



MEETING POSTING

TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25

All meeting **notices and agenda** must be filed and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays)

Committee/Board/s	Nantucket Historical Commission
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Day, Date, and Time	Friday, March 17, 2023 10:00 AM – 12:00 PM
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Location / Address	HYBRID MEETING REMOTE PARTICIPATION AND IN PERSON at 131 Pleasant Street, Nantucket
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Signature of Authorized Person	Angus MacLeod (Chair)
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WARNING: IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!

Angus MacLeod (Chair), Georgia U. Raysman (Vice-Chair), David Silver (Secretary) Clement Durkes, Thomas M. Montgomery, Milton Rowland; Abby De Molina (Alternate Commissioners: Susan Handy)

Staff Liaison: Holly Backus

Join Zoom Meeting

<https://us06web.zoom.us/j/94332358504?pwd=N25KSGR2QldOeWFuc2tKUXcvaERGdz09>

Meeting ID: 943 3235 8504

Passcode: 770019

One tap mobile

+16465588656,,94332358504#,,,,*770019# US (New York)

AGENDA

Please list below the topics the chair reasonably anticipates will be discussed at the meeting

- Public Comment
- Approve minutes of past meetings
- Ongoing Program of Surveying Historic Resources (Holly Backus)
 - Island-Wide Survey Plan
 - Posting on NHC website
 - Form B (Fish Lots) deliverable (status)
 - Fish Lots Grant Project update
 - Brant Point Grant Project update
 - FY 23-24 Grant Project Application Update

- HDC Advisory Boards/HDC review – debrief & next steps
- Road/Sidewalk projects
 - Letter sent re: Milestone and Polpis
 - Pleasant Street Sidewalks
- Other Staff Updates / announcements
 - Letter from Holly regarding lighthouses/ USCG
 - Joint meeting of the NHC and HDC
- ATM 2023 Articles of Historic Preservation Interest
- Further refining NHC annual goals
 - BWNIM?
- Commissioner Comments

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE 60

(Zoning Bylaw Amendment: Short-Term Rental Accessory Use)

To see if the Town will vote to amend the Zoning Bylaws by amending Chapter 139 by inserting a new provision as follows, and further to authorize the Town Clerk to make non-substantive, ministerial revisions to the numbering of this bylaw in order that it be in compliance with the numbering format of the Code of the Town of Nantucket; or to take any other action relative thereto:

§139-__SHORT-TERM RENTALS

In residential districts, Short-Term Rentals are permitted on Owner Occupied properties. For purposes of this section 139 only, the duration of Owner Occupied shall be at least six months in each calendar year.

For non-Owner Occupied properties in residential districts, a Short-Term Rental shall be considered a permitted accessory use provided (1) the primary dwelling and secondary dwelling, if applicable, are each used for long-term residential use more than short-term rental use; and (2) the Short-Term Rental is registered with the Town in accordance with General Bylaw § 123.

All other STRs in residential districts are prohibited.

(Emily H. Kilvert, et al)

ARTICLE 61

(Zoning Bylaw Amendment: Definitions - Commercial)

To see if the Town will vote to amend Nantucket Zoning Bylaw Section 139-2 (Definitions) of the Code of the Town of Nantucket, to change the language as noted and highlighted below:

COMMERCIAL

As in a trade, occupation, or business, including a transient residential facility, but excluding governmental, religious or private residential uses, **which includes rental of dwelling units or parts thereof.**

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE 62

(Zoning Bylaw Amendment: Preexisting Nonconforming Uses, Structures and Lots)

For the protection of neighborhoods and the physical environment against detrimental expansion and alteration of buildings on lots created under MGL c.41 s. 81L,

To see if the Town will vote to amend chapter 139 of the Code of the Town of Nantucket (Zoning Bylaw) by making the following changes [note: language to be deleted is shown by strikeout; this method to denote changes is not meant to become part of the final text]:

Amend Section 33 (A)(3) by deleting language as follows:

Preexisting, nonconforming lots may be increased in area or frontage through the addition of adjoining property without the need for any relief under this bylaw. Any other alteration to a preexisting, nonconforming lot that does not increase an existing or create a new nonconformity is allowed upon determination by the Zoning Administrator that such alteration will not be substantially more detrimental to the neighborhood. ~~Lots created pursuant to MGL c. 41, § 81P, based upon the exception in the clause of MGL c. 41, § 81L for lots containing two or more structures that predate the adoption of subdivision control in the Town, shall have the same status as preexisting, nonconforming lots, and any structures thereon, which predate the adoption of subdivision control in the Town, shall have the status of preexisting nonconforming structures.~~ The removal of structures to facilitate an alteration or change to an existing structure, the relocation of the structure upon the lot, or the construction of a new structure, shall not cause the lot to be merged with an abutting lot in common ownership, provided that the lot remains vacant for less than one year.

; or otherwise act thereon.

(Emily Molden, et al)

ARTICLE 63

(Zoning Bylaw Amendment: Preexisting Nonconforming Uses, Structures and Lots)

For the protection of neighborhoods and the physical environment against detrimental expansion and alteration of buildings on lots created under MGL c.41 s. 81L, To see if the Town will vote to amend chapter 139 of the Code of the Town of Nantucket (Zoning Bylaw) by adding the following as a final sentence to Section 33(A)(3):

“Notwithstanding a lot(s) or structure(s) status as preexisting non conforming or the provisions of Section 139-33 (E)(1)(a), any new structure or expansion of volume, area or height of the structure(s) located on said lot or lots greater than the volume, area or height that existed when the lots were first shown on a plan endorsed pursuant to c.41 s. 81-P, shall require a special permit from the Zoning Board of Appeals pursuant to Section 139-33(A).”

; or otherwise act thereon.

(Emily Molden, et al)

From: [Stephen Welch](#)
To: [Erika Mooney](#)
Cc: [Andrew Vorce](#); [Libby Gibson](#); [Holly Backus](#); [Ray Pohl](#)
Subject: Fwd: HDC Request - Scope of Services for HDC Ops Review (for SB review and consent)
Date: Friday, March 10, 2023 1:31:37 PM
Attachments: [HDC adoption Scope of Services for HDC Ops Review 03-09-23.pdf](#)

Good Afternoon Erika,

Please see attached, which I am forwarding on behalf the HDC Commissioners per their unanimous vote.

The attachment pertains to:

- A Select Board initiated draft concept, for an HDC operations assessment; and,
- the HDC's motion to implement that concept (as proposed within the attachment).

...please include the attachment in the Select Board packet for their March 15th meeting. The Commissioners appreciate the efforts of the Select Board and Town Manager to-date and going forward:

- Their draft precipitated Commission focus, resulting in meaningful discussions amongst the Commission; and,
- the Commission's discussions culminated in necessary self-assessment, identifying elemental needs to be passed on to a consultant (under an RFP) for more granular assessment and recommendations. The foregoing is captured within the attachment.

The Commission respectfully requests the attachment be adopted by the Select Board, to be included as the basis of any Request for Proposal for service to review HDC operations.

Best regards,

HDC Organizational Focus Committee

Stephen Welch, Chair

HDC Adoption: Scope of Services for HDC Operations Review (as revised 03/09/23)

Background & Commentary:

HDC Commissioners met February 23, 2023 and March 9, 2023, to review, revise and finalize a scope of services pertaining to assessment of HDC operations. The HDC's intention was to have the product of these meetings forwarded to the Select Board.

At these meetings:

- 1) Commissioners identified certain "Areas of Concern" (included within the below text); and,
- 2) By unanimous consent of Commissioners, the Commission adopted a multi-part-motion that an HDC operations review be conducted:
 - a) Subject to the goals, objectives, and targeted-outcomes, stated below within this document under **Scope of Services for HDC Operations Review (Mtg. of March 9th, 2023).**"
 - b) Subject to incorporation of the entirety of the "Areas of Concern" also stated below within this document; and,
 - c) Subject to the bid selection committee including an HDC member, selected by the HDC, who shall serve in equal capacity in all aspects of the Request for Proposal and any matters arising in relation.

Note: HDC support presumes the consultant shall have appropriate credentials assessing and making recommendations upon municipal commissions whose missions are parallel the HDC's.

Areas of Concern:

- 1) The complexity, contentiousness, and number of recent applications has created two backlogs: One having to do with length of time to hear applications; this backlog has brought into focus a second backlog, which is operational self-assessment and subsequent course corrections.
- 2) As a regulatory authority, understanding and ownership of its powers to contribute under the HDC's establishing Act (and concomitant responsibilities) are missing from the process in various degrees. This, due in parts to awareness, acceptance, and will. More specifically:
- 3) Powers to Contribute, as stewards. While some of these powers are well-established, they are not fully tuned (e.g., commissioners' understanding of the extent to which the HDC can, through objective standards, plan and shape our built environment to preserve -or create- a sense of character and setting, while positively guiding development). An understanding and ownership of the power to establish, foster, and maintain, functional practices (guidelines, practices, regulations, and standards) and effects in operations, to consistently provide applicants a principle and merit-based review process revolving around clear expectations, is missing; this includes a better sense of exercising judicious denials. Mastery of these and like matters results in positive outcomes for everyone.
- 4) Responsibilities include: To strive for better-than-conversant familiarity with HDC guidelines, regulations, standards, and references, in order to address applicants with declarative statements focused on, and consistent with, HDC guidelines, regulations, and standards. Along a different line, appropriate preparation prior to a meeting is lacking, including commissioner preparation and complete and properly presented applications; the result is a waste of multiple person-minutes per effected application, adding up to considerable minutes per meeting. Along yet another line, steps and focus are required to be put into place for the Commission to regularly practice and promote appropriate behavior (including to follow Robert's Rules, the TON Committee Handbook, and the

TON Code of Conduct for boards, commissions, and committees). Note: Exercising such responsibility, including preparation prior to meetings, sets a standard that translates into an expectation for other Commissioners, Staff*, applicants, applicants' agents, abutters, and general public to follow; when regularly practiced, a functional regulatory environment becomes established—this is not a novel concept, it is simply out-of-mind under pressure of seemingly endless application reviews and work to change direction is inevitably pushed off. Time is high.

Supplemental Observation. An HDC Training & Reference Manual, developed as used as co-bible to BWNIM, would clarify expectations and procedures, establishing a common understanding amongst and between Commissioners, Staff, applicants, applicant agents, abutters, and the general public—knowing where the goal posts are, and the rules to get to them through a transparent process, serves everyone. Such a manual, comprised of multiple expert opinions will help address current areas of concern while preempting recurrences; a single person cannot be relied upon to effectively accomplish this task.

Scope of Services for HDC Operations Review (as revised 03/09/23)

By unanimous consent of Commissioners as voted March 9th, the Commission adopted the concept of a review subject to certain conditions (stated above) and the following goals, objectives, and targeted-outcomes:

- 1) To review Commissioner and Staff operations, and their interactions with applicants, applicant agents, abutters, and the general public, to provide operations-related assessments and recommendations, including:
 - a) To confirm or help ensure observance of the Town of Nantucket Committee Handbook and Code of Conduct, the Open Meeting Law, the Conflict-of-Interest Law, and State Ethics Commission Guidelines;
 - b) to help ensure hearings are appropriately managed (following Robert's Rules of Order), with Commissioner concerns reserved to agenda items targeting the appropriateness of proposals (i.e., measured against HDC-established guidelines, practices, regulations, and standards); this, to address the length of time it takes to hear applications, making meetings reasonably more efficient.
 - c) to help ensure application processing is effective and efficient (from initial submission through issuance of a Certificate of Appropriateness) including regular submission of properly prepared applications, and appropriate Staff resources.
 - d) to support development of tools from which the HDC may benefit:
 - i) to help limit time-drag processing an ever-increasing level of contentious applications; examples include the obvious (e.g., meeting management), but educational effort (the Commission, through the CLG or otherwise, may initiate or support thru authorized parties, to (1) facilitate and maximize understanding of the inherent value of preserving historic homes, to (2) inform the public of the HDC purview with respect to pools and 41-81L subdivision development).
 - ii) in relation, to enhance the Commission's maturity and ability appropriately addressing inappropriate applications, and to compel adherence to its guidelines, rules, and regulations (in a focused and timely manner), and to help the current and future Commissions establish clear understanding and ownership of its powers to contribute and its concomitant

responsibilities, under the HDC's establishing Act ("The Act").

2) *Review Staff operations on behalf the Commission (in addition to assessments and recommendations addressed in the above):*

- a) Are Staff resources sufficient to meet day-to-day needs (to assess appropriately complete application submissions, and otherwise) and to assist the HDC with planning or other initiatives within its purview?
- b) Are Staff recommendations provided and considered? Do Staff have the necessary qualifications to provide recommendations? If so, is there sufficient capacity amongst Staff's other work priorities?
- c) Are minutes and agenda items processed in a timely manner?
- d) Are Staff training/educational opportunities available? Are they utilized?

3) *Other Important Items:*

- a) What added value do the HDC Advisory Committees provide in their current form, or as previously composed? If any modifications or changes are beneficial (with respect to their operations and composition), what are they?
- b) Are HDC fees commensurate with Staff time? Can fees and/or fines be directed back to HDC to fund betterment of HDC functions (including Staff)?
- c) Assess quantity and type of applications and application outcomes recorded to date within the TON's EnerGov application processing system, to determine whether any type or timing of submission trends (or significant changes in the same) exist.
- d) Scope action(s) required to establish appropriate procedures, standards, and if necessary, regulations, without altering The Act:
 - i) To provide that qualified Staff may advance routine applications outside the OHD's (such as fences, door color changes, window replacements, and other non-substantive items), subject to current Consent procedures.
 - ii) to bring processing of "Like Kind Applications" into the regulatory scheme, perhaps under a Consent procedure.
 - iii) To strengthen the HDC's ability to compel performance (as a matter of enforcement) when unapproved work is occurring or found at time of inspection(s) after such work is complete; foregoing to include but not be limited to inspection and fining strategies and tools.

Note: Subject to provisions of The Act and noticing requirements of the Town Charter, HDC may of its own volition promulgate regulations consistent with The Act.

- e) Are Commissioner training/educational opportunities available? Are they utilized?

4) *HDC agrees further, to complete this review only the following are to be interviewed:*

- a) Current Commissioners and a random sample of past Commissioners;
- b) current Staff and a random sample of past Staff;
- c) a random selection of applicants and agents (who make applications on a regular basis);

* = Staff, where capitalized is meant to denote PLUS personnel providing oversight or actual f services to the HDC.

From: [Holly Backus](#)
To: [Erika Mooney](#); [Libby Gibson](#)
Subject: RE: HDC Advisory Boards
Date: Monday, March 13, 2023 8:36:41 AM
Attachments: [Advisory Board with Ch 124.docx](#)
[image001.png](#)

Good Morning Erika,

No, I was remiss in doing that. I'm sorry.
I did, however, incorporate HSAG's info into the draft Ch 124 (for a long term solution, as it is difficult to see how a short-term solution would work – legally.)
The first draft was sent to John Giorgio, but this was not.
I did provide this draft to the HDC on Friday for future comments.

Holly E. Backus
Preservation Planner**
Local CLG Coordinator
Local Hazard Mitigation Plan Coordinator
Town of Nantucket
hbackus@nantucket-ma.gov

**Staff liaison to the Nantucket Historic District Commission (HDC)
& Nantucket Historical Commission (NHC)**



From: Erika Mooney <EMooney@nantucket-ma.gov>
Sent: Friday, March 10, 2023 6:42 PM
To: Holly Backus <hbackus@nantucket-ma.gov>; Libby Gibson <LGibson@nantucket-ma.gov>
Subject: RE: HDC Advisory Boards

Holly, did you ever send me your comments on this?

Erika

Erika D. Mooney
Operations Administrator
Town of Nantucket
16 Broad Street, Room 113
Nantucket, MA 02554
508-228-7266

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immediately. Also, please be advised that the Secretary of State's office has determined that most e-mails sent to and from municipal officials are considered to be public records and consequently may be subject to public disclosure.

From: Holly Backus <hbackus@nantucket-ma.gov>
Sent: Monday, March 6, 2023 8:39 AM
To: Libby Gibson <LGibson@nantucket-ma.gov>
Cc: Erika Mooney <EMooney@nantucket-ma.gov>
Subject: RE: HDC Advisory Boards

Good Morning,

Mickey created this after HDC's "Organizational Focus Committee meeting" on 2/23. He did send it to me for review the following week.

I've briefly looked at it, but will do more so this week to see how it can be combined with the draft Ch. 124 (which I have sent to John Giorgio, per Andrew's request.)

I will be providing comments on this to the HDC's next "OFC" meeting on March 9th. (This is when they will be voting on their comments on the draft scope.)

I would like to provide that with my comments to it (along with their recommendation) for the SB packet to Erika by Friday 3/10.

Thanks,

Holly E. Backus
Preservation Planner**
Local CLG Coordinator
Local Hazard Mitigation Plan Coordinator
Town of Nantucket
hbackus@nantucket-ma.gov

**Staff liaison to the Nantucket Historic District Commission (HDC)
& Nantucket Historical Commission (NHC)**



From: Libby Gibson <LGibson@nantucket-ma.gov>
Sent: Sunday, March 5, 2023 10:14 AM
To: Holly Backus <hbackus@nantucket-ma.gov>
Cc: Erika Mooney <EMooney@nantucket-ma.gov>
Subject: FW: HDC Advisory Boards

Any comments on this? Should it go in the Board's 3/15 agenda packet?

C. Elizabeth Gibson, ICMA-CM
Town Manager
Town of Nantucket
(508) 228-7255

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From: Mick Rowland <mickrow@comcast.net>
Sent: Wednesday, February 22, 2023 10:57 AM
To: Libby Gibson <LGibson@nantucket-ma.gov>
Subject: HDC Advisory Boards

Hi Libby

I did this specifically for HSAB, but it could be used as a template for the others if that is desired.

Let me know if you have any questions, and feel free to share this with the Select Board members.

Thanks very much

Mickey

This email was scanned by Bitdefender

Article VI
HDC Advisory Boards

Section 124-14 Procedures for the Establishment and Operation of HDC Advisory Boards

1. Authorization

Pursuant to Chapter A301; Special Act A301-4 Historic District Commission, as amended, and Chapter 340 Signs, as codified 3-15-2022, and Section 3.5(C) of the Town Charter.

HDC Advisory Committees to the Historic District Commission (HDC) may be appropriate in some cases, and citizen groups and Town Administration, may wish to make recommendations to the HDC on the appointment of the advisory committee members. These members will be appointed by the Select Board under the Town Charter, with HDC membership input weighed heavily. 

2. Purpose

- a. To assist and advise the HDC in the review of applications within specific Advisory Board areas; Signs, Old Historic District of Downtown Nantucket, Old Historic District of Siasconset, Madaket, and Tuckernuck Island. 
- b. To serve as the liaison, along with professional staff, between the local historic district residents and the HDC; 
- c. To act as the “educational arm” of the HDC within the local historic district and provide a detailed opinion regarding the appropriateness of applications that might affect the character and setting of areas. Reviews will be based upon the guidelines established in “Building with Nantucket in Mind,” and other common HDC concerns; and, 
- d. To provide a valuable public service to the Town and follow the *Town of Nantucket Committee Handbook*, as adopted September 23, 2009, and last updated February 23, 2022.

3. Membership

- a. Number: Advisory Boards will consist of five (5) full-time members, the majority of whom will be residents of the area they represent, and two alternates. Representatives of organizations concerned with the protection of the historic district may be appointed.
- b. Terms: The term of membership shall be a minimum of three (3) years. The original appointment will be one (1) member for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years. One member will serve as a Chairperson, appointed annually at the first Advisory Board meeting following Town Meeting. The Chairperson shall maintain a channel of communication with the HDC and staff.

4. Appointment Procedures: Appointments of members will be made by the Select Board with HDC membership input.

Once appointed, all members must be sworn in by the Town Clerk prior to the member's first meeting and before the commencement of each term for re-appointed members.

In addition, new Advisory Board members should attend an HDC meeting at the earliest possible date for orientation purposes. The HDC will schedule a special meeting with all Advisory Board members at least once a year. Vacancies on Advisory Boards should be filled within 30 days after they occur. In the case of expiration of terms, members may continue to serve until their successors are appointed.

5. Qualifications: Members, when possible, shall include professionals, active or inactive, in the fields of architecture, history, design, historic preservation, and landscape architecture.

- a. All members should have a strong understanding of Nantucket's architectural history and traditions.

6. Termination of Appointments: In keeping with the *Town of Nantucket Committee Handbook*, members are expected to attend all regular meetings of the Advisory Board.

7. Meetings: Advisory Boards will hold meetings as necessary, before the weekly HDC meeting. All meetings will be open to the public and held in a public place and/or virtually. All meetings must adhere to Massachusetts Open Meeting Law, the Code of the Town of Nantucket and follow "Roberts Rules of Order.". All meetings will be posted with an agenda and minutes kept of every meeting.

8. Responsibilities:

Each Advisory Board shall, in its capacity as an advisory body to the HDC:

- a. Review applications of Certificate of Appropriateness (COA) within the respective Advisory Board area (Sign, HSAB, SAB, MAB, Tuckernuck) to determine what is appropriate. It is the responsibility of the Advisory Board to forward comments and recommendations to the HDC, through Town staff, in a timely manner.
 - b. Encourage property owners/applicants to seek Advisory Board and/or HDC assistance through professional staff, early in the planning process, so that plans are compatible with the character and setting of the local historic district and the property in question.
 - c. Educate residents of the role of the HDC and the COA processes; the HDC guidelines, "Building with Nantucket in Mind," "The Sign Book," appropriate materials; and local, state, and federal financial incentives for preservation, as relative to the Board.

9. COA Application Review Process and the Advisory Boards:

- a. After an application is submitted to the HDC for a COA, staff will create the appropriate agenda for the Advisory Board to review the application for the proper board (ie: Sign, HSAB, SAB, MAB, Tuckernuck.)** However, it is up to the discretion of the HDC Chair to allow applications to be reviewed by the HDC without Advisory Board comments. It is also up to the consent of the HDC whether an application “held for revisions,” is to go back to the respective Advisory Board for further review. This would be done by the HDC in their respective motion for revisions. Applications do not go back to Advisory Boards for review automatically.
- b. The Advisory Board will be responsible for submitting written comments to the HDC, through Town staff, in a timely manner following its meeting.
- c. Where new construction is concerned, the Advisory Board will be primarily concerned with building materials (including colors), scale and massing, in determining compatibility with “Building with Nantucket in Mind.”
- d. The Advisory Board will be responsible for all minutes of each meeting and provide to Town staff in a timely manner following its meeting.

**each advisory area is to have a respective MAP of the subject area, approved by the HDC by a public hearing.



NANTUCKET HISTORICAL COMMISSION

Town of Nantucket
2 Fairgrounds Road
Nantucket, Massachusetts 02554

COMMISSIONERS

*Angus MacLeod (Chair) Georgia U. Raysman (Vice Chair) David Silver (Secretary)
Clement Durkes, Abby De Molina, Thomas M. Montgomery, Milton Rowland*

March 1, 2023

Mr. Jeffrey Shrimpton
Historic Resources Supervisor
MassDOT Cultural Resources Unit
RE: DOT Project 613129: Milestone and Polpis Road

Via email to: jeffrey.shrimpton@state.ma.us

Dear Mr. Shrimpton:

I'm writing in regard to project number 613129, which will construct a bike path and modify an intersection.

The Nantucket Historical Commission has an objective of preserving the rural character of Nantucket's roads, which are part of the context of the Nantucket National Historic Landmark. We would like to contribute our suggestions to the project design.

Nantucket bylaw § 127-19 limits the expansion of pavement area and requires minimum signage. While this bylaw does not apply to the one state road on Nantucket, Milestone Road, we hope the DOT will keep it in mind for project 613129 which involves the intersection of a State road and a local road. We would appreciate the opportunity to comment on the project, from its earliest phases.

The Historical Commission may be reached through our Town Preservation Planner, Ms. Holly Backus. We look forward to further dialog with the DOT, for a successful MassDOT project improving bike lanes and safety on the National Historic Landmark of Nantucket. Thank you.

Sincerely,

Angus MacLeod
Chair
Nantucket Historical Commission

Cc: hbackus@nantucket-ma.gov
townmanager@nantucket-ma.gov

MassDOTEnvironmental@dot.state.ma.us