

1                                   **ISLAND ROAD DCPC COMMITTEE**  
2                                   **PROPOSED AMENDMENTS FOR HEARING**

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4                                   **DCPC Committee Recommendation 2011**

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6                                   **Proposed Amendment of Section 4.10 Compliance with Criteria and**  
7                                   **Standards**

8                                   **4.12 Cultural and Historic District: Special Ways**

9                                   Special Ways are a rare or unique resource and make an unusual  
10 contribution to the character of the Island for various reasons, often  
11 depending on the particular way. In general terms, they include, but are  
12 not limited to, roads which have been virtually abandoned or left to  
13 infrequent use. They are usually unimproved, narrow, and rustic, and  
14 generally are not committed to major vehicular travel. They also trace back  
15 to the Island's early history, including, in some cases, its pre-colonial  
16 history. The most ancient Special Ways are among the last vestiges of the  
17 historical travel network of Martha's Vineyard. They may provide  
18 archeological resources, or means of retracing historic accounts and  
19 development. In some cases, the ways are tied to early trades. Some  
20 Special Ways were laid out by the early Proprietors in the course of dividing  
21 commonly owned land into individually owned lots. Some Special Ways,  
22 whether or not so laid out, are referenced in early deeds for purposes of  
23 describing property boundaries and locations. They are literally paths that  
24 take us back through the history of life on the island.

25                                   Because of their ties to the Island's past, Special Ways may have an  
26 exceptional historic, cultural or symbolic importance. The visual character  
27 of these ways is crucial to this importance. To retain this importance,

28 however, they must not be altered in a manner that destroys their essential  
29 character. If a special way were destroyed, its replication would take  
30 extraordinary effort and expense, and in all events such replication would  
31 lack most of the historic, cultural and symbolic significance it once  
32 embodied.

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

38 In terms of their present and potential use, including recreational use,  
39 the Special Ways vary in their nature. In some cases, they provide or allow  
40 for public access to a way, including as dedicated public ways, statutory  
41 private ways, common scheme ways, or otherwise. In other cases, a  
42 special way may be a private way accessible only to the landowner or  
43 easement holders, which may be few or many. The status of the way as  
44 public, private, subject to easements, and who holds what rights therein,  
45 often involves determinations based on complicated legal principles. This  
46 determination of the status is not necessary to a special way designation,  
47 nor does the Commission's designation affect the status. Special Ways  
48 accessible to some or all members of the public offer an opportunity to  
49 experience the Island by slower means of transportation, such as walking,  
50 horse-back riding, or bicycling. Those Special Ways that are private, as  
51 well as those whose status is in doubt, may at some point in the future be  
52 made accessible through landowner agreements, court determinations, and  
53 other means, at which time they would provide recreational benefits,

54 provided that their character had been preserved and protected. Thus,  
55 regardless of whether such ways are wholly private or subject to public  
56 rights of access, this is clearly a case where proper development guidelines  
57 at this time could preserve the character of old ways while enhancing them  
58 for existing or potential use by Island residents and visitors.

## 59 **Proposed Amendments of GOALS AND GUIDELINES**

### 60 **Section 5B Goals for Special Ways Zone**

61 To protect the existing character of Special Ways for all of the  
62 reasons set forth in Section 4.12 (Cultural and Historic District: Special  
63 Ways) and to retain the view of landscapes abutting these ways by  
64 preventing the injurious effects that accompany development of the way as  
65 a primary vehicular route. Therefore, new vehicular access should be on  
66 new rights-of-way, thus preserving the Special Ways for alternative forms  
67 of transportation.

### 68 **Proposed Amendments of Special Guidelines for the Special Ways** 69 **Zone**

#### 70 **Section 5 V Special Guidelines for the Special Ways Zone**

##### 71 **Section 5V.A. Development Guidelines**

72 The Commission finds that these measures are necessary to  
73 preserve the historic, archaeological, symbolic, and cultural character of the  
74 Special Ways, including, in appropriate instances, their character as  
75 primarily for non-motorized forms of transportation. As used herein, the  
76 terms “development” and “development permit” are as defined in Chapter

77 637 of the Acts of 1974 or Chapter 831 of the Acts of 1977, both as  
78 amended, which shall together hereafter be referred to as the “Acts”).

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

83 2. No fences, walls, or structures shall be erected, placed or  
84 constructed within twenty (20) feet of the centerline of the Special Way,  
85 except that lesser setbacks for fences or stone walls may be allowed on  
86 abutting lots of less than one acre in size, taking into account such factors  
87 as height, transparency, materials and natural screening to prevent  
88 creation of a narrow, visually confined effect; in which case the town shall  
89 demonstrate that its regulations allowing such lesser setbacks are  
90 consistent with the purpose of this guideline. (See also Section 5.III.A  
91 regarding stone walls.)

92 3. Every attempt shall be made to retain a surface of indigenous  
93 sand, clay and gravel.

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

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

97 1. Permitted Uses.

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

100 A. the development does not result in direct vehicular access to the Special  
101 Way, **OR**

102 B. the Special Way meets one or more of the following criteria as  
103 determined by the Planning Board

- 104 • (a) the Special Way is identified as having provided the vehicular  
105 access for a specific development approved for a development permit  
106 prior to the Commission's acceptance of the special way nomination;  
107 **or**
- 108 • (b) the Special Way is identified as the only legal means of vehicular  
109 access for a development or a use allowed as of right prior to the  
110 Commission's acceptance of the special way nomination (e.g., an  
111 easement over the special way provided the sole access to a  
112 landowner's property); **or**
- 113 • (c) the Special Way is identified as having been routinely traveled by  
114 motor vehicles prior to the Commission's acceptance of the special  
115 way nomination and the continued vehicular use is of the same  
116 nature and extent as that which existed prior to such acceptance.

117 2. Uses allowed by Special Permit.

- 118 • After referral to the Commission as a Development of Regional  
119 Impact and Commission approval if so required, the town may  
120 allow by Special Permit any use permitted by the applicable  
121 town zoning district which results in direct vehicular access to  
122 the Special Way or which results in more intense nature and/or  
123 extent of vehicular use.

124                   • After approval by the Commission as a Development of  
125                   Regional Impact, the town may allow by Special Permit  
126                   construction or expansion of a Way within the Special Ways  
127                   Zone to a width greater than twelve (12) feet.

128           3. Uses Not Permitted.

- 129                   • Any development within forty (40) feet of a special place of  
130                   historic value as listed on the Special Places Register of the  
131                   Commission.
- 132                   • Paving with any impervious material, such as bituminous  
133                   concrete or asphalt.