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Decision of the Martha's Vineyard Commission DRI 718-S 7 Arlington Ave Demolition Settlement

1. SUMMARY

Subject: Settlement of Litigation Regarding Denial of Development of Regional Impact #718-S, Demolition of 7 Arlington Avenue

Proposal: Settlement resolving appeal of prior DRI denial and approving demolition of a house built in 1875 and listed in MACRIS and construction of replacement structure.

Owners: Lisa H. Kim; Lisa H. Kim & Eunu Chun

Applicants: William C. Sullivan (Architect)

Applicant Addresses: Lisa Kim & Eunu Chun
100 Barrow Street, Apt. 7B
New York, NY 10014

William Sullivan
P.O. Box 989
Oak Bluffs, MA 02557

Deeds: Recorded Land: Book 1255, Page 146
Registered Land: Book 71, Page 133 - Certificate 13133
Registered Land: Book 81, Page 291 - Certificate 14948

Previous Decision: Recorded: Book 1639, Page 69
Registered: Book 81, Page 291 - Certificate 14948

Project Location: 7 Arlington Ave, Oak Bluffs. Map 3, Lot 15 (0.59 acres).

Background: The Martha's Vineyard Commission (the Commission) denied the application for a prior version of the project as a Development of Regional Impact without prejudice, by a decision of the Commission dated October 13, 2022. The Owners appealed that decision to Superior Court. After negotiations with the Commission, the Owners subsequently revised the project and submitted the settlement proposal set forth below.

Decision: The Commission voted to accept the Owners' settlement proposal at a vote of the Commission on January 4, 2024.

Written Decision: This written decision was approved by a vote of the Commission on January 18, 2024.

The permit-granting authorities of the Town of Oak Bluffs are now permitted to proceed to review and consider the Owners' request for approval of the revised project presented herein and may place conditions thereon in accordance with applicable law, or may deny the request for approval.

2. FACTS

By a decision dated October 13, 2022, the Commission denied without prejudice a previous version of the project. The Owners appealed that decision to the Dukes County Superior Court in an action entitled *Kim, et al., v. Martha's Vineyard Commission*, 2247CV00042 (the "Litigation"). After the Litigation was filed, in order to avoid the expense and uncertainties inherent in the Litigation, the parties engaged in good faith efforts to resolve the Litigation. In those negotiations the Commission was advised by its consultants with respect to historic preservation and structural matters. As a result of those negotiations, the Owners made certain revisions to the original project (including revisions to address concerns and suggestions of the Commission and its consultants). The Owners through their counsel then presented to the Commission as a settlement proposal plans for a revised project and other materials. The Owners' submissions, including revised proposed plans, are listed and available on the Commission's website for DRI 718-S, and are also kept on the premises of the Commission.

2.1 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on November 30 and December 7, 2023; notice was also published in the Vineyard Gazette on December 1 & 8, 2023. Abutters within 300 feet of the property were notified by mail on November 28, 2023.

Hearings: The Commission held a duly noticed public hearing on the Application that was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on December 14, 2023, and was closed that same night. The hearing was held in person at the Commission office, but also was accessible using remote conference technology as allowable under Chapter 2 of the Acts of 2023. On January 4, 2024, the Commission held a duly noticed public meeting to deliberate on the proposal, which was held in person at the Commission office, but was also accessible using remote conference technology.

2.2 The Plan

The following plans and documents submitted by the Applicant and contained in the Commission's project file constitute "the Plan." All pages are 8.5" x 11" unless otherwise noted.

- P1. Floor Plans and Elevations, Chun-Kim Residence, 7 Arlington Avenue, Oak Bluffs, prepared by Sullivan + Associates Architects, consisting of eleven (11) pages, scale $\frac{1}{4}$ " = 1'-0" and dated November 10, 2023 unless otherwise noted, including: Cover Page; A-001 General Notes and Project Data; A-100 Proposed Foundation Plan; A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; A-103 Proposed Third Floor Plan; A-201 Proposed Exterior

Elevations (East); A-202 Proposed Exterior Elevations (North); A-203 Proposed Exterior Elevations (West); A-204 Proposed Exterior Elevations (South); A-300 Building Section, scale $\frac{1}{2}$ " = 1'-0".

- P2. Updated Floor Plans and Elevations, Chun-Kim Residence, 7 Arlington Avenue, Oak Bluffs prepared by Sullivan + Associates Architects, consisting of eleven (11) 36" x 24" pages, scale $\frac{1}{4}$ " = 1'-0" and dated November 20, 2023 unless otherwise noted, including: Cover Page; A-001 General Notes and Project Data; A-100 Proposed Foundation Plan; A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; A-103 Proposed Third Floor Plan; A-201 Proposed Exterior Elevations (East); A-202 Proposed Exterior Elevations (North); A-203 Proposed Exterior Elevations (West); A-204 Proposed Exterior Elevations (South); A-300 Building Section, scale $\frac{1}{2}$ " = 1'-0".
- P3. Floor Plans showing Comparison to Previous Proposal, prepared by Sullivan + Associates Architects, consisting of three (3) 17" x 11" pages, scale $\frac{1}{4}$ " = 1'-0" and dated November 20, 2023, including: A-101 Proposed First Floor Plan; A-102 Proposed Second Floor Plan; and A-103 Proposed Third Floor Plan.

2.3 Other Exhibits

- E1. MACRIS Form B - Building Inventory Listing for OAK.B, OAK.414, Assessor's Number 3-15, 7 Arlington Avenue, Oak Bluffs, consisting of fifteen (15) pages.
- E2. Memorandum from Eric Dray, Preservation Consultant, to the Martha's Vineyard Commission re: DRI #718, 7 Arlington Avenue, Oak Bluffs - Demolition, consisting of five (5) pages, dated June 3, 2022.
- E3. Email from William C. Sullivan, Architect, to Adam Turner, consisting of one (1) page, dated July 21, 2022.
- E4. 7 Arlington Ave Existing Conditions Letter for Partial Demolition Request, prepared by Casey Decker of Martha's Vineyard Engineering & Design, for the MV Commission, consisting of four (4) pages, dated July 21, 2022.
- E5. Applicant's Offers, DRI 718 - 7 Arlington Ave, consisting of one (1) page, dated November 3, 2022, and updated on December 11, 2022.
- E6. Letter from William C. Sullivan, Architect, to the Commission, consisting of three (3) pages detailing the Prior Review and Revisions to the Project; the Carbon Footprint; Other Considerations; and Historic Review, dated May 12, 2023.
- E7. Structural Assessment of Existing Residential Structure at 7 Arlington Avenue, Oak Bluffs, Massachusetts prepared by Benjamin J. Souza, Souza Structural Engineering, LLC prepared for the Martha's Vineyard Commission, consisting of nineteen (19) 8.5" x 11" pages, and two (2) 36" x 24" pages, dated August 1, 2023.

- E8. Memorandum from Eric Dray, Preservation Consultant, to the Martha's Vineyard Commission re: DRI #718, 7 Arlington Avenue, Oak Bluffs - Replacement House, consisting of eight (8) pages, dated August 2, 2022.
- E9. Memorandum from Eric Dray, Preservation Consultant, to the Martha's Vineyard Commission re: Architectural Peer Review - DRI #718, 7 Arlington Avenue, Oak Bluffs - Possible Alteration to 2023 Replacement House, consisting of three (3) pages, dated September 20, 2023.
- E10. Material List for Chun/Eunu Residence 7 Arlington Avenue, Oak Bluffs, MA, consisting of two (2) pages, dated October 23, 2023.
- E11. Letter from William C. Sullivan, Architect, to the Commission, consisting of one (1) page outlining the revisions made to the proposed project, dated November 7, 2023.
- E12. Letter from Kevin O'Flaherty to Johanna Schneider with settlement package, consisting of five (5) pages (without attachments - which are listed as separate exhibits), dated November 15, 2023.
- E13. Public Hearing Notice for DRI 718-S 7 Arlington Ave, consisting of one (1) page, dated December 14, 2023.
- E14. Minutes of the Commission's Public Hearing, December 14, 2023.
- E15. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, December 19, 2023.
- E16. Minutes of the Commission's Deliberation and Decision, January 4, 2024.
- E17. Minutes of the Commission's Approval of the Written Decision, January 18, 2024.

2.4 Summary of Testimony

The following gave testimony during the public hearing on December 14, 2023:

- Introductory Remarks by Chair Joan Malkin and Johanna Schneider, MVC Counsel.
- Staff presentation by Adam Turner, Executive Director.
- Presentation of the project by William Sullivan, Architect; Kevin O'Flaherty, Applicant's Counsel.
- Oral testimony from Public Officials speaking for their Boards: None.
- Oral testimony from the Public: Emily Friedrichs, previous owner of the house.
- Applicant's Closing Statement by Kevin O'Flaherty.

3. FINDINGS

3.1 Revised Project

The settlement proposal represents substantial and material changes to the previous proposal which was denied in 2022 and which is the subject of the Lawsuit. The settlement proposal is the result of

good faith negotiations between the Owners and the Commission which have taken place over the past year, and which have included the review of the proposed settlement plans by the Commission's and the Owners' consultants for historic preservation matters and structural issues that affect the existing structure. As for historic considerations, both the Commission's consultant and Owners' consultant concluded that when the existing structure was severed from the historic Palmer Villa house and moved to its current location in 1917, the structure lost most, if not all, of its historic significance, being significantly modified in form, design and massing and being stripped of its historic ornamentation. As for structural considerations both the Owners' and the Commission's consultants identified substandard conditions that would require extensive work to remedy, and requiring, among other things, a new foundation, new floors, a new roof, and new exterior wall framing. The Commission's consultant concluded that it would be extremely difficult, if not impossible, to address these matters while maintaining or preserving the existing structure.

Accordingly, the Owners' settlement proposal entails the demolition of the existing structure and construction of a replacement home that will be faithful to and in keeping with the design and massing of the existing home. The proposed replacement home will be slightly larger than the existing structure, but also will be significantly smaller than that previously proposed in DRI 718, which the Commission denied. The revised plans entail a substantial reduction in overall footprint and square footage from a previously proposed structure of 4,255 ft² to the currently proposed 3,602 ft². The revised plans more closely reflect the scale, massing, and design of the existing structure. The revised plans move the structure further from the property line to minimize impact on the neighboring property. In the course of discussions with representatives of the Commission, additional modifications were incorporated into the settlement proposal, including:

1. Redesign of Rooflines: The plans were revised to minimize and more closely reflect the scale and design of the existing structure.
2. Relocation of the Structure: The revised plans relocate the structure further from the property line to minimize impact on the neighboring property.
3. Changes to the South Elevation Cross-Gable: The plans propose the addition of a second cross-gable bay in the same approximate location as the current cross-gable bay to reestablish the complexity of roof forms on the section of roof visible from East Chop Drive.
4. Changes to the Size and Shape of the Tower Element: The tower has been revised from a rectangular shape, and has been made smaller and more square to recreate the shape of the existing tower element.
5. Changes to the Tower Design: The tower roof has been redesigned to add deeply-projecting open roof eaves that better replicate the tower roof on the existing structure.
6. Changes to Roof, Eaves and Gable Overhangs: All roof, eave, and gable overhangs have been increased to match the depth of the existing roof lines.
7. Removal of Cross-Bracing: The cross-bracing on the gable bay on the north elevation has been eliminated, making it similar in design to the existing dormer. As not all gables have a clipped roof, this gable remains a full gable to accentuate the main entry.

8. Chamfered Posts: The “turned” posts have been replaced with “chamfered” posts to reflect the post style and design of the existing house.
9. Re-Use of Brackets: The existing brackets on the south elevation, one of the more visible ornamental features from East Chop Drive, will be re-used on the second-floor balcony in place of the posts shown in the previous proposal.
10. Unfinished Basement: The previous proposal included finished basement space. The plans submitted in this settlement offer show an unfinished basement for mechanicals and storage only, thereby eliminating 856 ft² of living area from the project.

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 settlement proposal as a Development of Regional Impact, using the procedures and criteria that the Commission normally uses in evaluation of the benefits and detriments of such a proposal. The Commission has considered the settlement proposal and the information presented at the public hearing, including listening to all testimony presented and reviewing all documents submitted during the hearing and review period.

3.3 Benefits and Detriments

Based on the record and testimony presented therein, the Commission finds the following pursuant to Sections 14 and 15 of the Act.

A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED SETTLEMENT AND REVISED PROJECT 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 record indicates that when it was severed from the Palmer Villa House and moved to its current location in 1917, and due to a series of renovations over the years, the existing historic building not only lost virtually all of its original architectural detail, but was also altered in design and massing. Moreover, materials submitted by the Owners and the analysis by the Commission’s peer reviewer for structural matters indicate that due to structural deficiencies in the existing building and the amount of necessary structural repairs and alterations, it would be difficult if not impossible to maintain useable interior space and to preserve the exterior of the existing structure. According to the Commission’s historic preservation peer reviewer, the proposed replacement structure is reflective of the historical integrity of the existing house that has been at this location for more than 100 years, and the massing

and design are in harmony with its surrounding context. In particular, based on a comparative analysis of square footage for five existing houses along the ridge of Institute Hill, the peer reviewer noted that the net area for the replacement house will be considerably smaller than the new house at 19 Mill Square Road and only 10% bigger than the house at 21 Mill Square Road. He also noted that the degree to which the replacement house is larger than the existing house appears to be largely concentrated on the north and west elevations, which are the elevations with less visibility from public ways. It may also be said that because the proposed structure contains many of the massing, architectural details and features of the existing structure, it could be seen as the way the house could have evolved over time. Based on the foregoing, the Commission found that the Owners' proposed demolition and replacement of the existing structure at 7 Arlington Avenue is appropriate in view of the available alternatives on the Island of Martha's Vineyard.

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

With respect to Water Quality (including groundwater), the Commission notes that the property is located within the coastal watershed. There are currently five bedrooms on the property, including the detached bedroom, and the proposed plans show a total of six bedrooms, including the renovated detached bedroom. An existing six-bedroom septic tank will remain, with the septic tank relocated slightly to the east. An existing leaching field on land once owned by the Highland Trust (now East Chop Association) will remain. The East Chop Association has stated that there are no current restrictions on that portion of the property.

With respect to Stormwater, the Commission notes that the property is partly within the FEMA VE flood zone, but the proposed house is located on higher ground and is just outside that area. A drainage plan shows a gutter and drywell system for the main house and detached bedroom.

With respect to Energy, the Commission notes that the proposed building would be all-electric, with a heat pump HVAC system and hybrid hot water tanks. (The existing house has electric water heating, plug-in AC units, and radiant hot water heaters.) As revised, the proposed project would be constructed according to LEED Silver standards for residential structures, and the detached bedroom and garage would include 30 solar panels to help offset electricity use.

In general, demolition plus new construction requires more energy than renovation. However, the Applicant has argued that is not necessarily the case here, since a new foundation, framing, building envelope, and mechanical systems would be needed in either case. (The Applicant notes research by the Carbon Leadership Forum which shows that a building's foundation and physical structure account for about 75% of its embodied carbon.)

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

With respect to Character and Identity, considered a primary factor in the decision, the Commission finds the project would have a neutral impact. The demolition of the house is considered a loss of history, but the new proposed replacement structure fits in with the iconic streetscape of East Chop

Drive in a manner that the previous proposal did not. The Commission finds that enough changes were made to the proposed replacement structure from the previously submitted proposal to become acceptable, particularly in light of testimony that addressing the structural deficiencies of the existing structure would result in a significant loss of remaining historic features in any event.

The Historic Significance of the building to be demolished was evaluated using the following criteria:

Age: The structure was originally built in 1875 and then divided and moved to two other locations in the Vineyard Highlands in 1917.

History/Culture: The building is significant as part of the Vineyard Highlands and is an example of Campground cottage construction. The original structure on Beecher Park was an elaborate seasonal home built in the Campground style and later divided and moved, with half going to 7 Arlington, and half to 11 Arlington next door. (The house at 11 Arlington is associated with the former Rice Playhouse, which is considered the second summer theater in the nation. It is unknown to what degree 7 Arlington was also associated with the Rice family.) The property is in the vicinity of an area known as Institute Hill, which was associated with the Martha's Vineyard Summer Institute that once stood at the bend in East Chop Drive.

Historic Designation: The house is listed in MACRIS, but no other historic registers. The Oak Bluffs Historic Commission voted in 2022 to designate the house as both "Significant" and "Preferably Preserved."

Design/Construction: MHC classifies the style as Victorian Eclectic, meaning that it was built in the Victorian era but does not display sufficient characteristics to clearly identify with one style. Palmer Villa included features associated with the Queen Anne style and Second Empire style. The existing structure retains some of the proportions, massing, and roof shapes of the original, but few of the original decorative features remain, as indicated by a photograph of the original Palmer Villa. The building was apparently constructed with high quality methods and materials, as indicated by its age and condition.

Integrity: The entire structure as it stands is considered historic. Apart from the division and relocation in 1917, various work has been done on the building, although the footprint of the house remains the same as in 1917. According to a peer review by preservation consultant Eric Dray, the house "retains some of the Queen Anne-style irregular massing of the original 1875 villa, most notably the roof forms with clipped-gable dormers on both sides of the corner tower. However, the house has lost all ornamental trim that animated the elevations and roof; and the primary reference to the Second Empire style – the Mansard-roofed turret – was replaced by a larger, astylistic corner tower with shallow hip roof."

The following changes were identified in the peer review:

- *Removal of all ornamental trim. The house in its original form was highly ornamented, including vergeboards, roof-top finials and cresting, patterned roofing (presumably slate), and turned porch posts with ornamental brackets.*

- *Replacement of corner turret with larger tower.*
- *Replacement of wrap-around porch. This was likely done when the house was moved in 1917. The replacement porch has no ornamental details, and the corner steps with clipped gable roof were not replicated.*
- *Infilling of dormer decks.*
- *It is unclear if the rear ell is original to the house. The ell appears to have a similar roof height, but in the original location, the second story appears to have been stepped back, which is no longer the case.*
- *Window replacement and resizing. None of the windows appear to be original or historically significant. The majority of the windows appear to originally have been wood, 2/2 double-hung sash. These windows have all been replaced with modern, thermal 2/2 windows and large fixed sash.*

Contribution to Context: The house is part of a wooded and gently developed area in the Highlands. It stands on a hill overlooking Oak Bluffs Harbor and is among the first and more visible houses on Arlington Ave., as approached from East Chop Drive. The other half of the original house that was divided (see *History/Culture*) is located next door. The house is aligned with other large houses along the part of East Chop Drive known as Institute Hill (named for the Martha's Vineyard Summer Institute), but is more heavily screened by trees and other vegetation. 7 Arlington was the most recent addition; the other five had been built or relocated in the late-19th century. It is somewhat larger than other houses in the neighborhood, and stands farther back from the road. The construction dates of houses in the immediate area range from 1890 to 1930. The house has stood in its current location since 1917.

According to the peer review, "It was likely intended that 7 Arlington Avenue be located in a manner that continued the row of summer cottages on the ridge overlooking Vineyard Sound. Although somewhat altered, 7 Arlington Avenue does provide the north terminus to a distinct row of late-19th century cottages."

Visibility: The house is visible from East Chop Drive, Arlington Ave., and Oak Bluffs Harbor, but is partly obscured by trees and other vegetation.

Condition: The town assessor's office lists the building's condition as "minus good" (considered above average for Oak Bluffs), with an assessed value of \$371,300.

The Commission's structural engineer peer reviewer, Benjamin Souza conducted a structural analysis of the existing building. The report he prepared for the Commission notes the following:

- *While much of the existing structure was found to be structurally sound, the structural elements supporting the tower structure have sustained significant damage and require repairs.*
 - *These repairs will drastically modify the load paths, which then may necessitate adjustment to other structural elements such as the lateral load-carrying capacity of the existing wall framing. That, in turn, could drive the need for reinforcing or replacing additional structural elements.*

- *Mr. Souza does not recommend pursuing a straightforward restoration of the building because of the deficiency of the existing structure with respect to supporting the tower. Addressing this structural deficiency would necessitate significant modification of the gravity and lateral load carrying elements of the main portion of the house.*
- *Mr. Souza identified a series of repairs necessary to eliminate unsafe conditions. These include:*
 - *Porch rafters at the south chimney and east dormer,*
 - *Sagging roof framing members below the tower structure,*
 - *Deteriorated floor framing at the kitchen entry door,*
 - *First floor framing with excessive deflection below the tower structure,*
 - *Displaced and bowed wall and post support elements below the tower structure,*
 - *Dislodged and undermined interior post supports below the main house.*
- *He also recommended a series of alterations, which include:*
 - *Reinforcing structural elements supporting the north dormer,*
 - *Reinforcing the second-floor framing elements,*
 - *Modifying or replacing wall framing where an increase in lateral load carrying capacity is expected,*
 - *Providing a new foundation structure that affords frost protection,*
 - *Providing new structural framing configuration and elements to support the tower structure, including at the foundation level.*
- *Mr. Souza's report notes the necessary degree of alterations to address the structural instabilities surrounding the stair tower would be difficult to do in a way that did not significantly reduce the useability of the interior space without making major changes to the exterior walls of the house:*
 - *He notes that this work would require lateral elements of the structure to be brought into compliance with the building code for new structures,*
 - *He also states that "in so doing, the portion of the existing structure that can be preserved is considerably reduced and the new construction required is considerably increased,"*
 - *He also notes that if the owners wanted to undertake the structural work recommended in his report while minimizing the impact on useable space, they would be required to make substantial changes to the shell of the building which would minimize the portions of the building which could be preserved.*

Alternative Solutions/Replacement Program

The proposal is to demolish the existing historic house, while retaining various internal and external pieces of woodwork for re-use in the replacement structure. In November 2023 new plans were developed in connection with the proposed settlement and submitted to the Commission for review. The proposed floor areas compared to the areas in the existing building are shown in the table on the next page.

Existing area (ft ²)		Proposed area (ft ²)	
First floor	1,152	First floor	1,870
Second floor	941	Second floor	1,567
Third floor	140	Third floor	165
<i>Total</i>	<i>2,233</i>	<i>Total</i>	<i>3,602</i>

The Owners have stated that this proposal is the demolition of the existing structure and the erection of a replacement building.

The peer review by the MVC consultant found that the updated design included alterations that resulted in the house being more reflective of the historical integrity of the original house. With respect to whether the updated replacement house harmonizes with its context in terms of massing and design, Mr. Dray found the following:

- *The net area for the updated replacement house will be considerably smaller than the new house at 19 Mill Square Road and only 10% bigger than the house at 21 Mill Square Road.*
- *The degree to which the updated replacement house is larger than the existing house appears to be largely concentrated on the north and west elevations, which are the elevations with less visibility from public ways.*
- *In its denial decision, the Commission has raised a concern about “the long uninterrupted section of roof visible from East Chop Drive.” In the updated proposal, there was a significant reduction in the length of the south elevation, so that the footprint on the east side of the updated house approximately aligns with the existing house. These actions, together with the proposed reduction on the east gable by creating a recessed balcony, may be sufficient to address the concern raised by the Commission in its review of the prior proposal.*

The Owners have retained Building Conservation Associates to “oversee all design decisions related to preserving the historical integrity” of the new house.

With respect to Impact on Abutters, the Commission notes the following:

- The proposed replacement structure increases the setback on the west side of the property (bordering 11 Arlington Avenue) from the existing condition of 12 feet to 14 feet.
- An existing driveway along the side of the house would be removed and replanted, and a new driveway added toward the front of the site.

A4. The Commission finds that the impact on the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), does not apply to this application.

A5. The Commission finds that the proposed development would not have a detrimental impact on the provision of municipal services and the burden on taxpayers in the making provision therefore (Section 15(e) of the Act).

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

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

The Commission finds the project will likely have a minimal impact on public facilities.

A7. The Commission finds that the project as proposed generally does not interfere with the ability of the municipality to achieve objectives set forth in the municipal general plan, and would not contravene land development objectives and policies developed by regional or state agencies (Sections 14(b), 15(g), and 15(h) of the Act), respectively.

The Island Plan considers “Limited growth harmonizing with character” as suitable for traditional and historic neighborhoods such as East Chop Drive. The Island Plan also states: “Most important for keeping the authentic, unique character of Martha’s Vineyard is preserving historic buildings and other historic resources from destruction or inappropriate alteration.” The Island Plan discourages “demolishing older structures and erecting buildings that go to the limits of zoning regulations, that are too big or otherwise don’t fit their surroundings.” The proposal generally aligns with other aspects of the plan.

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) of the Act).

The project would require zoning relief for the proposed setbacks of 14 feet on the western property line (for the main house). The minimum setbacks in the R2 district are 25 feet in front, and 20 feet on the sides and rear. The proposed height is 32 feet, which is the maximum allowed in the district.

- B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE GENERALLY CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.**
- C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION’S KNOWLEDGE.**

The project would require zoning relief for the proposed setbacks of 14 feet on the western property line. The minimum setbacks in the R2 district are 25 feet in front, and 20 feet on the sides and rear. The proposed height is 32 feet, which is the maximum allowed in the district. The project proposed as a settlement of the Litigation is consistent with local zoning and would be allowable by Special Permit or otherwise.

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

The project site is not located within any District of Critical Planning Concern.

In sum, after careful review of the Owners' settlement proposal, revised plans and other submissions, including reports from the Commission's consultants, and after careful consideration of the testimony presented at the public hearing on this settlement proposal, and in light of the Commission's view that the settlement proposal is a significant improvement over the Owners' initial project and addresses the concerns raised by the Commission with respect to that project, and in light of the parties' mutual desire to avoid the costs, burden and uncertainties inherent in the Litigation, the Commission has concluded that the benefits of this settlement and the plan presented outweigh the probable detriments in light of the considerations set forth in the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on January 4, 2024 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearing and deliberations, participated in the decision on January 4, 2024.

- Voting to approve the project: Trip Barnes, Jay Grossman; Fred Hancock; Joan Malkin; Brian Smith; Ernie Thomas; Peter Wharton
- Voting against: Ben Robinson
- Abstentions: Kate Putnam
- Absent: Christina Brown, Michael Kim, Greg Martino, Linda Sibley, Carole Vandal
- Recused: Doug Sederholm
- Ineligible to Participate: Jeff Agnoli, Kathy Newman

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

This Written Decision is consistent with the vote of the Commission on January 4, 2024 and was approved by a vote of the Commission on January 18, 2024.

5. OFFERS

The following offers were included in the Owners' settlement package:

1. **Historic Elements:** Interior building materials shall be salvaged and reused as much as possible. Materials include stair newel, balusters and railing, tongue and groove paneling, interior doors and hardware.
2. **Exterior Lighting:** Lighting fixtures and locations will be limited to code required and basic safety. Any securing lighting will be motion sensitive. All fixtures will be dark sky compliant.
3. **Landscaping:** All landscaping will be native, low maintenance and drought resistant. No fertilizer or synthetic pesticides will be used in maintenance.
4. **Solar:** A total of 30 solar panels will be installed on the upper roofs of the garage and the detached bedroom to offset electrical demand (if approved by the Oak Bluffs ZBA).

5. **Energy:** The building will be all electric. The HVAC is to be high efficiency electric heat pump. The range is to be an all electric induction range. The water heating will be hybrid electric tanks. The garage will be equipped with an electric car charging station.
6. **Recycling:** All existing appliances, heating sources/compressors, hot water heaters are to be salvaged and offered for donation.
7. **Drainage:** All rain runoff will be guttered into downspouts and a drywell system for the main house and detached bedroom.
8. **Detailing:** All trim details, including railings, posts, soffits, and eaves, will be detailed to show dimensions, materials and finishes will be supplied when the project is approved.
9. **Further Review:** Prior to the receipt of a building permit, the Applicant shall submit final exterior construction details to the Land Use Planning Committee. The LUPC shall review and approve same and an updated list of materials to confirm their consistency with the plans and materials submitted to the MVC as part of the settlement package.

6. CONCLUSION

6.1 Permitting from the Town

The Owners 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 Owners' proposal in accordance with this decision and may place conditions thereon in accordance with applicable law or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the Commission.

6.2 Notice of Appellate Rights

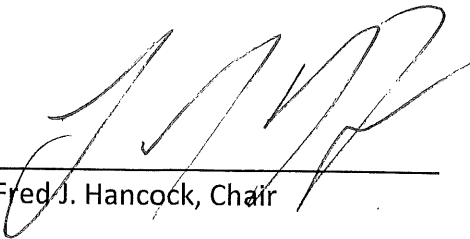
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Oak Bluffs Town Clerk.

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 begin substantial construction. The two-year period would be tolled during any third party litigation.

[The remainder of this page is intentionally left blank]

6.4 Signature Block



Fred J. Hancock, Chair

1-26-24

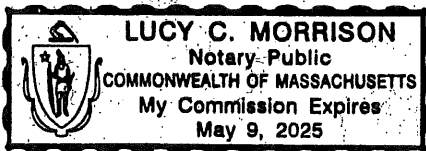
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 26th day of January, 2024, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Fred J. Hancock, proved to me through satisfactory evidence of identity, which was personal knowledge to be the person whose name was signed on the preceding or attached document in my presence, and acknowledged to me that he signed it voluntarily for its stated purpose as a free act and deed, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.





Signature of Notary Public

Lucy C. Morrison

Printed Name of Notary

My Commission Expires May 9, 2025

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: January 29, 2024

Deed: Book 1673, Page 608

Document Number: 2024-455

Certificate Numbers: 14948
