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THE CAPE COD COMMISSION



CAPE COD PLANNING AND ECONOMIC DEVELOPMENT COMMISSION

1ST DISTRICT COURT HOUSE, BARNSTABLE, MASSACHUSETTS 02630

TELEPHONE: 508-362-2511

DATE: October 11, 1990
TO: Mr. Edward Crowell
FROM: Cape Cod Commission
RE: Development of Regional Impact application
Cape Cod Commission Act, Section 12(c)(6)
APPLICANT: Mr. Edward Crowell
PROJECT: Crowell Golf Driving Range
Great Western Road
Dennis, MA

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of Mr. Edward Crowell for a Development of Regional Impact (DRI) under Section 12(c)(6) of the Cape Cod Commission Act (the Act), c. 716 of the Acts of 1989, as amended, for a proposed golf driving range on Great Western Road in Dennis, MA. The decision is rendered pursuant to the vote of the Commission on October 11, 1990.

PROJECT DESCRIPTION

The proposal calls for a golf driving range to be constructed on 19 acres of a 37-acre parcel presently used for sand excavation by Crowell Construction Company. The site is located on Great Western Road in Dennis, MA about 1/2 mile east of the intersection of Upper County Road and Route 134. The proposal consists of 70 sheltered tees, a small clubhouse and 62 parking spaces. The tees, "greens" and parking are to be constructed in two phases.

PROCEDURAL HISTORY

The project received a variance from the Dennis Zoning Board of Appeals for a recreational use in a residential zone. The project applied for a special permit from the Dennis Planning Board on March 15, 1990 and was referred to the Commission by the Board on April 26, 1990. A Hardship Exemption was denied by a vote of the full Commission on June 7, 1990. A DRI Exemption application was filed by the Applicant on August 30, 1990 and was withdrawn on September 27, 1990. An application for a Development of Regional Impact under Section 12(c)(6) of the Act was also filed with the Commission on August 30, 1990. A public hearing was scheduled on the DRI application for June 21, 1990 and continued until September 18, 1990. A duly noticed public hearing pursuant to Section 5

of the Act was conducted on the application by the Cape Cod Commission Sub-Committee on September 18, 1990 in the Dennis Town Offices. The Sub-Committee gave a report to the full Commission on September 27, 1990 in Barnstable County Superior Courthouse, Route 6A, Barnstable, MA. The Commission then voted at this hearing to approve the project as a DRI subject to conditions which had been agreed upon by the Applicant and approved by the Sub-Committee.

Materials Submitted for the Record

Materials submitted by the Applicant include:

- Site Plans (4 sheets) by Downcape Engineering, Inc. dated March 13, 1990
- Preliminary Floor Plan (1 sheet), unnamed, dated April 18, 1990
- Architectural Section/Elevation (1 sheet) by Northeast Design, dated April 9, 1990
- Lighting Design Plan (1 sheet) by Hubbell Lighting Division, dated September 7, 1990
- Traffic Impact & Access Study, McDonough & Scully, dated September, 1990
- Zone of Contribution map, undated and untitled
- Zoning map
- photos (2) of proposed clubhouse design
- Winter 1990 Issue of Ground Water Monitoring Review, received June 7, 1990
- Golf Driving Range Manual, printed 1978, received June 7, 1990
- Golf Driving Range Projection of Use table, received June 7, 1990

Additional Materials:

- DRI Referral letter with comments from town of Dennis Planning Board
- Letter from Tom Broderick, Dennis Town Planner
- Four (4) Cape Cod Commission Staff Reports, dated September 12, 18, 26, 27, 1990

Testimony

At the September 18, 1990 Sub-Committee hearing, the Sub-Committee heard the following oral testimony from the Applicant, Commission staff and other interested parties:

Mr. Edward Crowell, Applicant, gave a brief description and history of the project. The site was previously used as a sand pit. The sand pit was actively used for many years with numerous trucks entering and exiting the site. Much of the land had been stripped for the sand pit operation, resulting in sand blowing onto area roadways. The town of Dennis asked the Applicant to construct a buffer and berm to shield the sand pit from residential land use to the west. The marketability of constructing a golf driving range was researched and the site was graded in the summer of 1989. The Applicant had applied for local approvals when the Cape Cod Commission was formed.

Mr. Myer Singer, attorney for the Applicant gave a description of the project. The proposal was referred to the Commission under Section 12 of the Act as greater than 40,000 square feet of outdoor commercial space. He made an appeal to the Commission to approve the project based on the probable benefits vs. detriments of the project and that it was consistent with local by-laws. The benefits included providing a year-round recreational use and promoting physical activity. The project would be converting 19 acres of sand excavation to grass and landscaped area. It would also eliminate a valid non-conforming and noxious land use and would result in less truck traffic from the site.

Commission staff comments were made by Sharon J. Rooney, Regulatory Planner. Ms. Rooney stated that the staff's concerns of the project were the following: a need for traffic improvements to the intersection of Routes 134/Upper County Road and striping for this intersection and Great Western Road/Upper County Road to provide a right-turn lane; protection of the water supply since portions of the project are within the ZOC or 500-foot buffer zone to a public water supply well; provision of buffers along the frontage in addition to those already proposed on the western property line adjacent to a residential area; and provision that the remaining acreage come before the Commission for review if any change of use is proposed.

The Applicant also stated that there had been a significant delay in the project due to procedural delays of the Commission. He requested that the Commission make a decision at the September 27 hearing and stated that he would be willing to withdraw his DRI Exemption request to that end.

The following interested parties spoke at the Sub-Committee hearing September 18, 1990:

- Tom Broderick, Dennis Town Planner, gave a positive recommendation for the project.
- Kathleen Kelleher, resident, objected to the project on the grounds that it would be unfair competition to the public golf/driving ranges in Dennis
- Joanne Robideau, Commonwealth Electric, testified that the location of some tees would conflict with a 100-foot utility easement
- James Fair, resident 3/10 mile away from project spoke in favor and stated project would be an improvement over what exists
- Ralph Jeffered, resident stated that project will not affect other golf course ranges because they are inadequate and cannot keep up with demand
- George King, resident spoke in favor of free market economy and competition
- an abuttor who was in favor of proposal but concerned about all-terrain-vehicles trespassing on the Applicant's property.

The public hearing was closed on this date but the record was kept open until September 24, 1990 @ 1:00 p.m. to receive additional traffic information. A follow-up meeting was scheduled with the Sub-Committee for September 24, 1990 at 1:00 p.m. in the Commission office.

At a full Cape Cod Commission hearing held on September 27, 1990, the Sub-Committee provided its recommendation for approval of the project with conditions. By a unanimous vote, the Commission determined to grant the application for DRI approval with conditions.

JURISDICTION

The proposed golf driving range qualifies as a Development of Regional Impact under Section 12(c)(6) of the Act, which requires review of "any proposed retail or wholesale business, office or industrial development, as well as any private, health, recreational or educational development which has a floor area as follows: ...outdoor commercial space greater than forty thousand square feet."

The application and notice of public hearing relative thereto, the Commission staff's notes and exhibits and all written submissions received in the course of the proceedings are incorporated into the record by reference.

FINDINGS

The Commission has considered the application of Mr. Edward Crowell for the proposed golf driving range, and based on consideration of such application, the information presented and Commission staff recommendations at the public hearing, makes the following findings pursuant to Section 12 of the Act:

1. Adverse traffic impacts from the proposed driving range will occur at the intersections of Route 134/Upper County Road and Upper County Road/Great Western Road. These intersections will operate at LOS E and LOS F, respectively. Operations under such conditions is undesirable and mitigation is needed to improve traffic flow. Actions adequate to mitigate the adverse traffic impacts from this project include the following:

- re-striping the lane markings on the westbound approach of the above roadways to provide for one designated right-turn lane
- provision of initial design alternatives for needed improvements to the intersections of Route 134/Upper County Road and Upper County Road/Great Western Road

2. Portions of the project area are within the ZOC to the Dennis Public Water Supply Well 13, with a greater percentage of the site within a recommended 500 foot buffer zone to the ZOC. Typical fertilizer applications for golf course fairways would introduce a nitrogen concentration exceeding the Commission's guidelines of 5 ppm. Actions adequate to protect water resources include the following:

- a maximum annual fertilizer application rate of 2 lbs. nitrogen/1000 square feet
- maintenance of an on-going inventory of fertilizer use
- use of a slow-release fertilizer
- provision of a licensed turf manager to oversee the use of pesticides, herbicides and fertilizer
- submission of any proposed change of use for the 37-acre site to the Commission for review

3. The proposed tees and 25-foot lighting standards for the project extend along the length of Great Western Road. In order to minimize the visual impact of these structures, an earth berm of 2 to 3 feet in height should be constructed along the length of Great Western Road, except for driveway openings. This berm should be planted with deciduous trees 20 feet-on-center at a minimum size of 2" caliper.

4. The Applicant will be converting 19 acres of a sand excavation operation to a grassed and landscaped area. Only 3% of the site area is proposed structures with 97% open space. The proposed use will provide year-round recreation. It will also eliminate a valid non-conforming use which will result in a decrease in truck traffic in the area. Alternative uses of the site could create more impact on the environment.

5. The project is in conformance with local by-laws. The Zoning Board of Appeals granted a variance for the recreational use in a residential zone. The project has received support from the Dennis Town Planner.

CONCLUSION

Based upon the findings above, the Cape Cod Commission hereby concludes:

- 1). The probable benefit from the proposed golf driving range is greater than the probable detriment. This conclusion is supported by the finding that the Applicant will be converting 19 acres of a sand and gravel operation to greenspace and landscaped area. Only 3% of the project area is devoted to structures, with 97% to remain open area. Alternative uses of the site could create more impact on the environment.
- 2). The proposed golf driving range is consistent with town of Dennis zoning by-laws. This conclusion is supported by the finding that the project has received a variance from the Dennis Zoning Board of Appeals and has received support from the Dennis Town Planner. The proposed development will also eliminate a valid non-conforming land use.
- 3). The Applicant has agreed to conditions listed below which mitigate the problems listed in the findings above.

The Commission hereby approves the Crowell Golf Driving Range as a Development of Regional Impact with the following conditions:

1). Re-Striping of Routes 134/Upper County Road and Great Western Road/Upper County Road

The applicant is to pay for complete re-striping at the intersections of Route 134/Upper County Road and Great Western/Upper County Road. A sketch showing the intersection re-striping shall be submitted to the staff of the Cape Cod Commission for approval. The striping is to provide for one designated right-turn lane at the westbound approach of Upper County Road and Route 134. Work performed is to conform to the Manual On Uniform Traffic Control Devices (MUTCD).

2). Payment To An Escrow Fund For Area Road Improvements

With the intent of mitigating the impacts of this project to the intersection of Route 134 and Upper County Road, the Applicant shall deposit the amount of \$2500.00 in an escrow fund, which fund shall be dedicated to the sole purpose of performing work, possibly including design, to improve the intersection of Route 134 and Upper County Road in Dennis, Massachusetts. The Applicant shall make such contribution to the escrow fund pursuant to an escrow agreement, which shall be of form and content satisfactory to Counsel to the Cape Cod Commission, and which shall designate a bank or other fiduciary as the escrow agent. The Applicant's contribution to the escrow fund shall be irrevocable, and shall be a precondition to the issuance of any certificate of occupancy for the Applicant's proposed development by any municipal agencies. The escrow fund is to be held for a maximum period of ten years. The contents of the escrow fund shall be released upon the vote of the Commission, and shall be dedicated to the improvement of the intersection of Route 134 and Upper County Road. If no improvements or design work is commenced within ten (10) years time, the escrow fund shall be returned to the Applicant.

3). Guidelines For Pesticides/Herbicides and Fertilizer Use

The applicant shall provide for protection of water resources by adherence to the following guidelines for fertilizer and pesticide/herbicide use. Documentation shall be submitted to the Cape Cod Commission staff annually for the first two years of operation.

- a. maximum annual fertilizer application rate of 2 lbs.nitrogen /1000 square feet
- b. maintenance of an on-going inventory of fertilizer use
- c. use of a slow-release organic fertilizer
- d. provision of a licensed turf manager to oversee the use of pesticides/herbicides and fertilizer

4). Change of Use Requires Review By The Commission

Any proposed change of use within the total 37-acre development area, regardless of size, shall be brought before the Cape Cod Commission for review.

5). Provision of Earth Berm

An earth berm of two to three feet in height shall be constructed along the length of Great Western Road, except for the driveway opening to the site, where adequate sight distance is to be maintained. This berm is to be seeded and planted with deciduous trees. The minimum size of trees is to be 2" caliper and planted 20 feet-on-center. Sideslopes of berm are not to exceed 1:3.



Richard S. Armstrong, Chairman

10/11/90

Date



Notary
My Commission Expires May 3, 1992

10/11/90

Date