

1 ISLAND ROAD DCPC COMMITTEE
2 **DRAFT AMENDMENTS FOR DISCUSSION PURPOSES**
3 Working draft 10 7 11
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5 **DRAFT Amendment of Section 4.10 Compliance with Criteria and Standards**

6 **4.12 Cultural and Historic District: Special Ways**

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

21 Because of their ties to the Island's past, Special Ways have an exceptional
22 historic, cultural and symbolic importance. The visual character of these ways is crucial
23 to this importance. To retain this significance, however, they must not be altered in a
24 manner that prevents visitors and residents from seeing what Island life was once like.
25 If a special way were destroyed, its replication would take extraordinary effort and
26 expense, and in all events such replication would lack most of the historic, cultural and
27 symbolic significance it once embodied.

28 For the above reasons, Special Ways are a unique historical, archaeological, and
29 cultural resource of regional and statewide significance, and include places,
30 landscapes, ways and views which are especially expressive of the character of the

31 Island, the traditions of its residents, and what makes the island of special interest to its
32 visitors.

33 In terms of their present and potential use, including recreational use, the special
34 ways vary in their nature. In some cases, they provide public rights of way, including
35 as dedicated public ways, statutory private ways, common scheme ways, or otherwise.
36 In other cases, a special way may be a private way accessible only to the landowner or
37 easement holders, which may be few or many. The status of the way as public,
38 private, subject to easements, and who holds what rights therein, often involves
39 determinations based on complicated legal principles. This determination is not
40 necessary to a special way designation, nor does the Commission determine property
41 rights through such a designation. However, those Special Ways presently accessible
42 to some or all members of the public offer a recreational resource which can be
43 developed as a means to experience the Island landscape by slower means of
44 transportation, such as walking, horse-back riding, or possibly bicycling; and those
45 Special Ways that are private, as well as those whose status is in doubt, may
46 reasonably be made accessible through landowner agreements, court determinations,
47 and other means, but only if their historic character is preserved and protected. Thus,
48 regardless of whether such ways are wholly private or subject to public rights of travel,
49 this is clearly a case where proper development guidelines at this time could preserve
50 the historic aspects of old ways while enhancing them for existing or potential use by
51 Island residents and visitors.

52 Provided that the character of the special way is protected, nearby development
53 is not as injurious as it might be along major vehicular transportation corridors because
54 it is not accompanied by problems associated with vehicular traffic. For those ways
55 open to some or all members of the public, as well as those ways which can
56 reasonably be made so, it could be pleasant to walk or horseback ride through
57 populated as well as unpopulated areas.

58 **DRAFT Amendments of GOALS AND GUIDELINES**

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

60 To protect the existing character of Special Ways for all of the reasons set forth
61 in Section 4.I2 (Cultural and Historic District: Special Ways) and to retain the view of
62 landscapes abutting these ways by preventing the injurious effects that accompany
63 development of the way as a primary vehicular route.

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

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

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

67 The Commission finds that these measures are necessary to preserve the
68 historic, archaeological, symbolic, and cultural character of the Special Ways,
69 including, in appropriate instances, their character as primarily for non-motorized forms
70 of transportation. As used herein, the terms “development” and “development permit”
71 are as defined in Chapter 637 of the Acts of 1974 or Chapter 831 of the Acts of 1977,
72 both as amended, which shall together hereafter be referred to as the “Acts”).

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

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

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

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

86 1. Permitted Uses

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

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

90 B. the Special Way was identified as one of the following

- 91 • (a) the Special Way was identified as providing the vehicular access for a
92 specific development approved by a development permit prior to the
93 Commission's acceptance of the special way nomination; or
- 94 • (b) the Special Way was the only legal means of vehicular access (e.g., an
95 easement over the special way provided the sole access to a landowner's
96 property) for a development or a use allowed as of right prior to the
97 Commission's acceptance of the special way nomination; or
- 98 • (c) the Special Way is identified by the town as having been routinely traveled by
99 motor vehicles prior to the Commission's acceptance of the special way
100 nomination and the continued vehicular use is of the same nature and extent as
101 that which existed prior to such acceptance; or
- 102 • (d) the Special Way is approved for direct vehicular access by special permit.

103 2. Uses allowed by Special Permit

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

109 3. Uses Not Permitted.

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