

## **Public Hearing August 5, 2010**

### **PROPOSED BOUNDARY AMENDMENT FOR THE ISLAND ROAD DISTRICT IN THE TOWN OF EDGARTOWN**

**Staff notes (Jo-Ann Taylor, July 30, 2010)**

**No correspondence as of July 30, 2010**

Note: other helpful documents, including nomination, guidance, flow chart, etc. at  
<http://www.mvcommission.org/calendar.html>

#### 1. PROCEDURAL NOTES

##### Purpose of hearing:

- To consider boundary amendment for Island Road District in the Town of Edgartown, as proposed by the Planning Board.
- The Commission considers boundary amendments in the same manner as new nominations, in accordance with Chapter 831 of the Acts of 1977, as amended ("the Act") and with the Criteria for Critical Planning Districts.
- This public hearing concerns designation only, and is not concerned with regulations beyond addressing the criteria.

Timeline: MVC accepted the Planning Board's nomination on July 1, commencing a development moratorium and committing to this hearing and vote on or before an August 26 meeting date.

#### 2. PROPOSED BOUNDARY AMENDMENT TO ISLAND ROAD DISTRICT

##### Criteria for boundary designation:

(from the Critical Planning District Qualifications – also attached)

The district shall consist of the land and water which reasonably belong in the district for the three following reasons:

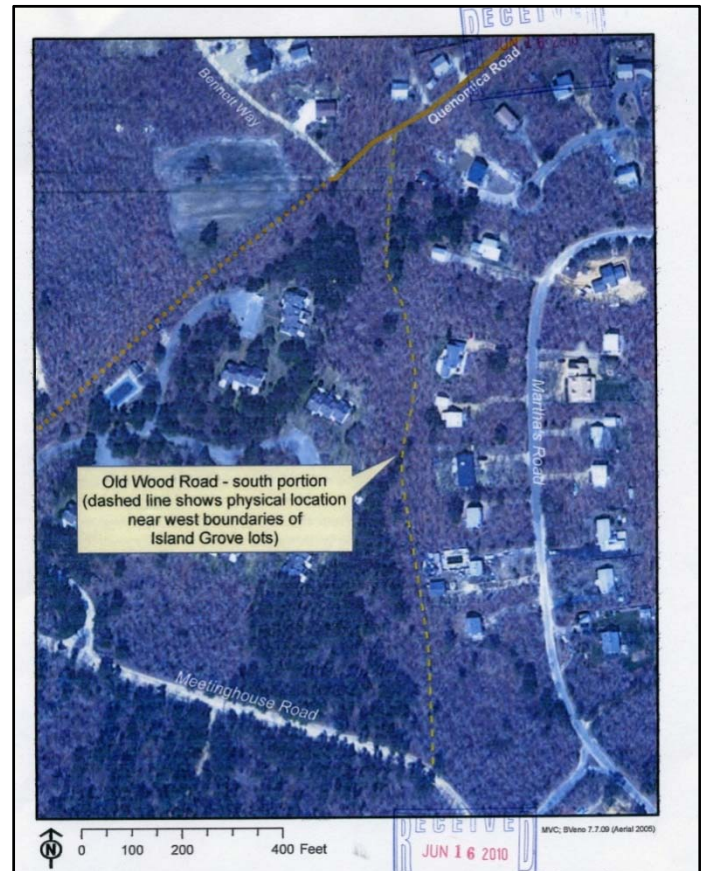
- It is the critical area or critical resource which is in need of protection.
- It is the logical planning area which should be considered in adopting a coordinated system of regulations to protect the critical resource or critical area.
- The dimensions or landmarks which form the boundary of the district are convenient and recognizable.

Area under consideration for designation:

- Within twenty feet of either side of the center line of **Jeffers Lane** – beginning near the most southeastern point of Map 31 Lot 30 on the north side of Chappaquiddick Road and proceeding northeasterly then northwesterly to Map 31 Lot 16.12 and ending at the point where a way branches leading to the Old Indian Burial Ground overlooking Cape Pogue Bay. (The Town notes that this portion is a Special Vehicular Way.)
- Within twenty feet of either side of the center line of **Old Wood Road** – beginning at the north side of Meetinghouse Road at the southeast point of Map 28 Lot 251 and running northerly along the east boundary of said lot to its intersection with Quenomica Road.



Jeffers Lane - under consideration



Old Wood Road - under consideration

3. BACKGROUND ON THE DISTRICT: The Island Road District was designated in 1975, as one of three Island-wide Districts that the early MVC created from many nominations received when the Commission first opened its doors. The early Commission apparently felt strongly that these three should be Island-wide (the Coastal District, Island Road District and Special Places District) and there were designations in the Major Roads Zone in all 6 towns. At the time, the Commission found the District to meet all of the Critical Planning District Qualifications (see attachment). For the Special Ways Zone, there were designations in West Tisbury, Chilmark and Aquinnah. The MVC has since made a number of amendments, including adding Special Ways for Oak Bluffs and Edgartown. Regulations are in place, and have been for at least some Special Ways since 1976. The regulations follow closely from the Goals and Guidelines. Excerpts from the December 22, 1975 Decision of the Martha's Vineyard Commission Designating the Island Road District as a District of Critical Planning Concern follow:

Cultural or Historic District: Special Ways ( Compliance with Qualifications)

Special Ways, roads which have been virtually abandoned or left to infrequent use, are historical by definition. Also, by definition, however, they have not been part of the Island life and commerce for some time. They are a unique resource because they provide public rights of way, but are not committed to major vehicular travel. They do tend to link origins and destinations that people will frequent; therefore they offer a resource which can be developed as a means to experience the Island landscape by slower means of transportation, such as walking, horseback riding, or possibly bicycling. This is clearly a case where proper development guidelines at this time could preserve the historic aspects of old rights-of-way while enhancing them for use by Island residents and visitors. Development near the Special Way is not so injurious as it might be along major vehicular transportation corridors, because it could be pleasant to walk or horseback ride through populated, as well as unpopulated areas. However, new vehicular roads in the area should be on new rights-of-way, thus preserving the Special Ways for alternative forms of transportation.

4. EXISTING SPECIAL WAYS IN EDGARTOWN (at least portions of the following ways):

- Dr. Fisher Road
- Ben Tom's Road
- Middle Line Path
- Pennywise Path
- Tar Kiln Path
- Watcha Path
- Dunham's Path
- Quenomica Road
- Swimming Place Path

5. NOMINATION:

The nomination describes Old Wood Road as crossing and linking at least five other "ancient" ways, including Ben Tom's Road, Quenomica Road and Swimming Place Path (all designated by the MVC as Special Ways), and Jeffers Lane, the first way on Chappaquiddick considered for designation.

The nomination states, regarding the regional significance *These ancient ways are artifacts from the Island's past. While recorded historical references of these ancient ways apply to the European settlement of the Vineyard, many are presumed to have been established by Native Americans. The interconnection of these ancient ways combine to allow users to travel extended distances – even to ancient ways and paths in other*

*towns – without using a motor vehicle. Retention of these ancient ways fosters exercise and enjoyment of the outdoors by visitors as well as residents...*

*and regarding potential inappropriate development ...Jeffers Lane is a narrow dirt road serving several properties that have subdivided off lots. If continued, this could result in increased vehicular traffic and widening of the road, leaving little to distinguish traveled segments from any recently created dirt road in Edgartown or on Martha's Vineyard...The nomination also notes that the Land Bank has been "undeveloping" (removing structures from) the vicinity of the cemetery at Hickory Cove.*

*The nomination also notes ...Some of these ways border existing residential neighborhoods, which provide or could provide, residents outdoor recreational opportunities and physical exercise. The ways used by vehicles could potentially accommodate a small amount of additional residential development. For ways that abut small residential lots, additional vegetative screening or fencing may be appropriate.*

## 6. ANALYSIS

The area under consideration appears to meet the Critical Planning District Qualifications; providing a regional resource in need of protection. As to determination of the area in need, the nomination includes segments, rather than the ways in their entirety. This appears to reflect consideration of public hearing testimony received by the Planning Board indicating that these segments make up the appropriate area for designation.

The Edgartown Planning Board and By-Ways Committee continue to plan for expansion of protection for more and more ways in need and particularly significant for linkage. The early '70s Commissioners perhaps envisioned DCPC protection being nominated and designated prior to some of the development which has since taken place. In the past several years, the modern Commission has received and responded to requests in keeping with what has gone on in the past 35 years, and has even adjusted the Goals and Guidelines to accommodate protection of ways that are lightly traveled by vehicles, such as Jeffers Lane.

CRITICAL PLANNING DISTRICT QUALIFICATIONS (excerpts)

**GENERAL QUALIFICATIONS FOR ALL DISTRICTS**

NEED FOR DESIGNATION

There must be a regional need for special regulations or planning to protect the district from damage or losses by inappropriate development. The Commission shall find:

- that present public or private regulations in a substantial part of the district cannot assure protection; and
- that damage to the district or impediments to proper development will be a substantial loss to the region or to two or more towns.

SIZE AND SHAPE OF DISTRICT

The district shall consist of the land and water which reasonably belong in the district for the three following reasons:

- It is the critical area or critical resource which is in need of protection.
- It is the logical planning area which should be considered in adopting a coordinated system of regulations to protect the critical resource or critical area.
- The dimensions or landmarks which form the boundary of the district are convenient and recognizable.

**SPECIFIC QUALIFICATIONS** (excerpt relevant to nomination)

CULTURAL OR HISTORIC RESOURCE DISTRICT

The district contains a place, landscape, way or view which is in some special way expressive of the character of the Island, traditions of the Island residents, and of special interest to Island visitors. The maintenance and protection of those values is essential to a sound local economy. The district also:

- is of exceptional symbolic or recreational importance to the residents of more than one town and is either visible or accessible to them or can reasonably be made so; or
- is rare, unique, or makes an unusual contribution to the diversity of the Island character; or
- is irreplaceable, or replaceable only with extraordinary effort or expense.

Subject to the above general tests, designations may be considered for areas which are important for their connection with the history of the region-including its geological history or the history of its Indian settlement-or which symbolize and support the traditional activities and ways of Island life, or which give us a particular understanding of the Vineyard lands and their setting in the sea. These include places which present opportunities for hunting and fishing and the enjoyment of wildlife.

APPENDIX II – GOALS AND GUIDELINES FOR THE DISTRICT  
(excerpted from the 1975 designation Decision and 2008 amendments)

(Although regulations are not being considered for this hearing, it is helpful when considering the qualifications to note what types of regulations may come. The regulations presently in place follow very closely from these Goals and Guidelines.)

Goals B: Special Ways Zone: To protect historic places, to retain these ways open primarily for uses such as walking and horseback riding, but not developed as a primary vehicular route except for access to properties where no alternative access exists.

Special Guidelines For The Special Ways Zone

A. Development Guidelines

1. No way or road shall be constructed within the Special Ways Zone which exceeds a width of twelve (12) feet, except that greater width may be allowed by Special Permit after approval by the Martha's Vineyard Commission as a Development of Regional Impact.
2. No fences, walls, or structures shall be erected, placed, or constructed within twenty (20) feet of the centerline of the Special Way, except that lesser setbacks for fences or stone walls may be allowed on abutting lots of less than one acre in size, taking into account such factors as height, transparency, materials and natural screening to prevent creation of a narrow, visually confined effect; in which case the town shall demonstrate that the purpose of this guideline's intent is respected.
3. No special way shall be paved with any impervious material.

B. Uses Within the Special Ways Zone

1. Permitted Uses

Any use permitted by the applicable town zoning district, provided that the development does not result in direct vehicular access to the Special Way. However, continued vehicular use may be allowed where specifically identified by the town as routinely traveled by motor vehicles prior to nomination of the Special Way and provided that the continued vehicular use is of the same nature and extent as that which existed prior to the nomination of the Special Way.

2. Uses Allowed by Special Permit

Any use permitted by the applicable town zoning district, which results in direct vehicular access to the Special Way.

3. Uses Not Permitted

Any development within forty (40) feet of a special place of historic value, as listed on the Special Places Register of the Commission.

Guidelines Applicable in Both Zones (Major Road Zone and Special Ways Zone)

A. No stone wall shall be moved, removed, or otherwise altered, except for repair, except by a Special Permit

B. Any additional vehicular access to the public road must be at least 1000 feet, measured on the same side of the road from any other vehicular access, unless this rule prevents at least one access to a contiguous piece of land now in separate ownership. In the latter case, that contiguous land will be allowed a single access. No land shall in the future be divided (or sold) so as to require more points of access than permitted above.....

NO CORRESPONDENCE