

August 15, 2025

Rebecca Tepper, Secretary
Executive Office of Energy & Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Barnstable County Land in the Town of Bourne
Alternatives Analysis and Waiver Request

Dear Secretary Tepper:

In accordance with the provisions of G.L. c. 3, §5A, the Town of Bourne and Barnstable County (the “Parties”) hereby present an alternatives analysis and request a waiver from the provisions of the Public Lands Preservation Act (“PLPA”) that require replacement land as the Parties are public entities and intend to transfer land and interests in land protected under Article 97 of the Massachusetts Constitution without changing the use of the protected property.

The subject property, described below, is currently owned in fee by Barnstable County, and a large portion of the property is subject to a permanent Conservation Restriction granted to and held by the Town of Bourne. The County wishes to convey the Property to the Town, and the Town wishes to assign the Conservation Restriction to the County. Since this transaction involves a mere transfer of legal interests in Article 97 land but not any change in the use of the Article 97 land, the Parties respectfully request that the Commissioner permit the Parties to transfer such legal control without providing replacement land.

Description of the County Parcels and Portion Subject to the CR:

The subject property is the former site of Barnstable County Hospital and consists of two parcels of land located at 0 County Road and 100 Dr. Julius Kelley Lane in Bourne, shown as Lot 7 on Land Court Plan No. 24204C and includes the parcel of land shown as Lot 8 on Land Court Plan No. 24204D, which parcels are a portion of the premises described in Certificate of Title No. 18176 filed with the Barnstable Registry District of the Land Court (the “Property”).

A 50± acre portion of the Property (the “Restricted Area”) is subject to a permanent conservation restriction held by the Town of Bourne Conservation Commission. Portions of the Property not subject to the Conservation Restriction are currently occupied by certain ground lease tenants and are improved by various structures, including a vacant single-family residence, a building used by the Bourne Society for Historic Preservation, a vacant full-bay garage, and a community garden.

The Conservation Restriction on the Restricted Area held by the Town of Bourne is filed with the Barnstable Registry District of the Land Court as Document #978,790, and amended by Document #1,148,473.

Project Description:

The County has determined that it no longer needs the Property for County purpose and declared it to be surplus property. The sale of entire Property will eliminate the County's current and long-term financial liability associated with maintaining the grounds and the vacant buildings on the Property. As required by G.L. c. 34, §14, the County offered to sell the Property to the Town of Bourne, which the Town elected to accept. The market value of the Property is limited as a significant portion of the Property is encumbered by the Conservation Restriction and most of the unrestricted parts of the Property are subject to two existing, long-term ground leases.

The Town of Bourne has been working with Barnstable County to purchase the Property for a number of years since the County declared it to be surplus to its needs. Initially, Bourne explored using a portion of the unencumbered land as the site of a new fire station. Ultimately, a different site was purchased for the fire station and there are no current plans to build on the unencumbered portions of the Property. Under the Town's ownership, the Restricted Area will remain protected by the Conservation Restriction as open space, and a small portion of the rest of the Property will be available for future municipal use. The Town intends to maintain the existing community gardens on the site.

The Town and County have agreed on financial terms of the sale of the Property and agreed that the Town will assign the Conservation Restriction to the County, which will not result in any change in the use of the Restricted Area.

Alternatives Analysis and Waiver Request:

G.L. c. 3, §5 provides that in order for Barnstable County to transfer the Property to the Town and for the Town to assign the Conservation Restriction to Barnstable County, the Parties must conduct an alternatives analysis demonstrating that there are no other options to avoid or minimize the disposition or change in order and that no substantially equivalent alternatives exist.

The County is authorized to sell County property so long as the County complies with the provisions of G.L. c. 34, §14. Section 14 states that "any real estate offered for sale or lease, by a county shall first be offered for sale or lease to the commonwealth and upon the non-acceptance by the commonwealth of any such offer, shall then be offered for sale or lease to the city or town where such land is located." Once the County decided to sell the Property, it submitted notice of the proposed sale to the Commonwealth, which declined to purchase the Property. Thereafter, as required by G.L. c. 34, §14, the County offered the Property to the Town of Bourne.

The Town has the statutory right to purchase the Property, and only the Property. As such, it is not necessary to consider what other parcels of land are available for acquisition by the Town. Further, since the conveyance of the Property to the Town will not change the use of the protected Restricted Area or result in any other detrimental impact on the natural resources and conservation values of the Restricted Area, the Parties suggest that an analysis of possible alternatives is limited in this instance by the nature of this transaction.

The Parties are “public entities” as defined by the PLPA.¹ Accordingly, since the Restricted Area will continue to be fully protected with no change in use by the Conservation Restriction under Article 97, the Parties request that there is no need for replacement land.

Conclusion:

This transaction, which involves the transfer of Article 97 protected land between public entities without a change in use, meets the criteria for a waiver of the replacement land requirements of G.L. c. 3 § 5A.

Attached please find the following documents to aid in your review of this waiver request:

- GIS Locus Map
- Deeds and Plans of Land subject to Article 97
- Local Votes
- Article 97 Legislation

Thank you for your consideration.

/s/ Andrew Bettinelli

Andrew Bettinelli
On behalf of the
Town of Bourne

/s/ Shirin Everett

Shirin Everett
On behalf of
Barnstable County

¹ “public entity, which for the purposes of this section shall include the commonwealth, any agency, authority, board, bureau, commission, committee, council, county, department, division, institution, municipality, officer, quasi-public agency, public instrumentality or any subdivision thereof” G.L. c. 3, § 5A.