

# BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand Seventeen

## Ordinance 17-12

To establish a District of Critical Planning Concern pursuant to the Cape Cod Commission Act in Eastham, Massachusetts.

*BARNSTABLE COUNTY hereby ordains:*

### **Section 1.0 Source of Authority/Qualification**

As authorized by Section 10 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, the Cape Cod Commission ("Commission") hereby proposes the Town of Eastham District, hereinafter described, for designation as a District of Critical Planning Concern ("District" or "DCPC"). The designation of this District was nominated by the Eastham Board of Selectmen.

The proposed Town of Eastham District qualifies under Section 10(a) of the Cape Cod Commission Act for proposed designation as a DCPC due to the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

### **Section 2.0 Effective Date**

The District of Critical Concern set forth herein shall be effective following passage as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds.

### **Section 3.0 Description of the Proposed District**

The proposed boundary of the District of Critical Planning Concern (hereinafter "DCPC") encompasses commercially zoned land in the Town of Eastham, including District C Industrial, District D Retail Sales and Service, and District E Residential/Limited Commercial, and all land within the North Eastham Overlay District bounded on the north by the Eastham/Wellfleet Town boundary, to the south by Old Orchard Road, to the east by the Cape Cod Rail Trail, and to the west by Herring Brook Road and Massasoit Road. The proposed District consists of approximately 280 acres of land area and approximately 2.9 acres of open water. A map of the proposed District is appended to this Decision as Exhibit "B".

Included within the overall district are approximately 0.46 acres of land owned by the Commonwealth of Massachusetts – Cape Cod Rail Trail, a 10-acre parcel owned by the Town of Eastham, and U.S. Route 6 state highway right-of-way.

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#### **Section 4.0           Types of Districts**

The Eastham DCPC is designated for the following types of districts:

1. Economic or Development Resource District
2. Affordable Housing Resource District
3. Transportation Management District

#### **Section 4.1           Reasons for the District's Designation**

The area designated as a DCPC by this decision is of critical concern to the region because of the presence of significant natural and economic resources or values of regional, statewide, or national significance; and, the presence or proposed establishment of a major capital public facility or area of public investment.

The potential for uncontrolled or inappropriate development exists within the District. The proposed District is bisected by a four-lane undivided highway with multiple curb cuts and higher traffic volumes than other sections of U.S. Route 6. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose layout and design could be improved with adequate regulatory controls. Implementing regulations will allow the Town to provide the regulations desired by the community and ensure that this local economic center will grow in a way that existing infrastructure can support.

The Commission finds that the proposed district will preserve and maintain values and resources intended to be protected by the Act. The Commission specifically finds that controlled development within the proposed Town of Eastham District is important for the protection of coastal water quality; balanced economic growth; the provision of adequate capital facilities, including transportation and water supply; the coordination of the provision of adequate capital facilities with the achievement of other goals; the development of an adequate supply of fair affordable housing; and the preservation of architectural values. 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 appropriately manage and protect the resources within the proposed District.

The Commission makes the following additional findings regarding the critical concerns in the proposed District:

##### **4.1.1       Water Resources**

The southeasterly portion of the proposed District lies within the contributing area to the Salt Pond sub-embayment, within the Nauset Harbor watershed. According to the Final Massachusetts Estuary Project ("MEP") Technical Report for Nauset Harbor, the Salt Pond sub-embayment watershed requires significant nitrogen removal (i.e. removal of 100% of the septic load). An approved Total Maximum Daily Load ("TMDL") report, currently in progress, will require nitrogen reductions in the Salt Pond sub-embayment. Reductions in nitrogen loading

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within the watershed could be targeted to both development and redevelopment. Stormwater management retrofits or installations of best management practices (“BMPs”) within the District that treat for nitrogen would reduce nitrogen loading to Salt Pond and greater Nauset watershed. Additionally, minimizing turf (i.e. fertilizer application), impervious surfaces (i.e. generation of stormwater runoff), and inadequately treated wastewater discharges within the Nauset Marsh watershed would help mitigate any increase in nitrogen load to the already-impaired embayments.

#### **4.1.2 Economic Resources**

The proposed District is the Town’s core commercial area and is primarily zoned for general business use, which allows a variety of retail, accommodations, and other commercial uses. The Town has invested considerable funds into the proposed District by authorizing the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town. The advantage to developing the area in a controlled manner include addressing the impact of future growth on the character of the community.

#### **4.1.3 Provision of Adequate Capital Facilities**

The proposed District is bisected by U.S. Route 6, a Federal/State highway that serves as the major travel corridor to the Outer Cape towns of Wellfleet, Truro and Provincetown with average summer daily traffic volumes of approximately 25,000 - 30,000 vehicles/day. Average summer daily traffic volumes on Route 6 at the Wellfleet/Truro town line average 14,000 vehicles/day, and 12,000 vehicles/day at the Truro/Provincetown town line. Summer traffic congestion and safety on Route 6 impacts both residents and visitors daily. The Eastham section of Route 6 consists of a four-lane cross-section with 12-foot vehicle lanes and a 5-foot sidewalk on the west side of the roadway. There are no sidewalks on the east side of the roadway where most of the businesses and numerous curb cuts are located. There are approximately 100 curb cuts along the approximately 2.5-mile section of Route 6 within the proposed District.

The corridor lacks sufficient bicycle and pedestrian accommodations, and has not received upgrades to mitigate traffic volumes, safety issues, and stormwater runoff. As a state highway, Route 6 is under the jurisdiction of the Massachusetts Department of Transportation (“MassDOT”) and the Town lacks the capacity and the regulatory framework to implement comprehensive improvements to the roadway.

In 2015, Eastham Town Meeting authorized the design and construction of a one hundred thirty million dollar (\$130M) public water supply system throughout the Town. This major public investment will provide town water to all properties within the proposed District. New development and redevelopment is now more feasible for many property owners within the proposed District, as evidenced by several recent retail and residential development proposals and permits issued by the Town.

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#### **4.1.4 Provision of Adequate Supply of Fair Affordable Housing**

The availability of public transit provided by the Cape Cod Regional Transit Authority (“CCRTA”) Flex bus, coupled with the proximity of commercial and retail services along Route 6 and the availability of town water, makes the proposed District an appropriate location for affordable housing. The Town is seeking to diversify its housing stock by promoting mixed-use/village style development. This type of development will provide additional opportunities to accommodate appropriately designed residential units at higher densities, which is a vital component in making the development of affordable housing economically viable within the District.

#### **4.1.5 Preservation of Architectural Values and Appropriate Site Design**

In 2014, the Town approved overlay zoning within the proposed District to encourage mixed-use development in a traditional village-style development pattern. The overlay zoning has not yielded any new mixed-use development and the bylaw has not been effective in producing the form and type of development desired by the Town. Permissive commercial zoning and the recent provision of town water to the proposed District have resulted in high-traffic volume commercial development proposals whose impacts, layout and design could be improved with adequate regulatory controls.

### **Section 5.0 Guidelines for Proposed Implementing Regulations**

The following guidelines shall serve as the basis for the future establishment of implementing regulations to be adopted by the Town of Eastham pursuant to Section 11 of the Cape Cod Commission Act. In order for the implementing regulations to be approved, they must be found by the Commission to be consistent with the following guidelines.

#### **Section 5.1 Goals and Interests**

The objective of these Guidelines is to ensure protection of the following goals and interests of the District through the establishment of implementing regulations by the Town of Eastham. The goals and interests of the District are to:

- Enhance and protect the character of Eastham’s commercial areas.
- Encourage mixed-use development.
- Support and enhance the local economy in North Eastham.
- Improve bicyclist and pedestrian safety and access along the Route 6 corridor.
- Minimize traffic conflicts and improve access management throughout the District.
- Expand opportunities for creation of affordable housing.
- Adopt best management practices to manage nutrients discharged through stormwater within the District.

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Support appropriate-scale businesses, as well as compatible public/private institutional uses and maritime uses.

## **Section 5.2 Guidelines**

### **5.2.1 The town could consider adopting appropriate site layout and design standards to achieve traditional village style development.**

Eastham's underlying zoning regulations, including dimensional requirements discourage the compact development form desired by the town in this area. Allowing smaller lot sizes would encourage creation of a higher density village-style design. Reduced setbacks would facilitate improved site design, by allowing buildings to be closer to the street and encouraging parking to be located behind buildings, thereby promoting village character and pedestrian accessibility

The town could develop design guidelines or standards to encourage building and site design that promotes a mix of uses consistent with traditional village style development. The town could adopt building size limits based on the size and scale of existing structures and traditional village style form.

### **5.2.2 The town could adopt regulations to encourage creation of a range of affordable housing.**

The town could examine existing regulations to encourage a range of appropriately designed affordable housing to meet a range of housing needs.

The town could develop design guidelines or standards to encourage higher density housing consistent with traditional village style residential design.

The town could consider adopting inclusionary zoning that could require new development to provide affordable dwelling units.

The town could consider encouraging creation of affordable accessory units by creating incentives for property owners to add them, such as a by-right allowance.

The Town could review its zoning bylaw and revise it as necessary to incorporate design requirements or guidelines to assist property owners in designing accessory units that would match the existing character of surrounding neighborhoods. Consideration of the adoption of design guidelines could be considered part of a minimum criteria for allowing accessory apartments by-right.

### **5.2.3 Development and redevelopment in the District could incorporate best management practices (Low Impact Development) to reduce stormwater impacts to resources.**

New development and redevelopment may increase stormwater impacts to water resources. The town could adopt Best Management practices that are consistent with model LID bylaws.

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**5.2.4 Development and redevelopment should promote interconnectivity between properties to improve access for bicyclists, pedestrians, and motorists.**

The town could adopt zoning and subdivision regulations to promote shared driveways, reduce curb cuts, and enhance circulation between sites.

**5.2.5 The Town may consider working with the Cape Cod Commission and MassDOT to develop a transportation management plan to address the deficiencies on U.S. Route 6, including adequate pedestrian and bicycle accommodations, access management, intersection safety as well as safety along the corridor.**

In addition, the transportation management plan will include a Cape Cod Commission corridor study of Route 6 to determine the best type of roadway system for Eastham (e.g., center turn lanes, a boulevard-type design, traffic signals, etc.). The Cape Cod Commission study is expected to be completed in the fall of 2018.

After concept-level plans have been developed and consensus has been reached on the best plan to move forward, the Town of Eastham, the Cape Cod Commission and MassDOT should work together to implement the design plans. The town may then amend or adopt its implementing regulations based on the results of the study.

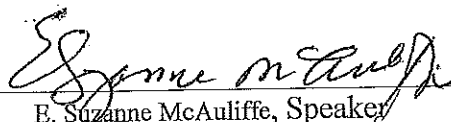
**Section 5.4 Review of Developments of Regional Impact (DRI) within the DCPC**

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.

**Section 5.5 Timeframe for Action**

The Town of Eastham has one year from the date of the enactment of an ordinance by the Assembly of Delegates establishing the Eastham DCPC to adopt and incorporate implementing regulations that are consistent with the Cape Cod Commission guidelines into its official bylaws, regulations and maps. The Cape Cod Commission may grant an additional ninety-day extension of this time limit and may carry forward implementing regulations on the Town's behalf as provided by Section 11 of the Cape Cod Commission Act.

Adopted by the Assembly of Delegates on November 1, 2017

  
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E. Suzanne McAuliffe, Speaker  
Assembly of Delegates

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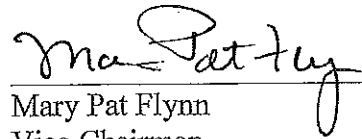
November 1, 2017

Approved by the Board of County Commissioners 11/09/17 (date), at 10:00 AM (time).



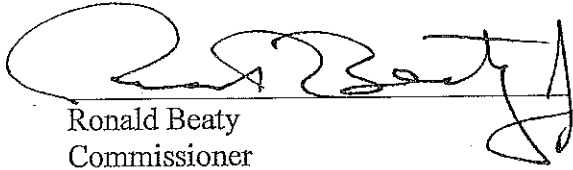
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Leo Cakounes  
Chairman



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Mary Pat Flynn  
Vice Chairman



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Ronald Beaty  
Commissioner