

CAPE COD COMMISSION

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DATE: May 25, 1995

TO: Ralph C. Rowe, Jr.
190 St. Claire
Braintree, MA 02184

FROM: Cape Cod Commission

RE: Development of Regional Impact Exemption - EX95011
Cape Cod Commission Act, Section 12(k)

PROJECT: ROWE PROPERTY ANR
Long Pond Road (Route 137), Brewster, MA

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application by Ralph C. Rowe, Jr. for the Rowe Property ANR - EX95011 (Project), for a Development of Regional Impact Exemption under Section 12(k) of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the creation of a 1.38 acre parcel Approval Not Required lot to be sold separately from the entire parcel of 37.7 acres.

The decision is rendered pursuant to the vote of the Commission on May 25, 1995.

PROJECT DESCRIPTION

The Project proposes to subdivide a 1.38 acre lot with currently unoccupied existing buildings on the site (one house, a barn and another building) out of the larger parcel

*Rowe Property ANR, Brewster - EX95011
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of land, for sale to an individual who plans to restore the existing buildings for residential use and live on the property. This would then leave the larger 36.3 acre parcel which subsequently is proposed to be used for a 21-home subdivision. This project, called Reef Realty - Long Pond Road, is expected to be reviewed by the Commission as a Development of Regional Impact at a later date following the decision on the Rowe Property ANR. The Reef Realty - Long Pond Road project currently has an extension until September 21, 1995.

JURISDICTION

The proposed Project qualifies as a DRI under Chapter A, Section 3, of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "any development which proposes to divide, combine or develop any parcel(s) of land totaling 30 acres or more." The original Reef Realty - Long Pond Road project was referred to the Commission by Tina Balog of the Brewster Conservation Commission. The applicant for the Rowe Property ANR applied directly to the Commission for a DRI Exemption on April 11, 1995.

PROCEDURAL HISTORY

A properly-noticed public hearing was held on May 17, 1995 at 7:00 PM at the Brewster Town Hall to hear testimony on the DRI Exemption application. The public hearing for the DRI Exemption was continued to the meeting of the Cape Cod Commission on May 25, 1995. On May 17 the Subcommittee conducted a meeting immediately following the public hearing and voted to recommend approval of the DRI Exemption application to the full Commission. At the public hearing for the Project on May 25, 1995, the Project was presented and an opportunity was provided for comments from the applicant and the public. At that time, the Subcommittee's report was submitted to, and accepted by, the full Commission.

MATERIALS SUBMITTED FOR THE RECORD

From the Applicant:

DRI Exemption Application, John Z. Demarest, Jr., 4/11/95

Letter from John Demarest re: meeting with David Thyng, Building Inspector, 5/11/95

From the Commission:

Letter, Gay Wells to J. Demarest, 4/19/95

Letter, Gay Wells to J. Demarest, 4/25/95

Memo, Gay Wells to Subcommittee, 4/26/95
Staff Report, Gay Wells to Subcommittee, 5/11/95

Other Agencies:

Letter, from Edward L. Bell, Massachusetts Historical Commission to Tina Balog,
Brewster Conservation Commission, 12/7/94

TESTIMONY

At the public hearing on 5/17/95, the following people testified on the proposed project:

Mr. John Demarest, representing the applicant, presented the project to the Subcommittee explaining that it is a proposal to subdivide one residential lot out of a parcel of land which exceeds thirty acres. This one lot has an existing residence, a barn and another building on it and he believes that the project, as proposed, does not present regional impacts. Mr. Rowe is, therefore, seeking a DRI Exemption.

Mr. Lo Smith of the Brewster Conservation Commission stated the Town's concern that the applicant would request exemptions for other ANR lots eventually creating a parcel of less than thirty acres which would then fall below the Cape Cod Commission's threshold and would, consequently, not be under our jurisdiction. He would like to ensure that there is adequate review of the Project.

Mr. Harvey Freeman, abutting property owner to the project, inquired about what a DRI Exemption is. He was informed that it is a review process for projects which are under the Cape Cod Commission's jurisdiction, but which do not present regional impacts.

Ms. Gay Wells explained that the Commission staff reviewed the project and there are no transportation or water resources concerns. The project is within the Old King's Highway Historic District; therefore, all historic preservation issues would be handled by the Historic District Committee.

Mr. Prince inquired whether there are any zoning issues pertaining to the proposed Project. Ms. Wells stated that she spoke to Mr. David Thyng, Brewster Building Inspector, and there are no zoning issues.

FINDINGS

The Commission has considered the DRI Exemption application of Ralph C. Rowe, Jr. for the Rowe Property ANR on Long Pond Road, Route 137 in Brewster, MA. Based on

consideration of such application, the information presented and the Commission staff recommendations, the Commission makes the following findings pursuant to Section 12(k) of the Act:

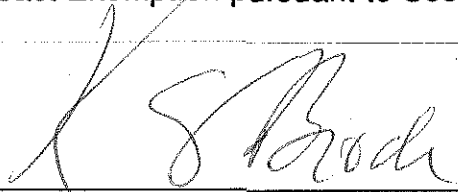
1. The Project meets the threshold of a Development of Regional Impact specified in Chapter A, Section 3, of the Cape Cod Commission DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, as "any development which proposes to divide, combine or develop any parcel(s) of land totaling 30 acres or more."
2. The Project site, "Lot 2", consists of a proposed 1.38 acre parcel with three existing structures, including a single family house and a barn.
3. The Project site is not within a designated District of Critical Planning Concern, Proposed Open Space Greenbelt, Freshwater Recharge Area, or a designated Rare Plant or Animal Habitat.
4. The Project is not within the zone of contribution to a public water supply well and will not use hazardous materials or generate hazardous wastes. The Project meets all water resources requirements of the Regional Policy Plan and there are no anticipated water impacts.
5. There are no wetlands on Lot 2 of this Project.
6. Based on the use of this lot as a single family home, there will be no significant traffic impact associated with the Project on the surrounding roadway network. Should an intensification of use or change in access occur at this location in the future, the traffic impacts would have to be further reviewed.
7. The house and outbuildings are located within 500 feet of the center line of Long Pond Road/Route 137 and thus, any alteration, demolition, or new construction on the property will be subject to review by the Brewster Old King's Highway Historic District Committee. Review by this committee will accomplish the goals and policies of the Regional Policy Plan's Historic Preservation component, specifically minimum performance standard 7.1.2 which calls for preservation of the distinguishing original qualities of an historic building.
8. The Massachusetts Historical Commission has reviewed the project and a letter dated December 7, 1994 from Edward L. Bell, Senior Archaeologist to Tina Balog, Conservation Commission, states that no significant archaeological sites have been found on the property. MHC believes the proposed project as currently planned is unlikely to affect any significant historic or archaeological properties.

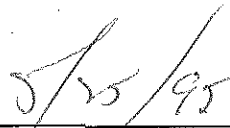
9. A letter dated May 11, 1995 from Mr. John Z. Demarest, Jr., P.L.S. states that he met with Mr. David Thyng, Brewster Building Inspector, and reviewed the Rowe Property ANR with him. Mr. Thyng did not express any zoning concerns other than the amount of area and frontage of Lot 2, which complies to the town zoning regulations. In a conversation with Commission Staff on May 15, 1995 Mr. Thyng indicated that this is a "pre-existing and non-conforming" use, even with two residences on the property and that this is an Approval Not Required plan.

CONCLUSION

After reviewing the Project as a DRI Exemption in relation to Section 12(k) of the Act, the Commission concludes that a DRI Exemption approval be granted due to the fact that the site currently has existing buildings which have been on the property for many years and there is no substantial change anticipated to the site, its character, or its use. Therefore, the Project will not have significant impacts on the values and purposes protected by the Act, due to the location, character and environmental effects of the proposal, as supported by findings 2 through 9 listed above.

The Commission hereby grants the Rowe Property ANR a Development of Regional Impact Exemption pursuant to Section 12(k) of the Cape Cod Commission Act.



Kenneth Brock, Chair


Date

Commonwealth of Massachusetts

Barnstable, ss.

Subscribed and sworn to before me this 25th day of May 19 95


Name, Notary Public
My Commission Expires: 