

CAPE COD COMMISSION

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DECISION of the Cape Cod Commission ACCEPTANCE OF DISTRICT OF CRITICAL PLANNING CONCERN (DCPC) POND VILLAGE DCPC 2, BARNSTABLE, MA

DATE OF NOMINATION: June 6, 2005 and August 26, 2005
DATE OF ACCEPTANCE: September 15, 2005
NOMINATING AGENCY: Barnstable Planning Board
LOCATION OF DISTRICT: Barnstable, MA
TYPE(S) OF DISTRICT:

- Water Resource Protection District
- Wildlife, Natural and Ecological Resource District
- Cultural, Historic, Architectural, or Archaeological Resource District

BOUNDARY

The proposed boundary of the District of Critical Planning Concern has been developed to encompass the identified resource interests in the Pond Village area off Scudder Lane and Route 6A in the town of Barnstable. The official boundary as proposed for nomination by the Barnstable Planning Board is shown on the attached map.

The proposed Pond Village DCPC is entirely contained within the Town of Barnstable and is bounded by the following roads and water bodies: north of Route 6A, properties on the east side and fronting on Scudder Lane, properties west of Scudder Lane and including Massachusetts Audubon property, southeast of salt marshes, and south of Cape Cod Bay, and properties south of the Route 6A within 300' of Hinkley's Pond.

GENERAL STATEMENT OF PURPOSE AND REASONS FOR ACCEPTANCE

In accepting the nomination of the Pond Village DCPC, the Cape Cod Commission (the Commission) makes the following findings:

1. There is a need for special planning and regulations in the Pond Village DCPC 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

Pond Village DCPC 2, Barnstable, MA
CCC # DCPC 05016, Acceptance Decision
September 15, 2005



3. The DCPC nominations as presented by the Barnstable Planning Board explicitly identify threats to resources within the Pond Village area that could occur from potential development. Impacted resources include water resources (runoff to a freshwater pond and stormwater pollution to Barnstable Harbor); wildlife habitat, natural and ecological resources (including rare species habitat); municipal infrastructure (including roads and public access); and scenic, historic, architectural and archaeological resources. Based on potential impacts to these resources and the sensitivity of the area, the town has identified the need to plan and zone for appropriate development to insure protection of critical resources. In particular, the town has identified the following areas of concern:

- a. The water quality of Hinckley's Pond could be negatively affected by development.
- b. The water quality of Barnstable Harbor could be further degraded by stormwater runoff.
- c. Rare species and rare species habitat could be lost due to development.
- d. The historic and architectural character of the area could be lost as a result of inappropriate development with regard to design and scale.
- e. Historic and scenic "viewsheds" could be lost by inappropriate design, poor siting, and building heights.

4. The purposes of the DCPC are to protect against development which would negatively impact the resources of the area and which would stress the area's infrastructure capacity. Creation of a DCPC will allow the town the opportunity to address these issues within a framework that provides the time to thoughtfully consider both regulatory and non-regulatory approaches to protecting the significant lands and waters within the District. Without designating this area as a DCPC, current development pressures and existing regulations could lead to degradation or loss of the resources within the District.

5. The proposed boundaries are reasonably related to the purposes of the District.

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 DCPC shall continue to suspend the power of a municipality to grant development permits for development within the nominated district..".

The Barnstable Planning Board 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 can be issued in accordance with bylaws and regulations in effect in the town of Barnstable at the time of the local permit application. These types or classes of

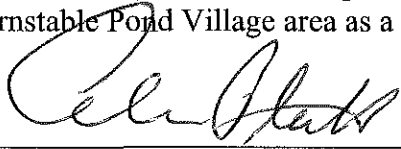
proposed development shall be deemed not substantially detrimental to the protection of public health, safety, and welfare and will not contravene the purposes of the Cape Cod Commission Act and the DCPC nomination. Where a type or class of development is not included below, it may not proceed unless the district fails or until implementing regulations are adopted.

1. Development of a single family residence permitted upon the date the Planning Board nominated the area as a DCPC which otherwise meets the existing zoning requirements on the date of the nomination (effective date August 26, 2005);
2. Repairs to existing structures such as re-shingling, re-roofing, etc.;
3. Permits for septic system installation or necessary upgrades for existing residences or to serve residential dwelling units;
4. Limited improvements to property such as small utility sheds, repairs to driveways, landscaping;
5. Reconstruction subject to local ordinances;
6. Permits leading to the filing of a fully completed application for a building permit with the Barnstable Building Department.
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 which 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 8 of the Enabling Regulations, governing reviews of Developments of Regional Impact, revised in March, 2005, 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 and provided the expansion does not result in creation of additional residential dwelling units.

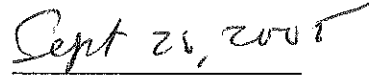
10. Where an applicant demonstrates a taking under Section 11(h) of the Cape Cod Commission Act and where approval would not result in a reasonably foreseeable danger to public health or safety.
11. Developments of Regional Impact (DRIs) with a currently valid DRI approval, and DRIs referred for review prior to the first published notice of the District of Critical Planning Concern nomination and subsequently approved, all in accordance with Section 11 of the Cape Cod Commission Act.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby accepts for nomination of the Barnstable Pond Village area as a District of Critical Planning Concern.



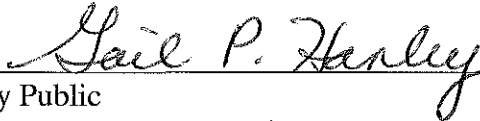
Alan Platt, Chair



Date

Commonwealth of Massachusetts
County of Barnstable

On this 26th day of September, 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

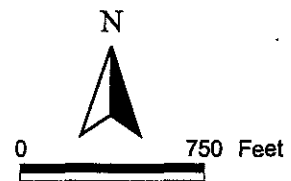
My Commission Expires: 10/13/11



Legend

-  Potential DCPC Parcels Pond Village # 2
-  Parcels

* Parcels provided to us by the Barnstable GIS Department



Horsley Witten Group
c/nw 508 339-9800
www.horsleywitten.com 

Appendix 1
Assessor's Map of Study Area