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Decision of the Martha's Vineyard Commission

DRI 705 Star Propane

1. SUMMARY

Referring Board: Select Board, Town of Edgartown

Subject: Development of Regional Impact #705 Star Propane

Project: Addition of one 30,000-gallon propane tank, for a total of 80,000 gallons and 110 gallons of methanol to be stored on site.

Owner: VPI Continuing Corp; Heath Estrella

Applicant: Heath Estrella, Reid Silva (Engineer)

Applicant Address: P.O. Box 2035
Vineyard Haven, MA 02568

Deed: Recorded Land - Leased from MVY Airport

Project Location: 4 North Line Road, Edgartown. Map 24, Lot 2.32 (approximately 0.939 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 July 15, 2021.

Written Decision: This written decision was approved by a vote of the Commission on August 12, 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 April 22, 2021 by the Select Board of the Town of Edgartown, MA 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 3.4b - Storage of Fuel or Hazardous Materials, 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 July 8 & 15, 2021; notice was also published in the Vineyard Gazette on July 2 & 9, 2021. Abutters within 300 feet of the property were notified by mail on June 30, 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 July 15, 2021, which was closed that same night. The Commission voted to waive the post-public hearing Land Use Planning Committee meeting, and proceeded to deliberate and make a decision on the proposal at the same meeting of July 15, 2021. The hearing was 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."

- P1. Site Plan in Edgartown, Mass. consisting of one (1) 24" x 36" page prepared for Star Propane by Vineyard Land Surveying & Engineering, scale 1" = 20', dated December 31, 2020, updated on June 21, 2021 to show storage areas, and updated again on July 5, 2021 to show lighting. Job No. 161-12.

2.4 Other Exhibits

- E1. Referral to the MVC from the Edgartown Select Board, received April 22, 2021.
- E2. Staff Report for DRI 705 Star Propane dated June 16, 2021.
- E3. Staff PowerPoint Presentation for LUPC dated June 21, 2021.
- E4. Staff PowerPoint Presentation for MVC dated July 15, 2021.

- E5. Minutes of the Commission's Land Use Planning Committee Pre-Public Hearing Review, June 21, 2021.
- E6. Minutes of the Commission's Public Hearing, and Deliberation & Decision, July 15, 2021.
- E7. Minutes of the Commission's Approval of the Written Decision, August 12, 2021.

2.5 Summary of Testimony

The following gave testimony during the public hearing on July 15, 2021:

- Staff presentation by Alex Elvin, DRI Coordinator.
- Applicant presentation by Reid Silva and Heath Estrella.
- Oral testimony from Public Officials speaking for their Boards: None.
- Oral testimony from the Public: None.

3. FINDINGS

3.1 Project History

The site currently includes a steel-frame building constructed in 1985, a 30,000-gallon propane tank, and many smaller tanks. The property is governed by the 1998 MVC-Airport Development Agreement, which requires mandatory review of petroleum or hazardous material storage.

The proposal is to add one 30,000-gallon propane tank next to an existing 30,000-gallon tank, and to permit the storage of up to 80,000 gallons of propane (including trucks and smaller yard and grill tanks), and 110 gallons of methanol, on the site. The yard tanks range from 50 to 1,990 gallons each, the grill tanks range from 20 to 100 pounds each, and the methanol would be stored in two drums. Existing equipment on the site will remain in place. A total of five vehicles will be kept onsite, including three trucks.

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 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 light industrial uses. The Commission noted that although the expansion of fossil fuel storage capacity is not among its goals for the Island, the proposed 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 Water Quality and Stormwater, the Commission finds no impact.

With respect to Climate Change Resilience, the Commission finds no impact compared to existing conditions, but notes that the Applicant has not proposed any renewable energy sources.

With respect to Energy, the Commission finds no impact, but notes the project will involve the addition of one truck.

The Commission finds that the impacts associated with Coastal Flooding, Open Space, and Ecology and Habitat are not applicable to this application.

The Commission notes that the proposed increase in propane storage capacity may facilitate increased use of propane on Martha's Vineyard and that any increase in the use of fossil fuel has a detrimental effect on the environment.

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 Character and Identity, the Commission finds no impact, but acknowledges that the project is appropriately located.

With respect to Scenic Values, the Commission finds the project will have a beneficial impact due to the proposed vegetation along North Line Road.

With respect to Economic Development, the Commission finds the project will have a beneficial impact by supporting an Island business and allowing it to expand capacity. The Applicant also plans to hire one new employee as a result of the expansion.

With respect to Safety and Health, the Commission finds no impact, and notes that the proposed expansion requires review and approval by the Edgartown Fire Chief and State Fire Marshal.

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

The Commission finds that impacts associated with Social Development are not applicable.

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 project would have no impact on the provision of municipal services or 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 (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 local zoning, and conforms to the purposes 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 finds that the project is consistent with the Island Plan, in terms of being appropriately located in the vicinity of other light industrial uses in the Airport Business Park.

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 July 15, 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 July 15, 2021:

- Voting to approve the project: Trip Barnes; Christina Brown; Joshua Goldstein; Fred Hancock; Michael Kim; Joan Malkin; Kathy Newman; Doug Sederholm; Ernie Thomas; Christine Todd; and Jim Vercruysse.
- Voting against: None.
- Abstentions: Ben Robinson and Jeff Agnoli.

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 July 15, 2021 and was approved by a vote of the Commission on August 12, 2021.

5. CONDITIONS

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

1. **Landscaping:** A final landscaping plan for the property shall be subject to review and approval by the Martha's Vineyard Airport Commission.

6. CONCLUSION

6.1 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 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 Edgartown 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

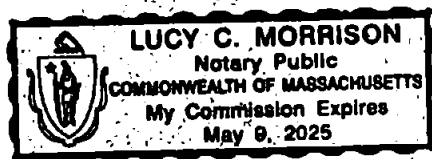
September 22, 2021
Date

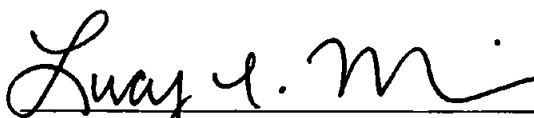
6.5 Notarization of Decision

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 22nd day of September, 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

6.6 Filing of Decision

Filed at the Dukes County Registry of Deeds, Edgartown, on: _____

Deed: Book _____, Page _____

Document Number: _____

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