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CAPE COD  
COMMISSION

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## DECISION

DATE: April 19, 2018

TO: Town of Barnstable  
c/o Mark Ells, Barnstable Town Manager  
367 Main Street  
Barnstable (Hyannis), MA 02601

Re: Re-designation  
Downtown Hyannis Growth Incentive Zone (Commission File No. 05034)

## SUMMARY

The Cape Cod Commission re-designates the Downtown Hyannis Growth Incentive Zone, originally approved and designated by the Commission in 2006, and establishes or re-establishes modified or revised Development of Regional Impact review thresholds within the Downtown Hyannis Growth Incentive Zone (DHGIZ), unique to and in furtherance of the DHGIZ.

## FINDINGS

The Commission finds and determines as follows:

1. Pursuant to the Cape Cod Commission's ("Commission") Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations of General Application, the Commission approved designation of the Downtown Hyannis Growth Incentive Zone ("DHGIZ") by decision dated April 6, 2006. The Commission approved changes to the DHGIZ boundary by modification decision dated September 5, 2006. The Commission approved extensions to the duration of the DHGIZ on December 3, 2015, and on October 6, 2017. Designation of that DHGIZ will expire on April 4, 2018.
2. The Commission approved modification to certain Development of Regional Impact (DRI) review thresholds under that designation, namely, by setting a cumulative limit on the amount of certain types of commercial building and housing development that could proceed in the DHGIZ without the requirement for DRI review. The Barnstable County Assembly of Delegates and County Commissioners subsequently adopted and approved these DRI review threshold modifications by county ordinance, and the modified DRI review thresholds were incorporated into Section 3 of the Enabling Regulations Governing Review

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of Developments of Regional Impact/Chapter A of the Code of Cape Cod Commission Regulations of General Application.

3. The Town of Barnstable, through its Town Manager, submitted a Growth Incentive Zone application to re-designate the DHGIZ on March 7, 2018, such application dated February 20, 2018. Submission of the application was authorized by resolution and vote of the Barnstable Town Council on March 1, 2018. The proposed DHGIZ boundary (depicted in Figure 1, Page 8 of the application) is the same as previously approved by the Commission. A copy of the DHGIZ boundary map is attached hereto and incorporated herein as Exhibit A.
4. The Town's application was developed simultaneous with and in light of the process of amending the Commission's Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations of General Application, which amendments were proposed by vote of the Commission at its meeting on February 22, 2018, and adopted by the Barnstable County Assembly of Delegates on April 4, 2018. The Town's proposed approach to the DHGIZ is consistent with said Chapter G, including with those amendments to said Chapter G. Approval granted hereunder shall be considered a "Major Modification" to the existing DHGIZ designation, to the extent the Town's request is reviewed under said amendments to Chapter G.
5. The Commission held public hearings to consider the Town's DHGIZ re-designation request at its meetings on March 22, 2018 and April 19, 2018. The Commission's Committee on Planning and Regulation met on April 5, 2018 to review a draft written DHGIZ decision.
6. In 2015, recognizing that the 10-year duration of the DHGIZ established in the Commission's 2006 GIZ designation decision was nearing its end, and that the DHGIZ had benefitted the Town through facilitating re-investment in and redevelopment of properties in the DHGIZ, stabilizing property values in Downtown Hyannis, the Town requested and the Commission approved a short-term, 1 1/2 year extension to the duration of the DHGIZ. During this extension, the Town worked to develop an approach to seeking re-designation and continuation of the DHGIZ, intended to further leverage the recognized successes of the GIZ designation, while at the same time addressing broader, community goals for the DHGIZ that had not yet been fully accomplished.
7. To inform and assist in developing such an approach, Town staff, with support from Commission staff, commenced a visioning and community engagement process to discuss re-designation of the DHGIZ in Fall 2016. A number of public meetings, hearings, surveys and workshops were held between that time and the present, culminating in development of the subject GIZ application, vote by the Planning Board on March 6, 2018 to support the application, and a vote by the Town Council to authorize submission of the application.
8. Residents, business owners in the DHGIZ, Town officials and other stakeholders discussed, among other things, concerns and issues that should be addressed to achieve full potential of the DHGIZ designation and opportunities that might exist to do so ("Issues and Opportunities"), and the relationship of activities and development in Downtown Hyannis relative to the Greater Hyannis area. The Commission's Executive Director granted an additional six-month extension to the DHGIZ duration in Fall 2017 to facilitate the continuation and completion of this community engagement, application and review process.

9. Based on public input from this community engagement process, Town officials have re-articulated the overarching vision, purposes and goals for DHGIZ going forward. The goals appear in the *Infrastructure and Amenities Analysis* and *Capital Improvements Inventory* sections of the application.
10. To achieve the desired broad, community-based goals in the DHGIZ, the Town recognizes that it must pursue a long-term, systemic and adaptive approach to planning and development in the DHGIZ, aligning, leveraging and coordinating its proposed actions and directed public investment in the DHGIZ with private development and investment as it progresses.
11. The purposes of the DHGIZ going forward are to further the economic and social health, vitality and resilience of Downtown Hyannis, with the objectives of facilitating a concentrated mix of business, civic, residential, and recreational development, uses and activity and adequate supporting infrastructure and capital facilities in the DHGIZ, balanced with the preservation and enhancement of natural, coastal, historical, cultural, architectural, recreational, and other values present in the DHGIZ.
12. In furtherance of these purposes and objectives, the Town will, in general, implement planning initiatives, develop decision support tools, make planned infrastructure investment and enact regulatory changes to support and encourage continued public and private investment in the Downtown Hyannis GIZ, such actions and initiatives set out more specifically in the application.
13. The Town will review progress toward its DHGIZ goals regularly with the Commission, and in measuring progress, shall seek feedback from the community through outreach that may include surveys, community forums, and other tools to provide opportunities for gathering feedback from a variety of Hyannis stakeholders.
14. The Town's renewed approach to the DHGIZ is one that will focus on comprehensively preserving and improving natural and built systems in the DHGIZ, recognizing the interrelationship and mutual benefit between private and public action and investment, rather than focusing on a parcel-by-parcel development approach which can result in fragmented system improvements. This approach will also allow the Town to regularly re-assess its goals, strategies and performance measures in the DHGIZ and to refine them as necessary as Downtown Hyannis continues to evolve.
15. Capital facilities and infrastructure improvements are central to the Town's DHGIZ approach, where the pursuit of broad community benefits is the Town's focus in re-designating the DHGIZ. The *Infrastructure and Amenities Analysis* section discusses the Town's capital facilities and infrastructure plans and needs with respect to achieving full potential of the DHGIZ designation.
16. The *Infrastructure and Amenities Analysis* sets out the Town's goals for the DHGIZ, arranged into six major capital facilities and infrastructure systems, and subsystems, fulfillment of which is intended to preserve or enhance various built and natural resource systems in the DHGIZ through the provision of capital facilities and infrastructure:

- I. Transportation and Mobility
  - a. Pedestrian Network

- b. Bicyclist Network
  - c. Traffic Circulation
  - d. Parking
  - e. Transit
- II. Water Resources
- a. Drinking Water Supply & Distribution
  - b. Stormwater
  - c. Wastewater Treatment & Collection
- III. Community Services
- a. Open Space & Recreation
  - b. Community Programming
  - c. Marine Resources
  - d. Cultural Facilities
  - e. Historic Resources
- IV. Neighborhoods
- a. Community Health
  - b. Housing
- V. Utilities
- a. Broadband/ Telecommunications
  - b. Electric
  - c. Natural Gas
- VI. Coastal Resiliency
17. This *Analysis* section of the application reflects that Downtown Hyannis revitalization is a collective, additive, cumulative and long-term endeavor to be supported through collaboration by and between all Town departments, other public agencies and the private sector. This integrated ‘place-based’ approach to planning is designed to support authentic community building efforts responsive to the needs of commercial and residential interests, and the history, culture and environment of Hyannis.
18. The *Capital Improvements Inventory* section of the application represents the Town’s capital plan for Downtown Hyannis. It sets out sources and scheduling of funding in the first five-year planning period for the re-designated DHGIZ representing \$80 million of proposed or planned capital facility and infrastructure improvements, correlating to the systems and subsystems identified in the *Amenities and Infrastructure Analysis*. The Town’s stated goal for this capital plan is *to locate infrastructure to effectively protect natural resources and public health in the DHGIZ and Greater Hyannis Area, while encouraging economic investment in the area, promoting compact form and more equitable cost sharing, reducing disaster vulnerability, and preserving historic development patterns.*
19. The Town has a variety of land use and development regulations and controls in place in the DHGIZ, as enumerated in Section 10 of the application, sufficient to regulate development and activity in the DHGIZ relative to those values and resources present

in Downtown Hyannis, and which the Commission is charged with preserving or furthering under Section 1 of the Cape Cod Commission Act. In the zoning analysis section of the application, the Town has identified some potential zoning changes to further the purposes and objectives of the DHGIZ:

- Further consolidation of zoning districts within the DHGIZ;
  - Adoption of “form-based code” approach to zoning in pilot areas, with a focus on regulating building forms, massings and layouts rather than use regulation;
  - Evaluation of the current Design and Infrastructure Plan in the GIZ, relative to development that has proceeded in the DHGIZ during the initial period of the DHGIZ designation;
  - Zoning changes to promote housing opportunities ‘for all.’
20. In Section 9 of the application, the Town analyzed the proposed DHGIZ re-designation relative to area-wide or comprehensive plans applicable to Downtown Hyannis. The ‘smart growth,’ ‘place-based’ and infrastructure approaches of the proposed DHGIZ re-designation are consistent with such plans, including the Town’s own Local Comprehensive Plan, the Cape Cod Regional Policy Plan, the Regional Transportation Plan and the Section 208 Cape Cod Area-Wide Water Quality Plan.
21. The *Strategic Plan* section of the application outlines a menu of specific strategies, actions and initiatives the Town will pursue in the first five-year planning period of the DHGIZ re-designation to achieve the purposes, objectives and goals of the DHGIZ. In the *Strategic Plan*, the Town has identified a few priority actions, strategies or initiatives it would pursue (and potentially complete) in the first year of this initial five-year planning period, including to:
- Refine performance measures for the DHGIZ in collaboration with the Commission;
  - Evaluate the form and design of completed development projects (2006 -2018) within the DHGIZ in support of updating the Design & Infrastructure Plan;
  - Evaluate existing zoning districts and approach to zoning regulation in Downtown Hyannis;
  - Complete the East End Multi-Modal Transportation Study;
  - Begin community outreach and planning in support of a comprehensive parking management strategy;
  - Continue comprehensive water management planning and implementation, including collaborations with the Town of Yarmouth & others on a long-range plan for drinking water supply and wastewater treatment;
  - Continue to promote housing opportunities for all ages and incomes through zoning amendments, infrastructure improvements, Community Development Block Grant (CDBG) support and community partnerships.
22. Though its review, the Commission has identified the following as an important action for the Town to pursue in the DHGIZ in addition to those actions and strategies expressly set out in the Town’s DHGIZ re-designation application, which additional action the Town will include in the *Strategic Plan*:
- Re-examine the review and decision-making process for projects within the DHGIZ proposed under the Town’s Regulatory Agreement Ordinance.

23. The Town recognizes that success of the DHGIZ depends not merely on establishing goals for the DHGIZ, but that these goals must be measurable and measured to determine whether the Town is progressing with and meeting them.
24. The Town suggests corresponding performance measures for the DHGIZ goals identified for the six major systems, and subsystems, in the *Infrastructure and Amenities Analysis* and *Capital Improvements Inventory*, informed by input received through the community engagement process. In Section 3 of the application, the Town has identified five general categories, or indices, derived from the more specific system and subsystem categories set out in the *Analysis* and *Inventory*, to comprehensively measure progress towards achieving the purposes and objectives of the re-designated DHGIZ in its first five-year planning period:
- The Economy;
  - Public Safety;
  - The Pedestrian Network;
  - Open Space and Culture;
  - Drinking Water Resources.
25. As one of the priorities of the *Strategic Plan*, the Town will work with Commission staff to establish multi-variate, key performance indicators associated with the five, above-referenced indices, which will serve as inputs for a performance measuring tool to be developed between the Town and Commission staff to measure progress towards the overall goals of the DHGIZ over time. For example, in terms of the Pedestrian Network Index, indicators may be established to reflect investment in new sidewalks, which generally improve pedestrian safety, alongside other indicators reflecting any increase in curb cuts, which generally decrease pedestrian safety. In terms of furthering the Pedestrian Network in the DHGIZ, these measurements, on balance, may highlight for the Town that efforts to reduce existing and future curb cuts should be adopted before prioritizing expenditures on new sidewalks.
26. The purposes and objectives of the DHGIZ are consistent with the purposes of the Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations of General Application. Additionally, concentrated development proposing a mix of uses is appropriate and desirable in Downtown Hyannis, coupled with continued provision for capital facilities and infrastructure timed to serve such uses and development. Downtown Hyannis, and the revitalization thereof, also provides benefit to the Cape Cod region as a whole with the potential of providing desired economic development, housing, goods, services and amenities to the region.
27. To support and incentivize continued re-investment and economic growth in the DHGIZ by reducing regional regulation over development in the DHGIZ where such regulation is redundant or unnecessary to address regional issues likely arising from such development; recognizing that Downtown Hyannis is a built system with existing and planned local infrastructure systems capable of absorbing additional growth and development; recognizing that there are existing or planned local development controls in the DHGIZ sufficient to regulate and balance those values and interests appearing in Section 1 of the Cape Cod Commission Act; recognizing that the Town's goals- and performance-based approach to pursuing the DHGIZ balances and furthers those values and interests set out in Section 1 of the Cape Cod Commission Act; and, accordingly, that proposed development in the DHGIZ

is unlikely to result in development issues significant to towns outside the Town of Barnstable, the Commission grants the Town's request to modify or revise the applicability of certain mandatory DRI review thresholds to proposed development within the DHGIZ, as follows.

28. The following mandatory DRI review thresholds appearing in Section 3 of the Commission's *Enabling Regulations Governing Review of Developments of Regional Impact/ Chapter A* of the Code of Cape Cod Commission Regulations of General Application ("Enabling Regulations") shall not apply to proposed development within the DHGIZ, and the Commission shall not require the Town to refer proposed development that meets or exceeds such thresholds to the Commission for DRI review. The mandatory DRI review threshold revisions or modifications approved and recited herein shall supersede those modifications to mandatory DRI review thresholds established in the original DHGIZ designation and as currently set out in Section 3(l) of said *Enabling Regulations*, and said Section 3(l) shall have no force and effect relative to this DHGIZ re-designation:

- 3(c) Any development that proposes to divide parcel(s) of land totaling 30 acres or more in common ownership or control on or after September 30, 1994, including assembly and recombination of lots. This threshold shall include any development activity in conjunction with any land division of 30 acres or more not otherwise exempted from review under Section 22(e) of the Act;
- 3(d) Any development that proposes to divide land into 30 or more residential lots. Any development that proposes to divide land into 10 or more business, office or industrial lots;
- 3(e) Any of the following proposed developments: commercial, service, retail, wholesale business, industrial, private office, private health, private recreational or private educational which exceeds these criteria:
  - (i) New construction of any building or buildings (including accessory and auxiliary structures) with a Gross Floor Area greater than 10,000 square feet;
  - (ii) Additions to existing buildings that result in an increase greater than 10,000 square feet of Gross Floor Area;
  - (iii) For Outdoor Uses, new construction or development that has a Total Project Area greater than 40,000 square feet;
  - (iv) Any Demolition and replacement not resulting in a Change of Use that results in a net increase in Gross Floor Area greater than 10,000 square feet. Net increase is calculated as the difference between the existing Gross Floor Area and the proposed Gross Floor Area;
- 3(f) Any proposed Change of Use, or Demolition and replacement resulting in a Change of Use, involving commercial, service, retail, wholesale, industrial, private office, private health, private recreational or private educational uses in excess of the following thresholds:
  - (i) Where the Gross Floor Area of the building(s), or that portion of a building, subject to the Change of Use, is greater than 10,000 square feet. In cases where there is a Change of Use within a portion of a building only, all areas associated with that use shall be included in the 10,000 square foot calculation, including storage areas and ancillary areas;
  - (ii) Any Demolition and replacement that results in a Change of Use where the Gross Floor Area is greater than 10,000 square feet.

- (iii) For Outdoor Uses, where the Total Project Area is greater than 40,000 square feet;
- 3(g) Any proposed development, including the expansion of existing developments, that is planned to create or add 30 or more Residential Dwelling Units;
  - 3(k) Mixed-use residential and non-residential developments with a Gross Floor Area greater than 20,000 square feet, or greater than 10,000 square feet of commercial space. For the purposes of this threshold the Gross Floor Area of Residential Dwelling Unit(s) shall be included in the Gross Floor Area calculation of the total development.
29. Notwithstanding the foregoing, modification or revision to mandatory DRI review thresholds approved and recited hereunder shall not apply to proposed additions, expansion or alterations to Cape Cod Hospital, which is located in the DHGIZ.
30. Mandatory DRI review thresholds in said *Enabling Regulations* that are not specifically revised or modified and recited hereunder shall apply to proposed development in the DHGIZ with the same force and effect as if such proposed development was not located in the DHGIZ. Any proposed development in the DHGIZ that meets or exceeds mandatory DRI review thresholds appearing in said *Enabling Regulations* that are not specifically revised or modified and recited hereunder shall require that the Town refer such development to the Commission as a Development of Regional Impact. The Mandatory DRI review thresholds of general application appearing in the current version of said *Enabling Regulations* (Revised dated November 2014, with Fee Schedule Revised Effective July 1, 2017) that are not specifically revised or modified and recited hereunder are set out in Exhibit B, attached hereto.
31. Nothing in this decision shall prohibit the Town from referring proposed development to the Commission as a “Discretionary Referral” pursuant to Section 12(e) of the Cape Cod Commission Act and Section 2(b) of said *Enabling Regulations*.
32. In the event said *Enabling Regulations* are amended in the future relative to those mandatory DRI review thresholds specifically revised or modified hereunder, then the Commission shall issue an administrative modification to this decision to conform the language in those thresholds recited in this decision with the amended language in the *Enabling Regulations*.
33. Five years from the date of this decision, and every five years thereafter, the Town shall prepare a written report about the Town’s progress in achieving the objectives and goals of the DHGIZ and undertaking the strategies set out in the *Strategic Plan*, evaluated in light of the performance measure process to be established by and between the Town and Commission staff. Such reports shall be presented at a meeting of the Commission’s Committee on Planning and Regulation, and shall also set out any proposed adjustments or refinements to the goals, strategies or performance measures for the next five-year planning period for the DHGIZ. In its written report, the Town shall evidence how it engaged the Hyannis community for comment to inform the reports. The Commission may issue certificates upon review of the Town’s reports for each successive five-year DHGIZ planning period, which certificates will reflect the Town’s progress in meeting its objectives and goals for the DHGIZ, and any proposed adjustments or refinements in the Town’s goals, strategies, or performance measures for the DHGIZ.



34. One year from the date of this decision, the Town shall prepare and submit to Commission staff a written report about the Town's progress in advancing those priority strategies outlined in the *Strategic Report*, set out specifically below:
- Refine performance measures and develop a performance measuring tool for the DHGIZ in collaboration with the Commission;
  - Evaluate the form and design of completed development projects (2006 -2018) within the DHGIZ in support of updating the Design & Infrastructure Plan;
  - Evaluate existing zoning districts and approach to zoning regulation in Downtown Hyannis;
  - Complete the East End Multi-Modal Transportation Study;
  - Begin community outreach and planning in support of a comprehensive parking management strategy;
  - Continue comprehensive water management planning and implementation, including collaborations with the Town of Yarmouth & others on a long-range plan for drinking water supply and wastewater treatment;
  - Continue to promote housing opportunities for all ages and incomes through zoning amendments, infrastructure improvements, Community Development Block Grant (CDBG) support and community partnerships.
35. The Town shall submit for Commission staff review, prior to adoption, a copy of any proposed new, or proposed amendments to, Municipal Development Ordinances within the DHGIZ. Such new or amended Municipal Development Ordinances shall be consistent with the purposes and objectives of the DHGIZ and the purposes of the Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations. The Town shall ultimately submit to Commission staff copies of any new or amended Municipal Development Ordinances adopted by the Town in the DHGIZ.
36. The DHGIZ re-designation and corresponding modifications or revisions to certain mandatory DRI review thresholds, as described herein, shall remain in force and effect without duration unless revoked, rescinded or modified pursuant to the relevant provisions of the Growth Incentive Zone Regulations/ Chapter G of the Code of Cape Cod Commission Regulations,
37. Any proposed expansion to the DHGIZ boundary shall be deemed a "Major Modification" under the Growth Incentive Zone Regulations.
38. The Commission shall record a copy of this decision with the Barnstable County Registry of Deeds. The effective date of this decision shall be the undersigned date.

## **CONCLUSION**

The Cape Cod Commission hereby re-designates the Downtown Hyannis Growth Incentive Zone, its boundary depicted in the map attached hereto as Exhibit A, and modifies or revises the applicability of certain mandatory Development of Regional Impact review thresholds to proposed development in the Downtown Hyannis Growth Incentive Zone (DHGIZ), discussed more specifically herein. The Town shall pursue and implement the DHGIZ consistent with the Findings of this decision.

## ***SIGNATURE PAGE FOLLOWS***

**SIGNATURE(S)**

Executed this 19th day of April 2018.

*Harold W Mitchell*

Signature

*Harold W Mitchell Chair CC Commission*

Print Name and Title

**COMMONWEALTH OF MASSACHUSETTS**

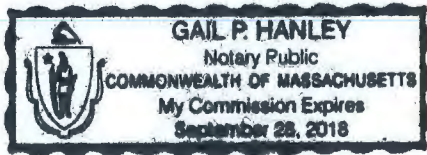
Barnstable, ss

April 19, 2018

Before me, the undersigned notary public, personally appeared

*Harold W. Mitchell*, in  
his/her capacity as *Chairman* of the Cape

Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he/she signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, or [  ] personal knowledge of the undersigned.



SEAL

*Gail P. Hanley*  
Notary Public:

My Commission Expires: *9-28-18*

# Exhibit A DHGIZ Boundary Map

1

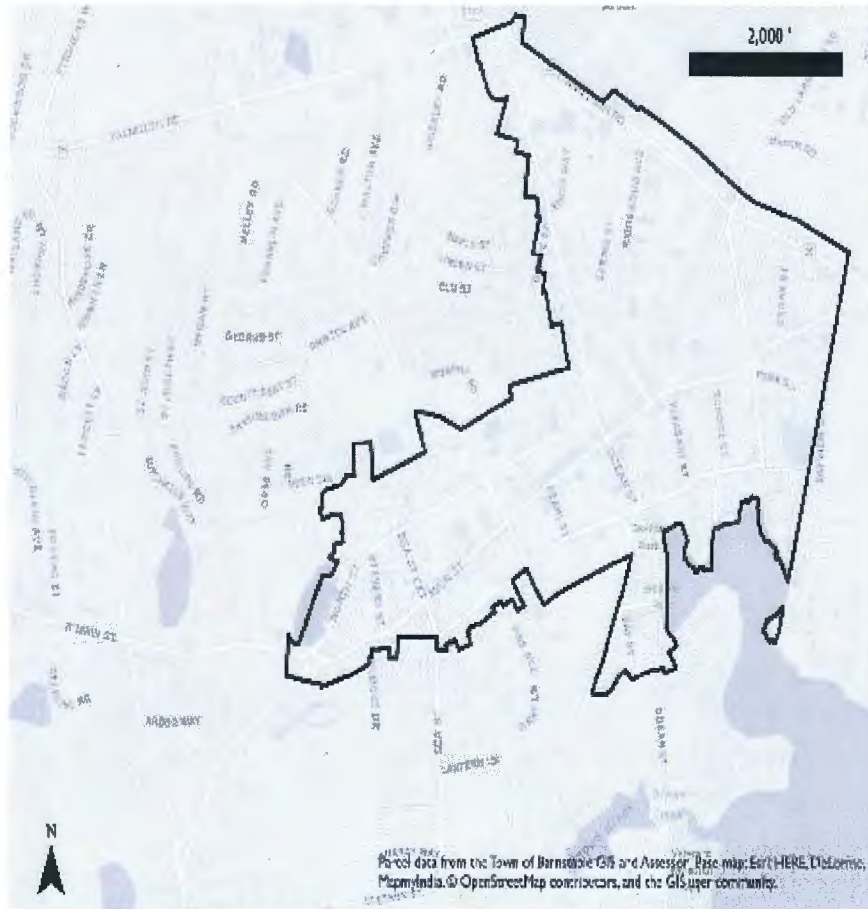


FIGURE 1: Boundary

**Exhibit B**  
**Mandatory DRI Review Thresholds from Current Enabling Regulations**  
**Not Revised or Modified in DHGIZ**

2(d)(i) Any proposed development for which an Environmental Impact Report (EIR) is required to be prepared under the provisions of MEPA.

3(a) Any proposed Demolition or Substantial Alteration of a building, structure or site listed on the National Register of Historic Places or the State Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District.

3(b) The construction or expansion of any bridge, ramp, road or vehicular way that crosses or provides direct access to an inland pond, barrier beach, coastal bank, dune, beach or tidal wetland or waterbody (as defined by MGL Ch. 131, Section 40) except a bridge, ramp or driveway serving no more than three single-family dwelling(s).

3(h) Any development providing facilities for transportation to or from Barnstable County, including but not limited to ferry, bus, rail, trucking terminals, transfer stations, air transportation and/or auxiliary uses and accessory parking or storage facilities, so long as such auxiliary and/or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 square feet of outdoor area. For the purposes of this threshold the amount of outdoor area shall be calculated as set forth in the definition of Total Project Area.

3(i)(1) Construction of any Wireless Communication Tower exceeding 35 feet in overall height, including appurtenances, from the natural grade of the site on which it is located, except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height from the natural grade of the site on which it is located that is designed to accommodate at least two carriers and with an Occupied Area limited to no more than 1300 square feet; (2) Reconstruction of, attachment to or replacement of any existing Wireless Communications Tower, power transmission structure or utility pole for the purpose of supporting antenna(s) for transmitting and/or receiving radio frequency communications that increases its overall height above existing grade by more than 20 feet.

3(j) Site alterations or site disturbance greater than two acres including but not limited to clear cutting, grading, and clearing land, unless such alteration or disturbance is conducted in conjunction with a building permit for a structure or a DRI approval or in conjunction with a municipal project.