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CAPE COD
COMMISSION

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MEMORANDUM

TO: CAPE COD COMMISSION - COMMITTEE ON PLANNING AND REGULATION
CAPE COD COMMISSION BOARD

FROM: JONATHON IDMAN, CHIEF REGULATORY OFFICER

SUBJECT: DA15002 SOUTH SANDWICH VILLAGE SPORTS & CONVENTION COMPLEX
NOTICE OF INTENT TO FILE A DEVELOPMENT AGREEMENT

DATE: MAY 1, 2015

The Cape Cod Commission (Commission) received a Notice of Intent (NOI) to file a two-party Development Agreement application with the Commission. The other participating party of the Development Agreement is a joint development partnership comprised of R.P. Clark Consulting LLC d/b/a Cape Cod Sports, Falmouth Properties, Duquette Sports Academy, NRG Energy, Inc. and Boston Global Investors, Inc. (the Applicant). The Applicant is seeking a Development Agreement to construct a sports and convention complex in the town of Sandwich including several playing fields, gymnasium, field house, ice rink, natatorium, wastewater treatment facility, two hotels, a retail building and parking (the Project).

The Project site is 56 acres +/- off Cotuit and Quaker Meetinghouse Roads in East Sandwich, which land is currently owned by the town, and for which the Applicant is a vendee under a purchase and sale agreement with the town. The Applicant is a “Qualified Applicant” with standing to seek Commission review and approval for the Project by virtue of the purchase and sale agreement.

The Project exceeds mandatory DRI thresholds, and would otherwise require DRI review; a Development Agreement allows for review alternative to and in place of DRI review for certain projects that the Commission determines are suitable and qualify for consideration under a Development Agreement. The Committee on Planning and Regulation (CPR) shall recommend to the Commission, and the Commission shall determine, whether a proposed development is suitable and qualifies for consideration under a Development Agreement, before an applicant may file application for a Development Agreement with the Commission. Commission review

and approval of an NOI is a condition precedent, and threshold matter, to an applicant seeking Commission project approval under a Development Agreement; it does not itself constitute project approval or substantive review and approval of a project on its merits.

Pursuant to Section 5 of the Commission's Development Agreement Regulations, upon receipt of an NOI, the CPR and Commission consider several factors in determining whether a project is suitable and qualifies for project review under a Development Agreement:

(i) Whether the project would benefit from comprehensive review of the foreseeable and planned development to allow for planning of efficient infrastructure;

The Project would benefit from comprehensive and coordinated review of its components, for purposes of evaluating and addressing total anticipated impacts and infrastructure demands. The Project will likely require significant roadway, wastewater and other infrastructure improvements that may benefit this project as well as the Town of Sandwich. There is a planning benefit and efficiency to the town, Commission and region in reviewing the project in a single proceeding as a sum of its components, rather than reviewing individual project components over time that may in and of themselves require DRI review.

(ii) Whether the project exhibits two or more of the following characteristics:

(a) Involves a large area of development (25 acres or more);

The Project site is 56 acres +/-, and the proposed development occupies most of the site. At full build-out, the Applicant anticipates the complex will have roughly 500,000 square feet of building space.

(b) Includes multiple uses and/or structures; and

The Project includes multiple uses and structures including sports fields and buildings, retail stores, restaurants, and hotels.

(c) Involves multiple properties under control by the same Qualified Applicant;

The Project site is composed of multiple abutting record parcels under control of a single Qualified Applicant, which parcels will be used and combined into a single parcel for phased development.

(iii) Whether construction of the project is anticipated to be built in phases over a period exceeding 7 years;

Principally on account of the realities of financing full build-out, and monitoring market demand for full build-out, the Applicant anticipates and proposes construction of the Project in four phases. The Applicant has proposed a realistic, conceptual phasing plan, in large part intending to develop infrastructure and the majority of the core sports-related uses during phases 1 and 2, and the hotel-related uses during phases 3 and 4. It is likely these phases would be built over a period that would exceed 7 years.

(iv) Whether a project has future expansions that are not fully or definitively defined but should be presented up front to avoid segmentation as described in section 2(a)(iii) of the Commission's Enabling Regulations Governing Review of Developments of Regional Impact;

Without the benefit of a Development Agreement in this Project, each phase contemplated in the Project would likely require individual review as a DRI under Section 3(e)(i) or (iii) of the Enabling Regulations. Section 3(e)(i) indicates that any new construction of a building or buildings with a gross floor area greater than 10,000 square feet be reviewed as a DRI. Section 3(e)(iii), pertaining to outdoor uses, indicates that any new construction or development that has a total project area greater than 40,000 square feet be reviewed as a DRI. Commission staff suggests there will be a benefit to reviewing these phases comprehensively through the Development Agreement process as opposed to reviewing each phase as an individual DRI. Moreover, there are certain project components that, if segmented and undertaken separately from the master concept plans, might not trigger mandatory DRI thresholds and thus not require DRI review.

(v) Whether a project has received a Final Environmental Impact report, certified as adequate by the Secretary of Energy and Environmental Affairs, if required under sections 61-62(h) of chapter 30 of the Massachusetts General Laws;

The Applicant is in discussion with MEPA and anticipates that it will be required to file an Environmental Impact Report, though some level of MEPA review will certainly be required for the Project. The Applicant has submitted a letter outlining the anticipated MEPA review process, and Commission staff suggests the Applicant's approach is reasonable.

(vi) Whether the Committee on Planning and Regulation has received testimony from any municipal agency (as that term is defined in the Act) in which the proposed development is to be located indicating whether it recommends the proposal as appropriate for a Development Agreement.

Through discussions with town planning and management staff, the town is in favor and recommends this proposal for treatment by the Commission as a Development Agreement. To this end, the Applicant is a vendee under a purchase and sale agreement for the land comprising the Project site as a result of being awarded the successful and responsible bidder under an RFP put out by the Board of Selectmen for the land. A letter from the Board of Selectmen has been or will be submitted to this effect.

(vii) Determination that no local development permits or approvals are pending

Based on independent investigation and discussions with town staff, Commission staff has determined that there are no local development permits pending for the Project.

Staff Recommendation

Commission staff suggests that the Project, as proposed by the Applicant and based on materials submitted to date, is suitable, appropriate and qualifies for consideration for Commission project review as a Development Agreement with the Commission. Commission staff recommends that the CPR vote and make a recommendation to the full Commission, and that the full Commission vote and determine, that the Project is suitable, appropriate and qualifies for consideration for Commission project review under a Development Agreement, such that the Applicant may proceed with a Development Agreement application pending MEPA review.