Decision of the
Martha's Vineyard Commission
DRI 464-M3 – Lagoon Ridge Form C Subdivision

1. SUMMARY

Referring Board: Oak Bluffs Planning Board, Town of Oak Bluffs, MA

Subject: Development of Regional Impact #464-M3

Project: A Form C Definitive Plan for a proposed subdivision of approximately 32.5 acres of land to create 23 lots with up to 25 dwelling units.

Owner: Lagoon Ridge LLC (David A. Danielson, Manager)

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 C Definitive 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 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 B and C. Units in Cluster A would have individual septic systems with de-nitrification.

Decision: The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Regional Impact with conditions, at a vote of the Commission on June 2, 2016.

Written Decision: This written decision was approved by a vote of the Commission on June 16, 2016.

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant’s Form C Definitive Plan 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 referred to the Commission on December 16, 2015 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 2.1 (Modification to a Previous DRI). The Applicant, recognizing the wishes of neighbors to comment on the proposal and realizing the likelihood of a vote by the full Commission for a public hearing on the modification, voluntarily chose to go to a public hearing as a Development of Regional Impact and the proposal 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, March 31, 2016.

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 April 14, 2016; which was continued May 19, 2016 and closed on that date.

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 “Plan of Land in Oak Bluffs, Massachusetts Surveyed for Lagoon Ridge”, being a subdivision of Assessor’s Parcel 35-3 consisting of one 24” by 36” sheet showing the proposed lot lines; roads; development envelopes in Clusters A & B; O.B. Water right of way; existing foot paths; and the location of sewage treatment plant; prepared by Gregory Marcella P.L.S., P.O. Box 6, Oak Bluffs, Massachusetts dated March 9, 2016. Scale 1: 25,000. Received at MVC April 14, 2016.

P2 “Executive Summary” consisting of ten (8.5” X 11”) pages of project description and checklist of conditions met from David Danielson dba Lagoon Ridge to Paul Foley, DRI Coordinator dated March 30, 2016.

P3 Draft “Declaration of Protective Covenants and Agreement for Lagoon Ridge” Draft dated April 11, 2016 consisting of draft protective covenants with respect to use of residential lots; setbacks; buffering; lighting; landscaping; wastewater disposal; senior housing; use of common lands; prohibitions; access; easements; rules and regulations; etc.... Note: See Condition 3.1 - Final Covenants to return for approval by MVC counsel prior to the sale or release of any lots.

P4 “Lagoon Ridge Form B 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. MVC Staff Report: March 29, 2016; revised April 14, 2016; revised May 19, 2016.
E3. Photographs of the site, taken on July 7, 2014 by MVC staff member Paul Foley.
E5. Letters from the following Town Officials: The Planning Board; and Dave Grunden of the Oak Bluffs Shellfish Department.
E6. Letters from the following Island Organizations: James Lengyel of the Land Bank; and Doug Reece of the Lagoon Pond Association.
E7. Letters from the following Citizens: Alan Robillard (April 6, 2016); Debbie DeBettencourt; Kate Feiffer and Chris Alley; Alan Robillard (April 15, 2016); Alan Robillard (May 17, 2016).

2.5 Summary of Testimony

The following gave testimony during the public hearing of April 14, 2016.
- Presentation of the project by: David (Davio) Danielson; Raul Lizardi-Rivera (Professional Engineer) who presented the wastewater system and calculations; and Eric Peters (Attorney).
- Staff report by Paul Foley (DRI Coordinator).
- Oral testimony from Public: Doug Reece; Alan Robillard; and Debbie DeBettencourt.

The following gave testimony during the public hearing of May 19, 2016.
- Presentation of the project by: David (Davio) Danielson and Eric Peters (Attorney).
- Peer Review: David Bennett (Professional Engineer) who presented the independent peer review of the wastewater system and calculations.
- Staff report by Paul Foley (DRI Coordinator).
- Oral testimony from Public: Steve Auerbach; Alan Robillard; Kate Feiffer; and Ralph Norton.

3. FINDINGS

3.1 Project Description

- The proposal is for a Form C Definitive 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.
• In 2014 the MVC approved with conditions the Form B Preliminary Plan for this proposed subdivision. The Conditions included that the Form C plan submission would include, among other items: development envelopes; setbacks; delineation of cut zones and limits of work areas; location of septic systems; lawn areas; access and other fire safety issues; a landscaping plan; sign-off of from (NHESP) with a copy of the Declaration of Restriction; the covenants for the homeowners association including design and landscaping guidelines and restrictions.

• All units would be for sale at market rate except that two lots (one for a single family dwelling and one for a duplex) would be donated to the Oak Bluffs Affordable Housing Trust or other island affordable housing organization recognized by the MVC.

• 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 would have 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 B and C. Units in Cluster A would have individual septic systems with advanced de-nitrification.

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 property 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 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 developing in clusters allows for development while also protecting open space.

With respect to Night Lighting and Noise, the Commission finds that the Applicant has offered to keep exterior lighting to a minimum and has incorporated “dark skies” principles into the covenants.

With respect to Energy and Sustainability, the Commission notes that the Applicant has encouraged energy efficiency and alternative energy in the covenants.

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 and congestion on Barnes Road.

With respect to Scenic Values, Character, and Identity, the Commission finds that the proposal maintains existing trails, will add additional walking trails and protects more open space than a standard subdivision. The Commission notes that the development envelopes will not be visible from a public road but will be visible from some houses on abutting properties.

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 where dwelling units are clusters, there may be some impact on some abutters.

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 the Oak Bluffs Affordable Housing Trust or other island affordable housing organization recognized by the MVC that will be moderate-income restricted. The Commission notes that the Planning Board has some discretion to determine what is required by 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 development facilitates a Barnes Road to County Road utility connection by providing a 25’ wide right-of-way to the Town Water Department, some of which will also be passable for emergency access. The Commission further 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 (WRPD).
4. DECISION

The Martha’s Vineyard Commission deliberated about the application at a duly noticed meeting of the
Commission held on June 2, 2016 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 June 2, 2016:

- Voting in favor: Trip Barnes; John Breckenridge; Christina Brown; Rob Doyle; Josh Goldstein; Fred
  Hancock; Lenny Jason; James Joyce; Doug Sederholm; Linda Sibley; and Ernie Thomas.
- Voting against: None.
- 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 June 2, 2016 and was approved by
vote of the Commission on June 16, 2016.

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 conditions,
the Applicant, or its successors in title at the time of such proceedings, shall pay the Commission’s and/or
Town’s attorneys fees and costs incurred in obtaining judicial relief.

1 Subdivision
1.1 The Applicant’s definitive plan for recording with the Registry of Deeds shall be the subdivision plan
surveyed for Lagoon Ridge by Gregory Marcella P.L.S. dated March 9, 2016 with the additions and
corrections enumerated in the Conditions of this Decision. Among other items, the building envelopes
on lots in Cluster A and Cluster B shall be correctly labeled as development envelopes and, to be
consistent with the Applicant’s proposed Covenants, a margin note shall state that the precise
location of the development envelopes are to be determined by the lot owner prior to any
construction.

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 The Applicant shall submit a phasing plan to the MVC Land Use Planning Committee for review and
approval 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, open space and all other conditions and offers related to
this project.
3  **Covenants**

3.1  The Applicant shall prepare covenants for the homeowners association consistent with the conditions of this MVC Decision for approval by MVC counsel prior to the sale or release of any lots.

4  **Landscaping**

4.1  Covenants shall provide landscaping guidelines for the lot development envelopes encouraging native plants and minimizing lawn areas.

4.2  Covenants shall state that all fertilizers shall be slow-release, water-insoluble nitrogen source types, that fertilizers be applied in accordance with the Oak Bluffs Lawn Fertilizer DCPC regulations, and that no synthetic pesticides, herbicides, fungicides 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  Covenant guidance on lighting shall 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, two (2) lots for three (3) affordable dwelling units for occupants with Moderate income (defined as not exceeding 80% of Area Median Income (AMI)) in Cluster C shall be offered to the Oak Bluffs Municipal Affordable Housing Trust Fund or other island affordable housing organization recognized by the MVC. Said lots and units shall be affordable at 80% or less of AMI in perpetuity.

6.2  Upon the Town approval of the Form C plan and prior to the sale of any lots or issuance of building permits, the Applicant shall submit a copy of said approved plan to the MVC confirming the Town’s interpretation of and Applicant’s adherence to the requirements of the Oak Bluffs Flexible Development By-Law (7.3).

6.3  To protect the affordability of the affordable lots and units, the lot owners and unit occupants of same shall be exempt from the homeowner association fees or other maintenance fees unless, prior to the transfer of the affordable lots to the Town, the Applicant or Association develops with the Dukes County Regional Housing Authority a contribution formula for these lots/units that does not jeopardize the affordability of said lots/units. Any such formula shall be approved by the Land Use Planning Committee of the MVC before being recorded or implemented.

6.4  All income certification and monitoring of lots and units shall be done by the Dukes County Regional Housing Authority at the expense of the Applicant or Association.
7 Wastewater

7.1 The Applicant shall meet all of the Commonwealth’s and Town’s wastewater regulations and the Martha’s Vineyard Commission’s nitrogen loading limit set for this proposal (110.4 kg N/year for the 32.47 acres).

7.2 As offered by the Applicant, the four dwelling units in Cluster A shall have wastewater nitrogen reduction systems that testing shows produce effluent containing not more than 19mg/liter of nitrogen.

7.3 As offered by the Applicant, the 21 dwelling units in Clusters B (4) and C (17) shall be connected to the onsite shared wastewater treatment facility with enhanced nitrogen removal that testing shows produce effluent containing not more than 13mg/l of nitrogen.

7.4 As offered by the Applicant, the four dwelling units in Cluster B within the Lagoon Pond DCPC shall be allowed only one bedroom per 15,000 square feet of lot area and shall be connected to the onsite wastewater treatment facility.

7.5 The Applicant shall have the shared wastewater treatment facility plan reviewed and approved by the Oak Bluffs Board of Health and said approved plan filed with the MVC.

7.6 The Applicant shall provide an operation and maintenance manual for the shared facility once it has been purchased and for the de-nitrification septic systems based on the design, installation, use, and maintenance recommended by the manufacturers. These manuals shall be submitted to and are subject to the approval of the MVC’s Land Use Planning Committee prior to installation.

7.7 As offered by the Applicant, testing for pH, BOD, TSS and Nitrate/Total Nitrogen shall be conducted monthly for at least 12 months and continue monthly until 50% of the bedrooms have been connected and are contributing effluent to the shared facility. The Applicant shall be responsible for overseeing and financing the system and testing until 50% of the bedrooms have been connected. Testing can then be conducted on a quarterly basis after three consecutive tests meeting the nitrogen limit of 13mg/l or less. All test results shall be submitted to the Oak Bluffs Board of Health and to the Martha’s Vineyard Commission.

7.8 If testing for the shared facility fails to meet nitrogen level requirements, and efforts to correct those failings are not successful, the Applicant shall provide mitigation (e.g. install and pay for I/A systems of all lots in the development and other parcels in the watershed) to offset the difference in the Nitrogen load. Prior to installation of the shared facility, the Applicant shall prepare a report detailing the safeguards and replacement guarantees to the functioning of the system once it is designed and installed. The Applicant shall provide a surety bond issued by an insurer qualified to do business in Massachusetts to cover the expense of such mitigation measures should they be necessary, the amount will be determined once the final system is designed. The bond shall be released to the Applicant after the facility 1) has been operational for one year, 2) has more than 50% of the 52 planned bedrooms for Cluster B and Cluster C contributing effluent to the facility for a minimum of six months, and 3) has satisfactory testing results for the most recent continuous six-month period.

7.9 The Applicant shall submit a plan to cover the costs of maintaining the shared facility in perpetuity. The affordable housing lots and units shall be exempt from contributing to such costs unless the Applicant or Association, prior to the transfer of the affordable lots to the Town, develops with the Dukes County Regional Housing Authority a contribution formula for these lots/units that does not jeopardize the affordability of said lots/units. Any such formula shall be approved by the Land Use Planning Committee of the MVC before being recorded or implemented.

7.10 The Applicant shall prepare an information handout for prospective buyers and occupants informing them of the shared facility and enhanced septic systems, how they work, required testing, and
responsibilities of maintaining the systems (fee payments, pump maintenance and repair responsibilities, who to contact, etc.).

8 Habitat
8.1 As offered by the Applicant, over sixty percent (60%) of the acreage shall 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 for a development of a twenty-five (25) dwelling 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 recorded 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 recorded 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.

8.4 No wastewater treatment facilities shall be placed outside of the development envelopes of lots in clusters A and B.

9 Energy Sustainability
9.1 The Applicant shall follow the measures to address energy and sustainability described in the covenants.

10 Archaeological Oversight
10.1 The Applicant shall follow the measures to be taken to ensure adequate oversight of excavation with respect to archaeological resources described in the covenants.

11 Universal Design
11.1 The Applicant shall follow the measures addressing the details of the six (6) units meeting “universal design” standards described in the covenants.

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 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. The Form C Plan shall include notes or labels identifying the trails, their no-cut buffer widths, and their availability for use by the public.
12.3 The Form C Plan shall include an eight (8) foot wide trail easement along the southeast boundary of Lot 20 to link Jib-Stay Trail to property of the Tower Ridge Property Owners Association (Map 28 Lot 22), to be used only if permitted use of the existing parallel segment of Jib-Stay Trail off premises ceases.

12.4 The Applicant shall provide a ten (10) foot wide trail easement to the Martha’s Vineyard Land Bank to create a public trail extending from Old Back Road trail to Barnes Road, which shall be identified on the Form C Plan.

12.5 The Form C Plan shall identify and note the area at the east end of Double Ox Road is available to the public for trail parking, as is all of Double Ox Road to access the parking area from Barnes Road. The Covenants shall also provide public access to Double Ox Road for purposes of accessing the parking area.

13 Outstanding Conditions from Original DRI 464
13.1 The Form C Plan shall portray and identify the twenty (20) foot wide easement reserved to the town for the purposes of developing a bike path along Barnes Road.

14 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. Lot line or development area location adjustments of less than five (5) percent may be approved by the MVC Director provided there are no significant detrimental impacts on the extent and purpose of open spaces, water and wastewater management, the affordable housing units, and the other public and municipal benefits of the approved development.

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 C 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 Applicant shall not release or sell any lot until it has received a Certificate of Compliance issued by the Executive Director of the Martha’s Vineyard Commission confirming that the following conditions in this Decision has been satisfied: 2.2; 3.1; 4.1; 4.2; 4.3; 7.10; and 12.2.

The Town’ building inspector shall not issue a Building Permit until it has received a Certificate of Compliance issued by the Executive Director of the Martha’s Vineyard Commission confirming that the following conditions in this Decision has been satisfied: 1.1; 2.3; 6.2; 7.2; 7.3; 7.4; 7.5; 8.1; 8.2.1; and 8.2.2.

The Town’ building inspector shall not issue a Certificate of Occupancy until it has received a Certificate of Compliance issued by the Executive Director of the Martha’s Vineyard Commission confirming that the following conditions in this Decision has been satisfied: 5.2; 5.4; 6.1; 6.4; 7.6; 7.9; 9.1; and 10.1.
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

James Vercruysse, Chairman

Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 24th day of June, 2016, before me, TO ANN TAYLOR, the undersigned Notary Public, personally appeared TIM VERCROYSE, who proved to me through satisfactory evidence of identity, which was/were driver’s license(s) 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.

Signature of Notary Public

Printed Name of Notary Public

My Commission Expires

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on:

Deed – Book , page

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