



Martha's Vineyard Commission

DRI # 618-M2 Medical Marijuana Dispensary

MVC Staff Report 2017-05-04

1. DESCRIPTION

- 1.1. **Applicant:** Geoff Rose (Applicant – Patient Centric); Jim Eddy of Big Sky Tents owns the building; Reid Silva (Engineer/Agent for Jim Eddy)
- 1.2. **Project Location:** 90 Dr. Fisher Road, West Tisbury Map 21 Lot 12 (1.01 acres). The property was the subject of a Form A that divided Lot 12 into 3 one-acre lots. This is the middle lot.
- 1.3. **Proposal:** To establish a Registered Medical Marijuana Dispensary and grow operation with modifications to a previously approved but not yet built building in the West Tisbury Light-Industrial District.
- 1.4. **Zoning:** Dr. Fisher Special Way DCPC; Light Industrial District; L-I has 20 foot setbacks except 100-foot setback with wooded buffer required if lot in L-I abuts RU District (in rear)...
When the L-I District was drawn a number of properties were split between the L-I District and the Residential District. In 2000 the properties that were in both were incorporated into the L-I District. The stated purpose of the L-I District is “to allow locations for uses that might negatively affect residential areas, such as the airport, landfill, and light industrial uses that are best segregated from other land uses”.
- 1.5. **Local Permits:** Building Permit; Special Permit from Zoning Board of Appeals; Site Plan Review.
- 1.6. **Surrounding Land Uses:** Rural residential & light-industrial. Keene & Bizarro.
- 1.7. **Project History:** The property first came before the MVC in 2008 with a proposed commercial parking area for 50 trucks, 25 trailers, and 20 pieces of equipment on the property. That project was withdrawn. In December 2010 the MVC approved Big Sky Tents with conditions to build a 9,600 sf (footprint) building in the West Tisbury Light-Industrial District to house a tent and party rental business. The development was held up by a subsequent access issue. The approval was extended four years by the State Permit Extension Act and extended again by the MVC on November 17, 2016 for another two years to December 13, 2018.

1.1. Project Summary:

- The proposal is to establish a Registered Medical Marijuana Dispensary and grow operation with modifications to a previously approved but not yet built building in the West Tisbury L-I District.
- The approved Big Sky building was a tall (14’ tall sidewalls and just under 28’ high at the top of the ridge) single-story a 9,600 sf (80’ by 120’ footprint) building with architectural details that were approved to look like an agricultural building with clapboard and shingle.
- Big Sky is a primarily seasonal business from May through the Christmas.
- The proposed physical modifications are for a smaller footprint (60’ X 120’ = 7,200 sf) with a partial second floor of 4,800 sf (total 12,000 sf) and more parking.
- Patient Centric is licensed and regulated by the Department of Public Health (DPH). The Registered Marijuana Dispensary (RMD) will be built for the sole purpose of cultivating, processing and dispensing marijuana to patients with a Medical Marijuana Card issued by DPH.
- Patient Centric will occupy a total of 6600 sf. 2200 sf. on the first floor with dispensary, testing laboratory, MIP kitchen, employee, office and storage space. The 4400 sf. on the second floor will include cultivation, processing, work, office and storage space.
- Access to the dispensary would be by appointment only.

2. ADMINISTRATIVE SUMMARY

- 2.1. **DRI Referral:** West Tisbury Zoning Board of Appeals, Received March 21, 2017.
- 2.2. **DRI Trigger:** 1.2 (Modification to a Previous DRI).
- 2.3. **Pre-Application meeting with staff:** March 15, 2017.
- 2.4. **LUPC:** April 10, 2017;
- 2.5. **Site visits:** May 2, 2017
- 2.6. **Public Hearing:** After LUPC the Applicant chose to go straight to public hearing. Public Hearing May 4, 2017; continued to May 18, 2017.

3. PLANNING CONCERNS

3.1. Some Key Issues

- Regional
 - The property is in the Light-Industrial District but is also on an ancient way and abuts a residential neighborhood to the east. Is this too much intensity of use for a property bordering a rural residential area?
 - How will Dr. Fisher Road and the neighborhood be impacted?
 - Could this become a recreational marijuana dispensary in the future?
 - Security & Lighting: There is some concern what measures will be required for security and lighting.

3.2. Environment

- **Vegetation:**
 - The lot was partially cleared several years ago. The corner of Dr. Fisher and Pine Hill Road still has a vegetated buffer. The area that was cleared has been entirely filled in by young volunteer white pines.
- **Habitat:**
 - The property is in NHESP Priority Habitat of Rare Species.
 - The NHESP issued a letter on January 9, 2009 that the Williams commercial parking plan they reviewed on January 7, 2009 would not result in a take of state listed species.
- **Landscaping:**
 - The Applicant proposes to maintain a 15 foot vegetative buffer between both roads and the building.
- **Open Space:** A 15 foot buffer along the roadways is planned.
- **Lighting:**
- **Noise:** The proposal includes exterior HVAC equipment with high efficiency, low noise units. The Infinity units are rated (at full capacity) at 65 DB.
- **Energy/Sustainability:**
- **Waste Management:**
- **Water:** The property has an existing well on site.
- **Wastewater / Stormwater:**
 - The site is located near the head of the outwash plain at an approximate elevation of 70 feet. The soil types in the area include Riverhead sandy loam on 0 to 8 % slopes depending on exact location. Riverhead is a prime agricultural soil
 - The site is located near low density residential land uses that are supplied with drinking water by on-site wells.

- Groundwater is at a depth of 30 to 40 feet below grade at the landfill and should be similar at this site. The groundwater flow is toward the southeast in this area. In the down gradient direction, there are low density residential uses with on-site, private wells.
- The West Tisbury School is about 2000 feet away.
- The property previously had a residential use (cabin) on site.

Nitrogen:

- The site is located in the Tisbury Great Pond watershed, a nitrogen sensitive water body that according to the MEP is impaired. The acceptable nitrogen load for this watershed is 0.8 kilograms per acre per year. The parcel is 1.01 acres in area. Under the current MVC Water Resource Policy the maximum allowable load for nitrogen is .81 kg/yr.
- This parcel has an active and approved DRI where it was classified as a Compromised pond. The approval was based on it being a previously developed site that already exceeded the loading limit and the total load from the new project would not exceed that previous load. The parcel previously was a residence.
- In the previous approval, the Applicant proposed to use a drip effluent disposal system. The annual wastewater load was to be about 5.8 kilograms before treatment and 3.2 kilograms after plant uptake. **The property is currently approved for a nitrogen load of 3.8 kilograms/yr.**
- Since this is a new type of business Staff consulted with DEP to establish a flow.
- The flow for the proposed project would yield a nitrogen load of 6.38kg/yr.
- The applicant has offered to install composting toilets which DEP would allow a 50% nitrogen load credit.
- The nitrogen load for the proposed project with composting toilets would be 3.19 kg/yr.

Recommended conditions:

- As offered by the applicant, only composting toilets be installed.
- Per DEP regulations, waste water from cultivation will be collected in an industrial waste holding tank and disposed of by a licensed contractor.
- All cuttings and clippings are to be added to compost and disposed of by a certified composter.
- Dispensary limit to 10 employees. Big Sky limits operation to only storage of infrequently used rental equipment in the building with an average of 6 trips per week from May 1- October 31, and virtually no trips the remainder of the year.

Landscaping:

- Landscaping should utilize low maintenance and/or native plant materials to limit annual fertilization. Total impervious and low permeability surfaces to remain at about 15,000 square feet. Roads and parking areas will be surfaced with RAP. Runoff from all surfaces will recharge through natural vegetation.

3.3. Transportation

● **Traffic Summary:**

- It is 630 feet from the end of Old Stage Road to the center of the proposed site driveway on Dr. Fisher Rd.
- There are 7 turnouts of various length and width in that space. They are adequate though not ideal for the neighborhood.
- It is about 840 feet from the end of Old Stage Rd to the center of Pine Hill Rd.

● **Access:**

- The plan is to access the property as soon as you reach the property on Dr. Fisher Road.

- During review of the approved project the Agent had said that Bizarro had agreed to also use this access. Bizarro has since expanded.
- There would be one access to the property from Dr. Fisher Road via the Old Stage Road (Dump Road). Vehicles would not be permitted to use Dr. Fisher Road to the east of this property.
- At the end of Old Stage Road Dr. Fisher Road travels east through town land, then the Manter property before reaching this property.
- **Trip Generation**
 - Estimated trip generation was based on ITE 7th Edition, apportioning the proposed shares of square footage to the final calculation based on the following land uses: **pharmacy, office, wholesale nursery, and warehouse**, with the following L.U. Codes, respectively: 880, 710, 818, 150.
 - These joint uses are estimated to generate a total of 212 daily trips.
 - Trip generation numbers are created from land use developments built on the mainland, typically exceeding the developments and uses found here on the island.
 - The applicant has worked with Champlain Valley Dispensary in Burlington, VT to compile patient trip generation estimates. Coupled with his staffing needs, he estimates 158 total daily trips, including lunch break outings.
 - The applicant's estimated daily, weekday trip generation is roughly 4.5x the number of estimated daily trips for the prior, Big Sky Tents DRI approval.
- **Parking:**
 - The revised plan shows 18 parking spaces on the property. The approved plan had 16.
 - The building would have a total of 11 full time employees (10 Patient Centric, 1 for Big Sky), and an estimated 7 patrons per hour.
 - The plan is for 4 patient parking spaces (one handicapped space) directly in front of the building and 15 employee parking spaces leaving 7 for Big Sky Tents.
 - The surface would be concrete rap.
 - Estimated parking demand was based on ITE 3rd Edition, again, apportioning the proposed shares of square footage to the final calculation based on the following land uses: patient & lab areas, office, and storage. No parking demand estimations are available for a commercial use resembling cultivation / nursery.
 - The three land uses accounted for in ITE amounted to an estimated demand of 5.5 parking spaces. Given an ITE estimate for cultivation / nursery operations is unavailable while knowing roughly six of the ten full time employees will be part of the cultivation team, the applicant's 18 proposed parking spaces appear more than adequate.
 - There is one proposed stretch of 11 parking spaces which would need revision to comply with the MVC Landscaping policy which requires a natural buffer after 8 consecutive parking spaces.
- **Safety:**
 - Between 2013 -2015 – the most recent three year period for publicly available crash data – there was one reported accident at the intersection of Old Stage and State Roads. This was limited to property damage, with no injuries suffered by vehicle operators or passengers. One additional accident was reported in this area during this period along Old Stage Road, in the vicinity of John Keene Excavation.
 - Sight lines at the existing and proposed driveways are sufficient.

- There are two pinch points of ~10.5 feet exist along Dr. Fisher Road, approaching the site from Old Stage Rd.
- Existing vehicle turnouts along Dr. Fisher Road are sufficient.
- **Sight Lines:**
 - Sight lines at the existing and proposed driveways are adequate.
 - Existing vehicle turnouts along Dr. Fisher Road are adequate.
- **Transportation Mitigation / Recommendations**
 - Improved terrain along Dr. Fisher Road would make the site more accessible to patients frequenting the dispensary (patients may already be dealing with chronic pain).
 - Any future maintenance of, and or expansion of the roadway should be considerate of retaining the rural character of this ancient way. Furthermore, the applicant would need permission from two upstream property owners whose parcels encompass Dr. Fisher Road, in addition to the town of West Tisbury, which owns the 3rd upstream parcel, before any improvements to the portion of Dr. Fisher Road intersecting with Old Stage Rd and extending to the project site, could be made.
 - Enforcing the condition of the original DRI (Big Sky) limiting access to the site via Old Stage Road will be challenging (mapping applications use this alternate approach as well, depending on the starting point). The applicant should consider an offer that explicitly requests patients to access the site via State Road.
 - In order to discourage heavy truck traffic through the residential areas along Pine Hill Road, a recorded easement prior to issuance of a building permit, for vehicles entering the abutting Bizarro property (to the South of the project site) was a condition of the prior, Big Sky approval. There is no indication this easement has yet been recorded.
 - In judging whether or not to reroute the proposed 12' easement to preserve existing mature trees on the site, thought should be given to whether or not locating the easement, instead, through a parking lot would discourage Bizarro from taking advantage of this alternate form of access and if so, the tradeoffs of saving existing trees should be weighed given such a probability.
 - Home delivery by Patient Centric staff for the harvests sold to medical marijuana card holders could also make a meaningful reduction in trips to and from the site.

3.4. **Affordable Housing**

- According to the MVC's Affordable Housing Policy the recommended monetary mitigation for a 12,000 square foot building is \$15,000.
- For the approved project the Applicant offered to donate \$5,000 to an island affordable housing organization which was less than the per square foot recommendation of (\$10,200) because it was a large building but was to be mostly an empty shell used for storage.

3.5. **Economic Impact**

- The proposed project is an allowable use within West Tisbury's Light industrial District.
- The proposed hours of operation for the RMD are Monday- Friday, 10-6 pm, Saturday, 10-5 pm and closed on Sunday.
- The applicant estimates creating 9 -10 new jobs within the first year with a potential to increase staff to 14 employees.
- All Medical Prescriptions are exempt from the Massachusetts Sales Tax; however, it is not clear if the Marijuana Infused Products (MIP) are subject to the Massachusetts Sales Tax

3.6. **Scenic Values**

- **Streetscape:** The rezoning of this area in 2000 which allowed the Bizzarro Waste Disposal next door on Pine Hill Road and the landscape contracting business across Dr. Fisher Road has visibly altered Dr. Fisher Road and Pine Hill Road, which had previously carried little traffic and few large trucks.
- **Building Massing:** Proposed building massing would be slightly smaller than approved plan.
- **Architectural Detailing:** The approved building was to be shingled on three sides in order to make the building appear agricultural.

3.7. **Local Impact/Abutters**

- Neighbors have written with concerns for the increased intensity of use
- Dr. Fisher Road and Pine Hill Road are used as trails by both schoolchildren going to the West Tisbury School and by horse back riders connecting the numerous horse farms in the area.

4. CORRESPONDENCE

4.1. Town Officials:

4.2. Island Organizations:

4.3. Public: Ellen Wolfe; Vivian Stein; Steven Anagnos; Elaine Barse & Chris Egan; William Coogan; Glenn DeBlase; Martha Sullivan; Melissa Manter; Farley & Daryl Pedlar; Constance Breese; Renee Balter; Wendy Weldon; Albert & Linda Fischer; Linda Fischer; Dan Vanlandingham; Helen DeBlase; Juleann VanBelle; Nolan Pavlik; Elizabeth & David Fielder.