

TOWN OF WILMINGTON  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND STATEMENT OF FINDINGS  
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: Hermitage Inn Real Estate Holding Company LLC (Hermitage)

Owner/Applicant(s) Mailing Address: P.O. Box 2210, West Dover, VT 05356

Address of the subject property: 69 Airport Road

Tax Map: #002-02-049

A copy of the request is filed in the office of the Board and is referred to as: **#2015-006**

**Description of Case per Public Notice:**

Application # 2015-006: Owner(s): Hermitage Inn Real Estate Holding Company LLC. Application is being made for Conditional Use review to allow expansion of an existing airport runway, construct four new airplane hangars and access road in the Resort-Com/Res zoning district; Section 270 F (4) & Section 320; location East Tract (6 Dover Road, Dover, VT.).

Notice for a public hearing was published in the Valley News on: **November 27, 2014 & February 5, 2015.**

Notice was posted in three public places on: **November 26, 2014 & February 4, 2015.**

A copy of the notice was mailed to the applicant on: **November 24, 2014 & February 4, 2015.**

A copy of the notice was mailed to the abutters on: **November 24, 2014 & February 4, 2015.**

Public hearings were held on December 15, 2014, February 23, 2015 and March 2, 2015

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environmental Court.

**Appeal period for this Case expires on: May 16, 2015**

**Approval expires on: May 16, 2016**

In *addition* to the Applicant/Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be “interested persons”: Copies of this decision have been mailed to those persons listed below.

Brendan Goffinet	Abutter	Participated in Hearing
Elaine Hatfield	Abutter	Participated in Hearing
Mike Kirby	Abutter	Participated in Hearing
Russell Holton	Abutter	Participated in Hearing
Laurie Newton	Abutter	Participated in Hearing
Representing Mount Snow		
Joseph Busko	Abutter	Participated in Hearing

The following presented testimony on behalf of the Applicant or an Interested Person

Robert Harrington	Witness	For Applicant
Harrington Engineering		
Ben Joyce	Witness	For Applicant
Joyce Land Surveying		
Robert Rubin	Witness	For Applicant
Robert Fisher	Attorney for Applicant	
Fisher and Fisher		

The following Exhibits were placed in evidence by the Applicant or Interested Person:

1. Application consisting of 4 Pages;
2. Plan entitled “East Tract Development/Deerfield Valley Airport” sheet title “Wetland Impacts – Overview February 2015 CW-103 sheet 9” last revised 02/02/15.
3. Booklet entitled “Deerfield Valley Airport Runway Expansion, Noise Level Analysis” dated September 22, 2014 by RSG.
4. Booklet entitled “Deerfield Valley Regional Airport Wilmington VT, Alternative Analysis & Statement of Purpose” dated December 16, 2014 by Harrington Engineering Inc. noted as “Third Draft”
5. Print out of an e-mail from Guy Rouelle, Vermont Aeronautics Administrator, Vermont Agency of Transportation to Robert S. Harrington dated March 2, 2015, subject “Deer Valley Airport”
6. Booklet entitled “Deerfield Valley Airport Safety Improvement Project, Alternative Analysis” dated May 7, 2014 by Harrington Engineering, Inc.
7. Document as an addition to Exhibit 6 above entitled “2.7 Runway Extension to 4,400 feet. 480 feet paved Safety Area – Alternative 7 (Preferred)”

**I. The Board FINDS the following:**

1. The subject property is known as the “Airport Parcel” and portions of the “East Tract” of the former Haystack development now owned by Hermitage Real Estate Holding Company (Hermitage). The airport property is identified as Tax Map 002-02-049 and runs from the Dover Town Line southerly. The portions of the “East Tract” subject to this application are shown on Exhibit 2 and consist of the roadway running through Haystack East, Deer Hill Village, Maple Valley Village and Saddle Ridge Village around the southerly end of the extended runway to roadways in Old Partridge Village and ending at the proposed taxiway. There are no buildings presently on the subject parcels. (Application and Exhibit 2)
2. The Airport Parcel has been used for many years as an Airport and consists of a terminal building, hangars, fuel storage and other necessary amenities connected with the operation of an airport all of which lie in the Town of Dover. A portion of the runway lies in Wilmington. Present access is by Airport Road in Dover. (the Plan, testimony of Harrington)
3. The property lies in the Resort- Residential District. (Application)
4. The “Airport Parcel” and those portions of the “East Tract” that are the subject of this application were also the subject to a previous decision of this Board in Case # 2013-075 dated November 5, 2013, hereinafter “Case 2013-075”, of which case the Board takes judicial notice. Case 2013-075 extended the runway an additional 1800 feet, widened it to 75 feet and had various Object Free Zones approved. It also approved the upgrading and use of the road in the East Tract from Haystack East to the Airport Parcel. (Case 2013-075)
5. The applicant is seeking to extend the paved portion of the 75 foot wide runway an additional 430 feet beyond the 4450 feet approved in Case 2013-075 for a total length of 4880 feet. The requested extension will provide a safety area 240 feet in length on either end of the runway, marked as displaced thresholds, to be utilized during aircraft departures. No increase in airport utilization is expected from these improvements. All of the construction of the pavement extension is to be within the Town of Wilmington. (Exhibit 7, Testimony of Harrington)
6. The extension of the 75 foot wide runway will require the extension of the 250 foot Object Free Zone which runs 125 feet on either side of the centerline of the runway along the runway’s extended length. This area will be grubbed and grassed. An additional trapezoidal Object Free Zone will extend 1000 feet from the southerly end of the runway being 250 feet wide at the northerly end and 450 feet wide at the southerly end. This area will be brush hogged. (Exhibit 2, Testimony of Harrington)
7. Storm water runoff and erosion control to be managed by low impact grass at the

runway sides and an underground piping system and as required by the State of Vermont. (Exhibit 7, Testimony of Harrington)

8. Lighting of the runway will be consistent with that presently in existence and as shown in Exhibit U of Case 2013-075. (Testimony of Harrington)
9. The Applicant also seeks to construct five 60' x 80' metal aircraft hangars 25' high at the ridgeline easterly of the previously approved runway extension. These hangars are to be served by a new 35' wide paved taxi way leading from the runway and running northerly past the new hangars to the Dover town line. (Application, Exhibit 2 and Testimony of Harrington)
10. The hangars will be used solely for aircraft storage. They will be insulated and heated to 40 degrees. However, no water will be supplied to any building and no maintenance of aircraft within the hangar is presently contemplated. (Testimony of Harrington)
11. Hangars will have a shielded, down facing light below the roof peak facing the taxi way. The most southerly hangar is approximately 225 feet from the closest lot line in Old Partridge Village. (Exhibit 2 and Testimony of Harrington).
12. The Applicant is also seeking to change the location of the previously approved road through the East Tract, hereinafter the "East Tract Road", in two areas: first – a slight southerly jog near Haystack Village East to give the necessary set back distance from Well #9 and second - to a more southerly route following roughed in roads in the Saddle Ridge Village with new construction along the southerly and easterly edge of the Object Free Zone to avoid the proposed runway extension and connect to the proposed taxi way. (Exhibit 2)
13. The road will have a 20 foot traveled way with 2 foot shoulders. As in Case 2013-075, the major initial use of the road is to transport fill from the Base Tract to the Airport Parcel avoiding the residential areas along Airport Road in Dover. It is estimated that 2,000 truckloads of fill will be moved along this road. It will be plowed in the winter and maintained year round for emergency vehicles but will remain a private roadway. An asphalt surface was mentioned but the surface was not determined. (Testimony of Harrington and Rubin)
14. Brendan Goffinet, representing the home owners association of Haystack Village East, stated in the December 15, 2014 hearing that the projected use of the road through Haystack Village East would change the nature of the community.
15. At the hearing on March 3, 2015, Robert Rubin stated that conversations had begun between the Applicant and the Haystack Village East homeowners association regarding the road and restated that the road would remain private and not a through road except for emergency vehicles.

16. Mike Kirby of Old Ark Road appeared at the December 15, 2014 hearing and questioned the noise generated by a proposed trap shooting range near the presently existing aircraft hangars. That issue became moot as the Applicant withdrew the request.
17. Elaine Hatfield, owner of Lot 7 in Maple Valley testified that the East Tract Road was used for snowmobile traffic.
18. Joseph Busko, an abutter in Old Partridge Village, questioned the need for any airport expansion given the wind shear issue.
19. Laurie Newton, representing the abutter Mount Snow, requested that a condition be placed on any permit that the airport remains a public airport and not restricted as to use.
20. The airport is to remain a B-1 airport and after the requested improvements are made it will become a "Regional Airport" serving South-Central Vermont. (Testimony of Harrington, Exhibit 5)
21. Section 340 M of the Zoning Bylaw prohibits continuous, permanent or ongoing noise exceeding 70dB at the property line.
22. The closest property line to the proposed extension is approximately 225 feet easterly of the center line of the proposed extension. (Exhibit 2)
23. A revised noise level analysis incorporating the requested 430 foot extension does not demonstrate a dB level at the property line in excess of 70 dB. (Exhibit 2 and page 16 of Exhibit 3)

## **II. The Board CONCLUDES:**

1. That an airport is a Conditional Use in the Resort-Residential District and requires Conditional Use review. (Section 270 F 4)
2. That there are no site criteria for an airport but the proposed construction meets the setback criteria of Section 270 F 5.

With regards to the criteria for a conditional use permit, the Board further finds and

concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

A. Section 320A - General Standards

1. **Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** No. The runway extension is an addition for safety purposes and will not increase demands for community services beyond those addressed in Case 2013-075. The change in the East Tract Road is required by the runway extension and will remain a private road beyond its use for emergency services. Aircraft hangars are for storage only. (Findings 5, 10 & 13)
2. **Will the proposed Conditional Use have an undue adverse effect on the character of the area affected as defined by the purpose or purpose of the zoning district within which the project is located and specifically stated policies and standards of this Ordinance and the Town Plan?** No. The area has been used as an airport for years and the runway was extended by Case 2013-075. The requested extension is for safety purposes and will not increase the airport usage. The East Tract Road change will not have any impact on existing residential dwellings but will have an impact on additional wetlands which are under the jurisdiction of the State of Vermont. (Findings 5, 13 & 23 and Exhibits 2 & 7)
3. **Will the proposed Conditional Use have an undue adverse effect on the traffic on the roads and highways in the vicinity?** No additional airplane traffic beyond that considered in Case 2013-075 is anticipated leading to no increase in traffic to the airport through Dover. The change in the East Tract Road will allow construction traffic to utilize the roadway through the East Tract as opposed to public roadways in Wilmington and Dover. (Findings 5, 12 & 13)
4. **Will the proposed Conditional Use comply with by-laws and ordinances effect at the time of the application?** Yes.
5. **Will the proposed Conditional Use have an undue adverse effect on the utilization of renewable energy resources?** No.

B. Section 340 – General Performance Standards for Conditional Uses and PUDs

1. **Air Emissions for Commercial Operations:** The possibility of lead emissions from aircraft fuel was addressed in Exhibit AC – Lead emissions from Deerfield Valley Airport Runway Expansion by RSG Inc., Sept 13, 2013

in Case 2013-075. Dust from the East Tract Road construction and roadway use is addressed by Condition 4.

2. **Buffer Areas:** There is sufficient distance from the hangars and the extended runway to maintain a 20 foot buffer strip of natural vegetation. (Findings 11 & 22, Exhibit 2)
3. **Landscaping:** No landscaping is required.
4. **Lighting and Glare:** Lighting for the aircraft hangars is downward facing. Runway lighting is to be as in Case 2013-075 as extended and is addressed in Condition 8 (Findings 8 & 11)
5. **Parking:** Not applicable.
6. **Shared Access:** Not applicable.
7. **Setbacks and Screening:** Addressed in “Buffer Areas” above.
8. **Traffic Impacts and Street Access Control:** Addressed in Case 2013-075.
9. **Road Development:** Addressed in Condition 4 and 5
10. **Vibration:** No evidence of permanent, ongoing vibration was presented.
11. **Noise:** There will be no permanent or ongoing noise in excess of 70dB at any property line. (Finding 19)
12. **Water Quality:** Storm water has been addressed. (Finding 7)

### **III. CONDITIONS:**

The application is granted subject to the following restrictions, requirements, limitations or specifications:

1. The airport shall remain a public airport for use by the public as well as the applicant;
2. Conditions 1, 2, 3 and 6 of Case 2103-075 are conditions of this approval and are incorporated herein by reference.
3. The East Tract Road shall be plowed in winter and maintained for the passage of emergency vehicles.
4. During the construction of the runway, as extended, all travel of heavy

construction equipment over Haystack Village East Road and Airport Road shall occur between 7 am and 5 pm on weekdays only. Dust preventative measures by spreading water, calcium chloride or otherwise shall be utilized in residential areas with no asphalt paving. All owners of residential dwelling units abutting Haystack East Village Road, Airport Road and Partridge Run shall be sent a letter by the Applicant with contact information for a person who can answer questions or respond to complaints. These letters shall be sent out before construction begins. Other persons in the neighborhood shall be given the information upon request.

5. All new road construction shall meet the requirements of the Town of Wilmington Town Highway Ordinance 2011, adopted September 27, 2011 as may be amended.
6. The total paved area of the runway shall not exceed 4,880 feet in length with a width of 75 feet. Additional area to be paved is the taxi way running from the runway to the new hangars and connecting to the old hangar area. The Object Free Zone shall extend 125 feet on either side of the center line of the runway. An additional Object Free Zone shall extend 1000 feet from the southerly end of the runway and be 450 feet wide at its southerly bound. Requests for any additional land clearing shall require an application and hearing before this board.
7. Each aircraft hangar is to be used for the storage of aircraft only and may have a single downward facing exterior light below the westerly facing roof peak.
8. A buffer strip 20 feet in width shall be maintained along all abutting residential property lines in Old Partridge Village. This strip may be of natural vegetation.
9. Until the installation of the proposed radio controlled runway lights, see Case 2013-075, the runway lights, except in an emergency, shall not be illuminated after the hours of operation. After the installation of the proposed radio controlled lights, the runway will be illuminated for aircraft takeoff and landing only. Lighting shall be as shown on Exhibit U of Case 2013-075.

The Development Review Board approves the application for the construction of the airport runway extension, five aircraft hangars, taxi way and a modification of a previously approved roadway in the Resort-Residential District.

**If unused, this Approval expires 1 year from the date of issue.** A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.



There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Peter Wallace  
Wendy Manners  
Fred Houston  
Meg Streeter  
Adam Lemire

OPPOSED:

None

ABSTAINING:

None

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For the Board: Peter Wallace, Chairperson

Date: April 16, 2015

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

*This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.*