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Decision of the Martha's Vineyard Commission

DRI 737 - Hangar Lot G

1. SUMMARY

- Referring Board:** Martha's Vineyard Airport Commission
- Subject:** Development of Regional Impact #737 - Hangar Lot G
- Project:** Construction of a new aircraft hangar on a vacant lot.
- Owner:** Dukes County, MVY Airport
- Applicant:** Myles Peter Rogers (leaseholder); Gary BenDavid (builder)
- Applicant Address:** Gary BenDavid
63A Naushon Avenue
Oak Bluffs, MA 02557
- Project Location:** 21 Hangar Road South, West Tisbury. Map 28, Lot 1.15.
- Decision:** The Martha's Vineyard Commission (the Commission) approved the application for the project as a Development of Reginal Impact with conditions, at a vote of the Commission on December 15, 2022.
- Written Decision:** This written decision was approved by a vote of the Commission on January 5, 2023.

The permit-granting authorities of the Town of West 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 August 30, 2022, by the Martha's Vineyard Airport Commission 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: 3.1b *Commercial development of more than 3,500 ft²* and 7.1 *New or Expanded Transportation Facilities or Infrastructure*, both of which require a mandatory public hearing review 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 October 27 and November 3, 2022; notice was also published in the Vineyard Gazette on October 28 and November 4, 2022. Abutters within 300 feet of the property were notified by mail on October 25, 2022.

Hearings: The Commission held a duly noticed public hearing on the Application that was conducted pursuant to the Act and M.G.L. Chapter 30A, Section 2, as modified by Chapter 831 on November 10, 2022. The hearing was closed that night with the exception of the written record, which was left open until November 17, 2022 at 5:00 p.m. and closed at that time. The hearing was held entirely using remote conference technology as allowable under Chapter 22 of the Acts of 2022.

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. Preliminary Application Package for DRI 737 consisting of two (2) 34" x 22" pages prepared for Gary BenDavid Builders, Inc. by Erectatube Inc., no scale, dated September 14, 2022, including: Floor Plan & Elevation and Anchor Bolt Layout.
- P2. Parking Plan for DRI 737 consisting of one (1) page Floor Plan & Elevation (page 1 of P.1) annotated with parking spaces highlighted by the applicant, received September 30, 2022.
- P3. Stormwater Drainage Plan in West Tisbury, Mass. prepared for Gary BenDavid by Vineyard Land Surveying & Engineering, consisting of one (1) 36" x 24" page, scale 1" = 10', dated November 14, 2022.

2.4 Other Exhibits

- E1. Referral to the Martha's Vineyard Commission from the Martha's Vineyard Airport Commission, received August 30, 2022.
- E2. Letter from Geoffrey Freeman, Airport Director, to the Martha's Vineyard Commission, regarding the Vineyard Wind Hangar, consisting of one (1) page, dated August 4, 2022.
- E3. Emails between Kevin Brennan, Airport Properties Manager, and Alex Elvin regarding the DRI Referral for Hangar Lot G, consisting of three (3) pages, dated August 30, 2022.
- E4. Letter from Reid Silva, Vineyard Land Surveying & Engineering, to Gary BenDavid, Applicant, regarding the production of a stormwater management plan, including preliminary sketches and concepts, consisting of three (3) pages, dated September 15, 2022.
- E5. Narrative Letter from M. Peter Rogers to Alex Elvin, consisting of one (1) page, received September 29, 2022.
- E6. Emails between Gary BenDavid and Alex Elvin regarding Hangar Lot G, consisting of three (3) pages, dated September 29, 2022.
- E7. Aerial photograph of the property, consisting of one (1) page, received September 29, 2022.
- E8. Emails between Geoffrey Freeman, Airport Director, and Alex Elvin regarding uses of airport properties, consisting of two (2) pages, dated October 14, 2022.
- E9. Staff Report for DRI 737 Hangar Lot G, consisting of two (2) pages, dated October 14, 2022.
- E10. Staff Presentation to the Land Use Planning Committee, consisting of fifteen (15) pages, dated October 17, 2022.
- E11. Staff Presentation to the Martha's Vineyard Commission, consisting of sixteen (16) pages, dated November 10, 2022.
- E12. Minutes of the Land Use Planning Committee's Pre-Public Hearing Review, October 17, 2022.
- E13. Minutes of the Commission's Public Hearing, November 10, 2022.
- E14. Minutes of the Land Use Planning Committee's Post-Public Hearing Review, November 28, 2022.
- E15. Minutes of the Commission's Deliberation & Decision, December 15, 2022.
- E16. Minutes of the Commission's Approval of the Written Decision, January 5, 2023.

2.5 Summary of Testimony

The following gave testimony during the public hearing on November 10, 2022:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Presentation of the project by Peter Rogers, Applicant; and Geoffrey Freeman, Airport Director.

- Oral testimony from Public Officials: none.
- Oral testimony from the Public: none.

3. FINDINGS

3.1 Project History

- The lot is currently vacant, with seven existing aircraft hangars in the immediate vicinity, and is indicated in the 2016 MVY Airport Master Plan Update as the site of a future hangar.
- There are currently eight leased properties with hangars at the airport.
- The airport manager has noted the need for additional hangar space.

3.2 Project Description

The proposal is to construct an approximately 15,000 ft² steel hangar on a vacant lot within the existing T-hangar complex at the Martha's Vineyard Airport. The hangar will accommodate eight small aircraft and be managed by Peter Rogers and Gary BenDavid (Vineyard Hangar G, LLC).

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 SECTION 14(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 persons and property (Section 15(c) of the Act), the Commission finds the project would have a beneficial impact. The Commission finds that the project would have a neutral impact with respect to impacts upon the environment (Section 15(b) of the Act)

and the provision of municipal services or burden on taxpayers (Section 15(e) of the Act); that the project would not unduly burden existing public facilities and that it would generally align with local planning objectives.

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 proposal is to develop a new aircraft hangar on a vacant lot within the airport's existing T-Hangar complex. The lot is identified in the MVY Airport Master Plan Update as the site of a future hangar, and the airport manager has confirmed the need for the additional hangar space. As such, the Commission finds the project is both appropriate and essential.

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

The Commission notes the following:

Stormwater

- The lot is currently vegetated, including trees, and will become mostly impermeable. The Applicant has stated that the total proposed roof area is about 13,000 ft², and that the hangar will cover about 71% of the lot with rest being paved over with asphalt. The new asphalt will connect to existing asphalt to the north, south, and west.
- A stormwater plan designed for a 25-year storm has been provided. The drainage plan is subject to MVY Airport Commission approval.

Energy

- The building will be solar-ready, although the total capacity has not been specified. The Applicant has stated that some of the bays may be heated, but that would be up to the users.
- The Applicant has stated that any heating within the building would not require fossil fuels.

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 the primary factor in the decision), the Commission finds the project would have a beneficial impact. The Commission also notes the following:

Traffic and Transportation

- The project will create eight spaces for small aircraft storage at the airport.
- The Applicant has stated that the project is intended for planes that already park elsewhere at the airport, so would not lead to an increase in the number of planes.
- Automobile access for hangar users will be via the existing Hangar Road South, including an ID-activated gate, with parking for up to 16 vehicles inside the hangar. The lot is currently used as unofficial parking.
- The Airport Manager regulates all access to the hangars.

- The Applicant and Airport Properties Manager have stated that the hangar would improve safety by providing indoor storage space, compared to outdoor storage which requires the planes to be tied down during high winds.

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

Island housing needs

- The Applicant has stated that the proposal will not involve any new employees.

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

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

The Commission notes that the project is intended to improve a public facility (MVY Airport).

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

The project generally aligns with the Island Plan, including section 9 (Transportation).

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

The project is allowable under town zoning.

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 in general advances the Commission's land development objectives, as outlined in Section A7 of this Decision.

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.

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 District of Critical Planning Concern.

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, 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 noticed meeting of the Commission held on December 15, 2022 and made its decision at the same meeting.

The following Commissioners, all of whom participated in the hearings and deliberations, participated in the decision on December 15, 2022:

Voting to approve the project: Jeff Agnoli, Trip Barnes, Christina Brown, Jay Grossman, Fred Hancock, Michael Kim, Joan Malkin, Greg Martino, Kate Putnam, Ben Robinson, Doug Sederholm, Linda Sibley, Ernie Thomas, Jim Vercruyse, Peter Wharton

Voting against: None

Absent: Kathy Newman

Ineligible to Participate: Brian Smith

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 December 15, 2022 and was approved by a vote of the Commission on January 5, 2023.

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. A final exterior lighting plan for the property 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.
2. The Applicant shall provide a surveyed, dimensional, as-built site plan prior to receipt of a Certificate of Occupancy.

3. Any proposed modifications to DRI 737, 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.
4. If the Applicant chooses to add rooftop solar in the future, it does not need to return to the Commission for a modification.

6. CONCLUSION

6.1 Permitting from the Town

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

The permit-granting authorities of the Town of West 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

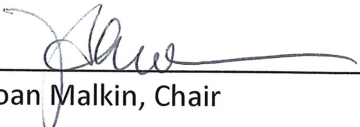
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the West Tisbury Town Clerk.

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.

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6.4 Signature Block


Joan Malkin, Chair

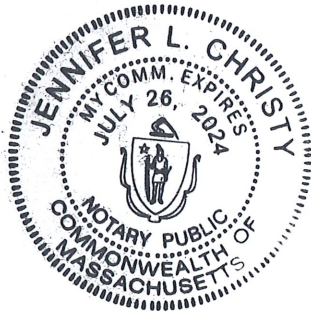
10 Jan. 2023
Date

6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 10th day of JANUARY, 2023, before me, JENNIFER L. CHRISTY, the undersigned Notary Public, personally appeared Joan Malkin, proved to me through satisfactory evidence of identity, which was PERSONALLY KNOWN TO ME 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

JENNIFER L. CHRISTY
Printed Name of Notary
My Commission Expires JULY 26, 2024

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: January 30, 2023

Deed: Book 1647, Page 632

Document Number: 0548

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds