CAPE COD COMMISSION

TO: Chatham Board of Selectmen

CC: Chatham Planning Board

Jill Goldsmith, Town Administrator

Deanna Ruffer, Director of Community Development

FROM: Phil Dascombe, Senior Community Design Planner

RE: Public Comment on Draft Route 28 Visioning Report

DATE: February 26, 2014

The draft Route 28 Visioning Report was released for public comment on October 30, 2014. Comments on the report were accepted up until December 30, 2013. During the comment period, the Board of Selectmen and Planning Board held a joint public meeting on November 19, 2013 to provide their initial thoughts and comments on the draft report recommendations. On December 3, 2013, the Planning Board held a public meeting to receive comment from the public on the draft report.

By the close of the public comment period on December 30, 2013, the Commission had received numerous comment letters either directly, or via the project website. The comments received can be reviewed and downloaded from the Commission's website: (http://www.capecodcommission.org/departments/planning/design/route28visioning/finalreport). A small number of comments were exclusively commenting on the West Chatham Roadway Design Project rather than the Visioning Project and these have been passed on to the appropriate consultant through the town staff. Based on the comments received, the report has been finalized to clarify the recommendations being made and is posted on the website (same address as above).

The Commission's project team has reviewed all comments received, which cover a wide number of topics. This memorandum is intended to summarize the main themes that emerged from the comments, but it should be noted that not all the comments received are addressed in this memorandum, or are responded to in the final report. For instance, comments that offer opinions about the scope, workshop or techniques used during the

process are not addressed specifically as our report is intended to describe work conducted under the contract scope. In addition, requests for greater detail and broader analysis are not addressed in the final report as such additional tasks are beyond the scope of the Commission's work. However, it is fully anticipated that the Planning Board would review the more specific comments as they deliberate on any future zoning changes or revisions.

The following points are therefore offered as clarification and explanation in response to the main points raised, and are grouped based on common themes.

1. Why overlay districts?

The goal of bringing about changes in land use patterns in the corridor can be achieved in a number of ways; either by re-zoning to another existing designation; creating a new district; or, modifying the rules under existing zoning through adoption of an overlay district. Arguments can be made in favor of taking any of these approaches, but whatever approach is taken it should be understood that changes to the existing pattern of development will only be realized as redevelopment happens.

Recommendation #1 in the report is to create four new neighborhood center overlay districts, one for each of the centers identified in the long range plan. The properties within these areas are currently zoned either SB (South Chatham), or GB3 (West Chatham, The Cornfield and Crowell Road). Under the recommended approach, these properties would retain this zoning designation. The proposed overlay zones would be placed over, and would modify, the provisions of these underlying zones.

The report recommends an overlay approach for several reasons. From a purely administrative point of view, creating new and unique zoning for each of the four neighborhood centers would require writing four complete zoning bylaws (one for each center). These new designations would have to be incorporated into the existing bylaw in their entirety. In all likelihood, these regulations would be somewhat similar in their uses and dimensional standards, but would vary enough to promote a unique design and character in each center. In contrast, an overlay district only necessitates that the uses and standards that are to be changed be identified, making a much shorter and simpler bylaw.

In addition, since an overlay district approach would allow the basic structure of the zoning in the centers to remain in the underlying zoning, property owners would not need to consider sweeping changes to the rules applicable to their property nor understand how those regulations are structured and inter-relate. Modifications to these existing rules, as opposed to completely new zoning, may be easier to understand in the context of their use of their property. These considerations may make adoption of any new overlay zones by town meeting simpler.

Furthermore, although it could be argued that making changes to the SB and GB3 regulations would be simpler than an overlay approach, it should be noted such changes would affect all properties in town with that designation, including those outside the Route 28 corridor. In addition, changes made to the existing regulations without an overlay would mean that the three GB3 centers would have the same regulations in place, resulting in a similar pattern of development and mix of uses in each over time. The overlay approach will allow the uses and dimensional standards to be tailored to each center, and even adopted at different times, giving the neighbors and town meeting voters a more focused set of changes to consider.

Some of the comments received expressed reservations about using an overlay district approach, particularly as a result of dis-satisfaction with the Flexible Development Overlay district. It should be noted that overlay districts are commonly used in zoning, both on Cape Cod and beyond. As the draft report notes, the Flexible Development District Overlay is recommended to be removed but not because it is an overlay district but because the provisions within it are at odds with the direction of the Comprehensive Plan. It is essential that for any overlay district created along this corridor, the uses and standards be carefully crafted to ensure the desired results are achieved.

2. Neighborhood center boundaries

The draft report included a Proposed Zoning map (Figure 13) with suggested areas for application of these overlay zones. Several comments were received about the configuration of these boundaries, including suggestions for changes. The final report includes a detail of the proposed boundaries in these centers so the precise location of these boundaries can be seen more easily.

The Commission drew these boundaries based on the descriptions of the neighborhood centers in the Comprehensive Plan, with the exception of the South Chatham area (explanation included in the report). The Comprehensive Plan does not provide any maps showing the exact boundaries for the neighborhood centers, but instead provides a narrative description identifying intersections along Route 28 as boundaries. For example, West Chatham is described as “Along Rte. 28 (Main St.) roughly between George Ryder and Barn Hill roads” (the full text of the land use section is provided as an appendix in the report). As the Comprehensive Plan descriptions are “rough”, the boundaries proposed in the draft report were created in order to illustrate the recommendations but were intended to be a starting point to advance the discussion for the boundaries of these areas. As is acknowledged in the report, if changes to the proposed boundaries are desired, they are more appropriately dealt with in more focused discussions specific to these individual centers by the Planning Board and should allow for ample input from residents, property owners and other stakeholders as the specifics of the zoning are developed.

3. Formula businesses

Recommendation #2 of the draft report stated that the town should direct formula-business into the neighborhood centers currently zoned GB3. Several comments raised questions about this recommendation.

These formula business uses are currently allowed in the SB, GB3 and Industrial zones. The recommendation in the draft report described eliminating these uses from the Small Business District as they are incompatible with the character of those areas. The wording of this recommendation has been revised to make this intent clearer and that the aim is to reduce the locations currently available for formula business and, that at a minimum, this should include removing formula-businesses as an allowed use in the SB District. This action would only leave the GB3 and the Industrial zone as areas where formula-business is allowed.

Some comments suggest that the town not allow formula-business in other areas along the corridor. With the overlay approach recommended, the town could consider whether formula business uses are appropriate in each center separately as the overlay zoning is developed for each neighborhood center.

4. Mixed-use development

Recommendation #3 suggested that changes could be made to the town's bylaws to encourage mixed use development. Several questions were raised about the intent of this recommendation and whether encouraging additional mixed use was necessary. In the report, the term mixed use is used to describe a mix of residential and non-residential uses on a single property.

The intent of the recommendation in the draft report is to retain some kind of commercial activity in the neighborhood centers into the future, and to be clearer about what kind of mixed use the community is looking to see.

Currently in GB3, residential uses are allowed if they are "incidental" to a commercial use. As stated in the draft report, the term "incidental" is not defined in the zoning bylaw and must be interpreted on a case-by-case basis. This creates a degree of uncertainty for citizens and developers alike. Our recommendation is to explicitly state what is an acceptable configuration for projects that incorporate residential uses. The recommendation is based on a premise that no increase over the density currently allowed in GB3 would occur, with specifics of how to encourage mixed-use vetted through the Planning Board's regular public process.

Furthermore, with multi-family housing currently allowed in the GB3 zone there is a potential that residential development could occur in these centers in place of existing non-residential uses, especially with current favorable market conditions for residential development. It is possible that these centers could become increasingly residential in nature and may undermine their viability as centers for the surrounding neighborhoods. Therefore, encouraging mixed use rather than residential-only uses would provide for a non-residential base in these centers in

the future. Clarifying language has been added to ensure this intent is articulated in the final report.

5. Zoning designation for the "in-between" areas

Under recommendation #4, the draft report provided two options for how the town may consider addressing the areas in between the neighborhood centers. The draft notes that the town could either re-zone these areas as low-density residential (R-20), or, if additional small businesses were desired by the community in these areas, the town should create a new zoning designation that the report refers to as "Corridor Residential". The Commission staff sought input specifically on this choice at the public meetings held during the comment period. At both public meetings, and in corresponding comments from the public, there was unanimous support for choosing to re-zone these areas as R-20. The final report narrative and maps have been amended to reflect this direction. Through comments received, two specific properties in the corridor were identified as requesting an R-20 zoning designation. The properties in question, Harding Landing and the Patterson's property, are both currently zoned SB, with the Flexible Development District overlaying both. The draft report included both these sites within the area shown as "Corridor Residential", and based on the option chosen, these locations will be shown with a proposed R-20 designation.

6. Open Space Residential Development

Several comments expressed a desire to provide or preserve open/green space in appropriate locations along the corridor, including a suggestion to allow Open Space Residential Development (OSRD) in the R-20 zone. OSRD is a type of cluster subdivision where half a parcel's developable upland is protected as open space, while housing lots are clustered on the remaining upland. The Chatham zoning bylaw contains an OSRD provision, allowing it through special permit, on parcels of five acres or more.

Based on analysis of the study area parcels, OSRD has minimal applicability along the corridor. Only four properties within the study area are over five acres in size; of these two are not developable (one is conservation land, the other a cemetery) and one is developed with residential condominiums. A 5.7- acre cottage colony (that abuts another 5+ acre parcel that is located outside the study area) could make use of the OSRD option should it be subdivided and redeveloped. This property could be redeveloped with up to 10 single-family lots under existing zoning, each with a much larger dwelling than the existing cottages. Therefore, encouraging use of the OSRD bylaw on their property would result in more clustered development and more green space.

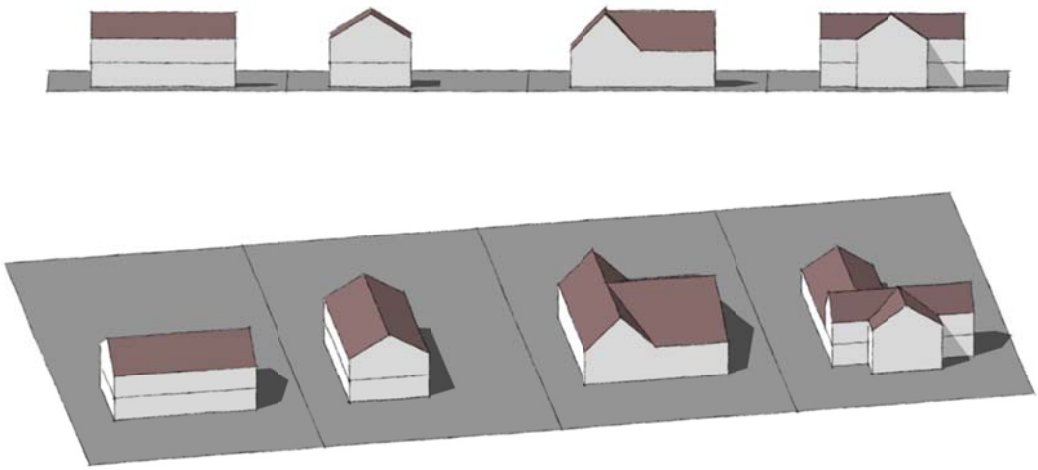
More generally, the town could consider amending the zoning bylaw to allow OSRD by right anywhere in town (or even requiring it), thus putting OSRD on equal ground with conventional/grid subdivisions. While OSRD may be of limited value in the study area given the size of the parcels, a change in the OSRD may help encourage its application in other parts of town. In addition, the town

could also consider reducing the minimum parcel size applicable to the OSRD bylaw to enable this clustering approach in more locations. Recommendation #11 has been amended to include a discussion of this approach.

7. <u>Scale of development</u>

Recommendation #9 stated that the town should implement zoning that limits the scale of development. This section provided a discussion of strategies for achieving this goal, including Floor Area Ratios (FAR), and a recommendation that the town adopt building footprint limits for businesses and require certain amounts of building articulation to achieve the goal.

Several comments received suggested that the report disregarded FAR as an effective means of reducing bulk and mass. The town could pursue such a regulation if desired, however, the discussion in the report was intended to identify the limitations of an FAR standard. As illustrated in the draft report, establishing a ratio based on the lot size for a structure only provides an upper limit on the floor space in a structure. This provides further square footage restrictions in addition to the existing limits on the building or lot coverage. However, the configuration of the allowed floor space and orientation of the building can still produce a wide range of designs, with the bulk and mass of the structure varying considerably as a result. In the illustration below, the floor space of each structure shown is the same, but variations in the orientation, stories and arrangement present a different scale and massing to the front (street) view.



An alternative approach, that can achieve the same goal as an FAR, is to include a building footprint limit. Currently, the residential districts in town have a footprint limit of 10%, and on lots less than 30,000 square feet there is a sliding scale to allow up to 15%. However, no building footprint limit is currently

included in the Chatham bylaws in the non-residential districts. The draft report recommends that the town consider incorporating an appropriate building footprint limit in these areas as a mechanism for limiting the size and scale of buildings in these areas. However, relying on lot coverage, or FAR, by itself does not provide sufficient guidance about the desired arrangement of the building square footage to the development community. For this reason, the report includes additional recommendations for further design guidance about the orientation, articulation and placement of buildings to complement any square-footage limitations.

The final report has been edited to include additional information about how a sliding-scale of lot coverage could be applied to residential development. The majority of the existing single-family structures in the study area have footprints between 1,000 and 2,000 SF; with none exceeding 4,000 SF. However, the current 10% building coverage limit would allow buildings that have substantially bigger footprints than those that are existing, as illustrated in the table below.

Buildable Upland (SF)	Maximum Building Footprint (SF)	Potential Building Size (2 stories) (SF)
20,000	15%, but not more than 2,800	5,600
30,000	3,000	6,000
40, 000	4,000	8,000
60,000	6,000	12,000
80,000	8,000	16,000

The report recommends that the town consider reducing the building coverage allowances to reflect the existing footprint sizes in the study area and help maintain the existing scale of development.

8. <u>Single-family residential conversions</u>

The provisions of Section VII. B(6) of Chatham's zoning were identified as an area of concern in some comments. This provision allows existing single-family homes to be converted to multi-family homes in both the GB and SB districts. This section includes several restrictions as to the configuration and circumstances under which this can be achieved. Section VII.B(6)(b) states that for each new dwelling created, at least 10,000 square feet of upland must be provided. This translates to a density of roughly 4 units/acre. Furthermore, this same section allows the waiving of this density limitation if the dwelling is connected to sewer.

Without a waiver for sewer connection, this density is the same as currently allowed in GB3, but twice that which is allowed in the SB district. With a waiver, this language provides a way to exceed both these density limits with a sewer connection, although it is assumed that the town's flow regulations would also need to be met.

Recommendation #12 has been amended to include a review of this section as it is unclear what this provision is seeking to achieve, and what role the flow limitations may play. With the zoning changes recommended, the area zoned SB in the corridor would be significantly reduced, leaving a small center in South Chatham. As this provision only applies if there is an existing single-family residence, it appears that in South Chatham there will be very limited opportunity for additional density as much of the area is either multi-family residential or non-residential. However, this provision would still apply in other SB districts in town.

In the GB3 areas, there are also many non-residential uses and so there is again limited opportunity to make use of the waiver provision.

However, we believe that this section and the waiver provision should be looked at as part of the bylaw clean up to review the intent behind the language and whether the areas affected are those where additional multi-family housing is desired.

It should also be noted that this exception was not accounted for in the buildout analysis conducted for the baseline conditions because it seemed unlikely that all single-family homes in the corridor would pursue such an exception. If it had been accounted for, the predicted number of residential units would be significantly higher than the number estimated in the baseline conditions.

9. <u>Workshop Exercises and analysis</u>

The draft report includes a description of the exercises and analyses that were conducted during the course of the project, including group activities at the workshops, a buildout analysis and sewer analysis. The results of these exercises and analysis were included in the report in order to provide a full representation of the project and the input received. Several comments suggested that the group activities, buildout or sewer analysis were scientifically flawed and that they were based on assumptions with which there was disagreement. As such, some comments requested that either these background reports be revised, excluded from the final report or that the recommendations are invalid.

The public participation exercises were designed to allow participants to express their opinions freely, as both individuals and as part of small discussion groups. There is no claim, implied or otherwise, that these opinions are a representative sample of the feelings of the community at large. As noted in the Commission's presentation to the Board of Selectmen before the release of the draft report, and illustrated in the figure above, the recommendations were the result of carefully listening to a range of opinions provided through a variety of means through this process, not based solely on any one piece of information.

Of particular note, comments have been submitted concerning assumptions and data used for the buildout analysis, particularly with regard to the effect of non-conformities, flow limitations and a variety of bylaw provisions on the development potential. The baseline buildout analysis included four, separate and distinct baseline estimates for buildout along the corridor that are used as a metric for comparison. Additional or modified assumptions could be made to arrive at further baseline buildout estimates.

However, in our opinion, additional baseline estimates are unlikely to shed any more light on the zoning issues along the corridor beyond those that are already included and addressed through our recommendations. For example, the draft report acknowledges that rules governing the town's bylaws for pre-existing non-conforming uses and structures be reviewed, a recommendation that is unlikely to be altered if assumptions about non-conformities are included in a further baseline buildout estimate.

The baseline buildout is primarily a tool to help understand the interplay between various zone designations and to provide a picture of the distribution of potential development in the study area. It neither provides an answer or direction, nor does it establish the likelihood of future development occurring. Its strength is that it allows comparisons between scenarios both existing and proposed. As such, and based on the extent to which alternative zoning strategies need to be analyzed, the town can request the Commission make comparable buildout estimates as future zoning provisions are considered. A comparative exercise using the buildout tool would enable the Planning Board to see the potential effect of changes in zoning relative to other outcomes, based on the same set of assumptions. However, such additional analysis is beyond the scope of the current contract.

Finally, a comment received after the close of the comment period has raised a question about discrepancies between the lot size information shown in the buildout analysis (Appendix E) and sewer analysis (Appendix F) of the draft report, and the information reported in the Chatham assessor's database. Both of these reports included in Appendix E and F were delivered to the town in May, 2013.

The Cape Cod Commission used data provided by the town from the Geographic Information System (GIS) for both the buildout and sewer analysis conducted for the project. In both cases, the lot sizes reported are based on the geometry of parcels in the GIS database rather than the assessor's information, as is typical for an area-wide study. A comparison of the lot areas reported in GIS to those reported in the assessor's data base reveals that there are differences, with the data in the assessor's records being both smaller and larger than the lot size in the GIS. When reviewed in the aggregate across the entire 297-acre study area, the difference in square footage reported on the assessor's cards versus the data in the GIS dataset is less than seven acres, or 2.4% of the study area. It is not unusual for there to be discrepancies between these two data sets. There are a number of reasons for these differences, ranging from historical errors in the information reported on the assessor's cards to the adjustments that need to be made when plotting the parcels to ensure that the polygons used in GIS align.

The Cape Cod Commission has reviewed the potential effect of these differences in lot size on the buildout analysis and the sewer analysis and have concluded that using the assessor's lot size information would not have altered the results or conclusions reached in either Appendix E or Appendix F. Moreover, the Commission's land use recommendations presented to the town in the draft report are unaffected by these anomalies and are equally applicable to the areas identified in the report regardless of the specific size of the lots in the study area.