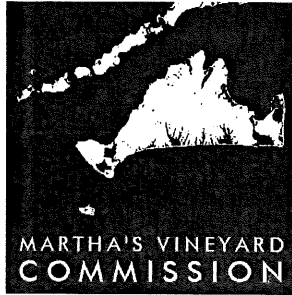




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## Decision of the Martha's Vineyard Commission

### DRI 714 38 Wing Road Demolition/Aidylberg 3

#### 1. SUMMARY

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- Referring Board:** Oak Bluffs Zoning Board of Appeals
- Subject:** Development of Regional Impact #714 38 Wing Road Demolition/Aidylberg 3
- Project:** Demolition of a house listed in MACRIS (retroactive) and construction of five age-restricted affordable housing rental units.
- Owner:** Island Elderly Housing; Peter Freeman (Agent)
- Applicant:** Peter Freeman
- Applicant Address:** Island Elderly Housing  
60B Village Road  
Vineyard Haven, MA 02568
- Deed:** Book 1060, Page 932
- Project Location:** 38 Wing Road, Oak Bluffs. Map 17, Lot 105 (approximately 0.83 acres).
- 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 June 9, 2022.
- Written Decision:** This written decision was approved by a vote of the Commission on July 7, 2022.

The permit-granting authorities of the Town of Oak Bluffs 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**

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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 October 12, 2021, by the Oak Bluffs Zoning Board of Appeals 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, items 4.1a *Creation of 5 or more dwelling units*, 8.1-A *Demolition of a structure listed in MACRIS*, and 8.1-B *Demolition of a structure older than 100 years*. MVC staff confirmed that project is exempt from Checklist item 4.1a, since the dwellings will be deed restricted and the project will include an Innovative/Advanced septic system with nitrogen reduction performance equal to that of the Town sewer. Checklist 8.1-A requires a public hearing and review as a Development of Regional Impact.

### **2.2 Hearings**

Notice: Public notice of the hearing on the Application was published in the MV Times on March 24 and 31, 2022; notice was also published in the Vineyard Gazette on March 25 and April 1, 2022. Abutters within 300 feet of the property were notified by mail on March 22, 2022.

Hearings: The Commission scheduled a public hearing on the Application pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on April 7, 2022 which was continued to May 5, 2022, which was closed that same night with the exception of the written record which was left open until 5:00 pm on May 12, 2022 and closed at that time. The hearings were held entirely using remote conference technology as allowable under 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. Aidylberg III Application Package for 38 Wing Road, Oak Bluffs, Island Elderly Housing by Ignarri Lummis Architects, consisting of twenty-seven (27) 42" x 30" pages, dated March 12, 2021, including: A-001 Cover Sheet; A-002 Egress Plans; A-101 Foundation & Basement Plan; A-102 First Floor Plan; A-103 Attic Plan; A-104 Roof Plan and Details; A-200 First Floor Reflected Ceiling Plan; A-300 Typical Unit Plan, Elevations and Details; A-301 Accessible Unit Plan, Elevations and Details; A-302 Community Room and Entry Plan and Elevations; A-400 Exterior Elevations; A-401 Exterior Elevations; A-500 Building Sections; A-501 Building Sections; A-502 Building Sections; A-503 Building Sections; A-504 Building Sections; A-505 Stair Sections; A-600 Door Schedule, Types, and Details; A-601 Door Details; A-602 Window Types and Details; A-603 Room Finish Schedule; A-604 Wood Trim Details; A-605 Typical ADA Details; A-606 Partition

Types; S-101 Roof Framing Plan; S-102 Roof Truss Types; P-00 Plumbing Coversheet; P-01 Plumbing Corridor, Entry, and Utility; P-00 Plumbing Attic Plan; P-00 Plumbing Unit Plans; P-00 Plumbing Schedule; P-00 Plumbing Details; M-00 Mechanical Coversheet; M-01 Mechanical Basement and First Floor Plan; M-02 Mechanical Attic Plan; M-03 Mechanical Unit Plans; M-04 Mechanical Schedules; M-05 Mechanical Details; E-00 Electrical Coversheet; E-01 Electrical Site Plan; E-02 Electrical Floor Plans; E-03 Electrical Single Line Diagram and Schedules; and E-04 Electrical Panel Schedules.

- P2. Aidylberg III Site Plan prepared for Island Elderly Housing by Schofield, Barbini & Hoehn, consisting of one (1) 18" x 24" page, scale 1" = 20', dated October 9, 2021.
- P3. Proposed Sewage Disposal System Plan prepared for Aidylberg III Elderly Housing by Schofield, Barbini & Hoehn, consisting of one (1) 36" x 24" page, scale 1" = 40', dated November 6, 2021; drainage revised on January 24, 2022; parking revised on February 8, 2022.
- P4. Graphical Site Lighting Plan for Aidylberg III prepared by Ignarri Lummis Architects, consisting of one (1) 36" x 24" page, scale  $\frac{1}{8}" = 1'-0"$ , dated January 20, 2022.
- P5. Presentation Site Plan for Aidylberg III prepared by Ignarri Lummis Architects, consisting of one (1) 36" x 24" page, scale  $\frac{3}{32}" = 1'-0"$ , dated January 28, 2022.
- P6. Aidylberg III Site Plan prepared for Island Elderly Housing by Schofield, Barbini & Hoehn, consisting of one (1) 18" x 24" page, scale 1" = 40', dated February 8, 2022.
- P7. Presentation Site Plan for Aidylberg III prepared by Ignarri Lummis Architects, consisting of one (1) 36" x 24" page, scale  $\frac{3}{32}" = 1'-0"$ , dated April 13, 2022.
- P8. Graphical Site Lighting Plan for Aidylberg III prepared by Ignarri Lummis Architects, consisting of one (1) 36" x 24" page, scale  $\frac{3}{32}" = 1'-0"$ , dated April 13, 2022.

#### **2.4 Other Exhibits**

- E1. Referral to the MVC from the Oak Bluffs Zoning Board of Appeals, consisting of two (2) pages, received October 12, 2021.
- E2. MACRIS file OAK.798 for 38 Wing Road, Oak Bluffs, consisting of three (3) pages, surveyed on January 11, 1979.
- E3. Property Card for 38 Wing Road, consisting of one (1) page.
- E4. DRI 569 Aidylberg 2 Decision (Book 973, Page 1081) consisting of five (5) pages, dated October 2, 2003.
- E5. Site Layout & Landscape Plan for Aidylberg I & II prepared by Studio One Inc., consisting of two (2) 17" x 11" pages, scale 1" = 20'-0", dated September 25, 2002 and revised on September 9, 2003.

- E6. DRI 569 Aidylberg 2 Extension Approval, consisting of one (1) page, dated September 9, 2005.
- E7. Aidylberg II Site Plan prepared by Schofield, Barbini & Hoehn, consisting of one (1) page, scale 1" = 20', dated September 20, 2005.
- E8. Letter and attachment from Alex Elvin to Tom Perry, Oak Bluffs Building Inspector, regarding 38 Wing Road Demolition, consisting of four (4) pages, dated July 7, 2021.
- E9. Letter from Simone DeSorcy in response to Exhibit 8, consisting of three (3) pages, dated July 13, 2021.
- E10. Letter from Adam Turner to Simone DeSorcy in response to Exhibit 9, consisting of one (1) page, dated July 27, 2021.
- E11. Comprehensive Permit Application for Aidylberg III, consisting of twenty-two (22) pages, dated September 30, 2021.
- E12. Demolition Permit for 38 Wing Road issued on October 24, 2019.
- E13. Memo from Peter Freeman to Alex Elvin with answers to staff questions, consisting of five (5) pages, dated December 20, 2021.
- E14. Letter from Simone DeSorcy (IEH) requesting waiver of DRI fee, consisting of one (1) page, received January 19, 2022.
- E15. Emails between Peter Freeman and Alex Elvin with application clarifications, consisting of three (3) pages, dated January 20, 2022.
- E16. Staff Report for DRI 714 38 Wing Road/Aidylberg 3, consisting of three (3) pages, dated January 28, 2022; updated on March 9, 2022; and updated to be five (5) pages on April 6, 2022; and updated again on April 26, 2022.
- E17. Information about Original Owner - Machado Family, consisting of five (5) pages, received January 31, 2022.
- E18. Staff Presentation to the Land Use Planning Committee, consisting of forty-three (43) pages, dated January 31, 2022.
- E19. Letter from Simone DeSorcy with attached deeds from 1920-1923, consisting of thirteen (13) pages, received February 7, 2022.
- E20. Letter from Simoney DeSorcy with attached Sewage Disposal System and Drainage Plan, consisting of two (2) pages, received February 7, 2022.
- E21. Conceptual Landscape Details, consisting of seven (7) pages including renderings, received February 18, 2022.

- E22. Letter and attachments from Simone DeSorcy with response to MVC questions, consisting of twenty-five (25) pages, dated February 18, 2022.
- E23. Photos of the site taken by staff on March 9, 2022 consisting of twelve (12) pages
- E24. Water Resource notes for DRI 714 38 Wing Road/Aidylberg, consisting of one (1) page, dated March 9, 2022.
- E25. Letter and attachments from Peter Freeman regarding application clarifications, consisting of thirteen (13) pages, dated March 9, 2022.
- E26. Email from Chris Alley to Alex Elvin regarding permeable pavement, consisting of two (2) pages, dated April 13, 2022.
- E27. Emails between Alex Elvin, Robert Edmunds (IEH), and Pierre Vaillancourt (IEH), consisting of four (4) pages, dated April 20 to May 12, 2022.
- E28. Email from Simone DeSorcy to Alex Elvin regarding Mid-Hearing LUPC meeting, consisting of three (3) pages, dated April 25, 2022.
- E29. Staff Presentation to the full Commission, consisting of forty-six (46) pages, dated April 7, 2022, and updated to consist of sixty-five (65) pages on May 5, 2022.
- E30. Transportation Memo for DRI 714 38 Wing Road/Aidylberg 3, consisting of one (1) page, dated April 7, 2022.
- E31. Staff Summary of Commissioner Concerns from Mid-Hearing LUPC, consisting of one (1) page, dated April 19, 2022.
- E32. Landscape Detail Clarifications, consisting of three (3) pages, received May 3, 2022.
- E33. Emails between Pierre Vallaincourt, Alex Elvin and Jaclyn Moak regarding surrounding building heights, consisting of three (3) pages, dated May 3 to 5, 2022.
- E34. Letter from Simone DeSorcy on behalf of the Board of Island Elderly Housing, consisting of two (2) pages, received May 12, 2022.
- E35. Specification Sheets for outdoor wall lights, consisting of eleven (11) pages.
- E36. Exhibit A: Pre-demolition asbestos inspection and sampling report, prepared by Nauset Environmental Services, Inc., consisting of eighteen (18) pages, dated September 19, 2019.
- E37. Exhibit C: Financial Information Regarding the Value of the Former Building at 38 Wing Road, consisting of eleven (11) pages.
- E38. Exhibit H: IECC Compliance Documents, consisting of ten (10) pages.
- E39. Exhibit I: SVZ-KP24NA & SUZ-KA24NAHZ Mitsubishi Electric Hyper-Heating Universal Outdoor Unit Specification Sheet, consisting of seven (7) pages.

- E40. Exhibit J: Septic Permit Application and associated plans, consisting of three (3) pages.
- E41. Exhibit K: Financial Pro Forma, consisting of four (4) pages.
- E42. Exhibit L: Letters of Support, consisting of thirty-eight (38) pages.
- E43. Exhibit M: Unit Composition, consisting of one (1) page.
- E44. Three letters of support from the following Boards and Committees: Harbor Homes, dated May 5; Oak Bluffs Affordable Housing Committee, dated May 10, 2022; Dukes County Regional Housing Authority and Island Housing Trust, dated May 12, 2022.
- E45. Seven letters of support from the following citizens: Eleanor Amaral, May 11, 2022; Jamie and Marge Harris, May 4, 2022; Susan Klein, May 12, 2022; Bruce MacNelly, May 12, 2022; Judith Searle, May 11, 2022; and Matthew Stockpole (2) April 7 & May 10, 2022.
- E46. Ten letters of opposition from the following citizens: Jill Cheatham (5) February 7, April 7, May 5, May 12 (2); Mark Cheatham, April 7, 2022; Kathryn Collins, May 21, 2022; Rene Hill (2) April 7 and May 6, 2022; and George Valentzas, April 21, 2022.
- E47. Minutes of the Commission's Land Use Planning Committee Pre-Public Hearing Review, January 31, 2022.
- E48. Minutes of the Commission's Public Hearing, April 7, 2022.
- E49. Minutes of the Commission's Land Use Planning Committee Mid-Hearing Review, April 19, 2022.
- E50. Minutes of the Commission's Continued Public Hearing, May 5, 2022.
- E51. Minutes of the Commission's Land Use Planning Committee Post-Public Hearing Review, June 6, 2022.
- E52. Minutes of the Commission's Deliberation and Decision, June 9, 2022.
- E53. Minutes of the Commission's Written Decision, July 7, 2022.

## **2.5 Summary of Testimony**

The following gave testimony during the public hearing on April 7, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Peter Freeman, Simone DeSorcy (IEH), Chris Alley and Jaclyn Moak.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Rene Hill, abutter; Peter Guest; and Jill Cheatham, abutter.

The following gave testimony during the continued public hearing on May 5, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Peter Freeman, Simone DeSorcy, and Cole Powers (IEH).
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Jill Cheatham, Rene Hill, and Ashlee Cheatham, abutters.

### **3. FINDINGS**

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#### **3.1 Project History**

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

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

The former 1.5-story, three-bedroom, 1,200 ft<sup>2</sup> house was constructed around 1900 and is listed in the Massachusetts Cultural Resource Information System (MACRIS). The MACRIS report from 1979 (prepared by the Oak Bluffs Historical Survey) describes the style of the house as wood-frame construction, with unpainted shingles, gable dormers, a side addition, and covered front porch. The report states that the house “is significant as part of the continued expansion of Cottage City (Oak Bluffs) as a resort and year-round community.”

The Oak Bluffs Building Department issued a demolition permit for the house in October 2019 without referring the project to the MVC. The permit would have expired in November 2020, but local permits were tolled during the MA Covid state of emergency. The Building Department stated in July that it had informed IEH in early 2021 that the project required MVC review, but the house was demolished in May without being referred.

IEH had originally pursued a special permit for Aidylberg 3, but withdrew its application in April 2021, in favor of a comprehensive permit under Chapter 40B. The comprehensive permit application was submitted in September 2021. The applicants for DRI 714 are Aidylberg III Inc. (a separate nonprofit that will also own and build the project); and IEH, which is acting as the project sponsor and will provide support and services for Aidylberg 3.

#### **3.2 Project Description**

The proposal is to demolish (retroactively) the house at 38 Wing Road, along with a garage and outbuildings, and construct phase three of the Aidylberg elder housing project. The proposal includes a single L-shaped building with five one-bedroom units of age-restricted rental housing affordable to households earning up to 80% of the Area Median Income. Each unit, as well as a community room and

laundry room, would be located on the ground floor. The building would include attic space and a small basement, both of which would be used for mechanical/HVAC, electrical, and plumbing equipment, along with fire suppression equipment and pipes.

The proposed building would have a footprint of 6,809 ft<sup>2</sup>, with 14,964 ft<sup>2</sup> of parking and paved area, and 14,409 ft<sup>2</sup> of open (grass) area. Aidylberg 1 and 2, which are located on separate lots, each include five units, so the total number of units in the development will increase from 10 to 15. The total number of parking spaces will increase from 13 to 18.

### **3.3 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. The project was reviewed under DRI Checklist item 8.1-A, *Demolition of a structure listed in MACRIS*.

### **3.4 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 SECTIONS 14 AND 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 Commission finds that the probable benefits of the project outweigh the probable detriments, as described below. With respect to impacts upon persons and property (Section 15(c) of the Act), and impact on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), the Commission finds the project would have a beneficial impact. The Commission finds the project would have detrimental impact with respect to the provision of municipal services or burden on taxpayers (Section 15(e) of the Act), and a neutral impact upon the environment (Section 15(b) of the Act). The Commission notes that while the project was reviewed as a retractive historic demolition under Checklist 8.1A, the consideration of regional impact also applies to the replacement structure.



The Commission acknowledges the essential need for elder housing on the Island, but also various concerns with the project, as outlined in this decision.

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

With respect to Energy (considered a primary factor in the decision), the Commission finds the project as conditioned would likely have a beneficial impact compared to the previous conditions, due to its use of electric heat pumps, energy efficiency measures, and the potential for rooftop solar. The Commission notes the following:

- The Applicant plans to meet or exceed International Energy Conservation Code (IECC) standards for the building envelope, and to install Energy Star compliant propane air conditioning units.
- The Applicant had argued that electric heat pumps do not work as well in cold weather, but was willing to use heat pumps if required by the MVC.
- The comprehensive permit application states that there will be no dishwashers in any of the kitchen units or common areas, and only one washing machine and dryer for the development, which will reduce energy consumption.
- Daylighting of building corridors and motion sensors will reduce lighting needs and energy use.
- The Applicant has stated that there would be room in the roof structure for solar equipment.
- Commissioners have raised concerns that the building as designed includes a large amount of unused space, which would decrease overall efficiency.

With respect to Water Quality, the Commission finds the project would have a beneficial impact as result of proposed upgrades from previous conditions. The Commission notes that the property is located within the Farm Pond and Oak Bluffs Harbor watersheds, both of which are impaired. The Oak Bluffs Board of Health has approved plans for an Innovative/Advanced (I/A) system capable of handling 1,500 gallons per day. An existing cesspool will be abandoned and filled in.

With respect to Stormwater, the Commission finds the project would have a neutral impact. A drainage plan designed for a 25-year storm shows 24 StormTech storage chamber units in two clusters on the property, as well as a new catch basin south of the proposed building.

With respect to Open Space, the Commission finds the project would create a minor detriment, since open space would decrease on the property, compared to the previous conditions.

With respect to Climate Change Resilience, the Commission finds the project would create a minor detriment, in part because the building as designed includes a large amount of unused space, which would be inefficient in terms of material usage and extraction, with climate change impacts.

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

With respect to Character and Identity (considered a primary factor in the decision), the Commission finds the project would have a detrimental impact due partly to the loss of a historic structure. The Commission notes the following:

*Historic significance of the former building*

- Age: c. 1900
- History/culture: Example of expansive Campground construction. Original owner was Manuel Machado (1833-1923), as documented by the MV Portuguese Genealogy Project. Machado was known as a day laborer, and left the house to his son, Joseph Machado.
- Design/construction: 1.5-story, 1,200 ft<sup>2</sup> house, wood-frame, gable roof, unpainted shingles, example of expansive Campground construction.
- Historic portion: The entire building was considered historic.
- Previous alterations: Unknown
- Contribution to streetscape/community: The house was similar in scale and appearance as other houses along Wind Road, and stood apart on its lot.
- Historical designation: Listed in MACRIS.
- Visibility: The house was highly visible from Wing Road.
- Condition: Plus-average quality (per assessor – most common rating in Oak Bluffs), assessed at \$65,800. Some asbestos-containing material found in shower. No structural report was provided.

*Other considerations*

- The proposed development will be highly visible from Wing Road, with minimal vegetative screening. The proposed building will be 27'4" at the highest ridge.
- Commissioners have raised concerns about the design of the new building, including space efficiency; the location of hallways and porches in regard to impacts on lighting, ventilation, and privacy in the living spaces; and the unused attic space which would add to the massing of the building.
- Conditions placed on the project will potentially improve the character of the building.

With respect to Economic Development, the Commission notes the following:

- The Applicant does not expect any increase in the number of employees as result of the project.
- A financial pro forma for the project, submitted as part of the comprehensive permit application, has been provided.

With respect to Traffic and Transportation, the Commission notes the following:

- The project would utilize existing access via Aidylberg Way, and include five new parking spaces (one per unit). Aidylberg 1 and 2 currently have a total of 13 spaces.
- The property is located on the VTA bus line.

With respect to Landscape and Lighting, the Commission notes the following:

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

With respect to Impact on Abutters, the Commission finds the project would have a detrimental impact. The Commission acknowledges that the concerns of abutters have focused largely on a property line dispute that is beyond the MVC's jurisdiction, as well as the scale of the proposed building and other concerns. The Commission notes the following:

- Five abutters have written or testified in opposition to the project, while three have written in support.
- Abutters opposed to the project have commented on potential noise and traffic, nitrogen loading, intensity of use including energy use, the scale of the proposed building, the accuracy of the surveyed lot lines, and other concerns.
- Abutters in support of the project have commented on the need for affordable elder housing on the Island, the demonstrated success/maintenance of Aidylberg 1 and 2, and the building's appropriateness in the neighborhood.

**A4. In regard to the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act; considered a primary factor in the decision), the Commission finds the project would have a beneficial impact.**

The Commission notes the following:

- The project will create five additional units of age-restricted affordable rental housing at the Aidylberg development, bringing the total to 15.
- IEH currently has four elder-housing developments, at Hillside Village and Love House in Tisbury, and Woodside Village and Aidylberg Village in Oak Bluffs, and there are about 500 people on the waitlist.
- All five rental units will be income restricted at 80% or less of the Area Median Income in perpetuity, and counted on the Massachusetts Department of Housing & Community Development's (DHCD) Subsidized Housing Inventory (SHI) for Oak Bluffs.
- All Affordable Housing units will meet universal design standards to allow residents to age in place.
- The Applicant does not anticipate the need for additional staff for the new building.
- The project will comply with all Affirmative Fair Housing Laws.
- The proposed project exceeds the MVC's DRI Housing Policy.
- Commissioners have raised concerns about the design of the new building, including space efficiency, and the location of hallways and porches in regard to impacts on lighting, ventilation, and privacy in the living spaces.

**A5. The Commission finds that the proposed development would have a slightly detrimental impact 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 such as police and fire because the development is in a developed residential area.

**A6. The Commission finds that the proposed development would use efficiently and not unduly burden existing public facilities or those that are to be developed within the succeeding five years (Section 15 (f) of the Act).**

The Commission finds the project will likely have a minimal impact on municipal services and taxpayers, since it is located in a developed area.

**A7. The Commission finds that the project as proposed generally does 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 (Sections 14(b), 15(g), and 15(h) of the Act), respectively.**

The project generally aligns with the Oak Bluffs Master Plan, although the plan includes a goal of preserving historical resources.

**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 Applicant has applied for a comprehensive permit under Chapter 40B, including waivers in regard to Oak Bluffs Zoning Bylaw sections 3.1 and 4.2.4. The MA Department of Housing and Community Development (the subsidizing agency for the project) issued a Project Eligibility Letter in August 2021.

**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 project generally aligns with the Island Plan, although the plan includes a goal of preserving historical resources, including culturally significant streetscapes.

**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.**

The project is consistent with local zoning 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 not within any District of Critical Planning Concern.

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions and offers, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriments in light of the considerations set forth in section 15 of the Act.

#### **4. DECISION**

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The Martha's Vineyard Commission deliberated about the application at a duly noted meeting of the Commission held on June 9, 2022, 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 June 9, 2022:

Voting to approve the project: Jeff Agnoli, Fred Hancock, Joan Malkin, Ben Robinson, Doug Sederholm, Brian Smith, Jim Vercruyse.

Voting against: Trip Barnes, Jay Grossman, Michael Kim, Greg Martino, Christine Todd.

Abstentions: Kathy Newman, Ernie Thomas.

Absent: Christina Brown, Kate Putnam, Linda Sibley.

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 June 9, 2022, and was approved by a vote of the Commission on July 7, 2022.

#### **5. CONDITIONS**

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

1. The Applicant shall return to the MVC with a revised design that reduces the massing of the proposed building, including the second story, and more faithfully replicates features of the demolished building. The revised design shall be subject to MVC review and approval prior to the issuance of a building permit.
2. All heating and cooling shall be via electric heat pumps.
3. A final landscape plan for the property shall be submitted to the LUPC for review and approval prior to receipt of a Certificate of Occupancy.
  - Only slow-release, water-insoluble nitrogen-source fertilizers may be used in the maintenance of landscaping.
  - Landscape must use only native or low-maintenance, drought-tolerant species that are non-invasive to minimize the application of nitrogen, pesticides, and water.

4. A final exterior lighting plan for the property shall be submitted to the LUPC for review and approval prior to receipt of a Certificate of Occupancy.
  - All exterior lighting shall be downward-shielded and comply with International Dark Sky Association standards.
  - The color temperature of exterior lighting shall not exceed 3,000 Kelvin.
5. No PVC materials may be used for the exterior cladding and trim of the proposed building.
6. The Applicant shall explore the possibility of installing rooftop solar panels, and report to the LUPC on their viability prior to receipt of a building permit. The Applicant's report, and any plans for rooftop solar panels, will be subject to LUPC review and approval.
7. Any proposed modifications to DRI 714, as approved herein, 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.

## **6. CONCLUSION**

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### **6.1 Permitting from the Town**

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

The permit-granting authorities of the Town of Oak Bluffs 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 Oak Bluffs 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.

**[The remainder of this page is intentionally left blank]**

**6.4 Signature Block**

*[Signature]*  
Joan Malkin, Chair

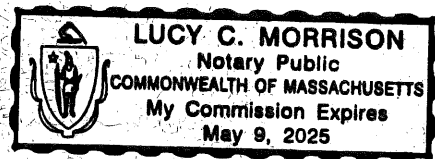
12 July 2022  
Date

**6.5 Notarization of Decision**

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 12<sup>th</sup> day of July, 2022, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Joan Malkin, proved to me through satisfactory evidence of identity, which was personal knowledge to be the person whose name was signed on the preceding or attached document in my presence, and acknowledged to me that she signed it voluntarily for its stated purpose as a free act and deed, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.



*[Signature]*  
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: July 27, 2022

Deed: Book 1632, Page 295

Document Number: 4855

ATTEST: Paulo C. DeOliveira, Register  
Dukes County Registry of Deeds