



CAPE COD
COMMISSION

STAFF MEMORANDUM

To: Cape Cod Commission Board

From: Jon Idman, CRO

Project: Aquacultural Research Corp. (ARC)/ Town of Dennis Land Protection Plan
DRI Exemption (Project Number EX15007)

Project Site: 99 Chapin Beach Road, Dennis
Assessors Map 271 Parcel 1

Applicant: ARC & Town of Dennis

Date: May 28, 2015

INTRODUCTION

The Commission has received a mandatory DRI referral from the Town of Dennis Planning Board, and a DRI Exemption application, for a proposed land division of the 40 acre +/- ARC property near Chapin Beach in Dennis.

Though the land division triggers a mandatory DRI threshold, Commission staff suggests that, because of the nature of the project, the division does not create regional impacts, and recommends that the Commission grant the requested DRI Exemption, allowing the division to proceed without DRI review and approval.

PROJECT DESCRIPTION

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. 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. 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.

JURISDICTION/ PROCEDURAL OVERVIEW

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 or more in common ownership or control on or after September 30, 1994, including assembly and recombination of lots"

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" endorsement. ("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.)

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 is scheduled and noticed for May 28, 2015.

COMMISSION STAFF ANALYSIS

Section 12(k) of the Cape Cod Commission Act (Act) and Section 8 of the Commission's Enabling Regulations provide that an 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.

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. 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. 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. Further, 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. Open space, natural resources and aquaculture are all interests specifically cited for preservation and protection under the Cape Cod Commission Act.

Commission staff suggests that, as a condition of approving the DRI exemption, the Applicant provide to the Commission recorded copies of the endorsed land division plan, deed for Pcls. D & E into the Town (to be held in care and custody of the Dennis Conservation Commission), and MGL Chapter 184 conservation/ agricultural restriction on reserved Pcl. C.

CONCLUSION

Commission staff suggests that the proposed 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.

However, based on the foregoing analysis, staff suggests that 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, and recommends that the Commission grant the requested DRI Exemption to allow the land division to proceed with the requirement for DRI review and approval.