbuilt.
- The Commission had approved other significant changes to the plans in 2018, although a public hearing was not required at the time.
- The hotel property has changed hands since 2008 and weathered the Covid-19 pandemic.
- Construction of additional rooms in the Main Hotel and Mayhew Building had caused the project to be out of compliance with the 2018 approval of DRI 614-M6, and the current proposal will bring it back into compliance.

The Commission finds ON BALANCE that the probable benefits of the project outweigh the probable detriments, as described below. With respect to persons and property (Section 15(c) of the Act), impact on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), provision of municipal services or burden on taxpayers (Section 15(e) of the Act), and consistency with town, regional, and state plans and objectives (Sections 14(b), 15(g), and 15(h) of the Act), the Commission finds that the project would have a beneficial impact. The Commission finds the project would have a detrimental impact with respect to impact upon the environment (Section 15(b) of the Act), and a neutral impact with respect to public facilities (Section 15(f) of the Act).

A2. The Commission finds that the proposed development would have a slightly detrimental impact upon the environment relative to other alternatives (Section 15(b) of the Act).

With respect to Water Quality (including Groundwater), the Commission finds that the project will have a neutral impact, since the number of bedrooms will remain the same as previously approved. The property is also connected to the Edgartown Wastewater Treatment Facility.

With respect to Stormwater, the Commission finds that the proposed increase in impervious surfaces resulting from the larger footprint of Bradley Cottage will create a minor detriment.

The Commission finds that impacts associated with Coastal Erosion do not apply to the project.

With respect to Flooding and Climate Change Resilience, the Commission finds that the project will create a minor detriment, since it will increase the size of Bradley Cottage, and in turn the amount of development on the site that is at risk of flooding and storm damage. The project will also increase the amount of impervious surface on the site, reducing the absorption of stormwater into the ground.

The Commission notes that Bradley, Morse, Snow, and Pease cottages, as conditioned, will have electric heat pumps for heating, cooling, and hot water; and rooftop solar panels to the greatest extent

feasible. However, the Commission finds that with respect to Energy, the project will create a minor detriment, to the extent that it will still require an increase in energy usage.

With respect to Open Space, the Commission finds that the increased footprint of Bradley Cottage will create a minor detriment by reducing the total amount of open space on the site.

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

With respect to Traffic and Transportation, the Commission finds the project will have a neutral impact, since the number of guest rooms and parking spots will not change from the previous approval. The project as previously approved includes the addition of seven parking spaces (an increase from 90 to 97), which have yet to be constructed.

With respect to Character and Identity, the Commission finds the project, as part of the continued expansion of the hotel and its operations, will have an overall detrimental effect. Commissioners note that incremental changes at the hotel over time have affected the neighborhood, and that the proposed spa, although only open to registered guests, is significantly larger than previously approved. The Commission also notes that the Applicant had not provided a long-term master plan for the property, despite several requests by the Commission to do so.

With respect to Economic Development, the Commission finds the project will have a beneficial impact by creating additional jobs and supporting tourism and economic activity in Edgartown. The hotel currently has 35-40 full-time equivalent employees, with about 175 employees in the peak season. The Applicant expects an additional five employees as a result of the expanded spa. Commissioners note that the expansion project as a whole, including the portions not yet built, will further increase the economic benefits, including potential work for Island tradespeople.

With respect to Social Development, the Commission makes no findings, but notes that the establishment of a neighborhood preservation committee (see Condition 9 below) will have the potential to create social development benefits in the future.

With respect to Safety and Health, the Commission finds the project would have a beneficial impact, since the new Bradley Cottage will include four handicapped-accessible guestrooms on the third floor, and will bring the hotel into ADA compliance.

With respect to Noise, the Commission finds the project would have a neutral effect, since the proposed spa would be enclosed and open only to registered guests. The spa is intended to handle 20 guests per day in peak season, 10 per day in the shoulder seasons, and two per day in the off-season.

With respect to Night Lighting, the Commission finds the project would have a neutral effect. Any new lighting must be downward facing, as required by the conditions for DRI 614.

With respect to Impact on Abutters (after completion), the Commission finds that the proposed modification will have a neutral impact, since the number of guest rooms will remain the same and the spa will be contained and will be open only to registered guests. However, Commissioners note that

incremental changes at the hotel over time have affected the neighborhood, and that the project as a whole, including the unbuilt portions, will further increase the total room count on the property from 2008 conditions, and the construction of new cottages may create further impacts.

The Commission also acknowledges the concerns of many neighbors that the incremental changes to the hotel, including activity associated with the pool bar and outdoor restaurant area, have negatively affected the neighborhood, and has conditioned the project to require the Applicant to return with a plan for addressing issues related specifically to the pool bar and outdoor restaurant area prior to the issuance of a Building Permit (see Condition 1.4 below).

A4. The Commission finds that the proposed development would have a neutral 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 affordable housing mitigation initially required in 2008 was not due until issuance of the Certificates of Occupancy. As those have yet to be issued, no monies have been paid since the original application. Furthermore, the amount due as affordable housing mitigation in today's environment — presumably when the project will be constructed — is considerably higher. Accordingly, the Commission notes that the project as conditioned will upgrade the previous conditions related to Affordable Housing, including the housing mitigation fee, which will increase from \$107,072 to \$535,080 (see Conditions 5.1 and 5.2 below). The Applicant expects an additional five employees as a result of the expanded spa.

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

The Commission notes that the project will likely have a minimal impact on municipal services, since the site is already developed and close to town, and that the project will increase the value of the hotel property, and potentially increase tax revenue to the town in the form of property taxes, the Room Occupancy Tax, and the Short-Term Rental Tax.

A6. The Commission finds that the proposed development would increase the 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 would not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan, and would not contravene land development objectives and policies developed by regional or state agencies (Section 14(b), 15(g), and 15(h) of the Act).

The project generally aligns with the Island Plan, including Section 2 (Development and Growth), Section 4 (Built Environment), and Section 6 (Livelihood and Commerce).

The objectives for historical and cultural resources in the Edgartown Master Plan include ensuring that new and reconstructed dwellings and buildings are compatible “with existing neighborhoods and the Town’s character.” However, the Edgartown Community Development Plan (prepared by the MVC) aims in part to encourage more year-round business in the “downtown,” which arguably does not include the hotel property. (The downtown area does not have a formal boundary.)

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) if 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 supports the Commission’s land development objectives, as outlined in the Island Plan and enumerated in section A7 of this Decision.

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. E ACT.

The project is consistent with local zoning and would be allowable by Special Permit, as outlined in section A8 of this Decision.

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 project site is within the Martha’s Vineyard Lawn Fertilizer Control District, but no other DCPCs.

In sum, after careful review of the Plans and its attendant submittals and the testimony presented by the Applicant and others, the Commission has concluded that the 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.

4. DECISION

The Martha’s Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on July 22, 2021 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearing and deliberations participated in the decision on July 22, 2021:

- Voting to approve the project: Trip Barnes; Christina Brown; Joshua Goldstein; Michael Kim; Joan Malkin; Ted Rosbeck; Doug Sederholm; Linda Sibley; and Ernie Thomas.
- Voting against: Jeff Agnoli; Fred Hancock; Kathy Newman; Ben Robinson; Christine Todd
- Abstentions: Jim Vercruysse.

- Recused: None.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with conditions.

This Written Decision is consistent with the vote of the Commission on July 22, 2021 and was approved by a vote of the Commission on August 26, 2021.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Commission imposes the following condition in order to minimize the potential detriments and maximize the potential benefits.

1. HOTEL USES

- 1.1 Use of the spa shall be limited to registered guests staying at the hotel, with all charges made to the hotel room. Appropriate signage indicating the restricted use of the facility must be clearly displayed at and around the facility. The spa shall be closed whenever the hotel is closed, including any periods of closure in the winter, and hours shall be 8AM-8PM.
- 1.2 No arrangement (formal or informal) between the Harbor View Hotel and the owner of 119 North Water Street (or any other property in the neighborhood) relating to the use (for free or otherwise) of facilities, rooms, amenities, or services at one venue by an occupant of the other is permitted without prior MVC approval.
- 1.3 The Applicant shall inform the MVC of the hotel's current occupancy (room by room, as of July 2021) to the LUPC prior to the issuance of any building permit associated with the work to be performed pursuant to this decision. Any increase in occupancy, including pull-out sofas or other means of accommodating overnight guests, or any increase in seating capacity for the pool and outdoor seating area, shall require prior review and approval by the MVC.
- 1.4 Prior to the issuance of a Building Permit, the Applicant shall present to the LUPC for review and approval a plan detailing the use of the pool bar and outside restaurant area, including any usage restrictions, and ways to mitigate any impacts on the neighborhood.

2. PHASING (Replaces Previous Conditions 12.1)

- 2.1 The remaining portions of the project as approved in 2018, including the construction/renovation of Bradley, Morse, Pease, and Snow Cottages shall have at least the foundations completed by June 1, 2024. Any buildings where the foundation has not been completed by June 1, 2024, shall require de novo review and approval by the MVC.

3. CONSTRUCTION

- 3.1 Materials in Bradley, Morse, and Snow Cottages that will not be reused on site shall be salvaged and/or reused on-Island to the greatest extent feasible. Notice of the availability of the

materials shall be posted in both Island newspapers for at least two weeks prior to the issuance of a Building Permit.

4. COMMUNITY RELATIONS

4.1 The Applicant shall use its best efforts to establish a long-term neighborhood preservation committee, comprised of abutters within 600 feet of the hotel, for the purpose of maintaining dialog with respect to current and future hotel activities that may affect the neighborhood. Neighbors who live more than 600 feet from the property may join the committee by invitation of the chair. A list of the committee's initial members, along with a Statement of Purpose, shall be submitted to the LUPC prior to the issuance of a Building Permit for any work related to this Decision. Any request for modification of this DRI must have first been discussed by the committee, but approval by the committee is not required.

5. HOUSING (Replaces Previous Conditions 2.1-2.3)

5.1 Affordable housing mitigation payments for Bradley, Morse, Pease, and Snow Cottages, according to the 2019 MVC Housing Policy, shall be paid for each cottage upon its completion and prior to receipt of a Certificate of Occupancy. If portions of the proposal are not completed by the expiration of this Decision and must return to the MVC, then whatever affordable housing policy is in place at the time shall apply. The payments for each cottage under the 2019 policy shall be as follows:

- Bradley Cottage (6,560 ft²): \$157,440
- Morse Cottage (5,096 ft²): \$122,304
- Pease Cottage (9,066 ft²): \$217,584
- Snow Cottage (1,573 ft²): \$37,752

5.2 The Applicant will provide affordable housing for some employees by making available not less than 22 single- or double-occupancy rooms and three apartment units (each unit capable of housing not less than the occupancy of the current units. At least the apartment units must be available on a year-round basis. Employees may be required to pay a rental amount not to exceed 40% of the market rate for such housing. Documentation of satisfaction of this condition must be provided annually to the Commission. The Applicant shall donate any surplus materials (e.g. linens, bedspreads, appliances, furniture) to an Island affordable housing organization or as may be recommended by Martha's Vineyard Community Services or the Dukes County Regional Housing Authority.

6. ENERGY (Replaces Previous Conditions 10.1a and 10.1e)

6.1 Bradley, Morse, Pease, and Snow Cottages shall include electric heat pumps for heating, cooling, and hot water.

6.2 Bradley, Morse, Pease, and Snow Cottages as proposed shall include rooftop solar panels to the greatest extent feasible, subject to Edgartown Historic District Commission review and approval. (See also Condition 8.2).

7. LANDSCAPE (Replaces Previous Condition 6.1)

7.1 As offered by the Applicant, a final landscape plan for the project, including DRI 614-M7, shall be submitted to and is subject to the approval of the LUPC prior to the issuance of a Certificate of Occupancy for the four buildings in this DRI modification. This landscaping shall include extensive screening between the subject property and the abutting properties to continue to provide the neighbors privacy.

8. MODIFICATIONS (Replaces Previous Condition 14.1)

8.1 Any proposed modification to DRI 614, as approved herein, including without limitation all hotel operations, and including any modification resulting in any change of use or change in intensity of use, shall be referred to the MVC for prior review and approval.

8.2 Any request for modification shall be accompanied by a 5-year master plan outlining in detail the Applicant's plans to change the number of cottages or rooms, the hotel occupancy, or the seating capacity at the restaurant or bar areas; to renovate or otherwise alter existing facilities; and to add services or amenities. The request must also be accompanied by a proposal to transition off of fossil fuels for all heating, hot water, and ancillary energy use on the hotel property. The plan shall take into account energy efficiency, onsite generation of electricity, and the purchase of clean energy through the grid; and shall include an inventory of existing equipment, the types and locations of proposed new equipment including electric vehicle charging stations, and a timeline for implementation.

9. PREVIOUS CONDITIONS

9.1 With the exception of previous Conditions 2.1-2.3 (Affordable Housing), 6.1 (Landscaping), 10.1a and 10.1e (Energy), 12.1 (Phasing and Minimizing of Impact of Project), and 14.1 (Minor Modifications to Proposed Buildings), all other conditions for the 2018 MVC approval (DRI 614-M6) shall stand.

Previous conditions for DRI 614, as approved in 2008 and amended in 2018. These conditions are still in effect, except where noted WITH STRIKETHROUGHS

1 Building Materials

1.1 As offered by the Applicant, prior to the removal of the Morse, Bradley and Snow cottages the Harbor View shall:

- a) Donate the furnishings, bedding, linens, etc. that are not being re-used to families identified by Martha's Vineyard Community Services and the Dukes County Regional Housing Authority.

b) Remove all usable building materials from the structures and provide them at no cost to any island residents that desire to take them from the site.

2 Affordable Housing and Employee Housing

~~2.1 As offered by the Applicant, the applicant shall make a contribution of \$107,072 to the Edgartown Affordable Housing Committee upon receipt of the Certificate of Occupancy for the finished project.~~

~~2.2 As offered by the Applicant, the applicant shall provide affordable housing for a portion of its employees annually by renting 22 bedrooms seasonally and 3 apartment units year-round at market rates and only requiring the employees to reimburse a percentage of the cost.~~

~~2.3 As offered by the Applicant, the applicant shall continue to provide furnishings, bedding and other items to affordable housing.~~

See new Conditions 5.1 and 5.2.

3 A.D.A.

3.1 As offered by the Applicant, the property shall comply with all ADA regulations including having 6 accessible units (5% of the available units, per ADA regulations) and 4 accessible parking spaces.

4 Traffic, Parking

4.1 As offered by the Applicant, the applicant shall:

- a) maintain the entrances and exits to the property as they were prior to the proposed renovations,
- b) limit its function capacity to 306 people,
- c) provide alternate transportation and parking for any non-hotel guest function (ie: people not staying at the hotel) of over 140 people that occurs between June 15 and October 15,
- d) provide traffic mitigation by providing 55 employees with bus passes annually, continuing to provide van transportation for its guests to and from the boats and airport, continuing to require that its employees that do drive (other than those employees parking at the Fuller Street lot, which are senior employees) to park at the Edgartown Park and Ride lot and take the shuttle to town, and continuing to provide bicycles for its guests to use at their leisure.

4.2 As offered by the Applicant, the applicant shall provide parking for 63 vehicles (4 of which are handicapped spaces) on the property and 14 guest parking spaces and 12 employee spaces at the Fuller Street parcel thereby keeping the overall guest parking at 77 spaces. The new parking lot at the rear of the property shall not be paved with asphalt, but shall have a pervious surface.

5 Recycling

5.1 As offered by the Applicant, the applicant shall continue its recycling plan consisting of the recycling of glass, office paper, newspapers, cardboard, metals, computers, waste paints and solvents, brass keys, refrigerant gas, grease from the fryers, old batteries, televisions, waste oil from lawnmowers, conversion of old towels into rags, old sheets into drop cloths and copper piping. The applicant shall continue to donate linens and bedspreads to staff, the Boys & Girls Club and others in need.

6 Landscaping

~~6.1 As offered by the Applicant, a final landscape plan shall be submitted to and is subject to the approval of the LUPC prior to the initiation of the landscaping. This landscaping shall include extensive screening between the subject property and the abutting properties to continue to provide its neighbors privacy.~~

See new condition 7.1.

7 Lighting

7.1 As offered by the Applicant, all of the exterior lighting on the property shall be down lighting.

8 Stormwater

8.1 As offered by the Applicant, the water runoff on the property shall be directed to dry wells and recharged in to the groundwater. A presently impervious parking lot is being replaced by a pervious parking lot. The applicant shall install a drain to alleviate runoff on to Fuller Street from the southern entrance from the property to Fuller Street to the specifications of the Edgartown Highway Department.

9 Water

9.1 As offered by the Applicant, dual flush toilets shall be installed in the employee areas and public areas. The present 3.0 gallon flush toilets in the units shall be replaced by 1.6 gallon flush toilets.

10 Energy

10.1 As offered by the Applicant, all project improvements contemplate green systems and materials wherever possible to address the energy inefficiency of the pre-2007 buildings. The applicant shall:

~~a) Install a high efficiency propane or electric HVAC system that shall be as energy efficient as possible and exceed energy performance & CFC reduction criteria.~~

See new condition 6.1.

b) Implement guest programs for energy savings, light sensors, fan timers, motion controls, etc.

c) Make all new construction and renovations high performance, well insulated, including icynene insulation.

d) Install low-energy insulated windows in all new construction

~~e) Retrofit the property with propane rather than oil.~~

See new condition 6.1.

f) Implement a lighting plan for the property that shall reduce the amount of incandescent lighting on the property through a combination of compact fluorescent bulbs and LED lighting.

g) Make the roofs of all new buildings a light color to reduce glare and heat gain

h) Install televisions and the few appliances that are in some units that shall be EnergyStar rated.

10.2 The applicant will use its best efforts to construct the improvements with energy efficiency.

10.3 As offered by the Applicant, all of the above shall meet or exceed the Massachusetts Building Code. As the specific insulation and windows have not yet been selected, the Applicant shall provide a final lighting plan and energy analysis to the MVC staff at the time of the building permit application showing that the project meets federal Energy Star standards the Massachusetts Building Code.

11 Community Benefits

11.1 As offered by the Applicant, the applicant and/or a foundation established by the applicant shall make contributions to the community in the annual amount of \$50,000 in direct grants and \$50,000 of in-kind donations.

11.2 As offered by the Applicant, the applicant shall continue to provide function space in the off-season to Island non-profit groups at cost.

12 Phasing and Minimizing of Impact of Project

~~12.1 As offered by the Applicant, the construction of the improvements at the property shall occur under the following schedule:~~

~~a) Phase 1 (removal and replacement of Captain Snow Cottage, Captain Bradley Cottage and Captain Morse Cottage, construction of Captain Martin and Captain Pease Cottage, installation of lock-offs in the Captain Huxford Cottage) will occur from October 15, 2008 until June 30, 2008.~~

~~b) Phase 2: (removal of Mayhew Building, removal and replacement of pool, construction of Captain Penniman and Captain Fisher Cottages, Main Building construction) will occur from early September, 2009 until June 30, 2010.~~

~~**See new condition 2.1.**~~

12.2 All work shall be coordinated so as to provide the least amount of impact to the abutters and neighborhood.

12.3 The restaurant and pub shall remain open during construction of the cottages in phase 2.

13 Hotel / Condominium Structure

13.1 In order to ensure that the property remains a hotel, the MVC sets the following conditions:

a) No unit shall be occupied by any owner or guest for more than ninety (90) consecutive days, nor may the owner or guest re-occupy any unit within thirty (30) days of a continuous ninety (90) day stay, nor may the owner or guest stay more than four (4) months in any calendar year.

b) No owner, occupant, or guest may claim residency at this location, ~~with the exception of the apartment presently occupied by Bob Carroll.~~

c) In at least 85% of the units, whenever an owner or guest of the owner of a unit is not occupying the unit it must be available for transient rental or placed in a rental program.

d) All occupants of a unit, whether an owner, guest, or hotel guest shall not use the unit until they have checked in with the hotel's front desk.

14 Minor Modifications to Proposed Buildings

~~14.1 In order to allow the applicant flexibility in dealing with the Edgartown Historic District Commission and abutting neighbors as to porch enclosures, the applicant may make minor modifications to the layout of the units and porches so long as said modifications do not increase the number of units, rooms or bedrooms or the footprint of the buildings.~~

~~**See new condition 8.1.**~~

6. CONCLUSION

6.1 Permitting from the Town

The Applicants must, consistent with this Decision, apply to the appropriate Town of Edgartown Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of Edgartown may now grant the request for approval of the Applicant's proposal in accordance with this decision 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 Commission.

6.2 Notice of Appellate Rights

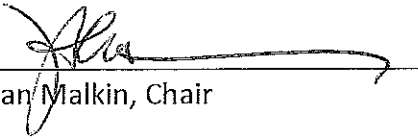
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Edgartown Town Clerk.

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.

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6.4 Signature Block


Joan Malkin, Chair

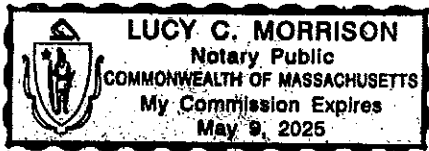
August 27, 2021
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 27th day of August, 2021, before me,
Lucy C. Morrison, the undersigned Notary Public, personally appeared
Joan Malkin, proved to me through satisfactory evidence of
identity, where was/were personal knowledge 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.




Signature of Notary Public

Lucy C. Morrison
Printed Name of Notary
My Commission Expires May 9, 2025

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: August 27, 2021

Deed: Book 1592, Page 760

Document Number: 6969