To: MVC Commissioners  

From: MVC Staff  

Re: Background regarding whether certain amendments to the Chilmark Zoning Bylaws are in conformance with the Goals and Guidelines specified in the Commission’s Designation Decision for the Coastal District.  

Date: June 2, 2017

MEMORANDUM

Conformance of Proposed Amendments to the Chilmark Zoning Bylaws

1. Purpose of Hearing:
To determine whether certain amendments to the Chilmark Zoning Bylaws are in conformance with the Goals and Guidelines specified in the Commission’s Designation Decision for the Coastal District.

2. Background to Current MVC Proceeding

Bylaw amendments to the Chilmark Coastal District regulations were presented to a Special Town Meeting this past April and were approved by the requisite ⅔ majority of voters. See Record of vote by Chilmark Special Town Meeting at Attachment A. In order for these amendments to take effect, they need also to be approved by the Commission. As noted above, ‘conformance’ of the bylaw amendments with the Commission Goals and Guidelines for the Coastal District is the appropriate standard of review. The Commission may find conformance if Town regulations are less restrictive than prescribed in the Guidelines if the Commission finds that such regulations will carry out the purposes of the Act and intent of these Guidelines for the District.

3. Proposed Amendments

The amendments deal solely with roadways and the administrative procedures applicable to the reconstruction and/or relocation of a roadway. The amendments provide that:

- a reconstruction and/or relocation of a roadway in connection with a project which has a public benefit and which (a) has received any necessary Chilmark Conservation Commission and/or MV Commission approval; and (b) is approved by a ⅔ majority at
a Town meeting, is a permitted use, is exempt from the roadway width restriction, and is not subject to any other review.

- A road may accommodate pedestrian access provided that the vehicular access does not exceed the existing 10' maximum width and the entire width does not exceed 15'.

4. Chilmark Coastal District Regulations

The Coastal District is one of the original 3 Island-wide DCPC’s designated by the early Commission in 1975. The Coastal District includes areas below the 10-foot contour, or within 500 feet landward of MHW of the ocean or of a great pond, and land within 100 feet of streams and wetlands draining into a great pond.

There are 2 zones in the Coastal District: the Shore Zone and the Inland Zone.
- The Shore Zone covers from MLW to 100 feet inland of a beach, marsh or bluff. Permitted uses include recreation, conservation and agriculture. The Inland Zone comprises the remainder of the District.

The Chilmark Coastal District regulations were originally adopted with MVC approval in 1976

- The Chilmark term “development” includes establishment of a way, a definition not included in the Guidelines but which was found in conformance. Note: This amendment refers to reconstruction and/or relocation, rather than establishment.
- The Guidelines would allow for construction of roads wider than 10' by special permit, in both zones. Chilmark allows roads up to 10 feet wide by right in the Inland Zone, with no special permit relief for the width.

The full text of the regulations, highlighted at locations for proposed insertions resulting from the passage of the amendments, is set out in Attachment B.

5. Goals and Guidelines

The Commission’s review is based on CONFORMANCE with the Goals and Guidelines for the Coastal District (full text attached as Attachment C).

6. Discussion Points

- The proposed regulations create an additional allowable use — namely the reconstruction and/or relocation of existing roadways (provided the specified authorities approve the work).
• The proposed amendments would replace site plan review and special permit granting authority (ZBA) review for projects providing a public benefit with approval by Town meeting (requiring a 2/3 majority).

• Site plan review is not prohibited by the proposed amendments – it could still occur but would specifically not be required. Projects not presented to Town Meeting for approval would still be subject to the usual Site Review and permit granting authority’s review.

• The Guidelines provide that, in respect of both the Shore and Inland Zones, no road or way for vehicular use may be constructed exceeding a width of ten (10) feet, except by special permit which may provide for greater width. The existing Chilmark regulations allow by right in the Inland Zone roads that do not exceed a width of then (10) feet, with no special permit relief for additional width. The proposed amendments would allow a road to exceed 10 feet provided it met the qualifications of the amendment (i.e. regarding public benefit and required reviews).

References

Chapter 831 of the Acts of 1977 as amended

Decision of the Martha's Vineyard Commission Designating the Coastal District as a District of Critical Planning Concern, 1975, amended 1976

Attachment A - Record of vote by Chilmark Special Town Meeting April 24, 2017

Attachment B – Full Text of the Section 11 Amendments

Attachment C – Illustration of Chilmark Coastal District, Squibnocket Pond District, and area covered by both

Attachment D - Full Text of Chilmark DCPC Regulations, Section 11, highlighted at locations for proposed insertion

Attachment E – Full Text of Coastal District Goals and Guidelines
ATTACHMENT A

Record of Vote of Chilmark Special Town Meeting April 24, 2017

Staff notes for June 15, 2017
To: Martha's Vineyard Commission  
From: Jennifer L. Christy, Chilmark Town Clerk  
Date: May 19, 2017  
Re: Chilmark Zoning Bylaw Amendments to Article 11 & Article 12

Please find enclosed certification of the Town of Chilmark's town meeting action on Article 1 & Article 2 of the Special Town Meeting warrant on April 24, 2017.
Town of Chilmark
SPECIAL TOWN MEETING
April 24, 2017

MODERATOR: Everett H. Poole
TOWN CLERK: Jennifer L. Christy
REGISTRARS: Laurisa D. Rich, Judy G.L. Mayhew, Susan Heilbron
CONSTABLE: Marshall E. Carroll, III
TELLERS: Linda Coutinho and Sarah Kuh

At the close of voter registration on April 14, 2017 there were nine hundred and eighty-five (985) registered voters in the Town of Chilmark. With two hundred seventy-four (274) voters present at the Special Town Meeting, approximately 28% of the total number of registered voters, the Moderator called the meeting to order at 7:02PM at the Chilmark Community Center at 520 South Road.

Constable Marshall E. Carroll, III attested to the posting of the warrant.

Article 1. To see if the Town will vote to amend Section 11.6.A.2 of the Chilmark Zoning By-laws by: (1) re-numbering the current subsection 11.6.A.2.b as 11.6.A.2.c; (2) re-numbering the current subsection 11.6.A.2.c as 11.6.A.2.d;(3) adding the following text as subsection 11.6.A.2.b; and (4) amending subsection 11.6.A.2.d(4), as re-numbered and as shown below with the italicized text, as follows:

b. With respect only to those portions of the Chilmark Coastal District that are located within the Squibnocket Pond District (the boundaries of which are defined in Section 3.1.H of this bylaw), reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the restriction set forth in Section 11.6.A.2.d.4 shall not be applicable and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 11 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.

4) Roads that do not exceed ten (10) feet, but roads may have an additional area to accommodate pedestrian travel, provided that the entire width does not exceed fifteen (15) feet.

Town Meeting Action on Article 1:
The Article was read by the Moderator and was moved and seconded. The Moderator called for discussion. James Malkin, Selectman, was recognized and provided a summary of events to date and actions taken in the Squibnocket causeway project. Mr. Malkin stated that passage would create a democratic and transparent process for the permitting of bridges or causeways in the Squibnocket district. Mr. Malkin urged a yes vote on the Article. Mr. Rappaport was recognized and stated that passage of the two Articles on this warrant codifies long-time practice of the Town and briefly described the procedure by which a causeway or roadway may be permitted if the Town passed the two Articles. Mr. Rappaport noted the legal challenge in land court to the Squibnocket causeway and briefly described the impact that passage of the Articles would have on the current legal challenges: it would leave the majority of those challenges moot. David Damroth was recognized, expressed support for the bridge and offered an amendment. Mr. Damroth read his amendment as follows, "The construction of any elevated roadway or causeway shall be expressly
conditioned upon the following: the owner or applicant shall provide legally binding covenant that it and any future owners shall perpetually maintain elevated roadway or causeway in good and safe condition including prompt repairs after damage caused by storms, floods or other events. The owner/applicant shall provide a legally binding covenant that any elevated roadway or causeway is abandoned or reaches the end of its useful life the owner or any future owner shall promptly remove the elevated roadway or causeway and restore the site to its pre-introduction state or of the state of the abutting areas. The owner/applicant shall provide sufficient surety whether through escrow account, bond or otherwise to cover all costs of future repairs, maintenance, removal, restoration of the elevated roadway or causeway in the event that the Town undertakes such repairs, maintenance, removal or restoration. For the purposes of this sub-section, the term public benefit shall mean the following: Whether an elevated roadway or causeway is reasonably necessary to provide continued safe and clear access to existing homes and public beaches, whether the elevated roadway or causeway is consistent with the intents of the district of critical planning concern as set forth in 11.5 of this bylaw and the intents of the Squibnocket Pond District as set forth in section 12.0 of this bylaw and whether the owner or applicant has provided the required covenants described in sub-section above, whether the owner/applicant has provided sufficient surety as described in the sub-section above and, finally, public benefit shall not include the impact of elevated roadways or causeways on property values or tax revenue.” Mr. Damroth delivered his amendment to the Moderator. The amendment was seconded. The Moderator declared that the amendment was moved and seconded. The Moderator called for a voice vote on whether the amendment should be read aloud. The meeting did not ask for the amendment to be read aloud. Warren Doty, Selectman, was recognized and stated that he did not think the amendment was needed and that the article should come to a vote. Mr. Doty expressed respect for the Town’s Counsel and noted the former Selectmen in the room who had served during the years that the Squibnocket project had been worked upon, since 2012. Mr. Doty noted that the term “public benefit” is defined in state law. Sue Regan was recognized and described her experience at Squibnocket since 1951. Mrs. Regan stated her support of access and is appreciative of the work of the Town Committee on Squibnocket, but noted the Town Committee on Squibnocket had recommended a 5 - 7 ft. bridge and the current bridge is supposed to be 13 ft. Mrs. Regan stated her support of the project but noted her concern with the long-time viability of a bridge.

The Moderator recessed the Special Town Meeting at 7:31 pm and stated that the Special Town Meeting would reconvene after the Annual Town Meeting is adjourned.

Brief discussion occurred regarding alternatives to a recess of the Special Town Meeting until the end of the Annual Town Meeting.

The Moderator stated his decision had been made and he would return to the Special Town Meeting after the Annual Town Meeting was adjourned.

The Moderator called the Special Town Meeting to order at 10:08 pm.

The Moderator recognized Mrs. Regan again and inquired if she had more to add to the discussion. She rose and reiterated her concerns. Doug Liman was recognized and addressed the pictures of the proposed bridge that Mr. Liman has published in a local paper. Mr. Liman asked Mr. Rappaport to clarify whether another 2/3rds approval of a town meeting would be needed, if the zoning bylaw amendments are approved, in order for the project to move forward. Mr. Rappaport stated if the town voted the amendments another 2/3rds vote would not be needed. Mr. Rappaport noted the vote of the Special Town Meeting in February 2015 would satisfy the language of these bylaw amendments. Damon Vickers, a Squibnocket Farms resident, was recognized and stated his opposition to the bridge. Mr. Vickers stated he is interested in providing a beach to the Town without the intrusion of a bridge. Pam Goff was recognized and stated there is due process in place for the protection of the Squibnocket district through the Conservation Commission’s normal procedure of issuing orders of condition. She noted there is a managed retreat plan for the project and the order of conditions details responsibility for the repair and removal of the causeway in the event either action is required. Rich Osnoss stood to speak on the bylaw amendments and report the position of the Planning Board. He stated the Planning Board supports the action of the Board of Selectmen to bring the zoning bylaw amendment articles to the town meeting for a vote and noted the requirement that a town meeting, by a 2/3rds vote, would be needed to approve a project that has public
benefit seemed sufficient to the Planning Board. Anne Cook stood, stated that it appeared a great amount of work had already been accomplished on the project, but asked for clarification of the history of the Squibnocket project. Mr. Malkin read from the document titled Town Committee on Squibnocket Recommended Solution that was distributed at the Special Town Meeting on Feb. 2, 2015 and that was approved unanimously at a Special Town Meeting in February 2, 2015. The elements of the recommended solution voted were: Access to Squibnocket Farms, establishment of a Town Beach, Town parking for the Beach and negotiation and funding. Martin Hale stood and expressed concern with the complexity of the amendment presented by Mr. Damroth. Vicki Divoll was recognized and urged a vote against the amendment. Gary Motau was recognized and addressed the covenant suggested by Mr. Damroth and stated that the part of the amendment addressing a bond or covenant to protect the Town against the cost of addressing a causeway that is damaged or destroyed has value, but overall the amendment is not needed. Mr. Damroth stood to reiterate that the definition of “public benefit” is needed due to the fact that some may try to define public benefit in a way that is not how the Town envisions public benefit tonight. Candy Shweder, chairperson of the Conservation Commission, stood and stated an order of conditions is in place for the current project and all causeways in the future would have an order of conditions and a plan for a managed retreat. Mr. Hale stood and stated that Squibnocket Farms residents have the responsibility of the maintenance of the causeway. There was no more discussion.

The Moderator brought the amendment to a voice vote. The Moderator declared the amendment defeated.

The Moderator brought the discussion back to Article 1. Mr. Liman was recognized and spoke about the causeway image that he has produced. Ms. Divoll stood to speak against the use of the picture by Mr. Liman to depict the causeway and noted the hours of committee meetings, Conservation Commission meetings and other review and she stated her rejection of the pictures. Ms. Shweder stood to clarify that the vote is not on the causeway, noted the project has lost two grants due to the delay in the project, noted the zoning bylaw changes that are proposed will codify the process that has been occurring in Town for years and urged support of the Article. Mr. Vickers stood to speak against the Article and noted that the Town’s picture of the causeway has no scale reverence. Chris Murphy stood and gave a brief history of the events leading up to this point and urged voters to vote no on the Article. Paul Hornblower stood and expressed his opposition to amending the zoning bylaws. Martin Hale was recognized and questioned the concerns of those in opposition. Thomas Bena was recognized and spoke against the Article. Rosalie Hornblower stood and spoke against the Article. Mr. Malkin stood and urged a yes vote on the Article. Brief further discussion occurred. Zach Lee was recognized and noted that the causeway is to be built higher than was originally proposed. He urged a no vote. Leonard Jason, Jr. stood and noted the Town Committee on Squibnocket relied on expert testimony and that there are other bridges in Town that have not required a building permit. Selectman Rossi stated the process leading up to this Town Meeting has been very open and transparent. Rick Shweder was recognized and stated that the process throughout 2014 that led to approval of the Squibnocket project was open and transparent. There was further brief discussion. The Moderator read the Article on the request of a voter. The Moderator informed the town meeting that he had received a signed petition for a secret ballot for the vote on the Article. The Moderator stated there appeared to be some dissension about the petition for a secret ballot and asked for those in favor of a secret ballot to rise. The tellers counted 22 in favor of a secret ballot. The Moderator asked for those opposed to a secret ballot to rise. The Moderator declared the count was 80-22 in favor of a standing vote and opposed to a secret ballot vote. The Moderator called for a standing vote and asked all those in favor of Article 1 to please rise. Tellers counted 109 who stood in favor of Article 1. The Moderator asked for all those opposed to Article 1 to please stand. The tellers counted 51 opposed.

The Moderator declared Article 1 is passed. The Moderator declared the count was 109-51.

**Article 2.** To see if the Town will vote to amend Section 12.3.B.1 of the Chilmark Zoning By- laws by: (1) re-numbering the current subsection 12.3.B.1.g as 12.3.B.1.h; and (2) adding the following text as subsection 12.3.B.1.g, so that the two provisions read as follows:
g. Reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha's Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the dimensional requirements established in the Zoning By-laws shall not apply and the Conservation Commission's review and the Martha's Vineyard Commission's review (if required) under this provision shall be the sole review required under Article 12 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.

h. Uses allowed in Zone A.

**Town Meeting Action on Article 2:**

The Article was read by the Moderator, moved and seconded. The Moderator called for discussion. Ms. Messmer asked for clarification. Mr. Rappaport provided a brief explanation regarding the two provisions of the Chilmark Zoning Bylaws and explained that Article 1 addresses amendments to Article 11 of the Chilmark Zoning Bylaws and Article 2 addresses amendments to Article 12 of the Chilmark Zoning Bylaws. There was no more discussion. The Moderator asked for those in favor of a secret ballot to rise. Three (3) voters rose. The Moderator asked for those in favor of a standing vote to rise. Many voters rose to stand. The Moderator asked the voters to sit. The Moderator called for a standing vote on the Article and asked for all those in favor of Article 2 to please stand. The tellers counted those standing. The Moderator called for all those opposed to Article 2 to please stand. The tellers counted those standing.

**The Moderator declared Article 2 is carried 108-49.**

The Moderator asked if there was anything more to come before the meeting. There was no more. The Moderator declared the Special Town Meeting dissolved at 11:47 p.m. on April 24, 2017.

Respectfully submitted,

Jennifer L. Christy, Town Clerk
May 1, 2017
ATTACHMENT B

Proposed Amendments – full text

Staff notes for June 15, 2017
COASTAL DISTRICT REGULATIONS
for the Town of Chilmark

to be heard for conformance by MVC on June 15, 2017, 7:05 p.m.

PROPOSED AMENDMENTS to Article 11: Districts of Critical Planning Concern

The Chilmark Planning Board has proposed amendments to the Coastal District By-Law:

**Article 11: Districts of Critical Planning Concern (Overlay Districts)**

To amend Section 11.6.A.2 of the Chilmark Zoning By-laws by:

(1) re-numbering the current subsection 11.6.A.2.b as 11.6.A.2.c;
(2) re-numbering the current subsection 11.6.A.2.c as 11.6.A.2.d; and
(3) adding the following text as subsection 11.6.A.2.b; and
(4) amending subsection 11.6.A.2.d(4), as re-numbered and as shown below with the italicized text, as follows:

b. With respect only to those portions of the Chilmark Coastal District that are located within the Squibnocket Pond District (the boundaries of which are defined in Section 3.1.H of this bylaw), reconstruction and/or relocation of existing roadways, including the addition of elevated sections or causeways, provided that the Conservation Commission approves the proposed work within its jurisdiction under an order of conditions (following referral to and approval by the Martha’s Vineyard Commission if required by St. 1977, c. 831, as amended, or the regulations promulgated thereunder). For roadways, including the addition of elevated sections or causeways, in connection with a project providing a public benefit as approved by a two thirds majority vote of a Special or Annual Town Meeting, the restriction set forth in Section 11.6.A.2.d.4 shall not be applicable and the Conservation Commission’s review and the Martha’s Vineyard Commission’s review (if required) under this provision shall be the sole review required under Article 11 of the Zoning By-laws. This provision does not eliminate review of roadways, including those with the addition of elevated sections or causeways, not submitted to Town Meeting for approval as providing a public benefit.

4) Roads that do not exceed ten (10) feet, but roads may have an additional area to accommodate pedestrian travel, provided that the entire width does not exceed fifteen (15) feet.
ATTACHMENT C

Illustrations of Chilmark Coastal District, Squibnocket Pond District, and area covered by both

Staff notes for June 15, 2017
Illustration of locus where Coastal District lies within the local Squibnocket Pond District

Illustration of Coastal District (shaded)

Illustration of local Squibnocket Pond District (includes water, though not shaded)
ATTACHMENT D

Full Text of Chilmark DCPC Regulations, Section 11, highlighted at locations for proposed amendments

Staff notes for June 15, 2017
ARTICLE 11: DISTRICTS OF CRITICAL PLANNING CONCERN (OVERLAY DISTRICTS)

PURPOSE
Section 11.0 Pursuant to the authority of the Martha's Vineyard Commission Act, Ch. 637 of the Acts of 1974, as amended by Ch. 759 of the Acts of 1974, (the "Act"), certain land and waters within Chilmark have been designated by the Martha's Vineyard Commission (the "Commission") as Districts of Critical Planning Concern ("Critical Districts") for the purposes of the Act: to "preserve the natural character and beauty of Martha's Vineyard and to protect the unique natural, historical, ecological, scientific, cultural and other values" from developments which might impair them, while contributing to the maintenance of sound local economies and private property values.

SUPPLEMENTARY REGULATIONS
Section 11.1 Overlay Districts are districts with supplementary regulations to those of the underlying zoning districts and to other town regulations. Where there is a conflict between any other regulations and the overlay district regulations, the more limiting requirement shall prevail.

SITE REVIEW COMMITTEE
Section 11.2 There is hereby established a Site Review Committee (the "Committee") consisting of one member each of the Planning Board; Conservation Commission; Board of Health; and one member appointed by the Board of Selectmen, either from its membership, or the Building Inspector; and one elected member from the Town. Terms of membership shall be one (1) year. Each board shall appoint an alternate to serve in the absence of the designated member.

PROCEDURE
Section 11.3 The Building Inspector shall initially process all applications for building and other development permits. Those which fall within the Critical District shall be referred to the Site Review Committee. Said Committee shall review permit applications forwarded by the Building Inspector, and assist the applicant in complying with the permitted uses if possible. The Committee shall hold meetings with applicants and make suggestions, and may require an applicant to erect temporary poles on the site, said poles shall be the same height as the highest point of the proposed structure and shall be maintained on the site until the report of the Committee is filed, or until the Board of Appeals has acted.

The Committee shall file a written report with the Town Clerk within twenty-one (21) days of the receipt of an application. Failure to file within this period shall be construed as approval. Said report shall contain a list of the benefits and detriments; numerical majority of benefits or detriments shall not be binding on the Site Review Committee or any permit granting authority, since the purpose and intent of the regulations shall be of prime importance. They shall also take into consideration the intent of the guidelines expressed in Section 11.5 herein. If it is found that the development can and does comply with the regulations of the district, then no further proceedings hereunder shall be required and the applicant may return to the permit granting authorities and proceed in the usual manner.

All references to special permits in these regulations shall mean special permits issued by the Board of Appeals. Any referral to the Board of Appeals shall be accompanied by a report of
the Committee listing the reasons for non-compliance. The Board of Appeals shall hold a hearing after the proper notice and make their decision based on their adopted rules and regulations and the guidelines provided in Chapter 40 of the General Laws, taking into consideration the recommendations of the Site Review Committee.

DEVELOPMENT DEFINITION
Section 11.4  Development shall mean any building, or the dividing of land into parcels, or a change in the intensity of use; or the demolition of a historic structure or landmark, or of a stone wall visible from major roads, or the establishment of a way; or the alteration of a shore beach, seacoast, river, stream, or pond; including coastal construction; or the deposit of solid or liquid waste or fill on a parcel of land; or extensive dredging, excavation, or clearing of land; or drilling for other than water. Agricultural and aquacultural uses, or the cutting of limited amounts of firewood shall not constitute a development.

INTENT
Section 11.5  It is the intent of this bylaw to insure that development in these districts:

A. Will not result in undue water, air, land or noise pollution;
B. Will not unreasonably burden the existing water supply of the district;
C. Will not result in increased beach erosion or damage to the coastal ecology or wetlands;
D. Will cause no damage to fisheries and shellfish;
E. Will cause no unnecessary decrease in agricultural use or the potential productivity of the land;
F. Will result in as little interruption as possible of public views overlooking the site, nor will it allow construction which is not in harmony with the landscape type;
G. Will not result in traffic that would be detrimental to the safety of the public.
H. Will not result in a deterioration of the rural character of Chilmark by proliferation of accessory structures.

DESIGNATED AREAS
Section 11.6  Areas designated: Coastal District, Streams and Wetlands Draining into Coastal Great Ponds, Roadside District, and Special Places District, Meetinghouse Road and Tiasquam River District. (For Squibnocket Pond District see Section 12):

A. BOUNDARIES OF THE CHILMARK COASTAL DISTRICT: The land, streams and wetlands in Chilmark which lie below the ten (10) foot elevation above mean sea level, or within five hundred (500) feet of mean high water of a coastal water body exceeding ten (10) acres in size, or the
ocean; all of Noman's Island; all land within one hundred (100) feet of streams and wetlands draining into the Coastal Great Ponds (measurement from the thread of the streams or the edge of the wetland vegetation).

1. The Coastal District shall consist of two zones as follows:

   a. **The Shore Zone**: The land from mean low water to one hundred (100) feet inland of the inland edge of any beach or marsh grasses, and one hundred (100) feet inland of the crest of any bluff exceeding a height of fifteen (15) feet. Where there is no beach grass or where there are bluffs, measurement shall be from the inland edge of the beach. The height of a bluff shall be measured from mean high water.

   b. **The Inland Zone**: Consisting of all land within the Coastal District except the Shore Zone.

2. **Allowable Uses Within the Zones:**

   a. Boat storage shall be allowed in all zones of overlay districts.

   b. **The Shore Zone, Permitted Uses**: Uses which are consistent with the fragile nature of the area, such as outdoor recreation, conservation purposes, agricultural and aquacultural and fishing purposes; docks, landings and boathouses associated with these purposes.

   (i) Uses Allowed by Special Permit:

      a.) Additions to existing single-family dwellings, provided that these additions, whether rebuilding or remodeling, do not increase the square footage of the dwelling, existing as of the effective date of this amendment, by more than two hundred and fifty (250) square feet with no roof line exceeding the height of the existing dwelling; and provided that these additions do not require the installation of additional on-site sanitary disposal systems, or result in the increased use of existing on-site sanitary disposal systems.

      b.) minor non-residential structures and uses requiring no on-site sanitary disposal facilities; and

      c.) fish processing facilities requiring no on-site sanitary disposal systems.

   (ii) No structure shall exceed eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet in height for a flat or shed roof

   c. **The Inland Zone, Permitted Uses**: Non-habitable minor accessory structures, single-family dwelling unit and an addition to an existing
structure, provided that all applications for regular permits are submitted to the usual permit-granting authorities for certification as to compliance with the allowable uses under this bylaw.

1.) No structure shall exceed eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet in height for a flat or shed roof in open terrain (consisting of moors, plains or bluffs), or twenty-four (24) feet for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in wooded terrain.

2) No moving, removing or otherwise altering an existing stone wall shall be allowed, other than for one driveway, in which case the stones from the opening wall shall be utilized on the property. Stone walls may be repaired.

3) In a division of land into two or more lots, all electric and telephone wires shall be placed underground, except that a special permit for an exemption may be granted if underground placement is determined not to be feasible because of technical difficulties. On a single lot, an exemption may be granted for one pole.

4) Roads that do not exceed a width of ten (10) feet.

5) Uses Allowed by Special Permit: Swimming pools and/or tennis courts provided that:

   a) The pool and/or tennis court are constructed on or below the natural surrounding grade. Any adjacent accessory buildings within fifty (50) feet of the pool or court (with the exception of fences and nets) are constructed so as not to protrude more than four (4) feet above the natural grade;

   b) the pool or court fences are screened with plantings (which shall be maintained so as not to be higher than the fence or to obstruct scenic views) on all sides facing neighbors or a public way; and

   c) the pool or court and adjacent area conforms with Section 4.2.A.3.

3) Uses Not Permitted

   a) Swimming pools or tennis courts within the Shore Zone.

B. BOUNDARIES OF STREAMS AND WETLANDS DRAINING INTO COASTAL GREAT PONDS: The land and water lying within one hundred (100) feet from the thread of streams or from the edge of wetlands contiguous to ponds or streams draining into coastal ponds.

1. Permitted Uses: All uses allowed in the Shore Zone.
2. Uses Allowed by Special Permits:
   a. Uses allowed by special permit in the Shore Zone.
   b. Alterations of a bank or streams (such as for the construction of dams, bridges, or water wheels) may be allowed by special permit. Priority will be given to such alterations for farming, fishing, and wildlife uses, with the approval of the Conservation Commission.

3. Uses Not Permitted
   a) Swimming pools or tennis courts.

C. Boundaries of the Chilmark Roadside District: The land lying within 200 feet from each side of the right of way of: North Road, Middle Road, Tea Lane, Meeting House Road, Tabor House Road, Menemsha Crossroad, and the land within 500 feet of each side of the right of way of South Road.

1. Goals of the Major Road Zone: Allow for safe access and travel along the roads. Protect the visual character, diversity of landscape and historic features of the journey along the roads.

2. Allowable Uses with in the Roadside Zone:
   a) A structure not exceeding eighteen (18) feet in height for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in open terrain or twenty-four (24) feet for a gabled or hip roof and thirteen (13) feet for a flat or shed roof in wooded terrain. A special permit may be granted by the Zoning Board of Appeals for a height up to twenty-eight (28) feet as provided by the Zoning Bylaws. A special permit may be granted by the Board of Appeals for a height of up to the current existing ridge pole for additions or alterations to houses in this district that were built before 1850 and are listed in the Historic Resources section of the Chilmark Master Plan, provided that the proposed structure is consistent with the architectural style of the existing house.

   b) Minimum Setbacks Along Road Frontages in Relation to Heights:
      a. Height:                Setback:
      b. 17 feet or less       . . . . . . . . . . . . . . . 60 feet
      c. 20 feet or less       . . . . . . . . . . . . . . . 80 feet
      d. 24 feet or less       . . . . . . . . . . . . . . .100 feet

   c) A dwelling or addition to a dwelling which does not obstruct a view or outlook as designated on the attached town map.

   d) Roadways: Any way hereafter established in the Road District to provide vehicular access from a lot to a public road shall be located at least 1,000 feet from any other such way located on the same side of the road, provided that all existing parcels of land in separate ownership on the effective date.
of this provision are entitled to access to a public road, provided that the access is located as far as practicable from all other ways. The foregoing is not to be interpreted to mean that land beyond this district can be refused a right of way over these accesses because of these regulations.

e) Stone Walls and Utility Lines: Regulations regarding stone walls and utility lines shall be the same as in the Coastal District.

D. BOUNDARIES OF THE SPECIAL PLACES DISTRICT: The land and water lying within one hundred (100) feet of the extreme high water mark of Harlock's Pond; the rectangle of land 150 by 150 feet containing the rock formation known as Devil's Bed; and all land on Peaked Hill and Prospect Hill lying at a greater elevation than two hundred eighty (280) feet above mean sea level, and all land within the following boundary: beginning at a point on the Town boundary 500 feet south of Wascosim's Rock, following the 500 foot radius from the Rock westerly and northerly until the radius intersects the 130 foot elevation contour, then following the 130 foot elevation contour northerly and easterly until it meets the Town boundary.

1. Permitted Uses:
   Uses which are consistent with the fragile nature of the area, such as outdoor recreation and conservation purposes. Within the Wascosim's Rock Special Place District, uses are permitted which do not require a structure, sanitary disposal facility, road or fence. Such uses may include outdoor recreation, conservation, agriculture and management activities approved by the Conservation Commission.

2. USES REQUIRING SPECIAL PERMITS WITHIN THE WASCOSIM'S ROCK SPECIAL PLACE DCPC OVERLAY DISTRICT.
   Any use or structure which is permitted in the respective zoning district including the erection, installation or placement of any structure requiring a building permit, or road, or way, subject to the following:

   a. Special permits may be granted if the development does not substantially affect the views from the rock formations and ridge top and the views of the ridge line and horizon from the surrounding valleys and from North Road. The Zoning Board of Appeals shall consider the recommendations of the Site Review Committee as well as factors such as height, roof expanse, colors, materials, angles, massing and architectural detail of the development proposal to insure compatibility with the surrounding landscape character. The Site Review Committee and Board of Appeals may require an applicant to erect temporary poles on the site which are the same height as the highest point of the proposed structure and maintain those poles on the site until the report of the Committee is filed or until the Board of Appeals has acted.

   b. The Zoning Board of Appeals shall also consider whether
proposed development will comply with a DCPC management plan adopted by the Conservation Commission.

c. Special consideration shall be given to development proposals which include provisions for permanently dedicated non-vehicular public access to Wascosim's Ridge.

d. Special permits shall not be granted for developments sited above the 145 foot elevation contour with the exception of fences for agricultural or conservation purposes which do not impair views to or from the ridge top.

e. Administration: Special permits as called for within the Special Places District shall be issued by the Board of Appeals and shall be reviewed by the Site Review Committee as described in subsection 11.3 and 11.4

E. **AREA DESIGNATED:**

**MEETINGHOUSE ROAD AND TIASQUAM RIVER DISTRICT:**
Boundaries: The lands and waters bounded by Middle Road on the north, starting at a point five hundred (500) feet to the west of the intersection of Middle Road and Meetinghouse Road; south to a point on the way commonly called Old King's Highway five hundred (500) feet from the intersection of Old King's Highway to a point fifteen hundred feet from the intersection of Old King's Highway and Meetinghouse Road and northerly to a point on Middle Road which is 4,300 feet easterly of Meetinghouse Road (measured along Middle Road), thence to the point of origin.

1. **Goals of the Meetinghouse Road and Tiasquam River District:** To protect the fragile historic, rural and natural features of the District from the hazards of erosion, sedimentation, pollution from on-site sanitary disposal facilities, and visual intrusion. This includes preventing or minimizing the quantity and prominence of development near Meetinghouse Road, Old King's Highway, and the Tiasquam River, as well as prominent ridges and steep slopes, and protecting the historic character of Meetinghouse Road as a narrow, unpaved country lane.

2. **Permitted Uses:** All uses allowed in the underlying district and in the Chilmark Roadside District provided that:

   a. Existing natural vegetation shall be retained within 75 feet of Middle Road, Meetinghouse Road, and Old King's Highway except clearing required for approved roads or ways; agricultural use of existing fields.

   b. Structures shall not be built on ridges or hilltops in such a way as to be visible from public ways.

   c. Sanitary disposal facilities shall be located no closer than 200 feet from the thread of the Tiasquam River or from the edge of associated wetland vegetation.
d. Developments on slopes greater than 8% shall require approval by the Building Inspector of an erosion and sedimentation control plan and schedule.

e. All new utilities within the District installed after June 14, 1976 shall be underground.

3. Uses allowed by Special Permit:

a. Exceptions to above permitted uses a. through e. may be granted by the Board of Appeals provided that the Board finds the proposed development consistent with the goals of the District and that it does not adversely affect any resources specified in Section 4.0 of the Decision of the Martha's Vineyard Commission on June 14, 1976.

DEVELOPMENTS OF REGIONAL IMPACT

Section 11.7 Construction of hard-surfaced roads, with impervious surface, and parking lots for more than five (5) vehicles, or any road providing vehicular access to a beach, or any development on Noman's Land Island shall be developments of regional impact requiring special approval from the Martha's Vineyard Commission.

NON-CONFORMING USES

Section 11.8 Paragraphs 8.0 to 8.6 in the Zoning Bylaws of the Town of Chilmark shall prevail except as provided in the Shore Zone and land within one hundred (100) feet of streams and wetlands draining into Coastal Ponds.
ATTACHMENT E

Coastal District Goals and Guidelines, excerpted from Decision of the Martha’s Vineyard Commission Designating the Coastal District as a District of Critical Planning Concern, 1975, amended 1976

Staff notes for June 15, 2017
Section 5.00  Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Coastal 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 Coastal District. Each Town may adopt such regulations under zoning, subdivision, health general 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 Coastal District.

Goals

To prevent flood damage, maintain water quality, assure adequate water supply, prevent pollution, promote wildlife habitats, assure the maintenance of cultural and historic sites and values, preserve and enhance the character of views, prevent damage to structures, land and water as a result of erosion, promote economic development of fisheries and related industries, and maintain and enhance the overall economy of the Island.

SECTION I: ESTABLISHMENT OF GUIDELINES

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

2. The town shall adopt regulations of the types described in the Act, as appropriate to conforming to these Guidelines to control Development within the Coastal District.

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 purpose 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 Criteria and Standards of the Commission.

SECTION II: ESTABLISHMENT OF ZONES IN THE COASTAL DISTRICT

The Coastal District shall consist of two zones, as follows:

1. The Shore Zone, consisting of the land from mean low water to one-hundred (100) feet inland of the inland edge of any beach or marsh grasses, and one-hundred (100) feet inland of the crest of any bluff exceeding a height of fifteen (15) feet.

2. The Inland Zone, consisting of all land within the Coastal District, except the Shore Zone.

SECTION III: USES WITHIN THE ZONES

Regulations shall specify uses within the District which at least conform to the following:

1. The Shore Zone:

   a. Permitted Uses

   Uses may be permitted which are consistent with the fragile nature of the area, such as outdoor recreation (including hunting, trapping and fishing), conservation purposes, agricultural purposes (including haying, construction of fences, planting and cultivation or transplanting of beach grass), etc.

   b. Uses Allowed by Special Permit

   Certain minor non-residential structures and uses, requiring no on-site sanitary disposal facilities, including minor structures associated with shellfishing, fishing, crop storage, or other agriculture; docks, boathouses, and landings; and municipal structures associated with beach stabilization or drainage projects, etc., may be allowed by special permit. Fish Processing facilities, alterations to buildings, and an addition to a single-family residence existing before December 22, 1975, provided however, that any such addition or alteration will not require additional plumbing fixtures and/or on-site sanitary disposal facilities, may be allowed by special permit.
c. Prohibited Uses

All other uses including dredging, filling, or alteration of any wetland or beach, except for minimal dredging, filling or alterations necessary for a use or structure permitted by special permit.

2. The Inland Zone

a. Permitted Uses

1. A single family residence shall be allowed provided that:

   a. In order to control the quantity of sanitary disposal system leachate released into the ground in a District there shall be not less than a three-hundred (300) foot separation between on-site sanitary disposal facilities measured from the center of the leaching area or pit. Regulations may permit, in particular cases, lesser separation by variance which may be granted after public hearing; provided that there shall be a minimum separation of two-hundred (200) feet and the applicant must prove that there will be no pollution to ground or surface water, domestic water supply or fisheries. In no case shall the lowest part of the disposal or leaching facility be less than five (5) feet above minimum ground water elevation.

   b. There is not less than two-hundred (200) foot separation between any on-site sanitary disposal facilities and domestic water supply wells.

   c. Wells and on-site sanitary disposal facilities shall be not less than two-hundred (200) feet from any portion of a salt water body.

   d. All domestic water supply wells will require a permit from the town board of health before installation to assure compliance with all health regulations.

   e. All on-site sanitary disposal facilities shall be located not less than six-hundred (600) feet from wells used for public water supply.
f. The height of structures, as measured vertically from mean natural ground level to the highest point of the roof, is restricted to:

i) eighteen (18) feet for a pitched roof and thirteen (13) feet for a flat roof or shed roof (which is a roof of pitch 1 in 4 or less) in open terrain (consisting of moors, plains, or bluffs).

ii) Twenty four (24) feet for a pitched roof and thirteen (13) feet for a flat or shed roof (which is a roof of pitch 1 in 4 or less) in wooded terrain.

iii) Towns may vary these height restrictions, consistent with the landscape, and with the approval of the Commission.

2. Uses permitted in the Shore Zone.

3. Non-habitable, minor accessory structures normally used for personal, family and household purposes.

   a. Uses Allowed by Special Permit

      1. All uses allowed by special permit in the Shore Zone.

      2. Other uses consistent with goals of the District and these guidelines, which uses shall require a special permit from a special permit granting authority defined by the regulations.

   b. Prohibited Uses

      All other uses not permitted by right or special permit.
SECTION IV:  GUIDELINES FOR STREAMS AND WETLANDS DRAINING INTO THE COASTAL GREAT PONDS

1. Boundaries: The land and water lying one-hundred (100) feet from the thread of streams or from the edge of wetlands contiguous to ponds or streams draining into coastal ponds.

2. Uses:
   a. Permitted Uses
      All uses allowed in the Shore Zone.
   b. Uses Allowed by Special Permit.
   1. Uses allowed by special permit within the Shore Zone.
   2. Alterations of a bank or stream (such as for the construction of dams, bridges, waterwheels) may be allowed by special permit. Priority will be given to such alterations for farming and wildlife uses.
   c. Prohibited Uses
      All uses prohibited within the Shore Zone.

SECTION V. ADMINISTRATION

1. Procedures for applying for and issuing special permits.
   a. Each town shall adopt regulations which assign special Permit granting authority to one or more municipal boards, or as permitted by law (see MGLA, Chapter 40A) and which define information including maps, studies and reports to be submitted with any application for a special permit.
   b. 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:

1. pollution of surface or groundwater or of waterbodies.

2. salt-water intrusion of public or private domestic water supply wells.

3. inadequate water supply to meet the anticipated demand of the proposed activity or use or reduction of water supply available to other properties.

4. noise and air pollution.

5. destruction of wildlife habitats and damage to wetlands or littoral ecology.

6. damage to marine fisheries and shellfish.

7. unnecessary decrease in agricultural use or potential productivity of land.

8. unnecessary interruption of the visual amenities of the site.

9. construction which is not in harmony with landscape type.

10. erosion resulting from or caused by development.

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

d. 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.
2. **Plan Review**

a. By regulation each town shall establish a Plan Review Committee, comprised of members from at least three (3) of the following boards:
- board of selectmen
- board of health
- planning board
- conservation commission
- zoning board of appeals
- historic district commission, or other special purpose town board (e.g., sewer committee, water commission, etc.)

and may also include membership from the following:
- member(s) of the Martha's Vineyard Commission
- the building inspector
- resident(s) of the town, to be appointed by the Plan Review Committee

b. The regulations adopted shall provide that:

1. The Plan Review Committee shall review all special permit applications and the information submitted by the applicant.

2. 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.

3. The regulations shall establish 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.

4. The Plan Review Committee shall advise the special permit granting authority on those matters the special permit granting authority is required to act upon. Such regulations shall also provide that failure of the Plan Review Committee to have adopted a report within specific 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.
5. The report of the Plan Review Committee shall, among other things, advise the special permit granting authority as to those issues enumerated in Section V, 1.,b. (1) through (9), above.

6. Membership terms shall be staggered and regulations shall provide for vacancies to be filled.

SECTION VI: GENERAL GUIDELINES FOR THE COASTAL DISTRICT

1. Developments of Regional Impact referred to the Commission for review shall be exempt from review by the special permit granting authority and the Plan Review Committee. Any development approved by the Commission shall conform to Town regulations if applicable.

2. The town may provide for transfer of development rights from lands within the Coastal District to an area lying within two-thousand (2000) feet outside of the Coastal District Inland Boundary.

3. Construction of hard-surfaced roads, with impervious surface, or any parking lot for more than five (5) vehicles, or any road providing vehicular access to a beach, or any development on Noman's Land Island shall be Developments of Regional Impact.

4. There shall be subdivision control within the District in Gay Head.

5. All utility installations must be underground, unless excepted by special permit.

6. No road or way for vehicular use may be constructed exceeding a width of ten (10) feet, except by special permit, which may provide for greater width.

7. Regulations shall be adopted which shall assure Development occurring or proposed within five-hundred (500) feet of any area of Major Public Investment such as beach, wildlife preserve, etc., is compatible with the area or enjoyment of such area.
8. Land upon which there are suitable conservation restrictions in effect and perpetual which meet with the standards set up by the Commission to insure the lasting protection of the land and water necessary to carry out the purposes of the Act and the Guidelines shall, if found to meet or exceed these standards, be exempt from regulations pursuant to the Guidelines once the Conservation restriction is approved by the Commission.

BY VOTE OF THE MARTHA'S VINEYARD COMMISSION

DECEMBER 22, 1975

EDWIN G. TYRA, CHAIRMAN
ATTACHMENT F

Correspondence

Staff notes for June 15, 2017