

THE MARTHA'S VINEYARD COMMISSION

BOX 1447, OAK BLUFFS, MASS. 02557. 693-3453

DECISION OF
THE MARTHA'S VINEYARD COMMISSION
DESIGNATING
THE SPECIAL PLACES DISTRICT

AS A

DISTRICT OF CRITICAL PLANNING CONCERN
APRIL 1, 1976



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THE MARTHA'S VINEYARD COMMISSION

BOX 14
OAK BLUFF
MASSACHUSETTS
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617-693-34

DECISION OF THE MARTHA'S VINEYARD COMMISSION DESIGNATING
THE SPECIAL PLACES DISTRICT
AS A DISTRICT OF CRITICAL PLANNING CONCERN
AND ESTABLISHING THE SPECIAL PLACES REGISTER

Section 1.00 General

As authorized by Chapter 637 of the Acts of 1974, as amended by Chapter 759, of the Acts of 1974 ("the Act"), the Martha's Vineyard Commission ("the Commission") hereby designates as a District of Critical Planning Concern ("a District"), the specific geographical areas hereafter described, to be known as the Special Places District.

The Commission held a public hearing on March 25, 1976 on three nominations, the Inland Pond District, the Hilltop District, and the Special Places District, at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts, after notice to the municipalities and notice required by the Act and Massachusetts General Laws, Chapter 30A, section 2. The hearings were held as required by the Act to permit the Commission to receive testimony relating to whether it should designate specific geographic areas within the proposed Districts on Martha's Vineyard as Districts of Critical Planning Concern. Public hearings were also held on these proposed Districts at the West Tisbury Elementary School, Old County Road, West Tisbury, Massachusetts, on December 9, 1975. Testimony received at these earlier hearings are incorporated into the record of the March 25, 1976 hearing.

The Commission received many nominations of geographic areas from town boards and taxpayers to be included in the District. At its meeting of February 6, 1976, the Commission itself nominated and reaccepted for consideration by a two-thirds majority vote a proposed Inland Pond District, a Hilltop District, and a Special Places District. A list of nominations received by the Commission from taxpayers, town boards, and the Commission nominations relating to the proposed District of Critical Planning Concern are appended hereto. Copies of all nominations and documents relating thereto and the areas accepted for consideration are on file at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

Section 9 through 11 of the Act provide the ongoing process for amending the boundaries, development guidelines and regulations of the District.

Section 2.00 Area Designated

Upon consideration of information submitted to it, verbal and written testimony, and the Commission's own familiarity with the lands and waters within the District, and pursuant to the Act and the Commission's Criteria and Standards for Districts of Critical Planning Concern ("the Qualifications") adopted under the Act and appended hereto the Commission hereby designates the Special Places District essentially including areas surrounding ponds exceeding four acres in size, areas on the tops of major hills, and areas of special historic and cultural significance on Martha's Vineyard, defined as follows:

Inland Pond Zone:

The land and waters lying within one-hundred (100) feet of the extreme high water mark of the following ponds, which exceed four (4) acres in size and are not within the Coastal District:

1. Duarte Pond, in the Town of Oak Bluffs.
2. Seth's Pond, Old House Pond, Duarte Ponds, in the Town of West Tisbury.
3. Harlock's Pond, in the Town of Chilmark.
4. Occooch Pond, in the Town of Gay Head.

Hilltop Zone:

For Sampson's Hill in the Town of Edgartown, the land lying more than ninety (90) feet above mean sea level.

For Peaked Hill and Prospect Hill in the Town of Chilmark, all land around Peaked Hill and Prospect Hill lying at greater than two-hundred and eighty (280) feet elevation above mean sea level.

For "Fire Tower" Hill in the Town of West Tisbury, the land lying within a five-hundred (500) foot radius circle around the peak of the hill upon which the State Fire Observation Tower is situated, and the land within two-hundred (200) feet of the centerline of the access road leading from Christiantown Road to the State Fire Observation Tower.

For "Indian Hills" in the Town of West Tisbury, the land within a five-hundred (500) foot radius from the United States Coast and Geodetic Survey marker around the peak of Indian Hill, meaning that hill lying near the terminus of Christiantown Road and marked "Indian Hill" on the U.S.G.S. map and the land lying more than two-hundred and fifty (250) foot elevation above mean sea level on the hill located near the terminus of Indian Hill Road commonly called "Indian Hill".

Historic and Cultural Zone:

For Christiantown, all land lying within five-hundred feet of the land owned by Dukes County containing the Mayhew Chapel and the Indian Burial Grounds, in the Town of West Tisbury.

For "The Devil's Bed" rock formation, a rectangle of land one-hundred and fifty (150) feet by two-hundred (200) feet containing the rock formation known as the Devil's Bed, bounded on the south by a stone wall and land owned by the Rantouls and the Dillys, in the Town of Chilmark.

For Gay Head, the land lying within one-hundred (100) feet of the Clay Pit, Toad Rock, and the identified burial grounds.

The Commission will prepare a descriptive map for the general information of the public and municipalities. The boundaries of the Special Places District, however, are as set forth above in this Decision and shall control over any map.

The Special Places boundaries conform to Qualification Section 1.20. The Commission finds that the lands and waters therein reasonably belong within the Special Places District. Lands and waters in this District are a critical area and the Commission finds that these areas need protection afforded by the Act. The areas designated are a logical planning area and are suitable for the adoption of coordinated regulations for the District as a whole. Finally, the Commission finds that the boundaries of the Special Places District as established are both convenient and recognizable.

Section 3.00 Why the Area has been Designated

When designating a District, Section 9 of the Act requires the Commission to specify why the area is of critical concern to the region, the problems associated with uncontrolled or inappropriate development, and the advantages to be gained by the development of the area in a controlled manner. In designating a District, the Commission must consider the need for designation as required by Section 1.10 of the Qualifications. Information presented to the Commission support the arguments that the Special Places District is of regional importance, that there exist problems of uncontrolled or inappropriate development within the District, and there are advantages to be gained by development of the areas in a controlled manner. The Commission specifically finds that lands and waters within the Special Places District are essential to the protection of water quality and contain and support important wildlife habitats. Special Places District areas offer irreplaceable views and contributes substantially to the Island's unique historic and cultural values; by protect-

ing these values, the Commission may assure the continued maintenance of sound local economies, so vital to Island residents and visitors. As fragile resources, lands and waters within the Special Places District are extremely sensitive to erosion, pollution, and destruction of irreplaceable natural resources. The Commission finds that development within the Special Places District must be controlled to prevent harm to persons who may undertake such development as well as Island residents and visitors.

In considering the problems of inappropriate or uncontrolled development within the Special Places District, the Commission finds that so fragile are these lands and waters and the values they create and support that to maintain and enhance the health, safety, and general welfare of the Island residents and visitors, special development controls within the District must be adopted.

In considering the advantages to be gained by development in a controlled manner, the Commission finds that development which conforms to the guidelines adopted by this Decision will contribute much to solving the problems of uncontrolled or inappropriate development.

The Qualifications require the Commission to address itself to the need for designation. To that end, the Commission finds there exists a regional need for special regulations and planning to protect Special Places District resources from damage and loss resulting from inappropriate development. The Commission specifically also finds that the present public and private regulations in a substantial part of the District cannot assure protection, and that damage to the Special Places lands and waters, or impediments to proper development, will be a substantial loss to the region or to two or more towns.

In adopting its findings, the Commission has particularly been guided by the testimony presented at the Public Hearings which is adopted and incorporated herein by reference.

Section 4.00 What Kind of District

Section 9 of the Act permits the Commission to designate a District only in accordance with the Standards and Criteria approved under the Act. Such a District may be designated only for:

- a) "an area which possesses unique natural, historical, ecological, scientific, or cultural resources of regional or state-wide significance.

- b) an area which possesses marginal soil or topographic conditions which render it

unsuitable for intense development; or

- c) an area significantly affected by, or having significant impact on, an existing or proposed major public facility or other area of major public investment."

The Special Places District as designated qualifies under the Qualifications for a combination of Specific Qualifications Section 2.00 - 2.80 of the Criteria and Standards ("the Specific Qualifications"). The Commission finds that the Special Places District meets the Specific Qualifications as described herein.

Specifically, with respect to the first element of Section 9 of the Act, concerning unique natural, historical, ecological scientific, or cultural resources of regional or statewide significance, the Special Places District meets the Specific Qualifications of the Wildlife, Natural, Scientific or Ecological Resource District, Section 2.40 and the Cultural or Historic Resource District, Section 2.50.

As to the second requirement that the area contain marginal soil or topographic conditions, the Special Places District meets the specific Qualification of the Hazardous District, Section 2.80. Finally, because the Special Places District, meets the Major Public Investment District Qualifications, Section 2.70, the Special Places District also meets the third requirement of Section 9 of the Act.

<u>Section 4.10</u>	<u>Compliance with Criteria and Standards</u>
<u>4.11</u>	<u>Cultural or Historic Resource District</u>
<u>4.111</u>	<u>Gay Head Indian Burial Grounds</u>

The Burial Grounds are among the most identifiable records of an Indian heritage on the Island. Most are of recent origin relative to the Indian history on the Island, but they deserve the respect given burial sites for all cultures. Also, as in all cultures, the burial grounds are a resource for students of history.

4.112 Toad Rock, Gay Head

Toad Rock is a unique "toad-shaped" rock formation which is part of the lore of the Gay Head past. It has apparently been a well known monument to many generations. As such it is a tie to the past which qualifies as a Cultural and Historic Resource.

4.113 Clay Pit, Gay Head

This is and was just a clay pit. But it was the common clay pit for the Indians of Gay Head for the making of pottery. It may be an archeological resource for historical objects. However, the area is most significant as a place which marks and symbolizes past activity of Gay Head inhabitants.

4.114 Devil's Bed

Similar to Toad Rock as a specially shaped rock which is part of the lore of the past, Devil's Bed is a massive rock formation. It is not a place where important events or daily activity took place. It is a generally known place, visited by Chilmarkers as a special place. The rock which had formed the bolster on the bed for the devil has fallen off, but the rock can still be seen as a bed.

4.115 Christiantown Burial Ground, Chapel, and Road to Fire Tower

The burial ground and Chapel are records of a past settlement and of the Christian Indians in this section of West Tisbury. It is a well preserved area, now frequently visited by tourists and residents. It is a beautiful and accessible place which is of obvious historic symbolic importance and or value as a special place to visit.

The road to the Tower which starts near the burial ground and goes to the State Fire Observation Tower would not be significant if it were not a link between two frequently visited and enjoyed places -- the burial ground-Chapel area and the Fire Tower. As a link it is a part of the overall experience.

4.116 Hilltops

The culture of an area is mirrored in the structures and views which are available to travellers. The hilly areas of the Vineyard present the broadest range of views and offer a wide variety of visual experiences. These visual experiences occur from both the hilltops, and from lower elevations to the hillsides and hilltops. The elevation of a structure which is on the crest of a hill or ridge, with the purpose of maintaining vistas or water views from the structure, also places the building in a visually prominent location. As the person living in the house enjoys the view of the surrounding countryside, so, conversely, does the surrounding countryside become aware of the building located on top of a hill or ridge.

Each of the Island towns has its own diversity and character. Part of this character is dependent upon the varying landscapes of the Island, and part is dependent upon vegetative growth. In a relatively flat terrain, slight elevations in landform maximize structural visual impact; the same would hold true in heavily vegetated areas, where the screening of vegetation is offset by much higher levels of elevation (and thus, visual prominence).

Because of the increased visual prominence of structures on ridge and hill tops, and their increased impact on the character of perceiving the Island from the Island road system, special regulation may be necessary to assure that this impact is not detrimental either to the character of Martha's Vineyard or to the compatibility with the various landscape categories on the Island. Because the economy of the Island is largely dependent upon tourism, the maintenance of the character of the Vineyard also means the maintenance (to a large extent) of the Island's economy. Ill-planned development in visually sensitive areas, such as hill and ridge tops, can quickly erode the nature of the visual experience on Martha's Vineyard, and thus have a detrimental impact on the Island as a whole.

This does not mean, however, that everything occurring in an elevated location should be shielded or banned; what it does mean is that special consideration must be paid to development occurring in such areas. On especially high elevations, which are the most visually prominent, intense development should be avoided, so as to maintain the illusion of vast distances and support the rural character of many of the Vineyard areas; in areas of lower elevation, which are not so visually prominent, development should be planned so as to conform with the topography and character of the immediate surrounding area. For large mass structures, visual screening may be indicated, so as to minimize its impact. For smaller structures, good site planning taking into account vegetation and visual characteristics would be more suitable.¹

4.117 Inland Ponds

The Inland Ponds of Martha's Vineyard comprise some of the most cherished vistas and aesthetic experiences the Island has to offer. Passage along many of the Island Roads is highlighted by the visual surprise of observing one of the many freshwater ponds which dot the Vineyard - the views of Seth's Pond and Duarte Ponds greatly add to the pleasure of driving along Lambert's Cove Road.

¹ Vineyard Open Land Foundation, Looking at the Vineyard

The visual aspects of the Inland Ponds create a special fragility to the landscape. Views across the waters of the Inland Ponds open up varied vistas, which illuminate development adjacent to the shoreline of these ponds. Many of these ponds are used for traditional Island activities, such as swimming in the summer months, ice skating in the winter, and the hunting of waterfowl in the fall.

4.12 Major Public Investment

The Christiantown Chapel and Burial Ground are owned by the County. The Fire Tower and access road are owned by the State. Together they amount to public land used and enjoyed by many. Development in proximity could affect this public investment and the quality of experience offered to visitors.

4.13 Hazardous District

4.131 Hilltops

The hilltop areas which are under consideration as possible Districts of Critical Planning Concern are areas which also offer limitations to intense development. These limitations may be classed into three general topological constraints: runoff problems, erosion and sedimentation problems, and climatic constraints.

a) Runoff Problems

The major hilly area of Martha's Vineyard lies within the Western Morainal area of the Island. This glacially-formed region consists of heavy clay deposits and an uncertain water supply aquifer.¹ The clay is relatively non-absorbitive of water once saturated; levelling of vegetation and other plant coverings will expose this clay soil to the elements and create water runoff difficulties.² Undercutting of soil support on especially steep slopes may create some slide hazard; water runoff will certainly accelerate such a tendency if the potential is present on a particular site location.

The runoff difficulties also extend to sewage effluent, besides rainwater problems. Poor percolation of effluent in clay areas, coupled with poor absorption (or adsorption) of waste products, may lead to septic effluent contamination downhill from a sewage disposal system.³ This downhill run of effluent may present health hazards to downhill development, particularly if there is a chance of contaminating lower elevation on-site water supplies.

1 Clifford Kave, Generalized Hydrology Map and Report

2 S.C.S., Soil Interpretations for Various Land Uses: Chilmark and West Tisbury (1975)

3 op. cit.

b) Erosion and Sedimentation

Building a structure on a steep slope often requires extensive levelling of a site for construction purposes. This levelling is accomplished either by filling an area on the slope face, or by cutting into the slope to provide an adequate foundational base, or a combination of both procedures. By disturbing the vegetative covering of a development site, and thus increasing the runoff probability, an erosion problem may develop.¹ This erosion can disturb not only the proposed construction stability but also affect downhill existing (or proposed) development activity. Once erosion establishes itself on a particular slope, it becomes an expensive and technically sophisticated issue to deal with. Replanting, construction of retaining structures, or water drainage and runoff channelization and control become expensive projects which may be easily avoided by good development guidelines initially.

c) Climate and Energy

Climatic constraints, such as wind direction and sun exposure can affect the level of energy necessary to heat a house during the winter months. These factors should be taken into account when planning the development of any year-round housing. Homes built on exposed slopes, which are vulnerable to northwest winds (predominant during the winter), may require much more insulation to keep the same level of heat retention as well-sited, shielded, or heavily vegetated structures. This expense is also multiplied by increased energy usage to heat and maintain the structure.²

4.132 Inland Ponds

The Inland Ponds are extremely susceptible to hazards of pollutions, created by adjacent development. This pollution may consist of sedimentation problems, as a result of grading and filling, or septic effluent leaching into the pond waters.

Seth's Pond, which is used as a major recreational resource for summer swimming, obviously requires that the water quality be maintained, so as to protect public health of island visitors and residents.

4.14 NATURAL Wildlife, Scientific, or Ecological Resource District

1 Michigan Dept. of Natural Resources. Soil Erosion and Sedimentation Control Guidebook (1975)

2 Martha's Vineyard Commission, Map of Climatic Constraints(1975)

The Inland Ponds would qualify under this Qualification. They offer a wide variety of habitats for waterfowl and land animals. The coastal ponds are periodically or continuously saline, and the Inland Ponds would be the most important watering holes for deer and other animals. During the seasonal migrations, waterfowl frequent these freshwater ponds, the Vineyard being part of the eastern migratory flyway.¹

SPECIAL PLACES

5.00 GUIDELINES

The Commission adopts the following guidelines ("the Guidelines") for the development of the Special Places District. In adopting the Guidelines, the Commission has evaluated each of the considerations enumerated by Section 9 of the Act, and in addition, has considered other relevant matters.

Towns shall, in the manner required by the Act, adopt regulations which, as a minimum, comply with these Guidelines for the development of the Special Places District. Each town may adopt such regulations under zoning, subdivision, health, genreal by-law, or any combination of such authorities it deems best suited for the purpose. The Commission draws the Towns' attention to Section 11 of the Act which in part provides, "In adopting such regulations, each municipality shall have all of the powers it otherwise had under the General Laws." The Commission also encourages municipalities to adopt compatible regulations within the Special Places District.

5.10 Goals

To physically protect the place or resource; to protect visual or other access; to buffer these places with a green-belt which is natural or landscaped; to protect the quality of the ponds and wildlife habitats; to keep development in the District from completing for prominence as seen from public roads, places or waterbodies; and generally assure that any development in the immediate vicinity is compatible and does not cause or is not adversely affected by erosion.

5.20 Establishment of Guidelines and Special Places Register

5.201

As used herein the words "development", "permit", "regulations" shall have the same meaning as in the Act.

5.202

The town shall adopt regulations of the types described in the Act, as appropriate to conforming to these Guidelines to

control development within the Special Places District.

5.203

In appropriate cases, after notice and a public hearing, the Martha's Vineyard Commission may permit a town to adopt regulations which are less restrictive than these Guidelines if the Commission finds that such regulations will carry out the purposes of the Act and intent of these Guidelines for the District.

5.206 Establishment of the Special Places Register

- a) The Martha's Vineyard Commission hereby establishes a Special Places Register.
- b) The geographic areas designated by this Decision are hereby entered into the Special Places Register of the Martha's Vineyard Commission. Additional areas may be entered into the Special Places Register upon nomination, acceptance for consideration, and designation by the Commission in accordance with the Act, as Districts of Critical Planning Concern.
- c) Any area so listed shall, after adoption of regulations as provided for in the Act, be regulated by the Towns pursuant to appropriate guidelines for development.

5.204

These Guidelines may be amended by the Commission after notice and a public hearing in the manner required by the Act.

5.205

Unless otherwise stated in these Guidelines the regulations adopted pursuant to these Guidelines in no way alter the process for referral and review of Developments of Regional Impact according to the Act and the Criteria and Standards of the Commission.

5.30 Uses Within the District

5.31 Permitted Uses

Uses will be permitted within the District which do not require the construction, erection, installation, or placement of any structure, sanitary disposal facility, road or way, or fence within the District. Such uses may include outdoor recreation (including hunting, trapping, or fishing), conservation purposes, agricultural purposes, etc.

5.32 Uses Allowed by Special Permit

5.321 Inland Pond and Historic and Cultural Zone

Any use or structure which is either permitted by right or allowed by special permit under applicable town by-laws, ordinances, or regulations may be allowed by special permit within the District, provided there is no other location upon the lot on which the structure or use may be located.

5.322 Hilltop Zone

Any use permitted under applicable town by-law, ordinance or regulation, provided that no structure or addition or alteration to an existing structure shall be allowed which will result in the highest point of the structure breaking the skyline, as observed from a public road or place legally in existence as of April 1, 1976 or waterbody.

5.33 Prohibited Uses

5.331 Hilltop Zone and Historic and Cultural Zone

Any use or structure which is prohibited by applicable town by-law, ordinance, or regulation shall be prohibited within the District.

5.332 Inland Pond Zone

Those uses prohibited in 5.331 above shall be prohibited. In addition no on-site sanitary disposal facility may be installed, placed, or located within the District.

5.40 Administration

5.41 Procedures for Applying for and Issuing Special Permits

5.411

Each town shall adopt regulations which assign special permit-granting authority to one or more municipal boards, or as permitted by law (see MG.A, Chapter 40A) and which define information including maps, studies, and reports to be submitted with any application for a special permit.

5.412

Any special permit-granting authority shall consider the goals of the District and shall grant a permit only if it finds that the regulations and the proposed development is consistent with the goals of the District and the regulations and assures protection against adverse environmental effects including:

- a. pollution of surface or groundwater or of water-bodies.
- b. salt-water intrusion of public or private domestic water supply wells.
- c. inadequate water supply to meet the anticipated demand of the proposed activity or use or reduction of water supply available to other properties.
- d. noise and air pollution.
- e. destruction of wildlife habitats and damage to wetlands or littoral ecology.
- f. damage to marine fisheries and shellfish.
- g. unnecessary interruption of the visual amenities of the site.
- h. unnecessary decrease in agricultural use or potential productivity of land.
- i. construction which is not in harmony with landscape type.
- j. erosion resulting from or caused by development.

5.413

In granting a special permit, the special permit-granting authority shall impose such conditions and safeguards as it deems appropriate.

5.414

The special permit-granting authority shall adopt rules and regulations regarding the conduct of its business and procedures for referral of applications to the Plan Review Committee.

5.42 Plan Review

5.421

By regulation each town shall establish a Plan Review Committee, comprised of the following members:

- a. a member from each of the local regulatory agencies (a conservation commission, planning board, board of health, zoning board of appeals, and historic district commission),

- b. two members of the Martha's Vineyard Commission.
- c. a member or designee of the board of selectmen.
- d. the building inspector, if desired, in those towns which have one,
- e. two residents of the town, to be appointed by the Plan Review Committee.

5.422

The regulations adopted shall provide that:

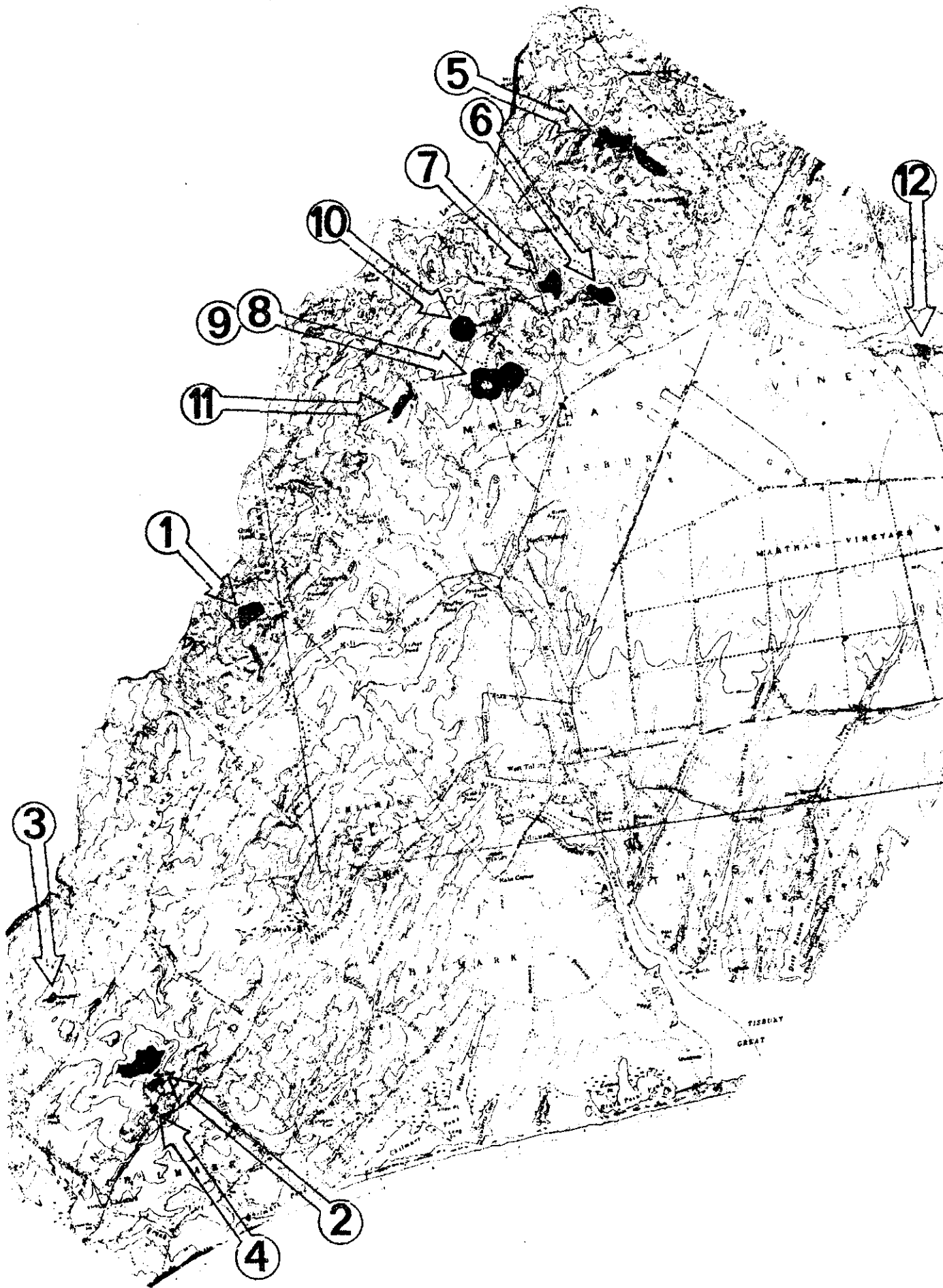
- a. The Plan Review Committee shall review all special permit applications and the information submitted by the applicant.
- b. The Plan Review Committee shall hold meetings with applicants and other interested parties, and shall report its findings and recommendations to the special permit-granting authority.
- c. There will be time limits in which the Plan Review Committee shall meet and act. The time within which the Plan Review Committee shall meet and render its report may vary as to activity or use being reviewed.
- d. The Plan Review Committee may require an applicant to erect temporary poles, to be placed upon the proposed building location. Such poles shall be the same height as the highest point of the proposed structure, and shall be maintained on the site for a period of time as the Plan Review Committee deems necessary to allow adequate observation of the proposed building location from public roads, places, or navigable waters.
- e. The Plan Review Committee shall advise the special permit-granting authority on those matters and special permit-granting authority is required to act upon. Such regulation shall provide that failure of the Plan Review Committee to have adopted a report within specified times shall be construed as a recommendation of approval. A report by the Plan Review Committee shall be filed in the office of the Town Clerk, within the time specified.

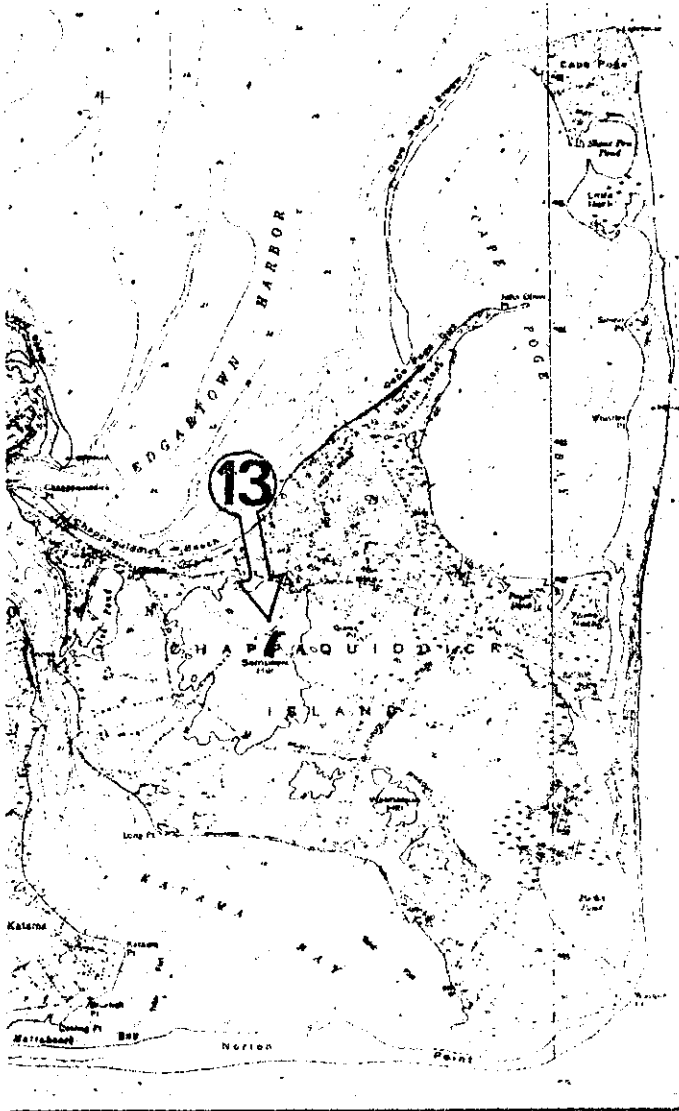
- f. The report of the Plan Review Committee shall, among other things, advise the special permitting authority as to those issues enumerated in Section 5.412, (a) through (j), above.
- g. Membership terms shall be staggered and regulations shall provide for vacancies to be filled.

BY VOTE OF THE COMMISSION



EDWIN G. TYRA, CHAIRMAN





KEY

<u>district</u>	<u>town</u>	<u>boundary description</u>	<u>page #</u>
1 Harlock Pond	Chilmark		2
2 Peaked Hill	"		2
3 Prospect Hill	"		2
4 Devil's Bed	"		3
5 Duarte Ponds	W. Tisbury		2
6 Old House Pond	"		2
7 Seth's Pond	"		2
8 Fire Tower Hill & Access Road	"		2
9 Christiantown	"		3
10 Indian Hill (a)	"		2
11 Indian Hill (b)	"		2
12 Duarte Pond	Oak Bluffs		2
13 Samson Hill	Edgartown		2
14 Occooch Pond	Gay Head		2
15 Toad Rock	"		3
16 Clay Pit	"		3
17 Identified Burial Grounds	"		3

