

THE MARTHA'S VINEYARD COMMISSION

BOX 1447 • OAK BLUFFS
MASSACHUSETTS 02557
(508) 693-3453
FAX (508) 693-7894

Martha's Vineyard Commission Decision Southern Woodlands 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 (the District), the specific geographical areas hereinafter described, to be known as the Southern Woodlands District of Critical Planning Concern.

The Commission held a public hearing at 7:30 p.m. on April 23, 1998 at the Oak Bluffs Elementary School, Oak Bluffs, Massachusetts, on the proposed Southern Woodlands District after due public notice to the municipality, publications and notice required under the Act and 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 the proposed District as a District of Critical Planning Concern.

The Commission received a nomination by taxpayer petition from Theophilus Nix and others for inclusion of geographic areas into a District. At its March 19, 1998 meeting, the Commission voted to accept for consideration the nominated area.

Copies of the nomination and documents relating thereto and the area accepted for consideration are on file at the Commission Offices, Olde Stone Building, New York Avenue, Oak Bluffs, Massachusetts.

On Thursday, May 14, 1998, the Martha's Vineyard 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 regulations of the District to which development must conform.

Section 2.00 Area Designated

Upon consideration of information submitted to it, the Commission's familiarity with the lands and waters of the District, oral and written testimony, and pursuant to the Act and the Commission's Standards and Criteria for Districts of Critical Planning Concern ("the Qualifications") adopted under the Act and appended hereto, the Commission makes findings herein and hereby designates the Southern Woodlands District with Defined Boundaries as follows:

All lands and waters included within and bordered by a line beginning at the southeasterly corner of the lands of the Town of Oak Bluffs located approximately 1,945 + or - feet from the intersection of County Road and the Edgartown-Vineyard Haven Road, thence northerly 2,293.4 + or - feet to the northeasterly corner of Lot 53, Map 43; thence westerly along the property line of said lot 1,340 + or - feet to the northwesterly corner of said Lot 53; and thence southerly 59 + or - feet; thence northwesterly along the bounds of Lot 2, Map 42, 2,597.23 + or - feet; and thence southwestly 729.53 + or - feet along the westerly bound of Lot 2, Map 42; and thence westerly along the southerly bound of Lot 7.7, Map 36, some 213 + or - feet; thence southerly along the westerly bound of Lot 10, Map 36 some 436 + or - feet; thence westerly along the northerly bound of Lot 2, Map 41 some 1,357 + or - feet; thence Southwesterly along the southeasterly bound of Lot 7.15, Map 36; thence southerly along the eastern bound of the Right of Way of Barnes Road some 2,825 + or - feet to the southwestern corner of Lot 5, Map 41; thence easterly along the southerly bound of said Lot 5 some 215 + or - feet to a juncture of said bound with Old Holmes Hole Road, so called; thence easterly along said Old Holmes Hole Road to the intersection of said Road with the Right of Way of a road shown on Map 49 as "Old Holmes Hole Road (Old County Road)"; thence northwesterly along the southwestly bound of a 40 foot Right of Way some 297 + or - feet; thence northerly along the easterly bound of Lot 15, Map 49 some 1,092 + or - feet to the northwesterly bound of said Lot 15; thence southeasterly along the southwestly bound of the lands of the Town of Oak Bluffs to the point of origin.

(Lot and Map refer to Assessors Maps 1998, Town of Oak Bluffs)

The Commission has prepared a descriptive map appended hereto as Appendix A for the general information of the public and the municipality. The boundaries of the Southern Woodlands District, as set forth above in this Decision, shall prevail over any map.

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

regional importance, that there may exist problems of uncontrolled or inappropriate development within the District which would affect 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 Southern Woodlands District is necessary for the prevention of pollution of ground and surface waters in and around the District and the water quality of nearby bodies of water. In addition, lands and waters within and around the District support and affect important wildlife habitats and contribute substantially to the Island's wildlife, natural, scientific and ecological resources.

In considering the problems of uncontrolled or inappropriate development within the Southern Woodlands District, the Commission finds that so important are the values that these lands create and support, 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 any problems of 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 the District cannot assure protection, and that damage to the Southern Woodlands District land and waters 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 Standards and Criteria 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 state-wide 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 Southern Woodlands District qualifies under the Specific Qualifications: Section 2.10, Section 2.40, Section 2.50 and Section 2.80 of the Standards and Criteria ("the Specific

Qualifications"). The Commission finds that the Southern Woodlands 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 Southern Woodlands District meets the Specific Qualifications of Section 2.10, the Drinking Water Resource District; Section 2.40, Wildlife, Natural, Scientific or Ecological Resource District; Section 2.50, Cultural or Historic Resource District; and Section 2.80, Hazardous District.

Section 4.10 Compliance with Standards and Criteria

Section 4.11 Drinking Water Resource District

Information presented at the public hearing and submitted with the nomination papers for the Southern Woodlands District indicates that the District overlays a segment of the Island's sole source aquifer and contains the zones of contribution¹ of two of the Town's major wells; the easterly third of the District lies within the zone of contribution for the Farm Neck well while a lesser portion of the westerly part of the District lies within the zone of contribution² of the Lagoon Pond well. As set forth in the Water Management Act of 1985, local water districts, such as the Oak Bluffs Water District, are required to make a good faith best effort to encourage towns to adopt by-laws that meet the drinking water standards and requirements that are set forth in said Act³. The purpose of these standards and requirements would be to protect the zones of contribution from pollution.

Section 4.12 Wildlife, Natural, Scientific or Ecological Resource District

While the Southern Woodlands have not been formally recognized by established environmental organizations as a unique wildlife or ecological region, it does contain a wide variety of animal and bird life in a relatively concentrated area. The large tracts of woodland contain habitat for forest interior bird species including woodthrush, oven bird, scarlet tanager and several hawk species. Among the mammals found in the area are deer and the ubiquitous skunk⁴. Development around and abutting the Southern Woodlands District has already altered and shrunk the habitat areas normally associated with species as found in the Southern Woodland District.

Section 4.13 Cultural or Historic Resource District

Testimony presented at the public hearing and other information available to the Commission suggests the significance of the Southern Woodlands in terms of the historic resources present, or potentially present. The District is laced with old trails ("ancient

¹Whitman and Howard, 1994, Zone II for Farm Neck well

² Whitman and Howard, 1995, Zone II for Lagoon Pond well

³ Wm. Wilcox, 1998, personal communications

⁴ Mammals on Martha's Vineyard, 1969, A. Keith, D.C.H.S.

ways" being the term used on the Island) that are remnants of the traveled ways that linked settlements in the colonial and pre-colonial eras. Among those which can be found are Chaise Road, the Road to Farm Neck and Old Holmes Hole Road. Such ways offer opportunities for travel from one location to another even today.

The Oak Bluffs Open Space Plan discusses the concern of the residents of the Town for these features and indicates an interest in the preservation of "ancient ways as a means of providing public access through the natural environment and further, an interest in securing public rights to a "cross Oak Bluffs Trail" which would connect the M.V. State Forest and several feeder trails with the downtown and harbor of the town⁵.

According to the records of the Massachusetts Historical Commission, Native Americans were known to have had a settlement at the Head of Lagoon Pond which may have included a portion of the western part of the District⁶.

Also there are indications that there may be animal or insect populations of historical or regional significance along or adjacent to the southerly bound of the District according to the records of the Massachusetts Natural Heritage Program⁷.

Section 4.16 Hazardous District

The soils within the District are of such a composition as to be highly permeable and of low water capacity. Due to the droughtiness of this type of soil, particularly in late summer, the conditions are poorly suited for numerous activities, including cultivation of crops, woodland productivity, lawns, shrubs and shallow rooted trees⁸. The terrain ranges from gently sloping to pockets of moderately sloping land and as such requires careful consideration when placement of man-made structures is attempted.

The District is divided roughly one-third-two thirds by the watershed divides of the Lagoon Pond and Sengekontacket Pond. The western-most portion lies within the Lagoon Pond watershed while the remaining two-thirds, the easterly portion rests within the Sengekontacket Pond watershed. The potential impacts from improper development within the District could have an impact upon those surface water bodies in areas of high sensitivity, namely the poorly flushing thread of the Lagoon and the Major's Cove area of Sengekontacket.

Section 5.00 Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Southern Woodlands District. In adopting the Guidelines, the Commission has

⁵ Town of Oak Bluffs, 1996, Open Space Plan

⁶ Massachusetts Historical Commission, 1996

⁷ Massachusetts Natural Heritage Program, 1988

⁸Soil Conservation Service, 1986, Soil Survey of Dukes County, Mass.

evaluated each of the considerations enumerated by Section 8 of the Act and, in addition, has considered other relevant matters.

The Town shall, in the manner required by the Act, adopt Regulations which at a minimum comply with these Guidelines for the development of the Southern Woodlands District. The Town may adopt such regulations under zoning, subdivision, health, general by-law, or any combination of such authorities that it deems best suited for the purposes of regulating developments within the District. The Commission draws the attention of Town officials to Section 10 of the Act which in part provides: "In adopting such regulations, the Town shall have all of the powers it otherwise had under the General Laws."

Goal

To permit the Town to evaluate the potential impacts of a proposed development for the purposes of creating a stewardship that makes careful use of the resources of the District in order to provide opportunities for appropriate development while maintaining water quality, prevention of pollution, promotion of habitat and maintaining and enhancing recreational and other uses of the District.

Section I Establishment of Guidelines

1. As used herein, the terms "development", "permit" and "regulations" shall have the same meaning as in the Act.
2. The Town shall adopt regulations of the types described in the Act, as appropriate to conforming to these Guidelines to control development within the Southern Woodlands District.
3. In appropriate cases, after notice and public hearing, the Martha's Vineyard Commission may permit a town to adopt regulations which are less restrictive than these Guidelines if the Commission finds that such regulations will carry out the purpose of the Act and the 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 alters the process for referral and review of Developments of Regional Impact according to the Act and the Standards and Criteria for Developments of Regional Impact of the Commission.

Section II General Guidelines for the Southern Woodlands District

1a. The Town of Oak Bluffs shall develop a Resource Management Plan for the District within one year from the date of this Decision.

b. The Town shall appoint a committee, to include representatives of the Planning Board, Conservation Commission, Parks Department, citizens and any other committee or organization it deems appropriate to develop said Plan.

c. The Resource Management Plan for the Southern Woodlands shall, among other things, address the best means of permitting development to occur while assuring the continued viability and protection of the resources present and identified in the Plan. Specific issues to be addressed by the Plan are:

1. assessment of the natural and cultural resources of the District;
2. protection of drinking water and adjacent surface water resources;
3. identification and preservation of cultural and historical sites and values;
4. enhancement of recreational opportunities of both an active and passive nature;
5. consideration of the preservation of woodland landscape and habitat fragmentation issues as well as other land use impacts to habitats;
6. recognition of construction and landscaping limitations inherent in the soils and topography of the District;
7. consideration of alternative methods of development including flexible siting and cluster development in order to meet the goals of the District.

d. In conjunction with and as a part of the Resource Management Plan, the Board of Health, Planning Board, Conservation Commission and Board of Selectmen shall develop, where appropriate, regulations for the control of developments in the District; said regulations shall be consistent with the Resource Management Plan and the Guidelines contained herein.

2. Site Review Committee

a. By regulation the Town of Oak Bluffs shall establish a Site Review Committee whose membership shall be comprised of members taken from the Planning Board, Board of Health, Conservation Commission, Trails and By-ways Committee plus any other boards, committees, groups, or citizens that the Town deems appropriate.

b. Said Site Review Committee may, at its discretion, also consult with any or all of the following:

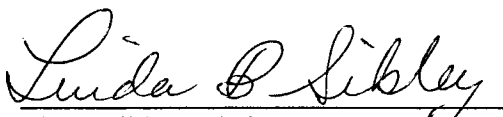
- Nature Conservancy
- Mass. Natural Heritage Program
- Mass. Historical Commission
- Conservation Coalition or any individual member groups thereof

- Land Bank
- member(s) of the Martha's Vineyard Commission

c. The regulations adopted shall provide that:

1. The Site Review Committee shall review all permit applications and accompanying information submitted by applicants seeking permits.
2. The Site Review Committee shall hold meetings with applicants and other interested parties, and shall report its findings and recommendations to the permit granting authority.
3. The regulations shall establish time limits in which the Site review Committee shall meet and act. The time within which the Site Review Committee shall meet and render its report may vary as to activity or use being reviewed.
4. The Site Review Committee shall advise the permit granting authority on those matters the permit granting authority is required to act upon. Such regulations shall also provide that failure of the Site Review Committee to have adopted a report within a specific timeframe shall be construed as a recommendation of approval. A report by the Site Review Committee, shall be filed in the Office of the Town Clerk, within the time specified.
5. The report of the Site Review Committee shall, among other things, advise the permit granting authority as to those issues enumerated in the Goals for the District and in the Resource Management Plan.
6. Membership terms shall be staggered and regulations shall provide for the filling of vacancies as they occur.

By vote of the Martha's Vineyard Commission
May 14, 1998


Linda Sibley, Chair

Bibliography

The Martha's Vineyard Commission, 1991, Martha's Vineyard Commission Regional Island Plan

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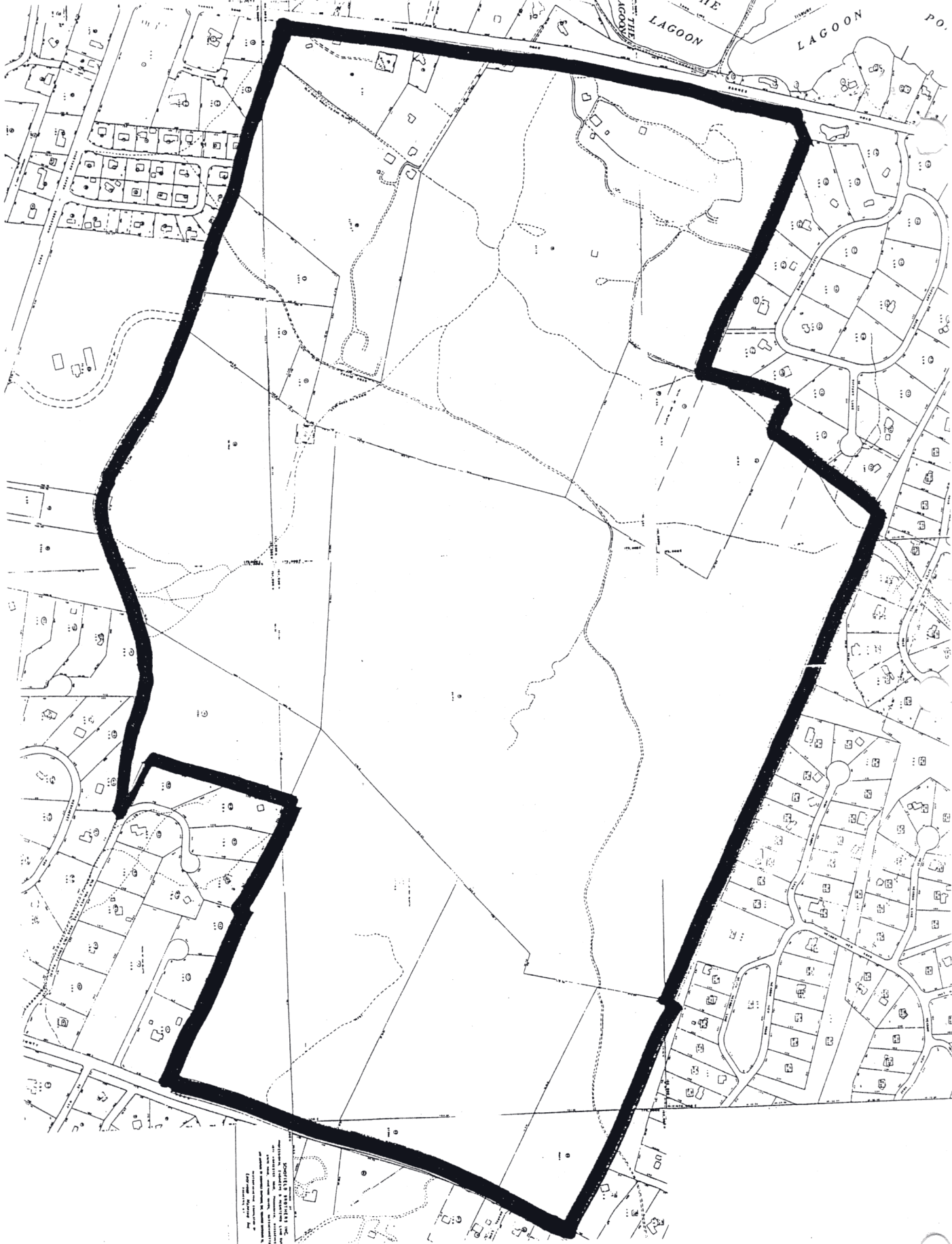
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SOUTHERN WOODLANDS
DCPC BOUNDARIES

TOWN OF OAK BLUFFS

