



PO BOX 1447, OAK BLUFFS, MASSACHUSETTS, 02557, 508-693-3453
FAX 508-693-7894 INFO@MVCOMMISSION.ORG WWW.MVCOMMISSION.ORG

**Minutes of the Island Road DCPC Committee Meeting
Held on September 22, 2011
33 New York Avenue, Oak Bluffs, MA**

7 **IN ATTENDANCE**

8 Commissioners: (P= Present; A= Appointed; E= Elected)

9 P Christina Brown (E-Edgartown) P Doug Sederholm (E-Chilmark)

10 P Erik Hammarlund (E-West Tisbury) P Fred Hancock (A-Oak Bluffs)

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12 Staff: Jo-Ann Taylor (Coastal Planner, DCPC Coordinator)

13 **Fred Hancock** called the meeting to order at 9:30 p.m.

14 • The staff draft 9 22 11 of Amendments for Discussion Purposes was distributed by **Jo-**
15 **Ann Taylor**.

16 ○ **Erik Hammarlund** moved to take the draft under advisement. The motion was
17 seconded by **Doug Sederholm** and voted unanimously.

18 • The Committee agreed to meet at 8:30 a.m. on Wednesday, September 30, 2011.

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20 The meeting was adjourned at 9:35 p.m.

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22 DOCUMENTS REFERRED TO DURING THE MEETING (attached)

23 • Island Road Dcpc Committee **Draft** Amendments For Discussion Purposes Staff **Draft** 9 22 11

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

29 **DRAFT Amendment of Section 4.10 Compliance with Criteria and Standards**

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31 **4.12 Cultural and Historic District: Special Ways**

32 Special ways are a rare or unique resource and make an unusual contribution to the
33 diversity of the Island character for various reasons, often depending on the particular way in
34 question. In general terms, they include, but are not limited to, roads which have been virtually
35 abandoned or left to infrequent use. They are usually unimproved, narrow, and rustic, and
36 generally are not committed to major vehicular travel. They also trace back to the Island's early
37 history, including, in some cases, its pre-colonial history. The most ancient special ways are
38 among the last vestiges of the historical travel network of Martha's Vineyard and provide a
39 means of retracing historical accounts and development. In some cases, the ways are tied to
40 early trades. Some special ways were laid out by the early Proprietors in the course of dividing
41 commonly owned land into individually owned lots, some special ways, whether or not so laid
42 out, are referenced in early deeds for purposes of describing property boundaries and locations.

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

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

54 In terms of their present and potential use, including recreational use, the special ways
55 vary according to their nature. In some cases, they provide public rights of way, including as
56 dedicated public ways, statutory private ways, common scheme ways, or otherwise. In other
57 cases, a special way may be a private way accessible only to the landowner or easement
58 holders, which may be few or many. The status of the way as public, private, subject to
59 easements, and who holds what rights therein, often involves determinations based on
60 complicated legal principles. This determination is not necessary to a special way designation,
61 nor does the Commission determine property rights through such a designation. However,
62 those special ways presently accessible to some or all members of the public offer a
63 recreational resource which can be developed as a means to experience the Island landscape
64 by slower means of transportation, such as walking, horse-back riding, or possibly bicycling; and
65 those special ways that are private, as well as those whose status is in doubt, may reasonably
66 be made accessible through landowner agreements, court determinations, and other means,
67 but only if their historic character is preserved. Thus, regardless of whether such ways are
68 wholly private or subject to public rights of travel, this is clearly a case where proper
69 development guidelines at this time could preserve the historic aspects of old ways while
70 enhancing them for existing or potential use by Island residents and visitors.

71 Provided that the character of the special way is protected, nearby development is not
72 as injurious as it might be along major vehicular transportation corridors because it is not
73 accompanied by problems associated with vehicular traffic. For those ways open to some or all
74 members of the public, as well as those ways which can reasonably be made so, it could be
75 pleasant to walk or horseback ride through populated as well as unpopulated areas. Vehicular
76 roads in the Special Ways Zone of the Road District should be on new rights-of-way unless the
77 special way (a) was identified as providing the vehicular access for a specific development
78 approved by a development permit prior to the Commission's acceptance of the special way
79 nomination; (b) was the only legal means of vehicular access (e.g., an easement over the
80 special way provided the sole access to a landowner's property) for a development or a use
81 allowed as of right prior to the Commission's acceptance of the special way nomination; (c) is
82 identified by the town as having been routinely traveled by motor vehicles prior to the
83 Commission's acceptance of the special way nomination and the continued vehicular use is of
84 the same nature and extent as that which existed prior to such acceptance; or (d) is approved
85 for direct vehicular access by special permit. As used herein, the terms "development" and
86 "development permit" are as defined in Chapter 637 of the Acts of 1974 or Chapter 831 of the
87 Acts of 1977, both as amended, which shall together hereafter be referred to as the "Acts").
88 The Commission finds that these measures are necessary to preserve the historic,
89 archaeological, symbolic, and cultural character of the special ways, including, in appropriate
90 instances, their character as primarily for non-motorized forms of transportation.

91 **DRAFT Amendments of GOALS AND GUIDELINES**

92 **Section 5B Goals for Special Ways Zone**

93 To protect the existing character of special ways for all of the reasons set forth in Section
94 4.12 (Cultural and Historic District: Special Ways) and to retain the view of landscapes abutting
95 these ways by preventing the injurious effects that accompany development of the way as a
96 primary vehicular route, except where the special way (a) was identified as providing the
97 vehicular access for a specific development approved by a development permit prior to the
98 Commission's acceptance of the special way nomination; (b) was the only legal means of
99 vehicular access for a development or a use allowed as of right prior to the Commission's
100 acceptance of the special way nomination; or (c) is identified by the town as having been
101 routinely traveled by motor vehicles prior to the Commission's acceptance of the special way
102 nomination and the continued vehicular use is of the same nature and extent as that which
103 existed prior to such acceptance.

104 **DRAFT Amendments of Special Guidelines for the Special Ways Zone**

105 **Section 5 V Special Guidelines for the Special Ways Zone**

106 **Section 5V.A. Development Guidelines**

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

110 2. No fences, walls, or structures shall be erected, placed or constructed within
111 twenty (20) feet of the centerline of the Special Way, except that lesser setbacks for fences or
112 stone walls may be allowed on abutting lots of less than one acre in size, taking into account
113 such factors as height, transparency, materials and natural screening to prevent creation of a
114 narrow, visually confined effect; in which case the town shall demonstrate that its regulations
115 allowing such lesser setbacks are consistent with the purpose of this guideline.

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

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

118 1. Permitted Uses

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

129 2. Uses allowed by Special Permit

130 Any use permitted by the applicable town zoning district, which results in direct vehicular
131 access to the Special Way, or which results in more intense nature and/or extent of vehicular
132 use. The town may provide for width greater than twelve (12) feet by Special Permit after
133 approval by the Martha's Vineyard Commission as a Development of Regional Impact.

134 3. Uses Not Permitted.

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

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