
THE MARTHA'S VINEYARD COMMISSION

DECISION OF
THE MARTHA'S VINEYARD COMMISSION
DESIGNATING THE ISLAND ROAD DISTRICT
AS A
DISTRICT OF CRITICAL PLANNING CONCERN

December 22, 1975, as amended 1976, 1990, 2007,
2008, 2009, 2010, 2011, 2012



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THE MARTHA'S VINEYARD COMMISSION

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DECISION OF THE MARTHA'S VINEYARD COMMISSION

DESIGNATING THE ISLAND ROAD DISTRICT AS A

DISTRICT OF CRITICAL PLANNING CONCERN

Section 1.00

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

The Commission held a public hearing on December 8, 1975, at 8:00 p.m., at the West Tisbury Elementary School, West Tisbury, Massachusetts, on the proposed Road District, after notice to the municipalities and notice required by the Act and Massachusetts General Laws, Chapter 30A, section 2. The hearing was held as required by the Act to permit the Commission to receive testimony relating whether it should designate specific geographical areas within the proposed District on Martha's Vineyard as a District of Critical Planning Concern.

The Commission received Many nominations of geographical areas from town boards and individuals to be included in the District. At its meeting of October 23, 1975, the Commission itself nominated and accepted for consideration a proposed Road District. A list of nominations received by the Commission from taxpayers, town boards, and the Commission nominations relating to the proposed District are appended hereto. Copies of all documents relating to the nominations or areas accepted for consideration are on file at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

Sections 9 through 11 of the Act provide the on-going process for amending the boundaries, development guidelines and regulations of the District.

Section 2.00 Area Designated

Upon consideration of information submitted to it and pursuant to the Act and the Commission's standards and Criteria for Districts of Critical Planning Concern, adopted under the Act and appended hereto ("the Qualifications"), the Commission hereby designates The Island Road District, including the major roads and certain special ways more particularly defined in Appendix A.

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

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

Section 3.00 Why the Area has been Designated

When designating a District, Section 9 of the Act requires the Commission to specify why the area is of critical concern to the region, the problems associated with uncontrolled or inappropriate development, and the advantages to be gained by the development of the area in a controlled manner.

The Commission specifically finds that lands and waters within the Road District are essential to preserve the historic and cultural values of Martha's Vineyard, maintain and enhance the safety of transportation along the roadways, to protect the diversity of the road experience and the visual nature of the Island as seen from the roadways, and enhance and maintain the state road system as a major public investment. Moreover, the Commission finds that the area within the Road District possesses unique historical significance, and the safety of travel along the roadways may be deleteriously affected by improper access and development. In addition, those roads which are part of the state highway system are major public investments which may be impaired by improper development and such impairment will affect the health, safety and general welfare of Island residents and visitors. The Commission finds that development within the Road District must be controlled to prevent harm to persons who might undertake such development and to Island residents and visitors.

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

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

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

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

Section 4.00 What Kind of District

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

- "a) an area which possesses unique natural, historical, ecological, scientific, or cultural resources of regional or statewide significance;
- b) an area which possesses marginal soil or topographic conditions which render it unsuitable for intense development; or
- c) an area significantly affected by, or having significant impact on, an existing or proposed major public facility or other area of major public investment. "

The Road District as 'designated qualifies under the Qualifications for a combination of specific qualifications, Sections 2.00 - 2.80 of the Criteria and Standards ("Specific Qualifications"), as described herein.

Specifically, with respect to the first element of Section 9 of the Act, concerning unique natural, historical, ecological, scientific, or cultural resources of regional or statewide significance, the Road District meets the Specific Qualifications of the Cultural or Historic Resource District, Section 2.50. As to the second element concerning marginal soils or topographic conditions, the Road District meets the Specific Qualifications of the Hazardous District, Section 2.80. Finally, because the Road District meets the Major Public Investment District Qualifications, Section 2.70, the Road District also fulfills the third element of Section 9 of the Act.

Section 4.10 Compliance with Criteria and Standards

4.11 Cultural and Historic Resource District:
Major Roads

The roadside provides the means of daily interaction between towns. From the roads, residents and visitors to the Island get the most frequent impression of the visual, social, and economic character of the Vineyard.

Due to the rural character of the Island, and vigilance of Island residents, the roadsides have generally been well-maintained. Very subtle issues, such as the placement of utilities, driveways, new roads or new construction, can dramatically alter the sense of place which the roadsides offer.

The roadsides are, and should be maintained, as diverse as is the culture of the Island. This diversity is expressed in the variety of views as well as the location of certain land uses near major roads and intersections. Things which congregate along the roads tend to be important to commerce or public activity. Residential or farming uses are spread out at greater distances along the road. Any uniform "suburban" type of development along these roads will destroy the sense of passing from village to village through a rural area.

Because the roads follow traditional routes of travel on the Island, and thus were initially developed to link important areas, the present location of the road system mirrors, for the most part, the historical makeup of the Island way of life.¹ Thus, the views and houses and places which are prominent from the road tend to be among the most important historically. A direct historical link is maintained between the present road system, and the routes of the past Island traditions.

¹ Dukes County Planning and Economic Development Commission (DCPEDC), Survey of Recreation and Travel Patterns on Martha's Vineyard.

There are places where road improvements are much more expressive of roads in other areas, bearing no strong character of Island culture. However, these, as well as the entire road system, will be affected by the pattern of development. It is possible to enhance the road if adjoining development is handled sensitively.

4.12 Cultural and Historic District: Special Ways (as amended 2012)

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.

Section 4.20 Major Public Investment District (State Roads)

Among the roads under consideration are all of the State Roads on the Island.² These are major public investments which are the concern of the Martha's Vineyard Commission in its function as the regional transportation planning agency. Safety and access along these roads are of statewide concern; thus, they are also of concern to the region.

² Mass. Dept. Public Works, Functional Road Classification Map, 1974.

Section 4.30 Hazardous District

Although safety implies hazards, the hazards as specified in the Criteria and Standards would be due to "marginal soil or topographic conditions" thus "rendering it unsuitable for intense development". Where a road twists and turns due to hills and watercourses, hazards qualifying under this criterion do exist.

Development patterns creating frequent and unplanned access in such terrain may make roads which are currently safe become dangerous and inadequate.³ The solutions to such problems would be impossible to achieve without substantial public investment, probably destroying the character of the roads.⁴

3 DCPEDC, 1973, 3-C Review Report for Transportation Planning.

4 Ibid.

Section 5.00 Guidelines

The Commission adopts 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 Regulations which as 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, consisting of that area defined in the Road District Boundaries; Appendix A.
2. The Special Ways Zone, consisting of that area defined in the Road District Boundaries, Appendix A.

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 IV: SPECIAL GUIDELINES FOR THE MAJOR ROAD ZONE

A. Height of Structures

Structures erected within the zone shall not, except by special permit, exceed a height of eighteen (18) feet for a pitched roof and thirteen (13) feet for a flat roof (a flat roof being a roof with a pitch of 1 in 4, or less) such height measured vertically from the mean natural ground level to the highest point of the roof.

B. Uses Within the Major Road Zone

1. Permitted Uses

Any residential, recreational, agricultural, or open space use permitted by the applicable town zoning district subject, however, to regulations adopted according to these Guidelines.

2. Uses by Special Permit

Any uses permitted by Special Permit under town zoning by-laws subject, however, to regulations adopted according to these Guidelines and any additional uses requiring

Special Permit under the Guidelines.

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 DECEMBER 22, 1975

A handwritten signature in black ink, appearing to read 'E. Tyra', written over a horizontal line.

EDWIN G. TYRA, CHAIRMAN

(Note that the amended text no longer reflects the original 1975 vote. That original document remains available.)

APPENDIX A

DISTRICT BOUNDARIES

Major Road Zones

This zone of the District consists of the area lying within two-hundred feet of the right of way of the following roads:

State Road and South Road, from the Oak Bluffs bound near Lake Tashmoo generally west and south to the Gay Head traffic Circle, and including the traffic circle; excepting that portion of the road lying south of the intersection of State Road and the Edgartown-West Tisbury Road and north of the northern edge of the bridge by which South Road-crosses the Tiasquam River in West Tisbury, and further, South Road from the West Tisbury town line to the Gay Head town line wherein the District shall be five-hundred feet either side of the centerline of the roadway.

In Gay Head, Moshup Trail, Lobsterville Road, and Light house Road.

In Edgartown, the West Tisbury-Edgartown Road from the Chase Road intersection west to the town bound; the Beach Road from the intersection with the Edgartown-Vineyard Haven Road north and north-westerly to the town bound; Chappaquiddick Road, to and including Wasque Road, School Road and Dyke Road, from the ferry landing to the boundary of the Trustees of Reservations property; Katama Road from the intersection with Herring Creek Road south to and including Atlantic Drive; Herring Creek Road; the Edgartown-Vineyard Haven Road, from its intersection with Beach Road, westerly to the Edgartown bounds.

In Oak Bluffs, the beach road from Canonicus Road south to the town bound; Barnes Road south of the intersection of Barnes and County Roads; the Edgartown-Vineyard Haven Road.

In Tisbury, the Edgartown-Vineyard Haven Road, from the intersection of Cromwell Street to the town bounds; Lambert's Cove Road, from State Road to the town bounds.

In West Tisbury, North Road; Middle Road; Music Street; Scotchman Lane; Panhandle Road; Old County Road; Lambert's Cove Road, from State Road to the town bounds; Christiantown Road; Indian Hill Road; and New Lane and Tiah's Cove Road to the end of the present pavement.

In West Tisbury (amended 1976) the West Tisbury-Edgartown Road in West Tisbury, from Old County Road to the Edgartown line, land lying 200 feet from the right-of-way

In Chilmark, North Road, excepting that area west of Menemsha Crossroad; Middle Road; Tea Lane; Meeting House Road; Tabor House Road; and Menemsha Crossroad.

Special Ways Zone

This zone of the district includes all the area lying within two-hundred feet of the centerline of the following roads in Gay Head:

Old South Road,
Church Road, and
Old Lobsterville Road.

This zone of the district also includes all the area lying within twenty feet of the centerline of the following roads:

In Chilmark, Old King's Highway, from a point generally known as Five Corners, westerly to a point two thousand five-hundred feet beyond Meeting House Road.

In West Tisbury, Tiah's Cove Road and the way generally known as Watcha Path, from the point where Tiah's Cove Road presently ceases to be paved easterly and northerly to the Edgartown-West Tisbury Road.

In West Tisbury (amended 1990) All land in the Town of West Tisbury within 40 feet of the centerline of the following roads and paths:

Old Holmes Home Road a.k.a. Old Road to Holmes Hole a.k.a. Old Mail Road - beginning at the Massachusetts State Highway (that runs to Tisbury) approximately 325 feet west from the intersection with Old County Road lay-out, at West Tisbury Assessors' Map 10, Lot 19.5 and running southwest, continuing west of Pin Oak Circle subdivision, running west of the Mass. State Forest property, continuing south-west along the West Tisbury School property and ending at Old County Road south of Assessors' Map 21, Lot 18 and north of Map 26, Lot 14.4;

Old Courthouse Road - beginning at the northern portion of Assessors' Map 26, Lot 1 and running along its western bound to Old County Road; Tiah's Cove Road - Tiah's Cove Road where it intersects the western bound of Assessors' Map 36, Lot 9, continuing north northeast on the eastern side of Assessors' Map 36, Lots 7 & 8 and Map 30, Lot 1.1, intersecting with Scrubby Neck/Watcha Path Road;

Scrubby Neck Road and Watcha Path - beginning at the Edgartown Road across from the State Forest bicycle

path on Assessors' Map 31, Lot 102.12 running southeast, then overlaying with the access road of the Thomas Thatcher subdivision, running across the southern point of Assessors' Map 31, Lot 104.2 heading southeast through Map 31, Lots 106.3 and 106.4, continuing southeast through Map 30, Lot 5.2 and turning east along the southern bound of Map 30, Lot 2.32, continuing east through the Magid subdivision parallel to the access road when the road runs east to west and the northern portion of Map 30, Lot 10.2 and the southern portion of Map 30, Lot 2.85 crossing Deep Bottom Road, turning southeast over the northern portion of Map 36, Lot 17.2 & 17.11, continuing north on Map 36, Lot 23 & Lot 28 and shown as a 40 foot laid out way north of Map 38, Lot 1, continuing east then turning north at the southern bound of Map 37, Lots 56 & 55 and continuing into Edgartown;

Roger's Path and Burying Ground Road - beginning approximately 60 feet on South Indian Hill Road from the intersection of Christiantown Road and Indian Hill Road and running south through Assessors' Map 15, Lots 31.2 & 31.1, continuing west of Lot 31.3, continuing through Lots 29.2 & 29.1, running west of Map 22, Lots 14, 44, 43 & 12 and north of Lot 11, then connecting with the Burying Ground Road and ending at the Massachusetts State Highway west of Map 22, Lots 40.1 & 9;

In West Tisbury (amended 2008)

Stoney Hill Path - Within twenty feet of either side of the center line of Stoney Hill Path: Begins (WT Assessors' map #10) as a turn to the east from Old Holmes Hole Rd. (aka the Old Mail Rd.), crosses Old County Rd., and continues east until it merges with Stoney Hill Rd. or Head of the Pond Rd.

Checamo Path - Within twenty feet of either side of the center line of Checamo Path (aka Chicama Path & Little Pond Rd.): Begins at Stoney Hill Path (WT Assessors' map # 10)) and continues southeast (WT Assessors' Map #9 and Map #18) to the Tisbury town line.

In West Tisbury (amended 2010)

Pine Hill Road - Within twenty feet of either side of the centerline of Pine Hill Road: Beginning at Old County Road at the southern point of Assessors Map 26, Lot 14.1, opposite the Sheriff's Meadow parking lot at Nat's Farm, proceeding northerly along the west boundary of said lot and continuing northerly until the northwestern point of Assessors map 21, Lot 13 where it intersects Doctor Fisher Road.

Red Coat Hill Road/Motts Hill Road - Within twenty feet of either side of the centerline of Red Coat Hill Road/Motts Hill Road - Beginning at the Tisbury town line on the south side of the easternmost point of Assessors Map #8, Lot 24 and continuing westerly and becoming Motts Hill Road at the intersection with Ben Chase Road and proceeding southwesterly to its intersection with Merry Farm Road between Assessors Map 8, Lots 22.3 and 22.4

Shubael Weeks Road - Within twenty feet of the either side of the center line of Shubael Weeks Road - Beginning at the Tisbury town line at the northernmost point of Assessors' Map 8, Lot 31 and proceeding southerly to its intersection with Ben Chase Road at the southern point of Assessors Map 8, Lot 25 and continuing southerly crossing Merry Farm Road and intersecting Beaten Path near the northernmost point of Assessors Map 8, Lot 26.4

In Oak Bluffs (designated in Oak Bluffs Southern Woodlands District 1998)

Chaise Road, Old Back Road to Oak Bluffs, Back Road Connector, Road to Farm Neck and Old Holmes Hole Road (as they occur within the Oak Bluffs Shouthern Woodlands District) - within 50 feet of either side of the centerline

In Edgartown (amended 1999)

Dr. Fisher Road (a.k.a. Willay's Plain Path) - within twenty feet of the centerline - beginning at the Edgartown -West Tisbury Road at the western edge of Edgartown Assessors Map 22 Lot 2.1 and running northwest to the Manual Correllus State Forest at

the northern edge of Edgartown Assessors Map 22 Lot 54 (lot numbers refer to Edgartown Assessors maps dated January 1, 1999).

In Edgartown (amended 2007, in litigation)

Ben Tom's Road - Within twenty feet of the center line of Ben Tom's Road: Begins at the north side of Edgartown-West Tisbury Road between Edgartown Assessors' Map 23 Lot 6 and Edgartown Assessor's Map 21 Lot 96 northwesterly and northerly following the west fork to Pennywise Path along the south border of Edgartown Assessors' Map 21 Lot 169.

Middle Line Path - Within twenty feet of the center line of Middle Line Path: Begins at Ben Tom's Road at the easternmost point of Edgartown Assessors' Map 21 Lot 133.1 and runs northwesterly until it merges with Pennywise Path at the westernmost point of Edgartown Assessors' Map 22 Lot 125.20.

Pennywise Path - Within twenty feet of the center line of Pennywise Path: Begins at the intersection of Tar Kiln Road and Three Cornered Rock Road easterly to the Vineyard Haven-Edgartown Road at northwestern point of Edgartown Assessors' Map 21 Lot 148.1 continuing easterly then northeasterly and ending at Edgartown-Vineyard Haven Road at the northeast corner of Edgartown Assessors' Map 21 Lot 36.33."

Tar Kiln Path - Within twenty feet of the center line of Tar Kiln Path: Begins at the Manuel Correllus State Forest between Edgartown Assessors' Map 10 Lot 96 and Edgartown Assessors' Map 11 Lot 1.143 running east to its intersection with Three Cornered Rock Road in the interior of Edgartown Assessors' Map 11 Lot 86.1.

Watcha Path - Within twenty feet of the center line of Watcha Path: Begins at the northeast point of Edgartown Assessors' Map 25 Lot 4, west of the intersection of Edgartown-West Tisbury Road and Oyster-Watcha Road, extending westerly some 360 feet along a segment formerly known as Mill Path, then southwesterly to the northeast point of Edgartown Assessors' Map 40 Lot 4.2, continuing southwesterly

to the West Tisbury town line at the southern boundary of Edgartown Assessors' Map 40 Lot 6.

In Edgartown (amended 2009)

Dunham's Path - Within twenty feet of either side of the center line of Dunham's Path (a.k.a. Dunham's Field Path, a.k.a. Daniel's Path). Begins at the southern side of Llewellyn Way adjacent to the Town-owned Edgartown Assessors' Map 28 Lot 54 running southeast to its intersection with Meshacket Road between Edgartown Assessors' Map 28 Lot 16 and Lot 23 (2008).

Quenomica Road - Within twenty feet of either side of the center line of Quenomica Road. Begins at the northeast side of Meetinghouse Road at the westernmost point of Edgartown Assessor Map 28, Lot 251 and running northeasterly to the west side of Meshacket Road, bisecting Edgartown Assessors' Map 28 Lot 224 (2008).

Swimming Place Path - Within twenty feet of either side of the center line of Swimming Place Path. Begins at the southern side of the intersection with Meshacket Road and running southeasterly along the southwestern boundary of Edgartown Assessors' Map 28 Lot 225 and continuing southeasterly to the southernmost point of Edgartown Assessors' Map 28 Lot 30. (2008).

In Edgartown (amended 2010)

Jeffers Lane - Within twenty feet of either side of the center line of Jeffers Lane - beginning near the most southeastern point of Map 31 Lot 30 on the north side of Chappaquiddick Road and proceeding northeasterly then northwesterly to Map 31 Lot 16.12 and ending at the point where a way branches leading to the Old Indian Burial Ground overlooking Cape Pogue Bay. (The Town notes that this portion is a Special Vehicular Way.)

Old Wood Road - Within twenty feet of either side of the center line of Old Wood Road - beginning at the north side of Meetinghouse Road at the southeast point of Map 28 Lot 251 and running northerly along

the east boundary of said lot to its intersection with Quenomica 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.

APPENDIX C

List of nominations by taxpayers, Town Boards, and the Commission consolidated into the ISLAND ROAD DISTRICT and accepted for consideration on October 23, 1975.

NOMINATOR	TOWN	OLD FILE NUMBER
Conservation Comm.	Chilmark	C 45 32
Conservation Comm.	"	C 5 34
Conservation Comm.	"	C 4 35
Planning Board	Edgartown	B 58 43
Planning Board	W. Tisbury	W 5 52
Planning Board	W. Tisbury	W 4578 53
Planning Board	W. Tisbury	W 5 66
Planning Board	W. Tisbury	W 5 74
Planning Board	Chilmark	C 58 77
G. Robert Strang	Chilmark	C 5 99

APPENDIX D
FUNDAMENTALS OF 2012 AMENDMENTS

**Island Road District of Critical Planning Concern
Amendments Voted February 9, 2012
Amendments to Section 4.12
Amendments to Goals and Guidelines**

On September 22, 2011, Martha's Vineyard Commission Chairman Chris Murphy appointed a DCPC Committee to review the Island Road District Special Ways Zone for possible update. The DCPC Committee met weekly for seven weeks. The Committee spent its time during the first meetings in reviewing the philosophy and reasons for having a Special Ways section in the Island Roads DCPC. They reported that they were impressed with the idea that this was one of the first DCPCs designated by the MVC when it was established in 1974. While much of the original language had held up very well, there was a sense that some modification would be appropriate.

The DCPC Committee recommended amendments to provide the towns and the Commission more flexibility in proposing, designating and regulating Special Ways. The original Island Road District, as designated in 1975, was intended to protect ways from being developed in a manner that would interfere with their cultural value. In the intervening years, there has been development within some segments of unprotected ways. So, by increasing the flexibility to afford protection to those ways, the Commission could still honor the original intent of protecting them. Special Ways protection could be afforded to a wider range of ways in need of protection from additional degradation, even if parts of those ways have already been developed for automobile access.

The DCPC Committee proposed amendments clarifying that current existing development in a portion of a way is not an impediment to designating that way as a Special Way. The Committee proposed amendments clarifying that designating a Special Way does not automatically confer or require any public right of access. The Committee also recommended adjustment of some language to more closely follow the wording of the "Critical Planning District Qualifications" for Cultural & Historic Resource Districts.

On Thursday, December 8, 2011, the Martha's Vineyard Commission held a Public Hearing pursuant to Chapter 831 of the Acts of 1977, as amended (the "Act"), and Massachusetts General Laws, Chapter 30A, Section 2, and the Standards and Criteria regarding designation of a District of Critical Planning Concern (DCPC), adopted by the Commission pursuant to Chapter 637 of the Acts of 1974 and approved on September 8, 1975 by the Secretary of Communities and Development. The DCPC Committee presented its recommendation for amendments to Sections 4 and 5 of the Designation. At the request of the West Tisbury Planning Board, the public hearing was continued to December 15, 2011 and closed.

The DCPC Committee met on December 28, 2011 and prepared its final recommendation to the Commission. In response to testimony on December 8, the DCPC Committee voted to withdraw its earlier recommendation to provide for width greater than twelve feet after DRI approval; recommending instead retaining the 1975 width restriction. The Committee also voted to accept a “grandfathering” clarification presented by staff December 15.

The Commission deliberated on Thursday, January 5, 2012 and Thursday, February 9, 2012, noting the designation criteria in Section 8 of the Act, particularly “*The Commission shall also specify broad guidelines for the development of the District. The issuance of such guidelines shall be based upon, but need not necessarily be limited to, the following considerations:...(d) that development of the District will not result in undue harm to cultural, economic, or historic values*”. The Commission voted on February 9, 2012 to amend Sections 4 and 5 of the Island Road District designation as recommended by the DCPC Committee. In so voting, the Commission noted that the amendments improve the effectiveness of the Island Road District, particularly with respect to the designation criteria in Section 8 of the “Act”.

Amendment of Section 4.10 Compliance with Criteria and Standards

4.12 Cultural and Historic District: Special Ways (replaced the text of Section 4.12 with the following)

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.

Amendments to section 5 island road district goals and guidelines (Amendments February 9, 2012 appear underlined. 1975 text appears in strike-through.)

Inserted in Section 5.00 Guidelines, before GOALS

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 Section 5B GOALS as follows:

To protect historic places 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 open primarily for uses such as walking and horseback riding, but not developed these ways by preventing the injurious effects that accompany development of the way as a primary vehicular route except for. Therefore, new vehicular access to properties where no should be on new rights-of-way, thus preserving the Special Ways for alternative access exists forms of transportation.

Amended Section 5V SPECIAL GUIDELINES FOR THE SPECIAL WAYS ZONE as follows:

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, gravel and/or grass.

4. No special way shall be paved with any impervious material, such as bituminous concrete or asphalt.

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.

By vote of the Martha's Vineyard Commission on February 9, 2012

Chris Murphy, Chairman

Date

References and Documents

Chapter 831 of the Acts of 1977 as amended
Guidance on Nomination and Designation of Districts of Critical Planning Concern
Amendment working draft 2011-11-1
DCPC Committee post-public hearing report and recommendation 2011-12-28
Comparisons of the amendment recommendations with the 1975 Decision
Public Hearing Notice 2011-12-8
Staff notes for public hearing 2011-12-8
Staff notes update for December 15
Amendments draft 2011-10-14
Amendments for discussion purposes working draft 2011-10-27
Amendments staff advisory 2011-02-09
Amendments working draft 2011-10-07
Amendments working draft 2011-10-21
DCPC Committee Amendment Recommendations 2011-1-1 and 2011-12-28, drafts 2011-09-28, 09-30, and staff
draft 2011-09-22
DCPC Committee minutes 2011-09-22, 2011-10-5, 2011-10-13, 2011-10-20, 2011-10-27, 2011-11-2
DCPC Committee recommended final text Jan 5 and Feb 9
DCPC Island Road Flow Chart graphically representing the amendments 2012

Correspondence

From Vineyard Conservation Society in favor
From West Tisbury Planning Board asking for another week 2011-12-08
From West Tisbury Planning Board in favor 2011-12-15
From the Edgartown Selectmen in favor 2011-12-15
From Ben Hall Jr. 2011-12-08 alternative amendment text
From Ben Hall Jr. 2011-12-08 Cozy Hearth Housing Appeal Committee Decision 2008-04-14