Sconset Bluff Walk Public Access Subcommittee
of the
Roads and Rights of Way Committee

Charge → To make recommendations to the Board 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 footpaths to connect to the existing Siasconset Bluff Walk.
2. Which ways should be eliminated.
3. Create management objectives for the footpaths including surfaces, litter control, privacy features, restrictions against commercial activity, signs or markings, hours of access and enforcement.

Timeline → Make recommendations to the Roads and Rights of Way Committee on or before November 16, 2010

WORK PLAN *

How are we going to proceed to meet our Charge? What information needs to be gathered for informed decision making?

* Updated November 9

	TASK	RESPONSIBILITY	TIMEFRAME
✓	walk path as a group	All	June 1 - completed
Ongoing	collect documents related to the path; post them on Town website; add appropriate ones to the Town R&ROW archive in the Clerk's office	D. Anne / Help Desk	ongoing
✓	develop DRAFT Work Plan with specific responsibilities and timeline; discuss, modify, fill in and adopt	D. Anne / All	updated August 10, Sept 25
✓	inventory EACH property along path, from south to north, with map and parcel number, as well as street address; include three photos for each: photo from Baxter Road; photo of path in front of property; photo from property to the ocean, including stairs, if there are any; indicate if there is a paper road on the property, whether or not it is included in Article #74; indicate how far east each property extends ,i.e., some of them go to the water, others to the Town-owned property along the beach; **prepare individual electronic file for each property**	Rob, Jeri, Harvey and Frank, also Nate Porter, TON GIS Coordinator; with assistance from Annie Bissinger-Poor of the R&ROW Comm	October 12: ALL info and photos to Frank; October 26: include information and photos re staircases; COMPLETED 11.2

	TASK	RESPONSIBILITY	TIMEFRAME
✓	inventory existing steps to the beach; indicate whether or not they have, one, ConCom permit and, two, if on Town land, Town license; list any conditions of permit and/or license; also expiration date, if any; also, any Chapter 91 Licenses	Mary – Frank will put information on discs once Mary gets it to him; also any photos taken by ConCom staff can go on the discs, if they are forwarded to Frank	October 12; ConCom info completed; request made to Town Manager for TON licensing info; "info cld be found on deeds"
✓	decide on most effective method to determine property lines (surveying, GIS, other) and present layout of path in relation to actual, on-the-ground conditions, the existence of any encroachments, as well as width of foot path and of lateral paper roads; once method considered most effective for the purposes of the Subcommittee is agreed upon, implement it	Subcommittee voted unanimously to recommend to R&ROW that they recommend that the Town proceed with takings process for ALL ways included in Article #74; this will result in surveying to begin	Subcommittee voted on July 27; will make formal recommendation to the R&ROW Committee on August 17; both the R&ROW Chairperson and the Planning Director have been notified "unofficially" of Subcommittee's vote immediately following July 27 meeting; COMPLETED: R&ROW voted unanimously to adopt the Subcommittee's recommendations at August 17 meeting; Mr. Vorce is proceeding with the takings process

TASK		RESPONSIBILITY	TIMEFRAME
✓	contact Town public-safety officials (police and fire) to ascertain if there are any matters related to the Bluff Walk that cause, or may cause public-safety concerns, if additional access points are "opened up"	D. Anne and Bert; rescheduled for Sept; a background memo has been requested ahead of meeting; memo sent; D. Anne and Bert met with Traffic Safety Committee on Sept 7	COMPLETED: Traffic Safety recommends that we be "silent" re parking as parking on Baxter in the summer is already heavy; no public-safety concerns as stretchers can be carried over the turnstiles. [Loose end: contact Mickey Rowland about ADA compliance, if needed.]
✓	work with Sconset residents through the Sconset Trust and the Sconset Civic Association to develop a DRAFT Management Plan for the Bluff Walk; meetings scheduled for July 22 and August 12 from 3:00 to 4:00 PM	Rob, Bob and Joan; draft plan to Subcommittee before first meeting in September	SECOND DRAFT: October 12 as per Subcommittee 9.28 discussion; also research rules and regs for other coastal walks (Jeri/Maine; Frank/Newport; other?); October 26 review 2DRAFT
✓	seek input from Bluff Walk abutters		
✓	consult with appropriate NCF and LB managers re draft Management Plan for the Bluff Walk (police for public safety and enforcement; HDC for signage; other)	Jim Lentowski (NCF) Eric Savetsky (LB)	August 10 August 17
✓	research any historic management tools used for the Bluff Walk: turnstiles; signs; other	Bob will refer to SHRG (Sconset Historic Research Group?); SHRUG inactive; D. Anne asked James Greider for assistance	see photos and suggestions for signage: small signs, rather than one large one; note flat-board fencing

TASK		RESPONSIBILITY	TIMEFRAME
✓	develop recommendations to the Town for enforcement of the recommended Management Plan for the Bluff Walk	D. Anne – invite Chief Pittman to meet with Subcommittee September 7	COMPLETED
✓	develop recommendations for marking and landscaping of public **access** ways to path	seek input from Landscaping Association; D. Anne to contact; also ConCom/Mary; also, Garden Club? (Caroline Ellis?)	October 12: consensus re maintenance is to recommend minimum standard width for Bluff Walk and access paths to be **4 feet**
✓	develop recommendations for landscaping and maintenance of Bluff Walk		
?	ascertain if any property owners along foot path are willing to gift easements for public access to the Town	Bob	October 12: reference to #67; easement already secured? verify with Andrew Vorce
✓	consider the possibility of raising **private** funds from the Sconset community to assist with any expenditures related to the upgrading and maintenance of the Bluff Walk	Rob, Bob and Joan	October 12: consensus is not to pursue at this time
✓	develop estimated budget for any recommended "capital" improvements to the Bluff Walk (signage, turnstiles, etc.), as well as estimated annual maintenance budget	discuss **public** funding with ROW Committee; CPC funding available	October 26: further discussion needed w/Jeff Willett re maintenance costs; estimate received from Carol Dunton
✓	consider the use of Town-owned parcel near Wade Cottages for a pocket park, location for bike racks, brochures with history, rules and regulations governing the usage of the Bluff Walk, etc., and any other use related to pedestrian usage of the foot path; suggestion made by Chairman of ROW; invite him to discuss with the Subcommittee	D. Anne to schedule with Allen; discussion held on August 17 with R&ROW Committee	consensus was NOT to use this land for another use at this time

TASK		RESPONSIBILITY	TIMEFRAME
NA	develop objective criteria with which to consider various recommendations	mooted by July 27 vote to recommend that the Town proceed with takings process for ALL ways in Article #74	NA
NA	weigh options against criteria		NA
✓	develop DRAFT recommendations for review	All	work in progress
✓	organize information gathered into a written resource for subsequent negotiations and other uses	All; D. Anne to coordinate	by November 9 (final meeting)
22	present recommendations to the Roads and Rights of Way Committee, as well as written resource of information gathered	All	**November 16**
✓	recommend which east-west ways should be "opened" with an easement first	All	October 12; October 26: continue discussion; decision made on November 9
✓	revisit taking the three ways that were NOT included in Article #74	All	October 26: continue discussion
25	better understand the Takings Process; legal questions to be asked and answered?	seek responses from Town Counsel?	In progress: compile list of legal questions

→ Additional Follow Up

· check on **Chapter 91 Licenses**, if any, along Bluff Walk; Mary? D. Anne (or Mary) to contact Dave Fronzuto

· check on **progress of negotiations re Anne's Lane lateral path**; if progress in regard to an easement is NOT being made as promised, consider recommending action for next ATM; follow up with bike-path concerns? September update: NO progress so far (9.21.10)

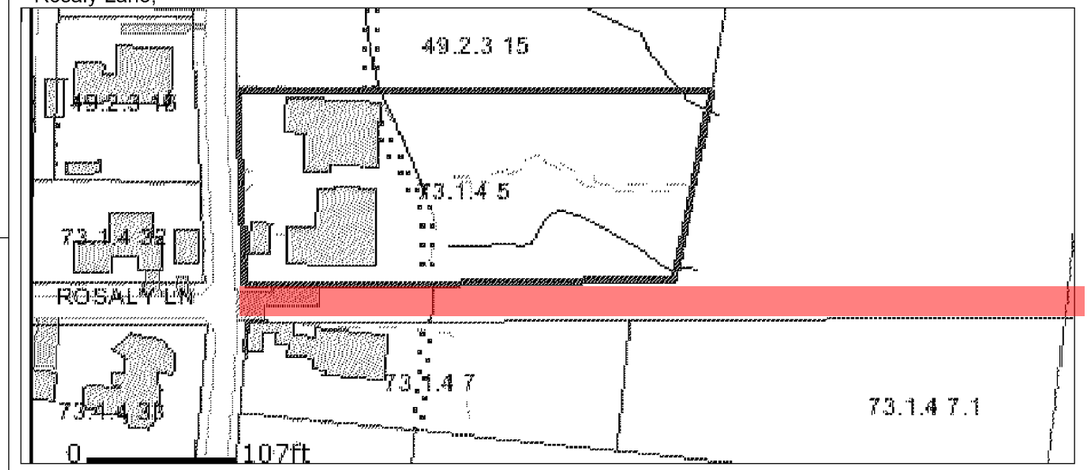
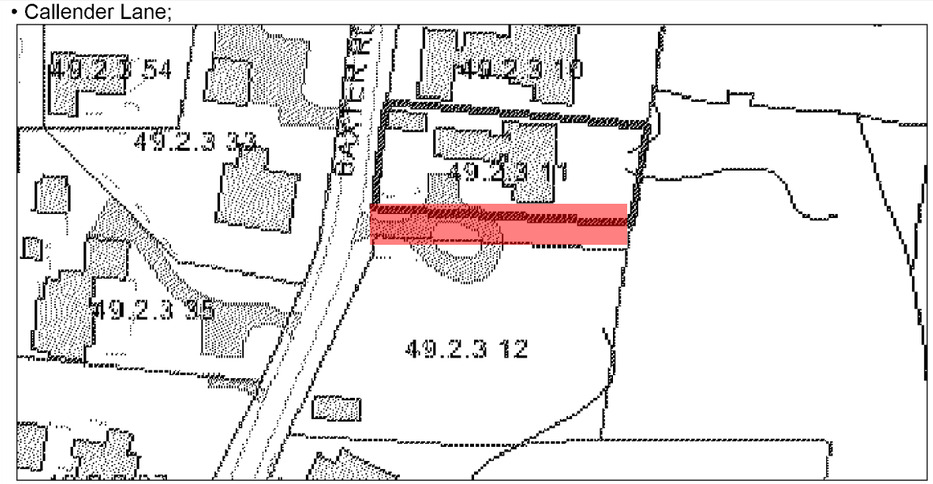
· follow up with **Jeff Carlson**, Beach Manager? consensus this not necessary at this point

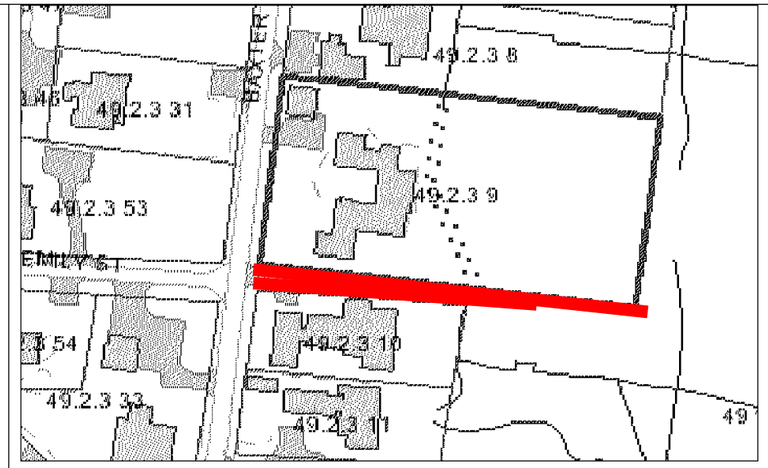
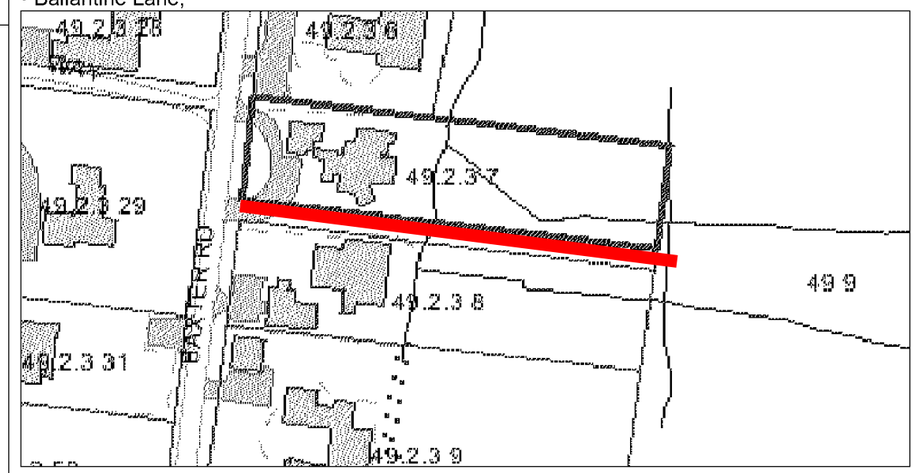
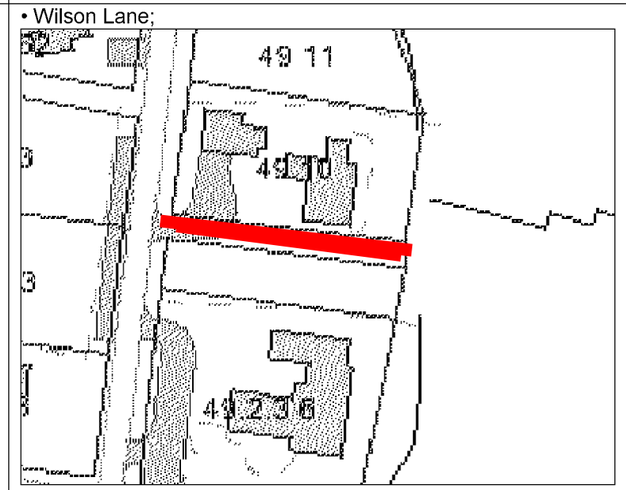
· follow up with Mickey Rowland re **ADA** compliance requirements, if any; Mickey attended meeting of Subcommittee

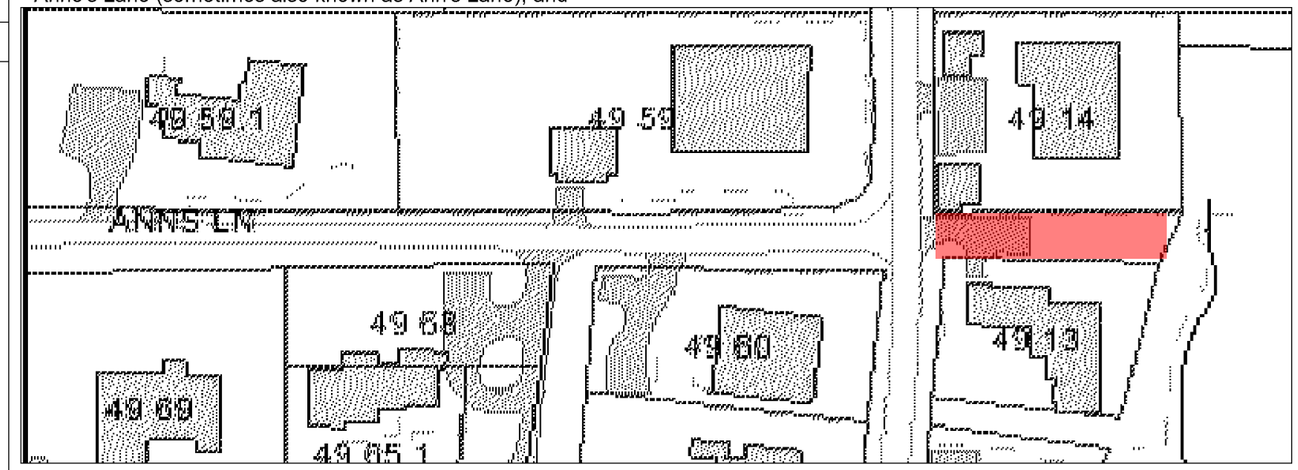
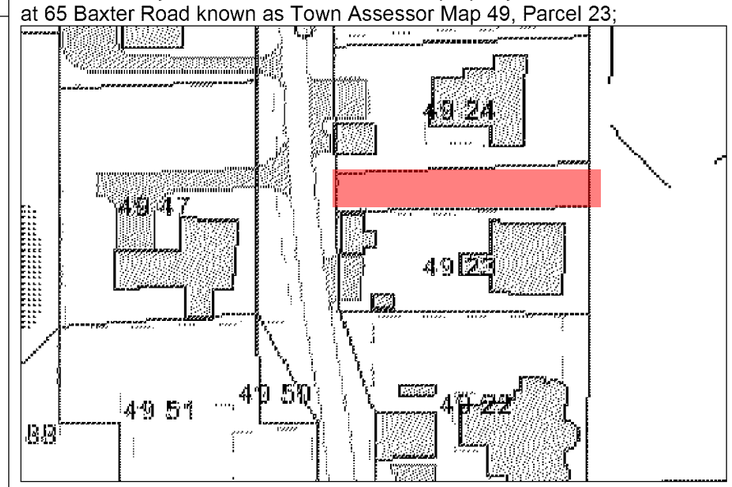
· follow up re easement at **67 Baxter**: D. Anne reminded Andrew and Brian to please check on this

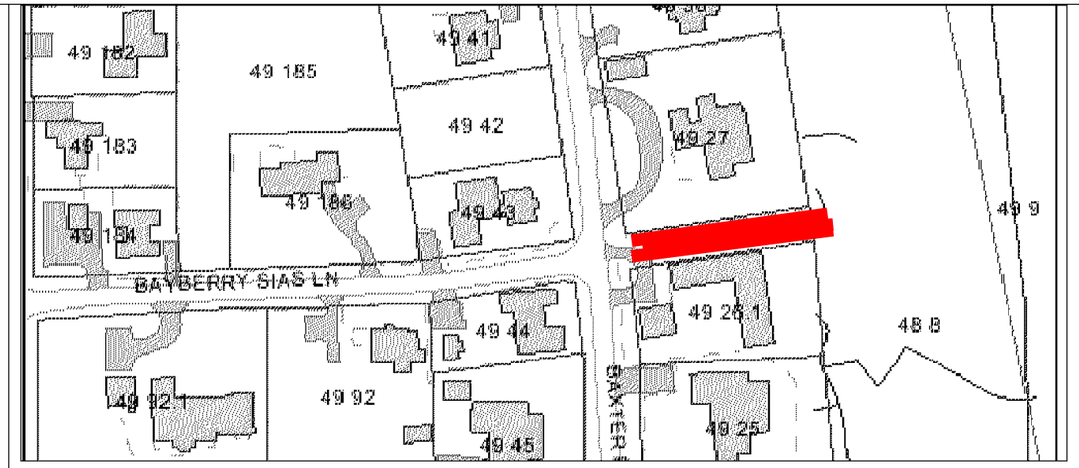
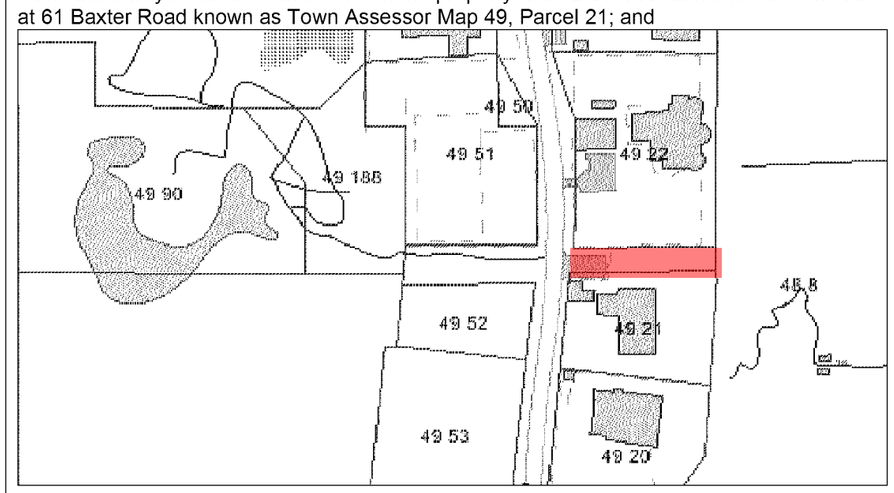
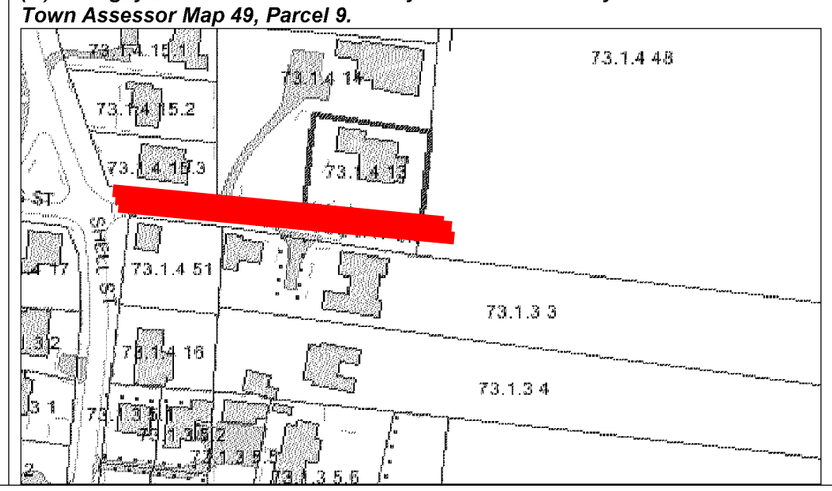
2010 ATM
ARTICLE 74

BAXTER ROAD CHART OF PARCELS ABUTTING WAYS TO BANK/FOOTPATH/BEACH

#	MAP-PARCEL	PLAN	DEED OR CERT	OWNER	ADDRESSES WAYS & FOOTPATH		
13	***7314-7***	***9935-A***	***C 18507***	***PORTER, JOAN BROWN***	• ***So much of the above-described land is included within the limits of the foot path located approximately as shown on said plan is subject to the rights of the Public to use the same; and*** • ***also subject to a right of way two rods wide along the shore above high water; as set forth in a deed from William J. Flagg to the Proprietors of the Common and Undivided Land on the Island of Nantucket, dated December 15, 1883, duly recorded in Book 68, Page 516, of Nantucket County Deeds.***	***Rosaly's Ln***	• Rosaly Lane; 
15	***7314-5***	***L 2 PB 25/56***	***587/156***	***GIBSON, WILLIAM NADINE***	***BY—Rosaly's Lane***	***Rosaly's Ln***	
23	***4923-12***		***980/192***				• Callender Lane; 
25	***4923-11***		***980/194***	***NORTH BLUFF HOLDINGS LLC***			
27	***4923-10***		***1100/330***	***SEA DAZE LLC***			• Frazer Lane;
29	***4923-09***		***C 22667***	***INSIGHT BAXTER LLC***			

							
31	*4923-08*		*516/172*	*CHERRY, DOROTHY M*			• Ballantine Lane;
33	*4923-07*		*944/85*	*BROLL, ARTHUR G., JR., TR*			
39	*0049-10*		*868/198*	*SAUL, ANDREW DENISE*		*2 Parcels in common ownership divided by a way*	• Wilson Lane; 

45	*0049-13*		*928/88*	*READE, ARTHUR I. JR., TR* *4 BAXTER RD NT*		*Anns Ln*	• Anne's Lane (sometimes also known as Ann's Lane); and 
47	*0049-14*		*703/182*	*SOROS, JEFFREY P.*		*Anns Ln*	
63	*0049-22*		*C 19844*	*SINGER, ELIZABETH*			
65	*0049-23*		*707/345*	*PRICE, MICHAEL F.* *JENNIER L.*			• 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; 
67	*0049-24*		*845/269*	*MORNING LIGHT LLC*			
71	*0049-26.1*		*C 21251*	*MERSON, JOHN C.* *BUNEVICH, CAROL S*		*Bayberry*	• 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;
73	*0049-27*		*798/148*	*BRECKER, RICHARD* *JOAN, TRS* *73 BAXTER RD REV TR*		*Bayberry*	

							
93	0048-21		1069/97	FREEMAN, STEVEN T. ERIN P.			• 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 
	7314-53 *7314-51* *7314-14* *7314-13* *7313-3*						***(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.*** 

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

ADDRESS/ ADJACENT WAY	PROPERTY ID	OWNER per NOI	APPLICANT per NOI	DEP FILE NO.	OCC DATE/ CC DATE	PROJECT PERMITTED	SUMMARY SPECIAL CONDITIONS	STAIRS EXTEND ONTO TOWN LAND
3 Baxter	73.1.4 11.2	Stephen and Helen Cohen	same	NAN-093	10/1/2009	Beach access footpath and steps on coastal bank and in buffer zone to coastal dune	All hand work; no machinery on bank face or w/in 50 ft of dune; machinery stored on shell driveway; approved planting w/in 48 hrs of work completion	
11 Baxter	73.1.4 8					No permit		Yes, onto 73.1.4 48
15 Baxter * adjacent Rosaly's Lane	73.1.4 5	William and Nadine Gibson	Same	SE48-1427	3/19/2001	Construction and maintenance of elevated walkway; re-vegetation of existing pathway to a public beach; project on coastal bank and buffer zone and sand dune	Plantings adjacent dwelling and in buffer zone not permitted; construction and maintenance by hand; no vehicles on face of coastal bank; stairway tread elevation between 12 and 24 in. except for transition areas approved by Bldg inspector; no CCA pressure or Creosote treated timber permitted.	
19 Baxter	49.2.3 14					No permit		
23 Baxter * adjacent Callander Lane	49.2.3 12					No permit		Yes, onto 49 9
27 Baxter * adjacent Frazer Lane	49.2.3 10	George and Robin M. Sloan	M/M Gerald Sigal	SE48-271	11/29/1984 5/29/1992		Steps placed in front of back porch stairs; minimize destruction of vegetation during construction; replant after; no coastal engineering structure permitted at any time in future	Yes onto 49 9

29 Baxter * adjacent Frazer Lane	49.2.3 9	Christo pher Kelly Insight Baxter, LLC	Same	SE48 2068	9/26/2007	Construction of stepping stone stairway and associated landscaping w/in coastal bank	Disturbed area covered with organic topsoil; plant bayberry, goldenrod, grape, poison ivy, clematis; raspberry; No rosa rugosa	
31 Baxter * adjacent Ballantyne Lane	49.2.3 8	Michael and Jane Hartrick	David Wiley	SE48 591	6/1/1990 2/1/1991	Beach stairs	No cutting vegetation except under stairs and to keep clear; landing limited to 9x9'; stairway to soil distance no closer than 18 in; applicant and successors to maintain site assuring lasting integrity of vegetative cover; monitor site activities for detrimental impact to on site or off site resource; petroleum products, refuse disposed of off site	
33 Baxter * adjacent Ballantyne Lane	49.2.3 7	Arthur G. Broll, Jr.	Same	SE48 748	10/26/1992 2/7/1994	Stairs and landing first floor deck extension	Natural vegetation between top bank top and buffer intact except for 4 ft path to stair top; disturbed area replanted with natives; 15 ft undisturbed buffer upland of wetland; no fertilizer / pesticide >15 ft from house; no treated timber; suggest no wood in wetlands; stairs 3 ft width; single landing 8x8 ft at 20 ft contour; new deck no closer to bank; no coastal engineering structure in future; stringers 12 to 36 in.	

35 Baxter	49.2.3 6	Michael F. Kuppens. Trustee, Newstreet Trust	?	SE48 1097	4/14/1998 No CC appears in file. Reissuance of CC on 11/5/2004 to Donald and Mary Larson. CC states it is for work allowed by OCC issued to Mrs. Barbara Charleton Condition #17 not set forth in CC Reissuance	Construct / Repair beach stairs over costal bank from top of bank to toe of bank. (NOI states stairs to be constructed; Order states stairs to be repaired. Plan shows new stairs in an entirely.) different location from previously existing stairs.)	#17 "A sign clearly indicating that the stairs are fully accessible to the public shall be placed at the top and the bottom of the stairs. If any safety devices, such as gates or chains are installed, it must be clear to the public that they are not barriers to public access. The signs shall be maintained in perpetuity by the owner in interest and title of the Applicant's property. This condition, among others, shall be considered to be an Ongoing Condition that shall survive the expiration of this Order and shall be so noted on the Certificate of Compliance." No fertilizer or pesticide w/in Con Com jurisdiction – condition survives expiration of order; Future maintenance of stairs allowed "to the extent that absolutely no alterations to the resource area as a result. Vegetation cutting limited to top cutting and only when vegetation hinders safe use of stairs. This is ongoing condition.	Yes, onto 49 9
39 Baxter	49 10 and 49.2.3 04	David Brownwood	David R. Wiley	SE48 685	1/24/1992 9/25/1992	Beach stairs	No pesticide or fertilizer below top of bank; no treated timber; non wood suggested in wetlands; excavation by hand; no machinery; landing with bench 9x9 feet; framing between 18 and 36 in; vegetation control by hand 1 ft each side of stairs	Yes, onto 49 9
41 Baxter	49 11					No permit		Yes, onto 49 9

47 Baxter	49 14 and portion of 9	Philip and Katherine Korsant	Same	SE48 819	12/17/1993 6/8/2001	Set of 2 beach stairs with adjoining footpath	No pesticide or fertilizer below top of bank; no treated timber; non wood suggested in wetlands; excavation by hand; no machinery; footpath limited to 4' width; native vegetation; low maintenance grasses; maintenance by hand limited to 1' on either side of finished stairs; disturbed vegetation to grow back; risers open boards 5/8 to 3/4 '' apart	Yes, onto 49 9
51B Baxter	49 16	Guy K. Bush	Same	SE48 655	6/17/1991 3/28/1996	Beach stairs	No pesticide herbicide or fertilizer; existing footpath to beach maintained by hand; path not to exceed 4' width; no heavy machinery below bank	
53 Baxter	49 17					No permit		
55 Baxter	49 18 and 19	Flagship Nominee Trust	Whitney A.Gifford, Jr.	SE48 1161	4/10/1998 1/19/2001 Condition #17 not set forth in CC	Reconstruction of short set of beach stairs and viewing platform; relocation of dwelling; removal of existing dwelling and landscaping	# 17 "A sign clearly indicating that the stairs are fully accessible to the public shall be placed at the top and the bottom of the stairs. If any safety devices, such as gates or chains are installed, it must be clear to the public that they are not barriers to public access. The signs shall be maintained in perpetuity by the owner in interest and title of the Applicant's property. This condition, among others shall be considered to be an ongoing condition that shall survive the expiration of this order and shall be so noted on the certificate of Compliance." #22 Contrary to final plans, no alteration of the area within 25' of the top of the bank north of the house shall be permitted; a 25' No-Disturb buffer zone shall be established and maintained. #21 top cutting of vegetation permitted only when vegetation hinders safe use of the stairs. (Ongoing Condition.)	

59 Baxter						No Permit		
63 Baxter						No Permit		
67 Baxter						No Permit		

Footpath Visitor Count

Date:	Weds 8/4/2010	Thurs 8/5/2010	Fri 8/6/2010	Sat 8/7/10	Sun 8/8/10	Tues 8/10/10	Total Visitors
Time							
7:00 AM				6	8		14
8:00 AM	21			10			31
9:00 AM			16	15			31
10:00 AM		24	30	22		20	96
11:00 AM				20		35	55
12:00 PM		28		20			48
1:00 PM	34			15			49
2:00 PM	40			20	30		90
3:00 PM				21	30		51
4:00 PM				25	31		56
5:00 PM	36			25			61
6:00 PM		30		15			45
7:00 PM							0
8:00 PM				1			1
Total Visitors	131	82	46	215	99	55	**628**

Runners	22
Wheel Chairs	1

NOTE: The counts recorded above were conducted for one-hour periods of time. The one-hour counts were not consecutive, but random. The same passer-by could have been counted twice: both coming and going. Twenty-seven hours of counting were completed, with a total of 628 walkers tallied, resulting in an average of about twenty-three walkers per hour.

NANTUCKET
HISTORICAL ASSOCIATION

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"The Path Along The Bluff"
BY Edouard A. Stackpole

In recent months there has been a considerable study made of roads and rights-of-way outside the perimeter of the town, and of the original layouts and acceptances by the town. Some of these ways have been difficult to trace but one of the most unusual has had the good fortune to have been carefully documented--the "Path Along the Bluff"--that extensive footpath which leads all the way from the village of 'Sconset to Sankaty Head.

Situated as it is at the top of the bluff, always commanding intriguing glimpses of the sea and the heathland on either side, the "Path" curves and dips as it follows the conformation of the bluff, and provides an entirely unique opportunity for a stroll to and from the famed lighthouse at Sankaty.

Undoubtedly, the most unusual feature of the path is that it is public (being owned by the town) and yet that it leads directly across the front yards of all those owning property fronting on the bluff. A number of years ago there was an attempt by one property owner to close that section of the path running through her front lawn, but a decision rendered by the late Judge Davis of the Land Court upheld the town's contention that the "Path" was a public way.

The owners of the adjacent fronting property have, in most cases, had their grounds landscaped, so that the stroller apparently is walking on and across a series of front lawns and gardens, with only a gap in the hedges to locate the actual "Path." In other instances, the path winds through natural terrain and thickets and in one case wanders through a thicket of Scotch broom. For at least half its mile-length, however, the adjoining property owners have actually maintained the path for public use.

But the fact that it does lead into and across private property has not created a nuisance to the owners of the residences along the bluff. This result has been occasioned by a comparably simple fact that those who take advantage of the opportunity to walk the mile-long path are too deeply appreciative of the experience, and it is rare, indeed, that private property is not respected.

The story of the origin of the "Path Along the Bluff" is interesting from both the legal and esthetic viewpoints. It began three quarters of a century ago, when a summer resident of Nantucket, William J. Flagg, decided to invest in a real estate development at the east end of the island.

It was early in 1873 that Mr. Flagg obtained title to a large section of land between 'Sconset and Sankaty, in that portion of the island laid out by the original Proprietors as "Plainfield," bordering on Sesachacha lots. Although the original title gave him ownership to the foot of the bluff itself, the "Proprietors" reserved for themselves the beach land from the foot of the bluff to mean high water. This later became part of the present Codfish Park.

At the same time, or soon after, Mr. Flagg acquired other land at the east end and made plans for dividing the section into house lots. He was careful, however, to run the easterly boundary of these lots at what he no doubt considered a safe distance from the edge of the bluff.

The "Proprietors of the Common and Undivided Land," controlling as they did the outlying land on the island, were petitioned in July, 1883, by Mr. Flagg, for another set-off. The petitioned requested the Proprietors to "...set off to him [Flagg] by metes and bounds, all the common land lying eastward in the Plainfield division, and by the Atlantic house. Also, all lying between these lines and the lines of Squam division, except the Pond."

The Proprietors duly convened to consider this petition, but it was some months later-—December 8, 1883-—that they agreed to "set off the land to said Flagg" at the same time requesting him to "account said Proprietors with an equivalent of ten sheep commons;" also, "to secure to said Proprietors a roadway two rods wide, over and across those portions of land by him reserved as set forth in the quit claim deed from Flagg."

This set-off by the Proprietors is entered in the town records under date of December 8, 1883, although it was decided upon three months previous. The grant reads:

Pursuant to a vote of the Proprietors of the Common and Undivided Lands of the Island of Nantucket, passed Sept. 26, 1883, we have this day set off to William J. Flagg, of the city and State of New York, as follows:

All the common land lying Eastward of the east line of the Plainfield Division and of the South line of said division of Plainfield on the South, and the south line of the Squam division on the North, with the understanding said Flagg will reconvey a certain portion thereof to said Proprietors, to be held in trust by them.

This was signed by Andrew Myrick, William C. Folger and Allen Coffin, as lot-layers.

This "quit claim deed" referred to as given by Flagg is recorded in Book 68 of the town's registry records. It conveys the land requested by the Proprietors, with exceptions, as follows:

First, all the land lying eastward of the land lying eastward of the land conveyed to me and Eliza Flagg, my wife, by deeds respectively of Frederick M. Pitman (see Book 62, Page 464), and James H. Wood (See Book 66, Page 498), and between the extension of the northern boundary line of the said land purchased of Pitman and the southern boundary line purchased of Wood.

Second, all that tract of land lying eastward and between the extension of the northern and southern boundary lines of a certain tract of land conveyed by me and Eliza Flagg to William Ballantyne, by a deed recorded with the town records.

The land hereby released to be forever held in trust by the said Proprietors and their successors for the purpose of roadways and other public uses and purposes and not to be granted or set off by them in severalty to any individual person or persons.

And I also convey to said Proprietors a right-of-way two rods wide along the shore above the high water mark over and across the tracts of land hereinabove excepted and reserved, said right-of-way 2 rods wide being forever secured to said Proprietors notwithstanding any changes that may hereafter take place on the beach affecting the position of said line of high water mark.

There can be little doubt in the established purpose for the land that Flagg reconveyed to the Proprietors, and which that corporate body agreed to guarantee.

It was in the spring of 1892 that Mr. Flagg sold to a Mr. Heath the most northerly of the lots which he had laid out ten years before. It was then recorded for the first time that the easterly boundary was "a foot path along the top of the bank." This lot was later owned by the Grice family.

Mr. Flagg called his real estate development "Sankaty Heights." He was aware of one fact that has not been fully appreciated-—that there had been in existence for many years (perhaps as long as 'Sconset had existed) a footpath 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 Pond to haul up their dories and their catch of fish. The "Path" probably ran all the way along the bluff to the pond. The government's erection of Sankaty Lighthouse in 1849 literally cut the "Path" in half.

Mr. Flagg must have recognized this fact, for on August 1892, he entered the following petition:

The undersigned 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.

It is provided, however, that the same Proprietors may, when they choose, to convey and transfer the said land in like perpetual trust and for the purpose above-named to the Town of Nantucket or other corporation or body known to control the highways of the Town of Nantucket. William J. Flagg.

On Sept. 1, 1892, Mr. Flagg sold a block of three lots to the late Mary K. Mitchell, and the warranty deed stipulated that the easterly boundary was the footpath along the bank.

On Sept. 3--two days later--the Proprietors voted to accept the tract of land offered by Mr. Flagg as a footpath, and on Sept. 21, 1892, Flagg conveyed the tract to the Proprietors, the tract including that land lying between the easterly tier of lots on the west and the beach upland belonging to said Proprietors on the east, excepting certain lots previously sold and not material to this controversy, the strip of land so conveyed to be held by the Proprietors in trust for the purposes of a footpath along the bank, with authority to convey the land to the town. This deed was recorded in Book 76, Page 342.

On Sept. 22, 1892, Mr. Flagg gave the Mitchell estate a quit-claim deed of all interest in the land lying eastward of the lots theretofore conveyed to her, with the condition that all of the land lying between the east line of said lots and the edge of the bank be kept open for a footpath along the bank; and further reciting :

This deed being subject to my deed of Sept. 21, 1892, conveying the same premises to the Proprietors of the Common and Undivided Lands in Nantucket in trust for uses and purposes therein specified, recorded in Book 4, Page 342.

From the fact that Mr. Flagg had made doubly sure that the "Path" would be preserved it appears that he was cognizant of the long use of the path as a traveled way. His efforts to protect it were further urged by his awareness of its appeal to the summer visitor as a perfect way for a stroll.

The second in the series of legal steps to protect the "Path" came in the next year. The Mitchell estate filed with the Land Court a petition for registration of title to her land, claiming easterly to the ocean. In that case, as in other cases which followed out of this same tract, Judge Davis of the Land Court ruled that title to the strip between the easterly line of the tier lots on the west and the line at the foot of the bank to the east, passed to the Proprietors under said deed of Sept. 21, 1892, and not to the respondent under her deed of Sept. 22, 1892.

Meanwhile, the Mitchell estate had extensively landscaped its grounds, including that portion occupied by the "Path," and had also erected a number of buildings on the beach below.

It was in 1924 that the town voted to seek title to the "Path" through the Land Court. A conference between the late Joseph Kenney, of New Bedford, the town's counsel, and Franklin E. Smith representing the Proprietors, cleared away legal problems, with Mr. Smith suggesting that the Proprietors resign as trustee of the strip (as appointed by Flagg) and that the town be appointed as trustee.

The Proprietors met on May 1, 1925, and voted to give the town a "deed of release to not only the Path, but all the land between the top and bottom of the Bluff along the Path," a distance of some 7,000 feet.

In September, 1924, William S. Swift made a survey for the town, and the plan was accepted by the Proprietors in its release to the town.
When the case came before the Land Court the Mitchell estate claimed the land fronting it (including the Path) by reason of adverse possession.

On December 1, 1929, Judge Davis of the Land Court rendered his decree which legally established the "Path Along the Bluff." In regard to the respondent's claim, he found:

The Sankaty Path is in constant use, and is a matter of importance to all lot owners along the bluff. It is a well-defined path, but, owing to inroads from the sea, needs care and repair. It is in good condition in front of the respondent's house, and her lawn has in no way interfered with the path.

There has been nothing in her care of the bluff that has been in any way adverse to the rights of the Proprietors, or of the Town as their successor in title, nor in any of the said acts of the respondent has there been anything adverse to the purpose of the trust under which title to the strip of land has been held, namely, the maintenance of the path. That portions of it have been used by the respondent for access to the beach and for bathing purposes, or for the housing of her gas engine for lighting her summer residence, has not been inconsistent with a reasonable inference of permission of the part of the Proprietors.

"...There is a decided difference between a user of open tracts of seashore property and similar user in a settled community. Title acquired by adverse possession rests practically on estoppel as a matter of public policy. When an owner has permitted himself to be ousted and another to be in open, notorious and exclusive occupation of his land under a claim of right for a period of twenty years, he has lost the right to assert his title. He does not lose it by a reasonable allowance of the use of a portion thereof by a neighbor and on the while to himself, which does not in any way interfere with his own control of the property for which he himself uses it.

In such case permission is to be inferred; and the more so where title to land is in a public body like the Proprietor. On the facts of this case I find that title by adverse possession has not been acquired against the petitioner and its predecessor.

The Sankaty path runs from the Sankaty Lighthouse southerly to a considerable distance beyond the limits of the Flagg land. The petition and accompanying plan cover the entire path. The southerly boundary line of the Flagg tract, title to which is now in the petitioners, is the northerly line of the public way shown on the filed plan immediately south of the Judkins lot, a little over one-half way down the plan. The northerly line of the strip owned by the petitioners is the southerly line of the respondent Grice which is to be shown on the decree plan.

Many are familiar with Bliss Carmen's poem describing the Path, beginning with the line, "Have you ever heard of 'Sconset," but there is another verse which deserves to be equally well known, as written by Mrs. Abbie Ransom. In part, this reads:

"Have you ever followed the path along the bluff,
When the sky is gray and the sea is rough?
When, shoreward thickening, the fog drifts down
Until homes are the wraiths of a phantom town?
I have followed the path to Sankaty Light,
When the moors were brown and the frost was white,
With the sun a ball on the ocean rim,
Where the Indian Summer breathes with Him,
From the north to the south, a curve is swept,
On the far horizon a soft haze slept.
To the west the moorlands, above the sky,
In all the vast silence, Just God and I."

FILED

James H. Glidden, Esq.
Richard J. Glidden, Esq.

JUL 3 1981

NANTUCKET SUPERIOR
COURT CLERK

Centre St. - Nantucket Mass. 02554
617 228-0771

July 7, 1981

Kenneth W. Holdgate, Jr., Chairman
County Commissioners
Nantucket, Massachusetts 02554

Re: Siasconset Foot Path along the
Bluff and Rights Appurtenant thereto

Dear Chairman Holdgate:

Enclosed please find original and five copies of my report relative to the rights of the inhabitants of the Town of Nantucket to use the foot path along the bluff and the various rights of way running from Atlantic Street in an East-West direction approximately perpendicular to the path.

I have tried to be as concise as possible, but, realizing the importance of the issue I have provided fairly detailed factual information to support my conclusions. While I am confident that my opinion is correct, I must emphasize that the law in this area is not statutory but rather is case law based on judicial opinions and interpretations which often change with changing times and changing judges. However, the facts in this particular matter appear clear cut and I am confident that my interpretation is the most reasonable and most consistent with the existing case law and existing Land Court Decrees.

I trust the report is clear and self-explanatory, however, if you have any questions or require additional information please do not hesitate to contact me.

Very truly yours,

Richard J. Glidden, Att'y

RJG:jay
Enclosures

FILED
JUL 3 1981
NANTUCKET SUPERIOR

OPINION AS TO WHAT RIGHTS, IF ANY, THE GENERAL PUBLIC HAS TO USE THE PRIVATE WAYS RUNNING IN AN EAST-WEST DIRECTION FROM ATLANTIC STREET TO THE TOWN'S FOOTPATH ALONG THE SCONSET BLUFF

This report will deal first, with the present legal status of the Town' acquisition of said property, second, the case law in Massachusetts dealing wi rights of abuttors and the general public in private ways shown on recorded plans, and finally my conclusions as to what rights the Town has in these private ways.

FIRST - The Town's ownership of the land containing the foot-path is evidenced by Certificate of Title No. 1702 on file at the Nantucket Registry District. The Certificate makes reference to Land Court Plan 11227-A which is filed with said Certificate of Title No. 1702. That plan which I will hereinafter refer to as Exhibit "A", clearly shows Atlantic Street and all the priv ways running from Atlantic Street in an Easterly direction to the Town's land. However, there is no mention whatsoever in the Land Court Certificate of Titl of any appurtenant rights of the inhabitants of the Town in any of these ways The only appurtenant rights mentioned in said Certificate of Title are the fo lowing:

> "There is appurtenant to the land hereby registered an easement to maintain over said Grice land a continuation of the foot path along the bank over the land hereby registered."

An examination of Exhibit "A" together with this language leads inescapably t the conclusion that the Court felt this easement was necessary in order to en able the inhabitants to get to the path from Atlantic Street. This theory is reinforced by the fact that on Exhibit "A", the Westerly boundary of the To land, even where it abuts the private ways is a solid line as opposed to a d ed line.

Dealing with the history of the Title, one need only go back two grant in the chain of Title. In 1925, the Proprietors deeded the property to the habitants of the Town of Nantucket, Trustee, as set out in a Deed recorded a Nantucket Registry of Deeds, Book 102, Page 119. The Proprietors were deede the property by William J. Flagg in 1892 by Deed recorded at the Nantucket

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Registry of Deeds, Book 76, Page 342. At that time Flagg owned most of Sank Heights and he had had a couple of sub-division plans drawn and recorded (Exhibits "B" and "C") which he referred to in his Deed. These plans clearly sl the numerous East-West private ways but Flagg makes no mention whatsoever of any appurtenant rights in these ways in his Deed to the Proprietors. In fact an examination of the language in his Deed would lead to the conclusion that did not intend to give any rights, I base this opinion on the following language:

> "so as to form one continuous strip of land uninterrupted by any highway" and .....
>
> "The strip of land hereby released is to be forever held in Trust by the said Proprietors and their successors for the purposes of a way or foot path along the bank and for no other purpose or purposes whatsoever."

The one major difference between Exhibit "A" and Exhibits "B" and "C" is that on Exhibits "B" and "C" the ways do not have solid lines, they in fact do not have any lines, where they abut the land owned by the Town. This is certainl not controlling but it would tend to support the position that the Town might have some rights in these ways. However, it cannot stand alone and without a ditional documentation or evidence it would be difficult to support that thec on that one single fact. As a practical matter, Exhibits "B" and "C" did not show the property conveyed by Flagg, they merely served as a reference point begin his running description.

SECOND - The case law in Massachusetts concerning rights of grantees c lots, bounded on a way shown on a plan was established in the case of Regan v Boston Gas Light Company, 137 Mass. 37 and reiterated by the Court in the cas of Prentiss v Gloucester, 236, Mass. 36, where, at Page 52 the Court said:

> "In the absence of an express grant, where large tracts of land were plotted into numerous lots bounded on many different ways, a grant by implication of an onerous servitude upon other land of the Grantor (Flagg in our case), not necessary for the enjoyment of the land conveyed, is not to be presumed unless such is

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clearly the intention of the parties; ... that a reference to a plan in a Deed, although accompanied by its use for description or bounds, does not result in the conveyance of rights not necessary for the enjoyment of the premises, in the absence of an intent appearing to that effect; that the only necessity contemplated in ordinary cases is that of access to public highways; and that the great desirability of a way for the purposes of prospect, is not a sufficient reason to extend or modify the rule.

In determining the intent, the entire situation at the time the Deeds were given must be considered. For example, whether the ways in question merely existed on paper, or were they constructed on the ground; whether they were then actually used as appurtenant to the granted premises."

This general philosophy, that the intent of the parties at the time of conveyance is the governing factor, was previously stated by the court in Pearson v Allen, 151 Mass. 79, where the Court said:

"The mere reference in a Deed to a lot number and a boundary street, as shown on a recorded plan, does not as a matter of law give the Grantee (the Town in our case) an easement in all the ways shown thereon, nor prevent the Grantor from making changes therein not inconsistent with the rights of the parties."

As mentioned in the Gloucester case, one of the other major factors in determining intent is the actual physical condition of the ways at the time of the conveyance and this principle is re-stated in the case of Wellwood v Havrah M.A.S. Cemetery Corp. 254 Mass. 351:

"In cases where it has been held that the grant of a lot bounding on a way as shown on a plan estops the Grantor and those

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claiming under him from denying the existence of the way for its entire length in either direction. It will usually appear that the way referred to is in use or actually staked out on the land."

While none of these cases are directly on point, they all stand for the theory that if express rights are not granted in Deeds then the mere existence of ways shown on recorded plans does not, as a matter of law, give appurtenant rights to all the lots shown on said plan. When there is no express grant then you must discern the intent of the parties from examining all available evidenc and then determine what was intended. In the Town's case, the Town is even one more step removed because while their Deed makes reference to a plan to give a starting point for the description, the property owned by the Town was not shown on the Flagg plans (Exhibits "B" and "C") and Land Court Plan 11227-A (Exhibit "A") technically only shows the Town land and the abutting properties and abutting ways are not part of the plan.

CONCLUSION - The inhabitants of the Town of Nantucket have all the righ set out in their Certificate of Title No. 1702 and no others. The Deeds, the plans, the Land Court Degree, the actual physical existence, or lack thereof of the ways, and the case law in Massachusetts overwhelmingly supports the pos tion that the Town has a foot path along the bluff together with an easement over what was formerly the Grice land and nothing else. I can find no facts or evidence which would support the theory that the Town has appurtenant right in any of the ways shown on Exhibits "B" and "C" and it is my considered opinion that pursuing the matter further would prove fruitless.

Respectfully submitted,

Richard J. Glidden, Esquire

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SIASCONSET CIVIC ASSOCIATION, INC.
NANTUCKETT ISLAND
SIASCONSET, MASSACHUSETTS 02564

August 1, 1985

Board of Selectmen
Town of Nantucket
Town and County Building
Nantucket, MA, 02554

Dear Members of the Board of Selectmen:

Based on investigation by two of our Directors, we believe that the Town of Nantucket should further examine the legal status of the "lateral ways" leading to the footpath along the "Sconset bluff.

We have carefully read the 1983 report by Zisson and Veara and the earlier letter by James Glidden. We have reviewed maps of the lot subdivisions showing the "ways" as well as the language of several of the old deeds transferring those lots from Flagg to purchasers.

As suggested might be the case in the Veara report, we believe that the ways surely do not belong to the adjacent lot owners. This belief is based on the precise wording in the old deeds and their exact correspondence with details of the original 1883 subdivision plan (as redrawn in 1892).

We notice, however, by direct observation at the scene, that parts of the path are being squeezed by plantings, and that some of the ways are being obstructed by plantings and constructions. These moves, which could in time lead to claims for adverse possession, should not be allowed to go unchallenged.

If the Town and the public presently have rights to the ways, they need to be defended against eventual forfeit to aggressive lot owners. If, on the other hand, the Town does not presently have rights, then we believe they must still reside with the heirs of Flagg, and it is our conviction that the Town should try to acquire them - by gift, purchase, eminent domain or whatever. We believe that the long-cherished tradition (which was Flagg's bequest to the island) of free passage to and along the footpath should be defended vigorously by every possible method.

At the suggestion of Mr. Grossman, Messieurs Edward Seckel and Walter Folger, the two SCA Directors charged with pursuing this matter, have discussed their findings and their conclusions with the town attorney, Mr. Foley Vaughan, who seemed to understand the thrust of their thesis. He agreed that there is need for further investigation leading to a course of action.

We respectfully call for a directive by the Board of Selectmen for Town Counsel, or whomever the Board might choose, to undertake the project and to pursue the Town's interest to the maximum extent. We stand ready to review our findings in further detail and to participate in any way that would be helpful.

Would you please let us know how we can be of further assistance?

Sincerely,

Jean Crapsey

Jean Crapsey, President
Siasconset Civic Association

Copies: Folger, Seckel
Vaughan

Walter - Hope this is OK by you Ed S

November 9, 1985
PO Bx 78
Siasconset, MA
02564

County Commissioners
Town Of Nantucket
Nantucket, MA, 02554

Subject: The lateral ways to the Sconset footpath

Dear Commissioners:

I have read and reread the recent report by Vaughn and I have reviewed again the former ones by Zisson/Veara and by Glidden. I have had a long interview with Mr Vaughn, asking questions and discussing various aspects of his report and the problem of the ways in general.

I think his report does not finish the matter. There are some important details which are not conclusively determined, so that the associated questions are not answered with certainty. And two possible courses of action are not addressed. These matters are the following:

1. The "solid-lines" and Flagg's Intent.

   Flagg's plan of 1892 does <u>not</u> have the solid lines, suggesting that his ways <u>were</u> intended to be part of the footpath. The earlier 1883 plan was superceded, and is inapplicable____the fact that a <u>change</u> was made would indicate that the 1892 detail was deliberate and intended___ and the 1925 plan was made long after Flagg's death, and can not be used to argue his intent.

   Mr Vaughn thinks that the ways were for "access to the water". But it is much more logical that they were for access to the footpath. The footpath was for the use of the public, and so one would think that the access ways would have been for the use of the public also.

   Both Zisson/Veara and Glidden emphasize the crucial importance of Flagg's intent. But we are not told whether this point was argued in the petition proceedings of 1925, or whether Judge Davis' "dismissal" explicitly rejected this line of reasoning. Perhaps the "dismissal" was for lack of a convincing argument, and perhaps a better one can and should be made now.

   I think Mr Vaughn should be directed to review the 1925 decision in sufficient detail to determine whether Flagg's intent was argued with all possible force. If it was not, then we should decide whether to renew the petition to register the ways as town property.

2. ABUTTERS' WAYS and Ownership

   I asked Mr Vaughn for a detailed definition of "abutters' ways". He said they were private ways, owned by the

abutters, possibly with usage rights belonging to particular groups (most likely, the other property owners of the sub-division)____but not the general public. He thinks that all the ways (in parcel A as well as parcel B) are abutters' ways. He cites a technicality of wording in the deeds conveying the lots from Flagg to purchasers. He "seems to remember" that if the deed describes the lot as "bounded by a way" (as opposed to "bounded by the line of a way"), then the way is an abutters' way, and is owned to its centerline by the abutters.

If indeed the matter were as simple as that, one would think that Zisson/Veara and Glidden would have cited the point. But neither even used the term "abutters".

The phrases "bounded by..." in Flagg's deeds were not used to define the extent of the lots, but rather simply their locations. Their extent was, in each case, explicitly defined as " (so many) feet on the (east) side". And so I don't see how the technicality applies in these cases.

I think Mr Vaughn should be directed to determine with certainty whether the ways are necessarily "abutters' ways" by virtue of the particular language of the deeds. If so, I suppose there is no use to try to argue Flagg's intent, or to approach the heirs of Flagg as the true owners.

3. Usage and "ADVERSE POSSESSION"

Mr Vaughn thinks that a case might be made to take one or more of the ways by adverse possession. One would have to prove that by usage and tradition, the public had established rights to the ways and did in fact establish ownership. He has not tried to evaluate the chances of making a successful case.

I have discussed with many old-timers in the neighborhood their use of the ways through the years. Many senior citizens with names of Eldridge, Folger, Egan, Cahoun recall how all through their lives the ways were used as though by right, to the point of making a local tradition. Historian Stackpole says that he has no doubt that the ways belong to the town by right of usage and tradition.

I believe that the town should proceed to build its case for adverse possession. If it is done with energy and conviction, it should succeed. Mr Vaughn has no reservations___he simply waits for a directive and the cooperation of the local citizens to furnish testimony. My investigation suggests that the testimony is no problem. It is only the will of the townto proceed that might seem to be lacking.

4. Flagg's Heirs

If the ways are not necessarily abutters' ways, then I believe that the town should make a preliminary approach to the heirs of Flagg to see if they might be acquired by purchase or gift. If the heirs were favorably disposed tpward the idea, this method might even take

precedence over the others.

5. Obstructions --
There are possibly several cases of encroachment by lot-owners on the ways adjacent to their lots. - The two most apparent cases of this should be reviewed by town officials to determine whether disciplinary action is called for. I believet that unless obstruction of the ways by the lot-owners is prevented, they will all be lost by adverse possession to the lot-owners.

Because of the length of the discussion above, please allow me to summarize these recommendations:

1. Instruct Mr Vaughn to study in detail the Judge Davis decision of 1930 to dismiss the petition for the lateral ways, in order to determine whether new arguments about Flagg's intent might be presented as a basis for a new petition.
2. Instruct Mr Vaughn to determine with certainty whether the particular language of Flagg's deeds necessarily makes the ways "abutters' ways".
3. If the results above are negative with respect to the town's interest, then instruct Mr Vaughn to begin building a case for "adverse possession" proceedings by the town.
4. If the ways are not necessarily "abutters' ways" then make a preliminary inquiry to Flagg's heirs about the idea of gift or purchase.
5. Order the review by town officials of the two apparent cases of obstruction by adjacent lot-owners. Initiate disciplinary action if appropriate.

I have written all this down for your convenience and later reference, but I think that I could present it verbally with better speed and efficiency at your meeting of Nov. 27, 1985. I shall be present and prepared to speak to the matter, if you so desire.

Sincerely,

Edward Seckel

Edward Seckel

Copies: Dick Eldridge, Sconset
Walter Folger, Sconset
Fred Egan, Sconset
Charles Cahoun, Sconset
Edouard Stackpole, Nantucket

EDWARD FOLEY VAUGHAN
KEVIN F. DALE
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February 5, 1986

SCONSET FOOTPATH

Supplemental Memorandum on East-West Ways

This memorandum is responsive to the December 11, 1985, request of the County Commissioners asking for copies of the pleadings and decision of Judge Davis in the Town's 1925 Sconset "Footpath" Registration Case No. 11227, in the Land Court (see my memorandum to the Commisioners on the Sconset Footpath east-west ways dated October 30, 1985).

The requested pleadings are referenced in the Index to this memorandum. Comment on some of them follows.

Document No. 3: Town's Registration Petition: of importance here is the language at the bottom of page 1 in which

> "Petitioners claim as appurtenant to the above described land rights or easements as follows: Rights of way in all ways shown on said plan to and from Atlantic Street."

This of course refers to the east-west ways.

Document No. 6: Title abstract - only facing sheet and citation were copied. The abstract does not add anything to the issue. There is no discussion of the ways.

Document No. 10: Answer of Stanley H. Swift - this brief one paragraph answer is representative of the many answers

filed in the Registration proceeding all of them simply alleging that land of the respondent is claimed improperly by the Town in its Registration Petition.

Document No. 11: Mackie Substituted Answer: this document squarely takes up the issue of the Town's claim to appurtenant rights in the ways bounding the Mackie land (see Page 2, 1st paragraph).

Document No. 12: this notice of motion is included to show who the various responding parties were by the time 1929 had rolled around.

Document No. 13: Judge Davis' decision: this decision is, as they say, the law of the case and, for better or worse, delineates the rights of all of the respondent parties.

That confusion existed 56 years ago as well as today may be seen in Judge Davis' comment on grants of land by Flagg first to the proprietors on September 21, 1892, of the strip of land covering the path and running to the foot of the bluff and second on September 22, 1892, to Mitchell (one of the respondents in the registration case) of land to the East of the bluff lot sold to Mitchell (seemingly duplicating the Town grant) but at the same time making such grant subject to the September 21, 1892, grant to the proprietors. Judge Davis said:

> - "Just what interest he [Flagg] thought he had, or was conveying by the quitclaim deeds [to Mitchell and others] does not appear." (Page 2 of decision)

Document No. 14: Order for Decree: of note here is the language dealing with appurtenant claims. The only right the

court finds to be appurtenant is

> "...an easement on a continuation of the path as per plan over Grice Lot."

This should be contrasted with the appurtenant rights originally claimed by the Town in the registration petition (document No. 3).

Document No. 17: Brief of respondents Beer et al: this is a lengthy piece of work. The first two pages set forth the claims of various respondents which are, as to one group ownership of the land east of their lots (i.e. embracing the path) down to the foot of the bluff based upon deeded rights and, as to a second group, similar land ownership based on adverse possession ("prescriptive rights").

The next several pages are devoted to tracing the title history forward from 1834 into the hands of Flagg and then to the Proprietors and some of the respondents in the case and particularly at pages 10 and 11 (top) proving the Grice claim to own to the Ocean (Lot 1).

Pages 12 - 16 trace the title history of the Aurora Heights Division of Sconset from 1840 forward.

Page 17 contains a discussion of Rosaly Lane and 2 other east-west roads as they appear on Codd's map of Aurora Heights dated November 4, 1887. The author treats these roads as public ways but the map itself which appears at Book of Plans 2, Page 52, Nantucket Registry of Deeds, although giving the ways names, does not characterize them as public or private.

As is pointed out (correctly) further along at Page 17, the

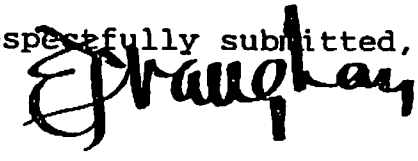
Town's attempt to register the lower half of the "Path" based upon Flagg's 1892 conveyance has no life because Flagg never owned it. This explains why Judge Davis granted the petition covering land only down to Judkin's property.

The rest of the brief details the basis for ownership of several more of the clients of the author of the brief, ends at Page 25 and contains no discussion of the east-west ways other than as noted at Page 17.

Document 18: Bill of Exceptions on January 27, 1930: one of the respondents, Mary K. Mitchell took an appeal, then called a Bill of Exceptions, to the Supreme Judicial Court from Judge Davis' decision. The appeal was decided (Document No. 20) in the astonishingly short time of 2 months. The SJC upheld Judge Davis.

Document 19: This letter is found in the Mary Mitchell registration case No. 9173, and is included for its historical interest reflecting as it does the existence of the path back in 1880. The Mitchell property was composed at Lots 41, 42 and 43 and would be located near the Benchley property today.

Respectfully submitted,



VAUGHAN AND DALE
ATTORNEYS AT LAW
WHALER'S LANE
NANTUCKET, MASS 02554

(617) 228-4455

EDWARD FOLEY VAUGHAN
KEVIN F. DALE
THOMAS S. CHASE

March 6, 1986

MEMORANDUM FOR COUNTY COMMISSIONS

RE: Sconset Footpath

On February 28, 1986, I met in `Sconset with Ed Seckel and Dick Eldridge. We drove and walked the portion of the `Sconset footpath from just below the Wade Cottages to the lighthouse.

In our travels we identified 11 of the east/west ways running mostly from Atlantic Avenue (Baxter Road) to the footpath. There is an additional 15 foot way at the head of Broadway.

Running south to north the 11 ways may be identified as follows:

1. Head of Broadway
2. Extension of Coffin Street
3. Extension of Rosaly's Lane
4. Extension of Emily Street
5. Extension of Ann's Lane
6. Way immediately south of former Stevens' property
7. Way just south of Cashman property
8. Extension of Bayberry Lane
9. Way south of Rauch property
10. Way south of Wheeler property
11. Way north of Madison property

The legal step needed to be taken here is a petition for registration in the Land Court seeking which will look to the registration of some or all of the 11 east/west ways. The registration will have to be based upon adverse possession

attributable to common usage over the years by the general public.

As a mechanical matter, the ways north of the Benchley property (formerly Judkins) will be attached to the existing Land Court plan of the `Sconset footpath which reaches down approximately half way to the village. You will recall from my earlier memoranda that the lower half of the path has not been registered. Mr. Seckel has suggested (and I think it is a good suggestion) that we seek to register the lower half of the path at the same time as we are applying for registration of the east/west ways.

The survey work necessary to a petition in the Land Court for registration of 11 east/west ways and for registration of the lower half of the `Sconset footpath will be, my guess is, expensive. It well could be disruptive of the summer people if the survey work is done during the summer rather than during the spring. Accordingly I would recommend that at your next Selectmen's meeting on March 12, you vote to hold a County Commissioners meeting on March 19 at which you can vote - if you are so inclined - the following actions:

1. That Town Counsel is hereby authorized to incur survey expenses with respect to 11 east/west ways on the `Sconset bluff and with respect to preparation of a registration plan for the lower half of the `Sconset footpath; and

2. That Town Counsel is authorized to go forward with a petition for registration of the ways and of the footpath.

Insofar as the case itself is concerned, I am satisfied that a good case for adverse possession can be made based upon the testimony of witnesses from `Sconset. For example, Dick Eldridge will testify regarding the way north of Broadway that

his family moved to `Sconset in 1913 and lived just down bank from the way; that on a daily basis he traversed the way from 1913 to 1917 and thereafter; that generally speaking he knows that the public has used that way. Other parties, I believe, such as Walter Folger will be able to testify with respect to other ways. Exactly how many we can obtain specific testimony on and the nature of the testimony is something for me to develop which I would plan to do using Ed Seckel for initial interviews with various `Sconset people.

If you have any questions regarding the foregoing, please advise.

Respectfully submitted,

EFVaughan

EFV/pgm

cc: Edward Seckel

SUBJECT: ARCHIVAL INFORMATION RE ACCESS TO 'SCONSET FOOT PATH
FROM: FRAN KARTTUNEN
DATE: NOVEMBER 9, 2010

In addition to the Stackpole article, see NHA Collection 335, folder 865:
Architecture, Siasconset
Bluff Path: TLS from Emma Cook to Anna describing North Bluff set-off of **footpath**.
August 8, 1911
Memorandum for County Commissioners. March 6, 1986

There are primary documents in a box in one of the vaults in the Town Building.
Here is an inventory list of what is in the box. Several additional documents have turned up in the course of the Committee's recent work.

'SCONSET FOOTPATH:

a. April 24, 1980 letter from Walter Barrett giving notice that Roger Wheeler is infringing on right of way to footpath

b. Copy of 1899 plot plan showing location of property presently belonging to Roger and Patricia Jane Wheeler

c. July 3, 1980 letter from attorney Wayne Homes to Kenneth Holdgate, Chair of the Board of Selectmen, about erosion of Bluff forcing the footpath back onto the property of Mr. and Mrs. William Matteson

d. July 3, 1980 letter from Wayne Holmes to Harry Clute, DPW about possibility of closing the footpath

e. August 4, 1980 letter from Walter Barrett stating that the path should be shifted back from edge of eroding bluff and that it would still be on Town property

f. September 19, 1980 letter from Benjamin Richmond, chair of the Conservation Commission, to the BOS about erosion emergency

g. Copy of Wesley Tiffney's report on "The Sankaty Bluff and Siasconset Footpath, North Portion, Summer, 1980"

h. Copy of 1922 plan of Flagg family property on either side of Atlantic Street (now Baxter Road) and the Bluff

i. Copy of 1924 plan of property along the Bluff

j. June 10, 1981 plot plan prepared by Michael Bachman of properties along Atlantic Street/Baxter Road showing the footpath in green and the edge of the Bluff in orange. There are two access ways marked "20´" and three unmarked ways. At the north end of the properties is one labeled "Way." Also a two-page cover letter from Michael Bachman ("As you can see from the plan, in nearly every instance the footpath, as presently used, is on Town property…"), and list of ten enclosures (list of footpath abutters with their mailing addresses, various plans and land court documents)

k. February 5, 1986 Sconset Footpath, Supplemental Memorandum on East-West Ways from Vaughn and Dale, attorneys. Response to request of county commissioners for documents and judicial decision concerning 1925 Siasconset Footpath Registration. Summary description of ten relevant documents. The final one "is included for its historical interest reflecting as it does the existence of the path back in 1880." Another document makes reference to "grants of land by [William] Flagg first to the proprietors on September 21, 1892, of the strip of land covering the path and running to the foot of the bluff." Another document traces the title history of Aurora Heights Division of Siasconset from 1840 forward and "contains a discussion of Rosaly Lane and 2 other east-west roads as they occur on Codd's map of Aurora Heights dated November 4, 1887. The author treats these roads as public ways but the map itself…although giving the ways names, does not characterize them as public or private."

l. Photocopy of page 4 of a document from 7/7/81 report prepared by Richard J. Glidden Esq. for the county commissioners on the east/west ways to the footpath. "The inhabitants of the Town of Nantucket have all the rights set out in their Certificate of Title No. 1702 and

no others. The Deeds, the plans, the Land Court Degree, the actual physical evidence, or lack thereof of the ways, and the case law in Massachusetts overwhelmingly supports the position that the Town has a foot path along the bluff together with an easement over what was formerly the Grice land and nothing else."

m. 2 copies of July 10, 1990 Citizen Concern Form from Jean Crapsey expressing concern that the footpath has been moved closer to the edge of the bluff. (Also a query about whether a commercial sign on Baxter Road has been approved.)

n. July 15, 1990 Citizen Concern Form from Mary Churchill stating that several residents along Sankaty Bluff are blocking access to the footpath and asking where exactly is the right of way from Baxter Road to the footpath.

o. August 16, 1990 memo from Anne Lee, County Administrator, to the Board of Selectmen (cc'd to the ROW and the DPW) about the two Citizen Concern Forms. "It appears that the path itself is a Town right of way. Also, certain portions of the path have eroded. Additionally, certain of the ways to reach the path may cross over private property. Unless an easement to the Town has been granted, it may be legal for property owners to block off access to the path over their property, although they would not be able to block off the path itself.

p. September 5, 1990 letter from Mary Churchill asking clarification of rights of way to the footpath. Because of age, she is no longer able to go all the way to the Siasconset village center to get onto the footpath. "My understanding was that one could use the "abutter's way," but I find yet another one has just been closed off by a planting of rosa rugosa…and now you can no longer get onto the pathway that way." Mentions other access points now closed by brick walls, swings, and driveways. "How can I **legally** get onto the Cliff path these days without going to the village?"

q. October 1, 1990 letter from David and Mary Eklund to the Board of Selectmen objecting to right of way incursion between 31 and 33 Baxter Road by new driveway, rosa rugosa plantings, and privet hedge.

r. October 24, 1990 letter to the Board of Selectmen from John Goetheus expressing concern that the house he had purchased thirteen years previously encroaches on a right of way and

telling about his care to no further impede use of that right of way. Criticizes neighbors who have built garages and installed plantings and play equipment on rights of way to the bluff. "It seems to us that enough is enough. Please do not allow further encroachment on the public right of way from Baxter Road to the bluff between thirty-one and thirty-three Baxter Road."

s. January 17, 1991 letter from Anne Lee to David Eklund in response to his letter to the Board of Selectmen about access paths to the footpath. "In 1987 the County Commissioners motioned to proceed with taking some of these ways. This action was not completed, however, due to the apparent complexities of this case…Although the public does indeed have right of passage over the Sankaty Footpath, there do not appear to be recorded easements granting the public clear access to the footpath over the small lanes or 'abutter's ways' along the path…neighbors have used these ways over the years, but the present abutters to at least two of them [the ways] have effectively prevented this continued access by adding rose bushes or a driveway…It is unclear if the original subdivision plan prepared by William Flagg in 1892 granted any access rights to owners of parcels in this area other than the immediate abutters to the ways…Consequently, it appears that short of taking some or all of the paths, neither the County nor the Town can ask the abutters to refrain from preventing use of the abutters' ways as long as the public is able to continue to use the Sankaty Footpath itself. It is possible that the abutters may own to the center of the path and could, therefore, use this land in any way they wish." The memo suggests that the several concerned neighbors try to set up a discussion to resolve the matter among themselves.

t. January 22, 1991 cover letter from Anne Lee to the Board of Selectmen with copies of letters and supporting material sent to Mary Churchill, John Goetcheus, David Eklund, and Jean Crapsey in response to their concerns about the footpath.

The Washington Post

The Impulsive Traveler: Off-season Nantucket is a nonconformist's delight

By Ted Weesner
Special to The Washington Post
Friday, October 1, 2010; 1:30 PM

Wake early. Roll out of bed. Trip down a flight of stairs and out the door and along a path of bramble, rose hip and sand. Skitter down a powdery cool dune and fall upon: more than 10 miles of untouched beach. Endless ocean, endless sky, fiery sun peeking over a shockingly broad horizon. Not another mammal in sight. Only piping plovers, which flirt with the Atlantic as it glides in and snaps up twirls of spray and froth. What should you do? Really, do you have a choice?

Yes, you take off your clothes, dash toward the waves, dive headfirst into a 70-degree breaker. If great white sharks hadn't been sighted over the summer, you might bob in the water all morning. It all feels very primal, as if you might have been swept ashore from one of those old shipwrecked whalers. Bobbing there in the dazzling light, empty beach on one side, empty ocean on the other.

Welcome to Nantucket in the off-season. Welcome to the sort of experience awarded the nonconformist traveler whose wallet isn't exactly plump - and whose wallet is plump these days? It's an unforeseen if lucky consequence of countering the herd, whereby this typically precious fancy-pants island offers itself up in rawer, more sensual form.

Or as a ferry shuttle pilot put it, "A week after Labor Day, the crowd is cut by 80 percent."

A mere scattering of passengers is on the Friday morning steamship in mid-September. This is the "traditional" slower boat, which takes two hours instead of the "high-speed" version's one. And yet the chug-chugging slow boat, with its great open decks and comfortable interior booths in the style of QE2-era poshness, presents a soothing immersion in the more languorous rhythms of what you approach.

Once off the ferry, the newly minted islander will need to secure transportation, which some would say consists of a single form on Nantucket. A car feels too large (and costly) for this place. A simple bicycle is the way to go, and two thriving rental options, Young's and Nantucket Bicycle Shops, sit just off the wharf. At the same time, you'll not want to forsake the combustion engine, i.e. the occasional shuttle bus or taxicab ride. An island that's 14 miles long and five miles wide and exclusively pedaled will translate into aching muscles and rear end, unless you're possibly Lance Armstrong looking to train in seclusion.

And yet exhaustion may not be such a bad thing if you've chosen, as I did, to stay in the island's one hostel. The Star of the Sea is on the south side of Nantucket, a beautiful red former Victorian life-saving station circa 1873, built back when whalers were trying to navigate the perilous shoals lurking offshore. It closed for the season at the end of September, but a fascinating array of people were holed up there during my stay: an astringent elderly German woman, a lovey-dovey middle-aged couple from Baltimore, a young businessman buried in his laptop, a troop of Girl Scouts with almost as many hovering den mothers. I slept in a bunk bed in the "male dorm" along with two dozen others. Incredible seaside location, incredible historic ambiance, and a steal for $35 a night, but also a cacophonous symphony of snores filtering up after the lights dimmed. Fortunately I'd so wrung myself out from biking that I slept the sleep of a burrowed surf clam.

On an island that's known in the summer for rampaging tourists, semi-endangered un-ironic prepsters and New Yorkers with Wall Street bonuses to burn, the off-season dining scene is far mellower. At most of Nantucket's hottest boites, I turned up unannounced and found an open seat.

Not to say that these establishments were anything like empty. Hardly. The dining room at the celebrated Straight Wharf, which overlooks the port, was brimming, and yet I found a nice spot in the bar and feasted on halibut ceviche, green gazpacho and a perfectly cooked skirt steak surrounded by late harvest vegetables. The dessert, a molasses cookie sandwich paired with verbena ice cream, nearly launched me into the happiest of food comas. The bike ride back to the rumbling hostel inched me back toward mostly sentient.

Restaurant bars in general are excellent places to skirt the stunningly high entree prices on Nantucket, which don't exit with the crowds. At a deservedly popular place such as American Seasons, where entrees top out at $37, you can order from an inventive bar menu of "small plates," each a more affordable $6. The old island classic Languedoc, with its tin bar and romantically low ceiling, serves a mean burger with garlic fries for only (gulp) $16. Another island classic, though less Old World pricey than New World dirt cheap, is Sayle's on the south side of Nantucket's quaint town center. It may be a ramshackle joint, but the seafood is perfectly fried. Commandeer a plastic table on the outdoor balcony and the staff brings out a plate of flounder, along with clam chowder, boiled red potatoes and coleslaw, all for $11, that you'll be hard-pressed to finish.

If you have any energy after a day of biking, swimming and dining, a taste of genuine Nantucket night life awaits, from the tonier Club Car, where drunken prepsters are certain to be found singing gleefully, *extremely* gleefully, around an upright piano, to the more low-end. Sample the latter and you're in for some wicked fun. Unlike that very forgettable place islanders refer to as the "mainland," where bars cater to a specific demographic, on Nantucket you glimpse a Wall Streeter in whale-festooned pants alongside a Bulgarian roofer who's chatting with a line cook from Jamaica.

Of course there's a world of flora and fauna to explore. About 45 percent of Nantucket is under conservation, far more terrain than you're likely ever to stroll or bike. On the east side of the island is the town of Siasconset, home to the not-to-be-missed bluff walk. On the opposite end are more knockout beaches to visit. Fortunately the gulf stream buffets the island, so the water temperature is relatively mild into the fall. But if it's raining or chilly, a half-day can easily disappear inside the well-stocked Whaling Museum. You leave this place feeling that you've brushed against the rough and tumble, historic dimensions of this now super-civilized getaway.

One location not to miss: Cisco Brewers. Along a nondescript length of road, the compound is open all year, and if the weather is right, features a beer/wine/booze garden. Unwind at one of the outdoor tables in the still-dangling sun, grooving to a live bluegrass band and sipping your chosen beverage, and you'll find yourself wondering: How's this place - like all of Nantucket in the off-season - not overrun?

Weesner, a Boston-based fiction writer and journalist, teaches creative writing at Tufts University.

Post a Comment

Video

Bluff Walk with Mark Donato

7/25/10 4:42 PM

Content | Comments (3)

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Take a walk with longtime 'Sconset resident Mark Donato on the beautiful Bluff Walk. On the eastern most edge of Nantucket exist beautiful & historic homes as well as amazing gardens. The walk also affords the opportunity to witness the slow erosion of Nantucket's coastline.

Browse more stories *Click* our Tags **Bluff Walk**, **Environment**, **Mark Donato**, **Nantucket History**, **Nantucket - Sport & Outdoors**, **Nantucket - Video**, **'Sconset**

Latest Comments

Bluff Walk

Dear Chris Holland, there is a right-of-way along Bluff Walk deeded to the people. Power to the people.

Posted by Sinbad August, 17 2010 19:09:37

Sconset Bluff walk.

A point of information. The Bluff walk was intended to serve the Owners of the houses along it. Even if it were otherwise, with the ongoing erosion it seems counter productive to encourage more visitors by virtue of your video. The path has become more and more populated, year by year. It's hard to imagine a local TV station promoting its use when this activity has been shown to be detrimental to the bluff.

Posted by Chris Holland August, 03 2010 12:23:31

Bluff Walk in 'Sconset

Hi Mark-
Thanks for the walk down memory lane.
It is such a beautiful place.
Wish we were there!

p.s. you definitely should be "mayor"

Posted by Bob and Bev July, 28 2010 01:49:28

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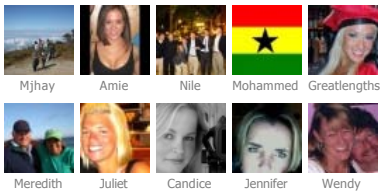
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36 Hours in Nantucket

Jodi Hilton for The New York Times

Seth Raynor at Corazón del Mar, which he and his wife opened last summer. More Photos »

By SARAH GOLD
Published: July 15, 2010

FROM ACADEMY AWARD® WINNER DANNY BOYLE

NEAR the beginning of "Moby-Dick," Ishmael explains why he decided to set sail from Nantucket: "There was a fine, boisterous something about everything connected with that famous old island." Today, nearly 160 years after being written, that characterization still rings true. Though its downtown cobblestone streets and windswept fringes are now filled with expensive (some say exorbitant) restaurants and elegant cocktail bars, the island still has a swagger. To see it in full swing, linger over pints at one of the many harborside pubs, especially at sundown when sailors and fishing boats return to port.

Nantucket Travel Guide

Where to Stay
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Go to the Nantucket Travel Guide »

Multimedia

Slide Show
A Weekend in Nantucket

Friday

3 p.m.
1) HISTORIC BEARINGS

Main Street is lined with 19th-century storefronts and buckled brick sidewalks that seem to require deck shoes. To bone up on island history, visit Mitchell's Book Corner (54 Main Street; 508-228-1080; mitchellsbookcorner.com). The venerable 42-year-old bookstore was renovated last year and now includes a spacious second floor that hosts weekly readings by local authors like Elin Hilderbrand and the National Book Award-winner Nathaniel Philbrick. The beloved Nantucket Room remains, with hundreds of titles about island lore.

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6. My Own Private (Rental) Island, in the Bahamas
7. Frugal Traveler: A Guide to the Caribbean on a Budget
8. In Northern Vietnam, a Region of Beauty and Ethnic Traditions
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Nantucket, Mass.

5 p.m.
2) PREPPY IT UP

You can still find a bona fide pair of Nantucket Reds (those iconic pinkish chinos) at Murray's Toggery Shop (62 Main Street; 508-228-0437; nantucketreds.com). But a crop of snappy boutiques have also opened this season. Jack Wills (11 South Water Street; 508-332-1601; jackwills.com), the first stateside outpost of the British university outfitter, carries jaunty polos, cable-knit sweaters and canvas totes in signal-flag colors. Also new is Milly & Grace (2 Washington Street; 508-901-5051; millyandgrace.com), which sells bohemian-style Yoana Baraschi caftans and tunics, Minnie Rose cashmeres, and embossed-silver jewelry from Waxing Poetic.

8 p.m.
3) FISH OF THE MOMENT

One of this summer's most talked-about new restaurants is Dune (20 Broad Street; 508-228-5550; dunenantucket.com), where the veteran island chef Michael Getter uses local seafood and produce. The intimate, warmly illuminated space has three dining rooms, as well as a patio, but you'll need to book ahead. Recent menu standouts included the flaky, pan-roasted halibut fillet ($28) and the minty spring-pea soup with tender baby shrimps ($10). Stop by the petite quartzite bar on your way out for a Hot & Dirty cocktail — Thai chili-infused vodka with a splash of olive juice.

10 p.m.
4) BEACH MARTINIS

A young, tanned crowd fills the back room of Galley Beach (54 Jefferson Avenue; 508-228-9641; galleybeach.net). The cherished beachside restaurant has become a late-night gathering spot since its 2008 renovation, serving pomegranate margaritas ($16) and the Seaside martini, made with Hendrick's gin and cucumber ($15). By midnight the party spills outside, where tiki torches and sofas line the sand.

Saturday

10 a.m.
5) ISLAND MARKET

Started in 2007, the Nantucket Farmers & Artisans Market (Cambridge and North Union Streets; 508-228-3399; sustainablenantucket.org) is the first weekly market to grace the island. Now encompassing two blocks of Cambridge Street and one of Union downtown, it showcases the wares of 65 different island farmers and artisans throughout the season (and hosts workshops to encourage other would-be island growers and craftspeople). Keep an eye out for handmade quilts in beach-umbrella stripes from Spoon Home Textiles, freshly picked blueberries and raspberries from Moors End Farm, and baked rugelach and fruit tarts from SuperNatural. Open Saturday mornings (9 a.m. to 1 p.m.) through Oct. 16.

Noon
6) SURF AND SEAL

Some of Nantucket's wildest and most pristine beaches are on the island's far west end, where it tapers to the twin forks of Eel Point and Smith's Point. You'll need a four-by-four with a beach-driving permit — included with most rentals, or available at the Nantucket Police Station for $150. You'll also need to reduce your tire pressure to maximize traction and minimize environmental damage. But after bumping along hillocky dune trails, you'll enter onto wide-open, mostly empty shores. There are no amenities to speak of, so bring all the supplies you'll need for the day: food, water, sunscreen. Oh, and a camera. You might spot gray seals.

5 p.m.
7) BREW WITH A VIEW

An afternoon of salty, sandy fun can leave you pretty thirsty. So it's convenient that the island's fabled west-end watering hole has reopened this summer as Millie's (326 Madaket Road; 508-228-8435; milliesnantucket.com). Unlike its predecessor, the Westender, which

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closed a few years back, Millie's takes full advantage of the sunset location. The owners, Bo Blair and David Scribner, have added a new menu and a glassed-in second-floor bar that lets you drink in panoramic vistas along with your Grey Lady or Whale's Tale Pale Ale, both from the Cisco Brewery a few miles down the road.

8 p.m.
8) BAJA STYLE

Corazón del Mar (21 South Water Street; 508-228-0815; corazonnantucket.com), the latest venture from the seasoned island chefs Angela and Seth Raynor, has attracted a slavish following since opening last summer. The cozy, tiny papaya-orange den — the downstairs has 7 tables and 10 bar stools; the upstairs, 9 tables and a tequila bar — turns out south-of-the-border-inspired dishes like sea-scallop ceviche dressed in chili-citrus aji sauce ($17) and soft, Baja-style tacos filled with beer-battered cod, cabbage slaw and spicy aioli ($22). After dinner, take a stroll along Straight Wharf to Nantucket Ice Cream (44 Straight Wharf; 508-332-4949; nantucketicecream.com) for a cone or the house specialty: a sandwich of lemon sugar cookies and blueberry ice cream ($5.50).

Sunday

10 a.m.
9) SEA SAVIORS

More than 700 shipwrecks litter the treacherous shoals and surrounding waters around Nantucket. For a fascinating glimpse into the island's underwater heritage, head to the Nantucket Shipwreck & Lifesaving Museum (158 Polpis Road; 508-228-1885; nantucketshipwreck.org). Reopened last year after a $3 million expansion, the museum has vintage "surfboats" once used to save wreck survivors, child-friendly exhibits on Coast Guard sea dogs, and — most chillingly — grainy black-and-white 1956 film footage of one of the most infamous wrecks, the Italian ship Andrea Doria, slowly listing into the sea after its collision with a Swedish ocean liner.

Noon
10) BEACHSIDE BRUNCH

Old-school islanders tsk-tsked at the news this spring that the celebrity chef Todd English was redoing the menu at the Summer House Restaurant in Siasconset village (17 Ocean Avenue; 508-257-4542; thesummerhouse.com). The restaurant, however, is still the island's most civilized spot for lunch, especially at its umbrella-shaded Beachside Bistro. Besides, Mr. English only jazzed up the summertime classics, like a crab cake with corn salsa and tarragon aioli ($24), and a warm poached lobster salad with green beans and beurre blanc ($29).

2 p.m.
11) NOT QUITE OPEN HOUSE

The Bluff Walk in Siasconset village was once the south shore's most fiercely guarded secret. But though you'll probably share the unmarked path with other visitors these days, a stroll here is still breathtaking. Pick up the trail in the village center (take a right and then a quick left at the end of Front Street) and walk along the high, Atlantic-skirting bluffs, past the backyards of some of the island's stateliest gray-shingled mansions. Erosion has left its mark (the last third of a mile, which used to extend all the way to Sankaty Head lighthouse, is now closed). But just stay on the path, keep your voice down and wear long pants — some residents, whether intentionally or not, let their sections become overgrown.

IF YOU GO

JetBlue is among the airlines that fly nonstop to Nantucket from New York; it has daily flights from Kennedy Airport through mid-September. A recent Web search found fares from $117. The Nantucket Regional Transit Authority (shuttlenantucket.com) runs shuttle buses all over the island, but a rental car with four-wheel drive is recommended.

The **Cottages & Lofts at the Boat Basin** (24 Old South Wharf; 866-838-9253; thecottagesnantucket.com) has 24 shipshape cottages that are perched along Nantucket Harbor wharves. Rates start at $520.

The **Union Street Inn** (7 Union Street; 888-517-0707; uniontinn.com) has 12 rooms in a 1770 house, along with Frette robes and modern baths. Rooms from $299.

The **White Elephant** (50 Easton Street; 800-445-6574; whiteelephanthotel.com) is downtown Nantucket's only true resort property, with a harborside patio, a restaurant, a spa and 64 rooms, suites and cottages; rates from $680.

A version of this article appeared in print on July 18, 2010, on page TR10 of the New York edition.

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YESTERDAY'S ISLAND
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Bluffing

by Robert P. Barsanti

The bluff walk survives. On a late August morning, the path hummed with bees, swallows, and the slow and idle roll of the Atlantic. No one walked the path besides me and the sun. Even the fishermen were away. One dark blue hull pulled in stripers in the shadow of the lighthouse.

You don't walk as far any more. One section of split rail fence heads you off more than halfway down Baxter Road. Beyond it, the path wobbles forward between the beach roses before dropping over the edge and down to the sand. These days you have to ask the fisherman to know how many months or years those houses have left.

Like the rest of us, the path has changed. The ocean carelessly slices off piece after piece of bluff. The same water that listlessly stirs the seaweed on this morning will be whipped into a brown fury and send ten-foot waves thundering in. The ocean will pull off sand, beach roses, and four-by-fours, somersault them in the surf, and then stretch the debris down the beach.

The path begins near the town with a magnificent view of the open Atlantic, unimpeded by a row of houses now washed deep and deposited into the shoals and cobbles offshore. Pictures, dressers, beds, and silverware were brought out into the brown water, spun, sunk and spread over the underwater fields. This winter, the waves will take more.

Time has nibbled the path down. Around many houses landscapers and their check-writers have framed the path with rosa rugosa. The flowers glow, the fruit hangs red in the green foliage, and the spikes are sharp on wandering ankles. Several bushes have grown into walls, and then into roofs. Most of the path remains grassy, however. Walkers have become rare, apparently. The houses along the bluff walk have also been tugged into the present. The pristine Architectural Digest mansions have faded and sagged ever so slightly. Swingsets have dropped into side yards and towels hang from clothes lines. One multi-million dollar teak decks featured three sippy cups. Another had a small, plastic wagon waiting for a little hand. Inside the French doors, mothers and fathers were oiling up the kids for the day. One boy in tennis whites ran in front of me, dragging his racket behind him in the grass.

Other houses sat dark. The grass was emerald green and precision cut, the gardens weeded and blooming, the shades drawn, and windows closed. How, at the very peak of summer, when everything has reached the fever pitch, could you not be in Sconset overlooking the ocean? And how could the path not be walked by at least one other person?

The Sconset Bluff Walk travels the path of an older Nantucket, where no seats are reserved for the mighty. The Hedge Fund and Trust Fund geniuses may sit inside, behind the picture windows, but the rest of us can walk by, eat some fudge, and see the same view that they see. Out in Sconset, their world is not gated away behind the privet and the gate posts but out in the yard. We can't stay, drink a gin and tonic, and use the facilities, but we can share in the investment that makes those homes so valuable.

It might be that we just don't want to walk. Walking requires time and energy. Setting aside time means making room, not just for the actual travel but also for the shuffle. The hour spent on the bluff is an hour that we can't bill to anyone. We have to shuffle our duties to our kids, our friends, and our golf partners so that we can look at the sea. If you lay that out in a cost/benefit analysis, the efficiency experts will frown.

Moreover, we are used to seeing the world through glass. Our cars and our computers take a 360 degree, sweet smelling, gentle sounded experience and filter it into a square of glowing glass that we look at from an air-conditioned, silent, bubble. The world we live in has become landscape and desktop background. Perhaps the island, in August, is too beautiful for us.

By the time mid-August comes to the island, we are bored by beauty. We drive past the houses, the moors, and the beaches and no longer recognize them for what they are. In fact, we only we see how beautiful our island is when we our houseguests drag us around on a tour. Most of the time, the flowers and the views have become moving wallpaper for our errands. One ball of Hydrangea blooms looks just like another and soon we pay as much attention to them as we do to trash cans.

Around every corner, we find something that is remarkable, so that if we travel around enough corners, the remarkable is no longer worth a comment. Instead, if we comment on anything, we see the negative. That bloom has gone a little brown, the siding is starting to weather on the east side, and the water felt warmer last week. Our most recent visitors from Fitchburg are correct to look at us as if we are spoiled and crazy. In August, we live in a calendar of beauty, but we keep looking at the dates. We compare holes, not donuts.

Poets have been trying to kick us out of this rut for years. They write about getting us to stop and

smell the roses while we are on our way for a fill-up, a sandwich, and the evening shift. Had we spent two weeks in Fitchburg, we would return to the rosa rugosa and the beach grass with hugs and kisses.

Time will get us to Fitchburg, eventually. While we are dropping off the kids and picking up dinner, the waves roll, the bushes grow, and the path will lose another yard to the shoals and the stripers. Soon, August will be over. The Sconset market will close and the croissants, the bread, and the fudge will slip away into the winter. Those homeowners who spent this August in Greenwich or Aspen and left the Baxter Road house for the realtors grew poorer by one summer.

As will we. As the sand sifts away, some of our own common wealth will slip away as well. We should enjoy what we own before it's gone.

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The Best of Nantucket

The locals are a tight-lipped breed when it comes to divulging their favorite spots. But we'll let you in on their secrets, in this essential guide to the Faraway Island. Just don't tell them who sent you.

From April 2000 By Paul Schneider

In the past decade, Nantucket residents, both year-round and migratory, began to grow restless. "There are too many new houses here," they muttered to one another. Too many cell phones, too much traffic, too many people. As the year 2000 approached, islanders tightened building limits, made planes fly offshore on approach, and circulated bumper stickers that read twenty is plenty (as in miles per hour). These were worrisome years on the Faraway Island, as some have translated Nantucket's ancient Indian name.

Through it all, the blue Atlantic sent perfect waves onto white sands. On Main Street, farmers sold produce off the backs of trucks. Climbing roses bloomed by the thousands up cottage walls in Siasconset, that most English of New England villages. Sandcastles were created on Children's and Jetties Beaches. Bluefish blitzed at Great Point and striped bass ghosted along the flats off Eel Point. Ice clinked in glasses. Slabs of fish crackled on grills. And in the spring of the new millennium, the essentials of paradise endured.

the lay of the land

"Take out your map and look at it." So Melville wrote of Nantucket in Moby Dick, perhaps as a tacit admission that he had never been to his protagonist's island. Officially it's all one town, but in reality there are several distinct neighborhoods. Where you choose to stay will affect your overall experience.

Nantucket town: Nantucket has more than 800 pre-Civil War houses in its historic district. Most were built around the harbor in "town" (as everyone calls it) during the island's reign as capital of the whaling business. Wandering the streets lined with 1700's and 1800's captains' houses is an architectural education in itself. West of Steamboat Wharf begins the land of generously porched summer retreats built in the post-whaling period.

Siasconset: At the island's extreme eastern end, the heart of this miniature fishing village—"Sconset"—is almost unchanged from the early 1700's, when Nantucket town residents began summering here. On either side along the bluffs are later-vintage summer places.

Madaket: Across the island from Sconset, both geographically and temperamentally, lies Madaket. Nothing is ever scruffy on Nantucket, but Madaket is laid-back enough for some people to sniff at. If you didn't clip your hedge for a season, none of your neighbors would notice.

Quidnet, Quaise, and all the rest: Each of Nantucket's smaller neighborhoods has its own flavor. For your purposes: North of Polpis Road, where Quidnet and Quaise are located, think old family compounds on winding roads. South of Milestone Road, think subdivisions by the sea.

top bike routes

The sublime six-mile **Hummock Pond loop** starts just east of where Cliffs Road intersects with Madaket Road. • For the best sense of the inland island, mountain bike the occasionally steep, three-mile-long **Barnard Valley Road,** from its start at the intersection of Hoicks Hollow and Polpis Roads. Take drinking water and a decent map and make your way across the moors to Altar Rock. • Of the many paved bike paths, the **Polpis Road** route is one of the best. It winds alongside marshes and beside ponds and cranberry bogs, and passes the Lifesaving Museum.

walk this way

Left over from the days of looking for whale spouts from shore, the **Sconset Bluff Walk** is a studiously unadvertised public way that takes you right through the front yards of the island's choicest shingle-style masterpieces, rivaled only by those on **Hulbert Avenue** and **Cliff Road** in town. It begins deceptively enough: at the end of Front Street in Sconset is a sign that says FOOTPATH ONLY, NO BIKES, which appears to refer to a very steep and narrow trail heading down to the right to Codfish Park. The path you want is the less obvious one to the left, through the privet hedges and on along the lip of the land. Residents are accustomed to the parade of strangers, but if you do the bluff walk at cocktail hour, don't expect to be invited up onto the porch for a drink.

best fishing

All Points Bulletin: A bluefish or a striper has at some time been hauled out of the surf along every yard of Nantucket's south and east shores. But to be alone, try below the old military reservation at Tom Nevers. When in doubt about where to go, join the all-terrain armada at the points: Smith's and Great to heave big plugs into the surf, Eel to wade for bass with a fly rod.

where to stay

On Nantucket, rooms are often small and prices high, which is only partially due to supply and demand. With a few notable exceptions, most of the lodging is in guesthouses built before 1900. Unless noted, the following hotels are in Nantucket town, and prices listed are for high season, which begins in July.

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Traditional Trip to Nantucket

Proposed sign wording (and tenor) for the Footpath

Entrance to the ’Sconset Foot-path
Established in 1892 by William J. Flagg

“...as a foot-path or foot promenade and for no other purpose or purposes whatsoever.”

Open from 7:30 a.m. ’til sunset, year ‘round

…please…

Stay on the path and respect the privacy of our neighbors
Walk, don’t run
Leave your bikes behind
Mute your cell phones
Take your litter with you
Leash and clean up after your pets
and
Enjoy your view of the Atlantic

P1060116

P1060118

Subject: HDC: Sconset Bluff Walk signage
Date: Tuesday, September 28, 2010 1:05 PM
From: James Grieder <JGrieder@nantucket-ma.gov>
To: "danneatherton@comcast.net" <danneatherton@comcast.net>
Conversation: Sconset Bluff Walk signage

D. Anne,

I looked for precedents of signage on the bluff and came across these photos:

It seems like there is a tradition of simple board fences in the area up until quite recently -- are there any there now?

Either way, what about a series of fence signs (please see attached for examples)? They're relatively small -- one square foot -- which keeps them below the requirement for individual applications; multiple small signs can be incorporated into a master sign plan for the whole walk. The small size would fit quite comfortably on the width of a board but still be visible against a natural-to-weather fence. Repeated reminders might better serve your intent than one larger sign at the trailhead.

James

James Everett Grieder
Assistant Administrator

Historic District Commission
37 Washington Street
Nantucket, Massachusetts 02554
(w) 508.228.7269
(f) 508.325.7572

Nantucket's Historic Preservation:
A view From The Bosun's Chair **<http://www.nantucket.net/blog_history/>**

From: danneatherton@comcast.net [mailto:danneatherton@comcast.net]
Sent: Thursday, September 23, 2010 12:28 PM
To: James Grieder
Subject: SPA-Suspected Spam:ASSISTANCE NEEDED, PLEASE

SCONSET BLUFF WALK PUBLIC ACCESS SUBCOMMITTEE

OF THE

ROADS AND RIGHTS OF WAY COMMITTEE

TO: JAMES

FROM: D. ANNE ATHERTON

RE: ASSISTANCE RE SIGNAGE

Hi, James. I am contacting you on behalf of the Sconset Bluff Walk Public Access Subcommittee of the Roads and Rights of Way Committee. (For more about us, our charge and our work-to-date, please go to our page on the Town website http://www.nantucket-ma.gov/Pages/NantucketMA_BComm/sconsetbluffcom. I will also attach a copy of our Work Plan, so that you can see how we have organized ourselves to meet our charge.)

As a follow-up to Article #74 from ATM2010, we are working on public access from Baxter Road to the Bluff Walk. In addition, we have been asked by the BOS to develop a Management Plan for the Bluff Walk. (No easy task.) It is in regard to

this that we are reaching out to you, in your role as the HDC Sign Guy.

We have been discussing signage for the Bluff Walk (please see attached, a DRAFT for a sign on Front Street where the Bluff Walk begins), and it has been suggested to us by Chief Pittman that we consult with you. In addition to proper signage, we are also interested in recreating any "historic" aspects of the Bluff Walk, such as turnstiles. I was thinking, since you are such an excellent Nantucket historian, that, perhaps, you might assist us by researching some of this. Apparently, the Sconset Historic Research Committee (yes, there is such an entity) is in an inactive phase, for want of people power.

Our next meeting is scheduled for Tuesday, September 28 at 4:15 at 2 Fairgrounds. I realize that this might conflict with HDC, but, with luck, you might be available to join us for a discussion of these matters. We believe that it is helpful, in the long run, to consult with Town officials early in the process, rather than later.

I would be happy to discuss this with you in greater detail if you would like. I can be reached at 508 228 1060, or by email.

We will keep our fingers crossed that next Tuesday, the 28th, will work for you, James. If not, is there someone else within the HDC office who can advise us as to signage and any other historic paraphernalia associated with the Bluff Walk?

Many thanks.

D. Anne

ATTACHMENTS (2)

ROADS AND RIGHTS OF WAY COMMITTEE CONTACT INFORMATION

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PO Box 3126, Nantucket MA 02584

http://www.nantucket-ma.gov/Pages/NantucketMA_BComm/rowcom

‘Sconset Footpath Signage

September 2010

4”

The Bluff Walk

Please…

Stay on the path
Consider our neighbors’ privacy
Only leave your bicycles in the rack
Never leave your dogs’ waste behind
Stop: please turn off your cell phone
Enjoy the view, and
Take your time – walk, don’t run

3”

4”

The Bluff Walk

Please…

S tay on the path
C onsider our neighbors’ privacy
O nly leave your bicycles in the rack
N ever leave your dogs’ waste behind
S top: please turn off your cell phone
E njoy the view, and
T ake your time – walk, don’t run

3”