

THE MARTHA'S VINEYARD COMMISSION

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DECISION OF THE MARTHA'S VINEYARD COMMISSION DESIGNATING THE TOWN OF AQUINNAH DISTRICT AS A DISTRICT OF CRITICAL PLANNING CONCERN

Section 1.00 General

As authorized by Chapter 831 of the Acts of 1977 ("the Act"), as Amended, the Martha's Vineyard Commission ("the Commission") hereby designates as a District of Critical Planning Concern ("a District") the specific geographical area hereafter described, to be known as the "Town of Aquinnah District of Critical Planning Concern."

The Commission held a Public Hearing at 7:30 p.m. on June 10, 1999 at the Aquinnah Town Hall, State Road, Aquinnah, on the proposed Town of Aquinnah District after due public notice to the municipalities, publication 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 the proposed District as a District of Critical Planning Concern.

The Commission received a nomination from the Aquinnah Planning Board on March 29, 1999 for inclusion of geographic areas into a District. At the April 22, 1999 Special Meeting, the Commission voted to accept for consideration the nominated area.

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

On Thursday, June 17, 1999, the Commission voted to designate the amended area as a District of Critical Planning Concern. Sections 8 through 10 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

Boundaries:

All lands and waters within the corporate bounds of the Town of Aquinnah, except the Indian Common Lands¹ (generally known as the Cranberry Bogs, the Clay Cliffs and Herring Creek) and Settlement Lands.²

Section 3.00 Why the Area Has Been Designated

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

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 supports a finding by the Commission that the Town of Aquinnah District is of regional importance, that potential problems of uncontrolled or inappropriate development exist within 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 land and buildings within the Town of Aquinnah District is essential to the protection of the cultural significance as well as the unique visual character to be found there.

In considering the problems of uncontrolled or inappropriate development within the District, the Commission finds that so important is the visual impact and so important are

¹ Chapter 831 of the *Acts of 1977*, as Amended.

² "Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts Indian Land Claim," September 28, 1983.

the associated cultural values for present and future generations, that 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 to solving the problems of inappropriate development.

The Qualifications require the Commission to address itself to the need of designation, and 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 or loss resulting from inappropriate development. The Commission also finds, after its review, that present private and public regulations in the District cannot assure protection of the rural character of the Town and that damage to the landscape vistas from inappropriate 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 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 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 Town of Aquinnah District qualifies under specific qualifications Section 2.00 of the Standards and Criteria (the Specific Qualifications). The Commission finds that the Town of Aquinnah District meets the 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 Town of Aquinnah District meets the Special Qualifications of Cultural or Historic Resource District, Section 2.50.

Section 4.10 Compliance with Standards and Criteria

Section 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 cultural diversity of the Town and the Island.

The rural character of the Town of Aquinnah is strongly connected with the unique character of the wild oceanfront landscape and its visual dominance of the skyline. The rural Town in the setting of its gently rolling landscape provides a sense of place for residents and visitors alike, drawing large numbers of tourists to enjoy the strangely haunting vistas. In its nomination for the District, the Aquinnah Planning Board described the Town and its history as an ancient Indian settlement as typical of the essence of the Island, "the last truly rural outpost on Martha's Vineyard; the magnificence of the ocean coupled with the human scale of the topography still evoke impressions of what the Island was a hundred years ago." In the Town's Open Space Plan, the Conservation Commission described the Town in similar terms: "A special seclusion, an unparalleled ethnic heritage, and the ethereal dominance of the Town's Clay Cliffs circumscribe a land of wetlands and scrub oak, rolling hills and sand dunes, historical sites and salt air." The Martha's Vineyard Commission has created a number of Districts of Critical Planning Concern in the Town to protect the unique vistas in those areas. For instance, the Moshup Trail District was designated with the goal of "protect[ing] the fragile historic, scenic and natural character of the District from undue visual intrusion." The Gay Head Cliff Area District was designated "to protect the fragile historic, scenic and natural character of the Cliff Area from undue visual intrusion and land use impacts that may be harmful to the District and its users." Those District designations include references to the scenic value of the landscape, including one from the Gay Head Cliff Area Decision: "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 the Vineyard landscapes."

Section 5.00 Guidelines

The Commission adopts the following guidelines ("the Guidelines") for the development of the Town of Aquinnah 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.

The Town of Aquinnah shall, in the manner required by the Act, adopt Regulations which at a minimum comply with these Guidelines for the development of the Town of Aquinnah

District. The Town may adopt such Regulations under zoning, general bylaw or any combination of such authorities the Town deems best suited for the purpose. The Commission draws the Town's attention to Section 10 of the Act, which in part provides: "In adopting such regulations, each municipality shall have all powers it otherwise had under the General Laws." 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.

Section 5.10 Goal

To protect the scenic character of the District from undue visual intrusion.

Section 5.20 Establishment of Guidelines

As used herein, the terms "development", "permit" and "regulations" shall have the same meaning as in the Act.

The Town shall adopt Regulations of the types described in the Act, as appropriate to conform to these Guidelines to control development within the Town of Aquinnah District.

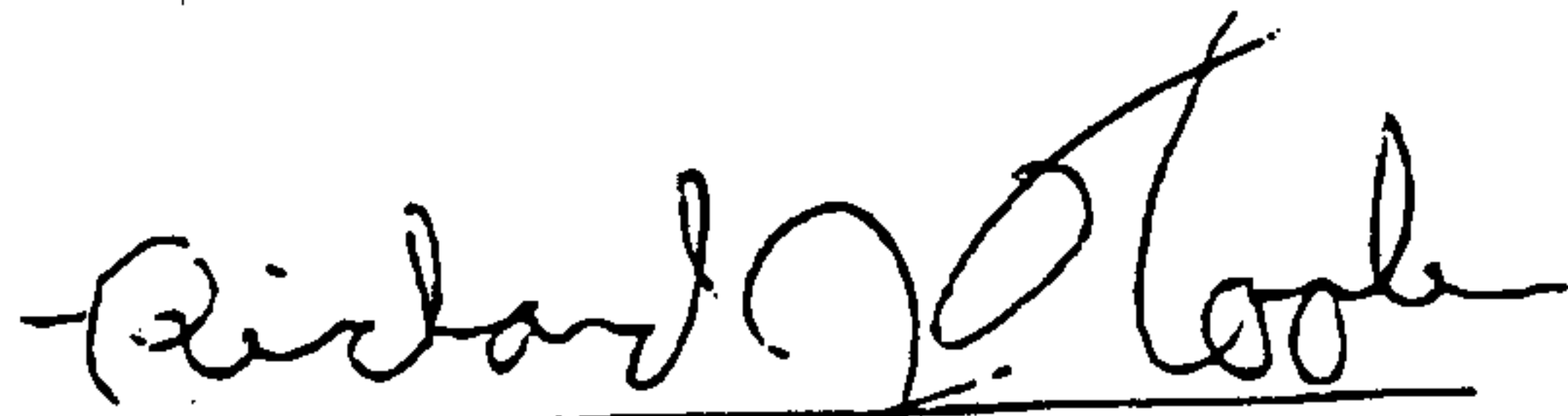
In appropriate cases, after notice and a Public Hearing, the Martha's Vineyard Commission may permit a town to adopt Regulations that are less restrictive than these Guidelines if the Commission finds that such Regulations will carry out the purpose of the Act and the intent of these Guidelines for the District.

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

- That appropriate exterior design, height and/or siting Regulations shall be developed for any potential new structure proposed for construction within the District to ensure that any and all new construction shall be consistent with the rural character of the Town of Aquinnah and shall not radically alter or interrupt the existing skyline of the Town as viewed from any public way, including any public water body and including the lookout at the Gay Head Cliffs.
- That the appropriate administration of exterior design, height and/or siting Guidelines, through a procedure to include site plan review, be developed; and that the site plan review procedure include clear and objective criteria for review.
- That appropriate Regulations be developed to address the moving, removal or alteration of any stone wall in existence as of June 1, 1995.

- That appropriate Regulations be development to address issues of excessive removal of trees and other vegetation, including considerations of public safety as well as the desire to screen development from public vistas and to preserve the integrity of the landscape.

BY VOTE OF THE MARTHA'S VINEYARD COMMISSION
JUNE 17, 1999


Richard J. Toole, Chairman