

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Cape Cod Commission Staff Report Development Agreement Review

DATE:	March 16, 2022
PROJECT:	35 Scudder Residential Community (Emblem Hyannis) (Cape Cod Commission File No. 20065)
APPLICANT:	Lennar Multifamily Communities, LLC
PROPERTY:	35 Scudder Avenue, Barnstable, MA 02601
ASSESSOR'S ID:	Map 2819 Parcel 110
SUBCOMMITTEE:	Harold Mitchell (Chair), Fred Chirigotis, John D. Harris, Robert Mascali, David Weeden, and Alternate

This staff memorandum provides introductory information about the Project. Detailed information and Commission staff analysis relative to each applicable and material RPP goal will be provided throughout the hearing process.

Development Context

Existing Conditions

- The Property currently includes the Twin Brooks Golf Course and the Resort and Conference Center at Hyannis, which together total 53.8 acres.
- The portion of the Property proposed to be redeveloped ("Redevelopment Site"; "Site") consists of an 18-hole private golf course bordered by scrub oak and scrub pine tree forest. The course contains multiple managed turf areas, fairways, and fairway rough, and includes managed treed areas between fairways, sand traps, and paved and unpaved cart paths.

- The Redevelopment Site is relatively flat with some small hills and ranges in elevation. It is bordered by the Hotel and Conference Center to the north, Stewart’s Creek to the east, and Joshua’s Brook to the west.
- Adjacent land uses are residential to the east and west, with commercial uses to the north and along Main Street further east.
- The Property is within the Town of Barnstable’s “Residence B” Zoning District.
- A portion of the Redevelopment Site is within the Barnstable Aquifer Protection Overlay District and Barnstable Wellhead Protection Overlay District.
- The Property is served by existing electric utilities and municipal water and sewer utilities. New connections to these utilities will be needed to serve the Redevelopment Site.

Placetype

The Project context, as defined by Placetype, provides a lens through which the Project should be considered, relative to existing development in the area. The Property includes both land that is mapped as Community Activity Center Placetype and land that is mapped as Natural Area Placetype as defined by the Regional Policy Plan (RPP). The Redevelopment Site is mapped within the Community Activity Center Placetype; the undeveloped areas that make up the eastern, southern, and western boundaries of the property are mapped as the Natural Areas Placetype.

- Community Activity Centers are areas with a concentration of business activity, community activity, and a compact built environment. Community Activity Centers are more walkable and densely developed than other Placetypes, and typically have ample access to transit, bike connections, and sidewalks. The vision for these areas is to accommodate mixed-use and multifamily residential development in a walkable, vibrant area, and, among other things, to provide diverse services, housing, and job opportunities with adequate infrastructure and pedestrian amenities to support development.
- Natural Areas are generally the region’s least developed and most sensitive areas. The vision for Natural Areas is to minimize adverse development impacts to sensitive resource areas, to preserve lands that define Cape Cod’s natural landscape and contribute to its scenic character, and to improve the Cape’s resilience to severe storms and the effects of climate change. Natural Areas are lands with the highest significance for resource protection or conservation and are appropriate for permanent protection through acquisition and conservation restriction or for transfer of development rights to less vulnerable areas.

Development Plan

Development Description

- Lennar Multifamily Communities, LLC (“LMC”) proposes to redevelop the existing Twin Brooks Golf Course located at 35 Scudder Avenue in Hyannis into a multi-family residential community known as Emblem Hyannis.

- LMC proposes to divide the Property into two (2) separate parcels. One parcel will contain the existing Resort and Conference Center at Hyannis (Hotel and Conference Center) on approximately 14.2 acres. The second parcel will contain the proposed Emblem Hyannis on approximately 39.6 acres.
- The 39.6-acre parcel Redevelopment Site for multi-family housing would include 312 market-rate rental units in 13 three-story residential buildings, each with 24 rental units, from studio-style units to 3-bedroom units.
- LMC has entered into a Purchase and Sale Agreement with property owner, TFG Hyannis Hospitality, LLC, for the 39.6-acre parcel. Under said Agreement, LMC is authorized to undertake permitting for, pursue and effectuate the Project.
- Proposed amenities to support the Project include a club house building, with a fitness center, pool, and sun deck, and a central mail location.
- Access to Emblem Hyannis would be via a new driveway from Scudder Avenue in the northwest corner of the Redevelopment Site. The Project proposes 468 parking spaces.

Background and Procedural History

The Commission has regulatory jurisdiction over the proposed development as both the proposed land division (30+ acres in single ownership) and the proposed residential development (30+ new residential units) meet or exceed mandatory Development of Regional Impact (DRI) review thresholds in Section 3 of Chapter A of the Code of Commission Regulations: the Enabling Regulations Governing Review of Developments of Regional Impact. Pursuant to Section 14 of the Cape Cod Commission Act, and Chapter D of the Code of Cape Cod Commission Regulations of General Application (“Development Agreement Regulations”), the Commission, in lieu of DRI review, can enter into a development agreement with an applicant to establish the rights, limitations and responsibilities that would apply to a proposed development.

Development Agreement Regulations

- Section 2 of the Development Agreement Regulations defines a development agreement as a voluntary, binding contract that may be used by the Commission and a developer, among others, to define the scope and substance of a proposed development, where the development review regulations will not change over the necessary construction period and the project will provide certain benefits which contribute to one or more of the following:
 - Infrastructure;
 - Public capital facilities;
 - Land dedication or preservation;
 - Fair, affordable housing either on-site or off-site;
 - Employment opportunities;
 - Community facilities;
 - Recreational uses;

- Or other benefits to serve the proposed development, municipality, and county, including site design standards to ensure preservation of community character.
- A development agreement establishes permitted uses, densities, and other aspects of development to limit off-site impacts attributable to the development. Projects developed consistent with approved development agreements are not subject to further DRI review.

Notice of Intent

- Pursuant to the Development Agreement Regulations, the Applicant submitted to the Commission a Notice of Intent (NOI) to enter into a Development Agreement with the Commission dated December 18, 2020. At its January 28, 2021 meeting on the NOI, the Cape Cod Commission Committee on Planning and Regulation (CPR) voted to recommend to the Commission that the proposed development is eligible and suitable for a Development Agreement with the Commission.
- On February 25, 2021, following a duly noticed public hearing with respect to the NOI, the Commission found that the Project meets the criteria set forth in the Development Agreement Regulations including that:
 - The Property includes a large land area of approximately 54 acres;
 - The Project consists of multiple buildings;
 - The Project would benefit from a comprehensive review of its foreseeable and planned elements to allow for efficient planning and implementation of infrastructure needs. In particular, the development agreement process would be more effective than DRI review in negotiating the capital facilities and infrastructure to be provided by the Applicant as appropriate to the Project, and further, the development agreement process would allow the Commission to better administer how and when such capital facilities and infrastructure are to be provided.
- Therefore, the Commission found that LMC may proceed to file a Development Agreement Application with the Commission for the Redevelopment.

Timeframe/Phasing

- LMC intends to construct the Project as efficiently as possible, recognizing that construction timing and phasing will depend on economic and other factors. As such, the Project may be built in phases of 2-4 buildings at a time, to be opened and occupied as completed until the entire community is built out.
- LMC has requested a Development Agreement period of 20 years.

Other Permits/Approvals

- Following the Development Agreement process, LMC will seek to enter into a Regulatory Agreement with the Town through the Planning Board and Town Council.
- The Project will require review by the Town's Site Plan Review Committee to complete an Approval Not Required review to divide the current Property into two (2) parcels, one consisting of the Hotel and Conference Center and the second to include the Redevelopment Site.

- The Project will also require an Order of Conditions from the Conservation Commission for work proposed within the buffer to jurisdictional wetland resources protected by the Massachusetts Wetlands Protection Act and Barnstable Wetlands Protection Ordinance.

LMC submitted a Development Agreement Application to the Commission on May 28, 2021, and subsequently submitted additional supporting documents. The Development Agreement Application was deemed complete by Commission staff on January 5, 2022 and a Subcommittee was established. A virtual public hearing has been noticed for March 22, 2022 at 5:30 pm.

Regional Impact Analysis

Commission staff reviewed the details of the Development Agreement Application Materials and suggest that the following RPP Goals are applicable, material, and regionally significant and are thus subject to RPP consistency review: Water Resources, Wetland Resources, Wildlife and Plant Habitat, Open Space, Community Design, Cultural Heritage, Coastal Resiliency, Capital Facilities and Infrastructure, Energy, Transportation, Housing, Waste Management, and Climate Mitigation.

Throughout the hearing process, detailed information and Commission staff analysis relative to each applicable and material RPP Goal will be provided for the Subcommittee's review.