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## Decision of the Martha's Vineyard Commission DRI 279-M Stillpoint Meadows

### 1. SUMMARY

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Referring Board: West Tisbury Building Department

Subject: Development of Regional Impact #279-M Stillpoint Meadows (Priester's Pond Subdivision Modification)

Project: Modification of a previous subdivision, including repurposing an existing barn for community and educational uses, and acquisition of other lots in the subdivision by the Land Bank.

Owner: Stillpoint Martha's Vineyard, Inc.

Applicant: Stillpoint Martha's Vineyard, Inc.; Thomas Bena; Marilyn Vukota (Agent)

Applicant Address:

Thomas Bena	Marilyn Vukota
49 North Road	P.O. Box 1270
Chilmark, MA 02535	Edgartown, MA 02539

Project Location: 20 Stillpoint Meadows Road, West Tisbury. Map 22, Lot 4.11 (acres).

Deed: Recorded Land: Book 1623, Page 638

Previous Decision: Recorded Land: Book 502, Page 507

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 May 4, 2023.

Written Decision: This written decision was approved by a vote of the Commission on May 18, 2023.

The permit-granting authorities of the Town of West 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**

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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 June 2, 2022, by the Town of West Tisbury Building Inspector 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: 1.3D *Modification to a Previous Development of Regional Impact*; 3.1h *Commercial Development with parking for more than 10 vehicles*; and 6.2b *Public Place of Assembly with more than 50 seats*. On August 18, 2022, the Applicant opted to forego the modification review process and proceed with 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.

Public notice of the re-opened hearing was published in the MV Times on January 26 and February 2, 2023; notice was also published in the Vineyard Gazette on January 27 and February 3, 2023. Abutters within 300 feet of the property were notified of the re-opened hearing by mail on January 24, 2023.

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 October 6, 2022, continued again to November 3, 2022 and continued again to November 17, 2022. The hearing was closed on November 17, 2022 with the exception of the written record, which was left open until 5:00 p.m. on November 28, 2022 and closed at that time.

At a meeting on January 12, 2023, at the request of the Applicant, the Commission voted to re-open the written record for the proposal to 5:00 p.m. on January 19, 2023. On January 19, 2023, the Commission voted to re-open the written record a second time to 5:00 p.m. on January 27, 2023, and scheduled to re-open the public hearing. The re-opened hearing was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on February 9, 2023, which was continued to March 9, 2023. The hearing was closed on March 9, 2023 with the exception of the written record, which was left open until 5:00 p.m. on April 17, 2023. The hearings were 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. Stillpoint Meadows Barn, consisting of four (4) 36" x 24" pages prepared by South Mountain Company, scaled to ¼" = 1'-0", and dated August 3, 2012 unless otherwise noted, including: Cover Sheet, dated December 26, 2012; A-01 Floor Plans; A-03 South & West Elevations; A-04 North & East Elevations.
- P2. Site Plan in West Tisbury, Mass. prepared for Stillpoint Martha's Vineyard, Inc. by Vineyard Land Surveying & Engineering, consisting of one (1) 36" x 24" page, scale 1 inch = 30 ft., dated July 21, 2022.

#### **2.4 Other Exhibits**

- E1. Referral to the Martha's Vineyard Commission from the West Tisbury Building Inspector with cover letter and attachments, consisting of five (5) pages, received June 2, 2022.
- E2. MVC DRI 279 Decision for Priester's Pond Subdivision, consisting of seventeen (17) pages, dated June 23, 1988, and recorded at the Dukes County Registry of Deeds: Book 502, Page 507.
- E3. Priester's Pond, Plan of Land in West Tisbury, Mass., Surveyed for Mill Brook Associates, scale 1 in. = 100 ft. Vineyard Land Surveying, dated March 17, 1988, and revised March 30, 1988 and June 29, 1988; recorded at the Dukes County Registry of Deeds as West Tisbury Case File No. 381.
- E4. Easement to the Town of West Tisbury Fire Department for the installation and maintenance of a dry hydrant, consisting of two (2) pages, dated August 23, 1998, and recorded at the Dukes County Registry of Deeds: Book 506, Page 629.
- E5. Declaration of Protective Covenants for Priester's Pond, consisting of fourteen (14) pages, dated September 15, 1988, and recorded at the Dukes County Registry of Deeds: Book 507, Page 376.
- E6. Commonwealth of Massachusetts Executive Office of Environmental Affairs Division of Air Quality Control Policy enforcing noise regulation (310 CMR 7.10), consisting of one (1) page, dated February 1, 1990.
- E7. Deed Restriction/Covenant for Lot 11, consisting of two (2) pages, dated March 2, 2012, and recorded at the Dukes County Registry of Deeds: Book 1274, Page 909.
- E8. Grant of Restriction for Lot A, consisting of seven (7) pages, dated September 10, 2021, and recorded at the Dukes County Registry of Deeds: Book 1594, Page 893.
- E9. 501(c)(3) letter from the Department of the Treasury Internal Revenue Service for Stillpoint Martha's Vineyard Inc., consisting of nine (9) pages, dated October 29, 2021.

- E10. S-1 Polly Hill Arboretum Staff Housing Site Plan and Elevations, consisting of two (2) 17" x 11" pages, scaled to 1" = 30' and 1/8" = 1'-0", respectively, dated February 1, 2022.
- E11. Trail and Trailhead Easement Agreement between Stillpoint Martha's Vineyard Inc. and the Martha's Vineyard Land Bank Commission, consisting of six (6) pages, dated May 2, 2022 and recorded at the Dukes County Registry of Deeds: Book 1623, Page 647.
- E12. Easement Agreement between Stillpoint Martha's Vineyard Inc. and Anna Fitch and Edward Banker White III, and the Martha's Vineyard Land Bank Commission for trails, consisting of ten (10) pages, dated May 2, 2022, and recorded at the Dukes County Registry of Deeds: Book 1623, Page 931.
- E13. Affidavit regarding Stillpoint properties filed by Marilyn Vukota, consisting of thirteen (13) pages, dated May 5, 2022 and recorded at the Dukes County Registry of Deeds: Book 1624, Page 226.
- E14. Letter from the West Tisbury Planning Board to the West Tisbury Building Inspector regarding preliminary board findings of the Stillpoint proposal, consisting of one (1) page, dated June 21, 2022.
- E15. Proposed Septic System designed for Polly Hill Arboretum consisting of one (1) 36" x 24" page, prepared by Vineyard Land Surveying & Engineering, scale 1 in. = 20 ft., dated June 26, 2022.
- E16. Emails between Thomas Bena and Alex Elvin with answers to staff questions, consisting of two (2) pages, dated July 15, 2022.
- E17. Photos of site access, consisting of two (2) pages, dated July 26, 2022.
- E18. Stillpoint Nitrogen Calculations, consisting of two (2) pages, dated August 3, 2022 and updated November 3, 2022.
- E19. Applicant's Presentation for Stillpoint Project to the West Tisbury Zoning Board & Martha's Vineyard Commission, consisting of eighteen (18) pages, dated August 4, 2022; revised to consist of twenty-three (23) pages on September 8, 2022.
- E20. Project Narrative and attachments, consisting of three (3) pages, received August 5, 2022.
- E21. Staff Report for DRI 279-M Stillpoint Meadows, consisting of three (3) pages, dated August 5, 2022; updated to consist of four (4) pages on August 26, 2022; updated to consist of five (5) pages on September 7, 2022; updated to consist of six (6) pages on September 27, 2022; updated on October 3, 2022; updated to consist of eight (8) pages on November 1, 2022; updated on November 15, 2022; updated to consist of ten (10) pages on December 1, 2022; and updated again on March 6, 2023.
- E22. DRI 279-M Stillpoint Meadows Staff Presentation to the Land Use Planning Committee, consisting of thirty-four (34) pages, dated August 8, 2022.

- E23. Emails between Thomas Bena and Alex Elvin with answers to MVC questions, consisting of three (3) pages, dated August 31, 2022.
- E24. Information about proposed usage, consisting of three (3) pages, dated September 5, 2022.
- E25. Application for Rental Use, consisting of one (1) page, received September 5, 2022.
- E26. Letter from the West Tisbury Fire Chief regarding emergency access, consisting of one (1) page, dated September 8, 2022.
- E27. DRI 279-M Stillpoint Meadows Staff Presentation to the Martha's Vineyard Commission, consisting of forty-two (42) pages, dated September 8, 2022; updated to consist of forty-nine (49) pages on October 6, 2022; updated to consist of fifty-three (53) pages on November 3, 2022; and updated to consist of sixty-eight (68) pages on November 17, 2022.
- E28. Response to questions about employees and housing, consisting of one (1) page, received September 14, 2022.
- E29. Emails between Randy Hart (VHB), Thomas Bena and Alex Elvin with clarifications on the traffic projections, consisting of two (2) pages, dated September 29, 2022.
- E30. Responses to MVC questions, consisting of three (3) pages, dated September 30, 2022.
- E31. DRI 279-M Stillpoint Offers, consisting of one (1) page, dated September 30, 2022 and revised to consist of two (2) pages, dated November 1, 2022.
- E32. Emails between Thomas Bena and Alex Elvin with answers to staff questions, consisting of three (3) pages, dated October 4, 2022.
- E33. Emails between Thomas Bena, Marilyn Vukota and Alex Elvin regarding the application of the MVC Housing Policy, consisting of four (4) pages, dated October 23, 2022.
- E34. Emails between Thomas Bena, Marilyn Vukota and Alex Elvin regarding abutter concerns, consisting of two (2) pages, dated November 7, 2022.
- E35. Letter from the West Tisbury Planning Board to the MVC regarding proposed uses of the property, consisting of one (1) page, dated November 8, 2022.
- E36. Email from Marilyn Vukota to Alex Elvin regarding affordable housing mitigation, consisting of two (2) pages, dated November 14, 2022.
- E37. DRI 279-M Stillpoint Meadows Staff Traffic Report, consisting of two (2) pages, dated November 16, 2022.
- E38. Updated Narrative and Offers for Stillpoint Proposal, consisting of three (3) pages, dated November 14, 2022.

- E39. Revised Housing Mitigation Offer for DRI 279-M Stillpoint Meadows, consisting of one (1) page, received November 16, 2022.
- E40. Stillpoint Project Sight Distances to South Along State Road, consisting of one (1) page, scale 1" = 40', dated November 28, 2022.
- E41. DRI 279-M Stillpoint Meadows Staff Presentation to the Land Use Planning Committee, consisting of seventy-one (71) pages, dated December 5, 2022.
- E42. Email from Brendan O'Neill, Vineyard Conservation Society, to Alex Elvin with clarifications about VCS' role with conservation restrictions, consisting of two (2) pages, dated December 7, 2022 and resent on January 17, 2023.
- E43. Draft Possible Conditions for DRI 279-M Stillpoint Meadows, prepared by Staff, consisting of four (4) pages, dated January 2, 2023.
- E44. Letter from the Applicant Team to the MVC, consisting of three (3) pages, dated January 10, 2023.
- E45. Applicant's Response to Possible Conditions for DRI 279-M Stillpoint Meadows, consisting of eight (8) pages, dated January 18, 2023.
- E46. Letter from the Applicant Team to the MVC regarding weddings and draft conditions, and attached letter from Chief Matthew Mincone, West Tisbury Police Department, consisting of nine (9) pages, dated January 18, 2023.
- E47. Yale Environmental Health and Safety Decibel Level Comparison Chart, consisting of one (1) page, accessed by staff on January 23, 2023.
- E48. CDC Guidance on Loud Noises, consisting of three (3) pages, accessed on January 23, 2023.
- E49. Email from Tim Boland, Polly Hill Arboretum, with correction of fact stated in letter dated January 19, 2023, dated January 25, 2023.
- E50. DRI 279-M Stillpoint Meadows Staff Presentation to the Martha's Vineyard Commission for the Re-Opened Public Hearing, consisting of seventy-five (75) pages, dated February 9, 2023.
- E51. Emails between Jake Davis and Alex Elvin with responses to MVC questions and possible offers for discussion, consisting of six (6) pages, dated February 21, 2023.
- E52. Staff Report on Ambient Noise Level Readings (unofficial), consisting of four (4) pages, dated February 27, 2023.
- E53. Staff Summary of Proposed Events, consisting of one (1) page, dated March 2, 2023.
- E54. Updated Offers and Additional Comments from the Applicant Team, consisting of four (4) pages, dated March 16, 2023.

- E55. Staff Notes on Benefits and Detriments for DRI 279-M Stillpoint Meadows, consisting of eight (8) pages, dated March 16, 2023 and updated on May 4, 2023.
- E56. Draft Offers and Possible Conditions for DRI 279-M Stillpoint Meadows prepared by Staff, consisting of six (6) pages, dated March 17, 2023, and updated on April 7, 2023.
- E57. Letter from the Applicant Team to the MVC, consisting of one (1) page, dated March 20, 2023.
- E58. Letter from the Applicant Team to the MVC with explanation of need for events and revised offers, consisting of two (2) pages, dated March 30, 2023.
- E59. Emails between Alex Elvin and Joe Tierney, West Tisbury Building Inspector, regarding Polly Hill staff housing, consisting of one (1) page with attachment (Exhibit 15), dated April 3, 2023.
- E60. Emails between Alex Elvin and Jen Rand, West Tisbury Town Administrator, regarding liquor licenses, consisting of one (1) page, dated April 7, 2023.
- E61. Letter from the Applicant Team to the MVC, consisting of two (2) pages, dated April 13, 2023.
- E62. Fifty-three (53) letters of support from the following individuals: John Abrams, August 3, 2022; W. Eric Adams (2), August 2, 2022 and January 19, 2023; Justen Ahren, September 28, 2022; Robyn Athearn, August 12, 2022; Simon Athearn, September 1, 2022; Ollie Becker (2), August 5, 2022 and March 21, 2023; Geraldine Brooks, September 1, 2022; David Brown, September 30, 2022; Jake Davis, August 5, 2022; Brian Ditchfield, September 29, 2022; Cindy Doyle, September 14, 2022; Jeffrey DuBard, November 28, 2022; Dana Edelman, September 25, 2022; Tom Ellis, August 5, 2022; Patricia Favreau, April 10, 2023; Chris Fischer, September 1, 2022; Scott Fish, November 23, 2022; Anna Fitch and Banker White (2), August 4, 2022 and January 19, 2023; Larry Glick (3) August 4, November 21, 2022 and January 27, 2023; Caitlin Jones, September 6, 2022; Beth Kramer, August 6, 2022; Bruce MacNelly, November 28, 2022; Claudia Miller, September 1, 2022; Keith Moscow, September 22, 2022; Chris Murphy (5) August 4, October 7, November 22, 2022, January 19 and March 28, 2023; Jill Hobby Napior, September 30, 2022; Dana Nunes (2), August 4, 2022 and January 19, 2023; Jennifer Randolph (3), August 2, 2022, January 19 and March 27, 2023; Bob Reardon (2), September 30, 2022 and April 9, 2023; Max Simon, November 28, 2022; Josh Thomson (2), September 13, 2022 and January 19, 2023; Carole Vandal, November 28, 2022; Julianne Vanderhoop, September 6, 2022; Dan Waters (4) August 2 and November 22, 2022, January 19 and March 26, 2023; Lynne Whiting, August 4, 2022; Julian Wise, September 1, 2022; and Andrew Woodruff, September 6, 2022.
- E63. Twenty-one (21) letters expressing concern over certain aspects of the project from the following individuals and organizations: Tess Bramhall and David Foster (3) October 2, November 15, 2022 and March 17, 2023; Prudy Burt (5) September 8, November 27, 2022, January 19, January 26, and April 3, 2023; Cindy and Bill Cavanaro, March 20, 2023; Mike Colaneri, January 20, 2023; Judith Fisher (2), March 6 and March 18, 2023; Ginny Jones, January 25, 2023; Edward O'Neal, September 8, 2022; Polly Hill Arboretum (4) August 4, November 16,

2022, January 19 and March 31, 2023; Selena Roman, November 9, 2022; and Vineyard Conservation Society (2) September 8 and November 16, 2022.

- E64. Six (6) letters providing factual information without expressing an opinion from the following individuals and organizations: Frank Dunkl, water systems operator, August 28, 2022; the Mill Brook Watershed Committee, October 4, 2022; John Moore, January 19, 2023; Gordon Orloff of Seven Gates Farm, September 6, 2022; and Vineyard Conservation Society (2), December 7, 2022 and January 17, 2023.
- E65. Minutes of the Land Use Planning Committee's Modification Review, August 8, 2022.
- E66. Minutes of the Commission's Public Hearing, September 8, 2022.
- E67. Minutes of the Commission's Continued Public Hearing, October 6, 2022.
- E68. Minutes of the Commission's Continued Public Hearing, November 3, 2022.
- E69. Minutes of the Commission's Continued Public Hearing, November 17, 2022.
- E70. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, December 5, 2022.
- E71. Minutes of the Commission's Vote to Re-Open the Written Record, January 12, 2023.
- E72. Minutes of the Commission's Vote to Re-Open the Written Record, January 19, 2023.
- E73. Minutes of the Commission's Re-Opened Public Hearing, February 9, 2023.
- E74. Minutes of the Commission's Continued Re-Opened Public Hearing, March 9, 2023.
- E75. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, March 20, 2023.
- E76. Minutes of the Land Use Planning Committee's Continued Post-Public Hearing Review, April 3, 2023.
- E77. Minutes of the Commission's Deliberation & Decision, May 4, 2023.
- E78. Minutes of the Commission's Approval of the Written Decision, May 18, 2023.

## **2.5 Reports**

- R1. European Environment Agency Technical Report "Good practice guide on quiet areas" consisting of fifty-eight (58) pages, dated 2014.
- R2. Mill Brook Watershed Study Report and Recommendations prepared by the Town of West Tisbury Mill Brook Watershed Management Planning Committee, consisting of fifty-three (53) pages, 2014-2018.
- R3. Traffic Impact Assessment for Stillpoint Martha's Vineyard prepared by Vanasse Hangen Brustlin, Inc. (VHB), consisting of three hundred fourteen (314) pages, dated June 3, 2022.



- R4. Survey for Crane-fly Orchid (*Tipularia discolor*), a Massachusetts Endangered Species, at 36 Stillpoint Meadows Road, West Tisbury, MA NHESP File #12-30614 prepared by Wendy & Robert Culbert, Nature Watch LLC, consisting of fifteen (15) pages, dated July 12, 2022.

## **2.6 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 Marilyn Vukota.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: none.

The following gave testimony during the public hearing on October 6, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Thomas Bena and Jake Davis.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public:
  - Eric Adams
  - Scott Fish, member of the Board of Stillpoint
  - Chris Murphy
  - Bob Reardon, trustee of the Martha's Vineyard Diversity Coalition

The following gave testimony during the public hearing on November 3, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Marilyn Vukota and Thomas Bena.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public:
  - Dana Nunes
  - Jennifer Randolph, Executive Director of the Northeast Native Network of Kinship in Healing
  - Lynne Whiting, neighbor
  - Anna Fitch and Banker White, abutters
  - Andrew Woodruff
  - David Foster and Tess Bramhall, abutters
  - Larry Glick
  - Jeffrey DuBard
  - Chris Murphy

The following gave testimony during the public hearing on November 17, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator; Sheri Caseau, Water Resources Planner; and Mike Mauro, Transportation Program Manager.
- Presentation of the project by Marilyn Vukota.
- Oral testimony from Public Officials: none.

- Oral testimony from the Public:
  - Edward O’Neal, abutter
  - Carole Vandal
  - Bettina Washington
  - Dan Waters
  - Julianne Vanderhoop
  - Chris Murphy
  - Jeffrey DuBard
- Closing statement by Marilyn Vukota and Thomas Bena.

The following gave testimony during the re-opened public hearing on February 9, 2023:

- Staff presentation by Alex Elvin, Acting-DRI Coordinator.
- Discussions with the Applicant Team: Thomas Bena, Marilyn Vukota, and Jake Davis.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public: none.

The following gave testimony during the re-opened public hearing on March 9, 2023:

- Staff presentation by Alex Elvin, Acting-DRI Coordinator.
- Discussions with the Applicant Team: Thomas Bena, Marilyn Vukota, and Jake Davis.
- Oral testimony from Public Officials: none.
- Oral testimony from the Public:
  - Judith Fisher, abutter
  - Bill Cavanaro, abutter
  - Prudy Burt
  - Andrew Woodruff
  - Chris Murphy
- Closing statement by Jake Davis.

### **3. FINDINGS**

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#### **3.1 Project History**

The MVC approved the Priester’s Pond subdivision as DRI 279 in 1988, allowing the subdivision of 51.9 acres off State Road into 13 lots with open space. As conditioned, two of the lots were combined into one, and lot 12 was deed-restricted to the Dukes County Regional Housing Authority “for the purpose of providing affordable housing to the residents of the Town of West Tisbury.” The DCRHA sold the lot to George Szakacs in 1992, and used the income generated for affordable housing purposes in West Tisbury. MVC staff issued a certificate of compliance for the affordable housing conditions in 2022. As part of the original proposal, the only recreational space was to be passive recreation in the open space near Priester’s Pond.

Two of the lots in the subdivision include historic homes (1714 and 1795). In 2008, Claudia Miller purchased the subdivision, which has remained undeveloped, with the exception of the existing homes and a barn that was built in 2012 on what is now lot 4.11 (formerly lot 12). The barn was approved as an accessory structure via special permit, and used for small arts events and landscaping and maintenance equipment. In 2022 in inter-related transactions, Miller (through Stillpoint Meadows, LLC) sold lots 4.9, 4.10, 4.11, and 4.13 to Stillpoint Martha's Vineyard, Inc., lots 4.12 and 4.14 to Edward White and Anna Fitch, and lots 4.2 and 4.3-4.8 to the Land Bank. Miller (through Stillpoint Meadows, LLC) sold lot 4.1 to William and Cynthia Cavanaro in 2021.

### **3.2 Project Description**

The proposal is to repurpose the existing 3,200 ft<sup>2</sup> barn as a community/educational space for the nonprofit Stillpoint Meadows, and other year-round community uses; create 40 parking spaces, plus three ADA-compliant spaces for a Land Bank trailhead; and install a public well with a 100-foot-radius Zone 1 protection area. The existing barn has one restroom, and two additional restrooms will be added, including one that is handicapped-accessible within the existing footprint. The entryway to the barn will also be made ADA-compliant.

### **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.

### **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.**

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 impacts upon persons and property (Section 15(c) of the Act), the Commission finds the project would have a

beneficial impact. The Commission finds the project would have a neutral impact on the provision of municipal services or burden on taxpayers (Section 15(e) of the Act), would not unduly burden existing public facilities, and would generally align with local planning objectives. Impacts on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act) do not apply to the project.

**A1. The Commission finds that the proposed development at this location is appropriate but not necessarily essential in view of the available alternatives (Section 15(a) of the Act.)**

The project will establish a location for a new Island nonprofit with community, educational, and wellness-related activities throughout the year, as well as a space for private events to help subsidize the primary nonprofit uses. The project's natural setting is conducive to the stated purpose of providing a quiet gathering place and for certain nature-based activities. The project represents a non-profit commercial use in a rural zoning district, but as an educational non-profit, Stillpoint may be exempt from certain zoning restrictions. Alternative locations were not proposed as part of the DRI review process. As such, the Commission finds the project would be appropriate but not necessarily essential in the proposed location.

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

With respect to Open Space (considered a primary factor in the decision), the Commission finds the project would have a beneficial impact, to the extent that the Applicant helped organize the acquisition of lots 4.2 and 4.3-4.8 by the Land Bank. Lots 4.3-4.8 could otherwise have been developed as private homes. However, the Land Bank acquisition was not part of the proposed modification. The Commission also notes the following:

- The purchase of lots by the Land Bank was part of an inter-related transaction between Stillpoint Meadows, LLC and the Land Bank, Stillpoint, and the buyers of lot 4.12 and 4.14 in 2022.
- The Land Bank has approved a basic planning protocol for its property, including with respect to use by persons using the Stillpoint property.
- Lot 4.14 is currently undeveloped and restricted as non-buildable. Use of this lot is limited to the owners of lots 4.1 and 4.12. It is not open to the public. The status of lot 4.14 is not part of this DRI application.
- The Applicant has stated that the intent is to not remove any trees on lot 4.11 for the proposed parking spaces.
- The Land Bank property south of the ponds includes extensive trails, which are not currently mapped.
- Stillpoint has granted an easement to the Land Bank to provide a trailhead with three parking spaces at the eastern end of Stillpoint Meadows Road, where people can park and access the Land Bank property. A trail will run along the southern boundary of the Stillpoint property to access the Land Bank property.

- The original subdivision included a no-cut area on what is now lot 4.13 (the former affordable housing lot), which will be eliminated in order to establish the trailhead. The no-cut area is indicated in the approved plan from 1988, but was never recorded as an easement.
- Public concern has focused largely on the impact the project will have on the surrounding conservation land, which includes abutting land owned by the Land Bank and Polly Hill Arboretum and nearby land held by the Nature Conservancy and Seven Gates Farm Corporation. The conservation land includes woodlands, fields, ponds, and streams. Public concern has been expressed regarding the project's impact on this environment by traffic, noise, and lighting.
- Some members of the public have expressed concern that by renting its facility to third parties, the project could introduce "commercial" activity in an undeveloped rural part of West Tisbury.

With respect to Water Quality, the Commission finds the project would have a neutral impact, since a new denitrifying septic system will be added, and the proposed uses would generate less than the nitrogen loading limit for the property.

The Commission also notes the following with respect to impacts on the Environment:

#### Water Quality

- The project is within the Tisbury Great Pond watershed and has a nitrogen limit of 6.92 kg/year, which incorporates lots 4.11 and 4.13.
- The existing barn has a three-bedroom septic system, but no actual bedrooms. The number of bathrooms will increase from one to three, and a new 1,500-gallon denitrifying septic system with leaching field will be installed.
- The Applicant has calculated that the proposed uses, including the gathering space, roof runoff, impervious surfaces, and landscaping, would generate 6.24 kg of nitrogen per year, which is under the limit. The calculation assumes either 3 or 15 gallons of wastewater generation per day per seat, depending on the type of event.
- A new public well, including a 100' radius Zone 1 protection area, will be added on lot 4.13 to serve the facility. (This requires DEP approval.) No structures or impervious surfaces will be allowed within the protection area.
- Lots 4.3-4.8, which were previously approved as residential developments with up to four bedrooms each, have been purchased by the Land Bank and will not be developed.

#### *MVC Water Resource Planner comments:*

- *The revised nitrogen calculations accounting for different usage categories are adequate.*
- *Annual testing: Water meters should be installed with water usage records submitted to the MVC. Testing results for the septic system should also be submitted. If annual water usage exceeds an average of 540 gal/day or the septic system results exceed 6.24 kg/year for the property as proposed, then mitigation would be necessary.*

- *The septic system should be sized to accommodate the possible future development of lots 4.11 and 4.13.*

#### Ecology and Habitat

- The project is within the Mill Brook watershed, which includes Crocker’s, Priester’s, Fisher, and Albert’s ponds, as well as the Tisbury Great Pond watershed.
- The proposal represents a potential decrease in habitat disturbance on lots 4.9 and 4.13 compared to the approved subdivision in 1988, at which time the concerns were potential impacts on the ponds and habitat/vegetation from the subdivision. However, disturbance on lot 4.11 would likely exceed that of the approved residential use, given the intended extent of activity on the premises. The Applicant proposes no use limits on lot 4.10, which abuts the Land Bank and PHA properties.
- A June 2022 survey for crane-fly orchids by Wendy and Robert Colbert concludes that the project “will not adversely impact habitat for the rare crane-fly orchid, *Tipularia discolor*, as the woodland habitat present on this property is suboptimal for this orchid.”

#### Energy

- The barn currently has rooftop solar panels, and the energy is shared with the home on Lot 4.12. Three electric vehicle charging pedestals are planned for the parking area.

#### **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 Economic and Social Development (considered a primary factor in the decision), the Commission finds this would be the main benefit of the project, offsetting the potential detriments related to Intensity of Use and Impact on Abutters. The Commission notes the following with respect to the project’s economic and social impacts:

- The property is intended to provide a quiet gathering space for the Stillpoint nonprofit, as well as other year-round Island-based community groups, and for other individuals or groups that could rent the space for their own purposes.
- The official Stillpoint mission statement is “To create a gathering place for educational offerings, including but not limited to discussions, workshops, silent retreats, and the arts.”
- As stated by the Applicant, typical activities consistent with the Stillpoint mission may include classes, art groups, workshops, retreats, and mindfulness activities. The Applicant has not proposed any specific program of events or activities that it will conduct. Rather, it has proposed categories of events that it expects will take place at the site. The Applicant did not identify specific non-mission activities which might be sponsored by third parties who would rent the facility for their own events.
- As a start-up business, there was no evidence of historic demand for the kinds of events that are intended to be held at Stillpoint. Despite requests from the Commission, the Applicant did not present a business plan or any other evidence indicating the anticipated level of demand for the project either when fully operational or during any ramp-up period (the length of which was also not specified).

- There was public testimony in support of the kind of activities identified by Stillpoint consistent with its stated mission.
- The Applicant clarified after the hearing that the model would be pay-what-you-can (for both attendees and teachers), subsidized by donations, in order to reach the widest possible audience.
- The Applicant stated that it requires a minimum of 38,000 users annually to sustain the project, although there was no evidence offered to support this statement or any indication as to how the minimum number of attendees related to Stillpoint's financial requirements.
- The barn will become ADA compliant.

With respect to Intensity of Use (considered a primary factor in the decision), the Commission finds the project would have a detrimental impact in regard to lot 4.11 (the barn lot and locus of activities), a neutral impact in regard to lot 4.13 (with the Land Bank parking area), and an unknown impact in regard to lots 4.9 and 4.10. The Commission also notes the following:

- The project will establish a nonprofit use (including rental for non-mission, private events) abutting protected open space in a residential district. (The Applicant clarified after the hearing that the model will be pay-what-you-can, subsidized by donations.)
- According to the initial filing by the Applicant, the main usage categories would be classes, lectures, symposiums, discussions, workshops, and retreats, as well as private (i.e. third-party) events to subsidize the primary nonprofit uses.
- The facility will be open 7AM-10PM, seven days a week, although programming will not be consistent.
- Outdoor uses will include small temporary canopies at events, small groups classes and conversations, nature walks, and gardening.
- Polly Hill Arboretum estimated that the number of visitors to its facility, which abuts Stillpoint, was 16,000-20,000 annually. There was no testimony indicating that this level of use adversely impacted the public's enjoyment of the Polly Hill property or the surrounding properties.
- The West Tisbury Planning Board has stated that "amplification of any kind, music or otherwise, does not fit into a residential neighborhood and the Planning Board would not support it."

With respect to Impact on Abutters and Other Persons and Property (considered a primary factor in the decision), the Commission finds this would be the main detriment of the project, and notes the following:

- The project may increase the amount of light and noise (including from traffic) affecting abutting properties.
- The project area abuts the six Land Bank lots (about 26 acres); and the Polly Hill Arboretum, a 60-acre Island horticultural and botanical preserve. Those two properties are in the midst of 2,000+ acres of protected rural and farm-oriented land, largely within the Mill Brook watershed.
- The following concerns have been raised by Polly Hill Arboretum, the immediate abutter to the south:

- Projected number of events after 5:30 PM and potential impact on new staff housing for the arboretum.
- Potential for headlights in parking area to shine into the PHA staff housing. Suggest moving some of the parking spaces farther east.
- Concerned about live outdoor music and weddings. Already have impacts from MV Ag Society to south.
- Concerned about workshop in phase 2 – could further impact staff housing. Request longer-term master plan for property. (Any 'phase 2' would be required to further review and consideration by the Commission.)
- Concerns from other abutters and members of the public have focused on noise, lighting, traffic (including the impact of parking areas), clearing of vegetation, the presence of a commercial use in a residential area, the volume of event attendance per year, potential imposition on the serenity of the surrounding lands, and potential impacts on habitat resulting from the proposed change of use.
- One of the immediate abutters to the north has endorsed the project, noting the potential community benefits, the recent transfer of properties to the Land Bank, and the Applicant's willingness to help reduce impacts associated with events.
- In addition to abutters, the various protected properties in the vicinity are used by the general public for their peaceful undisturbed quiet and the opportunity to enjoy nature in an undeveloped area.
- EEA Technical Report No. 4/2014, Good Practice Guide on Quiet Areas, indicates that at a sound level of 45 dB, 100% of visitors to open areas perceive acoustic quality as good; at 45-55 dB, about 50% of visitors perceive acoustic quality as good; and at sound levels above 55 dB the percentage of visitors perceiving acoustic quality as good falls rapidly with rising sound pressures.
- A Decibel Level Comparison Chart (Yale Environmental Health and Safety) in the written record indicates that the environmental noise level of a quiet natural area with no wind is 20 dBA, and of a suburban area at night is 40 dBA.
- The Land Bank intends to provide 3 parking spaces to accommodate visitors to its land abutting Stillpoint. The Land Bank's properties are governed by its policy on public use which is premised on the desire to avoid the commingling of commerce, personal, and respite land uses. The Land Bank advised that its property will be subject to a planning protocol which, by its terms, limits access to the property to protect the opportunity for respite and for individuals and families to experience the outdoors.

The Commission also notes the following with respect to Persons and Property:

#### Traffic and Transportation

- Access will be via Stillpoint Meadows Road, which is owned by Stillpoint and the owners of lot 4.12. The road splits off at the barn and loops back toward the entrance near State Road.



- Some vegetation has already been removed along the portion of Lot 4.13 abutting State Road to increase sight lines on State Road, and the Applicant has stated that more could be removed as well.
- A total of 40 parking spaces will be distributed along the return portion of the road within Lot 4.11, with an additional 20 overflow spaces. The locale for those additional spaces has not yet been determined.
- A June 2022 traffic impact assessment by the Applicant's traffic consultant, VHB, includes the following projections:
  - *Project is expected to generate approximately 56 vehicle trips (28 entering/28 exiting) during the midday peak hour and approximately 58 vehicle trips (53 entering/5 exiting) during the evening peak hour. [This assumes about two people per vehicle for the evening events with up to 100 people.]*
  - *Project will have minimal impact upon intersection operations at the study area intersections.*
- The project is also expected to shift the evening peak hour on State Road from about 4-5PM to 5:30-6:30PM, as a result of the evening events.
- The Applicant has stated that it is open to providing an easement to the town of West Tisbury for a possible bike path along State Road.

*MVC Transportation Planner review:*

- *A circulation plan has been presented and the Applicant has stated that several vehicle bump outs will be constructed to eliminate potential two-way vehicular conflicts.*
- *Consideration for a relocated entrance/exit is not viable and would create very unsafe conditions.*
- *The Applicant stated they will consider widening the entrance/exit a little more and properly delineating those approaches via painted stripe.*
- *The speed limit on State Road in the vicinity of the proposed project is posted as 35mph.*
- *Looking northbound and southbound from the site driveway, the sight distances are adequate for the posted speed limit of 35mph. Staff also confirms the sight distances as presented in their traffic impact report, submitted on June 3, 2022.*
- *The traffic impact report evaluated sight distances for a posted speed limit of 40mph. The Applicant acknowledges in the report that the required sight distances for a 40mph roadway are not met in the southbound direction.*
- *Staff agrees that the brush and trees along the horizontal curve to the south of the site driveway should be cleared to provide a much safer condition.*
- *Staff has estimated that cutting back roughly 10 ft will open an additional 115 ft of sight distance at the site driveway. [A plan showing the proposed clearing and its effect on the site distance has been provided.]*

Island Housing Needs

- The Applicant anticipates about two full-time and two part-time employees to help with office management, facility maintenance, bookkeeping, and other tasks associated with events. This

does not include people who rent the space to teach classes or conduct other paying activities, who would not be considered Stillpoint employees.

- The MVC Housing Policy lays out possible strategies for applicants to mitigate the housing impact of a project, including the provision of land, housing units, and/or monetary mitigation. The policy includes exemptions for “non-profit organizations and quasi-publicly owned entities that can establish to the Commission’s satisfaction that the principal population to whom they provide social services is the same as those who would qualify for Affordable or Community Housing,” and for “projects whose impact on the need for additional Affordable or Community Housing is negligible, established to the Commission’s satisfaction.” However, such documentation was not provided during the review process.
- The Applicant notes that the original MVC approval of the subdivision in 1988 required housing mitigation in the form of lot 12, which was deeded to the Dukes County Regional Housing Authority and then sold in 1992. The Housing Policy accounts for prior mitigation associated with a modification, but only for residential DRIs.

**A4. The Commission finds that impacts associated with the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), do not apply to this project.**

**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).**

Apart from the possible need for police details for parking at larger events, the project will likely have a minimal impact on municipal services. As a non-profit, the property will be exempt from local real property taxes. However, there was no evidence as to whether the exemption, as a result of the change of use, would have a material impact on 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 project will 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.**

The project generally aligns with the Island Plan, including the objectives and strategies stated in sections 2 (Development and Growth), 3 (Natural Environment), 4 (Built Environment), 5 (Social Environment), 6 (Livelihood and Commerce), 7 (Energy and Waste), and 9 (Transportation).

**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 project is located within the rural district and is potentially allowable by special permit under town zoning. However, as an educational non-profit, the project may be covered by the Dover amendment, which limits local zoning oversight. Under Section 14C of Chapter 831, the MVC may approve projects that are inconsistent with local zoning if “the inconsistency is necessary to enable a substantial segment of the population of a larger community of which the municipality is a part to secure adequate opportunities for housing, education or recreation.”

**B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE GENERALLY 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.**

**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 partly within the Island Road District of Critical Planning Concern and is consistent with those regulations.

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 noticed meeting of the Commission held on May 4, 2023 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearings and deliberations, participated in the decision on May 4, 2023:

Voting to approve the project: Jeff Agnoli, Trip Barnes, Christina Brown, Jay Grossman, Fred Hancock, Greg Martino, Doug Sederholm, Linda Sibley, Ernie Thomas, Peter Wharton

Voting against: Brian Smith

Abstentions: Kathy Newman

Recused: Ben Robinson

Absent: Joan Malkin

Ineligible to Participate: Michael Kim, Kate Putnam, Carole Vandal

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 May 4, 2023 and was approved by a vote of the Commission on May 18, 2023.

## **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. Events held on the property shall be subject to the following conditions:
  - a. Events with 35 attendees or fewer – not more than 5 in any one day.
  - b. Events with 36 to 100 attendees – not more than 3 in any one week.
  - c. No more than 20% of all events may be off-mission.
  - d. No more than 38,000 attendees per year.
  - e. No weddings will be permitted.

An “event” is a gathering of ten or more attendees for a common purpose. An “attendee” includes staff, guests, and any other person on the premises for an event. Events include sponsored events and other activities occurring on the premises.
2. The Applicant shall keep records of the frequency of events, including the entity or entities associated with each event, the basic nature of each event, and the number of attendees per event. These records shall be provided to the Commission every six months during the first two years that events occur at the site.
3. There shall be no outdoor amplification, except as may be required to comply with ADA requirements. Indoor amplification shall be limited to that needed for films and people speaking at events, and quiet recorded music. Amplified sound as measured at any property boundary shall not exceed 5 dB(A) above ambient sound as measured at the same time.
4. As offered, events may be offered daily from 7AM, but shall cease at 10PM.
5. As offered, no overnight accommodations (including tents) may be provided or permitted on lot 4.11.
6. As offered, the sale of alcohol is prohibited on the premises.
7. As offered, Stillpoint will work with the West Tisbury Police Chief to determine if a traffic detail is required and for what duration, based on the timing of events and expected number of attendees.
8. As offered, there shall be no more than 60 vehicles parked onsite at one time. This includes the 40 proposed parking spaces along the access road, plus overflow parking for 20 vehicles. A plan for the 20 overflow spaces, including any required clearing, shall be submitted to the LUPC for review and approval prior to receipt of a Certificate of Occupancy.

9. As offered, Stillpoint shall not permit attendees at activities on the Stillpoint property to enter the Polly Hill Arboretum property from the Stillpoint property unless Stillpoint has received prior written permission from Polly Hill Arboretum for said entry.
10. No later than 12 months after receipt of a Certificate of Occupancy, the Applicant shall submit to the MVC for review and approval a plan to provide employee housing on-Island to mitigate the housing impact of the project as estimated based on projections for the first three years of operations. The plan shall include at minimum the number of existing and projected employees at the time, information adequate to confirm the housing status of each employee, and a timetable for implementation. If the housing is to be located on lots 4.9, 4.10, 4.11, or 4.13, the construction of such housing shall also require MVC review as a modification to this DRI.
11. As offered, provided that a Certificate of Occupancy for Lot 4.11 has been issued to Stillpoint Martha's Vineyard to use for its exempt purpose, Lot 4.9 and 4.13 shall be restricted to residential and/or accessory structures with a total floor area of no more than 1,200 sq ft (floor area as defined in DRI Checklist Version 14A) for each lot.
12. As offered, the Applicant shall install a water meter, and shall provide water use records for the project, as well as testing results for the proposed septic system, to the MVC annually for three years. If annual water usage exceeds 540 gallons/day, or the documented nitrogen generated by the project exceeds 6.24 kg/year for the property, then further mitigation may be required by the LUPC.
13. 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.
  - Stillpoint shall install landscaping or fencing sufficient to minimize any light from vehicles, the parking area, and barn spilling onto adjacent properties, regardless of the season.
  - 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 and water.
  - No synthetic pesticides or herbicides shall be used in the maintenance of landscaping.
  - The proposed clearing of vegetation along State Road shall be limited to that shown in the map of site distances dated Nov. 28, 2022.
14. As offered, 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.
15. As offered, the Applicant shall provide a surveyed, dimensional, as-built site plan for all approved structures prior to receipt of a Certificate of Occupancy.

16. Any proposed modifications to DRI 279-M, as approved herein, including any modification resulting in any change of use or change in intensity of use, any further development of lots 4.9, 4.10, 4.11, or 4.13 (including but not limited to land clearing apart from that currently proposed for the Land Bank trailhead and parking and any increase in the number of approved parking spaces), shall be referred to the MVC for prior review and approval, provided that a change to a residential-only or permanently deed-restricted conservation-only use does not require a referral unless that change would otherwise trigger a Checklist item.

## **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 West Tisbury Officers and Boards for any local development permits which may be required by law.

The permit-granting authorities of the Town of West 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 West 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**

Brian Smith  
Brian Smith, Acting Chair

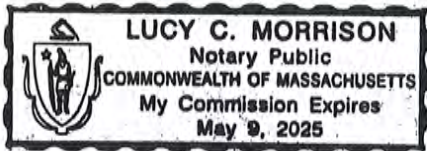
5-24-23  
Date

**6.5 Notarization of Decision**

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 24<sup>th</sup> day of May, 2023, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Brian Smith, 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.



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 26, 2023

Deed: Book 1656, Page 112

Document Number: 2588