

COPELAND PLAN DISTRICT, TOWN OF OAK BLUFFS, RESCISSION

Public Hearing January 21, 2010

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1. THE COPELAND PLAN DISTRICT

In 1871, Robert Morris Copeland drew plans for a large residential development to the east and south of the Campground. The Copeland Plan included clustered residences surrounding open parks, taking its form from the popular Campground. This area still looks much the same as it did 100 years ago, and the architecture and open parks are a treasured part of the charm of Oak Bluffs.

The Copeland Plan DCPC initially encompassed the jewel of the Copeland Plan, Ocean Park. Since then, the Town and petitioners have thoughtfully requested and were granted expansions of the District to include its present configuration, covering much of the original Copeland Plan (with the notable exception of the B-1 commercial properties).

The Copeland Plan DCPC is narrowly focused on review of exterior architectural features. There is no authority under the Zoning Act for the towns to regulate architecture. The DCPC designation provided the Town with this mechanism to preserve its treasured Victorian architecture, which has since been complemented by adoption of the Cottage City Historic District in accordance with MGL Ch 40c. In 2004, and 2009, the Town requested and MVC found in conformance requests to slightly change the makeup of the review committee.

The Copeland Plan District:

Ocean Park (Area A) – 1991

Nashawena, Waban Parks & Lover's Rock (Area C) – 1992

Areas B and D – 1993

Sunset Lake (Area E) – 2001

North Bluff (Area F) – 2004

2. PROCEDURAL NOTES

Purpose of hearing: To review **RESCISSION** of the Copeland Plan District in the Town of Oak Bluffs. The Board of Selectmen has asked the MVC to consider whether the Copeland Plan DCPC is now duplicative of the Cottage City Historic District in the areas where there is overlap. After a public hearing, the Commission will vote on whether **THE COPELAND PLAN DISTRICT SHOULD BE RESCINDED**. In making a decision, the Commission will be guided by the same principles as for designation, namely the Critical Planning District Qualifications (attached). Of particular interest is the standard "that present public or private regulations in a substantial part of the district cannot assure protection...". The Commission found that to be true in 1991, when there was no mechanism for the Town to regulate the architecture of the District. Since the Cottage City Historic District was adopted, is protection now adequate without the DCPC? That is the basis for the Commission decision. Should the Commission find that there is no longer a need for DCPC protection, rescission would be an option.

Should the Commission find that there remains need for DCPC protection, there remain options available:

- The Copeland Plan District designation guidelines appear to support adoption of the more detailed regulations presently in place for the Cottage City Historic District (would still require public hearing). The CCHD could be “absorbed” into the Copeland Plan District and administered by the same board.
- The Copeland Plan District could remain intact as is, and ways found to deal with the review redundancy. The boards could meet at the same time and place (most of the people are the same), for example.

3. COPELAND PLAN AREA REVIEW

There are three separate review boards with responsibilities in the general area of the Copeland Plan (not precisely the same geographic coverage). The Copeland Plan DCPC provides review for “appropriateness” in keeping with the architecture of the District. The Cottage City Historic District provides review empowered (and restricted) by the Commonwealth’s Historic District statute. The Oak Bluffs Historical Commission provides town-wide limited review for structures older than 100 years, in accordance with the town’s demolition delay by-law.

The regulations, guidance, etc. and maps for the various review functions in the area are printed as a separate package.

4. CORRESPONDENCE

In addition to the request by the Board of Selectmen, correspondence has been received as follows:

- Cottage City Historic District Commission in favor of rescission
- Ronald Mechur, Gail Barmakian and Kerry Scott in opposition to rescission

Correspondence appears as a separate package

Other Relevant Documents Available through the Resource Section of the Commission’s Website
<http://www.mvcommission.org/resources/documents.html>

Decision Designating the Copeland Plan District of Critical Planning Concern

Chapter 831 of the Acts of 1977 as amended

Guidance on Nomination and Designation of Districts of Critical Planning Concern (DCPCs)

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

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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.

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.

¹A 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."