

Looking for a motion to contract with Planning and Development Advisor to assist us with Gaming within the Town of Newburgh at a cost of \$ 150.00 per hour for principal (David Smith) and \$ 85.00 per hour for Technical / Support Staff

8B



Creating value by unlocking opportunities

Planning & Development Advisors

February 17, 2021

Hon. Gil Piaquadio, Supervisor
Town Hall
1496 Route 300
Newburgh, NY 12550

Re: SEQRA Review Consultant – Proposed Amendment to the Zoning Code

Dear Supervisor Piaquadio:

At the request of the Town Attorney, attached please find this proposal to assist the Town of Newburgh on the processing of Monticello Raceway Management, Inc.'s (the "Applicant") petition to amend the Town of Newburgh Zoning Code to permit New York State Licensed Video Lottery Gaming Facilities at existing shopping centers with more than 500 parking spaces. Once the zoning is adopted the Applicant intends on applying it to approximately 90,000 square feet in the Newburgh Mall (collectively the "Proposed Action"). This office is in receipt of the formal petition dated February 12, 2021 submitted by Burke, Miele, Golden & Naughton.

The Town will need to conduct its own environmental review under the State Environmental Quality Review Act (SEQRA) procedures as part of the development review process which includes the aforementioned zoning amendment. As part of that review process, it will be critical that the process be conducted in a transparent fashion providing the decision makers, the Applicant and the public with an opportunity to understand the potential implications, both positive and negative, of potential development opportunities. It is the intent of this process to provide the Lead Agency and the public with the "hard look" required by SEQRA. It is these very qualities that Planning & Development Advisors can provide to the Town of Newburgh in an efficient and professional manor.

For environmental review purposes, the Applicant has proposed the use of the Full Environmental Assessment Form (EAF) supplemented with additional studies as appropriate. This is not an unreasonable approach for this type of environmental review and given the scope of the Proposed Action.

The Contemplated SEQRA Process and Proposed Scope of Work

As part of the consulting services provided to the Town, it is contemplated to include the following consistent with SEQRA and good planning practice. This would include attendance at meetings with the Town Board, Town staff, meetings with the applicant's consulting team, attendance at meetings with other Town Boards (e.g., Planning) and public hearings as requested by the Town Board or Town Attorney.

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- Coordination with the Town on establishing Lead Agency. While the Town Board is the only entity that can approve zoning amendments there will, given the scale of proposed development, be other decision makers involved as part of the process (e.g., Town of Newburgh Planning Board, NYSDOT, NYS DEC). PDA would work with the Town to identify all other agencies that would have review and approval powers as part of the process to create a list of Interested and Involved Agencies.
- Work with the Town Board to evaluate potential impacts. The Applicant has submitted a preliminary traffic analysis which is a logical start of the evaluation. PDA will work with the Town and the Applicant to identify other potential impact areas (e.g., emergency services, fiscal) and supplement the EAF review.
- The Proposed Action will require necessary public hearings and circulation of documents to other Interested and Involved Agencies. PDA will coordinate with the Town and the Applicant on document circulation and attendance at public hearing(s).
- As part of the public review process there are likely to be questions and comments about the Proposed Action particularly after the required public hearing. PDA will coordinate with the Applicant on identification of substantive comments that would require a response as part of the Town Board's Lead Agency hard look.
- Once the additional information has been submitted and reviewed and public input considered, the Town Board will be in a position to issue a determination of significance based on the requirements of Section 617.7 of the SEQRA Regulations. A Negative Declaration will mean that the Proposed Action will not have a significant adverse effect on the environment and that the Town Board can conclude the environmental review process for the proposed rezoning effort. A Positive Declaration will mean that one or more adverse impacts have been identified and that a more formal environmental review will be required including the preparation of an environmental impact statement. PDA will work with the Town to fully document the information relied on for the ultimate determination of significance.
- Attendance at meetings with the Town Board, the Applicant, at required public hearings is at the direction of the Town Board.

Project Timing:

Planning & Development Advisors is available to commence the process immediately upon authorization to proceed by the Town of Newburgh. As noted above, there are statutory time frames under SEQRA that must be followed and there are time frames that are out of the control of the Lead Agency relative to the preparation of SEQRA documents by the Applicant. However, an efficient EAF process can be completed within a 3-4 month timeframe, perhaps sooner with timely submissions, review and cooperation on behalf of all parties.

Disclosure Statement:

Planning & Development Advisors is not and has not worked for any other casino development proposal in the State of New York.

Fee Proposal:

The following rate structure be used to bill the applicant on a per diem basis. An itemized invoice would be prepared on a monthly basis identifying time spent on each aspect of the SEQRA review.

Principal: \$150/hour

Technical/Support Staff: \$85/hour

A maximum of 1.0 hours will charged for travel for attendance at meetings in the Town. Mileage at the standard mileage rates for travel will be applied and tolls and lodging, if required will be billed at cost. Other expenses such as printing, document production, and postage will be billed at cost.

Project Review Team

If the Town Board requests, Planning and Development Advisors can additionally recommend specialized professionals for separate retention as part of the project review team to review certain aspects of the submissions requiring special expertise, such as traffic and landscape design.

The Town will receive a monthly statement reflecting all services rendered. The monthly statement will also include charges for certain expenses including messenger service, printing and production of documents. Payment to PDA is the sole responsibility of signatory of this Agreement and is not subject to third party agreements.

We hope that you understand that our efforts to provide you with the best possible service at reasonable, professional rates requires that payment of any outstanding balances be made when billed. We cannot continue to provide services when any of our accounts are unpaid for more than thirty days and we reserve the right to suspend or terminate all services until payment is received.

Should you have any questions regarding the above, please feel free to contact me directly at 914-552-8413 or davidbsmith1992@gmail.com. We trust that you will find these terms of representation to be acceptable and will acknowledge this by signing and returning the enclosed copy of this letter.

We look forward to working with you on this assignment.

Kind regards,

David B. Smith, Principal

I understand the nature and scope of the proposed representation and agree to be responsible for all fees and charges incurred:

Hon. Gil Piaquadio, Supervisor

Date