

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

DECISION OF THE CAPE COD COMMISSION

Date: November 1, 2018

Re: Development of Regional Impact (DRI) Exemption
Cape Cod Commission Act, Section 12(k)/ Enabling Regulations, Section 8

Project: Long Pond Woodlands Conservation Area
(Commission File No. 18018)

Property: 180, 206 & 224 W.H. Besse Cartway/ Off Long Pond Road, Brewster
(Assessors Map 84 Parcels 22 & 54; Map 83 Parcel 5)

Applicant/
Vendee: Town of Brewster c/o Mark Forest, Interim Town Administrator
Town Hall, 2198 Main Street, Brewster, MA 02631

Owner: Chester A. Robinson III, Kenneth Robinson, Judith A. Marshall,
Beth Ann Robinson

Title: Land Court Certificate of Title No. 198070
Land Court Plan 34330-B, Lots 1, 2 & 3
Land Court Plan 40024-A
Barnstable County Registry of Deeds Book 26642 Page 115

SUMMARY

The Cape Cod Commission hereby grants a Development of Regional Impact Exemption to the Town of Brewster for a proposal to divide approximately 47 acres of land near Long Pond and Sheep Pond, the purpose of which is to facilitate the Town's acquisition of approximately 42 acres of the land for conservation, watershed protection and passive recreational purposes. This DRI Exemption Decision is issued pursuant to a vote of the Commission on November 1, 2018.

FINDINGS

The Cape Cod Commission ("Commission") hereby finds and determines as follows:

F1. Brewster Town Meeting voted in Spring 2018 to authorize and fund the Town's acquisition of approximately 42 acres of land off Long Pond Road and W.H. Besse Cartway for conservation, watershed protection and passive recreational purposes. This land is part of a larger, contiguous tract of 47 +/- acres of land ("Property") commonly owned by the Robinson family ("Owner"). The Property is located on the northeastern shore of Long Pond, just southeast of Sheep Pond.

F2. The Town has entered into a purchase and sale agreement with the Owner to acquire these 42 acres ("Conservation Area"); the Owner will reserve approximately 5 acres of the Property, which land is currently improved with multiple residential buildings. The Property is depicted on the plan (copy attached hereto) entitled "Preliminary Site Plan, Lots 1, 2 & 3 L.C.P 40024-A & 34330-B" prepared by J.M. O'Reilly & Associates, Inc., dated 3-23-2018, wherein the Conservation Area is shown and labelled "42.01 acres, per survey, proposed for purchase by Town of Brewster."

F3. Title to the Conservation Area will be held in the Town care of its Conservation Commission; a draft Conservation Restriction (CR) has been prepared, and upon conveyance to the Town, the CR will be imposed on the Conservation Area and held by the Brewster Conservation Trust.

F4. For purposes of conveying the Conservation Area, the Property must be re-divided and internal property lines reconfigured through approval of a new division plan of land which the Town is in the process of preparing for review by the local Planning Board ("Project").

F5. The Project literally qualifies as a Development of Regional Impact (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 April 19, 2018 ("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."

F6. Where proposed development literally qualifies as a DRI, Section 12(k) of the Cape Cod Commission Act and Section 8 of the Enabling Regulations allow "any applicant to apply to the Commission for an exemption from Commission review because 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..."

F7. The Town submitted a DRI Exemption Application and supporting materials, dated September 25, 2018, for the Project.

F8. The Commission held a duly-noticed hearing on November 1, 2018 to review the DRI Exemption request.

F9. The location, character and environmental effects of the Project will prevent its having any significant impacts on the values and purposes specified under the Act:

- A. The Project is the division of land and does not propose any physical building or structural development work.
- B. The CR for the Conservation Area will remove development potential in that land and protect important natural and scenic resources.
- C. More than half of the Conservation Area lies within the Brewster Water Protection District of Critical Planning Concern.
- D. The Conservation Area contains important resource areas such as wellhead protection area, pond frontage and pond buffer area, and rare species and other special natural habitats.
- E. The Conservation Area will contain a loop walking trail, primarily using existing trails and will provide public access over the land.
- F. The Project is consistent with and advances values, goals and purposes of the Cape Cod Commission Act and the Regional Policy Plan relating to conservation, Open Space and recreation, protection of groundwater resources, protection of surface water quality, and protection of rare species habitat.

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 due to its location, character, and environmental effects the Project will not have significant impacts on the values and purposes specified in Section 1 of the Cape Cod Commission Act.

As such, the Commission hereby grants the DRI Exemption requested by the Town of Brewster for the Project described herein, subject to the Conditions, below.

CONDITIONS

C1. Pursuant to Section 12(k) of the Act, the Town of Brewster has three (3) years from the date of this written decision to exercise the rights granted hereunder.

C2. This Decision shall be filed with the Barnstable Registry District of the Land Court and recorded with the Barnstable County Registry of Deeds.

C3. The Town shall provide the Cape Cod Commission copies of the following as filed with the Barnstable Registry District of the Land Court and with the Barnstable County Registry of Deeds:

- Division plan for the Property creating the Conservation Area;
- Deed for the Conservation Area from the Owner to the Town of Brewster;
- Conservation Restriction for the Conservation Area.

(SIGNATURE PAGE FOLLOWS)

Town of Brewster- Long Pond Woodlands Conservation Area
DRI Exemption Decision

November 2018

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SIGNATURE PAGE

Executed this 1st day of November 2018.

Harold W Mitchell
Signature

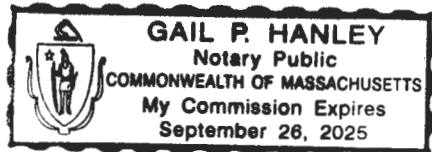
Harold W Mitchell CC Commission chair
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

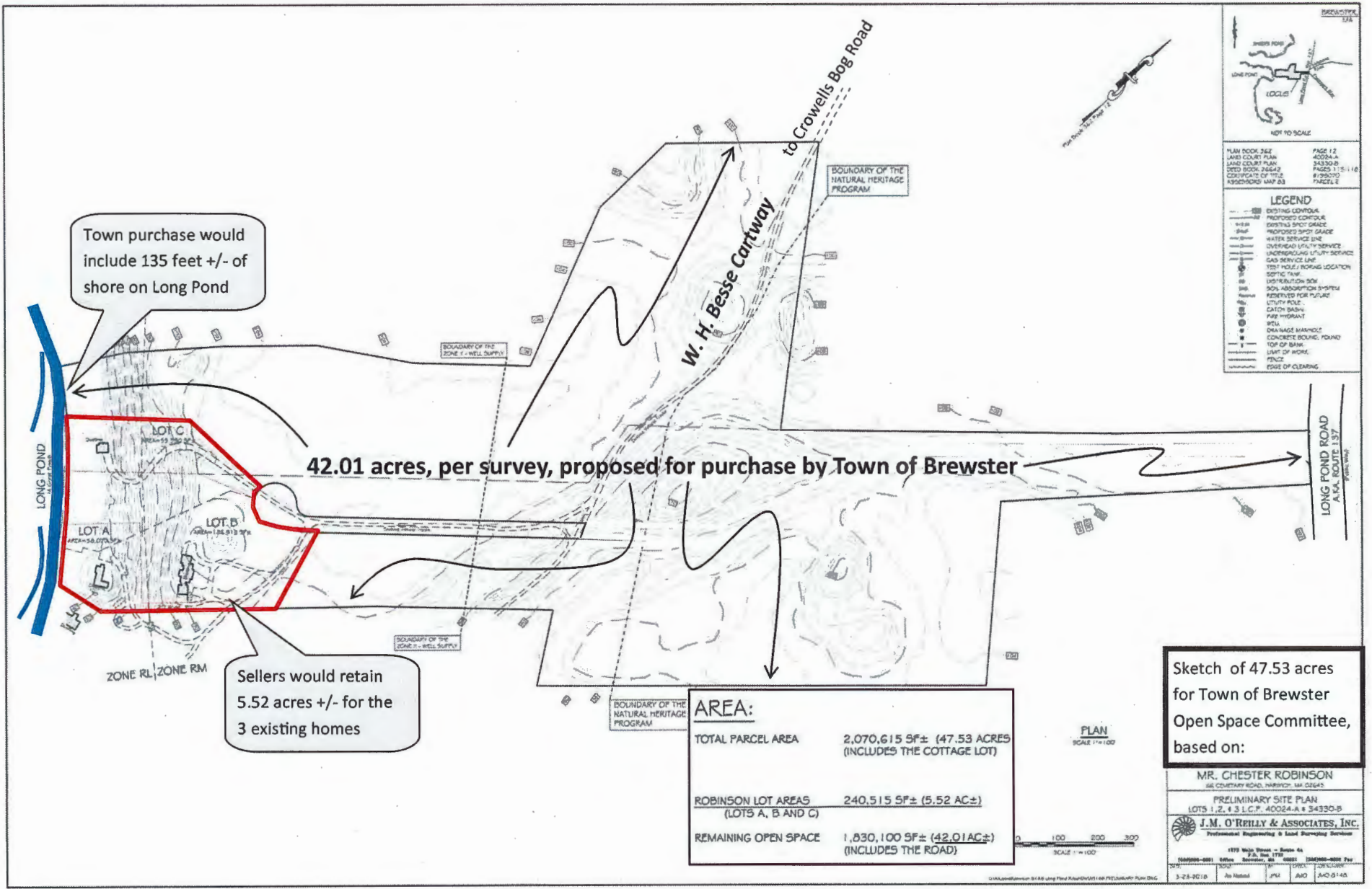
November 1, 2018

Before me, the undersigned notary public, personally appeared Harold W. Mitchell, in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose on behalf of said Commission. 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.



SEAL

Gail P. Hanley
Notary Public
My Commission Expires: 9-26-25



Town purchase would include 135 feet +/- of shore on Long Pond

Sellers would retain 5.52 acres +/- for the 3 existing homes

42.01 acres, per survey, proposed for purchase by Town of Brewster

AREA:

TOTAL PARCEL AREA	2,070,615 SF± (47.53 ACRES) (INCLUDES THE COTTAGE LOT)
ROBINSON LOT AREAS (LOTS A, B AND C)	240,515 SF± (5.52 AC±)
REMAINING OPEN SPACE (INCLUDES THE ROAD)	1,830,100 SF± (42.01 AC±)

Sketch of 47.53 acres for Town of Brewster Open Space Committee, based on:

MR. CHESTER ROBINSON
 56 COUNTRY ROAD, WAREHOUS, MA 02643
 PRELIMINARY SITE PLAN
 LOTS 1, 2, & 3 L.C.F. 40024-A & 34330-B
J.M. O'REILLY & ASSOCIATES, INC.
 Professional Engineering & Land Surveying Services
 1875 Main Street - Suite 44
 P.O. Box 1718
 Ware, MA 02643
 3-78-2010 JmM JPM JMO AJO-B-140