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Decision of the Martha's Vineyard Commission DRI 703 AmeriGas Relocation

1. SUMMARY

Referring Board: Self-Referred

Subject: Development of Regional Impact #703 AmeriGas Relocation

Project: Relocation of two 30,000-gallon propane tanks from 7 North Line Road to 6 North Line Road at the Airport Business Park.

Owner: Titan Propane LLC, d/b/a AmeriGas

Applicant: AmeriGas Propane, L.P. d/b/a Vineyard Propane & Oil; Mary P. Banks, Senior Paralegal, UGI Corporation/AmeriGas Propane, L.P.; Thomas Green, AmeriGas

Applicant Addresses:

Mary P. Banks	Thomas Green
460 N. Gulph Road	6 North Line Road, Airport Industrial Park
King of Prussia, PA 19406	Edgartown, MA 02539

Deed: Recorded Land - Leased from MVY Airport

Project Location: 6 North Line Road, Edgartown. Map 24, Lot 2.31 (1.8 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 3, 2021.

Written Decision: This written decision was approved by a vote of the Commission on June 17, 2021.

The permit-granting authorities of the Town of Edgartown 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 March 9, 2021 by the Applicant 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 Item 3.4a - Commercial Storage of Fuel, and item 1vb of the 1998 MVC-MVY Airport Development Agreement regarding petroleum material usage or storage.

2.2 Hearings

Notice: Public notice of the hearing on the Application was published in the MV Times on May 20, and May 27, 2021; notice was also published in the Vineyard Gazette on May 21, and May 28, 2021. Abutters within 300 feet of the property were notified by mail on May 18, 2021.

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 June 3, 2021, which was closed that same night. The hearing was held entirely using remote conference technology as allowable under Chapter 53 of the Acts of 2020. At the meeting of June 3, 2021, the Commission voted to waive a post-public hearing LUPC and to deliberate and decide on the project at that same meeting.

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. Aerial view of relocation, scale 1 inch = 120 feet, dated March 9, 2021.
- P2. Proposed Landscape and Lighting Plan, received June 3, 2021.

2.4 Other Exhibits

- E1. Referral to the MVC from Applicant, received March 9, 2021.
- E. Edgartown Fire Safety Analysis Forms and Equipment Details, consisting of thirty-three (33) pages received March 9, 2021.
- E. Commonwealth of Massachusetts Department of Fire Services AST Use Permits, consisting of four (4) pages, received March 9, 2021.
- E. Email from Mary Banks to Alex Elvin regarding MVC Staff Questions, received April 9, 2021.

- E. Staff Report for DRI 703 AmeriGas Relocation dated May 12, 2021.
- E. Staff PowerPoint Presentation dated June 3, 2021.
- E. Minutes of the Commission’s Land Use Planning Committee Pre-Public Hearing Review, May 17, 2021.
- E. Minutes of the Commission’s Public Hearing and Deliberation & Decision, June 3, 2021.
- E. Minutes of the Commission’s Approval of the Written Decision, June 17, 2021.

2.5 Summary of Testimony

The following gave testimony during the public hearing on June 3, 2021:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Questions from Commissioners answered by Jeffrey Peyton, AmeriGas Region Director.
- Oral testimony from Public Officials speaking for their Boards: None.
- Oral testimony from the Public: None.

3. FINDINGS

3.1 Project History

6 North Line Road was formerly occupied by Vineyard Propane, which applied to the MVC in 1999 to install two additional 30,000-gallon propane storage tanks along with accessory parking (DRI 502). The application was procedurally denied without prejudice in December 2000 due to a lack of information from the Applicant.

AmeriGas currently leases 7 North Line Road from R2 Enterprises, and 6 North Line Road from the Airport. The proposal is to relocate two 30,000-gallon propane tanks to 6 North Line Road and relinquish the lease on 7 North Line Road. The relocation will result in a total of four 30,000-gallon tanks at 6 North Line Road. The Applicant is not proposing to move any other equipment at 7 North Line Road, including several existing fuel oil tanks, or to increase the current number of service vehicles. The relocation will involve various upgrades to 6 North Line Road, including a new piping system, two additional fill stations (for a total of four), one or two 6’ x 9’ storage sheds, and the addition of two 20-foot explosion-proof motion-sensor lights. All four of the tanks will be piped together as one bank.

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 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.

3.3 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.

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 property is located in the Business-3 (B-III) District in Edgartown and the Airport Business Park, which are designated for industrial uses. The Commission noted that this location is more appropriate than in a downtown Business District.

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).

With respect to Open Space, Natural Community and Habitat, the Commission finds no impact.

With respect to Wastewater and Groundwater, the Commission finds no impact.

With respect to Energy, the Commission finds no impact.

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, the Commission finds no impact.

With respect to Night Lighting and Noise, the Commission finds no impact.

With respect to Scenic Values, Character, and Identity, the Commission finds no impact, but notes that the Applicant will work with the Airport to develop landscaping along the portion of the property fronting North Line Road.

With respect to the Impact on Abutters, the Commission finds no impact.

With respect to Economic Development, the Commission notes that the proposal is a benefit because the proposal is more efficient than what currently exists, and this is an important enterprise for the Island.

A4. The Commission finds that the impact upon the supply of needed low- and moderate-income housing for Island residents (Section 15(d) of the Act) does not apply to this application.

A5. The Commission finds that the impact on the provision of municipal services or burden on taxpayers in the making provision therefore (Section 15(e) of the Act) does not apply to this application.

A6. The Commission finds that the proposed development would use efficiently and would 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 would not interfere with the ability of the municipality to achieve some of the objectives set forth in the municipal general plan (Section 15(g) of the Act).

With respect to Consistency with/and Ability to Achieve Town Objectives, the Commission finds that the proposal meets zoning, and conforms the purpose of the Airport Business Park.

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) if 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 Commission noted that the proposal is consistent with the Island Plan.

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 Commission finds that the property is not located in any DCPC.

In sum, after careful review of the Plans and its attendant submittals and the testimony presented by the Applicant and others, the Commission has concluded that the benefits of this proposed development in this location exceed its probable detriments in light of the considerations set forth in Section 14(a) of the Act.

4. DECISION

The Martha's Vineyard Commission deliberated about the application at a duly noticed meeting of the Commission held on June 3, 2021 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 3, 2021:

- Voting to approve the project: Jeffrey Agnoli; Trip Barnes; Christina Brown; Joshua Goldstein; Jay Grossman; Fred Hancock; Michael Kim; Joan Malkin; Kathy Newman; Brian Packish; Ben Robinson; Ted Rosbeck; Doug Sederholm; Ernie Thomas; Christine Todd; and James Vercruyse.
- Voting against: None.
- Abstentions: None.
- Recused: None.

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

This Written Decision is consistent with the vote of the Commission on June 3, 2021 and was approved by a vote of the Commission on June 17, 2021.

5. CONCLUSION

5.1 Permitting from the Town

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

The permit-granting authorities of the Town of Edgartown 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.

5.2 Notice of Appellate Rights

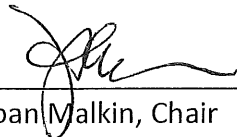
Any party aggrieved by a determination of the Commission may appeal to Superior Court within twenty (20) days after the Commission has sent the development Applicant written notice, by certified mail, of its Decision and has filed a copy of its Decision with the Edgartown Town Clerk.

5.3 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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5.4 Signature Block

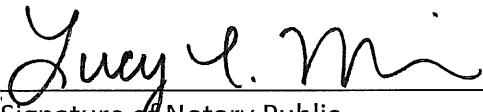

Joan Malkin, Chair

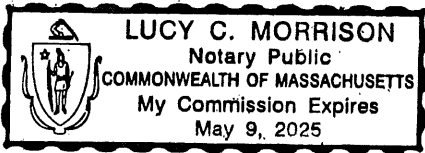
June 22 2021
Date

5.5 Notarization of Decision

Commonwealth of Massachusetts
County of Dukes County, Mass.

On this 22nd day of June, 2021, before me,
Lucy C. Morrison, the undersigned Notary Public, personally appeared
Joan Malkin, proved to me through satisfactory evidence of
identity, where 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

5.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: June 23, 2021
Deed: Book 1583, Page 1005
Document Number: 00005079