CAPE COD COMMISSION

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DATE: June 23, 2005

TO: Richard Hunter, Chairman
Chatham Airport Commission
C/o Town of Chatham
549 Main Street
Chatham, MA 02633

FROM: Cape Cod Commission

RE: Development of Regional Impact and Hardship Exemption
Cape Cod Commission Act, Sections 12, 13 and 23

APPLICANT: Chatham Airport Commission
C/o Town of Chatham
549 Main Street
Chatham, MA 02633

PROJECT #: TR04012

PROJECT: Chatham Airport Safety Improvements Projects
Chatham Municipal Airport
240 George Ryder Road
Chatham, MA 02633

BOOK: 731 PAGE: 188

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves with conditions the application of the Chatham Airport Commission, as represented by Richard Hunter, Airport Commission Chairman, as a Development of Regional Impact (DRI) Hardship Exemption pursuant to Section 23 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for proposed Chatham Airport Safety Improvement projects. This decision is rendered pursuant to a vote of the Commission on June 23, 2005.

PROJECT DESCRIPTION

The proposed project, as described on the Development of Regional Impact (DRI) referral form and in the application, is to make a variety of improvements at the existing 92-acre Chatham Municipal Airport, owned by the Town of Chatham, located at 240 George Ryder Road in Chatham. The airport is classified by the Federal Aviation Administration (FAA) as a General Aviation facility. As of the date of this decision, the airport has one 3,001 foot long, 100-foot wide paved runway with one full-length paved parallel taxiway, one paved aircraft apron, several turf aircraft parking areas, and buildings used in part for Airport administrative functions, aircraft storage and aircraft maintenance. Chatham Municipal

Airport generally serves privately owned single or twin-engine aircraft with occasional visits from military and other aircraft. According to Airport representatives, the seaplane base shown on the *Existing Conditions Plan* has been de-certified since approximately 1999-2000.

The Town, as owner of the airport, contracts with private companies to run the day-to-day airport operations. As of the date of this decision, one private Fixed Base Operator (FBO), Cape Cod Flying Circus, was responsible for the day-to-day operations of the airport, and also sub-leased to three other private companies: Stick & Rudder Aero Maintenance, Inc., Cape Cod Aerial Tours and Chatham Air Charter.

According to the DRI application, the overall 20-year airport Master Plan will include:

a.) Reconstruction of the runway safety areas to "standard" size and shape
b.) Reconstruction of the existing, paved Main Apron
c.) Conversion from turf to pavement of an existing 10,000 square yard turf apron
d.) Replacement of the Airport Beacon
e.) Reconstruction of Runway 6-24 with installation of Medium Intensity Runway Lighting System (MIRLS)
f.) Reconstruction of the parallel taxiway with installation of Medium Intensity Taxiway Lighting System (MITLS)
g.) Installation of Runway End Identification Lights at both runway ends
h.) Reconstruction of the turf tie-down area
i.) Installation of a Precision Approach Path Indicator for Runway 6
j.) Construction of four T-hangar buildings (each 9,000 square feet) with associated taxilanes and aprons
k.) Construction of a new 5,280 square foot terminal building with associated parking
l.) Construction of a new 3,600 square foot snow removal equipment building
m.) Removal of the existing underground 20,000 gallon fuel storage facility and construction of a 10,000 gallon above-ground fuel storage facility and aircraft fueling area.

The project will also involve reconstruction of existing or construction of new site-wide wastewater management and stormwater drainage systems. Of the overall 20-year airport Master plan, only items a) to i), above, are "safety improvements" related to aircraft operations on the airfield.

In terms of local permits, construction of the proposed "6"-end runway safety area will require an Order of Conditions from the Chatham Conservation Commission. Other proposed improvements, such as the new terminal, T-hangars and snow removal equipment and maintenance building will also require Building Permits and Certificates of Use and Occupancy.

PROCEDURAL HISTORY

On June 24, 2004, the Commission received a DRI referral from the Chatham Conservation Commission. In a letter dated June 25, 2004, the Applicant was informed that the Commission had received a DRI referral, and that one or more of the proposed projects qualified as a Development of Regional Impact. The Applicant's consultants, GALE Associates, filed application materials with the Commission on June 23, 2004, July 27, 2004, August 9, 2004, August 10, 2004, August 11, 2004, August 27, 2004, August 26, 2004, August 30, 2004, September 2, 2004, September 27, 2004, September 29, 2004, October 18, 2004, December 3, 2004, December 22, 2004, January 6, 2005, January 7, 2005, January 11, 2005, January 12, 2005, and January 13, 2005, February 2, 2005, March 11, 2005, March 14, 2005, April 4, 2005, April 20, 2005, May 20, 2005, May 25, 2005, and June 16, 2005. This includes filing a request for a Hardship Exemption/Project of Community Benefit as part of the information received on August 30, 2004.

A Hearing Officer opened a procedural hearing on the DRI referral on August 16, 2004. A Hearing Officer closed a procedural hearing on the DRI referral on November 10, 2004. In an Extension Agreement dated November 1, 2004, the Applicant agreed extend the DRI decision time to July 7, 2005. The application was deemed complete on November 19, 2004. On March 11, 2005, a Hearing Officer closed a hearing on the DRI application. The Applicant agreed to an extension of the Hardship Exemption timeframe to July 7, 2005 in an Extension Agreement dated April 5, 2005.

A duly noticed Public Hearing pursuant to Section 5 of the Act was held on the Hardship Exemption request and DRI by an authorized Subcommittee of the Commission on Monday, December 13, 2004 at 7:00 PM at Chatham Town Hall, 549 Main Street, Chatham, MA. At this hearing, the Subcommittee voted to continue the hearing and the record to January 20, 2005. At the continued hearing, the Subcommittee voted to direct Commission staff to draft a Hardship Exemption decision for the proposed project. The Subcommittee also voted to hold a Subcommittee meeting on February 8, 2005. To give the Applicant and staff more time to resolve issues, the Subcommittee meeting on February 8, 2005 was cancelled. A Subcommittee meeting was held on May 26, 2005. At that meeting, the Subcommittee voted to recommend approval of the project as a Hardship Exemption, and to send the project for a vote before the full Commission. The Subcommittee also voted to hold another Subcommittee meeting as needed to review a draft decision, and to authorize the Chair to review and approve the final draft decision.

A final public hearing was held before the full Cape Cod Commission on June 23, 2005. At the close of this hearing, the Commission voted to approve with conditions the Chatham Airport Safety Improvements projects as a Development of Regional Impact Hardship Exemption.

Materials Submitted for the Record

From the Applicant, Applicant's Consultants to the Cape Cod Commission

Notice of Intent (dated May, 2004), bound materials w/plan (dated March, 2004) from Baystate Environmental Consultants	Undated
Letter, GALE Associates Inc. (GALE), draft DRI application w/attachmts.	6/26/04
Bound materials, draft DRI application	8/26/04
Large size site plan set, GALE	8/26/04

- -Cover sheet (F1.1) drawn 8/04, revised July 2005
- -Existing conditions (F2.1) drawn 8/04, revised July 2005
- -Proposed development plan (F2.2) drawn 8/04, revised July 2005
- -Project abutters (F2.3) drawn 8/04, revised July 2005
- -Reconstruct and expand main aircraft parking apron (F3.1), drawn 8/04, revised July 2005
- -Reconstruct Runway 6-24 (F4.1) drawn 8/04, revised July 2005
- -Construct Runway 6 Runway Safety Area (RSA) (F4.2), drawn 8/04, revised July 2005
- -Construct Runway 24 Runway Safety Area (RSA) (F4.3), drawn 8/04
- -Reconstruct Airports Electrical Vault & Install MIRLS, REILS, PAPIs & MITLS, drawn 8/04, revised July 2005
- -Construct Terminal Building (F6.1), drawn 8/04, revised July 2005
- -Terminal Building Floor Plans and Elevations (F6.2), drawn 8/04, revised July 2005
- -Reconstruct Parallel Taxiway (F7.1), drawn 8/04, revised July 2005
- -Install AST & Expand Turf Tie-Down Area (F8.1), drawn 8/04, revised July 2005
- -Construct SRE Building with Storage Yard (F9.1), drawn 8/04, revised July 2005
- -SRE Building Floor Plan and Elevations (F9.2), drawn 8/04, revised July 2005
- -Construct 6-Unit T-Hangar/Construct 3 additional 6-Unit T-Hangars (F10.1), drawn 8/04, revised July 2005
- -Drainage and Erosion Control Details (D1.1), drawn 8/04, revised July 2005
- -Pre-Development Drainage and Watersheds (W1.1), drawn 8/04, revised July 2005
- -Post-Development Drainage and Watersheds (W1.2), drawn 8/04, revised July 2005

E-mail, GALE, hazardous waste management question	7/7/04

E-mail, GALE, water resources issues w/ 3 attachmts.	8/9/04
E-mail, GALE, nitrogen loading, attchmt. not printable	8/10/04
E-mail, GALE, noise issues	8/11/04
Letter w/attachmts, GALE, draft Hardship Exemption application	8/11/04
E-mail, GALE, water resources issues	8/27/04
Plan of Airport, GALE, land takings & book/page info.	8/26/04
Letter, GALE, DRI/HDEX application w/attachments	8/26/04
Letter, GALE, copy of HDEX application to Chatham Conservation Comm.	8/30/04
Letter, GALE, transmittal of draft SWPPP	9/2/04
Bound materials, draft SWPPP	9/2/04
Letter, GALE, amendment to HDEX application	9/27/04
Letter, GALE, transmittal of multiple copies of HDEX application	9/29/04
Letter, GALE, replacement for 9/27/04 letter on HDEX applc.	10/14/04
Letter, GALE, transmittal of replacement for 9/27/04 letter	10/18/04
Letter, Airport Commission, DRI extension	10/18/04
Letter, GALE, copy of application materials to member of public	12/3/04
E-mail, GALE, septic system plan	12/22/04
E-mail, GALE, draft conservation restriction, 2 attachments	1/6/05
Letter, GALE, responses to 12/2/04 staff report	1/7/05
Letter, GALE, to FAA Ricci, discusses project schedules	1/11/05
E-mail, GALE, responses to 12/2/04 staff report (also in hard copy)	1/11/05
E-mail, GALE, letter to FAA and plans	1/11/05
E-mail, GALE, copy of minutes	1/11/05
E-mail, GALE, response to question from Subcommittee about method of runway and runway safety area construction	1/12/05
Transmittal sheet, GALE, plans	1/12/05
Letter, GALE, information to member of public	1/13/05
E-mail, GALE, vernal pool issues, w/attachments	1/21/05
E-mail, GALE, leach area plan	2/2/05
E-mail, GALE, suggested findings and conditions	3/1/05
E-mail, GALE, building sizes and nitrogen loading issues	3/3/05
E-mail, GALE, scheduling and project update	3/3/05
E-mail, GALE, schedule of construction, water resources issues	3/11/05
E-mail, GALE, schedule for bidding, plans, & water resources	3/14/05
E-mail, GALE, proposed changes to draft SWPPP	4/1/05
E-mail, GALE, HDEX extension	4/4/05
Fax, Airport Commission, HDEX extension	4/4/05
E-mail, GALE, natural resources issues	4/14/05
E-mail, GALE, T-hangar buildings, includes color and b&w photos	4/20/05
E-mail, GALE, vernal pool buffer restriction issues	4/27/05
E-mail, GALE, water resources issues, draft decision	5/3/05
E-mail, GALE, revised site plan and floor plan for terminal (PDFs)	5/20/05
E-mail, GALE, response to draft decision	5/25/05
E-mail, GALE, response to draft decision	5/25/05
E-mail, GALE, community character issues	5/25/05
E-mail. GALE, water resources issues	6/7/05
E-mail, GALE, comments on draft decision	6/14/05
Bound materials, GALE, copies for full Commission meeting	6/16/05
Large format plans, revised, GALE	6/16/05
E-mail, GALE, deed information	6/20/05
E-mail, GALE, comments on draft condition NR1	6/20/05
E-mail, GALE, comments on draft condition NR1	6/22/05
E-mail, GALE, comments on draft Hardship Exemption decision	6/22/05

<u>From the Commission</u>

MEPA database printout	Undated
E-mail, pre-application meeting	6/24/04
Letter, to applicant, notice of DRI referral	6/25/04
Letter w/attachment, from Tim Boesch, transportation issues	7/6/04
Memo, fees and billing	7/22/04
Copy of abutters list	7/26/04
Letter, to applicant	7/27/04
Fax cover sheet, to GALE, copy of letter to applicant	7/27/04
E-mail, to GALE, discusses application	7/29/04
E-mail, to GALE, Commission website	8/5/04
E-mail, to GALE and Commission staff, items for file	8/11/04
Notice, Hearing Officer	8/16/04
Minutes, Hearing Officer	8/16/04
E-mail, to GALE, from Scott Michaud, water resources	8/18/04
E-mail, to GALE, from Scott Michaud, water resources	8/23/04
Fax cover sheet, to GALE, E-mail on noise issues	9/15/04
Letter and fax cover sheet, to GALE, application	10/8/04
E-mail, to GALE, change in hearing date	10/21/04
Fax cover sheet, to GALE, Hearing Officer	10/25/04
E-mail, to Catherine Frazer, scheduling	10/25/04
E-mail, to Elizabeth Taylor, scheduling	10/25/04
Staff Report, to Regulatory Committee, extension	10/25/04
E-mail, from Catherine Frazer, scheduling	10/26/04
Memo, to Subcommittee, scheduling	10/29/04
Agenda, Regulatory Committee	11/1/04
Extension Agreement (DRI)	11/1/04
Letter, to applicant, Extension Agreement	11/1/04
Fax cover sheet and attachments, to McSweeney (abutter)	11/9/04
Notice, Hearing Officer	11/10/04
Minutes, Hearing Officer	11/10/04
Memo, to Subcommittee, scheduling	11/15/04
Memo and fax cover sheet, to Town, scheduling room	11/15/04
Letter and fax cover sheet, to GALE, application	11/19/04
E-mail, to GALE, abutters list on labels	11/22/04
Fax cover sheet, to Town, Hearing notice	11/29/04
Staff Report	12/2/04
Memo, Subcommittee	12/3/04
Fax cover sheets, copy of staff report	12/3/04
Memo, to GALE, applicant and Town, copy of staff report	12/3/04
Notice, Public Hearing	12/13/04
Minutes, Public Hearing	12/13/04
Sign In Sheet, Public Hearing	12/13/04
E-mail, from Heather McElroy, buffers, conservation restriction	1/7/05
Fax cover sheet, to Town and Applicant, staff report	1/14/05
Notice, Public Hearing	1/20/05
Minutes, Public Hearing	1/20/05
E-mail, from Scott Michaud, water resources	2/9/05
Letter, to applicant, review process	2/17/05
Staff update (Memo), from Heather McElroy, buffers	2/25/05
E-mail, to GALE, meeting	3/3/05
E-mail, from Scott Michaud, water resources	3/11/05
Notice, Hearing Officer	3/11/05
Minutes, Hearing Officer	3/11/05

E-mail, from Scott Michaud, water resources	3/14/05
Extension Agreement (Hardship)	4/5/05
Fax cover sheet, to applicant and GALE, Extension Agreement	4/5/05
Letter, to applicant, Extension Agreement	4/5/05
E-mail, to GALE, project update	4/12/05
Letter, to applicant, return of signed Extension Agreement	4/13/05
Memo, from Heather McElroy, buffers	4/13/05
E-mail, from Heather McElroy, buffers	4/13/05
Conceptual site plan, shows proposal for vegetative buffer along George Ryder Road, pen & ink with blue wash, drawn by Tana Watt	4/22/05
E-mail, from Heather McElroy, buffers	4/27/05
Letter, to GALE, transmittal of concept drawing of buffer area	5/3/05
E-mail, from Scott Michaud, water resources	5/3/05
E-mail, from Scott Michaud, water resources	5/4/05
E-mail, to GALE, meeting to discuss community character issues	5/12/05
E-mail, to GALE and Commission staff, Subcommittee meeting	5/16/05
Memo and attachments, to Subcommittee, draft decision, memo on natural resources and draft Minutes for approval in advance of meeting	5/19/05
Fax cover sheet, draft decision to various	5/20/05
E-mail, to Commission staff, draft decision	5/23/05
Fax cover sheet, to GALE, from Tana Watt, concept plan for terminal	5/24/05
E-mail, to Commission staff, draft decision	5/25/05
Minutes, Subcommittee meeting	5/26/05
E-mail, to Commission staff, draft decision	6/3/05
E-mail, to GALE, from Scott Michaud, water resources	6/7/05
Memo and attachments, to Subcommittee, draft decision and letters	6/13/05
E-mail, to GALE, draft decision	6/13/05
E-mail, to Subcommittee, draft decision	6/13/05
Fax cover sheet, to GALE, draft decision	6/14/05
E-mail, from Catherine Frazer, comments on draft decision	6/14/05
E-mail, from Frank Hogan, comments on draft decision	6/14/05
Fax cover sheet, to Brad Crowell, cover memo and letters received	6/14/05
E-mail, from Scott Michaud, changes to water resources part of draft decision	6/15/05
Cover memo, to Subcommittee, materials for full Commission meeting	6/16/05
Cover memo, to other Commission members, materials for Commission mtg.	6/16/05
E-mail, to GALE and to Town officials, draft decision	6/16/05
Fax cover sheet, to GALE, copy of Commission Agenda for 6/23/05	6/21/05
E-mail, from Heather McElroy, to GALE, natural resources conditions	6/22/05
E-mail, to GALE, copy of draft Hardship Exemption decision	6/22/05
E-mail, to GALE, second attempt to send draft decision	6/22/05
E-mail, from Scott Michaud, comments on draft decision	6/23/05

<u>From Federal, State or Local Officials</u>

DRI referral form, Chatham Conservation Commission	6/24/04
List of consultants for applicant	Undated

<u>From the Public</u>

Two letters, from John Orefice & Marian Jennings, opposed to runway shift	1/6/05
Letter, from Malcom Ward, opposed to runway shift	1/6/05
Letter, from Jeffrey Woods, opposed to runway shift	1/11/05
Letter, from Bruce Woods, opposed to runway shift	1/11/05
Letter, from John Orefice & Marian Jennings, opposed to runway shift	1/11/05
Letter, from Patrick & Eileen McSweeney, opposed to runway shift	1/11/05
Three letters, from Charles & Mary Kessler, opposed to runway shift	1/12/05

Letter, from NEFC, opposed to runway shift	1/12/05
Letter, from Charles & Mary Kessler, opposed to runway shift	1/12/05
Letter, from Nicholas & Elinore Loscocco, opposed to runway shift	1/13/05
Letter, from Kevin Patterson, opposed to runway shift	1/18/05
Letter, from David & Mary Beth Hunt, opposed to runway shift	1/18/05
Letter, from Kevin & Kay Dixon, opposed to runway shift	1/19/05
Letter from Robert & Sabine Dow, opposed to runway shift	1/19/05
Letter, from Gail Rodgers, opposed to runway shift	1/21/05
Letter, from June Bianchi, concerns about paving turf tie-down areas	5/31/05

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of the Commission's proceedings are incorporated into the record by reference.

TESTIMONY

December 13, 2004 Public Hearing

Below is a summary of the December 13, 2004 Public Hearing. Please see the record for the full Minutes, and Minutes of any Subcommittee meetings.

Ms. Taylor opened the hearing at 7:00 PM. Mr. Crowell read the hearing notice. Ms. Taylor introduced the Subcommittee members and Commission staff. She explained the manner in which the hearing would proceed.

Mr. Armand Dufresne (GALE Associates) introduced Michael Bramhall (Design Engineer), Dr. Paul Davis (BayState) and Dr. Sarah Barnum (BayState) of the applicant's project team. Mr. Dufresne also introduced Mr. Hunter, (Airport Commission Chair), David Rauscher, Nancy Patterson, Tom Whiteley and John Trimble (Airport Commission Members). He also introduced Mr. William Henchey (Town Manager), Bruce Gilmore (Town Counsel), and Heather McDonald. Mr. Dufresne described the proposed projects using maps and plans mounted on foamcore. Mr. Dufresne addressed issues in the Commission staff report.

Dr. Davis (BayState) described the relative location of the vernal pool using a colored map on foamcore. He also noted there was a cranberry bog on the "6"-end of the runway. He noted a wildlife survey had been done which showed that spotted salamander were using the vernal pool for breeding and living. Dr. Davis described the living requirements for salamanders. Dr. Sarah Barnum (BayState) said the RSA construction would also use best management practices to reduce impacts to the salamanders.

Mr. Crowell asked if the RSA on the "24"-end of the runway could be constructed as a platform (instead of using fill) in whole or in part to reduce impacts to the vernal pool.

Mr. Michael Bramhall (Design Engineer) said this construction technique had not been considered. He said it was a novel approach, and that the applicant would look into it.

Ms. Adams said the renovations, changes and upgrades to the Airport qualified as a DRI under Section 3(h) of the *Enabling Regulations* as amended. She also noted that parts of the proposed renovations, changes and upgrades to the Chatham Municipal Airport also qualify as DRIs under Section 3(e) of the *Enabling Regulations*. Ms. Adams discussed local review and approvals. Ms. Adams noted the Airport was seeking relief from four standards in the 2002 RPP. She said the Subcommittee had a choice about how it might grant the project relief from parts of the Regional Policy Plan, including by granting a Hardship Exemption with conditions or use of the Flexibility Clause. Ms. Adams discussed building siting, landscaping, architecture and exterior lighting, noise issues and water resources issues. On hazardous materials and waste issues, Ms. Adams said the

Chatham Municipal Airport is located within a wellhead protection area. She noted that the Applicant had provided an inventory of hazardous materials and hazardous wastes used or generated by the Airport. She said this information provided an approximate hazardous materials/wastes "baseline" for the overall facility. Ms. Adams said one of the *Phase Two* projects was removal of the existing underground 20,000 gallon fuel storage facility and construction of a 10,000 gallon above-ground fuel storage facility and aircraft fueling area, which constituted an important point of compliance with the limits set by MPS 4.3.1.3. Ms. Adams also noted that the application materials included a draft Stormwater Pollution Prevention Plan which contains aspects that address other Minimum Performance Standards. She made recommendations concerning this plan, and the manner in which Stick & Rudder managed its hazardous materials use, handling and storage.

Ms. McElroy addressed the natural resources issues. She noted the project was located in a Significant Natural Resources Area due to public water supply and rare species habitat. Ms. McElroy said GALE Associates had provided a Natural Resources Inventory which showed that the isolated wetland on the site was a vernal pool. She noted that MA Natural Heritage had commented on the project and found that it would not have adverse impacts on rare species habitat. Ms. McElroy said the bulk of the work on the site is in already actively managed areas. She said the proposed Runway Safety Area at the "6" end will impact the vernal pool. Ms. McElroy said the applicant's preferred runway configuration would result in significant alteration to the vernal pool buffers. She said Commission staff's discussions with the applicant to date indicate that there is no runway/RSA layout which does not result in vernal pool buffer impacts. Ms. McElroy said this fact related to the discussion of hardship exemption or use of the Flexibility Clause in the December 2, 2004 staff report. Ms. McElroy said the Subcommittee also needed to consider the manner in which to grant relief, if any. She noted the Airport had proposed a mitigation package, which included but was not limited to best management practices during construction, revegetation of the shoulders around the bike path, revegetation of disturbed area s of the runway safety area with low shrubs. Ms. McElroy said Commission staff recommended that the Airport augment the mitigation package to provide protection to the vernal pool buffer and off-site wetland resources.

Mr. Cannon addressed the transportation issues. He noted the project was expected to have 12 peak hour trips and 96 daily trips. In terms of impacts, Mr. Cannon said the project was expected to have no significant impacts on traffic operations at regional intersections. In terms of safety, Mr. Cannon said that although George Ryder Road and Main Street had had accidents, the 12 peak hour trips from the project were below the threshold requiring further analysis. Mr. Cannon described the proposed trip reduction plan. He said Commission staff recommended a Hardship Exemption in the area of transportation, but also that conditions be included in any approval decision which required the Airport to implement trip reduction methods.

Ms. Adams discussed the applicant's request that the project be designated a "project of community benefit." Ms. Adams said a separate issue from consistency with the Commission's requirements for a project approval, should the Subcommittee be inclined to approve one or more of the projects described in the application materials, it may wish to consider approval of all or some of the projects in concept in each phase.

Ms. Frazer asked if the Commission staff had received a response from the applicant concerning the alternative configuration of the runway and the RSA as recommended by staff so as to lessen impacts to the vernal pool.

Mr. Dufresne said the applicant would look at this configuration. He said an easterly move only had been looked at, but not a shift down and over. Mr. Dufresne said, however, such a shift may incrementally reduce impacts to the buffer.

Mr. Crowell asked if the requirements for granting a project of community benefit included that one of its benefits had to relate to the purposes of the Commission Act.

Ms. Adams said she did not have a current copy of the Administrative or Enabling regulations available but that Commission staff would look into this and get an answer for the Subcommittee.

Mr. Fox said he did not remember that such a criterion was part of the requirements for a project to become a "project of community benefit." He said he thought the requirements were more general and broad.

Ms. Frazer noted that the Subcommittee could also consider a hardship exemption, particularly a hardship in the land. Ms. Frazer said this would provide the applicant some flexibility in meeting the RPP wetlands standards. She said doing so, if the Subcommittee felt it was appropriate, would obviate the need to designate the project as a project of community benefit.

Ms. Taylor concurred with Ms. Frazer.

Mr. Hogan asked the applicant to further discuss the package of mitigation proposed for the impacts to the vernal pool buffer.

Mr. Dufresne said the airport fence could be moved to try to prevent intrusion into the vernal pool. He expressed concern that a conservation restriction be imposed on the runway end or runway safety area that would preclude something beneficial to airport operations in the future. Mr. Dufresne said perhaps there was a way to protect the pool from ever being filled in or disturbed. He noted the runway safety area would need to be mowed. Mr. Dufresne said he was willing to discuss things further.

Dr. Davis said the airport needs to manage vegetation height in the area to prevent hazards to aviation. He said this did not necessarily prevent a carefully crafted restriction being placed on this area.

Ms. Taylor noted that a Conservation Restriction could be fashioned to allow vegetation management. She questioned how much the runway could be shifted.

Mr. Dufresne said he had looked at removing 50 feet from the runway "24" end and adding it to the runway "6" end. He said he had not yet analyzed the Commission staff's recommendation to slide the runway and its safety area slightly down and over. He suggested this might result in a 30 foot shift.

Mr. Olsen said that off-site mitigation for vernal pool impacts might be appropriate. He asked if this had been addressed.

Ms. McElroy said she had discussed this briefly with Mr. Dufresne. She said some hesitancy had been expressed by him in that there was only one known vernal pool on Town land in Chatham. She said there was concern about placing a Conservation Restriction on this land to protect this vernal pool because the land was used for well field land. Ms. McElroy said it was possible to resolve these issues, but that discussion about this had just begun. She also said that a Conservation Restriction on airport property could be structured to allow continued airport operations, but also protect the vernal pool.

Mr. Crowell said the Subcommittee should consider and support the concept of a general hardship exemption for the project, and not as a project of community benefit.

Ms. Michelle Ricci of the Federal Aviation Administration spoke in support of the airport projects. She said the configuration of the runway and safety area as presented is the preferred alternative of the ones studied during the airport master plan process.

Mr. Bruce Gilmore, Chatham Town Attorney, said the airport site was zoned "municipal" use. He said the airport was a use permitted in the zone as of right or as a pre-existing non-conforming use. Attorney Gilmore said the site is unique in that it is surrounded by water or wetlands on most sides. He said the businesses operating at the site were under contract with the Town, not under lease. Attorney Gilmore said the fuel farm upgrade was a benefit of the project. He said the airport was unique in that it was the smallest municipal one on Cape, and only had one runway. Attorney Gilmore said the proposed runway and safety area reconstruction were benefits in that they advanced facility safety. He said he did not believe changes to the restaurant would result in increased vehicle traffic. Attorney Gilmore said that if Chatham Airport was not upgraded, air traffic would increase at the Barnstable and Provincetown airports. He said using the property as a wastewater discharge point did not make environmental sense.

Mr. John Doane, who lives across George Ryder Road from the facility, expressed concern about noise. He recognized that noise issues at the airport was not new, but noted that noise impacts from paved tie downs are greater than that from turf tie downs. Mr. Doane said as much grassed area should be retained as possible, particularly adjacent to the hangar building, since this was the area directly across from his house. He suggested the turf areas could be hardened, such as using grassed pavers, to take the weight of planes. Mr. Doane said the angled parking on George Ryder Road is a problem, in that cars using it must back out into the road. He said additional separation should be provided to create safer vehicle maneuvers. He said the parking area should be moved, or pushed inwards to airport property to provide more separation between the parking area and the edge of George Ryder Road. Mr. Doane questioned whether the amount of building and other proposed projects was warranted given the no or low projected increase in air planes. Mr. Doane suggested that planes undergoing post-maintenance tests should be tested in a way to reduce noise, perhaps moving them inside the hangar. Mr. Doane said the existing restaurant was very busy, particularly for breakfast in the summer. He said there had been and would continue to be an increase in car traffic to and from the airport as a result of the new T-hangars, a better terminal and restaurant. He questioned whether the runway could be made smaller to reduce impacts. Mr. Doane questioned whether the facility had a public benefit. Related to the issue of noise, he questioned whether planes leaving the airport had to maintain a specific height before they turned

Mr. David Hunt, who lives south of the runway, expressed concern about the suggested shift down and over of the runway as discussed in the Commission staff report. He was concerned that if the runway was moved 50 feet, it would exacerbate safety impacts to his home.

Mr. Alan Sloane, who lives at the non-vernal pool end of the runway, expressed concern that the airport upgrades would increase air traffic at the facility, or change the type of planes using the airport, particularly those that would cause more noise. He expressed a general concern about noise issues, and noted the flight paths of planes using Chatham airport were varied. Mr. Sloane said the issue of current airport operations should be addressed. He said the issue of whether the airport provides a public benefit should be thoroughly discussed.

Mr. Crowell moved to continue the hearing to January 20, 2005 at 12:30 PM at the Commission's office in Barnstable. Mr. Crowell also moved that the record be kept open. Mr. Hogan seconded the motion. The Subcommittee voted all in favor of the motion.

Ms. Frazer moved to adjourn. Mr. Hogan seconded the motion. The Subcommittee voted all in favor of the motion.

January 20, 2005 Public Hearing
Below is a summary of the January 20, 2005 Public Hearing. Please see the record for the full Minutes, and Minutes of any Subcommittee meetings.

Ms. Taylor opened the continued hearing at 12:30 PM.

Ms. Adams reviewed the January 14, 2005 staff report. She noted there were a number of issues the Subcommittee needed to address, including whether the project was a Project of Community Benefit (POCB). Ms. Adams also noted the Subcommittee could consider granting the project a hardship exemption or use of the Flexibility Clause. She also said the Subcommittee should discuss how to deal with the long timeframe.

Ms. Frazer asked about how to handle the timing issues regarding the wastewater issues, since Chatham had not yet completed its wastewater management planning.

Mr. Michaud responded, and said the Airport had been in discussions with the Chatham Health Department in terms of coordinating wastewater efforts. He noted the *Phase Two* components add nitrogen to the watershed. Mr. Michaud suggested a way to address these concerns would be to tie off-site buildings, such as Town Hall Annex into the Airport's to-be-upgraded septic system.

Ms. McElroy said staff had suggested the Airport consider moving the runway system 50 feet. She noted GALE Associates had done a revision showing a 16 foot shift in the runway/taxiway system which resulted in fewer impacts to vernal pool buffer. Ms. McElroy said Commission staff has reviewed letters expressing concerns about a 50 foot shift. She suggested there may be a benefit to balancing the interests. Ms. McElroy said staff had recommended that a Conservation Restriction (CR) be applied to the vernal pool buffer. Based on concerns expressed by the Federal Aviation Administration (FAA) about the CR, Commission staff had been discussing with GALE Associates an alternate method of protecting the vernal pool buffer.

Mr. Dufresne said the Airport review was unlike other projects reviewed by the Commission because the Master Plan covered 20 years. He suggested that the Commission staff would have the opportunity to meet the Airport's consultants at the time a particular component project was under design. He said this would allow the design to meet the RPP's objectives. Mr. Dufresne said the plans would also be reviewed by the FAA and Massachusetts Aeronautics Commission. On nitrogen loading, Mr. Dufresne said the Airport and Town were discussing tying in off-site parcels to the facility's septic system. He noted Chatham's Health Department Director characterized adding flows to the Airport's system could be beneficial in terms of balancing seasonal flows to the system.

Mr. Michaud said Commission staff would see this as meeting the RPP, and possibly as a benefit.

On the fuel facility issue, Mr. Dufresne said the two 10,000 gallon underground tanks were getting on in age, and because of this, the Town had an interest in replacing the tanks. He noted the Airport only needed one 10,000 gallon tank. He noted a letter had been sent to the FAA asking that this facet of the project be moved up into *Phase One*.

On shifting the runway system, Mr. Dufresne said the Airport Commission and members of the abutting area had met to discuss this. He discussed the proposed 16 foot shift. He noted this reduced impacts to the vernal pool. Mr. Dufresne discussed this shift with abutters. He said he based his perspective on noise issues. Mr. Dufresne said the abutters concerns weren't based on noise, but overall safety. He said he understood that this shift could be seen as a threatening situation to the neighborhood, particularly given the summertime crosswinds. He noted the Airport also needed to preserve the right to selectively top or clear trees in the vernal pool buffer area that would affect protected air surfaces.

On noise issues, Mr. Dufresne said the Airport would move the area where maintenance run-ups were done, but would prefer not to limit the hours of such run-ups.

Mr. Crowell asked the Applicant to describe how the Airport provided a benefit to the community.

Mr. Dufresne said Chatham Airport provided night and instrument operations. He said it was not a commercial service facility. He said it mitigated some vehicle traffic, and allowed for MEDFLIGHT, Coast Guard and military aircraft to land and operate. Mr. Dufresne said it was a contributor to Chatham's economy, providing 10—15 jobs in the summertime. He said for its size, it had a substantial open space component.

Mr. Crowell said there was a potentially compelling argument for a Project of Community Benefit. He said the ability for MEDFLIGHT to operate, and that the Town has supported the facility for decades was an indication of benefits. Mr. Crowell left the hearing after making his comments.

Mr. Hogan said he was concerned about fog over the facility and how this would affect the surrounding neighborhoods. He said he had done his own site visit to the abutting neighborhoods, particularly on Sky Way. Based on this, he said it was his recommendation that the runway/taxiway system be left in its original position. He also said the Subcommittee should consider using the Flexibility Clause with respect to the vernal pool buffer impacts.

Mr. Bruce Wood, Sky Way, spoke in support of the Airport's overall projects. He expressed concern over any shift in the runway/taxiway system. He noted that there had been deaths at the Airport due to a plane crashes on the Southeasterly side of the Airport. He noted the neighborhood had been advised to leave at the time of an air show in the past.

Mr. Chuck Kessler, Sky Way, said he objected to moving the runway at all, and particularly closer to his home based on safety concerns.

Ms. Mary Beth Hunt, Sky Way, noted that she had submitted a letter for the record. She objected to any movement of the runway based on safety concerns.

Mr. John Doane, George Ryder Road, expressed appreciation for the Airport's moving the area where maintenance run-ups were conducted to use the existing buildings as a screen to George Ryder Road. He also expressed a concern about paving the apron area, and that this would increase noise impacts.

Mr. Dufresne said there were no plans to change certain areas from turf to pavement. He did note that turf generally is less able to support heavier planes. Based on this, he said the main apron would be paved. He said the paving would also define particular spaces for planes. He said the additional T-hangars would also have paved taxi lanes.

Ms. Frazer asked if there was space to provide additional landscaping between the paved areas and George Ryder Road.

Mr. Dufresne said there were plans to replant areas along on the bike path with low-growing materials. He said the Airport was sensitive to the need for better landscaping to complement the proposed new terminal building.

Ms. Frazer said she was concerned about the public safety issues, but also the need to preserve the vernal pool buffer.

Mr. John Doane said the apron should be left grass or grasscrete capable of holding the weight of planes. He recommended that it not be paved to reduce noise impacts, and to prevent or restrict larger, more noisy planes from moving close to George Ryder Road as they move about on the Airport.

Mr. Malcolm Ward, Sky Way, was opposed to moving the runway system. He complemented the people running the Airport as being good neighbors.

Mr. Jeff Woods, Sky Way, complemented Subcommittee member Hogan for conducting a site visit to the neighborhood.

Mr. Thomas Whiteley, an Airport Commission member, said a paved apron or plane parking area causes less noise because the aircraft needs less power to move on pavement than on grass.

Ms. Frazer asked if the Airport could improve a vernal pool elsewhere in town as potential mitigation for this project.

Ms. McElroy suggested that improving another degraded vernal pool buffer off-site, and/or perhaps protecting a vernal pool with a CR could potentially be part of the project's overall mitigation. Ms. McElroy suggested that perhaps conducting a survey for other vernal pools could be part of the mitigation strategies. She suggested that there could be an argument made for a hardship exemption, rather than use of the Flexibility Clause, because of the constraints in land.

Mr. Dufresne said FAA is reluctant to put a CR on the vernal pool. He said he had concerns about this because of a conversation with an Attorney at the Executive Office of Environmental Affairs who seemed to dissuade him from using a CR in this case.

Dr. Davis expressed concern about the permanence of a CR. He noted there was a tight setback from the used area and the potentially protected area. Dr. Davis expressed concern for providing adequate flexibility in the CR.

Ms. Frazer suggested the Airport may want to discontinue air shows, given their impacts to the neighbors.

Mr. Olsen said there were issues that needed to be addressed, and that a Subcommittee meeting should be held for these issues to be discussed.

Mr. Hogan suggested that the Town should consider educating the public about the value of the vernal pool with a small display at the Town Hall or at the Airport.

Ms. Taylor asked if the Subcommittee had any feelings relative to the project's eligibility for a hardship exemption or a POCB.

Mr. Olsen and Mr. Hogan suggested the Airport was eligible for a hardship exemption.

Ms. Taylor said staff should try to draft something addressing the complicated procedural issues related to overall project timing.

Ms. Frazer moved to continue the hearing to a date uncertain, to leave the record open, and to hold a Subcommittee meeting on February 8, 2005 at 10:00 AM at the Commission office in Barnstable. Mr. Hogan seconded the motion. The Subcommittee voted all in favor of the motion. Hearing adjourned, 2:00 PM.

JURISDICTION

The proposed Chatham Airport Safety Improvements project qualifies as a Development of Regional Impact under Section 3(h) of the *Enabling Regulations* as amended, as *"[a]ny development providing facilities for transportation to or from Barnstable County, including but not limited to…air transportation and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 square feet of outdoor area."*

FINDINGS

The Commission has considered the application of the Chatham Airport Commission for the proposed Chatham Airport Safety Improvement project, and based on consideration of such application and upon the information presented at the public hearing(s) and submitted for the record, makes the following findings pursuant to Sections 12, 13 and 23 of the Act:

General

G1. As the date of the first substantive public hearing was December 13, 2004, this project was reviewed subject to the 2002 (revised) Regional Policy Plan.

G2. As of the date of this decision, the Town of Chatham did not have a Cape Cod Commission certified Local Comprehensive Plan (LCP).

G3. The Airport site is owned and under the ultimate control of the Town of Chatham. As such, all proposed airport projects, either in total or individually, will require approval by the Chatham Board of Selectmen. Construction of a safety area on the "6" end of the runway will require review by the Chatham Conservation Commission. Development of a proposed new terminal building and other structures (such as T-hangars) will require a Building Permit and a Certificate of Use and Occupancy.

G4. For the purposes of the Commission's review, the overall 20-year Airport Master Plan contains the following "safety improvements" related to aircraft operations on the airfield:

a.) Reconstruction of the runway safety areas to "standard" size and shape
b.) Reconstruction of the existing, paved Main Apron
c.) Conversion from turf to pavement of an existing 10,000 square yard turf apron
d.) Replacement of the Airport Beacon
e.) Reconstruction of Runway 6-24 with installation of Medium Intensity Runway Lighting System
f.) Reconstruction of the parallel taxiway with installation of Medium Intensity Taxiway Lighting System
g.) Installation of Runway End Identification Lights at both runway ends
h.) Reconstruction of the turf tie-down area
i.) Installation of a Precision Approach Path Indicator for Runway 6

G5. The Applicant applied to the Commission for a Hardship Exemption in the areas of Natural Resources and Transportation, specific to Minimum Performance Standards (MPS) 2.3.1.2, MPS2.4.1.5, MPS 4.1.2.1 and MPS 4.1.3.4 of the 2002 (revised) Regional Policy Plan

G6. At a public hearing on January 20, 2005 and at a public meeting on May 26, 2005, a Commission Subcommittee determined the proposed project was eligible for consideration of a Hardship Exemption from MPS 2.3.1.2, MPS 2.4.1.5, and MPS 4.1.3.4 of the 2002 (revised) Regional Policy Plan. The Subcommittee also determined that the proposed project was eligible for relief from a portion of the mitigation necessary under MPS 4.1.2.1.

G7. The Commission finds that for MPS 2.3.1.2, MPS 2.4.1.5, MPS 4.1.2.1 and MPS 4.1.3.4, the Applicant has demonstrated that a hardship exists, and that a literal enforcement of the provisions of the Cape Cod Commission Act (Act) would involve substantial hardship. The Commission also finds that desirable relief may be granted without substantial detriment to the public good, and without substantially derogating from the purposes of the Act.

Community Character

Building Siting, Architecture, Landscaping
CC1. The applicant's initial concept proposal for four (4) T-hangar buildings, a new terminal building, a new snow removal equipment building, and associated parking and access ways did not comply with RPP Minimum Performance Standards requiring parking to the side or rear, and requiring adequate buffering of new structures in undeveloped areas.

CC2. The applicant submitted revised site plans entitled "Construct Terminal Building (CIP-2007)", dated 8/2004, revised May 2005, which relocates the terminal parking to the side of the structure in order to preserve the roadway buffer to George Ryder Road. These revised plans are consistent with RPP Minimum Performance Standards relating to building siting, including but not limited to MPS 6.2.7 and MPS 6.2.9.

CC3. The applicant has submitted revised conceptual site, floor and elevation plans for the proposed new terminal building entitled "Terminal Building Floor Plans and Elevations (CIP-2007)", F6.2, dated 8/2004, revised May and July 2005. The applicant also submitted a revised site plan entitled "Construct SRE Building with Storage Yard (CIP-2007)", dated 8/2004, revised May and July 2005, as shown on plans F2.2 and F9.1 along with a floor plan and elevations entitled "SRE Building Floor Plan and Elevations (CIP-2010)", F9.2. The Commission finds that the design of the terminal building and snow removal equipment (SRE) building is generally consistent with RPP Minimum Performance Standards related to building design in that they incorporate gable roof forms, small or varied massing and traditional materials.

CC4. The applicant submitted revised site plans relating to the proposed T-Hangars entitled "Construct Two 6-Unit T-Hangars (CIP-2008) Construct Two 6-Unit T-Hangars (CIP-2013)" shown on plans F2.2 and F10.1, dated 8/2004 and revised May and July 2005. The design of the T-Hangar buildings do not follow traditional forms, but the two noted as Buildings 1 and 2 on plan F10.1, which are located nearest the parallel taxiway, are sufficiently buffered to address community character impacts, consistent with MPS 6.2.3, MPS 6.2.6, and MPS 6.2.9. The Commission also finds that the two T-Hangars located closest to George Ryder Road (noted as Buildings 3 and 4 on plan F10.1) will require further Commission review regarding their ability to meet community character Minimum Performance Standards.

CC5. Landscape plans were not submitted to the Commission during the project review showing proposed buffer area treatments. However, the Applicant indicated that detailed landscape plans would be submitted as part of each phase of construction, and the final design of proposed buildings. Such plans would be subject to Commission or Commission staff review and approval for compliance with the Regional Policy Plan.

Exterior Lighting
EXL1. MPS 6.210 of the 2002 RPP requires that *"development and redevelopment conform with the Cape Cod Commission's exterior lighting design standards and submission requirements, Technical Bulletin 95-001."* The project before the Commission involves the installation of various lighting systems designed to assist in aircraft operations. MPS 6.2.10 and Technical Bulletin 95-001 were not applied to these aircraft operations lighting systems. As of the date of this decision, the Airport used motion-sensor activated 300 watt halogen lights on the existing T-hangars and Maintenance Hangar, three 150 watt spot lights to illuminate the main apron, the

entrance to the Airport Manager's office, and airfield entrance gate, and three mercury vapor lights to illuminate the existing unpaved parking lot to the North side of the terminal complex. It is the Airport's intent to replace existing terminal and parking lot lighting with fixtures that comply with the Commission's standards when the building is constructed. A January 7, 2005 letter stated that the Airport will investigate changing the lighting on the main apron, but has concerns about maintaining night-time security and wants to avoid creating a hazard for taxiing aircraft.

Noise

N1. MPS 2.6.1.1. requires that DRIs "*shall be in compliance with…DEP's Air Pollution Control Regulations (310 CMR 7.00).*" Evidence was submitted to the record that the reconstructed runway and capacity would result in a small growth factor and additional planes at the Chatham Municipal Airport over the 20 year planning period. At the December 13, 2004 hearing, there was evidence in the form of testimony by two neighbors who expressed concerns about airport noise. One of these neighbors lives directly across George Ryder Road from the Airport. He testified that noise from testing of grounded planes was an issue for him. Another neighbor across George Ryder Road also expressed concerns about noise. To address these concerns, and because it is impractical to completely eliminate noise from aircraft while they are performing their function as aircraft, the Commission recommended that the Applicant seek to eliminate noise sources from aircraft maintenance operations. A January 7, 2005 letter from GALE Associates stated that the Airport, and its Fixed Base Operator/Stick & Rudder Aero Maintenance have agreed that maintenance run-ups would be conducted on the designated runway run-up areas, or in such a way that the terminal/Maintenance Hangar building will be used as a sound buffer to residents on George Ryder Road.

Natural Resources/Open Space

NR1. The project is located in a Significant Natural Resources Area due to the presence of public water supply Wellhead Protection Area and estimated rare species habitat. The applicant has provided a natural resources inventory (NRI) that complies with the requirements of MPS 2.4.1.1. According to the NRI, there is an isolated wetland located at the southwest corner of the Airport, at the Runway 6 end. This wetland contains characteristics that qualify it as a vernal pool.

NR2. The Airport has received comments from the Natural Heritage and Endangered Species Program that they do not anticipate that the project will have impacts on rare species or their habitats.

NR3. The proposed airfield improvements will result in significant alteration to habitat located within the 350 foot buffer to the vernal pool (which includes the 100 foot buffer to the isolated wetland). A large portion of the area to be disturbed presently functions as part of the "home range" of the amphibians using the vernal pool. The proposed change from a vegetated or wooded area to a paved runway will have no habitat value for vernal pool species. The RPP prohibits alteration of wetland or vernal pool buffers according to MPS 2.3.1.2 and MPS 2.4.1.5.

NR4. The Commission has examined various alternatives to the proposed plans, including shifting the runway location. There are no alternatives which achieve the goal of standardizing the Runway Safety Areas (RSAs) according to Federal Aviation Administration (FAA) standards without having impacts on wetland buffers. The proposed plan minimizes the impacts to the wetland and vernal pool buffers to the extent feasible. The Chatham Airport runway is constrained on the site by development and wetlands at either end, and ponds to the southeast. It is not possible to extend or shift the runway without having adverse impacts on wetland buffers. The Applicant has met its burden of showing a hardship. This situation is a constraint of the land involving substantial hardship which qualifies this runway safety improvement project for relief through a Hardship exemption. The Commission finds that relief may be granted from MPS 2.3.1.2 and MPS 2.4.1.5 without a substantial detriment to the public good, and will not nullify or substantially derogate from the intent or purpose of the Cape Cod Commission Act.

NR5. The following actions summarize the mitigation proposed by the Airport for the impacts to the vernal pool buffer associated with the proposed development: 1) utilize best management practices during construction during vernal pool species breeding season, 2) revegetate disturbed areas with dense shrubby growth that will provide cover and minimize future maintenance, 3) enhance existing habitat with woody debris, 4) revegetate the shoulders of the newly constructed bike path (an area slightly larger than the proposed area to be disturbed, and currently vegetated with grass only, and located within the vernal pool buffer) with trees and shrubs, 5) provide educational signage about vernal pool functions at the airport and at one other location in town, 6) provide professional wetland specialist assistance for the Town of Chatham in its efforts to evaluate and certify vernal pools on town and Chatham Conservation Foundation properties, and 7) agree to permanent protection of the 350 foot vernal pool buffer on Airport property, an area approximately 2.70 times the size of the area to be disturbed, through the conditions of this decision (allowing for some maintenance activities).

NR6. State listed invasive species, like oriental bittersweet, are located on Airport property. The Applicant proposes to prepare an invasive species management plan for the Airport, consistent with MPS 2.4.1.6.

Water Resources

WR1. The project is located in a Wellhead Protection Area (WHPA) as defined by MPS 2.1.1.2.A. Projects in WHPAs are required to meet standards set forth in MPS 2.1.1.2.A, including limits on hazardous materials/waste and adoption of a turf and landscape management plan. The Airport does not irrigate and apply fertilizers and pesticides to manage turf at the airport. Findings regarding hazardous materials and waste are listed in a separate section of this decision. In terms of hazardous materials /waste, the project is consistent with the requirements of MPS 2.1.1.2.A as evidenced by findings HMW1 and HMW2, and condition G2.

WR2. The project meets the 5-ppm nitrogen loading standard required by MPS 2.1.1.1 and MPS 2.1.1.2.A.1. Project nitrogen loading results in a site-wide nitrogen loading concentration of 1 ppm in groundwater.

WR3. The project's impact on water resources stems primarily from the creation of significant new areas of impervious surface. Based on Plan F2.2 drawn 8/04, revised July 2005, entitled "Proposed Development Plan," and parameters established for nitrogen-loading calculations submitted by the Applicant:

1. Construction results in the creation of 4.9-acres of new impervious surface associated with the conversion of turf apron to pavement, the reconstruction of runway and taxiways, and the construction of four (4) new T-hangar buildings and associated pavement, construction of a new terminal building, and a new snow removal building.

2. Construction results in increased Title-5 wastewater flows of 500 gallons per day (gpd) over existing flows associated with the addition of 2,690 square feet of office/terminal space [4,390 square feet new minus 1,700 square feet existing] and water supplies to the new SRE building. Total Title-5 wastewater flows for the airport will be 2,600 gpd.

WR4. The Airport is located in Marine Water Recharge Areas, which are regulated under MPS 2.1.1.2.C. MPS 2.1.1.2.C.1 and MPS 2.1.1.2.C.2 require that DRIs not increase their nitrogen load to watersheds discharging to nitrogen-overloaded estuarine systems. Groundwater beneath the airport discharges to the Oyster Pond/River and Sulfur Springs estuaries. These estuaries are nitrogen overloaded according to the 2004 Chatham Massachusetts Estuaries Project Final Report.

The Airport currently results in a of 191 kg-N/yr nitrogen load to groundwater. The project results in a total nitrogen load of 207 kg-N/yr. The project needs to mitigate at least 16 kg-N/yr nitrogen to meet MPS 2.1.1.2.C.1 and MPS 2.1.1.2.C.2.

WR5. The Airport is able to meet MPS 2.1.1.2.C.1 and MPS 2.1.1.2.C.2 by denitrifying Airport wastewater and mitigating the project's nitrogen load by treating stormwater runoff through use of

a Massachusetts DEP-approved treatment technology as described in finding WR7. The combination of these methods will reduce the Airport's future nitrogen load by more than 16 kg-N/yr nitrogen. During phased development of the project, and at full build out of the Airport Plan, as presented with full implementation of its septic system and stormwater management strategies, the project and Airport will meet MPS 2.1.1.2.C.

WR6. The existing septic system will be replaced with a denitrifying septic system permitted through a General Permit issued under the MADEP Innovative/Alternative (I/A) On-site Wastewater System Program. The specific septic system type/manufacturer proposed for this project was not selected by the Applicant at the time this decision was rendered, and engineered plans for the septic system were not submitted to the Commission during the project review. This information shall be submitted prior to issuance of the first Preliminary Certificate of Compliance.

The Airport and the Town of Chatham have discussed the possibility of including wastewater flows from the nearby Town Annex Complex into the airport's planned denitrifying septic system. The Town is currently preparing its Comprehensive Wastewater Management Plan. Until the Comprehensive Wastewater Management Plan is finalized and approved, a decision to include the off-site wastewater into the Airport's proposed system cannot be made. Although the Airport can meet the RPP MPS for nitrogen loads without this additional effluent, contingent upon satisfaction of condition WR2, the Cape Cod Commission encourages the parties to pursue this option in the interests of better environmental conditions for Chatham should the inclusion of off-site wastewater be deemed feasible and consistent with the Town's wastewater comprehensive wastewater management plan.

WR7. Conceptual plans submitted with the application describe use of vegetated swales and basins to treat runoff from 75% of the Airport's paved areas. Engineered stormwater plans have not been submitted as of the date of this decision. Engineered plans must meet MPS 2.1.3, including MPS 2.1.3.2 which require consistency with Massachusetts Stormwater Policy Guidelines prescribing specific design criteria in critical areas such as Wellhead Protection Areas.

A stormwater operations and maintenance plan was submitted by the Applicant as a Stormwater Pollution Prevention Plan (SWPPP) toward meeting MPS 2.1.3.6. The SWPPP will need to be revised to reflect any changes to impervious surfaces, stormwater infrastructure and management in order that they are consistent with MPS 2.1.3.

Engineered stormwater plans and a revised SWPPP shall be submitted to the Commission staff prior to issuance of each Preliminary Certificate of Compliance for each project subpart-involving stormwater management. Engineered stormwater plans and a revised SWPPP shall be submitted to the Commission staff prior to the issuance of each Final Certificate of Compliance for review or in order to determine its consistency with MPS 2.1.3.

Hazardous Materials/Wastes

HMW1. The project site is located in a Wellhead Protection Area, so MPS 4.3.1.3 applies to this project which limits the amount of hazardous materials and wastes to a *"household quantity"* as defined by the RPP. The *DRI Narrative* provides an inventory of hazardous materials used and hazardous wastes generated by the Airport which provides the hazardous materials/wastes "baseline" for the overall facility.

HMW2. A *Phase Two* project involves removal and replacement of the existing underground 20,000 gallon fuel storage facility with a 10,000 gallon above-ground fuel storage and aircraft fueling area. This proposed change constitutes a significant reduction in the use, handling and storage of hazardous materials at the Airport. A January 7, 2005 letter states the Airport is planning to apply to the MA Department of Revenue for a grant to do the fuel farm upgrade, barring this, the letter also states the Airport has requested that the Federal Aviation Administration and the MA Aeronautics Commission to move the fuel farm upgrade into *Phase One*. Based on this, it appears the fuel farm upgrade would be completed in 2007.

HMW3. MPS 4.3.1.1 requires DRIs to make *"reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling."* The draft Stormwater Pollution Prevention Plan (SWPPP) submitted as part of the DRI/Hardship application contains aspects that address this MPS. A January 7, 2005 letter from GALE Associates states the Airport's draft SWPPP will be amended to address construction equipment fueling and maintenance before project construction commences.

HMW4. MPS 4.3.1.2 requires DRIs to be *"in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000."* Cape Cod Flying Circus/Stick & Rudder Aero Maintenance Inc. is described in the Massachusetts Department of Environmental Protection's database as a Very Small or Small Quantity Generator of hazardous waste and a Very Small Quantity Generator of waste oil. According to the January 7, 2005 letter from GALE Associates, the identification number used to ship hazardous waste off site is the permanent ID number, as required by the Hazardous Waste Regulations. In terms of future hazardous waste generation, the Airport plans to improve the turf tie-downs and add new T-hangars, so more planes could be kept at the facility in the future. Hazardous waste generation at the Airport is primarily a function of aircraft maintenance. The January 7, 2005 letter from GALE Associates states that addition of T-hangars will not increase aircraft maintenance because these hangars will provide garage space for aircraft currently left outdoors, and that there are no plans to expand existing aircraft maintenance operations.

HMW5. MPS 4.3.1.4 requires that DRIs *"prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases."* The draft SWPPP outlines the Airport's spill and emergency response protocols. The January 7, 2005 letter from GALE Associates also indicates the draft SWPPP will be continually updated, including to address releases during construction of the *Phase One* projects.

Transportation Resources

T1. MPS 4.1.3.4 requires DRIs to perform a Level of Service analysis and to provide mitigation of project impacts on regional roads. Of the proposed Chatham Airport projects, only two were of concern in terms of the Commission's review and additional traffic generation: the restaurant expansion and the net increase of aircraft based at the airport. The latest Institute of Transportation Engineers (ITE) *Trip Generation Manual* (7th Edition) was used to estimate the expected traffic generation for the expansion of the existing restaurant and future growth of the existing Airport. Based on the net increase in twelve (12) new vehicle trips during the afternoon or Saturday peak hour, the Airport projects will not have a significant impact on traffic operations at any regional intersection or regional roadway.

T2. According to M.P.S. 4.1.1.2, analysis of crashes and the potential safety impacts of development and redevelopment shall be required on all regional road links, at all intersections of regional roads, and at local road intersections with regional roads that are used by a project for access to the regional road network, where the project is expected to increase traffic by 25 or more trips during the project's average peak hour. Locations with an average of three or more crashes per year or a higher than average crash rate, as compared to the latest three years of local, regional, or state data, shall require measures to mitigate potential safety impacts of the development and redevelopment to comply with MPS 4.1.1.1. All measures to mitigate safety impacts must be consistent with Goal 4.1.3 and its supporting Minimum Performance Standards. Based on information submitted by the Applicant's representative, the intersection of George Ryder Road and Main Street (Route 28) experienced 19 crashes over a three year period (1999, 2000, 2001) or approximately six (6) crashes per year. Based on the estimated trip generation noted above, the intersection of George Ryder Road and Main Street (Route 28) would be impacted by *less* than 25 new vehicle trips. Therefore, further crash evaluation is not automatically required by the RPP. The Applicant also stated that the Town of Chatham was working with the Massachusetts Highway Department to expedite the upgrade on Main Street in Chatham.

T3. MPS 4.1.2.1 requires that regardless of project size, all DRIs are required to reduce site-generated traffic by 25 percent based on the net increase in traffic generated by the development. Appropriate strategies to reduce automobile travel may include car/van pooling programs, public transportation, enhancing bicycle and pedestrian access to the site, donation of vacant developable land and/or a monetary commitment to alternatives to automobile transportation. To address the trip reduction requirements of the RPP, the Applicant has agreed to strategies to reduce automobile travel consistent with this standard, including but not limited to facilitating extension of the Cape Cod Rail Trail, installation of bicycle racks, a bicycle loaner program, and creation of trip reduction promotional materials.

T4. Given that this is a municipal project, and also has extremely low traffic generation as noted in finding T2, the literal enforcement of RPP transportation provisions involve a substantial hardship. As such, the full requirements of MPS 4.1.3.4 and a portion of the mitigation necessary under MPS 4.1.2.1 are relieved. The Applicant will implement measures to offset summer site traffic in accordance with conditions T1, T2 and T3. This is the minimum relief necessary, is granted without substantial detriment to the public good, and is granted without substantially derogating from the intent or purpose of the Act.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes that the probable benefit of the proposed development is greater than the probable detriment. The Commission also concludes that the proposed airfield "safety improvements" are consistent with the 2002 Regional Policy Plan (as revised), with the exception of MPS 2.3.1.2, MPS 2.4.1.5, MPS 4.1.3.4, and parts of the mitigation to address MPS 4.1.2.1, which are the subject of the Hardship Exemption request. This conclusion is supported by findings T4, NR4 and NR5.

The Commission hereby approves, with conditions, the application of the Chatham Airport Commission for the proposed Chatham Airport Safety Improvements project as a DRI Hardship Exemption as to MPS 2.3.1.2, MPS 2.4.1.5, MPS 4.1.3.4, and parts of the mitigation to address MPS 4.1.2.1, provided the following conditions are met:

CONDITIONS

General

G1. The Commission hereby approves, with conditions, with each subpart subject to issuance of a Preliminary and a Final Certificate of Compliance, the development of the following subparts of the Chatham Municipal Airport Safety Improvements. For clarity, this means that each of the project subparts listed below will require issuance of a Preliminary and a Final Certificate of Compliance from the Cape Cod Commission. However, the order in which the subparts are constructed is at the discretion of the Applicant.

a.) Reconstruction of the runway safety areas to "standard" size and shape
b.) Reconstruction of the existing, paved Main Apron
c.) Conversion from turf to pavement of an existing 10,000 square yard turf apron
d.) Replacement of the Airport Beacon
e.) Reconstruction of Runway 6-24 with installation of Medium Intensity Runway Lighting System
f.) Reconstruction of the parallel taxiway with installation of Medium Intensity Taxiway Lighting System
g.) Installation of Runway End Identification Lights at both runway ends
h.) Reconstruction of the turf tie-down area
i.) Installation of a Precision Approach Path Indicator for Runway 6
j.) Construction of two new 9,000 square foot 6-unit T-Hangars and associated taxilanes as shown on plans described in finding CC4

k.) Construction of a new snow removal equipment building and new terminal building as shown on plans described in findings CC2 and CC3
l.) Installation of a new subsurface stormwater management system and advanced denitrifying septic system
m.) Replacement of the existing 20,000 gallon underground aircraft fuel storage facility, tanks and fueling area with construction of a new 10,000 gallon above-ground aircraft fuel storage facility and fueling area

G2. The Applicant shall provide 30 calendar days advanced written notice to the Commission that work related to removal of the underground 20,000 gallon aircraft fuel storage tanks and construction of a 10,000 gallon above-ground fuel storage facility and aircraft fueling area is about to commence. This includes but is not limited to work to remove the 20,000 gallon tanks.

G3. This Hardship Exemption decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of this written decision.

G4. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, and remain in compliance herewith, shall be deemed cause to revoke or modify this decision.

G5. The Applicant shall obtain all state and local permits for each proposed project subparts.

G6. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.

G7. The Applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to the subparts of the project which are issued subsequent to this decision. A copy of final plans approved by the Chatham Conservation Commission or other state or federal boards or agencies shall be submitted to the Commission upon receipt of local approvals.

G8. If the final plans approved by local boards are inconsistent with this decision and/or supporting information, then they shall be reviewed by Commission staff to determine consistency with the Commission's *Enabling Regulations* in effect at the time to determine whether the change in the final plans is a modification to the approved project. If the Commission staff determines that the final plans require a modification, the Applicant shall also as necessary seek a modification to this decision in accordance with the Commission's *Enabling Regulations* in effect at the time the modification is sought.

G9. Prior to commencement of any phase of construction for projects listed in condition G1, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to the relevant project subpart or element and Preliminary Certificate have been met. After the completion of each phase of construction for projects listed in condition G1, the Applicant shall obtain a Final Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to the relevant project subpart or element and the Final Certificate have been met.

G10. The Applicant shall provide the Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision. The annual progress report shall describe the status of local development permitting and project construction, including the expected date of commencement of site preparation work.

G11. The proposed list of projects described in condition G1 shall be constructed in accordance with the following plans submitted for Commission review:

-Cover sheet (F1.1) drawn 8/04, revised July 2005
-Existing conditions (F2.1) drawn 8/04, revised July 2005
-Proposed development plan (F2.2) drawn 8/04, revised July 2005
-Project abutters (F2.3) drawn 8/04, revised July 2005
-Reconstruct and expand main aircraft parking apron (F3.1), drawn 8/04, revised July 2005
-Reconstruct Runway 6-24 (F4.1) drawn 8/04, revised July 2005
-Construct Runway 6 Runway Safety Area (RSA) (F4.2), drawn 8/04, revised July 2005
-Construct Runway 24 Runway Safety Area (RSA) (F4.3), drawn 8/04
-Reconstruct Airports Electrical Vault & Install MIRLS, REILS, PAPIs & MITLS, drawn 8/04, revised July 2005
-Construct Terminal Building (F6.1), drawn 8/04, revised July 2005
-Terminal Building Floor Plans and Elevations (F6.2), drawn 8/04, revised July 2005
-Reconstruct Parallel Taxiway (F7.1), drawn 8/04, revised July 2005
-Install AST & Expand Turf Tie-Down Area (F8.1), drawn 8/04, revised July 2005
-Construct SRE Building with Storage Yard (F9.1), drawn 8/04, revised July 2005
-SRE Building Floor Plan and Elevations (F9.2), drawn 8/04, revised July 2005
-Construct 6-Unit T-Hangar/Construct 3 additional 6-Unit T-Hangars (F10.1), drawn 8/04, revised July 2005
-Drainage and Erosion Control Details (D1.1), drawn 8/04, revised July 2005
-Pre-Development Drainage and Watersheds (W1.1), drawn 8/04, revised July 2005
-Post-Development Drainage and Watersheds (W1.2), drawn 8/04, revised July 2005

G12. The Applicant shall be responsible for providing proof of recording of the decision prior to issuance of the first Preliminary Certificate of Compliance. If the Chatham Municipal Airport is on an assemblage of parcels, the Applicant shall record this decision as to each parcel or plan at the Barnstable Registry of Deeds and/or Land Court.

G13. The Applicant shall provide proof to the Commission that a copy of this decision has been provided to the general contractor at the Airport as well as to the general manager of all businesses at the Airport at least thirty (30) calendar days prior to commencement of construction, or within thirty (30) calendar days of the contractor's or manager's hire, whichever is sooner.

G14. The Applicant shall notify Commission staff in writing at least thirty (30) calendar days prior to its intent to seek each Preliminary and each Final Certificate of Compliance for each project subpart listed in condition G1. Such notification shall include a list of key contact(s), along with their telephone numbers, for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition, if warranted, within fourteen (14) business days of such notification and inform the Applicant in writing of any deficiencies and corrections needed. The Applicant understands that the Commission has no obligation to issue any Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The Applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in this decision, including those linked to each Certificate, have been met.

Community Character

Building Siting, Architecture, Landscaping
CC1. Prior to commencement of each project subpart that involves construction of any building or automobile parking, (including but not limited to the new terminal, new snow removal equipment building and the T-hangars) and prior to issuance of the Preliminary Certificate of Compliance for that phase, the Applicant shall submit final site plans for all buildings in that phase consistent with

the conceptual plans listed in findings CC2 and CC4. Commission staff will review the final site plans to confirm that they are consistent with the community character Minimum Performance Standards of the 2002 (revised) Regional Policy Plan.

CC2. Prior to issuance of a Preliminary Certificate of Compliance for each project subpart that involves the construction of any buildings or automobile parking, and prior to the Airport beginning construction of the proposed terminal building, SRE building and two six unit T-Hangar buildings noted as Buildings 1 and 2 on plan F10.1, the Applicant must submit for Commission staff review and approval a) architectural plans including exterior elevations of all four sides of any proposed building, with proposed materials, and a roof plan, and b) a proposed landscaping plan showing grading and clearing, the number, location, size and type of plant materials to be used as a visual buffer in the vegetated areas adjacent to George Ryder Road, and the existing plant materials to be retained. Commission staff will review these plans for consistency with the conceptual architectural plans listed in findings CC2 to CC4, and with the community character Minimum Performance Standards of the RPP. Unless and until the plans and other information required to be submitted per this condition are approved by Commission staff, as consistent with the conceptual plans and the community character Minimum Performance Standards of the RPP, construction of all proposed buildings or automobile parking in the relevant project subpart may not commence, and the Commission may not issue a Preliminary Certificate of Compliance for the relevant project subpart.

CC3. The two six unit T-Hangars described as Buildings 3 and 4 on plans listed in finding CC4, and the associated landscaping, shall require further Cape Cod Commission review and approval consistent with the Commission's *Enabling Regulations* governing modifications to approved Developments of Regional Impact.

Exterior Lighting

EXL1. Prior to issuance of the second Preliminary Certificate of Compliance, the Applicant shall, in consultation with Commission staff, replace the 300 watt halogen lights on the existing T-hangars existing prior to issuance of this decision, and Maintenance Hangar; the three 150 watt spot lights used to illuminate the main apron, the entrance to the Airport Manager's office, and airfield entrance gate; and the three mercury vapor lights to illuminate the existing unpaved parking lot to the North side of the terminal complex. Lights selected to replace those named in this condition shall conform to the requirements of Technical Bulletin 95-001 (as amended).

EXL2. Prior to issuance of the second Preliminary Certificate of Compliance, Commission staff will conduct a field site visit to ensure the work described in condition EXL1 has been completed, and that the exterior lighting is consistent with Technical Bulletin 95-001.

EX3. The Applicant shall submit to Commission staff information consistent with Technical Bulletin 95-001 for any new lights for any new proposed buildings described in this decision. Commission staff will review these fixtures for consistency with Technical Bulletin 95-001. Unless Commission staff reviews and approves the exterior light fixtures for proposed new buildings as consistent with Technical Bulletin 95-001, the Certificate affecting the construction or occupancy of the building shall not be issued by the Commission.

Natural Resources/Open Space

NR1. Activities in the vernal pool buffer: Consistent with findings NR4 and NR5, following construction of the Runway Safety Area (RSA) at the Runway 6 end, according to the Plan 4.2 entitled "Construct Runway 6 Runway Safety Area (RSA) (CIP-2005)", dated 8/2004, revised July 2005, the 350 foot buffer to the vernal pool located on Airport property is to remain in its undisturbed, natural state. The following exceptions are permissible with written notification to the Cape Cod Commission and review and approval by Commission staff. No work shall proceed

unless and until the Applicant receives written approval of such work. In conducting its review, the Commission staff will apply the requirements of MPS 2.3.1.2 and 2.4.1.5.

a.) Maintenance of the Runway 6 end;

b.) Maintenance and reconstruction of the gabion wall;

c.) Maintenance of the fence located around the RSA at the Runway 6 end;

d.) Topping of approximately 15 to 25 trees as shown on plan 4.2 entitled "Construct Runway 6 Runway Safety Area (RSA) (CIP-2005)", dated 8/2004, revised July 2005, and pruning of future tree growth to maintain the TERPS, Paragraph 251, Standard Visual Area Surface (VAR) free of tree obstructions;

e.) Maintenance of areas revegetated with shrubs for removal of trees, as necessary.

In addition, maintenance of grassed areas through mowing may occur without notification to the Cape Cod Commission.

NR2. Installation of additional impervious surfaces within the vernal pool buffer area, clearing in excess of that identified on plan 4.2 entitled "Construct Runway 6 Runway Safety Area (RSA) (CIP-2005)", dated 8/2004, revised July 2005, or other changes within the vernal pool buffer area not permitted through this decision are prohibited, unless allowed through a Commission approved written modification to this decision. Modifications should take into consideration the mitigation provided in return for specific proposed alterations in the vernal pool buffer area, as permitted by this decision, and whether additional proposed alterations should or will provide additional mitigation. Prior to any additional proposed action or development in the vernal pool buffer, the Applicant must seek a modification to this condition according to the Commission's *Enabling Regulations* in effect when the modification is sought.

NR3. Mitigation actions: Consistent with findings NR4 and NR5, but also in recognition of MPS 2.3.1.2 and 2.4.1.5, the Airport shall complete the following mitigation activities prior to issuance of the Preliminary Certificate of Compliance that involves reconstruction of the RSA at the Runway 6 end:

• Utilize best management practices prior to construction, and implement mitigation activities (excepting the proposed revegetation which shall occur prior to the Final Certificate of Compliance – see NR 4 below) listed in the mitigation section of Appendix C of the DRI/Hardship Exemption application dated August 2004, and attached hereto and incorporated herein by reference.

• Seek certification of the onsite vernal pool through submission of a completed vernal pool certification application to the Natural Heritage and Endangered Species Program.

• Install and maintain two educational signs relating to vernal pool ecology and the importance of protecting vernal pool buffer habitat, with one sign to be located on Airport property, and the other to be located on Town of Chatham property available and visible to the public, location and text of such signs to be subject to review and approval by Commission staff.

• Respect undisturbed and naturally vegetated areas within the vernal pool buffer area as discussed in condition NR1 above.

NR4. Mitigation actions: Consistent with findings NR4 and NR5, but also in recognition of MPS 2.3.1.2 and 2.4.1.5, the Airport shall complete the following mitigation activities prior to issuance of the Final Certificate of Compliance that involves reconstruction of the RSA at the Runway 6 end:

• Install fencing around the RSA, minimizing clearing to the extent feasible.

• Provide for professional wetland or vernal pool technical assistance to the Town Conservation Commission in its efforts to evaluate and certify, as appropriate, vernal pools on Town of Chatham and two (2) Chatham Conservation Foundation properties.

• Revegetate newly graded slopes and the shoulders of the bike path within the 350 ft vernal pool buffer, and monitor the functionality of the vernal pool post-construction, as proposed in the mitigation section of Appendix C of the DRI/Hardship Exemption application dated August 2004, and attached hereto and incorporated herein by reference.

NR5. Invasive species management: Consistent with the requirements of MPS 2.4.1.6, prior to issuance of the first Preliminary Certificate of Compliance, and prior to any development or construction activities, the Applicant shall submit for Commission staff review and approval an invasive species management plan consistent with the requirements of the 01-001 Technical Bulletin, addressing both the management of existing invasive species on the Airport property, and the prevention of introduction of invasive species into the vernal pool buffer area during construction of the RSAs. Following construction of the RSAs, the Applicant shall incorporate invasive species management into their annual land management activities.

Water Resources

WR1. The project shall be constructed in accordance with Findings WR1 through WR7.

WR2. The project shall capture, treat and infiltrate a minimum of 75% of runoff from the airport's paved areas using vegetated swales and basins meeting Massachusetts Stormwater Policy guidelines for critical areas.

Engineered plans showing the proposed stormwater infrastructure layout and drainage system details for construction Phase I as described in this condition shall be submitted to the Commission for review six (6) weeks prior to issuance of the Preliminary Certificate of Compliance for the project subparts described in this condition (WR2). The plans will be reviewed for consistency with Minimum Performance Standards 2.1.1.2.C.1, MPS 2.1.1.2.C.2, and Minimum Performance Standards under Section 2.1.3 of the RPP and approved by Commission staff before issuance of both the Preliminary and Final Certificates of Compliance .

Construction Phase I
- Reconstruction of the runway safety areas
- Reconstruction of Runway 6-24 with MIRLS with installation of REILS and a PAPI for Runway 6
- Reconstruction of the Main Apron
- Conversion of the turf apron to a 10,000 square yard paved apron
- Construction of the two 6-unit (9,000 square foot) T-hangars located closest to the parallel taxiway as noted in finding CC4, and
- Replacement of the 20,000-gallon fuel storage facility with a 10,000-gallon capacity aboveground aircraft fuel storage and aircraft fueling area as described in finding G1, G2 and condition HMW3.

WR3. Engineered plans showing the proposed stormwater infrastructure layout and drainage system details for construction Phase II as described in this condition (WR3) shall be submitted to the Commission for review and approval by Commission staff before issuance of the Preliminary Certificate of Compliance for the project subparts described in this condition. The plans will be reviewed for consistency with Minimum Performance Standards 2.1.1.2.C.1, MPS 2.1.1.2.C.2, and Minimum Performance Standards under Section 2.1.3 of the RPP and approved by Commission staff before issuance of both the Preliminary and Final Certificates of Compliance:

Construction Phase II
- Reconstruction of the parallel taxiway with installation of MITLS

WR4. Engineered plans showing the proposed stormwater infrastructure layout and drainage system details for construction Phase III as described in this condition (WR4) shall be submitted to the Commission for review and approval by Commission staff before issuance of the Preliminary Certificate of Compliance for the project subparts described in this condition. The plans will be reviewed for consistency with Minimum Performance Standards 2.1.1.2.C.1, MPS 2.1.1.2.C.2, and Minimum Performance Standards under Section 2.1.3 of the RPP and approved by Commission staff before issuance of both the Preliminary and Final Certificate of Compliance:

Construction Phase III
- Reconstruction of turf tie-down areas T-3 and T-4 (Turf tie-down area T-3 is located adjacent to the aircraft fueling area and is shown on plan F5.1 dated 8/2004, revised July 2005, and turf tie-down area T-4 is located to the north of the terminal area and is shown on plan F8.1 dated 8/2004).
- Construction of the proposed (5,280 square-foot) terminal building and associated parking lot
- Construction of the proposed 3,600 square-foot SRE building and associated driveway
- Construction of the two 9,000 square foot 6-unit T-hangar buildings and associated taxilanes located nearest to George Ryder Road

WR5. Engineered septic system design plans shall be submitted to the Commission for approval prior to February 27, 2006. These plans will be reviewed for consistency with MPS 2.1.1.2.C. The first Preliminary Certificate of Compliance for this project regardless of which subpart is chosen, shall not be issued by the Commission without Commission staff approval of the septic system design plans and an approved septic system permit. The Airport's Title-5 wastewater flows shall be limited to 2,600 gallons per day (gpd).

WR6. If any of conditions WR1 through WR5 are not met, the Applicant must seek a modification to this decision according to the Commission's *Enabling Regulations* in effect when the modification is sought, relative to an alternative plan for meeting MPS 2.1.1.2.C described in this decision.

Hazardous Materials/Wastes

HMW1. The Applicant shall submit for the Commission's records a revised Stormwater Pollution Prevention Plan which addresses fueling and maintenance of construction equipment; sets specific goals for materials substitution and employee education in hazardous materials/waste management; and provides for periodic reviews of chemical ordering and materials vending procedures. Unless and until the Commission receives and approves the revised Stormwater Pollution Prevention Plan as consistent with this condition, the second Preliminary Certificate of Compliance shall not be issued by the Commission (for the second project subpart that is chosen by the Applicant).

HMW2. One year from the date of issuance of the fifth Final Certificate of Compliance (for the fifth project subpart), the Applicant shall provide Commission staff with a then-current inventory (similar in structure and content to that provided during the Commission's review) which details the hazardous materials used and hazardous wastes generated by the Airport within the last three (3) months. Said inventory need not include hazardous materials or wastes attributable to pilots or tenant aircraft stored in hangars or on tie-down areas. It shall, however, include hazardous materials and wastes attributable to the maintenance hangar and other Airport facilities. Included in the report/inventory required by this condition, the Applicant shall also submit a written description of the facility's hazardous waste generator status, including the hazardous waste transporter used.

HMW3. Until such time as the Airport upgrades the fuel storage and aircraft fueling area, such that the amount of fuel stored on site is reduced to not more than 10,000 gallons, only the first five Preliminary Certificates of Compliance may be issued by the Commission.

Transportation Resources

T1. Prior to issuance of the first Preliminary Certificate of Compliance, the Applicant shall:

- Install a bike rack on George Ryder Road and at the existing airport terminal building.
- Provide bicycle maps and a bicycle loaner program consisting, at a minimum, of at least three (3) "loaner" bicycles that will be loaned free of charge to arriving pilots or visitors.
- Provide a reference in all promotional materials or link, in the case of a website, to the Cape Cod Commission transportation information center Travel Demand Management services. In addition, website based materials and advertising developed for the project will include listing and links to available public transportation services serving the project site.

T2. Prior to issuance of the second Preliminary Certificate of Compliance, the Applicant shall allow and facilitate as needed the construction of the Cape Cod Rail Trial extension by the Town of Chatham on the Airport property, adjacent to the layout for George Ryder Road.

T3. Prior to issuance of a Final Certificate of Compliance, the Applicant shall ensure that a bike rack is installed at the new terminal building.

SUMMARY

The Cape Cod Commission hereby approves with conditions the application of the Chatham Airport Commission for the sub-set of projects listed in condition G1 with the Developments of Regional Impact Hardship Exemptions as outlined in this decision pursuant to Sections 12, 13 and 23 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Chatham Airport Safety Improvements projects located in Chatham, MA.

_____ _____

Commission Chair Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____, 2005

Before me, the undersigned Notary Public, personally appeared

_____, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned.

_____

Notary Public

My Commission Expires;