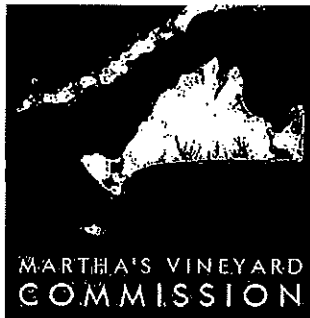




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Decision of the Martha's Vineyard Commission

DRI 682, 682A & 682B – Meeting House Place Subdivision

1. SUMMARY

Referring Board: Planning Board, Edgartown, MA

Subject: Development of Regional Impact #682, 682A & 682B

Project: The proposal was a Form C subdivision comprised of 29 residential lots and dedicated open space, nearly half of which is endangered species habitat.

Owner: Meetinghouse Way, LLC

Applicant: Sean Murphy, Esq, and Doug Hoehn (Schofield, Barbini and Hoehn)

Applicant Address: P.O. Box 339 Vineyard Haven, MA 02568
P.O. Box 1239 Edgartown, MA 02539

Project Location: 139 Meetinghouse Way, Edgartown. Map 37 Lots 47-47.4, totaling 54 acres.

Deed: Book 1442, Page 485

Description: The original proposal (DRI 682) subdivided the five parcels spanning 54.26-acres into 36 single-family lots; the proposal was revised in July 2019 (DRI 682A) to create 28 single-family lots and up to 10 townhouses; the proposal was revised again in February 2020 (DRI 682B) to create 28 single-family lots and 14 townhouses.

Decision: The Martha's Vineyard Commission (the Commission) denied the application for the project as a Development of Regional Impact, at a vote of the Commission on July 30, 2020.

Written Decision: This written decision was approved by a vote of the Commission on September 10, 2020.

The permit-granting authorities of the Town of Edgartown shall not grant the request for approval of the Applicant's proposal contained herein. The project is denied.

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 May 18, 2018 by the Planning Board of the Town of Edgartown, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, DRI Checklist 2.2a (Division of Land – 10 or more lots), a mandatory DRI public hearing review.

2.2 Hearings

Notice: Public notice of the public hearing on the Application of DRI 682 was published in the MV Times on January 25 and 31, 2019 and in the Vineyard Gazette on January 26 and February 1, 2019. The hearing was re-advertised as DRI 682A in the MV Times on August 8 and 15, 2019 and in the Vineyard Gazette on August 9 and 16, 2019. The Applicants requested that the hearing be reopened, and the revised hearing notice for DRI 682B was published in the MV Times on May 21 and 28, 2020 and in the Vineyard Gazette on May 22 and 29, 2020.

Hearings: The Commission held a 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 February 7, 2019. The hearing was continued to March 7, 2019, then continued again to March 21, 2019 without taking public testimony, continued again to April 4, 2019 without taking public testimony, and continued to April 25, 2019. The hearing was then continued to May 16, 2019, then continued to June 6, 2019 without taking public testimony, then continued again to July 11, 2019 without taking public testimony, and continued again to August 22, 2019. The hearing was closed on August 22, 2019 with the exception of the written record, which was left open to August 29, 2019 at 5:00 pm and closed at that time. On November 21, 2019, the Commission voted to reopen the hearing at the request of the Applicant. The hearing reopened as a remote meeting on June 4, 2020 pursuant to Chapter 53 of the Acts of 2020, which was continued to June 11, 2020, continued to June 18, 2020, and continued on July 2, 2020. The hearing was closed on July 2, 2020, with the exception of the written record, which was left open to July 9, 2020 at 5:00 pm and was 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." Pages are 8.5" x 11" unless otherwise noted.

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- P1. "Meeting House Place Master Plan" consisting of one (1) 36" x 24" page site plan showing proposed location lot lines for 36 residential lots, and areas to remain open space, prepared by Dan Gordon Landscape Architects, Patrick Ahearn Architect, and Doug Hoehn, dated March 26, 2018.
- P2. "Meeting House Place Open Space Plan" consisting of one (1) 36" x 24" page site plan showing protected habitat and building envelopes for 35 residential lots, prepared by Dan Gordon Landscape Architects and Patrick Ahearn Architect, dated May 17, 2018.

- P3. "Lotting Plan LSK 1.1" consisting of one (1) 36" x 24" page site plan showing proposed lot lines for 35 residential lots, prepared by Dan Gordon Landscape Architects, scale 1" = 100', dated May 21, 2018.
- P4. "Meeting House Place Narrative" consisting of two (2) pages received September 7, 2018; revised on November 13, 2018; revised to consist of five (5) pages on January 31, 2019; and revised again on April 19, 2019.
- P5. "Meeting House Place Overlay Plan" consisting of one (1) 24" x 36" plan of land in Edgartown, Mass. showing proposed building footprints for 35 residential lots and remaining open space, prepared for Meeting House Way, LLC by Schofield, Barbini and Hoehn, P.O. Box 339 Vineyard Haven, MA 02568, scale 1" = 100', dated August 1, 2018.
- P6. "Existing Vegetative Conditions" consisting of one (1) 11" x 17" plan showing areas of pine, oak and field; received November 13, 2018.
- P7. "NHESP Mapping for 139 Meetinghouse Way Edgartown, MA" consisting of one (1) page delineating the priority habitats of rare species and the estimated habitats of rare wildlife prepared by Normandeau Associates Environmental Consultants 25 Nashua Road Bedford, New Hampshire 03110-5527, scale 1" = 375', dated January 31, 2018.
- P8. "Meeting House Place Conceptual Cluster Drawing" consisting of one (1) 11" x 17" page showing revised proposal for a 34 residential lot cluster subdivision prepared for Meeting House Way, LLC, scale 1" = 200', dated November 13, 2018.
- P9. "Meeting House Place Site Plan" consisting of one (1) 11" x 17" page showing proposed 34 lot residential subdivision with lot areas and open space prepared for Meeting House Way, LLC, scale 1" = 200', dated November 30, 2018; revised March 18, 2019.
- P10. "Nitrogen Management Plan for Meeting House Place Project" consisting of nineteen (19) pages prepared by Lombardo Associates, Inc. Environmental Engineers/Consultants 188 Church Street Newton, Massachusetts 02458, dated January 28, 2019; revised February 4, 2019.
- P11. "Meeting House Place Site Plan" consisting of one (1) 17" x 11" page showing 34 residential lots and open space prepared for Meeting House Way, LLC, scale 1" = 200', dated December 28, 2018; and revised on March 29, 2019.
- P12. "Meeting House Place Estimate of Nitrogen Load Prior to Mitigation" Memorandum from Wright-Pierce Engineering to Sheri Caseau, MVC consisting of three (3) pages, dated April 8, 2019.
- P13. "Meeting House Place Typical Lot Renderings" consisting of three (3) 11" x 17" pages, dated April 15, 2019.
- P14. "Meeting House Place Comprehensive Project Description" consisting of nineteen (19) pages, submitted April 19, 2019.
- P15. "Traffic Impact and Access Study" prepared for Meeting House Way, LLC by Greenman-Pedersen, Inc. consisting of one hundred eighty-six (186) pages, dated January 2018; updated September 2018.
- P16. "Additional Intersection Evaluation" prepared for Meeting House Way, LLC by Greenman-Pedersen, Inc. consisting of thirteen (13) pages, dated January 28, 2019.

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- P17. "Meeting House Place" Plan of Land in Edgartown, Mass. prepared for Meeting House Way, LLC by Schofield, Barbini & Hoehn Inc. P.O. Box 339 Vineyard Haven, MA 02568 consisting of one (1) 24" x 36" page site plan showing 28 residential lots and one additional lot with up to 10 townhouses, scale 1" = 100', dated June 22, 2019; revised to show development envelopes of each lot on August 15, 2019.
- P18. "Meeting House Place Preliminary Concept Site Plan" consisting of one (1) 11" x 17" page illustrating layout of duplex townhouses, scale 1" = 30', submitted August 15, 2019.
- P19. "Meeting House Place Nitrogen Load Calculations" prepared by Schofield, Barbini & Hoehn, Inc. consisting of six (6) pages, dated June 28, 2019; updated to consist of four (4) pages on August 15, 2019.
- P20. "Meeting House Place Offers" prepared by Sean Murphy of McCarron, Murphy & Vukota, LLP consisting of six (6) pages, dated August 8, 2019; and updated August 15, 2019.
- P21. "Meeting House Place Narrative" consisting of eight (8) pages, dated August 8, 2019; updated August 15, 2019; and updated August 22, 2019.
- P22. "Architectural Design Guidelines" for Meeting House Place consisting of thirty-six (36) pages, dated August 12, 2019.
- P23. "Declaration of Covenants, Conditions and Restrictions for Meeting House Place" consisting of thirty-three (33) pages prepared by Sean Murphy of McCarron, Murphy & Vukota, submitted on August 15, 2019.
- P24. "Trip Generation Letter Proposed Residential Development 139 Meetinghouse Way Edgartown, MA" consisting of nine (9) pages prepared by Greenman-Pedersen Inc., dated July 3, 2019.

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- P25. "Meeting House Place" Plan of Land in Edgartown, MA prepared for Meeting House Way, LLC consisting of one (1) 24" x 36" site plan showing 28 residential lots and one additional lot with 14 townhouses prepared by Schofield, Barbini and Hoehn, P.O. Box 339 Vineyard Haven, MA 02568, scale 1" = 100', dated August 15, 2019; revised February 18, 2020; and revised again May 21, 2020.
- P26. "Meeting House Place" Plan of Land in Edgartown, MA prepared for Meeting House Way, LLC consisting of one (1) 24" x 36" site plan showing the proposed water line prepared by Schofield, Barbini and Hoehn, P.O. Box 339 Vineyard Haven, MA 02568, scale 1" = 100', dated August 15, 2019; revised February 18, 2020; and revised again May 21, 2020.
- P27. "Meeting House Place" Plan of Land in Edgartown, MA prepared for Meeting House Way, LLC consisting of one (1) 17" x 11" plan showing an aerial overlay of the proposed subdivision prepared by Schofield, Barbini and Hoehn, P.O. Box 339 Vineyard Haven, MA 02568, scale 1" = 100', dated August 15, 2019; revised March 7, 2020.
- P28. "Meeting House Place Preliminary Floor Plans" consisting of one (1) 17" x 11" page showing the interior layout of the proposed duplexes, dated February 5, 2020.
- P29. "Meeting House Place Preliminary Floor Plans" consisting of one (1) 17" x 11" page showing the interior layout of the proposed triplex, dated February 5, 2020.

- P30. "Meeting House Place Preliminary Images" consisting of five (5) 17" x 11" pages showing renderings of the proposed townhouses, dated February 5, 2020.
- P31. "Meeting House Place Townhome Parking" consisting of one (1) 17" x 11" page showing the number and location of the parking for the proposed townhouses, received June 11, 2020.
- P32. "Meeting House Place Narrative" consisting of eight (8) pages, dated March 26, 2020; updated April 20, 2020.
- P33. "Meeting House Place Revised Offers" prepared by Sean Murphy of McCarron, Murphy & Vukota, LLP consisting of six (6) pages dated February 18, 2020; revised April 20, 2020; revised June 3, 2020; revised June 10, 2020; revised July 7, 2020; and revised July 27, 2020.
- P34. "Architectural Design Guidelines" for Meeting House Place consisting of thirty-six (36) pages, dated April 8, 2020.
- P35. "Declaration of Covenants, Conditions and Restrictions for Meeting House Place" consisting of thirty-three (33) pages prepared by Sean Murphy of McCarron, Murphy & Vukota, submitted on April 9, 2020.
- P36. "Meeting House Place Nitrogen Load Calculations" prepared by Schofield, Barbini & Hoehn, Inc. consisting of four (4) pages dated April 10, 2020.
- P37. "Updated Trip Generation Letter Proposed Residential Development 139 Meetinghouse Way Edgartown, MA" consisting of nine (9) pages prepared by Greenman-Pedersen Inc., dated March 27, 2020.
- P38. "Residence" Floor Plans and Elevations Sample for a Typical Single-Family House consisting of eight (8) 17" x 11" pages, scale ¼" = 1', received June 30, 2020.

2.4 Other Exhibits

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- E1. Referral to the MVC from the Edgartown Planning Board, including cover letter, site plan, and Edgartown Planning Board application, received May 18, 2018.
- E2. Completed DRI Application signed January 16, 2019.
- E3. Staff Report for DRI 682 Meeting House Place Subdivision dated September 24, 2018; revised February 7, 2019.
- E4. Meeting House Way Traffic Impact and Access Study Memo from Mike Mauro, Transportation Program Manager, dated September 5, 2018.
- E5. Drone footage, taken on December 14, 2018 by Chris Seidel (MVC Staff).
<https://www.youtube.com/watch?v=eGpPNsi6xnQ>
- E6. Environmental Notification Form required by Massachusetts Environmental Policy Act for 139 Meeting House Way Edgartown, MA prepared for Meeting House Way, LLC c/o McCarron, Murphy & Vukota, LLP by Normandeau Associates Environmental Consultants, submitted February 28, 2018.
- E7. Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form for Meeting House Way Residential Subdivision consisting of sixteen (16) pages, signed April 13, 2018.

- E8. Cultural Resources Due Diligence Review Report for Meetinghouse Way Subdivision by The Public Archaeology Laboratory consisting of five (5) pages, dated January 30, 2018.
- E9. Intensive (Locational) Archaeological Survey for Meetinghouse Way Subdivision Edgartown, Massachusetts submitted by The Public Archaeology Laboratory, Inc. (Report No. 3470) consisting of fifty-one (51) pages, dated July 2018.
- E10. Letters from the following State Agencies to the Executive Office of Energy & Environmental Affairs as part of the MEPA process:
- a. The Office of Coastal Zone Management encouraged continued efforts to minimize impacts to habitats and the incorporation of low impact design principles on March 15, 2018.
 - b. The Massachusetts Historic Commission recommended an archaeological survey on March 16, 2018.
 - c. The Bureau of Water Resources, Department of Environmental Protection commented on water, wastewater, and stormwater management on March 21, 2018.
 - d. The Natural Heritage Endangered Species Program of the Division of Fisheries and Wildlife stated that the proposed project will result in a Take of Imperial Moth habitat on March 21, 2018.
 - e. The Martha's Vineyard Commission provided recommendations for habitat protection and enhancement on April 5, 2018.
 - f. The Massachusetts Historic Commission indicated no significant historic or archaeological resources were identified during the locational survey conducted at the project site on August 21, 2018.
- E11. Letters from the following Island Organizations:
- a. Emily Reddington, Executive Director of the Great Pond Foundation wrote in opposition to the project stating concerns about the potential negative impacts to the water quality of Edgartown Great Pond on February 6, 2019.
 - b. Brendan O'Neill, Executive Director of the Vineyard Conservation Society, wrote with concerns about house size, inconsistency with the Island Plan, zoning, land clearing, biodiversity, water usage, energy consumption and nitrogen contributions on February 6, 2019.
 - c. Luanne Johnson, Director of Biodiversity Works, wrote in opposition to the project stating concerns about Northern long-eared bats and the impact of the potential land clearing March 1, 2019.
 - d. The Edgartown Affordable Housing Committee wrote to accept the terms of the offered affordable housing mitigation on March 26, 2019.
- E12. Letters of support from the following citizens: Akram Elouche, March 26, 2019; Becca Rogers, April 16, 2019.
- E13. Letters of opposition from the following citizens: Jeffrey Agnoli, March 1, 2019; Jonathan Ahlbum, March 8, 2019; James Athearn, February 7, 2019; Steve Auerbach, February 14, 2019; Elizabeth Balay, March 20, 2019; Robin Bray, April 24, 2019; Betsy Carnie, April 4, 2019; Linda Cohen, March 26, 2019; Chris Cowan, March 20, 2019; Elizabeth Durkee, March 7, 2019; Elisabeth Elden, May 5, 2018 & February 5, 2019; Saul Greenfield, December 14, 2018; Sandy &

Jason Honeyman, August 31, 2018; Judy Jennings, March 23, 2019; Patrick Kager, February 5, 2019; Barry Koretz, March 24, 2019; Chandler & Candis Lincoln, February 6, 2019; Geraldine Moriarty, March 22 & March 25, 2019; David Nash, March 6, 2019; Bruce Rosinoff, March 15, 2019; Robert Strayton, March 5, 2019; and Sharon, Steve, Estelle, Bryce and Charlotte Vitti, February 7, 2019.

E14. Minutes of the Commission's Pre-Public Hearing Review, September 24, 2018.

E15. Minutes of the Commission's Public Hearing, February 7, 2019.

E16. Minutes of the Commission's Continued Public Hearing, April 25, 2019.

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E17. Staff Report for DRI 682A Meeting House Place Subdivision Re-Design, dated August 16, 2019; updated August 22, 2019.

E18. Illustrations of Smartflower Installations consisting of eight (8) pages.

E19. Smartflower Technical Datasheet consisting of sixteen (16) pages.

E20. Letters from the following Town Boards or Officials:

- a. Fred Mascolo, Edgartown Planning Board member, wrote in support of the project on November 15, 2019.

E21. Letters from the following Island Organizations:

- a. Emily Reddington, Executive Director of the Great Pond Foundation, wrote in opposition to the project stating concerns about the potential negative impacts to the water quality of Edgartown Great Pond on August 22, 2019.
- b. Brendan O'Neill, Executive Director of the Vineyard Conservation Society, wrote with concerns about house size, inconsistency with the Island Plan, zoning, land clearing, biodiversity, water usage, energy consumption and nitrogen contributions on August 22, 2019.
- c. Luanne Johnson, Director of Biodiversity Works, wrote in opposition to the project stating concerns about protecting the wildlife corridor between Turkeyland Cove and Jernegan Pond on August 22, 2019.
- d. Island Grove Residents Association wrote in opposition on August 28, 2019.

E22. Letters of support from the following citizens: Michael and Peggy Frick, August 29, 2019.

E23. Letters of opposition from the following citizens: Jeffrey Agnoli, August 19, 2019; Jonathan & Donna Ahlbum, August 22, 2019; Janet Bayley & Karen Bressler, August 29, 2019; Saul Greenfield, August 9, 2019; Alissa Keenan, August 23, 2019.

E24. Minutes of the Commission's Mid-Hearing Review, August 19, 2019.

E25. Minutes of the Commission's Continued Public Hearing, August 22, 2019.

E26. Minutes of the Commission's Post-Public Hearing Review, September 16, 2019.

E27. Minutes of the Commission Meeting - Vote to Reopen Hearing, November 21, 2019.

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- E28. Staff Report May 18, 2020; revised June 4, 2020; revised June 11, 2020; revised June 18, 2020; revised July 2, 2020; revised July 11, 2020; and revised July 21, 2020.
- E29. MVC Memo by Bill Veno regarding trails consisting of one (1) page dated April 10, 2020.
- E30. DRI 682B compilation of slides used for 2020 public hearings
- E31. DRI 682B Meeting House Place Subdivision 2nd Re-Design MVC Questions for Applicant with Responses, prepared by Sean Murphy of McCarron, Murphy & Vukota, LLP consisting of five (5) pages dated June 10, 2020.
- E32. Meeting House Place Town Home Cost Summary consisting of one (1) page dated May 30, 2020.
- E33. MVC Response for Estimated Property Tax for DRI 682B Meeting House Place Subdivision 2nd Re-Design, consisting of two (2) pages compiled by Christine Flynn, MVC staff dated July 23, 2020.
- E34. Smartflower Solar Installation Information for Meeting House Place 139 Meetinghouse Way Edgartown, MA consisting of five (5) 17" x 11" pages received February 18, 2020.
- E35. NREL National Renewable Energy Laboratory Smartflower Solar Dual-Axis Tracker PVWatts Calculator Results, dated May 26, 2020.
- E36. Energy Modeling Fuel Summary for Typical 3,800 square foot Home in Edgartown, MA, prepared by Nicholas Abreau of CLEAResult consisting of one (1) page received June 4, 2020.
- E37. HelioScope Annual Production Report for Smartflower Equivalent prepared by Jordan Anderson of Folsom Labs consisting of two (2) pages dated June 10, 2020.
- E38. Smartflower renderings consisting of two (2) 17" x 11" pages received June 11, 2020.
- E39. Energy Star V3.1 Energy Modeling Home Report - All Electric, prepared by Nicholas Abreau of CLEAResult consisting of three (3) pages received June 11, 2020.
- E40. Energy Star V3.1 Energy Modeling Home Report - with Smartflowers, prepared by Nicholas Abreau of CLEAResult consisting of three (3) pages received June 11, 2020.
- E41. Energy Star V3.1 Energy Modeling Home Report - Duplexes, prepared by Nicholas Abreau of CLEAResult consisting of three (3) pages received June 25, 2020
- E42. Energy Star V3.1 Energy Modeling Home Report - Triplex, prepared by Nicholas Abreau of CLEAResult consisting of three (3) pages dated received June 25, 2020.
- E43. Meeting House Place Energy Production Assessment consisting of four (4) pages dated June 22, 2020.
- E44. SmartFlower Estimated Production consisting of one (1) page prepared by Jay Conroy, Director of Project Development for SmartFlower Solar, LLC dated June 29, 2020.
- E45. Optional Additions & Seasonal Use Estimates consisting of one (1) page received June 30, 2020.
- E46. Pool Pump, Extra Room & Seasonal Estimates consisting of one (1) page received June 30, 2020.
- E47. MV Times article "Edgartown Great Pond removed from impairment list" by Brian Dowd consisting of two (2) pages published on July 7, 2020.
- E48. Letters from the following Town Boards or Officials:
 - a. The Edgartown Planning Board submitted a letter outlining a mechanism through

which the Town could purchase the townhouse units and resell them at listing prices that would make them Affordable Housing under federal and state guidelines.

E49. Letters from the following Island Environmental Organizations:

- a. Philippe Jordi, Executive Director of Island Housing Trust, urged MVC to restrict the resale of the fourteen proposed townhomes to elderly homebuyers, in perpetuity on May 19, 2020.
- b. Brendan O'Neill, Executive Director of the Vineyard Conservation Society, wrote in opposition to the project noting the undisturbed habitat at stake, and urging the Commission to evaluate the environmental impacts for development that would be allowable under the 2017 approval to subdivide the property into five sites on June 2, 2020.
- c. Anne Mazar, Great Pond Foundation Board Member, wrote in opposition to the project, citing the precarious condition of Edgartown Great Pond and claimed there will be additional nitrogen and phosphorous entering the watershed despite the sewer hookup on June 15, 2020.
- d. Emily Reddington, Executive Director for the Great Pond Foundation, wrote in opposition to the project, submitting analysis quantifying the housing density of the proposal was over 10x greater than the density existing on properties fronting the Great Pond on July 2, 2020.

E50. Letters of support from the following citizens: Jon Ahlbum, June 10, 2020; Akram Elouche, June 10, 2020; Michael Frick, June 10, 2020 & July 8, 2020.

E51. Letters of opposition from the following citizens: Jeffrey Agnoli, June 3, 2020; Cynthia Aguilar, June 27, 2020; James Athearn, June 3, 2020; Janet Bayley & Karen Bressler, July 8, 2020; Robin Bray, June 3, June 10, & June 18, 2020; Patrice Brewer, July 1, 2020; Vasha Brunelle, June 3, 2020; Eric Caplan & Annamaye Clonts, June 11, 2020; David Dickinson, July 1, 2020; Mollie Doyle, July 2, 2020; Susan Feller, June 26, 2020; Madeline Fisher, June 17, 2020 (2); Donald & Bonnie Foley, June 11, June 18 & July 1, 2020; Jackie Friedman, June 11, 2020; Chas de Geofroy, June 26, 2020; Saul Greenfield, June 18, 2020; Ellen Harley, July 2, 2020; Lori Sue Herman, July 1, 2020; Linda & Gerald Jones, June 7 & June 18, 2020; Virginia Jones, June 17, 2020; Patrick Kager, July 1, 2020; Jerald Katch, June 29, 2020; Cathy Lewis, June 14, 2020; Samantha Look & Kristian Strom, July 1, 2020; Nathaniel Metz, June 11, 2020; David Nash, June 2, 2020; Veronica Lundgren, June 17, 2020; Susan & Elizabeth Phelps, June 4, 2020; Lisa Strachan, June 17, 2020; Rebekah & Joshua Thompson, July 1, 2020.

E52. Minutes of the Commission Meeting - DRI Discussion, April 23, 2020.

E53. Minutes of the Commission's Pre-Public Hearing Review, May 18, 2020.

E54. Minutes of the Commission's Public Hearing, June 4, 2020.

E55. Minutes of the Commission's Continued Public Hearing, June 11, 2020.

E56. Minutes of the Commission's Continued Public Hearing, June 18, 2020.

E57. Minutes of the Commission's Continued Public Hearing, July 2, 2020.

E58. Minutes of the Commission's Deliberation & Decision, July 30, 2020.

E59. Minutes of the Commission's Approval of the Written Decision, September 10, 2020.

2.5 Summary of Testimony

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The following gave testimony during the public hearing on February 7, 2019:

- Staff presentation by Paul Foley, Sheri Caseau and Bill Veno
- Presentation of the project by Pio Lombardo (Nitrogen), Heather Monticup (Traffic), Sean Murphy (Attorney), and Doug Anderson (Property Owner)
- Oral testimony from Public Officials speaking for their Boards: None
- Oral testimony from the Public: Susan Drogin, Bill Rogan, Brendan O'Neill, Jeffrey Agnoli, Richard Cloninger, James Athearn, Luanne Johnson (Biodiversity Works), David Nash, Paul Adler, Emily Reddington (Great Pond Foundation), Chandler Lincoln, Mark Rosenbaum, Patrick Kager and Katherine Clermont

The following gave testimony during the continued public hearing on April 25, 2019:

- Staff presentation by Adam Turner
- Presentation of the project by Doug Hoehn (Engineer), Sean Murphy, and Heather Monticup
- Oral testimony from Public Officials speaking for their Boards: None
- Oral testimony from the Public: Emily Reddington (Great Pond Foundation), Luanne Johnson (Biodiversity Works), and James Athearn

682A:

The following gave testimony during the continued public hearing on August 22, 2019:

- Staff presentation by Dan Doyle
- Presentation of the project by Doug Hoehn and Sean Murphy
- Oral testimony from Public Officials speaking for their Boards: None
- Oral testimony from the Public: Susan Drogin, Emily Reddington, Jeffrey Agnoli, Chandler Lincoln, Candis Lincoln, Saul Greenfield, James Athearn, Caroline Metz, and Anne Billings

682B:

The following gave testimony during the public hearing on June 4, 2020:

- Staff presentation by Dan Doyle
- Presentation of the project by Sean Murphy and Doug Hoehn
- Oral testimony from Public Officials speaking for their Boards: None
- Oral testimony from Public: Jeffrey Agnoli and Patrick Kager

The following gave testimony during the continued public hearing on June 11, 2020:

- Staff presentation by Dan Doyle
- Presentation of the project by Sean Murphy and Doug Hoehn
- Officials speaking for their Boards: None.
- Oral testimony from Public: Doug Finn (Administrator for the Edgartown Planning Board), Emily Reddington (Great Pond Foundation), Michael Frick, Robin Bray, Madeline Fisher, Peter Suchciki, Melani Nardone, Akram Elouche, Becca Rogers, Jeffrey Agnoli and Chandler Lincoln.

The following gave testimony during the continued public hearing on June 18, 2020:

- Staff presentation by Dan Doyle and Adam Turner

- Questions answered by Agents for the project: Sean Murphy and Doug Hoehn
- Oral testimony from Public Officials: Reade Milne, Edgartown Building Inspector
- Oral testimony from Public: Robin Bray and Patrick Kager
- Applicant Closing Statement: Sean Murphy

The following gave testimony during the continued public hearing on July 2, 2020:

- Staff report by Dan Doyle and Adam Turner
- Questions answered by Agents for the project: Sean Murphy
- Oral testimony from Public Officials speaking for their Boards: None
- Oral testimony from Public: Doug Finn (Administrator for the Edgartown Planning Board), Jeffrey Agnoli
- Applicant Closing Statement: Sean Murphy

3. FINDINGS

3.1 Project Description

- The twenty-nine lots ranged from roughly ½ acre to 1 acre lots, with the exception of the roughly 1.4-acre lot with 14 townhouses priced below market rate.
- Each of the single-family residential lots would have been allowed a maximum of 5 bedrooms per lot.
- House sizes were to be limited to 3,800 square feet of living space. There would have been no free-standing guest houses, but detached bedrooms above garages would have been permitted for an additional 400 sq ft of Living Area; these would have contributed to bedroom counts.
- Nearly 16 total acres on the site would have been permitted for development with this proposal, including roads.
- Excluding the Development Envelopes, 21.9 of the 25.2 acres of Priority Habitat would have remained protected. The remaining 3.3 acres that was slated for potential development was below the NHESP threshold for a taking. An additional 9.2 acres of open space outside Priority Habitat would have been owned by the Association.
- All 28 single family homes would have had solar capacity, expected to generate 10,130 KWH/yr per property.
- Propane was the proposed heating source.
- Development envelopes for the single-family homes averaged 19,047 square feet, with a maximum of 4,000 square feet per lot dedicated to fertilized lawn and garden space.

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.

3.3 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 DETRIMENTS OF THE PROPOSED DEVELOPMENT WOULD EXCEED THE PROBABLE BENEFITS, 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 not appropriate in view of the available alternatives (Section 15(a) of the Act.)

The Commission finds that although the project satisfied in some form many of the MVC guidelines, it did not provide sufficient benefits to outweigh the overwhelming detriment to the rural, natural character of the area, and the Vineyard as a whole. The MVC had concerns about character regarding this project from the beginning. The project was reworked by the Applicant on several occasions and, prior to deliberation in late 2019, the application was reopened for additional design enhancements and public testimony. In the end, however, the project remained out of character. The houses remained out of scale, and environmental and energy issues were never fully solved.

Specifically, the Commission finds that although local zoning would permit a residential development in this area of Edgartown, the proposed single family home sizes (typically five bedrooms, in a dwelling of up to 3,800 square feet of living space with the option of locating the fifth bedroom (with up to 400 square feet of additional living space) above a detached garage), along with the general scope and layout of the project, ultimately undermined the suitability of this proposal. With its focus on five-bedroom houses, the development prioritizes homes that would be primarily affordable to seasonal residents, not year-round islanders, which is the Island's most pressing housing need at this time. Additionally, the proposed building footprints would be significantly larger than most other homes in the surrounding R-20 District, where the average home size built over the last decade is 2,777 square feet on half-acre lots.

The Commission acknowledges that the project includes 14 below-market rate townhouses targeted toward first time homebuyers and seniors. While this is laudable, given the project's distance from the downtown areas of Edgartown, it is not walkable, which renders the location a poor fit for aging residents. Moreover, the vague income eligibility parameters and built-in cost escalators suggest that these units may not be truly affordable.

In sum, the Commission finds that the development would commit significant acreage toward luxury homes in a suburban setting, which would not be a prudent use of the island's dwindling supply of remaining developable land. Although the project would offer some benefits in the form of renewable energy and dedicated open space, such benefits did not outweigh the detriments of the proposal,

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

With respect to Wastewater and Groundwater, the Commission finds that there would be a slight negative impact, despite the project being on sewer and the proposal including the connection of additional properties to sewer infrastructure. The finding reflects that fact that there would still be

nitrogen added to the Edgartown Great Pond, a watershed that is already nitrogen-impaired even with sewerage and additional property connection.

The associated stormwater run-off associated with the paving of Division Road and interior roads would contribute to groundwater contamination.

With respect to Open Space, Natural Community and Habitat, the Commission notes that the property is completely undeveloped and almost entirely a wooded, rural tract with an open meadow in the northeast corner. The proposal would result in significant clearing of land that serves to sequester carbon dioxide and such forest removal would decrease these capacities. The razing of trees and understory would be a material loss of habitat and would effectively degrade the conditions important for flora and fauna – and its esteemed biodiversity. Half the property is identified as rare or endangered species habitat; although the Applicant agreed to preserve the habitat so identified, the project would nonetheless result in habitat fragmentation particularly in recognition of surrounding habitat. The Commission finds that despite the roughly 31 acres that would be deed restricted open space, the proposal, on the whole, is a detriment to Open Space, Natural Community, and Habitat.

With respect to Energy, the Commission notes that the proposal would set a good precedent through on-site renewable energy generation to meet electrical needs, though it is noted that the electrical grid's supply sources are already becoming increasingly clean. The size of the majority of homes – despite likely being unoccupied for most of the year – would demand significant amounts of propane, a fossil fuel that contributes towards GHG emissions.

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

With respect to Traffic and Transportation, the Commission finds that the proposal would have a detrimental regional impact given the anticipated vehicular trip generation. Additional traffic at an estimated 338 vehicular trips per day would include ongoing site visits by more impactful landscaping trucks. Short term traffic generation would include large construction trucks. The Applicant also proposed the paving of a dirt road which would increase the speed of vehicles on that road and add traffic to the existing neighborhoods. These effects would be especially pronounced during summer peak months as others could be expected to utilize the roadway as a bypass to other locations.

With respect to Scenic Values, Character, and Identity, the Commission notes that despite the 200 foot Landscape Easement Area - Lot B located along the property line bordering Meetinghouse Way as required in the property sale, the proposal does not convey a rural feel or look. With the road layout and lots being occupied with large homes that cover much of the lot area, the development is far more suburban than rural in character.

Because of the proposed scale and design, although the project would have screening, it would remain somewhat visible from newly paved Division Road. It is also noted the project's multiple cul de sac layout is emblematic of many high-end, suburban subdivisions which do not reflect the traditional character of the Island. Even accounting for an upward trend in home sizes across the R20 district, the proposal's cap of 3,800 square feet of living area for the single-family homes (and potential for an additional 400 square feet of detached bedroom living space) would be substantially larger than the average home size in the same zoning district. The proposal would defy a more typical, mixed island neighborhood income distribution, and rather would promote a demography that is somewhat compartmentalized. This contradicts an explicit aim of the Edgartown Master Plan, which espouses a desire for more integration of housing types.

The proposed paving of Division Road is generally out of character with the surrounding private roads and is anathema to the predominant and valued rural feel.

Significantly, the Commission's statutory mandate and the Island Plan both focus on the preservation of unique, rural, and natural character and the direction of development to town and village areas and away from sensitive environmental areas. This application conflicts with these values. The Commission finds that growth for growth's sake is not necessarily good or desirable and is a poor fit for Martha's Vineyard.

The Commission also finds the loss of flora and fauna and resulting impacts on the ecosystem would be a detriment to the island's character.

With respect to the Impact on Abutters and Other Persons, the Commission finds that the project would have a mixed impact on abutters. Some abutters, both future and existing, would benefit from an extended sewer line, along with a newly paved road providing a shortcut for some vehicular trips. Abutters could also experience delays caused by additional drivers traveling through the area, though it noted these delays would likely be marginal. Commissioners also noted the potential for vehicles traveling at high speed once Division Road was paved.

With respect to Night Lighting and Noise, the Commission finds that the project would be slightly detrimental owing to the impact of landscaping vehicles servicing the new homes.

A4 The Commission finds that the proposed development would have a beneficial 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 project would have had a beneficial impact on housing for incomes above 80% Area Median Income. The proposal would have created 14 year-round units available to first-time homebuyers or empty nesters, at living area sizes very uncommon across the Vineyard's real estate market. Those of moderate income would have been able to afford these housing units, though the Commission finds that the proposed durational residency requirements would have violated Affirmative Fair Housing policies. The Commission also noted that these units' affordability would be diminished over time given the annual 4% compounding increase in valuation assigned to these units.

The \$1,112,000 Affordable Housing contribution, although in line with the Commission's Housing policy in effect at the time the proposal was filed, would not be as beneficial as the contribution of land or deed restricted housing units within the development, given the high cost of land and the difficulties in establishing affordable housing opportunities on Island. Further, it is noted that payment of this amount is spread over time as properties are developed and sold, leading to uncertainty about the timing of payments, resulting in payments being made many years into the future. The 1% real estate transfer fee on all future sales of the single-family dwellings would have likely constituted a meaningful ongoing revenue stream for low- and moderate-income.

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

The project would have a mixed impact on community services, providing increased tax revenues but also placing a demand on services as well.

A6 The Commission finds that the proposed development would not use efficiently and would 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).

The Commission finds that although the existing sewer capacity is adequate to accept the flow from the project, there is an opportunity cost to the allocation of sewer capacity to the proposed 140 bedrooms in a luxury home development, as it will use capacity which might otherwise be used for demonstrated housing needs, hastening the need for additional and costly sewer infrastructure.

The Commission finds that the project would have had an unforeseeable impact on schools.

A7 The Commission finds that the proposed development would interfere with the ability of the municipality to achieve some of the objectives set forth in the municipal general plan. (Section 15(g) of the Act).

The Edgartown Master Plan emphasizes maintaining and encouraging a diverse community of people and the environment. Although the project is located in an area zoned for residential development, it would not achieve true mixed-income integration as envisioned by the Master Plan.

A8 The Commission finds that the proposed development would largely contravene some land development objectives and policies developed by regional or state agencies. (Section 15(h) of the Act).

The Island Plan was an Island-wide effort that sets forth the shared vision and priorities of its residents as to the future of Martha's Vineyard. Despite being located in an area assessed as Somewhat Suitable for Development in the Island Plan, the Commission finds that a significant part of the proposal resembles growth for growth's sake, a strategy questioned in the Plan. The Island Plan also maintains that the island is rapidly approaching its carrying capacity, and large developments, particularly those that are out of character with the Island, must provide substantial benefit. Commissioners cited the experience of overdevelopment on Cape Cod which has resulted in compromised ponds that ultimately have cost Cape towns millions of dollars to remediate. They expressed a desire to avoid making that mistake on Martha's Vineyard and noted that while tax revenue from new high-end residential development might provide short-term benefits, the impacts of overdevelopment will be detrimental to the island in the longer term.

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD NOT 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 proposed project, as a whole, does not advance 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 Commission in December 2010, including in respect of the location and the type of housing proposed.

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 townhouse component of the project would have been subject to Special Permit review under a local Zoning By-Law for cluster developments.

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 the property is not located in any DCPC.

In sum, after careful review of the Plan and its attendant submittals and the testimony presented by the Applicant and others, the Commission has concluded that the detriments of this proposed development in this location exceed its probable benefits in light of the considerations set forth in section 14(a) of the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on July 30, 2020 and made its decision at the same meeting.

The following Commissioners, all of whom participated in all hearings and deliberations, or rehabilitated a hearing they missed for this project, participated in the decision on July 30, 2020:

- Voting to deny the project: Christina Brown; Robert Doyle; Fred Hancock; Joan Malkin; Kathy Newman; Ben Robinson; Doug Sederholm; Linda Sibley; Ernest Thomas and James Vercruysse.
- Voting in favor of the project: Trip Barnes; Josh Goldstein; James Joyce; Richard Toole.
- Abstentions: None.

Based on this vote, the Commission denied the application for the project as a Development of Regional Impact.

This Written Decision is consistent with the vote of the Commission July 30, 2020 and was approved by vote of the Commission on September 10, 2020.

5. CONDITIONS

The Martha's Vineyard Commission hereby denies the project which may not proceed under any condition.

6. CONCLUSION

6.1 Permitting from the Town

The permit-granting authorities of the Town of Edgartown shall not grant the request for approval of the Applicant's proposal. The project is denied.

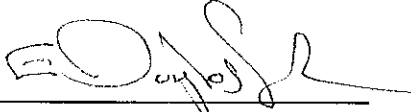
6.2 Notice of Appellate Rights

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

6.3 Length of Validity of Decision

The denial of this proposal is permanent.

6.4 Signature Block



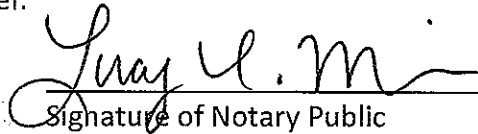
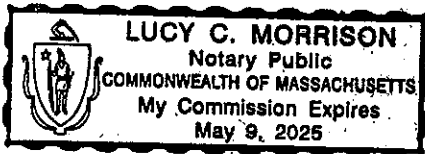
E. Douglas Sederholm, Chairman

9/22/20
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 22nd day of September, 2020, before me,
Lucy C. Morrison, the undersigned Notary Public, personally
appeared E. Douglas Sederholm, proved to me through satisfactory evidence of
identity, which was/were personal knowledge 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

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: September 22, 2020

Deed: Book 1543, page 715

Document Number: 00005738

