

P.O. BOX 1447 • 33 NEW YORK AVENUE • OAK BLUFFS • MA • 02557 • 508.693.3453  
INFO@MVCOMMISSION.ORG • WWW.MVCOMMISSION.ORG

# Decision of the Martha's Vineyard Commission

## DRI 734 - Meshacket Commons Affordable Housing

### 1. SUMMARY

---

- Referring Board:** Edgartown Zoning Board of Appeals
- Subject:** Development of Regional Impact #734 - Meshacket Commons Affordable Housing
- Project:** 40B Comprehensive Permit for 36 rental units and 4 ownership units.
- Owner:** Town of Edgartown
- Applicant:** Meshacket LLC; Island Housing Trust; Affirmative Investments
- Applicant Address:**
- |   |                        |
|---|------------------------|
| Craig Nicholson                         | Philippe Jordi         |
| Affirmative Investments, Inc.           | Island Housing Trust   |
| 33 Union Street - 2 <sup>nd</sup> Floor | P.O. Box 779           |
| Boston, MA 02108                        | West Tisbury, MA 02575 |
- Project Location:** 38 Meshacket Road, Edgartown. Map 28, Lot 225 (6.76 acres).
- Taking:** Recorded Land: Book 393, Page 374
- Judgement:** Recorded Land: Book 630, Page 781
- 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 November 10, 2022.
- Written Decision:** This written decision was approved by a vote of the Commission on December 1, 2022.

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.

### **2.1 Referral**

The project was referred to the Commission on July 11, 2022, 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 Items: 4.1a *Creation of 5 or more Dwelling Units* and 8.3 *Site Alteration of more than one acre of Significant Habitat*, both of which are considered Concurrence Reviews. At the Land Use Planning Committee meeting on August 22, 2022, the Applicant opted to bypass the concurrence review process and proceed to a public hearing 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 August 25 and September 1, 2022; notice was also published in the Vineyard Gazette on August 26 and September 2, 2022. Abutters within 300 feet of the property were notified by mail on August 23, 2022.

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 September 8, 2022, which was continued to September 22, 2022. The hearing was closed that night with the exception of the written record, which was left open until October 6, 2022 at 5:00 p.m. and closed at that time. The hearing was held entirely using remote conference technology as allowable under Chapter 22 of the Acts of 2022.

### **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. Meshacket Commons Design Plans Permitting Set prepared for Affirmative Investments, Inc. by Horsley Witten Group, Inc. Project Number 22009 consisting of twenty-two (22) 36" x 24" pages and dated May 13, 2022, including: C-1 Cover; C-2 Existing Conditions, scale 1 inch = 50 feet; C-3 Notes; C-4 Erosion & Sediment Control Plan, scale 1 inch = 30 feet; C-5 Overall Site Plan, scale 1 inch = 30 feet; C-6 Site Plan 1, scale 1 inch = 20 feet; C-7 Site Plan 2, scale 1 inch = 20 feet; C-8 Overall Drainage Plan, scale 1 inch = 30 feet; C-9 Grading & Drainage 2, scale 1 inch = 20 feet; C-10 Grading & Drainage 3, scale 1 inch = 20 feet; C-11 Utility Plan-1, scale 1 inch = 20 feet; C-12 Utility Plan-2, scale 1 inch = 20 feet; C-13 Site Details, not to scale; C-14 Site Details (2), not to scale; C-15 Stormwater Details, not to scale; C-16 Bioretention Details, not to scale; C-17 Stormwater Chamber Details, not to scale; C-18 Utility Details, not to scale; L-1 Tree Planting

and Seeding Plan 1, scale 1 inch = 20 feet; L-2 Tree Planting and Seeding Plan 2, scale 1 inch = 20 feet; L-3 Planting Detail Sample Plan, scale 1 inch = 10 feet; and L-4 Planting Details, not to scale.

- P2. F1 & F2 Fire Truck Turning Radius Plans 1 & 2 prepared for Affirmative Investments, Inc. by Horsley Witten Group, Inc. Project Number 22009 consisting of two (2) 36" x 24" pages, scale 1 inch = 30 feet, dated May 6, 2022.

#### **2.4 Other Exhibits**

- E1. Referral to the Martha's Vineyard Commission from the Edgartown Zoning Board of Appeals, received July 11, 2022.
- E2. Affirmative Investments & Island Housing Trust submission to the Town of Edgartown's RFP, consisting of one hundred eighty five (185) pages, dated October 22, 2021.
- E3. Project Eligibility Letter from the Department of Housing & Community Development, consisting of three (3) pages, dated March 14, 2022.
- E4. Model Ground Lease for Island Housing Trust properties consisting of thirty-five (35) pages, undated.
- E5. Rare Species Habitat Assessment for Proposed Meshacket Road Affordable Housing Project, Edgartown, Massachusetts NHESP File # 13-32105, prepared by Wendy & Robert Culbert Nature Watch, LLC, consisting of nineteen (19) pages, dated March 20, 2022.
- E6. Transportation Summary for 38 Meshacket Road, consisting of one (1) page, received April 2022.
- E7. Letter from Edgartown Wastewater Department confirming increased flow approval, consisting of one (1) page, dated May 17, 2022.
- E8. Stormwater Analysis and Drainage Report of Meshacket Commons, Meshacket Road, Edgartown, Massachusetts, prepared for Island Housing Trust, by Horsley Witten Group, Inc., consisting of one hundred ninety-four (194) pages, dated June 2022.
- E9. Completed DRI Application, consisting of two (2) pages, signed June 3, 2022.
- E10. Meshacket Commons Development of Regional Impact Application Attachment, consisting of fifty (50) 17" x 11" pages, including: Executive Summary p.2; Project Narrative p.4-11; Existing Conditions, p.12-15; Proposed Development, p.16-44; Affordable Housing Mitigation p.45-46; List of Abutters, p.47-49.
- E11. Nitrogen Loading Calculations, consisting of one (1) page, received July 2022.
- E12. Emails between Craig Nicholson and Alex Elvin with answers to staff and MVC questions, consisting of three (3) pages, dated July 22 to August 10, 2022.

- E13. Applicant's Presentation on Meshacket Commons to the Martha's Vineyard Commission, consisting of twenty-eight (28) pages, dated July 22, 2022.
- E14. Traffic Counts on Meshacket Road, consisting of fourteen (14) pages, July 25 to August 7, 2022.
- E15. Letter from the Vineyard Transit Authority to confirm that Meshacket Road will be evaluated for service, consisting of one (1) page, dated August 9, 2022.
- E16. Letter from the Division of Fisheries & Wildlife regarding NHESP File No. 13-32105 38 Meshacket Road with required conditions to avoid a Take of state-listed species, consisting of two (2) pages, dated August 10, 2022.
- E17. Photos of Old Meshacket Road path, consisting of five (5) pages, received August 10, 2022.
- E18. Technical Memorandum for 38 Meshacket Road - Transportation Impact Review prepared by Keri Pyke, Howard Stein Hudson, consisting of ten (10) pages, dated August 16, 2022.
- E19. Staff Report for C.R. 10-2022 Meshacket Commons, consisting of three (3) pages, dated August 18, 2022.
- E20. Emails between Craig Nicholson and Alex Elvin regarding answers to MVC questions, consisting of four (4) pages, dated August 22 to September 7, 2022.
- E21. Staff Report for DRI 734 Meshacket Commons consisting of four (4) pages on August 23, 2022, updated on September 7, 2022; and updated again to consist of five (5) pages on September 28, 2022.
- E22. Staff Presentation to the Land Use Planning Committee on C.R. 10-2022 Meshacket Commons, consisting of thirty-four (34) pages, dated August 22, 2022.
- E23. Peer Review of Traffic Impact Report prepared by Fuss & O'Neill, Reference No. 20220852.A10, consisting of two (2) pages, dated September 7, 2022.
- E24. Nitrogen Mitigation Summary for Meshacket Commons, consisting of four (4) pages, dated September 7, 2022 and revised September 21, 2022.
- E25. Staff Presentation to the Martha's Vineyard Commission on DRI 734 Meshacket Commons, consisting of thirty-three (33) pages, dated September 8, 2022; and updated to consist of thirty-six (36) pages on September 22, 2022.
- E26. Applicant's Presentation on Meshacket Commons to the Martha's Vineyard Commission, consisting of thirty (30) pages, dated September 8, 2022.
- E27. Technical Memorandum for 38 Meshacket Road - Response to Peer Review Comments prepared by Keri Pyke, Howard Stein Hudson, consisting of twenty-three (23) pages, dated September 14, 2022.

- E28. Memo from the Applicant entitled Meshacket Commons MVC Comments/Questions, consisting of three (3) pages, received September 16, 2022.
- E29. Memo from the Applicant regarding the existing trees near bioretention area 5, consisting of one (1) page, dated September 28, 2022.
- E30. Applicant's Offers for DRI 734 Meshacket Commons consisting of two (2) pages dated September 30, 2022.
- E31. Applicant's Final Offers for DRI 734 Meshacket Commons consisting of two (2) pages dated October 4, 2022.
- E32. Letter from the Vineyard Transit Authority regarding future local bus routes consisting of one (1) page, dated October 6, 2022.
- E33. Letters of support from the following organizations: Mark Hess representing the Edgartown Affordable Housing Committee, September 17, 2022; Julia Tarka representing the Edgartown Board of Trade, September 22, 2022; Juliet Mulinare representing the Edgartown Master Plan Steering Committee, September 20, 2022; Laura Silber on behalf of the Coalition to Create the Martha's Vineyard Housing Bank, September 19, 2022; Cindy Trish on behalf of Healthy Aging Martha's Vineyard, October 5, 2022; James Anthony on behalf of Martha's Vineyard Bank, September 22, 2022; Carolina Cooney on behalf of Martha's Vineyard Chamber of Commerce, September 19, 2022; Richie Smith on behalf of Martha's Vineyard Public Schools, October 3, 2022; Revered Vincent G. "Chip" Seadale on behalf of St. Andrew's Church, October 6, 2022.
- E34. Letter of support from Duncan Connall, September 10, 2022.
- E35. Letter of concern from Chris and Meghan Charles, September 21, 2022.
- E36. Minutes of the Land Use Planning Committee's Concurrence Review, August 22, 2022.
- E37. Minutes of the Commission's Public Hearing, September 8, 2022.
- E38. Minutes of the Commission's Continued Public Hearing, September 22, 2022.
- E39. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, October 17, 2022.
- E40. Minutes of the Commission's Deliberation & Decision, November 3, 2022.
- E41. Minutes of the Commission's Continued Deliberation & Decision, November 10, 2022
- E42. Minutes of the Commission's Approval of the Written Decision, December 1, 2022.

## **2.5 Summary of Testimony**

The following gave testimony during the public hearing on September 8, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.

- Presentation of the project by Philippe Jordi, Island Housing Trust; Alanna Jaworski, Union Studios; Jason Kroll, Horsley Witten Group; and Craig Nicholson, Affirmative Investments.
- Oral testimony from Public Officials: Bill Chapman, Edgartown Water Superintendent.
- Oral testimony from the Public: none.

The following gave testimony during the continued public hearing on September 22, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: Dean Rosenthal, Edgartown resident.
- Closing statement by Craig Nicholson and Philippe Jordi.

### **3. FINDINGS**

---

#### **3.1 Project Description**

The project is the result of a 2021 request for proposals (RFP) from the town of Edgartown to develop up to 40 units of housing at 38 Mechacket Road. The property is noted in the Edgartown Housing Production Plan as a potential affordable housing site.

The proposal is to develop 36 rental units and four homeownership units (total of 78 bedrooms), as well as a community building, outdoor areas, and walking paths on an 8.5-acre undeveloped lot that is owned by the town. The town will lease about 6.76 acres to the applicant and retain the rest. The rental units will be restricted to households earning between 30% and 110% of the area median income (AMI), and the ownership units to between 90% and 120% AMI. There are three housing types proposed in clusters:

- Ownership duplexes: 2 buildings, total of 4 units
- 3-unit manor houses: 4 buildings, total of 12 units
- 6-unit manor houses: 4 buildings, total 24 units

#### **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.**

The Commission finds that the probable benefits of the project outweigh the probable detriments, as described below. With respect to impacts upon the environment (Section 15(b) of the Act) and persons and property (Section 15(c) of the Act), the Commission finds the project would have a detrimental impact. With respect to impacts 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 major benefit that outweighs any of the possible detriments identified in this decision. The Commission finds the project would not adversely affect the provision of municipal services or burden on taxpayers (Section 15(e) of the Act), and would not unduly burden existing public facilities.

**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 provision of year-round affordable housing in this case far outweighs the detriments associated with traffic and open space, as outlined below. As such, the Commission finds the project is both appropriate and essential in view of the alternatives.

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

The Commission finds the project as conditioned would have a neutral impact with respect to Water Quality (considered a primary factor in the decision), and that the project would have a detrimental effect with respect to Open Space (also considered a primary factor in the decision), since it would involve the development of forested land. The Commission also notes the following with respect to impacts on the environment:

#### **Water Quality**

- The project is within the Edgartown Great Pond watershed, which is impaired, and will be connected to the town sewer. The Edgartown Wastewater Department has approved 8,800 gallons of wastewater flow per day for the property.
- Projects in the Great Pond watershed that connect to the sewer must still provide mitigation for the amount of nitrogen that would not be removed by the wastewater treatment facility.
- As calculated by the applicant, and based on existing water usage records for other IHT developments, the project is estimated to generate 20.09 kg of nitrogen per year, which is 10.63 kg/year over the limit for the property.
- The project will be on town water, via an existing water line along Meshacket Road.

### Open Space/Natural Environment

- The development will affect about 58% (3.9 acres) of the lease area, which is currently forested.
- Most of the site is listed as NHESP priority habitat. MassWildlife has applied conditions to avoid a prohibited Take of state-listed species.
- The applicant has stated that sensitive frost bottom habitat on the town-owned property immediately to the east will remain undisturbed. A rare species habitat assessment by Wendy and Robert Culbert dated March 2022 has been provided.
- The project will incorporate walking paths that connect to Old Meshacket Road, which runs roughly parallel to Meshacket Road, and Swimming Place Path, which runs along the southwestern property line.
- Old Meshacket Road will be bisected by the proposed driveway, but is currently overgrown and will be cleared for walkability. The clearing of the road will extend to Meshacket Road on either side, pending town permission.
- The applicant has stated that it will retain three existing trees along Meshacket Road (within the designated buffer zone), and make a concerted effort to preserve other existing trees in the development area. (See Landscape and Lighting.)

### Stormwater

- Drainage will be handled onsite by way of a swale and bioretention areas, as well as underground infiltration chambers for larger storms. A drainage plan and analysis/report have been provided.
- The proposed pathways throughout the project area will consist of stabilized stone dust. The bike parking area will also be permeable.

### Energy

- The project will be all-electric with solar panels and passive solar design.
- The applicant proposes four electric vehicle charging stations, along with conduits for future stations. (The MVC Energy Policy calls for all residential parking spaces to be pedestal-ready or have an EV charging station.)
- The buildings are intended to meet the Stretch Code, achieve Energy Star Design Certification and a HERS score of 40 or better, and be tested for air-tightness, per the MVC Energy Policy.
- The electric connection to the property will be underground.
- Emergency generators are planned for the sewer equipment and community house.

**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 Traffic and Transportation (considered a primary factor in the decision), the Commission finds the project would have a detrimental impact, since it would increase traffic on a well-traveled road that is already somewhat dangerous for pedestrians and bicyclists. The Commission notes that the project is not within walking distance of most amenities and will rely largely on



automobile travel for residents. The Commission also notes the following with respect impacts on persons and property:

#### Traffic and Transportation

- Vehicles will access the site via a two-way driveway off Meshacket Road that branches off to the ownership units closer to the road and loops around a central green that includes the community building.
- 70 head-in parking spaces will be located along the road, in front of the units.
- The project is intended to create a pedestrian and bike-friendly neighborhood. The applicant has also proposed working with the town and VTA to extend bus service to Meshacket Road. (The nearest bus stop is currently about 0.8 miles away at Morning Glory Farm.) Covered pavilions will be provided for bike storage.
- A traffic memo from Howard Stein Hudson (HSH) dated Aug. 16, 2022, projects about 270 trips per day, including 15-20 during the morning and evening peak hours, and states that the project would have a minimal impact on the safety and operations of surrounding roadways.
- In response to peer review, HSH provided a memo addressing safety, trip generation, traffic impact, and a small correction to the site plan. MVC transportation staff had no further concerns following the memo.
- Concerns about existing safety issues for pedestrians and bikers along Meshacket and Clevelandtown Roads were raised at the hearing, which would be outside the scope of the project. The applicant has agreed to work with the town as it works to address those issues in the future.

#### Character and Identity

- The project is intended to create a pedestrian and bike-friendly neighborhood with a community building and shared outdoor spaces.
- Exterior materials will include cedar shingles and trim, and asphalt or metal roofs.
- The community building will contain community space for use by all residents, including a front porch and free WIFI with tables and chairs, as well as a management office, maintenance area, and bike storage.

#### Landscape and Lighting

- A landscape plan for the property focuses on integrating the development into the surrounding area and utilizing new and existing native vegetation, including a buffer of existing vegetation on all sides of the development.
- A central green is planned for the area northwest of the community building.
- The project includes about one acre of maintained lawn and landscape areas, with plants chosen from the Polly Hill Arboretum Plant Selection Guide. The applicant has stated that it will retain four existing trees along Meshacket Road, and make a concerted effort to preserve other existing trees in the development area.
- A preliminary lighting plan shows motion-sensitive solar bollards for path lighting and light-activated ceiling-mounted LED fixtures.

#### Impact on Abutters

- The project site will not be visible from existing houses in the area and will be mostly buffered from Meshacket Road by vegetation.

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

With respect to Island Housing Needs (considered a primary factor in the decision), the Commission finds the project would have a major benefit that outweighs any of the possible detriments identified in this decision. The Commission also notes the following:

- The 36 proposed rental units will be restricted to households earning between 30% and 110% of the area median income (AMI), and the four ownership units to between 90% and 120% AMI. The restrictions will be tied to a 99-year lease on the property, and the units will be used only as primary residences.
- The applicant has stated that the rental units must remain as rentals (not ownership units), and that short-term rentals of either the rental or ownership units will not be allowed except with IHT approval.
- Apart from the duplex ownership units, the mix of income restricted units as shown in the tables below will be distributed around the property.
- As proposed, Affirmative/IHT will work with the property management company The Community Builders (TCB) to oversee the property, including housing lottery, income certification, leases, management, and operations.
- The applicant has stated that once the unit owners are selected they are not required to recertify their income, although renters need to recertify each year to determine the appropriate rent. If a rental household's income exceeds the limit, the household would be required to pay 30% of its income on rent.
- All ground-floor units will incorporate universal design features, including for seniors. Two units will be ADA-compliant and accessible for people with visual and hearing impairments, and include washers and dryers.
- Community laundry facilities and in-home laundry hookups will be provided, including for the ownership units.

#### **A5. The Commission finds that the proposed development would have a neutral impact on the provision of municipal services and the burden on taxpayers in the making provision therefore(Section 15(e) of the Act).**

The Commission finds the project would likely have a minimal impact on municipal services and taxpayers.

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

The Commission finds the project would reduce the available capacity of the Edgartown Wastewater Treatment Facility, but would otherwise likely have a minimal impact on public facilities.

**A7. The Commission finds that the project as proposed generally does not interfere with the ability of the municipality to achieve 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.**

With respect to the MVC Island Plan, the project generally aligns with sections 4 (Built Environment) and 7 (Energy and Waste), but not necessarily sections 2 (Development and Growth), 3 (Natural Environment), or 8 (Housing). The Island Plan aims to limit new development in outlying areas, focus new development on areas that have already been developed, accelerate the rate of open space protection, and create more walkable communities that are less reliant on automobiles. The Island Plan also encourages the use of existing housing stock for affordable and community housing. The project site is not within any of the areas indicated for "Housing Development Suitability."

**A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) of 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 in general advances the Commission's land development objectives, as outlined 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.**

The project is contingent on comprehensive permit approval, including zoning relief.

**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 bordered on the south by Swimming Place Path (a Special Way), but is not within any other Districts 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**

---

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on November 3 and November 10, 2022 and made its decision on November 10, 2022.

The following Commissioners, all of whom participated in the hearings and deliberations, participated in the decision on November 10, 2022:

Voting to approve the project: Jeff Agnoli, Trip Barnes, Jay Grossman, Fred Hancock, Joan Malkin, Kathy Newman, Kate Putnam, Ben Robinson, Doug Sederholm, Ernie Thomas, Peter Wharton

Voting against: None

Absent: Brian Smith

Ineligible to Participate: Michael Kim, Greg Martino, Linda Sibley

Recused: Christina Brown, Jim Vercruysse

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 November 10, 2022 and was approved by a vote of the Commission on December 1, 2022.

#### **5. CONDITIONS**

---

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:

*As offered by the Applicant:*

1. Meshacket Commons will provide free WiFi for residents at the Community House that will be equipped with tables.
2. Meshacket Commons commits to create an energy and climate friendly development with zero fossil fuels, PV solar panels, 4 Electric Vehicle charging stations and conduits in parking areas for future expansion of EV charging stations.
3. Meshacket Commons commits to designing the project with 2 fully accessible ADA apartments and employ universal design principals for the entire development.
4. Meshacket Commons commits that the 36 rental apartments will remain rental apartments in accordance with the regulatory agreements recorded on the property associated with the funding sources utilized.
5. Meshacket Commons commits to abide by the regulations associated with our state and federal funding sources which will not permit the eviction of a tenant who originally qualified for their housing simply because their income has increased to the point where they would no longer

qualify. Additionally, we commit to income certify each household annually to ensure that each household continues to pay 30% of their gross income in rent.

6. Meshacket Commons commits to rehabilitating (clearing) Old Meshacket Road to a width that could accommodate both pedestrians and cyclists.
7. Meshacket Commons commits to protect and preserve four specimen trees along Meshacket Road as shown in the plans entitled Existing Conditions C-2.
8. Meshacket Commons commits to working with its general contractor to protect and preserve as many existing trees within the construction zone as is possible.
9. Meshacket Commons commits to erecting temporary fencing around the construction zone to protect the 2.9 acres of the property within the leased area that will be left undisturbed and placed in conservation with the Town.
10. Meshacket Commons commits to not using fertilizer as part of our landscape maintenance.
11. Meshacket Commons commits to initiate a resident survey related to the installation of resident amenities within the first six months following the initial lease-up of all 36 apartments and the sale of the 4 homeownership units. From this information, Meshacket Commons will narrow down the responses to a few viable options for residents to vote.
12. Meshacket Commons commits to permeable surface under the car and bicycle parking spaces.
13. Meshacket Commons commits to working with the VTA to service Meshacket Road with a public transit route.
14. Meshacket Commons commits to working with the Town of Edgartown to expand pedestrian and bicycle paths along Meshacket Road.

*Further conditions:*

#### WATER QUALITY

15. Meshacket Commons commits to mitigating the excess nitrogen created by Meshacket Commons, by either Option 1 and in not successful, Option 2 below:

##### Option 1

To mitigate the excess nitrogen generated by the project (estimated at 10.63 kg/year), the Applicant shall work with the town of Edgartown to permanently restrict a separate, potentially developable property within the Edgartown Great Pond watershed from any development that would contribute nitrogen to the watershed. This may be achieved by placing a permanent conservation restriction (or other permanent legal restriction) on the property, provided the property currently contributes no nitrogen. A final mitigation plan, including the location and size of the property, and the proposed method of restriction, shall be subject to LUPC review and approval prior to receipt of a Building Permit. The identified property shall be restricted accordingly, with documentation as requested by MVC staff, prior to receipt of a Certificate of Occupancy.

##### Option 2

To mitigate the excess nitrogen generated by the project (estimated at 10.63 kg/year), the Applicant shall at its expense connect two homes in the Edgartown Great Pond watershed to the town sewer. The selected homes shall be ones that currently have standard Title 5 or failed septic systems, which will be replaced by the sewer connection. A final plan for the sewer connections, including the location of each property and projected nitrogen reduction, shall be submitted to the LUPC for review and approval prior to receipt of a Building Permit. The connections shall be completed prior to receipt of a Certificate of Occupancy.

16. Testing results for the system as outlined above, and water use records for the project, shall be provided to the MVC annually for three years. If the documented nitrogen reduction offsite does not amount to at least 10.63 kg/year in total, or if the excess nitrogen generated by the project exceeds 10.63 kg/year in total, then further mitigation may be required by the LUPC.

### HOUSING

17. The units shall be limited to year-round occupancy as outlined in the IHT model ground lease.
18. In the event the Applicant (or owner of the property) decides to convert previously approved rental units to homeownership units, the Applicant shall return to the LUPC for review and approval of the ground lease.
19. All maintenance shall be the responsibility of the owner of the unit.

With respect to the units restricted to households earning between 30% and 80% of the Area Median Income, the following conditions also apply:

20. Each unit shall be restricted by the IHT ground lease as Affordable Housing in perpetuity for income-qualified occupants earning no more than the specified Area Median Income for the unit.
21. The initial occupant for each unit shall be selected through a public lottery administered in conformance with Affirmative Fair Housing Marketing tenets, by a state-certified housing authority such as the Dukes County Regional Housing Authority, or by The Community Builders. All subsequent occupants shall be selected by the housing authority in accordance with its general practices. All occupant selection, annual income certification and required ongoing monitoring shall be at the Applicant's expense (including incidental administrative costs) and performed by the housing authority in accordance with its policies.
22. The Applicant shall maintain and provide such documentation as may be required by the certified housing authority for the purposes of monitoring, annual income certification, and other purposes reasonably incidental to the authority's responsibilities.
23. The occupant(s) shall have access to all amenities made available to other occupants, including but not limited to parking and common space. Any monetized amenities shall be free or adjusted to preserve the function of affordability for the occupant(s).
24. The Applicant shall meet all requirements for the units to count toward the State's Subsidized Housing Inventory (SHI) for the Town of Edgartown.

## OTHER CONDITIONS

25. A final landscape plan for the property shall be submitted to the LUPC for review and approval prior to the receipt of a Certificate of Occupancy.
  - a. Only slow-release, water-insoluble nitrogen-source fertilizers may be used in the maintenance of landscaping.
  - b. Landscape must use only native or naturalized low-maintenance, drought-tolerant species to minimize the application of nitrogen, pesticides, and water.
  - c. The plan must indicate existing trees that will be preserved.
26. 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.
  - a. All exterior lighting shall be downward-shielded and comply with International Dark Sky Association standards.
  - b. The color temperature of exterior lighting shall not exceed 3,000 Kelvin.
27. The Applicant shall provide a surveyed, dimensional, as-built site plan prior to receipt of a Certificate of Occupancy for the project.
28. Any proposed modifications to DRI 734, 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**

---

### **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.

**6.4 Signature Block**

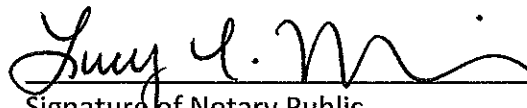
  
\_\_\_\_\_  
Doug Sederholm, Acting Chair

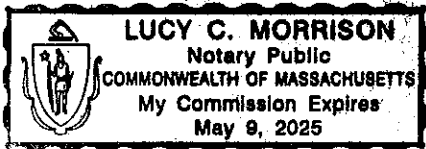
12-19-22  
\_\_\_\_\_  
Date

**6.5 Notarization of Decision**

Commonwealth of Massachusetts  
County of Dukes County, Mass.

On this 19th day of December, 2022, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Doug Sederholm, 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 he 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 his 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: \_\_\_\_\_

Deed: Book \_\_\_\_\_, Page \_\_\_\_\_

Document Number: \_\_\_\_\_

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