

1 ISLAND ROAD DCPC COMMITTEE
2 **DRAFT AMENDMENTS FOR DISCUSSION PURPOSES**
3 Working **draft** 10 21 11
4

5 **DRAFT Amendment of Section 4.10 Compliance with Criteria and**
6 **Standards**

7 **4.12 Cultural and Historic District: Special Ways**

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

24 Because of their ties to the Island's past, Special Ways may have an
25 exceptional historic, cultural or symbolic importance. The visual character
26 of these ways is crucial to this importance. To retain this importance,
27 however, they must not be altered in a manner that destroys their essential

28 character. If a special way were destroyed, its replication would take
29 extraordinary effort and expense, and in all events such replication would
30 lack most of the historic, cultural and symbolic significance it once
31 embodied.

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

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

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

59 **DRAFT 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.

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

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

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

69 The Commission finds that these measures are necessary to
70 preserve the historic, archaeological, symbolic, and cultural character of the
71 Special Ways, including, in appropriate instances, their character as
72 primarily for non-motorized forms of transportation. As used herein, the
73 terms “development” and “development permit” are as defined in Chapter
74 637 of the Acts of 1974 or Chapter 831 of the Acts of 1977, both as
75 amended, which shall together hereafter be referred to as the “Acts”).

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

78 greater width may be allowed by Special Permit after approval by the
79 Martha's Vineyard Commission as a Development of Regional Impact.

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

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

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

91 1. Permitted Uses

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

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

96 B. the Special Way meets one or more of the following

- 97 • (a) the Special Way was identified as providing the vehicular access
98 for a specific development approved by a development permit prior to
99 the Commission's acceptance of the special way nomination; or
- 100 • (b) the Special Way was the identified as the only legal means of
101 vehicular access for a development or a use allowed as of right prior
102 to the Commission's acceptance of the special way nomination (e.g.,

- 103 an easement over the special way provided the sole access to a
104 landowner's property); or
- 105 • (c) the Special Way is identified by the town as having been routinely
106 traveled by motor vehicles prior to the Commission's acceptance of
107 the special way nomination and the continued vehicular use is of the
108 same nature and extent as that which existed prior to such
109 acceptance; or
 - 110 • (d) the Special Way is approved for direct vehicular access by special
111 permit.

112 2. Uses allowed by Special Permit

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

118 3. Uses Not Permitted.

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