

**TOWN OF AQUINNAH DCPC (DISTRICT OF CRITICAL PLANNING CONCERN)
PROPOSED BOUNDARY AMENDMENT AND AMENDMENTS TO REGULATIONS**

May 2, 2019

Staff notes, April 26, 2019 Jo-Ann Taylor, DCPC Coordinator

Correction noted below in summary, regarding warrant article 1

Summary:

The Planning Board proposes amendment to several parts of the regulations for the Town of Aquinnah District. The role of MVC is to review the proposed amendments and determine **CONFORMANCE** with the Goals and Guidelines for the District. The amendments then need 2/3 vote at the Annual Town Meeting on May 14.

Proposals:

- Warrant Article 1 - simplification of the review process; including ~~introduction~~ expansion of a Zoning Determination to identify projects that have no negative impact, to determine whether a site is open and/or highly visible, and to assess the need for a Project Notification Form to Mass Historic for a perc test.
- Warrant Article 2 – to make rooftop solar as of right and to simplify review for other generation facilities
- Warrant Article 3 – to clarify the meaning of *open/highly visible*
- Warrant Article 4 – to amend maximum height in favor of energy efficient design
- Warrant Article 5 – update Moshup Trail section to allow new energy-efficient building materials
- Warrant Article 6 – to amend Site Review sections to read correctly
- Warrant Article 7 – to designate the landfill for construction of ground mounted solar generation facilities as-of-right, a qualification for Green Communities grant funding
 - MVC already began reviewing part of this. Part of the amendment would exclude the landfill from the District; the means for allowing community solar generation to take place there as of right. On April 4, MVC voted to accept the boundary amendment nomination for consideration.

Area under consideration for a boundary amendment:

Amend the coverage area of the Aquinnah DCPC by changing Section 13.2-1 to read:

SECTION 13.2 BOUNDARY DESCRIPTION

13.21 All lands and waters within the corporate bounds of the Town of Aquinnah, except:

- The Indian Common Lands (generally known as the Cranberry Bogs, the Clay Cliffs and the Herring Creek) and Settlement Lands
- *The Designated Area for Large-Scale Ground-Mounted Solar Photovoltaic Installations, Town of Aquinnah Map 8, Lot 31.*

Analysis:

Boundary Amendment:

The nomination was duly voted by the Planning Board, submitted to MVC and voted for consideration by MVC. The amendment appears to adequately address the Qualifications regarding Size and Shape of the District:

- It is the critical area or critical resource that is in need of protection.

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

Regulations:

There doesn't appear to be cause for not finding conformance with the relevant Guidelines:

- That appropriate exterior design, height and/or siting regulations be developed for any potential new structure proposed for construction within the District, to ensure that any and all new construction shall be consistent with the rural character of the Town of Aquinnah and shall not radically alter or interrupt the existing skyline of the Town as viewed from any public way including any public water body and including the lookout at the Gay Head Cliffs.
- That the appropriate administration of exterior design, height and/or siting regulations, through a procedure to include site plan review, be developed; and that the site plan review procedure include clear and objective criteria for review.

Timeline:

- The proposed amendments were received February 27, 2019.
- The nomination was made by the Aquinnah Planning Board, voted March 13, 2019, received March 26, 2019.
- The nomination was accepted for consideration on April 4, 2019. MVC has 60 days to hold a public hearing and vote.
- The Town has asked to be heard and voted prior to the May 14 Annual Town Meeting.

References:

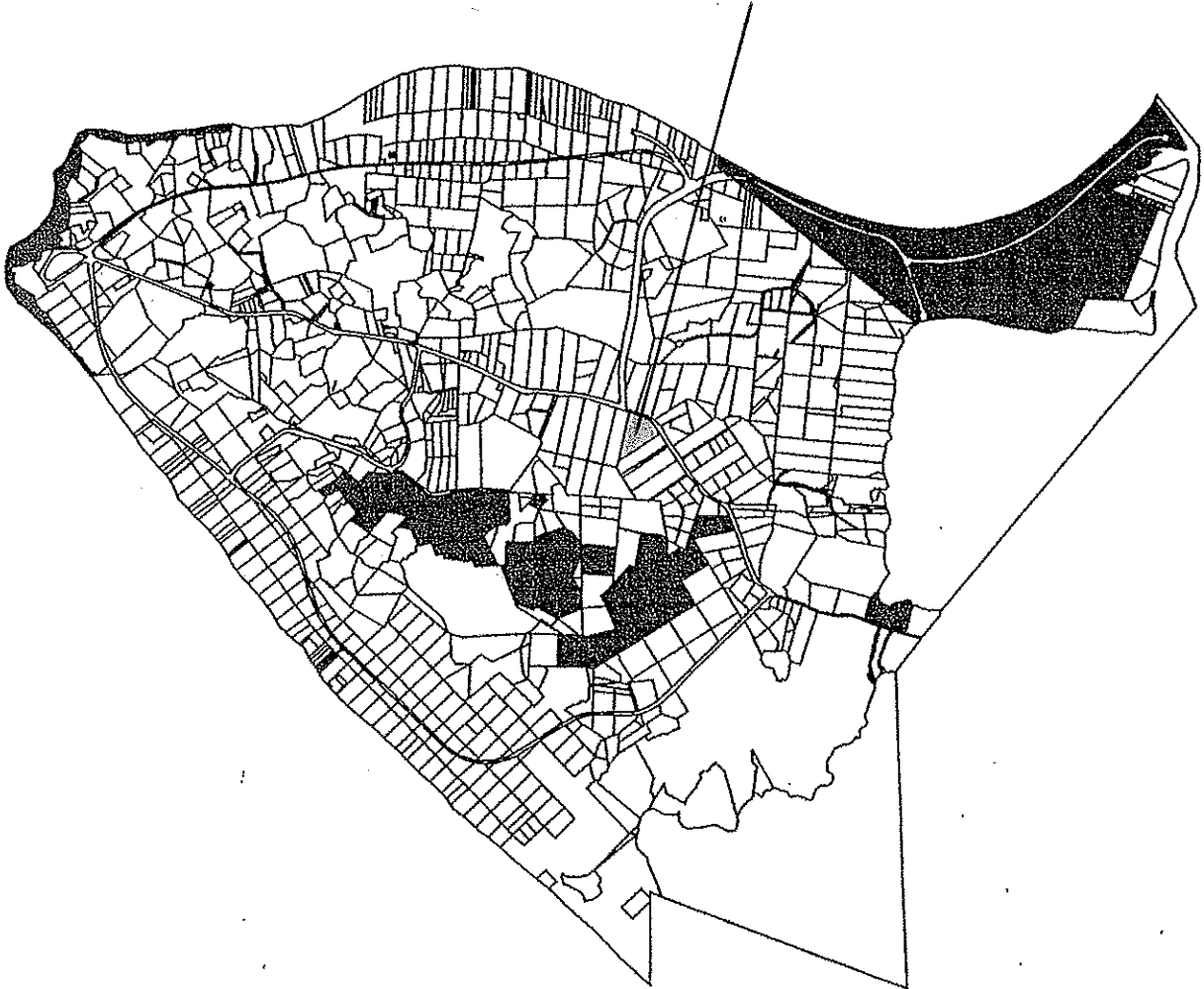
- Nomination by Aquinnah Planning Board, voted March 13, 2019
- *Decision of the Martha's Vineyard Commission Designating the Town of Aquinnah as a District of Critical Planning Concern, 1999, amended 2000*
- Chapter 831 of the Acts of 1977, as amended
- *Critical Planning District Qualifications*, adopted by the Commission and approved on September 8, 1975 by the Secretary of Communities and Development

Correspondence: none as of April 23, 2019

Attachments:

Illustration
Proposed Amendments to Regulations
Nomination

AREA UNDER CONSIDERATION FOR EXCLUSION FROM THE DISTRICT
For public hearing May 2, 2019



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).

WARRANT ARTICLE 1: To see if the Town will vote to amend various provisions of the Aquinnah Zoning Bylaws, as follows. The purpose of the amendments is to make the approval process easier and quicker for landowners.

- 1) Delete Section 6.4-3 Zoning Determinations (Added 5/10/2011) because it should have been deleted when replaced by Section 13.14-1 Zoning Determinations (Added 5/8/12).
- 2) Delete Section 6.7 Zoning Administrator because it will be replaced by a new provision, Section 13.14-2 Zoning Administrator below.
- 3) *Make the following changes to Section 13.14-1 Zoning Determinations to increase the number of projects that can be approved by a Zoning Determination and without the need for a Special Permit:*
 - A. Amend Section 13.14-1A to read:

To simplify the implementation of the Aquinnah Zoning Bylaws and speed up the approval process for projects that have no negative impact on the resources these By-Laws seek to protect, the Planning Board Plan Review Committee may determine that certain small developments, or certain parts of larger projects, can be approved by issuing a Zoning Determination rather than requiring the applicant to apply for a Special Permit. Zoning Determination can be used to approve projects in all of the town's DCPCs, with some limitations outlined below. Issuance of a Zoning Determination shall be made after site review at a public meeting only if a super majority of the Planning Board Plan Review Committee determines that the proposed project: 1.) has no negative impact on the resources the applicable Bylaws protect; 2.) meets all goals, rules and regulations, and is within the guidelines of, the Districts of Critical Planning Concern in which the project is located; and 3) does not appear to be detrimental to the interests of abutters.
 - B. Amend Section 13.14-1B to read:

A Zoning Determination cannot be used to approve: a new single-family residence; new structures that will be visible in open and or highly visible areas; or accessory structures or additions, including decks, with a footprint greater than 170 square feet. Examples of projects that might qualify for a zoning determination, as set forth in this section, include: a small addition to a house or the siting of a shed in an area that is not highly visible; the extension of a deck or the addition of an outdoor shower; or the siting of generators or ground mounted solar panels. Zoning Determinations may also be used to determine whether a site is open and or highly visible and to allow perc tests in the presence of a qualified archaeological observer instead of submission of a Project Notification Form to Mass Historic.
 - C. Amend the third line of Section 13.14-1C by replacing the words *with a copy to* with the words *with copies to the Town Clerk and*.
 - D. Amend the last line of Section 13.14-1C by replacing the words *this District of Critical Planning Concern* with the words *the Districts of Critical Planning Concern in which the projects fall*.
 - E. Add a second paragraph to Section 13.14-1C stating:

If a Zoning Determination is used to permit a perc test, well or other small excavation in the presence of a qualified archaeological observer, as soon as the excavation is complete the engineer or person in charge will complete, sign and file an Archeological Findings Form, which has also been signed by the qualified archeological observer, with the Planning Board Plan Review Committee. The Committee will send copies via e-mail to Mass Historic and the Wampanoag Tribe of Gay Head Aquinnah. The Archeological Findings Form can be obtained at the Town Hall, which form requires i) identification of the exact location(s) of the excavation(s), ii) documentation of the nature of the soils, and iii) recital of any archeological resources or other findings that may be of interest to the Committee, Tribe or State Archeologist that were found during the excavation.

- 4) *Speed up the approval process for many projects by creating a Zoning Administrator position that the Committee can delegate some of its responsibilities to by adding a new Section 13.14-2 to read:*

Section 13.14-2 Zoning Administrator

- A. **Appointment and qualifications.** The Planning Board Plan Review Committee (PBPRC) may appoint a Zoning Administrator to serve at its pleasure, subject to confirmation by the Board of Selectmen. The PBPRC may delegate to said Zoning Administrator, by a vote of 5 of its 7 members, some of its powers and duties. The PBPRC may also appoint, on its own, and delegate powers and duties in the above manner, an Alternate Zoning Administrator whose purpose is to act when the Zoning Administrator has a conflict of interest or is unavailable for an extended period of time.
- B. **Term of service and manner of delegation.**
1. The PBPRC may, by a majority vote of its regular members, terminate the services of a particular appointee at any time.
 2. The PBPRC shall determine, and may amend from time to time, the list of powers and duties it elects to delegate to the Zoning Administrator. The PBPRC shall publish a list of the specific powers and duties that it has delegated to the Zoning Administrator by posting at Town Hall and by listing on the PBPRC website, along with their office hours or availability, contact info and an application form with complete instructions.
- C. **Scope of authority and approval requirements.**
1. The scope of authority delegated shall not exceed that explicitly authorized by vote of Town Meeting.
 2. The PBPRC may not delegate the following powers and duties:
 - A. To permit any development within two hundred (200) feet of wetlands, waterbodies, beaches, dunes or the crest of bluffs over 15 feet high in the Coastal District.
 - B. To permit any development in the Marine Commercial District.
 - C. To permit any development in the Aquinnah Circle area which includes: the inner circle and the circle road, and the lands outside the circle starting at the Manning properties, the lighthouse and park, the land running from the park across to and including the outlook and shops, the Aquinnah Shop lot, the Land bank trail head, the Homestead property and the two town parking lots.
 - D. To permit new single family residences including tear downs, partial tear downs, reconstructions; extensions or additions greater than 170 square feet of footprint;

Affordable Housing; Multi-Family Housing, Accessory Apartments; and Cluster Zoning.

- E. To permit any development requiring action under the Subdivision Control Law or the Planning Board's Rules and Regulations Governing Subdivision Control.
3. The PBPRC may delegate its powers and duties to make Zoning Determinations for any or all of the projects provided for in Section 13.14-1A that meet the requirements of subsections 1, 2, and 3. Zoning Determinations issued under this provision must be made at a properly noticed public meeting, and a written decision must be filed with the Town Clerk within one week and posted at Town Hall and on the PBPRC website for 10 days following its filing with the Town Clerk. Site visits will be held at a mutually convenient time. The applicant is free to proceed with the work after the decision is filed and all other required permits are obtained.
 4. The PBPRC may delegate its powers and duties to make Zoning Determinations for any or all of the projects provided for in Section 13.14-1A that meet the requirements of subsections 1 and 2, but that may be detrimental to the interests of abutters and not meet requirement of subsection 3, if the following procedures are used. These Zoning Determinations may be approved by the Zoning Administrator only after a properly noticed public meeting for which written notice is sent by mail, return receipt requested with postage paid by the applicant, to parties in interest, at least 2 full weeks before the meeting. The written decision must be filed with the Town Clerk within one week and posted at Town Hall and on the PBPRC website during the 30-day appeal period and following its filing with the Town Clerk, as well as sent to parties of interest when filed with the Town Clerk. The applicant is free to proceed with the work at their own risk during the appeal period once all other required permits are obtained.
 5. The PBPRC may also delegate its powers and duties to approve modifications to Special Permits and the approved plans (as often happens during construction) if the modifications sought comply with all dimensional requirements of the Zoning Bylaw and are de minimis or not significant enough to require a fully noticed public hearing. The Zoning Administrator must make these decisions at a properly noticed public meeting, and the decision granting or denying the modification must be in writing in the form of a Special Permit decision and must be filed with the Town Clerk within one week and posted at Town Hall and on the PBPRC website for 10 days following filing with the Town Clerk. Site visits will be held at a mutually convenient time. The applicant and Building Inspector should receive copies of the decision when filed with the Clerk. The applicant is free to proceed with the work after the decision is filed and all other required permits are obtained and must file the modification decision at the Registry of Deeds.
 6. The PBPRC may delegate the powers and duties to make other non-Special Permit decisions and determinations (e.g., post-completion conformance reviews, approval of signs) but should specify if or when these decisions must be done with notification to parties of interest.
 7. The acting Zoning Administrator is not required to approve every project which comes before him/her for which powers and duties have been delegated. Zoning

Administrators retain the discretion to defer acting on any application and to refer any project to the PBPRC for review.

D. Appeals from decisions and or failure to act.

Any person aggrieved by a decision of the Zoning Administrator, whether or not previously a party to the proceeding, or any municipal office or board, may appeal to the PBPRC, within thirty days after the decision of the Zoning Administrator has been filed with Town Clerk and simultaneously posted at Town Hall and on the PBPRC website. Any application filed with the Zoning Administrator that is not decided within thirty-five days from the date of filing shall be deemed denied but may be appealed within 30 days to PBPRC.

WARRANT ARTICLE 2: To see if the Town will vote to amend Sections 2.9 and 13.7-2 of the Aquinnah Zoning Bylaws, to reduce the number of facilities requiring review by the Planning Board Plan Review Committee, as follows:

1. *Make roof mounted solar panels as of right and simplify approval of other solar and electric generators by incorporating Section 2.9 into the Aquinnah DCPC by adding an exact copy as 13.7-2 Electrical Generators, and then amending both Sections to read (both section numbers are shown here but only the correct one will show in their respective sections when published) :*

SECTION 2.9 and 13.7-2 ELECTRICAL GENERATORS

2.9-1 and 13.7-2. All devices that generate electricity, whether by wind, solar, water, fossil or bio fuel or other means that are to be permanently installed on land, in water or on the exterior of a structure are treated as structures or exterior elements for the purposes of this Bylaw and must meet its setback, siting and design requirements so that the visibility and impact on neighbors of the device is minimized. These facilities must be approved by the Planning Board Plan Review Committee as follows:

- A. Roof mounted solar panels are allowed as of right as long as they are:
 1. Mounted flat on the roof, not raised above it,
 2. Do not extend beyond or appear from the ground to break the ridge line of the roof, and
 3. Black and don't have sides or dividers that, if visible, are white or light colored.Roof mounted solar panels that don't meet these requirements are allowed by Zoning Determination.
- B. Large-scale ground-mounted solar photovoltaic installations are allowed as of right but must meet the requirements of Article 16.
- C. All other ground mounted solar arrays may be approved by a Zoning Determination if parties of interest are notified and the procedures outlined in Section 13.14-2C4 are followed.
- D. Fossil or Bio fuel powered generators installed to serve no more than a single residence and its accessory structures may be approved by a Zoning Determination if parties of interest are notified and the procedures outlined in Section 13.14-2C4 are followed.
- E. Other than the above, there shall be no permanent electrical generators in the Aquinnah DCPC except by Special permit from the Planning Board Plan Review Committee.

2.9-2 and 13.7-3 Portable generators may be used during construction, power outages and for temporary emergency use as of right.

2. *Extend the amount of time before a Special permit expires from 1 year to 2 (the legal maximum) by deleting Section 6.4-2 and amending the second sentence of Section 6.4-1 to read:*

A Special Permit granted under this Bylaw shall lapse two years from the granting thereof, excluding the time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if the construction has not begun by such date except for good cause.

WARRANT ARTICLE 3: To see if the Town will vote to amend the Zoning Bylaw in order to *clarify the meaning of “open/highly visible”, as follows:*

- 1) In Section 13.4-1 B, where first used, and throughout the entire Aquinnah Zoning Bylaw, replace the phrase “open/highly visible” with the phrase “open and/or highly visible.”
- 2) Add the following definition to Section 7.1:

HIGHLY VISIBLE AREA: An area of land characterized by large shrubs, trees or other vegetation, where a structure would be completely or partially visible from lands and waters open to the public, and be recognizable as a manmade structure and potentially disrupt, or distract and/or detract from, the beauty of the natural landscape, unless mitigated by controlling the siting, mass, height, amount of glazing, colors and materials of the structure or by screening it with vegetation to make it blend into, or otherwise eliminate or minimize its visual prominence in the natural view.

WARRANT ARTICLE 4: To see if the Town will vote to amend the Zoning Bylaw in order to *allow easier design and construction and increase the energy efficiency of new of homes, by increasing the as of right maximum height for houses that will not be visible to the public from 24’ to 28’, and to change Sections 13.4-3A2a and 3.6-1B1 to read:*

Twenty-eight (28) feet or two (2) stories, whichever is less, for a gable or hip roof.

WARRANT ARTICLE 5: To see if the Town will vote to amend the Zoning Bylaw to make the following changes to the Moshup Trail DCPC to update it to allow new building materials and construction techniques:

- 1) *Replace Section 11.3-1B with the following to allow other building materials and construction techniques:*

B. Buildings shall be constructed of natural wood shingles with neutral trim color (refer to ARTICLE VII, Definitions). Structures that are visible to the public may, by Special Permit from the Planning Board Plan Review Committee (PBPRC), use other materials if they have essentially the same impact as natural wood shingles on minimizing the visual prominence of the structure. Structures and portions of structures that are never visible to the public at all may, by Special Permit from the PBPRC, use other materials that are less effective at minimizing the visual prominence of the structure. Structures that are never visible to the public at all may, by Special Permit from the PBPRC, use other construction techniques (e.g. Yurts) if they are permanent, and meet any and all other requirements of these Bylaws, the Building Inspector and the Board of Health.

2) *Replace Section 11.3-1C with the following to allow other roofing materials and construction techniques:*

B. Roofing materials shall be dark asphalt or cedar shingles with neutral trim color (refer to ARTICLE VII, Definitions). Structures that are visible to the public may, by Special Permit from the Planning Board Plan Review Committee (PBPRC), use other roofing materials if they have essentially the same impact as natural wood shingles on minimizing the visual prominence of the structure (e.g. dark metal, rubber, or green living roof on flat roofs). Structures and portions of structures that are never visible to the public at all may, by Special Permit from the PBPRC, use other roofing materials that are less effective at minimizing the visual prominence of the structure.

3) *Replace Section 11.3-1E with the following to allow other construction materials and techniques:*

C. Accessory structures and additions to pre-existing structures shall conform in materials, scale and proportion to the principal structure, except nonconforming materials and construction techniques may be used, by Special Permit from the Planning Board Plan Review Committee (PBPRC), if they meet the requirements for new construction (Items B. through D. above). In cases where pre-existing structures are not compatible with the requirements for new construction, accessory structures shall conform to the requirements for new construction (Items B. through D. above).

WARRANT ARTICLE 6: *To see if the Town will vote to amend the Zoning Bylaw to renumber Section 13-14-2 Site Review, to 13.14-3 and to address existing typographical errors, to rearrange its segments so it correctly reads as follows:*

Site Reviews shall be conducted by the Planning Board Plan Review Committee. The Planning Board Plan Review Committee will receive applications for Special Permits within the Town and its DCPC's. The committee shall review the applications and may make site visits to determine if the application conforms to the District regulations and to suggest guidance for development. Special Permits will be granted only for proposals determined by the Planning Board Plan Review Committee to be consistent with the purposes of the Bylaw as stated in Article I and taking into consideration the special characteristics of the District.

WARRANT ARTICLE 7: *To see if the Town will vote to amend the Zoning Bylaw and add the following article to create an area (the landfill) where ground mounted solar panels can be constructed as of right so the town can qualify as a Green Community:*

1. *Add the following new Article XVI:*

ARTICLE XVI: LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

SECTION 16.1 PURPOSE

The purpose of this Article is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety, minimize impacts on scenic, natural, and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

SECTION 16.2 APPLICABILITY

This Article applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This Article also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

SECTION 16.3 DESIGNATED AREA

The area within which large-scale ground-mounted solar photovoltaic installations may be sited as-of-right is designated as follows: Town of Aquinnah, Map 8, Lot 31.

SECTION 16.4 GENERAL REQUIREMENTS FOR ALL LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

The following requirements are common to all large-scale ground-mounted solar photovoltaic installations to be sited in the Designated Area:

16.4-1 Compliance with Laws, Ordinances, and Regulations

The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

16.4-2 Building Permit and Building Inspection

No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed, or modified as provided in this section without first obtaining a building permit.

16.4-3 Fees

The application for a building permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a building permit.

16.4-4 Site Plan Review

Large-scale ground-mounted solar photovoltaic installations shall undergo Site Plan Review by the Planning Board Plan Review Committee prior to construction, installation, or modification as provided herein.

16.4-5 Required Documents

All plans and maps shall be prepared, stamped, and signed by a professional engineer licensed to practice in Massachusetts. Pursuant to the Site Plan Review process, the project proponent shall provide the following documents:

A. A Site Plan showing:

1. Property lines and physical features, including roads, for the project site;
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and vegetative or other screening of structures;
3. Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

4. One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 5. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
 6. Name, address, and contact information for proposed system installer;
 7. Name, address, phone number, and signature of the project proponent, as well as all co-proponents or property owners, if any; and
 8. Name, contact information, and signature of any agents representing the project proponent.
- B. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
 - C. A plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.
 - D. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose).
 - E. Proof of liability insurance.
 - F. A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required site plan review notification procedures and otherwise inform abutters and the community.
- The Planning Board Plan Review Committee may waive documentary requirements as it deems appropriate.

16.4-6 Utility Notification and Approval

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board Plan Review Committee that the utility company that operates the electrical grid where the installation is to be located has been informed of and approves of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator.

16.4-7 Expedited Permitting

As-of-right large-scale ground-mounted solar photovoltaic installations shall be subject to an expedited permitting process. All relevant Town approvals shall be issued within one year of submission of a completed application.

16.4-8 Dimensional and Density Requirements

A. Setbacks. A large-scale ground-mounted solar photovoltaic installation, including all equipment comprising the system, shall be set back a minimum of 50 feet from each boundary line of the lot on which the installation is located.

B. Appurtenant Structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking, and building coverage requirements. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each

other. Whenever reasonable, structures should be shaded from view by vegetation or other means and/or joined or clustered to avoid adverse visual impacts.

16.4-9 Design Standards

A. Lighting. Lighting of large-scale ground-mounted solar photovoltaic installations shall be consistent with local, state, and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

B. Signage. Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 2.8 (sign regulations). A sign consistent with the Town's sign Bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

C. Prevention of Access. All large-scale ground-mounted solar photovoltaic installations shall be constructed to prevent unauthorized access.

D. Utility Connections. Reasonable efforts, as determined by the Planning Board Plan Review Committee, shall be made to place all utility connections from the large-scale ground-mounted solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

16.4-10 Safety and Environmental Standards

A. Emergency Services. The owner or operator of the large-scale ground-mounted solar photovoltaic installation shall provide a copy of the project summary, electrical schematic, and site plan to the Town's Fire Chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

B. Land Clearing, Soil Erosion, and Habitat Impacts. Clearing of natural vegetation shall be limited to what is absolutely necessary for the construction, operation, and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and Bylaws.

16.4-11 Monitoring and Maintenance

A. Installation Conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and other emergency services providers. The owner or operator shall be responsible for the cost of maintaining the large-scale ground-mounted solar photovoltaic installation and any access road(s), unless accepted as a public way.

B. Modifications. All material modifications to a large-scale ground-mounted solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board Plan Review Committee.

16.4-12 Abandonment or Decommissioning

A. Removal Requirements. Any large-scale ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with Section 16.4-

13 below shall be removed. The owner shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board Plan Review Committee by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

1. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers, and transmission lines from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board Plan Review Committee may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

B. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board Plan Review Committee. If the owner of the installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of discontinued operations, the Town may enter the property and physically remove the installation and otherwise complete the decommissioning.

C. Financial Surety. The owner of the large-scale ground-mounted solar photovoltaic installation shall provide a form of surety, through escrow account, bond, or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board Plan Review Committee, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth in this Section, as determined by the project proponent. Such surety will not be required for Town- or State-owned facilities. At the time the building permit is submitted the project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a professional engineer licensed to practice in Massachusetts. The amount shall include a mechanism for calculating increased removal costs due to inflation and potential regulatory changes.

2.) *Add the following definitions to Section 7.1:*

AS-OF-RIGHT SITING: As-of-right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with the Zoning Bylaw. Projects cannot be prohibited, but can be reasonably regulated by the Planning Board Plan Review Committee.

LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC (where the nameplate capacity is the maximum rated output of electric power production of the photovoltaic system in direct current).

3.) *Add the following new Section 2.4-6:*

2.4-6 Designated Area for Large-Scale Ground-Mounted Solar Photovoltaic Installations

Within the Designated Area designated in Section 16.3, large-scale ground-mounted solar photovoltaic installations may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval, subject to site plan review to determine conformance with local ordinances and this Zoning Bylaw.

4.) *Amend the coverage area of the Aquinnah DCPC by changing Section 13.2-1 to read:*

SECTION 13.2 BOUNDARY DESCRIPTION

13.2-1 All lands and waters within the corporate bounds of the Town of Aquinnah, except:

- A. The Indian Common Lands¹ (generally known as the Cranberry Bogs, the Clay Cliffs and Herring Creek) and Settlement Lands.²
- B. The Designated Area for Large-Scale Ground-Mounted Solar Photovoltaic Installations in Section 16.3.



DISTRICT OF CRITICAL PLANNING CONCERN NOMINATION

Instructions:

Please review Appendix "Critical Planning District Qualifications" prior to completion of the nomination. Only nominations in accordance with the "Critical Planning District Qualifications" will be considered.

Sponsors are encouraged to contact the Commission's DCPC Coordinator (Jo-Ann Taylor, 505-693-3453, Extension 119) prior to completing and submitting the nomination.

Please answer all questions as completely and concisely as possible, using additional sheets as necessary.

Include a locus map with proposed boundaries shown on an appropriate base, such as the town assessors' maps or a section of the most recent U.S.G.S. 1:25,000-scale topographic map.

If the sponsor is a town board or the Commission, include signature below and a copy of the vote.

If a taxpayer petition is included, include tax collector(s) verification for 75 signatures.

Submit the signed nomination, in person or by certified mail, to Martha's Vineyard Commission, Olde Stone Building, New York Avenue, P.O. Box 1447, Oak Bluffs, MA 02557.

SIGNATURES: If the sponsor is a town Board of Selectmen, Planning Board, Conservation Commission or Board of Health, or the Martha's Vineyard Commission, the appropriate officer of such board shall sign his or her name below. Attach a copy of the vote.


Name

Planning Board Chairman
Title

March 12, 2019
Date

If the nomination is by petition, contact the MVC for the required petition signature page.

NOMINATION INFORMATION

NAME AND ADDRESS of the nominating board (Board of Selectmen, Planning Board, Conservation Commission, Board of Health, Martha's Vineyard Commission) or a signatory of the taxpayers' petition. All correspondence will be directed to the sponsor whose name and address appears here:

Name: Aquinnah Planning Board (Plan Review Committee)

Address: 955 State Road Aquinnah MA 02535

Phone: 508-645-2300

Fax: 508-645-7884

e-mail: adminassistant@aquinnah-ma.gov

NAME AND LOCATION (TOWN OR TOWNS) OF PROPOSED DISTRICT:

Town of Aquinnah DCPC Boundary Amendment

AREA PROPOSED FOR DESIGNATION:

Describe the location of the proposed district, referencing any distinguishable landmarks, structures, roads, assessors' map and parcel numbers, etc. which may act as boundary limits. If appropriate, give measurements in feet. Attach a locus map with proposed boundaries shown on an appropriate base, such as the town assessors' maps or a section of the most recent U.S.G.S. 1:25,000-scale topographic map. The proposed boundaries should be delineated as accurately as possible, both on the attached locus maps and in the narrative.

The proposed boundary amendment is to remove the Town Local Drop Off, located at 694 State Road Map 8 Lot 31, from the Aquinnah DCPC. The lot comprises of 6.189 acres of which most is undeveloped and wet.

NEED FOR DESIGNATION

Please review Appendix "Critical Planning District Qualifications" before continuing. The Martha's Vineyard Commission will only consider proposals warranting designation in accordance with the "Qualifications".

A. Indicate the type of district that is proposed (See Appendix "Critical Planning District Qualifications"). Nominations may include more than one category:

- 1. Drinking Water Resource District
- 2. Fishing Resource District
- 3. Farming Resource District
- 4. Wildlife, Natural, Scientific or Ecological Resource District
- 5. Cultural or Historic Resource District
- 6. Economic or Development Resource District
- 7. Major Public Investment District
- 8. Hazardous District

B. Referring to the SPECIFIC QUALIFICATIONS (See Appendix "Critical Planning District Qualifications"), explain why you feel that this area would warrant designation. Use additional sheets as necessary.

The Town is seeking to remove Map 8 Lot 31 (Local Drop Off) from the Town Wide DCPC to allow as of right large-scale ground-mounted solar photovoltaic installations there so the Town can qualify as a Green Community per the State Green Community Division guidelines. Per the current local zoning bylaws, all ground mounted solar panels within Aquinnah DCPC's require a special permit. In removing Map 8 Lot 31 from the Town Wide DCPC, the development of solar panels will be subject to an expedited permitting process but still subject to siting and design guidelines set by the Town of Aquinnah.

MVC - District of Critical Planning Concern Nomination

C. Referring to the GENERAL QUALIFICATIONS (See Appendix "Critical Planning District Qualifications"), please answer as simply as possible the following: (Use additional sheets as necessary)

1. Why is this resource or area important to more than one town or to the Island as a whole?
2. What are the problems associated with the uncontrolled or inappropriate development of the area?
3. What kind of development would be advantageous within the proposed district?

In excluding Map 8 Lot 31 from the Town Wide DCPC and designating it as an as of right designated area for the development of large-scale ground-mounted solar photovoltaic installations, the Town will be able to qualify as a Green Community and would gain support in seeking clean energy initiatives. Such development in this area will include the expansion of solar panels to enhance the Town's goals in increasing clean energy use and reducing long term energy costs. Development will be limited to necessary equipment for the large-scale ground-mounted solar photovoltaic installations.

APPENDIX
CRITICAL PLANNING DISTRICT QUALIFICATIONS

GENERAL QUALIFICATIONS FOR ALL DISTRICTS

NEED FOR DESIGNATION

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

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

SIZE AND SHAPE OF DISTRICT

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

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

SPECIFIC QUALIFICATIONS

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:

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

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.

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:

- The district is generally being farmed or can be converted to farming conveniently relative to other areas on the Island.
- Land ownerships within the district are generally of adequate size to support farming. Soil, climate and topography are well suited for farming.

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.

MVC - District of Critical Planning Concern Nomination

CULTURAL OR HISTORIC RESOURCE DISTRICT

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

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

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

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:

- require special regulations to create, preserve or enhance that potential, and
- 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
- have adequate access, preferably from a regional feeder road.

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:

- The district pertains to a major public investment as defined in Chapter 831 as amended¹, 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
- 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.

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.

¹"A major public facility is any publicly owned facility of regional importance except:

(1) any public facility operated by a municipality primarily for the benefit of the residents of that municipality, or by any agency serving primarily the residents of one municipality;

(2) any street or highway which is not recognized as or maintained as a part of the state or federal highway system; or

(3) any educational institution serving primarily the residents of one municipality."



TOWN OF AQUINNAH

Aquinnah Planning Board

955 State Road, Aquinnah, Massachusetts 02535

Tel. (508) 645-2300 - Fax (508) 645-7884

www.aquinnah-ma.gov

March 13, 2019

Martha's Vineyard Commission
Olde Stone Building
New York Avenue
PO Box 1447
Oak Bluffs, MA 02557

RE: Town of Aquinnah DCPC Nomination

At the March 12th, 2019 Planning Board meeting the Aquinnah Planning Board voted unanimously to nominate Map 8 Lot 31 for a boundary amendment and exclude it from the Aquinnah Town Wide DCPC for the development of as-of-right ground mounted solar panels.

A handwritten signature in black ink, appearing to read "Peter Temple". The signature is stylized and cursive.

Peter Temple, Aquinnah Planning Board Chairman



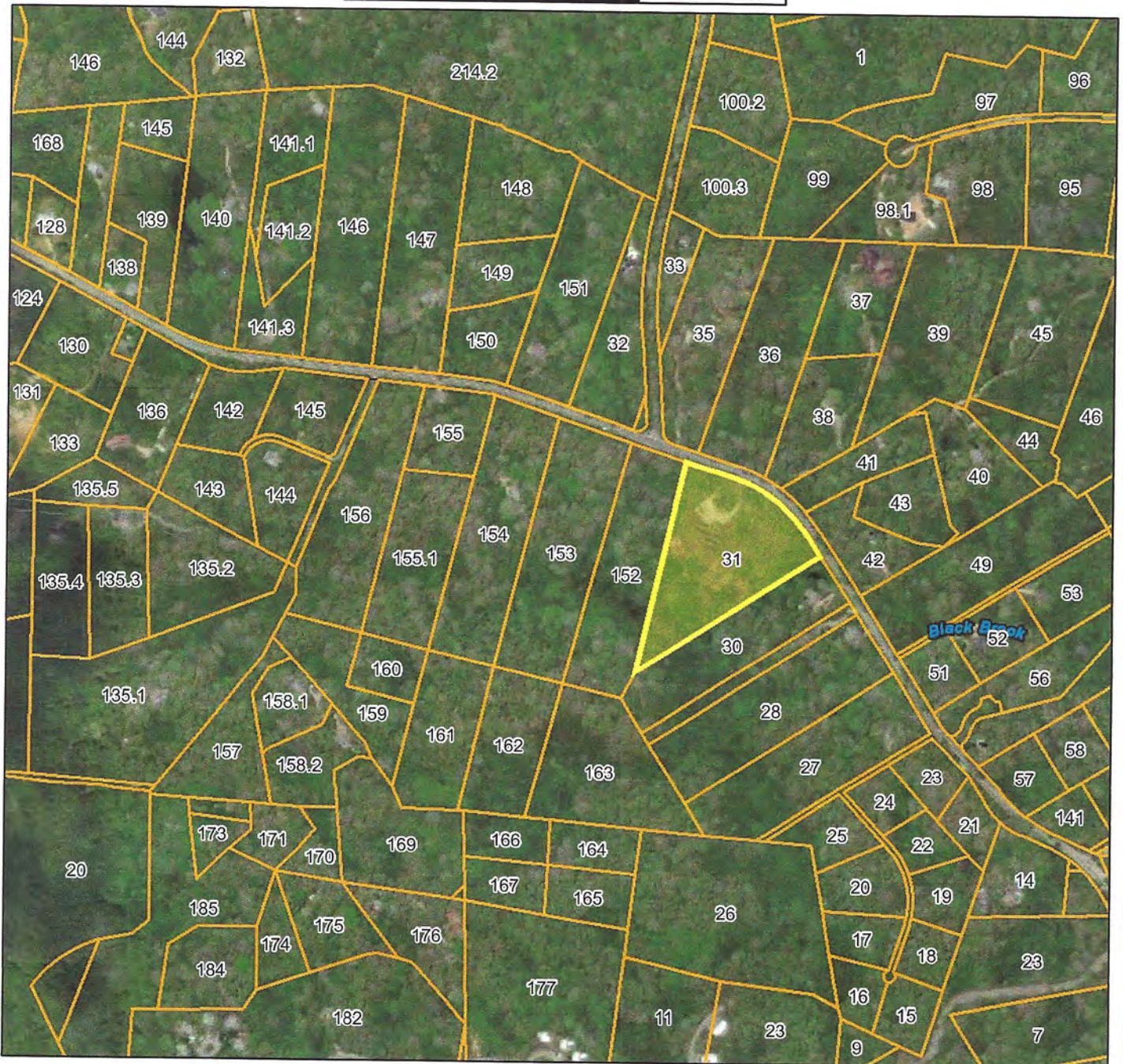
Aquinnah, MA



March 7, 2019

1 inch = 537 Feet

www.cai-tech.com



	Private Road		Right of Way
	Property Line		RoadNotPar
	Public Road		
	Private Road ROW		

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