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## MEMORANDUM

TO:

Diane Williamson, Director of Community Development

Edward M. Tanner, Principal Planner

FROM:

Amy H. Goins, Esq., Assistant Town Solicitor

Andrew M. Teitz, Esq., AICP, Assistant Town Solicitor

DATE:

December 19, 2024

**SUBJECT:** 

Proposed Hotel on Gooding Ave - Review Process

At your request, we are providing this memo to provide our advice on the proper land use review and approval process for the proposed hotel on Gooding Avenue. It is our understanding that the applicant is preparing to submit a development application to the Town, having received a wetlands alteration permit from DEM. We've reviewed the site plan submitted to DEM in connection with the wetlands permit application. It indicates that the proposed hotel will contain 80 rooms in one two-story building with a footprint of roughly 15,200 square feet.

It is our understanding that two pre-application meetings were held several years ago for the hotel proposal. These meetings did not confer any vested rights to the project. Green Development v. Town of Exeter, 297 A.3d 931 (R.I. 2023). Therefore, if and when the application is formally submitted, it will be reviewed according to the law, ordinances, and regulations in effect at the time it is certified complete. As you know, the Development Review Act was recently amended, and now contains the following definition for a land development project:

"A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential, commercial, institutional, recreational, open space, or mixed uses. The local regulations shall include all requirements, procedures, and standards necessary for proper review and approval of land development projects to ensure consistency with this chapter and the Rhode Island zoning enabling act." RIGL 45-23-32(19) (amendments effective Jun. 25, 2024).

Further, a major land development project is defined as follows:

"A land development project that exceeds the thresholds for a minor land development project as set forth in this section and local ordinance or regulation. The process by which major land development projects are reviewed by the local planning board, commission, technical review committee, or administrative officer is set forth in § 45-23-39." RIGL 45-23-32(19) (amendments effective Jun. 25, 2024).

Finally, one of the categories of projects defined as a "minor land development project" (unless specifically designated by the municipality as subject to development plan review) is as follows:

"Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing, or industrial development, or less." RIGL 45-23-32(19) (amendments effective Jun. 25, 2024).

Therefore, it is our opinion that this project requires review and approval as a major land development project. The revised definition for a minor land development project means that municipalities can choose to categorize projects that create up to 7,500 sf of new commercial floor area as a minor land development project or require development plan review for such projects. Either way, new commercial floor area *above* 7,500 sf requires review as a major land development project. Please note that the definition of a land development project does not require that the project involve multiple buildings and/or lots — the definition makes it clear that "one or more" buildings and/or lots can constitute a land development project.

As you know, a major land development project requires a public hearing before the Planning Board at the master plan stage. Zoning relief can be granted through unified development review. Because this project requires land development project review, we cannot also require development plan review. RIGL 45-23-36(b) ("An applicant shall not be required to obtain both land development and development plan review, for the same project.").

Please let us know if you have any further questions.

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