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CAPE COD
COMMISSION

DECISION

Date: May ____, 2019

To: Town of Bourne
c/o Thomas Guerino, Town Administrator
24 Perry Avenue
Bourne (Buzzards Bay), MA 02532

Re: Minor Modification
Buzzards Bay Growth Incentive Zone (Cape Cod Commission File No. 12010)
Cape Cod Commission Decision recorded in Deed Book 26429 Page 93

FINDINGS

The Cape Cod Commission's ("Commission") Committee on Planning and Regulation ("Committee") finds and determines as follows:

1. Pursuant to the Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations of General Application ("Chapter G"), the Commission approved designation of the Buzzards Bay Growth Incentive Zone ("BBGIZ") by decision dated April 26, 2012 ("Decision").
2. Under the Decision, the Commission also approved revision to certain Development of Regional Impact ("DRI") review thresholds within the BBGIZ, namely, by setting a cumulative DRI review threshold on the total amount of residential and commercial development that could proceed in the BBGIZ without the requirement for DRI review by the Commission (subject to certain excepted uses and types of development enumerated in Condition GC8 of the Decision). This cumulative DRI review threshold was arranged into three phases, with each individual phase requiring that the Town satisfy certain requirements before the subsequent incremental phase of the threshold would become effective. The Commission previously issued a Certificate of Compliance permitting commencement of "Phase 1" allowing construction of up to 128 net new residential units and 265,000 sq. ft. of net new commercial floor area in the BBGIZ without the requirement for DRI review by the Commission.
3. Effective April 2018, the Commission proposed and the Assembly of Delegates approved amendments to Chapter G ("Amended Chapter G"). Among other things, and as relevant to

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2019

the BBGIZ, the amendments included: that a designated GIZ would not necessarily expire after a certain period but would remain valid and in effect unless and until revoked or rescinded; and elimination of the requirement for 'offsets' to anticipated growth within a GIZ. Further, Section 6(B) of Amended Chapter G provides that for GIZ designations in effect upon the effective date of said amended Chapter (such as the BBGIZ in Bourne), the subject town could adopt the provisions of Amended Chapter G for said GIZ by way of Minor Modification to the respective GIZ decision.

4. By letter dated March 14, 2019, the Town of Bourne Selectboard requested a Minor Modification to the BBGIZ decision under Section 5 and said Section 6(B) of Amended Chapter G. The letter specifically requests modification to the provisions in the Decision relative to the following, in order to accept, and corresponding to, the respective amendments in Chapter G: elimination of the BBGIZ designation expiration; elimination of required future development 'offsets;' and the elimination of threshold 'phases' in favor of a single, cumulative DRI review threshold (based on the development maximum referenced in the Decision). The Minor Modification request does not propose any change in boundary to the BBGIZ from that approved under the Decision.
5. The prerequisites in the Decision to pursuing development under Phases 2 and 3 of the cumulative DRI review thresholds were provisions for additional wastewater treatment and residential offsets. The Town has both secured additional treatment capacity under its agreement with Wareham, as well as designed, permitted and funded a wastewater treatment facility at Queen Sewell Park off Route 28. The Decision does note that the Town had entirely 'offset' anticipated commercial development within the BBGIZ, and had offset anticipated residential development sufficient to pursue Phase 1.
6. The Commission's Committee on Planning and Regulation met on May 2, 2019 to consider the modification request.
7. The Committee hereby modifies the Decision, as a 'Minor Modification,' as follows:
 - a. The BBGIZ designation, including the cumulative DRI review threshold established through the Decision and modified herein, shall remain valid and in effect without expiration, unless and until further modified, revoked or rescinded pursuant to Section 7 of Amended Chapter G;
 - b. The requirement for future development 'offsets' under the Decision is eliminated;
 - c. The threshold phases under the Decision are eliminated in favor of a single, cumulative DRI review threshold, inclusive, of up to 360 net new residential units and 650,000 sq. ft. of net new commercial floor area (subject to those classes of use and development excepted from the benefit of the cumulative DRI review threshold as set out in Condition GC8 of the Decision).
8. Unless specifically modified herein, the terms and conditions of the Decision shall continue to apply as written. To the extent there is conflict or ambiguity between the provisions of the Decision and this modification decision, the provisions of this modification decision shall control.
9. The following, additional Condition is incorporated into the Decision pursuant to this Modification: The Town shall submit for Commission staff review, prior to adoption, a copy of any proposed new, or proposed amendments to existing, Municipal Development By-laws

within the BBGIZ. Such new or amended Municipal Development By-laws shall be consistent with the purposes and objectives of the BBGIZ and the purposes of the Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations of General Application, as amended. The Town shall ultimately submit to Commission staff copies of any new or amended Municipal Development Ordinances as adopted by the Town in the BBGIZ.

10. The Town shall pursue and implement the BBGIZ consistent with the Decision, as modified herein.
11. The Commission shall record a copy of this decision with the Barnstable County Registry of Deeds. The effective date of this modification decision shall be the undersigned date.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this _____ day of May 2019.

Signature/ Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

May _____, 2019

Before me, the undersigned notary public, personally appeared

_____, in
his/her capacity as _____ of the Cape
Cod Commission's Committee on Planning and Regulation, whose name is signed on the
preceding document, and such person acknowledged to me that he/she signed such document
voluntarily for its stated purpose on behalf of the Cape Cod Commission. The identity of such
person was proved to me through satisfactory evidence of identification, which was []
photographic identification with signature issued by a federal or state governmental agency, []
oath or affirmation of a credible witness, or [X] personal knowledge of the undersigned.

SEAL

Notary Public:
My Commission Expires: