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Pond Village, Barnstable, MA District of Critical Planning Concern Decision

1.0 General

As authorized by Section 10 of the Cape Cod Commission Act, the Cape Cod Commission ("Commission") hereby proposes the Pond Village area, hereinafter described, for designation as a District of Critical Planning Concern ("District" or "DCPC"). The designation of this District was recommended by the Barnstable Planning Board. The purposes of this District shall be the protection of natural resource interests including unfragmented forest habitat, rare plant and wildlife habitat, freshwater and saltwater wetlands, ponds, shellfish beds; protection of historic and architectural resources; preservation of the character of the rural landscape, and historic stonewalls and roadways; protection of groundwater quality and water quality in Hinkley's Pond and in Barnstable Harbor; to maintain scenic views from Cape Cod Bay, Route 6A and Scudder Lane; to encourage the continued and future use of land within the District for open space; to manage growth in a manner that is compatible with the resource protection goals of the District.

2.0 Background

On June 6, 2005 the Cape Cod Commission received a nomination for the Pond Village DCPC from the Barnstable Planning Board pursuant to Section 10(d) of the Cape Cod Commission Act. The commission voted to accept the nomination for consideration on July 21, 2005. Commission staff attended Barnstable Planning Board hearings prior to and during the consideration period for the first DCPC nomination to discuss the nomination and the significant resources in the area, and to answer questions about the opportunities a DCPC would give the proposed district. Following the July 21st vote, the Barnstable Planning Board submitted a second DCPC nomination on August 26, 2005 for an area adjacent to the first nomination, which contained identical resource concerns, in order to better protect the identified resources in the first nomination.

The Commission voted on September 15, 2005 to accept the second DCPC nomination for consideration, and to consolidate the two nominations into one because both involved contiguous areas related to substantially similar resources. The Commission appointed a subcommittee to conduct public hearings and make a recommendation to the Commission regarding proposed designation of the DCPC within 60 – 120 days of the nomination vote. Pursuant to Section 10(i) of the Act and in accordance with Chapter E, Section 6 of the Cape Cod Commission Regulations of General application ("DCPC

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Regulations”), Commission staff provided a written explanation for an extension beyond the 60-day period for the first DCPC nomination, in order to allow the Commission to vote on September 15, 2005 to consider and accept the second DCPC and consolidate it with the first DCPC.

A subcommittee held a duly noticed public hearing on October 11, 2005 at the Assembly of Delegates Chamber, Barnstable, MA to take testimony on whether the area should be proposed for designation as a DCPC, and to consider issues and goals related to the designation. The public hearing was continued to October 20, 2005.

The subcommittee met to deliberate on the proposed DCPC on October 11, 2005 after the hearing. After consideration of the nomination, both written and oral testimony, information submitted for the record, and a site visit to the nominated area, the subcommittee voted unanimously to recommend to the full Commission that the nomination be forwarded to the Assembly of Delegates for designation as a DCPC pursuant to the Cape Cod Commission Act and the DCPC Regulations. The subcommittee voted to delegate authority to the chair to review the draft decision, and to approve it for transmittal to the full Cape Cod Commission hearing on October 20, 2005.

A hearing was held before the full Commission on October 20, 2005, where the Commission voted unanimously to nominate the Pond Village DCPC.

Testimony and/or written letters in support of the proposed designation were received from the following: Ann Cannedy (Barnstable Town councilor), David Muncell (Barnstable Planning Board), Tom Broadrick (Barnstable Planning Director), John Squibb, Edie Squibb, William Cook, and Astonia Cook, Steven and Kathleen Berglund, Ted Theodores, Dorothy and Herbert Carver, Albert and Nancy Lamb.

Testimony and/or written letters of concern or opposition were received from the following: Douglas Mitchell and Christine Welsh, Jack and Mary Curtain, Hugh Ferguson, Anthony and Francis Cirrito, Jack and Suzy Genest, and Paul Revere.

The nomination and notices of public hearings relative thereto, the Commission staff’s reports, notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

3.0 Description of the Proposed District

The proposed boundaries of the Pond Village DCPC encompass lands surrounding Scudder Lane and Hinkley’s Pond in Barnstable Village, MA. The proposed district includes parcels fronting on the east side of Scudder Lane, south of Barnstable Harbor, properties east of and including the Audubon properties and salt marsh, and abutting the north side of Route 6A. Further, all properties on the south side of Route 6A within a 300’ radius of Hinkley’s Pond are included. These properties are shown on the shaded

areas on the attached map, which also includes the Town of Barnstable assessors identification numbers, and which is incorporated herein by reference.

The application describes the area as *“one of the earliest areas settled by the Colonialists. Scudder Lane provided access to the water where wharfs were constructed. These wharfs were used to unload goods ferried from ocean-going sailing ships moored further out in the harbor. The lane is the site of the homestead of Governor Thomas Hinckley, the Governor of Plymouth Colony from 1681 until the union with the Massachusetts Bay Colony in 1692...”*

The area of the proposed District contains two historic districts: Old King’s Highway Historic District and the National Register of Historic Districts. A majority of the land area is also mapped as potential rare species habitat by the National Heritage and Endangered Species Program (NEHSP).

The official boundary as proposed by the Barnstable Planning Board is shown on the attached map prepared by the Cape Cod Commission and dated October 3, 2005. Included within the District are approximately 53 existing single-family homes, and approximately 18.9 acres owned by Mass. Audubon.

The Commission finds that the land and water within the proposed Pond Village District reasonably belong within the District because, among other things: 1) they are part of a historical village, 2) a number of the properties drain directly to Hinkley’s Pond and all drain to Barnstable Harbor, 3) the roadways are part of a contiguous scenic landscape with shared viewsapes, and 4) much of the area is part of contiguous rare species habitat. Land and water within the District form a critical area and the Commission finds that this area needs further protection afforded by the Act. The area designated is a logical planning area and is suitable for the adoption of coordinated regulations for the District as a whole. Finally, the Commission finds that the boundaries of the proposed Pond Village District, as established, are easily identifiable and appropriate given the purposes of the designation.

4.0 Type of District

In accordance with the DCPC Guidance Document issued by the Cape Cod Commission in December 1990, the Town of Barnstable identified that the area is eligible for designation for all of the following:

1. Water Resource District
2. Wildlife, Natural, Scientific, or Ecological Resource District
3. Cultural, Historic, Architectural, or Archaeological Resource District

The Cape Cod Commission finds that the proposed Pond Village District as described in Section 3.0 qualifies under Section 10(a) of the Cape Cod Commission Act for proposed designation as a District due to the following factors:

a) the presence of significant natural, coastal, scientific, cultural, architectural, historic, and recreational resources, as well as values of regional, statewide and national significance as described below; and

b) the presence of substantial areas of sensitive ecological conditions which may render some areas unsuitable for development and which deserve special planning for protection.

4.1 Reasons for the District's Designation

When proposing designation of a District, Section 10(j) of the Act requires the Commission to specify why the area is of critical concern to the region, the problems associated with uncontrolled or inappropriate development in the area, and the advantages to be gained by the development of the area in a controlled manner.

The area is of critical concern to the region because of its historic and scenic value, and its visible location in a distinctive coastal habitat that includes sensitive freshwater resources, rare species habitat, pristine coastal resources, location on Barnstable Harbor, and historic and architectural resources along a regional roadway.

Further, the Commission finds that the potential problems of uncontrolled or inappropriate development exist within the district. Significant increases in the numbers of dwellings and inappropriate siting and ground clearing could degrade surface, coastal and groundwater resources, further impair water quality in Hinkley's Pond, and impact shellfishing and aquaculture grants in Barnstable Harbor which are very sensitive to nutrient loading and bacteriological impacts from stormwater. Increased building without clearly defining rare species habitat and presence may significantly impact rare species in the area. Building siting and massing could affect the historic character of the area, and viewsheds may be lost. There are advantages to be gained by development of the area in a controlled manner.

The Commission finds that the proposed district will preserve and maintain values and resources intend to be protected by the Act. The Commission specifically finds that controlled development of land and water within the proposed Pond Village District is important for the protection of surface and coastal water quality; protection of shellfish resources; preservation of the area's unique scenery, cultural, historic, architectural resources and community character; protection of rare plant and wildlife habitat; and for protection of scenic and historic landscapes and viewsapes. The Commission finds that there are planning and regulatory tools available which are likely to be effective in protecting or otherwise meeting the objectives of the District and that current regulatory mechanisms are not in place to control growth and development in a manner that would protect the resources within the proposed District.

The Commission makes the following additional findings regarding the critical concerns in the proposed district as outlined below by issue area:

4.1.1 Water Resources

There is significant development potential in the proposed DCPC for both new subdivisions and homes, and expansions of existing homes. The proposed District contains regional water resources that are susceptible to degradation from future development, and designation as a DCPC would allow the Town time to develop strategies to address protection of the area's ground- and surface-water quality, resources that the Cape Cod Commission Act intends to protect.

Hinckley's Pond is a freshwater pond in the southern portion of the designated DCPC area. No surface water tributaries to the pond are mapped, nor were any tributaries observed from Route 6A during a recent visit to the site by staff. The pond appears to be recharged entirely by groundwater, direct precipitation, and some stormwater runoff that is likely limited to areas along the pond shoreline.

Freshwater systems tend to be phosphorous limited, meaning that small phosphorous additions to the pond can cause algal blooms and depletion of oxygen important to pond organisms. Unlike nitrogen, phosphorous from septic systems and stormwater runoff can be taken up by aquifer sand grains within a pond's watershed, effectively preventing phosphorous from reaching surface waters. However, this mitigation of phosphorous from sources that are close to a pond is limited.

A preliminary phosphorous-loading analysis suggests that existing development within the District may be unduly impacting water quality in Hinckley's Pond. Further analyses will be necessary to more rigorously assess the Pond's existing water quality and to track improvements afforded by regulations and programs to be established for the District recommended under Section 5 of this decision.

The proposed DCPC area drains to Barnstable Harbor, which includes the lower reach of Brickyard Creek. Barnstable Harbor is an Area of Critical Environmental Concern (ACEC) administered by the Massachusetts Department of Conservation and Recreation and enjoys the designation of Outstanding Resource Waters (ORW) by virtue of its socio-economic, recreational, ecological and aesthetic values. As such, the Massachusetts law that regulates surface-water quality requires that Barnstable Harbor's excellent water quality be maintained and not degraded.

Portions of Barnstable Harbor are closed to shell fishing due to bacterial contamination of its shellfish beds. Possible sources of bacteria in addition to wildlife could include failed septic systems and the flow of untreated stormwater runoff into the harbor. Although a comprehensive solution will be required for the entire harbor, appropriate provisions may be provided by the Pond Village DCPC designation that contribute to an improvement of the health of Barnstable Harbor's shellfish beds.

4.1.2 Coastal Resources

Barnstable Harbor and the Great Marsh of Barnstable are resources of regional significance. The harbor and the marsh together comprise a system that provides important fish and shellfish habitat and supports commercial and recreational shellfisheries. These resources also provide excellent habitat for resident and transient waterfowl and other species of wildlife. The harbor and marsh have cultural significance, for their role in the initial settlement of the Town of Barnstable and Cape Cod, and they afford recreational boating, fishing and wildlife viewing opportunities to this day. The Commission finds that additional measures could be provided by the DCPC to ensure proper management and stewardship of the district, including monitoring, assessment and management programs for the coastal resources cited as being of regional significance.

The regional significance of Barnstable Harbor and the Great Marsh was recognized by the Commonwealth of Massachusetts with the designation of the Sandy Neck/Barnstable Harbor ACEC, which generally follows the 100-year floodplain. This designation does not include regulations, but raises the priority for Towns to develop regulations to protect these important areas.

Intensive use of the Scudder Lane landing, if left unchecked, could lead to use conflicts and to environmental degradation of Barnstable Harbor. Scudder Lane is a narrow paved road that traverses a steep grade down to a paved parking area at Barnstable Harbor. The area is subject to heavy use during the summer season by pleasure boats, recreational and commercial shellfishermen, kayakers and others. The Commission finds that several issues would benefit from review through the DCPC process, including management of equitable access to ensure safety and assess environmental impacts, and the adequacy of the existing drainage system to reduce contributions of nutrients and contaminants into Barnstable Harbor. Public access to and appropriate enjoyment of the coastal environment is a key regional interest, and the DCPC should address the management of the area to provide mitigation for runoff, adequate amenities to support an appropriate amount of public use, and any necessary regulations needed to balance environmental protection and public access.

Development proceeding under existing regulations could result in adverse impacts to coastal environment and to the adjacent ACEC. Significant development could introduce additional nutrients into the coastal system through surface runoff, land clearing or drainage systems. The Commission finds that regulations managing future expansions of maintained lawn, increases in impervious surface coverage and the construction of additional roof-area should be evaluated as strategies to avoid degradation of the environment. The presence of invasive species, or the introduction of new exotic or invasive species that could be used in gardens for screening or ornamental purposes could result in the loss of wildlife habitat and the degradation of naturally occurring wetlands.

The Commission concurs with the proponent's assertion that views of and from the Pond Village area is an important attribute. These views include lands within the proposed DCPC, and also views of the barrier beach and salt marsh in the ACEC. Similarly, the

Commonwealth's ACEC designation highlights the scenic nature of the Sandy Neck Barrier Beach and Barnstable Harbor. Just as the character of the Pond Village properties would be affected by inappropriate development on harbor and barrier beach, the aesthetics of the ACEC could be affected by out-of-scale or development, or development with inadequate buffers to the coastline, that could occur within Pond Village. Therefore, the Commission finds that the prominence and scale of structures within the DCPC is a matter of regional importance, and that regulations addressing the mass, exposure, screening of structures and the maintenance of vegetative buffers should be developed. This issue may also bear on the appropriateness of coastal structures. While docks and piers are prohibited within the ACEC until a proper management plan is approved, other structures may be proposed that could affect the aesthetics and environmental integrity of the area. Walkways, catwalks and other structures are often proposed in areas with large tracts of salt marsh. In addition to their effects on the aesthetics of coastal landscapes, these structures can have adverse impacts by shading vegetation, increasing erosion around footings, causing secondary damage when structural elements are damaged by flooding and/or ice.

In order to fully address the issues outlined in the nomination, the proponents of the District should establish an appropriate record of baseline conditions including extent of clearing on parcels within the DCPC, existing views and vistas, public access, monitoring and control of invasive species, management of development within the flood zone, buffer zones, additive impacts from future redevelopment/intensification of use and other issues. Once an adequate baseline is established, the effects of development in Pond Village on the coastal environment can be better assessed and appropriate protection measures tailored to the Pond Village area can be developed.

4.1.3 Natural Resources and Open Space

Portions of the district are located within Significant Natural Resource Areas due to the presence of estimated rare species habitat, unfragmented forest, and saltwater marsh and freshwater wetlands. The wetland/upland boundary between the village and the Barnstable Harbor marshes also delineates the Sandy Neck/Barnstable Harbor Area of Critical Environmental Concern (ACEC), so designated due to the high diversity of plants and birds, productive shellfish beds, and habitat for state listed endangered species such as the diamond back terrapin. The DCPC process is ideally suited to evaluate the sensitive resources located within the District, and to develop and adopt appropriate environmentally protective regulations.

While significant portions of the district are developed, there are opportunities to ensure that critical habitats are not disturbed or threatened through additional development or intensification of development. Both rare species habitat and freshwater and saltwater wetland resources will benefit from additional protections. Through the DCPC process, the Town may conduct natural resource inventories of the significant habitat areas and involve the Natural Heritage and Endangered Species Program to identify specific species or habitats of concern. The Town could then adopt regulations appropriate to respond to the habitat concerns, thereby preserving the unique natural and coastal values that are intended to be protected by the Act.

In addition, there are opportunities to either purchase or preserve through other means, presently undeveloped land within the district. Mass Audubon owns property in proximity to Hinckley's Pond, and designation of the district may lend support to funding opportunities to expand this protected area.

4.1.4 Heritage Resources/Community Character/Historic Resources

The nominated area is within the Old Kings Highway Regional Historic District, and those properties abutting Route 6A are also listed on the National Register of Historic Places. The proposed Pond Village DCPC marks one of the early concentrations of development in Barnstable, popular because of its proximity to fresh water (Hinckley's Pond) and good access to the harbor (via Scudder Lane, previously known as Calves Pasture Lane). Initially, homes were built on the north side of Route 6A, and land to the south of 6A was used for agricultural land and wood lots. Many of the early structures have survived, mostly along Route 6A, though some are set closer to the harbor or along Scudder Lane.

The portion of the district that follows Route 6A is closely developed with historic structures. Along Scudder Lane, leading down to the harbor, historic properties are interspersed with more recent structures, and most buildings are modest in scale or set well back from the roadway with large open spaces in front of them. The roadway character is an interesting combination of features that accentuate the narrowness of the historic road (stone walls and overhanging vegetation), and glimpses of the expansive salt marsh in the distance. By including properties on both sides of Scudder Lane in the district, the Town can craft means to protect this distinctive historic character.

The majority of the district's land is comprised of large lots located between Route 6A and the marshes of Barnstable Harbor. Development in this part of the district has historically been much less dense, and most existing structures are sited carefully to avoid major visual impacts on the surrounding scenic resources. However, a number of the existing large lots are subdividable, and zoning would allow additional development on many of the existing lots. Lots in the District that are not subdividable still have potential for teardown/rebuilds or expansions on a large scale that could impact the character of the area. Given the District's proximity to the water and scenic resources, there could be strong pressures for further development here in the future.

The Barnstable LCP states that "*new development should respect the integrity of the Cape's scenic, historic, cultural and architectural character*"... and that "*ultimate build-out should be based not only on the carrying capacity of the natural environment, but on the vision of the residents of each community to define the character, style or ambiance of their Towns and villages.*" (Page 1-16, Barnstable LCP, Feb. 1998) This is consistent with the RPP's goal to protect and preserve the important historic and cultural features of the Cape landscape and built environment that are critical components of Cape Cod's heritage and economy. This district would also allow for the preservation of the historical values protected by the Cape Cod Commission Act.

The scenic, architectural and historic character of this area is very significant, both along Route 6A and Scudder Lane, and along the waterfronts of Hinckley's Pond and Barnstable Harbor. Identifying appropriate ways to protect this character will be an important part of the Pond Village DCPC. Cultural resource concerns include the potentially large impact of poorly sited and large scale new residential developments in this area, particularly in the areas along the marsh and Barnstable Harbor, but also along Route 6A and Scudder Lane. The Old Kings Highway Historic District provides some protection to individual historic buildings to prevent demolition or to direct the design of adjacent new structures, but it is the underlying zoning that will guide the overall scale and density of new development in this area. Identifying significant scenic view sheds within the district and establishing potential restrictions to protect them such as height limits, maximum ratios of floor area to lot size, or other tools would be useful in preserving the district's distinctive character. This area would benefit from the analysis and planning tools that a DCPC would provide.

4.1.5 Regulatory Framework

The principal existing regulatory framework within the approximately 125-acre proposed District consists of the Barnstable Zoning Ordinances, Subdivision Rules and Regulations, Wetlands Regulations, Old Kings Highway Historic District Regulations and Barnstable Board of Health Regulations.

Barnstable Zoning Ordinances:

The land within the Pond Village DCPC is zoned RF-1 (125-foot minimum lot width) and RF-2 Residential (150-foot minimum lot width). Building siting requires minimums of 20-foot frontage, a 30-foot front yard setback, and 15-foot side and rear yard setbacks, a 30-foot maximum height, and 2-1/2 stories. These dimensional requirements could allow inappropriate siting of buildings and cause the loss of viewsheds and scenic landscapes.

Barnstable Subdivision Rules and Regulations:

Zoning in the Pond Village area requires a minimum lot size of 43,560 square feet. This lot size would allow the number of dwellings to double in the area under current zoning.

Barnstable Wetlands Regulations:

While the Barnstable Conservation Commission has jurisdiction of the 100-foot buffer to wetlands, their bylaw requires no disturbance in the 50-foot buffer from wetlands, with some exceptions such as elevated stairways, decks, fences and water-dependent structures such as piers. These small buffers may disturb rare species habitat, and degrade wetlands.

Old Kings Highway Historic District Regulations:

New construction or changes to existing buildings, outbuildings, and other structures such as fences and stone walls within the proposed District require approval from the Old Kings Highway Historic District Committee prior to construction. The purpose of the historic district is to protect historic structures and historic settings. The OKH does not regulate building siting and scale, nor historic roadways or scenic landscapes.

Barnstable Board of Health Regulations:

The Pond Village area is not in a wellhead protection zone or a groundwater protection zone, so Title 5 septic is required. Title 5 does not remove nitrogen, thus increased development would further impact sensitive water resources.

Summary:

As noted above, the level and type of development possible within the proposed district could have significant impacts on the resources proposed for protection through this DCPC nomination despite the existing regulatory framework. New development would increase the number of septic systems within the groundwater recharge area of Hinkley's Pond and Cape Cod Bay, potentially degrading water quality. Rare species habitat could be disturbed or lost. Unprotected historic or architectural resources could be lost. The rural character and scenic roadways and views of the area from regional locations could be lost due to inappropriate siting of buildings.

Current zoning regulations have little relationship to the significant resources the Town hopes to preserve. Development density needs to be evaluated to determine how much development can occur in conjunction with the resource protection goals.

5.0 Suggested Guidelines for Development**5.1 Introduction and General Guidelines**

Based on the findings articulated above regarding critical concerns in the area, The Cape Cod Commission in consultation with the Town of Barnstable, proposes that the following Guidelines ("Guidelines") be adopted by ordinance to guide the development of regulations within the Pond Village DCPC area. In recommending these Guidelines, the Cape Cod Commission finds that future development is not adequately controlled by existing public or private regulations to protect the resources and further the regional goals identified in this decision. The objective of these Guidelines is to ensure full protection of the Goals and Interests of the District as set forth in Section 5.2 through establishment of implementing Regulations by the Town of Barnstable. The Commission finds that management plans and regulations that conform to these Guidelines will control development and protect resources within the Pond Village District.

5.1.1 Process for Development of Implementing Regulations

The Barnstable Planning Board and Pond Village DCPC Steering Committee shall oversee the development and adoption of Implementing Regulations consistent with the Guidelines described herein. Implementing Regulations for the District may take the form of zoning ordinances, overlay zones, regulations, management initiatives, or other means identified in the Town of Barnstable, which help to achieve the goals and interests of the

District. To the extent that some of the resources identified in the goals and interests are currently being evaluated or need to be evaluated, the level of protection required will be determined by the analysis developed as part of the DCPC Steering Committee study process. Commission staff will assist the Town of Barnstable in performing development and resource analyses within the District and in drafting appropriate regulations.

The Town of Barnstable shall propose Implementing Regulations for the District to the Cape Cod Commission. In order to be approved, Implementing Regulations adopted by the Town of Barnstable must be found by the Commission to be consistent with these Guidelines, pursuant to Section 11(d) of the Act. The Cape Cod Commission will determine whether the Implementing Regulations proposed by the Town are sufficient to protect the goals and interests of the District and may then issue a Certificate of Consistency.

In accordance with Section 11 (d-f) of the Cape Cod Commission Act, the Town of Barnstable shall adopt and incorporate Implementing Regulations within twelve (12) months of the District's designation by ordinance. If the Town of Barnstable fails to adopt and incorporate implementing regulations which are consistent with these Guidelines within twelve (12) months, the Commission may grant an additional ninety (90) days.

Upon the adoption of certified Implementing Regulations, the local permitting previously stayed by the DCPC nomination may proceed consistent with the newly adopted Implementing Regulations.

5.2 Goals and Interests

The objective of these Guidelines is to ensure full protection of the following goals and interests of the District through the establishment of implementing regulations by the Town of Barnstable. The goals and interests of this District shall be:

- to enhance protection of groundwater quality within the recharge areas to Hinkley's Pond and Barnstable Harbor;
- to enhance protection of water quality within Hinkley's Pond and Barnstable Harbor;
- to maintain the scenic public views of woodlands and historic fields from local roadways, regional roadways, Hinkley's Pond and Barnstable Harbor;
- to preserve cultural landscapes, archaeological sites, and historic structures;
- to protect the District's key natural resources including rare plant and wildlife habitat, wetlands and coastal plain pond shores, wildlife corridors, and shell fisheries;

- to encourage appropriate management of future recreational opportunities within the District in a manner that is compatible with resource enhancement and protection;
- to manage growth in a manner that will not result in adverse impacts on archaeological, cultural, historic, visual or natural resources;
- to encourage the development of an overall management plan to address non-regulatory issues and foster education about the sensitive resources within the District;
- to encourage coastal resources management planning in order to preserve the coastal habitat and shellfishery;
- to safeguard soil and slope stability in order to protect sensitive resources;
- to delineate hazard areas so as to maximize storm damage prevention and prevention of pollution;
- to reduce growth potential by increasing lot sizes consistent with the Town of Barnstable LCP; and,
- to encourage scenic viewsheds, architectural, and historic overlay zoning to preserve the historic, scenic, architectural and community character resources in the area.

5.3 Definitions

Definitions shall be the same as those included in the Cape Cod Commission Act, the Barnstable County Regional Policy Plan, and the Town of Barnstable Ordinances and Regulations.

5.4 Review of Developments of Regional Impact (DRI) within the DCPC

The regulations adopted pursuant to these Guidelines in no way alter the process for the referral and review of Developments of Regional Impact according to the Act and Regulations of the Cape Cod Commission.

5.5 Water Resources

Development within the District has the potential to impact water resources protected by the RPP. Water resources include groundwater flowing beneath the District; Hinckley Pond, a freshwater pond; the stream draining the pond; and marine waters of Barnstable Harbor. Evidence suggests that existing development within the District may be unduly impacting water resources. Further analyses will be necessary to more rigorously and

scientifically assess existing water quality within the District and to track improvements afforded by regulations and programs to be established for the District.

The Town should establish regulations and programs that adequately protect groundwater and surface-water quality within the Pond Village District consistent with protections afforded by the RPP.

5.5.1. District regulation should be put in place establishing a 5-ppm-N standard for a groundwater nitrogen concentration. The 1-acre zoning bylaw that currently applies to Pond Village May not be sufficient to achieve this standard for homes with more than two bedrooms. The town should consider both increasing lot size to at least two acres and requiring the use of innovative/alternative septic system technology capable of removing nitrogen from wastewater.

5.5.2. A phosphorous-loading analysis for Hinckley Pond should be conducted to determine the trophic status of the Pond and to assess the Pond's assimilative capacity for additional phosphorous as County and Town resources allow.

5.5.3 The Town should encourage the establishment of a network of citizen volunteers to monitor water quality in Hinckley Pond and track improvements afforded by regulations and programs implemented in the Pond Village DCPC toward improvement of water quality.

5.5.4. The Town should include a regulation requiring a minimum setback from Hinckley Pond for lawns and subsurface stormwater- and wastewater-disposal facilities for all new construction. A minimum setback of 300 feet is recommended unless the phosphorous-loading analysis referenced in 5.5.2 indicates that alternative setbacks are appropriate.

5.5.5 The Town should put a regulation in place to protect fresh surface waters from development impacts including site disturbance, erosion and sedimentation. These protections may include limits on the amount of impervious surface; erosion controls; and management of the extent and intensity of irrigation, including limits on chemical fertilization, pesticide, and road-treatment applications.

5.5.6 The Town should encourage the establishment of a community-supported education program for the District to disseminate information that encourages the use of best lawn- and landscape-management practices protective of water quality.

5.5.7. The Town regulations should require use of stormwater best-management strategies such as use of vegetated swales and constructed wetlands to ensure that stormwater runoff from roads and other land uses within the District is adequately treated and discharged outside the setback area recommended in 5.5.4.

5.5.8. The Town should consider approaches for addressing existing problematic stormwater discharges within the District. Such approaches may include providing treatment of stormwater runoff at the Scudder Lane landing and working directly

with Massachusetts Highway Department during the proposed Route 6A resurfacing project to eliminate overflow of stormwater from the roadway.

5.5.9. A program to track failing septic systems should result in their replacement with wastewater systems consistent with 5.5.1 and 5.5.4. Where systems cannot be relocated to areas outside of the minimum setback area, wastewater systems capable of removing nutrients should be required.

5.5.10. An assessment of lots subject to high groundwater elevations should be conducted using Soil Evaluation Procedures, the USGS high groundwater methodology (CCC Technical Bulletin 92-001) and soils information or FEMA floodplain data. Areas subject to flooding should be identified and construction guidelines should be developed for these areas.

5.6 Natural Resources

The Town should evaluate existing local statutes and regulations and establish, as deemed necessary, additional regulations to protect wetland resources, rare or significant plant or wildlife habitat, and mechanisms for protecting the rural character of the Pond Village area.

5.6.1 The Town should, to the extent practicable, complete a natural resources inventory of the open lands within the District, including an inventory and map of wetland resources. The Town should work with the Natural Heritage and Endangered Species Program to identify state listed rare or endangered species within the district that could benefit from additional protections from development and human impacts.

5.6.2 Changes to zoning and wetland regulations should be considered in order to protect buffers to wetlands, waterbodies, vernal pools, and rare species habitat. To the extent practicable, the Town should strive to adopt regulations within the district that are consistent with the standards for natural resource protection in the Regional Policy Plan. Zoning changes could include overlay districts or incentive-based development criteria in order to direct development away from sensitive resources.

5.6.3 The Town should examine existing zoning and consider revisions to provisions allowing land-consumptive development and/or provisions that may have negative impacts on natural resources in the district.

5.6.4 The Town should develop criteria for open space acquisition and conservation restrictions based on natural resource values, development potential, historic or cultural values, and scenic vistas.

5.6.5 The Town should investigate alternatives to reduce and manage clearing and grading on development sites within the district, directed toward maintaining woodland habitat and wildlife corridors.

5.6.6 The Town should develop and encourage implementation of a public education program for property owners that will provide suggestions for reducing or

eliminating impacts to the resources within the district. Such public education should include measures to address the management and spread of invasive species.

5.7 Coastal Resources

The Town should initiate the work necessary to establish an appropriate record of baseline conditions including extent of clearing on parcels within the DCPC, existing views and vistas, public access, monitoring and control of invasive species, management of development within the flood zone, buffer zones, additive impacts from future redevelopment/intensification of use and other issues. Once an adequate baseline is established, the effects of development in Pond Village on the coastal environment can be better assessed and appropriate protection measures tailored to the Pond Village area can be developed.

5.7.1 The Town should provide clear guidance for plant species that are suitable and those that are not suitable for use in gardens and as ornamentals. The District should address public education, monitoring and stewardship actions to protect coastal resources from incursions by exotic or invasive species. The regulations should include a strategic approach to monitoring for the spread of phragmites, which is affecting some areas of the Great Marsh system and a protocol for addressing new infestations.

5.7.2 The Town should include regulations that provide prohibitions on, or appropriate controls of any shoreline structures including docks, floats, walkways and other structures. In addition, the implementing regulations should provide a framework for evaluating appropriate responses to shoreline change, sea level rise and the likelihood of landward retreat of coastal resources such as salt marsh.

5.7.3 The Town should include regulations that provide a framework for managing the potentially intensive use of the launch at Scudder Lane for recreational uses such as recreational boating and shellfishing, and commercial uses such as shellfishing and the maintenance of aquaculture grants.

5.7.4 The Town should include regulations to provide for adequate standards of erosion and sedimentation control for sites within the district (including the Scudder Lane landing) and for development and redevelopment that may occur in the future. The regulations should include protocols developed through a diagnostic report of existing Stormwater runoff into coastal waters, including allowable extent or ratio of impervious surfaces, appropriate lot coverage by developed vegetation, structures and other features, management of the extent and intensity of irrigation and placement of chemical fertilizers road treatments and maintenance of adequate buffers to coastal water bodies and estuarine resources.

5.7.5 The Town should include implementing regulations which provide for appropriate siting of new utilities to minimize susceptibility to flood hazards and

wind damage and should provide appropriate constraints on development and redevelopment within FEMA flood zones.

5.7.6 The Town should include implementing regulations with provisions that “maintain the traditional maritime character” (RPP p.32) of applicable areas within the District. In addition, the regulations should address views of the shore and coastal bank from adjacent waterways, the intertidal region, and other publicly accessible viewpoints such as Sandy Neck. These provisions may include limitations on the vertical extent and massing of structural elements and removal of vegetation associated with development and redevelopment and the establishment and maintenance of visual buffers and screening.

5.7.7 The Town should describe the relationship of the properties and interests incorporated into the district, to the adjacent coastal environment, including the ACEC.

5.8 Heritage and Scenic Resources

The Town shall establish means for protecting historic structures and historic settings from over-development, and shall identify and protect important scenic roadways, and vistas in the District.

5.8.1 The Town should adopt regulations to guide the scale and design of new development within the district. The Town should consider adopting a maximum floor area ratio (FAR) to limit the scale of buildings in relation to the size of the building lot, in keeping with the existing scale of the historic Pond Village neighborhood. The Town should also review existing regulations to ensure that they promote preservation and reuse of historic structures within the District.

5.8.2 The Town should identify distinctive scenic vistas and other visually sensitive areas that are important to the character of the District, including views of waterbodies and the Great Marsh, historic road corridors, and significant open spaces. The Town should consider developing a scenic overlay district or other regulation to guide new development away from these scenic resources and into less visually sensitive areas of the District. Potential mechanisms to protect scenic areas include designated buffer areas, building height and bulk limitations, and incentives for locating development outside identified scenic corridors.

5.8.3 The Town should adopt specific regulations for scenic roadways in the District, regarding road widening, to preserve the character of the scenic roads and historic stonewalls.

5.9 Growth Management

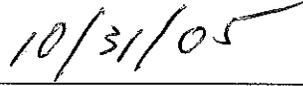
5.9.1 The Town should consider revisions to local ordinances to increase lot size in order to reduce development potential within the district.

5.9.2 The Town should consider a cluster development bylaw for the area.

5.9.3 The Town should include implementing regulations which address proposed changes of use or changes in intensity of use of existing structures that may be proposed for renovation, reconstruction or enhancement in the future, in a manner that ensures full protection of the Goals and Interests of the District.



Alan Platt, Chair

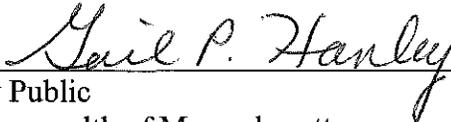


Date

Commonwealth of Massachusetts

County of Barnstable

On this 31st day of October, 2005, before me, the undersigned notary public, personally appeared Alan Platt, proved to me through satisfactory evidence of identification, which were personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



Notary Public
Commonwealth of Massachusetts

My Commission Expires: 10/13/11

S

B

Barnstable Harbor



Map created on October 3, 2005 [pondvil2.mxd]

Proposed Pond Village DCPC Draft Map

500 Feet

Map scale is 1:7,200 - 1 inch represents 600 feet

Map registered to Massachusetts (MA/TWMS) State Plane coordinate system, units: meters.



State Seal Commission
GIS Department
A Division of Barnstable County

