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CAPE COD COMMISSION

DEVELOPMENT OF REGIONAL IMPACT EXEMPTION DECISION

DATE:	June 8, 2023
PROJECT:	Marstons Mills Cranberry Bogs, Barnstable (File No. 23009)
APPLICANT:	Three Bays Preservation, Inc. dba Barnstable Clean Water Coalition c/o Zenas Crocker P.O. Box 215, Osterville, MA 02655
PROPERTY/SITE:	710 River Road, Marstons Mills, MA 02648 (Assessors Map 44; Block 27); 110 Bog Road, Marstons Mills, MA 02648 (Assessors Map 5; Block 17)
PROPERTY OWNER:	Joseph M. Keating (*River Road*); Three Bays Preservation, Inc. (*Bog Road*)
TITLE REFERENCE:	BCRD Book 33733, Page 296 (*River Road*); BCRD Book 35867, Page 72 (*Bog Road*) Plan Book 700, Pages 81-85

SUMMARY

The Cape Cod Commission ("Commission") hereby grants Development of Regional Impact ("DRI") Exemption, with Conditions, to Three Bays Preservation, Inc. d/b/a Barnstable Clean Water Coalition for the division of approximately 60 acres of land at 110 Bog Road and approximately 33.5 acres of land at 710 River Road ("Project Site") for ecological restoration and land conservation pursuant to a vote of the Commission at its meeting on June 8, 2023.

FINDINGS

The Cape Cod Commission hereby finds and determines as follows:

F1. The Applicant is proposing to divide two parcels to convey a portion of each for ecological restoration and conservation purposes ("the Project"). The two existing parcels to be

divided are a 60-acre +/- parcel at 110 Bog Road ("Bog Road Parcel") and a 33.5-acre +/- parcel at 710 River Road ("River Road Parcel").

F2. 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, *Chapter A of the Code of Cape Cod Commission Regulations of General Application*, as amended November 17, 2021 ("Enabling Regulations"). Said Section 3(c) provides:

"Any 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, including assembly and recombination of lots [and is]…not otherwise exempted from review under Section 22(e) of the Act."

F3. 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."

F4. The Applicant submitted a complete DRI Exemption application for the Project to the Commission on May 15, 2023.

F5. The Cape Cod Commission held a hearing on the DRI Exemption application during its meeting on June 8, 2023. At that hearing, the Commission voted to direct staff to draft a Decision approving the DRI Exemption with conditions for the Chair to sign.

F6. This division of land is required for the Applicant to obtain title to the properties and complete ecological restoration work with grant funding from the Massachusetts Office of Energy & Environmental Affairs.

F7. 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.

A. The Project is a division of land and does not propose any physical building or structural development work.
B. The divided parcels will be conveyed to the Applicant for ecological restoration work.
C. Following completion of the restoration work, the parcels will be subject to a conservation restriction to be held by a qualified entity.
D. The Project is consistent with and advances values, goals and purposes of the Cape Cod Commission Act and Enabling Regulations

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 grants the DRI Exemption requested by Three Bays Preservation, Inc. 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, Three Bays Preservation, Inc. 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. Three Bays Preservation, Inc. shall provide the Cape Cod Commission a copy of the Quitclaim Deed as filed with the Barnstable County Registry of Deeds for the conveyance of lands as presented herein.

C4. Three Bays Preservation, Inc. shall provide the Cape Cod Commission a copy of the approved and recorded Conservation Restriction on the Project Site.

C5. This Decision applies only to the division of land for conservation purposes as described herein. 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 June 2023

For the Cape Cod Commission by:

_____

Harold Mitchell, Chair

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

June _____, 2023

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