REPORT OF THE SCONSET FOOT-PATH PUBLIC ACCESS SUBCOMMITTEE

OF THE

ROADS AND RIGHTS OF WAY COMMITTEE

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APPENDICES

A. SUBCOMMITTEE DOCUMENT, "Work Plan." A-1, i-v

B. RESEARCH INFORMATION

1. Digital Archive — Digital Archive

Documents for forty (40) properties abutting the 'Sconset Foot-path and lateral ways, from 5 Baxter Road to 73 Baxter Road, including 4 Nosegay, 29 Broad Street, and 33, 35 and 27 Shell Street. Digital folders for each property contain, as available: copies of the deed, plot plan, tax map, photos of lateral ways and staircases. All information is available in digital form on the disc accompanying the Report of the Subcommittee. Digital archive researched and compiled by Frank Holdgate with photographs by Rob Benchley and Harvey Young.

2. 2010ATM Article #74: Baxter Road Draft Chart 1 — A-2, i-iv

Baxter Road Draft Chart 1 of Parcels Abutting Ways to Bank/Foot-path/Beach as of July 30, 2010 with Introductory Comments researched and compiled by Annie Bissinger Poor. NOTE: Encumbrances have not yet been reviewed and no back titles have been run.

3. List of Baxter Road Properties With Beach Stairs Subject to ConCom Jurisdiction - Summary of Existing Orders of Conditions/Stairs With No Record of ConCom Permits. Researched and compiled by Mary Wawro. B-3, i-v

4. Foot-path Visitor Count: A Snapshot. Prepared by Joan Porter. B-4

C. HISTORIC DOCUMENTS

1. Stackpole, Edouard A., "The Path Along The Bluff," Historic Nantucket, Vol. 20, no 4, April 1973. C-1, i-iii

2. Bachman, Michael S., "Sketch Plan of Land in Nantucket, Mass.," Prepared for: Nantucket County Commissioners of (The Path) - L.C. 11227, June 10, 1981. [This file is located in the Digital Archive, Appendix B-1, because of its size.] Digital Archive

3. Glidden, Richard J., Esquire, "The Glidden Report," July 7, 1981. C-3, i-v

4. Crapsey, Jean, President, Siasconset Civic Association, "Letter to Nantucket Board of Selectmen," August 1, 1985. C-4

5. Seckel, Edward, "Letter to Nantucket County Commissioners," November 9, 1985. C-5, i-iii

6. Vaughan, E. Foley, Esquire, "Sconset Foot-path: Supplemental Memorandum on East-West Ways," to Nantucket County Commissioners, February 5, 1986. C-6, i-iv

7. Vaughan, E. Foley, Esquire, "Memorandum to the County Commissioners," March 1986. C-7, i-iii

8. Archival Information Relating to NHA Holdings and the Contents of a Box at Town Building Containing Documents from 1980 through 1991 Concerning the 'Sconset Foot-path, November 9, 2010. Compiled by Dr. Frances Ruley Karttunen. C-8, i-iv

D. MEDIA ARTICLES

1. Weesner, Ted, "The Impulsive Traveler: Off-Season Nantucket is a non-conformist's delight," The Washington Post, October 1, 2010. http://www.washingtonpost.com/wp-dyn/content/article/2010/10/01/AR2010100104300.html — D-1

2. PLUM TV, Video "Bluff Walk With Mark Donato," July, 25, 2010. http://www.plumtv.com/videos/bluffwalk-with-mark-donato — D-2

3. Gold, Sarah, "36 Hours in Nantucket," NY Times, July 15, 2010. http://travel.nytimes.com/2010/07/18/travel/18hours.html — D-3, i-iv

4. Barsanti, Robert P., "Bluffing," Yesterday's Island, August 21-28, 2008. http://www.yesterdaysisland.com/2008/barsatti/17.php — D-4, i-ii

5. Schneider, Paul, "The Best of Nantucket," Travel and Leisure, April, 2000. http://www.travelandleisure.com/articles/the-best-of-nantucket/1 — D-5, i-ii

E. CONTROL TOOLS

1. Signage: Suggested Wording and Tone. — E-1

2. GHYC Public Walkway Signage. — E-2, i-ii

3. HDC Foot-path Signage: Old, James Grieder, HDC. — E-3, i-v

4. HDC Foot-path Signage: New, James Grieder, HDC. — E-4

INTRODUCTION

In 1930 the Supreme Judicial Court of the Commonwealth upheld a ruling by Judge Davis of the Land Court in regard to the "path along the bluff" in 'Sconset. According to the historic note, "Looking Backward" 75-years ago, in the "Inquirer and Mirror," of April, 2005,

> Judge Davis' decree favored the town of Nantucket and under it the "path along the bluff" which has been used for generations, was to become just what Nantucket had been seeking—open to the public as a foot path between Sankaty and Sconset for all time. The decree of the Supreme Court upholding Judge Davis' decision will be appreciated by all who realize what this narrow, crooked path overlooking the broad Atlantic means to the public.

We have learned many things from our work on the 'Sconset Foot-path Public Access Subcommittee. Perhaps the most compelling is how precious the path is to all Nantucketers, including the residents of the Bluff itself. With the ravages of erosion and the popularity of the Foot-path, the challenge going forward is twofold: How to maintain and preserve public access, on one hand, and, on the other, how to respect the rights of privacy and quietude of the property owners whose homes abut the Path?

As a group of nine citizens representing the island community at-large, as well as the Sconset neighborhood, we have been grappling with these issues for over six months. We believe that the recommendations contained in our Report, when implemented, will address both matters comprehensively and effectively.

We understand that our role has been just one step in the process. We look to the Roads and Right of Way Committee—and the Board of Selectmen—to continue to move forward. From the historic documents, it is evident that these matters have been of concern to citizens for decades. The timing is right, in our opinion, to secure easements on the east-west lateral ways, while committing to implement the recommended Management Plan, thereby demonstrating to the abutters that the Town is serious about undertaking its responsibilities in regard to the management of the Foot-path.

The members of the Subcommittee thank the Roads and Rights of Way Committee for giving us the opportunity to assist with this important work. We stand by to assist in whatever ways we can in the coming weeks and months.

D. Anne Saul Harvey

November 16, 2010

PART I. THE SUBCOMMITTEE

A. Charge to the Subcommittee

The Board of Selectmen (BOS), at the request of the Roads and Rights of Way Committee (R&ROW), endorsed placing Article #74 on the Warrant for Annual Town Meeting (ATM) in April 2010. Article #74 proposed that the voters authorize the Board of Selectmen to acquire by purchase, gift or eminent domain fee or lesser interests in nine certain identified ways connecting Baxter Road, and in the case of Nosegay Lane from Sankaty Road, to the 'Sconset Foot-path. The purpose of Article #74 was to ensure public access, in perpetuity, to the 'Sconset Foot-path from the lateral east-west ways running, for the most part, from Baxter Road to the path. Article #74 was unanimously adopted by vote of Town Meeting.

Just prior to ATM, the Board of Selectmen requested that the Roads and Rights of Way Committee advise it in regard to the disposition of the lateral ways and the management of the Foot-path, as well as the ways. [See Minutes of the BOS Meeting, March 17, 2010 when they are available.] In a March 18 communication to the members of the Committee, R&ROW Chairman Allen Reinhard informed them of the Board's action commenting: "This is a great opportunity for our committee to help resolve, in a constructive and positive way, longstanding issues regarding public access to the Sconset Bluff. The results of the Subcommittee's work could apply to public access policies across the island. The opportunity is to raise awareness of the responsibilities, as well as the rights of public access."

A subcommittee of the Roads and Rights of Way Committee was formed and charged with the following: To make recommendations to the Board [through the R&OW Committee] regarding the management and disposition of the private abutters' ways identified in Article #74 of the ATM warrant. The charge includes, but is not limited to recommending:

1. **Which of the ways should be established as Foot-paths to connect to the existing Siasconset Foot-path**.

2. **Which ways should be eliminated**.

3. **Create management objectives for the Foot-paths including surfaces, litter control, privacy features, restrictions against commercial activity, signs or markings, hours of access and enforcement**.

The role of the Subcommittee is to be advisory to the R&ROW Committee, which, in turn, is advisory to the Board of Selectmen.

B. How the Subcommittee Worked to Meet Its Charge

1. Composition of the Subcommittee

The Roads and Rights of Way Committee held a brainstorming session in late March, along with members of the public, to come to consensus on how a subcommittee might be formed and how it would operate. The decision was made that the composition of the Subcommittee would total nine individuals: two Co Chairs from the R&ROW Committee; one representative from the 'Sconset Civic Association; one representative from the 'Sconset Trust; three or four at-large, community members, one of whom would be a liaison with the Conservation Commission, if possible; and one abutter of the Foot-path. It was also noted that having a surveyor on the Subcommittee would be helpful. The members of the Subcommittee would be elected to serve by the R&ROW Committee.

2. Communications

The Subcommittee would be committed to an open process seeking input from all stakeholders. Communications would be key, with every effort made to keep the community informed of the work of the group, and the three 'Sconset neighborhood groups represented on the Subcommittee agreed to assist with this task. Subsequently, all agendas, meeting notes, minutes and documents have been posted as promptly as possible on the Subcommittee's page on the Town website at http://www.nantucket-ma.gov/Pages/NantucketMA_BComm/sconsetbluffcom

3. Operations

Once duly constituted by vote of the R&ROW Committee, the Subcommittee agreed on a regular meeting schedule and, after identifying the tasks to be completed in order to meet its Charge, developed a comprehensive Work Plan and timeframe. [Appendix A.] Each member of the Subcommittee took on individual tasks of the Work Plan and contributed to the overall effort. The three members from the 'Sconset neighborhood (The 'Sconset Three) coordinated the outreach to the local neighborhood and prepared

the first draft of the Management Plan, based on the feedback received, as well as on subsequent discussions. The Subcommittee has met formally 11 times between May and November, usually twice a month. The secretarial duties, so important to keeping a record of the proceedings, were shared among the members, with Ms. Jeromette Hicks and Mr. Bert Ryder volunteering to take on much of the responsibilities involved, enabling the Subcommittee to more than meet the provisions of the Open Public Meeting Law governing its work. Members of the public were invited to join in the meetings, and copies of all communications were routinely sent to a distribution list of all who requested to be on it. In addition, regular updates were provided to the R&ROW Committee in regard to the progress of the Subcommittee.

4. Membership of the Subcommittee

SCONSET FOOT-PATH* PUBLIC ACCESS SUBCOMMITTEE

D. Anne Atherton, Co Chair	Roads and Rights of Way Committee
Harvey Young, Co Chair	Roads and Rights of Way Committee
Rob Benchley	'Sconset Civic Association
Bob Felch	'Sconset Trust
Jeri Hicks	At-Large
Frank Holdgate	At-Large
Joan Porter	Foot-path Abutter
Bert Ryder	At-Large
Mary Wawro	Conservation Commission Liaison

* NOTE: After working for many months, the Subcommittee decided that, in order to be consistent with historic records, the path along the buff should be referred to as it was originally, "The 'Sconset Foot-path," rather than "The 'Sconset Bluff Walk," as it had been doing.

C. Acknowledgements

The work of the Subcommittee has benefited enormously from the expertise, time and generosity of many of our fellow citizens. We would like to take this opportunity to thank them for their contributions and for their support in assisting us in meeting our Charge. Mostly, we are grateful for the commitment we share to public access, especially to our island's waterfront, and to preserving and protecting all that makes Nantucket uniquely Nantucket.

Brian Chadwick, Member, Board of Selectmen

Georgen Charnes, Librarian and Archivist, Nantucket Historical Association

Carol Dunton, Linda Holland, Lee Saperstein, Susan Whitney, Stalwart Members of the Public

James Grieder, Assistant Administrator, Historic District Commission

Thea Gudonis, Intern, Planning Office

Dr. Frances Ruley Karttunen, Nantucket Historian

Jim Lentowski, Executive Director, Nantucket Conservation Foundation

Erika Mooney, Executive Assistant to the Town Manager

William Pittman, Chief of Police, Town of Nantucket

Annie Bissinger Poor, Title Researcher, Member, Roads and Rights of Way Committee

Nathan Porter, GIS Coordinator, Town of Nantucket

Allen Reinhard, Chairman, Roads and Rights of Way Committee

Dirk Roggeveen and Catherine Dickey, Administrators, Conservation Commission

Milton Rowland, Chairman, Nantucket Commission on Disability

Eric Savetsky, Executive Director, Nantucket Islands Land Bank

The 'Sconset Residents who Participated in Interviews and July and August Meetings at Wade Cottages

The Traffic Advisory Committee of the Town of Nantucket

Andrew V. Vorce, Director of Planning

Jeff Willett, Director, Department of Public Works, Town of Nantucket

PART II. EXECUTIVE SUMMARY

A. Summary of Recommendations

NOTE: The recommendations are listed in the same sequence in which they appear in the body of the Report.

1. The Town and County of Nantucket should proceed with the takings process for all of the lateral ways contained in Article #74**. None should be eliminated**. The Subcommittee believes that it is in the best interests of the public to retain all access options for two reasons: one, it is a fair policy to treat each the same; and, two, given the history of erosion in this area of the island and the consequences for the Foot-path. [Part IV, A, p. 18.]

2. The **Anne's Lane way** between #45 and #47 Baxter Road, which was removed from Article #74 during the course of ATM2010, with the commitment from the property owner that an easement would be negotiated, **should be brought back to ATM2011.** [Part IV, B, p. 18.]

3. **The first phase of negotiations for easements for pedestrian access to the Foot-path should be initiated as soon as possible at the following five (5) locations** to ensure suitable means of public access and egress at the present north and south terminuses, as well as at additional points along the path: The unnamed way between #**65 and** #**67** Baxter Road; the unnamed way between #**61 and** #**63** Baxter Road; **Fraser Lane** (Emily Street) between #**27 and** #**29** Baxter Road; **Rosaly Lane** between #**13 and** #**15** Baxter Road; and **Nosegay**. [Part IV, C, p.19.]

4. The **Town should adopt the proposed Management Plan** that will result in a better understanding of the acceptable uses of the Foot-path, a lower public profile for the path, and a more positive, symbiotic relationship between abutters and visitors to the path. These outcomes will be achieved through the communications of specific Do's and Don'ts, the utilization of certain control tools, including signage, as well as more regular and dependable enforcement and maintenance. [Part V, D, p. 22.]

5. The **pedestrian access ways from Baxter Road to the Foot-path should be marked as open to the public in an unobtrusive manner** and in ways that are consistent with the character of the area. [Part V, F, p. 23.]

6. The Town should **establish a minimum maintenance standard for the Foot-path and pedestrian access ways of four (4) feet in width**. [Part V, G-1, p. 24.]

7. While the Subcommittee is not recommending that the entire Foot-path be surveyed at this time, it is recognized that, **should funds become available, such a survey may be helpfu**l. A survey of the Foot-path could be done in sections, over time, and the Subcommittee recommends that the Town consider such a strategy, perhaps seeking CPC grants for this specific purpose. It should be noted that **all of the ways and small portions of the Foot-path will be surveyed through the takings process**. [Part V, G-2, p. 24.]

8. As part of the information-gathering process, the **Subcommittee has compiled data relating to 19 staircases leading from the Foot-path at the top of the bluff to the beach below**. This information is presented in chart form as an Appendix to the Report, with the consideration that it **might be helpful to Town officials who will be responsible for negotiating the easements** for pedestrian access to the path. [Part V, G-3, p. 25.]

9. In response to and recognition of the concerns of abutters, and others, the **Town should take responsibility for implementation and enforcement of the recommended Management Pla**n for the Foot-path. Ongoing implementation oversight could be provided by the Roads and Rights of Way Committee with the assistance of the 'Sconset Civic Association. [Part V, H, p. 25.]

10. The Subcommittee recommends that **CPC funds received by the Town for public access should be allocated for the initial implementation of the Management Plan, maintenance of the Foot-path and lateral access points, as well as for any one-time capital expenses** such as surveying, signage and other control tools, due to the current constraints of the General Fund. [Part V, I, p. 25.]

Report of the Sconset Foot-Path Subcommittee
Part II, B.
Map Illustrating Recommendations

Legend

Town Land

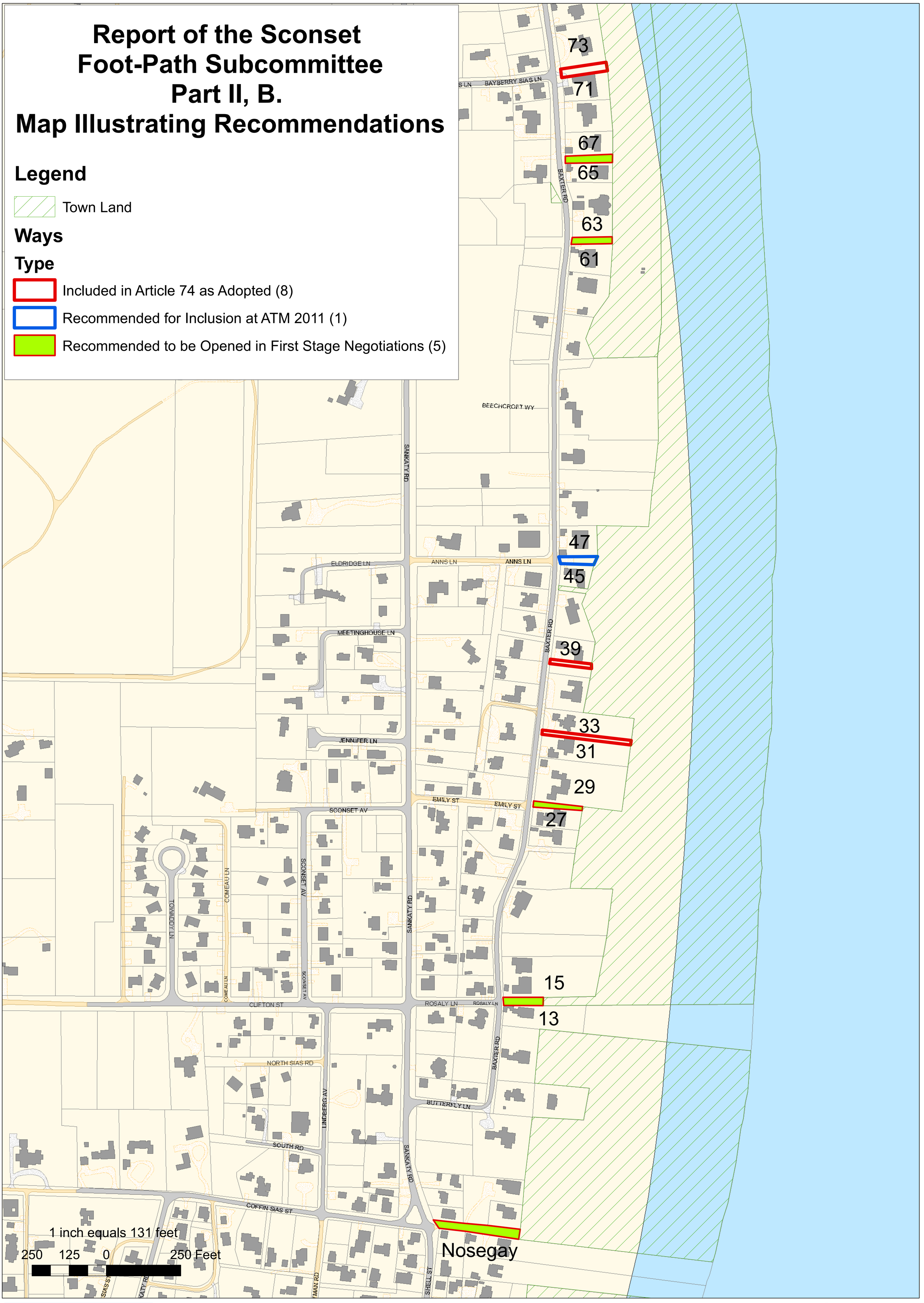
Ways

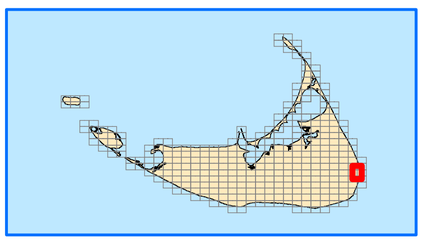
Type

Included in Article 74 as Adopted (8)

Recommended for Inclusion at ATM 2011 (1)

Recommended to be Opened in First Stage Negotiations (5)





Data Sources:

The planimetric data on this mapsheet is based primarily upon interpretation of April, 2003 aerial photography. It was compiled to meet the ASPRS Standard for Class I Map Accuracy for 1"=100' scale maps.

The parcel boundaries are based primarily upon the Tax Assessor's data through December, 2006.

Please send identification of any errors and corresponding corrections to:

GIS Coordinator
Town of Nantucket
2 Fairgrounds Rd
Nantucket, MA 02554

Town of Nantucket
GIS Mapsheet

Nantucket governmental agencies will not necessarily approve applications based soley on GIS data. Applicants for permits and licensesmust inquire of the relevant agency for applicable requiements.

The presence of information of this mapsheet does not necessarily imply public right-of-way or the right of public access.

The data on this mapsheet represents the efforts of the Town of Nantucket and other cooperating organizations to record and compile pertinent geographical and related information utilizing the capabilities of the Nantucket Geographic Information System (GIS). The GIS staff maintains an ongoing program to record and correct errors in these data that are brought to its attention. The Town of Nantucket makes no claims as to the absolute validity or reliability of these data or their fitness for any particular use.

11/16/2010

Footpath Ways

PART III. BACKGROUND

A. A Brief History of the 'Sconset Foot-path

1. Establishment of the Foot-path

A well-researched and succinct history for the 'Sconset Foot-path was written by Edouard A. Stackpole and appeared in Historic Nantucket Vol. 20, no. 4 in April 1973. The article is titled "The Path along the Bluff." [Appendix C-1.] Prior to 1892 "...there had been in existence for many years (perhaps as long as 'Sconset had existed) a Foot-path along the bluff top, which was used by the villagers and by farmers and fishermen." Sheep grazed here by the hundreds, sometimes straying down the bluff. Fishermen used the gullies from the village to 'Sachacha [Sesachacha] Pond to haul up their dories and their catch of fish. The path probably ran all the way from the bluff to the pond. The government's erection of Sankaty Lighthouse in 1849 literally cut the "Path" in half.

Dr. Frances Ruley Karttunen, our present-day Nantucket historian, provided the Subcommittee with a brief overview of the history of the Foot-path from the first set-off of private lands by the proprietors in 1817-21 creating the area know as Plainfield to the acquisition of land along the bluff by Mr. William J. Flagg in 1873.

In August of 1892 Flagg "requests the Proprietors of the Common and Undivided Lands of Nantucket to accept a certain tract of land in that part of Nantucket known as Sankaty Heights, but in perpetual trust nevertheless, for the residents and visitors of Nantucket, and to be used as a foot-path or foot promenade and for no other purpose or purposes whatsoever." On September 21, 1892 the Promenade or Foot-path was accepted by the Proprietors as a Public Foot-path. In 1925 the Town was appointed trustee of the Foot-path through a deed of release.

2. The Lateral Ways and Efforts to Maintain Public Access

No reference was made to the lateral ways between Baxter Road and the Foot-path, even though they were laid out as ways and used by the public. From 1956 to the present, the question of public access over these ways has been unclear. Although the Subcommittee did not conduct extensive research into the matter, it is apparent that the issue of public

access over the lateral ways has been a concern of Nantucket citizens for decades. This is illustrated by documents brought to the Subcommittee's attention. One is a July, 1981 report to the County Commissioners from Attorney Richard J. Glidden "relative to the rights of the inhabitants of Nantucket to use the foot path along the bluff and the various rights of way running Atlantic Street in an east-west direction approximately perpendicular to the path." [Appendix C-3.] A series of documents from 1985 and 1986 record the efforts of The Siasconset Civic Association, village residents and Town officials to secure access to the Foot-path over the "east-west" ways. These papers include an opinion provided to the County Commissioners in a Memorandum written in March of 1986 by Town Counsel, E. Foley Vaughan. It appears from this document that the Town and County officials were poised to take legal action to obtain an unequivocal public right to cross these ways. However, for whatever reasons, this plan did not come to fruition. [Appendices C-4, C-5, C-6, C-7.] Additional papers relating to public access and the lateral ways are contained in a box at Town Building and have been archived by Dr. Karttunen. These papers document the continuing concern expressed by citizens through the early 1990s. [Appendix C-8.]

B. Article #74: The Lateral Ways to the Foot-path

Article #74 authorized the Board of Selectmen to initiate the taking of the following nine lateral ways in 'Sconset running west-to-east from Baxter Road to the Foot-path, and, in the case of Nosegay, from Sankaty Road to the path:

(I) **Five** ways in Siasconset located between the easterly sideline of Baxter Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

Rosaly Lane
Frazer Lane
Ballantine Lane
Wilson Lane
Anne's Lane (sometimes also known as Ann's Lane); and

(II) **Three unnamed ways** in Siasconset located between the easterly sideline of Baxter Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

Unnamed way located on and **between the property at 73 Baxter Road** known as Town Assessor Map 49, Parcel 27 and the property at **71 Baxter Road** known as Town Assessor Map 49, Parcel 26.1;

Unnamed way located on and between the property at **67 Baxter Road** known as Town Assessor Map 49, Parcel 24 and the property at **65 Baxter Road** known as Town Assessor Map 49, Parcel 23;

Unnamed way located on and between the property at **63 Baxter Road** known as Town Assessor Map 49, Parcel 22 and the property at **61 Baxter Road** known as Town Assessor Map 49, Parcel 21; and

(III) **Nosegay Lane** between the westerly sideline of Sankaty Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9.

[The Town Warrant for ATM2010 with Finance Committee motions is available http://www.nantucket-ma.gov/Pages/NantucketMA_TownMeeting/index]

During the course of Town Meeting, the Anne's Lane way (sometimes also known as Ann's Lane) was removed from Article #74. It was understood that the abutter was willing to negotiate with the Town and committed to doing so.

Article #74 was adopted unanimously by voice vote. Passage of the article granted authority to the Board of Selectmen to proceed with eminent domain takings.

As explained to the Subcommittee by Director of Planning Andrew Vorce, the intent of the Town is to negotiate ten-foot pedestrian easements over the ways and make the remaining footage on either side of the "paper roads" available to the abutters for purchase through the "Yard Sale" Program. This will enable the property to be returned to the tax rolls. The abutters will have the title cleared, and the Town will gain a pedestrian easement to the Foot-path in perpetuity.

The advantage to the abutters is that increasing the square footage of their lot changes setbacks from roads and easements, provides area of additional ground cover, changes the status from a road to a Foot-path and the attendant liability of having a road opened, and resolves other legal issues stemming from extinguishing a road. "Takings are a tool that clears the title," Mr. Vorce said. [Subcommittee Minutes, May 20, 2010 at http://www.nantucket-ma.gov/pages/NantucketMA_BluffMin/]

To assist Town officials in the negotiating process, the Subcommittee has gathered information relating to each property that abuts the Foot-path, as well as the ways. This information is contained in a digital archive. The archive includes a folder for each property with copies, when available, of the deed, plot plan, tax map, photos of lateral ways and staircases. The archive is on the disc that accompanies copies of the Report of the Subcommittee. [Appendix B-1.]

C. Present Conditions of the Foot-path and Ways

The Subcommittee conducted an on-site meeting on June 1 and walked the length of the Foot-path as a group. As described in the Minutes of that walkabout by Co Chair Harvey Young, "Some parts [of the Foot-path] are across open lawns, others are through magical, mini-coastal forest, some spots are tightly landscaped with thorny rosa rugosa, others are left natural with a blend of potentially tick-infested brush and grasses, poison ivy and colorful wildflowers. The surface of the path is worn, rutted and susceptible to mud and puddling in some spots." A number of stairs to the beach were observed: "Some old, some new, some wooden, some stone. Some are accessible—open and welcoming, others are locked, and some are posted 'private'. Some are on Town land and others are on lots that extend to the beach." As to the ways in question, each appeared unique and "many have a variety of encroachments. They range from clear and open to completely blocked and obscure. Near the north end [of the Foot-path] it was unclear where it is currently safe to pass and where the path ends." [Subcommittee Minutes, June 1, 2010 at http://www.nantucket-ma.gov/pages/NantucketMA_BluffMin/]

Because of severe erosion in the area, the exact location of the Foot-path is uncertain. In some instances, it might have moved westward due to the deteriorating bluff. Anecdotal evidence suggests that some property owners have relocated the path further east, to provide as great a distance as possible from their homes. The width of the path varies greatly: In some sections, it narrows to a scant one foot. One fact is clear: surveying of the entire Foot-path would be required to determine the precise location of the Foot-path.

At this point in time, the path appears to have disappeared over the bluff just south of Bayberry Lane (#71). A CLOSED sign has been placed on the path at #69.

There is a hodge-podge of signage at the southern terminus of the path at North Gulley. A granite monument, newly installed by the R&ROW Committee, identifies this access point as a PUBLIC WAY.

PART IV. RECOMMENDATIONS REGARDING THE WAYS

A. Which Ways Should Be Eliminated and Why

At its July 27 meeting, the Subcommittee voted unanimously that the Town and County of Nantucket should proceed with the takings process for all of the lateral ways contained in Article #74**. None should be eliminated**. The Subcommittee believes that it is in the best interests of the public to retain all access options, given the history of erosion in this area of the island and the consequences for the Foot-path. This decision, made mid-way in the process, was communicated to the Roads and Rights of Way Committee, as well as the Director of Planning, so that the takings process could continue.
[Subcommittee Minutes, July 27, 2010 at http://www.nantucket-ma.gov/pages/NantucketMA_BluffMin/]

B. Which Ways Should be Added and Why

The Subcommittee also unanimously agreed that **Anne's Lane way**, which was removed from Article #74 during the course of ATM2010, with the commitment from the property owner that an easement would be negotiated, **should be brought back to ATM this year**. The consensus reached was based on the sense that in fairness to all, with no exception to any, all of the ways should be taken. [Subcommittee Minutes, July 27, 2010 at http://www.nantucket-ma.gov/pages/NantucketMA_BluffMin/] It was noted that there were two additional ways removed from Article #74 when it was in draft form: the ways between #23 and #25 Baxter Road and between #53 and #55 Baxter Road. However, this was done as a result of good-faith negotiation between the owners and the Director of Planning and agreed to by the Board of Selectmen because the ways in question intersected properties owned by the same individual and thus are unique situations.

C. Which Ways Should Be Established as Pedestrian Paths to Connect to the 'Sconset Foot-path During the First Phase of Negotiations and Why

The first phase of negotiations for easements for pedestrian access to the Foot-path should be initiated as soon as possible at the following five (5) locations to assure suitable means of public access and egress at the present north and south terminuses, as well as at additional points along the path:

- → the unnamed way between **#65 and #67 Baxter Road**
- → the unnamed way between **#61 and #63 Baxter Road**
- → Fraser Lane (Emily Street) between **#27 and #29 Baxter Road**
- → Rosaly Lane between **#13 and #15 Baxter Road**
- → **Nosegay Lane**

[Subcommittee Minutes, November 9, 2010 at http://www.nantucket-ma.gov/pages/NantucketMA_BluffMin/]

PART V: A MANGEMENT PLAN FOR THE FOOT-PATH

The 'Sconset Bluff Path "to be used as a foot-path or foot promenade and for no other purpose or purposes whatsoever."
— William J. Flagg, August 1892

A. Scope of the Management Plan

The initial work of the Subcommittee was to determine the scope of the Management Plan and to ask the 'Sconset members of the Subcommittee—Rob Benchley representing the 'Sconset Civic Association, Bob Felch, Executive Director of the 'Sconset Trust and Joan Porter, whose family has owned a property abutting the Foot-path for generations—to engage the 'Sconset community in open discussions about the uses and abuses of the Foot-path and the ways leading to the path.

B. Assessment: Current Uses and Issues

Two public meetings were held in 'Sconset (on the lawn in front of the Wade Cottages abutting the Foot-path) hosted by the 'Sconset Civic Association and the 'Sconset Trust. At the July 22nd meeting about 30 people attended. Six of the attendees who spoke are homeowners along Baxter Road, along with three others who abut the Foot-path off Broadway and Shell Street.

A second meeting was held on August 12th. Although not as well attended as the July meeting, it was clear that the abutting owners felt they deserved the "quiet enjoyment" of their homes. During that one-hour meeting, 30 people traversed the Foot-path in front of the Wade Cottages. Discussions with individual abutters were also held throughout the summer.

Discussions covered many topics including:

- opening, closing times
- activities and behavior of users of the Foot-path
- acceptable and unacceptable uses/behaviors
- accessing and exiting the path through private property
- commercial uses of the Foot-path
- joggers
- use of cell phones

- bicycle use and bicycle storage near access points to the Foot-path
- pets, introduction of "doggie bags"
- use of baby strollers
- litter, trash management
- picnicking
- management and maintenance of the Foot-path by the Town and abutters
- options for improving uses/behaviors including additional or replacement signage
- the addition of hardscape devises such as turnstiles
- efforts and methodology to enforce proper uses and deal with abusers
- creation of a short flyer describing proper uses and unacceptable uses
- pros and cons of surveying the Foot-path and ways
- improved delineation of access points
- elimination of existing "Public Way" granite post

Joan Porter, a member of the Subcommittee and abutter to the Foot-path, tallied a portion of the number of walkers using the Foot-path over a six-day period during this past August. The counts were conducted for one-hour periods of time. The one-hour counts were not consecutive. Over the course of six days, the number of walkers coming and going passing the Porter residence at 13 Baxter, near the southern end of the path, was counted. Counts were kept for a total of 27 individual hours. During these hours, 628 passers-by were tallied, resulting in an average of about 23 individuals using the path in front of the Porter's home in an hour. The same passer-by could have been counted twice: both coming and going. This count provides a snapshot of the level of the use of the Foot-path by the public. [Appendix B-4.]

C. Recommendations

The overall conclusion of the meeting participants in 'Sconset is that there has been a dramatic increase in pedestrian volume on the path in recent years. An added degeneration of courteousness and civility accentuate the dilemma for abutters. The attendees voiced an interest in lowering the public profile of the Foot-path including discouraging press and local agencies from promoting the path. Unfortunately, there were a number of regional and national press stories about the Foot-path this summer, and it appears that one article tended to generate another. [Appendices D-1, D-2, D-3.]

There is a discernable difference in the volume of traffic at the south end of the path near the village versus along the northern end of the path. It is clear the heavier and increased volume at the southern end is a significant irritant to the abutters and much of the feedback related to the concentration of visitors comes from the "southern" abutters.

Concerns from abutters living on the northern reaches of the path focused on confusion about entry and exit points and to a lesser degree about behavior of users.

The initial set of enforceable acceptable uses and improved behaviors, is to reassert the existing Town laws and ordinances relating to the noise ordinance, pet management under the leash law and alcohol use under the open-container and other related by-laws.

D. Conclusions of Research and Feedback

The **Town should adopt the proposed Management Plan** that will result in a better understanding of the acceptable uses of the Foot-path, a lower public profile for the path, and a more positive, symbiotic relationship between abutters and visitors to the path. These outcomes will be achieved through the communications of specific Do's and Don'ts, the utilization of certain control tools, including signage, as well as more regular and dependable enforcement and maintenance.

E. Specific Do's and Don'ts

A listing of recommended rules follows:

DO'S

- → Walk
- → Foot-path Open from 7:30 AM to Sunset Year-Round
- → "Eyes-Eastward" Concept – Encourage Viewing of Seascape and Not Into Homes

DON'TS

- → No Commercial Use of Any Kind Including Walking Tours for a Fee
- → No Jogging
- → No Bicycles
- → No Use of Cell Phones

- → No Loitering
- → No Entrance to Private Property
- → No Littering
- → No Picnicking
- → No Pets Off Leash
- → No Drinking

F. Suggested Control Tools

1. Signage: Signage, and other communications, should stress a positive message of protecting the fragile bluff and respecting neighbors and pedestrians.

- → Install new and improved signage at North Gully juncture with Foot-path.
- → Use recommended signage verbiage. [Appendix E-1. Also see Appendices E-3 and E-4 for images of old and new Foot-path signage provided by James Grieder of the HDC.]
- → The **pedestrian access ways from Baxter Road to the Foot-path should be marked as open to the public in an unobtrusive manner** and in ways that are consistent with the character of the area. This could be accomplished with the installation of additional small signs and/or ground markers identifying entrance and exit points and key behavioral ideas. [See Appendix E-2 for public-access signage recently installed as part of the GHYC MCD permit.]

2. Bike Racks: Refer to bike racks located in the village and at Sankaty Lighthouse.

3. Turnstile: Consider installing turnstile, consistent if necessary with ADA requirements, near the southern entrance with a NO BIKES sign.

4. Public Education and Information: Produce a card of Do's and Don'ts for abutters and citizens to hand out.

G. Maintenance, Repair and Survey

1. Re-establish regular grooming of the Foot-path by DPW. The Subcommittee is not recommending any change in the existing surface of the path.

Minimum Maintenance Standard for Width: The width of the easements for the Foot-path and the lateral ways varies, as do the actual widths of the path now. While the Subcommittee is not recommending any specific improvements to the Path or the ways, we do believe the Town should establish a minimum **maintenance standard for the Foot-path and pedestrian access ways of four (4) feet in width**. The Subcommittee understands from the Chairman of the Nantucket Commission on Disability that a four-foot width would be in compliance with guidelines.

Maintenance Cost Estimates: The DPW Head estimates that it takes about 16 to 18 hours to mow the Foot-path in its current condition. The cost is $30 an hour. The path is currently mowed on an average of three times a summer. According to an estimate received by the Subcommittee from an islander who manages a caretaking business, if the services were expanded and provided by a private contractor, the cost for mowing from April through September (18 mowings) would be approximately $4500, based on the rate of $50 hour. Off-season maintenance, including hand trimming and disposal of brush, would be an additional $2000, for a total—maximum—annual expenditure of $6500.

2. Survey ways and adjacent Foot-path approaches.

While the Subcommittee is not recommending that the entire Foot-path be surveyed at this time, it is recognized that, **should funds become available, such a survey may be helpfu**l. A survey of the Foot-path could be done in sections, over time, and the Subcommittee recommends that the Town consider such a strategy, perhaps seeking CPC grants for this specific purpose. In the meantime, the surveying of the lateral ways that will commence as part of the takings process will include surveying a small portion of the Foot-path to the north and south of each lateral way at the intersection point with the path. [See Appendix C-2 in the Digital Archive for a Survey of the Foot-path prepared by Michael Bachman for the County Commissioners, dated June 10, 1981.]

3. Determine access from Foot-path via existing stairways to Town-owned beach.

As part of the information-gathering process, the Subcommittee has compiled data relating to nineteen (19) **staircases** leading from the Foot-path at the top of the bluff to the beach below. In some instances these staircases cross Town-owned land. Such construction, because it occurs on a resource within the jurisdiction of the Wetlands Protection Act and local Bylaw, is subject to permitting by the Conservation Commission. In addition, any construction by a private property-owner on public land should be licensed by the Town. This information is presented in chart form as an Appendix to the Report, with the consideration that it might be helpful to Town officials who will be responsible for negotiating the easements for pedestrian access to the path. [Appendix B-3.]

H. Enforcement

Increased Enforcement and Education: Stepped-up enforcement and education needed in regard to existing Town laws, ordinances and standards.

1. Secure endorsement of Management Plan by the Town and public-safety officials.

2. Seek support from summer police detail in 'Sconset.

In response to and recognition of the concerns of abutters, and others, the **Town should take responsibility for implementation and enforcement of the recommended Management Pla**n for the Foot-path. To ensure implementation of the Management Plan, ongoing attention and oversight could be provided by the Roads and Rights of Way Committee with the assistance of the 'Sconset Civic Association.

I. Funding

The Subcommittee recommends that CPC funds received by the Town for public access should be allocated for the initial implementation of the Management Plan, maintenance of the Foot-path and lateral access points, as well as for any one-time capital expenses such as surveying, signage and other control tools, due to the current constraints of the General Fund.

J. Conclusions

In keeping with the charge as outlined in the Town meeting article, the conclusion of the research suggests that a combination of more effective signage, a lower public profile and a better understanding of acceptable uses and upkeep will lead to a more symbiotic relationship between abutters and visitors to the path.