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Appendix A:

Local Zoning and State and Federal Programs for Protection of Outstanding Values in the Taunton Wild & Scenic River Corridor

Appendix A: Local Zoning and State and Federal Programs for Protection of Outstanding Values in the Taunton Wild & Scenic River Corridor

The following zoning and bylaw matrix provides examples of specific measures that municipalities within the Wild & Scenic Corridor are currently using to protect the Outstanding Resources of the Taunton River. A discussion of some of these measures is below, followed by a list of State and Federal programs related to the protection of the Taunton River.

A. Local Zoning and Bylaws

Floodplains:

The National Flood Insurance Program requires communities that wish to make their residents eligible for federally-subsidized flood insurance to require that new construction within the floodplain is designed with all habitable areas above the 100-year flood level, and that associated utilities are “floodproofed”. Many towns require only a base flood elevation and floodproofing, while others require a special permit or virtually prohibit new building within the floodplain. Berkley and Fall River are the only municipalities without floodplain zoning.

Development in the floodplain can cause incremental increases in the extent of the 100-year floodplain, further increasing the likelihood of eventual catastrophic property losses. It also results in the loss of floodplain-related resources such as wildlife habitat and scenic values.

Open Space Districts/Cluster Zoning:

Cluster zoning allows for the concentration of allowable density into a reduced portion of a site through reductions in lot size and frontage. The remaining portion of the site is preserved as open space through deed restrictions or by giving it to the town. Cluster zoning is also used to reduce the length of roadway and the amount of impervious surface within a development. Freetown, Berkley and Halifax do not currently have cluster zoning bylaws. Most of the other towns allow cluster development with special permits, while Middleborough and Raynham have established specific overlay districts where cluster development is allowed.

Halifax has an open space zoning district which prohibits most business and industrial uses, allows public and agricultural uses by right and residential uses by special permit. Fall River also has an Open Space Recreational District which allows only recreational uses in addition to its cluster bylaw.

Water Resources Protections:

Water Resource Protection Overlay Districts are often used to protect a public well, wellfield or surface water reservoir. These districts protect drinking water from being contaminated by hazardous materials and other waste. Most of the land use restrictions cover zones I (400 foot radius from a well), II (areas that have aquifer contribution) and III (recharge areas) and place controls on stormwater runoff, uses and activities within those zones. The most restrictive district is in Raynham, where no development is allowed in zones I and II, and only by special permit in zone III. Somerset and Fall River also have overlay districts specifically for surface water reservoir areas. Both municipalities require a no net increase in surface water discharge from new development and other site design constraints. Freetown and Berkley have no public water supply.

Wetlands Protection Districts and Bylaws:

A wetlands overlay district is used to require a setback of buildings and septic systems from the edge of a wetland, pond, stream or river or to prohibit new construction and/or filling, draining, excavation, dredging or removal of material from a wetland area. The buffer provides habitat value and allows for filtration of runoff. Bridgewater, Middleborough and Raynham have such zoning districts. Raynham has prohibited all development within its Wetlands District in order to protect sensitive habitats.

Halifax has a special wetlands bylaw which expands the protected values under the Massachusetts Wetlands Protection Act to include wildlife habitat, recreation, air and noise pollution and aesthetics. It requires a permit for work which can be refused if there will be an adverse effect to the protected values. Dighton has a setback requirement in its general zoning bylaw.

Soil Conservation and Land Clearing:

Taunton, Berkley and Dighton have bylaws that cover earth removal, excavation or tree removal. Dighton also has an erosion control bylaw that requires a permit for slopes greater than 15%. The earth removal bylaw requires a special permit for the removal of more than 50 cubic yards of material in one year. In Berkley, a special permit is given if land contours will change over two feet. Taunton's bylaw encourages preservation of trees and requires a permit for any tree cutting, land clearing or excavation. Taunton also has landscaping requirements for development including planting and maintaining trees.

Phasing and Building Limits:

Several communities have used phased growth and building permit limits to allow time to make decisions about infrastructure and open space as development progresses. For example, Halifax limits building permits to no more than 40 permits per year; no more than 6 permits per applicant over 12 months and 10 permits per project over 24 months. Dighton, Berkley, Taunton and Raynham also have similar limits.

Transfer of Development Rights:

Transfer of Development Rights bylaws are used to direct growth away from ecologically sensitive or historically important sites by moving development rights on a property by deed, easement or other legal instrument to another parcel that is in an area with infrastructure to accommodate additional development. This means that the new property can be developed at the combined density of both pieces of land, while the other remains open space. Raynham currently has a Transfer of Development Rights bylaw.

Demolition Delay:

A Demolition Delay bylaw is used to allow municipalities time to buy historic properties before they are demolished. It generally allows six months for negotiating the purchase of an historic building. The City of Taunton has included structures over 50 years old, those that have historical significance and those that are located within 150 feet of an historic district in this bylaw. Middleborough and Somerset also have a six month delay for historic structures.

Site Plan Review:

Site plan review creates a process for review of an overall site development plan of by-right multi-family, commercial and industrial developments. Site plan review can alter the location and or design of a proposal but cannot prohibit the project.

Site Plan Approval:

Site plan approval is similar to site plan review, but a higher level of authority is given in which projects can be approved, modified or denied by way of the special permit process allowed under the State Zoning Law.

Zoning Districts and Other Controls

	Flood Hazard Overlay District	Conservancy District/Open Space District/Farm and Forest District	Aquifer and Well Protection/ Water Resources Protection District	Wetlands Protection District	Historic District	Other Zoning Controls
Bridge-water	Base flood elevation must be obtained and floodproofing requirements met in 100 year flood zone	no	Covers zones I (400 foot radius), II (Aquifer contribution) and III (recharge areas), places controls on stormwater runoff, uses and activities	Wetland buffer requirement	no	-Percent of lot as Open Space -Minimum contiguous upland -Minimum setback from wetlands -Site Plan Approval
Halifax	Controls on fill, encroachment and construction in 100 year flood zone	Prohibits most business and industrial; Public and agricultural uses by right, housing by special permit	Includes zones I and II; not III	no	no	
Middle-borough	Includes controls on filling and grading, regulation of infrastructure in 100 year flood zone	Allows for smaller lot sizes and revises setbacks and frontage (cluster development)	Covers both watersheds and recharge areas; restricts lot size, limits on site disturbance and setbacks	Inland Wetlands District	no	-Percent of lot as upland -Site Plan Review

	Flood Hazard Overlay District	Conservancy District/Open Space District/Farm and Forest District	Aquifer and Well Protection/ Water Resources Protection District	Wetlands Protection District	Historic District	Other Zoning Controls
Raynham	Special permit required for any development in 100 year flood zone	Farm and Forest District allows for agriculture and non-profit use, as well as one family detached home	Development prohibited in Zone I; Zone II and III by special permit	All development prohibited in Wetland District	no	-Percent of lot as upland -Site Plan Approval
Taunton	No structures permitted in 100 year flood zone; residential development must be cluster	no	Covers Zones I, II and III, with limits on most activities and uses	no	Commission controls appearance and architecture of all structures. Includes downtown area and parts of Summer, Spring and Dean St	-Percent of lot as upland -Site Plan Review -Landscaping requirements
Freetown	Base flood elevation must be obtained and floodproofing requirements met in 100 year flood zone	no	no	no	no	-Percent of lot as upland
Berkley	no	no	no	no	no	-Site plan review -Percent of lot as upland
Dighton	Base flood elevation must be obtained and floodproofing requirements met in 100 year flood zone	no	Covers Zones I, II and III, prohibits or requires special permit for most uses	no	no	-Site plan review

	Flood Hazard Overlay District	Conservancy District/Open Space District/Farm and Forest District	Aquifer and Well Protection/ Water Resources Protection District	Wetlands Protection District	Historic District	Other Zoning Controls
Somerset	In FEMA V zone, construction must be landward of mean high tide. In A zone, base flood elevation must be obtained and floodproofing met	no	Watershed Protection District includes drainage area for Somerset Reservoir, requires special permit for residential development Water Resources Protection District requires special permit for any building; no septic systems or basements allowed; amount of stormwater runoff must not exceed amount that occurred when site was in natural state.	no	no	
Fall River	no	Open Space Recreational District allows only recreational uses	Water resources district allows only water supply structures and recreation Watershed and Water Supply Protection District with requirements for no net increase in surface water runoff and other site design requirements including soil erosion and sediment control	no	no	

Zoning Bylaws

	Building Permit Limitation/ Subdivision Phasing	Wetland Bylaws	Open Space Cluster Subdivision	Transfer Development Rights	Community Preservation Act	Demolition Delay	Soil Conservation/ Land Clearing and Grading
Bridge-water	no	no	Allows for cluster development in residential areas with special permit	no	no	no	no
Halifax	No more than 40 permits per year; no more than 6 permits per applicant over 12 months and 10 permits per project over 24 months.	-Expands protected values to include wildlife habitat, recreation, air and noise pollution and aesthetics -Requires a permit for work which can be refused if there will be an adverse effect	no	no	no	no	no
Middle-borough	no	no	Allows for smaller lot sizes and revises setbacks and frontage in Open Space District	no	no	Allows up to six months for negotiations and alternatives to loss of historic structures	no

	Building Permit Limitation/ Subdivision Phasing	Wetland Bylaws	Open Space Cluster Subdivision	Transfer Development Rights	Community Preservation Act	Demolition Delay	Soil Conservation/ Land Clearing and Grading
Raynham	Maximum number of building permits for dwelling units is 24 per fiscal year (expired on June 30, 2003) No more than seven permits per year per subdivision	no	Allows for cluster developments with special permit in Farm and Forest District or Residential A district	yes	no	no	no
Taunton	Phased growth requiring building permits to be issued based on a percentage of the total number of units.	Adopted in 2003	Allows for cluster development in residential areas with special permit	no	Adopted in 2003	Covers all buildings over 50 years of age, with historic significance or located within 150 feet from an Historic District	Requires permit for any tree cutting, land clearing or excavation; encourages preservation of trees
Freetown	no	no	no	no	no	no	No
Berkley	No more than 10 building permits may be granted to one owner/ developer in one year.	no	no	no	no	no	Soil Conservation Board which issues permit for earth removal that changes land contours over 2 feet.

	Building Permit Limitation/ Subdivision Phasing	Wetland Bylaws	Open Space Cluster Subdivision	Transfer Development Rights	Community Preservation Act	Demolition Delay	Soil Conservation/ Land Clearing and Grading
Dighton	Subdivisions containing 8 or more units shall not be developed at a rate greater than 8 lots or 10% of total number of lots in any year.	no	Allows for cluster development in residential areas with special permit	no	no	no	Erosion control bylaw requires special permit for slopes 15% or greater, controls land clearing Earth removal bylaw requires special permit for the removal of more than 50 cubic yards of material in one year.
Somerset	no	no	Allows for cluster development in residential areas with special permit	no	no	no	no
Fall River	no	no	Allows for cluster development in residential areas with special permit	no	no	no	no

B. State and Federal Programs that relate to the management of Outstanding Resources in the Taunton Wild & Scenic River Corridor

State Regulations/Programs

Massachusetts Clean Water Act:

This act is the state version of the Federal Clean Water Act and requires the state to establish water quality standards that provide goals and designated uses for different classes of water bodies, and to establish criteria that must be met for attainment of those standards. An anti-degradation policy requires the state to designate “outstanding resource” waters and to protect the existing uses of a waterbody by restricting point sources and seeking improvement of degraded waters. Section 402 of the Federal Clean Water Act establishes the “National Pollution Discharge Elimination System” (NPDES), requiring permits for all point source discharges as well as stormwater discharges from construction sites over one acre and municipalities of certain population densities.

Massachusetts Wetlands Protection Act:

This act seeks to protect the public interest in the natural functions of wetlands, water bodies and floodplains, including flood storage, storm damage protection, wildlife habitat, prevention of pollution and fisheries protection. Such functions are preserved and promoted by limiting the human alteration of wetland resources areas, including water bodies, banks, bordering vegetated wetlands, the 100-year floodplain and vernal pools, and of lands within 100 feet of these resource areas. The act is enforced locally by the Conservation Commission. Local bylaws may add additional requirements and protections.

Rivers Protection Act:

As part of the Wetlands Protection Act, this act defines a riverfront protection area for land within 200 feet of the annual high water line of perennial rivers and streams. Projects must meet performance standards that require that there are no significant adverse impacts to the riverfront area and there are no substantially equivalent economic alternatives to the proposed work.

Chapter 91 Public Waterfront Act:

This waterways licensing law was first created in 1866 and is the oldest of its kind in the nation. It regulates activities in both inland and coastal areas such as great ponds, navigable rivers and streams, tidelands and historically filled tidelands. This law uses the public trust doctrine to preserve the public's right to fish, fowl and navigate in the intertidal area between high and low water marks and along certain navigable rivers and streams. Licenses or permits are required from DEP for structures such as docks, pilings, and moorings or for activities taking place on filled tidelands or seaward of the present mean high water line.

Title 5 of the State Environmental Code:

This provision prohibits the siting of a new septic system's leaching field within 50 feet of a watercourse. It also establishes required percolation rates for soils that will be used as septic leaching fields. Some towns have increased these requirements through local zoning. This code is enforced locally by the Boards of Health.

Massachusetts Environmental Policy Act (MEPA):

MEPA requires Massachusetts government to evaluate and allow for public discussion of the potentially harmful environmental impacts of a proposed project in advance so that government decision makers can make informed choices about whether and how a project should proceed. It also requires that alternatives to proposed projects be considered. MEPA is not a permitting process but it helps permitting agencies ensure that a project meets regulatory requirements. Projects are subject to MEPA review if they require agency action, financial assistance or permits and if they meet certain thresholds, including being part of an Area of Critical Environmental Concern (ACEC). Environmental Impact Reports (EIRs) are automatically required if there are large impacts (e.g. alteration of one or more acres of bordering vegetative wetlands or withdrawal of 2,500,000 gals/day of water from a surface water source.)

Water Management Act:

The Water Management Act requires a permit from the Department of Environmental Protection for any new or increased withdrawal of surface or ground water greater than 100,000 gallons per day. DEP must consider whether the applicant had adequately addressed alternatives, has implemented

conservation measures and has involved the public in education. The act is designed to ensure that a watershed's safe yield is maintained and that needs are met for public water supply, water quality, waste assimilation, flood management, water-based recreation, wildlife habitat, agriculture and fish and wildlife.

Interbasin Transfer Act:

The Interbasin Transfer Act was established to encourage the maintenance of adequate flows within a given watershed by requiring the implementation of conservation measures and the use of alternative in-basin sources of supply before interbasin transfers are permitted. Interbasin transfers involve moving drinking water or wastewater from the watershed of origin to another watershed. This law also requires that reasonable instream flow in the donor basin be maintained.

Massachusetts Department of Agricultural Resources

Agricultural Preservation Restriction (APR) Program:

This is a voluntary program intended to offer a non-development alternative to farmers with important agricultural lands. The program offers to pay farmers the difference between the fair market value and the agricultural value of their farmland in exchange for a permanent deed restriction that precludes any use that will impact agricultural viability.

Farm Viability Enhancement Program:

This State technical assistance program that works with farmers to provide a business plan for their operation. Farmers that sign a short-term non-development covenant can receive \$20,000 for a 5-year covenant up to \$60,000 for large farms with a 10-year covenant.

Agricultural Business Training Program:

This program provides an opportunity for farmers to master basic business principles, with additional technical service.

Chapter 61, 61A and 61B:

This program allows forest, agricultural and recreational land to be taxed at actual use value rather than its development potential. Landowners participate in this program for a fixed period of time, after which the land is taxed at the full value. If the property is sold while it is in protection, the landowner would owe the full amount of taxes that would have been paid up to that time. The town also has the first right of refusal to acquire the property at market value.

Community Preservation Act (CPA):

The Community Preservation Act allows communities to create a local Community Preservation Fund through a surcharge of up to 3% on the real estate tax levy. The act also creates a significant state matching fund of more than \$25 million annually, to serve as an incentive to communities to take advantage of this legislation. Once adopted locally by ballot referendum, the Act requires at least 10% of the monies raised to be distributed to each of three categories: historic preservation, open space protection, and low and moderate income housing, allowing the community flexibility to distribute the other 70% of the money between any of these three categories.

The Act also stipulates that a Community Preservation Committee (CPC) composed of 5-9 members representing various boards in the community should recommend to the community's legislative body how to spend the Community Preservation funds. Each CPC brings together a wide range of community groups, town boards and agencies to put together proposals for Town Meeting or City Council vote. These projects often leverage considerable funds from private donations and matching grants to support their community preservation goals.

Massachusetts Historical Commission:

MHC can require the filing of a Public Notification Form to determine if a project is a significant risk to a cultural resource. Public Notification Forms are required if federal or state money is involved, or if there is an Army Corps of Engineers permit. They can require more information when reviewing permits and can require mitigation.

Areas of Critical Environmental Concern (ACEC):

ACECs are areas with unique natural resources that are designated by the state for the protection of marine and aquatic productivity, surface and groundwater quality, habitat values, storm damage prevention or flood control, historic and archeological resources, scenic and recreational resources, and other natural resources. All federal, state and local agencies as well as private parties must submit development plans to the Department of Conservation and Recreation to ensure that activities which would impact the ACEC are carried out in a way that would protect natural resources. Municipal boards and commissions are encouraged to implement local regulations and actions to protect and sustain ACEC areas.

Priority Sites of Rare Species Habitat:

This represents estimations of the most important natural communities and state-listed rare species habitats in Massachusetts. These habitats are based on rare species population records (maintained by the Natural Heritage & Endangered Species Program's Biological and Conservation Data System database). Program scientists draw estimated habitats by analyzing population records, species habitat requirements and available information about the landscape. Habitat sites are selected for biodiversity significance. Significance is determined by the global and state rarity of the species or communities present, as well as the quality of those species populations or communities. There are five levels of significance: outstanding, very high, high, moderate, and of general biodiversity interest. Priority sites are not afforded any protection by the state government, but the rare species that reside in these habitats are protected by the Massachusetts Endangered Species Act.

Biomap and Living Waters:

The Natural Heritage and Endangered Species Program used its extensive database of over 7,000 records including 22 years of records of plants, animals and natural communities to select and map "Core Habitat Areas" that represent the most viable examples of natural communities and habitat for rare plant and animal species in Massachusetts. These maps also include the "Supporting Natural Landscapes", which include buffers around the core areas, connectivity between core areas, and large undeveloped and roadless patches. While this creates no added regulatory protection of these habitat areas, the BioMap and Living Waters Core Habitat and Surrounding Natural Landscape areas can be used by towns to create conservation priorities and can be worked into existing

Open Space and Recreation plans. Many areas of Core Habitat can be protected by small entities such as towns or lands trusts, while larger areas may need to be protected by partnerships between agencies, town and private interests.

Federal Regulations/Programs

Clean Water Act:

The Federal Clean Water Act works with the Massachusetts Clean Water Act to restrict point source discharges to the Taunton River and its tributaries through the NPDES program that requires permitting, treatment and monitoring of all municipal and industrial discharges. In addition, the act requires permitting for municipal stormwater discharges in communities above a certain population density. Section 404 of the act requires that any project that would discharge dredged or fill material into the river must receive a permit from the Army Corps of Engineers.

National Flood Insurance Program (NFIP):

This program provides landowners in participating communities with federally subsidized flood insurance. As part of participation, municipalities must restrict building in the 100-year floodplain and create a flood zone overlay district.

National Environmental Policy Act (NEPA):

Much like MEPA, NEPA requires an Environmental Impact Assessment and public review for all projects that are federally assisted or permitted.

Rivers and Harbors Act:

This act requires any obstruction in or over “navigable waters” to receive a permit from the Army Corps of Engineers. Permits are evaluated for a project’s effect on navigation and ecology.

National Wild & Scenic Rivers Act:

This act protects designated rivers and those under study from any federally licensed dam, diversion, channelization, hydroelectric facility or other water resource development project that would have a direct and adverse effect on the river’s free flowing condition or its nationally significant resources.

United States Department of Agriculture

Environmental Quality Incentive Program (EQUIP):

This program provides technical and financial assistance to landowners and operators of crop or livestock farms for planning and designing Best Management Practices that protect the soil, air and water, increase soil productivity, enable care for farm animals, and manage waste produced on the farm.

Wildlife Habitat Incentive Program (WHIP):

This program provides technical and financial assistance for landowners who want to voluntarily improve wildlife habitat or restore ecosystems on their property.

Wetland Reserve Program (WRP):

This program provides assistance for the purchase of temporary or permanent easements on farmed wetlands for water supply protection and wildlife habitat and will help to restore farmed wetlands for wildlife habitat.

Appendix B:

Model Zoning Bylaws and Regulations for the Protection of Outstanding Values in the Taunton Wild & Scenic River Corridor

MODEL BOARD OF HEALTH REGULATIONS PERTAINING TO DRAINAGE STRUCTURES IN SUBDIVISION

Purpose: The purpose of these regulations is to protect the Town's water quality and quantity and to ensure that the project's drainage system is designed to meet DEP Stormwater Regulations and Policies and to have no measurable or significant impact as to existing vegetation, topography, wetlands and other natural or man-made features.

1. Criteria: The applicant shall review best available drainage system for the appropriate application on the proposed development site. Natural features such as soil type, slope, vegetation cover, water table etc. shall be considered a major determinant of the development suitability of the site. Drainage plans shall be developed in consultation with the Board of Health and/or its representatives with the following objectives and criteria in mind:

- 1.1 Protection of water quality
- 1.2 Public safety
- 1.3 Enhancement of and connection to natural drainage systems including streams, floodplains, and associated wetlands.
- 1.4 Minimizing of long term maintenance and/or reconstruction obligations to ensure the natural operation of the system and conserve manpower, energy and fiscal resources.
- 1.5 Attractive ness of the plan, minimizing disruption to existing features, and blending with surrounding terrain.
- 1.6 Minimize the drainage impacts on abutters property by maintaining a zero net increase in the rate of runoff from the proposed development

2. Performance Standards:

2.1 The applicant must demonstrate to the satisfaction of the _____ Conservation Commission that the post-development runoff of the project meet the requirements of M.G.L.A., Chapter 131, Sec. 40, the Wetlands Protection Regulations (310 CMR 10.00) promulgated by the Department of Environmental Quality Engineering and any of its own regulations. The Board of Health may, at its option, not approve a subdivisions drainage plan until an order of conditions has been issued by the Conservation Commission.

2.2 Drainage outfalls shall be designed in conformance with section V of these regulations and shall further provide rip-rapped aprons in accordance with typical details shown in the Appendix. There shall be a minimum of 20 feet of vegetation swale before the property line and above the high water line of any stream, swamp, wetlands or other body of water. As with other drainage structures, detention areas shall have a positive outfall and connection to an existing water body.

2.3 If any drainage including associated easements are located on a building lot, the area occupied by these structures and associated easement shall be used to satisfy no more than 20% of the minimum lot size required by the zoning by-laws and further providing that the remaining 80% of the lot is contiguous buildable area i.e. not encumbered by wetlands or flood plain.

2.4 The stormwater drainage system shall be designed and constructed to comply with Department of Environmental Protection (DEP) Stormwater Management Regulations and Policies for pollutant removal and groundwater infiltration.”

3. Design Standard – Detention Basins:

3.1 Detention/retention basin shall be designed by a Registered Civil Engineer. A separate landscaping plan shall be designed by the Registered Landscape Architect. Preliminary plans shall be submitted at least 30 days prior to submission of the definitive plan and reviewed by the Board of Health, Highway Surveyor, and Conservation Commission Agent. To the extent possible, the plans should incorporate the natural terrain and vegetation.

3.2 Sample Designs:

As an aid to applicants, the following sample designs are a part of these regulations:

- Figure:
1. Typical Detention Basin
 2. Dike Detail
 3. Outlet Control Structure
 4. Spillway Detail
 5. Silt Trap Swale Section
 6. Typical

These samples are meant to illustrate the various design standards listed below.

3.3 Location: Detention basins may be located a minimum of fifty feet from wetlands with written approval from the Conservation Commission.

3.4 Topography Disturbances:

Detention - basin design shall minimize earthwork. Existing topographic features shall be allowed to remain so far as possible. Disturbance of existing Vegetation shall be kept to a minimum.

3.5 The bottom elevation of detention basins shall be least two feet above the maximum groundwater level. The bottom elevation of all leaching structures and retention basins shall be at least four feet above the maximum groundwater level. The maximum groundwater level shall be determined using the data compiled by the 'U.S. Geological Survey Water Resources Division for wells located in abutting towns and the City of Taunton.' Using the date and water depth determined through actual site of the proposed structures, a correlation between the site data and paralleling abutting community well data will be made. Using the maximum groundwater level for the well of record, a maximum water level for the proposed site will be interpolated. The assumptions and interpolated information used to derive the maximum groundwater level shall be well documented and included in the drainage calculations.

3.6 Dike Construction:

The material used for dike construction shall be specified and a cross-section detail provided. The dike, when completed, must be able to support the weight of any mechanized/motorized equipment which is necessary for the maintenance of the basin.

- i. A fifteen foot wide processed stone roadway (6" deep) shall be placed at the top of all dikes.
- ii. A one-foot wide minimum freeboard shall be provided between the top of the drainage basins and the 100-year storm event elevation.
- iii. The survey information of the proposed centerline of all basins shall be provided on the plans with clear ties to two existing or proposed permanent bounds. The as-builts for these structures shall provide information on the actual surveyed centerline of the constructed structures.

3.7 Outlet Structures:

For simplified maintenance, a concrete outlet structure with a slotted-overflow T weir and a reinforced-concrete pipe discharge shall be provided. In addition to controlling runoff, the outlet structure shall be designed to prevent debris from plugging the pipe. Details of the outlet structure shall be included with the plans.

3.8 Emergency Spillway:

An emergency spillway across the dike shall be provided for all detention and retention basins. The purpose of this emergency spillway is to provide a controlled release of runoff from the basins beyond the capacity of the structure or should flow through the outlet become obstructed. Spillways shall be constructed of properly sized stone carefully placed and hand chinked. Spillway details shall be on the plans. The engineer shall also review the downstream channel from any spillway to determine the potential for causing damage to other properties and especially where there is possibility for the loss or injury to people. The results of this review shall be included with the drainage calculations.

Leaching structures shall be provided with an emergency overflow to allow for controlled releases wherever possible.

3.9 Silt-Traps, etc.:

Where storm-water drains discharge into a basin, silt-trap swales shall be provided to localize sedimentation. In addition, a stone-lined channel(s) shall be constructed from the discharge point(s) to the outlet structure. The purpose of the channel is to provide a flow-patch for runoff, especially from storms which produce small runoff volumes and to provide scouring action to clean the outlet structure.

An adequately sized pre-cast concrete settling tank (similar to a septic tank with a minimum of three baffles and three access ports) shall be placed prior to entering any underground detention or leaching systems. This tank shall be placed to allow for easy access to perform periodic maintenance.

3.10 Side Slopes and Depth of Basins:

Side Slopes at detention basins shall be no steeper than 4:1 for the dike and 5:1 for excavated sloped.

The maximum depth of any basin to be constructed as a part of a drainage system as governed under these regulations shall be four feet. This four feet includes the required freeboard.

3.11 Riprap shall be placed at the downstream ends of all pipes (inflow, outlet, etc), the size and amount to be determined by the flow-rate.

3.12 Easements:

i. Drainage easements shall be provided to include all detention basins and appurtenant structures. For basins with 5:1 side slopes the minimum easement shall be twenty feet from the top of the slope. A 4:1 slope will require 25-foot easement. In addition, there shall be an access easement to all basins and appurtenant structures from the nearest public way. Said access easement shall have a minimum width of twenty feet. If necessary to prevent vandalism, a lockable gate should be provided.

ii. The use of easements shall be limited to detention basins and structures only. Leaching structures and retention basins shall be given to the Town under a deed which provided access from a public way. These parcels shall be identified as "Town Drainage Parcel". Wherever leaching structures or retention basins as proposed, reserved area shall be provided (similar to a household septic system) within the deeded area. This area shall be of sufficient size to construct a replacement structure for the existing retention/leaching drainage structures proposed for the project without encumbering the area of existing drainage structure. A thirty foot vegetated buffer zone shall be provided around all above ground drainage structures within these parcels. The area for this buffer zone shall also be considered in the reserve areas to be provided.

3.13 Waiver of Standards:

Board of Health may waive any of above design standards under the following conditions:

- i. The proposed basin is located entirely on private property under one ownership or
- ii. The applicant demonstrates, through a preponderance of the creditable evidence, that waiving a specific design standard will reduce environmental damage.

However, the Board is not obligated to waive design standards, regardless of circumstances.

4. Construction Standards-Detention, Retention and Leaching Structures.

4.1 Design

The proposed site for any drainage structures shall be inspected by the appropriate geotechnical exploration method to determine the groundwater level. The explorations shall extend a minimum of ten feet below the proposed depth of the bottom of the basin unless bedrock is encountered. This data will be used along with data on file from existing recording wells throughout the region to interpolate a maximum groundwater level for the site.

Wherever a retention or leaching structure is proposed, adequate perk test observed by the Board of Health's designated representative shall be performed at the proposed depth of the bottom of the drainage structure. The design for these structures shall be based on the determined perk rate plus an additional 2 minutes per inch (i.e. if a perk rate of 4 minutes per inch was determined in the field, a design perk rate of 6 minutes per inch will be used to design). Wherever the design perk rate is determined to be greater than 8 minutes per inch (before the required 2 minutes per inch adjustment), the use of a retention or leaching structure will not be allowed, without exception.

Using the TR-55 method, the amount of pre-and-post – construction runoff shall be determined and the basins sized accordingly. All drainage structures shall be designed for the both a 25-year and 100 year storm event. Leaching and retention structures shall be designed to be empties as soon as possible after a 100-year storm event but in no case shall this period exceed 150 hours (6.25 days) after a 100 year storm event.

4.2 Erosion Control:

A separate plan showing all control measures to be used to minimize erosion and siltation shall be submitted. These measures shall be sufficient to prevent off-site (abutting properties, public lands, all waterways) erosion and siltation.

4.3 Construction:

Prior to start on the drainage system, adequate erosion control measures shall be in place to minimize siltation to the new drainage system and to the abutting properties prior to the establishment of the final vegetation cover for the entire development and the construction of the drainage

system. Flows to new an existing leaching and retention structures shall be diverted to a temporary drainage basin until the Highway Surveyor or his/her designated representative determines that the drainage area is adequately paved and the vegetation cover is sufficiently established to allow connection into the final drainage structures.

4.4 Testing of Fills:

Materials to be used for any dike sections or for backfill for leaching and retention structure shall be adequately described noting the specific requirements of the material. The required compaction of this material shall specified by the designer. The fill used in connection with any drainage structure shall be clean fill, containing no trash, refuse, rubbish, or debris, including, without limiting the generality of the foregoing, lumber, bricks, plaster, wires, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the forgoing. The permittee's shall have necessary tests performed by a qualified engineer at any source (s) of fill to assure that no contaminants are present in any fill, including on-site materials, must be given in writing by the _____ Board of Health. A registered professional engineer shall certify that the construction of all drainage facilities are in conformance with the approved project plans. The same engineer shall also certify the as-built drawings for the drainage structures.

4.5 Storm Drains:

- i. All final out-falls within or serving the subdivision shall extend to a natural waterway, or to drainage easements or pipe system s leading to waterway, and such pipe shall have a capacity of 25% greater than required by calculations. Provisions shall be made for disposal of surface water intercepted or collected by the system in such a manner that no flow is conducted over Town ways or over that land of others unless a drainage easement is obtained or unless such flow, in essentially the same quantity, previously existed in the same location.
- ii. A headwall with wing walls shall be provided at the outfall end of all drains. Use of preformed flared end section for this purpose are also acceptable.
- iii. All outfall pipe openings must be covered with a metal gate. No drainage outfall shall discharge below the high water line of a swamp, stream, or body of water. High water shall mean the elevation as shown on the U.S. Department of Housing and Urban Development, Flood

Insurance Rate Map as most recently amended, or, the elevation as determined by the _____ Conservation Administrator. Whereas the latter determination is the more site specific, it shall supercede the F.I.R. Map in the event of any conflict.

iv. Pipe outfalls shall be located along side or rear lot lines, one hundred feet down grade from any dwelling.

MODEL RIGHT TO FARM BY-LAW

Section 1 Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations there under including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of [Farm-Town] restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of [Farm-Town] by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

Section 2 Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and

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- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

Section 3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of [Farm-Town]. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right To Farm By-law shall be deemed as acquiring any

interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4 Disclosure Notification

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of [Farm-Town], the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that

the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Board of Selectmen or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D.

Section 5 Resolution of Disputes

[Applicable only in communities that have Agricultural Commissions.]

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

Section 6 Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of [Farm- Town] hereby declares the provisions of this By-law to be severable.

Article 17: Transfer of Development Rights

17.1 Purpose and Intent:

This bylaw enables the transfer of development potential from one parcel to another. The transfer of development rights (TDR) makes it possible to greatly restrict or even prohibit development entirely in one area called the Preservation Area and transfer those rights to another area called the Receiving Area where there are little or no impediments to higher density, such as an area serviced by public water and sewer. The density is transferred from a "sending" parcel to a "receiving" parcel.

By creating receiving parcels as markets for the sale of unused development rights in the sending parcels, TDR program encourages the maintenance of low-density land uses, open spaces, historical features, critical environmental resources, and other sensitive features of the designated sending parcels. When the owner of a sending parcel sells development rights to the owner of a receiving parcel, the purchaser thereby increases the development rights beyond otherwise permissible limits.

In this manner, local governments can protect a variety of sensitive features while providing a mechanism to compensate any perceived diminution in land development potential. The TDR program is consistent with the Raynham Master Plan to further the conservation and preservation of natural and undeveloped areas, wildlife, flora, and habitats for endangered species; the preservation of coastal resources including aquaculture; protection of ground water, surface water, as well as other natural resources; balanced economic growth; the provision of adequate capital facilities, including transportation, water supply, and solid, sanitary, and hazardous waste disposal facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; the development of an adequate supply of affordable housing; and the preservation of historical, cultural, archaeological, architectural, and recreational values.

17.2 Definitions

Development Rights: Rights to develop a single-family house lot, expressed as the maximum number of lots permissible on a designated sending parcel or parcels under the applicable zoning and subdivision rules and regulations in effect on the date of the transfer of development rights. Development rights (house lots) are computed on a one for-one-basis. Determination of the

maximum number of development rights (house lots) available for transfer shall be made by the Special Permit Granting Authority (Planning Board).

Transfer of Development Rights (TDR): A development right (house lot) can be transferred from a sending parcel(s) to a receiving area. A "receiving area" is defined as a residential subdivision. Development rights can be transferred to multiple parcels, if multiple parcels are under consideration for a residential subdivision in order to increase the number of house lots for said development. The density of said development would be increased above existing zoning requirements in order to accommodate the transferred development rights.

Sending Parcel(s): A parcel or parcels of land determined by the Planning Board to be of special importance to remain in a natural state because of its visual prominence, potential vista impairment, ecological significance, fragility, special importance as farmland, its value for recreation, future Town water supply, or because it is important to the Town's Open Space Plan and/or Town's Master Plan. The sending parcel or parcels must be residentially zoned from which development rights may be transferred.

Receiving Area: A previously approved subdivision serviced by Town water or sewer, which can support the increased development and complies with the most recently amended Zoning Bylaws and Planning Board Rules and Regulations. A receiving area can also be a pending conventional subdivision that can support the increased development and complies with the most recently amended Zoning Bylaws and Planning Board Rules and Regulations.

17.3 Determination of Development Rights

(a) To establish the development rights available for transfer, the SPGA may require the applicant for residentially zoned land to submit a preliminary plan or a more detailed subdivision plan, as defined by the Planning Board's subdivision rules and regulations, to illustrate the number of lots or dwelling units.

(b) Development rights may be transferred at a rate expressed as the maximum number of lots permissible on a designated sending parcel or parcels under the applicable zoning and subdivision rules and regulations in effect on the date of the transfer of development rights.

(c) The lot must comply with all existing density limitations imposed by the Raynham Zoning Bylaws as well as those that may be imposed as a condition of a special permit and effective at the time of application for approval of the proposed development.

(d) The credited land must not be wetlands as defined in MGL 131 Section 40 or be used to satisfy lot area requirements for any other development.

17.4 Permanent Development Restrictions

Any lot or lots deemed to meet the standard of qualifying for a transfer must be permanently restricted from future development by way of a conservation restriction in accordance with Massachusetts General Law Chapter 184, Section 31-33 as most recently amended. Such restriction shall be submitted to the Planning Board prior to approval of the project and recorded at the Registry of Deeds/Land Court prior to the conveyance of any building lot.

A management plan may be required by the Planning Board, which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices. Upon receipt of a special permit for development where such special permit is conditional upon the voluntary, permanent restriction of development rights, the land owner in the Receiving Area shall not receive any building permits until all documents described in this bylaw have been recorded in the appropriate Registry of Deeds.

17.5 Receiving Area

(a) An approved or proposed residential subdivision that is capable of supporting additional development. Town water and sewer must service the subdivision. The lot sizes for the receiving area cannot be less than one-half of the minimum requirements in Article Five: Intensity of Use Regulations; however, the lots sizes for the receiving can vary provided they are not less than half of the minimum requirements in Article Five: Intensity of Use Regulations.

(b) The Special Permit is not effective until the purchased development rights from the sending parcel or parcels are under a conservation restriction.

17.6 Title Recordation, Tax Assessment, and Restriction of Development Rights

(a) All instruments implementing the transfer of development rights shall be recorded in the manner of a deed in the Registry of Deeds of the jurisdiction for both sending and receiving parcels. The instrument evidencing such TDRs shall specify the map and lot number of the sending parcel(s) and the map and lot of the receiving parcel(s).

(b) The clerk of the Registry of Deeds shall transmit to the applicable town assessor(s) for both the sending parcel(s) and receiving parcel(s) all pertinent information required by such assessor to value, assess and tax the respective parcels at their fair market value as enhanced or diminished by the TDRs.

(c) The record owner of the sending parcel shall, within forty-five (45) days of receipt of a special permit authorizing TDRs, record at the Registry of Deeds a Conservation Restriction as defined by G.L. c. 184 §§31-33 running in favor of the Town prohibiting, in perpetuity, the construction, placement, or expansion of any new or existing structure or other development on said sending parcel. Evidence of said recording shall be transmitted to the Planning Board of the town in which the restriction has been placed, indicating the date of recording and deed book and page number at which the recording can be located. The grant of the special permit to transfer development rights shall be conditioned upon such restriction, and no special permit for a transfer of development rights shall be effective until the restriction noted above has been recorded at the Registry of Deeds.

17.6 Severability

If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's zoning bylaw.

Cape Cod Commission Model Bylaws and Regulations Model Wetlands and Wildlife Habitat Bylaw and Regulation

Background

Barnstable County contains extensive areas of both fresh water and coastal wetlands. These areas include red maple swamps, Atlantic white cedar swamps, bogs, fresh and salt marshes, and wet meadows. One out of every four acres on Cape Cod is wetland. These wetland resources are important to both the environment and the economy of Cape Cod.

They provide important natural functions including ground water recharge, attenuation of pollutants, and wildlife and fisheries habitat, and they are a significant destination for residents and visitors seeking outdoor recreation opportunities including beaches, bird watching opportunities, fishing and other water sports. Wetland areas are also important for shellfishing, cranberry production and other resource-related industries on Cape Cod.

In addition, wetlands and waterbodies and their buffer areas are often areas which have a high likelihood of possessing archeological significance.

Most towns on Cape Cod have enacted non-zoning ("home rule") wetlands bylaws to further protection of local wetlands resources beyond that provided for in the Massachusetts Wetlands Protection Act. Many towns have also adopted local wetlands regulations pursuant to these bylaws.

Because there is so much variety among these bylaws and regulations and because the Massachusetts Association of Conservation Commissions has published a "model" wetlands protection bylaw, the Cape Cod Commission focused its efforts on creating a model bylaw and regulation language to assist towns achieve consistency with provisions included in the Regional Policy Plan.

These include: protection of isolated wetlands and vernal pools, limiting wetland alteration and replication, charging fees for consultants to assist with project review, and protecting wetland buffer areas. Also included is a sample wildlife habitat protection bylaw. Communities considering a complete rewrite of their local wetlands bylaw may want to consult the MACC model for other useful procedural language.

In many cases, amendments to local wetlands bylaws will be needed to insert these provisions. This is accomplished by majority vote at town meeting. A public hearing on these bylaw amendments is not required to be held prior to town meeting although the Conservation Commission may wish to hold one.

The bylaw will be reviewed by the Attorney General's office once it has passed, but becomes effective immediately. Wetlands bylaws generally specify the process for adoption and amendment of local bylaw regulations. This is most often accomplished simply by vote of the Conservation Commission at a public meeting, usually after a public hearing on the proposed regulations. Communities differ on philosophy with regard to what information should be included in bylaws versus regulations. This model contains recommendations for the content of each, but these can be reworked based on local preference.

Addition of these provisions to local wetlands bylaws and regulations will help communities better protect Cape Cod's sensitive wetland resources as well as demonstrate that the local bylaw is more protective than state law. In DeGrace v. Conservation Commission of Harwich, 31 Mass. App. Ct. 132 (1991), the Massachusetts Appeals Court refused to honor a local bylaw which mirrored the state law, saying the local legislation was pointless unless it went further than the minimum set by the state law.

Please note that the model bylaw and regulation language provided below differs in organization from the other model bylaws prepared by the Cape Cod Commission. The language that follows allows towns to "pick and choose" individual bylaw and regulation provisions for incorporation as stand alone provisions to existing wetland and wildlife habitat bylaws and regulations.

I. Protection of Vernal Pools /Isolated Wetlands

Commentary: Many of the Cape's wetlands occur as isolated kettle holes that do not meet the size thresholds for protection in the Wetlands Protection Act and do not border on other water bodies. The Regional Policy Plan encourages communities to protect all wetlands greater than 500 sq. ft. in area whether they border on waterbodies or not. Many of these isolated areas are also vernal pools which serve important wildlife habitat functions.

There is virtually no protection for the vast numbers of vernal pools located outside the boundaries of wetland resource areas. In addition, vernal pools that are not certified by the Massachusetts Natural Heritage and Endangered Species Program do not receive protection under the Wetlands Protection Act. The local wetlands bylaw should give the Conservation Commission authority to protect isolated wetlands and vernal pools in its "Jurisdiction" section regardless of size,

location, or certification. Based on this bylaw language, regulations can provide further definition of these areas as well as enumerate performance standards for their protection.

A. Bylaw language

Jurisdiction: Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to tidal action, coastal storm flowage, or flooding; and lands abutting any of the aforesaid resource areas (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

B. Regulation Language

B.1 Definitions:

The term "vernal pool" shall refer to a seasonal fresh water body contained in a confined basin depression that holds water for a minimum of two consecutive months in most years, is free of adult fish populations, and provides breeding habitat for amphibians and invertebrates and other important habitat. Vernal pools include those areas mapped and certified by the Massachusetts Natural Heritage and Endangered Species Program as well as those areas identified in the field as eligible for certification by a professional wildlife biologist or other expert.

The term "freshwater wetlands" shall include all wetlands whether or not they border on a waterbody. For the purposes of this bylaw, all bordering vegetated wetlands, as well as all isolated vegetated wetlands encompassing at least 500 sq. ft. in area, shall be protected.

B.2 Performance Standards:

- a) No project shall be permitted which will have an adverse effect on a vernal pool or any naturally vegetated land area within 350' of a vernal pool by altering topography, soil structure, plant community composition, hydrologic regime and/or water quality in such a way as will result in any short-term or long-term adverse effect upon the vernal pool. No diversion of any new stormwater runoff into the vernal pool shall be permitted. The 350' buffer may be reduced in size where the applicant can demonstrate to the satisfaction of the Conservation Commission that a narrower buffer will adequately protect the vernal pool and its associated habitat. However, this buffer shall not be less than 100'.
- b) No alteration of any isolated vegetated wetland shall be permitted. No alteration of any area within 100' of any isolated vegetated wetland shall be permitted except as described below (see Section B below).

Note: The town of Mashpee has a detailed discussion of isolated wetlands in its wetland regulations. This includes definitions, boundary, critical characteristics and presumption of significance, and performance standards. A similar section is included for vernal pools.

II. Wetland Buffers/Expansion of Conservation Commission Jurisdiction Beyond 100'

Commentary: The Wetlands Protection Act does not provide direct protection for buffer areas surrounding wetlands that provide important functions, including mitigating stormwater impacts, sedimentation and erosion control, removing nutrients, and recharging groundwater. Research has documented the increase in nitrogen and phosphorus loading to wetlands as adjacent watershed areas are cleared of vegetation. Buffer areas play an important role in minimizing impacts of adjacent land uses and separating them from wetlands. Buffer areas also have important wildlife habitat value.

In order to provide protection for wetland buffer areas, the "Jurisdiction" language contained in Section 01.0 above, includes "lands abutting... resource areas." In addition, the following bylaw language is recommended. The case of Fafard v. Conservation Commission of Reading 41 Mass. App. Ct. 565 makes it clear that if a Commission wants to protect buffer areas the bylaw should provide authorization for it to do so. Commissions may expand their jurisdiction beyond 100' where appropriate by inserting language within the bylaw establishing such authorization.

For example, Commissions may want to expand their jurisdiction to protect land along rivers to mirror or expand upon the protection offered to the 200' Riverfront Area in recent amendments to the Wetlands Protection Act and regulations. Other areas that a town might consider for expanded jurisdiction include, but are not limited to extremely sensitive areas such as: land within 350' of vernal pools, land within 300' of coastal plain ponds, land within 300' of wetlands designated as estimated habitat for rare species by the Massachusetts Natural Heritage and Endangered Species Program and lands within Areas of Critical Environmental Concern (ACECs).

A. Bylaw language

Lands within 200 feet¹ of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact to these resources, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant

maintain a strip of continuous, undisturbed vegetative cover within this area, unless the applicant demonstrates to the satisfaction of the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In the review of areas within *200* feet of rivers and streams, and within *100* feet of other resource areas, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that 1) there is no technically demonstrated feasible alternative to the project with less adverse effects and that 2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The closer an activity is proposed to a resource area, the more scrutiny will be given to the potential impacts of a proposed project.

Any activity proposed or undertaken outside of the resource areas protected by this bylaw, as specified above, shall not be subject to jurisdiction of the Conservation Commission unless in the judgment of the Conservation Commission, said activity will result or has resulted in the alteration of a resource area protected by this Bylaw. "

B. Regulation Language

B.1 Presumption: Where a proposed activity involves work within *200 feet* of [resource area]; the Commission shall presume that such area is significant to the interests specified in the Bylaw. This presumption is rebuttable upon clear and convincing evidence that the buffer area does not play a role in the protection of said interests (wetland values) protected by the Bylaw.

B.2 Performance Standards: No activity which will result in the alteration of land within *200 feet* of [resource area] shall be permitted by the Conservation Commission with the following exceptions:

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- a) planting of native vegetation or habitat management techniques designed to enhance the wetland values protected by the Bylaw;
 - b) construction and maintenance of unpaved pedestrian access paths not more than 4' in width;
 - c) maintenance of existing structures, utilities, stormwater management structures and paved areas;
 - d) construction and maintenance of water dependent structures and uses;
 - e) vista pruning and removal of dead and diseased vegetation consistent with Conservation Commission standards;
 - f) construction of new utility lines where the proposed route is the best environmental alternative;
 - g) septic system maintenance and, if a system has failed, repair/replacement meeting state/local standards where the maximum feasible buffer is maintained;
 - h) construction of accessory structures/uses associated with lawfully existing single family houses where the Conservation Commission finds that alternatives outside the buffer area are not available; the size and impacts of the proposed structure/use have been minimized; and the structure/use is located as far from the resource as possible;

i) Where a buffer area is already altered such that the required buffer cannot be provided without removal of structures and/or pavement, this requirement may be modified by the Conservation Commission provided that it finds that the proposed alteration will not increase adverse impacts on that specific portion of the buffer area or associated wetland and that there is no technically demonstrated feasible construction alternative;

j) Where a lot is located entirely within buffer area, the Commission may permit activities within the buffer area when the applicant has demonstrated that the proposed work has been designed to minimize impacts to the buffer area. As mitigation, the Commission may require the applicant to plant or maintain a naturally vegetated buffer of the maximum feasible width given the size, topography, and configuration of the lot.

III. Wetland Alteration/"Replication"

Commentary: The Wetlands Protection Act currently bans filling and alteration of salt marshes, but no similar protection is provided for inland wetlands. An unlimited amount of wetland may be filled to provide access to upland portions of a site. In addition, the Act permits alteration of up to 5000 sq. ft. of wetlands if the wetlands are "replicated" elsewhere on the site. However, numerous studies have suggested that wetland replication (conversion of upland to manmade wetland) does not adequately replace the complex natural functions and productivity provided by the altered natural wetlands. The preface to the Wetlands Protection Act regulations also recognizes that the functions served by vegetated wetlands cannot be replicated in their totality by engineering means. In response, the Regional Policy Plan prohibits the alteration of wetlands in most

circumstances and does not recognize replication as an acceptable form of mitigation.

A. Bylaw Language

Alteration of resource areas protected by this bylaw shall not be permitted except that the Conservation Commission is authorized to permit, in its discretion, wetland alteration necessary for water dependent uses, public projects, or the construction and maintenance of utilities. Where such alteration is unavoidable, it shall be minimized and the Conservation Commission shall require mitigation sufficient to ensure the protection of the wetland values in this Bylaw. In order to promote the wetland values and interests of this bylaw, no wetland alteration shall be mitigated by or compensated for in any way by the creation of a substitute or artificial freshwater wetland, coastal wetland, marsh, meadow, bog, swamp, pond or any land subject to tidal action, coastal storm flowage or flooding.

B. Regulation Language

Pursuant to the Wetlands Bylaw, the Conservation Commission will not permit wetland alteration except in the following circumstances:

- water dependent uses and structures;
- construction of new utilities and operation and maintenance of existing utility lines;
- public projects

In all cases where wetland alteration is permitted, the Conservation Commission must find that there is no feasible alternative to the proposed construction, that the amount of wetland alteration is the minimum necessary to accomplish the goals of the project, and that acceptable mitigation has been provided to foster the values and interests protected by the Wetlands Bylaw. Acceptable mitigation includes: permanent protection of wetlands and buffer areas on-site or off-site by conservation restriction or donation in fee; or other methods which, in the opinion of the Conservation

Commission, will sufficiently enhance wetland protection in the Town of _____ to compensate for the proposed wetland alteration.

IV. Consulting Fees

Commentary: Many communities desire to assess applicants for the cost of professional review of proposed plans, since this cost is often not covered by application fees and can vary widely based on the type of project proposed. Consulting fees must be authorized by a local bylaw before they can be assessed by a community. The town must clearly specify what these fees can be used for, how they are assessed, and what the maximum fee can be. Any unexpended portions must be returned to the applicant, although a portion could be retained during a monitoring period. Revolving funds must be separately authorized by a vote of town meeting and reauthorized annually.

MACC recommends the following language: "Will the Town hereby accept the provisions of G.L. Ch. 44, Section 53E 1/2 for purposes of administering the consultant fee provision of the Wetlands Protection Bylaw, and further that the Conservation Commission may expend same without appropriation for expenses reasonably related to its duties and responsibilities as provided above; that expenditures from same shall not exceed [\$ amount] in Fiscal Year _____; that the Conservation Commission will report to the next annual town meeting on receipts and expenditures of the revolving fund; that any balance in the revolving funds shall revert to surplus revenue unless otherwise voted by town meeting; and that the revolving fund in order to continue in existence need be reauthorized by each subsequent annual town meeting."

A. Bylaw language

"Upon receipt of a Notice of Intent or Request for Determination of Applicability, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. The fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydrogeologic and drainage analysis; and researching environmental or land use law.

The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a revolving fund for consultant expenses is authorized by town meeting, or by any general or special law, the applicant's fee shall be put into such revolving fund, and the Commission may draw upon that fund for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Maximum Fee
Up to \$100,000	\$500
\$100,001 - \$500,000	\$2500
\$500,001 - \$1,000,000	\$5000
\$1,000,001 - \$1,500,001	\$7500
\$1,500,001-\$2,000,000	\$10,000

Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged an additional \$2,500 maximum fee per increment.

The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for the portion of the project cost applicable to those activities within resource areas protected by this bylaw including wetland buffer areas. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's

request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

B. Regulation Language

Upon a determination by the Conservation Commission that consultant fees are necessary for a proposed project, the Conservation Commission shall request the applicant to provide a statement regarding the total project cost.

The Conservation Commission shall request a written estimate from a qualified consultant(s) of its choosing as to the cost of providing the request services. Said estimate shall be provided to the applicant and the applicant shall forthwith transmit a check for the amount of the review, provided it does not exceed the amount specified by the bylaw.

The Conservation Commission's consultant shall not begin work until payment is made by the applicant. Once the review is completed, the Commission shall release any unexpended funds to the applicant. If the actual charges are more than the estimated charges, the applicant will be required to pay the additional cost (up to the maximum specified in the bylaw) prior to authorization of further work and prior to rendering of the Commission's decision.

All consultants are retained and supervised by the Conservation Commission. All requests for meetings, site visits, reports, and questions of the consultant shall be routed through the Conservation Commission or Administrator unless the Commission authorizes the Consultant to work directly with the applicant to resolve project-related issues. A copy of all consultant reports shall be provided by the Commission to the applicant in a timely manner.

V. Variances

Commentary: In some circumstances it may be helpful for a Conservation Commission to have a variance process in place. Two examples are suggested here.

A. Bylaw Language (variances from Bylaw standards)

The Conservation Commission may, in its discretion, grant variances from the specific requirements of these regulations

pursuant to this Section. The Conservation Commission may grant a variance from these regulations when an overriding public interest is demonstrated or when it is necessary to avoid so restricting the use of the property as to constitute an unconstitutional taking without compensation pursuant to the Massachusetts or United States Constitution(s).

The intent of this section is to ensure that reasonable use may be made of such property; however, the extent of use shall be limited in so far as is necessary to protect the resource(s) of interest, and to ensure that there is no foreseeable danger to the public health or safety. In all cases, the burden of proof shall be on the applicant to demonstrate maximum feasible compliance with the requirements of this Bylaw and regulations. The Conservation Commission may require mitigation to offset adverse impacts to resource areas protected by this Bylaw.

B. Regulation Language (waivers from standards in regulations and variances from Bylaw standards)

The Commission may waive the application of any performance standard herein when it finds, after opportunity for a hearing that:

- a) there are no reasonable conditions or alternatives that would allow the project to proceed in compliance with these regulations;
- b) mitigating measures are proposed that will allow the project to be conditioned so as to contribute to the protection of the resource values identified in the Wetlands Bylaw; and
- c) that the project is necessary to accommodate an overriding public interest or that it is necessary to avoid a decision that so restricts the use of property as to constitute an unconstitutional taking without compensation.

VI. Procedure

A request for a variance or waiver shall be made in writing and shall include, at a minimum, the following information:

a) a description of the alternatives explored that would allow the project to proceed in compliance with the performance standards in these regulations and an explanation of why each is not feasible;

b) a description of the mitigating measures to be used to contribute to the protection of the resource area values identified in the Wetlands Bylaw.

c) evidence that an overriding public interest is associated with the project which justifies modifying one or more performance standards in these regulations, or evidence that the decision regarding the permit application would so restrict the use of the land that it constitutes an unconstitutional taking without compensation.

d) in the event a taking claim is being made, the following additional information shall be submitted:

1. documentation that the subject property is legally and/or equitably owned by the applicant, including the date of acquisition. Also, identification of all property in contiguous ownership, including contiguous properties in which the Applicant has a present, future or past fee interest or beneficial interest and documentation of the assessed value of the said contiguous property.

2. documentation of the assessed value of the property subject to regulation as well as documentation of acquisition costs, proceeds received to date, expected proceeds (including copies of purchase and sales agreements, expenditures, and any other financial and economic data relevant to the waiver/variance request.

3. documentation of the value of the loss alleged to result from compliance with the relevant performance standards from which a waiver/variance is sought.

e) The request for waiver/variance shall be sent to the Commission by certified mail or hand delivered and a copy thereof shall at the same time be sent by certified mail or hand delivered to any other parties in interest.

Upon receipt of a request for a waiver/variance, the Commission shall within 21 days select a hearing officer to conduct the hearing and report to the Commission their findings relative to the request. The applicant shall pay for the services of the hearing officer.

f) Within 21 days of receiving the report of the hearing officer, the Commission shall issue a decision as to whether to grant the waiver/variance request. Such decision shall set forth the findings as required herein.

VII. Habitat Protection

Background

There are a variety of mechanisms to protect plant and wildlife habitat at the local level. Habitat protection occurs at two different scales: landscape level habitat protection and site-specific habitat protection.

At the landscape scale, planning is an important component of a habitat protection program. Towns should identify important wildlife travel corridors and large areas of unfragmented woodlands. The Regional Policy Plan's Significant Natural Resource areas map can serve as a starting point for communities to identify important habitat protection areas.

Once these areas are identified, towns can protect habitat at the landscape level through a variety of mechanisms including: land acquisition programs; adoption of cluster bylaws that contain design standards for open space that foster wildlife corridors and protection of unfragmented habitat; revision of zoning bylaws to limit uses and/or density in sensitive areas; adoption of wildlife corridor bylaws that protect important wildlife migration areas; and adoption of bylaws and regulations designed to minimize clearing and grading and encourage the planting of native vegetation.

Site-specific habitat protection occurs as specific development proposals are being reviewed. Communities can use a variety of tools at this scale including: a

special permit and subdivision regulation requirement for a plant and wildlife habitat evaluation prior to development to identify the most critical areas within a site (the Cape Cod Commission has examples of such requirements); an assessment of the impacts of the project and proposed mitigation; requirements for vegetated buffers adjacent to wetlands and other critical habitats; landscaping requirements, revegetation and site restoration requirements; and minimizing perimeter fencing that could block the movement of wildlife (generally fencing, if not open or split rail style, should be less than 40" in height and set 10-12" off the ground).

Habitat protection also requires community education since many adverse impacts to wildlife habitat occur from pets, dumping yard debris, fencing and other impacts that are difficult to address through bylaws or enforcement.

Habitat protection often falls through the cracks in many communities because no single board or committee has responsibility for addressing this issue during the development review process. Conservation Commissions have the authority under the Wetlands Protection Act to preserve wildlife habitat as it relates only to wetland resource areas (and the 100' buffer) under their jurisdiction, but absent a local bylaw that specifies others they do not have any authority in upland areas. In addition, state law provides for protection of rare species, but there is no protection for the more common, yet important species of flora and fauna and their habitat.

The Town of Falmouth has adopted a Habitat Protection Bylaw as a Zoning Overlay District. Excerpts from the Falmouth bylaw are included below:

A. Purpose: Given that an enumerated purpose of zoning is the conservation of natural resources and that wildlife is a valued natural resource in Falmouth and finding that the Commonwealth of Massachusetts has established the importance of protecting wildlife through numerous laws, and finding that Falmouth has a significant stock of wildlife which moves through a large, defined area of town, and further finding that development under zoning can be designed to co-exist with the wildlife and important habitat areas, the purpose of this Bylaw is to establish and protect permanent and contiguous corridors and special areas for the feeding, breeding and normal home range movement of wildlife through the defined habitat areas.

B. Applicability: All uses of land within the Wildlife Overlay District as shown on the Official Zoning Map shall be subject to the requirements of these sections. This includes:

-
1. All subdivisions and divisions of land;
 2. All special permits;
 3. All site plan reviews;
 4. As-of-right construction if it involves an area of disturbance greater than one-fourth acre or movement of material totaling more than 2,000 cubic yards.

C. Procedure

C.1 Upon submittal to a local board of plans for development, all plans subject to this section shall be referred to the Natural Resources Department.

C.2 Within thirty-five days of such referral, the Natural Resources Department shall file a recommendation with the reviewing agency. This time may be extended at the request of the applicant. These recommendations shall be considered prior to the final decision of the agency, and all restrictions to the property added by the reviewing agency as a result shall be shown on the final approved plan.

C.3 All areas on the plan set aside for protection of wildlife habitat shall be permanently protected as open space by the town or a nonprofit conservation trust or shall be subject to a permanent conservation restriction consistent with MGL Ch. 184, Section 31-33.

D. Standards

D.1 For those sites within mapped Wildlife Migration areas, the following standards shall apply:

D.1.1 Subdivisions which total more than 5 acres in the AGA, AGB, RA, PU, and RB Zones and more than 20 acres in the AGAA and RAA Zones shall submit to the Planning Board a preliminary cluster subdivision plan. The Planning

Board shall encourage the submittal of a cluster-type definitive subdivision in accordance with the [cluster bylaw] if it facilitates that purpose of this Article.

D.1.2 The applicant shall establish contiguous corridors with a minimum three-hundred-foot width across the subject site and to adjacent parcels and corridors. Corridors less than three hundred feet in width may only be allowed upon a finding by the reviewing agency that the purpose of this Bylaw is not compromised and the proper mitigating measures are provided.

D.1.3 Fencing or any structural barrier to wildlife movement within corridors shall be prohibited.

D.1.4 The applicant shall ensure that drainage from roadways is diverted away from depressed areas that may be used as shelter for wildlife.

D.1.5 Natural, indigenous vegetation shall be encouraged or enhanced by the project. Disturbed areas shall be revegetated as rapidly as possible within a time required by the reviewing agency.

D.1.6 Dramatic changes in topography shall be discouraged and the footprint of disturbed areas shall be limited.

¹ Note that numbers in italics may be varied and are included here as an example.

Go to the Cape Cod Commission's
Model Bylaws and Regulations

Cluster Bylaw (Cluster Housing)

In order to permit maximum flexibility for developing land for single family housing, and to encourage the preservation of open space and promote the more efficient use of the land in harmony with its natural features, tracts of land consisting of eight (8) acres or more in the following districts; R 80, R 40 and RR 40, shall be made available for cluster housing subject to the requirements of this Section.

To afford the Town of Mattapoisett ample assurance that such developments will enhance the amenities of the neighborhoods in which they occur, and the Town as a whole, Cluster Housing may be constructed by filing a cluster subdivision plan under the subdivision control law, M.G.L., Ch. 41, Sec. 81k-81GG with the Planning Board as hereinafter defined.

1. Statement of Purpose

Cluster residential housing shall be designed to achieve the following goals:

- a. To encourage the more efficient use of land in harmony with its natural features;
- b. To encourage creativity in the design of developments through a carefully controlled process;
- c. To encourage a less sprawling form of development, a shorter network of streets and utilities, more economical development of land with less consumption of open space;
- d. To preserve permanently, natural topography and wooded areas within developed areas, and to preserve usable open space and recreation facilities close to home;
- e. To provide an efficient procedure to ensure appropriate high quality design and site planning to enhance the neighborhoods in which they occur and the Town as a whole;

-
- f. To promote diverse housing at a variety of costs, and in particular housing types that meets the needs of the Town's aging population.
 - g. To support alternative residential development that has a positive impact on the community and incorporates unique public benefits.
 - h. To ensure that alternative residential development is compatible with surrounding land uses and that the impacts on public services will not exceed conventional residential development.

2. Filing of Application

Each application for a cluster subdivision shall be filed with the Planning Board in accordance with the provisions of Section VII.B.2, with a copy filed forthwith with the Town Clerk. The application for a cluster subdivision shall be accompanied by a preliminary plan showing the dimensions and area of lots as they might be established under conventional zoning. Submissions shall be governed by the Planning Board's Rules and Regulations for the Subdivision of Land, by the zoning requirements for cluster subdivision contained in this by-law and by such other regulations governing cluster development as may be adopted and amended from time to time.

A pre-application meeting with the Planning Board prior to formal submission of the application is recommended.

3. Contents of Applications

Said application and plan shall be prepared in accordance with the of the Rules and Regulations of the Planning Board Governing the Subdivision of Land and shall include:

- a. The number of dwellings which could be constructed under this By-Law by means of a conventional subdivision plan, considering the whole tract, exclusive of waterbodies and land prohibited from development by legally enforceable restrictions, easements, or covenants and excluding areas not suitable for development such as wetlands or steep slopes.

b. An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100 year flood plain or velocity zone, trees over eight (8) inches diameter and such other natural features as the Planning Board may request.

c. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.

d. Evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value, relationship to Mattapoisett Growth Management and Land Use Plan, Mattapoisett Open Space and Recreation Plan as they are from time to time adopted, and accessibility by residents of the Town and of the cluster.

e. Location, bulk and height of all proposed buildings with design characteristics such as: building material, architectural style, scale and massing relative to abutting structures, interior layouts, streets, site and building landscaping.

f. Such additional information as may be required to enable the Planning Board to make the findings required under this section

4. Review by other Boards

The review of a cluster subdivision shall follow the requirements as identified in Chapter III, Procedure submission and approval of plans, of the Mattapoisett Subdivision Rules and Regulations.

5. Public Hearing

The Planning Board shall hold a public hearing under this section in conformity with the provisions of G.L. c.40A, s.9

6. Uses and Density

a. Uses - The permitted uses in the Cluster Housing may include single family homes on separate lots and open space subject to the restrictions of Section H.15.

b. Density - The base number of units shall be determined by showing on a preliminary subdivision plan the total number of lots that could be obtained from the tract by utilizing a conventional subdivision plan in accordance with the Rules and Regulations of the Planning Board Governing the Subdivision of Land. Wetlands, as defined under the Wetlands Protection Act, water bodies, and any land otherwise prohibited from development by local By-Law or regulation shall not be included in the overall area when calculating density. The burden of proof shall be upon the applicant in determining the allowable number of units.

Where the site proposed for Cluster Housing includes more than one (1) ownership and/or lies in more than one (1) district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable density total without respect to allowable sub-totals by district or ownership areas.

c. Density Bonus - A Cluster subdivision can increase the base density of the development up to a maximum density bonus of 25%, if the following objectives/requirements are met:

- i. Two (2) additional units for each acre of open space land preserved that exceeds the 40% minimum.
- ii. One (1) additional unit for each affordable unit.

An additional Density Bonus of (10%) may be requested through a special permit application with the Planning Board .

iii. The land area to be preserved as open space is of exceptional resource value, because of special habitat, fragile terrain, scenic importance, historic or agricultural value, critical public recreational need, or other distinguishing quality, or the open space area exceeds 50% of the total property, or the development provides a significant public benefit in the form of public infrastructure or special facility provision including, but not limited to:

improvements as may be identified in Mattapoissett's Growth Management and Land Use Plan and/or Capital Improvement Plan, bikeways, walking trails, sidewalks, playgrounds, playfields, other active public recreation facilities, and sewer or water line extensions that service more than the proposed development.

iv. The Planning Board finds that the additional density will not be a burden on public facilities;

v. The Planning Board finds, after consultation with the Board of Health, that the additional density will not threaten the quality of ground or surface waters; and

7. Dimensional Requirement

a. The total area of the tract to be developed shall not be less than eight (8) acres.

b. The following minimum dimensional regulations shall apply in lieu of those identified in Section VI:

Minimum lot area 15,000 sq. ft.

Minimum lot frontage 100 ft.*

Minimum front yard setback 25 ft.

Minimum side and rear yard setback 10 ft.

Maximum lot coverage 25%

Maximum building height 35 ft.

(FN *)A lot with frontage on tidal water or the non-tidal portions of the Mattapoisett River shall have a minimum shore frontage of 150 feet measured in a straight line between the point of the intersection of the side lot lines with the shore at normal high water elevation.

c. The minimum width of common open space shall be thirty (30) feet.

8. Lots

a. Each building lot shall contain a site which, subject to the approval of the Board of Health, may be suitable for an on-site septic disposal system, or will be served by a public sewer. The requirement for an on-site system may be waived where the Board of Health approves a variance for a clustered leeching field serving more than one (1) home;

b. Each lot shall be of a size and shape as shall provide a building site which shall be in harmony with the natural terrain and other features of the site.

c. The front, side and rear yards of each lot shall be shown on the plan by dashed lines indicating the area within which a building may be built.

d. Wherever possible, new lots in a cluster development shall front on newly created streets serving the cluster rather than the existing street system from which the cluster takes its access. A development which shows all lots clustered on an existing Town street and with all of the interior land dedicated to open space, generally will not be approved unless unusual conditions of the land apply.

9. Design Standards

a. The housing shall provide for an effective and unified treatment of the development possibilities of the project site making appropriate provision for the preservation of natural features and amenities of the site and the surrounding areas wherever possible.

b. The housing shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site wherever possible.

c. All housing shall be arranged so as to preserve visual and audible privacy between adjacent houses wherever possible.

10. Landscape Design Standards

a. Whenever possible, existing trees and vegetation shall be preserved and integrated into the landscape design plan.

b. Whenever possible, the existing terrain shall be preserved and earth moving shall be kept to a minimum.

c. Suitable indigenous shrubs and other plant material may be used for screening. Lands used for buffers may be maintained as common open space or as private open space subject to a deed restriction.

d. Wherever possible existing trees and vegetation along the Town's existing street system shall be preserved with the only intrusions being the rights-of-way for new streets.

e. Negative visual impacts of the development, if any, shall be adequately screened from adjacent properties and nearby streets by landscaping and other site plan techniques.

11. Circulation System

There shall be an adequate, safe and convenient arrangement of roadways and driveways. Wherever possible, access driveways to individual lots shall be off the interior street system rather than the existing major roadway system of the Town.

12. Common Open Space

a. Provision shall be made so that at least forty (40) percent of the land area shall be open space and that the open space shall include all land not dedicated to roads or lots. The open space is intended to provide an open natural area for the active and passive recreation use and visual enjoyment of the occupants of the residential development, and in some cases, for residents of the adjacent neighborhood and the public generally. Of this open space, at least 60% must be useable -upland area with well drained soils that is suitable for recreational use.

b. Areas which are considered by the Planning Board as marginal or unsuitable for building, such as floodplains, wetlands, water areas, steep slopes, highly erodible or poorly drained soils, areas of very shallow bedrock, or of very high water table shall not be counted towards the common open space.

c. To the maximum extent possible, the open space provided shall be consistent with the open space and trails system proposals of the Mattapoissett Growth Management and Land Use Plan and the Mattapoissett Open Space and Recreation Plan as they are from time to time adopted.

d. Open space may be utilized as natural courses for disposal for storm drainage on the sites, but can not be used to meet the above requirement for useable land area. No conditions are allowed which

are likely to cause erosion or flooding of any structures.

e. Such open space may be in one (1) or more parcels of a size and shape appropriate for its intended use as determined by the Planning Board.

f. The common open space shall increase visual amenities for residents of the development and residents of the adjacent neighborhoods.

g. The common open space should be readily accessible to those it is designed to serve, whether the residents of the cluster development or the general public.

13. Ownership of Common Open Space

The open space, and such other facilities as may be held in common, shall be conveyed in one (1) of the following manners, and determined by the Planning Board:

a. Land to be used by Residents of the Cluster Housing to a corporation or trust comprising a Homeowners Association whose membership includes the owners of all lots contained in the tract. The developer shall include in the deed to the owners of individual lots, beneficial rights in said open space, and shall grant a conservation restriction to the Town of Mattapoisett over such land pursuant to G.L. c.184, s.31 - 33, to insure that such land be kept in an open and natural state and not built upon for residential use or developed for accessory uses such as parking or roadways. This restriction shall be enforceable by the Town in any proceeding authorized by G.L. c.184, s.33. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the Homeowners Association assumes such responsibility. In order to ensure that the Association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the Plymouth County Registry of Deeds a Declaration of Covenants and restrictions which shall, at a minimum, provide for the following:

-
- 1) mandatory membership in an established Homeowners Association as a requirement of ownership of any lot in the tract;
 - 2) provision for maintenance assessments of all lots in order that the open space is maintained in a condition suitable for the uses approved by the Homeowners Association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the Homeowners Association or the owner of any lot;
 - 3) provision which, so far as possible under existing law, will ensure that the restrictions placed on the use of land will not terminate by operation of law.

b. Land to be Made Accessible to the General Public to a non-profit organization such as the Mattapoisett Land Trust, the principal purpose of which is the conservation of open space, the developer or charity shall grant a conservation restriction as set out above. If the non-profit organization ceases to exist as a legal entity, all lands conveyed under this section shall revert to the Town of Mattapoisett.

or

To the Town of Mattapoisett for park or open space use, subject to acceptance by the Town for management by an agency of the Town, with covenants insuring that it be maintained as open space.

14. Use of Open Space

Subject to the provisions of Section H.14, the open space may be used for recreational purposes including walking and riding trails, golf courses, tennis courts, gardens and swimming pools. The Planning Board may permit open space owned by a Homeowners Association to be used for individual septic systems, or community (cluster) septic systems if it, and the Board of Health, are convinced that proper safeguards exist for proper management of a communally owned system. Land area used for septic systems can not be used to meet the above requirement for useable land area.

In all cases, a perpetual restriction of the type described in G.L. c.184, s.31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the common open space shall be retained in perpetuity for one or more of the following uses: conservation, recreation, open space or park. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the common open space as the Planning Board may deem appropriate.

15. Further Conditions

No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a note to this effect shall be shown on the plan. Subsequent to granting the permit, the Planning Board may permit minor adjustments of lot lines within the cluster, that do not result in the creation of additional lots. However, any change in overall density, street layout, or open space layout will require further hearings.

- a. No Certificate of Occupancy shall be issued by the Building Inspector until he has certified to the Planning Board that the roadway, drainage and premises have been built in accordance with the plan approved by the Planning Board hereunder.
- b. The Planning Board may impose other conditions, safeguards, limitation on time and use, as it deems reasonable to achieve the stated purposes of this section.

Appendix C:
Public Access Board Report



Commonwealth of Massachusetts
Department of Fisheries, Wildlife & Environmental Law Enforcement

Public Access Board

1440 Soldiers Field Road • Brighton, Massachusetts 02135
(617) 727-1843 • FAX (617) 727-7214

John P. Sheppard, *Director*

October 9, 2002

Mr. Patrick E. Rogers, Team Leader
Executive Office of Environmental Affairs
Massachusetts Watershed Initiative
20 Riverside Drive
Lakeville, Massachusetts 02347

Re: Taunton River Watershed

Dear Mr. Rogers:

On behalf of the Public Access Board (PAB), thank you for taking the time to accompany me on site visits along the Taunton River. This letter report is a summary of the sites visited and an evaluation of the potential to be developed as PAB cartop boat access.

The sites were evaluated based upon the following criteria (see Tables 1 and 2):

- The site (land) and water body must be publicly owned;
- There must be a demonstrated recreational need for the project;
- The site must have a safe access into and out of the water;
- The site must have or have the potential for adequate parking;
- The site must have a responsive municipal managing authority to maintain the site (a party willing to enter into a Land Management Agreement); and
- The project must be consistent with the mission of DFWELE.

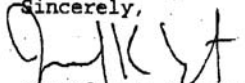
Based upon the site inspections and the information reviewed, the PAB has short-listed two (2) sites for potential development:

- the site located on Summer Street at the bridge in Bridgewater, MA; and
- the site located at Weir Park in Taunton, MA.

Any additional information regarding these sites would be helpful in moving the process along.

Please feel free to contact Director John Sheppard or myself at (617) 727-1843 if you have any questions. Thank you again for your interest and support in the PAB; we look forward to working with you.

Sincerely,



Jennifer K. Wright
Civil Engineer

cc: John P. Sheppard, Director
Anthony Stella, P.E., Conservation Engineer
File

TABLE 1 - LIST OF SITES
 POTENTIAL CARTOP PUBLIC ACCESS
 VISITED ON OCTOBER 1, 2002
 TAUNTON RIVER

Site Location (ID)	Municipality	Inspected October 1, 2002
1 Cherry Street at new bridge	Bridgewater and Halifax	yes
2 Auburn Street closed off to public use - no bridge	Bridgewater and Middleborough	yes
3 Summer Street at the bridge	Bridgewater and Middleborough	yes
4 Titicut Street at the bridge	Bridgewater and Middleborough	yes
5 Route 18/28 at the bridge	Bridgewater and Middleborough	yes
6 Plymouth Street at the bridge	Bridgewater and Middleborough	yes
7 Vernon Street at the bridge	Bridgewater and Middleborough	yes
8 Titicut Reservation dirt roadway	Raynham	yes
9 Route 44 at the bridge	Raynham and Taunton	yes
10 South St. East at the bridge	Raynham and Taunton	yes
11 Weir Park E. Water Street	Taunton	yes

TABLE 2 - EVALUATION OF SITES
 POTENTIAL CARTOP PUBLIC ACCESS
 VISITED ON OCTOBER 1, 2002
 TAUNTON RIVER

Site Location (ID)	Publicly Owned Land	Recreational Need	Safe Access		Available Parking	Managing Authority
			Into Water	Out of Water		
Cherry Street at new bridge	no (MHD easement)	yes informal fishing and cartop	no	no	no (road only)	to be determined
Auburn Street closed off to public use - no bridge	yes (road only)	no existing public use	no	no	yes (road only)	to be determined
Summer Street at the bridge	yes Commonwealth of Massachusetts	yes informal existing access	yes	yes	yes	to be determined land use agreement
Titicut Street at the bridge	yes Commonwealth of Massachusetts	no informal access <1 mile	no	no	no	to be determined
Route 18/28 at the bridge	yes Commonwealth of Massachusetts	no	no	no	no	to be determined
Plymouth Street at the bridge	no	no	no	no	no	to be determined
Vernon Street at the bridge	no	no	no	no	no	to be determined

TABLE 2 - EVALUATION OF SITES
 POTENTIAL CARTOP PUBLIC ACCESS
 VISITED ON OCTOBER 1, 2002
 TAUNTON RIVER

Site Location (ID)	Publicly Owned Land	Recreational Need	Safe Access		Available Parking	Managing Authority
			Into Water	Out of Water		
Cherry Street at new bridge	no (MHD easement)	Yes informal fishing and cartop	no	no	no (road only)	to be determined
Auburn Street closed off to public use - no bridge	Yes (road only)	no existing public use	no	no	Yes (road only)	to be determined
Summer Street at the bridge	no	no	no	no	no	to be determined
Titicut Street at the bridge	no	no informal access <1 mile	no	no	no	to be determined
Route 18/28 at the bridge	no	no	no	no	no	to be determined
Plymouth Street at the bridge	no	no	no	no	no	to be determined
Vernon Street at the bridge	no	no	no	no	no	to be determined

TABLE 2 - EVALUATION OF SITES
 POTENTIAL CARTOP PUBLIC ACCESS
 VISITED ON OCTOBER 1, 2002
 TAUNTON RIVER

Site Location (ID)	Publicly Owned Land	Recreational Need	Safe Access		Available Parking	Managing Authority
			Info Water	Put of Water		
Tiltcut Reservation dirt roadway	Yes Dept. of Env. Management	no existing public use	no	no	no	to be determined
Route 44 at the bridge	no	yes informal cartop	no	no	no	to be determined
South St. East at the bridge	no	yes informal fishing	no	no	no	to be determined
Taunton, Massachusetts						
Route 44 at the bridge	no	yes informal cartop	no	no	no	to be determined
South St. East at the bridge	no	yes informal fishing	no	no	no	to be determined
Weir Park E. Water Street	yes City of Taunton	yes formal cartop and trailer access	yes	yes	yes	to be determined land use agreement

Appendix D:
Letters From Towns

Coastal Institute
Narragansett Bay Campus
University of Rhode Island
Narragansett, RI 02882

**R.I. BAYS, RIVERS &
WATERSHEDS
COORDINATION TEAM**

Tel 401.874.6233
Fax 401.874.6899

www.ci.uri.edu/ribayteam

July 27, 2005

Ms. Rachel Calabro
Southeastern Regional Planning and Economic Development District
88 Broadway
Taunton, MA 02780

Dear Ms. Calabro,

I am writing this letter on behalf of the seven directors of Rhode Island state agencies and organizations who are members of the Rhode Island Bays, Rivers and Watersheds Coordination Team – a collaborative effort to work together on solutions for our waters and watersheds lands. Upon reviewing the work you and your partners have done to create a Taunton River Stewardship Plan and to collectively organize local groups and governments, the Team wishes to express its support for the Taunton River application for Wild and Scenic River designation.


The underlying principles of Wild and Scenic designation are in synch with the goals identified for the R.I. Bays, Rivers and Watersheds Coordination Team: to keep designated rivers free flowing; to protect outstanding natural and cultural values; to allow existing uses of rivers to continue where they do not conflict with river protection; and to build partnerships among landowners, river users, tribal nations, and all levels of government. These principles have proven to be key factors of success in many watershed protection efforts and in the Taunton watershed you have done a great job coalescing grassroots and political energy around them.

The Wild and Scenic Rivers designation process has brought together people from across the watershed to identify problems and solutions and to recognize the natural and cultural values that define what it means to live in the Taunton River watershed. Awareness of the river system and the benefits it brings has been raised in the minds of the public and policy-makers.

It is our hope that the designation will encourage basin-wide management that crosses political boundaries and helps better protect not only the Taunton watershed but the waters and coastal watersheds draining to Narragansett Bay.

The grassroots energy and effort displayed in your watershed has been truly impressive and provides an inspiration for all people who care for our rivers, lands and bays. The R.I. Bays, Rivers & Watersheds Coordination Team wishes to strongly endorse the Taunton River watershed's application for Wild & Scenic River designation and we urge the federal government to move swiftly to accept and approve this proposal. Wild and Scenic designation of the Taunton River will provide benefits across the region for generations to come.

Sincerely,



Richard Ribb, Acting Chair

R.I. Rivers Council, R.I. Water Resources Board, Narragansett Bay Commission, R.I. Dept. of Environmental Management,
R.I. Coastal Resources Management Council, R.I. Statewide Planning Program, R.I. Economic Development Corporation

Dighton Inter-Tribal Indian Council
P.O. Box 49
Raynham, MA. 02767-0049

Subject: Letter of Support
Taunton Wild and Scenic River Project

13 July 2005


To Whom it May Concern:

As a non-profit Native American council, we are chartered to provide a format that allows the native community the opportunity to express their native culture and beliefs to both the surrounding non-native communities and each other. It is through this channel that we are able to honor the values and teachings of our elders and bring the new generations these teachings and values that will help guide them into their coming days.

One of our greatest teachings, is that all things are connected and what is done to one ultimately affects all, sometimes for generations to come. It is in this light, that this council is both heartened and hopeful that the current request to have the Taunton River designated a nationally protected river, will go forward and become a rich heritage that our children's children may enjoy. What we as a people and a nation do today, becomes our legacy in our children's eyes. This affects not only the two-legged people, but also the swimmers, the green growing things, the four-leggeds, the wingeds, and crawling things, the waters, the winds, and the earth. These things which have no voice to raise on their own are our obligation to speak for, so that we may live in harmony on this creation.

Thank you for the honor of allowing me to speak for my people, as they have asked me to do. This seed for the future has been planted in the good ground and all it requires now is good clean living water.

Sincerely,


Gordon Two Bears Stands
Elected Chief
Dighton Inter-tribal Indian Council

Pocasset Wampanoag Tribe



July 1, 2005

The Pocasset Wampanoag Tribe would like to add their voice to those who would like to protect the Taunton River. The Pocasset, once the largest Native group within the Wampanoag Nation, was situated on either side of the Taunton River. They resided from the mouth of the Bay up River to Middleborough. It is our firm desire that this River have a wild and scenic designation to promote awareness and education. We would support action strategies to enhance its value.

Pocasset Wampanoag Tribal Council,
Chief Edward Page

Chief Edward Page



The Somerset Yacht Club, Inc

Est. 1948

June 2005

Dear Taunton River Stewardship Committee;

At the last meeting of the Somerset Yacht Club held on 16 June 2005 we were told that nine out of ten communities along the Taunton River had voted in favor of preserving the Taunton River as a National Historic Wild and Scenic River.

As a club we realize the importance of the Taunton River as a regional resource to agriculture, fisheries, recreation and scenery just to mention a few of its outstanding values. Therefore, we would like to offer you our heartfelt thanks, appreciation and support for all your hard work in making this possible.

Sincerely yours,

Stanley J. Saladyga, Jr.

Stanley J. Saladyga, Jr.
Secretary
Somerset Yacht Club



Town of Somerset
Conservation Commission

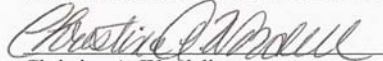
July 11, 2005

Taunton River Wild & Scenic Designation Committee
C/o Bill Napolitano
SRPEDD
88 Broadway
Taunton, MA 02780

Dear Committee Members,

I am pleased to inform you that on May 16, 2005 the annual town meeting for the Town of Somerset was held, at which time article 28, to see if the Town would endorse the Taunton River Stewardship Plan and seek a Wild and Scenic River Designation of the Taunton River by the United States Congress, was unanimously passed.

Sincerely,
Town of Somerset Conservation commission



Christina A. Wordell, secretary



Town of Freetown

OFFICE OF THE TOWN CLERK
3 NORTH MAIN STREET
P. O. BOX 438
ASSONET, MA 02702

JACQUELINE A. BROWN, CMC
TOWN CLERK

TEL. 508-644-2203
FAX: 508-644-9826
TOWNCLERK@TOWN.FREETOWN.MA.US

July 6, 2005

SRPEDD
C/o Bill Napolitano
88 Broadway
Taunton, MA 02780

Dear Mr. Napolitano,

This is to certify that the following vote was taken at the Freetown Annual Town Meeting held on June 6, 2005:

ARTICLE 28: To see if the Town will vote to endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic River Study Committee, together with its recommendation to seek Wild and Scenic River designation through act of the United States Congress. Submitted by the Board of Selectmen. Requires Majority Vote. Finance Committee recommends. Motion made and seconded to accept the article. So voted unanimously.

Sincerely,

Jacqueline A. Brown, CMC
Town Clerk





Eileen S. Gates
Town Clerk

Town of Middleborough
Office of the Town Clerk
Savings Bank Building 20 Centre Street
Middleborough, Massachusetts 02346-2250
508-946-2415

August 8, 2005

To Whom It May Concern:

I do hereby certify that the following vote was taken at the July 11, 2005, adjourned session of the June 6, 2005, Annual Town Meeting, at which a quorum was declared by the Moderator:

ARTICLE 30: Voted by a majority vote to endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic River Study Committee, together with the recommendation to seek Wild & Scenic River designation through an act of the United States Congress.

Very truly yours,


Town Clerk



Ronald R. Adams

Town of Bridgewater

Office of the
Town Clerk

64 Central Square
Bridgewater, Massachusetts 02324
(508) 697-0922



(508) 697-0921
Fax (508) 697-0941
clerk@bridgewaterma.org

June 22, 2005

William Napolitano
Principal Environment Planner
Southeastern Regional Planning & Economic Dev.
88 Broadway
Taunton, MA 02780

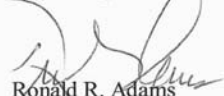
Dear Mr. Napolitano:

This is to certify that the following article was unanimously voted at the Annual Town Meeting held on Monday, May 2, 2005:

ARTICLE 8. It was unanimously voted that the Town endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic Study Committee, together with its recommendation to seek Wild and Scenic River designation through act of the United States Congress.

Unanimous

A true copy, Attest:


Ronald R. Adams
Town Clerk

www.bridgewaterma.org



TELEPHONE (508) 646-2800

BOARD OF SELECTMEN

TOWN OF SOMERSET
MASSACHUSETTS
02726
TOWN OFFICE BUILDING - WOOD AND COUNTY STREETS



March 30, 2005

Taunton River Wild & Scenic River Study Committee
c/o Bill Napolitano
SRPEDD
88 Broadway
Taunton, MA 02780

Dear Members:

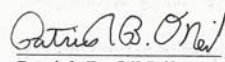
The Somerset Board of Selectmen would like to commend and congratulate you on your efforts to designate the Taunton River as a Wild and Scenic River under the Wild and Scenic Rivers Act. Because the Taunton River is one of the most intact ecosystems in all of New England, the unfragmented habitat and natural estuary are regionally significant. It is imperative to protect this outstanding resource.

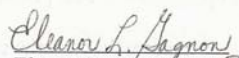
The Taunton River has the second largest watershed in Massachusetts. Funding generated from this designation would benefit the entire region. Fragmentation of riparian corridors, floodplains, and continuous upland habitat blocks must be prevented, as well as the spread of invasive species which could displace our native communities of plants and animals. Funds could be used to ensure water quality, protect cold water habitats and restore rare species and anadromous fish populations.

As a result of this study, we are addressing tidal restrictions in Somerset along the Taunton River at Labor in Vain Brook to improve the biodiversity of our unique marsh system.

The Somerset Board of Selectmen is pleased to endorse the Taunton River Stewardship Plan.

Sincerely,
THE SOMERSET BOARD OF SELECTMEN


Patrick B. O'Neil
Chairman


Eleanor L. Gagnon


Steven Moniz



City Clerk's Office
City of Taunton,

15 Sumner Street
Massachusetts 02780, U. S. A.
Telephone 508 821-1024
Fax 508 821-1098

Rose Marie Blackwell
City Clerk

Johanna Faria
Assistant City Clerk

May 27, 2005

Congressman Barney Frank
Jones Building
29 Broadway
Taunton, MA 02789

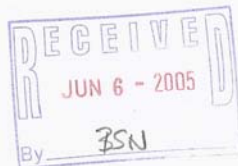
Dear Congressman Frank:

At a regular meeting of the Municipal Council held on May 24, 2005, the Municipal Council went on record endorsing the Taunton River Stewardship Plan by the Taunton Wild & Scenic River Study Committee together with its recommendation seek wild & scenic river designation through the enactment of the United State Congress.

Your attention to this matter is appreciated.

Respectfully,

Rose Marie Blackwell
Rose Marie Blackwell
On Behalf of the Municipal Council





TOWN OF RAYNHAM
SELECTMEN AND BOARD OF HEALTH
53 ORCHARD STREET
RAYNHAM, MASSACHUSETTS 02767
TEL.#: (508) 824-2707
Board of Health: (508) 824-2766
FAX#: (508) 823-1812

www.town.raynham.ma.us

June 13, 2005

Jim Ross, Chairman
Taunton River Wild & Scenic Committee
C/O SRPEDD
88 Broadway
Taunton, MA 02780

Re: Taunton River Stewardship Plan

Dear Mr. Ross:

At the November 16, 2004 Town Meeting, residents of Raynham voted unanimously to adopt the Taunton River Stewardship Plan and recommend to Congress that the Taunton River be included in Federal Wild & Scenic Riverway Program.

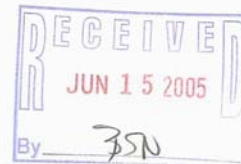
The Taunton River is and has always been vital to the Town of Raynham in so many ways. From an historical, agricultural and biological perspective, the Taunton River is of unequalled value to Raynham. It has important biodiversity and ecological value. It is a source of recreation for boaters, birders, fishermen and others. And it has great scenic value.

We are hopeful that Congress will designate the Taunton River as Wild and Scenic.

Very truly yours,

Randall A. Buckner
Town Administrator

RAB/s



City of Fall River, *In City Council*

BE IT RESOLVED, that the City Council of Fall River hereby supports the recommendation for designation of the Taunton River as a Wild and Scenic River through act of the United States Congress, with the southern boundary of this designation defined as the south side of the Braga Bridge, and

BE IT FURTHER RESOLVED, that the City Council endorses the Taunton River Stewardship Plan developed by the Taunton Wild and Scenic River Study Committee.

In City Council Mat 10, 2005
Adopted, 9 yeas

Approved May 20, 2005
Edward M. Lambert, Jr., Mayor

A true copy. Attest:

Carol A. Chleau

City Clerk



Town of Dighton, Massachusetts

TOWN CLERK, TREASURER AND COLLECTOR

979 Somerset Avenue, Dighton, MA 02715
Telephone (508) 669-5411

Susana Medeiros

I, Susana Medeiros, duly appointed Clerk of the Town of Dighton, Massachusetts, hereby certify that the following is a true copy of an extract from the minutes of the Annual Town Meeting duly called and held on June 6, 2005:

ARTICLE 18. VOTED: On motion of James Digits that the Town will endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic Study Committee, together with its recommendation to seek Wild and Scenic River designation through act of the United States Congress.

Witness my hand and the seal of the Town of Dighton this 6th day of July 2005.

ATTEST:

Susana Medeiros
Susana Medeiros



TOWN OF BERKLEY

MASSACHUSETTS

Office of
TOWN CLERK - TREASURER

CAROLYN AWALT
1 NORTH MAIN STREET
BERKLEY, MASS. 02779

July 6, 2005

Bill Napolitano
SRPEDD
88 Broadway
Taunton, MA 02780

Dear Mr. Napolitano:

As duly qualified Town Clerk of the Town of Berkley, I hereby certify the following action taken June 6, 2005 at the annual Town Meeting.

Article 32: Voted: That the Town endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic Study Committee, together with its recommendation to seek Wild and Scenic River designation through act of the United States Congress.

A true copy of record,
ATTEST:

Carolyn Awalt,
Town Clerk



OFFICE OF THE TOWN CLERK
TOWN OF HALIFAX
499 Plymouth Street
Halifax, MA 02338

As Town Clerk for the Town of Halifax, I certify that the following Article was voted upon at the duly notified Annual Town Meeting held on May 9, 2005.

ARTICLE 28 Voted to endorse the Taunton River Stewardship Plan developed by the Taunton River Wild & Scenic Study Committee together with its recommendations to seek Wild & Scenic River designation through an act of the United States Congress.

Proposed by the Board of Selectmen (T Garron)

Passed Unanimously

Attest:

Marcia K Cole, Town Clerk



OFFICE OF
SELECTMEN
TELEPHONE (508) 946-8803
FAX (508) 946-0112

Town of Lakeville

Town Office Building
346 Bedford Street
Lakeville, MA 02347



December 2, 2004

Taunton Wild & Scenic River Study Committee
c/o Bill Napolitano
SRPEDD
88 Broadway
Taunton, MA 02780

Dear Members,

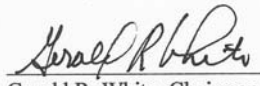
The Lakeville Board of Selectmen would like to commend and congratulate you on your efforts to designate the Taunton River as a Wild & Scenic River under the Wild & Scenic Rivers Act. Because the Taunton River is one of the most intact ecosystems in all of New England, the unfragmented habitat and natural estuary are regionally significant. It is imperative to protect this outstanding resource.

The Taunton River has the second largest watershed in Massachusetts. Funding generated from this designation would benefit the entire region. Fragmentation of riparian corridors, floodplains, and contiguous upland habitat blocks must be prevented, as well as, the spread of invasive species which could displace our native communities of plants and animals. Funds could be used to ensure water quality, protect cold water habitats and restore rare species and anadromous fish populations.


We were especially impressed with the Action Strategy. Recognizing that public awareness is vital as we struggle to protect our water resources, Lakeville held its first *Biodiversity Day* event this year at Ted Williams Camp. We hope to expand the event and continue to celebrate biodiversity every year.

The Lakeville Board of Selectmen is pleased to endorse the Taunton River Stewardship Plan.

Sincerely,


Gerald R. White, Chairman


Chawner Hurd


Richard F. LaCamera



SAVING THE LAST GREAT PLACES ON EARTH

Massachusetts Chapter

205 Portland Street, Suite 400

Boston, MA 02114-1708

617.227.7017/Voice • 617.227.7688/Fax

May 18, 2005

Taunton Wild and Scenic River Study Committee
88 Broadway
Taunton, MA 02780

Re: National Wild and Scenic River Designation for the Taunton River

Dear Committee Members:

The Nature Conservancy enthusiastically supports Wild and Scenic designation for the Taunton River, and offers the following comments on the ecological importance of the River.

The mission of The Nature Conservancy is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. With the help of public and private partners and 28,000 members, The Conservancy has protected more than 23,000 acres of land and water in Massachusetts.

The Taunton River watershed lies within the North Atlantic Coast (NAC) ecoregion, which encompasses the coastal areas of nine states from Delaware to Maine. The Taunton River and six tributary streams were chosen by the Conservancy during the NAC aquatic ecoregional planning process in 2002 for their remarkable condition and concentration of ecoregionally significant species and natural communities. Ecoregional plans identify *portfolio sites* that need to be protected to conserve the native biodiversity of the region. The objective of the freshwater analysis was to identify the most intact and functional stream networks and lake/pond ecosystems to represent the full variety of freshwater diversity present.

The Taunton River is a unique geomorphic type, based on modeling of geology, gradient, elevation, and landforms. The Taunton River is the longest undammed coastal river in New England, with tidal influence reaching nearly 20 miles inland. This extent of tidal influence maintains large, high quality examples of brackish and freshwater tidal marshes, both globally rare community types. Hockomock Swamp is the largest freshwater wetland complex in southern New England, providing high quality habitat for numerous rare birds, reptiles, amphibians, invertebrates, and wetland plants. In total, the watershed is home to forty-two ecoregional target species (species that are declining, disjunct, or otherwise vulnerable at the ecoregional scale), and sixty-eight State listed rare species. This area is important not only for its rarities, but also for the quality and quantity of habitat it provides to more common species. The Taunton basin hosts the largest spawning population of river herring in southern New England and populations of environmentally sensitive species such as river otters and freshwater mussels.

Due to its ecological importance and sensitivity, the Taunton River deserves recognition and protection as a resource of national significance. The Nature Conservancy looks forward to working with the Wild and Scenic River Stewardship Committee to implement the Taunton River Stewardship Plan.

Sincerely,

Alison A. Bowden
Aquatic Ecologist



June 8, 2005

Jim Ross, Chairman
Taunton River Wild & Scenic Study Committee
c/o SERPEDD
88 Broadway
Taunton, MA 02780

Re: **National Wild and Scenic River Designation for the Taunton River**

Dear Mr. Ross and Committee members:

Mass Audubon supports the proposed designation of the Taunton River as a Wild and Scenic River. The mission of Mass Audubon is to protect the nature of Massachusetts for the benefit of people and wildlife. The proposed Wild and Scenic designation would provide opportunities to improve protection of the Taunton River through implementation of the comprehensive Stewardship Plan. We applaud the work of the Committee in developing this Plan over the past several years.

The Taunton River and associated watershed contains many exemplary physical, ecological, and historic attributes worthy of recognition and protection. The Taunton River Watershed is the second largest watershed in Massachusetts and is an extraordinarily intact and ecologically diverse coastal river. It is the largest undammed river in New England. Large expanses of land adjacent to the river are undeveloped and mostly forested, with relatively little invasive species present. The river supports populations of several anadromous fish including the largest herring run in the state, as well as coldwater fisheries in the headwaters. The river corridor has 31 distinct habitat types including globally significant Atlantic White Cedar Swamps. It is home to 68 state-listed rare species including 3 globally rare plants. The largest freshwater wetland (Hockomock Swamp) and some of the largest naturally occurring lakes (Assowomsett Ponds Complex) in Massachusetts are located in the Taunton watershed. The watershed contains large areas of both protected and unprotected BioMap habitats. The river and its tributaries also provide many opportunities for canoeing and other recreational uses, and the corridor contains numerous sites of historic or archeological importance.

Mass Audubon is directly invested in the Taunton watershed through several properties that we own and manage for ecological values. These include the nearly 1,000-acre Assonet Cedar Swamp Wildlife Sanctuary in Lakeville and Freetown, and the 257-acre Stump Brook Wildlife Sanctuary located in the headwaters of the Taunton basin, in the towns of Hanson and Halifax. Both properties contain rare Atlantic White Cedar Swamp and are important wildlife habitats. Mass Audubon also is involved in




education, advocacy, and land protection activities in the watershed and surrounding region. We support various actions recommended in the Stewardship Plan, such as passage of the Community Preservation Act and adoption of Open Space Residential Subdivision bylaws in watershed communities.

The watershed is located in a "sprawl frontier" where low density housing development is consuming land at a rapid rate, as shown in Mass Audubon's publication, *Losing Ground: At What Cost*. The Stewardship Plan recognizes that emerging development patterns threaten the river and associated resources. Improved zoning and land protection initiatives are needed to direct growth in ways that minimize impacts to the river and associated resources while meeting regional housing and economic development needs. The Wild and Scenic designation will help build public awareness of the river and threats to its integrity, and will garner support for available solutions as outlined in the Stewardship Plan.

We hope that Congress will approve this designation expeditiously, and we look forward to working with the diverse members of the Wild and Scenic Committee and other interested parties to support implementation of the Stewardship Plan.

Sincerely,

A handwritten signature in blue ink, appearing to read "John J. Clarke", is written over the typed name and title.

John J. Clarke
Director of Advocacy

HISTORICAL COMMISSION

TOWN of SOMERSET MASSACHUSETTS

140 Wood Street
Somerset, MA 02726
(508) 678-2318

Co-chairwomen
Sheila Weinberg
Virginia Jackson

April 23, 2005

Board of Selectmen

This letter is to inform the board of selectmen of the Historical Commission's support of the Taunton River Wild and Scenic River project.

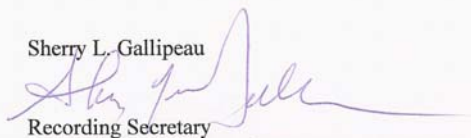
We would ask that the board of selectmen and Congress endorse the Taunton River Stewardship Plan developed by the Taunton River Wild and Scenic Study Committee, in their efforts to secure a designation for the Taunton River as a National Wild and Scenic River.

We believe this designation would insure the preservation of the Taunton River corridor as an intact river ecosystem and regional resource.

Thank you for your attention to this matter and your support of this project.

Respectfully submitted,

Sherry L. Gallipeau



Recording Secretary
Somerset Historical Commission



Town of Somerset
Conservation Commission

March 25, 2005




The Honorable Speaker of the House of Representative
Washington, DC

Re: Congressional Designation of the Taunton River of Massachusetts as a "Wild and Scenic River"

Dear Mr. Speaker,



The town of Somerset Massachusetts Conservation Commission hereby respectfully requests that the Congress of the United States designate the Taunton River as a "Wild and Scenic River" of the United States.

Sincerely yours,
Somerset Conservation Commission





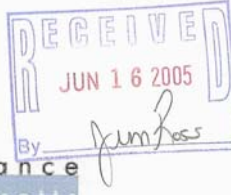
Timothy Turner, Chairman

cc: Commission
SRPEDD

caw



Christina A. Wood, Secretary



**Watershed Action Alliance
of Southeastern Massachusetts**



PO Box 73, Kingston, MA 02364

www.watershedaction.org

**Watershed groups united to protect water and natural resources
in Southeastern Massachusetts**

June 15, 2005

Southeast Regional Planning & Economic Development District
ATTN: Jim Ross, Chairman
Taunton River Wild & Scenic Study Committee
88 Broadway
Taunton, Massachusetts 02780

Dear Mr. Ross:

The Watershed Action Alliance of Southeastern Massachusetts, a coalition of eleven river protection organizations, strongly endorses the designation of the Taunton River as a Wild & Scenic River of the United States. WAA expressly endorses the "Taunton River Stewardship Plan" to address the critical needs of the river and be the guiding plan as stakeholders proceed to preserve and enhance the Taunton.

Our members cooperate to protect and restore the watersheds of Southeastern Massachusetts. In Southeastern Massachusetts, the threat is now critical. While our region contains vast areas of forest, agricultural land, and unique ecosystems, there is an extremely narrow window for action. The impact of accelerated development is especially hard on rivers and wetlands because impervious surfaces of pavement and buildings change the natural patterns of stormwater recharge. The door is closing for preservation of a unique landscape.

We believe that designation of the Taunton will enhance the efforts of our members the Taunton River Watershed Alliance and Save the Bay - Narragansett Bay and other interested conservation partners to successfully restore and preserve the natural resources of the River.

The Taunton has many extremely important natural resources long its main stem, as has been well documented in the Stewardship Plan and previous research. In particular, we would like to focus attention on the Taunton's role as the major freshwater supply to Narragansett Bay and as a critical habitat for many species of fish, shellfish and other species.

The Taunton estuary is the nursery habitat for many resident and migratory fish, shellfish and other ocean-living species. Anadromous species such as the American shad, alewife, blue back herring and rainbow smelt, and catadromous species such as the American eel spend significant periods of their reproductive and/or life cycle in tidal and freshwater streams and rivers. These precious habitats are fragile and face pollution from everything that occurs near the river: residential and municipal wastewater treatment systems; the dirty runoff from roads and parking lots; and the

incremental filling of wetlands. These developments cause changes in water quality, water temperature, and seasonal flow that have harmful effects on life in the river.

The Taunton River also features unusual freshwater tidal marshes — areas dominated by fresh river water, although influenced by the tide, where a delicate saline balance is maintained since the River has no dams on its main stem. These globally rare tidal freshwater marshes contain species such as Sweet Flag, Wild Rice, Cat-tail and Climbing Hempweed and are a priority for protection.

Stewardship of the Taunton must look, from a watershed perspective, at the many impacts of development not only adjacent to the river corridor, but also to the upland of the shoreline. In particular, the increasing amount of impervious surface in the basin is reducing the natural recharge of wetlands and underground aquifers. Rapid runoff also sends unfiltered storm water into the river and reduces base flow at critical dry periods.

We also need to focus attention on the impact of the many public and private wells. WAA urges communities to consider the cumulative impact of private wells on our shared water sources when planning for future water supplies. If private wells become contaminated or run dry in the summer, these users may one day connect to the municipal water supplies. Irrigation systems - whether public or private, at a home or an office park - should be designed and used in the most efficient manner so that the impact to resources is reduced. The Stewardship Plan will assist communities to develop effective zoning and by-laws for water management, land management, and the design and construction of public infrastructure.

WAA's overarching goal is to improve the long-term stewardship of our rivers. We recommend that Congress designate the Taunton River a Wild & Scenic River and accept the Taunton River Stewardship Plan as an important step to the long-term protection of this incredible natural resource.

Sincerely,



Susan P. Speers, Coordinator

About WAA: The mission of the Watershed Action Alliance is to achieve its members' goals of protecting and restoring the watersheds of Southeastern Massachusetts through strategic collaboration. The Watershed Action Alliance strengthens the individual and collective capacity its member groups, enabling them to be more effective watershed advocates. www.watershedaction.org

WAA members participating in this comment:

Samantha Woods, North & South Rivers Watershed Association, Norwell, and Weir River Watershed Association, Hull

Taber Keally, Neponset River Watershed Association, Canton

Pine duBois, Jones River Watershed Association, Kingston

Robert W. Davis, Taunton River Watershed Alliance, Bridgewater

Ed Russell, Six Ponds Improvement Association, Plymouth

Jodi Purdy-Quinlan, Fore River Watershed Association, Weymouth

Tom Burbank, Back River Watershed Association, Hingham

John Torgan, Save The Bay - Narragansett Bay, Providence, Rhode Island

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