

## THE MARTHA'S VINEYARD COMMISSION

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DATE: June 22, 1995  
TO: Building Inspector, Town of Edgartown  
FROM: Martha's Vineyard Commission  
SUBJECT: Development of Regional Impact  
RE: commercial development  
APPLICANT: Daniele and Rogers, Inc.  
PO Box 729  
Vineyard Haven, MA 02568

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DECISION OF THE MARTHA'S VINEYARD COMMISSIONSUMMARY

The Martha's Vineyard Commission (the Commission) hereby approves, with certain conditions, the Application of Daniele and Rogers, Inc., PO Box 729, Vineyard Haven, MA 02568 for the construction of a fuel storage terminal and distribution center in the Business Park at the Martha's Vineyard Airport as shown on the plans entitled: "Bulk Storage Facility, Daniele and Rogers, Edgartown, MA, prepared by Petrochemical Design and System Inspection, 100 Main Street, Great Falls Mill #3, Somersworth, NH" consisting of the following plans: "DR-1P Plot Plan, scale 1"-20', dated April 3, 1995; Conc-1 Dike Plan View, scale 1"-4', dated May 10, 1995; Conc-2, Tank Foundation Details, scale 1"-2', dated May 12, 1995; Conc-4 Transfer Station Spillpad, scale as noted, dated May 15, 1995; Conc-D1 Spillpad Details, scale 1"-6', dated March 21, 1995; Conc-5 Containment Sump, scale 1"-1', dated May 15, 1995; Pipe-1 Piping Plan, scale:1"-4', dated May 10, 1995; Mech-1 Elevation Plan, scale: 1"-4', dated May 12, 1995; D-1 Details, scale: as noted, dated May 15, 1995; totalling eight (8) sheets plus "Floor Plan and Elevations, Daniele and Rogers, Inc., Martha's Vineyard Airport Business Park Lot 21, scale: 1/8"-1' date: April 7, 1995, General Building Design, Drawing A-1", consisting of one (1) sheet and totalling nine (9) sheets (the Plan).

This Decision is rendered pursuant to the vote of the

Commission on June 22, 1995.

The Building Inspector of the Town of Edgartown and all other permit granting boards in the Town of Edgartown having jurisdiction may now grant the necessary development permits for the Applicant's proposal in accordance with the conditions contained herein and may approve in accordance with the conditions contained herein and may place further conditions thereon in accordance with applicable law or may disapprove the development application.

#### FACTS

The proposed development is a Development of Regional Impact as defined by the Commission's Standards and Criteria, Developments of Regional Impact Section 3.301. The Application was referred to the Commission by the Building Inspector of the Town of Edgartown for action pursuant to Chapter 831 Acts of 1977 as Amended (the Act). The Application and Notice of Public Hearing relative thereto all incorporated into the record herein. Martha's Vineyard Commission staff document exhibits are also incorporated into the record by reference.

A duly noticed public hearing on the application was conducted by the Commission pursuant to the Act and M.G.L. Chapter 30A, Section 2 as modified by Chapter 831 on Thursday, May 18, 1995 at 8:30 P.M. in the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA. The Hearing was closed the same night and the record was kept open for further written submittals for thirty (30) days.

The proposal is for the construction of a fuel storage terminal and distribution center qualifying as a DRI since the proposal is for the construction of a building greater than 2,000 sq. feet and an outdoor storage area greater than 6,000 sq. feet.

A summary of the testimony provided at the hearing is provided as Exhibit A attached hereto. The hearing summary is for the convenience of the reader and was not relied upon by the Commission in reaching its decision on this matter.

#### FINDINGS AND CONDITIONS

The Commission has considered the Application and the information presented at the public hearing and based upon such considerations, makes the following findings pursuant to Section 14 of the Act.

- A. THE COMMISSION FINDS THAT THE PROBABLE BENEFITS OF THE PROPOSED DEVELOPMENT, AS CONDITIONED, WILL EXCEED THE PROBABLE DETRIMENTS AS EVALUATED IN LIGHT OF THE CONSIDERATIONS SET FORTH IN SECTION 15 OF THE ACT (SECTION 14(a) OF THE ACT).**

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".

The Commission has listened to all of the testimony presented and has reviewed all documents and correspondence submitted during the hearings and review period and

1. **Based upon the record and the testimony presented therein, and in addressing whether there will be a more favorable or adverse impact on the environment in comparison to alternative manners of development, the Commission sets the following conditions (Section 15(b) of the Act):**
  - a. **That any run-off from the facility that is collected in the oil separator shall be tested for hydrocarbons prior to any discharge to the treatment plant at the Airport. The results of said testing shall be given to the County Treatment Plant Operator prior to discharge and said County Treatment Plant Operator shall acknowledge that the materials to be discharged are acceptable and will not be harmful to the Treatment Plant operation. The standards for the discharge from the oil separator shall be set by the Massachusetts Department of Environmental Protection or by the County Treatment Plant Operator or by both working in unison.**

**and further**
  - b. **That the Applicant shall obtain a discharge permit from the Bureau of Waste Prevention, Department of Environmental Protection as required by statute and regulation.**

**and further**
  - c. **That the Applicant shall prepare a detailed groundwater monitoring plan which shall include the location and number of groundwater monitoring wells and a suggested**

minimal testing frequency. Said monitoring plan shall be consistent with the testing requirements of DEP Policy #WSC-300-89. Said plan shall be approved by DEP and submitted, along with proof of the approval, to the MVC for the record

and further

- d. That the Applicant shall take the following actions and submit to the MVC proof of same:
- a. add the name and telephone number of the following parties to the Emergency Action and Notification Phone List (EANPL):
    1. County Spill Coordinator
    2. U.S. Coast Guard Marine Safety Officer in lieu of EPA
    3. DEP after hours telephone number of (508) 820-2121
    4. addition of other local contractors in the vicinity.
    5. include the County Spill Response Clean-up Materials trailer to list of possible clean-up materials.

and further

- e. that should any of the oil tank trucks be parked out of doors overnight on the site that they should be parked within the diked area so that any possible acts of vandalism would result in a spill that would be contained within the spill containment control system.
2. Based upon the record and the testimony presented therein, and in addressing the impact on the environment, the Commission sets the following condition (Section 15(b) of the Act):
- a. That the Applicant shall submit to a Joint Design Review Team, said team to consist of two (2) members appointed by and from the Edgartown Planning Board, two (2) members appointed by and from the Martha's Vineyard Commission, one (1) member appointed by and from the Airport Advisory Committee and the Edgartown Building Inspector, a site plan for review and approval and consistency with the Business Park Development Regulations contained in the document entitled, "Martha's Vineyard Airport Business Park Feasibility Study-November 1992". Said plan shall show all landscaping, drainage and lighting at a bare minimum and shall be submitted to the Martha's Vineyard Commission, once approved, for the files.
3. Based upon the record and the testimony presented therein, and in addressing the affect upon the provision of needed low and moderate income housing, the Commission sets the following condition (Section 15(d) of the Act):
- a. That the Commission accepts the Applicant's offer to provide the sum of \$6,250.00 to the Dukes County Regional Housing Authority in accordance with the following schedule:
    1. the sum of \$2,083.33 at the end of

- 2. the sum of \$2,083.33 at the end of December 1996
- 3. the sum of \$2,083.34 at the end of December 1997

- B. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT WILL NOT SUBSTANTIALLY OR UNREASONABLY INTERFERE WITH THE ACHIEVEMENT OF THE OBJECTIVES OF THE GENERAL PLAN OF ANY MUNICIPALITY OR THE GENERAL PLAN OF THE COUNTY OF DUKES COUNTY.
- C. THE COMMISSION ACKNOWLEDGES THAT THE APPLICANT MAY NEED TO SECURE ADDITIONAL PERMITS FROM THE TOWN OF EDGARTOWN BUT OTHERWISE IS FOUND TO BE GENERALLY CONSISTENT WITH DEVELOPMENT ORDINANCES AND BY-LAWS OF THE TOWN OF EDGARTOWN.
- D. THE COMMISSION FINDS THAT THE PROPOSED DEVELOPMENT IS NOT WITHIN ANY DISTRICT OF CRITICAL PLANNING CONCERN AND THEREFORE THIS ISSUE IS NOT PERTINENT TO THE PROPOSAL.

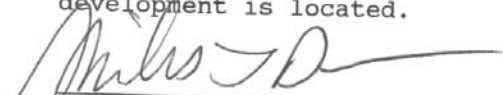
The Applicant must, consistent with this Decision, apply to appropriate Town of Edgartown Officers and Boards for any other development permits which may be required by law.

This Decision is written consistent with the vote of the Commission: June 22, 1995.

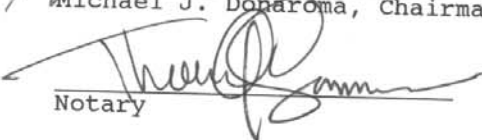
Any Applicant aggrieved by a Decision of the Staff or Committee hereunder, may appeal to the full Martha's Vineyard Commission which shall decide such Appeal, after notice and hearing, within 21 days of the close of the public hearing.

The Executive Director may issue Certificates of Compliance which shall be conclusive evidence of the satisfaction of the conditions recited herein.

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 Town Clerk in the Town in which the proposed development is located.

  
 Michael J. Donaroma, Chairman

6/22/95  
 Date

  
 Notary

6/22/95  
 Date

Thomas R.B. Simmons  
 Notary Public  
 My Commission Expires August 11, 2000



**EXHIBIT A  
SUMMARY OF THE HEARING TESTIMONY**

The Martha's Vineyard Commission held a public hearing on Thursday, May 18, 1995 at 8:30 pm in the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA.

Applicant: Daniele & Rogers, Inc.  
M. Peter Rogers  
PO Box 729  
Vineyard Haven, MA 02568

Location: a parcel of land located in Edgartown, Massachusetts, on the premises of the Martha's Vineyard Airport, on easterly side of the Airport property and designated as Lot 21

Proposal: construct a fuel storage facility consisting of 7 above ground tanks with a garage and accessory repair and office space.

Peter Rogers, President, Daniele & Rogers, explained the proposal. The proposal was for the storage of up to 150,000 gallons of fuel oil. He noted that the plumbing and heating shop would be moved to the site in a year or so. - a 7,500-foot building. He then began by talking about the bulk plant and the various permits necessary to build. He noted that the tanks would be in vaults with fencing above. He then discussed the lighting, the loading and other aspects of the facility. He then discussed locational factors, employment potential, traffic issues.

Robert Gemmer, PDSI Engineering, further discussed the proposal. He explained the containment features of the proposal.

Ms. Rubinoff questioned where the rainwater went. Mr. Gemmer explained how the sumps worked.

Mr. Colaneri questioned the amount of water being considered. Mr. Gemmer explained this issue further. He then discussed the construction technique to be used for the containment areas.

Mr. Sullivan asked how much liquid could be contained. Mr. Gemmer explained the volumes of each of the areas - minimum of 3,800 gallons.

Mr. Hall further questioned the amount of water being calculated. Mr. Gemmer further explained how the calculation was done.

Ms. Rubinoff questioned the main purpose of the sump. Mr. Gemmer explained how the sump would function. He further discussed how recovery would be made within the containment areas. He then discussed how things would function if two tanks were used at once.

Mr. Colaneri questioned the total amount of containment if 150,000-gallon storage was used. Mr. Gemmer discussed this issue.

Mr. Hall questioned earthquake safeguards. Mr. Gemmer discussed this feature. A discussion of the ultimate disaster followed.

Mr. Colaneri questioned whether a licensed operator was required. Mr. Gemmer discussed this matter further. He further discussed oil recovery from the containment areas.

Mr. Shay questioned a failure in the pumping system within the containment areas. Mr. Rogers indicated that it was a portable pump easily replaced.

Mr. Shay questioned whether one had ever been built over an aquifer. Mr. Gemmer discussed this matter at length.

Ms. Rubinoff questioned vehicle storage. Mr. Rogers indicated indoors. He then discussed procedures for storage of vehicles.

Mr. Best questioned how much paving on the acre and one half. Mr. Rogers explained the reasons for the full site paving. Mr. Colaneri questioned the number of employee parking areas. Mr. Rogers discussed this matter.

Mr. Briggs asked if there was a total drainage plan for the area. A discussion of this matter followed. A discussion of liability for rainwater followed. Mr. Colaneri questioned whether there would be a drainage plan. The answer was yes as soon as the remainder of the infrastructure was in place.

Mr. Briggs questioned whether there would be any aviation fuel storage on-site. Mr. Rogers indicated not now but possibly later.

A discussion of an Island oil volume per year followed.

Mr. Shay questioned what would be offered to the consumer.

Mr. Rogers indicated lower prices at wholesale level could mean lower consumer prices.

Mr. Best questioned how fuel was presently obtained. Mr. Rogers indicated purchase from Packer.

Ms. Sibley then questioned the building plans. Mr. Rogers discussed the structure lay-out and that it would be handicapped accessible.

A discussion of the lighting requirements for the site followed. Mr. Rogers also discussed the usage of cameras for security.

Ms. Sibley then called for staff report.

Heather Harper, MVC staff, noted that nearly everything had been covered during the presentation.

Mr. Sullivan noted that there were no comments on the containment. Ms. Harper explained that Mr. Wilcox would review further the containment being proposed.

Mr. Colaneri questioned the issue of fencing. Mr. Rogers noted that only the tank site would be fenced and not the entire site.

Mr. Colaneri questioned whether affordable housing had been resolved. Mr. Rogers noted that a comment was contained in the staff notes. He discussed how he operates a six-unit apartment for his employees. A discussion of this matter followed. Mr. Rogers explained why he needed to have employee units available due to the lack of available housing.

Mr. Shay further discussed the affordable housing issue and the economics thereof. Ms. Sibley questioned whether the applicant was offering an alternative to affordable housing. Mr. Rogers discussed how he has taken care of the need.

Mr. Smith questioned the size of the containment area. A discussion of this matter followed. (63'x45')±. A discussion of the size of the paved area followed.

Mr. Early questioned where the fence area would be located. Mr. Rogers indicated the location, the building to be 20' high.

Ms. Sibley then called for town board testimony - there was none.

Ms. Sibley then called for those in favor of the proposal - there were none.

She then called for those opposed.

Ralph Packer discussed past proposals at the airport. He expressed concern for the aquifer safety both from this proposal and the existing tanks at the Airport. He felt the two issues were the aquifer and guaranteed delivery by the SSA.

Ms. Sibley then called for any other testimony - there was none.

There being no further testimony the hearing was closed at 9:50 p.m. with the record open for one week.

Edgartown, Mass. June 23 1995  
 at 11 o'clock and 25 minutes A.M.  
 received and entered with Dukes County Deeds  
 book 656 page 790

Attest:

*Diane E. Powers*

Register