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P.O. BOX 1447 • 33 NEW YORK AVENUE • OAK BLUFFS • MA • 02557
508.693.3453 • FAX: 508.693 7894
INFO@MVCOMMISSION.ORG • WWW.MVCOMMISSION.ORG

Decision of the Martha's Vineyard Commission

DRI 464-M2 – Lagoon Ridge Form B Subdivision

1. SUMMARY

- Referring Board: Oak Bluffs Planning Board, Town of Oak Bluffs, MA
- Subject: Development of Regional Impact #464-M2
- Project: A Form B Preliminary Plan for a proposed subdivision of approximately 32.5 acres of land to create 23 lots with up to 25 dwelling units.
- Owner: David Danielson, DBA Lagoon Ridge
- Applicant: David Danielson, DBA Lagoon Ridge
- Applicant Address: P.O. Box 789, Oak Bluffs, MA 02557
- Project Location: Double Ox Road (Off of Barnes Road), Oak Bluffs Map 35, Lot 3 (32.5 acres).
- Description: The proposal is for a Form B Preliminary Plan for a proposed subdivision of approximately 32.5 acres of land using Section 7.3 "Flexible Development" in the Oak Bluffs Zoning, which allows more density/lots than standard zoning, to create 23 lots and up to 25 dwelling units. The project would be built in three "clusters": Cluster A with 4 lots with 4 homes; Cluster B with 4 lots with 4 homes; and Cluster C (Phase 2) with 15 small lots with up to 17 dwelling units (2 duplexes) & 6-8 units for occupants over age 55. A package treatment plant would be built to treat the sewage of units in Cluster C and B. Units in Cluster A would have individual septic systems with de-nitrification. The Form C Definitive Plan must be reviewed by the MVC.
- 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 October 2, 2014.
- Written Decision: This written decision was approved by a vote of the Commission on October 16, 2014.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's Form B 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 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 initially referred to the Commission on May 21, 2010 by the Planning Board of the Town of Oak Bluffs, 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, Section 2.2 (Division of Ten or More Lots) and 2.5 (Division of Thirty or More Acres). Both are mandatory referrals requiring review as a Development of Regional Impact. The 2010 proposal included the remainder of the original DRI 464 property and a large adjacent property. The proposal was subsequently withdrawn and later revised and re-submitted to the Oak Bluffs Planning Board on November 20, 2014 with only the original DRI 464 property. The revised proposal was referred to the MVC by the Planning Board as a DRI and was reviewed as such by the Martha's Vineyard Commission.

2.2 Hearings

Notice: Public notice of a public hearing on the Application was published in the Martha's Vineyard Times, July 3, 2014.

Hearings: The Commission held a public hearing on the Application that was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on July 17, 2014; which was continued September 4, 2014 and the written record was left open until 4:00 pm on Monday September 8, 2014 and closed at that time.

2.3 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan."

- P1 "Site Plan: Lagoon Ridge, Oak Bluffs, Massachusetts" consisting of one 24" by 36" sheet showing the proposed lot lines; roads; OB Water right of way; existing foot paths; proposed foot paths; location of sewage treatment plant; contours; preserved open space; and deed restricted open space prepared for David Danielson by Kristen Reiman - Landscape Architect, P.O. Box 2091, Vineyard Haven, MA 02568 and Robert M. Fitzgerald, P.E. 166 Mayflower terrace, South Yarmouth, MA 02664. Originally drawn March 26, 2014; revised May 7, 2014; revised June 2, 2014; revised July 16, 2014; reviewed version September 18, 2014. Scale: 1" = 100'-0"
- P2 "Lagoon Ridge Subdivision Offers" consisting of 1 page of proposed land use restrictions signed by the Applicant, David (Davio) Danielson on September 8, 2014.

2.4 Other Exhibits

- E1. Referral to the MVC from the Oak Bluffs Planning Board.
- E2. Staff Report, by Paul Foley, MVC DRI Coordinator, with the assistance of other staff members, November 21, 2014; revised February 7, 2014; revised June 13, 2014; revised July 16, 2014; revised September 4, 2014.

- E3. Photographs of the site, taken on July 7, 2014 by MVC staff member Paul Foley.
- E4. Letter from the Division of Fisheries & Wildlife: Natural Heritage and Endangered Species Program signed by Thomas W. French, Ph.D. (Assistant Director) dated June 3, 2014.
- E5. Letter from James Lengyel of the Land Bank
- E6. Letter from Oak Bluffs Affordable Housing Committee.
- E7. Letter from Neal Sullivan
- E8. Letter from Llewellyn & Beverly Rogers
- E9. Letter from Don Pescione
- E10. Letter from Maria Danielson
- E11. Letter from John Leite III
- E12. Letter from Angelo DiMeglio
- E13. Letter from Jenifer Parkinson
- E14. Letter from Daniel & Barbara Kopans
- E15. Letter from Lani Goldthorpe
- E16. Letter from Doug Reece
- E17. Letter from Davio Danielson responded to concerns and comments
- E18. Minutes of the Commission's Land Use Planning Committee meeting, February 10, 2014.
- E19. Minutes of the Commission's Land Use Planning Committee meeting, June 16, 2014.
- E20. Minutes of the Commission's Public Hearing, July 17, 2014.
- E21. Minutes of the Commission's Continued Public Hearing, September 4, 2014.
- E22. Minutes of the Commission's LUPC Post Public Hearing Review, September 22, 2014.
- E23. Minutes of the Commission Meeting of October 2, 2014 - Deliberations and Decision.
- E24. Minutes of the Commission Meeting of October 16, 2014 – Approval of the Written Decision.

2.5 Summary of Testimony

The following gave testimony during the public hearing of July 17, 2014.

- Presentation of the project by: David (Davio) Danielson; Bob Fitzgerald (Professional Engineer) who presented the wastewater system and calculations; and Charlie Crevo (Engineer) of C3 Consulting who prepared the traffic study.
- Staff reports by Paul Foley (DRI Coordinator); Sheri Caseau (Water Resource Planner); Bill Veno (Senior Planner) and Christine Flynn (Affordable Housing Planner).
- Oral testimony from Public: Bill Alwardt (O.B. Shellfish Committee); and Marie Doubleday (O.B. Affordable Housing Committee).

The following gave testimony during the public hearing of September 4, 2014.

- Presentation of the project by: David (Davio) Danielson; and Bob Fitzgerald (Professional Engineer) who presented the wastewater system and calculations.

- Staff report by Paul Foley (DRI Coordinator); and Sheri Caseau (Water Resource Planner).
- Oral testimony from Public: Dan Copans; Angelo DeMeglio; Doug Reece; Alan Roble; Norman Rogers; Chris Alley; Kate Feiffer; and Jevon Rego.

3. FINDINGS

3.1 Project Description

- The proposal is for a Form B Preliminary Plan for a proposed subdivision of approximately 32.5 acres of land using Section 7.3 "Flexible Development" in the Oak Bluffs Zoning, which allows more density/lots than standard zoning, to create 23 lots and up to 25 dwelling units
- All units would be for sale at market rate except that two lots (one single and one duplex) would be donated to Habitat for Humanity for affordable housing.
- Six to eight units in cluster C would be restricted to housing for people over 55.
- The use of "Flexible Development" in the Oak Bluffs Zoning Bylaws (Section 7.3) allows the proposal to contain 4 more dwelling units for this size property than allowed by standard zoning through preservation of at least 60% open space and providing units for people over the age of 55 among other stipulations in Section 7.3 of the Bylaws.
- Vehicular access for 19 of the 23 lots would be off of Barnes Road through an extension of Double Ox Road into the Danielson property. Vehicular access for 4 standard lots in Cluster A would be through an extension of Sages Way in the Pond View Subdivision.
- The project would be built in three "clusters": Cluster A would have 4 standard sized lots with 4 homes up to 4 bedrooms each located at the top of the plan (SE) connecting to the Pond View Subdivision; Cluster B would have 4 lots (2 slightly substandard) with 4 homes averaging 3 bedrooms each at the bottom of plan on an extension of Double Ox Road (off Barnes); and Cluster C (Phase 2- Sales of lots in clusters A & B are intended to enable development of C) would have 15 small lots with up to 17 dwelling units (2 duplexes) & 6-8 units for occupants over age 55. One of the lots may become a community house in Cluster C.
- A package treatment plant would be built to treat the sewage of units in Cluster B and C. Units in Cluster A would have individual septic systems with advanced de-nitrification.
- The Form C Definitive Plan will be submitted for review and approval to the MVC for DRI Review.

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 evaluating 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 the testimony presented and reviewing all documents and correspondence 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 the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE DETRIMENTS, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(a) OF THE ACT.

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

The Commission finds that this is a large lot zoned for residential uses.

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

With respect to Wastewater and Groundwater, the Commission finds that while the proposal will add nitrogen to an impaired watershed the development has been conditioned to meet the MVC nitrogen loading limits set by the MVC nitrogen loading policy

With respect to Open Space, Natural Community and Habitat, the Commission finds that the plan protects sixty percent (60%) of the property in preserved and/or protected open space . The Commission notes that the applicants pro-actively approached the Massachusetts Natural Heritage and Endangered Species Program to develop a design that conforms to their mission of protecting endangered species.

With respect to Night Lighting and Noise, the Commission finds that the applicants have offered to keep exterior lighting to a minimum.

With respect to Energy and Sustainability, the Commission notes that the project is for a Plan B preliminary subdivision, not for construction. It also notes that on the Form C Definitive Plan the Applicant will indicate measures to address energy and sustainability.

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

With respect to Traffic and Transportation, the Commission finds that the proposal would have a minimal impact on vehicular trip generation.

With respect to Scenic Values, Character, and Identity, the Commission finds that the proposal maintains existing trails and will add additional walking trails. The Commission notes that the development envelopes will not be visible from an island road but will be visible from some houses currently in the woods.

With respect to the Impact on Abutters, the Commission finds that through the use of "Flexible Development" (Section 7.3) in the Oak Bluffs Bylaws the Applicant may create more lots than allowed by standard zoning. The Commission notes that there will be some impact on some abutters and that on the Form C Definitive Plan the Applicant should indicate more detailed buffering of neighboring parcels.

A4 The Commission finds that the proposed development would have a positive impact upon the supply of needed low and moderate income housing for Island residents (Section 15(d) of the Act).

The Commission finds that the Applicants will donate two lots to an affordable housing organization (MV Habitat). The Commission notes that on the Form C Definitive Plan the Applicant must prove that the provisions for affordable housing are consistent with both the MVC Affordable Housing Policy and the requirements of the "Flexible Development" (Section 7.3) bylaws in the zoning.

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

The Commission finds that the developed land would increase the tax base for the town but notes that there may also be some increase in the cost to the town of services particularly with respect to schools.

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

A7 The Commission finds that the proposed development does not interfere with the ability of the municipality to achieve the objectives set forth in the municipal general plan. (Section 15(g) of the Act).

A8 The Commission finds that the proposed development would not contravene land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).

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 such as those relating to wastewater and future traffic mitigation, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) 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, as a whole, advances the Commission's land development objectives, as outlined in the Martha's Vineyard Commission Regional Policy Plan adopted by the Commission in June 1991 and the Island Plan adopted by the MVC in December 2010.

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 Commission finds that the project is subject to review by the Planning Board to determine the conformance to Section 7.3 in the Oak Bluffs Zoning Bylaws. The Commission notes that this is the first time a development has utilized Section 7.3 of the Oak Bluffs Zoning Bylaws.

D. THE COMMISSION FINDS THAT THE SITE IS IN CONFORMANCE WITH THE REGULATIONS OF DISTRICTS OF CRITICAL PLANNING CONCERN, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(d) OF THE ACT.

The Commission finds that part of the property is located in the Lagoon Pond DCPC and that part of the property is located in the Oak Bluffs Water Resource Protection District (WRPOD).

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on October 2, 2014 and made its decision at the same meeting.

The following Commissioners, all of who participated in all hearings and deliberations on this project, participated in the decision on October 2, 2014:

- Voting in favor: Trip Barnes; John Breckenridge; Christina Brown; Josh Goldstein; Erik Hammarlund; Fred Hancock; James Joyce; Joan Malkin; Katherine Newman; Doug Sederholm; and Linda Sibley.
- Voting against: Madeline Fisher.
- Abstentions: None.

Based on this vote, the Commission approved the application for the project as a Development of Regional Impact with the conditions listed in section 5 below.

This written Decision is consistent with the vote of the Commission October 2, 2014 and was approved by vote of the Commission on October 16, 2014.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following conditions in order to increase the benefits and minimize the detriments of the project. The analysis of benefits and the resulting decision to approve the project is based on the proposal as modified by these conditions. These conditions form an integral and indispensable part of this decision.

These conditions are an essential part of this decision and shall be enforced as written. The primary enforcement agent for the compliance of these conditions is the building and zoning enforcement officer of the Town. If the Commission or the Town finds it necessary to seek judicial relief to enforce the condition, the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission's and/or Towns attorney's fees and costs incurred in obtaining judicial relief.

1 Subdivision

- 1.1 Following approval by the Oak Bluffs Planning Board of the Form B subdivision plan, the Applicant shall submit a Form C subdivision plan to the Planning Board for transmittal to the Commission for review and approval, which plan, among other items, will include: development envelopes shown on the plan; setbacks; final delineation of cut zones and limits of work areas; the location of septic systems; lawn areas; access and other fire safety issues; a landscaping plan; sign-off of final Plan from the Natural Heritage and Endangered Species Program (NHESP); and a copy of the Declaration of Restriction as required by NHESP.

2 Phasing and Construction

- 2.1 As offered by the Applicant, construction noise will be limited to 7 AM to 7 PM.

- 2.2** As offered by the Applicant, roadways will be modified as needed to save "mother trees".
- 2.3** For the Form C definitive plan submission to the MVC the Applicant shall submit a phasing plan prior to the issuance of any building permit. The Phased Development Plan shall include when lots and units will be developed. The Phased Development Plan shall demonstrate that mechanisms are in place to meet both MVC Policies and town Zoning Requirements concerning nitrogen loading limits, affordable housing and open space and all other conditions and offers related to this project.

3 Covenants

- 3.1** For the Form C definitive plan submission to the MVC the Applicant shall provide the covenants for the homeowners association including design and landscaping guidelines and restrictions.

4 Landscaping

- 4.1** For the Form C definitive plan submission to the MVC the Applicant shall provide landscaping guidelines for the development envelopes encouraging native plants and minimizing lawn areas to be submitted for the review and subject to the approval of LUPC before construction begins.
- 4.2** All fertilizers shall be slow-release, water-insoluble nitrogen source types. No synthetic pesticides including herbicides, fungicides and/or insecticides shall be used in the maintenance of landscaping.
- 4.3** Covenants shall include restrictions that all plantings in all lots shall be non-invasive species (as detailed in the MVC/Polly Hill list and the Massachusetts banned species list) and use best management practices.

5 Exterior Lighting

- 5.1** As offered by the Applicant, "Dark skies" concepts will be written into the covenants for Lagoon Ridge.
- 5.2** As offered by the Applicant, all path and roadway lighting will be directed towards the ground.
- 5.3** A final lighting plan shall be submitted to and is subject to the approval of LUPC before construction begins. It should be based on the following principles: exterior lighting on buildings shall be limited to that required by code; exterior lighting shall be downward shielded to prevent light spilling off the property and shall be either motion sensitive or on timers to ensure that they are turned off when not necessary.
- 5.4** There shall be no street lights.

6 Affordable Housing

- 6.1** As offered by the Applicant, land for 2 or 3 affordable dwelling units in Cluster C shall be offered to HabitatMV.
- 6.2** For the Form C definitive plan submission to the MVC the Applicant shall submit a detailed offer with respect to affordable housing that meets the requirements of the Oak Bluffs Flexible Development By-Law (7.3) and the MVC Affordable Housing Policy.
- 6.3** For the Form C definitive plan submission to the MVC the Applicant shall provide a plan to protect the affordability of affordable units with respect to association fees.

7 Wastewater

- 7.1** As offered by the Applicant, the 21 dwelling units in Clusters B (4) and C (17) shall be connected to the onsite wastewater treatment facility with enhanced nitrogen removal.
- 7.2** As offered by the Applicant, the four dwelling units in Cluster B within the Lagoon Pond DCPC will be allowed only one bedroom per 15,000 square feet and shall have wastewater nitrogen reduction.

- 7.3 As offered by the Applicant, the four dwelling units in Cluster A shall have wastewater nitrogen reduction.
- 7.4 The Applicant shall meet all of the Commonwealth's and Town's wastewater regulations and the Martha's Vineyard Commission nitrogen loading limit set for this proposal (110.4 kg N/acre/year for the 32.47 acres).
- 7.5 For the Form C definitive plan submission to the MVC the Applicant shall have the wastewater treatment facility plan reviewed and approved by an outside engineer approved by the Oak Bluffs Board of Health and said approved plan filed with the MVC.
- 7.6 For the Form C definitive plan submission to the MVC the Applicant shall provide an operation and maintenance manual for the wastewater treatment and de-nitrification systems based on the design, installation, use, and maintenance recommended by the manufacturer. This manual shall be submitted to and is subject to the approval of the MVC's Land Use and Planning Committee prior to installation. A copy of the manual shall also be provided to Oak Bluffs Board of Health (BOH). Effluent testing shall be done monthly for the first two years of service and if tests consecutively meet requirements then testing will be done quarterly or as required by DEP. Test results will be submitted to the MVC and Oak Bluffs BOH.
- 7.7 If testing fails to meet requirements, and efforts to correct those failings are not successful, the Applicant shall provide mitigation (i.e. install and pay for I/A systems of other parcels in the watershed) to offset the difference in the Nitrogen load.
- 7.8 For the Form C definitive plan submission to the MVC the Applicant shall submit a plan to cover the costs of maintaining the wastewater treatment system in perpetuity. Included in this plan will be methods to regulate the cost of services to the affordable houses.

8 Habitat

- 8.1 As offered by the Applicant, over sixty percent (60%) of the acreage will be preserved as undisturbed native habitat.
- 8.2 As conditioned by the Division of Fisheries and Wildlife (DFW) Natural Heritage and Endangered Species Program (NHESP) based on a site plan prepared by Kristen Reiman dated March 26, 2014 (attached) for a development of a twenty-three (23) unit residential subdivision totaling 11.49 acres of permanent disturbance on a 32.1-acre property with 9.1 acres of the property to be permanently protected through a Declaration of Restriction and an additional 11.51-acres to remain as undisturbed open space, conditioned as follows:
 - 8.2.1 Prior to start of Work, the Applicant shall record this (NHESP letter dated June 3, 2014) letter and the Site Plan in the Dukes County Registry of Deeds so as to become a record part of the chain of title for the Property. Prior to the start of Work, the applicant shall provide the Division with proof of said recordation.
 - 8.2.2 Prior to the start of Work on each respective lot, symbolic fencing shall be erected around the limit of Work, as shown on the Site Plan, and maintained throughout the construction period. No work shall occur outside of the limit of work as shown on the Site Plan.
 - 8.2.3 Within twelve (12) months of the start of Work, the Applicant shall provide proof to the Division (DFW and NHESP) of appropriate recordation of the above-referenced Declaration of Restriction in the Dukes County registry of Deeds so as to become a record part of the chain of title of the property.
- 8.3 Any substantial changes to this plan shall be submitted to the Natural Heritage and Endangered Species Program (NHESP) for further review.

9 Energy Sustainability

- 9.1 For the Form C definitive plan submission to the MVC the Applicant shall indicate what measures are planned to address energy and sustainability.

10 Archaeological Oversight

- 10.1 For the Form C definitive plan submission to the MVC the Applicant shall indicate what measures shall be taken to ensure adequate oversight of excavation with respect to archaeological resources.

11 Universal Design

- 11.1 For the Form C definitive plan submission to the MVC the Applicant shall provide details of the six (6) units meeting "universal design" standards.

12 Trails

- 12.1 As offered by the Applicant, the trails that cross Lagoon Ridge and connect to the Southern Woodlands DCPC will be labeled and maintained.
- 12.2 For the Form C definitive plan submission to the MVC the Applicant shall assure perpetual public access and adequate buffers to Bar Trail Road (aka Old Back Road Trail) and Jib Stay Trail as public walking paths.
- 12.3 For the Form C definitive plan submission to the MVC the Applicant shall address the request of the Martha's Vineyard Land Bank with respect to the potential for additional lateral trails connecting to Barnes Road (MVLB Letter of July 15, 2014).

13 Original DRI 464 Conditions

- 13.1 As offered by the Applicant, Conditions from original DRI 464 that are still relevant will be followed:
- 13.1.1** 1a – That should there be any proposal for the division or subdivision of Lot 3 (this subdivision) as shown on the Plan submitted (DRI 464) then that proposal shall be submitted to the Martha's Vineyard Commission for review and action. (Note: That is being done with this review and the subsequent review of the Form C Definitive Plan by the MVC)
- 13.1.2** 1b – That there shall be created a building envelope on Lot 1 and Lot 2 of the Plan (DRI 464) submitted and said envelope shall be no closer to the edge of the right of way of Barnes Road than one hundred (100) feet.
- 13.1.3** 1c – That the Commission accepts the offer of the Applicant to provide to the Town of Oak Bluffs a walking/biking easement over the ancient way that presently traverses Lot 3 of the (original) Plan.
- 13.1.4** 2a – That should there ever be a division or sub division of Lot 3 (Current Subdivision) of the Plan then Lot 1 and Lot 2 shall be included in the final total number of lots for the purposes of determining compliance with the Martha's Vineyard Commission Affordable Housing Policy.
- 13.1.5** 3a – The Applicant shall provide to the Town of Oak Bluffs, a twenty (20) foot wide easement for the purposes of developing a bike path along Barnes Road.

14 Major Alterations

- 14.1 Should the project have substantive alterations to the use of the premises from the approved uses and numbers and type of units it shall return to the Martha's Vineyard Commission to request approval of said alterations.

6. CONCLUSION

6.1 Permitting from the Town

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

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's Form B 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. The Form C Definitive Plan must be reviewed by the MVC.

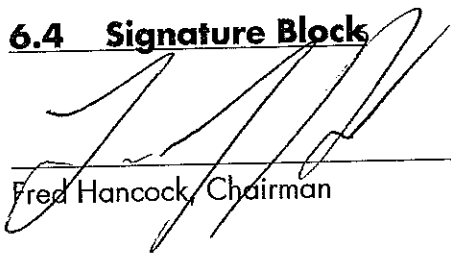
6.2 Notice of Appellate Rights

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

6.3 Length of Validity of Decision

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to record the Subdivision Plan and Covenants. Should the recording of the Subdivision Plan and Covenants not occur during said two (2) year period, this Decision shall become null and void and have no further effect. This time period may be extended upon written request from the Applicant and written approval from the Martha's Vineyard Commission.

6.4 Signature Block



Fred Hancock, Chairman

Date 10-23-14

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 23rd day of October, 2014, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Fred Hancock, proved to me through satisfactory evidence of identity,
which was/were driver's license to be the person(s) whose name(s)
was/were signed on the preceding or attached document in my presence, and who swore or affirmed to me
that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief.

J. Ann Taylor
Signature of Notary Public

J. Ann Taylor
Printed Name of Notary

My Commission Expires February 9, 2018

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: Oct. 28, 2014

Deed – Book _____, page _____

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