

MEMORANDUM

TO: Massachusetts Gaming Commission (MGC)
FR: Rick Moore, PE, City Point Partners
RE: MGC Draft Section 61 Findings, Wynn Everett
DT: For Presentation at MGC Meeting on March 22, 2016

In September 2014, the Massachusetts Gaming Commission awarded the conditional Region A Gaming License to Wynn MA, LLC (License) for a proposed casino gaming establishment in Everett, MA (Project), subject to compliance with the terms and conditions required by the Massachusetts Environmental Policy Act (MEPA) as provided in the Secretary of Energy and Environmental Affairs (Secretary) Certificate and in any final and supplemental final environmental impacts reports for the Project.

The City Point Partners Consultant Team has been advising the Commission since Wynn MA, LLC submitted their License Application. The Consultant Team consists of architects and engineers experienced in the development process in Massachusetts. Key team members include: Rick Moore, PE, City Point Partners, Ray Porfilio, AIA, Epstein Joslin Architects, Frank Tramontozzi, PE and Jason Sobel, PE, Green International.

We have provided advice on two categories in the License Application, namely Category 4, Building and Site Design and Category 5, Mitigation, as they relate to the MEPA process. These categories include, among other things, understanding and giving advice on the federal, state and local permitting processes, on the MEPA process itself, and on mitigating potential impacts of the Project.

The MEPA process is intended to identify impacts a project may have and develop mitigation to avoid or minimize the impacts. Once the Secretary's MEPA review process is complete, which it is for the Wynn Project, each state agency with subject matter jurisdiction is responsible for preparing Section 61 Findings that identify practical and feasible mitigation measures and determine whether those measures are sufficient to avoid or minimize potential damage to the environment.

The Consultant Team has participated in and completed a review of the Draft Section 61 Findings for the Project to be presented to the Commission on March 17, 2016, which include mitigation measures to be undertaken both before and after the casino opens. It is our opinion that the mitigation measures specified in the Draft Section 61 Findings include all practical and feasible means and measures to avoid or minimize potential impacts of the Project and damage to the environment from the proposed Wynn casino in Everett, MA. This opinion is based on our review of the documents throughout the MEPA process and summarized in specific comments below. In addition, the Consultant Team will participate in the ongoing public process required by the Secretary's Certificate dated August 28, 2015 (Page 3) on the Second

Supplemental Final EIR, and will provide recommendations regarding additional conditions (if any) that should be added to the Draft Section 61 Findings.

Process

The City Point Consultant Team has reviewed the following key documents, among others, in order to provide advice to the Commission:

1. Wynn MA, LLC Category 1 Gaming License Application, Region A
2. MEPA Documents including comment letters and Certificates
 - Draft Environmental Impact Report (EIR)
 - Final EIR
 - Supplemental Final EIR
 - Second Supplemental Final EIR
3. Section 61 Findings
 - MWRA Final
 - Massport, Draft
 - MassDOT, MBTA and DCR, Draft
4. Host Community Agreement, Everett
5. Surrounding Community Agreements (Boston, Cambridge, Chelsea, Malden, Medford, Somerville)
6. Massachusetts Contingency Plan (MCP) hazardous materials documents
7. City of Everett's Municipal Harbor Plan
8. Site Development Plans and Conceptual Design Plans

In addition, the Consultant Team has reviewed various comments received by the Commission from public and government entities. The Consultant Team also reviewed various papers filed in litigation by the City of Somerville regarding alleged impacts from the Wynn Project.

In providing technical advice, the Consultant Team has taken into account the position of state agencies, especially those agencies that have in-house technical expertise related to their subject matter jurisdictions. For example, the position MassDOT takes to mitigate state highway impacts and the position MWRA takes to mitigate water and sewer impacts were considered significant by the Consultant Team, due to the respective Agency experience, technical expertise and knowledge of the systems they manage. Similar attention has been paid to the mitigation agreed to in each of the Host and Surrounding Community Agreements, including any related arbitration awards under the process established by the Commission's regulations.

It is also important to understand that the MEPA process is specifically intended to conclude with a 'mitigation package' that has been subject to comments by all interested parties and finally judged appropriate by the Secretary of Energy and Environmental Affairs. In the case of the Wynn Project, this public MEPA process involved a Draft, Final, and two Supplemental Final EIR's. The final Certificate from the Secretary, that closed the MEPA process, includes Draft

Section 61 Findings for each state agency with subject matter jurisdiction. Since each of these agencies had participated in the MEPA process and had access to each set of comments, it is typical that when each agency issues its Draft Section 61 Findings they are the same as, or similar to, those referenced in the Secretary's Certificate.

When municipalities issue their individual permits, the permits are also typically consistent with the MEPA findings but may go into more detail and/or deal with other issues as appropriate and consistent with their local regulations, by-laws and practices. In addition, the Host and Surrounding Community Agreements produced additional mitigation measures with which Wynn must comply, including measures concerning issues not subject to permitting by state agencies.

The Commission's Draft Section 61 Findings rightly incorporate the mitigation measures included in the Secretary's Certificate and the Section 61 Findings to date of other state agencies, as well as the mitigation measures in the Host and Surrounding Community Agreements. As noted, the Consultant Team has reviewed this package of mitigation measures and has recommended minor changes and additions. Further, the Consultant Team reserves the right to recommend, and the Commission has the right to impose, further mitigation if the impacts change due to a change in the Project or if actual operations create impacts different than projected.

Specific Subject Matter Areas

The Draft Section 61 Findings address the Project-specific impacts, mitigation measures and off-site improvements identified by the MEPA process, including but not limited to the following:

1. **Transportation.** Transportation impacts from the Wynn casino have received the most attention during the MEPA process. Consequently, a significant analysis was conducted including vehicle, rail and water transportation modes. In terms of traffic, 57 intersections were analyzed using accepted procedures for trip generation, trip distribution and intersection analysis. This resulted in mitigation in eight communities, most significantly along Revere Beach Parkway, Route 99, including the entrance to the casino, and Sullivan Square. In terms of rail transit, three MBTA stations along the Orange Line will be improved and an annual subsidy will be paid to the MBTA to expand capacity, a first for a private development. In addition, shuttle buses will run from the Wellington and Malden stations for casino patrons and employees. In terms of water transit, boat service from Downtown Boston to the casino will be operated by the casino for patrons and employees. Finally, the number of parking spaces has been 'right-sized' to balance patron needs, while not encouraging driving because of excess capacity.

These physical improvements, all done before the casino opens, will be coupled with a Transportation Demand Management (TDM) Plan. The first part of the plan will include

measures to encourage alternatives to vehicle trips and the second will be a monitoring program to test the results of the traffic studies and add mitigation if needed.

The transportation mitigation package is robust and meets, or in some cases exceeds, regulatory requirements.

Of all the transportation issues, Sullivan Square in Boston was most significant, in part because of existing conditions and the fact that 2/3 of the casino traffic will be traveling through the Square. Because of the intense focus on Sullivan Square, the Wynn mitigation has several parts. The first part, which is all that is required by the MEPA process and the Commission's regulations, addresses the impacts from the casino. This mitigation focuses primarily on improvements to Cambridge Street, Maffa Way and the MBTA Bus terminal, and will be completed before the casino opens. The second part is Wynn's participation in and partial funding for a Regional Working Group chaired by MassDOT and charged with developing a comprehensive plan to improve Sullivan Square for all traffic. The third part includes Wynn's payment of \$25 M toward the comprehensive plan as long as it accounts for the casino's traffic and construction starts within 10 years of the casino's opening. The fourth part includes Wynn's long-term commitment to Transportation Demand Management as noted above.

Finally, it is important to note that the casino's traffic pattern, unlike office or residential uses, has limited traffic in the morning peak hour and an afternoon (actually evening) peak that does not coincide with the afternoon commuter peak typically from 4:30 to 5:30 pm. In short, a casino has less traffic impact in the morning peak hours than a similar sized office or residential project.

- 2. Water, Wastewater, Stormwater and Water Resources.** There is excess capacity in the existing water and wastewater systems to adequately serve the casino. The casino will implement water conservation measures to reduce water use and will work with the City of Everett to fund reductions in infiltration/inflow and to reduce wet weather overflows to the Mystic River.

The stormwater system will comply with or exceed the state's stormwater management criteria, including a partial green roof and use of Best Management Practices (BMPs).

The Mystic River water resources adjacent to the site are degraded due in part to decades of industrial activities on the site and in the neighborhood. The water resources and shore line will be improved through dredging and the creation of a 'living shore line' along the outer portion of the site. The bulkhead on the interior of the shore line will be re-established and a docking facility will be constructed to serve the water shuttles noted

above. On the land side of the shore line a pedestrian/bike harbor walk will be constructed with public access and a connection with the DCR's Gateway Park. These improvements are significant and, along with remediating the site (see next section), will provide public access to a portion of the Mystic River long inaccessible and inhospitable.

The improvements to the waterfront are also important considerations in the Chapter 91 Department of Environmental Protection (DEP) permitting process. When the City of Everett submitted its Municipal Harbor Plan, the city envisioned as one of the alternatives the Wynn casino. The Harbor Plan and the MEPA documents noted the benefits to the riverfront and the lack of negative wind and shadow impacts in support of the casino alternative in the Harbor Plan. DEP recognized these positive benefits and approved the Everett Municipal Harbor Plan. The City of Somerville appealed the DEP approval, which was rejected by DEP, leaving the Harbor Plan as proposed by Everett. Since that time, DEP has issued a specific written Notice of Intent to approve a Chapter 91 License for the Wynn casino, consistent with the Harbor Plan. Somerville has filed a DEP administrative appeal concerning the license on largely the same grounds as the first appeal. It is the Consultant Team's opinion that the Somerville administrative appeal is again without merit and should be rejected by DEP.

- 3. Brownfields Remediation.** As noted above, the site has long been industrialized and has been contaminated with lead and arsenic, among other hazardous materials. The initial phase of remediation of the 'hot spots' is nearing completion. The remainder of the site will be remediated and capped during construction of the casino in accordance with the requirements of the Massachusetts Contingency Plan (MCP). The remediation is long overdue and is made possible by the casino project. It will transform the site from a liability to a waterfront asset and contribute to water quality improvements in the lower Mystic River and Boston Harbor.
- 4. Sustainability.** The casino will be certifiable under the US Green Building Council LEED 2009 Guidelines with a rating of Gold or higher. This is a significant commitment to sustainability that deals with green house gases, water use, solid wastes, flood proofing and construction related activities, among others. Key factors include a central chiller plant, low energy equipment, on-site photo-voltaic cells, and first floor elevations above expected storm surges with a sea level rise allowance and enhanced building commissioning.

In summary, it is the opinion of the Consultant Team that the mitigation included in the Commission's Draft Section 61 Findings for the Wynn casino not only meets the high standards of the Secretary's Certifications, the MEPA regulations and the Commission's regulations, but exceeds what is typically required of private projects of similar size. In addition, as noted above, the Consultant Team will participate in the ongoing public process required by the

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Secretary's Certificate on the SSFEIR and will provide recommendations regarding additional conditions (if any) that should be added to the Draft Section 61 Findings.