

THE MARTHA'S VINEYARD COMMISSION

BOX 1447, OAK BLUFFS, MASS. 02557. 693-3453

DECISION OF
THE MARTHA'S VINEYARD COMMISSION
DESIGNATING THE MOSHUP TRAIL DISTRICT
AS A
DISTRICT OF CRITICAL PLANNING CONCERN
JUNE 26, 1980

amended September 7, 1995

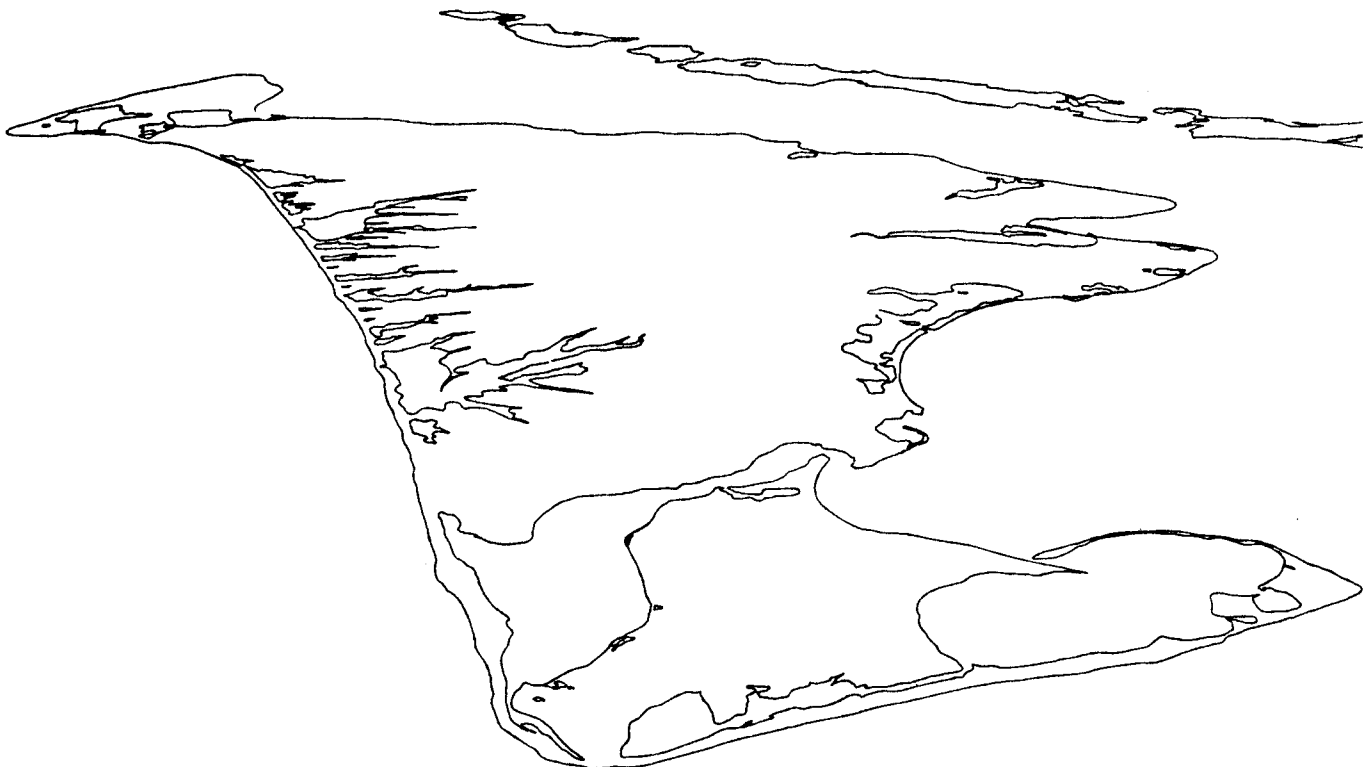


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DESIGNATING THE

MOSHUP TRAIL DISTRICT

AS A DISTRICT OF CRITICAL PLANNING CONCERN

Section 1.00 General

As authorized by Chapter 831 of the Acts of 1977, as amended, ("the Act"), the Martha's Vineyard Commission ("the Commission") hereby designates as a District of Critical Planning Concern ("a District") the specific geographic areas hereafter described, to be known as the Moshup Trail District.

The Commission held a public hearing at 8:00 p.m. on June 23, 1980 at the Gay Head Town Hall, Gay Head, Massachusetts, on the proposed District, after due public notice to the municipalities, publications, and notice required under Massachusetts General Laws, Chapter 30A, Section 2. The Public Hearing was held as required under the Act to permit the Commission to receive testimony relating to whether it should designate specific geographic areas within the proposed District as a District of Critical Planning Concern.

On April 1, 1980, the Commission received a nomination from the Planning Board and Conservation Commission of the Town of Gay Head for inclusion of geographic areas into a district (Nomination G-5-114). Copies of the nomination and documents relating thereto and the area accepted for consideration are incorporated herein and are on file at the Commission offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

On Thursday, June 26, 1980, the Commission voted to designate the nominated area as a District of Critical Planning Concern. Sections 8 through 11 of the Act provide the process for amending the boundaries, adoption of development guidelines, and regulation of the District to which development must conform.

Section 2.00 Area Designation

Upon consideration of information submitted to it, the Commission's familiarity with lands and waters of the District, site visits, written testimony, and pursuant to the Act and the Commission's Criteria and Standards for Districts of Critical Planning Concern

("the Qualifications") adopted under the Act and appended hereto and marked Appendix "A", the Commission makes findings herein and designates the Moshup Trail District, including those lands lying to the west and south of Moshup Trail, along the Gay Head Cliffs and the Ocean, and more particularly defined as follows:

Note: For the purposes of this description, all Assessor's lot numbers referred to shall be those as shown on plans entitled "Assessor's Maps for the Town of Gay Head, January 1, 1980, Preliminary, prepared by Schofield Brothers, Inc., Registered Engineers and Surveyors, State Road, Vineyard Haven, MA 02658, at a scale of 1"=200'."

- A. Beginning at the southernmost corner of the right-of-way of the circular road known as "the loop"
- B. Northeasterly by said right-of-way to intersection with Moshup Trail;
- C. Across said intersection to southern boundary of right-of-way of South Road;
- D. Easterly along said right-of-way to intersection with eastern Island Road District boundary of Moshup Trail;
- E. Southeasterly and then northeasterly by said Road District boundary to its intersection with a stream which passes under Moshup Trail 4,000'+ from the intersection of the eastern end of Moshup Trail and State Road;
- F. Southeasterly by said stream to its intersection with the 10' contour;
- G. Due southeast from said intersection to the shoreline of Squibnocket Pond;
- H. Southerly and easterly by said shoreline to the Town Line;
- I. Westerly and southerly by Town Line to the Ocean;
- J. Northwesterly by mean low water to southeast boundary of Gay Head Cliffs property (Assessor's Lot #6-19);
- K. Northeast, northwest, and northeast by said Gay Head Cliffs property to land of the Town of Gay Head;
- L. Southerly and southeasterly by said Town Land to intersection with right-of-way of aforementioned road known as "the loop";
- M. Southeasterly by said right-of-way to point of origin.

The Commission has prepared a descriptive map appended hereto as Appendix "B" for the general information to the public and the municipalities. The boundaries of the Moshup Trail District, however, are as set forth above in this Decision and shall control over any map.

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

Section 3.00 Why the Area Has Been Designated

When designating a District, Section 8 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. In designating a District, the Commission must also consider the need for designation, as required by Section 1.10 of the Qualifications. Information available to the Commission supports a finding that the Moshup Trail District is of regional importance, that there exist problems of uncontrolled or inappropriate development within the District and affecting areas outside the District, and that there are advantages to be gained by development of the area in a controlled manner. The Commission specifically finds that controlled development of lands and waters within the Moshup Trail District is essential to the maintenance of the Island's unique cultural, historic, and economic values. This area offers irreplaceable views and is an essential element in the cultural traditions of the Town.

The Commission finds that development within the District must be controlled to protect the general welfare of present and future Island residents and visitors.

In considering the problems of uncontrolled or inappropriate development within the Moshup Trail District, the Commission finds that so fragile are these lands and waters and the values they create and support that to maintain and enhance the 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 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 that there exists a regional need for special regulations and planning to protect the Island and its people from damage and loss resulting from inappropriate development. The Commission also finds after its review that present private and public regulations in a substantial

part of the District cannot assure protection, and that damage to the Moshup Trail District lands and waters, or lands and waters affected by District activity, or impediments to proper development, will be a substantial loss to the region or to two or more towns on the Island.

Section 4.00 What Kind of District

Section 8 of the Act permits the Commission to designate a District only in accordance with the Criteria and Standards approved under the Act. Such a District may be designated only for:

- 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 Moshup Trail District qualifies under the Specific Qualifications, Sections 2.00 - 2.80 of the Criteria and Standards ("The Specific Qualifications"). The Commission finds that the Moshup Trail District meets Specific Qualifications as described herein.

Specifically, with respect to the first element of Section 8 of the Act, concerning unique natural, historical, ecological, scientific, or cultural resources of regional or statewide significance, the Moshup Trail District meets the Specific Qualifications of the Cultural or Historic Resource District, Section 2.50.

Section 4.10 Compliance with Criteria and Standards

4.11 Cultural or Historic Resource District

The District clearly qualifies as a Cultural or Historic Resource District under all sections of the Qualifications. Testimony presented at the Public Hearing and other information available to the Commission points out the importance of this area to the history and cultural diversity of the town and the Island.

The district is readily visually accessible along the length of Moshup Trail and from the popular stopping area and lookout at the Gay Head Cliff. A significant factor in the area's appeal lies in its relatively undisturbed natural condition, despite nearby public access. In many on- and off-Island locations where a roadway passes closely by the ocean, the land has been built up to the point of visually cutting the road off from the shore. This visual connection is felt to be of great importance, and Islanders and visitors alike derive great satisfaction from a trip along this nearly wild oceanfront. The windblown, stunted vegetation and hummocky topography lend a further uniqueness to the area and make it an important asset to the valued diversity of Vineyard landscapes.

Long before Moshup Trail was built, the area was well-known to the Indian settlements of Gay Head. It provided valuable fishing, hunting, and recreation grounds and many significant historic sites are located nearby. Even today, the area is powerfully influenced by Indian lore and tradition.

Section 5.00 Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Moshup Trail District. In adopting the Guidelines, the Commission has evaluated each of the considerations enumerated by Section 8 of the Act and, in addition, has considered other relevant matters.

In adopting these guidelines, the Commission has been persuaded that currently proposed development is not adequately controlled by existing public or private regulations. Inappropriate development within the District is likely to have a profound and detrimental effect on the quality and character of Martha's Vineyard. Regulations adopted under these guidelines are essential to evaluate and adjust the physical impact of development in the District so that irrevocable damage to the Town and the Island does not result.

The Town shall, in the manner required by the Act, adopt Regulations which as a minimum comply with these Guidelines for the development of the Moshup Trail District using such authorities it deems best suited for the purpose. These Regulations may be periodically amended or refined. The Commission draws the towns' attention to Section 10 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."

Section 5.10 Goals

To protect the fragile historic, scenic, and natural character of the District from undue visual intrusion.

Section 5.20 Development Guidelines

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

- 5.21 That appropriate design and/or siting guidelines be developed for any potential structure built within the district. These guidelines would possibly result in the amendment of present district regulations and zoning by-laws.
- 5.22 That the appropriate administration of design and/or siting guidelines, through a special permit procedure, be developed.
- 5.23 That problems unique to the area, such as parking lot developments, be addressed and appropriate regulations or guidelines for existing town authorities be developed.

5.24 That a delay in the issuance of building permits be initiated after all required approvals in order that the town has an opportunity for purchase.

BY VOTE OF THE COMMISSION

JUNE 26, 1980


Benjamin C. Moore, Chairman
Martha's Vineyard Commission



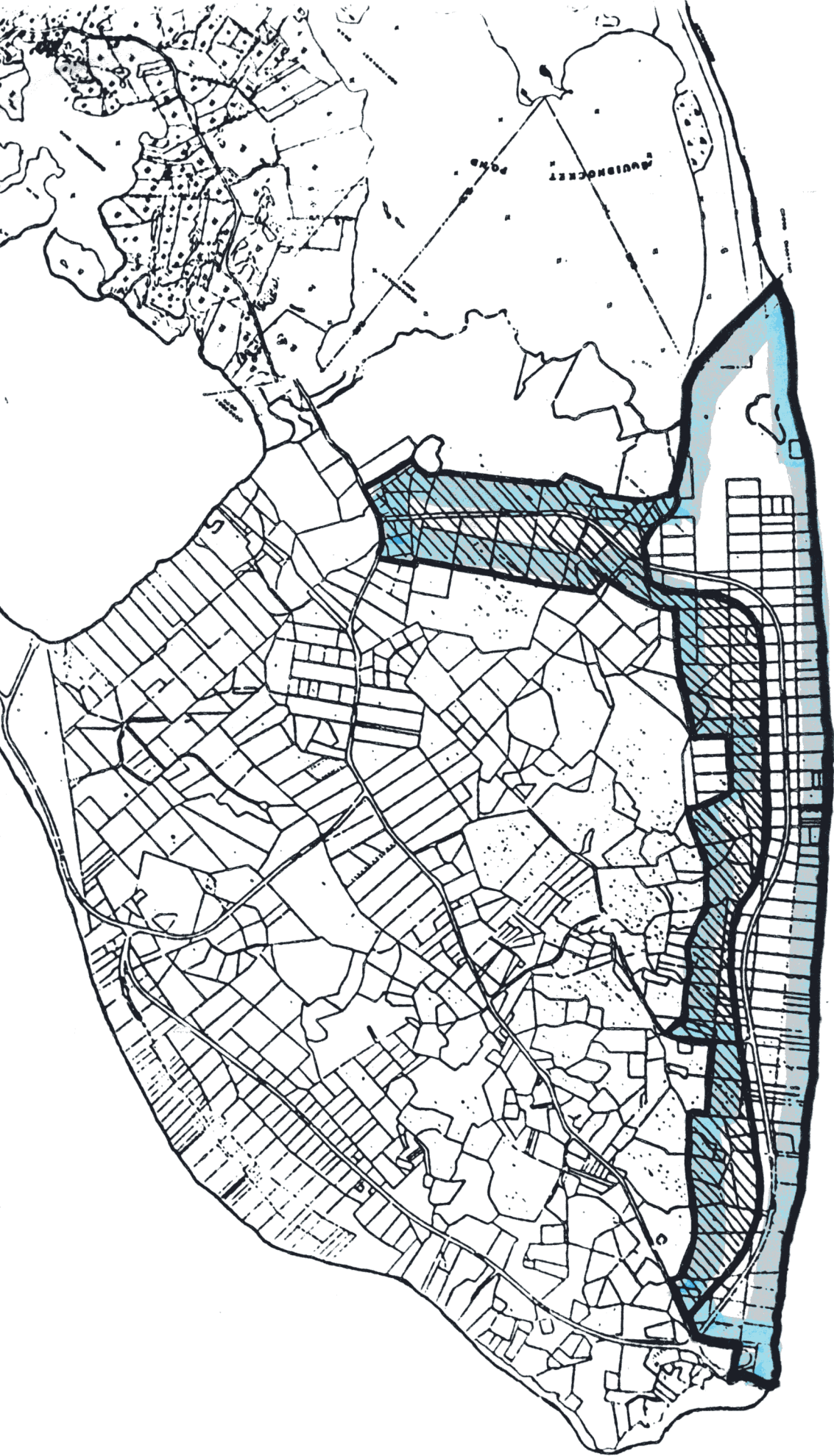
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GAY HEAD

SCALE 1:2000

APPENDIX B

SUPERCEDED



boundaries (old + expanded)

Moshup Trail DCPC
Boundaries
SO voted 9/7/95 - MVC