



Memorandum

To: Towns of Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury
Town Clerks
Planning Boards
Boards of Selectmen
Conservation Commissions
Boards of Health
Boards of Appeals
Building Officials

From: Jo-Ann Taylor, DCPC Coordinator
Martha's Vineyard Commission

Date: February 23, 2012

Re: **Island Road District of Critical Planning Concern**
Amendments to Section 4.12
Amendments to Goals and Guidelines

Please be advised that on Thursday, December 8, 2011, the Martha's Vineyard Commission held a Public Hearing pursuant to Chapter 831 of the Acts of 1977, as amended (the "Act"), and Massachusetts General Laws, Chapter 30A, Section 2, and the Standards and Criteria regarding designation of a District of Critical Planning Concern (DCPC), adopted by the Commission pursuant to Chapter 637 of the Acts of 1974 and approved on September 8, 1975 by the Secretary of Communities and Development, continued to December 15, 2011. After deliberation on Thursday, January 5, 2012 and Thursday, February 9, 2012, the Commission voted on February 9, 2012 to amend Sections 4 and 5 of the Island Road District designation. In so voting, the Commission noted that the amendments improve the effectiveness of the Island Road District, particularly with respect to the designation criteria in Section 8 of the "Act".

Section 4 includes a description of how the Island Road District meets the criteria for designation, particularly with respect to the Critical Planning District Qualifications. Section 4.12 describes how the Special Ways meet the specific criteria for designation as a Cultural or Historic District. Amendments include replacement of Section 4.12.

The Commission has amended Section 5, the Goals and Guidelines for Development within the District.

Amendment of Section 4.10 Compliance with Criteria and Standards

4.12 Cultural and Historic District: Special Ways (to replace the text of Section 4.12 with the following)

Special Ways are a rare or unique resource and make an unusual contribution to the character of the Island for various reasons, often depending on the particular way. 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. They may provide archeological resources, or means of retracing historic 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. They are literally paths that take us back through the history of life on the island.

Because of their ties to the Island's past, Special Ways may have an exceptional historic, cultural or symbolic importance. The visual character of these ways is crucial to this importance. To retain this importance, however, they must not be altered in a manner that destroys their essential character. If a special way were destroyed, its replication would take extraordinary effort and expense, and in all events such replication would lack most of the historic, cultural and symbolic significance it once embodied.

For the above reasons, Special Ways are unique historical, archaeological, symbolic and cultural resources of regional and statewide significance, and may include places, landscapes, ways and views which are especially expressive of the character of the Island, the traditions of its residents, and what makes the Island of special interest to its visitors.

In terms of their present and potential use, including recreational use, the Special Ways vary in their nature. In some cases, they provide or allow for public access to a 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 of the status is not necessary to a special way designation, nor does the Commission's designation affect the status. Special Ways accessible to some or all members of the public offer an opportunity to experience the Island by slower means of transportation, such as walking, horse-back riding, or bicycling. Those Special Ways that are private, as well as those whose status is in doubt, may at some point in the future be made accessible through landowner agreements, court determinations, and other means, at which time they would provide recreational benefits, provided that their character had been preserved and protected. Thus, regardless of whether such ways are wholly private or subject to public rights of access, this is clearly a case where proper development guidelines at this time could preserve the character of old ways while enhancing them for existing or potential use by Island residents and visitors.

AMENDMENTS TO SECTION 5 ISLAND ROAD DISTRICT GOALS AND GUIDELINES (Amendments February 9, 2012 appear inserted and underlined. 1975 text appears in strike-through.)

Inserted in Section 5.00 Guidelines, before GOALS

The amended Goals and Guidelines apply prospectively to town regulations adopted after February 9, 2012. Existing town regulations that the Commission has determined conform to prior Island Road DCPC Goals and Guidelines are grandfathered and remain in full force and effect.

Amended Section 5B GOALS as follows:

To protect historic places, 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 open primarily for uses such as walking and horseback riding, but not developed by preventing the injurious effects that accompany development of the way as a primary vehicular route, except for. Therefore, new vehicular access, to properties where no should be on new rights-of-way, thus preserving the Special Ways for alternative access exists forms of transportation.

Amended Section 5V SPECIAL GUIDELINES FOR THE SPECIAL WAYS ZONE as follows:

A. Development Guidelines

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. 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").

1. No way or road shall be constructed or expanded within the Special Ways Zone which exceeds a width of twelve (12) feet

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. (See also Section 5.III.A regarding stone walls.)

3. Every attempt shall be made to retain a surface of indigenous sand, clay, gravel and/or grass.

4. No special way shall be paved with any impervious material, such as bituminous concrete or asphalt.

B. Uses Within the Special Ways Zone

1. Permitted Uses.

Any use permitted by the applicable town zoning district, provided that either of the following conditions are met:

The development does not result in direct vehicular access to the Special Way; **OR**

The Special Way meets one or more of the following criteria as determined by the Planning Board

(a) the Special Way is identified as having provided the vehicular access for a specific development approved for a development permit prior to the Commission's acceptance of the special way nomination, provided that the development permit for such development is in effect at the time of development; or

(b) the Special Way is identified as 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 (e.g., an easement over the special way provided the sole access to a landowner's property); or

(c) the Special Way is identified 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.

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.

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.
- Paving with any impervious material such as bituminous concrete or asphalt.