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CAPE COD  
COMMISSION

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## **DECISION OF THE CAPE COD COMMISSION**

Date: May 28, 2015

Re: DEVELOPMENT OF REGIONAL IMPACT (DRI) EXEMPTION APPLICATION

Project/ Aquacultural Research Corp. (ARC)/ Town of Dennis  
Project # Land Protection Plan (TR/EX15007)

Project Applicant/ Town of Dennis & ARC  
Property Owner:

Property/ 99 Chapin Beach Road, Dennis  
Location: Assessors' Map 271 Parcel 1

Title Information: Deed Bk 8975 Pg 251; Deed Bk 9014 Pg 199; Plan Bk 499 Pg 94 (Pcl A)

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### **SUMMARY**

By positive vote taken at its hearing May 28, 2015, the Cape Cod Commission ("Commission") approves the DRI Exemption application of ARC and the Town of Dennis, allowing the proposed land division of the 40 acre +/- ARC property near Chapin Beach in Dennis to proceed, and local permits and approvals for the same to issue, without the requirement for DRI review and approval.

### **FINDINGS**

The Commission hereby finds and determines as follows:

1. ARC is an existing shellfish hatchery operation near Chapin Beach in Dennis, and provides a significant supply of the region's seed for shellfish production.
2. The Project involves the division of land. Between a public/ private partnership with the town of Dennis, ARC and the town are proposing to divide the property into three parcels, such that two parcels (Pcls D & E) totaling approximately 29 acres will be sold and conveyed to the town for conservation purposes, and ARC will reserve an approximate 10.5 acre parcel (Pcl C) that includes its existing facility, subject to a conservation/ agricultural restriction that will be acquired and imposed on ARC's reserved parcel.
3. The proposed division is shown on a plan of land entitled "Re-division Plan of Land in Dennis, MA. as Prepared for Town of Dennis and Aquacultural Research Corp.," scale 1 in. = 100 ft., April

27, 2015, Soule Land Surveying, 103 Vesper Pond Drive, Brewster, MA. 02631, (508) 255-4728 (“ANR Plan”).

4. Close to \$3 million in funding for the Project has come from or is expected to come from a number of public and private sources: MA Executive Office of Energy and Environmental Affairs; The Nature Conservancy; Dennis Conservation Trust; Barnstable County; Town of Dennis Community Preservation Act funds; and Town of Yarmouth Community Preservation Act funds.

5. The Project qualifies as a mandatory DRI pursuant to Section 3 of the Commission’s DRI Enabling Regulations as “Any development that proposes to divide parcel(s) of land totaling 30 acres of more in common ownership or control on or after September 30, 1994, including assembly and recombination of lots . . . .”

6. The Property is in excess of 30 acres in single ownership, and a division plan of the land is currently pending before the Dennis Planning Board for “Approval Not Required” (“ANR”), endorsement of which is required to divide the Property and convey resulting Parcels D & E.

7. The Commission received a DRI referral from the Planning Board and joint DRI Exemption Application from ARC and the town of Dennis on April 30, 2015. The application was deemed complete on May 7, 2015. The substantive public hearing on the application was duly noticed for May 28, 2015.

8. Section 12(k) of the Cape Cod Commission Act (Act) and Section 8 of the Commission’s Enabling Regulations provide that any applicant may apply to the Commission for a DRI Exemption from Commission review on a proposed project that literally qualifies as a DRI, but where the location, character and environmental effects of the development will prevent its having any significant impacts on the resources, values and purposes protected by the Act outside of the municipality in which the development is to be located.

9. The land division facilitates the proposed land transfer to the town. Other than the division itself, no actual development is proposed, such that no impacts, including to protected or critical resources, are anticipated from the division.

10. Potential development on the land is limited by the proposal to impose perpetual conservation/ use restrictions on the entirety of the land at the time of conveyance.

11. According to information from the Dennis Town Planner, the project is consistent with open space and natural resources goals of the town’s LCP, Open Space and Recreation Plan, and municipal development by-laws.

12. Limiting potential development serves many public purposes and benefits as the area abounds with natural resources, including barrier beach, wetlands and otherwise, and is uniquely subject to threats of climate change and sea level rise.

13. Natural undeveloped open space, coastal and other natural resources, and aquaculture are all interests specifically cited for preservation and protection under the Cape Cod Commission Act.

## **CONCLUSION**

Based on the foregoing, the Commission hereby further finds and determines that the proposed land division Project literally qualifies as a DRI pursuant to Section 3(c) of the Commission's Enabling Regulations as it proposes the division of land totaling 30 acres or more in common ownership or control on or after September 30, 1994, but the location, character, and environmental effects of the development will prevent its having any significant impacts on the resources, values and purposes protected by the Act outside of the municipality in which the development is to be located.

Accordingly, subject to the following condition, the Commission hereby grants the Applicant's requested DRI Exemption request to allow the land division Project to proceed, and local permits and approvals, including ANR endorsement, may be issued or granted for the Project, without the requirement for DRI review and approval.

**CONDITION/S**

As a condition of the grant herein, the Applicant shall provide to the Commission recorded copies of: 1) the endorsed ANR Plan; 2) conservation deed for Pcls. D & E into the Town (to be held in care and custody of the Dennis Conservation Commission); and 3) MGL Chapter 184 conservation/ agricultural restriction on Pcl. C, which parcel is to be reserved by ARC.

**(Signature page follows)**

**SIGNATURES**

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss \_\_\_\_\_, 2015

Before me, the undersigned notary public, personally appeared \_\_\_\_\_,

in his/her capacity as \_\_\_\_\_ of the Cape Cod Commission, whose name is signed on the preceding DRI Exemption Decision, 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 [ ] personal knowledge of the undersigned.

\_\_\_\_\_  
Notary Public

My Commission Expires:

SEAL