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## **Decision of the Martha's Vineyard Commission**

### **Designating a Town-Wide Rate of Development District in the Town of Aquinnah as a District of Critical Planning Concern**

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#### Section 1.00: General

As authorized by Chapter 831 of the Acts of 1977, as amended (the "Act"), the Martha's Vineyard Commission (the "Commission") hereby designates as a District of Critical Planning Concern ("DCPC") the entirety of the Town of Aquinnah, to be known as the area of the "Rate of Development District of Critical Planning Concern."

The Commission held a Public Hearing at 7:30 p.m. on February 24, 2000 at the Commission Offices, New York Avenue, Oak Bluffs, Massachusetts, on the proposed DCPC, after due public notice to the municipalities, publication and notice as required under Massachusetts General Laws Chapter 30A, Section 2. The Public Hearing was held as required under the Act to permit the Commission to receive testimony relating to whether it should designate the proposed DCPC as a District of Critical Planning Concern.

On January 18, 2000, the Commission received the Nomination from the Board of Selectmen of the Town of Aquinnah for inclusion of the entire lands within the Town into a DCPC. At its meeting on January 27, 2000, the Commission voted to accept for consideration the nominated area.

Copies of the Nomination and documents relating thereto and the area accepted for consideration have been and remain on file at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts. On February 24, 2000, the Commission voted to designate the nominated area as a District of Critical Planning

Concern. Sections 8 through 10 of the Act provide the process for amending the boundaries, adoption of development guidelines and regulations for the DCPC to which development must conform.

Section 2.00: Area Designated

Upon consideration of the Nomination and information received at the Public Hearing and prior thereto, the Commission's familiarity with the lands and waters of the District and oral and written testimony, and pursuant to the Act and the Commission's Standards and Criteria for Districts of Critical Planning Concern (the "Qualifications") adopted under the Act and appended hereto as Appendix A, the Commission makes findings herein and hereby designates the Rate of Development District to include the entire lands within the Town of Aquinnah.

The Commission finds that the entire area of the Town should be included within the Rate of Development District in order to implement a comprehensive and orderly regulation of the rate of issuance of building permits for new residential structures and to provide to the Town of Aquinnah the protections afforded by the Act. The area of the DCPC as designated is the logical planning area and is suitable for the adoption of coordinated and comprehensive regulation for the District as a whole. Moreover, the Commission finds that the inclusion of the entire area of the Town within the Rate of Development District is both convenient and recognizable by the public at large and public officials. The Commission recognizes that the guidelines and regulations of this DCPC will have little application to land held by public and private entities for conservation and open space uses and/or land not zoned for residential use, but nonetheless chooses to adopt an Town-wide DCPC designation for the Town in order to ensure the ease and conformity of application throughout the designated areas.

Section 3.00: Reasons for the Designation of the District

Pursuant to Section 8 of the Act, the Commission finds that there is a regional need for special regulations and planning to protect the District from damage or losses which might otherwise result from inappropriate development or an inappropriate rate of development. The Commission finds that the present municipal zoning bylaws and the State Building Code are inadequate to assure the desired protection and that if residential development proceeds without any regulation of the rate of development, there is the potential for substantial damage to the values protected by the Act in the Town of Aquinnah. In order to avoid directing undue development pressure to the Town, it is necessary to designate the entire area of the Town and all of the land having development potential within the Town as the appropriate District within which to implement a rate of development regulation applicable to new residential structures. The Commission finds that this is the only logical planning area within which a coordinated and comprehensive system of regulation can be prepared which will protect the critical resources of the Town of

Aquinnah. Moreover, by designating the entire area of the Town as the District of Critical Planning Concern as to the issuance of permits for new residential structures, the Commission has adopted boundaries which are both convenient and recognizable.

Section 4.00: Specific Qualifications of the District

Pursuant to Section 8 of the Act, the Commission designates the DCPC in accordance with the Standards and Criteria approved under the Act for the designation of Districts of Critical Planning Concern. Given the unrestrained and inappropriate development pressures currently affecting the Town of Aquinnah, the Commission finds that the DCPC should be designated on the following grounds:

- (a) It is an area which possesses unique natural, historical, ecological, scientific and cultural resources of regional or State-wide significance;
- (b) Concerns regarding the preservation of the water quality of groundwater and surface water resources, together with the impact of unrestrained development on viewsheds, indicate that the Island as a whole has soil and topographic characteristics which render it unsuitable for rapid and intense development; and
- (c) Unrestrained development has the potential to have significant impact on existing and/or proposed major public facilities, in terms of fire, police and school facilities and other areas of major public investment, including Land Bank acquisitions and recreation areas open to the public.

Section 4.10: Compliance with DCPC Standards and Criteria

Section 4.11: Wildlife, Natural, Scientific or Ecological Resource District

Information presented at the Public Hearing and other resources available to the Commission clearly indicate that the natural resource concerns and values to be protected by the Act are threatened by unregulated residential development and that the application of rate of development controls to the issuance of new building permits for new residential structures will allow for more careful and systematic planning for public and private acquisition of open space and natural areas to preserve important natural and ecological resources which would otherwise be threatened by unrestrained or inappropriate development. Rate of development controls on the issuance of building permits for new residential structures will allow the Town of Aquinnah, the Land Bank and private conservation organizations to marshal their resources to acquire lands and water which are important for their natural and ecological characteristics and conditions.

Section 4.12: Cultural or Historic Resources

Similarly, a rate of development regulation will allow the Town of Aquinnah, the Land Bank and other public and private conservation and historic preservation organizations an opportunity to plan, acquire, restrict, solicit restrictions and otherwise act to preserve important cultural and/or historic resources which may otherwise be threatened by inappropriate and unrestrained development. A rate of development regulatory system will allow the municipality and interested parties to identify and preserve those historic and cultural resources which are most immediately threatened by development pressures.

Section 4.13: Economic or Development Resources

A rate of development regulation for building permits for new residential structures will also provide for more year-round employment in the construction industry (instead of concentrating construction work in limited periods which reflect short-term market demand). Similarly, more measured and predictable residential development will allow municipal, County and State authorities to plan and implement infrastructure improvements on a more rational and measured basis to cope with predictable increases in demand and to insure that public facilities and infrastructure are available to meet additional residential demand for service by that infrastructure (including utilities, road access, water supply, sewerage and school, fire and police facilities). The rate of development regulatory system will also allow the Town of Aquinnah and the Planning Board and the Commission a greater chance to direct development of new residential structures to those areas where existing infrastructure can most readily accommodate new development.

Section 4.14: Major Public Investment

Insofar as more predictable and regular development of new residential structures will allow the Town of Aquinnah, the County and the State to plan and construct new public facilities in a more orderly and rational fashion and coordinate the provision of roads, schools, parks, public utilities and public access to beaches and other places of recreation, the Town-wide application of rate of development regulation in the Town of Aquinnah will help to preserve the values and interests protected by the Act.

Section 5.00: General Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of single-family residential growth in the Town of Aquinnah in accordance with the directive of the voters of each of the Towns on the Island; said directive being a limit of growth to that of a total of 240 single-family residential structures Island-wide.

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.

The Town shall, in the manner required by the Act, adopt regulations which as a minimum comply with these Guidelines for the development of the District. The Town may adopt such regulations under zoning, subdivision, health, general bylaw or any combination of such authorities it deems best suited for the purpose. The Commission draws the Town's 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 the municipality to adopt compatible regulations.

Section 5.01: Establishment of Guidelines

1. As used herein, the words "development", "permit" and "regulations" shall have the same meaning as in the Act.
2. Each Town shall adopt regulations of the types described in the Act as appropriate, conforming to these Guidelines to control development across the Island.
3. 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.
4. These Guidelines may be amended by the Commission after notice to the Towns and notice and a Public Hearing in the manner required by the Act.
5. 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 Standards and Criteria of the Commission.

Section 5.02: Development Guidelines

The Town of Aquinnah shall adopt regulations which include or adequately consider the following:

1. The Town shall establish regulations based upon the allocation of permits as set forth herein:

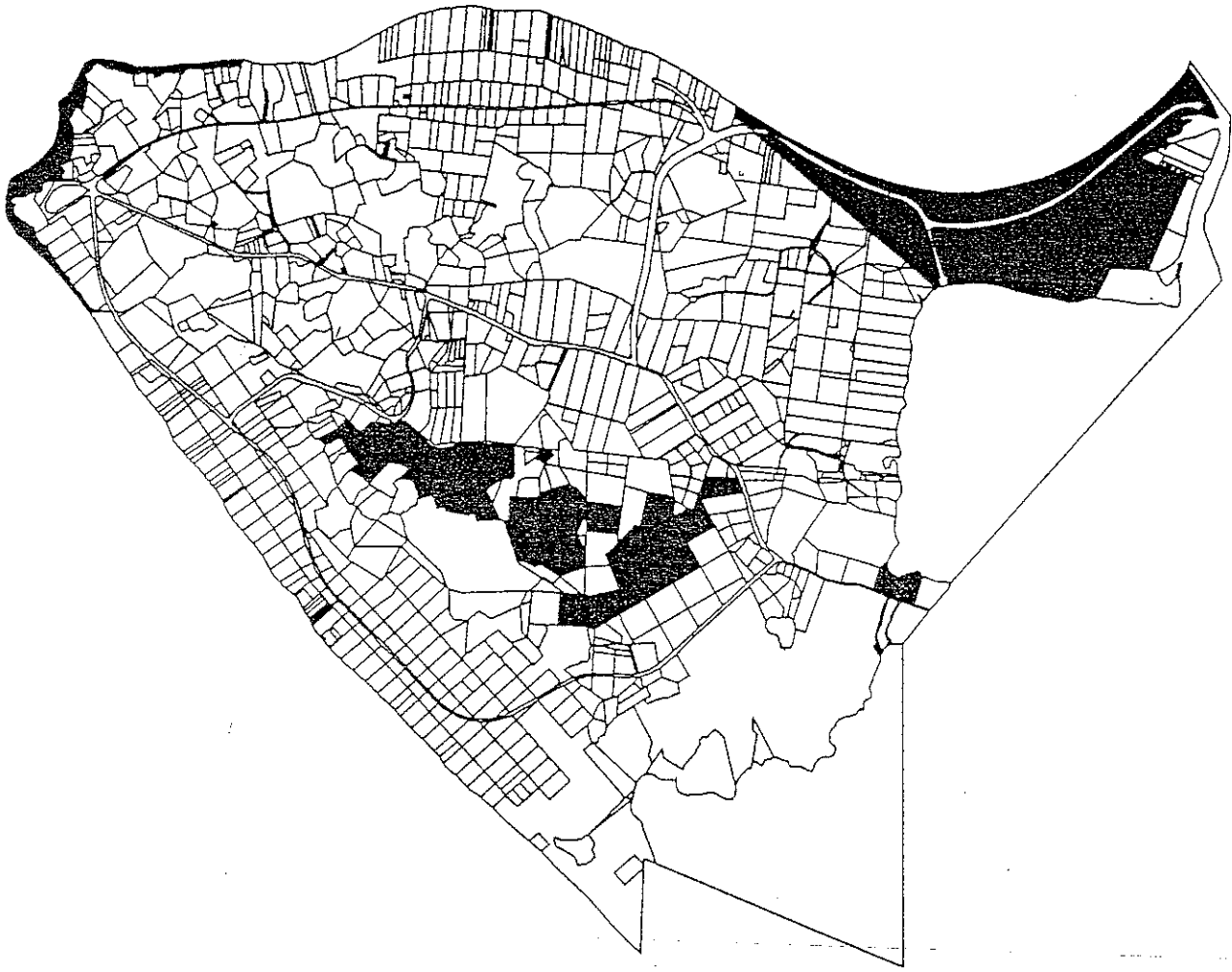
<i>Aquinnah</i>	7	Oak Bluffs	52
Chilmark	20	Tisbury	24
Edgartown	94	W. Tisbury	43

2. The Town shall establish regulations that provide a fair and equitable means of issuing their individual allocations.
3. The Town shall prepare an annual report to the Commission which evaluates the effects of the building permit cap upon its community; said report to be used by the Commission in providing an Island-wide evaluation, along with an evaluation prepared by the Commission for the same time period (annually).

By the Vote of the Martha's Vineyard Commission  
February 24, 2000

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Richard J. Toole, Chairman



The Town of Aquinnah District  
includes all lands and waters,  
except the Indian Common Lands and Settlement Lands (shaded),  
within the corporate bounds of the Town of Aquinnah (unshaded).