Decision of the
Martha’s Vineyard Commission
DRI 674-M Old Stone Bank Condos

1. SUMMARY

Referring Board: Building Inspector, Town of Tisbury

Subject: Development of Regional Impact #674-M Old Stone Bank Condos

Project: Proposal to renovate the two existing buildings on the property and construct five new buildings for a total of 10 residential condo units and seven commercial units.

Owner: Sovereign Bank

Applicant: Reid A. Dunn, Architect (Sam Dunn)

Applicant Address: 455 State Road PMB 108
Vineyard Haven, MA 02568

Deed: Book 1005, Page 552

Previous Decision: Book 1443, Page 858

Project Location: 75 Main Street & 16 Union Street, Tisbury, MA; Map 7-D, Lots 7 & 10, respectively.

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 April 29, 2021.

Written Decision: This written decision was approved by a vote of the Commission on May 13, 2021.

The permit-granting authorities of the Town of Tisbury 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.

2.1 Referral

The project was referred to the Commission on July 28, 2020 by the Building Inspector of the Town of Tisbury, 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.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on February 25, and March 4, 2021; notice was also published in the Vineyard Gazette on February 26, and March 5, 2021. Abutters within 300 feet of the property were notified by mail on February 23, 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 March 11, 2021, which was closed that same night with the exception of the written record which was left open until 5:00 pm on March 25, 2021 and closed at that time. The hearing was held entirely using remote conference technology as allowable under Chapter 53 of the Acts of 2020.

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. “Stone Bank Project Narrative” consisting of two (2) pages addressing the Property, Project Overview, Additional Parcel, Wastewater, Storm Water, Parking and Flood Zone, received August 24, 2020, and revised on December 3, 2020.

P2. Application Package consisting of eighteen (18) 11” x 17” pages, all scaled to $\frac{1}{8}$ = 1’-0” unless otherwise noted, including: a Locus, not to scale; Site Plan, scale 1” = 50’; Floor Plans for Unit 1&2 Upper Level; Floor Plans for Unit 1&2 Lower Level; Units 1&2 West (Courtyard) Elevation; Unit 3 Upper Level & Lower Level Floor Plans; Unit 3 North and South (Courtyard) Elevations; Unit 4&5 Lower Level Floor Plans; Unit 4&5 Upper Level Floor Plans; Unit 4&5 North and South (Courtyard) Elevations; Unit 6&7 Lower Level Floor Plans; Unit 6 Upper Level Floor Plans; Unit 6&7 North (Courtyard) Elevations; Unit 8&9 Parking Level; Unit 8&9 Lower Level; Unit 8&9 Upper Level; Units 8&9 North (Harbor/West Chop) Elevation; Units 8&9 South (Ferry) Elevation; received September 9, 2020.
P3. Existing Conditions Site Plan Tisbury, Mass. prepared for Santander Bank by Schofield, Barbini & Hoehn, consisting of one (1) 24" x 36" page showing FEMA AE and VE Zones, scale 1" = 20', dated May 5, 2017.

P4. "Revised Floor Plans & Elevations" consisting of fifteen (15) 11" x 17" pages, all scaled to 1/8" = 1' unless otherwise noted, including: Revised Units 1&2; Unit 3 Upper Floor Plan and Unit 3 Lower Floor Plan; Unit 3 South (Courtyard) Elevation; Unit 4&5 - Lower Level; Unit 4&5 Upper Level; Units 4&5 South (Courtyard) Elevation; Lower Floor Plan Units 6&7; Upper Floor Plan Units 6&7; rendering of an indoor pool, not scaled; Lower Floor Plans Unit 8 (left) & 9 (right); Upper Floor Plans Unit 8 (left) & 9 (right); Units 8 & 9 North Elevation; Units 8 & 9 West Elevation; Units 8 & 9 South Elevation; Units 8 & 9 East Elevation; received October 30, 2020.

P5. "Landscape/Hardscape/Circulation Plan" Stone Building Project, 16 Union Street & 75 Main Street Vineyard Haven, MA; consisting of one (1) 24" x 36" page, scale 1" = 20', received November 17, 2020.

P6. "Site Plan" Stone Building Project 16 Union Street & 75 Main Street Vineyard Haven, MA, consisting of one (1) 24" x 36" page, scale 1" = 20', received November 17, 2020.

P7. "Site and Revised Floor Plans" consisting of sixteen (16) 11" x 17" pages, all scaled to 1/8" = 1' unless otherwise noted, including: Locus, not to scale; Site Plan Tisbury, Mass. prepared by Schofield, Barbini & Hoehn for Santander Bank, scale 1" = 20', dated May 5, 2017; Site Plan Stone Building Project, 16 Union Street & 75 Main Street Vineyard Haven, MA, scale 1" = 20'; Revised Units 1 & 2; Unit 3 Upper Floor Plan, Unit 3 Lower Floor Plan; Unit 3 South (Courtyard) Elevation; Unit 4&5-Lower Level; Unit 4&5 Upper Level; Units 4 & 5 North Elevation, Units 4 & 5 South (Courtyard) Elevation; Unit 6 Lower Level; Unit 6 Upper Floor; North (Harbor) Elevation; Lower Floor Units 8 & 9; Upper Floor Units 8 & 9; Units 8 & 9 East Elevation; Units 8 & 9 North Elevation; received November 24, 2020.


P9. "Traffic Circulation Plan" consisting of one (1) 24" x 36" page, Stone Building Project 16 Union Street & 75 Main Street Vineyard Haven, MA; scale 1" = 20', received December 6, 2020.

P10. "Site Plan" for Stone Building Project 16 Union Street & 75 Main Street Vineyard Haven, MA, consisting of one (1) 24" x 36" page, scale 1" = 20', showing building information, pervious areas and lighting locations; received January 4, 2021.

P11. "Landscape Plan" Stone Bank 75 Main Street Vineyard Haven, MA prepared by KRLA Kristen Reimann, Landscape Architect consisting of one (1) 24" x 36" page, scale 1" = 20', dated February 5, 2021.
P12. S1: “Site Plan for Stone Bank Project,” 75 Main Street and 16 Union Street, Tisbury MA 02568 designed and developed by Reid A. Dunn, Architect; consisting of one (1) 24” x 36” page, scale 1” = 20’-0”, dated February 7, 2021.

P13. S2: “Traffic Circulation Plan,” Stone Bank Project 75 Main Street and 16 Union Street, Tisbury MA 02568 designed and developed by Reid A. Dunn, Architect; consisting of one (1) 24” x 36” page, scale 1” = 20’-0”, dated February 7, 2021.

P14. S3 “Walkways and Site Features” Stone Bank Project 75 Main Street and 16 Union Street, Tisbury, MA 02568, prepared by Reid A. Dunn, Architect, consisting of one (1) 24” x 36” page, scale 1/8” = 1’-0”, dated February 7, 2021.

P15. S4 “Miscellany: Limited Common Areas/Tree Removal/Trash Facilities/HVAC Locations” Stone Bank Project 75 Main Street and 16 Union Street, Tisbury, MA 02568, designed and developed by Reid A. Dunn, Architect, consisting of one (1) 24” x 36” page, scale 1” = 20’, dated February 7, 2021.

P16. “Revised Floor Plans and Elevations” Stone Bank Project, 75 Main Street and 16 Union Street, Tisbury, MA 02568 designed and developed by Reid A. Dunn, Architect, drawn by Elise Elliston, Associate Designer, consisting of five (5) 24” x 36” pages, including: A1: Courtyard Elevations; A2 Lower Level Courtyard Floor Plans; A3 Upper Level Courtyard Floor Plans; A4 Floor Plans and Elevations Units R-7 and R-8; A5 Floor Plans and Elevations Unit C-3, C-4, R-9, 10, 11, all scaled 1/8” = 1’-0”, dated February 7, 2021.

P17. “Revised Plans for Building B” Stone Bank Project, 75 Main Street and 16 Union Street, Tisbury, MA 02568 designed and developed by Reid A. Dunn, Architect, drawn by Elise Elliston, Associate Designer, consisting of three (3) 24” x 36” pages, including: A1: Courtyard Elevations; A2 Lower Level Courtyard Floor Plans; A3 Upper Level Courtyard Floor Plans; all scaled 1/8” = 1’-0”, dated March 7, 2021.


2.4 Other Exhibits

E1. Referral to the MVC from the Tisbury Building Inspector, including Building Permit Application and associated plans, received July 28, 2020.

E2. Vision Property Card for 75 Main Street.


E5. Purchase and Sale Agreement for the property between Santander Bank and Reid A. Dunn consisting of twenty-two (22) pages, dated July 31, 2020; extended on October 30, 2020; with amendments on December 23, 2020 and January 28, 2021.


E7. Letter from John Grande, Tisbury Town Administrator, to Jonathan Snyder, Tisbury Finance Director, regarding the Application for Wastewater Flow Allocation, 75 Main Street and 16 Union Street, Santander Bank, 9 Residential Units (18 bedrooms), dated October 29, 2020.


E11. The following color renderings all received November 24, 2020:
- Ground rendering from outside courtyard
- Ground rendering from inside courtyard
- Ground rendering from the beach
- Aerial rendering from the east (Harbor)
- Aerial rendering from the north
- Aerial rendering from the beach

E12. Aerial view of existing conditions from the east (Harbor), received November 24, 2020.


E15. Stone Bank Project Renderings in Color, consisting of six (6) pages including: Aerial of Project Looking South; Looking West at Project from Upper Deck of Ferry; Looking Southwest at Unit 8 From Harbor; Looking West From Town Lot at Annex with Unit 6 Above and Unit 7 to Right; Looking North at Unit 8 from Town Parking Lot; Looking Northwest From Pocket Park to Courtyard Units; Looking East Over Pocket Park at Union Street Buildings; Inside Courtyard Looking East at Units 4-7; Unit 8 Looking South As Seen from Stam Property; Unit 8 Looking Southwest from Lower Stam Lot, Elevated View; received February 8, 2021.
E16. Stone Bank Project Renderings in Black and White, consisting of six (6) including: Aerial of Project Looking South; Looking West at Project from Upper Deck of Ferry; Looking Southwest at Unit 8 From Harbor; Looking West From Town Lot at Annex with Unit 6 Above and Unit 7 to Right; Looking North at Unit 8 from Town Parking Lot; Looking Northwest From Pocket Park to Courtyard Units; Looking East Over Pocket Park at Union Street Buildings; Inside Courtyard Looking Northwest at Units 3-5; Unit 8 Looking South As Seen from Stam Property; Unit 8 Looking Southwest from Lower Stam Lot, Elevated View; received February 8, 2021.

E17. Letter to Tisbury Select Board from Christina Colarusso, Tisbury Sewer Advisory Board Chair for approval of up to 2,310 gallons per day of sewer flow, consisting of one (1) page dated February 22, 2021.


E25. Email correspondence from Ross Seavey, Tisbury Building Inspector, to Sam Dunn, Applicant, and Patricia Harris, Tisbury Planning Board, regarding the use of the basement at 75 Main Street, dated March 23, 2021.

E26. Applicant Offers - Final consisting of three (3) pages regarding Housing; Commercial Uses; Traffic/Circulation; Phasing and Construction; Stormwater; Flooding and Drainage; Historic Character; Energy and Lighting dated March 24, 2021.

E27. Applicant Memo - Stone Bank Project - Unit C-1 Zoning, consisting of one (1) page received March 24, 2021.


E30. Staff Transportation Staff Report, dated March 22, 2021.


E32. Letters of support from the following Tisbury Town Boards:
   - Harold Chapdelaine, representing the Tisbury Historical Commission/William Street Historic District Commission, received February 8, 2021.
   - John Grande, Tisbury Town Administrator, representing the Tisbury Select Board, dated February 12, 2021.

E33. Letter of support from Peter Stam, abutter, dated March 14, 2021.


E41. Minutes of the Commission’s Deliberation and Decision, April 29, 2021.

E42. Minutes of the Commission’s Approval of the Written Decision, May 13, 2021.

2.5 Summary of Testimony

The following gave testimony during the public hearing on March 11, 2020:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Sam Dunn, Applicant.
- Traffic and Transportation Report by Michael Mauro, Transportation Program Manager.

MVC DRI 674-M Old Stone Bank Condos Decision
• Oral testimony from Public Officials speaking for their Boards: None.
• Oral testimony from the Public:
  o Phil Wallis, Co-Chair of the Vineyard Haven Harbor Cultural District;
  o Peter Stam, direct abutter; and
  o Harold Chapdelaine, Tisbury Historic District Commissioner.

3. FINDINGS

3.1 Project Description

The project as conditioned involves renovating two existing buildings and constructing five new buildings, with a total of 10 residential units and seven commercial units. The existing Stone Bank and annex (Building A) and a separate drive-through building (Building C) will be renovated to include a total of two residential units; one existing building will be demolished and replaced with another building (Building B) to include two residential units; and four other new buildings (D1, D2, E, and F) will be constructed to include a total of six residential units. The property as a whole will have 13 bedrooms. As conditioned, Building A (minus the annex) will have commercial uses on both floors, and buildings B, C, E and F will have retail and/or office uses on the first floors. The total proposed square footage of structures on the property is 20,320 ft², with 13,194 ft² residential and 7,126 ft² commercial.

The buildings will be accessible via pathways from the Town parking lot, Main Street, and Union Street, while buildings D1 and D2 to the east will stand above an existing parking lot just north of the Town lot. The pathways will also lead to a pocket park between buildings C and E.

Parking spots will be reduced from 35 to 19 to make room for a proposed courtyard between buildings A, B, C, and D1. Buildings D1 and D2 will be raised above the floodplain level, with vehicle access and/or parking underneath. The abutting property owned by the Stams will maintain a driveway that is accessible via the gravel lot, and a separate way from Main Street.
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 14(a) 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 property is located in the Business (B1) District in downtown Vineyard Haven, and includes pre-existing and well-known commercial structures (including two historic buildings), and has been vacant since 2017. Surrounding land uses include commercial and residential structures in the B1, B2 and Waterfront Commercial districts, including an existing residence with access from Main Street, the Steamship Authority Terminal, Vineyard Transit Authority transportation hub, a Town-owned parking lot, the Tisbury Stop & Shop, and businesses along Main, Union and Water Streets.

The Commission finds that the probable benefits of the project would outweigh the probable detriments, as described below. With respect to the environment, (Section 15(b) of the Act), and municipal services and taxpayers (Section 15(e) of the Act), the Commission finds that the project would have a slightly detrimental or undefined impact. With respect to persons and property (Section 15(c) of the Act), low- and moderate-income housing (Section 15(d) of the Act), public facilities (Section 15(f) 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 the project would have a beneficial or neutral impact.

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 notes that the property was previously allowed to generate 904 gallons per day (GPD) of wastewater, and has received approval from the Town Sewer Commission for a total of 2,310 GPD. The proposed 13 bedrooms would require 1,430 GPD, leaving 880 GPD for the proposed retail and office space, which would require a total of about 400 GPD. The Commission finds that the approved wastewater flow would be adequate, although project would also reduce the potential for additional sewer service in areas within impaired watersheds, which creates a slight detriment.

With respect to **Stormwater**, the Commission finds that the increase in permeable surface area at the property would create a benefit. The property will have no stormwater facilities, but the applicant has stated that existing asphalt will decrease by about 9,650 ft², with about two thirds of that area replaced with grass and the rest with gravel. About 75% of the site will consist of pervious surfaces, including the gravel areas underneath buildings D1 and D2. A civil engineer will examine the areas under the removed asphalt to determine if additional excavation is needed to reach the sand, and removed material will be replaced with medium sand with a percolation rate of about 50 ft/day. Topsoil up to 8” deep and other plantings including grass will be added. The applicant has stated that the final percolation rate will be 5,700 ft³/hour, or about three times the required amount, allowing the roof to drain directly into the planted areas with no additional treatment.

The property slopes downhill from Main Street toward the harbor, causing rain runoff and groundwater to flow into the harbor. The rainwater would pick up pollutants as it makes its way downhill, potentially degrading the recreational and economic benefits of the beach and harbor. The Commission finds this would create a slight detriment.

With respect to **Coastal Erosion**, the Commission finds that erosion may affect the gravel parking area in the future, since it lies in close proximity to the beach, but the extent of the impact is unknown.

With respect to **Flooding**, the Commission finds that the project site’s proximity to the shore, and location within the flood zone would be a detriment. The Commission notes that flooding events on the low-lying portion of this site are increasing as the 100-year flood occurs with greater frequency, which raises significant questions about long-term safety, including homeowner and emergency access. (See also Climate Change and Safety and Health.)

With respect to **Energy**, the Commission finds that the use of some electric equipment and possible use of solar panels will create a slight benefit. The buildings will have electric heating and cooling (minisplits), electric clothes drying, and propane for cooking, but the energy source for hot water has not yet been determined. Solar panels will be considered for the south-facing roofs of buildings B and D-1, with input from the Historic Commission.

With respect to **Open Space**, the site is already developed, with previous and existing commercial uses and parking space. The Commission finds that the amount of open green space will increase with the creation of a courtyard between buildings A, B, C, and D1, and the project includes renovating an existing pocket park, which creates a further benefit.
With respect to Ecology and Habitat, the commission finds that the site does not include any NHESP habitat. However, some mature trees will be removed, creating a slight detriment.

With respect to Climate Change Resilience, the Commission finds that the project would have a detrimental impact. The project site lies within the 100-year floodplain, with beach frontage on Vineyard Haven Harbor. Buildings C, D1, D2, and a portion of B, along with the gravel parking area, would be located within the FEMA AE zone. All of the units would be constructed 1–3 feet above the base flood elevation, and the applicant has stated that hazard insurance would be included in the condominium fee. As per the conditions, the condominium documents must state that 1) owners assume the risk of their unit being condemned as a result of sea-level rise, storms, and/or flooding, and for the buildings in the flood zone, 2) the property is in the flood zone and there may be access issues, including emergency access, and that flood insurance rates may increase, and 3) the condominium trust will be responsible for removal of any buildings or other structures on the property as necessary, including as the result of sea-level rise, storms, and flooding. The Commission also notes that the existing breakwater will reduce the effect of waves during flooding events. However, the Commission finds that flooding events on the low-lying portion of the site are increasing as the 100-year flood occurs with greater frequency, which raises significant questions about long-term safety, including homeowner and emergency access. Climate adaptation planning strategies strongly discourage new construction in the flood zone due to increased flooding as the result of rising seas, stronger coastal storms, and higher storm surges.

The Commission finds that the site lies in close proximity to the VTA transportation hub, the SSA terminal, and local businesses, allowing for alternate modes of transportation such as walking and public transit, and potentially lowering greenhouse gas emissions otherwise associated with driving.

**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 that trips to and from the site would increase, and parking spaces would decrease, but that the proposed uses associated with the project would likely have a negligible impact on the area. The Commission also finds that the project would promote and connect all modes of transportation in the area, creating a benefit.

With respect to Character and Identity, the Commission finds that the proposal would have a beneficial impact by preserving the historic Stone Bank building, as well as the first floor of neighboring drive-through building. The Commission notes that the Tisbury Historical Commission has formally endorsed the project, praising the discreet nature of the proposed courtyard, and stating among other things that the proposed buildings are appropriately diverse and in keeping with the scale of neighboring areas. As conditioned, all roof surfaces on Building C will have terra cotta tiles identical in style to those on Building A; existing field stones in the building east of the Stone Bank annex (proposed site of Building B), and in various walls on the property, will be reused onsite to the greatest extent possible; the stone from the Stone Bank annex will be used to construct retaining walls and the bricks from
existing paths to construct the pocket park; and the existing lampposts will be set aside and reused if possible.

With respect to Scenic Values, the Commission finds the project would have a beneficial impact by increasing open green space and likely improving public access in the downtown area, including renovated walkways, a pocket park, and a private courtyard visible from the outside.

The Commission notes that the site as a whole is highly visible, as it lies directly opposite the Tisbury SSA Terminal and town parking lot, and the proposed changes aim to preserve the historic nature of the existing buildings. A preliminary landscape plan shows five existing trees to remain, and a mix of new and existing shrubs/vegetation throughout the property. According to the site plan, lighting would be LED landscape lighting beneath trees and shrubs, along with downlighting on each of the condo porches. No additional lighting is permitted on Main Street.

With respect to Economic Development, the Commission finds that the proposed residential units would have a beneficial impact on surrounding businesses, particularly retail shops and restaurants. However, the number of new jobs created, and the hours of operation, for the seven commercial units are unknown. The Commission also finds that the project will create a small number of new temporary jobs in the professional services and construction industries. The future commercial uses in buildings A, B, C, E, and F are being permitted as retail/office space only.

With respect to Safety and Health, the Commission notes that flooding events on the low-lying portion of this site are increasing as the 100-year flood occurs with greater frequency, which raises questions about long-term safety, including homeowner and emergency access. The Commission notes that emergency access to the Stam property may be impaired by the presence of Building D2, but that a second access way from Main Street will remain in place.

With respect to Noise and Night Lighting, the Commission finds that the project would likely have a neutral impact. The site would include residential uses (targeting elder residents wishing to downsize) and a combination of retail and office uses. As per the conditions, noise associated with HVAC and other external equipment shall not exceed the decibel levels indicated by the manufacturer(s) as occurring under typical conditions. Lighting would be downward-facing LED landscape lighting beneath trees and shrubs, along with downlighting on each of the condo porches. No additional lighting is permitted on Main Street.

With respect to Impact on Abutters (after completion), the Commission finds the project would have a neutral or beneficial impact. There would be a loss of parking spots, including several at 16 Union Street that are used by neighboring businesses, although that property belongs to Santander Bank. The one residential abutter to testify during the hearing has endorsed the project.

**A4. The Commission finds that the proposed development 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 addition of 10 units to the Island housing stock, including one deed-restricted affordable unit, and the monetary contribution of $73,600 to the Tisbury Affordable Housing Trust Fund would create a benefit. The target population for the condos are elder Island residents looking to downsize. The common areas and facilities would include the entire property, minus the units. As conditioned, all residential housing units must be year-round, and rentals of the residential units by the owner shall be for no less than one week at a time, not more than three times a year, and shall not exceed 21 days in total per calendar year.

A5. The Commission came to no consensus as to whether the proposed development would have a beneficial, detrimental, or neutral effect on the provision of municipal services or burden on taxpayers in the making provision therefore (Section 15(e) of the Act).

With respect to Municipal Services, the Commission finds that the project would not have a significant impact on town services such as police and fire, since it is located in a densely developed mixed-use/commercial area. However, the Commission also finds that the project would utilize the sparse remaining sewer capacity in town, hastening the need to expand the wastewater plant.

With respect to Burden on Taxpayers, the Commission finds that the project will generate new additional commercial and residential property taxes for the town of Tisbury, but as noted, the project will hasten the need to expand the sewer service, accelerating a financial cost to taxpayers.

A6. The Commission finds that the proposed development would use efficiently and would 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 notes that there will be no changes along Main Street, and the proposal would preserve public access to the portion of the property with beach frontage. The fate of an existing bench that is located on the beach behind the VTA bus stop and that appears to be for public use is unknown.

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 Commission finds that the project will have a neutral or beneficial impact in regard to municipal, regional, and state planning objectives. The Commission notes that the project generally aligns with the Island Plan, including sections 2 (Development and Growth), 4 (Built Environment), 6 (Livelihood and Commerce), 8 (Housing), and 9 (Transportation), with the possible exception of Section 3.6, on Climate Change, which includes Strategy N10-2 (Limit construction in areas at greatest risk and adopt measures to limit impacts), and Strategy N10-3 (Preserve lands that are susceptible to climate change impacts as open space). According to the Island Plan, "it is reasonable to assume that local sea level rise may be significantly higher than worldwide projections, meaning that significant public
infrastructure as well as private properties on the Vineyard are at risk and will be inundated at some point.”

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) of the Act).

The Commission notes that Tisbury Zoning Bylaw 05.21.01 prohibits commercial uses from occurring above residential uses in the B1 district. Therefore, the project has been conditioned so that the bottom floor of Building A shall be for commercial use only, and an affordable housing unit equivalent to Unit R2 as shown in the floor plans dated 1/19/21 shall be included in Building F. The plans for Buildings A and F as amended shall be submitted to the LUPC for review and approval prior to the issuance of a Building Permit, and the identification of intended commercial uses of Building A is subject to the Commission’s approval as a Modification.

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 proposed project as a whole advances 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 as conditioned 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 Commission finds that the property is not located in any DCPC.

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 April 29, 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 April 29, 2021:
Voting to approve the project: Jeffrey Agnoli; Trip Barnes; Christina Brown; Joshua Goldstein; Jay Grossman; Fred Hancock; Michael Kim; Joan Malkin; Kathy Newman; Brian Packish; Ben Robinson; Ted Rosbeck; Linda Sibley; Doug Sederholm; Ernie Thomas; Christine Todd; and James Vercruysse.

Voting against: None.
Abstentions: None.
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 April 29, 2021 and was approved by a vote of the Commission on May 13, 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. BUILDING USES AND LOCATIONS

1.1 As offered by the Applicant, all commercial units will be for retail or office use. The commercial units in Building B will be for office use only. Any proposed change of use will return to the MVC for approval.

1.2 To comply with Tisbury Zoning Bylaw 05.21.01, which prohibits commercial uses from occurring above residential uses in the B1 District, the bottom floor of Building A shall be for commercial use only. An affordable housing unit equivalent to Unit R2 as shown in the floor plans dated January 19, 2021 shall be included in Building F, and the plans for Buildings A and F, as amended, shall be submitted to the LUPC for review and approval prior to the issuance of a Building Permit. The identification of intended commercial uses of Building A is subject to the Commission’s approval as a Modification.

1.3 The location of Building D2 shall be shown in the site plan listed as P12. S1: “Site Plan for Stone Bank Project,” 75 Main Street and 16 Union Street, Tisbury MA 02568 designed and developed by Reid A. Dunn, Architect; consisting of one (1) 24” x 36” page, scale 1” = 20’-0”, dated February 7, 2021.

1.4 Subject to the changes to Building A that may result from Condition 1.2, the approved uses in each building shall be as shown in the site plan listed as P12. S1: “Site Plan for Stone Bank Project,” 75 Main Street and 16 Union Street, Tisbury MA 02568 designed and developed by Reid A. Dunn, Architect; consisting of one (1) 24” x 36” page, scale 1” = 20’-0”, dated February 7, 2021, and as shown in the MVC staff report dated March 25, 2021.

2. HOUSING
2.1 All residential housing units shall be year-round, and rentals of the residential units by the owner shall be for no less than one week at a time, not more than three times per year, and not to exceed 21 days in total per calendar year.

2.2 The affordable housing unit shall:
   1) Be a homeownership unit.
   2) Be deed restricted as affordable housing in perpetuity, for income-qualified applicants earning no more than 80% of the Area Median Income (AMI).
   3) Comply with all state and federal Affirmative Fair Housing laws.
   4) Comply with Universal Design Standards and MA 521 CMR (the specialized building code requiring access for persons with disabilities for buildings in Massachusetts).
   5) Meet all requirements to count towards the State's Subsidized Housing Inventory (SHI) under Chapter 40B for the Town of Tisbury.

2.3 The recipient of the affordable housing unit shall:
   1) Be certified by the Dukes County Regional Housing Authority (DCRHA); all income certification (unless the recipient is already certified), lottery, and ongoing monitoring of the affordable unit shall be done by DCRHA or state-certified housing entity at the Applicant's expense.
   2) Be selected by the DCRHA or other state-certified housing entity through a public lottery in conformance with Affirmative Fair Housing Laws.
   3) Be exempt from all condominium covenants and fees, including hazard and flood insurance.
   4) Be entitled to all benefits available to other residential unit owners, including the benefit of hazard insurance available to the condominium association.

2.4 Any future sale of the Affordable Housing unit shall be to households with incomes at or below 80% AMI for Dukes County, and all subsequent buyers will be subject to the same restrictions in perpetuity.

2.5 All future re-sales of the affordable unit shall be administered and monitored by the DCRHA or a state-certified housing entity at the Applicant’s expense.

2.6 If Unit R2 of Building A is not permitted to be used for residential housing, then a unit not smaller than the square footage of Unit R2 shall be made available for housing on the same terms as conditions 2.1 to 2.6.

2.7 Monetary mitigation for the affordable housing impact of the commercial portion of the project shall be as follows:

   900 ft² x 2 (Office Use) x $8 = $14,400
   1,850 ft² x 4 (Retail Use) x $8 = $59,200
   Total monetary mitigation = $73,600

2.8 The monetary mitigation of $73,600 shall be paid in full to the Tisbury Affordable Housing Trust Fund prior to the issuance of a Certificate of Occupancy.
3. STORMWATER, FLOODING, AND DRAINAGE

3.1 To ensure permeability, and as offered by the Applicant, the project's civil engineer will examine all percolation areas under the removed asphalt to determine if additional excavation is needed to reach the sand. Removed material will be replaced with medium sand with a percolation rate of at least 50 ft per day.

3.2 As offered by the Applicant, the lowest habitable level of buildings D1 and D2 will be constructed 13 ft above sea level to account for sea level rise.

3.3 As offered by the Applicant, all construction will adhere to building code requirements for flood zones.

3.4 The condominium rules shall state that any evacuation order must be obeyed.

3.5 The condominium documents shall state that all owners assume the risk of their unit being condemned as a result of sea level rise, storms, and/or flooding.

3.6 For the buildings in the flood zone (B, C, D1, and D2), the condominium documents must specify, and the developer shall inform all future residents/buyers, that the property is in the flood zone and there may be access issues, including emergency access, as a result of sea level rise, storms, and flooding, and that flood insurance rates may increase.

3.7 The condominium Declaration of Trust shall state that the Trust will be responsible for removal of any buildings or other structures on the property as necessary, including as the result of sea level rise, storms, and/or flooding.

3.8 The Applicant shall provide an engineered stormwater plan, including as it relates to drainage of the proposed walkways, for LUPC review and approval prior to the issuance of a Building Permit.

4. HISTORIC CHARACTER

4.1 As offered by the Applicant, all roof surfaces on Building C will have terra cotta tiles identical in style to those on Building A.

4.2 As offered by the Applicant, existing field stones in the building east of the Stone Bank annex (proposed site of Building B), and in various walls on the property, will be reused onsite to the greatest extent possible.

4.3 As offered by the Applicant, the stone from the Stone Bank annex will be used to construct retaining walls. The bricks from existing paths will be used to construct the pocket park. The lamp posts will be set aside, and if salvageable, could be recycled. At present there is no plan to re-use them in this project.
4.4 The Tisbury Historical Commission’s final review of the architectural details of Buildings A through F, accounting for the Applicant’s offers and MVC conditions, shall return to the LUPC for approval prior to the issuance of a Building Permit.

5. ENERGY

5.1 Subject to Tisbury Historic Commission approval, solar panels shall be installed on the south-facing roofs of buildings B and D1. Plans showing the final location and capacity of the solar panels shall be submitted to the LUPC for approval prior to receipt of a Building Permit.

5.2 The Applicant shall present a plan showing the energy sources for hot water heaters on the property, including potential on-site renewable energy, to the LUPC for approval prior to receipt of a Building Permit.

5.3 Interior space heating shall be with air-source heat pumps.

6. LANDSCAPE AND LIGHTING

6.1 All lighting on the property must be downward-shielded/downlighting. Landscape lighting must be LED. Building lighting must be no more than the minimum required by the local and MA Building Code. No additional lighting is permitted on Main Street.

6.2 A final landscape plan showing the location and types of existing and proposed vegetation, pavers, and surface treatments, and including a long-term maintenance plan along with details related to external equipment (see 8.1 below) shall be submitted to the LUPC for approval before a Certificate of Occupancy is issued.

6.3 A final lighting plan shall be submitted to the LUPC before a Building Permit is issued.

7. NOISE

7.1 Noise associated with HVAC and other external equipment shall not exceed the decibel levels indicated by the manufacturer(s) as occurring under typical conditions. The Applicant shall include details of such equipment, including their locations, to be approved by the LUPC prior to receipt of a Building Permit.

8. BEACH ACCESS

8.1 The public shall have access to the portion of the property at 75 Main Street that contains the beach along Vineyard Haven Harbor, for the purpose of allowing continued foot traffic between the Steamship Authority Terminal and Owen Park.

9. CONDOMINIUM DOCUMENTS

9.1 Final Condominium Documents (including Master Deed, Declaration of Trust, and Rules and Regulations) shall be submitted to the LUPC for approval prior to receipt of a Certificate of Occupancy. The documents shall include the following:
1) The affordable unit’s exemption from condominium fees and insurance coverage, including which coverages will be excluded.

2) The location and uses of all common areas including the public beach access (this information must also be indicated on a site plan).

3) Statement that any exterior changes, changes of use, or changes of intensity of use, must return to the MVC for review.

9.2 Upon the sale of any of the commercial units, the new owner(s) shall be provided with all Condominium Documents, as well as the MVC conditions.

9.3 The Applicant shall require that owner(s) of any commercial unit to offer all their employees annual VTA bus passes free of charge.

10. **PHASING AND CONSTRUCTION**

10.1 As offered by the Applicant, construction of Buildings B and C will commence immediately upon receipt of a Building Permit, hopefully early summer of 2021.

10.2 If any of the proposed buildings are not complete within five years, plans for those buildings must return to the MVC for additional approval.

10.3 As offered by the Applicant, the project site shall have two construction entrances - at 16 Union Street and through the Town parking lot. There will be no construction access via Main Street. Staging of materials and equipment shall take place on-site. Construction workers shall also park on-site. The property boundary shall be fenced during construction.

11. **FUTURE MODIFICATIONS**

11.1 Any proposed modifications to DRI 674-M, as approved herein, including any modification resulting in any change of use or change in intensity of use, or any change to the waterfront area, shall be referred to the MVC for prior review and approval.

6. **CONCLUSION**

6.1 **Permitting from the Town**

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

The permit-granting authorities of the Town of Tisbury 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 Tisbury 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

May 14, 2021

Date

6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 14th day of May, 2021, before me, Lucy C. Morrison, Notary Public, personally appeared Joan Malkin, and 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.

Lucy C. Morrison
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: May 14, 2021

Deed: Book 1578, Page 768

Document Number: 00003982