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CAPE COD COMMISSION

DEVELOPMENT OF REGIONAL IMPACT DECISION

DATE: DECEMBER ___, 2015

TO: ARTHUR LISENBY, AIRPORT MANAGER, PROVINCETOWN MUNICIPAL AIRPORT

PROJECT APPLICANT: TOWN OF PROVINCETOWN C/O AIRPORT COMMISSION
PO BOX 657, PROVINCETOWN, MA 02657

PROPERTY OWNER: CAPE COD NATIONAL SEASHORE
99 MARCONI SITE ROAD, WELLFLEET, MA 02667

PROJECT NUMBER: HDEX06005

PROJECT: PROVINCETOWN MUNICIPAL AIRPORT CIP PHASE I

PROJECT SITE: 176 RACE POINT ROAD, PROVINCETOWN, MA 02657

TITLE REFERENCE: DEED BOOK 1423 PAGE 968

ASSESSOR'S MAP/PARCEL: 1-8-631

SUMMARY

The Cape Cod Commission (Commission) hereby approves, with conditions, the application by the Town of Provincetown Airport Commission (Applicant) as a Development of Regional Impact (DRI) Hardship Exemption pursuant to Sections 12 and 13 of the *Act Establishing the Cape Cod Commission*, c. 716 of the Acts of 1989, as amended, (Act) and Section 2(d)(i) and 9 of the Commission's *Enabling Regulations*, as amended (*Enabling Regulations)*, for construction of the proposed Capital Improvement Plan Phase I project components (Project). This decision is rendered pursuant to a vote of the Commission on December ___, 2015.

PROJECT DESCRIPTION

Phase 1 of the Provincetown Municipal Airport CIP involves the following project components, designed and proposed to further consistency with operational guidelines issued by the Federal Aviation Administration (FAA), the Massachusetts Department of Transportation (MassDOT) Aeronautics Division, and the Transportation Security Administration (TSA).

The project components are:

- improvements to the westerly taxiway system;
- relocation of the east end taxiway;
- reconstruction of the terminal apron (footprint pavement reconstruction completed in 2008);
- reconstruction of the easterly end of taxiway (footprint pavement reconstruction completed in 2012);
- installation of new taxiway lighting and construction of a new electric vault
- repair of the sightseeing shack;
- improvements to the access road to the approach light system (MALSF);
- construction of service access roads to the Localizer Equipment Shelter (LES) and to the Automated Weather Observation Station (AWOS);
- installation of a perimeter safety/security fence;
- construction of Phase 1 automobile parking expansion; and
- expansion of the turf apron.

The Applicant operates the airport under a special use permit from the United States Department of the Interior.

JURISDICTION

The Project comes under the jurisdiction of the Commission pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations* which requires proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA (MGL Chapter 30, Sections 61 to 62H, inclusive) to undergo Development of Regional Impact (DRI) review.

PROCEDURAL HISTORY

The Applicant submitted a Final EIR (FEIR) to MEPA in January 2012. The FEIR was noticed in the MEPA Environmental Monitor on January 11, 2012. The Commission provided comments to MEPA on February 1, 2012. The Secretary of EEA issued a certificate on the FEIR on February 17, 2012.

The Applicant decided to phase the project components approved by the FEIR. The Applicant submitted a DRI Hardship Exemption application on July 28, 2015 for those Phase I project components outlined herein. The Applicant submitted additional materials in August and September 2015. The Commission declared the application complete on October 1, 2015.

The first public hearing was held by hearing officer on November 4, 2015 at 5:30PM in the Judge Welsh Room at Provincetown Town Hall. The Applicant presented the Project, Commission staff presented a draft decision, and substantive testimony was taken. The hearing was continued to the next meeting of the full Commission on November 12, 2015 at 3:00PM in the Assembly of Delegates Chamber at the Barnstable First District Courthouse.

FINDINGS

The Commission hereby finds as follows:

GENERAL FINDINGS

GF1. The project ("Project") consists of:

- improvements to the westerly taxiway system;
- relocation of the east end taxiway;
- reconstruction of the terminal apron (footprint pavement reconstruction completed in 2008);
- reconstruction of the easterly end of taxiway (footprint pavement reconstruction completed in 2012);
- installation of new taxiway lighting and construction of a new electric vault;
- repair of the sightseeing shack;
- improvements to the access road to the approach light system (MALSF);
- construction of service access roads to the Localizer Equipment Shelter (LES) and to the Automated Weather Observation Station (AWOS);
- installation of a perimeter safety/security fence;
- construction of Phase 1 automobile parking expansion; and
- expansion of the turf apron.

GF2. The Project is a mandatory DRI pursuant to Section 2(d)(i) of the Commission's *Enabling Regulations*, as the Project was required to prepare an EIR under MEPA.

GF3. Pursuant to Section 9 of the Commission's *Enabling Regulations*, the Commission may waive or modify application of one or more of the Minimum Performance Standards (MPS) for Hardship Exemptions where an applicant demonstrates that: (a) a literal enforcement of the provisions of Commission regulations would involve substantial hardship, financial or otherwise; (b) such relief requested is related directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship; (c) the relief granted will not nullify or substantially derogate from the intent and purposes of the Act; and (d) the relief granted will not result in a substantial detriment to the public good.

GF4. As part of its request for DRI approval, the Applicant seeks hardship exemption relief from meeting several Natural Resources MPS of the RPP. As discussed in more detail herein, the Commission finds that a literal enforcement of these MPS would involve substantial hardship to the Applicant due to the need to make the proposed safety and functional improvements to the

Airport and the inability to avoid alteration to coastal and inland wetlands, given the great extent of these wetlands and wetlands buffer areas on the Project Site. Further the relief requested is related directly to the nature of the identified hardship and is the minimum relief necessary to address the hardship; and based on the Applicant's proposal to minimize and mitigate impact to wetlands, the relief granted will not nullify or substantially derogate from the intent and purposes of the Act, and will not result in a substantial detriment to the public good.

GF5. The Secretary issued a Final Certificate on February 17, 2012 stating that the FEIR adequately and properly complies with MEPA and its implementing regulations.

GF6. As the date of the first public hearing on the Project was November 4, 2015, the Project was reviewed subject to the 2009 Regional Policy Plan as amended August 2012 (RPP).

GF7. The Project is proposed in accordance with the following plan sets and other information and documents referenced below:

Capital Improvements Plan Application for Development of Regional Impact, prepared by the Horsley Witten Group, dated July 2015, including:

Figure 1: *USGS Topographic Map*
Figure 2: *Aerial Photograph*
Figure 3: *Landside Facilities*
Figure 4: *Airside Facilities*
Figure 5: *Map of Delineated Wetlands and Coastal Dunes*
Figure 6: *Barrier Beach Limits*
Figure 7: *FEMA Flood Zones*
Figure 8: *National Flood Insurance Program, Flood Insurance Rate Maps*
Figure 9: *Natural Heritage and Endangered Species Program Mapping*
Figure 10: *Eastern Spadefoot Habitat*
Figure 11: *West End Taxiway*
Figure 12: *East End Taxiway*
Figure 13: *AWOS and LES Access Roads*
Figure 14: *Phase 1 Parking Expansion*
Figure 15: *Fence Impacts*
Figure 16: *Vegetation Management Plan*
Figure 17: *Areas of Wetland Enhancement*
Figure 18: *Buffer Zone Impacts*

Provincetown Municipal Airport, AIP No. 3-25-0043-36-2013, Provincetown Municipal Airport Capital Improvement Plan, prepared by Jacobs, dated May 2015:

Sheet 1: *Title Sheet*
Sheet 2: *Environmental Delineation Plan*
Sheet 3: *Proposed Airfield Improvement Plan*
Sheet 4: *Proposed Airfield Improvement Plan, Sheet 1 of 4*
Sheet 5: *Proposed Airfield Improvement Plan, Sheet 2 of 4*
Sheet 6: *Proposed Airfield Improvement Plan, Sheet 3 of 4*

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Sheet 7: *Proposed Airfield Improvement Plan, Sheet 4 of 4*
Sheet 8: *Proposed Fence Plan*
Sheet 9: *Proposed Phase 1 Parking Lot Grading and Drainage*
Sheet 10: *Proposed Phase 1 Parking and Drainage Details 1*
Sheet 11: *Proposed Phase 1 Parking and Drainage Details 2*
Sheet 12: *Wetland Mitigation – West End Taxiway*
Sheet 13: *Wetland Mitigation – East End Taxiway*
Sheet 14: *Mitigation Area Details*
Sheet 15: *Erosion Control and Sedimentation Details*

Provincetown Municipal Airport, AIP No. 3-25-043-37-2014, Replace Flood Lighting, prepared by Jacobs, dated July 2014:

Sheet 1: *Title Sheet*
Sheet 2: *General Phasing and Safety/Operations Plan*
Sheet 3: *Environmental Plan*
Sheet 4: *Existing Conditions Plan - 1*
Sheet 5: *Existing Conditions Plan - 2*
Sheet 6: *Electrical Plan 1*
Sheet 7: *Electrical Plan 2*
Sheet 8: *Electrical Details*

Stormwater Management Report, Provincetown Municipal Airport, Provincetown, Massachusetts, prepared by Horsley Witten Group, dated May 2015

6.0 - Mitigation Measures, excerpted from *Application for Water Quality Certification with Request for Variance*, prepared by Horsley Witten Group, dated August 2015

Table 9. Direct and indirect wetland impacts by resource area and individual wetland area, excerpted from *Application for Water Quality Certification with Request for Variance*, prepared by Horsley Witten Group, dated August 2015

Views of Sightseeing Shack, submitted September 3, 2015 by Horsley Witten Group

Views of Bike Path Signage, submitted September 3, 2015 by Horsley Witten Group

GF8. The Applicant operates the airport under a United States Department of the Interior Special Use Permit, valid through December 31, 2022. The Department of the Interior, through the Cape Cod National Seashore, has signed onto the DRI permit application as property owner.

GF9. The Project Site is the entirety of the area within the lease lines shown on the Figure 1 titled *USGS Topographical Quadrangle, Provincetown Municipal Airport, Provincetown, MA* prepared by Horsley Witten Group and dated April 30, 2015.

GF10. As the majority of areas within the Project Site to be affected by the Project are either previously undisturbed or managed areas currently functioning as wildlife and plant habitat, the Project is new development in the parlance of the RPP.

GF11. Based on correspondence dated November 11, 2015, Gloria McPherson, Provincetown Town Planner, and review by Commission staff, the Project is consistent with local development by-laws and the Town's Local Comprehensive Plan (LCP), subject to obtaining necessary local permits from the town.

GF12. The Project Site is not located within a designated District of Critical Planning Concern (DCPC), other than the Cape-wide Fertilizer Management DCPC. The Town of Provincetown adopted Board of Health regulations governing the use of fertilizer on turf pursuant to the DCPC, which were approved by a vote of the Commission on December 18, 2014. As the Project does not propose the use of fertilizers on turf, which was verified by correspondence from the Applicant on October 28, 2015, the Project is consistent with the Town of Provincetown's Cape-wide Fertilizer Management DCPC implementing regulations.

GF13. The Commission finds that the probable benefits of the proposed development are:

1) The Project will increase operational safety at the Airport.

2) The Project will position the Airport, which is a vital component of local and regional transportation infrastructure, to better serve its current operations.

3) The Project will result in a reduction in impervious area of over 34,000 square feet.

4) The Project will restore 85,000 SF of wetlands and manage over 600,000 SF of the invasive species *Phragmites australis* (common reed).

GF14. The Commission finds that the probable detriments of the proposed development are:

1) The Project will impact wetlands and other priority habitat for rare species within the Cape Cod National Seashore.

GF15. The Commission finds after public hearings and consideration of all evidence before it that the probable benefit of the proposed development is greater than the probable detriment.

RPP CONSISTENCY

<u>Land Use</u>

LUF1. The Project Site is mapped as a Resource Protection Area (RPA) on the Town's Land Use Vision Map (LUVM), as adopted by the Commission. The Project is the expansion of a previously approved DRI and does not present a threat to the resources and/or characteristics intended to be protected and maintained by the Project Site's designation as a RPA. Thus, the Project meets MPS LU1.1 (Development Location).

LUF2. As no buildings are proposed as part of the Project, MPS LU1.2 (Compact Development) does not apply.

LUF3. As the Project proposes improvements to infrastructure but does not expand infrastructure, MPS LU2.1 (Connections to Existing Infrastructure) does not apply to the Project.

Economic Development

EDF1. The Project Site is mapped as a RPA on the Town's LUVM, as adopted by the Commission. Despite this mapping, the Project Site has been comprehensively planned for continued use as an airport by Commission and local planning processes, including the Town's Local Comprehensive Plan. Additionally, municipal uses are allowed in the underlying Seashore Zoning District. Thus, the Project will not be more detrimental to the protected resource than would be allowable under MPS ED1.1 (Location in Economic Centers).

EDF2. The Project will increase the safety of airport operations, thus meeting MPS ED4.1 (Demonstrated Need and Public Benefit).

Water Resources

WRF1. As the Project Site is not located within any Commission-mapped areas for the RPP issue area of Water Resources and no wastewater is associated with the Project, only MPS's under the RPP issue area of Water Resources Goal 1 (General Aquifer Protection) and Goal 7 (Stormwater) apply to the Project.

WRF2. The Project is located within the Marine Water Recharge Area to Hatches Harbor, which is not subject to a TMDL and a nitrogen loading study is not planned by the Massachusetts Estuaries Project because Hatches Harbor does not appear to have documented marine water quality problems. Therefore, the Project is only subject to the 5ppm Nitrogen Loading Standard required under Water Resource Goals WR1 (General Aquifer Protection). The Nitrogen Loading Analysis, which was calculated in accordance to the CCC Technical Bulletin 92-001, concludes that the existing nitrogen loading of 0.387 ppm will actually decrease to 0.380 ppm as a result of the capital improvement project and therefore meets the nitrogen loading standard.

WRF3. MPS WR1.5 (Turf and Landscape Management Plan) requires the implementation of best management practices in regards to turf and landscape management. The Project complies with this standard by using native plants suitable to occasional inundation and well-drained soils in the bioretention areas, forebays, and the landscape screening plantings.

WRF4. The Project complies with MPS's WR7.1 (No New Direct Discharges of Untreated Stormwater), WR7.2 (On-Site Infiltration), WR7.4 (Biofiltration Practices), and WR7.6 (Impervious Services) by proposing to capture, treat, and infiltrate all stormwater runoff on site. Biofiltration, in the form of bioretention areas and forebays, are planned to capture runoff from new impervious surfaces and are sized to accommodate water quality treatment for first inch of stormwater. Impervious surfaces are minimized by using permeable pavement in the driving aisles and gravel pavers for the parking spaces. In addition to using permeable pavement, efforts

to minimize impervious area of the turf apron, the MALSF turnaround, and taxiways have resulted in a total reduction in impervious area of 34,111 square feet.

WR5. The points of infiltration for the permeable pavement and permeable pavers is the top of the pavement/pavers, shown on design plans to range from 9'–11.6'. Test pits indicate water levels under this area to be 6.2', indicating a separation of groundwater exceeding 3' throughout almost the entire parking area, meeting MPS WR7.8 (Minimum Two-foot Separation to Groundwater).

WR6. Adequate pollutant and sedimentation controls as well as a suitable Stormwater Maintenance and Operation Plan is provided in the Stormwater Management Report, meeting MPS's WR7.9 (Best Management Practices during Construction) and WR7.10 (Stormwater Maintenance and Operation Plan).

Natural Resources

NRF1. MPS WET1.1 (Wetlands) prohibits alteration of wetlands. Nearly the entire Project Site is located within a wetland resource area or the buffers to these resource areas. These resources are shown on Figure 5 titled *Map of Delineated Wetlands and Coastal Dunes* prepared by Horsley Witten Group dated February 2015 and incorporated herein by Finding GF7. Thus, the majority of the Project is located either in a wetland resource area or within wetland buffer areas. The Project will alter 1.35 acres of wetlands by fill and 0.56 acre by modification to the wetland vegetation community for a direct wetland impact of 1.91 acres. An additional 0.95 acre of wetlands may be altered by the proposed long-term maintenance of an 8' wide clear area along the perimeter fence (no vegetation management is proposed by the Applicant within this area at this time), resulting in 2.87 acres of proposed and potential wetland impacts. The alterations to wetlands are summarized in the following table, distinguished by project.

Project	Wetland Impacts, acres
Westerly Taxiway Improvements	0.68
Relocate East End Taxiway	0.65
AWOS Access Road	0.01
Improve Access Road to Approach Lights (MALSF)	0.01
Install Perimeter Fence	0.56
Perimeter Fence 8' Clear Area (indirect)	0.95
Total	**2.86**

In its DRI submission, the Applicant included *Application for Water Quality Certification with Request for Variance,* prepared by Horsley Witten Group dated August 2015 and incorporated herein by Finding GF7, which further details the impacts to wetlands by wetland type, project element, and type of impact.

NRF2. The proposed 8' high perimeter fence is not required by the FAA, MassDOT or the TSA, but it is recommended by the FAA to address safety concerns identified in the Applicant's 2013 Wildlife Hazard Assessment. The fence is located as close as feasibly possible to the area of active airport operations, and does not include a north/south segment running across Hatches Harbor marsh on the west side of the Project Site. Construction of the fence will require installation of 1'x1'x4' concrete footers placed every 10' and maintenance of a 4' cleared area on either side to allow for visual inspection by foot. Based on correspondence from the FAA and significant conversation between the Applicant and Commission staff concerning the proposed fence design and alternatives, the fence will provide a needed barrier to human and wildlife movement while being designed to minimize impacts to the environment, including being designed to allow for the movement of Eastern box turtle.

NRF3. The Applicant seeks, and the Commission hereby grants, hardship relief from meeting MPS WET1.1 due to the need to make the proposed safety and functional improvements to the airport and the inability to avoid impacts to wetlands. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS. The Applicant has worked to minimize the proposed impacts to wetlands by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible (Mid-way East end Taxiway connector),
- minimizing the footprint of the turnaround for the MALSF, and
- minimizing the length, placement, and design of the fence, including eliminating the perimeter road and minimizing the clear area.

The Applicant proposes also to mitigate these impacts through several approaches detailed in the *Application for Water Quality Certification with Request for Variance*. Alteration to wetlands would be mitigated through the restoration of 85,000 SF of wetlands, and management of 616,350 SF of the invasive species *Phragmites australis* (common reed), which has the potential to improve wetland habitat and functions at the site, improve the chances that the proposed wetland restoration work will succeed, as well as address the RPP MPS for the management of invasive species. While wetland restoration often has mixed success, the proposed sites for restoration benefit from having the necessary hydrology in place, as well as being adjacent to similar functioning wetlands. Plants and rootstock from the existing wetlands that will be removed for the taxiway improvements will be utilized to stock, in part, the wetland restoration site.

NRF4. In addition to the proposed on-site mitigation actions, in compliance with the requirements of the ACOE permits under Section 404 of the Clean Water Act, and other authority, the Applicant will make an In-Lieu Fee payment to the Massachusetts Department of Fish and Game (DFG) for the purposes of wetland restoration. According to the *Application for Water Quality Certification with Request for Variance* filed by the Applicant, the DFG will use the funds to undertake wetland restoration projects that permanently protect aquatic resources and upland buffers or restore impacted aquatic resources within Massachusetts' Coastal-Central

service area. The Coastal-Central service area for the In-Lieu Fee Program spans the Cape Cod Bay coastal communities from Cohasset to Provincetown and south to Chatham.

NRF5. The Applicant has committed to semi-annual monitoring for a minimum period of five growing seasons from full installation to assess the success of the restoration efforts within the mitigation areas. A detailed monitoring plan, and such semi-annual monitoring reports, shall be submitted to the Commission as a condition of this decision.

NRF6. MPS WET1.2 (Wetland Buffers) prohibits the alteration of the 100' buffer to wetlands. As the majority of the Project is located either in a wetland resource area or within wetland buffer areas, many of the buffer areas to be altered by the Project are currently mowed to maintain airport operational safety. The total area of alteration to wetland buffers is 3 acres, with additional buffer areas changed from paving or turf to restored wetland. The Wetland Buffer Zone Impact Plan, Figure 18 of the DRI application, illustrates the alterations to wetland buffer areas.

NRF7. The Applicant seeks, and the Commission hereby grants, hardship relief from meeting MPS WET1.2 due to the need to make the proposed safety and functional improvements to the airport, and the inability to avoid alteration of wetland buffers. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS.

The Airport has worked to minimize the proposed impacts to wetland buffers by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible (nearly all project elements utilize some previously disturbed areas of wetland buffer), and
- minimizing, by phasing, new parking spaces (28 new spaces are proposed at this time).

NRF8. MPS WET1.4 (Stormwater) prohibits the discharge of stormwater within 100' of wetlands. The Applicant seeks, and the Commission hereby grants, hardship relief from meeting MPS WET1.4 as compliance with the standard is not possible within the project areas, as most of the airport is located within or adjacent to wetlands or their buffers. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS. The Applicant has made efforts to reduce impacts associated with stormwater runoff through the use of permeable pavings and bioinfiltration, and nitrogen loading from stormwater will be reduced by the Project.

NRF9. MPS WPH1.1 (Natural Resources Inventory) requires the submission of a natural resources inventory for new development. The Applicant has provided a detailed evaluation of the wetland, coastal, upland, and rare species habitats on the project site. A summary of these evaluations is found in the DRI application materials, and more detailed descriptions may be found in the EIR documents for the project. Thus, the Project meets MPS WPH1.1.

NRF10. MPS WPH1.2 (Clearing and Grading) requires minimizing clearing and grading on a project site. The Applicant has worked to minimize the proposed impacts by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible (nearly all project elements utilize some previously disturbed areas),
- minimizing, by phasing, new parking spaces (28 new spaces are proposed at this time), and
- minimizing the length, placement, and design of the fence, including eliminating the perimeter road and minimizing the clear area.

Thus, the Project meets MPS WPH1.2.

NRF11. MPS WPH1.3 (Wildlife and Plant Habitat) requires minimizing the fragmentation of wildlife and plant habitat. The Applicant has worked to minimize the proposed impacts by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible (nearly all project elements utilize some previously disturbed areas),
- minimizing, by phasing, new parking spaces (28 new spaces are proposed at this time),
- minimizing the length, placement, and design of the fence, including eliminating the perimeter road and minimizing the clear area,
- designing the fence to allow for the movement of Eastern box turtles, and
- clustering development adjacent to or within existing development footprints.

Thus, the Project meets MPS WPH1.3.

NRF12. MPS WPH1.4 (Rare Species) prohibits development that would adversely impact rare species or their habitats. The areas of proposed development support three state listed endangered species: the Eastern box turtle, the Vesper Sparrow, and the Eastern Spadefoot toad. The Applicant has worked to avoid or minimize impacts to these rare species by minimizing project footprints or avoiding prime habitat areas, including:

- working within existing disturbed areas to the extent feasible (nearly all project elements utilize some previously disturbed areas),
- avoiding prime Spadefoot toad breeding habitat,
- designing the fence to allow for the movement of Eastern box turtles,
- maintaining cultural grasslands which support the Vesper sparrow, and
- proposing a rare species protection plan to be implemented during construction.

As a result of the work conducted to evaluate rare species habitats on the Project Site, the project design considerations for rare species, and the development of construction protocols and time of year restrictions on construction, the development associated with the Project will not adversely affect rare species, meeting MPS WPH1.4. Additionally, the Commission notes the Natural Heritage and Endangered Species Program has issued a conditional determination of No-Take on the MESA Project Review.

NRF13. MPS WPH1.5 (Vernal Pools) protects vernal pools. According to the natural resources inventory, there are no vernal pools on the Project Site.

NRF14. MPS WPH1.6 (Invasive Species) requires management of invasive species on sites where a natural resources inventory identifies state-listed invasive species. The natural resources inventory identified three state listed species, including common reed, spotted knapweed, and purple loosestrife. The Applicant has submitted a Draft Invasive Species Management Plan which discusses the characteristics of these species, their presence within the Project Site, methods of control, and recommended management techniques given the sensitive habitats at the Project Site. The proposed management plan meets the requirements of MPS WPH1.6 and the guidelines of the Commission's Technical Bulletin on Invasive Species through the active management of 14.1 acres of common reed located between the runway and taxiways, the proposal to manage purple loosestrife within wetlands, and the proposal to manage spotted knapweed in the coastal dunes within the Project Site. The Applicant has committed to semi-annual monitoring for a minimum of five growing seasons to assess the success of the restoration efforts within the mitigation areas. A detailed monitoring plan will be submitted to the Commission and other regulatory agencies.

NRF15. MPS CR2.3 (Migration of Coastal Resources) requires that new development allow for the migration of coastal resources. Coastal dunes on the Project Site are well vegetated and stable, and coastal wetlands that might seek to move landward with sea level rise are prevented from doing so presently by existing airport elements. As the Project occurs in areas that are not actively migrating at the present time and will not worsen the existing conditions with regard to coastal migration, the Project meets MPS CR2.3.

NRF16. All of the project areas are located within a Zone AE as shown on Figure 7 titled *FEMA's National Flood Hazard Layer, Provincetown Airport, Provincetown, MA* prepared by Horsley Witten Group dated April 30, 2015 and incorporated herein by Finding GF7.

NRF17. MPS CR2.4 (Damage Prevention and Flood Minimization) requires that projects within the flood plain avoid development impacts that will increase the velocity or change flowage characteristics of flood waters in land subject to coastal storm flowage. According to application materials, the project components will result in the addition of fill within the floodplain amounting to less than 0.015% of available flood capacity within the coastal flood basin and would have a negligible impact on storm and flood conditions. Thus, the Project meets MPS CR2.4.

NRF18. MPSCR2.5 (Barrier Beaches, Coastal Dunes, and Their Buffers) prohibits new development on coastal dunes. The Project will alter 1.58 acres of coastal dunes by fill and vegetation management. The impacts to coastal dunes are summarized in the following table, distinguished by project.

Coastal Dunes

Project	Wetland Impacts (acres)
Westerly Taxiway Improvements	0.15
Relocate East End Taxiway	0.11
AWOS Access Road	0.24
LES Access Road	0.17
Phase 1 Parking	0.17
Fence	0.19
Perimeter Fence 8' Clear Area	0.55
Total	**1.58**

The Applicant seeks, and the Commission hereby grants, hardship relief from meeting CR2.5 due to the need to make the proposed safety and functional improvements to the airport and the inability to avoid impacts to dunes. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS.

The Applicant has worked to minimize impacts to coastal dunes by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible (nearly all project elements utilize some previously disturbed areas),
- minimizing, by phasing, new parking spaces (28 new spaces are proposed at this time), and
- clustering development adjacent to or within existing development footprints.

The Applicant also proposes mitigation in the form of dune creation on 0.63 acres of the airport property. This mitigation is less than the area of impact to coastal dunes, due in part to the decision to prioritize wetland restoration and maintaining cultural grasslands (Vesper Sparrow habitat) on the Project Site. There are not additional areas suitable for dune creation without impacting other valued resource areas. Additional mitigation in the form of invasive species management (spotted knapweed) on coastal dunes within the Project Site will improve the ability of these dune areas to perform their natural functions.

NRF19. As the Project proposes improvements to infrastructure but does not expand infrastructure, MPS CR2.8 (Public Infrastructure in Land Subject to Coastal Storm Flowage) does not apply to the Project.

NRF20. The Project proposes improvements to infrastructure but occurs in areas of the Project Site previously undisturbed by airport uses and therefore is outside the scope of general infrastructure maintenance. Additionally, the Project and its constituent components are not primarily an ecological restoration or rehabilitation project. Thus, MPS CR2.10 (General Exceptions) does not apply to the Project.

NRF21. MPS CR3.1 (Buffers to Coastal Wetlands) requires the protection of a 100' buffer to coastal wetlands. Coastal wetlands are any bank, marsh, swamp, meadow, flat or other lowland subject to tidal action or coastal storm flowage. Some components of the Project are located within coastal wetland buffer areas. Many of these buffer areas that would be impacted are currently managed by mowing to maintain airport operational safety.

NRF22. The Applicant seeks, and the Commission hereby grants, hardship relief from meeting MPS CR3.1 (Buffers to Coastal Wetlands) due to the need to make the proposed safety and functional improvements to the airport and the inability to avoid impacts to coastal wetland buffers. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS.

The Applicant has worked to minimize the proposed impacts to coastal wetland buffers by minimizing project footprints, including:

- working within existing disturbed areas to the extent feasible, and
- minimizing, by phasing, new parking spaces (28 new spaces are proposed at this time).

NRF23. MPS CR3.3 (Stormwater Discharges) prohibits the discharge of stormwater within 100' of wetlands. The Applicant seeks, and the Commission hereby grants, hardship relief from meeting MPS CR3.3 because of the inability to avoid impacts to coastal wetlands and their buffer zones. The Commission finds that the Applicant has satisfied the criteria for granting hardship exemption relief from this MPS. As noted, most of the Project Site is located within or adjacent to wetlands or their buffers, and discharge outside of the 100' buffers is not feasible in most locations. The Applicant has made efforts to reduce impacts associated with stormwater runoff, as discussed herein by Finding WR4.

NRF24. MPS CR3.4 (Stormwater Management Designed to Accommodate Relative Sea-level Rise) requires that stormwater systems proposed within 300' of the spring high water contour should maintain a 3' separation from groundwater. The Project meets MPS CR3.4 over the entire parking area, where stormwater will primarily infiltrate through the porous pavement and permeable pavers. The proposed bioretention area "backup" maintains a 2'-3' separation to groundwater, but is in excess of what is required by the Commission. Thus, the Project will not be more detrimental to the protected resource than would be allowable under MPS CR3.4, and the Project meets MPS CR3.4.

NRF25. The MPS's of the RPP issue area of Marine Resources do not apply to this project.

NRF26. The requirement to provide permanently protected open space under the MPS's of the RPP issue area of Open Space do not apply to municipal projects.

Transportation

TRF1. Most of the RPP MPS's in the issue area of Transportation apply to projects that will result in an increase in traffic on the road. Others refer to any proposed roadway infrastructure mitigation activities. The proposed project will not generate any additional trips nor include any roadway infrastructure mitigation; therefore, Commission Transportation staff suggests that the following RPP MPS's do not apply: MPS TR0.1, MPS TR0.2, MPS TR0.4, MPS TR0.5, MPS TR1.2, MPS TR1.3, MPS TR1.5, MPS TR1.9, MPS TR2.1, MPS TR2.2, MPS TR2.5, MPS TR2.10, MPS TR2.11, MPS TR2.12, MPS TR2.13, MPS TR2.14, MPS TR3.2, MPS TR3.4, MPS TR3.5, MPS TR3.6, MPS TR3.7, MPS TR3.8, MPS TR3.9, MPS TR3.11, MPS TR3.12, MPS TR3.13, MPS TR3.14, MPS TR3.15, and MPS TR3.16.

TRF2. MPS TR0.3 (Permits for Roadwork prior to Construction) requires that "*all necessary approvals and permits from federal, state and/or local government agencies for transportation mitigation or DRI site access and egress shall be obtained and copies submitted to the Cape Cod Commission prior to the issuance of a preliminary Certificate of Compliance for the DRI.*" The Project, as conditioned herein, complies with MPS TR0.3 with the provision that, prior to issuance by the Commission of a Preliminary Certificate of Compliance, the Applicant be required to submit a copy of all necessary approvals and permits to the Cape Cod Commission.

TRF3. MPS TR1.1 (No Degradation of Public Safety) states that "*regardless of project traffic generation, DRIs shall not degrade safety for pedestrians, bicyclists, or motor vehicle operators or passengers.*" As evidenced by information included in the application materials, The Project complies with MPS TR1.1.

TRF4. MPS TR1.4 (Standards for Driveway Construction) states that "*all access and egress locations for DRIs shall meet local, county, and/or state and federal access management bylaws, technical bulletins, standards, and/or policies for driveway spacing and separation from the nearest intersections.*" MPS TR1.4 additionally requires that "*the width of driveway and/or curb-cut openings to serve DRIs shall not exceed 12 feet per travel lane, except where deemed appropriate by the Commission.*" No modifications to the existing driveway are proposed, and the site driveway is appropriately designed for uses on the site. Thus, the Project complies with MPS TR1.4.

TRF5. MPS TR1.6 (Sight-distance Obstructions) requires that "*human-made objects such as signage, utility poles and boxes, and lighting to service DRIs shall be located to minimize visual obstruction and possible safety conflicts for the traveling public, including glare or other distractions for drivers, bicyclists, and pedestrians.*" As conditioned herein, the Project complies with MPS TR1.6 (Sight-distance Obstructions) with the provision that, prior to issuance by the Commission of a Final Certificate of Compliance, Commission staff will conduct

a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drive.

TRF6. MPS TR1.7 (Bicyclists and Pedestrians Safety and Access/Egress Requirements) requires that "*site planning and access/egress for DRIs shall minimize adverse impacts on the adjacent road system and shall adequately and safely accommodate all users including pedestrians, bicyclists, and motorists*." The Provincetown Lands Bicycle Path runs adjacent to the airport and crosses Airport Driveway where bicyclists or pedestrians can access the airport. No modifications to the existing driveway or to the adjacent Bicycle Path are proposed. Along with links to public transportation, the Bicycle Path makes the airport accessible to all users, meeting MPS TR1.7 as well as MPS TR2.7 (Bicycle and Pedestrian Accommodations).

TRF7. MPS TR1.8 (Sight Distance Requirements) requires that "*acceptable sight distances shall be met and maintained at all access and/or egress locations for DRIs regardless of project traffic generation*." Based on a site visit by Commission Transportation staff, sufficient sight distance is available on Race Point Road at Airport Driveway and at the entrance to the employee lot, meeting MPS TR1.8.

TRF8. MPS TR2.3 (Interconnections) requires that "*DRIs shall implement procedures to allow connections (vehicular and pedestrian) between parcels to minimize curb cuts, driveways, and vehicle turning maneuvers*." Given the location of the Project Site, no interconnections are feasible. Thus, MPS TR2.3 as well as MPS TR2.4 (Incentives for Connections between Adjacent Properties) do not apply to the Project.

TRF9. MPS TR2.6 (Bus Stops, Turn-outs, and Shelters) states that "*Where appropriate, the Commission may require construction of a bus stop and/or bus turn-out and/or bus shelter as part of DRI approval either internal to the property or along the property's roadway frontage*." The project site is currently served by the Cape Cod Regional Transit Authority seasonal Provincetown Shuttle and year-round, on request, by the Dial-A-Rail paratransit service. No additional infrastructure is needed to allow for this existing service; therefore, the Project complies with MPS TR2.6.

TRF10. MPS TR2.8 (Preservation of Frontage) states that "*where deemed appropriate by the Commission, DRIs shall provide appropriate rights-of-way along their street frontage to accommodate expected needs for bicycle and pedestrian accommodation and/or relocation of utilities.*" Given the existing facilities, no such expected need exists; therefore, that the Project complies with MPS TR2.8.

TRF11. MPS TR2.9 (Parking Spaces) requires that "*the maximum parking allowed for DRIs shall be no more than the minimum number of spaces required by the town(s) in which the DRI is located unless, in the Commission's discretion, a greater number of spaces are justified by a parking analysis accepted by the Commission*." The 2008 revision of the *Traffic Operation Report and Parking Analysis* presents justification for the additional spaces proposed in the Capital Improvement Plan. As indicated in the application materials, the Phase

1 expansion of the parking area by 28 spaces is "*designed to address the current parking demand*" and meets MPS TR2.9.

TRF12. MPS TR3.1 (Operation Requirements) requires that "*regardless of traffic volumes, Level of Service analysis shall be required at all access and/or egress points onto the road system for DRIs*." MPS TR3.1 further sets minimum Level of Service requirements for driveways based on Level of Service "*for a minimum of five years after project occupancy*." With no anticipated increase in project trip generation there is no anticipated congestion impacts. Based on previous analysis of the site driveway by Commission staff, the site driveway will continue to operate at an acceptable level of service. Thus, the Project meets MPS TR3.1.

TRF13. MPS TR3.3 (Traffic Studies) requires that "*DRIs shall provide an appropriate traffic study in accordance with the Cape Cod Commission Guidelines for Transportation Impact Assessment, Technical Bulletin 96-003, as amended, as determined by the Commission in consultation with the town and the applicant*." Sufficient information of potential traffic impacts of the Project have been provided in the application materials; therefore, the Project meets MPS TR3.3.

TRF14. MPS TR3.10 (Preserve Existing Right-of-Way) requires that "e*xisting transportation rights-of-way shall be preserved for transportation uses as well as to limit trip generation*." Existing transportation rights-of-way are not being impacted by this project; therefore, the Project meets MPS TR3.10.

TRF15. BDP TR1.10 (Transportation Safety) encourages DRIs "*to promote and assist in improving transportation safety on Cape Cod*." Given that the improvements proposed as part of this project will improve aviation safety, the Project meets BDP TR1.10.

<u>Waste Management</u>

WMF1. The Project components do not propose the use or storage of hazardous materials as defined in the RPP.

WMF2. The limited amount of construction for the Project will result in a minimal amount of construction and demolition wastes, and no waste will be generated by normal operation of the Project.

WMF3. Based on findings WMF1 and WMF2 above, the MPS's of the RPP issue area of Waste Management do not apply to the Project.

<u>Energy</u>

EF1. The MPS's of the RPP issue area of Energy do not apply to infrastructure projects.

<u>Affordable Housing</u>

AH1. The MPS's of the RPP issue area of Affordable Housing do not apply to municipal projects.

Heritage Preservation/Community Character

HPCCF1. As no historic, cultural or archaeological resources are located in proximity to the Project Site, MPS's of the RPP issue area of Heritage Preservation/Community Character (HPCC) Goal 1 (Historic, Cultural, and Archaeological Resources) do not apply to the Project.

HPCCF2. As outlined in the application materials, minor improvements are proposed to the Sightseeing Shack. Photographs of the current appearance of the Sightseeing Shack were submitted by the Applicant on September 3, 2015, which are incorporated herein by Finding GF7. All materials and finishes will be replaced in kind, meeting the Building Design Standards MPS's of the RPP issue area of HPCC Goal 2 (Community Character/Site and Building Design).

HPCCF3. The proposed parking is adequately buffered from the roadway by the proposed planting plan, which incorporates native and drought-resistant species, meeting MPS's HPCC2.8 (Parking to the Side or Rear of Buildings), HPCC2.9 (Landscaping Improvements for Redevelopment), and HPCC2.10 (Landscape Plan Requirements).

HPCCF4. The proposed exterior parking lot lighting meets MPS HPCC2.11 (Exterior Lighting) by using full-cutoff fixtures mounted at heights of 20' and lower, as detailed in the application materials.

HPCCF5. As no changes in signage are proposed, MPS HPCC2.12 (Signage) does not apply to the Project.

CONCLUSION

Based on the above findings, the Commission further finds that:

1. Subject to the Conditions below, and the granting of hardship exemption relief herein, the Project is consistent with the Regional Policy Plan.

2. Based on correspondence dated November 11, 2015 from Gloria McPherson, Provincetown Town Planner, and review by Commission staff, the Project is consistent with local development by-laws and the Town's Local Comprehensive Plan, subject to obtaining local permits for the Project.

3. The Project Site is not located within a designated District of Critical Planning Concern (DCPC) other than the Cape-wide Fertilizer Management DCPC, and the Project is consistent with the Town of Provincetown's Cape-wide Fertilizer Management DCPC implementing regulations.

4. With specific emphasis on Findings GF13, GF14, and GF15 herein, the probable benefit of the Project is greater than its probable detriment.

DRAFT

5. The Commission hereby approves, with conditions, the DRI Hardship Exemption application of the Town of Provincetown Airport Commission for construction of the proposed Capital Improvement Plan Phase I project components subject to the following Conditions:

CONDITIONS

GENERAL CONDITIONS

GC1. This decision is valid for a period of 7 years and local development permits may be issued pursuant hereto to the Applicant for a period of 7 years from the date of this written decision.

GC3. Failure to comply, and remain in compliance, with all findings and conditions state herein, and with all related Commission laws and regulations, shall be deemed cause to revoke or modify this decision.

GC4. The Applicant shall obtain all necessary federal, state, and local permits for the Project. Specifically, prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall obtain all necessary municipal permits, licenses and approvals for the Project, including but not limited to a wetlands order of conditions and applicable zoning permits.

> GC4(a). The Project's consistency with municipal development by-laws or ordinances shall be evidenced and confirmed by the Applicant obtaining all said necessary municipal permits, licenses and approvals.

GC5. No local permitting or permitting review for development work as approved herein, including but not limited to site work, shall be undertaken until this decision is final and the Commission Clerk certifies in writing that the decision appeal period has elapsed or if such an appeal has been filed, until the appeal has been finally dismissed, or is adjudicated or otherwise disposed of in favor of the Applicant.

GC6. The Project shall be undertaken, constructed and maintained in accordance with the Findings and Conditions set out herein, including the plan sets and other information and documents referenced herein under Finding GF7. Changes to the approved Project shall require modification to this decision, in accordance with the *Modification* section of the Commission's *Enabling Regulations* then in effect when such modification is sought. All other plans and documents required to be submitted as conditions of this decision shall hereby be incorporated into this decision as and when received, reviewed, and approved by Commission staff.

> GC6a. The Project and its constituent components approved herein are referenced in Finding GF1. No other work, set out in the Applicant's FEIR or otherwise, including work to the terminal building, shall be permitted without further review and approval by the Commission.

> GC6b. The Applicant shall provide the mitigation as outlined in the *Application for Water Quality Certification with Request for Variance,* including but not limited to wetlands restoration and invasive species management and removal referenced therein.

GC7. Prior to issuance of a Building Permit or undertaking any development as approved herein, including but not limited to site work and installation of foundations or footings, the Applicant shall obtain a Preliminary Certificate of Compliance from the Commission that evidences that all conditions in this decision required to have been satisfied prior to the issuance of a Preliminary Certificate of Compliance have been satisfied, and that the Project is in compliance with this decision.

GC8. Prior to issuance of any Preliminary Certificate of Compliance by the Cape Cod Commission for development as approved herein, the Applicant shall submit final project plans as approved, and permits, licenses and approvals issued, by state, federal, and local authorities for review by Commission staff who shall determine their consistency with this decision. If Commission staff determines that the final plans are not consistent with those project plans approved, referenced and incorporated herein, the Commission shall require that the Applicant seek a modification to this decision for further review and approval of the project plan changes in accordance with the "*Modification*" section of the Commission's *Enabling Regulations* in effect at the time the modification is sought.

GC9. Prior to issuance of a Preliminary Certificate of Compliance, but not until the appeal period for this decision has elapsed, or if such an appeal has been filed, until the appeal has been finally dismissed, or adjudicated or otherwise disposed of in favor of the Applicant, the Commission shall record a copy of this decision with the Barnstable Registry of Deeds, with recording costs borne by the Applicant. This decision shall not be effective until a copy of the same has been so recorded.

GC10. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide written proof to the Commission that a copy of this decision has been received by the Project general contractor(s).

GC11. Prior to building permit sign-off for the project by the Town, the Applicant shall obtain a Final Certificate of Compliance from the Commission that evidences that all conditions in this decision required to have been satisfied prior to issuance of a Final Certificate of Compliance have been satisfied and that the Project is in compliance with this decision.

GC12. Commission staff will undertake a review of the Project's compliance with this decision, including the applicable conditions hereof, upon the Applicant's request to the Commission for issuance of a Preliminary or Final Certificate of Compliance. At the time the Applicant requests such a certificate, it shall provide Commission staff a list of key project contact(s), along with their telephone numbers, mailing addresses, and email addresses, in the event questions arise during the Commission's compliance review. As part of its compliance review, Commission staff may make, and the Applicant hereby authorizes, a site inspection, as needed, at reasonable times and upon reasonable notice to the Applicant. Upon review, the Commission shall either prepare and issue the requested Certificate, or inform the Applicant in writing of any compliance deficiencies and the remedial action required for the issuance of the requested Certificate.

WATER RESOURCES

WRC1. Pursuant to MPS WR7.10 (Stormwater Operation and Maintenance Plan), one year from completion of the stormwater system, or prior to the issuance of a Final Certificate of Compliance, as the case may be, a Professional Engineer shall inspect the system and submit a letter to Commission staff certifying that the system was installed and functions as designed and approved.

NATURAL RESOURCES

NRC1. The Applicant has committed to semi-annual monitoring for a minimum period of five growing seasons from full installation to assess the success of the restoration efforts within the mitigation areas. Prior to issuance of a Preliminary Certificate of Compliance, the Applicant shall provide to Commission staff for review and approval a draft monitoring plan, and prior to issuance of a Final Certificate of Compliance, the final monitoring plan consistent with the draft approved by Commission staff. Copies of all subsequent monitoring reports shall be submitted to the Commission.

TRANSPORTATION

TRC1. Prior to issuance of a Final Certificate of Compliance, Commission staff shall conduct a site visit to confirm that no signs, vegetation, or other visual obstructions have been placed in a manner that would create an obstruction to safe sight distance at the site drive.

TRC2. Prior to issuance by the Commission of a Preliminary Certificate of Compliance, the Applicant shall be required to submit a copy of all necessary roadwork approvals and permits to the Commission.

SEE NEXT PAGE FOR SIGNATURES

DRAFT

SIGNATURES

Executed this _____ day of _____ 2015.

_____
Signature

_____
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss _____ ___, 2015

Before me, the undersigned notary public, personally appeared _____, in his/her capacity as _____ of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, or [ ] personal knowledge of the undersigned.

_____
Notary Public

SEAL

My Commission Expires: