



# CAPE COD COMMISSION

3225 MAIN STREET  
P.O. Box 226  
BARNSTABLE, MA 02630  
508-362-3828  
FAX: 508-362-3136

DATE: February 1, 1996 #TR-95026  
#EX-95026

TO: Tudor G. Ingersoll  
120 Lakeview Avenue  
Cambridge, MA 02138

FROM: Cape Cod Commission

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

APPLICANT: Mr. Tudor G. Ingersoll

PROJECT: Ingersoll ANR project  
Bourne, MA

BOOK/PAGE: Book 7804, Page 236  
Plan Book 406, Page 100

## DECISION OF THE CAPE COD COMMISSION

### SUMMARY

The Cape Cod Commission (the Commission) hereby approves the application of Tudor G. Ingersoll for a Development of Regional Impact Exemption pursuant to Section 12(k) of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, for a subdivision of land in Bourne, MA. The decision is rendered pursuant to a vote of the Commission on February 1, 1996.

### PROJECT DESCRIPTION

The project consists of the subdivision of a 2,500 square foot unbuildable lot, which contains an existing fire tower, out of a 117-acre parcel in Bourne, MA. The purpose for the subdivision of land is to deed the lot upon which the fire tower is located to the Massachusetts Department of Environmental Management (DEM). The proposed donation of land is at DEM's request. No change will occur on the site in terms of its present use. DEM has maintained a watchtower on the lot continuously since 1913.

The 117-acre site is zoned both B-2 (limited business) and R-40 (1-acre residential) according to the amended Bourne Zoning By-law. No other subdivision of land on the 117-acre parcel or other development of the lot is proposed at this time.

### PROCEDURAL HISTORY

The project was referred as a Development of Regional Impact by Mr. Clement DeFavero, Chairman of the Bourne Planning Board, on November 9, 1995. The referral was received by the Cape Cod Commission on November 10, 1995. On November 30, the applicant filed a Development of Regional Impact Exemption application. A scoping session on the project was held with interested Town officials on December 7, 1995. On December 11, 1995, the Executive Committee of the Cape Cod Commission voted unanimously to grant a fee waiver for the proposed project. A duly noticed public hearing to

#TR 95026/#EX 95026 Ingersoll ANR DRI Exemption Decision February 1, 1996

consider the Exemption application was scheduled for January 3, 1996. Due to inclement weather, a hearing officer opened and continued the hearing to January 24, 1996. On January 24, 1996, the Subcommittee voted to recommend to the full Commission that the project be granted a DRI Exemption. The Subcommittee also voted on January 24th to close the hearing on the DRI Exemption application. A draft Decision on the DRI Exemption was presented to the full Commission on February 1, 1996. At this meeting, the Commission voted unanimously to approve the Decision as presented granting a DRI Exemption to the proposed project.

#### MATERIALS SUBMITTED FOR THE RECORD

##### A. Materials submitted by the Applicant:

Letter, DRI Exemption application	11/30/95
Letter, confirmation of easements, fee waiver request, reduced size site map, abutters list	12/11/95
Letter, from DEM concerning deeding of lot	12/11/95

##### B. Materials submitted by the State:

None

##### C. Materials submitted by the Town:

DRI Referral Form, cover letter, site plan	11/10/95
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##### D. Materials submitted by the Public:

None

##### E. Materials submitted by Cape Cod Commission:

Letter, intent to review as a DRI	11/16/95
Letter, about application submittals	11/16/95
Memo, Subcommittee, hearing date	11/30/95
Memo, Subcommittee update	12/4/95
Letter, application incomplete	12/4/95
Memo, Town, scoping session	12/4/95
Letter, application complete	12/13/95
Facility Use Forms, Bourne Schools	12/13/95
Memo, Subcommittee, site visit	12/15/95
Staff Report	12/27/95
Memo, Subcommittee update	12/27/95
Memo, Subcommittee, applicant and Town, change in hearing date	1/3/96
Fax, John Paradise, <u>Bourne Enterprise</u>	1/11/96
Hearing notice	Undated
Deeds	Various dates
Staff comments (On Form Q)	Undated

The Application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file #TR-95026 and #EX-95026 are incorporated into the record by reference.

#### TESTIMONY

The Commission's Subcommittee received testimony on this project at a January 24, 1996 continued public hearing. Mr. Paul Wightman called the hearing to order at 7:05 p.m.

Ms. Adams explained the hearing was a continuation of one opened by a hearing officer on January 3, 1996 at 7:00 pm at the Bourne High School.

Mr. Wightman asked the applicant for comments.

Mr. Ingersoll said the Department of Environmental Management (DEM) had asked the Ingersoll family to grant them the deed to a 2,500 square foot lot upon which an existing fire lookout tower has stood since 1913. He indicated the Ingersoll family was in agreement with the request. Mr. Ingersoll noted the parties are in the process of working out an easement which must be ratified by the Legislature.

Mr. Wightman asked for comments from the staff.

Ms. Adams noted the reason why the project had been reviewed by the Commission was because the development qualified as a Development of Regional Impact (DRI) by proposing to subdivide a parcel of land of thirty acres or more. She noted the Ingersolls had filed both a DRI and DRI Exemption application and that the hearing tonight was to discuss the Exemption request. Ms. Adams noted the proposal was as Mr. Ingersoll had described: to subdivide off a 2,500 square foot unbuildable lot out of a larger, 117-acre parcel. Ms. Adams noted the staff had no comments on the project with regard to regional issues and recommends granting the exemption.

Mr. Wightman asked for comments from the Subcommittee.

Mr. Riley said he felt the arrangements for providing access to the fire tower were sufficient.

Mr. Wightman asked for comments from federal, state, regional and local officials.

He recognized Bill Norman from the Bourne Planning Board as a member of the audience.

Mr. Norman said he was just there to listen and had no comments.

Mr. Prince asked if DEM representatives had attended the scoping session.

Ms. Adams responded they had not and no comments or letters had been received on the project from abutters or state or regional officials. She said the only comments from local officials were received at the scoping session and related to access issues.

Mr. Wightman asked for a motion from the Subcommittee to close the public hearing on the DRI Exemption.

Mr. Prince moved to close the hearing and the record on the DRI Exemption. Mr. Riley seconded the motion. The Subcommittee voted all in favor of the motion.

Mr. Riley made a motion to recommend to the full Cape Cod Commission meeting on February 1, 1996 that the DRI Exemption request be granted. Mr. Benway seconded the motion. The Subcommittee voted all in favor of the motion.

Mr. Benway made a motion to adjourn. Mr. Riley seconded the motion. The Subcommittee voted all in favor of the motion.

On February 1, 1996, a public meeting was held before the Cape Cod Commission on the project. Ms.

Adams presented a description of the project as the Subcommittee report. Mr. Wightman asked for approval of the Minutes from the January 24th hearing. Mr. Prince moved acceptance of the Minutes with no corrections. Mr. Riley seconded the motion. The Subcommittee voted all in favor of the motion. Mr. Donald LeBlanc moved acceptance of the Subcommittee report. Mr. Wightman seconded the motion. The Commission voted all in favor of acceptance of the Subcommittee report.

Mr. LeBlanc moved approval of the DRI Exemption. Mr. Benway seconded the motion. The Commission voted all in favor of the DRI Exemption.

#### JURISDICTION

The proposed project qualifies as a DRI under Chapter A, Section 3(c), Barnstable County Ordinance 94-10: "any development which proposes to divide, combine or develop any parcel(s) of land totalling thirty acres or more."

#### FINDINGS

The Commission has considered the DRI Exemption application of Mr. Tudor Ingersoll to subdivide a 2,500 square unbuildable lot, which contains an existing fire tower, out of a 117-acre parcel in Bourne. Based on consideration of such application, the information presented at the public hearing and submitted for the record, the Commission makes the following findings subject to Section 12(k) of the Act:

1. The purpose of the subdivision is to deed a 2,500 square foot unbuildable lot located in Bourne, MA. to the Massachusetts Department of Environmental Management.
2. The Department of Environmental Management has maintained a fire lookout tower on the lot continuously since 1913.
3. There will be no development on the parcel as a result of the subdivision and no change will occur on the site in terms of its present use.
4. Issues discussed at the December 7, 1995 scoping session and January 24, 1996 public hearing were limited to local issues including insuring access to the fire tower.
5. Access to the fire tower is gained by crossing five different parcels in varying ownership. Deeds on record contain easements which grant access over three of the five parcels. A December 6, 1995 letter from the applicant indicates access will be provided across a fourth parcel through an agreement between the Ingersolls and DEM. This agreement is expected to be ratified by the Legislature as part of the land donation to DEM. The December 6, 1995 letter also states the Ingersoll family will contact the owners of the fifth parcel, Cape Cod Aggregates, to define an easement over the land and if this is not possible, a new road can be built on Ingersoll land to provide access to the fire tower.
6. No comments were received from federal, state or local officials for the record expressing concern about regional issues connected to the project.
7. The proposed project was reviewed in connection with the Regional Policy Plan issue areas of transportation, water resources, housing, historic resources and community character.
8. Commission staff review of the project found the on-site use will remain unchanged as a result of the proposed subdivision and the project is unlikely to impact either the Town of Bourne or adjacent municipalities.

CONCLUSION

Based on the above findings, the Cape Cod Commission hereby concludes that:

- 1. The location, character and environmental effects of the proposed project prevent its having any significant impacts on the values and purposes protected by the Cape Cod Commission Act, as amended, outside of the municipality in which the proposed project is to be located.

The Cape Cod Commission hereby grants a Development of Regional Impact Exemption for the proposed subdivision in Bourne, MA pursuant to Section 12(k) of the Cape Cod Commission Act, as amended. This Exemption Decision is valid for three (3) years from the date of issuance.

Sumner Kaufman  
 Sumner Kaufman, Chairman

2/1/96  
 Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 1<sup>st</sup> day of February, 1996.

Katharine H Peters  
 NAME, Notary

My Commission expires: February 1, 1999