

**FACING THE FUTURE:
A NEW LOOK AT GROWTH MANAGEMENT
ON CAPE COD**

December, 2004

**ASSOCIATION TO PRESERVE CAPE COD
CAPE COD BUSINESS ROUNDTABLE
CAPE COD COMMISSION
CAPE COD ECONOMIC DEVELOPMENT COUNCIL
CAPE COD SELECTMEN'S AND TOWN COUNCILORS ASSOCIATION**

Cape Cod Growth Management Audit Summary Report

Table of Contents

1. About the Cape Cod Growth Management Audit...	2
<i>This section provides background on the audit's objectives and methodology.</i>	
2. Key Findings and Recommendations...	3
<i>This section summarizes key findings gleaned from audit responses and recommendations for future local and regional action.</i>	
3. Summary of Responses...	6
<i>This section provides a summary of audit responses.</i>	
4. Appendices...	10
<i>Appendices provide information on individual town responses.</i>	

Audit Questionnaire

Town-by-Town Responses

Comments by Question

1. About the Cape Cod Growth Management Audit

The Cape Cod Growth Management Audit is a cooperative project of the Cape Cod Business Roundtable, Association to Preserve Cape Cod, Cape Cod Selectmen's and Councilors' Association, Cape Cod Economic Development Council, and Cape Cod Commission.

The audit is a follow up to a series of Town Centers Workshops co-sponsored by the Cape Cod Business Roundtable and the Cape Cod Selectmen's and Councilors' Association in early 2004. The workshops, attended by more than 150 local, county and state officials and interested citizens, highlighted a number of efforts underway in each of the fifteen towns on Cape Cod to manage growth and development. The workshops also pointed out areas where more work is needed to strengthen town centers, protect open space and natural resources, provide infrastructure to support desired growth, and protect community character.

The audit was designed to continue the dialogue on growth management initiated at the workshops in three ways. First, it provided Cape Cod communities an opportunity to review the effectiveness of their land use management laws and policies, and to identify both their achievements as well as their wish list of future actions to manage growth. It also provided a means of gathering information about growth management strategies that are or are not working across Cape Cod that ultimately could be shared among towns. Finally, the audit enabled each town the opportunity to view the range of growth management issues and tools in a broader context and to see how well different areas of local policy and decision-making are integrated.

The audit questions examined local actions to address six growth management objectives:

- Encourage growth in compact, mixed-use village and regional centers.
- Provide infrastructure to support growth in suitable locations.
- Encourage compact development and protection of natural resources.
- Provide a range of housing opportunities.
- Protect historic resources and preserve community character.
- Make development decisions fair and predictable.

The Cape Cod Growth Management Audit was mailed to the Selectmen/Town Council Chair, Planning Board Chair, Town Manager, and Town Planner (or comparable town official) in each of the fifteen (15) towns on Cape Cod. The town representatives were urged to work together—along with other town officials involved in growth management—to compile a single response from each community. This approach was intended to foster local dialogue on the issues covered in the audit.

Fourteen (14) towns returned responses to the audit: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Truro, Wellfleet, and Yarmouth. In many cases the audit responses were reviewed and voted at public meetings of Boards of Selectmen or Planning Boards. The audit co-sponsors gratefully acknowledge the time and effort that went into preparation of audit responses, and the permission granted to include responses in this report.

2. Key Findings and Recommendations

The Town Center workshops and growth management audit brought forward a wealth of information about what towns are doing to manage growth and how they are doing it. The audit shows that although Cape Cod communities have made some progress in their efforts to improve town centers, reduce commercial and residential sprawl and respond to the need for workforce housing, much more remains to be done. The audit revealed the following:

1. While most Local Comprehensive Plans call for compact town centers surrounded by less dense development, few towns have changed their zoning to achieve this. The complexities and procedural requirements of zoning changes make town center revitalization difficult to achieve and sprawling commercial and residential development difficult to counter.
2. Although towns recognize the pressing need for workforce housing, most construction is still for single-family homes on large lots. Many towns also face a large number of 40B projects.
3. Towns have not utilized all the tools that could help them protect open space, natural resources, historic resources or community character.
4. For the most part, local growth management activities are not coordinated among boards within towns, or between adjoining towns. In particular, towns have not coordinated capital facilities planning with land use planning.
5. While training for town zoning and planning boards is available, few members actually participate.

The balance of this section explores these findings more fully and provides recommendations for how each finding might be addressed. Together, the findings and recommendations provide a guide for future local and regional efforts to manage growth on Cape Cod.

Finding 1: Achieving a compact town center development pattern with appropriate offsets is a difficult challenge for any town, even if such a pattern is called for in the Local Comprehensive Plan (LCP). Progress is often stymied by the complex nature of zoning, the required two-thirds vote to amend zoning, grandfathering protections and the lack of local resources available for long range planning.

Recommendations:

- Each town should develop a realistic schedule for bringing zoning bylaws and other town policies and regulations into compliance with its LCP.
- To expedite town center planning and prevent commercial sprawl, technical assistance is needed in several key areas: visioning and architectural design services, market analysis to determine the appropriate mix and desired density of uses, and traffic and wastewater planning.
- Towns need more regulatory tools and strategies to help them offset added density within town centers with less density in other areas. In particular, towns need ways to reduce the amount of allowable development in commercial areas outside of town centers; develop a workable means of transferring development rights from designated sending areas to receiving areas; and expand redevelopment tools such as community development boards and redevelopment authorities. Districts of Critical Planning Concern (DCPCs) can also be used to achieve to achieve needed offsets.
- The County should provide incentives, such as priority access to grant funds, as a means of encouraging towns to channel growth to town centers and away from inappropriate areas.

Finding 2: All towns recognize the need for workforce housing, and many towns have housing plans. However few towns report progress on achieving a desired mix of housing types, and many towns are experiencing a large number of 40B projects.

Recommendations:

- All towns should have a comprehensive housing plan that identifies future housing needs, and identifies areas suitable for multi-family residential development that is affordable to the workforce.
- Towns should examine their village zoning to see if changes could be made to enhance mixed-use opportunities.
- Towns should review and, as needed, amend their cluster or open space residential bylaw to allow clustering of subdivisions on smaller or irregularly shaped parcels, which are now more prevalent in some communities, as well as for larger subdivisions.

Finding 3: Towns have not fully developed the bylaws and other regulatory tools that could help protect open space, natural resources, historic resources or community character.

Recommendations:

- All towns should have an update-to-date comprehensive town-wide open space plan that identifies and prioritizes areas that ideally should remain completely or partially open for a

natural resource protection or recreation. Other town boards and commissions, when making decisions, should consult such a plan.

- The County should provide funding to help towns design bylaws and regulatory strategies to ensure that the scale of residential and commercial development is appropriate to its location. Strategies that are successfully employed in some communities could then be shared among other towns. New strategies such as neighborhood conservation districts should be considered.

Finding 4: For the most part, local growth management activities are not coordinated within town boards of individual communities, or between adjoining towns.

Recommendations:

- Town boards and commissions (Board of Selectmen, Planning Board, Zoning Board of Appeal, Conservation Commission, Board of Health) should meet together on a regular basis to identify and clarify goals and review growth management issues that cut across departmental responsibilities.
- Public facilities such as libraries, town offices, community centers and schools should be located within town centers. Capital facility plans should make this a priority.
- Towns need to integrate zoning and capital planning activities. Infrastructure and capital plans need to correspond with long-range plans for growth centers and for areas where protection from development is desired.
- Greater communication and cooperation are needed among towns to plan and manage development along major roadway corridors. Districts of Critical Planning Concern (DCPCs) may be needed for these roadway corridors.
- The County should provide incentives, such as priority access to grant funds, as a means of encouraging towns to address transportation corridor issues with adjoining towns.

Finding 5: As development pressures continue, towns find it difficult to keep volunteer planning and zoning board members abreast of new information and to communicate growth management policies and regulations to applicants in a clear and integrated manner.

Recommendations:

- Planning and zoning board of appeals members need to undertake training to keep them current with development trends and tools available to manage growth. Because many members of boards work during the day, training opportunities should be offered at appropriate times.
- Towns should make available up-to-date guidance documents that coordinate requirements for various town-permitting departments. Guidance should also be available to potential applicants on towns' websites.

3. Summary of Responses

This section provides an annotated summary of audit responses. Appended to the report is a copy of the audit questionnaire with responses tallied for each question; a spreadsheet indicating how each town responded to each question; and comments provided by the towns to further explain their responses to selected questions.

Encouraging Growth in Compact, Mixed-use Village and Regional Centers

Eleven (11) towns indicate that their respective Local Comprehensive Plan (LCP) describes a pattern of development that includes one or more town centers surrounded by less dense development. Other responses indicate that towns are making some progress in directing growth to town centers:

- Ten (10) towns said that the zoning bylaw allows higher density development (smaller lot sizes) in town centers and lower densities (larger lot sizes) in outlying areas.
- Eight (8) towns reported that zoning allows for a mix of residential development in town centers.

However, development regulations and practices in the majority of towns continue to vary from the desired growth patterns outlined in the LCPs.

- Only three (3) towns said that local regulations have been modified to make them consistent with the goals and policies of the LCP.
- Only six (6) towns said that the town center(s) have a clearly definable edge.
- The majority of towns reported that most commercial development is occurring outside of town centers and/or in commercial strip patterns or large lots.
- Six (6) towns indicated that mixed use is either not allowed or in need of refinement.
- Public buildings, which are often an anchor for village or town centers, are mostly located outside of town centers in all but three (3) towns.

The responses point out the complexities involved with implementing comprehensive town center zoning. Lack of progress on implementing LCPs is a common theme among towns, and could be due to the controversial nature of zoning changes, and particularly changes aimed at reducing development potential. Another possible factor is the regulatory workload facing many Planning Boards, which often diverts resources from pursuing zoning revisions. Chatham and Brewster were among the towns indicating on-going efforts to comprehensively revise zoning bylaws.

When asked to identify the three most important zoning actions taken to strengthen village centers in the past three years, towns reported a wide variety of actions. Responses included creation of specific village district zones or overlays (Mashpee, Dennis, Harwich); height increases in town centers (Barnstable, Bourne); and allowance for housing in commercial areas or for creation of accessory apartments (Bourne, Dennis, Harwich, Orleans, Yarmouth, Wellfleet). Mashpee included use of TDR districts as a priority action, and two towns (Dennis, Orleans) referred to downzoning actions.

When asked to identify the three most important zoning actions needed to strengthen village centers, only three towns identified specific, planned zoning actions (Barnstable, Dennis,

Falmouth). But, the majority of towns listed general objectives or planning concepts. Towns commented that concerns about how to manage traffic and wastewater generated by new development, and difficulty in identifying workable offsets to new growth were among the issues limiting their ability to promote compact town center development.

Provide Infrastructure to Support Growth in Suitable Locations

It is widely acknowledged that compact town center development creates opportunities for efficiencies in infrastructure (wastewater, transportation, roads, public buildings) and public services. Conversely, having the right infrastructure in place is critical to the viability of town centers. However, it appears that most towns still do not integrate decisions about zoning and infrastructure development in a comprehensive manner.

- Only two (2) towns have evaluated buildout under current zoning and determined related infrastructure needs. Twelve (12) towns reported that, while some information on buildout is available, it has not been used to comprehensively plan for needed infrastructure.
- Four (4) towns reported that Capital Improvement Planning is tied to the Local Comprehensive Plan (LCP). While the remaining ten (10) towns indicated that Capital Improvement Planning is not related to an LCP, three (3) towns commented on efforts to link the two planning needs in the future.
- Four (4) towns reported that there is some type of wastewater treatment serving town centers. Twelve (12) towns reported that local Board of Health regulations allow for clustered systems, but issues of legal responsibility for system maintenance temper use of the provision.

Encourage Compact Development and Protection of Natural Resource Areas

The amount of protected open space in Cape Cod towns varies significantly. In the four (4) outer Cape towns more than 40% of town land is permanently protected, owing to the presence of the Cape Cod National Seashore. Five (5) other towns said that between 25% and 40% of land is protected, and four (4) towns said that less than 25% of town land is permanently protected. All fourteen (14) towns have adopted the Land Bank for open space protection, and two (2) have adopted the Community Preservation Act, although some towns said the question of adopting the CPA could be upcoming at fall '04 or spring '05 Town Meetings.

Open space acquisition is only one method of preserving open space and natural resources to offset town center development, and responses to related questions suggest room for towns to more fully utilize other means.

- Only six (6) towns reported that there is an up-to-date Open Space Plan that is regularly consulted by town boards when making decisions, although some towns said that open space plans were in the process of being updated.
- Only four (4) towns have a natural resources inventory and strong protections for natural resources within site plan or subdivision regulations.
- Thirteen (13) towns have a local wetland protection bylaw for undisturbed buffers around important wetlands, vernal pools and other key resources, and the same number of towns (13) reported aquifer protection bylaws, although two (2) towns said those protections needed improvement.

The use of Transfer of Development Rights (TDR) as a means of re-directing growth from sensitive areas to town centers remains an untested tool on Cape Cod. While two towns have adopted some form of zoning to provide for Transfer of Development Rights (TDR), no town reported that the program has been used successfully. Twelve (12) towns reported no provision for TDR.

While cluster developments are still an important method of preserving land within residential subdivisions, the diminishing number of large parcels available for subdivision is prompting changes in regulations in some towns. Five (5) towns said developers frequently use their cluster bylaw. Eight (8) towns reported that their cluster provision is either not used or needs improvement. Brewster is considering an amendment that would allow cluster development for smaller (5 lot) subdivisions “as of right.” Yarmouth reported there is not enough land for cluster developments. Eastham, currently the only town without a cluster bylaw, has identified cluster development as an action item in the LCP implementation.

Provide a Range of Housing Opportunities

- A majority (9) of towns indicated that they have an LCP or Housing Plan that projects the amount and types of housing that are needed and outlines a strategy for those needs. However the same number (9) of towns said there is little or no diversity of housing types and only some or very little affordable housing in their community.
- Only five (5) towns said there is a mix of housing types and prices including single-family, multi-family, congregate, senior and permanently protected affordable housing (both rental and homeownership).
- Two (2) towns, Eastham and Falmouth, reported that their plan or strategy has been approved by the Massachusetts Department of Housing and Community Development (DHCD).
- All fourteen (14) towns now allow accessory affordable apartments, but five (5) towns said that few have been created because the standards are hard to meet.

Protect Historic Resources and Preserve Community Character

Towns clearly recognize the importance of historic resources and community character, and have taken some steps to protect these community assets. Towns are actively seeking to control the scale of development to ensure that it is consistent with community character. However, the majority of towns, ten (10), said that such regulations are in need of improvement.

- Six (6) towns reported that they have a site plan review bylaw or ordinance for commercial developments that results in buildings that enhance the community. Seven (7) towns said they have a commercial site plan regulation but that it is in need of improvement.
- Only four (4) towns reported that their regulations produce a scale of residential development that is consistent with community character.

All towns have identified important historic resources, and nine (9) towns have created special protection districts. Ten (10) towns have some form of demolition bylaw, but half of those towns see a need to refine the bylaw to make it more effective. Five (5) towns said that they have not put in place any specific steps to protect historic resources.

Make Development Decisions Fair and Predictable

Predictability of regulatory review is often cited as an important factor in investment decisions. Barnstable is addressing this issue by negotiating with the Cape Cod Commission to create a Development Agreement, which would streamline reviews for commercial projects in Downtown Hyannis that meet community planning goals.

Twelve (12) towns said that the only means available for developers and applicants to learn about the regulatory process is in the form of documents from separate departments or verbal guidance. Only two (2) towns said that there is an up-to-date written guide that explains and coordinates requirements of various boards and departments.

Training for town planning and zoning board members is available but generally underutilized, even though training can reduce a town's insurance liability. Six (6) towns said that training is funded and members have attended it. Five (5) towns said that a small budget is provided but few members avail themselves of training opportunities. Two (2) towns do not fund training for board members. Some training occurs off Cape during business hours, which can be difficult for volunteer board members who need to get time off from work.