



THE MARTHA'S VINEYARD COMMISSION

**DECISION OF THE MARTHA'S VINEYARD COMMISSION
DESIGNATING Old Coach Road
as a Special Way in the ISLAND ROAD DISTRICT OF CRITICAL PLANNING
CONCERN- SPECIAL WAYS ZONE**

March 19, 2015

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information of the public and municipalities. The boundaries of the Road District, however, are as set forth above in this Decision and shall control over any map.

The boundaries conform to the General Qualifications for all Districts. Regarding the Need for Designation, the Commission finds that the lands therein reasonably belong within the Special Ways Zone of the Island Road District. Lands in these Ways are a critical area, and the Commission finds that this area needs special protection afforded by the Act. The area designated is a logical planning area and are suitable for regulation by the Town's Special Ways regulations. Finally, the Commission finds that the boundaries of the Designation are both convenient and recognizable.

Section 3.00 Why the Area has been Designated

When making a Designation, 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.

The Commission specifically finds that lands within the Ways are essential to preserve the historic and cultural values of Martha's Vineyard. Moreover, the Commission finds that the area possesses unique historical significance. The Commission finds that development within the Ways must be controlled to prevent harm to Island residents and visitors.

The nomination notes These are visible remnants of the Island's history prior to the advent of motor vehicles. The narrow ways are often marked by depressions - even surrounding flat land - from many decades of use. The names of some of the ways are reminders of places, persons or even events of the past. The Town of West Tisbury needs to protect these ancient paths and byways for foot and hoof passage from one part of town to another and from one town to another. All ... of these roads appear in maps from the 1800's.

In considering the problems of inappropriate or uncontrolled development within the Road District, the Commission finds that so important are these lands and the values they create and support, because of their historical and cultural elements, that to maintain and enhance the health and general welfare of Island residents and visitors, and for present and future generations, special development controls within the Ways must be employed.

The nomination notes that Old Coach Road particularly...shows an example of how uncontrolled or inappropriate development can alter the character or even eliminate evidence of the route. With increased vehicle use, the surfaces of these pre-automobile paths get widened, graded and stabilized with hardening materials to the

4.12 Cultural and Historic District: Special Ways

Special Ways are a rare or unique resource and make an unusual contribution to the character of the Island for various reasons, often depending on the particular way. In general terms, they include, but are not limited to, roads which have been virtually abandoned or left to infrequent use. They are usually unimproved, narrow, and rustic, and generally are not committed to major vehicular travel. They also trace back to the Island's early history, including, in some cases, its pre-colonial history. The most ancient Special Ways are among the last vestiges of the historical travel network of Martha's Vineyard. They may provide archeological resources, or means of retracing historic accounts and development. In some cases, the ways are tied to early trades. Some Special Ways were laid out by the early Proprietors in the course of dividing commonly owned land into individually owned lots. Some Special Ways, whether or not so laid out, are referenced in early deeds for purposes of describing property boundaries and locations. They are literally paths that take us back through the history of life on the island.

Because of their ties to the Island's past, Special Ways may have an exceptional historic, cultural or symbolic importance. The visual character of these ways is crucial to this importance. To retain this importance, however, they must not be altered in a manner that destroys their essential character. If a special way were destroyed, its replication would take extraordinary effort and expense, and in all events such replication would lack most of the historic, cultural and symbolic significance it once embodied.

For the above reasons, Special Ways are unique historical, archaeological, symbolic and cultural resources of regional and statewide significance, and may include places, landscapes, ways and views which are especially expressive of the character of the Island, the traditions of its residents, and what makes the Island of special interest to its visitors.

In terms of their present and potential use, including recreational use, the Special Ways vary in their nature. In some cases, they provide or allow for public access to a way, including as dedicated public ways, statutory private ways, common scheme ways, or otherwise. In other cases, a special way may be a private way accessible only to the landowner or easement holders, which may be few or many. The status of the way as public, private, subject to easements, and who holds what rights therein, often involves determinations based on complicated legal principles. This determination of the status is not necessary to a special way designation, nor does the Commission's designation affect the status. Special Ways accessible to some or all

members of the public offer an opportunity to experience the Island by slower means of transportation, such as walking, horse-back riding, or bicycling. Those Special Ways that are private, as well as those whose status is in doubt, may at some point in the future be made accessible through landowner agreements, court determinations, and other means, at which time they would provide recreational benefits, provided that their character had been preserved and protected. Thus, regardless of whether such ways are wholly private or subject to public rights of access, this is clearly a case where proper development guidelines at this time could preserve the character of old ways while enhancing them for existing or potential use by Island residents and visitors.

Regarding Old Coach Road in particular, the nomination notes that Old Coach Road *connected Holmes Hole (Vineyard Haven) with North Tisbury where there was a post office in the 19th and early part of the 20th centuries. The way was a public route for the delivery of the mails. More than two-thirds of the former route has been incorporated into modern roads servicing the Island Farms subdivision and the Town's landfill (Old Stage Road) or have been otherwise developed over. It is the remainder that passes through two undeveloped tracts of land, linking Island Farms to Old Homes Hole Road (a.k.a. Old Mail Road) that is designated a Special Way.*

Section 5.00 Guidelines

The Commission adopted the following guidelines ("the Guidelines") for the development of the Road 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 (or have adopted) regulations which at a minimum comply with these Guidelines for the development of the Road 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 Road District.

ISLAND ROAD DISTRICT GUIDELINES

The amended Goals and Guidelines apply prospectively to town regulations adopted after February 9, 2012. Existing town regulations that the Commission has determined conform to prior Island Road DCPC Goals and Guidelines are grandfathered and remain in full force and effect. (amended 2012)

GOALS:

- A. 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, and maintain and enhance the state road system as a major public facility.

- B. Special Ways Zone (as amended 2012):
To protect the existing character of Special Ways for all of the reasons set forth in Section 4.12 (Cultural and Historic District: Special Ways) and to retain the view of landscapes abutting these ways by preventing the injurious effects that accompany development of the way as a primary vehicular route. Therefore, new vehicular access should be on new rights-of-way, thus preserving the Special Ways for alternative forms of transportation.

SECTION I: ESTABLISHMENT OF GUIDELINES

1. As used herein the words "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 conforming to these Guidelines to control development within the Island Road 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 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 Criteria and Standards of the Commission.

SECTION II: ESTABLISHMENT OF ZONES IN THE ROAD DISTRICT The

Road District shall consist of two zones, as follows:

1. The Major Road Zone
2. The Special Ways Zone, henceforth to include Old Coach Road

SECTION III: GUIDELINES APPLICABLE IN BOTH ZONES

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

B. Any additional vehicular access to the public road must be at least 1,000 feet, measured on the same side of the road from any other vehicular access, unless this rule prevents at least one access to a contiguous piece of land now in separate ownership. In the latter case, that contiguous land will be allowed a single access. No land shall in the future be divided (or sold) so as to require more points of access than permitted above.

C. Since it is the intent of the Commission to protect the diversity and the visual and historic character of the Island as seen from its major roads, towns are encouraged to propose for Commission approval additional regulations to that end, fitted to the diverse character of the roadsides. Such rules may include among other devices such rules as, varying setbacks, guides on clearing or planting, rules for signs or utilities or for the character of vehicular entries (driveways), plan review procedures for key locations, and measures to preserve important views. It is the further intent of the Commission to revise and develop flexible, Island-wide rules of this kind in the future, in accordance with the experience gained by the application of these special town regulations.

D. 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.

SECTION V: SPECIAL GUIDELINES FOR THE SPECIAL WAYS ZONE (as amended 2012)

A. Development Guidelines

The Commission finds that these measures are necessary to preserve the historic, archaeological, symbolic, and cultural character of the Special Ways, including, in appropriate instances, their character as primarily for non-motorized forms of transportation. As used herein, the terms "development" and "development permit" are as defined in Chapter 637 of the Acts of 1974 or Chapter 831 of the Acts of 1977, both as amended, which shall together hereafter be referred to as the "Acts").

1. No way or road shall be constructed or expanded within the Special Ways Zone which exceeds a width of twelve (12) feet.
2. No fences, walls, or structures shall be erected, placed or constructed within twenty (20) feet of the centerline of the Special Way, except that lesser setbacks for fences or stone walls may be allowed on abutting lots of less than one acre in size, taking into account such factors as height, transparency, materials and natural screening to prevent creation of a narrow, visually confined effect; in which case the town shall demonstrate that its regulations allowing such lesser setbacks are consistent with the purpose of this guideline. (See also Section 5.III.A regarding stone walls.)
3. Every attempt shall be made to retain a surface of indigenous sand, clay, grass and/or gravel.
4. No special way shall be paved with any impervious material.

B. Uses Within the Special Ways Zone

1. Permitted Uses.

Any use permitted by the applicable town zoning district, provided that either of the following conditions are met:

The development does not result in direct vehicular access to the Special Way, or

The Special Way meets one or more of the following criteria as determined by the Planning Board

(a) the Special Way is identified as having provided the vehicular access for a specific development approved for a development permit prior to the Commission's acceptance of the special way nomination, provided that the development permit for such development is in effect at the time of development; or

(b) the Special Way is identified as the only legal means of vehicular access for a development or a use allowed as of right prior to the Commission's acceptance of the special way nomination (e.g., an easement over the special way provided the sole access to a landowner's property); or

(c) the Special Way is identified as having been routinely traveled by motor vehicles prior to the Commission's acceptance of the special way nomination and the continued vehicular use is of the same nature and extent as that which existed prior to such acceptance.

2. Uses allowed by Special Permit.

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

3. Uses Not Permitted.

- i. Any development within forty (40) feet of a special place of historic value as listed on the Special Places Register of the Commission.
- ii. Paving with any impervious material such as bituminous concrete or asphalt.

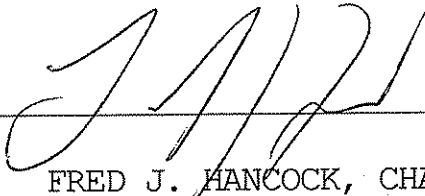
SECTION VI: ADMINISTRATION

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 MGL, 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 Guidelines and the District's purposes and it shall grant a permit only if it finds that the proposed Development is consistent with the goals of the District and the Regulations and assures protection against adverse environmental effect including:

1. Pollution of surface or ground water or of water bodies;
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 or interference with water supply available to other properties;
4. air and noise 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 uses or potential productivity of land;
8. unnecessary interruption of the visual amenities of the site by construction which is not in harmony with the landscape type;
9. erosion resulting from or caused by development;
10. deleterious impacts of development on the state road system.
 - c) In granting a special permit, the special permit granting authority shall impose such conditions and safe-guards as it deems appropriate.
 - d) The special permit granting authority shall adopt rules and regulations regarding the conduct of its business.

BY VOTE OF THE MARTHA'S VINEYARD COMMISSION March 19, 2015,
CONFIRMED BY WRITTEN DECISION March 26, 2015

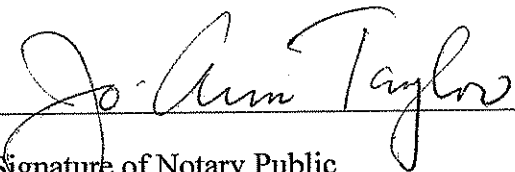


FRED J. HANCOCK, CHAIRMAN

Commonwealth of Massachusetts

County of Dukes County, Mass.

On this 26th day of March, 2015, before me,
Jo-Ann Taylor, the undersigned Notary Public, personally
appeared Fred J. Hancock, proved to me through satisfactory evidence of
identity, which was/were driver's license to be the
person(s) whose name(s) was/were signed on the preceding or attached document in my
presence, and who swore or affirmed to me that the contents of the document are truthful and
accurate to the best of his/her/their knowledge and belief.



Signature of Notary Public

Jo-Ann Taylor

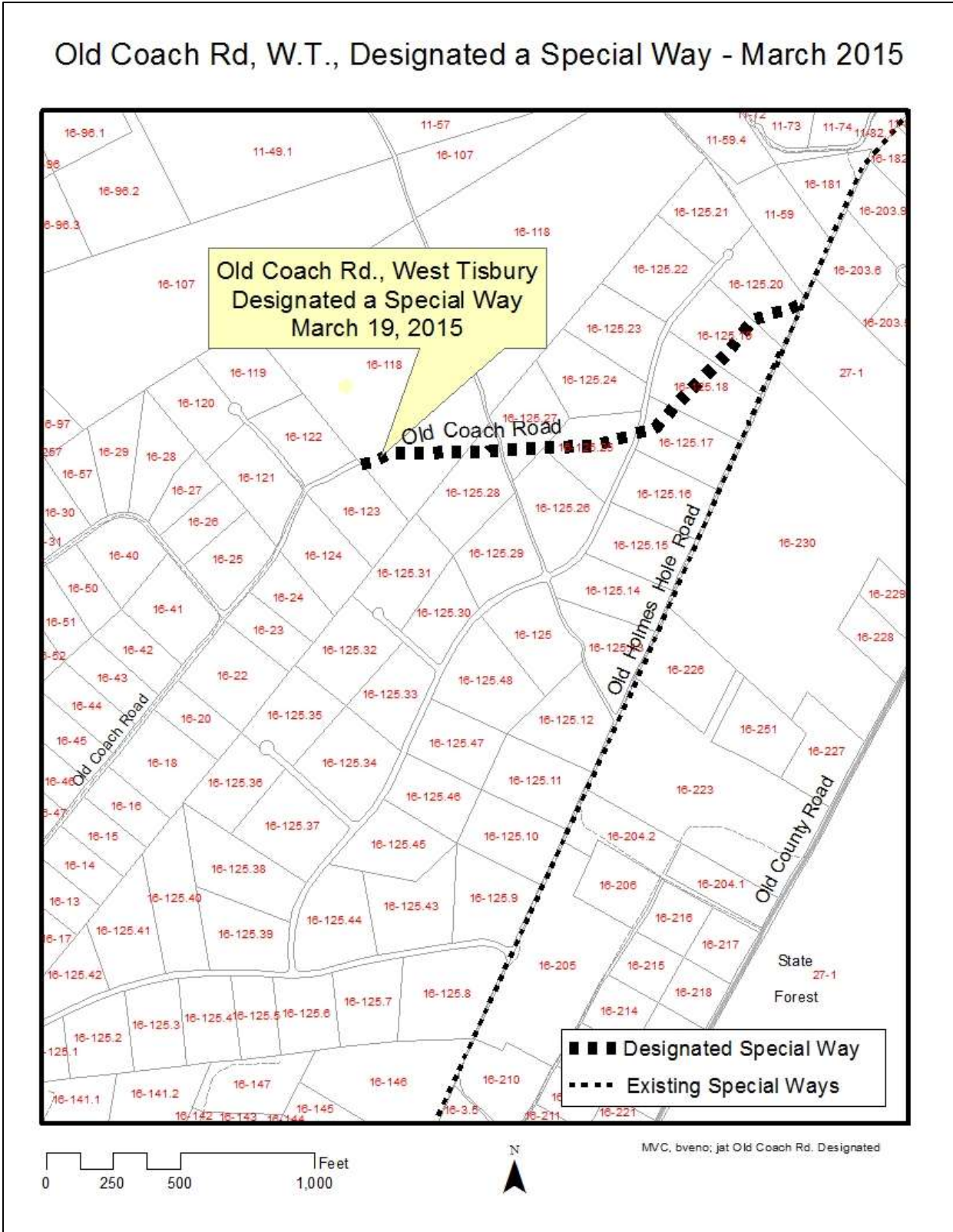
Printed Name of Notary

My Commission Expires February 9, 2018



APPENDIX A - ILLUSTRATION

Old Coach Rd, W.T., Designated a Special Way - March 2015



OLD COACH ROAD

APPENDIX B

CRITICAL PLANNING DISTRICT QUALIFICATIONS

1.00 GENERAL QUALIFICATIONS FOR ALL DISTRICTS

1.10 NEED FOR DESIGNATION

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

1.101 that present public or private regulations in a substantial part of the district cannot assure protection: and

1.102 that damage to the district or impediments to proper development will be a substantial loss to the region or to two or more towns.

1.20 SIZE AND SHAPE OF DISTRICT

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

1.201 It is the critical area or critical resource which is in need of protection.

1.202 It is the logical planning area which should be considered in adopting a coordinated system of regulations to protect the critical resource or critical area.

1.203 The dimensions or landmarks which form the boundary of the district are convenient and recognizable.

2.00 SPECIFIC QUALIFICATIONS

2.10 DRINKING WATER RESOURCE DISTRICT

The district is important to the protection of a regional aquifer, watershed, aquifer recharge zone or surface water supply with the following considerations:

2.101 Development or waste disposal without special regulations in the district could endanger the quality or quantity of the water.

2.102 Studies or expert advice indicate that the designation and regulation of the district could be effective in protecting the quality or quantity of water, and that, since public health, safety and welfare are paramount, special precaution should be taken.

2.20 FISHING RESOURCE DISTRICT

The water body in the district is particularly well suited for the production of shell or fin fish or can be made productive through good management and improvements.

2.30 FARMING RESOURCE DISTRICT

The district includes areas particularly suited now and in the future for sustaining or augmenting the Island's food supply or other agriculture. The district must have one or more of the following characteristics:

2.301 The district is generally being farmed or can be converted to farming conveniently relative to other areas on the Island.

2.302 Land ownerships within the district are generally of adequate size to support farming.

2.303 Soil, climate and topography are well suited for farming.

2.40 WILDLIFE, NATURAL, SCIENTIFIC OR ECOLOGICAL RESOURCE DISTRICT

The district contains an important and identifiable wildlife, natural, scientific or ecological resource. This would include but not be limited to special plant and animal life and their habitats, as well as unusual geological features, and is critical because development may disrupt the ecological balance.

2.50 CULTURAL OR HISTORIC RESOURCE DISTRICT

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

2.501 is of exceptional symbolic or recreational importance to the residents of more than one town and is either visible or accessible to them or can reasonably be made so; or

2.502 is rare, unique, or makes an unusual contribution to the diversity of the Island character; or

2.503 is irreplaceable, or replaceable only with extraordinary effort or expense.

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

present opportunities for hunting and fishing and the enjoyment of wildlife.

2.60 ECONOMIC OR DEVELOPMENT RESOURCE DISTRICT

The district will include areas which have special potential for providing employment or housing for Island residents, or for accepting necessary development which might be detrimental in other locations. The district must also:

2.601 require special regulations to create, preserve or enhance that potential, and

2.602 be better suited or more readily available for the facility or development than other areas of the Island, considering topography, utilities, costs and environmental and social impact; and

2.603 have adequate access, preferably from a regional feeder road.

2.70 MAJOR PUBLIC INVESTMENT DISTRICT

The district will include areas which have a significant impact on an existing or possible future major public investment or areas which are significantly affected by such an investment. In addition, the district must qualify as follows:

2.701 The district pertains to a major public investment as defined in Chapter 831 as amended, and may include airports, highways, schools, parks, beaches, preserves, public utilities and medical facilities owned or operated by a Federal, state or county agency, or by a quasi-public or charitable non-profit agency; and

2.702 the intended use or operation of the public investment or the health, safety and welfare of the public could be impaired by improper development in the district.

2.80 HAZARDOUS DISTRICT

It is an area which possesses hazards due to marginal soil or topographic conditions which render it unsuitable for intense development. Factors to be considered include: Flooding, waste treatment, groundwater, erosion, construction problems, salt water intrusion and pollution.

References and Documents

Chapter 831 of the Acts of 1977 as amended
Guidance on Nomination and Designation of Districts of Critical Planning Concern
Nomination by West Tisbury Planning Board received February 5, 2015
Vote of West Tisbury Planning Board February 5, 2015
Public Hearing Notice 2015-03-19
Staff notes for public hearing 2015-03-19
Staff notes for February 19, 2015 Acceptance of Nomination

Correspondence - none