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Proposal: To adopt a Definition for Special Ways in Section 02.00 of the Tisbury Zoning Bylaw by inserting the following text:

SPECIAL WAYS: Ways which have been so designated to protect old trails and cart paths that are a cultural and historic link to the community's past, and which acted as the original transit route during non-motorized times to the harbor and Lambert's Cove and which also link to other trails, roads, and/or spaces of quiet beauty.

Proposal: To rename section 09.03, entitled "Special Ways Districts" as "Special Ways" and to adopt the following regulation:

09.03 SPECIAL WAYS

Purpose and description: The Special Ways designation protects old cart paths and trails that are cultural and historic links to the community's past, recreational resources for the enjoyment of the outdoors, a conservation resource to accommodate and promote non-motorized forms of travel, links to other trails and roads, and spaces of quiet beauty. The goal of this section is to preserve the character of the old ways and retain the abutting landscape. Additionally, this section is intended to protect against and prevent the injurious effects that would accompany development of the Ways as a primary vehicular route.

Special Ways are often old path which have been abandoned or used infrequently. They are usually unimproved, rustic and narrow, and generally have very little or no vehicular traffic. The oldest Special Ways are among the last vestiges of the travel network of the past. They may provide archeological resources or means or retracing historic accounts of the development of Tisbury.

Special Ways vary in terms of their present and potential recreational and vehicular use. They may provide or allow for public access or they may be private. Determination of whether the public has the right to use a Special Way often involves complex legal principles but such a determination is not necessary for an old way to be designated a Special Way.

The Special Ways Zone includes the designated path or road and adjacent land within 20 feet of either side of the centerline.

Special Ways are designated after a process involving a public hearing, approval of the Martha's Vineyard Commission, and a 2/3 vote of Town Meeting, pursuant to Chapter 831 of the Acts of 1977, as amended.

01. Designated Special Ways:

Red Coat Hill Road: Within twenty feet of either side of the centerline of **Red Coat Hill Road**, from West Tisbury/Tisbury town line easterly to its juncture with Deer Hill Road. (as shown on 2014 Tisbury Assessors' Maps)

Shubael Weeks Road a/k/a Shubael Weeks Path: Within twenty feet of either side of the center line of **Shubael Weeks Road** – From the West Tisbury town line northerly to its juncture with John Hoft Road. (as shown on 2014 Tisbury Assessors' Maps)

02. Uses Permitted:

Any residential, recreational, agricultural or open space use permitted in the respective underlying zoning districts, subject to existing regulations and restrictions, provided that the use does not result in direct vehicular access to the Special Way.

03. Regulations:

01. Development and use within a Special Way Zone shall not block or prevent non-motorized means of travel such as walking, horseback riding, and bicycling along a Special Way.
02. There shall be no alteration of the width or surface materials of a Special Way. This provision is not intended to prevent routine maintenance and repair of Special Ways.
03. No Special Way shall be paved with any impervious material, *such as bituminous concrete or asphalt*, except for segments for which a crossing over is approved by Special Permit from the Planning Board.
04. There shall be no removal of existing vegetation within a Special Way Zone other than to keep the Special Way clear of debris and overgrown vegetation, except as permitted as part of a Special Permit or where the width of a Special Way Zone extends beyond a pre-existing fence or beyond where a fence may be allowed as provided for herein.
05. No stone wall shall be moved, removed or otherwise altered except for repair, except by Special Permit from the Planning Board.
06. No fences, walls, structures, excavations, fill or obstructions shall be made, erected, placed or constructed within the Special Way Zone except by Special Permit from the Planning Board, except for gates, bars or stiles designed to regulate passage for non-

vehicular travel or for vehicular travel where allowed by legal right. However, pre-existing, non-conforming structures, clearings, fences, and gates may be maintained, but may not be expanded. These structures and conditions must be in existence prior to acceptance of the Special Way nomination by the Martha's Vineyard Commission.

Fences exception: Where the Special Way lies within any part of a building lot that is less than one acre in area, fences may be erected within the Special Way as follows:

- Fence must be at least 50% transparent (such as picket fence or split-rail fence).
 - If fence height is under 4 feet, the fence must be at least 5 feet from the center line or 1 foot outside the top edge of the physical embankment alongside the Special Way, whichever is greater.
 - If fence height is 4 to 6 feet, the fence must be at least 10 feet from the center line.

07. Relocation of a portion of a Special Way may be approved by the Planning Board by Special Permit, after holding a public hearing and finding that the relocation would: preserve the continuity of the Special Way, create new trail connections, provide increased public trail access, improve safety, or otherwise enhance the Special Way. Relocation may be considered for the purpose of aligning Special Ways with property lines. However it is beyond the jurisdiction of the Planning Board to either grant or extinguish public or private rights-of-way by such action.
08. Where direct vehicular access is not allowed on the Special Way, vehicular crossing of the Special Way by a dirt, paved or otherwise improved roadway at, or nearly at, right angles may be approved. Proposed crossings must be reviewed and approved by the Planning Board by Special Permit.- This provision does not authorize vehicular travel along the Special Way for any distance to gain access to a property. Consideration of such proposed crossings shall include appropriate means to draw attention to the crossing for people's safety.
09. No non-native plantings shall be allowed within the Special Ways Zone except by Special Permit from the Planning Board.

04. Special Ways Regulations Relating to Vehicular Use:

01. Vehicular use is permitted *as-of* right if the Special Way was so used as a legal means of access prior to acceptance of a the Special Way nomination by the Martha's Vineyard Commission. The nature and extent of pre-existing vehicular use may not be increased without a Special Permit from the Planning Board.

02. In planning development along a Special Way which will result in increased vehicular use of the Special Way, every effort must be made to minimize the length of the Special Way travelled by vehicles, for example through driveway placement.
03. Development or subdivision of land along a Special Way may not use the Special Way for new access when alternative access is reasonably available.
04. Criteria to be used by the Planning Board in review of Special Permit applications for new or increased vehicular use:
 - a. A landowner with existing legal access to the Special Way wishes to develop or sub-divide his land and no other access is reasonably available. In this case, the access points must be located as close as possible to the end of the Special Way nearest a road or as close as possible to the nearest portion of the Special Way already traveled by vehicle.
 - b. In the case of sub-division of the property, a single access driveway or road onto the Special Way is required whenever possible.

05. Additional Consideration:

01. The Planning Board may grant a Special Permit for other development, uses or structures for which the provisions of this section would otherwise deprive the landowner of all reasonable uses.