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CAPE COD
COMMISSION

BUZZARDS BAY GROWTH INCENTIVE ZONE DECISION

1.0 GENERAL

As authorized by Sections 6 and 7 of the Cape Cod Commission Act (Act) and Chapter G, Growth Incentive Zone Regulations, Barnstable County Ordinance 05-13 (as amended by Barnstable County Ordinance 10-19), the Cape Cod Commission (Commission) hereby designates the Buzzards Bay Downtown, as hereinafter described, as a Growth Incentive Zone (GIZ). The decision is rendered pursuant to a vote by the Commission on April 26, 2012.

2.0 PROCEDURAL HISTORY

An application to designate the Buzzards Bay Downtown as a GIZ was submitted by the Town of Bourne Planning Board to the Cape Cod Commission. At a meeting of the Board of Selectmen of the Town of Bourne, held on March 20, 2012, the Board of Selectmen voted unanimously to endorse the GIZ application. The application was deemed complete on March 29, 2012.

The Planning Committee of the Commission held a duly noticed public hearing pursuant to Section 5 of the Act on April 9, 2012 at the Cape Cod Commission, Barnstable, MA. At the hearing, the Planning Committee considered the application, both written and oral testimony, and information submitted for the record, and voted (5-1) to recommend to the full Commission that the Buzzards Bay Downtown be designated as a GIZ pursuant to Chapter G, Growth Incentive Zone Regulations, voted (5-1) to direct staff to draft a decision, and voted (6-0) to continue the hearing to the April 26, 2012 full Commission meeting.

A public hearing was held before the full Commission on April 26, 2012 to vote on the draft decision. At that hearing, the full Commission voted *X-X* to designate the Buzzards Bay Downtown as a GIZ and to submit the town's adjusted Development of Regional Impact (DRI) threshold request to the Assembly of Delegates for adoption by ordinance.

3.0 DESCRIPTION OF THE AREA

The boundaries of the Buzzards Bay GIZ are illustrated in Exhibit A appended to this decision and incorporated by reference. The area is generally the area now known as Bourne's Downtown or the Downtown District (DTD), excluding the Downtown Neighborhood zone of the DTD. The GIZ is generally bounded by the Buzzards Bay Bypass, the approach to the Bourne Bridge, Perry Avenue, along the bank of the Cape Cod Canal, to Academy Drive, Wright Lane, across the Cohasset Narrows to Eldridge Avenue Extension and back to the Bypass.

The area proposed for GIZ designation is within a designated Economic Center on the Land Use Vision Map, is a contiguous geographic area with clearly delineated boundaries within the Town of Bourne, and neither expands nor creates strip development. The proposed GIZ area contains existing development and infrastructure and is characterized by a compact mix of uses including civic and institutional uses, pedestrian and transit oriented development, and a range of housing types. The proposed area does not contain sensitive areas, such as potential public water supply, rare species habitat, priority natural communities, critical upland areas, unfragmented forest habitat, undeveloped land within 350 feet of vernal pools and 300 feet of ponds, and undeveloped land within FEMA designated Velocity (V) zones.

4.0 TOWN'S REQUEST FOR DRI THRESHOLD MODIFICATIONS

Pursuant to Section 3(a) of the GIZ Regulations, the Town of Bourne requested modifications to DRI review thresholds for development and redevelopment within the GIZ. Pursuant to Section 3(b) of the GIZ Regulations, the town requested a cumulative cap/threshold for development and redevelopment of properties within the GIZ that may proceed without mandatory DRI review (with some exceptions as identified in Section 3(c) of the GIZ Regulations). The cumulative DRI cap/threshold establishes a limit on the total amount of development allowed within the GIZ before mandatory DRI review is required, such that proposed development and redevelopment that normally would be considered a DRI under existing thresholds would not be subject to DRI review until the total amount of development within the GIZ reaches the designated cap/threshold. The town requested a phased growth approach consistent with existing offsets and infrastructure.

Presently, the Buzzards Bay Water District supplies public drinking water supplies to Buzzards Bay and wastewater is collected from Buzzards Bay and transported to the Town of Wareham for treatment and disposal. Development in Buzzards Bay is constrained by limited drinking water supplies and wastewater capacity.

An Inter-Municipal Agreement (IMA) between the Towns of Bourne and Wareham allocates 200,000 gallons per day (gpd) of wastewater capacity to Buzzards Bay. During 2011, Commission staff provided technical assistance to the Bourne Wastewater Advisory Committee to evaluate the potential for additional development considering constraints on water supplies and current wastewater allocations. At that time, Commission staff found that the approximately 63,000 gpd of wastewater allocation that remained under the IMA represented existing wastewater infrastructure within the GIZ and constituted a limiting factor on future development. In addition, Commission staff found that the identified 63,000 gpd wastewater allocation approximated remaining water supplies, after adjustments were made to reflect peak and consumptive water use. Commission and Town staff also conducted a buildout analysis based on existing wastewater allocation. This analysis, as presented in the GIZ application, found that up to 244 residential units and up to 266,000 SF of office commercial space could be developed within the wastewater allocation of 63,000 gpd that existed at that time.

Pursuant to Section 4 of the GIZ Regulations, the Town of Bourne has proposed preservation and development reduction approaches as offsets, commensurate with the cumulative DRI threshold request. Offset actions completed no more than 5 years prior to the date of the GIZ application are eligible for consideration as an offset. Within the last 5 years, the town has permanently protected 25.36 acres of commercial offsets and 65.55 acres of residential offsets, allowing for an equivalent of 967,000 SF of commercial development potential and an equivalent of 128 units of residential development potential within the GIZ.

Consistent with the existing offsets and infrastructure described above, the threshold modification request associated with the town's requested phased approach is as follows:

> Phase 1 – 128 residential units and 265,000 square feet (SF) of commercial development potential. Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity.
>
> Phase 2 – 122 additional residential units (up to 250 units total for Phases 1 & 2), contingent upon an additional offset of approximately 30 acres in a DCPC, or other approvable offsets, and additional infrastructure pursuant to the Commission's GIZ Regulations.
>
> Phase 3 – 110 additional residential units (up to 360 units total for all three Phases), and 385,000 SF of additional commercial development potential, both contingent upon additional offsets and infrastructure pursuant to the Commission's GIZ Regulations.

The threshold modification request is subject to approval by votes of both the Commission and the Assembly of Delegates.

In addition, pursuant to Section 3(c) of the GIZ Regulations, the following DRI thresholds are not eligible for modification within the GIZ and shall be reviewed as a DRI:

- Any proposed demolition or substantial alteration of an historic structure or destruction or substantial alteration to an historic or archaeological site listed with the National Register of Historic Places or Massachusetts Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District.
- The construction or expansion of any bridge, ramp, road or vehicular way that crosses or provides direct access to an inland pond, barrier beach, coastal bank, dune, beach, or tidal wetland or waterbody (as defined by MGL Ch. 131, Section 40) except a bridge, ramp or driveway serving no more than three single-family dwellings.
- Any development providing facilities for transportation to or from Barnstable County, including but not limited to ferry, bus, rail, trucking terminals, transfer stations, air transportation and/or accessory uses, parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 square feet of outdoor area.
- Construction of any Wireless Communication Tower exceeding 35 feet in overall height, including appurtenances, from the natural grade of the site on which it is located, except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height from the natural grade of the site on which it is located that is designed to accommodate at least two carriers and with an Occupied Area limited to no more than 1300 square feet.
- Reconstruction of, attachment to or replacement of any existing Wireless Communications Tower, power transmission structure, or utility pole for the purpose of supporting antenna(s) for transmitting and/or receiving radio frequency communications that increases its overall height above existing grade by more than 20 feet.
- Site alterations or site disturbance greater than two acres including but not limited to clear cutting, grading, and clearing land, unless such alteration or disturbance is conducted in conjunction with a building permit for a structure or a DRI approval or in conjunction with a municipal project.
- Development requiring an Environmental Impact Report under MEPA.

- Wind energy conversion facility threshold.
- Discretionary DRI referrals proposed by a town and accepted by the Commission as presenting regional impacts.

5.0 MATERIALS SUBMITTED FOR THE RECORD

In addition to the list of materials submitted for the record (see Table 1 below), the application and notices of public hearing relative thereto, the minutes of public meetings and hearings, and all other written submissions received in the course of the proceedings are hereby incorporated into the record by reference.

TABLE 1: Materials Submitted for the Record	
Materials from Cape Cod Commission	***Date Sent***
Email from Kristy Senatori to Coreen Moore re: application	3/13/2012
Email from Ryan Christenberry to CM re: buildout calculator	3/21/2012
Memo from RC to Planning Committee with staff report (dated 4/2/12) attached	4/2/12
Letter from KS to CM deeming application complete	4/5/12
Memo from Jessica Rempel to Commission members re: full Commission meeting with draft decision and materials submitted to the record attached	4/19/12
Email from JR to CM with draft decision attached	4/19/12
Email from JR to CM with revised draft decision attached	4/25/12
Email from JR to Sallie Riggs with revised draft decision attached	4/25/12
Materials from Applicant	***Date Received***
Email from CM to RC with revised GIZ application amended to include buildout calculator attached	3/21/12
Materials from Public Agencies/Towns/State/Federal	***Date Received***
Town of Bourne Planning Board 3/8/12 meeting agenda	3/8/12
Town of Bourne Planning Board 3/8/12 draft meeting minutes	3/8/12
Email from SR to KS re: Planning Committee public hearing	3/14/12
Town of Bourne Board of Selectmen 3/20/12 Certificate of Vote	3/20/12
Email from SR to JR confirming receipt of revised draft decision	4/25/12

6.0 FINDINGS

6.1 General

GF1. The Commission finds that the Town of Bourne Planning Board held a duly noticed public hearing on the Buzzards Bay GIZ on March 8, 2012 pursuant to Section 7 of the GIZ Regulations.

GF2. The Commission finds that at a meeting of the Board of Selectmen of the Town of Bourne, held on March 20, 2012, the Town of Bourne Board of Selectmen voted unanimously to endorse the GIZ application moving forward immediately and determined that a town meeting vote is not required pursuant to Section 9(a) of the GIZ Regulations.

GF3. Pursuant to Section 3(a) of the GIZ Regulations, the Town of Bourne requested modifications to DRI review thresholds for development and redevelopment within the GIZ. The threshold modification request is subject to approval by votes of both the Commission and the Assembly of Delegates.

GF4. Pursuant to Section 3(b) of the GIZ Regulations, the Town of Bourne requested a cumulative cap/threshold for development and redevelopment of properties within the GIZ that may proceed without mandatory DRI review (with some exceptions as identified in Section 3(c) of the GIZ Regulations).

GF5. The Commission finds that an IMA exists between the Towns of Bourne and Wareham that allocates 200,000 gpd of wastewater capacity to Buzzards Bay.

GF6. The Commission finds that the Buzzards Bay Water District supplies public drinking water supplies to Buzzards Bay. The Commission also finds that the Buzzards Bay Water District permitted withdrawal is 530,000 gpd.

GF7. The Commission finds that "Remaining Wastewater Allocation", as referred to throughout this document, is defined as the difference between the total IMA wastewater allocation (200,000 gpd) and the portion of this allocation used by existing development in the Buzzards Bay sewer service area.

GF8. The Commission finds that "Remaining Water Supply Capacity", as referred to throughout this document, is defined as the difference between total water supply capacity and the portion of this capacity used by existing development in the Buzzards Bay Water District service area.

GF9. The Commission finds that the wastewater allocation that remains under the IMA represents existing wastewater infrastructure within the GIZ and constitutes a limiting factor on future development. The Commission also finds that, based on the Commission and Town staff's 2011 buildout analysis, up to 244 residential units and up to 266,000 SF of office commercial space could be developed within the Remaining Wastewater Allocation of 63,000 gpd that existed at that time.

GF10. Pursuant to Section 4 of the GIZ Regulations, the Town of Bourne has proposed preservation and development reduction approaches as offsets, commensurate with the above cumulative DRI threshold request.

GF11. The Commission finds that the Town of Bourne has permanently protected 25.36 acres of commercial offsets and 65.55 acres of residential offsets, allowing for an equivalent of 967,000 SF of commercial development potential and an equivalent of 128 units of residential development potential within the GIZ.

GF12. The Commission finds that the town requested a phased growth approach consistent with existing offsets and infrastructure and that the threshold modification request associated with this phased approach is as follows:

> Phase 1 – 128 residential units and 265,000 SF of commercial development potential. Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity.

Phase 2 – 122 additional residential units (up to 250 units total for Phases 1 & 2), contingent upon an additional offset of approximately 30 acres in a DCPC, or other approvable offsets, and additional infrastructure pursuant to the Commission's GIZ Regulations.

Phase 3 – 110 additional residential units (up to 360 units total for all three Phases), and 385,000 SF of additional commercial development potential, both contingent upon additional offsets and infrastructure pursuant to the Commission's GIZ Regulations.

GF13. The Commission finds that Phase 1 of the Buzzards Bay GIZ focuses on development and redevelopment consistent with existing infrastructure and offsets as part of the Town of Bourne's ongoing efforts to revitalize its DTD. The GIZ application indicates that the town intends to implement subsequent phases of the GIZ in the future. Pursuant to any amendments to Chapter G of the Commission's GIZ Regulations, the Commission finds that the town may seek a modification of this decision for purposes of amending the decision consistent with the revised regulations.

GF14. The Commission finds that the Buzzards Bay GIZ is eligible for designation as a Growth Incentive Zone pursuant to Sections 6 and 7 of the Cape Cod Commission Act and Chapter G, Growth Incentive Zone Regulations.

6.2 GIZ ELIGIBILITY

GEF1. The Commission finds that the proposed Buzzards Bay GIZ is eligible for designation as a Growth Incentive Zone pursuant to Section 2 (a-g) of the GIZ Regulations as follows:

(a) Only areas designated as Economic Centers on an approved Land Use Vision Map adopted by the Assembly of Delegates and incorporated into the RPP are eligible for a GIZ designation from the Commission.

The Buzzards Bay GIZ is located in a mapped Economic Center, as designated by the Regional Land Use Vision Map.

(b) The area proposed as a GIZ shall be a contiguous geographic area with clearly delineated boundaries that may include areas in more than one town. The GIZ shall neither expand nor create strip development, as defined in the RPP.

The Buzzards Bay GIZ is a contiguous geographic area with clearly delineated boundaries as described in Exhibit A and Section 3.0 (Description of the Area). The area is basically equal to the area of the DTD excluding the residential neighborhoods. The GIZ is generally bounded by the Buzzards Bay Bypass, the approach to the Bourne Bridge, Perry Avenue, along the bank of the Cape Cod Canal, to Academy Drive, Wright Lane, across the Cohasset Narrows to Eldridge Avenue Extension and back to the Bypass. The Buzzards Bay GIZ designation will neither expand nor create strip development.

(c) A proposed GIZ shall contain existing development and infrastructure, with opportunities for redevelopment, infill, and intensification of existing uses. Undeveloped parcels isolated from existing development are not appropriate areas for GIZs and shall be avoided.

The Buzzards Bay GIZ has a total of 284 acres including 255 parcels. The majority of properties within the GIZ are developed. Of the 255 parcels, 17 are vacant. These vacant parcels are not isolated from existing development. The area has an existing urban core, a diversity of existing uses and potential uses under zoning, and existing drinking water, wastewater, and transportation infrastructure.

The GIZ application acknowledges that water-related infrastructure is a significant factor limiting development in Buzzards Bay. Presently, the Buzzards Bay Water District supplies public drinking water supplies to Buzzards Bay and wastewater is collected from Buzzards Bay and transported to the Town of Wareham for treatment and disposal. An IMA between the Towns of Bourne and Wareham allocates 200,000 gpd of wastewater capacity to Buzzards Bay. Development in Buzzards Bay is also constrained by limited drinking water supplies. The Phase 1 cumulative DRI threshold is consistent with Remaining Drinking Water Supply Capacity and Remaining Wastewater Allocation of 63,000 gpd estimated by Commission staff in 2011 and presented in the GIZ application. Phases 2 & 3 will require additional water supplies and wastewater allocations or infrastructure.

The Town of Bourne is currently serviced by the Greater Attleboro Taunton Regional Transit Authority and the Cape Cod Regional Transit Authority. The Buzzards Bay Revitalization Association commissioned a Comprehensive Transportation Plan (June 2007) and the Town of Bourne is currently working on many infrastructure projects to improve access to and from the Buzzards Bay Downtown, including improvements to Belmont Circle, Memorial Circle, and to the Route 6 Bypass Road. The Buzzards Bay GIZ encourages a mix of land uses to support walkable neighborhoods with multimodal accessibility. Infrastructure in the area is sufficient to accommodate the requested Phase 1 growth given current and on-going transportation improvement projects. Future growth detailed in Phases 2 & 3 will need to be evaluated to determine if adequate infrastructure exists to support that growth.

In summary, the Buzzards Bay GIZ contains existing development and infrastructure to support Phase 1 growth, with opportunities for redevelopment, infill, and intensification of existing uses.

(d) A proposed GIZ shall be characterized by the following types of development (existing within the zone or planned, as demonstrated by pending zoning or planning proposals): a compact mix of uses; a broad range of housing types, including multi-family dwellings and accessory apartments; civic and institutional uses; and pedestrian- and transit-oriented development.

The Buzzards Bay GIZ is intended to facilitate development and redevelopment to create new affordable housing and mixed use development. The current zoning for the Buzzards Bay DTD was adopted in 2008 and is a form-based code that allows for higher-density, mixed use development. Existing development consists of a mix of residential, commercial, municipal, institutional, recreational, and historic structures.

The Town of Bourne has been one of the Cape's most active communities with respect to addressing affordable housing needs through, among other measures, a housing action plan that was certified by the state, an active local housing partnership and municipal affordable housing trust, a CPC funded staff person to implement items in the housing action plan, and the adoption of inclusionary zoning within the Buzzards Bay DTD. The housing stock in the Buzzards Bay GIZ is more diverse than what exists in the rest of the Town and is more diverse than what exists in the rest of the region. The form-based code zoning includes a 10%

affordability requirement for all residential projects that include 10 or more units. Therefore, sufficient local review and mitigation resources exist to protect affordable housing resources.

As noted above, current and on-going transportation improvement projects support walkable neighborhoods with multimodal accessibility.

(e) GIZs shall avoid the following areas, as mapped by the Commission: Potential Public Water Supply Areas, rare species habitat, priority natural communities, wetlands, critical upland areas, unfragmented forest habitat, and land within 350 feet of vernal pools and 300 feet of ponds; and undeveloped Velocity (V) zones as designated by FEMA.

The Buzzards Bay GIZ does not contain sensitive areas, such as potential public water supply areas, rare species habitat, priority natural communities, critical upland areas, unfragmented forest habitat, undeveloped land within 350 feet of vernal pools and 300 feet of ponds, and undeveloped land within FEMA designated Velocity (V) zones.

(f) A GIZ may include incidental portions of areas identified under Section 2(e) herein for the purpose of maintaining its contiguity provided their inclusion would not pose significant adverse impacts to any of the resources protected under the Act and RPP.

There are six wetlands located within the proposed GIZ area as identified on the map attached as Exhibit B. The Bourne wetland protection bylaw regulates any development proposed within 100 feet of wetland resources and the bylaw requires a 50 foot no-build buffer. Therefore, the inclusion of these wetlands within the GIZ is not in conflict with the GIZ Regulations for the following reasons:

1. There is a salt marsh located at the west end of the GIZ that is located within the publicly owned marina lands. It is abutted by the railroad, and there appears to be little opportunity to increase existing development impacts to this resource.

2. There are coastal wetland resources also located at the western end of the GIZ on two residential properties. These beach or dune areas are on properties that are currently developed.

3. Moving east, there is a shallow marsh located within public lands, which is unlikely to be developed due to municipal ownership for open space purposes.

4. There is a salt marsh located on a privately held, commercially developed parcel near Summer Street. It abuts private residences located outside the GIZ boundary, and is presently buffered to the east by undeveloped lands. Additional development in this area should maintain a 100 foot undisturbed buffer to this wetland.

5. There is a shrub swamp located within Belmont Circle. The land within the rotary appears to be owned by MassDOT, and likely will be reserved for transportation related activities, subject to the requirements of the Bourne wetland protection bylaw.

6. There is a shallow marsh located within the roadway layout for the approach to the Bourne Bridge from Belmont Circle. This land appears to be owned by MassDOT, and likely will be reserved for transportation related activities, subject to the requirements of the Bourne wetland protection bylaw.

With the exception of the salt marsh near Summer Street (#4), the wetlands located within the GIZ are either located within existing developed properties, or are located on public lands. In addition, there is one patch of undisturbed woodland within the GIZ. This approximately 15 acre parcel is relatively isolated from any other lands that might serve as meaningful habitat, though it abuts municipally-owned open space to the west and a sizable wetland (#4) located on private property to the west of that. The parcel also abuts the Canal and the bike trail.

The inclusion of these areas inside the GIZ is necessary to maintain its contiguity and does not pose significant adverse impacts to the resources protected under the Act and the RPP.

(g) Infrastructure. A proposed GIZ shall include provisions for adequate infrastructure and services that either exist within the zone or are planned, as demonstrated by pending proposals. Such provisions shall be timed to meet the demand created by new development. Adequate infrastructure shall include:

1. *Demonstrated capacity to provide public water supply for maximum day demand periods.*

The Buzzards Bay Water District supplies public drinking water to Buzzards Bay with capacity remaining to supply Phase 1 of the GIZ. Phases 2 & 3 will require additional water supplies.

2. *Infrastructure consistent with the goals and standards set forth under the RPP for a) collection and treatment of wastewater and effluent disposal and b) management of stormwater runoff.*

a) Infrastructure exists for the collection and treatment of wastewater for Phase 1 of the GIZ. The IMA between the Towns of Bourne and Wareham allocates 200,000 gpd of wastewater capacity to Buzzards Bay. Wastewater allocation that remains under the IMA represents existing wastewater infrastructure within the GIZ which is available for Phase 1 development. Phases 2 & 3 will require additional wastewater capacity.

b) Presently, within the proposed GIZ area, stormwater is managed on-site through the use of underground infiltration structures, rain gardens, and swales. Existing zoning bylaws are adequate to address stormwater runoff through Phase 1. The town acknowledges the need for improved stormwater management bylaws as density levels allowed by zoning are reached. Improvements to the stormwater management bylaw should be incorporated into the zoning bylaw prior to implementation of Phases 2 & 3 of the GIZ.

3. *Transportation infrastructure, including transit, bicycle, and pedestrian provisions to reduce the number of automobile trips made within the GIZ, as well as roadway, parking and circulation improvements, to accommodate expected traffic flow.*

The Town of Bourne is currently serviced by the Greater Attleboro Taunton Regional Transit Authority and the Cape Cod Regional Transit Authority. The town is currently working on streetscape improvements and projects to improve access to and from the Buzzards Bay Downtown. In addition, gateway treatment and expanded/reorganized on-street parking are being implemented to address traffic speed along Main Street and to enhance pedestrian walkability and safety. Infrastructure in the area is sufficient to accommodate the requested Phase 1 growth given current and on-going transportation improvement projects. Future growth detailed in Phases 2 & 3 will need to be evaluated to determine if adequate infrastructure exists to support that growth.

4. *Sidewalks or other pedestrian facilities along all regional roadway frontage.*

The GIZ area has adequate sidewalks and bicycle accommodation to make it a walkable destination. Current streetscape improvements, as well as gateway treatment and expanded/reorganized on-street parking, are being implemented to address traffic speed along Main Street and to enhance pedestrian walkability and safety.

5. *Marine/maritime infrastructure, where applicable, to ensure the continuance of traditional maritime industries.*

Buzzards Bay contains one of the most important maritime environments in southern New England. The southwestern end of the Cape Cod Canal is home to the Massachusetts Maritime Academy and the canal serves as a major tourist attraction with bicycle paths on both sides of the canal. The GIZ intends to increase the visibility of the canal and access to the bicycle path, especially to and from one or several key points in the downtown.

6.3 STANDARDS OF REVIEW AND APPROVAL

Pursuant to Section 8 of the GIZ Regulations, to receive approval for a proposed GIZ, a town applying for such designation must demonstrate the following to the Commission:

(a) Plan Consistency. A proposed GIZ shall be consistent with the following documents: 1) The town's Commission-certified Local Comprehensive Plan (LCP); 2) The Regional Land Use Vision Map; 3) The goals of the RPP in effect at the time of the opening of the Commission's public hearing; and 4) The Regional Transportation Plan.

SRF1. The Commission finds that the proposed GIZ is consistent with the Town of Bourne's Commission-certified Local Comprehensive Plan (LCP).

The Buzzards Bay Downtown has been identified in the town's LCP as a place for desired growth, particularly commercial and mixed-use growth. Buzzards Bay has direct highway access and public infrastructure, including sewer and water. Capitalizing on the existing infrastructure, Bourne's LCP includes goals to focus development north of the canal and specifically in Buzzards Bay. Expanded wastewater treatment in Buzzards Bay is included as a major goal outlined in the town's LCP. The town recognizes the need for the development of new infrastructure and has listed the following policies in the LCP: development of new infrastructure, whether by public agencies or private entities; development and redevelopment shall pay its fair share of the coast of building, buying or expanding capital facilities and assets required to serve the project; and, public investments in infrastructure and facilities shall reinforce the traditional character and village development patterns of the town.

One of the LCP's "Highest Priority Actions for Land Use" identifies the Main Street area of Buzzards Bay as the focus area for directing new commercial growth. The LCP indicates the preferred pattern of growth to be redevelopment and infill, stressing the need to protect undeveloped areas and critical resources.

SRF2. The Commission finds that the proposed GIZ is consistent with the Regional Land Use Vision Map. The Buzzards Bay GIZ is entirely within an Economic Center as designated by the Regional Land Use Vision Map.

SRF3. The RPP in effect at the time of the opening of the Commission's public hearing is the 2009 RPP (as amended May 20, 2011). The Commission finds that the proposed GIZ is consistent with the goals of the 2009 RPP (as amended May 20, 2011) as follows:

Water Resources

Goal WR1 – Maintain hydrogeologic balance and quality of Cape Cod's aquifer, considering such factors as groundwater withdrawals, wastewater disposal, stormwater recharge, and adequate surface water levels

The Buzzards Bay Water District supplies public water to the GIZ area and an IMA between the Towns of Bourne and Wareham allocates 200,000 gpd of wastewater capacity to Buzzards Bay. During 2011, Commission staff provided technical assistance to the Bourne Wastewater Advisory Committee to evaluate the potential for additional development considering constraints on current wastewater allocation. At that time, Commission staff found that the approximately 63,000 gpd of wastewater allocation that remained under the IMA represented existing wastewater infrastructure within the GIZ, and constituted a limiting factor on future development. In addition, Commission staff found that the Remaining Wastewater Allocation of 63,000 gpd approximated the Remaining Water Supply Capacity after adjustments were made to reflect peak and consumptive water uses. The Phase 1 cumulative DRI threshold requested in the application is consistent with the Remaining Water Supply Capacity and the Remaining Wastewater Allocation of 63,000 gpd estimated by Commission staff in 2011 and presented in the GIZ application as required pursuant to section 2(g) of the Commission's GIZ Regulations. However, Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity. Additional water supplies and wastewater allocations and/or infrastructure will be needed for Phases 2 & 3.

Goal WR6 – Encourage the use of public and private wastewater treatment facilities

The Phase 1 cumulative DRI threshold requested in the application is consistent with the Remaining Wastewater Allocation of 63,000 gpd estimated by Commission staff in 2011 and presented in the GIZ application as required pursuant to section 2(g) of the Commission's GIZ Regulations. However, Phase 1 development may not exceed Remaining Wastewater Allocations. Additional wastewater allocation and/or infrastructure will be needed for Phases 2 & 3. The town acknowledges that water-related infrastructure is a significant factor limiting development in Buzzards Bay. The town is engaged in current planning efforts to complete a wastewater needs assessment.

Goal WR7 – Protect water quality through stormwater treatment

Existing zoning bylaws are adequate to address Phase 1 stormwater runoff. The town acknowledges the need for improved stormwater management bylaws as density levels allowed by zoning are reached. The town is engaged in current planning efforts to finalize a comprehensive stormwater and erosion control bylaw. Improvements to the stormwater management bylaw should be incorporated into the zoning bylaw prior to implementation of Phases 2 & 3 of the GIZ as required pursuant to section 2(g) of the Commission's GIZ Regulations.

Transportation

Goal TR1 – Improve safety and eliminate hazards for all users of Cape Cod's transportation system

The Town of Bourne is currently working on many infrastructure projects to improve access to and from the GIZ area. Gateway treatment and expanded/reorganized on-street parking are being implemented to address traffic speed along Main Street and to enhance pedestrian walkability and safety. Infrastructure in the area is sufficient to accommodate the requested Phase 1 growth given current and on-going transportation improvement projects.

Goal TR2 – Reduce expected increase in motor vehicle trips

The Town of Bourne is currently serviced by the Greater Attleboro Taunton Regional Transit Authority and the Cape Cod Regional Transit Authority. The GIZ is designed to be compact, multi-use, and dense enough to facilitate non-automotive trips. Sidewalks, crosswalks, bicycle amenities and transit lines are all included in the GIZ and facilitate trip reduction. The town also has the potential to include future rail service to Buzzards Bay.

Goal TR3 – Maintain Level of Service and address congestion impacts

The Town of Bourne is currently working on many infrastructure projects to improve access to and from the Buzzards Bay Downtown, including improvements to Belmont Circle, Memorial Circle, and to the Route 6 Bypass Road.

Land Use

Goal LU1 – Direct growth and development to appropriate locations

The proposed GIZ is located in a mapped Economic Center, as designated by the Regional Land Use Vision Map. The primarily developed, contiguous area consists of an urban core with adjacent residential neighborhoods. New zoning for the Buzzards Bay Downtown was adopted in 2008. This form-based code zoning will allow for greater density and a mix of uses.

A significant portion of the proposed GIZ is located in the floodplain, primarily within the A-zone with a small portion on the developed west end of the GIZ located in the V-zone. The town recognizes this development challenge and has conducted extensive analysis on the redevelopment opportunities and constraints of the floodplain, documented in the *Study of Flood Hazards Mitigation and Design for the Main Street Business District* (Kennen, 2007). The recommendations found in this report, along with "lowest floor elevation" zoning requirements are responsive to current flood hazards. However, given the potential for increased risk to and vulnerability of development over time due to climate change projections, the town should maintain a current Multi-Hazard Mitigation (MHM) Plan and avoid locating critical facilities in vulnerable areas.

Goal LU2 – Use capital facilities and infrastructure

Planned activities for Phase 1 of GIZ development utilize existing water, wastewater, and transportation infrastructure.

Economic Development

Goal ED1 – Low-impact and compatible development

Downtown Buzzards Bay has competitive advantages relative to the surrounding area including its historic character, proximity to the water, the diversity of existing uses and potential uses under zoning, and existing infrastructure. These advantages should be protected as part of the GIZ efforts to draw development to the DTD. The GIZ can accommodate additional growth while enhancing the regional economy by providing a broader array of development and business opportunities through both the mixed use form-based code zoning within the GIZ, and the offset of commercial development outside the GIZ.

Goal ED4 – Adequate capital facilities and infrastructure

Adequate capital facilities and infrastructure exist for Phase 1 growth. Planned activities for Phase 1 utilize existing water, wastewater, and transportation infrastructure.

Heritage Preservation & Community Character

Goal HPCC1 – Protect and preserve historic and cultural features

Buzzards Bay has a number of historic structures and sites on Main Street and the area contains numerous examples of various periods and styles typical of the late 19th and early 20th century residential and commercial architecture. Potential conflicts exist between preserving historic structures and both flood zone regulations and economic development goals. The town should establish policies or regulations to protect significant historic structures within the GIZ prior to encouraging additional development.

Goal HPCC2 – Encourage redevelopment and respect traditions and distinctive character of historic village centers

The form-based code zoning adopted for Buzzards Bay addresses many aspects of community character. The town has also developed draft design guidelines that illustrate how community character concerns will be further addressed. The town plans to take these draft design guidelines to town meeting in the spring of 2012.

Natural Resources/Open Space

Goal WET1 – Preservation of wetlands

There are six wetlands located within the proposed GIZ area. The Bourne wetland protection bylaw regulates any development proposed within 100 feet of wetland resources and requires a 50 foot no-build buffer. The inclusion of these areas in the GIZ is not in conflict with the GIZ Regulations, is necessary to maintain the GIZ's contiguity, and does not pose significant adverse impacts to the resources protected under the Act and the RPP.

Goal WPH1 – Preservation of habitat

The GIZ is in a developed, urban area with few significant natural resources or undisturbed open space areas. There is one, approximately 15 acre patch of undisturbed woodland located within the GIZ. The inclusion of this area in the GIZ is not in conflict with the GIZ Regulations,

is necessary to maintain the GIZ's contiguity, and does not pose significant adverse impacts to the resources protected under the Act and the RPP. The GIZ area contains no areas mapped as rare species habitat by the Natural Heritage and Endangered Species Program.

Goal OS1 – Preservation of open space

Within the last 5 years, the town has permanently protected over 90 acres of land to be used as offsets for proposed development. Sufficient commercial offsets exist for all Phases of GIZ growth and sufficient residential offsets exist for Phase 1 growth.

Affordable Housing

Goal AH1 – Promote the provision of fair, decent, safe, affordable housing

The Town of Bourne has been one of the Cape's most active communities with respect to addressing affordable housing needs through, among other measures, a housing action plan that was certified by the state, an active local housing partnership and municipal affordable housing trust, a CPC funded staff person to implement items in the housing action plan, and the adoption of inclusionary zoning within the Buzzards Bay DTD. As a result, Bourne has the second highest percentage of affordable housing units (6.6%) among the region's fifteen towns.

The housing stock in the GIZ area is more diverse than what exists in the rest of the town and is more diverse than what exists in the rest of the region. Of the 220 occupied units in the GIZ, 67% are rental units and 33% are ownership units. Cape-wide, 81% of the occupied year round housing stock is ownership and 19% is rental. About 74% of the units in the GIZ are single family compared with 86% Cape-wide. The proposed GIZ area includes a broad range of housing types as required by Section 2(d) of the GIZ Regulations.

The town's form-based code zoning for the Buzzards Bay DTD includes a 10% affordability requirement in Section 2842 for all residential projects that include 10 or more units. As Section 2842 and the RPP have the same unit threshold and the same affordability requirement and as the affordable units created under both Section 2842 and the RPP will count towards the town's 10% affordability goal, the Commission finds that there are sufficient local review and mitigation resources to protect the affordable housing resources under the RPP and that the proposed GIZ complies with the Commission's GIZ Regulations.

Goal AH2 – Promote equal opportunity in housing

The GIZ promotes equal opportunity in housing through the Town of Bourne's housing action plan certified by the state, active local housing partnership and municipal affordable housing trust, CPC funded staff person to implement items in the housing action plan, and the adoption of inclusionary zoning within the Buzzards Bay DTD.

Goal AH3 - Promote broad community participation to address the various housing needs of the region's residents

The GIZ promotes broad community participation to address the various housing needs of the region's residents through the Town of Bourne's housing action plan certified by the state, active local housing partnership and municipal affordable housing trust, CPC funded staff person to implement items in the housing action plan, and the adoption of inclusionary zoning within the Buzzards Bay DTD.

SRF4. The Commission finds that the proposed GIZ is consistent with the Regional Transportation Plan

The Regional Transportation Plan specifically references community orientation, livability, and multimodal accessibility as goals to be incorporated into every project. The GIZ encourages a mix of land uses to support walkable neighborhoods with multimodal accessibility. Phase 1 of the proposed GIZ is consistent with the Commission's transportation requirements, including the requirements of the Regional Transportation Plan.

In summary, the Commission finds that the proposed GIZ is consistent with the Town of Bourne's Commission-certified Local Comprehensive Plan, the Regional Land Use Vision Map, the goals of the 2009 RPP (as amended May 20, 2011), and the Regional Transportation Plan.

(b) A GIZ applicant shall demonstrate the following to the Commission: 1) That the proposed GIZ can accommodate additional growth without harming the resources protected under the Act and the RPP; 2) That the town has provided effective growth management and development reduction actions outside the GIZ in accordance with Section 4 (Offsets); 3) That the proposed GIZ is consistent with the criteria set forth under Section 1(b) (Purpose) and Section 2 (GIZ Eligibility) of these regulations; and 4) That the proposed GIZ is located entirely within an Economic Center as designated by the Regional Land Use Vision Map.

SRF5. The Commission finds that the proposed GIZ can accommodate additional growth without harming the resources protected under the Act and the RPP. The GIZ area contains existing development and infrastructure, including transit lines, sewer and water, and is characterized by a compact mix of uses, including civic and institutional uses, pedestrian and transit oriented development and a range of housing types. The GIZ is intended to revitalize Downtown Buzzards Bay consistent with existing infrastructure. New form-based code zoning for the Buzzards Bay Downtown was adopted in 2008 that will allow for greater density and a mix of uses.

The Phase 1 cumulative DRI threshold requested in the application is consistent with available water supplies, wastewater allocation, and transportation infrastructure as required pursuant to section 2(g) of the Commission's GIZ Regulations. However, Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity.

SRF6. The Commission finds that the town has provided effective growth management and development reduction actions outside the GIZ in accordance with Section 4 (Offsets). The Town of Bourne has proposed preservation and development reduction approaches as offsets, commensurate with the cumulative DRI threshold request. The Town of Bourne has permanently protected 25.36 acres of commercial offsets and 65.55 acres of residential offsets, allowing for an equivalent of 967,000 SF of commercial development potential and an equivalent of 128 units of residential development potential within the GIZ. The Town of Bourne's new form-based code zoning for the Buzzards Bay Downtown will allow for greater density and a mix of uses.

SRF7. The Commission finds that the proposed GIZ is consistent with the criteria set forth under Section 1(b) (Purpose) and Section 2 (GIZ Eligibility) of the GIZ Regulations. The GIZ intends to direct development and redevelopment into areas with existing development and adequate infrastructure and away from sensitive resource areas. Through the Buzzards Bay GIZ designation, the Town of Bourne seeks to enhance the designated Economic Center by

encouraging a concentrated mix of residential and commercial uses within the GIZ while ensuring that growth is properly served by adequate infrastructure. Section 2 (GIZ Eligibility) is covered in detail in GEF1 above.

SRF8. The Commission finds that the proposed GIZ is located entirely within an Economic Center as designated by the Regional Land Use Vision Map.

In summary, the Commission finds that the Town of Bourne has demonstrated that the proposed GIZ can accommodate additional growth without harming the resources protected under the Act and the RPP, that the town has provided effective growth management and development reduction actions outside the GIZ in accordance with Section 4 (Offsets), that the proposed GIZ is consistent with the criteria set forth under Section 1(b) (Purpose) and Section 2 (GIZ Eligibility) of these regulations, and that the proposed GIZ is located entirely within an Economic Center as designated by the Regional Land Use Vision Map.

(c) Where a town has requested modification of DRI thresholds within its proposed GIZ as provided under Section 3 (DRI Thresholds), the Commission shall consider whether sufficient review standards and mitigation measures, including appropriate infrastructure, will be provided to ensure that local review will protect resources that otherwise would be protected under the RPP. The Commission may approve a DRI threshold modification request where it finds that such threshold modification is appropriate for achieving the purposes of the GIZ.

SRF9. The Commission finds that sufficient review standards and mitigation measures will be provided to ensure that local review will protect resources that otherwise would be protected under the RPP. There is sufficient water supply, wastewater, and transportation infrastructure to support the desired growth for Phase 1 of the requested DRI threshold modification. However, Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity. Sufficient residential offsets have been provided to support the residential units for Phase 1 of the requested DRI threshold modification and sufficient commercial offsets have been provided to support the requested commercial SF for all Phases. The town's form-based code zoning and wetland protection bylaw further ensure that local level review will protect resources that otherwise would be protected under the RPP. The town is also engaged in current planning efforts to finalize a comprehensive stormwater & erosion control bylaw, strengthen existing architectural design standards and guidelines, and complete a wastewater needs assessment.

7.0 CONDITIONS

General

GC1. In accordance with Section 11 (Duration) of the GIZ Regulations, the designation of the Buzzards Bay GIZ is valid for a period of 10 years. The requested DRI threshold modification shall be valid and in effect only while the GIZ is valid and in effect.

GC2. All terms within this decision that are defined by the RPP, the Enabling Regulations Governing Review of Developments of Regional Impact, and the Act shall be controlled by those definitions.

GC3. Development within the GIZ area may proceed without DRI review provided it does not fall into the categories of development provided by GC8 below. Development may proceed without Commission DRI review for up to 128 residential units and 265,000 square feet of

commercial development potential for Phase 1 within the area as defined by the GIZ boundaries as illustrated in Exhibit A provided said development does not exceed Remaining Wastewater Allocation as defined by GF7 and as allocated to Phase 1 by the IMA and/or Remaining Water Supply Capacity as defined by GF8 and as supplied to Phase 1 by the Buzzards Bay Water District.

GC4. The Town of Bourne shall obtain Certificates of Compliance from the Commission as follows:

- Certificate of Compliance #1 – Receipt of this certificate allows for approval of the Phase 1 DRI threshold modification in accordance with Section 3 of the GIZ Regulations.

GC5. The Town of Bourne shall commence and maintain a tracking system in which it monitors and reports development within the GIZ to the Cape Cod Commission on an annual basis. The Office of the Town Planner will be responsible for tracking growth within the GIZ and shall provide written reports to the Commission as required by GC6. The town shall also provide additional tracking information as requested by the Commission within thirty (30) days of receipt of a written request.

GC6. Upon the effective date of a Barnstable County ordinance establishing modified DRI thresholds (the "adjusted" DRI thresholds), the town shall commence a tracking system to track the number of residential units developed, amount of commercial square feet developed, Remaining Water Supply Capacity, and Remaining Wastewater Allocation to ensure that Phase 1 development does not result in flows that exceed Remaining Water Supply Capacity and/or Remaining Wastewater Allocation. This tracking system should also contain information requested by Commission affordable housing staff, including: property address, number residential units in property, residential only or mixed use, ownership or rental, bedroom mix, number of affordable units, and bedroom mix of the affordable units.

GC7. In accordance with Section 11 (Revocation) of the GIZ Regulations, should the town fail to implement requirements as described in the GIZ application and as conditioned by this decision, the Commission shall have the ability to revoke the GIZ designation. Revocation may occur only after conducting a public hearing in accordance with Sections 5(a) and (b) of the Act. The Commission shall issue a written decision revoking the GIZ in a form suitable for recording with the Barnstable County Registry of Deeds. Revocation of the GIZ shall take effect upon majority vote of the Commission. DRI threshold modifications shall be terminated upon GIZ revocation.

GC8. As specified in Chapter G, Barnstable County Ordinance 05-10 (as amended by Barnstable County Ordinance 10-19), Section 3(c), the following categories are not included in the adjusted DRI threshold modification and shall be reviewed by the Commission as a DRI regardless of their location within the previously described GIZ boundaries:

- Any proposed demolition or substantial alteration of an historic structure or destruction or substantial alteration to an historic or archaeological site listed with the National Register of Historic Places or Massachusetts Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District.
- The construction or expansion of any bridge, ramp, road or vehicular way that crosses or provides direct access to an inland pond, barrier beach, coastal bank, dune, beach, or tidal

wetland or waterbody (as defined by MGL Ch. 131, Section 40) except a bridge, ramp or driveway serving no more than three single-family dwellings.

- Any development providing facilities for transportation to or from Barnstable County, including but not limited to ferry, bus, rail, trucking terminals, transfer stations, air transportation and/or accessory uses, parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 square feet of outdoor area.
- Construction of any Wireless Communication Tower exceeding 35 feet in overall height, including appurtenances, from the natural grade of the site on which it is located, except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height from the natural grade of the site on which it is located that is designed to accommodate at least two carriers and with an Occupied Area limited to no more than 1300 square feet.
- Reconstruction of, attachment to or replacement of any existing Wireless Communications Tower, power transmission structure, or utility pole for the purpose of supporting antenna(s) for transmitting and/or receiving radio frequency communications that increases its overall height above existing grade by more than 20 feet.
- Site alterations or site disturbance greater than two acres including but not limited to clear cutting, grading, and clearing land, unless such alteration or disturbance is conducted in conjunction with a building permit for a structure or a DRI approval or in conjunction with a municipal project.
- Development requiring an Environmental Impact Report under MEPA.
- Wind energy conversion facility threshold.
- Discretionary DRI referrals proposed by a town and accepted by the Commission as presenting regional impacts.

GC9. Prior to any commercial or residential development pursuant to proposed Phases 2 & 3 of the GIZ, the town shall be required to seek and obtain a modification of this decision in accordance with Section 10 of the Commission's GIZ Regulations. Such modification shall be approved only upon satisfaction of appropriate offset and infrastructure requirements pursuant to the GIZ Regulations and this decision.

Water Resources

WRC1. The town shall commence and maintain a tracking system that includes the following information: number of residential units developed, amount of commercial square feet developed, available water supplies, and wastewater allocation, to ensure that Phase 1 development does not result in flows that exceed Remaining Water Supply Capacity and/or Remaining Wastewater Allocation pursuant to the IMA. This inventory shall be submitted to the Commission annually.

WRC2. Proposed threshold modifications under Phases 2 & 3 shall be subject to incorporation into the zoning code of improvements to the stormwater management bylaw as required by section 2(g) of the GIZ Regulations, and shall require a modification to this decision.

Land Use

LUC1. The town shall maintain a current Multi-Hazard Mitigation (MHM) Plan.

Historic Preservation & Community Character

HPCCC1. The town shall establish policies or regulations to protect significant historic structures within the GIZ prior to encouraging additional development.

Affordable Housing
AHC1. The town shall commence and maintain a tracking system that includes the following information: property address, number residential units in property, residential only or mixed use, ownership or rental, bedroom mix, number of affordable units, and bedroom mix of the affordable units. This inventory shall be submitted to the Commission annually.

9.0 CONCLUSION

The Cape Cod Commission (Commission) hereby designates Buzzards Bay Downtown as a Growth Incentive Zone pursuant to Sections 6 and 7 of the Cape Cod Commission Act and Chapter G, Growth Incentive Zone Regulations.

(SIGNATURE ON LAST PAGE)

Peter Graham, Chair

4/26/12
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss 4/26, 2012

Before me, the undersigned notary public personally appeared Peter Graham in his/her capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [_] photographic identification with signature issued by a federal or state governmental agency, [_] oath or affirmation of a credible witness, or [✓] personal knowledge of the undersigned.

Gail P. Hanley
Notary Public

My Commission Expires: 9-28-18

GAIL P. HANLEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
September 28, 2018

Exhibit A

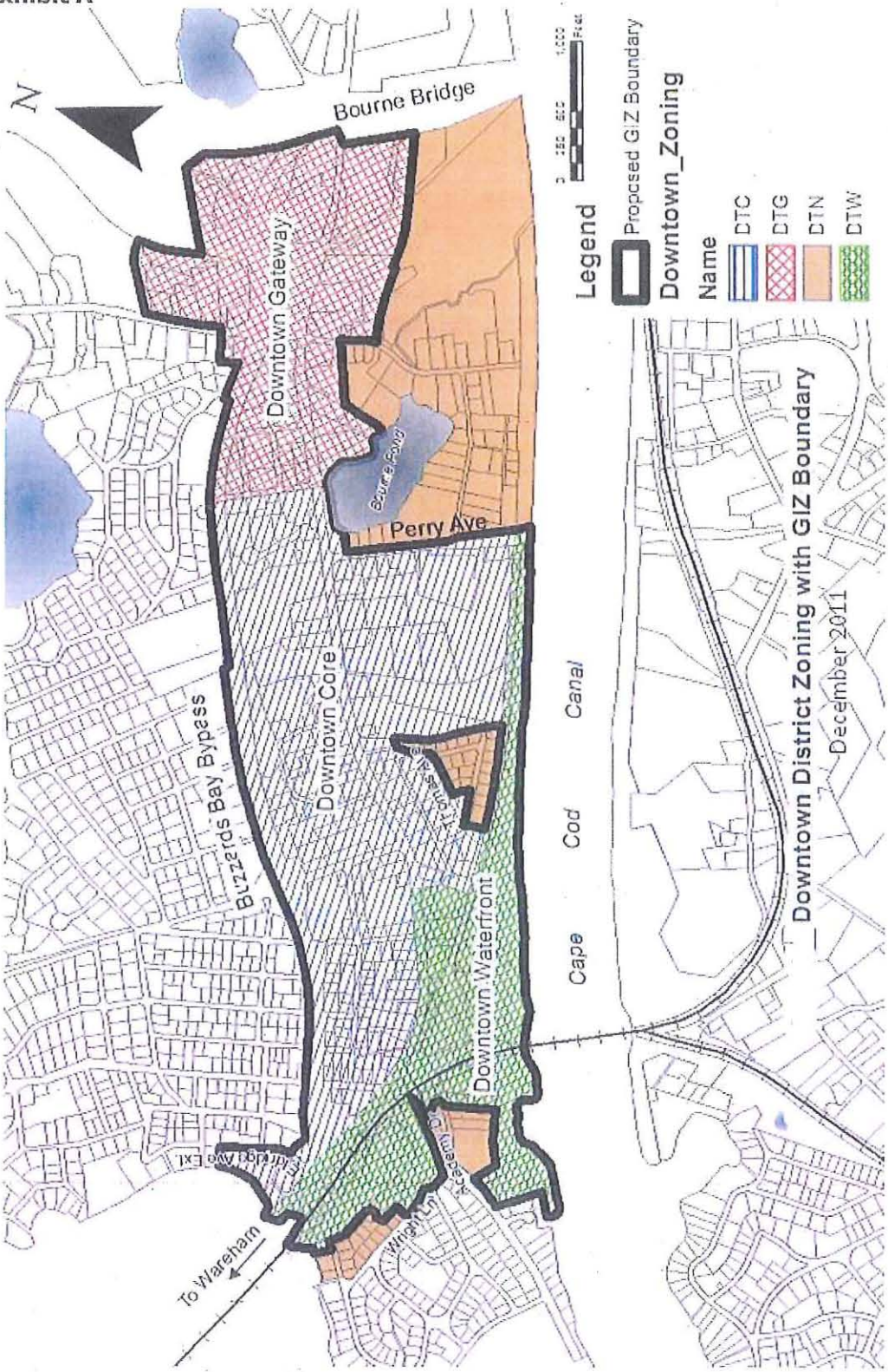
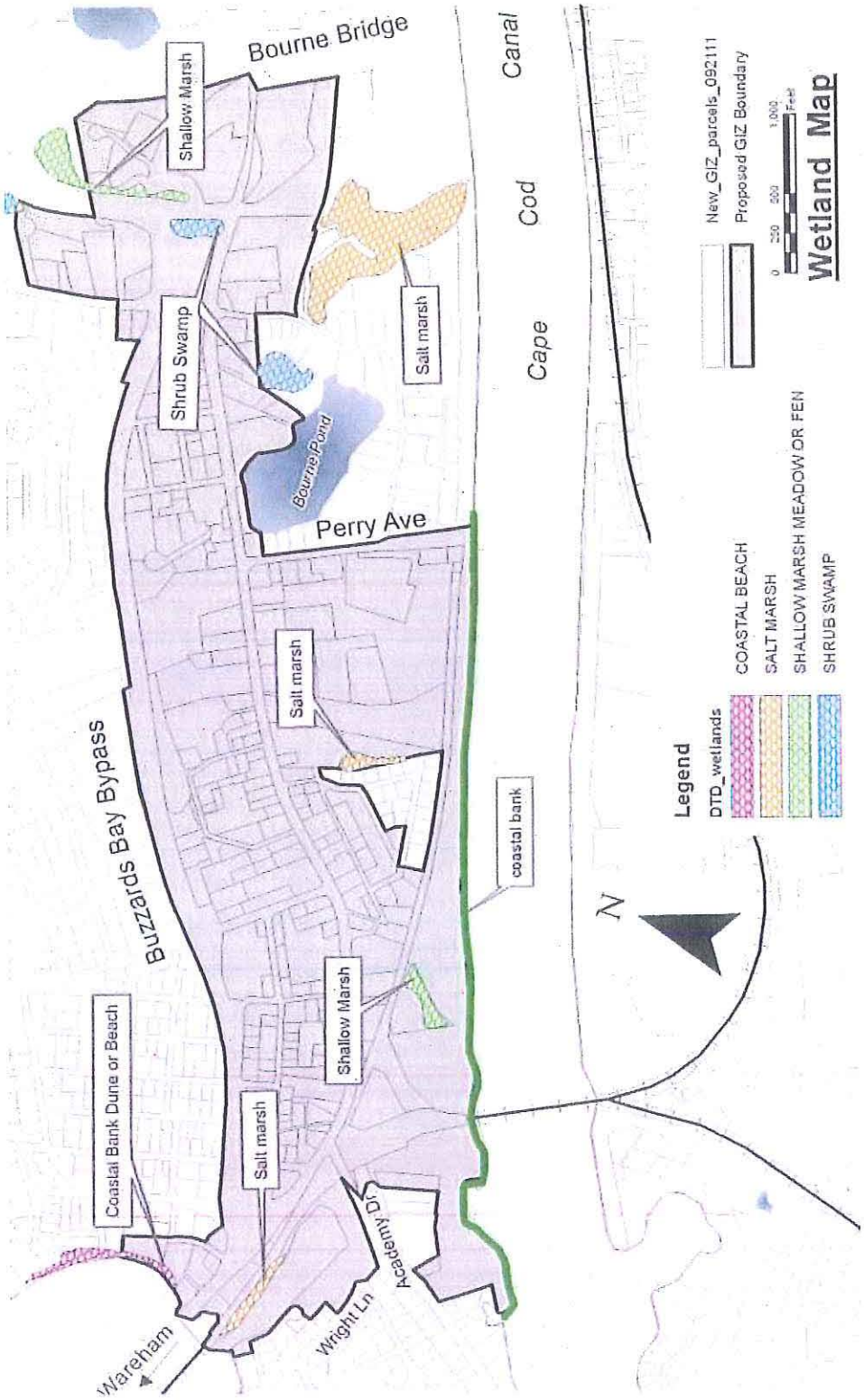

N
Bourne Bridge
Downtown Gateway
Perry Ave
Downtown Core
Buzzards Bay Bypass
Downtown Waterfront
Cape Cod Canal
To Wareham
Legend
Proposed GIZ Boundary
Downtown_Zoning
Name
DTC
DTG
DTN
DTW
Downtown District Zoning with GIZ Boundary
December 2011

Exhibit B


Bourne Bridge
Shallow Marsh
Shrub Swamp
Salt marsh
Bourne Pond
Perry Ave
Salt marsh
Buzzards Bay Bypass
Shallow Marsh
Salt marsh
Coastal Bank Dune or Beach
Wareham
Wright Ln
Academy Dr
coastal bank
Cape Cod Canal
N
Legend
DTD_wetlands
COASTAL BEACH
SALT MARSH
SHALLOW MARSH MEADOW OR FEN
SHRUB SWAMP
New_GIZ_parcels_092111
Proposed GIZ Boundary
0 250 500 1,000 Feet
Wetland Map