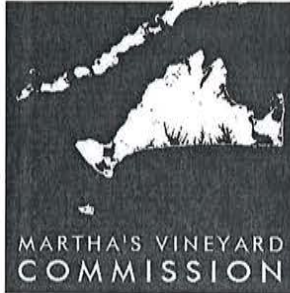




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Decision of the Martha's Vineyard Commission

DRI 723 Main Street Medicinals

1. SUMMARY

Referring Board: Tisbury Planning Board

Subject: Development of Regional Impact #723 Main Street Medicinals

Project: Proposal to convert the existing 4,900 ft² building to a Registered Marijuana Dispensary and Recreational Marijuana Establishment with a 600 ft² addition.

Owner: Mechanic's Street Re Holding LLC

Applicant: Main Street Medicinals LLC; Daniel Glissman, Agent

Applicant Address: Noah Eisendrath
12 Rice Spring Lane
Wayland, MA 01778

Deed: Book 1558, Page 570

Project Location: 65 Mechanics Street, Vineyard Haven. Map 22-A, Lot 18.1 (approx. 0.59 acres).

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 9, 2022.

Written Decision: This written decision was approved by a vote of the Commission on July 7, 2022.

The permit-granting authorities of the Town of Tisbury may now grant the request for approval of the Applicant's 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 the 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 January 16, 2021 by the Tisbury Planning Board for action pursuant to Chapter 831 of the Acts of 1977, as amended (the Act) and the Commission's Standards and Criteria Administrative Checklist for Developments of Regional Impact, DRI Checklist Items 3.1f *Change of Use or Intensity of Use for Commercial Development*; and 3.1j *High Traffic Generating Commercial Development*. Both checklist items are considered Concurrence Reviews. On March 17, 2022, the Commission voted to concur with the application and review the project as a Development of Regional Impact.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on April 14 and 21, 2022; notice was also published in the Vineyard Gazette on April 15 and 22, 2022. Abutters within 300 feet of the property were notified by mail on April 12, 2022.

Hearings: The Commission scheduled a public hearing on the Application pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on April 28, 2022 which was continued to May 12, 2022, which was closed that same night with the exception of the written record which was left open until 5:00 pm on May 26, 2022 and closed at that time. The hearings were held entirely using remote conference technology as allowable under Chapter 20 of the Acts of 2021.

2.3 The Plan

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

- P1. Application Package submitted to Tisbury Planning Board consisting of eighty-five (85) pages including Project Narrative (p. 4-16) dated September 19, 2019; Project Plans (p. 18-25) prepared by Caveney Architectural Collaborative, Inc. for Main Street Medicinals Vineyard Haven Cultivation & Dispensary, consisting of eight (8) 36" x 24" pages dated September 13, 2019 including: A1.0 Lower Level Floor Plan, scale $\frac{1}{4}" = 1'-0"$; A1.1 Main Level Floor Plan, scale $\frac{1}{4}" = 1'-0"$; A1.2 Site Plans, scale $\frac{1}{16}" = 1'-0"$; A1.3 Site Plan Illustrative, scale $\frac{1}{16}" = 1'-0"$; A1.4 Site Plan Illustrative, no scale; A1.5 Rendering, no scale; EX2.0 Existing Photos; Site Plan in Tisbury, Mass. prepared for Nicholas Catt by Greg Marcella, scale 1 in. = 20 ft, dated August 13, 2019; Security Narrative (p. 27-34) prepared by Greeley & Associates Consulting Services, dated September 17 2019; Business Plan (p. 36-49); Diversion Prevention Plan (p. 51-54); Customer Education Handouts (p. 56-67); Equity and Diversity Plan (p. 69-70); Waste Management Plan

(p. 72-75); Traffic Analysis (p. 77-82) dated September 18, 2019; and Articles of Organization (p. 83-85), dated April 23, 2019.

- P2. Revised Floor Plans prepared by Caveney Architectural Collaborative Inc. for Main Street Medicinals, consisting of two (2) 36" x 24" pages, dated March 1, 2021, including: A1.0 Concept (Bravo) Lower Level Floor Plan, scale $\frac{1}{4}" = 1'-0"$; and A1.1 Concept (Bravo) Main Level Floor Plan, scale $\frac{1}{4}" = 1'-0"$.
- P3. Revised Site Plan prepared by Vineyard Land Surveying & Engineering prepared for Main Street Medicinals LLC, consisting of one (1) 24" x 18" page, scale 1" = 10', dated May 17, 2021 and revised on May 12, 2022.
- P4. Parking and Stormwater Drainage Plan prepared by Vineyard Land Surveying & Engineering prepared for Main Street Medicinals LLC, consisting of one (1) 36" x 24" page, scale 1" = 20', dated June 2, 2021.
- P5. Right of Way Plan prepared by Vineyard Land Surveying & Engineering prepared for Main Street Medicinals LLC, consisting of one (1) 24" x 18" page, scale 1" = 10', dated May 19, 2021 and revised on January 20, 2022.
- P6. Revised Floor Plan, including: A1.1 Concept (Bravo) Main Level Floor Plan prepared by Caveney Architectural Collaborative, Inc. consisting of one (1) 36" x 24" page, scale $\frac{1}{4}" = 1'-0"$, dated March 4, 2022.
- P7. Revised Renderings, consisting of three (3) pages, dated April 26, 2022.

2.4 Other Exhibits

- E1. Referral to the MVC from the Tisbury Planning Board, consisting of two (2) pages, received January 16, 2021.
- E2. Technical Memorandum from Andrew McClurg (McClurg Traffic) to Noah Eisendrath, regarding traffic impacts and parking needs, consisting of six (6) pages, dated September 18, 2019.
- E3. Host Community Agreement between the Town of Tisbury and Main Street Medicinals, LLC, and signed by the Tisbury Select Board, consisting of ten (10) pages, dated April 7, 2020.
- E4. Environmental Site Assessment 65 Mechanics Street Tisbury, Massachusetts prepared by Green Environmental, consisting of two hundred eighty-six (286) pages, dated January 12, 2021.
- E5. Technical Memorandum from Andrew McClurg (McClurg Traffic) to Noah Eisendrath, regarding traffic impacts assessment: addendum, consisting of two (2) pages, dated February 1, 2021.
- E6. Staff Report for C.R. 1-2021 Main St Medicinals dated February 10, 2021 and updated on March 3, 2022.

- E7. Traffic Analysis for Main Street Medicinals 65 Mechanics Street Cannabis Dispensary, consisting of one hundred forty (140) pages, dated July 28, 2021 and revised on August 27, 2021.
- E8. Minutes of the Tisbury Select Board Meeting of September 22, 2021 regarding Main Street Medicinals License Agreement for Mechanics Street Extension, consisting of four (4) pages.
- E9. License Agreement between the Town of Tisbury and Mechanic's Street Re Holding LLC and Main Street Medicinals LLC, consisting of four (4) pages.
- E10. Aerial view showing 12-foot Proposed Access Extension, consisting of one (1) 24" x 18" page
- E11. Memorandum from Kurt Fraser and Maaza Mekuria (Fraser Polyengineering Services) to Dawn Bellante Holand and Elaine Miller (Tisbury Planning Board), providing a peer review of the Fuss & O'Neill traffic analysis, consisting of eight (8) pages, dated September 27, 2021.
- E12. Letter from Matthew Skelly and Katherine O'Shea (Fuss & O'Neill) to Dawn Bellante Holand (Tisbury Planning Board), with response to comments and traffic study peer review for Main Street Medicinals, consisting of eight (8) pages, dated October 6, 2021.
- E13. Minutes of the Tisbury Planning Board Meeting of October 6, 2021 for the continued Public Hearing for Main Street Medicinals and presentation of the traffic study and peer review, consisting of twenty (20) pages.
- E14. Presentation by Fuss & O'Neill to Tisbury Planning Board, consisting of eight (8) pages, dated October 20, 2021.
- E15. Memorandum from Kurt Fraser and Maaza Mekuria (Fraser Polyengineering Services) to Dawn Bellante Holand and Elaine Miller (Tisbury Planning Board), with FPES response to Fuss & O'Neill comments, consisting of two (2) pages, dated October 20, 2021.
- E16. Letter from the Tisbury Planning Board to the MVC regarding the summary of review for Main Street Medicinals, consisting of three (3) pages, dated November 2, 2021.
- E17. Email from Noah Eisendrath to Sheri Caseau, MVC Water Resources Planner, regarding wastewater calculations for 65 Mechanics Street, dated November 9, 2021.
- E18. Letter and attachments from Noah Eisendrath to Alex Elvin in response to March 12, 2021 MVC Memo, consisting of three hundred forty-eight (348) pages, dated November 19, 2021.
- E19. Memo from Alex Elvin, DRI Coordinator, to Noah Eisendrath and Applicant Team with questions, dated December 17, 2021.
- E20. Letter from Matthew Skelly and Katherine O'Shea (Fuss & O'Neill) to Dawn Bellante (Tisbury Planning Board), with response to comments on traffic study peer review for Main Street Medicinals, consisting of two (2) pages, dated January 18, 2022.

- E21. Emails between Noah Eisendrath and Chief Christopher Habekost, Tisbury Police, consisting of two (2) pages, dated January 24, 2022.
- E22. Letter from Noah Eisendrath, Applicant, to Alex Elvin, DRI Coordinator, in response to December 17, 2021 MVC Memo consisting of two (2) pages, dated February 5, 2022.
- E23. Sample Adult Use Education Materials, consisting of fifteen (15) pages, received February 5, 2022.
- E24. C.R. 1-2021 Staff Presentation for the Land Use Planning Committee, dated February 8, 2021.
- E25. Memo and email from Elaine Miller (Tisbury Planning Board) to Alex Elvin regarding Main Street Medicinals, consisting of three (3) pages, dated March 4, 2022.
- E26. Emails between Dawn Bellante Holand, Elaine Miller (Tisbury Planning Board) and Alex Elvin, regarding planning concerns, consisting of two (2) pages, dated March 6, 2022.
- E27. C.R. 1-2021 Staff Presentation for the Land Use Planning Committee, dated March 7, 2022.
- E28. Policies and Procedures for Cultivation for Main Street Medicinals LLC, consisting of eleven (11) pages, received March 14, 2022.
- E29. Memorandum from Matthew Skelly and Katherine O'Shea (Fuss & O'Neill) to Noah Eisendrath, Main Street Medicinals, regarding 65 Mechanics Street Cannabis Dispensary Transportation Demand Management Plan, consisting of one (1) page, dated March 14, 2022.
- E30. Emails between Dawn Bellante and Elaine Miller (Tisbury Planning Board), Alex Elvin, Daniel Glissman, and Josh Silver (Applicants), consisting of three (3) pages, dated March 2022.
- E31. C.R. 1-2021 Staff Presentation for the MVC, dated March 17, 2022.
- E32. Staff Report for DRI 723 Main St Medicinals, dated April 26, 2022.
- E33. Memo from Mike Mauro, MVC Transportation Planner, regarding peer review and traffic analysis, consisting of one (1) page, dated April 27, 2022.
- E34. DRI 723 Staff Presentation for the MVC, dated April 28, 2022 and updated on May 12, 2022.
- E35. Email between Daniel Glissman, Noah Eisendrath, Josh Silver (Applicants), Matthew Skelly (Fuss & O'Neill) and Alex Elvin with attachments, containing answers to MVC questions, consisting of seven (7) pages, dated May 11, 2022.
- E36. Technical Memorandum from Matthew Skelly and Katherine O'Shea (Fuss & O'Neill), regarding Trip Generation Assessment for Main Street Medicinals, consisting of one (1) page, dated May 17, 2022.
- E37. Technical Memorandum from Kurt Fraser and Maaza Mekuria (Fraser Polyengineering Services) response to Fuss & O'Neill Technical Memorandum.

- E38. Applicant's Final Offers, consisting of three (3) pages, dated May 26, 2022.
- E39. Specification Sheet for 330 Gallon Reconditioned IBC Tote with 2" Camlock Valve, Steel Pallett transport container, consisting of three (3) pages prepared by the Cary Company.
- E40. Lighting Specification Sheet for Wall Mount LED NAFCO WCX and Area/Flood/Roadway LED Lighting NAFCO SLX, consisting of sixteen (16) pages prepared by the Wisconsin Lighting Lab.
- E41. Minutes of the Commission's Land Use Planning Committee Concurrence Review, February 8, 2021.
- E42. Minutes of the Commission's Land Use Planning Committee Concurrence Review, March 7, 2022.
- E43. Minutes of the Commission's Vote to Concur with the Referral, March 17, 2022.
- E44. Minutes of the Commission's Public Hearing, April 28, 2022.
- E45. Minutes of the Commission's Continued Public Hearing, May 12, 2022.
- E46. Minutes of the Commission's Land Use Planning Committee Post-Public Hearing Review, June 6, 2022.
- E47. Minutes of the Commission's Deliberation and Decision, June 9, 2022.
- E48. Minutes of the Commission's Written Decision, July 7, 2022.

2.5 Summary of Testimony

The following gave testimony during the public hearing on April 28, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Daniel Glissman, Applicant's Attorney and Josh Silver, Applicant.
- Oral testimony from Public Officials speaking for their Boards: none.
- Oral testimony from the Public: none.

The following gave testimony during the continued public hearing on May 12, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Daniel Glissman, Applicant's Attorney; Josh Silver, Applicant; and Matthew Skelly, Traffic Consultant.
- Oral testimony from Public Officials speaking for their Boards: Elaine Miller, Tisbury Planning Board.
- Oral testimony from the Public: none.

3. FINDINGS

3.1 Project History

Main Street Medicinals LLC includes founders Noah Eisendrath and Nicholas Catt, along with Brendan McKee, Josh Silver, and Joshua Ferranto of Silver Therapeutics Inc.

3.2 Project Description

The property includes a 7,448 ft² (4,900 ft² footprint) sheet metal building previously occupied by an auto repair shop. The total proposed floor area is 7,964 ft², including 4,944 ft² for cultivation, processing, and testing; 680 ft² for retail space; and 2,340 ft² for other purposes (staff areas, loading, hallways, etc.). The retail space will replace an existing loading dock on the northwest side of the building, and the building will be expanded to the northeast. The facility will produce and sell marijuana and marijuana-infused products for medical and recreational use. The Applicant is not expecting to wholesale to other businesses.

Proposed main level: 4,553 ft²

- Main level retail (dispensary): 680 ft²
- Main level cultivation: 2,732 ft²
- Common areas: 1,141 ft²

Proposed basement: 3,411 ft²

- Basement cultivation, processing, and testing: 2,212 ft²
- Common areas: 1,199 ft²

3.3 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 evaluation 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 testimony presented and reviewing all documents 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 of 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 SECTIONS 14 AND 15 OF THE ACT.**

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

The Commission finds that the probable benefits of the project outweigh the probable detriments, as described below. With respect to impacts upon the environment (Section 15(b) of the Act), persons and property (Section 15(c) of the Act), the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act), and the provision of municipal services or burden on taxpayers (Section 15(e) of the Act), the Commission finds the project would have a beneficial impact. The Commission finds the project generally aligns with local planning objectives, but that it would likely increase the burden on existing public facilities. Commissioners note that while there is already a registered marijuana establishment on Mechanic Street, the project is within the B2 zoning district in Tisbury, where such establishments are allowed by Special Permit.

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

With respect to Water Quality (considered a primary factor in the decision) the Commission finds the project will have a neutral impact. As conditioned, the project would tie into the sewer at such time as a sewer line becomes available on State Road passing Mechanic Street. The Commission also notes the following:

- The property is within the Tashmoo Pond watershed and has a 1,000-gallon septic system rated for 210 gallons per day (GPD). The proposed wastewater flow would be reduced from an assumed 210 to 190 GPD.
- The adjusted nitrogen load limit for the property is 0.944 kg/year. The previous use was calculated as generating 6.79 kg/year.
- The actual amount of previous wastewater flow is unknown.
- The Applicant has stated that 161 pounds of nitrogen per year would be applied in the cultivation area, with about 75% of runoff reused for irrigation, and the rest discharged into a tight tank inside the building for disposal off-Island by CleanHarbors Environmental Services (as requested by the Tisbury Planning Board), or potential agricultural use on the Island.
- The Applicant has stated that the current septic system has passed inspection and is appropriately sized for the proposed uses. The proposed Policies and Procedures for Cultivation, including odor mitigation and waste disposal, have been provided.
- A 2021 Phase 1 Environmental Site Assessment by Green Environmental Inc. on behalf of the Applicant noted the use of motor oil, brake fluid, and other substances associated with the auto repair shop, but found no evidence of Recognized Environmental Conditions (RECs) in connection with the property.

With respect to Stormwater, the Commission finds the project would have a neutral effect, and notes the following:

- The parking area would remain impervious.

- A drainage plan designed for a 25-year storm shows one proposed drainage basin in the parking area north of the building, and four proposed drainage basins, along with a proposed catch basin, in the southeast corner of the lot. The Tisbury Planning Board has stated that it will require confirmation from a licensed engineer that the plan is adequate for the proposed commercial use.

With respect to Energy, the Commission finds the project would have a beneficial effect, since the electric utilities and onsite solar generation would help mitigate an expected increase in energy use, and the Applicant will contribute \$10,000 to the Vineyard Power Development Fund to support renewable energy development on the Island. The Commission also notes the following:

- The building is currently heated by propane. The Applicant has stated that the renovated building will be all-electric with rooftop solar panels (capacity of about 30,000 KWh annually) and an HVAC system that includes a desiccant wheel to increase efficiency.
- LED lighting would be used throughout, including for cultivation.

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

With respect to Traffic and Transportation (considered a primary factor in the decision), the Commission finds the project as conditioned would have a neutral impact. The Commission notes the following:

- A Fuss & O'Neill traffic analysis concluded that the project would generate 28 vehicle trips (14 each way) during the weekday afternoon peak hour, and 48 trips (24 each way) during the Saturday peak hour (a 1% and 2% increase, respectively), with the highest impact being on the northbound approach of the Mechanic Street – State Road intersection, and that the project would not have a significant impact on traffic in the area.
- Fuss & O'Neill revised its analysis in response to peer review by Fraser Poly-Engineering Services (FPES). The revisions primarily dealt with the projected east-west trip distribution (50/50 vs. 75/50), and incorporation of the geometry of existing intersections.
- The Applicant and town boards/officials have discussed the possibility of extending Mechanic Street to connect with Eleanor Street, which would provide alternate access back onto State Road via High Point Lane or Evelyn Way. A license agreement between the Applicant and Select Board allowing the Applicant to construct the extension over town-owned land has been drafted, and the Host Community agreement includes an easement for an egress-only driveway connecting to Eleanor Street. The Planning Board has indicated that it may want to revisit the idea in the future as part of wider planning efforts in the area.
- A letter from Fuss & O'Neill to the Planning Board in Jan. 2022 regarding the peer review stated that the following conclusions had been reached by both parties:
 - East-west trip generation is adequately addressed in the revision.
 - Pre-existing and projected traffic congestion in the area is not attributed to the proposed development.

- The proposed egress-only driveway is feasible, but FPES has requested more detailed plans.
- A transportation demand management plan by Fuss & O'Neill, which aims to reduce the number of single-occupancy vehicle trips to and from the site, includes the following:
 - Provide a pre-paid bus fare pass to any employee who is able to utilize the VTA system to commute to the dispensary.
 - Prominently display all public transit schedules in a visible location at the dispensary.
 - Provide VTA maps depicting station locations to both employees and customers in order to supply transit users with the information required to utilize the system.
 - Require that employees park at the nearby park and ride and utilize an existing footpath to walk to the site.
 - Incentivize employees to carpool with small bonuses or other programs as appropriate.
 - Explore the possibility of implementing an appointment only restriction to limit the number of customers during peak periods as to alleviate any adverse traffic impacts.
- In light of observed business at the existing Fine Fettle dispensary in West Tisbury, the Applicant is expecting an average of 60 customers per day. A supplementary memo from Fuss & O'Neill states that would amount to about 120 daily trips and 12 peak-hour trips, compared to the official analysis which is based on Institute of Transportation Engineers (ITE) estimates. The ITE estimates are 133% higher than the Applicant's traffic projections for the afternoon peak hour, and 400% higher for the Saturday peak hour. However, FPES has stated that the Applicant's projections are not acceptable since they are based on data from just one other dispensary over a short period of time (less than a year), with no exact estimate of demand on the Island.
- To address traffic impacts along Mechanic Street, and following discussions with town boards and departments, traffic consultants, and others in 2021, the Applicant has proposed widening Mechanic Street to the north (while avoiding existing maple trees) and possibly extending the street to include a driveway that would exit onto Eleanor Street to the east.
- The Applicant has agreed to fund the reconstruction of an existing sidewalk within 500 linear feet of Mechanic Street along State Road, and the refreshment of pavement markings and signage at key points along State Road, subject to approval by the MA Dept. of Transportation.
- The site currently has 19 parking spaces, not including several spaces that have been used along Mechanic Street, which is more than the Applicant expects would be used. Customers could also use the Park and Ride.
- The Applicant has stated that employees will be issued discounted bus passes and encouraged to park offsite, and that bike racks could potentially be installed on the property. Employees would be required to commute by public transit or bicycle, or to use off-site parking.
- The Planning Board has expressed concern that biking and walking to the site is not realistic for customers, since there would not be room for a sidewalk or bike lane on Mechanic Street, even if it is widened, and State Road currently has no bike lanes and only incomplete sidewalks.
- The Planning Board has stated that the nearby Park and Ride has become a parking solution for the Island Time dispensary on Mechanic Street, and further review is needed to determine if the Park and Ride has enough capacity for both establishments.

- The Tisbury Police Chief has stated that Island Time so far has not created any traffic problems.
- The Applicant is currently ineligible under the Host Community Agreement to provide delivery service.

With respect to Economic Development (considered a primary factor in the decision), the Commission finds the project would have a beneficial impact by creating additional business activity in the B2 district, and by contributing to the local tax base. The Commission also notes the following:

- The Applicant intends to hire up to 21 employees, including managers, sales agents, drivers, and others. The Host Community Agreement also requires that the Applicant hire on-Island workers wherever possible.
- Employees would receive training through the MA Cannabis Control Commission, either onsite or remotely. The Applicant also intends to utilize local businesses for construction.
- The proposed hours of operation are 10AM–8PM, seven days a week. (The hours at Island Time are listed as 10AM-6PM, seven days a week.)
- The retail operation as proposed would be on a walk-in basis, although the Applicant plans to work with the town to determine a traffic level above which the model would switch to appointment-only.

With respect to Safety and Health, the Commission notes the following:

- The Applicant has prepared consumer and patient education materials and has offered to work with the Town to monitor and mitigate potential health impacts related to marijuana consumption. (Sample materials have been provided.)
- Health measures would also include labelling and packaging to comply with state and local requirements, and efforts to support substance abuse education and prevention programs.
- The Host Community Agreement requires the Applicant to work with the Tisbury Police Department on a Diversion Plan to prevent the diversion of marijuana and related products to ineligible users, and to review the security plan, to the extent required by the department.
- Proposed security at the site currently includes cameras, remote monitoring, alarms, onsite security personnel, a sally port, and other protocols for customer entrance.
- The Tisbury Police Chief has stated that he does have any concerns about the operation of the proposed business, given the state and local regulations, but reserves the right to review any security protocols.

With respect to Night Lighting, the Commission notes the following:

- The Applicant has provided a preliminary lighting plan with wall-mounted lighting at seven locations around the building, and downward-shielded parking lights at nine locations around the parking area and end of the road.
- Security cameras proposed for the site will have infrared technology, which may allow for lower lighting conditions, although the Applicant has stated that the minimum amount of lighting for safety and security will be provided.

With respect to Character and Identity, the Commission makes no finding but notes that the proposed business would be located in an existing commercial building, and in the vicinity of other commercial uses. The building is not visible from State Road.

A4. In regard to the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act; considered a primary factor in the decision), the Commission finds the project would have a beneficial impact.

The Commission notes the following:

- To mitigate the impact on Island housing needs, the Applicant has signed a non-binding letter of intent to lease a four-bedroom house in Tisbury (with occupancy of up to eight people and parking for five cars) to house four Main Street Medicinals employees year-round. As conditioned, the monthly rent would not exceed 30% of the employee's household salary.
- In addition, the Host Community Agreement requires that the Applicant contribute at least \$25,000 annually to the Tisbury Affordable Housing Committee. The required contribution would increase 2.5% annually.

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

The Commission notes the following:

- The Applicant has obtained a Host Community Agreement (HCA) from the Town of Tisbury, which requires the Applicant to contribute an initial and annual Host Community Impact Fee (\$20,000 initial payment, plus 3% of gross sales annually, with quarterly payments), as well as property taxes, excise taxes, voluntary contributions to the Tisbury Affordable Housing Trust (see Housing section below), and other fees; submit annual written reports to the Town selectmen; work with the Tisbury Police Department to prevent diversion of marijuana products to ineligible users and to review security plans; agree to annual inspections by Town departments; conduct a Community Outreach Meeting prior to the start of operations; apply a Local Labor Hiring Preference; and other requirements.
- The Applicant has stated that the Town could receive up to 6% of the projected annual retail income associated with the business, through the 3% local sales tax option and the additional HCA Impact Fee. Annual revenues are projected at about \$2.9 million in year one, with town receipts in the range of about \$87,000. According to the Host Community Agreement, the impact fee is intended to defray "additional expenses and impacts upon the Town's road system, law enforcement, fire protection services, inspectional services and permitting services, public health services, and other additional unforeseen impacts."
- As part of its ongoing public hearing for the project, the Tisbury Planning Board has addressed issues related to traffic, infrastructure, housing, public space, and drainage.

A6. The Commission finds that the proposed development would likely increase the burden on existing public facilities or those that are to be developed within the succeeding five years (Section 15 (f) of the Act).

The Commission notes that the project would increase traffic on Mechanic Street, which is in poor condition. However, the Applicant has proposed widening the street and making other improvements to transportation infrastructure in the vicinity.

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

A8. The Commission finds that the proposed development as conditioned is consistent with municipal ordinances and by-laws (Section 14(c) 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 project generally aligns with the goals and objectives of the Island Plan, including sections 4 (Built Environment), 6 (Livelihood and Commerce), 7 (Energy and Waste), and 9 (Transportation).

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

The project is consistent with local zoning and is allowable by Special Permit.

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

The project site is not within any DCPC.

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 and offers, the Commission has concluded that the probable benefits of this proposed development in this location exceed its probable detriments in light of the considerations set forth in section 15 of the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noted meeting of the Commission held on June 9, 2022, and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearing and deliberations, participated in the decision on June 9, 2022:

Voting to approve the project: Jeff Agnoli, Jay Grossman, Michael Kim, Joan Malkin, Greg Martino, Kathy Newman, Ben Robinson, Doug Sederholm, Brian Smith, Christine Todd, Jim Vercruysse.

Voting against: Ernie Thomas.

Abstentions: Fred Hancock.

Absent: Christina Brown, Kate Putnam, Linda Sibley.

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

This Written Decision is consistent with the vote of the Commission on June 9, 2022, and was approved by a vote of the Commission on July 7, 2022.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Commission imposes the following conditions in order to minimize the potential detriments and maximize the potential benefits:

1 WASTEWATER

- 1.1 The Applicant shall connect the building to the town sewer system at such time that a sewer line is installed on State Road such that properties on mechanic street can connect to it.
- 1.2 Any nitrogen that is not re-used for irrigation will be discharged into a tight tank inside the building for disposal off-Island by CleanHarbors Environmental Services (as requested by the Tisbury Planning Board), or for potential agricultural use on the Island, if tested for known pollutants and determined to be satisfactory for such use pursuant to Massachusetts law or other applicable laws.

2 HOUSING AND EMPLOYMENT

- 2.1 As offered, the Applicant shall make an annual contribution of no less than twenty-five thousand dollars (\$25,000) to the Tisbury Affordable Housing Trust, as set forth in Section 3(c) of the HCA.
- 2.2 As offered, there shall be a maximum of 12 employees on-site at any time.
- 2.3 The Applicant will make available off-site housing for four Main Street Medicinals employees year-round, with annual documentation as required by MVC staff provided no later than June 30 of each year. The monthly rent charged to the employee shall not exceed 30% of the gross salary of the employee household.
- 2.4 No person who is not an employee of the proposed business (other than the employee's family members who occupy the premises with the employee, if applicable) may occupy the housing at any time, and the housing may not be subleased.

3 HOURS OF OPERATION

- 3.1 As offered, hours of operation shall be 10AM-8PM seven days a week.

4 TRAFFIC AND TRANSPORTATION

As offered:

- 4.1 The Applicant will agree to a condition that the retail component of the facility implement appointment-only restrictions if required to do so by the Tisbury Planning Board.
- 4.2 The Applicant will codify its agreement with the town to permit the extension of Mechanic Street.
- 4.3 The Applicant shall widen Mechanic Street to the north (while avoiding existing maple trees) as shown on plans submitted to the Martha's Vineyard Commission.
- 4.4 The Applicant shall incentivize employees to park at the nearby Park and Ride and utilize an existing footpath to walk to the site in the event that the Tisbury Planning Board determines that the on-site parking is inadequate.
- 4.5 The Applicant shall finance certain sidewalk improvements, pavement markings, and signage on State Road as approved by the Tisbury Planning Board.

Additional conditions:

- 4.6 The Applicant shall carry out the Transportation Demand Management Program as recommended by Fuss & O'Neill:
 - Provide a pre-paid bus fare pass to any employee who is able to utilize the VTA system to commute to the dispensary.
 - Prominently display all public transit schedules in a visible location at the dispensary.
 - Provide VTA maps depicting station locations to both employees and customers in order to supply transit users with the information required to utilize the system.
 - Require that employees park at the nearby park and ride and utilize an existing footpath to walk to the site.
 - Incentivize employees to carpool with small bonuses or other programs as appropriate.
- 4.7 A final circulation plan, incorporating the comments by Fraser Poly-Engineering Services dated May 26, 2022, shall be submitted to the MVC prior to the issuance of a Building Permit.
- 4.8 The Applicant shall submit actual traffic volumes to the MVC (peak day and hour, and average daily traffic) after one full year of operation. If the traffic volumes exceed the Applicant's projections (average of 120 trips per day) by more than 40%, then further review shall be required by the LUPC, including the possibility of shifting to appointment-only.

5 ENERGY

- 5.1 As offered, power sources for the building shall be all-electric with rooftop solar panels with a capacity of about 30,000 KWh annually.
- 5.2 As offered, the Applicant shall make a one-time contribution of \$10,000 to the Vineyard Power Development Fund.

6 SAFETY AND HEALTH

As offered:

- 6.1 The Applicant shall make significant security improvements to the existing building on the property in connection with the development of the facility, including the use of cameras throughout the interior and exterior of the building. A copy of the proposed security plan has been submitted to the MVC.

All products sold and developed by the Applicant will include the following warning label and will be packaged in child-resistant and opaque packaging that is plain in design, as required by 935 CMR 500.000, *et. seq.*:

"This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN. There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of Edibles may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA."

If this information is not included, it is a violation of the laws and regulations in Massachusetts and should be returned to the store.

Furthermore, all consumers will be provided with customer education materials approved by the Massachusetts Cannabis Control Commission. These materials will provide customers with information on cannabis and its proper use, the laws of the Commonwealth of Massachusetts related to cannabis and cannabis usage, common signs and symptoms of drug addiction and abuse, and information on tolerance, dependence, and withdrawal.

7 LIGHTING

7.1 A final exterior lighting plan for the properties shall be submitted to the LUPC for review and approval prior to receipt of a Certificate of Occupancy.

- All exterior lighting shall be downward-shielded and comply with International Dark Sky Association standards.
- The color temperature of exterior lighting shall not exceed 3,000 Kelvin.
- All lighting shall be LED, including for cultivation.

8 MODIFICATIONS

8.1 Any proposed modifications to DRI 723, as approved herein, including any modification resulting in any change of use or change in intensity of use, shall be referred to the MVC for prior review and approval.

6. CONCLUSION

6.1 Permitting from the Town

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

The permit-granting authorities of the Town of Tisbury may now grant the request for approval of the Applicant's proposal in accordance with this decision and may place further conditions thereon in accordance with applicable law or may deny the request for approval. Any permit issued by the Town shall incorporate the plan approved by the Commission.

6.2 Notice of Appellate Rights

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

6.3 Length of Validity of Decision

The Applicant shall have two (2) years from the date of receipt of the Decision of the Martha's Vineyard Commission contained in this document to begin substantial construction.

6.4 Signature Block


Joan Malkin, Chair

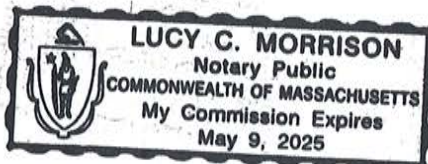
12 July 2022
Date


6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 12th day of July, 2022, before me, Lucy C. Morrison, the undersigned Notary Public, personally appeared Joan Malkin, proved to me through satisfactory evidence of identity, which was personal knowledge to be the person whose name was signed on the preceding or attached document in my presence, and acknowledged to me that she signed it voluntarily for its stated purpose as a free act and deed, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.




Signature of Notary Public

Lucy C. Morrison

Printed Name of Notary

My Commission Expires May 9, 2025