

CAPE COD COMMISSION

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**DECISION OF THE CAPE COD COMMISSION
ACCEPTANCE OF DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)
NOMINATION
QUIVET NECK/CROWES PASTURE – DENNIS, MA**

DATE OF NOMINATION: August 22, 2001
DATE OF ACCEPTANCE: October 4, 2001
NOMINATING AGENCY: Dennis Board of Selectmen
LOCATION OF DISTRICT: Dennis, MA

TYPE(S) OF DISTRICT: Water Resource District
Aquaculture Resource District
Wildlife, Natural, Scientific, or Ecological Resource District
Cultural, Historic, Architectural, or Archaeological Resource District
Hazard District
Waterfront Management/Watersheet Zoning District

BOUNDARY

The official boundary as proposed for nomination by the Dennis Board of Selectmen is shown on the attached map. The proposed nomination encompasses lands within the area known as Quivet Neck and Crowes Pasture in East Dennis, and consists of approximately 250 acres. The area is generally bounded on the southeast by Quivett Creek and on the north by Cape Cod Bay. The westerly boundary is defined by previously permitted subdivisions that have been excluded from the proposed DCPC area.

GENERAL STATEMENT OF PURPOSE AND REASONS FOR ACCEPTANCE

In accepting the nomination of the Quivet Neck/Crowes Pasture DCPC, the Cape Cod Commission (the Commission) makes the following findings:

1. There is a need for special planning and regulations in the Quivet Neck/Crowes Pasture DCPC area that will preserve or maintain values and resources intended to be protected by the Act; and
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; and

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3. The DCPC nomination as presented by the Dennis Board of Selectmen explicitly identifies threats to resources within the Quivet Neck/Crowes Pasture DCPC area from potential development. These resources include natural resources and open space; archaeological/cultural resources; water resources; and coastal resources. Based on potential impacts to these resources, the Town has established the sensitivity of the area and the need to plan and zone for appropriate development that respects the capacity of the area. In particular, the Town has identified the following areas of concern:

a. Approximately 94 - 95 acres of privately owned residentially zoned upland is available for future development within the proposed DCPC area, which under current zoning could allow the construction of between 58 and 77 additional non-clustered residential units (the configuration of the wetlands affects the potential buildout number). Under the residential cluster development bylaw, up to 84 residential units could be constructed. Such intensity of development would threaten the area's sensitive natural resources.

b. The proposed DCPC is a sensitive resource area due to the presence of a variety of natural features. The area has been mapped a Significant Natural Resource Area by the *Cape Cod Regional Policy Plan* due to the presence of rare species habitat, wetlands, pond shore and potential public water supply areas. According to the *Natural Heritage Atlas, 2000 - 2001 Edition*, portions of the Quivet Neck area are mapped as Priority Habitat for Rare Species, and other areas are mapped as Estimated Habitat of Rare Wildlife. According to the *Cape Cod Critical Habitats Atlas*, Coles Pond is mapped as a coastal plain pond; the southern portion of the DCPC is bordered by extensive saltmarshes associated with Quivett Creek; and sections of the northern boundary on Cape Cod Bay include barrier beaches. State-listed species of special concern have been documented in the Quivet Neck area. These species can be threatened by clearing and grading during site development, septic systems, water withdrawals, and other impacts associated with development. More information is needed on the extent of plant and wildlife habitat prior to any development in the Quivet Neck/Crowes Pasture area.

c. There are multiple significant water resource areas within the area proposed for the DCPC. A portion of the nominated area contributes groundwater to Quivett Creek, a nitrogen sensitive marine embayment. Development in the vicinity of Quivett Creek would contribute significantly to the degradation of water quality including nitrogen loading from septic systems, road runoff and lawn fertilizer, sedimentation from erosion, and bacterial contamination. Fresh water resources include Coles Pond and Little Coles Pond, which are dependent solely on groundwater or precipitation as a source of supply. The ponds are poorly flushed and as such are very sensitive to additions of nutrients and sediment. Impacts from development that would negatively impact the ponds include nitrogen loading from septic systems, phosphorus loading from wastewater, road runoff and lawn fertilizer, sedimentation from erosion and bacterial contamination.

d. The area proposed for designation includes stretches of coastal beach and barrier beach on Cape Cod Bay subject to coastal erosion. The 134 acres of beach and dune that comprise the barrier beach system shelters approximately 205 acres of salt marsh, and also serves as habitat for Piping Plover. The area is open to the public and (limited) operation of off-road vehicles is permitted. Existing water quality along the coast and in Quivett Creek is believed to be good, and the value of the shellfish habitat in adjacent salt marsh and intertidal areas is a priority for residents and the Town's natural resource professionals. The Quivett Creek estuary is also an anadromous fish run. Strict management of stormwater, wastewater treatment, turf and buffer zone management, and other strategies to limit land-based pollution and maintain water quality characteristics would help to preserve these public trust resources. Coastal habitat can also be adversely impacted by other human activity such as buffer zone alteration, construction of coastal structures such as docks and piers and erosion control devices, and by the simple pursuit of some recreational activities in dynamic coastal environments.

e. The proposed area is located within the Old Kings Highway Regional Historic District and is distinctive as one of the region's remaining large open landscapes. The Town has not formally inventoried the proposed DCPC area for historic and archaeological resources. However, the area is likely to contain archaeological resources, based on both local knowledge and on the area's proximity to a wide variety of environmental resources. The DCPC would give the Town time to conduct an archaeological sensitivity assessment and/or survey for the area. Either method will provide information that allows the Town to guide future development away from sensitive archaeological resources.

4. The purposes of the DCPC are to protect against development, which would negatively impact the resources of the area. Designation of a DCPC will allow the Town time to address management issues related to coastal and freshwater areas, and conduct an archaeological survey and a natural resources inventory that would identify the likelihood of significant resources present in the area. Using this information, the Town would be able to revise and finalize a new comprehensive zoning bylaw for the Quivett Neck/Crowe's Pasture area designed to protect these significant resources on all properties within the area.

5. The proposed boundaries of the District are reasonably related to the purposes of the District and follow clear and easily definable boundaries.

6. The issuance of development permits for construction or expansion of a single family house or other structures on lots held in common ownership or on lots in separate ownership may be substantially detrimental to the protection of the public health, safety and welfare, and would be contrary to the purposes of the Act and District of Critical Planning Concern.

TYPES AND CLASSES OF DEVELOPMENT WHICH 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

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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 Dennis Planning Department and the Dennis Board of Selectmen, has identified the following types or classes of proposed development which may proceed unless the district fails or 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 Dennis at the time of the local permit application. These types or classes of proposed development shall be deemed not substantially detrimental to the protection of public health, safety, and welfare and will 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 or until Implementing Regulations are adopted.

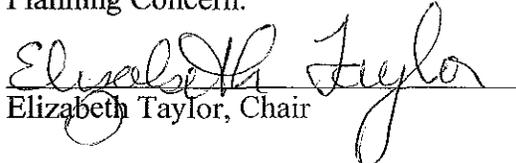
1. Projects under the jurisdiction of the Dennis Natural Resources Department, including the habitat restoration project at Crowes Pasture, the permitted 4-wheel drive access, the Sea Street/Marsh Restoration project and the coastal aquaculture development along the Cape Cod Bay and Quivett Creek portions of the study area;
2. Repairs and maintenance of existing structures, e.g. replacement of exterior shingles, re-roofing, interior renovation (as long as there is no increase in gross floor area as defined by the Dennis Zoning Bylaw), replacement in-kind of doors, windows, etc.
3. Replacement of the same footprint of existing structures provided that there is no increase in footprint or gross floor area;
4. Maintenance and repair of existing roadways and driveways and associated drainage and utilities; construction of new driveways associated with new single family houses as provided below in Paragraph 12;
5. Emergency repairs to or maintenance of septic systems; septic system upgrades which comply with Title 5 regulations, without variances; construction of new septic systems associated with new single family houses as provided below in Paragraph 12;
6. Repair, maintenance, construction and expansion of accessory uses currently allowed under the Dennis Zoning Bylaw associated with an existing principal single family dwelling or a dwelling permitted to be constructed in accordance with Paragraph 12 below.
7. Any development which 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;
8. Any development that can demonstrate that suspension of action on a local development permit application during the limited moratorium constitutes a substantial hardship. Hardship applications will be heard by the Cape Cod Commission in accordance with Section 4 of the Administrative Regulations, of the

Cape Cod Commission and in accordance with Section 23 of the Cape Cod Commission Act;

9. Activities exempt under Section 22 of the Cape Cod Commission Act including the repair, upgrade, change, alteration or extension of a single family dwelling or an accessory structure, septic system or water well relative thereto, if such dwelling existed prior to July 1, 1989, unless such upgrade, change, alteration or extension is greater than twenty-five percent of the floor area of the dwelling; provided, however, that the cumulative total of any expansion does not exceed 25% of the floor area prior to July 1, 1989;
10. Where an applicant demonstrates a taking under Section 11(h) of the Cape Cod Commission Act and where approval would not result in a reasonably foreseeable danger to public health or safety;
11. Approval Not Required Plans under Section 81P of the Massachusetts Subdivision Control Law submitted to the Dennis Planning Board prior to August 25, 2001, the date the DCPC notice of nomination was published; and
12. The issuance of development permits for construction or expansion of a single family house or other structure on lots held in common ownership or on lots in separate ownership may be substantially detrimental to the protection of the public health, safety and welfare, and would be contrary to the purposes of the Act and District of Critical Planning Concern.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby accepts the nomination of the Quivet Neck/Crowes Pasture in the Town of Dennis as a District of Critical Planning Concern.


Elizabeth Taylor, Chair

10-4-01
Date

COMMONWEALTH OF MASSACHUSETTS

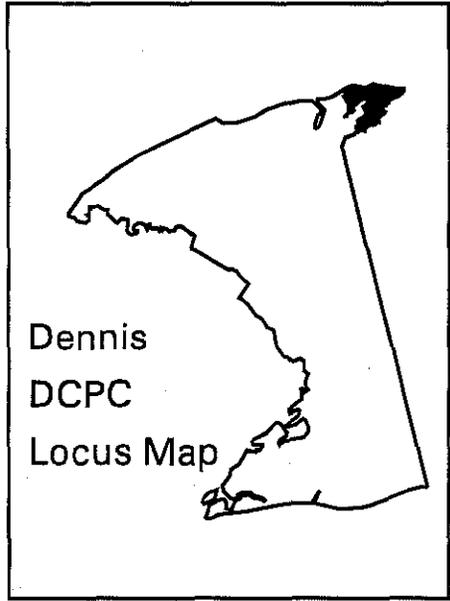
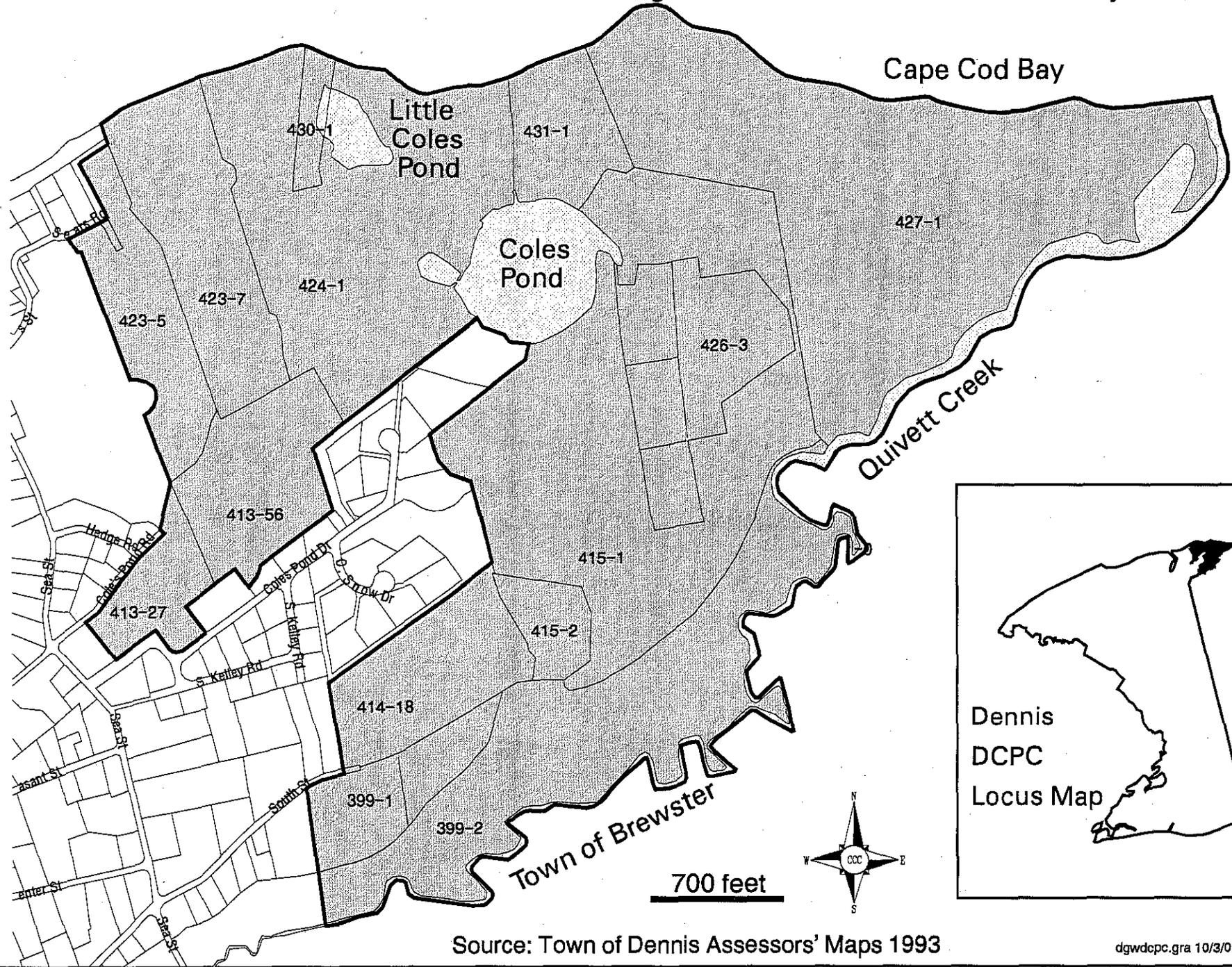
Barnstable, ss.

Subscribed and sworn to before me this 4th day of Oct 2001

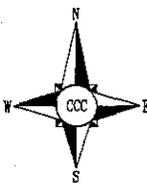




Quivet Neck/Crowes Pasture District of Critical Planning Concern Nomination Official Boundary



700 feet



Source: Town of Dennis Assessors' Maps 1993

dgw dpc.gra 10/3/01