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CAPE COD COMMISSION

DEVELOPMENT OF REGIONAL IMPACT EXEMPTION DECISION

DATE:	September 5, 2024
PROJECT:	Benjamin Nyes ANR (CCC File No: 24019)
APPLICANT:	The 300 Committee Land Trust, Inc. c/o Matthew M. Terry, Esq. Ament Klauer LLP, 39 Town Hall Square, Falmouth, MA 02540
PROPERTY OWNER:	LTC, LLC c/o Steven Augusta, Manager 2 Bournes Cove Road, East Falmouth, MA 02536
PROPERTY/SITE:	48 Benjamin Nyes Lane & 0 Quaker Road, Falmouth, MA (Parcel ID: 05-02-022-004; 05-01-085-002)
TITLE REFERENCE:	Land Court Certificate of Title # 233129 Lot 4, LCP 31569-B Lot 2, LCP 31569-A

SUMMARY

The Cape Cod Commission ("Commission") hereby approves the application of the 300 Committee Land Trust, Inc ("the Applicant"; "300 Committee") for a Development of Regional Impact ("DRI") Exemption, with conditions, pursuant to Section 12k of the Cape Cod Commission Act ("Act"), c. 716 of the Acts of 1989, as amended, for the proposed division of a 55.7-acre +/- lot. The Decision is rendered pursuant to a vote of the Commission at its meeting on September 5, 2024.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

F1. The Applicant has authority to pursue the Project through a Purchase and Sale Agreement with the Property Owner, LTC, LLC, executed in October 2024.

F2. The Applicant is proposing to divide, by Approval Not Required (ANR) plan, a 55.7-acre +/- lot ("Property") into four new lots.

F3. The Project literally qualifies as a DRI because it meets or exceeds the DRI review threshold appearing in Section 3(c) of the Enabling Regulations Governing Review of Developments of Regional Impact, as amended November 17, 2021 ("Enabling Regulations"). Said Section 3(c) provides that "*[a]ny development that proposes to divide parcel(s) of land totaling 30 acres or more in common ownership or control on or after September 30, 1994…"* is presumed to be a DRI.

F4. Where a proposed development literally qualifies as a DRI, Section 12(k) of the Cape Cod Commission Act and Section 7 of the Enabling Regulations state: *"Any applicant may apply to the Commission for an exemption from Commission review… where the location, character and environmental effects of the development will prevent its having any significant impacts on the values and purposes protected by the Act outside of the municipality in which the development is to be located."*

F5. As proposed, 48.2 +/- acres of the Property would be permanently protected for conservation purposes and 7.5 +/- acres would remain developable.

F6. The proposed lots are shown on the plans titled: "*Plan of Land at Benjamin Nye's Lane and Quaker Road, North Falmouth, Massachusetts*," prepared for the 300 Committee, Inc, dated April 30, 2024. The currently 55.7-acre +/- parcel would be divided, acquired by the 300 Committee, and protected as follows:

	Lot Size	**Plan for Protection**
Lot 5	20.147	Falmouth Conservation Commission will purchase a conservation restriction in 2025
Lot 6	18.010	Falmouth Conservation Commission will purchase a conservation restriction in 2026
Lot 7	7.501	N/A – this lot would remain developable
Lot 8	10.024	The 300 Committee will donate a conservation restriction to Falmouth Conservation Commission in 2025

F7. The Project does not propose any physical building or structural development work.

F8. The Applicant is a non-profit conservation organization with a mission to permanently preserve and protect open space in Falmouth.

F9. The proposed division will enable the Applicant to protect of the most sensitive areas of the Property, which is in a Natural Area Placetype, largely undeveloped, and identified as being of high natural resource value. The portions of the Property proposed to be protected contain:

- NHESP priority habitat for rare species (eastern box turtle);
- BioMap Core Habitat;
- 3.4 acres +/- of wetland area;
- vernal pool buffer area;

- prime farmland soils; and
- prime forest land.

F10. The Cape Cod Commission held a hearing on the DRI Exemption application during its meeting on September 5, 2024. At that hearing, the Commission voted to approve the DRI Exemption, with conditions.

F11. The location, character and environmental effects of the Project will prevent it having any significant impacts on the values and purposes specified under the Act outside of the Town of Falmouth.

CONCLUSION

Based on the above Findings, the Commission hereby further finds and determines that, though the Project literally qualifies as a DRI, it may nonetheless be exempted from Commission DRI review because the Project will have no significant impacts on the values and purposes specified in Section 1 of the Cape Cod Commission Act outside of the municipality in which it is proposed due to the Project location, character, and environmental effects. As such, the Commission hereby approves the DRI Exemption requested by the Applicant for the Project described herein, subject to the Conditions, below.

CONDITIONS

C1. This Decision shall be final when the appeal period set out in Section 17 of the Cape Cod Commission Act has elapsed without appeal (or if such an appeal has been filed, when the appeal has been finally settled, dismissed, adjudicated, or otherwise disposed of in favor of the Applicant). Thereafter, pursuant to Section 12(k) of the Act, the Applicant has three (3) years from the date of this written decision to exercise the right granted hereunder.

C2. A copy of the Decision, when final, shall be recorded with the Barnstable County Registry of Deeds.

C3. This Decision applies only to the division and conservation plan as described herein. Approval of the exemption is conditioned upon the Applicant acquiring and subsequently conveying conservation restrictions on lots 5, 6, and 8.

C4. If further development that meets or exceeds the mandatory DRI Review thresholds under *Chapter A of the Code of Cape Cod Commission Regulations of General Application* is proposed on the Property, the development shall be referred to the Commission.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

Executed this _____ day of September 2024

For the Cape Cod Commission by:

_____

Harold Mitchell, Chair

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

September _____, 2024

Before me, the undersigned notary public, personally appeared_____,

in his capacity as Chair and on behalf of the Cape Cod Commission, whose name is signed on the preceding or attached document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. 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.

_____

Notary Public

My Commission Expires: _____

SEAL