

1 ISLAND ROAD DCPC COMMITTEE
2 **DRAFT AMENDMENTS FOR DISCUSSION PURPOSES**
3 Working draft 11 1 11
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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 allow
39 for public access to a way, including as dedicated public ways, statutory
40 private ways, common scheme ways, or otherwise. In other cases, a
41 special way may be a private way accessible only to the landowner or
42 easement holders, which may be few or many. The status of the way as
43 public, private, subject to easements, and who holds what rights therein,
44 often involves determinations based on complicated legal principles. This
45 determination of the status is not necessary to a special way designation,
46 nor does the Commission's designation affect the status. Special Ways
47 accessible to some or all members of the public offer an opportunity to
48 experience the Island by slower means of transportation, such as walking,
49 horse-back riding, or bicycling. Those Special Ways that are private, as
50 well as those whose status is in doubt, may at some point in the future be
51 made accessible through landowner agreements, court determinations, and
52 other means, at which time they would provide recreational benefits,
53 provided that their character had been preserved and protected. Thus,

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

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

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

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

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

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

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

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

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

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

92 1. Permitted Uses

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

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

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

- 99 • (a) the Special Way is identified as having provided the vehicular
100 access for a specific development approved for a development permit

101 prior to the Commission's acceptance of the special way nomination;

102 **or**

103 • (b) the Special Way is identified as the only legal means of vehicular
104 access for a development or a use allowed as of right prior to the
105 Commission's acceptance of the special way nomination (e.g., an
106 easement over the special way provided the sole access to a
107 landowner's property); **or**

108 • (c) the Special Way is identified as having been routinely traveled by
109 motor vehicles prior to the Commission's acceptance of the special
110 way nomination and the continued vehicular use is of the same
111 nature and extent as that which existed prior to such acceptance.

112 2. Uses allowed by Special Permit.

113 • After referral to the Commission as a Development of Regional
114 Impact and Commission approval if so required by the
115 Development of Regional Impact checklist in effect at that time,
116 the town may allow by special permit any use permitted by the
117 applicable town zoning district which results in direct vehicular
118 access to the Special Way or which results in more intense
119 nature and/or extent of vehicular use.

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

124 3. Uses Not Permitted.

- 125 • Any development within forty (40) feet of a special place of
- 126 historic value as listed on the Special Places Register of the
- 127 Commission.
- 128 • Paving with any impervious material.