



**DECISION OF THE CAPE COD COMMISSION
ACCEPTANCE OF DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)
NOMINATION FOR CONSIDERATION
TOWN OF EASTHAM DCPC**

Date of Nomination: August 24, 2017
Date of Acceptance: August 31, 2017
Nominating Agency: Eastham Board of Selectmen
Location of District: Eastham, MA
Type of District: Economic or Development Resource District
Affordable Housing Resource District
Transportation Management District

BOUNDARY

The proposed boundary of the District of Critical Planning Concern (hereinafter "DCPC") encompasses commercially zoned land in the Town of Eastham, including District C Industrial, District D Retail Sales and Service, and District E Residential/Limited Commercial, and all land within the North Eastham Overlay District bounded on the north by the Eastham/Wellfleet Town boundary, to the south by Old Orchard Road, to the east by the Cape Cod Rail Trail, and to the west by Herring Brook Road and Massasoit Road. The proposed District consists of approximately 280 acres of land area and approximately 2.9 acres of open water. A map of the proposed District is appended to this Decision as Exhibit "A".

GENERAL STATEMENT OF PURPOSE AND REASONS FOR ACCEPTANCE

In accepting the nomination of the Eastham DCPC the Cape Cod Commission (Commission) makes the following findings:

1. There is a need for special planning and regulations in the Eastham DCPC that will preserve or maintain values and resources intended to be protected by the Cape Cod Commission Act ("the Act"). This designation is of critical value to Barnstable County due to the following features: the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.
2. Regulatory and/or planning tools are available which are likely to be effective in protecting or otherwise meeting the objectives of the proposed district.
3. Transportation, economic development, affordable housing, and community character are regional issues identified in the 2009 Regional Policy Plan.
4. The Town of Eastham is the gateway to Cape Cod National Seashore, a national and regional recreational and cultural resource that draws over 3 million visitors per year. The tourism generated by the National Seashore affects nearly every component of Eastham's local economy, including the hospitality, recreation, and service trades that are located within the proposed District.
5. The proposed District is bisected by U.S. Route 6, a Federal/State highway that serves as the major travel corridor to the Outer Cape towns of Wellfleet, Truro and Provincetown with average summer daily traffic volumes of approximately 25,000 - 30,000 vehicles/day. Average summer daily traffic volumes on Route 6 at the Wellfleet/Truro town line average 14,000 vehicles/day, and 12,000 vehicles/day at the Truro/Provincetown town line. The roadway also serves as Eastham's "Main Street" providing access to the Town's primary commercial area and core economic activity located at Brackett Road and Route 6.
6. Summer traffic congestion and safety on Route 6 impacts both residents and visitors daily. The Eastham section of Route 6 consists of a four-lane cross-section with 12-foot vehicle lanes and a 5-foot sidewalk on the west side of the roadway. There are no sidewalks on the east side of the roadway where most of the businesses and numerous curb cuts are located. There are approximately 100 curb cuts along the approximately 2.5-mile section of Route 6 within the proposed District. Accessing these businesses on foot or bicycle is challenging and hazardous for employees and customers, forcing them

to walk on the highway immediately adjacent to motor vehicles. According to a 2014 Cape Cod Commission report titled “Barnstable County High Crash Locations”, the Route 6/Brackett Road intersection ranked 46th on Cape Cod based on the number of crashes. From 2012 – 2014, a total of 105 crashes were reported along the section of Route 6 within the proposed District. In 2015, fatalities on Route 6 included a pedestrian at the Brackett Road intersection and a bicyclist just south of the intersection, trying to cross the road.

7. The corridor lacks sufficient bicycle and pedestrian accommodations, and has not received upgrades to mitigate traffic volumes, safety issues, and stormwater runoff. As a state highway, Route 6 is under the jurisdiction of the Massachusetts Department of Transportation (“MassDOT”) and the Town lacks the capacity and the regulatory framework to implement comprehensive improvements to the roadway. The proposed DCPC would provide the means for the Town to plan comprehensively to manage traffic congestion and safety issues.
8. The southeasterly portion of the proposed District lies within the contributing area to the Salt Pond subembayment, within the Nauset Harbor watershed. According to the Final Massachusetts Estuary Project (“MEP”) Report for Nauset Harbor, the Salt Pond subembayment watershed requires significant nitrogen removal (i.e. removal of 100% of the septic load). An approved Total Maximum Daily Load (“TMDL”) report, currently in progress, will require nitrogen reductions in the Salt Pond subembayment. Reductions in nitrogen loading within the watershed could be targeted to both development and redevelopment. Stormwater management retrofits or installations of best management practices (“BMPs”) within the District that treat for nitrogen would reduce nitrogen loading to Salt Pond and greater Nauset watershed. Additionally, minimizing turf (i.e. fertilizer application), impervious surfaces (i.e. generation of stormwater runoff), and wastewater discharges within the Nauset Marsh watershed would help mitigate any increase in nitrogen load to the already-impaired embayments.
9. The Town has invested considerable funds into the proposed District. In 2015, Eastham Town Meeting authorized the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town. Town officials are concerned about the impact of future growth on existing businesses as well as the character of the community.
10. The proposed District is primarily zoned for general business use, which allows a variety of retail, accommodations, and other commercial uses. In 2014, the Town approved

overlay zoning within the proposed District to encourage mixed-use development in a traditional village-style development pattern. The overlay zoning has not yielded any new mixed-use development and the bylaw has not been effective in producing the form and type of development desired by the Town. At the 2017 Annual Town Meeting, Eastham voters approved amendments to the Overlay bylaw as an interim measure until a comprehensive analysis could be completed. The DCPC process will allow the town to look comprehensively at future development potential in the proposed District under existing zoning and with the availability of town water and provide an opportunity to create more effective regulations that support the community's vision for the District.

11. The availability of public transit provided by the Cape Cod Regional Transit Authority ("CCRTA") Flex bus, coupled with the proximity of commercial and retail services along Route 6, makes the proposed District an appropriate location for affordable housing. Affordable housing development recently permitted within the proposed District includes a 65-unit comprehensive permit issued under M.G.L. Chapter 40B on Town-owned land. Regulations and guidelines developed through the DCPC process will help the Town diversify its housing stock by promoting mixed-use/village style development in the District, providing additional opportunities to accommodate appropriately designed affordable residential units at higher densities that are necessary to make them financially viable.
12. The designation of this area as an Economic or Development Resource District will allow the town to plan and adopt zoning and other strategies to guide future development and redevelopment in a way that contributes to and respects the character and historic development patterns of the area and provides appropriate tools to support and foster the local economy.
13. The designation of this area as an Affordable Housing District will allow the Town to develop regulations and guidelines to diversify its housing stock by promoting mixed use/village style development. This type of development will provide additional opportunities to accommodate appropriately designed residential units at higher densities, which is a vital component in making the development of affordable housing economically viable.
14. Designation of this area as a Transportation Management District will allow the Town to comprehensively address traffic congestion and safety issues, and to plan for adequate pedestrian and bicycle accommodations within the proposed District.
15. The proposed District is bisected by a four-lane undivided highway with multiple curb cuts and higher traffic volumes than other sections of U.S. Route 6. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose layout and design could be improved with adequate regulatory controls. Implementing regulations

will allow the Town to provide the regulations desired by the community and ensure that this small economic center will grow in a way that existing infrastructure can support.

16. The proposed boundary of the District is reasonably related to the purposes of the District and follows an easily definable boundary.

TYPES AND CLASSES OF DEVELOPMENT THAT MAY PROCEED

Pursuant to Section 11(c) of the Cape Cod Commission Act, "the acceptance of a nomination for consideration for designation as a district of critical planning concern shall continue to suspend the power of a municipality to grant development permits for development within the nominated district."

The Commission, in conjunction with the Eastham Board of Selectmen, has identified the following types or classes of proposed development which may proceed notwithstanding this nomination during consideration and designation and until Implementing Regulations are adopted pursuant to Section 11 (d) & (e) of the Act, provided however that such permits could have been issued in accordance with bylaws and regulations in effect in the town of Eastham at the time of the local permit application. The Commission certifies, by the acceptance of this nomination, that these types or classes of proposed development are not substantially detrimental to the protection of public health, safety, and welfare and do not contravene the purposes of the Cape Cod Commission Act and the DCPC nomination. Where a type or class of development is not included below, it may not proceed unless the district fails, until Implementing Regulations are adopted, or until it is exempt pursuant to Section 22 of the Act.

The following uses/activities shall be allowed to continue in the Town of Eastham District during the moratorium:

1. New residential single-family development on residentially zoned parcels within the proposed district.
2. Normal and customary repair or maintenance to a single-family house or any other residential use.
3. Normal and customary repair or maintenance to duly permitted accessory structures such as storage sheds, garages or accessory residential structures.
4. Normal and customary repair, maintenance to non-residential structures and uses.

5. The change, alteration or expansion of use of any commercial, retail or mixed-use structure where such change, alteration or expansion is limited to the interior of the structure and will not increase or intensify the use of the structure and will not result in any change to the building footprint or any other exterior component that would require Site Plan Approval - Special Permit under Section XIII of the Eastham Zoning Bylaw.
6. Normal and customary repair or maintenance to on-site septic systems. Such repairs or maintenance shall not increase the number of bedrooms or wastewater disposal capacity or result in an increase in impervious area.
7. Normal and customary repair or maintenance to duly permitted signs.
8. Installation of new signs provided they conform to the Eastham Sign Code.
9. Any development or redevelopment activity where all necessary permits have been issued before August 31, 2017.
10. Connections to public and/or private water supply systems.
11. Municipal projects.
12. Any development that constitutes emergency work as defined by Section 24 of the Cape Cod Commission Act. The proponent of any emergency work must notify the Commission immediately upon applying to a municipal agency or official for an application to conduct such emergency work. Emergency work shall be permitted and proceed only in accordance with the standards and procedures set forth in Section 24 of the Act and the Enabling Regulations Governing Review of Developments of Regional Impact.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby accepts the nomination for consideration of the Town of Eastham District in the Town of Eastham as a District of Critical Planning Concern.

Signature page follows

SIGNATURE(S)

Executed this 31st day of Aug 2017

Harold W Mitchell

Signature

Harold W Mitchell, chair

Print Name and Title

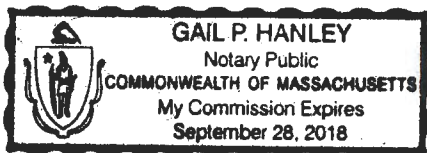
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

August 31, 2017

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. 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

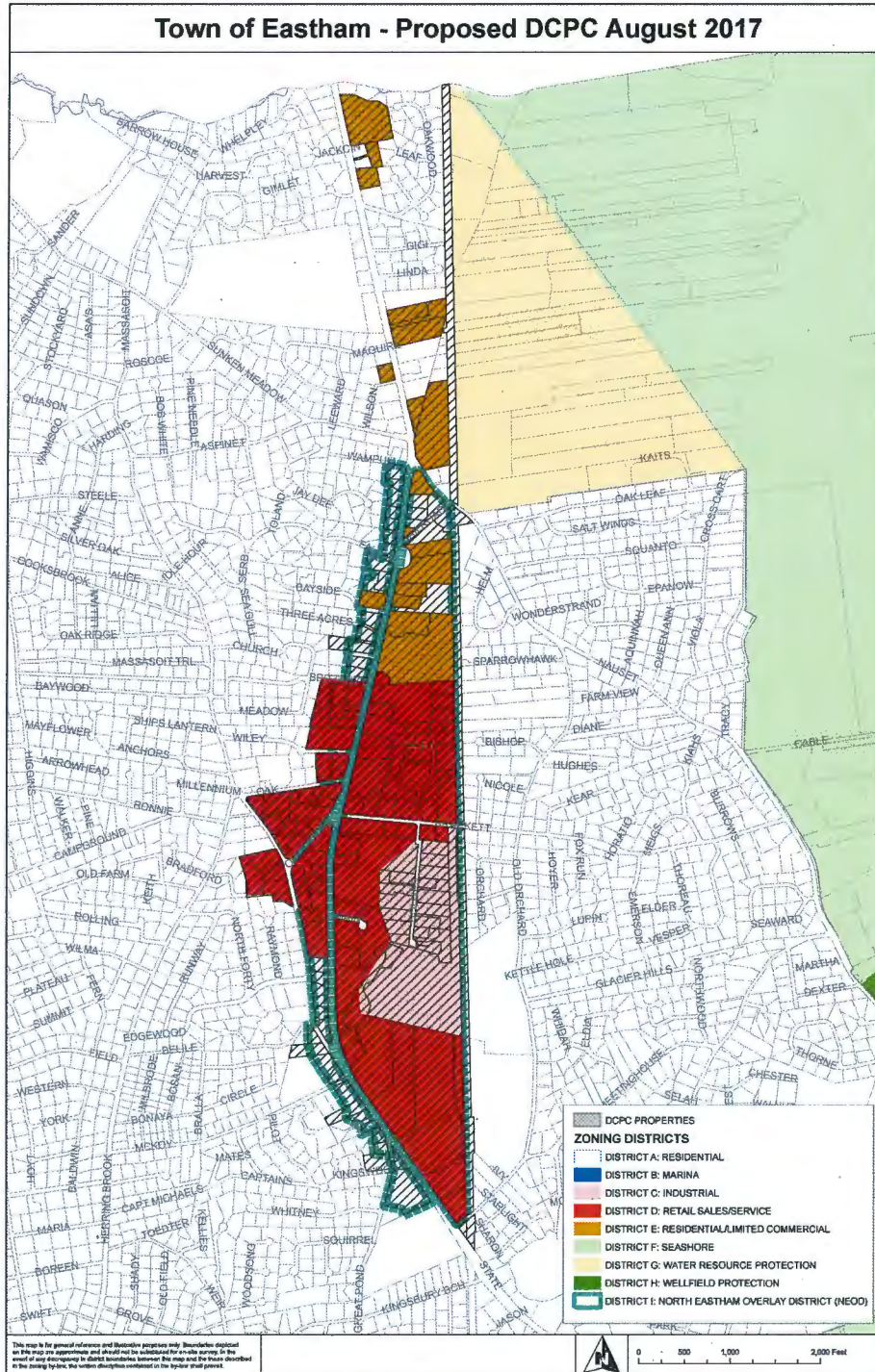
Gail P. Hanley

Notary Public

My Commission Expires: 9-28-18

EXHIBIT A

MAP OF PROPOSED DCPC BOUNDARIES



EASTHAM DCPC – EASTHAM, MA
NOMINATION FOR CONSIDERATION DECISION