

ISLAND ROAD DCPC COMMITTEE
DRAFT AMENDMENTS FOR DISCUSSION PURPOSES
Staff **draft** 9 22 11

DRAFT Amendment of Section 4.10 Compliance with Criteria and Standards

4.12 Cultural and Historic District: Special Ways

Special ways are a rare or unique resource and make an unusual contribution to the diversity of the Island character for various reasons, often depending on the particular way in question. 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 and provide a means of retracing historical 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.

Because of their ties to the Island's past, special ways have an exceptional historic, cultural and symbolic importance, and the visual character of these ways is crucial to this importance. To retain this significance, however, they must be maintained in a condition that allows visitors and residents to see what Island life was once like. If a special way were destroyed, its replication would take extraordinary effort and expense, and in all events such replication would lack the same historic, cultural and symbolic significance if it did not retrace the actual routes that were once traveled by past residents of the Island.

For the above reasons, special ways are a unique historical, archaeological, and cultural resource of regional and statewide significance, and include places, landscapes, ways and views which are especially expressive of the character of the Island, traditions of its residents, and of special interest to Island visitors.

In terms of their present and potential use, including recreational use, the special ways vary according to their nature. In some cases, they provide public rights of 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 is not necessary to a special way designation, nor does the Commission determine property rights through such a designation. However, those special ways presently accessible to some or all members of the public offer a recreational resource which can be developed as a means to experience the Island landscape by slower means of transportation, such as walking, horse-back riding, or possibly bicycling; and those special ways that are private, as well as those whose status is in doubt, may reasonably be made accessible through landowner agreements, court determinations, and other means, but only if their historic character is preserved. Thus, regardless of whether such ways are wholly private or subject to public rights of travel, this is clearly a case where proper development guidelines at this time could preserve the historic aspects of old ways while enhancing them for existing or potential use by Island residents and visitors.

Provided that the character of the special way is protected, nearby development is not as injurious as it might be along major vehicular transportation corridors because it is not accompanied by problems associated with vehicular traffic. For those ways open to some or all members of the public, as well as those ways which can reasonably be made so, it could be pleasant to walk or horseback ride through populated as well as unpopulated areas. Vehicular roads in the Special Ways Zone of the Road District should be on new rights-of-way unless the special way (a) was identified as providing the vehicular access for a specific development approved by a development permit prior to the Commission's acceptance of the special way nomination; (b) was the only legal means of vehicular access (e.g., an easement over the special way provided the sole access to a landowner's property) for a development or a use allowed as of right prior to the Commission's acceptance of the special way nomination; (c) is identified by the town 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; or (d) is approved for direct vehicular access by special permit. 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". 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.

DRAFT Amendments of GOALS AND GUIDELINES

Section 5B Goals for Special Ways Zone

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, except where the special way (a) was identified as providing the vehicular access for a specific development approved by a development permit prior to the Commission's acceptance of the special way nomination; (b) was 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; or (c) is identified by the town 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.

DRAFT Amendments of Special Guidelines for the Special Ways Zone

Section 5 V Special Guidelines for the Special Ways Zone

Section 5V.A. Development Guidelines

1. No way or road shall be constructed within the Special Ways Zone which exceeds a width of twelve (12) feet, except that greater width may be allowed by Special Permit after approval by the Martha's Vineyard Commission as a Development of Regional Impact.
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.

3. No special way shall be paved with any impervious material.

Section 5V.B. Uses Within the Special Ways Zone

1. Permitted Uses

Any use permitted by the applicable town zoning district, provided that (1) the development does not result in direct vehicular access to the Special Way, or (2) the special way (a) was identified as providing the vehicular access for a specific development approved by a development permit prior to the Commission's acceptance of the special way nomination; or (b) was 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. However, where a special way, or a portion thereof, is identified by the applicable town as having been routinely traveled by motor vehicles prior to the Commission's acceptance of the special way nomination, continued vehicular use of the same nature and extent as that which existed prior to such acceptance of the nomination of the special way may be permitted.

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, or which results in more intense nature and/or extent of vehicular use. The town may provide for width greater than twelve (12) feet by Special Permit after approval by the Martha's Vineyard Commission as a Development of Regional Impact.

3. Uses Not Permitted.

Any development within forty (40) feet of a special place of historic value as listed on the Special Places Register of the Commission.