

CAPE COD COMMISSION

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DECISION Certification Review Harwich Local Comprehensive Plan March 4, 1994

Summary

The Cape Cod Commission has reviewed the Harwich Local Comprehensive Plan, dated November 2, 1993, and adopted by Harwich Town Meeting on November 16, 1993 and has found that it is not fully consistent with the Cape Cod Commission's Regional Policy Plan, dated September 6, 1991. Pursuant to Section 9 of the Cape Cod Commission Act and the Commission's Local Comprehensive Plan Regulations adopted February 18, 1993, the Commission voted on March 4, 1994 not to certify the Harwich Local Comprehensive Plan as being consistent with the Regional Policy Plan.

Procedural History

When the Cape Cod Commission Act was adopted, the Harwich Planning Board was already developing a Master Plan Update. Subsequently, the Harwich Planning Board was designated as the Harwich Local Planning Committee (HLPC), decided to pursue consistency with the Regional Policy Plan, and continued with development of the Master Plan/Local Comprehensive Plan (LCP). The HLPC received \$50,152 from the Cape Cod Commission for development of their LCP.

The HLPC conducted an extensive public outreach process during the development of its plan including a citizen survey, business community survey, hearings in each of the seven villages, two hearings on each issue area, and hearings on growth centers, transfer of development rights, and sewerage. The Committee produced numerous background studies in addition to the LCP document. The HLPC also held meetings with Brewster, Chatham, and Dennis local planning committees to discuss mutual needs and interests. No meeting was held with Orleans due to their limited common boundary by agreement between the two towns.

The HLPC transmitted the Final Draft Plan to the Cape Cod Commission on September 28, 1993 for preliminary certification review. Pursuant to the LCP Regulations, the Cape Cod Commission voted to transmit comments to the Harwich Local Planning Committee on November 4, 1993 which was done in a letter dated November 8, 1993. The Harwich Local Comprehensive Plan was adopted by Harwich Town Meeting on November 16, 1993.

The final approved plan was transmitted to the Cape Cod Commission on November 19, 1993. In accordance with Section V.3.b.i. of the LCP Regulations, the Planning Committee conducted a duly noticed public hearing on the Plan on December 15, 1993 in the Town of Harwich and received testimony regarding the Plan. The Cape Cod Commission considered certification of the Plan with conditions at its meeting on January 20, 1994 and mutually agreed with the Town to extend the deadline for a decision to March 4, 1994 due to the submission of revised language for

the conditions proposed by the Harwich Local Planning Committee. The matter was brought before the Cape Cod Commission for final action on March 4, 1994.

Findings:

1. The Goals, Minimum Performance Standards and Town Actions contained in the Regional Policy Plan have been incorporated by reference in the Harwich Local Comprehensive Plan. The Plan noted intentional inconsistencies with the following goals and policies: Land Use 1.1.2 and 1.1.3; Coastal Resources 2.2.2.4; Affordable Housing 5.1; and Open Space 6.1.2.

2. The Regional Policy Plan and Local Comprehensive Plan Regulations permit a town to show that a particular goal or minimum performance standard is not applicable to that town by demonstrating the "unique or special local circumstances that prevent attainment of a goal or application of a minimum performance standard." If a goal or standard is waived the LCP is required to identify alternative minimum performance standards that would achieve the intent of the waived goals/standards.

3. The Cape Cod Commission has identified the following inconsistencies between the Harwich Local Comprehensive Plan (Plan) and the Regional Policy Plan that the Commission believes do not meet the requirements of Finding 2 above:

a. The levels of growth projected in the Harwich Plan (a doubling of year-round population) may not be able to be sustained without resulting in inconsistencies with the Regional Policy Plan with regard to traffic, water, infrastructure demands, community character and adverse impacts on the resources of Harwich and surrounding towns.

b. The Harwich Plan's capital facilities element does not identify and provide for all the capital facilities which may be necessary to accommodate projected growth and development as required by Section 9(a) of the Cape Cod Commission Act.

c. The Harwich Plan does not prohibit new roadside strip commercial development outside of designated growth centers as required by Section 1.1.3 of the Regional Policy Plan. The transfer of development rights program proposed in the Plan may reduce the amount of future strip development, however, strip development is still possible, especially along Route 28.

d. The Harwich Plan does not contain a setback to eroding coastal banks and dunes consistent with Section 2.2.2.4 of the Regional Policy Plan.

e. The Harwich Plan does not contain the 10% affordable housing goal contained in Section 5.1.1 of the Regional Policy Plan.

f. The Harwich Plan does not require the submission of a cluster sketch plan for developments of 5 or more units or lots as required by Section 1.1.2 and 6.1.2 of the Regional Policy Plan.

4. All of the areas of inconsistency identified above were identified as substantive deficiencies which could prevent certification of the LCP in the Cape Cod Commission's November 8, 1993 comments to the Harwich Local Planning Committee at the completion of the preliminary certification review. These same areas of inconsistency have served as the major focus of discussion during the entire review process between the Town and the Commission.

5. The Cape Cod Commission's Planning Committee developed six conditions designed to address the areas of inconsistency identified above and originally proposed that the Plan be certified with

these conditions. However, the Harwich Board of Selectmen voted on February 1, 1994 that "Due to the fact that changes in the Harwich Master Plan can only be approved at Town Meeting, the Town of Harwich, through its Board of Selectmen, will not accept a conditional approval of the Harwich Master Plan."

6. It is evident that a great deal of time and thought have gone into the preparation of the Harwich Local Comprehensive Plan. The Town has grappled with some difficult problems in the Plan and developed some imaginative approaches to shaping future growth and development. The Town has also made a good faith effort to attain consistency with the RPP. However, there are still some important inconsistencies with the Regional Policy Plan that remain to be addressed. For this reason, the Commission finds that it is necessary to deny certification of the Harwich Local Comprehensive Plan at this time.

7. The Harwich Local Comprehensive Plan has identified the following growth centers, shown on maps contained therein: East Harwich, Harwich Port, West Harwich, North Harwich (2), Pleasant Lake and Harwich Center. These growth centers cannot be recognized by the Cape Cod Commission for the purposes of review of Developments of Regional Impact until the Plan is certified by the Cape Cod Commission.

8. The Harwich Local Comprehensive Plan may be revised and resubmitted to the Commission for certification of consistency with the Regional Policy Plan. The Commission stands ready to assist the Town in addressing the areas of inconsistency identified above. In the event that Harwich wishes to resubmit its Plan for certification, any revisions should be developed pursuant to Section V.b.2.f though V.b.3.b of the Local Comprehensive Plan regulations.

9. The Cape Cod Commission staff is available to provide technical assistance to help Harwich implement its master plan.

Conclusion

Based on the Findings 1-9 above, the Commission hereby refers the Harwich Local Comprehensive Plan back to the Town as required by the Section V of the Local Comprehensive Plan regulations.



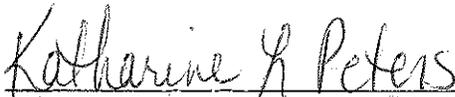
David Ernst, Chair

March 4, 1994
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 4th day of March 1994



NAME, Notary

My Commission expires _____