

P.O.BOX 1447 • 33 NEW YORK AVENUE • OAK BLUFFS • MA • 02557
508.693.3453 • FAX: 508.693 7894
INFO@MVCOMMISSION.ORG • WWW.MVCOMMISSION.ORG

Decision of the Martha's Vineyard Commission

DRI 462-M4 – South Mountain Company Expansion

1. SUMMARY

<u>Referring Board:</u>	Zoning Board of Appeals, West Tisbury
<u>Subject:</u>	Development of Regional Impact #462-M4 South Mountain Company Expansion
<u>Project:</u>	Modification of several conditions of the original DRI 462 MVC decision approved June 31, 1998; March 11, 2005; and July 9, 2012.
<u>Owner:</u>	South Mountain Company, Inc.
<u>Applicants:</u>	South Mountain Company, Inc.; John Abrams (CEO) and Beth Kostman (Agent)
<u>Applicant Addresses:</u>	P.O. Box 1260 West Tisbury, MA 02575
<u>Project Location:</u>	15 Red Arrow Road, West Tisbury, MA. Map 8, Lot 37 (6.3 acres).
<u>Previous Decisions:</u>	DRI 462: Book 734, Page 364; DRI 462-M2: Book 1033, Page 1042
<u>Description:</u>	The proposal is to expand the South Mountain Company facility to add 3,600 square feet of lumber storage and shop space; 600 square feet for a solar components storage shed; convert the existing shop to meeting space and offices, and convert existing lumber storage space to shop space; remove the temporary 1,350 square foot hoop building; increase the number of parking spaces from 35 to 40; clear an additional 12,000 square feet of wooded area; and increase the number of full time employees on site to from 18 to 24.
<u>Decision:</u>	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 August 22, 2019. This written decision was approved by a vote of the Commission on September 5, 2019.

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 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. Many of the plans, staff notes, information and correspondence are available on the DRI 462-M4 webpage on the MVC website: <http://www.mvcommission.org/dri/summary/462/54948>.

2.1 Referral

The project was referred to the Commission on May 6, 2019 by the Zoning Board of Appeals of the Town of West Tisbury 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 1.2 as a Modification to a Previous DRI.

2.2 Hearings

Notice: The public hearing notice was mailed to abutters within 300 feet of the property on June 25, 2019. Public notice of the public hearing on the Application was published in the M.V. Times on June 27 and July 3, 2019. The public hearing notice was also published in the Vineyard Gazette on June 28 and July 5, 2019.

Hearing: 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 18, 2019 and was closed at that time with the exception of the written record which was extended to July 26, 2019 at 5:00 pm 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." Pages or sheets are 8.5" x 11" unless otherwise noted.

- P1 An Application package entitled "South Mountain Headquarters" consisting of five (5) 11" x 17" pages prepared by South Mountain Company P.O. Box 1260 West Tisbury, MA 02575, 508.693.4850, www.southmountain.com; "S2: Existing Locus Plan," scale $\frac{1}{64}$ " = 1'-0", dated March 21, 2019; "Site Plan" prepared for South Mountain Company Inc. by Schofield, Barbini & Hoehn Inc. Land Surveying & Civil Engineering, 12 Surveyor's Lane, Box 339 Vineyard Haven, Mass. 02568, 508-693-2781, www.sbhinc.com MV 9826, scale 1" = 30', dated July 28, 2016; "A101 Site Plan - Existing and Proposed" prepared by South Mountain Company, dated March 8, 2019; "S1 Site Survey," scale 1" = 30', dated March 8, 2019; "A202 Lumber Storage Shed," scale $\frac{1}{8}$ " = 1', dated May 7, 2019.
- P2 "Proposed South Mountain Company Expansion Narrative" consisting of two (2) pages dated May 9, 2019; revised to consist of three (3) pages dated June 3, 2019; revised to consist of four (4) pages dated July 17, 2019; and revised again on July 23, 2019.
- P3 "Archaeology Memorandum for South Mountain Expansion Project, West Tisbury, MA" submitted to Beth Kostman, South Mountain Company by Holly Herbster, Senior Archaeologist/Principal Investigator, Public Archaeology Lab, consisting of two (2) pages dated February 7, 2019.

P4 "South Mountain Water Report" submitted to Beth Kostman, South Mountain Company by Kent Healy, Civil Engineer, consisting of two (2) pages dated May 9, 2019.

2.4 Other Exhibits

- E1. Referral to the MVC from the West Tisbury Zoning Board of Appeals; received May 6, 2019.
- E2. Completed DRI Application signed May 10, 2019.
- E3. Letter from Alana Murphy, Deputy Associate Director of the Department of Housing and Community Development, to John Abrams dated April 25, 2019.
- E4. MVC Staff Report July 18, 2019 by Dan Doyle, Regional Planner.
- E5. Affordable Housing and Economic Development Report by Christine Flynn, Affordable Housing and Economic Development Planner.
- E6. Images of the site taken on July 18, 2019 by MVC Staff.
- E7. Letter from Barbara Adler, Attorney, dated March 21, 2005 and submitted by John Abrams on July 19, 2019.
- E8. Letter from Byron Hartley, Vineyard Property Association Property Manager, dated March 30, 2005 and submitted by John Abrams on July 19, 2019.
- E9. Letters from Mike Colaneri, dated July 24, 2019.
- E10. Minutes of the Commission's Pre-Public Hearing LUPC Review, July 8, 2019.
- E11. Minutes of the Commission's Public Hearing, July 18, 2019.
- E12. Minutes of the Commission's Post Public Hearing LUPC Review, August 5, 2019.
- E13. Minutes of the Commission Meeting of August 22, 2019 – Deliberations and Decision.
- E14. Minutes of the Commission Meeting of September 5, 2019 – Approval of the Written Decision.

2.5 Summary of Testimony

The following is a summary of the principal testimony given during the public hearing on July 18, 2019.

- Staff Report by Dan Doyle, Regional Planner.
- Presentation of the project by John Abrams (South Mountain Company).
- Oral testimony from Public Officials: Larry Shubert, West Tisbury Affordable Housing Committee and West Tisbury Zoning Board of Appeals.
- Oral testimony from the Public: Bryon Hartley.

3. FINDINGS

3.1 Project Description

The expansion of South Mountain Company's commercial operation in a West Tisbury residential neighborhood is the second significant expansion since its original Comprehensive 40B permit was approved in 1998. An additional 4,200 square feet of commercial space will be added, comprised of shop and storage buildings, along with a solar shed. South Mountain Company will also remove a

temporary hoop house. The Applicant is conditioned to provide either a monetary mitigation of \$150,000 or equivalent value (\$150,000) in pro-bono services towards an Affordable Housing project that has yet to be identified. The project is also subject to review by the West Tisbury Zoning Board of Appeals. South Mountain Company is modifying a previous MVC Decision Condition, amounting to an increase in the number of full-time employees allowed on-site from 18 to 24.

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.

3.3 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 essential and appropriate in view of the available alternatives (Section 15(a) of the Act.)

In 1998, the Martha’s Vineyard Commission approved DRI 462 with conditions. The proposal was to construct a 16-unit clustered co-housing development and separate commercial design/build construction company on 36.2 acres in West Tisbury (27.5 acres of the 36.2 acres were left as open space). The project was presented to the Town of West Tisbury as a Comprehensive Permit filed under MGL Chapter 40B. The South Mountain Company was the development consultant, designer, and builder of both the co-housing and their own offices. One of the rationales for allowing a relatively large commercial enterprise in the rural residential district was that the company could help defray road and infrastructure costs and thus help affordability.

This is not a new site, but rather an expansion of an existing site. The location of added facilities at this site is more appropriate than adding the additional required facilities to a new site.

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

With respect to Wastewater and Groundwater, the Commission finds that the applicant continues to provide an Innovative Alternative for solid waste and wastewater by using Clivus Multrum Composting toilets along with a greywater irrigation system. The nitrogen contribution will remain well under the load limit of the property.

There will be minor detriment given the total impervious surface will increase in the form of additional rooftop coverage of the site.

With respect to Open Space, Natural Community and Habitat, the Commission notes as a detriment that 12,000 square feet of trees will be cleared for additional parking, but it will not be in a highly visible area. On the South Mountain Company parcel, more than half the property remains as woods.

With respect to Night Lighting and Noise, the Commission notes that the proposed expansion and use will have no impact.

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

With respect to Traffic, Transportation and Impact on Abutters, the Commission notes that the proposed additional office space is estimated to generate a relatively limited number of additional weekday trips given the increase in on-site employees, which represents a minor detriment.

With respect to Scenic Values the Commission finds that the building is not visible from any street. The proposed additions fit in well with the existing structure. The impact is neutral.

With respect to Character and Identity, the Commission finds that the proposed building is generally consistent with Island architecture. The commercial expansion's inconsistency with the rural character and identity of the surrounding residential neighborhood is a minor detriment.

A4 The Commission finds that the proposed development would have a beneficial 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 Applicant's offer of \$150,000 in monetary mitigation to a West Tisbury Affordable Housing entity or \$150,000 value in pro-bono services towards an Affordable Housing project in West Tisbury is a significant benefit.

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

There will be a modest increase in property taxes paid by the Applicant owing to the commercial expansion. The Applicant provides roughly 30 jobs for Island residents.

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).

The Applicant will be better positioned to continue to provide year-round jobs to Island residents.

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).

The Commission notes that the development is consistent with the following policies of the Martha's Vineyard Commission *Regional Policy Plan*, adopted by a vote of the Martha's Vineyard Commission on June 1991.

I-4: "Give top priority to year-round job opportunities for permanent Island residents and increase the Island's self-sufficiency..."

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 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 *Regional Policy Plan* adopted by the Commission in June 1991, and as enumerated previously in section A8 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.

The project is not consistent with local zoning, but was approved as part of a Comprehensive 40B permit issued in 1998.

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 notes that the proposed development site is not located within any Districts of Critical Planning Concern.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on August 22, 2019 and made its decision at the same meeting.

The following Commissioners, all of who participated in all hearing and deliberation on this project, participated in the decision on August 22, 2019.

- Voting in favor: Clarence “Trip” Barnes; Robert Doyle; Josh Goldstein; Fred Hancock; Joan Malkin; Kathy Newman; Ben Robinson; Doug Sederholm; Linda Sibley; Ernie Thomas; Richard Toole.
- Voting against: James Joyce.
- Abstentions: Leon Brathwaite.
- Recused: James Vercruysse.

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 August 22, 2019 and was approved by vote of the Commission on September 5, 2019.

5. CONDITIONS

After reviewing the proposal for this Development of Regional Impact, the Martha's Vineyard Commission imposes the following condition 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 the condition. The condition form an integral and indispensable part of this decision.

1.1 As offered by the Applicant, South Mountain Company will contribute:

- A total of \$150,000 in cash and/or pro-bono services will be donated to one or more affordable housing project(s) in West Tisbury.
- If the mitigation comes in the form of a monetary payment, the specific commitment will be made within 24 months of the time the approval is registered at the Dukes County Registry of Deeds, and it will be completed within 36 months of that same date.
- If the mitigation comes in the form of pro-bono services, an itemized accounting of services amounting to \$150,000 (which could be a combination of cash and pro-bono services) will be submitted to the MVC. The specific commitment will be made within 24 months of the time this Decision is registered at the Dukes County Registry of Deeds, and it will be completed within 36 months of that same date.
- In either case, the MVC will have first opportunity to review the proposed project, and the MVC must approve the disposition of the funds and/or proposed services before the mitigation condition is satisfied.

This condition is 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 Commonwealth shall pay the Commission's and/or Towns attorney's fees and costs incurred in obtaining judicial relief.

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 Applicants' 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. Any permit issued by the Town shall incorporate the plan approved by the MVC and the above conditions.

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. Should substantial construction 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.

6.3 Signature Block



Douglas Sederholm, Chairman

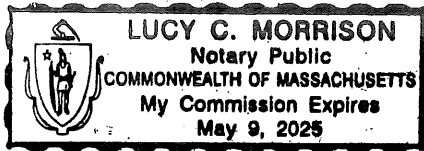
9/11/19

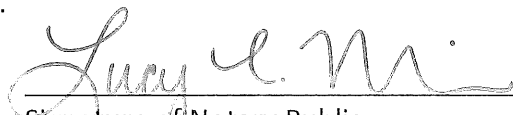
Date

6.4 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 11th day of September, 2019, before me,
Lucy C. Morrison, the undersigned Notary Public, personally
appeared Douglas Sederholm, proved to me through satisfactory evidence of
identity, which was/were personal knowledge 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.





Signature of Notary Public
Lucy C. Morrison

Printed Name of Notary
My Commission Expires May 9, 2025

6.5 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: September 11, 2019
Deed Book 1505, Page 546
Document Number: 00005019