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CAPE COD
COMMISSION

Minutes
Northbridge Mashpee Assisted Living Facility DRI Meeting
5:30PM, March 23, 2016
Cape Cod Commission Office, Large Conference Room
3225 Main Street, Barnstable, MA

Subcommittee Members Present: Richard Roy (Chair), Richard Conron, and Harold Mitchell

Commission Staff Present: Jonathon Idman (Chief Regulatory Officer) and Jeffrey Ribeiro (Regulatory Officer)

Others Present: Al Crepeau (EGA Architects), Ray Mitrano (The Northbridge Companies), Stephen Ordway (The Northbridge Companies), and Brian Yergatian (BSC Group).

Minutes Summary

The Cape Cod Commission (Commission) Northbridge Assisted Living Facility Subcommittee (Subcommittee) held a meeting to review a proposal by The Northbridge Companies (Applicant) to construct a 70-unit assisted living and memory care facility (Project) as a Development of Regional Impact (DRI). Commission staff presented the Subcommittee with a draft DRI decision, which would approve the Project with conditions. The Subcommittee requested and took comment from the Applicant. The Subcommittee voted to recommend the draft written DRI decision to the full Commission for adoption, subject to the conditions set out in the draft decision and some minor revisions based on the discussion by the Subcommittee at the meeting, which decision will be taken up by the Commission at a continued public hearing on the Project scheduled for the Commission's meeting on Thursday, March 31, 2016 at 3:00PM at the Assembly of Delegates Chamber in the First District Courthouse, 3195 Main Street, Barnstable, MA.

Documents Used/Received

1. Draft DRI Decision

Public Meeting Opened

Richard Roy, as Chair, called the meeting to order at 5:35PM. Mr. Roy stated that the meeting was being audio-taped for the purposes of compiling minutes and that public testimony would

be allowed at the discretion of the Chair. He then asked the other Subcommittee members to introduce themselves, and they did so.

Jonathon Idman, Chief Regulatory Officer, suggested to the Chair that he may wish to ask the Applicant if they wished to move forward with the meeting, seeing that only three Subcommittee members were present. He said that a recommendation of the draft decision would require a unanimous vote. Mr. Roy asked the Applicant for comment.

Ray Mitrano said that they are still reviewing the draft decision. He said he would be willing to move forward. Harold Mitchell asked if the Applicant would be able to request the meeting be continued should issues arise during discussion of the draft decision. Mr. Idman replied that should issues arise, he would suggest the Subcommittee hold another meeting to further discuss those issues. Mr. Idman said that he did not anticipate any new issues since the last hearing. He said, based on discussion at the prior hearing, the Applicant has proffered additional transportation improvements and agreed to perform an archaeological survey. He said the Subcommittee should direct Commission staff as to whether staff appropriately addressed those concerns in the draft decision.

Mr. Roy then asked for a motion to approve the minutes of the public hearing held on March 9, 2016. Mr. Mitchell moved and Richard Conron seconded. All were in favor. Mr. Roy then asked Jeffrey Ribeiro, Regulatory Officer, to present the draft DRI decision. Mr. Ribeiro noted that staff had made some small changes to the draft decision since the draft decision was originally provided to the Subcommittee, and redlined copies with those revisions had been given to the Subcommittee members and were available for the public at the back of the room. Mr. Ribeiro said those small changes were based on comments from Tom Fudala, Mashpee Town Planner, and were, in Mr. Ribeiro's opinion, did not affect the outcome of the draft decision as originally crafted. He stated that findings from the draft decision largely mirror the DRI Staff Report previously reviewed by the Subcommittee, with the exception of new findings in the issue areas of Transportation and Heritage Preservation. He said that it is still the opinion of Commission staff that the Project meets the Minimum Performance Standards (MPS) of the Regional Policy Plan (RPP), and other requirements for DRI approval.

To this end, he discussed that the Applicant had proposed installing a Rectangular Rapid Flashing Beacon (RRFB) at the existing crosswalk at Donna's Lane. He said Commission staff agreed installation of an RRFB would be an appropriate improvement and suggested such an installation could be credited in the amount of \$20,000 toward the "fair share" congestion mitigation payment required of the Project.

He continued that concerns about archaeological resources had been voiced by a representative of the Mashpee Wampanoag Tribe at the last hearing, and Commission staff had further investigated those comments and concerns. He said Sarah Korjeff, Historic Preservation Specialist, had reviewed the archaeological report referenced by the Tribe, and Commission staff had reviewed the relevant provision's in Mashpee's zoning by-law concerning archaeological resource protection. Based on that investigation, Commission staff suggested that the concerns articulated fall within the purview of MPS HPCC 1.3, and accordingly, prepared the draft decision with a condition that requires the Applicant to perform an archaeological survey of the

site. He said that based on conversation with the Applicant, he understood that the Applicant had already retained a qualified consultant to do so. He said that should a significant archaeological site eligible for listing on the Nation Register of Historic Places be found, the Project would have to be modified to avoid that site. He said regulations require large archaeological sites to remain in situ.

Mr. Ribeiro then provided an overview of the conditions of the draft decision. He explained that the Applicant did not submit a sign plan, but suggested that, as a condition of the decision, Commission staff could review any signage when proposed at a later time for consistency with the RPP.

He noted the condition that requires the Applicant to submit a copy of the recorded deed and a recorded copy of the land division plan creating the Project Site. He said that the Commission had not yet received a formal TDM plan, but the decision would require one during post decision compliance review. Mr. Ribeiro said that around 4:00PM that day the Applicant had expressed via email that they do intend to install the RRFB. Mr. Ribeiro said the Affordable Housing conditions are similar to past decisions for assisted living facilities. He said that the program is based on MassHousing's ElderChoice program and has been successfully implemented at other projects. He said there has been significant demand for affordable assisted living and memory care units. He said the Applicant will also have to submit documentation to comply with Commission fair housing standards. He said Heritage Preservation/Community Character conditions require the archaeological study and a final landscape plan. He said the Applicant had submitted a landscape plan that day, which had been sent to Sharon Rooney, Commission Chief Planner, for review. He concluded by discussing the open space requirements of the decision as reflected in its proposed conditions.

Mr. Roy then asked the Applicant for comment on the draft decision. Stephen Ordway asked if assisted living one bedroom units could be based at HUD 1.5-person household rates. Mr. Ribeiro replied that it was his impression from the application materials that the one bedroom units were single occupancy. He said if that was not correct, the 1.5 person household rate could be used if agreed to by the Subcommittee. Mr. Roy said that he would allow that change if it was consistent with past Commission practice.

Mr. Ordway requested that "nursing care as needed" in the standard package of services be revised. He said that the Executive Office of Elder Affairs (EOEA) regulates what nursing services the facility can and cannot provide. Mr. Idman said general language could be added to the decision providing for those packages of services to be further refined and detailed at the time Commission staff reviewed the Affordable Housing Restriction for the Project, post-decision. Mr. Ribeiro added that the Commission would not require the Applicant to provide a service they are legally unable to provide. Ray Mitrano said that the facility was for higher acuity residents.

Mr. Ordway requested that the "hands on care" criterion set out in an affordable housing condition of the decision dealing with the standard package of services required for memory care units be limited to no more than 60 minutes per day. Mr. Idman asked for further explanation. Mr. Ordway replied any more than an hour of care would push residents to a higher

package level. He said more than 60 minutes is more time than typically offered. Mr. Idman said the issue was something being dealt with on another assisted living/ memory care project. He said he thought the issue could be dealt with through the general language suggested for addition to the decision that was already discussed, and at the time a draft affordable housing restriction is drafted, the Applicant and staff could discuss the appropriate and specific scope of a standard package of services for the affordable units, given the requirements of the decision, the RPP and the Applicant's operations. Mr. Mitrano said their request refers to the EOEIA guidelines. Mr. Ordway said that patients who require as much as 8-10 hours per day of care may require additional staff for the facility. Mr. Idman said Commission staff would be looking for evidence the affordable package was on par with the package for market rate units. Mr. Ribeiro said the Applicant could provide more detailed information on its standard packages of services for market rate units should they wish to further discuss the topic with Commission staff. He said the affordable units, and services associated with them, should be on parity with units in the rest of the facility.

Mr. Roy asked what would happen to residents who exceed the standard of care provided for these units. Mr. Ordway said the facility may be able to provide additional care for at the facility but additional staff may be required. Mr. Idman said the Applicant may wish to charge additional fees for those services, but added that many residents may fit and continue to fit into the standard package. Mr. Ribeiro said that Commission staff would look closely at any proposal by the Applicant to make sure that a wide range of individuals would fit into the parameters of the standard package of services.

Mr. Conron asked if residents of memory care units often are required to move to skilled nursing facilities. Mr. Mitrano said that it would depend on the individual. He said that there are no medical services provided at the facility, so it is usually a medical issue that requires the resident be transferred to another facility.

Mr. Mitchell asked if a payment in lieu of the affordable units had been considered. Mr. Idman said that Commission staff has seen a significant need for these units, which suggests it may be in the best interest of the region to require the units on site. Mr. Ribeiro replied that the Applicant had chosen in its application to provide the units on site. He said that it would be up to the Applicant to request the units be off site, which then would be at the discretion of the Commission. He said that the funds would also have to be paid in conjunction with a development plan that showed a greater number of units than those provided on site would result from such a payment.

Mr. Mitchell asked why cable TV, telephone and internet are not included in the standard package of services. Mr. Idman said that it is important that the affordable units mirror the market units, and if these services aren't offered in the standard package for market units, wouldn't be offered in the standard package for affordable units. Mr. Mitrano said those services are additional for market units as well. He said the building provides WiFi, but other services may be unique to the desires of the residents.

Mr. Mitchell said he was happy to see the traffic situation at Donna's Lane being addressed by the Applicant. He said it would go a long way with the community. Mr. Mitrano said his team

met with the abutters present at the public hearing on March 9, 2016 and discussed the issue. He said the RRFB would also be a benefit for residents of the Project. Mr. Roy asked if the RRFB had been proposed to the Town. Mr. Idman said Tom Fudala, Mashpee Town Planner, was aware of the provision because he reviewed the draft decision. Mr. Ribeiro said that Catherine Laurent, Mashpee Town Engineer, was included on the email about the RRFB from Steven Tupper. Mr. Idman said that the idea had its genesis at the Mashpee Design and Plan Review Committee reviews. Mr. Ribeiro said that one advantage of the product suggested by Mr. Tupper is that it can be powered by solar panels and the beacons communicate wirelessly, so they can be installed easily on existing poles. Mr. Roy asked how the RRFBs work. Mr. Mitrano replied that it would be activated by a pedestrian by pushing a button. Mr. Mitchell said it was nice to see the Applicant being proactive toward the issues within the Town.

Mr. Roy asked for additional comment. Mr. Mitrano asked for further information on how sign review would work. Mr. Idman said it would be proposed by the Applicant, reviewed at the Town first (most likely as part of the town's special permit review), and then reviewed by the Commission during post decision compliance review for consistency with the RPP. Mr. Ribeiro added that the relevant Commission requirements for sign design could be found under Regional Policy Plan Minimum Performance Standard HPCC2.12. He said lighting for the signage should also be downlit, but Mashpee has previously required signs be uplit, which is something Commission staff could work out during compliance review.

Mr. Mitrano asked if the nitrogen 'fair-share' mitigation could be adjusted based on additional performance data from the Mashpee Commons WWTF. Mr. Idman said there are differences between the site-wide N-loading calculation and the watershed nitrogen loading calculation on which the "fair share" mitigation payment is based. Mr. Idman said that he would consult with Commission water resources staff to determine whether increased performance of the Mashpee Commons WWTF might result in a lower fair share mitigation payment, but that the potential for this mitigation adjustment could be addressed post-decision with some revisions to the language of the draft decision. Mr. Ribeiro said that he had discussed the issue on the phone with Russell Burke and it would be incumbent on the Applicant to retain an engineer to put together a request which then could be reviewed by Commission staff. Mr. Roy asked if the Applicant could return for a modification if they had new data. Mr. Idman replied they could or it could potentially be handled as part of a certificate of compliance. Mr. Mitrano said his team was still evaluating the additional data. Mr. Roy replied that the Applicant could come back to the Commission after the decision was issued for a modification should new materials be available. Mr. Idman said he did not think the change would have a significant effect on the amount of mitigation required by the decision. Mr. Mitchell said the issue could be resolved by staff. Mr. Mitrano said they would like to proceed and can come back for a modification if necessary.

Mr. Roy asked for further comment. Brian Yergatian presented a board showing the proposed off-site open space discussed at the hearing on March 9, 2016. He showed the location of the proposed open space parcel. Mr. Ribeiro said the plan had been shown during the Applicant's presentation at the hearing. He said the Commission would need a formal plan as would be required for a conservation restriction. He said the plan presented was not sufficient for review

by Commission staff. Mr. Idman said the general language of the decision would allow the Applicant more flexibility in identifying an appropriate off site open space parcel if the Applicant was unable to secure the off-site parcel as currently proposed for open space. Al Crepeau presented a revised plan showing minor changes in the building footprint and noted the square footage and footprint size of the building should be updated in the draft decision. Mr. Ribeiro took the plan and said it would be incorporated.

Mr. Roy then asked for a motion to recommend the draft decision, with revisions to be prepared based on the Subcommittee's discussion, for adoption and project approval by the full Commission. Mr. Conron moved and Mr. Mitchell seconded. All were in favor. Mr. Roy asked for a motion to adjourn. Mr. Mitchell moved and Mr. Conron seconded. All were in favor. Mr. Roy adjourned the meeting at 6:27PM.

Minutes, Northbridge Mashpee Assisted Living Facility DRI Meeting, 3/23/2016

Respectfully submitted,

Richard Roy, Chair, Northbridge Mashpee Assisted Living Facility Subcommittee Date