

LAGOON RIDGE FORM C FILING 2017

APPENDIX A

1. Lagoon Ridge Timeline 2010-2016
2. NHESP Determination June 3, 2014
3. Martha's Vineyard Commission 2014 DRI Decision - Book 1360, Page 469
4. 2015 Lagoon Ridge DRI Application – Revised December 1, 2017
5. Martha's Vineyard Commission 2016 Decision - Book 1408, Page 839

Lagoon Ridge Timeline 2010-2016
Planning and Review
December 1, 2017

- mid-2010 Informal agreement reached with owners of 35 abutting acres, Oraibi Voumard, owners' agent, to seek 70-acre subdivision approval under Section 7.3, OB's Flexible Zoning Bylaw.
- May 5, 2011 First meeting with Oak Bluffs Planning Board (OBPB). Town of Oak Bluffs received a \$100 Administrative Fee and a \$540 Lot Fee.
- May 19, 2011 Article in MV Times by Steve Myrick, **61 lots on 68 acres**, quoted John Bradford, Planning Board Chair, saying Lagoon Ridge is "our guinea pig ...for our first flexible development."
- May 24, 2011 Notification to OBPB, "A formal request to be granted consideration by the Planning Board as a 'Flexible Development' as stipulated at section 7.3 of the By-law".
- June 7, 2011 Preliminary Plan for Lagoon Ridge, with 60-dwelling units, submitted to the Town Clerk under Section 7.3 and Section 35 of the OB Subdivision Rules and Regulations.
- June 9, 2011 OBPB Meeting concerning Lagoon Ridge. Later OBPB refers Lagoon Ridge proposal to the MVC, becoming DRI-634.
- Feb. 22, 2012 Dwelling units reduced to 53 by Proskauer's Form A lot sale
- 2012-2013 NHESP "takes" 2/3 of land for rare moths, Proskauers withdraw.
- July 25, 2013 OBPB reviews Revised Application and narrative for 32.5 acre Danielson parcel for referral the MVC
- Nov. 18, 2013 OBPB requests new application and revision fees before granting formal referral to MVC.
- Feb. 20, 2014 MVC accepts new 32.5 acre, 25-unit Lagoon Ridge application as DRI-464-M2.
- Spring, 2014 MVC and LUPC hearings, research, extended NHESP negotiations, etc.
- June 3, 2014 NHESP issues determination letter regarding Lagoon Ridge

- Oct. 2, 2014 MVC votes 11-1 for the Lagoon Ridge Preliminary Plan with 25 units on 23 lots, 67% open space, and enhanced nitrogen removal to protect Lagoon Pond. Written Decision DRI-464-M2 dated October 23, 2014 recorded in Book 1360, Page 469.
- Nov. 12, 2015 Form C plan application dated November 6, 2016 completed and stamped by the O.B. Town Clerk. Plan was essentially the same as the prior Form B. Plan. Filing fee of \$2,300.00 paid.
- Dec. 10, 2015 OBPB refers Lagoon Ridge Form C Plan back to MVC.
- Winter 2016 NHESP “unmaps” the area. MVC and LUPC hold staff/applicant conferences, review nitrogen issues with OB Health Department and expert testimony before Board of Health and MVC, and review Subdivision Covenants in detail.
- Mar. 10, 2016 OBPB requests that all documents for Lagoon Ridge be brought up to date and resubmitted as a package.
- Apr. 14, 2016 MVC Public Hearing on DRI 464-M3, Lagoon Ridge Form C Subdivision
- June 2, 2016 Unanimous affirmative vote by MVC, releasing and referring the Lagoon Ridge Form C Subdivision to the OBPB with conditions. Written Decision DRI-464-M3 dated June 21, 2016 recorded in Book 1408, Page 839.
- July 19, 2016 OB Board of Health approves the Amphidrome nitrogen-removal system to serve 21 dwellings at Lagoon Ridge and to protect Lagoon Pond.
- Sept. 27, 2016 Agreement between Lagoon Ridge LLC and OBPB to withdraw Form C Plan filed with OB Town Clerk pending re-filing by the applicant for further consideration.

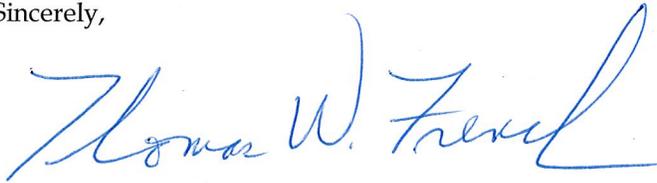
3. Within twelve (12) months of the start of Work, the Applicant shall provide proof to the Division of appropriate recordation of the above-referenced Declaration of Restriction in the Dukes County Registry of Deeds so as to become a record part of the chain of title of the Property.

Provided the above-noted conditions are fully implemented and there are no changes to the Site Plan, this project will not result in a "take" of state-listed species. This determination is a final decision of the Division of Fisheries and Wildlife pursuant to 321 CMR 10.18. Any changes to the proposed project or any additional work beyond that shown on the site plans may require an additional filing with the Division pursuant to the MESA. This project may be subject to further review if no physical work is commenced within five years from the date of issuance of this determination, or if there is a change to the project.

The Division notes that any future projects or activities proposed on the Property which are located outside of the approved limit of Work shown on the Site Plan, are not exempt pursuant to 321 CMR 10.14, and are located within mapped *Priority Habitat* as indicated in the Massachusetts Natural Heritage Atlas, will require review by the Division pursuant to the MESA. The Division, at its discretion, may take into account the cumulative impacts that may be relevant to state-listed species, including but not limited to those associated with the current project.

Please note that this determination addresses only the matter of state-listed species and their habitats. If you have any questions regarding this letter please contact Jesse Emerson Leddick, Endangered Species Review Biologist, at (508) 389-6386 or jesse.lednick@state.ma.us.

Sincerely,



Thomas W. French, Ph.D.
Assistant Director

On this 23rd day of November, 2015, before me, the undersigned notary public, personally appeared Thomas W. French, Ph.D., Assistant Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.




Emily Melissa Holt, Notary Public
My Commission expires: July 28, 2017

Encl.: "Lagoon Ridge Site Plan" (dated March 26, 2014; prepared by Kristen Reimann; the "Site Plan")



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 Page: 1 of 12 10/28/2014 10:43 AM

Decision of the Martha's Vineyard Commission

DRI 464-M2 – Lagoon Ridge Form B Subdivision

1. SUMMARY

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

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's Form B proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval.

2. FACTS

The exhibits listed below including the referral, the application, the notice of public hearing, the staff report, the plans of the project, and other related documents are incorporated into the record herein by reference. The full record of the application is kept on the premises of the Martha's Vineyard Commission.

2.1 Referral

The project was initially referred to the Commission on May 21, 2010 by the Planning Board of the Town of Oak Bluffs, MA for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, Section 2.2 (Division of Ten or More Lots) and 2.5 (Division of Thirty or More Acres). Both are mandatory referrals requiring review as a Development of Regional Impact. The 2010 proposal included the remainder of the original DRI 464 property and a large adjacent property. The proposal was subsequently withdrawn and later revised and re-submitted to the Oak Bluffs Planning Board on November 20, 2014 with only the original DRI 464 property. The revised proposal was referred to the MVC by the Planning Board as a DRI and was reviewed as such by the Martha's Vineyard Commission.

2.2 Hearings

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

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

2.3 The Plan

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

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

2.4 Other Exhibits

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

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

2.5 Summary of Testimony

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

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

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

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

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

3. FINDINGS

3.1 Project Description

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

3.2 Statutory Authority

The purpose of the Commission, as set forth in Section 1 of the Act, is to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies."

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

3.4 Benefits and Detriments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In sum, after careful review of the plan and its attendant submittals and the testimony presented by the Applicant and others, and the addition of conditions such as those relating to wastewater and future traffic mitigation, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriment in light of the considerations set forth in section 14(a) of the Act.

B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WOULD BE CONSISTENT WITH THE LAND DEVELOPMENT OBJECTIVES OF THE COMMISSION, AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 14(b) OF THE ACT.

The requested project, as a whole, advances the Commission's land development objectives, as outlined in the Martha's Vineyard Commission Regional Policy Plan adopted by the Commission in June 1991 and the Island Plan adopted by the MVC in December 2010.

C. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS CONSISTENT WITH MUNICIPAL DEVELOPMENT ORDINANCES AND BY-LAWS, TO THE BEST OF THE COMMISSION'S KNOWLEDGE.

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

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

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

4. DECISION

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

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

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

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

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

5. CONDITIONS

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

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

1 Subdivision

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

2 Phasing and Construction

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

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

3 Covenants

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

4 Landscaping

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

5 Exterior Lighting

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

6 Affordable Housing

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

7 Wastewater

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

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

8 Habitat

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

9 Energy Sustainability

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

10 Archaeological Oversight

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

11 Universal Design

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

12 Trails

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

13 Original DRI 464 Conditions

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

14 Major Alterations

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

6. CONCLUSION

6.1 Permitting from the Town

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

The permit-granting authorities of the Town of Oak Bluffs may now grant the request for approval of the Applicant's Form B proposal in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law, or may deny the request for approval. The Form C Definitive Plan must be reviewed by the MVC.

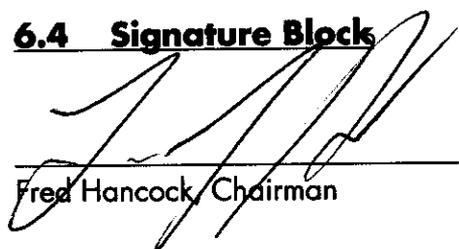
6.2 Notice of Appellate Rights

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

6.3 Length of Validity of Decision

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

6.4 Signature Block



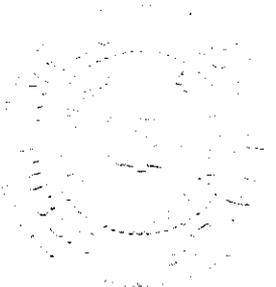
Fred Hancock, Chairman

Date 10.23.14

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

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



Jo Ann Taylor
Signature of Notary Public

Jo Ann Taylor
Printed Name of Notary

My Commission Expires February 9, 2018

6.6 Filing of Decision

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

Deed - Book _____, page _____

Attest:
Dianne E. Powers Registrar

Revised Lagoon Ridge
DRI Application*
DRI-464 M2
December 1, 2017

Introduction

Lagoon Ridge is a community-oriented residential development in Oak Bluffs on 32.5 acres (Map #35-3) accessed from Barnes Road by Sage’s Way and Double Ox Road. The land is owned by David A. Danielson and his five grown children organized as the Lagoon Ridge Limited Liability Partnership, the applicant. This document is based on a narrative presented on July 25, 2013 to the Oak Bluffs Planning Board. [An earlier 68-acre version of the project which included abutting land is defunct.]

Existing Conditions

Locus

The Danielson family’s parcel is located off Barnes Road in Oak Bluffs. Lagoon Ridge is a “fill-in development” surrounded by homes in adjacent subdivisions: Pond View, Tower Ridge, Meadow View Farms, Bayes Hill and Oakwood Lane.

Zoning

Lagoon Ridge is in an area of Oak Bluffs that is zoned R-3. However the applicant was approved under Oak Bluffs’ Flexible Development Code-- based on meeting priority housing needs, clustering dwellings, and protecting open space to promote community – and thus received a slight increase in density. The Town of Oak Bluffs initially approved 25 (twenty-five) dwelling units. Two units awarded as a bonus for building four homes for “over-55” occupancy are restricted to two-bedrooms each.

Limits

The property boundaries are shown on the Plan, as surveyed by Vineyard Land Surveyors. The “limits of work” required at one point by the Natural Heritage and Endangered Species Program (NHESP) are also shown.

Coastal Features

There are no wetlands or coastal features *per se* but a small part of Lagoon Ridge is within the Lagoon Pond District of Critical Planning Concern (DCPC). The blue line labelled on the plan near Barnes Road shows the margin, 1500 feet from the shoreline.

Topographic features

As required by the MVC, a map showing two-foot contours was prepared for the project by Vineyard Land Surveyors and Col-East aviation and is on the MVC website.

* This revised DRI Application, originally dated August 10, 2015, is presented with this Definitive Plan Application as a cogent summary for the Oak Bluffs Planning Board, the Board of Health and other town committees. The outline follows the DRI Checklist (version 11) and guidance in MVC’s publication, Making a DRI Application-10/4/04

Vegetative cover

The entire area is wooded with oak and pitch pine typical of this well-drained terminal moraine. Consultant studies by the local firm Cooper Environmental and Dr. Mark Mello from UMASS-Dartmouth and notes from an NHESP staff site-visit are on file with the DRI Coordinator at the MVC. The site perhaps provides habitat for several species of rare moths that feed on oaks and pitch pines. However it is no longer listed as priority habitat, having been “unmapped” by the NHESP in 2014.

Buildings/structures

There are no existing buildings or structures on the DRI acreage.

Site Landscaping

There is no existing landscaping nor other special features of note on the DRI acreage.

Roads and Parking

There are no existing roads. There is a Reciprocal Easement covering roads and utilities signed with Vineyard Hills in the 1980s that has been invoked. It allows Sage’s Way to be used by homeowners in Cluster A of the Plan. In addition, there are two major trails shown in green on the plan labelled “Ancient Way” and “Jib Stay Trail.”

Water and sewage

No municipal sewage connection is available. Enhanced sewage treatment was offered by the applicant and accepted by the MVC which will bring the nitrogen produced by the development well below the stringent requirements for protecting coastal ponds adopted and enforced by the MVC.

All homes in the project will be served by town water. Municipal water has already been brought to two existing homes on Double Ox Road. A second municipal water connection will be made from Pondview onto Sage’s Way and continued to complete a closed loop. The water department requested the additional 3000 feet of pipe in order to improve water flows in the area. Lagoon Ridge LLC has agreed to install it.

Utilities

There is no natural gas line available. Connections will be made to electricity, cable and telephone to serve all homes on Double Ox Road, Hope’s Lane and Sage’s Way. The waterline connection across the conservation land will also serve as a gated fire trail as requested by the Oak Bluffs Fire Chief.

History/archeology

No significant historical or archaeological sites have been identified. The Wampanoag Tribe in Aquinnah has been consulted several times in that regard.

Plan of Proposed Development

The completed engineered plan was presented to the MVC for review with all the required overlays depicting Context, Site, Buildings and Structures, Access and Roads, Landscaping, Infrastructure, Lighting and signage.

The Plan, through its many iterations, was prepared and revised by Kristen B. Reimann, Landscape Architect. Bob Fitzgerald, Civil Engineer; Gregory Marcella, Registered Land Surveyor, and the applicant also provided input. The Plan reflects a long process of consultation with the MVC staff and LUPC, Oak Bluffs' town boards, neighbors, environmentalists and advocates for elder and affordable housing on the Vineyard. Through the planning process the project was strengthened step-by-step. The applicant is pledged to incorporating sustainable design, green technology and ecologically tuned approaches to minimize habitat disturbance and maximize community enhancement at Lagoon Ridge. We believe the proposed plan is a concrete and detailed manifestation of those values.

Description of Proposed Development and Summary of Impacts

Project Description

1. Guiding Principles: The Lagoon Ridge Plan is based on the following guiding principles:
 - a) Community focus on the Island's future as it was incorporated into the 2010 Island Plan, and subsequent fine-tuning,
 - b) home ownership and possibly rentals for elders, individuals and families on the Island, especially those that form the backbone of the year-round island community,
 - c) incorporating green technology in the design of lot layouts and home building to move towards a sustainable zero-net-energy future, and,
 - d) habitat protection by maintaining a large contiguous area untouched.

2. Site: As shown on the plan there are three home clusters.

Cluster A is located on an extension of Sage's Way, a deeded reciprocal right-of-way connecting Vineyard Hills (Pond View) to Lagoon Ridge. It is adjacent to Tower Ridge and will contain 4-dwelling units.

Cluster B is located southeast of Double-Ox Road, an existing dirt road that will be paved from the Barnes Road intersection as requested by the Oak Bluffs Planning Board. It is adjacent to Oakwood Lane and Bayes Hill and will also contain 4-dwelling units.

Cluster C is located above Oakwood Lane and below the Ancient Way, the main foot-trail crossing the property. It will include 16-dwelling units on Hope's Way and an extension of Double Ox Road. At some point it may also contain one larger building to serve as the Community House.

3. Access, traffic and transportation: Little or no impact was found by the required traffic study. The TIA report is on file with the MVC, is summarized on page 7, and is available upon request.

4. Buildings and Structures:
 - a) The homes in Cluster A will be located in the southeast corner of the property, separated by woodlands from the Ancient Way. The cluster contains 4-dwelling units on development envelopes that average 20,000 SF. Access to this area will be by a hard-surfaced road extending Sage's Way, an access road in the Pond

View development. The existing trail from Tower Ridge known as the Jib Stay Trail will be preserved. The lots in Cluster A will be protected under community by-laws and subject to Deed Restrictions to protect natural habitat. This part of the Lagoon Ridge Project is surrounded by open space with some steep hills and glimpses of homes in Tower Ridge and Meadow View. Most likely this area will be built with larger homes of three to five bedrooms similar to adjacent developments. The homes illustrated on the Lagoon Ridge website are examples [www.lagoonridge.com] of net-zero, award-winning modern homes that will comply with the high construction standards we expect to require throughout the project. Initially the Lagoon Ridge LLC and eventually the Homeowners' Association will maintain the right to Architectural Review, here and elsewhere in the Project, thus assuring that aesthetic considerations and our enhanced energy and design standards are met.

- b) The four (4) homes in Cluster B are on Double-Ox Road, a dirt road we wish to extend and pave from the intersection with Barnes Road to the northwest corner of the elder housing development in Cluster C. These building lots will be subject to the Community By-laws and rules for construction in the DCPC. We expect structures on these building sites to average 2,000 SF. Homes will be designed by the new owners and subject to the permitting process through the town of Oak Bluffs. Under Deed Restrictions all will be required to be connected to the enhanced wastewater treatment system to greatly reduce nitrogen and help protect Lagoon Pond from further eutrofication. Habitat preservation outside the development envelopes will also be required.
- c) The homes in Cluster C lie entirely outside the DCPC while being still fairly close to Barnes Road. Here, we will endeavor to meet the Island's housing needs that are currently unmet: homes within reach for year-round islanders, older couples down-sizing, single mothers and fathers, and young families. These will all be energy-efficient homes with low carbon footprints. [Illustrations of some of the options are shown on our website, www.lagoonridge.com.] At least six (6) and potentially more of these dwelling units will incorporate design elements geared specifically for older, "over-55" residents. They will be universal-design homes readily adapted for persons with mobility limitations, and fully suitable for "aging in place." The main designs we are considering range between 980 and 1290 square feet. Each of these homes have on the ground floor at least one bedroom plus a kitchen, living room, dining area, and fully accessible bathroom with easy one-level access from the parking area.
- d) Cluster C has 16-dwelling units clustered on 14 lots that average around 12,000 Square Feet, with a range between 11,135 and 13,135 SF as shown on the Plan. Two duplexes are included, and two over-55 units restricted by Oak Bluffs Planning Board's regulations to two bedrooms. One, two and possibly three bedroom options will be offered. [Note that to provide redundancy in the nitrogen calculations we have projected an average of 2.5 bedrooms per dwelling unit in this cluster.]

- e) Also proposed on one lot in Cluster C is a possible Community House -- a feature of cohousing communities that maybe built at Lagoon Ridge. Community houses support a community consisting of smaller-than-usual houses by providing bedrooms that can be reserved for visiting family members, space for meetings and social events, a community kitchen and a place to drop off household waste and recycling. The Community House was allocated 5,000 SF in the Plan. Construction of the building's shell as a base of operations during road construction is a possibility. Later, if approved by the ZBA, the shell might be completed and made ADA-compliant as a mixed-use building under the Massachusetts Building Code.
- f) One more small structure is also shown on the Plan adjacent to Cluster C, a quality monitoring station for an on-site packaged treatment plant that produces low-nitrogen effluent. We are assured by the manufacturers of the Amphidrome system that the leaching area will be odorless, similar to the lawn area around the bandstand in Oak Bluffs.

5. Landscaping

Lawns and other landscaped areas add to run-off and increase the nitrogen impact of adding 23 more homes to the hundreds of residences that have already been built in the Lagoon Pond watershed. The common practice in adjacent developments is to save trees and native plants and avoid vast areas of lawn. We will follow a similar pattern and enforce the practice by astrictly limiting landscaped areas under the Covenants and Deed Restrictions to ten percent (10%) of each building envelope in accordance with MVC recommendations. Slow-release nitrogenous fertilizer has been regulated by the Town of Oak Bluffs and we have also imposed limitations on fertilizer use.

6 Infrastructure (including water and septage)

The engineered plans for supplying municipal water and for the package treatment plant for enhanced sewage treatment for Clusters B and C was presented by Engineer Bob Fitzgerald and Holmes and McGrath to the LUPC and approved by the MV Commission. The Definitive Plan has been reviewed and approved by the Oak Bluffs Board of Health and will be reviewed again by the Oak Bluffs Planning Board. The Deed Restrictions for all homes in Clusters A require DEP-approved nitrogen-reducing systems demonstrated to reduce nitrogen in the effluent to 19 mg/L or less. The homes in Clusters B and C must, and will, also meet or exceed that metric.

7. Lighting and signage

Dark-skies principles are included in Deed Restrictions, Community By-laws, and followed in roadway illumination because light pollution is an impediment to moth survival and fecundity. Town regulations for signage will be followed during the project development phase by the applicant and thereafter homeowners will be regulated like any other resident in this regard.

Project Impact (An analysis presented to the MVC.)

1. Impact on the environment, wastewater and groundwater, open space, natural community and habitat, night lighting and noise.

Protecting endangered moths, the woods and trails, and neighborhood access to recreational opportunities has been incorporated into Lagoon Ridge planning. Preserving 2/3rds of the land in its natural state was formally required by the NHESP at one point, although preserving abundant open space was always our intention. Deed restrictions and community covenants will limit building sizes and landscaping, require enhanced nitrogen removal from wastewater, and stipulate adherence to “dark skies” principles throughout Lagoon Ridge. Protecting Lagoon Pond from nitrogenous waste and its impact has been a major focus throughout the entire project.

2. Impact on persons and property including impact on abutters.

As a fill-in development, Clusters A and B are designed to be consistent with their surroundings. These eight medium-size homes are subject to architectural review to assure that they will fit in well with nearby homes. Many of the homes in Cluster C will be adapted for ageing in place and over-55 occupancy. They will feature universal design, with smaller footprints, and will also be subject to architectural review, although the isolated setting may allow greater freedom of design without offending abutters accustomed to shingled Capes.

3. Impact on the supply of needed low and moderate income housing.

Cluster C, with smaller home footprints and a community layout, was designed in response to the Island’s housing needs and the economic opportunity represented by the market for more affordable homes for elderly and year-round residents. A consideration of how to meet the requirements of the Oak Bluffs Planning Board’s and MV Commission’s Affordable Housing Policy for a project of this type is included below.

4. Impact on municipal services and burden on taxpayers

One principal concern when new housing developments are proposed is impact on the school system. Of the twenty-five (25) dwelling units proposed, six (6) will be for over-55 occupancy, and are thus unlikely to be occupied by families with children of school age. There is no way to accurately predict who will purchase land and build on the remaining lots, and young families and single mothers and fathers will be welcome. The increase in assessed value of lots of land and the new homes in Lagoon Ridge will be added to the Town’s tax base. Perhaps it is an over-simplification, but this project would seem to have little or no negative impact on current taxpayers.

There will also be one positive impact on municipal services: a ROW provided by Lagoon Ridge to the Oak Bluffs municipal water board is expected to improve water pressure and flow in the area with an impact as far away as Major’s Cove.

5. Efficient use or burdening of other non-municipal facilities

Golfing at Farm Neck, swimming at the Sailing Camp beach, biking on bikeways, walking on the trails—adding a few more people from Lagoon Ridge falls far short of

“burdening” those nearby facilities.

6. *Consistency with and ability to achieve town, regional, and state plans & objectives.*

As required for DRIs, there has been on-going consultation with key boards in Oak Bluffs to assure that the Project conforms to the town’s requirements. The MVC staff was helpful in guiding the applicant to consider regional objectives including preserving open space and providing recreational opportunities. Environmental concerns were discussed and negotiated in great detail with the NHESP, which approved the Lagoon Ridge Plan before releasing nearly all control. A single final, formal step—recording an NHESP letter-- is required once the Definitive Plan is approved.

7. *Conformity to zoning*

Twenty-five (25) dwelling units on our 34.5 acres are proposed under the Oak Bluffs flexible zoning By-law adopted by the Town Meeting in 1976. The density calculations for the revised plan on the Danielson family property were approved by the Oak Bluffs Planning Board in July, 2013 and later by the MVC. A new methodology for density calculations was proposed by the building inspector in 2016. The applicant contends and believes that the project meets Oak Bluffs’ zoning requirements.

8. *Conformity to DCPC regulations*

Four homes shown in Cluster B are within the Lagoon Pond DCPC. The homeowners will be required to connect to the enhanced sewage treatment system and restrict the number of bedrooms in conformity with the DCPC regulations. With those steps taken, the project meets DCPC regulations.

Traffic Impact Analysis (TIA)

A formal TIA study was done by Dr. Charlie Crevo, as required by the Land Use Planning Committee (LUPC), for the initial project with 53-homes would using Double Ox Road. The impact was minimal, and the LUPC accepted the conclusions of that study as applicable to the more modest current proposal with 21-homes using the same road.

Under the heading **TRAFFIC STUDY SUMMARY** the report states:

“For the 2016 Build scenario, the LOS value of the three [potentially impacted] intersections is not significantly altered by the inclusion of trips from and to the proposed Lagoon Ridge development. For the two occasions where the LOS is changed from the 2016 No-Build to the 2016 Build, the difference in the delay values are a matter of 10 or less seconds.” ... “The findings of the traffic operation assessments in this report indicate that the proposed Lagoon Ridge development will not generate traffic movements at a level that will unduly inconvenience motorists with extended or excessive delays beyond the existing conditions.” [NOTE: emphasis added.]

Water Resource Impact Information

The following information must be submitted....total lot area, building footprint and area of impervious surfaces for access and parking, stormwater management system and design, number of dwellings and bedrooms, and engineering plan for wastewater disposal.

The required data:

Total development envelopes (i.e. lot) area= 10.29 acres.

Total development footprints = 42,000 SF [A=10,000, B= 8,000, C= 24,000 SF.]

Number of dwellings = 25

Number of bedrooms = 68

The total nitrogen impact was calculated in a report to the MVC Water Resources Planner by the applicant and subsequently fine-tuned by Engineer Bob Fitzgerald. The revised report is on file with the DRI Coordinator. The project will add less than 1% to the number of homes already built in the watershed, and with enhanced nitrogen removal will have limited impact on the waters of Lagoon Pond, well within the limits set by the strict current MVC Policies to protect coastal embayments. The project thus fully meets requirements for nitrogen impact reduction.

Affordable Housing

Monetary mitigation was initially offered in a proposal to the MVC's Affordable Housing specialist. Subsequently, other options were discussed with Island affordable housing advocates, Oak Bluffs leaders and the MVC staff. The current plan is to donate two lots in Cluster C for the construction of three dwelling units for people with moderate (80% AMI) incomes. The project would thus satisfy the affordable housing requirement. The applicant prefers that the homes be built by Habitat for Humanity, but is fully willing to consider other creative and practical ways to contribute to the Island's urgent need for housing for seasonal workers and year-round occupancy.

Summary

The Lagoon Ridge project will be built on family-owned land that was left undeveloped for decades. Attempts in the past to offer the land to conservation groups were rebuffed. As a "fill-in development" that meets housing needs identified in the Island Plan, preserves open space, and meets other community criteria Lagoon Ridge was initially approved by the MVC in September, 2014, referred back to the Town of Oak Bluffs, and again approved by an 11-1 vote in 2016 . We look forward to public hearings and further collaboration with the Town of Oak Bluffs to complete a Definitive Plan in 2017, after which we will return yet again to the MVC staff for final approval of some details. Only then can sitework on the project finally begin.



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 Page: 1 of 12 06/23/2016 10:15 AM

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 (Davo) 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.
- E4. Letter from the Division of Fisheries & Wildlife: Natural Heritage and Endangered Species Program signed by Thomas W. French, Ph.D. (Assistant Director) dated June 3, 2014.
- E5. 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).
- E8. Minutes of the Commission's Land Use Planning Committee meeting, March 14, 2016.
- E9. Minutes of the Commission's Public Hearing, April 14, 2016.
- E10. Minutes of the Commission's Continued Public Hearing, May 19, 2016.
- E11. Minutes of the Commission's LUPC Post Public Hearing Review, May 23, 2016.
- E12. Minutes of the Commission Meeting of June 2, 2016 - Deliberations and Decision.
- E13. Minutes of the Commission Meeting of June 16, 2016 – Approval of the Written Decision.

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 denitrification.

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 Verduyse
James Verduyse, Chairman

6-21-16
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 21st day of June, 2016, before me,
To Ann Taylor, the undersigned Notary Public, personally
appeared Jim Verduyse, proved to me through satisfactory evidence of identity,
which was/were driver's license to be the person(s) whose name(s)
was/were signed on the preceding or attached document in my presence, and who swore or affirmed to
me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and
belief.



To Ann Taylor
Signature of Notary Public
To Ann Taylor
Printed Name of Notary
My Commission Expires February 9, 2018

6.6 Filing of Decision

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

Deed - Book _____, page _____

Attest:
Deanne E. Prater Register